

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
 If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
 You may wish to keep a copy of the completed form for your records.

I Rachel Matthews

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Live Lounge (Other Place) 9 Ynysderw Road Pontardawe SA8 4EG	
Post town Pontardawe	Post code (if known) SA8 4EG

Name of premises licence holder or club holding club premises certificate (if known) HD Pub Investments Limited The Aubrey Arms Gurnos Road Ystradgynlais SA9 1HU

Number of premises licence or club premises certificate (if known) PREM-0322
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Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

Matthews

First names

Rachel

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

none

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

Rachel Matthews, Environmental Health, Neath Port Talbot Council, The Quays, Brunel Way,
SA11 2GG

Telephone number (if any)

01639 685642

E-mail address (optional)

r.matthews@npt.gov.uk

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

Please state the ground(s) for review (please read guidance note 2)

Failure to promote the licensing objective of the prevention of public nuisance.

Please provide as much information as possible to support the application (please read guidance note 3)

Please see attached Environmental Health Statement with outline details of our involvement, complaint history and enforcement action so far.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to the premises please state what they were and when you made them

Objection to The Minor Variation of Premises Licence 2021

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date **15th September 2022**

Capacity **Applicant, Responsible Authority and Environmental Health Officer**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

6. This is the address which we shall use to correspond with you about this application.

Licensing Privacy Notice

1. In providing us with your personal information you hereby acknowledge that Neath Port Talbot County Borough Council is the Data Controller for all the personal information you provide on this form (for the purpose of the General Data Protection Regulation 2016 (GDPR) and the Data Protection Act 2018 (DPA)).
2. The personal data which we collect from you via this form will be used by the Council (pursuant to it carrying out its various statutory and business functions) for the following purposes:
Hackney Carriage (taxis) and Private Hire Licences
Alcohol and entertainment licences, permits and notices
Gambling licences, permits and notices
Charitable collection licences and permits
Boats and Boatmen licences
Firework licences
Hairdresser registrations
Petroleum licences
Scrap Metal Dealer licences
Sex establishments and sexual entertainment venue licences
Stage hypnotism registrations
Street trading consents
Tattooing, Cosmetic Piercing, Acupuncture, Electrolysis registrations
3. As a Data Controller the Council is required under GDPR to inform you which of the Article 6 GDPR “Data Processing Conditions” it is relying upon to lawfully process your personal data. In this respect please be advised that in regards to the data provided by you on this form we are relying on the following two Article 6 conditions;
 - i. “The data processing is necessary for compliance with a legal obligation to which the controller is subject”. (Article 6(c) GDPR).
 - ii. “The data processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.” (Article 6(e) GDPR).
4. We may share your personal data securely with the following third parties (i.e. persons/bodies/entities outside the Council) in accordance with data sharing arrangements which we have in place with those third parties

- The Fire & Rescue Service
 - The Police
 - Disclosure & Barring Services
 - NHS local health boards
 - Immigration services
 - Foreign Embassies if you are a foreign national or have lived abroad
 - National Fraud Initiative
 - Department for Work & Pensions
 - HM Revenue & Customs
 - DVLA
 - Other local authorities
5. The personal information collected from you on this form will be held by the Council for as long as the licence, permit, consent, notification exists or up to 6 years after the it lapses.
 6. Please note that we are required to collect certain personal data under statutory requirements and in such cases a failure by you to provide that information to us may result in the Council being unable to provide you with a service and/or could render you liable to legal proceedings.
 7. We would inform you that under Article 21 GDPR you have the right at any time to object to the Authority about the fact that we are processing your personal data for the purposes of carrying out a public task or exercising our official authority.
 8. The Council will not transfer any of your personal data outside of the European Union. All processing of your personal data by us will be carried out in the United Kingdom or other European Union countries.
 9. The Council will not use your personal data for the purposes of automated decision making.
 10. Please be advised that under GDPR individuals are given the following rights in regards to their personal data:
 - i. The right of access to their personal data held by a data controller.
 - ii. The right to have inaccurate data corrected by a data controller.
 - iii. The right to have their data erased (in certain limited circumstances).
 - iv. The right to restrict the processing of their data by a data controller (in certain limited circumstances).
 - v. The right to object to their data being used for direct marketing.
 - vi. The right to data portability (i.e. electronic transfer of data to another data controller).

Further information on all the above rights may be obtained from the Information Commissioner's website: www.ico.org.uk.

11. In the event that you have any queries regarding our use of your personal data, you wish to have access to the same or you wish to make any complaint regarding the processing of your personal data please contact the Council's Data Protection Officer at the Directorate of Finance & Corporate Services, Civic Centre, Port Talbot, SA13 1PJ.

12. Please be advised that in the event that you make a request or a complaint to the Council's Data Protection Officer (see 9 above) and you are dissatisfied with the Council's response you are entitled to complain directly to the Information Commissioner's Office. Details of the Commissioner's Office contact details and further information on your rights may be obtained from the Commissioner's website – www.ico.org.uk.

Environmental Health Statement

1. The Environmental Health Section of Neath Port Talbot Council wish to make an application to review the Premises Licence for Live Lounge 9 Ynysderw Road Pontardawe SA9 4EG (Premises Licence Number: PREM-0322).
2. The Environmental Health review application primarily focuses on the failure to promote 'The Prevention of Public Nuisance' Licensing Objective.
3. The decision to make the review application has not been taken lightly; but it is felt that this is the only remaining option to achieve compliance, and attain ongoing protection for the local residents from excessive noise arising from activities at, and in the vicinity of the licensed premises: causing Public Nuisance.
4. Issues in relation to the premises have been ongoing for a number of years. Several attempts to resolve concerns amicably with the licence holders but these have failed, and Abatement Notices has been served due to the ongoing regular nuisance emanating from the premises. Environmental Health Officers have attempted to work with the premises to reach a solution that suits all parties.
5. The Premises License Holders are HD Pub Investments Ltd and are the registered owners of the premises with The Land Registry. The management of the premises is overseen by Hans Andrei Dionisio Erive; as the Designated Premises Supervisor and Andrew Davies; the Manager.
6. Noise Abatement Notices have been served on the PLH, DPS and Andrew Davies, on 15th September 2022.
7. Having reviewed the history of complaints in relation to the premises; initially there has been a pattern of short term compliance following Local Authority intervention, but complaints would be received again. The management controls that are in place are inadequate for the type of entertainment they are providing in a building that is not suitably constructed to contain electronically amplified rock music, played at high volume.
8. The building was formerly the Royal British Legion Club. The entertainment provided in these types of premises is historically darts, dominoes, bingo, a party for a special occasion: Mostly low volume activities that do not require the building to be suitably constructed for sound attenuation.
9. The community Facebook Page has shown there to be a section of the community who are not sympathetic to the residents who are being affected. A number of comments have been made along the lines of: if you don't want the noise of a pub; don't buy a house next to a pub. It must be considered however; that many of the residents living in Ynysderw Road and Francis Street have lived in their homes a long time, e.g. 30 and 40 years before the premises became a live music venue. The premises has evolved into a venue that is unsuited to the location; surrounded on 2 sides by residential premises in extremely close proximity.

10. Complaints in 2021 regarding noise from the premises commenced almost as soon as the premises opened and Premises Licence Holder after Covid restrictions within the hospitality sector were relaxed. Environmental Health received complaints of excessive noise from music emanating from the premises.
11. An application was made by the PLH for a minor variation for the provision of an outdoor bar and entertainment on the car park. Objections were made due to Environmental Health Officer having concern for Public Nuisance to be caused.
12. An announced visit to the premises was made by Environmental Health, Licensing and Police Licensing on the 15th July 2021 to discuss the application for the variation of the Premises Licence, noise complaints and Covid controls. The premises was represented by Robert Megson. During this visit Rachel Matthews of The Environmental Health Team, discussed that music levels needed to be to be quieter due to the location of the pub in a residential area.
13. Mr Megson explained that he had carried out work to sound proof the rear function room, by having ceiling tiles, triple glazing to the right hand side of the function room, and had sealed gaps in the structure of the building. Unfortunately the specifications of the sound reduction of these materials was unknown. The remaining left hand side of the function room with the windows facing Francis Street, and diagonally across to Ynysderw Road; does not have triple glazed windows. There are also a significant amount of areas in the construction of the building that allow the noise inside to escape, adversely affecting the residents.
14. In addition; Rachel Matthews advised that there were concerns over the disturbance caused by the presence of people outside the premises, until late, i.e. 01.00hours.
15. HD Pub Investments Ltd, the DPS and the Manager have been notified on several occasions of the public nuisance that is emanating from, and in the vicinity of; the Live Lounge premises.
16. Letters were sent in October 2021 and November 2021 and again in March 2022 advising that complaints continue.
17. A meeting on 5th May was held with representatives of the premises: Hans Erive Dionsio and Andrew Davies with Environmental Health Officers: Gareth Liley and Rachel Matthews. Mr Liley advised the representatives that the control measures that they stated they were carrying out: measuring with a sound meter, installation of ceiling tiles, foam filler, triple glazed windows to the right hand side of the function room were insufficient to prevent a nuisance.
18. Documents with specifications of sound reduction of the materials used were unavailable and the management controls proposed such as; use of the hand held sound level meter were being misunderstood. In addition the sound level meter was not of the scientific grade and was not calibrated by an accredited laboratory.

19. The representatives were advised that they needed to have the premises assessed by an Acoustic Consultant, registered with the Institute of Acoustics, and any assessment to be carried out was to be approved with the Environmental Health Department.
20. The representatives were advised that until this had been successfully completed; they should not continue to provide music entertainment that causes a nuisance.
21. Complaints about disturbance from loud music have continued, as well as complaints about patrons causing late night disturbance.
22. In addition to the meetings with company representatives: Letters and emails have been written to the PLH, and the DPS advising them of these complaints and that monitoring results will contribute to consideration of enforcement action:
 - 8th November 2021
 - 21st March 2022
 - 26th May
 - 14th June
 - 7th July
 - 18th July
 - 5th August
 - 2nd September
23. In response to this situation; Environmental Health Officers have carried out a noise monitoring programme, to ascertain if the complaints are valid. Witness statements from 6 Environmental Health Officers have reported that a public nuisance has been caused emanating from these premises. The Officers were deployed over the spring and summer months and have reported that nuisance occurred on approximately 7 occasions. The nuisance is comprised of excessively loud electronically amplified music, usually with drums, electric guitars and singing, and usually lasts for approximately 2 hours. The Officers have not been present for all events, due to staffing issues, but on those occasions where they have been present; nuisance has been witnessed. Making the primary concern for The Environmental Health Team being repeated, excessively loud music emanating from the premises; this relates to indoor and outdoor music, on any day from Friday or Saturday night to Sunday afternoon/ evening:
24. Officers of the Environmental Health Team have provided witness statements that evidence nuisance being caused on: (dates)
 - 8th April 2022
 - 20th May 2022
 - 16th July 2022
 - 26th August 2022
 - 28th August 2022
 - 2nd September 2022
 - 10th September 2022

25. The event on the 28th August 2022 took place in the beer garden of the premises and was excessively loud. The band playing had speakers facing towards the boundary with Ynysderw Road, which is a breach of the licence condition 12. A photograph of the set-up was taken.
26. It is the opinion of the Officers of The Environmental Health Team that the structure and location of this premises is not suitable for the type of entertainment the licensee wishes to provide. Due to the fact that the premises is surrounded on two sides by residential properties the closest being approximately 4m from the boundary of the premises. I understand that the inhabitants of this house purchased the land from the pub to make a driveway.
27. When considering the combination of: the poor sound attenuation of the structure of the building; the inadequate controls that management have implemented; the poor attitude shown towards the advice and recommendations, and the continuing noise nuisance that the premises is causing: the Officers have reached the conclusion that the premises is not suitable, or appropriate for live or recorded music to be provided in this manner. The managers or supervisors at the premises have demonstrated that they are unable to provide such entertainment; without giving rise to complaints, and more significantly, officers of the department have witnessed the excessive noise in person, on several occasions.
28. Local residents have advised that the patrons of the premises are causing noise disturbance outside the premises after 23:00 hours, the premises has licensed hours of 01:00hours for service of alcohol with closing at 01.30hours. Patrons are likely to have a substantial amount of alcohol during a "night out" that finishes at this hour, and as a result their behaviour and voices are likely to be less controlled than they would usually be, if they were not under the influence of alcohol, it is known that alcohol relaxes the inhibitions. As a result; some residents report that there are often people hanging round outside shouting and talking loudly, causing them to be woken late at night, beyond the night-time hours cut off point of 23;00 hours.
29. In addition to this; residents have reported that patrons are granted entry after 23.00 hours. In breach of the licence condition.
30. There are concerns from numerous local residents that foot traffic between the licensed premises in the area is causing late night disturbance with residents regularly being woken by intoxicated persons travelling between the venues.
31. Pontardawe is described by the Town Council as a rural town. The town centre is very small, with Herbert Street and High Street being the main Central Business District. There are 7 licensed premises concentrated in a small area, mostly with a late licensed hour of 01.00 hours, closing at 01.30 hours. This is particularly significant, due to the fact that residential premises are in immediate proximity to these licensed premises. The town centre is not removed from residential premises, like other town centres near-by, such as Swansea and Neath, due to the fact that Pontardawe is so small.
32. Traditionally the pubs in Pontardawe that are woven into the residential community would not have been live music venues, with late licenses of 01:00-01:30. Pontardawe has a

significantly high percentage of older residents and working families; who do not benefit from the disturbance caused by the disturbance brought in by the night-time economy.

33. In the opinion of Officers of the Environmental Health Team consideration must be given to the fact that having 7 licensed premises permitted to remain open until 01:30am, in a small rural town; will cause there to be intrusive and unacceptable late night disturbance and public nuisance.

34. Taking all the information into consideration, Officers of the Environmental Health Section, make the following recommendations:

Condition 1

By virtue of S177 (A) the Licensing Act 2003 the conditions of the Premises Licence relating to regulated entertainment shall be in force between 8.00 hours and 23.00 hours.

Condition 2

There shall be no external amplified sound in the external areas of the premises, including the beer garden and car park.

Condition 3

There shall be no regulated entertainment in the form of live or recorded music at the premises until such time that the licence holder and/or owner of the premises commissions an independent acoustic consultant to undertake a Noise Impact Assessment and the recommended control measures contained within the assessment are implemented. A copy of the Noise Impact Assessment along with supporting evidence that the requirements have been complied with shall be provided to the Local Authority for written approval prior to the commencement of regulated entertainment.

To comply with the above the following criteria must be met;

- The report must be carried out by an acoustic consultant who shall be a member of the Association of Noise Consultants and a member of the Institute of Acoustics.
- The methodology for the noise assessment shall accord with current UK guidance and British Standards and agreed with the Local Authority in advance of the assessment commencing.
- Prior to implementation of the control measures the Local Authority shall be given the opportunity to review and comment on the Noise Impact Assessment and its recommendations.

Condition 4

Once this has been submitted and approved by the Officers in The Environmental Health Team: The Premises Licence Holder or a nominated person shall carry out proactive noise observations outside the premises at least once an hour during the provision of regulated entertainment, and take any necessary remedial action.

A written record of proactive external noise assessments and, where applicable, remedial actions taken shall be kept for a minimum of 31 days from the date of the last entry in the record and this record shall be available for inspection on demand by authorised council officers at all times the premises are open.

Condition 5

Once the Noise Impact Assessment has been submitted and approved by the Officers in The Environmental Health Team:

Speakers shall not be located in the entrance and exit of the premises, or outside the building.

Condition 6

Once the Noise Impact Assessment has been submitted and approved by the Officers in The Environmental Health Team:

All windows and external doors shall be kept closed at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

Condition 7

The terminal hour for the sale and serving of alcohol at the premises shall be 23:00 with a 30 minute drinking up time.

The premises is to be cleared of all customers by 23:30.

Should the permitted hours for the serving of alcohol and closing the premises fail to allow the patrons to disperse in time for the night-time hours of 23:00 hours: the closing time of the premises should be reduced, due to the proximity of residential premises.

Condition 8

Once the Noise Impact Assessment has been submitted and approved by the Officers in The Environmental Health Team:

A Noise Management Plan shall be submitted for examination and approval by the Officers of the Local Authority. The management plan shall identify the sources of noise associated with these premises, and detail the controls to be implemented to reduce the noise to an acceptable level.

The control measures stipulated within the management plan shall be implemented at all times whilst the premises is operating.