

Environmental Health Statement

The Surge, Port Talbot

The Environmental Health department of Neath Port Talbot County Borough Council object to this application, reference 'LIP22338', on the grounds of the prevention of public nuisance.

This department does not take the decision to object to an application lightly. However, due to the turbulent history that followed every licence granted at this premises in recent years, we feel such a measure is proportionate to ensure the wellbeing of nearby residents.

The Institute of Acoustics Good Practice Guide on the Control of Noise from Pubs and Clubs (2003) provides guidance for the assessment and control of noise affecting noise-sensitive properties. This guidance considers noise from a number of sources, including amplified music.

I have summarized the document's relevant points in relation to this application below:

- Amplified and non-amplified music are a common source of noise disturbance arising from pub, clubs, etc.
- For premises where entertainment takes place on a regular basis, music and associated sources should not be audible inside noise-sensitive property at any time.

Complaints in relation to the premises extend back as far as 2015; the Premises Licence Holder at the time was a Mr Christopher Trainor, and since that time the Premises Licence holder has changed repeatedly. However, Mr Christopher Trainor continues to have responsibilities for the building, as he is the sole active director of the company, The Surge Pub Ltd, which is named as the landlord in the lease agreement.

Several noise abatement notices have been served on various operators and Premises Licence Holders, including Mr Trainor, in 2016, 2020 and more recently in June 2021, full details are laid out within the previous review documents. This effectively means that, between 2016 & 2021, while the Surge was operating under a premises licence, officers of this department continuously received complaints, investigated each complaint, witnessed statutory noise nuisance, and subsequently took enforcement action in relation to each Premises Licence Holder. Furthermore, there have been no complaints submitted following the 2021 licence review, during a period in which the premises operated without a licence, with the exception of complaints relating to drainage issues.

We believe that this is sufficient to demonstrate that the premises is not suitable to facilitate amplified music without there being a high probability of statutory noise nuisance. Furthermore, there has been a repeated disregard for the required sound attenuation and managerial controls necessary to facilitate amplified music at the premises.

In most instances, this department would recommend licence conditions sufficient to mitigate any inherent risk of nuisance arising from licensable activities. Following the 2021 licence review for the premises in question, several conditions were added to the previous licence: All of which were deemed necessary by the committee for mitigating adverse risks posed to local residents.

However, the Live Music Act (2012) provides an exemption to conditions relating to regulated entertainment for licensed premises. This exemption effectively means that Environmental Health cannot enforce conditions necessary to provide protection to local residents, as no condition relating to regulated entertainment can be enforced through the premises licence prior to 23:00pm. As far as I am aware, this exemption can only be removed via the licensing review process.

We are now in a scenario whereby, through surrendering and applying for a new licence, the premises can nullify the progress of the previous licence review, and any conditions in relation to regulated entertainment can no longer be enforced prior to 23:00pm.

I have attached a copy of the last licence in force at the premises. Please note the conditions listed in Annex 3.

In the interest of transparency, Environmental Health has contacted the applicant, Stephen Lewis, regarding their plans for the business. As of the 24th of August 2023, the applicant has not provided a noise management plan for the premises. Environmental Health has also not received a noise impact assessment as deemed necessary through the 2021 licence review, outlined in Annex 3 of the previous licence.

As of the 24th of August 2023, Stephen Lewis has not replied to our last email, dated 15th of August 2023, which I have included. The applicant's response, or lack thereof, has not been sufficient to mitigate this department's concerns regarding the risk of public nuisance from the premises.

In summary, The Surge has a turbulent history demonstrating that every previous licence holder since 2015 has repeatedly caused statutory noise nuisance. This department has deemed the premises unsuitable for amplified music and live entertainment, and no evidence to the contrary has been presented. Mr Christopher Trainor, director of the Surge Pub Limited, has maintained ultimate control of the premises throughout this period through enforcement of the lease agreement. Following the 2021 licence review, significant restrictions were added to the previous premises licence: These included the repeal of the Live Music Act exemption, the completion of a noise impact assessment by an Institute of Acoustics accredited professional, and further consultation with the Local Authority. The provisions within the licence application form submitted, and the email exchange with the applicant, are not sufficient to offset the concerns surrounding noise nuisance. Therefore, this department must conclude that The Surge is still unsuitable to operate under a premises licence, and would present a nuisance to nearby noise-sensitive properties.