



## LICENSING AND GAMBLING SUB COMMITTEE – 29<sup>TH</sup> MAY 2025

**SUBJECT: DETERMINATION OF PREMISES LICENCE VARIATION APPLICATION**

**REPORT BY: LEE MORGAN LICENSING MANAGER**

### 1. Application Details

<u>Applicant</u>	<u>Premises</u>	<u>Application Type</u>
The Project Bar Ltd	1 Lon y Twyn, Caerphilly CF83 1NW	Variation Premises licence

#### 1.1 Application for Variation of Premises Licence

An application has been submitted to vary the premises licence for the above premises. The proposed application for consideration is set out in 1.3 of this report.

#### 1.2 Site Plan/Photographs

The plan of the licensed area is reproduced as **Appendix 1**.

A location plan is reproduced as **Appendix 2**.

Photographs of the Premises & outside area are reproduced as **Appendix 3**.

#### 1.3 Proposed Trading Times and Licensable Activity

The application for the Variation of the Premises Licence seeks to extend the licensable area to include the roof terrace, to permit it to be open Monday to Friday 12:00 – 22:00 and Saturday & Sunday 09:00 – 22:00 for consumption of alcohol purchased from the brewery bar.

### 1.3.1 Existing Permissions

- **Supply of Alcohol (on and off sales)**

Monday to Friday 12:00 to 23:00  
Saturday & Sunday 09:00 to 23:00  
New Year's Eve 09:00 to 02:00  
Bank Holidays 09:00 to 23:00

- **Late Night Refreshment (indoors only)**

New Year's Eve, 23.00 to 02.00 the following morning

- **Recorded Music (indoor only)**

Monday to Saturday 16:00 to 23:00  
New Year's Eve 16:00 to 02:00

### 1.3.2 Existing Conditions

1. *The designated premises supervisor will ensure that all staff are trained in their responsibilities with regard to the sale and supply of alcohol. Training records will be maintained for all members of staff and made available for inspection by any authorised officer at any reasonable time. This will include training of underage sales, drug awareness and drunk and disorderly behaviour. All such training to be updated on an annual basis, or for instances when legislation changes and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it.*
2. *CCTV system shall be installed. The system will be maintained in good working order and operated at all times the premises are open to the public and will continually record when licensable activities take place and for a period of two hours afterwards; the CCTV shall cover all parts of the licensed areas to which the public have access including outside front entrance of the premises, walkway to the outdoor courtyard area and the whole outdoor court yard area (excluding the toilets). The images shall be retained for a period of 28 days and produced to a Police Officer and any authorised officer of the Licensing Authority and as soon as is reasonably practical upon request. The CCTV should be of evidential quality and permit the identification of individuals.*

*The premises licence holder shall ensure that there are trained members of staff during licensed hours to be able to reproduce and download images into a removable format at the request of any authorised officer of the Licensing Authority or police officer.*

3. *An incident book shall be kept at the premises and maintained on site. It shall be made available on request to an authorised officer of the local authority or member of the Police. The register will record details of all crimes at the premises, complaints received of a licensing nature, any incidents of disorder, any refusal for the sale of alcohol and any visits by the emergency services.*
4. *Persons using the smoking shelter will not be permitted to take food or drink outside, except during the designated hours that the outdoor courtyard is open (Saturday and Sunday 11:00 to 21:00), and notices to this effect shall be displayed at suitable locations.*
5. *The premises licence holder shall ensure that there are sufficient litter bins and ashtrays within the vicinity of the premises to collect any waste arising from the carrying on of licensable activities and should also ensure that such receptacles are emptied when full.*
6. *No waste or bottles shall be moved to external areas between 23:00 and 08:00.*
7. *The collection of refuse, bottles and recyclable materials shall only take place between 08:00 and 18:00.*
8. *An approved proof of age scheme shall be adopted, implemented and advertised within the premises such as 'Challenge 25' whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.*
9. *Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of at least A5 size at the entrance to the premises and where practicable at each point of sale.*
10. *The premises should be cleared of customers within 30 minutes of the last supply of alcohol on any day.*
11. *The premises licence holder shall ensure that all drinking glasses used within the premises and the outdoor courtyard area are of toughened or safety glass to the appropriate safety standard, in that they shall not produce sharp shards when broken. All bottles are to be decanted into toughened or safety glass at point of sale before being taken outside to be consumed within the outdoor courtyard area.*
12. *Customers will not have access to the production/brewery area of the building. This area will be closed off and suitable signage will be erected.*

13. *Prominent and clear notices displayed at points where clientele leave the building, instructing them to leave the premises and area quietly.*
14. *Recorded music will not be played in any outside area at all times on any day.*
15. *All alcoholic drinks will be consumed indoors within the licensed area, save between the hours of 11.00 to 21.00 on Saturdays and Sunday, where alcoholic drinks may be consumed in the outdoor courtyard area delineated in blue hatch upon the attached plan.*
16. *Off-sales will be restricted to the sale of sealed packaged products (bottles, cans, 5 litre microkegs) which are intended for consumption at home.*
17. *No performance of striptease, lap dancing, entertainment of a sexual nature or other similar adult entertainment will be permitted on the premises.*
18. *The premises licence holder shall ensure participation in any Pub Watch or similar scheme operating in the locality of the licensed premises.*
19. *Should customers be outside the premises, walkway to outdoor courtyard causing congestion, loitering and/or causing Anti-Social Behaviour they will be told move away from the vicinity.*
20. *Staff will regularly patrol the front of the premises including walkway to the outdoor courtyard, and outdoor courtyard area when the outdoor courtyard area is being used during the designated hours that the outdoor courtyard is open (Saturday and Sunday 11:00 to 21:00).*
21. *The premises license holder and or Designated Premises Supervisor will assess the need for additional staff to be working and monitor the outside courtyard area when in use during the designated hours (Saturday and Sunday 11:00 to 21:00). A minimum of 2 staff will be required when pre planned events are organised.*
22. *The licence holder or Designated Premises Supervisor shall risk assess the need for SIA door supervisors to be present in the premises when key sporting events are taking place or when a function of any kind is taking place.*
23. *If door supervisors are present, then the premises licence holder shall ensure that the following details for each door supervisor, are contemporaneously entered into a bound register kept for that purpose:*
  - (i) Full name;*
  - (ii) SIA Certificate number and or badge number, or registration number of any accreditation scheme recognised by the Licensing Authority (including expiry date of that registration or accreditation);*
  - (iii) The time they began their duty;*
  - (iv) The time they completed their duty.*

*This register is to be kept at the premises at all times and shall be so maintained as to enable an authorised officer of the Licensing Authority or a constable to establish the particulars of all door stewards engaged at the premises during the period of not less than 31 days prior to the request and shall be open to inspection by authorised officers of the Licensing Authority or a constable upon request*

- 24. Prominent and clear notices displayed at points where clientele leave and enter the building, instructing them to leave the premises and area quietly, and if smoking outside to do so quietly.*
- 25. An automatic door closer shall be installed at the main entry door from the public footpath into the building to the satisfaction of the Licensing Authority by 1 March 2024.*
- 26. The system of acoustic screening details to the licensing Sub Committee on 3 October 2023 be installed to the rear and front walls/fences within the outdoor courtyard area and to maintain such acoustic screening in good condition and working order by 1 March 2024. The system of acoustic screening to the north eastern wall will be a layer of 5mm Tecsound S100 acoustic insulation membrane installed between the block wall and adjacent wooden cladding, and to the southern boundary, to erect a block wall immediately behind the existing wooden fence and to the height of the existing fence, with such wall incorporating both plywood panels and a layer of 5mm Tecsound S100 acoustic insulation membrane. The system of acoustic screening also includes the use of two temporary screens constructed of plywood, to the height of the existing southern fence, with a layer of 5mm Tecsound S100 acoustic insulation membrane, placed across the gate way in an overlapping manner to allow patrons access to the outdoor courtyard area but mitigate against the direct escape of noise from the outdoor courtyard area.*
- 27. The outdoor courtyard area shall only be open to patrons to consume alcohol on Saturday and Sundays from 11.00 until 21.00 hours. Adequate notices shall be displayed in appropriate locations to ensure that this information is brought to the attention of patrons. At 21.00 hours the outdoor courtyard is to be clear of patrons and all entry points to the courtyard be closed and secured to prevent access by patrons.*
- 28. The premises licence holder shall take all reasonable steps to ensure that patrons using the outdoor courtyard area do so in a quiet and orderly fashion.*
- 29. The manager, licence holder or other competent person shall carry out observations in, or in the vicinity of, the outdoor courtyard area, on at least hourly between 12pm and 9pm when the outdoor courtyard is being used by patrons in order to establish whether there is noise being made at a level likely to cause disturbance to the occupants of properties in the vicinity. If such observation reveals such level of noise to cause disturbance, then patrons causing such noise will be asked to reduce the volume of noise and or to leave the courtyard area. A record of such observations shall be kept in a book for that purpose, such book shall be completed*

*immediately after the observation detailing the time, location and duration of the observation, the level of noise and any action taken to reduce such noise. Such book to be made available at all times upon request to an authorised officer of the Licensing Authority or a constable.*

- 1.3.3** The following steps have been volunteered by the applicant as part of the Operating Schedule, to promote the Licensing Objectives, and are reproduced directly from the Application:-

*Addition of new licensing condition: We will erect signage encouraging customers to use the roof terrace as a smoking area instead of the public highway immediately in front of the building's main entrance, to reduce the risk of noise that could impact local residents or others using the public highway.*

*Amendment to existing licensing conditions (conditions 20 and 21)*

*Re-word such that frequent patrols of the roof terrace are required to be carried out by staff in addition to the courtyard area, and that the DPS should consider the need for additional staff for monitoring the roof terrace in addition to the courtyard area.*

In addition to the application, the applicant submitted documents namely a Noise Assessment of Tap House Roof Terrace dated the 19<sup>th</sup> February 2025, reproduced as **Appendix 3a** and a proposed site plan reproduced as **Appendix 3b**.

## **1.4 RELEVANT CONSIDERATIONS**

Caerphilly County Borough Council Statement of Licensing Policy **Appendix 4**

Home Office Section 182 National Guidance **Appendix 5**

## **1.5 RELEVANT REPRESENTATIONS RECEIVED DURING APPLICATION PROCESS**

### **1.5.1 Responsible Authorities:**

#### **Police**

<b>Document</b>	<b>Date Received</b>	<b>Appendix Reference</b>
Initial Representation	<b>22/04/2025</b>	<b>Appendix 6</b>

#### **Environmental Health Pollution**

<b>Document</b>	<b>Date Received</b>	<b>Appendix Reference</b>
Initial Representation	<b>01/05/2025</b>	<b>Appendix 7</b>

**Licensing Authority in role as Responsible Authority**

Document	Date Received	Appendix Reference
Initial Representation	30/04/2025	Appendix 8

**Environmental Health (Health & Safety)**

Document	Date Received	Appendix Reference
Initial Representation	01/05/2025	Appendix 9

**Planning**

Document	Date Received	Appendix Reference
Initial Representation	10/04/2025	Appendix 10

**Fire**

Document	Date Received	Appendix Reference
Initial Representation	08/04/2025	Appendix 11

Trading Standards have responded to indicate no that they had no representations in respect of this Application.

**1.5.2 Other Persons:****Residents**

Document	Date Received	Appendix Reference
Resident K Jordan Representation	23/04/2025	Appendix 12
Resident M Butler Representation	08/04/2025	Appendix 13
Resident P Brown Representation	30/04/2025	Appendix 14

**1.6 SUMMARY OF REPRESENTATIONS**

Gwent Police have responded and not objected to the application but have advocated the retention of conditions 20 and 21 on the licence. The Police have suggested a revision to condition 15 on the premises licence to reflect that all alcoholic drinks will be consumed indoors except for the Roof terrace, Monday to Friday 12:00 to 22:00 and Saturday and Sunday 09:00 to 22:00 and the Courtyard Saturday & Sunday 11:00 to

21:00. In addition, the Police propose conditions in respect of staff patrols of the roof terrace and for the need for additional staff when in use.

The Environmental Health Pollution Officer identifies that the premises is located within close proximity to residential accommodation and references prior complaints by residents in relation to waste and noise. The Officer expresses serious concerns about the potential for the roof terrace to undermine the Public Nuisance licensing objective. The Officer references that her concerns had been presented in a recent objection to a recent planning application made by the applicant in respect of the roof terrace. The Officer acknowledges consideration of the noise assessment report submitted by the applicant, however comments that the report fails to sufficiently consider the noise source.

The Environmental Health Officer references that she has considered the council's statement of licensing policy in particular paragraphs 11.3, 11.4 and 11.9 in making her representations and to safeguard residents and the prevention of public nuisance licensing objective when making her objection to the variation application to add the roof terrace.

The Licensing Authority Officer acting in her capacity as a responsible authority details an objection to the variation application, citing concerns in respect of public safety and the ability of any patrons to exit the roof terrace as there does not appear to be an external fire escape. The Officer comments that the Fire service have indicated that they will be considering the matter under their own legislation.

The Officer references enquiries made with the Council's Building control team in respect of alterations to the roof terrace. The Officer references the Council's Statement of Licensing Policy in particular paragraphs 12.1, 11.5 and 11.6 in respect of suitable and sufficient safeguards to ensure public safety. The Officer comments that based on information provided the applicant has not demonstrated that customers and staff will be afforded the appropriate level of safety and has not demonstrated the public safety licensing objective has been promoted. The Officer acknowledges resident objections made during the application consultation period and her serious concerns regarding the premises ability to promote the licensing objectives.

The Team Leader for Planning Authority details an objection to the variation application citing the public nuisance licensing objective. Comment was expressed that planning consent was recently refused as it was considered that the roof terrace would have a detrimental impact on the amenity of neighbouring properties. Mitigation measures that had been put forward as part of planning permission sought were considered unacceptable from a technical and design perspective and it was not considered that impacts could be adequately mitigated.

The Environmental Health (Health & Safety) Officer references the absence of documentation for the loading capacity of the external roof area. The Officer references floor plans submitted showing seating for 46 persons but identifies that they could potentially increase with persons standing. The Officer details that to ensure public and



staff safety and to promote the licensing objectives documentation must be submitted to the licensing authority for review.

South Wales Fire & Rescue Service responded to indicate no objections but indicated that they would deal with any issues under their own legislation.

Resident representations detail a concern regarding the potential impact for noise and light pollution. Concern is expressed about excessive noise during the evenings and late at night which could pose significant disruption to the peaceful enjoyment of the surrounding residential areas. Additionally, concern is expressed over the issue of light pollution which may result in excessive artificial light spilling into residential areas which could affect sleep patterns.

A resident references that the premises has had and still has have public nuisance issues. Concern is expressed that if the roof was to be utilised there would be no containment of noise or light, thus the issues would be exacerbated. Concern is also expressed in respect of breach of privacy with users being able to look into the homes and gardens of neighbours.

The opening of an upstairs garden which would overlook a number of residents is referenced. Concern is expressed as to the use of the acoustic membrane to limit noise from patrons given the residents research undertaken with manufacturers would not be effective in the absence of a roof.

## **1.7 APPLICANT RESPONSE**

The applicant has acknowledged the representations of the Police and has accepted the Police proposals, should a licence be approved.

The applicant has forwarded a response to the representations of Responsible Authorities objecting to the application which is reproduced for Members information as **Appendix 15**.

The Applicant comments that whilst the number and nature of the objections to the variation application appear substantial, the applicant believes that the objections are unwarranted.

The applicant details that the objections received from responsible authorities are effectively duplications and all relate to concerns regarding noise. Reference is made to the December 2024 Planning application submitted without a noise impact assessment. The applicant details that a revised planning application has been resubmitted.

The applicant details his strong track record in delivering on projects in bringing a vacant and dilapidated building back into use. Reference is made in respect of the acoustic consultant report submitted which concludes that the site is predicted to meet the requirements of relevant planning guidance.

The applicant references the comments of the Environmental Health Officer which he refers to as deeply flawed and that Officer has failed to take into account the qualifications and experience of the noise report author. Reference is made to the failure to take into consideration the existence of a formal noise management plan at the venue, the nature of the venue and customer base.

The Applicant provides response to each Responsible Authority individually. In relation to the Planning Officer. Reference is made to the lack full context of the Planning Officers comments. Concluding that the Noise report was completed on the 19<sup>th</sup> February 2025, when planning was refused on the 18<sup>th</sup> February 2025.

The Applicant references the concerns of the Licensing Officer acting in its role as a responsible authority regarding concerns regarding fire escapes and queried the need for the visit undertaken by the Fire Officer which subsequently clarified that sufficient means of escape was present. The applicant details his disappointment regarding the Officer raising concerns about the applicant's ability to implement mitigation measures at his premises.

The applicant details that the Environmental Health Officer did not object to the application but had sought additional information to be provided.

In respect of the Environmental Health Pollution Officer comments, the application details that he believes the comments made are deeply flawed and based on an incorrection assertion, based on the experienced acoustic expert and the Officers ability to challenge the individual. The applicant comments that it is his understanding that the Officer has never visited his premises during trading hours and not qualified to comment upon the nature of customer behaviour at the venue. The applicant refers to extensive acoustic modelling conducted by the consultant and the absence of the same by the Officer, which has led him to believe that the Officers comments are speculative.

The applicant concludes that his premises has an existing noise management plan in place which will be amended upon the granting of a variation to include the roof terrace area. The applicant details that he has agreed to reduce the maximum capacity of the roof area to only 30 customers, who will be fully seated, which means the very low likelihood of rowdy behaviour.

As Objections to the application remain in place, a meeting of the Sub Licensing & Gambling Committee is required to determine the application.

## **1.8 LICENSING ASSESSMENT**

The Licensing Assessment is a provisional summary, based on representations received prior to the hearing. The Head of Public Protection, Community and Leisure Services reserves the right to amend or vary the provisions contained in the summary and recommendation, subject to any change in the material facts that become known at

the hearing. The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder.
- Public safety.
- The prevention of public nuisance.
- The protection of children from harm

In making its decision, the Sub Committee is obliged to have regard to: -

- Licensing Act 2003
- Statutory Guidance issued under S182 of the Licensing Act
- The Council's own licensing policy, and
- All representations made and evidence presented.

NOTE: The Sub-Committee may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. Any such actions must be necessary in order to promote the licensing objectives.

Statutory Power - Licensing Act 2003. This is a Council function which is delegated to this committee to decide.

In addition to the above, in accordance with Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005, the authority may take into account documentary or other information produced by a party in support of their application, representations or notice either before the hearing or, with the consent of all parties, at the hearing.

Furthermore, the Sub Committee may accept hearsay evidence and it will be a matter for the members to attach what weight to it that they consider appropriate. Hearsay evidence is evidence of something that a witness neither saw nor heard but has heard or read about

## **1.9 OBSERVATIONS**

This application relates to the variation of an existing premises licence at The Project, formerly known as Brewmonster at 1 Lon y Twyn, Caerphilly. The current premises licence contains a condition which details that *'All alcoholic drinks will be consumed indoors within the licensed area, save between the hours of 11.00 to 21.00 on Saturdays and Sunday, where alcoholic drinks may be consumed in the outdoor courtyard area.'*

The application submitted seeks to revise this condition which would allow alcohol to be consumed on the roof terrace area, referenced in the application and detailed on the revised plan submitted.

Objections to the variation application have been received from Responsible Authorities namely Planning, the Environmental Health Pollution Team, Environmental Health

(Health & Safety) and Licensing Authority in its role as a responsible authority primarily in respect of the prevention of public nuisance and public safety licensing objectives. The Fire Authority have responded and have indicated that they will deal with any issues under their own legislation.

Gwent Police have made representations that propose revised conditions as opposed to any objection to the application, should the application be approved.

Members will note Paragraph 1.4 of the Section 182 Home Office National Guidance which details the following *'Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.'*

In addition to objections from Responsible Authority's (RA's) three resident representations have also been received objecting the variation application. These cite concerns in relation to the potential for nuisance of the proposed roof terrace in respect of patron noise and light pollution.

The Environmental Health Pollution Officer has expressed her professional opinion based on what has been proposed by the applicant in relation to addition of the roof terrace. The Officer expresses serious concerns about the potential for the roof terrace to undermine the Public Nuisance licensing objective given the proximity of residential accommodation.

It is noted that the Environmental Health Officer has considered the noise report submitted (Appendix 3a) in arriving at her objection to the application. The Planning Officer, has indicated that mitigation measures that had been put forward as part of planning permission sought, were considered to be unacceptable from a technical and design perspective and it was not considered that impacts could be adequately mitigated.

Members will be aware of the Section 182 Home Office National Guidance, in particular Paragraph 9.12 which states -

*'Each responsible authority will be an expert in their respective field, and in some cases, it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it*

*remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing. '*

The Section 182 Home Office National Guidance at paragraph 2.24 details '*As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.*'

Members are guided to paragraph 2.22 of the Section 182 Home Office National Guidance in particular the broad common law meaning of public nuisance which states '*Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.*' This means that public nuisance could be low level nuisance perhaps only affecting a few people living locally as well as major disturbance affecting the whole of a community.

Paragraph 11.3 of the Council's Statement of Licensing Policy states '*The Licensing Authority recognises that limiting the public nuisance that may be associated with licensed premises and their operation is an important factor for health and well-being. The Licensing Authority recognises the key links to health and well-being from public nuisance in terms of disturbed sleep, stress caused by nuisance and pollution. Disturbed sleep and stress can add to residents' mental and physical health issues, and their wider wellbeing. Lack of sleep can have an impact on the immune system and can contribute to heart disease and diabetes. Lack of sleep can also contribute to anxiety and depression. Stress can contribute to anxiety and depression, and cardio-vascular diseases. Applicants should consider the potential impact their premise may have on public nuisance particularly from noise and put in place mitigating measures.*'

Paragraph 11.4 of the Council's Statement of Licensing Policy states '*The Licensing Authority expects applicants for premises licences and club premises certificates to have made relevant enquiries and considerations about the local area before submitting their application. The purpose of this is to enable the applicant to consider the most appropriate controls for potential inclusion in the operating schedule with a view to ensuring their activities do not undermine the licensing objective with regard to the prevention of public nuisance. It is important to recognise that the impacts of licensed activity are not contained within a building. Inevitably there is a wider impact as people travel to and from the premises or congregate outside whilst it is in operation. Nuisance is best managed by careful consideration of the suitability of the selected site and any necessary mitigation at an early stage.*'

Paragraph 11.9 of the Council's Statement of Licensing Policy states *'The Well-being of Future Generations (Wales) Act 2015, Noise & Soundscape Management. The Well-being of Future Generations (Wales) Act 2015 (hereinafter referred to as the WFG Act 2015) places a duty on Local Authorities including the Licensing Authority to embody sustainable development principles aimed at achieving seven prescribed well-being goals as part of its fundamental operation; this includes the delivery of its Licensing function. One of the cornerstone areas of consideration is the management of noise and its impact on health and well-being.'*

Paragraph 11.1 of the Council's statement of Licensing Policy which states *'Licensed premises have significant potential to impact adversely on persons living and working (including those carrying on business) in the area around the premises, and also further afield through public nuisances that arise from their operation. It is therefore important that in considering the promotion of this licensing objective, Licensing Authorities and Responsible Authorities focus on the effect of the licensable activities at the specific premises on these parties which may be disproportionate and unreasonable.'*

Paragraph 11.6 of the Council's statement of Licensing Policy details that *'The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:* • *they are situated in a residential or noise sensitive area;* or • *extended opening hours are proposed.'*

The Responsible Authority position in respect of this application to revise conditions in order to permit use of the roof terrace area is that the application will undermine the prevention of public nuisance licensing objective.

Three resident objectors express a similar concern in respect of noise that may arise from the area proposed in the application. Matters raised in respect of potential breach of privacy from being overlooked would not be considerations for Members of the Sub Committee as it would not fall under the Licensing Objectives but could be considered in respect of any planning requirements.

It is noted that the premises plan (Appendix 1) reflected the potential for 46 patrons seated on the roof terrace and the application reflects that the roof terrace will also be used for smokers.

The Licensing Authority in its role as a responsible authority and Environmental Health (Health & Safety Team) had also expressed concern in respect of the public safety licensing objective given the absence of a means of escape from the roof terrace and absence of Building Regulation Approval.

The Council's Licensing Act 2003 Statement of Licensing Policy addresses this matter in paragraph 12.1 and states *"The council is committed to ensuring that the safety of any person visiting or working in licenced premises is not compromised. Applicants will be expected to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure*

*public safety, relevant to the individual style and characteristics of their premises and events.”*

The Section 182 Home Office National Guidance at paragraph 2.16 states ‘*Licence holders should make provision to ensure that the premises users safely leave their premises.*’

The Section 182 Home Office National Guidance at paragraph 2.8 states *Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person’s health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority’s powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.*

Members should note that Officers from South Wales Fire and Rescue Service and the Council’s Building Control Team conducted a visit to the premises on the 14<sup>th</sup> May 2025. It is understood from this visit that there were no concerns raised in relation to the means of escape from the premises. During this visit it was detailed that the roof terrace could accommodate a maximum of 30 and not 46 people.

Given the above visit by the Fire Officer and the clarification in respect of means of escape being satisfactory, it is considered that any public safety considerations have largely been addressed. However, it is understood that Building Regulation Approval is still required.

The applicant has raised concerns as to the merits of the comments made by the responsible authorities in his response submitted (Appendix15). The view of the applicant is that he should be afforded the ability to undertake licensable activity within this new area citing the standing of Acoustic Consultants report and views and measures that will mitigate nuisance arising from the use of the area. Doubt is cast on the Environmental Health Officers ability to challenge the report submitted.

The Consultants report submitted (Appendix 3a) appears to detail that the proposed measures to address noise from patrons would be the erection of a 2.6m vertical screening on the roof terrace. The Planning Officer view having been made aware of the proposal, is that the proposal would be unlikely to be considered acceptable from a visual amenity perspective. If such measures cannot ultimately be installed, then it is unlikely that such measures would afford the noise mitigation suggested by the acoustic consultant. Any revised position of the responsible authorities can be addressed at the Sub Committee meeting.

To date, the applicant is yet to respond to the concerns raised by resident objectors.

Members will be required to determine whether the variation application submitted to revise the existing licence condition in relation to the outside area, which would allow alcohol to be taken to the roof terrace area (identified on the revised plan) and whether this would undermine the licensing objective namely the prevention of public nuisance.

It should be noted that an authority seeking to promote the prevention of public nuisance licensing objective, it is not necessary to decide whether or not the conduct or expected conduct does amount to a public nuisance. When discharging its functions it is only concerned to promote the objective of *prevention* of public nuisance.

It is noted that the lead authority in respect of the prevention of public nuisance licensing objective is the Environmental Health Officer who expresses concern about the proposal for the roof top terrace to undermine the prevention of public nuisance licensing objective.

## 1.10 **RECOMMENDATION**

Having had regard to and considered the position of the Responsible Authorities (who are considered under the Section 182 Home Office Guidance, paragraph 9.12 to be experts within field and representations received by other parties, it is recommended that the variation application to permit use of the roof top terrace is **refused**.

It is not considered that the promotion of the Licensing Objectives may be adequately controlled or mitigated by revised conditions in this instance.

In reaching this conclusion, it is noted that there are concerns in relation to the prevention of public nuisance licensing objective from the Environmental Health's Pollution, Planning and Local Authority in its role as a responsible authority, together with local residents that reside in the vicinity.

Background Papers:

[Revised guidance issued under section 182 of the Licensing Act 2003 \(February 2025\) \(accessible version\) - GOV.UK](#)

[Link to Caerphilly CBC Statement of Licensing Policy](#)

Date of this report: 20<sup>th</sup> May 2025

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Appendix 1 – Plan of proposed premises

Appendix 2 – Location Plan

Appendix 3 – Photographs of premises / location



Appendix 3a – Noise Assessment  
Appendix 3b – Proposed layout  
Appendix 4 - Caerphilly County Borough Council Statement of Licensing Policy  
Appendix 5 - Home Office Section 182 National Guidance  
Appendix 6 – Police Representations  
Appendix 7 – Environmental Health Pollution representations  
Appendix 8 - Licensing Authority in role as responsible authority representations  
Appendix 9 – Environmental Health H&S representations  
Appendix 10 – Planning representations  
Appendix 11 – Fire Authority representations  
Appendix 12 – K Jordan representations  
Appendix 13 – M Butler representations  
Appendix 14 – P Brown representations  
Appendix 15 – Applicant response