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**Date: 8<sup>th</sup> August 2023**

## SUPPLEMENTARY PACK

### Licensing and Gambling Sub Committee- Wednesday, 9th August, 2023 Supplementary Item

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# Agenda Item 3

## Information in Support of Brew Monster's Application to Vary Premises Licence at 1 Lon Y Twyn

### Background

Brew Monster Group moved to its premises at Lon Y Twyn in July 2020. At the time the unit was vacant and derelict. Over the past 3 years Brew Monster has spent around £750,000 to completely refurbish and fit out the building, making it one of the highest specification microbreweries in the UK. We focus on producing beers of the highest quality, which are sold through the on-site tap room, our craft beer bar in Cardiff, and through our website. Over the past 2 years we have been one of the most decorated microbreweries in Wales, receiving a total of 17 awards for our beers, including Best Pale Ale in the UK at the SIBA BeerX conference in Liverpool for our flagship beer Basilisk.

Despite our very strong reputation for high quality beer, we have been hard hit by the challenges of the last few years, namely Covid-19 and the recent cost of living / inflation challenges. This has resulted in significant increases in our costs, whilst simultaneously reducing footfall to our bars due to the financial pressures on our customers. The situation is expected to get even more challenging in the coming years as costs continue to increase and the new Ffos Caerffili market is likely to increase competition significantly in the town.

To offset the impact, we have sought to improve our premises and hope to be able to allow our customers to enjoy outdoor space and street food in our brewery yard during weekends through the summer. Without the ability to offer outdoor space to our customers and street food, we are likely to lose many of our customers to Ffos Caerffili, which will significantly impact the viability of our business. It is for this reason that we have applied to vary our premises licence.

### Overview of Variations Requested

We currently have a premises licence to operate 7 days a week, closing at 11:30pm each day. The licensable area comprises the indoor area only. We have requested that the licensable area is increased to allow use of the brewery yard on weekends until 9pm only.

This will allow our customers to sit in the brewery yard, where we hope to be able to invite in selected street food vendors to offer food for our customers. We have previously held several temporary events (under TENS) which proved extremely successful.

### Mitigation and Controls

#### 1 – Sound Proofing

In addition to our licensing application, we have also submitted a planning application which is currently under consideration. As part of that application, we submitted a detailed schedule of works that includes the erection of acoustic screening around the brewery yard

to mitigate any sound and visual impact on neighbours and passers-by. The screening in combination with the existing structures in the brewery yard ensures that the customer seating area is fully encompassed thus mitigating any risk of noise that could pose a risk of public nuisance. Further details are included as an appendix to this report. We believe that these works promote the licensing objective of the prevention of public nuisance.

## **2 – CCTV**

Within the application we have proposed several additional conditions to be added to our licence to mitigate any risks/concerns that arise from our use of the outdoor space. Following consultation with the Police, we have proposed to install additional CCTV that will cover the brewery yard, the walkway between the bar entrance and the yard entrance, and outside the bar entrance. Images will be of high quality, will be recorded 24 hours per day and retained for a minimum period of 28 days. This will help to identify and address any instances of anti-social behaviour or nuisance, ensuring that we can adhere to the licensing objectives of the prevention of crime and disorder, public safety, and the prevention of public nuisance.

## **3 – Management Processes**

We have previously held several outdoor events in our brewery yard under TENs. In advance of these events, we met with the Police and other relevant authorities to discuss our plans and to share ideas on how we can ensure that the licensing objectives are fully achieved.

During the meeting we discussed the staffing that we would have in place for the events, which was a key area of interest for Gwent Police and deemed to be one of the key methods of promoting the licensing objectives. Gwent Police were happy with the staffing plan we had for the events, and we have subsequently proposed a condition to be added to our licence which ensures a minimum level of staffing for events which has been agreed with Gwent Police.

We have always taken a risk-based approach to staffing. When determining the staffing rota for any given day, we take into consideration many aspects:

- We review the bar diary for bookings, to understand the number and size of groups that may have booked in, and what times they are likely to be in attendance
- Prior experience and data of how busy the bar is at different times of the day and each day of the week
- Weather forecasts, as weather is a big determinant of footfall and visitors to our venue
- Events taking place, either in Caerphilly town (e.g. food festival, Pride Little Cheese) or at our venue (e.g. quiz night, live music/open mic etc)

In addition to our risk-based approach to scheduling an appropriate level of staffing, we also have contingency plans in place should the venue prove to be busier than expected. This

includes having additional staff on call, in particularly myself and my business partner (if we aren't already on shift) who are the most experienced and senior members of staff.

We also have several methods of reducing demand during particularly busy periods such as closing the outdoor area earlier than scheduled (which we have done during TENs events), amending the start/end times of events (e.g. live music/open mic) to stagger footfall into the venue.

Taking all these factors into account we believe that we are very effective at managing our venue and ensuring that we always have sufficient staff available to deal with the volume of customers and to promote the licensing objectives fully.

#### **4 – Opening Hours**

We took significant time and care in determining what times we should request that the outdoor space is permitted for use. We were very conscious that there are residential properties in the vicinity, and above all we want to ensure that we do not cause a nuisance to these properties.

We decided to request the variation to allow the use of the brewery yard until 9pm only. This is significantly earlier than other licensed venues in the vicinity of our venue - including The Municipal Club whose beer garden is immediately behind our building, and Ten Degrees which is further up Market Street and in very close proximity to residential properties on East View.

In addition, other venues in the vicinity operate their outdoor areas up to 7 days a week, while we are only requesting its use for 2 days each week on weekends only.

Whilst this earlier closing time will have a detrimental effect on the experience of our customers, who would undoubtedly like the outdoor area to be open later, we believe an 9pm closing time is preferable on the following basis:

- Customers are more likely to get more 'rowdy' later in the evening. It should be noted that we rarely experience any such behaviour from our core customer base, but the earlier closing time will ensure that any such behaviour (if it did occur) is indoors and not in the brewery yard.
- By staggering the closing of the outdoor and indoor areas, it will stagger the times customers leave our premises, reducing the maximum number of people moving along Lon Y Twyn at any given time, further reducing the risk of any impact on our customers.

## Response to Representations from Relevant Authorities

We have reviewed the representations received in relation to our application from the Environmental Health Officer and Licensing Officer, and we have set out our response to these below.

### Response to EHO Representation

#### Officer Visits

In order to respond to the issues raised by the EHO directly and specifically, information was requested on 3<sup>rd</sup> August, following a meeting with the EHO on 2<sup>nd</sup> August. Unfortunately at the time of writing this report, no data had been provided by EH, and therefore we cannot directly address the issues raised and support with data.

The EHO references a visit on 24/6/23 to our premises:

*“Officer’s comments from a visit made on 24<sup>th</sup> June 2023 identify the concerns over proximity to nearby residents “I didn’t witness prolonged noise from patrons, but there would be potential for nuisance if patrons were outside Brew Monster for a length of time and the neighbours were trying to use/enjoy their garden area.”*

Our concerns regarding this statement are as follows:

- The EHO has not provided the time of day that the visit took place. As noted throughout this report, we have only requested use of the outdoor space until 9pm and on weekends only. Therefore, if the visit took place outside of these times, then it does not provide any evidence that is directly relevant to our application.
- The comments made specifically note that the officer ***did not*** witness any noise, and therefore the suggestion that there could be potential for nuisance is purely speculative, and not based on any actual data or observations. We therefore do not believe that these comments should be taken into account when determining our application.
- Furthermore, the speculation from the visiting officer relates to the area directly outside the main entrance. To clarify, we do not intend to allow customers to drink in this area. The area being referenced is the pavement of the public highway. Our application is only for use of the brewery yard, which upon granting of the licence and planning permission, will be fully surrounded by acoustic screening to prevent noise/nuisance. Therefore, making the visiting officer’s comments again irrelevant to the determination of our application.
- Furthermore, we would like to reiterate that it is our strong belief that permitting the use of our brewery yard will actually serve to address the concerns of the EHO

and improve the experience of nearby residents. By providing customers with a more easily accessible and identifiable area for smoking outdoors, i.e. the brewery yard, customers are significantly less likely to loiter outside the main entrance on the pavement, and instead go to the brewery yard where the acoustic screening will suppress any sound. This is a key part of our proposal and has been communicated to the EHO and other relevant authorities.

Further comments in relation to a visit to our premises were as follows:

*“An officer’s observations from a visit on 1<sup>st</sup> July 2023 highlights this concern  
“At no point did I note anyone from the premises taking any action to mitigate the varying volume patron noise or ask for them to quieten down and this was pretty much continuous for the just over 20 minutes...”*

As noted above, no information has been provided on the timing of the visit. If the visit did not take place on a weekend between 9am-9pm, then it does not provide any evidence that is directly relevant to our application.

In addition, having not been provided with information by the EHO as has been requested, it is impossible for us to properly investigate this particular accusation. It is true that we do on some occasions have customers that spend excessive time outside smoking. Our staff are trained to deal with such issues, and appropriate action is taken by management when issues are not correctly dealt with.

We have agreed with Gwent Police to amend Condition 2 of our licence to include the following:

*“the CCTV shall cover all parts of the licensed areas to which the public have access including outside front entrance, walkway to rear yard area and whole yard area”*

The erection of CCTV outside the premises, combined with providing customers with a clearly identifiable, designated smoking area in the yard, will make it significantly easier for our staff to manage customers and ensure that they adhere to our instructions to not smoke or drink outside the main entrance of our premises. We therefore believe that the EHO’s comments and concerns are fully addressed by our application and that we can promote the licensing objectives in full.

### Planning Issue

An area of real concern to Brew Monster is the raising of a planning issue by EHO. The comments made by the EHO are completely untrue and were made based on erroneous assumptions and lack of understanding of the situation.

Brew Monster has been in consultation with CCBC Planning department for some time. It is the Planning Department’s view that Brew Monster is in breach of planning rules through the use of the brewery yard for temporary events. However, it is Brew Monster’s view that

we are not in breach of the rules. Within planning rules there are allowances for temporary use of land under the “28 day rule” which permits alternative use of land without formal planning consent. The rules are complex and somewhat subjective, and whilst the Planning Department have their own interpretations of the rules, they differ to our interpretation and arguments.

Unfortunately, as we were unable to reconcile our positions, CCBC Planning decided to issue a breach of planning notice to Brew Monster. Unlike most other areas where the view of a public authority can be challenged by a commercial business through appeal, a breach of planning **does not** give such a right. It states clearly in the notice that there is NO process for appealing the notice. This has taken away our ability to challenge the views of the Planning Department and prove our innocence.

What is even more disappointing is that other departments such as Environmental Health and Licensing has jumped on this as evidence of Brew Monster management not having regard to rules and laws and using this against us in relation to our licensing application.

In reality, the enormous amount of time and effort that we have invested into understanding the rules, along with the time and costs we have invested into multiple licensing and planning applications over the last 3 years shows the contrary. We hold planning and licensing rules in high regard and have also sought to adhere to the rules in full. Where we wish to undertake activities that are not within the scope of our existing permissions as have always applied for permission at the earliest opportunity.

All the events that took place at our brewery yard had TENs in place. There were no instances of non-compliance during these events. In fact, following a meeting with Licensing, Gwent Police and EHO prior to the first TEN, we actually added additional conditions for the events on a voluntary basis to demonstrate our desire to meet and promote the licensing objectives.

**In conclusion, we believe that the comments made by the EHO in relation to the breach of planning notice are:**

- **not relevant to the licensing application,**
- **are misleading and do not reflect the true situation which is far more complex and nuanced than presented in the EHO representation, and**
- **are in any case fully addressed by the additional licensing conditions that have been agreed with Gwent Police.**

## **Response to Licensing Representation**

### Management and Controls

The licensing officer raises a number of issues to be covered by this report. In relation to the management and controls point, as noted previously, from discussion with Gwent Police we



have agreed to amend our conditions to include CCTV in the area immediately outside our premises which fully addresses the concerns raised by the Licensing Officer.

In preparation for events that we have previously held in our brewery yard for which we obtained TENs, we were diligent in planning the events to ensure that we had sufficient staff throughout the events and in putting in place additional procedures and controls to ensure the staff were able to properly manage the event. This included taking noise readings throughout the day, something we regularly do. This is an example of a control we have introduced internally, which is not required by any relevant authority or licence condition, but that we felt would ensure we meet the licensing objective and therefore we have introduced voluntarily.

Our preparation for the TEN events included meeting with representatives from the Relevant Authorities. Following the meeting we introduced additional procedures and controls that we felt would help ensure a successful event. Following the event a detailed email was sent to the attendees of the meeting, reporting back on areas we had discussed at the meeting, including the effectiveness of the procedures and controls we implemented. We received positive feedback from the relevant authorities in response to the email report.

Overall, we feel that our approach to planning and managing the events, and our post-evaluation of the events demonstrate our commitment to promoting the licensing objectives and working in partnership with the Relevant Authorities.

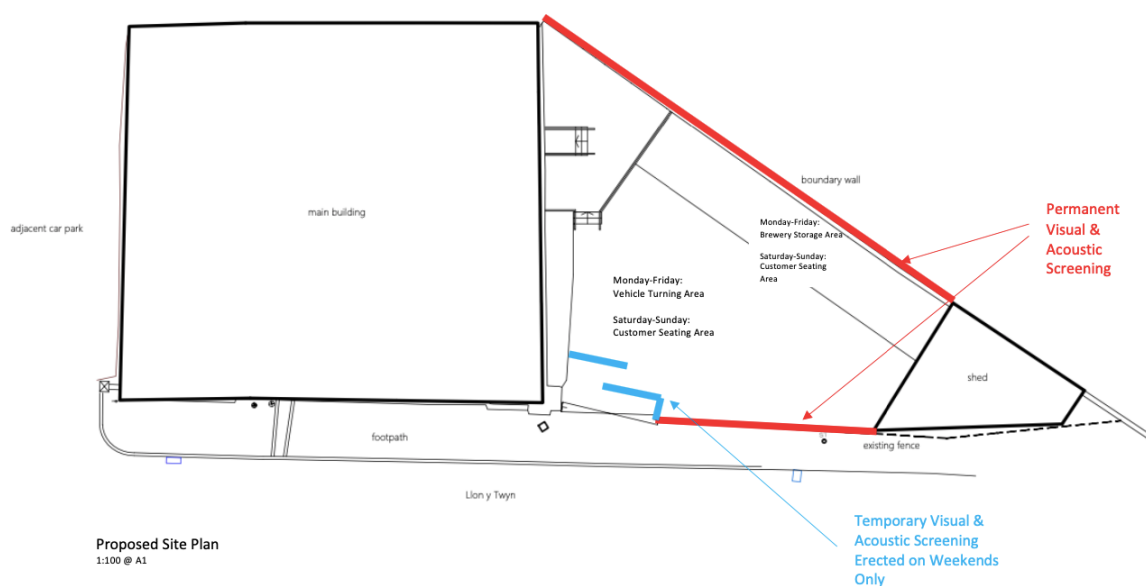
#### Planning Issue

Please refer to comments made above in response to EHO Representation.

## Appendix – Extract from Planning Application Covering Letter Relating to Schedule of Works for Sound Mitigation

As part of our application, we have set out a detailed schedule of works to implement significant sound mitigation around our site for the protection of nearby residents. These proposed works represent a significant investment for our business and we believe it goes far further than is necessary for a development of this scale. However, it demonstrates our commitment to protecting the amenity of local residents and meeting our stated objective of being a 'good neighbour' and an asset to the town and county of Caerphilly.

The following diagram is an extract from the Site Layout Plan that accompanies this covering letter, and shows the general layout of the brewery yard and the location of noise reduction measures.



Note that permanent screening is proposed to be incorporating into the North Eastern and Southern boundaries of the site. The North Eastern boundary currently comprises a solid block wall and wood cladding (that has been offset by 50mm from the block wall to create an air gap). An additional layer of acoustic insulation membrane is proposed to be incorporated to further reduce any noise that could pass through the wall. Note that the wall is approx. 3m in height, well above head height of any person in the yard, particularly when seated.

We intend to erect a similar solid wall on the Southern boundary, inside (behind) the existing wooden fence. As a result there will be no noticeable change in appearance of the site from outside, but there will be increased privacy for both occupants of the brewery yard and local residents and pedestrians walking along Lon Y Twyn. Incorporated into the new wall will be multiple layers of timber sheets (plywood, OSB or similar), and acoustic insulation membrane, to reduce noise. The wall will be of the same height as the existing wooden fence, which is approx. 3m in height, well above head height of any person in the yard, particularly when seated.

As the gate will be required to be open during times that the brewery yard is in use, creating opportunity for noise to escape, we intend to create temporary screens, similar to those described above (solid timber sheeting and acoustic insulation membrane) that can be moved into place at weekends and then removed after the weekend. This ensures that the yard can continue to be used exactly as it is currently for brewery operations during weekdays when the brewery is operating.

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