

APPENDIX 3

Caerphilly County Borough Council Licensing Policy Relevant Extracts

11.1 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.

11.2 The definition of what may be considered as a potential or actual 'public nuisance' is to be interpreted in line with its broad common law meaning established through relevant case law. This is the interpretation which the Licensing Authority will apply when considering such matters. Matters giving rise to 'public nuisance' are mainly accepted to include issues relating to noise, light pollution, odour and litter. It may also arise as a result of the adverse effects of dust, insects, accumulations or any other matter which is determined to have an adverse impact on the living and working environment of other persons living and working in the area of the licenced premises.

11.3 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. 16

11.4 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.

11.5 Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance. When a suitable site is identified, operating schedules should be prepared on the basis of a risk assessment of the potential sources of nuisance posed by the premises operation to those who may be impacted by their activities. The operating schedule should demonstrate an understanding of the level of risk of nuisance and include positive measures to manage any potential risks.

11.6 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.

11.7 The Licensing Authority recognises that beyond the immediate area surrounding the licensed premises the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right. However, applicants are encouraged to consider the actions they may take as a responsible licence-holder to mitigate the potential adverse impact of patrons. The operating schedule should again be used to demonstrate an understanding of the potential risks and the positive measures that may be implemented to manage such issues.

11.8 Applicants are encouraged to engage with the Licensing Authority and other relevant Responsible Authorities (such as Environmental Health) at an early stage and prior to the submission of an application, wherever reasonably practicable. These Authorities will be able to provide advice in respect of appropriate control measures that may be put in place, and included in the operating schedule, to mitigate the potential risks of public nuisance occurring.

14.5 Unreasonable, frivolous and vexatious representations will be disregarded. Representations that have been made and considered elsewhere, for example as an objection to a planning application, may also be disregarded where consideration of such representations would be duplication.

16.2 Therefore, any person is able to make representations in relation to certain types of applications as an "Other Person" However; all representations must relate to the licensing objectives and may not be frivolous or vexatious.

17.6 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Local Planning Authority.

17.11 The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa.

17.12 Where, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of their planning permission - for which they may be liable to prosecution under planning law (and vice versa where the licensing hours finish earlier than the planning permission).

19.5 A licence may be issued subject to conditions, which must be complied with at all times whilst the premise is being used for licensable activities during the times specified in the licence. Failure to comply with the terms and conditions of a licence or if licensable activities are carried out without a premises licence, may result in a fine, which is unlimited or a term of imprisonment of up to 6 months, or both.

28.1 When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.

28.3 Representations can be made either be in support of an application or to express objections to an application being granted. However the Licensing Authority can only accept

“relevant representations.” A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the Licensing Objectives

28.4 An example of a representation that would not be relevant would be a representation from a local business person about the commercial damage that competition from a new licensed premise would do to their own business. On the other hand, a representation by a business person that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be a relevant representation.

28.5 Representations should relate to the impact of licensable activities carried on from premises on the Licensing Objectives.

28.6 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.

28.7 Whilst the Licensing Authority expects representations to be evidence based, there is no requirement for a Responsible Authority or other person to produce a recorded history of problems at premises to support their representations, and it is recognised that in fact this would not be possible for new premises.

28.9 Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each Responsible Authority to determine when they have appropriate grounds to do so.

28.21 Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.

28.22 The Licensing Authority will also reject as invalid, any representations from other persons that are deemed to be frivolous or vexatious. A representation might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous representations are essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

28.23 Decisions as to the validity of representations will normally be made by officers of the Licensing Authority. In borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.