

### Objection to the Rose Garden application to recorded and live sound performances.

These objections are bought by Councillors [REDACTED] and Paul Birch, councillors for the Blakenhall ward where the Rose Garden venue is located.

The objections are brought on the grounds of the relevant published licensing objectives: public nuisance and the protection of Children. This objection is in respect to the music and sound license. The published licensing objectives both refer to the 2003 Act and the broader common law meanings. The principle concern being noise.

#### 1/. **Objection to the Recorded Music & Live Music license on the grounds of Public Nuisance and Protection of Children.**

(i) The Rose Garden venue has put forwards an application for licensing hours 11.00 am to 11.00pm, 7-days a week for a drinks license. This is for the ground and upper floor. (ii) And for recorded music, live performance, and dancing for the same hours of operation on both ground and upper floors.

(iii) In its submission The Rose Garden puts an argument that it has a sound management plan in operation. We would ask panel members to please read the sound management plan. What you will find is the sound management plan only discusses the exiting of customers and their vehicles from the venue. It makes no reference to recorded or live sound escaping from the venue. We believe the sound from the venues will cause a nuisance to nearby homes, as no measures have been taken to isolate sound within the venue. The application from Rose Garden makes no reference to containing the escape of sound noise from the venue. There are no measures taken to attenuate or isolate the noise from recorded or live music or to take mitigating measures to avoid its occurrence.

(iv) Sound is produced when objects vibrate in air. The movement causes air particles to vibrate giving rise to rapid pressure fluctuations detected by the ear. The manner in which humans perceive sound governs the way it is measured and described. Two important characteristics of sound which humans perceive are the level of loudness and the pitch of frequency.

(v) Sound levels are expressed in decibels (db) and pitch or frequency in Hertz (hz). Typically, humans have audible range of between 50hz and 20,000hz. Though higher frequencies are perceived, and lower frequencies felt.

(vi) Attenuation of sound to avoid it escaping from a building relies upon sound isolation. There are principally two types of sound isolation to take account of sound movement from a building: **1/ impact sound**, which is where sound travel into a roof space and booms or into a floor and resonates, and **2/ airborne sound**, which escapes most easily through perfect conductors such as steel or glass. The Rose garden construction is a steel framework and glass.

(vii) There has been no attempt in the construction of the building to take any account of sound isolation and no reference to it in the noise management plan. There is no sound isolation in place, either internally or externally fixed to the buildings internal or external construction.

(viii) There is a perimeter wall constructed of double wall brick, at an elevation of two meters, with several gaps in the perimeter to allow for gates. But this construction, again has not been constructed from a viewpoint of sound isolation. As the Rose Garden venue upper floor is at

an elevation considerably greater than its perimeter wall, the noise escape from the venue of recorded and live music is not mitigated by the construction of the curtilage perimeter wall.

(x) There is a British Standards Advisory on construction to avoid noise: BS 8233 is the standard by which construction is required to be observed. The British Standard gives noise rating curves and sound insulation values embedded into the basic building materials and construction. The British Standard to be observed draws upon a code of practice to provide building designs that have internal acoustic environments appropriate to their function. BS8233 is a directive to the Environmental Health, Licensing and planning departments of local authorities setting out a minimum ambient noise level target.

## 2/. Night-time v Day-time noise levels

- (i) Background ambient noise during the daytime is estimated to be at around 70db, at night-time this drops considerably to a range of 30-50 db. In a bedroom the average ambient noise is 20db.

The Government advisory to councils can be found at this url link below.

<https://www.gov.uk/guidance/noise-nuisances-how-councils-deal-with-complaints#noise-at-night-warning-notices>

- (ii) Permitted noise levels are measured in “A”-weighted decibels. The Government recommends that Councils should consider potential noise nuisances, when issuing entertainment licenses. The Government say that in the National Planning frameworks at paragraphs, 170e, 180a, 180b, and 182 that councils should take relevant account of noise when considering the wider characteristics of a development. The government advisory is that noise impacts be determined if an adverse effect is occurring or likely to occur.

The government advisory <https://www.gov.uk/guidance/noise--2> describes as follows below:

## 3/. What are the observed effect levels?

- Significant observed adverse effect level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur.
- Lowest observed adverse effect level: this is the level of noise exposure above which adverse effects on health and quality of life can be detected.
- No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected.

Although the word ‘level’ is used here, this does not mean that the effects can only be defined in terms of a single value of noise exposure. In some circumstances adverse effects are defined in terms of a combination of more than one factor such as noise exposure, the number of occurrences of the noise in a given time period, the duration of the noise and the time of day the noise occurs.

See [the noise policy statement for England](#) for further information.

**4/. How can it be established whether noise is likely to be a concern?**

- (i) At the lowest extreme, when noise is not perceived to be present, there is by definition no effect. As the noise exposure increases, it will cross the 'no observed effect' level. However, the noise has no adverse effect so long as the exposure does not cause any change in behaviour, attitude, or other physiological responses of those affected by it. The noise may slightly affect the acoustic character of an area but not to the extent there is a change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment.
- (ii) As the exposure increases further, it crosses the 'lowest observed adverse effect' level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).
- (iii) Increasing noise exposure will at some point cause the 'significant observed adverse effect' level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused.
- (iv) At the highest extreme, noise exposure would cause extensive and sustained adverse changes in behaviour and / or health without an ability to mitigate the effect of the noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be avoided.

**5/. Government noise exposure cumulative table**

This table summarises the noise exposure hierarchy, based on the likely average response of those affected.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/820957/noise\\_exposure\\_hierarchy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/820957/noise_exposure_hierarchy.pdf)

This document follows on the next page;

<b>Response</b>	<b>Examples of outcomes</b>	<b>Increasing effect level</b>	<b>Action</b>
<b>No Observed Effect Level</b>			
Not present	No Effect	No Observed Effect	No specific measures required
<b>No Observed Adverse Effect Level</b>			
Present and not intrusive	Noise can be heard, but does not cause any change in behaviour, attitude or other physiological response. Can slightly affect the acoustic character of the area but not such that there is a change in the quality of life.	No Observed Adverse Effect	No specific measures required
<b>Lowest Observed Adverse Effect Level</b>			
Present and intrusive	Noise can be heard and causes small changes in behaviour, attitude or other physiological response, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life.	Observed Adverse Effect	Mitigate and reduce to a minimum
<b>Significant Observed Adverse Effect Level</b>			
Present and disruptive	The noise causes a material change in behaviour, attitude or other physiological response, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid
Present and very disruptive	Extensive and regular changes in behaviour, attitude or other physiological response and/or an inability to mitigate effect of noise leading to psychological stress, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory.	Unacceptable Adverse Effect	Prevent

**6/. Protection of children of concern**

- (i) Children are at risk if their sleep is interrupted. The NHS advise:

<u>Age</u>	<u>Hours of sleep</u>
3-5	11 - 13 hours
5-9	10 - 11 hours
10-14	9 - 9.75 hours
15-17	8.5 – 8.75 hours
Adults	7 – 9 hours

- (ii) The NHS advise parents to create a good sleeping environment for children. The bedroom should be calm, dark, quiet, and cool. The NHS write as an advisory that regular poor sleep puts us at risk of obesity, heart diseases and diabetes.
- (iii) Certain ethnicities are more prone to these diseases. As Blakenhall has a population of 74.4% Black and Ethnic minorities, we are already more prone to these health concerns. Blakenhall has on average a 4-year lower life expectancy\* than neighbouring Penn, which has a 77% White population. (\* Wolverhampton City Council 2021 publication). Therefore, issues that undermine longitudinal public health, are to be discouraged by the Local Authority.

Therefore, in the Councillors submission, there are substantive grounds not to grant a license for Recorded Music & Live Music. If the applicant refers to the absence of complaints, I would like to remind the committee that Government restriction during lockdown have prevented gatherings for dancing, singing and recorded music until the 19<sup>th</sup> July in England and 9<sup>th</sup> August in other parts of the UK.

9<sup>th</sup> August 2021

Paul John Birch