

OFFICER REPORT

Application Number: P2026/0442

Site Address: 280 Margam Road Margam Neath Port Talbot SA13 2DB

Proposal: Section 73 application to vary conditions 4 (opening times) and 5 (no amplified music) of planning permission P2026/0092 - Installation of 3 cabanas to create an outdoor seating area to the rear of an existing cafe (use class A3) approved on 02.04.2026

Applicant: Mr Ryan Morgan

Agent: Mr Robert Bowen

Ward: Margam & Taibach

Application Type: Variation of Condition

Valid Date: 7th July 2026

Statutory Expiry Date: 31st August 2026

Ext. of Time / PPA date: 28th September 2026

Publicity Expiry Date: 5th August 2026

RECOMMENDATION - Refused

SITE AND CONTEXT

The application site is 280 Margam Road, which comprises a two-storey property located within a row of established units predominantly characterised by commercial premises at ground floor and flats at first floor. The ground floor of the application unit serves a café and a hairdressers. To the first floor of the property is a flat. The host property is bounded to one side by a hairdressers and tanning salon and a retail unit to the other. To the rear of the property is a garden with a residential property beyond. The application property fronts Margam Road, which is an Unclassified Road.

DESCRIPTION OF DEVELOPMENT

This is a Section 73 application seeking to vary conditions 4 (opening times) and 5 (no amplified music) of planning permission P2026/0092.

For context, application P2026/0092 granted consent for the installation of three cabanas to create an outdoor seating area to the rear of an existing café. Each cabana measures a width of 2.25m, a length of 2.25m, an eaves height of 2.00m and a ridge height of 2.80m. The resultant width of the development is 6.75m. Bench seating and tables are situated under the structure. The development is constructed in timber cladding.

The relevant conditions of the planning permission are as follows:

Condition 4

The use of the outdoor seating area shall not be carried out outside the hours of 8:00 am to 4:00 pm Mondays to Saturdays or 9:00 am to 4:00 pm on Sundays and Bank Holidays.

Reason:

In the interest of residential amenity and to ensure the development complies with Policy BE1 of the Neath Port Talbot Local Development Plan.

Condition 5

No amplified music shall be played within the outdoor seating area.

Reason:

In the interest of residential amenity and to ensure the development complies with Policy BE1 of the Neath Port Talbot Local Development Plan.

This proposal seeks to extend the opening hours of the outdoor seating area and permit amplified music to be played until 21:00 seven days a week.

NEGOTIATIONS

A Noise Impact Assessment and additional details in relation to how amplified music would be monitored, managed or mitigated was required to demonstrate that the proposed development would not result in an adverse impact on the residential amenity of the occupiers of the neighbouring properties through an increased level of noise and disturbance. A 21 day deadline was issued to the agent to provide this information. The agent did not receive approval from their client to commission the assessment by the expiration of the deadline and as such, the application has not been supported by a Noise Impact Assessment or any accompanying information.

PLANNING HISTORY

The application site has the following relevant planning history:

- P2012/0200: Change of use of ground-floor from retail (A1) to hot-food takeaway (A3) with new shop-front, plus new extraction flue to rear elevation [Decision Date: 24.04.24]
- P2021/1075: Change of use of part of ground floor from cafe/takeaway (use class A3) to hairdressers (use class A1) and new shop front to the frontage of the property [Decision Date: 03.01.22]
- P2022/0153: 3 Fascia signs [Decision Date: 16.05.24]
- P2026/0046: Single storey rear extension [Decision Date: 13.03.2026]
- P2026/0092: Installation of 3 cabanas to create an outdoor seating area to the rear of an existing cafe (use class A3) [Decision Date: 02.04.2026]

CONSULTATIONS

Environmental Health (Noise): Require further information

REPRESENTATIONS

The neighbouring properties were consulted on 15.07.2026.

Site notices were also displayed on 14.07.2026.

In response, to date, 13 representations have been received from 11 properties, with the issues raised summarised as follows:

- *The conditions attached to the approved consent were originally imposed to protect the amenities of the occupiers of the neighbouring properties. Varying these conditions would result in loss of residential amenity.*
- *The proposed variation of conditions is contrary to the objectives of National (Planning Policy Wales) and International (Article 8 of the European Convention on Human Rights – the right to respect for private and family life and the home) policy.*
- *The permissions sought could gradually expand beyond their original intention, altering the nature of the business from a café to a venue that resembles a bar-style atmosphere. Whilst no official breach has yet taken place, the variation*

application and licensing proposals provide a clear indication of the applicant's intentions for the use of the site.

- Extending the operating hours of the outdoor seating area will intensify late-night activity. This will generate noise nuisance, light pollution to private gardens and associated activity extending beyond the advertised closing time by way of raised voices from patrons leaving, car doors slamming and vehicular engine noise.*
- In some cases, only a garden wall separates residential properties from the area intended for outdoor entertainment. Due to the layout of the buildings and walls in the surrounding area, this will seemingly cause an amplification to any noise within the cafe garden.*
- Amplified music from a nearby public house (Twelve Knights) also located on Margam Road can already be heard from within the dwellings sited on Maximin Road. The introduction of amplified music at the application site, which is closer to the residential properties along Maximin Road, has the potential to result in an even greater level of noise disturbance.*
- If the planning conditions were removed, it means increased activity, music, noise and disruption would occur immediately outside a bedroom window. This would have a considerable impact, particularly on the wellbeing and quality of life for children.*
- The application fails to demonstrate how it will mitigate the impact on neighbouring residents. The cabanas are open-fronted structures and therefore do not provide any meaningful acoustic enclosure.*
- The scale and positioning of the proposal would be overbearing.*
- The site lacks adequate parking provision which may force patrons to park on kerbs and footpaths. This obstructs the pedestrian right of way, creating a danger for local residents and the visually impaired.*
- The proposal is likely to have a negative impact on house values in the immediate area due to the increased noise, disturbance and wider amenity impacts on nearby residential properties.*
- The information included with the supporting statement relies on factually inaccurate statements regarding the neighbouring dwellings. The reports comparison with the neighbouring Co-op and takeaway is also unreasonable. Neither has a rear yard open to the public and neither encourages customers to gather, drink or listen to music outside.*

- *The level of public consultation has been inadequate. The limited display of notices has reduced awareness of the proposal and may have prevented other residents from submitting comments.*
- *The originally approved application P2026/0092 was too vague in description, giving the impression of an ancillary daytime seating area. For this reason, the original permission should be revisited.*
- *The extension approved under application P2026/0046 contains two large patio doors opening directly onto the outdoor seating area. Amplified music could be played from this extension towards the outdoor seating area, significantly impacting the amenities of the occupiers of the neighbouring properties. The extension should therefore be subject to the same operational hours as the outdoor area.*

REPORT

National Planning Policy:

Future Wales: The National Plan 2040 is the national development framework, setting the direction for development in Wales to 2040. The development plan sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate resilience, developing strong ecosystems and improving the health and wellbeing of our communities.

The following policies are of particular relevance to the assessment of this application:

Policy 2 – Shaping Urban Growth and Regeneration – Strategic Placemaking

Planning Policy Wales (Edition 12, February 2024)

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty. A well-functioning planning system is fundamental for sustainable development and achieving sustainable places

PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities. It encourages a wider, sustainable and problem solving outlook which focuses on integrating and addressing multiple issues rather than on an approach which is fragmented, un-coordinated and deals with issues in isolation. It provides an opportunity to remove any actual or perceived problems in current approaches and stimulate and support innovative and creative ideas as well as high standards of evidence and assessment to underpin the preparation of development plans and strategies and

individual proposals. Monitoring and learning from development outcomes so as to drive sustainable improvements in planning practice is also important.

4.3.44 Where new uses incorporating evening and night time activities are established in retail and commercial centres and are located near to existing residential accommodation, planning applicants should include appropriate mitigation measures to counter potential impacts to amenity.

PPW12 is supported by a series of more detailed [Technical Advice Notes](#) (TANs), of which the following are of relevance:

- Technical Advice Note (TAN) 11: Noise
- Technical Advice Note (TAN) 12: Design

Local Planning Policies

The Local Development Plan for the area comprises the [Neath Port Talbot Local Development Plan](#) which was adopted in January 2016, and within which the following policies are of relevance:

- **Policy BE1** Design
- **Policy TR2** Design and Access of New Development
- **Policy EN6** Important Biodiversity and Geodiversity Sites
- **Policy EN7** Important Natural Features
- **Policy EN8** Pollution and Land Stability

Supplementary Planning Guidance:

The following SPG is of relevance to this application:

- [Design](#) (July 2017)

Issues

Section 73 of the 1990 Act allows applications to be made for planning permission without complying with conditions previously imposed on an extant planning permission. Where a section 73 application is granted, its effect is to grant a new planning permission.

A Section 73 application can allow for the variation of conditions 4 (opening times) and 5 (no amplified music) of planning permission P2026/0092 providing it relates to minor material amendments to the planning permission. Sections 73(2) and (4) of the 1990 Act restrict the Local Planning Authority (LPA) in their determination of section 73 applications. The effect of the provisions is to limit the LPA to considering the question of whether the conditions identified in the section 73 application should apply as originally stated, would be acceptable if modified or it would be acceptable to remove

them. The LPA cannot revisit the original permission and reconsider whether it should have been granted in the first place. However, as an approval of a section 73 application results in a planning permission in its own right, it is necessary to assess what material changes there may have been in terms of policy since the original permission was granted in order to ensure that all relevant material considerations have been assessed.

The LPA can grant permission unconditionally or subject to different conditions. They can refuse the application if they decide that the original conditions should continue. The original planning permission will continue whatever decision is taken on the Section 73 application.

The first assessment of this application is whether the conditions proposed are acceptable. This application seeks to vary the opening times and no amplified music conditions attached to application P2026/0092. As such, the potential for noise and disturbance is pertinent to this case.

For context, there are several existing A1 and A3 uses within this town centre location. These units are predominantly characterised by commercial premises at ground floor and flats at first floor. While the café operates within a mixed-use area, residential properties form the predominant land use. It should be noted that there are noise sensitive receptors in close proximity to the application site, particularly along Maximin Road to the rear. No.2 Maximin Road is the nearest dwellinghouse to the rear of the application site. The three cabanas are sited immediately adjacent to the eastern boundary of this property.

The proposal seeks to intensify the outdoor use of the premises through extended opening hours and the introduction of amplified music. Conditions were imposed on the original permission requiring the outdoor seating area to be subject to the same opening hours as the existing café (8:00 to 16:00 Mondays to Saturdays and 9:00 to 16:00 on Sundays and Bank Holidays) in order to reduce the potential for disturbance to local residents. It was originally considered that subject to conditions, the development would be unlikely to have an unacceptable impact in terms of noise and disturbance over and above that which can be expected from other similar uses in the area. It is noted that within the immediate streetscene, Co-op (Nos.276-278 Margam Road) and Lee's Takeaway (No.274 Margam Road) both operate until 22:00. This application seeks to extend the opening hours of the outdoor seating area and permit amplified music to be played until 21:00 seven days a week. While the aforementioned premises operate beyond the hours subject to this application, it should be noted that any noise associated with the Co-op and Takeaway are limited to general comings and goings and shorter-term customer activity. Under such circumstances, the introduction of amplified music within an outdoor seating area in close proximity to a neighbouring residential curtilage, is not comparable.

The application has made a number of assumptions about noise and mitigation afforded by a wall and windows, but it would appear that this is not supported by any evidence.

The information provided within the supporting statement indicates that “*small speakers will be installed within the cabanas, thereby limiting noise impact*”. The cabanas feature an open-fronted design and no information has been provided to sound insulate the structures. This is of a particular concern for No.2 Maximin Road where two first floor windows serving habitable bedrooms are located on the eastern elevation above the three cabanas. The supporting statement appears to describe these windows as “*secondary, sealed bedroom windows*.” However, these windows are not sealed and are capable of being opened. Environmental Health (Noise) in responding to this application have requested the submission of a Noise Impact Assessment to consider the impact of amplified music and patron noise as well as a Noise Management Plan to ensure control measures are implemented, where necessary. Without the provision of a Noise Impact Assessment, Environmental Health (Noise) have advised that they would object to the application. The application has not been supported by a Noise Impact Assessment.

Policy BE1 notes that *proposals will only be permitted where development does not have a significant adverse impact on the amenity of occupiers of adjacent land*. Policy EN8 also states that *potentially noisy proposals should not be located close to sensitive uses (such as hospitals, schools and housing) and new noise-sensitive developments should not be located near to existing noisy uses (including industry and existing or proposed transport infrastructure) unless it can be shown that adverse effects can be dealt with through mitigation measures incorporated into the design*. The agent of change principle in Planning Policy Wales (Edition 12) echoes this as it dictates that the onus is on the developer to demonstrate acceptable noise impact. It is therefore considered that in the absence of the required Noise Impact Assessment and additional details in relation to how amplified music would be monitored, managed or mitigated, the applicant has failed to demonstrate that the proposed development would not result in an adverse impact on the residential amenity of the occupiers of the neighbouring properties through an increased level of noise and disturbance. As such, the proposal would not accord with Policy BE1 and Policy EN8 of the Neath Port Talbot Local Development Plan and PPW (Edition 12).

It is not considered suitable to condition the submission of such an assessment as the reason why these conditions were initially imposed was because a Noise Impact Assessment was not submitted. As such, it would be unreasonable to allow such a change without that document supporting such an application.

There have been no material changes in circumstances since the original permission was granted. In light of this, all relevant material considerations have been assessed.

Other Matters

As identified earlier in this report, representations were received in response following the publicity exercise. In response to the issues raised which have not been addressed elsewhere in this report, the following comments are made:

- *The permissions sought could gradually expand beyond their original intention, altering the nature of the business from a café to a venue that resembles a bar-style atmosphere. Whilst no official breach has yet taken place, the variation application and licensing proposals provide a clear indication of the applicant's intentions for the use of the site.*

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as use classes. It should be noted that planning permission is not required for a change of use of land to a new use within the same class. Bars fall within the same use class as restaurants (A3). If this is the applicant's intention, planning permission would not be required.

- *The site lacks adequate parking provision which may force patrons to park on kerbs and footpaths. This obstructs the pedestrian right of way, creating a danger for local residents and the visually impaired.*

The application site is located within a local parade of shops. The cabanas are sited to the rear of the application site and would not result in the displacement of any existing parking arrangement. The introduction of three cabanas is unlikely to result in any material increase in parking above and beyond the existing arrangement.

- *The scale and positioning of the proposal would be overbearing.*

This application is to amend conditions in relation to opening times and no amplified music and not to revisit the physical construction of the cabanas.

- *The proposal is likely to have a negative impact on house values in the immediate area due to the increased noise, disturbance and wider amenity impacts on nearby residential properties.*

Property value is not a valid, material planning consideration.

- *The level of public consultation has been inadequate. The limited display of notices has reduced awareness of the proposal and may have prevented other residents from submitting comments.*

All properties that share a common boundary were consulted on this application. While not a statutory requirement, site notices were also posted on Margam Road and Maximin Road.

- *The extension approved under application P2026/0046 contains two large patio doors opening directly onto the outdoor seating area. Amplified music could be played from this extension towards the outdoor seating area, significantly impacting the amenities of the occupiers of the neighbouring properties. The extension should therefore be subject to the same operational hours as the outdoor area.*

Only information relevant to this application shall form part of the officer report.

- *The originally approved application P2026/0092 was too vague in description, giving the impression of an ancillary daytime seating area. For this reason, the original permission should be revisited.*

The LPA cannot revisit the original permission and reconsider whether it should have been granted in the first place.

CONCLUSION

The decision to refuse planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises Future Wales - the National Plan 2040 and the Neath Port Talbot Local Development Plan (2011–2026) adopted January 2016.

In the absence of the required Noise Impact Assessment and additional details in relation to how amplified music would be monitored, managed or mitigated, the applicant has failed to demonstrate that the proposed development would not result in an adverse impact on the residential amenity of the occupiers of the neighbouring properties through an increased level of noise and disturbance. As such, the proposal would not accord with Policy BE1 and Policy EN8 of the Neath Port Talbot Local Development Plan and Planning Policy Wales (Edition 12).

RECOMMENDATION

Refused

Subject to the following conditions/reasons, which have been imposed for the reasons stated:-

- 1 In the absence of the required Noise Impact Assessment and additional details in relation to how amplified music would be monitored, managed or mitigated, the applicant has failed to demonstrate that the proposed development would not result in an adverse impact on the residential amenity of the occupiers of the neighbouring properties through an increased level of noise and disturbance. As such, the proposal would not accord with Policy BE1 and Policy EN8 of the Neath Port Talbot Local Development Plan and Planning Policy Wales (Edition 12).

Case Officer Thomas Lewis

Telephone No. 01639 686226

Date of Recommendation 22nd September 2026