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6 June 2017

The following information was circulated at the meeting of the **LICENSING SUB-COMMITTEE** held in the **COUNCIL CHAMBER - 52 DERBY STREET** on **TUESDAY, 6 JUNE 2017** at **10.30 AM**

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| 7. | APPLICATION FOR THE REVIEW OF A PREMISES LICENCE IN RESPECT OF JYNX, WITHAM ROAD, SKELMERSDALE, WN8 8HP | 149 -
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We can provide this document, upon request, on audiotape, in large print, in Braille and in other languages.

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Jynx Bar, Witham Road, Skelmersdale

Review of Premises Licence

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Witness Statement

(CJ Act 1967, S.9 MC Act 1980, ss. 5A(3a) and 5B. MC Rules 1981, R.70)

Statement of: Sarju Patel and Daniel Kenyon

Age: **Over 18**

Occupation: Joint Owners of Jynx Bar, Witham Road, Skelmersdale

This statement (consisting of [2] pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated: ...30/05..... 2017

Signature:

Sarju Patel and Daniel Kenyon make this statement so that it can be put before the Councillors who will be considering the review of the Premises Licence in respect of Jynx Bar, Witham Road, Skelmersdale.

This statement is simply addressing the statements that have been made both in the report itself and by two of those making representations, which do not simply insinuate but directly state that they fear "potential intimidation" or "repercussions" from the Jynx Bar as a result of representations being made. However, if this is indeed the case why has one of the residents in question [REDACTED] stood on the corner of the street on several occasions shouting/screaming abuse at customers & Jynx security staff in & around the venue's smoking area?

We understand these statements have been made on the basis of a brick being thrown through one of the neighbour's windows, something that was repeated recently we believe.

The Police have investigated both these incidents, and there is absolutely no proof nor indication they have anything at all to do with Jynx Bar or ourselves. Anecdotally, we have heard that the neighbour in question, who has had the bricks thrown through her window, does not have particularly good relationships with at least one other person in the area.

Signature:

Document Ref: 2145934975

Signature witnessed by

Why is the insinuation being made that this brick has anything at all to do with Jynx, or ourselves?

We have both invested a lot of time and effort in this club, and feel upset that unfounded accusations are being made against us. One of us runs a chain of pharmacies, and is much more involved in ensuring people are healthy and their lives are not put at risk, as opposed to any sort of intimidation tactics being taken, and the other of us is local to Skelmersdale and has lived in the area for many years. We are very upset about these accusations, which are completely unfounded, and wanted to put on record that very mention of these accusations in the letters and then the Report is most upsetting and unfounded.

Whilst we appreciate the Licensing Authority has to take heed of the allegations and, therefore, remove the addresses, we would ask why if there is such a level of intimidation in the area are two of the residents quite happy for their addresses to be disclosed?

We hope that the Councillors considering this application will have chance to read this statement prior to the hearing on 6th June.

Signature: 

Signature witnessed by 

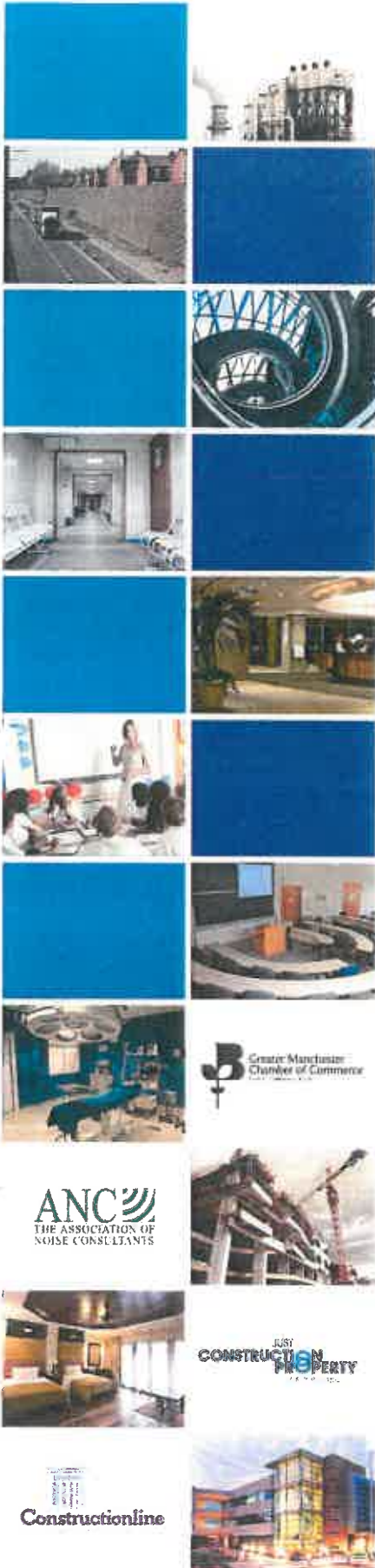
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Signature witnessed by 

Document Ref: 2145934975

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P465688



NOISE MANAGEMENT PLAN

ON BEHALF OF

BAR JYNX LTD

for the site at

**JYNX, 4 WITHAM ROAD, SKELMERSDALE,
WN8 8HP**

REPORT DATE: 31ST MAY 2017

REPORT NUMBER: 101522_2

**Miller Goodall Ltd
Ground Floor
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Tel: 01204 596166

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Company registration number 5201673

Summary

A Noise Management Plan (NMP) has been produced by Miller Goodall Ltd (MGL) in conjunction with Bar Jynx Ltd.

The NMP is provided for Bar Jynx, 4 Witham Road, Skelmersdale, WN8 8HP.

Record of changes

Prepared By Colin Foster MIOA

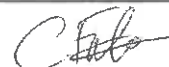
Reviewed By

Joanne Miller MIOA

Signed



Signed



Date

31st May 2017

Date

31st May 2017

Version	Date	Change	Initiats
1	31st May 2017	Initial issue	CF
2	31 st May 2017	Minor Alterations	CF

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1 Site Details

1.1 Site name and address

Bar Jynx Ltd
Jynx
4 Witham Road
Skelmersdale
WN8 8HP

1.2 The site is a bar and nightclub located within the administrative boundaries of West Lancashire Borough Council and is situated within a predominantly residential area in Skelmersdale.

1.3 The site is mostly occupied by the nightclub building, together with a small paved external area to the west of the building near the main entrance. There is no dedicated car parking area associated with the club.

1.4 We understand that the bar's current opening hours are as follows:

- Mon, Tues, Weds: Closed
- Thu: 5pm – 11pm
- Fri: 5pm – 2am
- Sat: 12pm – 2am
- Sun: 12pm – 10pm

1.5 We understand that the bar's typical operation involves music playing at moderate to high levels inside the bar and on the modest sized dance floor. During the weekend evenings we understand there are usually events including guest DJ's, Karaoke and the like. We further understand that the venue is occasionally used for live music involving bands.

2 Management Plan

2.1 The Noise Management Plan (NMP) shall identify sources and potential sources of noise, and shall consider the risk to sensitive receptors. The NMP has been produced with the intention of reducing as much as possible, noise generating activities.

2.2 This NMP contains:

- An assessment of the risks of noise problems;
- The appropriate controls (both physical and management) needed to manage those risks;
- Suitable monitoring;
- Actions, contingencies and responsibilities when problems arise; and
- Regular review of the effectiveness of noise control measures.

2.3 The NMP has been developed with the full involvement of the senior management of Bar Jynx.

3 Sensitive Receptors

3.1 Personnel and Patrons

- 3.1.1 Personnel/ staff working on site and patrons of the club are the closest receptors to any noise produced on site. However, these people are not likely to be sensitive receptors due to the site being their workplace location or their chosen place of leisure.
- 3.1.2 The noise exposure of staff and other employees, including self-employed DJs and visiting musicians, are subject to The Control of Noise at Work Regulations (2005).
- 3.1.3 All staff should be made aware of the issue of noise on site and should be fully conversant with the contents of this Noise Management Plan.
- 3.1.4 Personal hearing protection shall be made available to all staff or visitors, if requested.
- 3.1.5 It is unlikely that noise from the club will cause nuisance or distress to patrons.

3.2 Neighbours

- 3.2.1 Neighbouring residential properties are likely to be the most noise sensitive receptors. Good relationships with neighbouring residents are essential in order to anticipate potential problems and avoid them, where possible, before official complaints are made. Bar Jynx shall ensure:
- that all the neighbours know how to contact the site managers if they consider noise to be a problem (Contact details will be clearly visible on the site sign);
 - that any complaints are recorded and that problems, where possible, are dealt with promptly; and
 - that feedback is provided following every complaint.
- 3.2.2 Local residential properties have been identified as having the potential to be impacted by noise from Bar Jynx as follows:
- Dwellings on Hutton road, to the south west of site, which overlook the site;
 - Semi-detached dwellings on Witham Road to the west;
 - Dwellings on Uppingham; and
 - Dwellings on Marchbank Road.

4 Noise Control Measures

4.1 Indicative Best Practicable Means (BPM) for Noise

- 4.1.1 The Operator should employ best practicable means for the control of noise, including ongoing control of music noise emissions, the provision of effective acoustic screening around the external smoking area and also management controls which strive to help minimise noise associated with patrons outside of the building.

4.2 Control of Amplified Music Noise and Use of Noise Limiter

- 4.2.1 The noise limiter shall be used to prevent excessive levels of music being played through the sound system.
- 4.2.2 All amplifiers and other electrical sound generating equipment shall be connected to the noise limiter. This applies to the 'house' sound system and also to musical equipment which is temporarily used by visiting DJs and the like.
- 4.2.3 The noise limiter must only be set by a senior EHO from West Lancs Council, as we understand that this is currently a condition of the premises' licence. Our suggestion is that the noise limiter shall be reset as soon as possible.
- 4.2.4 At the time of bookings being made, all guest DJ's and other visiting acts shall be made aware of this NMP, the reason for its existence and the importance of utilising the noise limiter and controlling music noise levels.
- 4.2.5 In addition to the noise limiter, the management will undertake a regular subjective assessment of music noise by listening for potentially excessive music noise levels outside of the surrounding residences. Where music noise levels are considered excessive, the management will ensure that music noise levels are further reduced.
- 4.2.6 No loudspeakers or similar music making equipment shall be used outside of the building at any time.

4.3 Live Music

- 4.3.1 Due to the difficulty in controlling noise from non-amplified acoustic instruments, such as drum kits, no live music shall be played after 10:30 pm unless building works are first completed to improve the sound insulation of the building envelope.
- 4.3.2 Where live music which requires amplification is used, and does not also require loud un-amplified instruments, then this is permissible at any time, provided that all amplifiers and other electrical sound generating equipment are connected to the noise limiter.

4.4 General Operational Control Measures

- 4.4.1 At least one doorstaff personnel shall be present at all times and shall be responsible for enforcing this noise management plan, reminding other staff and workers (e.g. DJ's etc) about their responsibilities in terms of noise management and preventing any undue noise disturbance.
- 4.4.2 Door supervisors shall supervise the area immediately outside the premises to reduce any unnecessary noise, particularly during dispersal.
- 4.4.3 All sets of doors to the club shall remain properly closed when not in use.
- 4.4.4 Staff will not use shouting or raised voices outside the club at any time, except in unforeseen emergency situations. Radios, portable music devices and other audio amplification equipment shall not be used
- 4.4.5 Door staff to ensure that customers do not leave the premises with bottles or glassware.
- 4.4.6 Door staff to undertake regular patrols around the perimeter of the site in order to listen out for possible noise issues and take appropriate action.
- 4.4.7 Consideration could be given to making free lollipops available to patrons as they leave.

4.5 Taxis and Noise from Other Vehicles

- 4.5.1 Inform local taxi firms about this NMP and the reason for its existence.
- 4.5.2 Liaise with local taxi firms and drivers with the intention of ensuring that vehicle engines are not left idling for longer than necessary at any time and that music and other noise from car stereos are minimised when in the vicinity of the bar.
- 4.5.3 The Operator to consider developing a taxi phone scheme whereby they arrange taxis for people who are leaving and only use companies and drivers who comply with the NMP.

4.6 Control of Noise from Patrons Outside the Premises

- 4.6.1 The use of the barrier around the external smoking area shall be retained. This has been shown to achieve significant reductions in the noise level generated by people using the smoking area. See MGL document *"Assessment of noise from a smoking shelter"* dated 31st May 2017
- 4.6.2 Doorstaff shall regularly patrol the external smoking area and ask people to promptly return to the club when they have finished smoking. A maximum of 15 people will be allowed in the smoking area at any time.
- 4.6.3 A dispersal policy shall be implemented to encourage the rapid dispersal of groups.
- 4.6.4 The use of metal crush barriers should be used, where possible, to assist with dispersal and to discourage people gathering outside of the club.
- 4.6.5 Implement a scheme whereby patrons who are frequently noisy are banned from the club.

4.7 Staff Training

- 4.7.1 Bar Jynx shall inform all door staff and other relevant staff about the noise management plan and the reasons for its implementation. This will be included as part of staff induction procedures and highlighted at regular staff meetings.
- 4.7.2 Disobeying the NMP shall be a disciplinary conduct matter.

4.8 Signage

- 4.8.1 Signage will be located within the smoking area, entrances and exits and at prominent locations inside the bar reminding staff and patrons to ensure that noise is controlled at all times to protect the amenity of local residents.
- 4.8.2 Utilise social media campaigns to regularly remind patrons about the importance of minimising potential noise disturbance to local residents.

4.9 Good Housekeeping

- 4.9.1 Good housekeeping practises on site to minimise noise from the site shall include:
 - The general maintenance and inspection of the house sound system, including checks of the noise limiter;
 - Replacing and renewing all signage associated with controlling noise emissions;
 - Door seals and self-closing mechanisms fitted to external doors shall be checked periodically and

maintained to ensure the highest sound insulation performances are achieved;

- Six monthly inspections of the condition of the smoking shelter shall be undertaken to ensure the barrier has not been damaged or breached; and
- General housekeeping and inspection procedures maintained.

Regular Review of Control Measures

4.9.2 The above noise control measures shall be reviewed annually other than in 4.10.2 below.

4.9.3 The control measures shall be reviewed as a matter of course if:

- A complaint is received;
- Changes to the sound system are proposed or have taken place (e.g. repositioning of loudspeakers etc); or
- If planning or licensing conditions are amended.

4.10 Complaints Response

4.10.1 The management shall provide the nearest residences with a contact telephone number and/or email address which can be used to notify the company about noise complaints. A record of all noise complaints shall be kept by the operator.

4.10.2 Bar Jynx shall have a set procedure for dealing with and responding to complaints. If a noise complaint is made then a complaint form will be filled out (see Appendix 1) and a note made in the site diary. All complaints shall be dealt with promptly and any appropriate remedial action shall be taken. A noise complaint will result in:

- Completion of a complaint form
- Source of noise identified, (where possible)
- Remedial action taken (where possible)
- Complainant notified of remedial action taken and deadline for action
- Relevant staff informed as to the time and nature of each complaint
- Control measures reviewed

5 Monitoring

5.1 Monitoring Plan

5.1.1 It is acknowledged that there will be instances throughout the operating period where there will be some noise generated on site. It is proposed that these occurrences will be minimised in accordance with the control measures outlined in Section 4 of this document. It shall be the responsibility of the management to monitor site operations and ensure that the proposed control measures are being implemented effectively.

5.2 Noise Records

5.2.1 Bar Jynx shall keep records of site inspections. Any adverse operating conditions, non-conformances, complaints and mitigation/management failure shall be recorded in the site diary and maintained on file for at least 12 months.

APPENDICES

Appendix 1: Example Complaints Form

Bar Jynx, 4 Witham Road, Skelmersdale, WN* 8HP	
Noise complaints form	
Date of report:	Reference Number:
Time and date of call	
Name and address of caller	
Telephone number of caller	
Location of caller in relation to site	
Date, time and duration of reported noise	
Description of character of noise: e.g. loud/distant, continuous, intermittent, hum, bangs, clatters.	
Any other comments about the reported noise	
Any other previous complaints relating to this report	
Potential noise sources that could give rise to the complaint	

The operations being carried out on site at the time of the complaint e.g. disco, karaoke, live band		
Any other relevant information		
Follow Up		
Actions taken		
Date of call back to complainant and summary of call back conversation		
Recommendations		
Change in procedures		
Any changes to Noise Management Plan	Provide Section Reference	
Date changes implemented		
Form completed by:	Signature	Date

ASSESSMENT OF NOISE FROM A SMOKING SHELTER

on behalf of

BAR JYNX LTD

for the site at

**JYNX, 4 WITHAM ROAD, SKELMERSDALE,
WN8 8HP**

REPORT DATE: 31ST MAY 2017

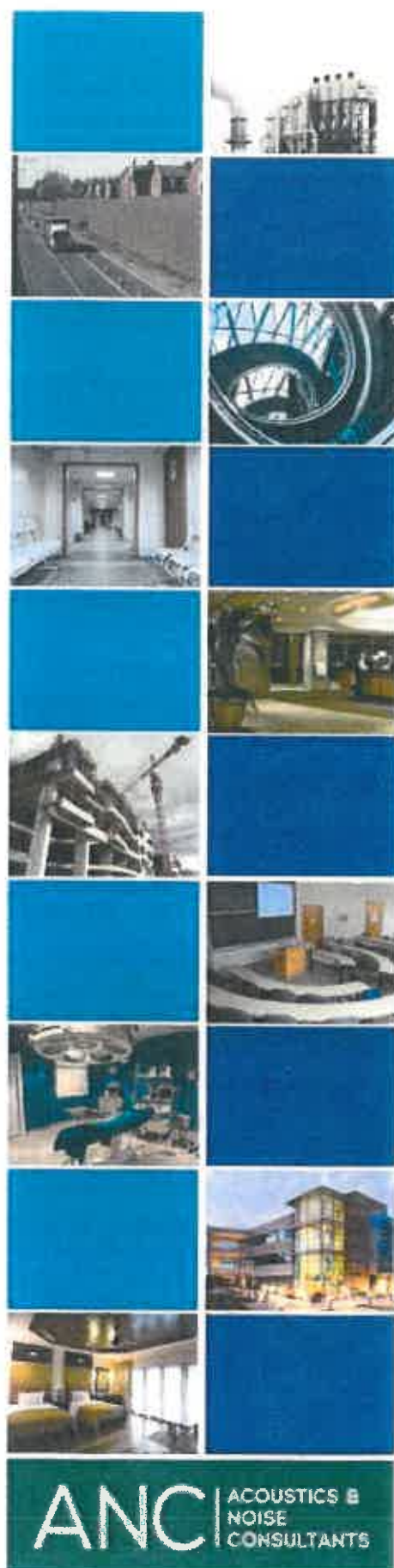
REPORT NUMBER: 101522_3

Miller Goodall Ltd
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Tel: 01204 596166

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Company registration number 5201673



Summary

Miller Goodall Ltd has, on behalf of Bar Jynx Ltd, undertaken a modelling and calculation exercise to estimate the sound attenuation achieved by acoustic screening around an external smoking area.

It is shown that the acoustic screening which has already been installed is predicted to have resulted in a reduction of up to 10 dB L_A at first floor window of residences to the south of site.

An additional barrier has been recommended which is predicted to result in a reduction of up to 10 dB L_A at first floor window of residences to the north of site.

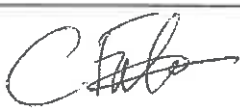
Record of changes

Prepared By Colin Foster MIOA

Reviewed By

Joanne Miller MIOA

Signed



Signed



Date

31st May 2017

Date

31st May 2017

Version	Date	Change	Initials
1	16 th May 2017	Initial Issue	CF
2	31 st May 2017	Rev2	CF

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Appendix 2: Computer Modelling

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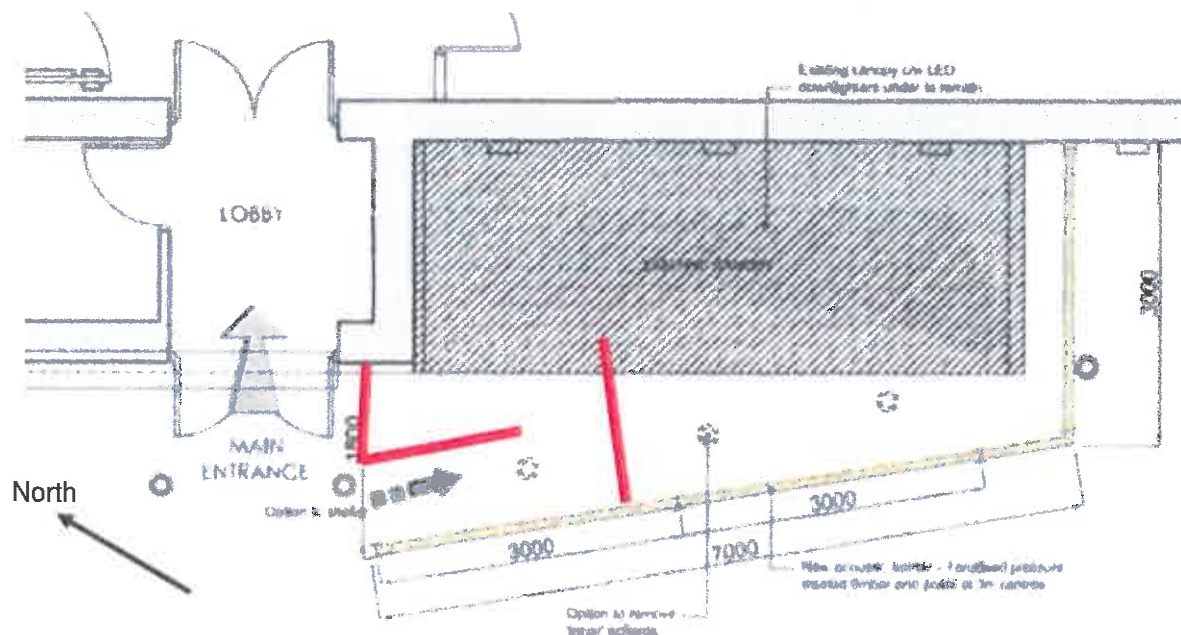
1 Introduction

- 1.1 Miller Goodall Ltd has, on behalf of Bar Jynx Ltd, undertaken a modelling and calculation exercise to estimate the sound attenuation achieved by acoustic screening around an external smoking area.
- 1.2 The acoustic screening surrounding the smoking shelter was recently installed at Jynx, 4 Witham Road, Skelmersdale, WN8 8HP.

2 Acoustic Screen Details

- 2.1 Appendix 1 shows a drawing of the external smoking area before the screen was erected (labelled as existing) and after the screen was erected (labelled as proposed). The acoustic screens form two sides of an enclosure around an external smoking shelter, with the other 2 walls being formed by the masonry walls of the club. The screens are continuous from the ground to 2.4 m high and of timber construction, with an acoustically absorbent fence to the smoking area.
- 2.2 Figure 1, below, shows a suggested further addition to the smoking shelter (shown in red). The intention is to remove the line of sight between the shelter and the main entrance, which would reduce noise propagation to residents on the north west. It would also discourage conversations being held between people in the smoking shelter and those gathering around the main entrance.

Figure 1: Proposed alteration to smoking shelter walls (shown in red)



- 2.3 For security reasons the proposed additional walls (shown in red) would need to be constructed from clear perspex or other suitable transparent material, to allow the doorstaff to see into the smoking shelter. Perspex (acrylic) is denser than most timber and will perform at least as good as timber, provided an identical thickness of product to timber is used.

3 Predicted Sound Attenuation

3.1 Computer Modelling

3.1.1 The CadnaA noise modelling package was used to predict the external noise levels at surrounding receptors with and without the screens being present. Figure 2.1 of Appendix 2 shows a 3D Isometric view of the model.

3.1.2 The model was set up with the following parameters:

- Propagation of noise using algorithms within ISO 9613: 1993 *Acoustics - Attenuation of sound during propagation outdoors*.
- Default ground absorption $G = 0$. (Equivalent to mostly hard, reflective external surfaces and consistent with the dominant ground cover at the site).
- Ground attenuation: spectral all sources
- No adverse meteorological effects
- Two orders of reflection
- Topographical data and aerial image was obtained using EMap contours.

3.1.3 Receptors were placed at first floor level of the nearest of the surrounding residences.

3.1.4 The model was populated with noise level data for 15 people all gathered close together in the smoking area. It was assumed that each person's voice behaves like a point source and was at a height of 1.8 m above the ground.

3.1.5 The assumed source noise data for the people was taken from the CadnaA database and is given in Table 1. It is assumed that 9 of the people were using normal voices, and 6 were using raised voices.

Table 1: Assumed Sound Power Level of Voices

Description	Free-field sound power level, L_w dB in Octave Band Centre Frequency, Hz								L_{Aeq}
	63	125	250	500	1k	2k	4k	8k	
Normal voice level	61	61	65	69	63	56	50	45	68
Raised voice level	65	65	70	75	72	64	57	49	75

3.1.6 The effect of the lightweight canopy over the smoking shelter was also investigated and it was found that it was having negligible effect on attenuation of noise sources within the smoking area.

3.2 Modelling Results

3.2.1 The results are shown graphically in Figures 2.2 - 2.4 of Appendix 2 and summarised in Table 2, overleaf.

Table 2: Results of predicted noise propagation

Location (all receivers at first floor level)	Predicted Noise Level dB L_{Aeq}		
	Original (no barriers)	With Current Barriers	With Additional Barriers
Hutton Rd property 1; rear window (SW)	49	39	39
Hutton Rd property 2; rear window (SW)	34	26	26
Witham Rd property 1; front window (NW)	48	47	37
Witham Rd property 2; front window (SE)	31	25	25
Corner Witham Rd and Hutton Rd (S)	47	37	37

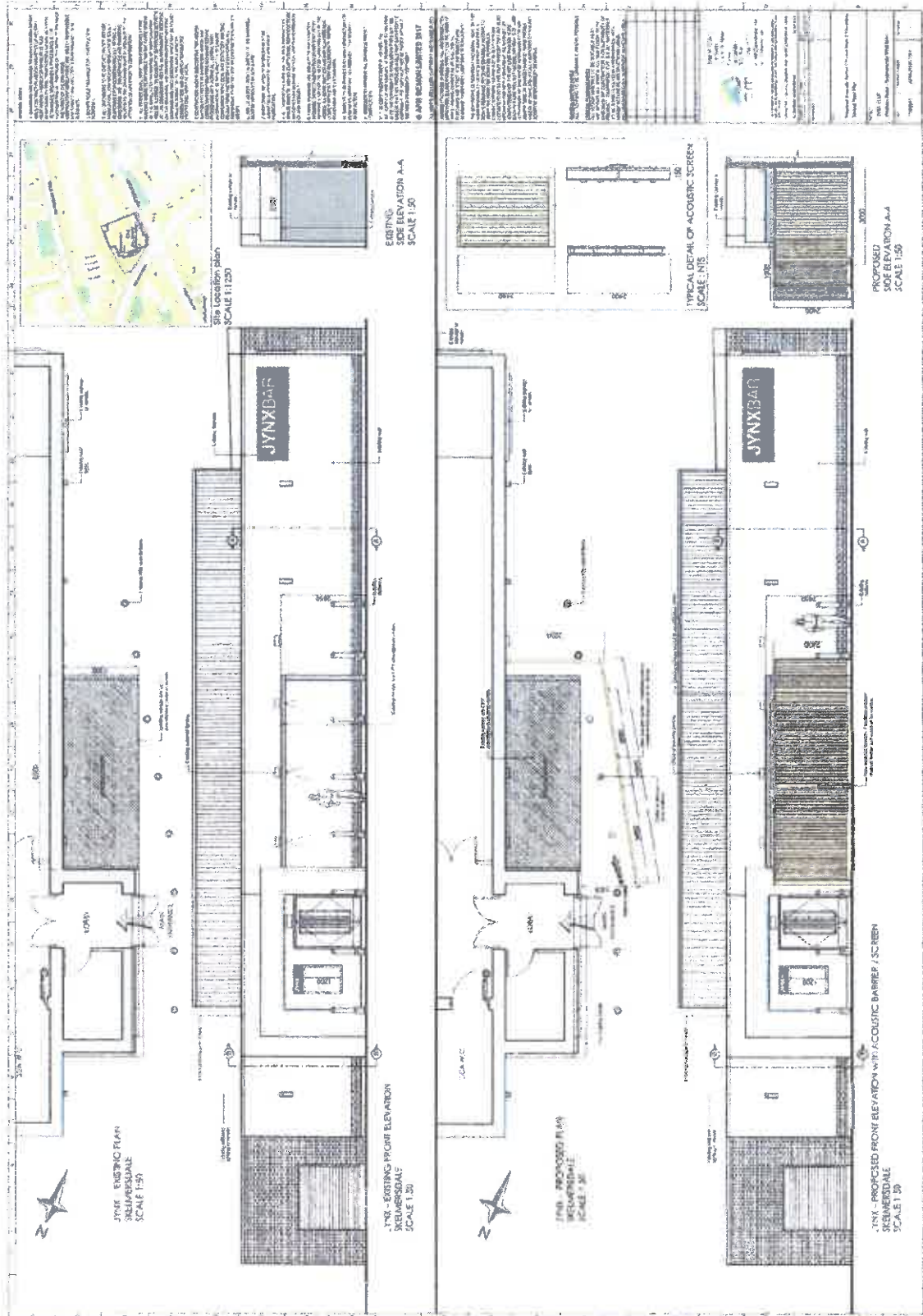
- 3.2.2 It can be seen that the smoking barrier which has been installed has had the greatest effect on dwellings to the South West (Hutton Road) where the noise levels are predicted to have reduced the noise from 15 people in the smoking shelter by around 8 dB L_A at first floor window of the closest residence and by around 10 dB L_A at first floor window of residents further along Hutton Road.
- 3.2.3 However, the smoking barrier which has been installed has had very little effect on properties to the north (Witham Rd). With the suggested modification in place using the Perspex screens, noise to the north is predicted to reduce by a further 10 dB L_A .
- 3.2.4 With the suggested modification in place, we are of the opinion that the average (L_{Aeq}) noise level inside the properties, as caused by normal use of the smoking shelter, is below the background noise and does not exceed recognised internal noise design limits.

4 Conclusions

- 4.1 Calculations have been completed to estimate the likely sound attenuation achieved by an acoustic screen which has recently been erected around the external smoking shelter at Jynx, 4 Witham Road, Skelmersdale, WN8 8HP.
- 4.2 A computer model was used to calculate the noise levels generated by 15 people in the smoking area at surrounding residents, with and without the acoustic screen.
- 4.3 The sound attenuation was predicted to be greatest at residences to the south west of site where the reduction were around 8 – 10 dB L_A at first floor window level. However, the design of the acoustic screen is such that it does not provide any significant reductions to properties to the north.
- 4.3.1 A suggested modification has been detailed which would reduce the noise levels to the north by around 10 dB L_A .

APPENDICES

Appendix 1: Details of Acoustic Screen around Smoking Shelter



Appendix 2: Computer Modelling

Figure 2.1: 3D Isometric view of model

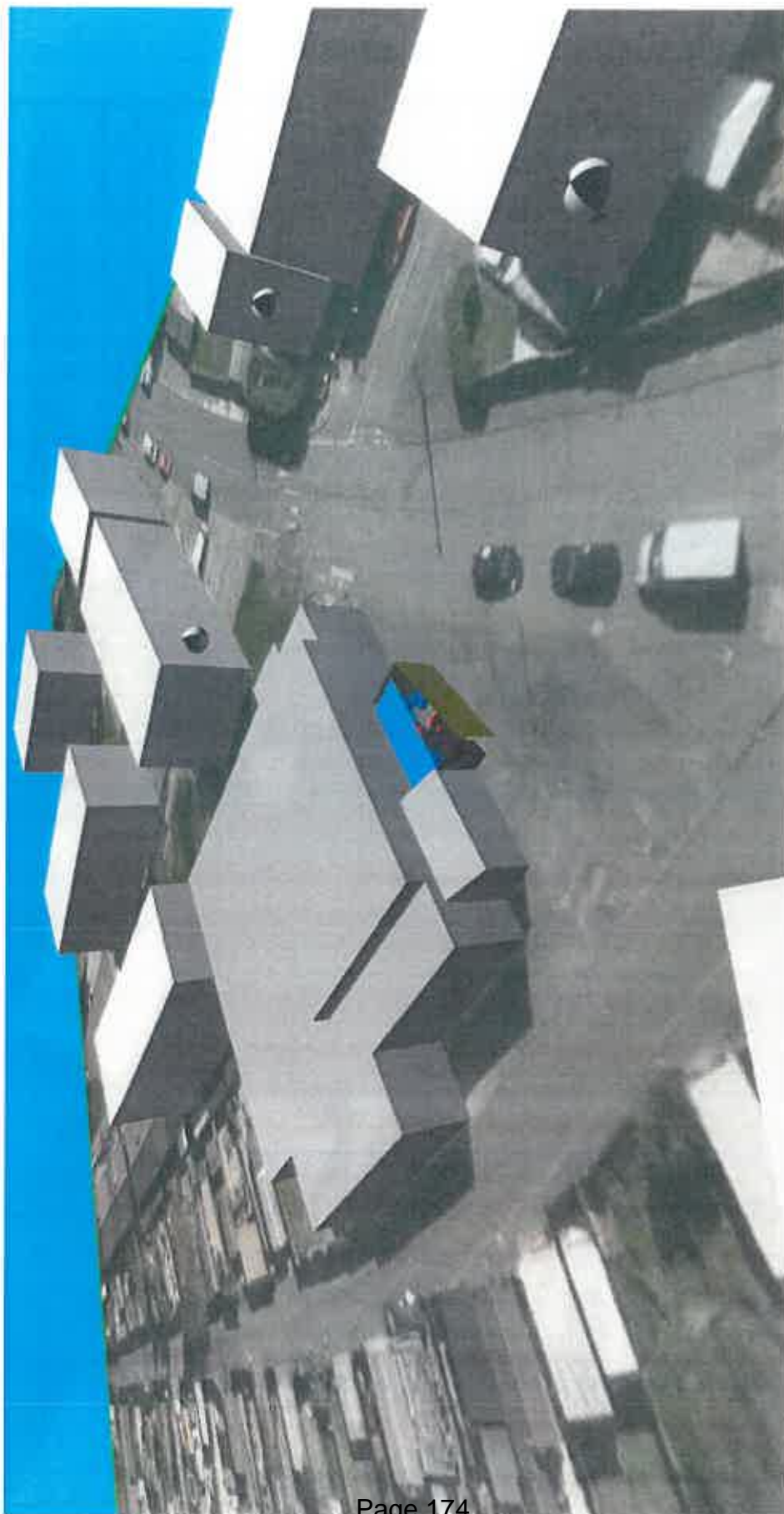


Figure 2.2: Predicted Noise Levels (dB $L_{Aeq,T}$): No acoustic screening

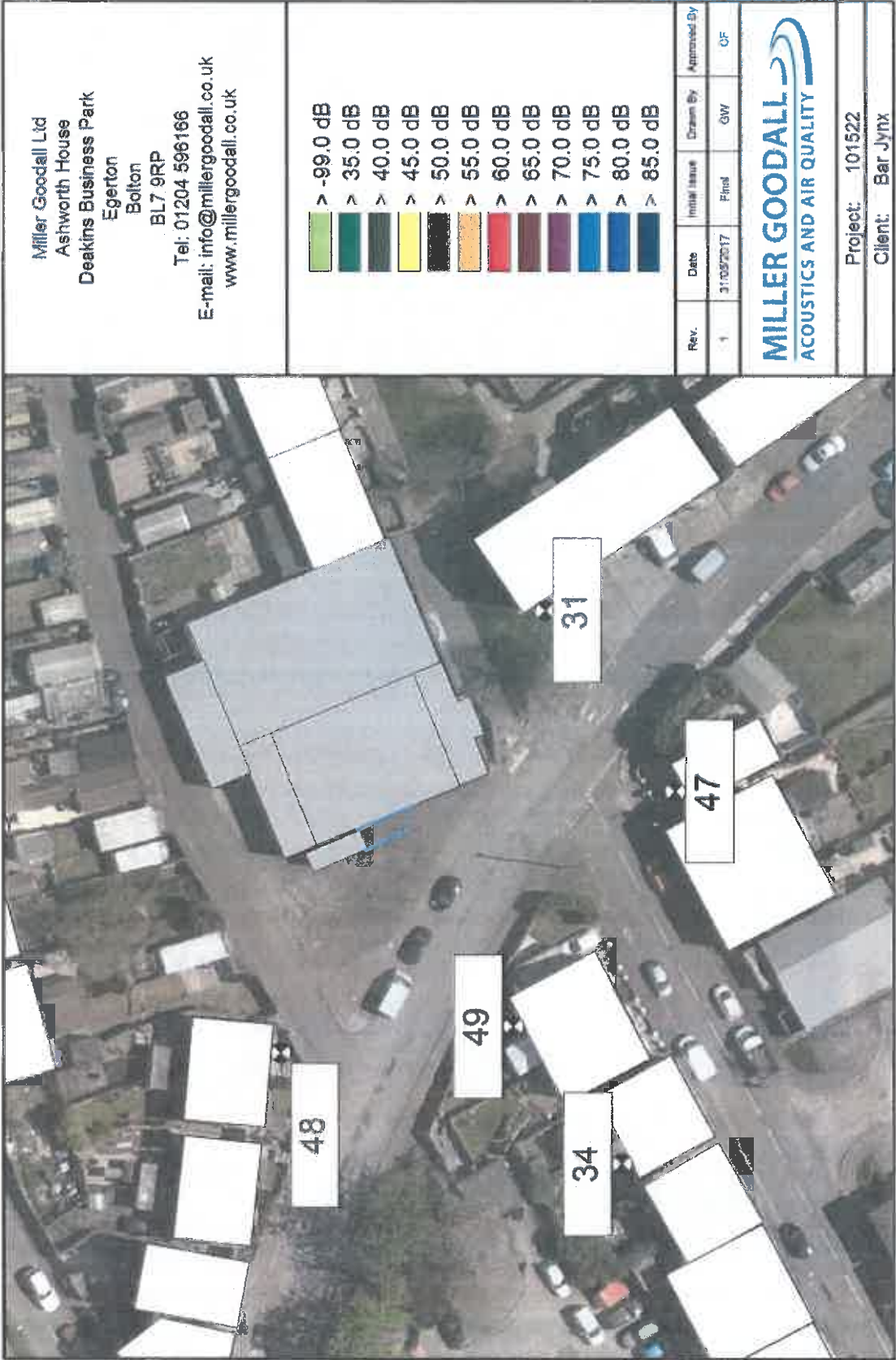


Figure 2.3: Predicted Noise Levels (dB $L_{Aeq,T}$): With acoustic screening, as currently installed

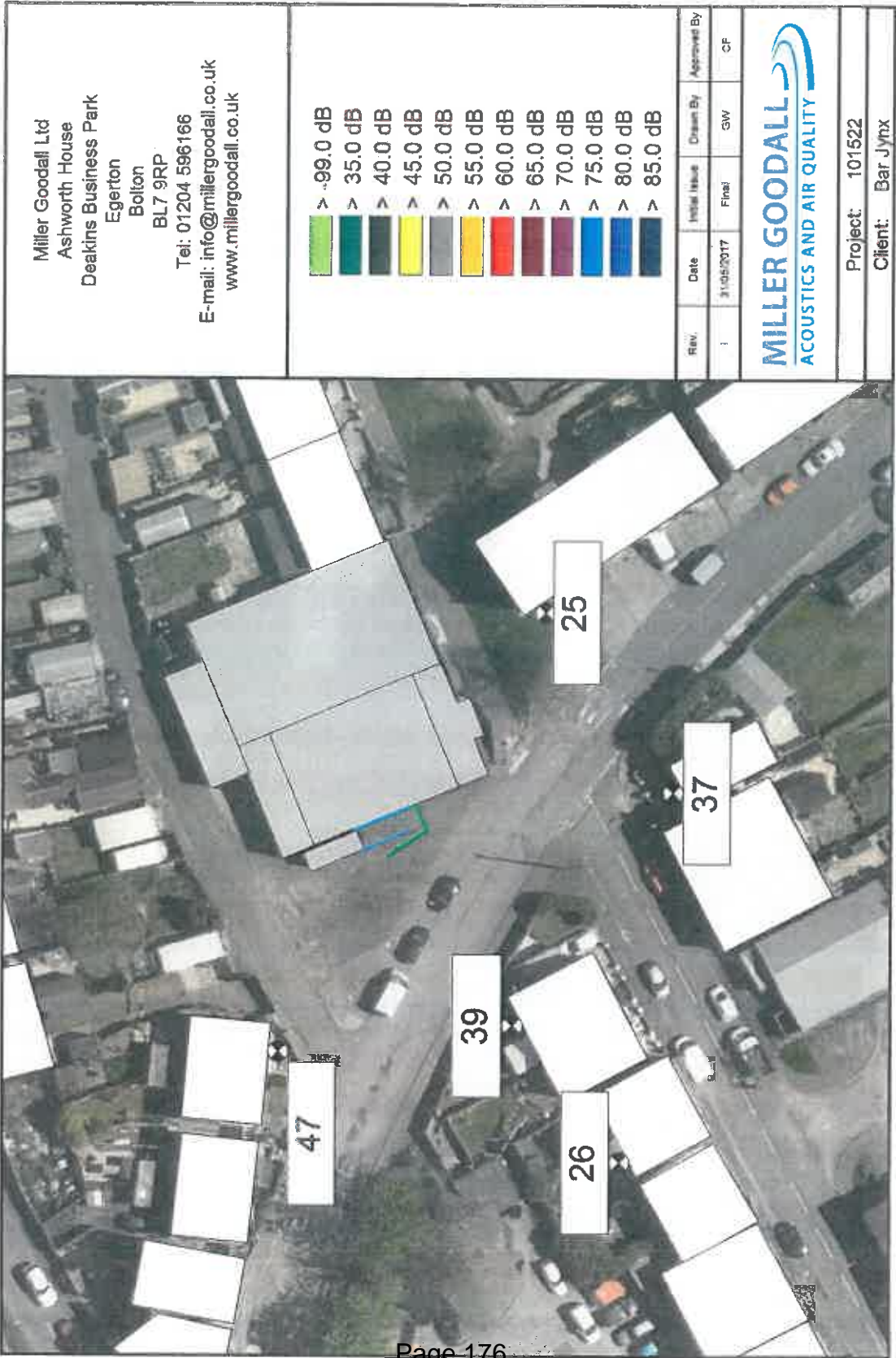
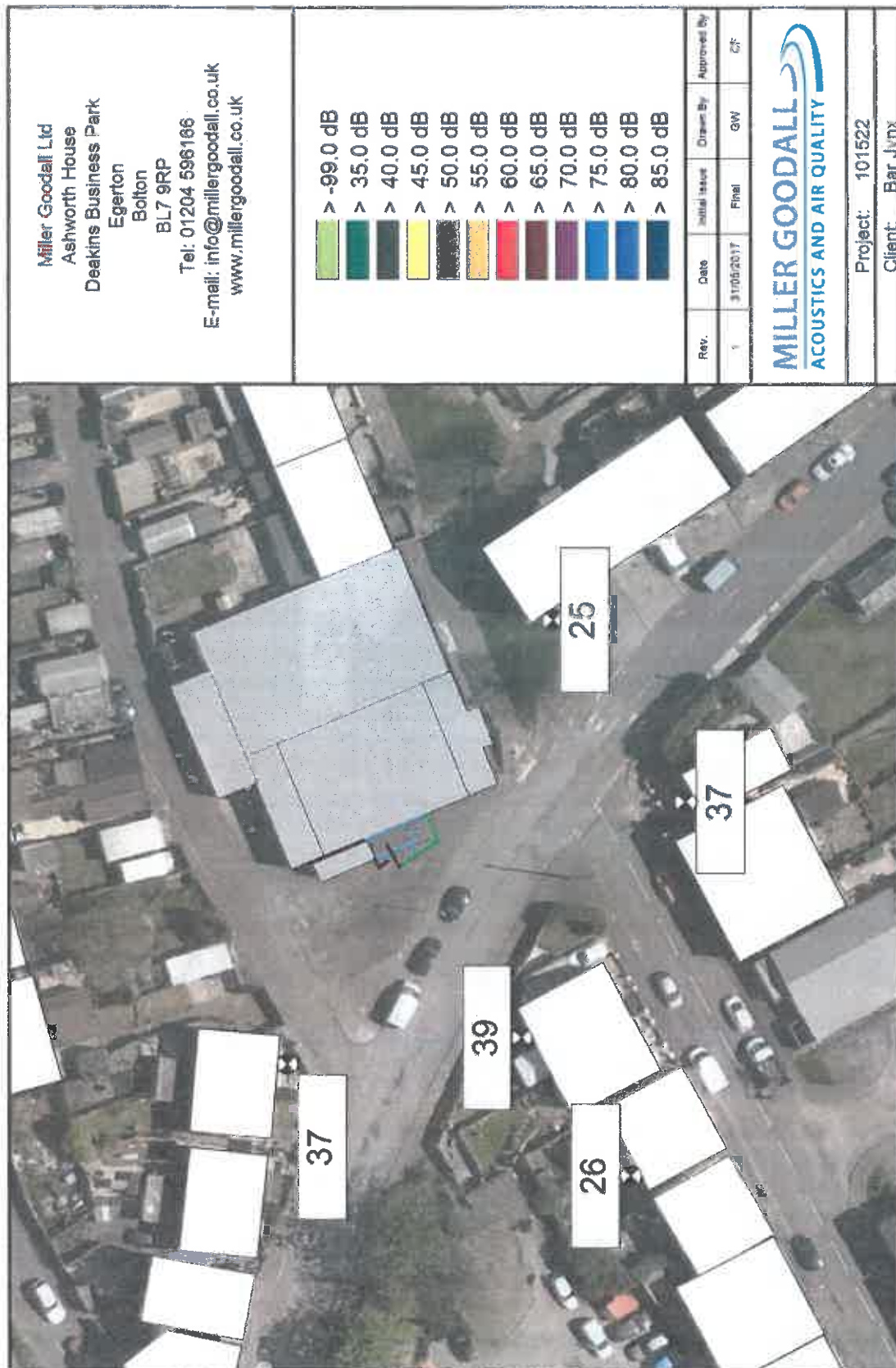


Figure 2.4: Predicted Noise Levels (dB $L_{Aeq,T}$): With acoustic screening, as currently installed with modification



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Acoustic Report at Jynx Bar, Witham Road, Skelmersdale

1.0	Introduction
2.0	The Site
3.0	Design Criteria
4.0	Environmental Noise Survey
5.0	Recommendations
6.0	Anticipated Results





All Seasons[®]

Ground Contractors LTD

1.0 Introduction

All Seasons Ground Contractors Ltd were contacted on the 20th February 2017 by Sarju Patel, with regards to erecting an acoustic barrier at Jynx Bar. I was informed that there was a noise abatement notice in place and that the acoustic barrier was needed as soon as possible.

2.0 The Site

Sarju and I (Gareth), met at Jynx Bar, Witham Road, Skelmersdale on the 24th February 2017 at 7.45am to discuss the implementation of an acoustic barrier.

It was a dry, bright morning, and in the 30 minutes we were there, approximately 10 cars passed the site. I believe that this scenario is representative of a night time environment due to the proximity of the 24 hour petrol station, shopping centre and other bars/pubs.

The front of the bar is located on the Witham Road side, with the smoking shelter located adjacent to the main entrance.

3.0

Design Criteria

Timber barriers are one of the most common barriers used against noise. Timber barriers can be generically classed as 'sound absorptive' or 'sound reflective'.

Sound absorptive barriers differ due to an acoustically absorptive material mounted on the source side of the barrier, eg rock wool or similar. The material is then protected from the weather by an impervious membrane.

A number of different woods can be used as a noise barrier. Generally the denser the material the increased sound reduction will occur. The quality of the seals between the panel and post are extremely important. The I section post will have a quality seal with the panels to further reduce sound leakage from the area.



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4.0 Environmental noise survey

Initially the general environmental noise was recorded from the footpath on the Hutton Road, side of the road.

At A height of 1.2m the environmental background noise was between 45-54db

At a height of 1.2m the maximum sound of a passing car was 85db

At a height of 1.2m of a car door slamming was 74db

At a height of 1.2m the maximum sound of a lorry passing was 89db

During the site visit I took a reading of 83db from a site radio as an average over 1 minute. This noise was located against the building 3 metres from the new acoustic barrier

At a height of 1.2m the average noise from 12 meters away (Hutton road, footpath) was 67db over the same period (20% reduction – due to environmental loss)

5.0

Recommendations

We recommend installing a 2.4 meter high sound absorbent fence to the smoking shelter side of the property.

We propose wooden posts at 150x125mm set 800mm in to the ground with 3mtr centers. This is our standard for 2.4 meter high fencing. This will be held in by postcrete concrete conforming to British standard. This is a permanent structure and will come with a 20 year guarantee on rot and subsidence.

I have attached a spec sheet from the fence suppliers based on steel posts, the wooden ones preform to a better standard.



All Seasons[®]
Ground Contractors LTD

6.0 Anticipated Results

After the installation of the absorptive acoustic barrier we anticipate the following results from an 83db noise

A reduction in noise by the barrier between **15-20db**

A reduction due to environmental loss of **20%**

At a distance of 12 meters from the source of the noise, I would anticipate the following reduction
(83db – 15db/20db) – 20% = **50.4 to 54.4db**

Therefore the sound from the shelter should fall under the maximum noise from general environmental noise.

Thank you.

Gareth@allseasons
07725720553





FULL PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER
2015

Applicant
Bar Jynx Limited
124 Liverpool Road
Rufford
Ormskirk
Lancashire
L40 1SB

Agent
APM Design Limited
The Studio
2-4 Knott Street
Darwen
Lancashire
BB3 2RN

In respect of application number **2017/0245/FUL** received on **7 March 2017** and in pursuance of its powers under the above-mentioned Act and Order, West Lancashire Borough Council as Local Planning Authority, having considered your application, hereby **grants permission**

for: Proposed acoustic screen / barrier to existing smoking shelter (retrospective).
at: Jynx, Witham Road, Skelmersdale, Lancashire

subject to the Conditions (and Reasons for those Conditions) listed on the attached sheet.

A handwritten signature in black ink, appearing to read "J. R. Harrison", with a long horizontal stroke extending to the right.

John R Harrison, DipEnvP, MRTPI
Director of Development and Regeneration

Dated: 2 May 2017

Condition(s)

1. The development hereby approved shall be carried out in accordance with details shown on the following plans:-
Site location plan received by the Local Planning Authority on 7th March 2017 and plan reference APM-JYNX-1001 rev B received on 24th April 2017.

Reason(s)

1. For the avoidance of doubt and to ensure compliance with the provisions of Policy GN3 in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document.

Note(s)

1. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

Reason for Approval

1. The Local Planning Authority has considered the proposed development in the context of the Development Plan including, in particular, the following Policy/Policies in the adopted West Lancashire Local Plan 2012-2027 Development Plan Document:

GN1 - Settlement Boundaries

GN3 - Criteria for Sustainable Development

together with Supplementary Planning Guidance and all relevant material considerations. The Local Planning Authority considers that the proposal complies with the relevant Policy criteria and is acceptable in the context of all relevant material considerations as set out in the Officer's Report. This report can be viewed or a copy provided on request to the Local Planning Authority.

Informatives

1. This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation.
2. It is the responsibility of the person(s) implementing this development to ensure that, where appropriate, Approval under the Building Regulations has been obtained for the building works involved, and that the plans thus approved under those Regulations are for the same works as approved under this permission and do not conflict with this permission or the conditions contained on it. Any amendments to the plans approved by this permission must be drawn to the attention of the Planning Officer.
3. The applicant should be aware this consent relates to planning requirements only. The applicants are reminded they should check their Property Title Deeds to ensure there are no restrictive covenants contained within, which may limit the future use of the property.
4. Attention is drawn to Section 31 of the County of Lancashire Act 1984 where plans for the erection or extension of a building are deposited with a Borough Council in accordance with Building Regulations, the Council shall reject the plans, unless after consultation with the fire authority, they are satisfied that the plans show:-
 - a).that there will be adequate means of access for the fire brigade to the building or, as the case may be, to the building as extended; and
 - b).that the building or, as the case may be, the extension of the building will not render inadequate any existing means of access for the fire brigade to a neighbouring building.
5. Developers are advised to contact the necessary utility plant owners for guidance when excavating in proximity to buried plant and apparatus.
6. If, as a result of the development approved by this Notice, new street names, property numbers or changes to existing property names are required, you will need approval from the Council. The Council must be notified at the earliest opportunity of your proposals so that correct postal addresses can be allocated as soon as possible. Guidance on Street Naming & Numbering is available on the Council's website and applications can be made online at www.westlancs.gov.uk/planning/street_naming_and_numbering.aspx. Alternatively, you can contact the Street Naming and Numbering Officers for advice by telephoning 01695 585158 or 01695 585273.
7. Any demolition work should not commence without notice being given to the Local Authority Building Control Section in accordance with Section 80 of the Building Act 1984 (Tel: 01695 585136).

IMPORTANT - YOUR ATTENTION IS DRAWN TO THE INFORMATION BELOW

Appeals

If you are aggrieved by the Council's decision to refuse permission or to grant permission subject to conditions, then you can appeal to the Secretary of State for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990. Please note, only the applicant possesses the right of appeal.

If you wish to appeal, then you must do so **within 6 months of the date of the decision notice**.

Appeals must be made using a Planning appeal form which is obtainable from Customer Support Unit, The Planning Inspectorate, Room 3/02, Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Tel: 01173 726372 or online at www.planningportal.gov.uk/pcs.

- Where this notice is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you wish to appeal against the local planning authority's decision on your application, then you must do so **within 28 days of the date of this notice.**

- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you wish to appeal against the local planning authority's decision on your application, then you must do so **within 28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.**

The Secretary of State need not consider an appeal if it seems to him that the Council could not have granted planning permission for the proposed development or could not have granted permission without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order. In practice, the Secretary of State does not refuse to consider appeals solely because the Council based its decision on a direction given by him.

Purchase Notices

If either the Council or the Secretary of State for Communities and Local Government refuses permission to develop land or grants permission subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council which will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Council if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990.

Jynx Bar –Residents meeting.

| Minutes from meeting on 30th march 17

Jynx Bar Representatives in attendance --

Sarju Patel

Dan Kenyon

Leanne Douglas

Beth Wilkin

Residents in Attendance-

Lucy Andrews – 76 Hutton Road

Adam Smith- 13d Witham Road

Meeting commences at 9pm. Sarju starts the meeting asking the residents to raise any issues they have regarding Jynx Bar.

Lucy says that she can hear the thumping of music when we have a function in the Vybe Lounge but she can't make out the words to the songs. Lucy asked if we are able to turn the music off at 1am, we advised that we have a licence to serve till 1:30 am. We offered to turn the bass down for the 21st party on Saturday 1st April to see if that makes a difference and asked to report back to management.

We were asked to keep the noise down when the smokers are outside. Advised that we have Door men on every weekend that try their best to maintain the level of noise. Explained to the residents that the acoustic barriers is going up , awaiting planning permission.

Gas canisters have been found on the footpath outside the club. Advised they are not on our property and are not our customers.

Asked if we are still going to have 18th birthday parties? Advised that we will still be having 18th Birthday Parties. We have never had any trouble at any 18th Birthday party as they are mainly family parties.

Lucy said she feels like a lot of under aged people are coming into our main bar. Advised that every customer who looks under 25 years is asked to show proof of ID. If unable to provide then entry is refused.

Lucy says that cars have been blocking the side road which is access to the back of the houses. Advised that if they are from customers we ask them move. If they are not our customers then when are unable to do anything .

Lucy asked for more notice for the next Residents Meeting which will take place in four month's Time.

Adam has no complaints and is happy with the bar being there. Has no issues with the noise.

Meeting finishes at 9:30pm.

Action as of 7th April 2017

- Acoustic Barrier has been erected
- Trialling new barrier system
- No feedback received from Lucy Andrews(as of 26/4/17)

JYNX

Residents Meeting



Thursday 30th March 9pm

VYBE LOUNGE

JYNXBAR

30th March Residents Meeting

Dear residents,

As promised when our license was originally issued, we are holding our first meeting at **9pm** next Thursday evening that we hope you can all attend.

This is an opportunity for you to voice your opinion & let us know about any issues or disturbances you may have experienced since we re-opened late last year.

We would like to politely state that we will not tolerate any shouting or abuse. However, we are genuinely here to help wherever possible, answer questions & listen to any constructive suggestions you may have that we could implement moving forward.

For those of you that cannot attend please don't worry, you are more than welcome to come into the bar whenever we are open to discuss any of the above with either Dan or Sarj.

We hope your all well & look forward to seeing you soon.

Kind regards,

Jynx Team







From: Daniel [REDACTED]
Sent: 31 May 2017 13:43
To: Jonathan Smith
Subject: Fwd: Gig

DOCID: 2145938652

From: <[REDACTED]>
Date: 31 May 2017 at 13:39:40 BST
To: <[REDACTED]>
Subject: Gig
Reply-To: <[REDACTED]>

To whom it may concern,

My name is Daniel East & I performed an Ed Sheeran tribute act at Jynx Bar on Friday 26th June.

Mr. Kenyon has recently contacted & informed me of the situation regarding music levels on the night in question. I can safely say that after speaking with the bar supervisor when I arrived at the venue, I connected all my equipment & microphone up to the speakers & PA system Jynx Bar provided.

The sound system was perfectly suitable, however during my first set the computer system went down which in turn tripped my guitar & microphone. After speaking to Mr. Kenyon he informed me that the limiter had been triggered & once I had everything back up & running he would reduce the noise level through the main controls situated behind the bar, once I began performing again I completed both my first & second set without any issues.

I am available through my business email to discuss or answer any questions regarding the above.

Kind regards,
Daniel East

West Lancashire Borough Council

Licensing Act 2003 Statement of Licensing Policy 2015

Forward

The Licensing Act 2003 became law on 24th November 2005. Since that time West Lancashire Borough Council, like all local authorities in England and Wales, has taken the role of 'Licensing Authority' and overseen these controls. As part of these responsibilities, the Act requires Licensing Authorities to produce a statement of Licensing Policy to provide all stakeholders with guidance on the approach that it will take under the Act.

The aim of this Policy is therefore to promote West Lancashire as a safe and healthy environment in which responsible operators can provide lawful and responsible facilities for the enjoyment of the Borough's residents and visitors.

Licensed businesses and operations are vital to the Borough and for related sectors such as retail and tourism. Accordingly, the Council is keen to encourage a diverse range of premises catering for a wide range of age groups and uses. However, the Council also recognises the problems that can be caused if licensable activities are not properly managed and premises well run.

This Policy aims to reflect the issues that have arisen in the Borough since the Act came into force. It therefore provides improved guidance for both Officers and elected Members to ensure that decisions are made in a fair and consistent manner, as well as being an invaluable tool for applicants, residents and other occupiers of property and investors.



Councillor James Kay
Chairman of the Licensing and Gambling Committee

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1.0 Introduction

- 1.1** West Lancashire Borough Council (the Council) is designated as the Licensing Authority (the Authority) under the Licensing Act 2003 (the Act), and is responsible for granting all authorisations designated under the Act in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment within its boundaries.
- 1.2** This Statement of Licensing Policy (this Policy) has been prepared under Section 5 of the Act and in accordance with the current version of the Secretary of State's Guidance issued under Section 182 of the Act (the Guidance). The Authority is therefore constrained by the provisions of the Act, the Guidance and the Regulations made under the Act. However, the Authority may depart from the Guidance if it has reason to do so, but will give full justification for such departure.
- 1.3** This Policy covers all relevant provisions of the Act. The Authority is committed to working with its licensing partners and stakeholders in delivering the licensing function. Accordingly, this Policy sets out the manner in which the Authority will generally take when exercising the functions of the Act. It replaces the 2011 version and was agreed by full Council on the 17th December 2014, was published on the 7th January 2015 and came into force on the 7th February 2015. It shall remain in effect for five years and will be reviewed no later than the 7th February 2020. However, this Policy can be reviewed and revised by the Authority at any time.
- 1.4** This Policy seeks to establish sensible controls and appropriate guidance to encourage and build upon the efforts that are being made by the Council and its partners, together with the licensed trade, to help the Authority deal with issues such as anti-social behaviour, crime and disorder, irresponsible promotions, noise and other nuisance, underage sales and poor licensing practices that arise from licensable activities. This will be achieved by:
- Establishing and building upon best practice within the industry;
 - Recognising and facilitating the role of partners and stakeholders;
 - Encouraging self-regulation by licensees and managers;
 - Providing a clear basis for the determination of applications;
 - Supporting related policies and strategies of the Council; and
 - An inspection and enforcement regime targeted at premises that present a high risk i.e. those operations that have a track record of non-compliance.
- 1.5** The Authority recognises the varied nature of the licensed operations within the Borough, which differ in size, occupancy, location and clientele. The management of these operations will have a differing impact on the Licensing Objectives (Section 4.0) depending on whether the focus is on the provision of alcohol, entertainment, late night refreshment or a combination of two or more of these activities.
- 1.6** Accordingly, there is no definitive list of control measures that could (or should) be introduced by all premises. Licensed premises are assessed according to the activities they provide and the manner of their provision. Procedures should be in place to appropriately address the individual risks at each premises.

- 1.7** Preventing crime, disorder, public nuisance, ensuring public safety and protecting children (those aged under 18) from harm are on-going responsibilities for all those licensed under the Act. Premises operators should address the risks relating to the activities their premises provides. Failure to do so may result in the relevant authorisation being reviewed and subsequently suspended or revoked.
- 1.8** The Authority does not want operators to lose their licences; it wants to see well managed premises that benefit from being able to provide the hours and the activities their customers and communities want. This means licensees should regularly consult with their local communities to inform them of the hours and activities they provide, gauging their concerns and addressing these. Licensees are encouraged to be both imaginative and proactive, seeking advice from Responsible Authorities (Appendix 2 - useful contacts) and other local organisations that have professional advice to offer.
- 1.9** Accordingly, the Authority recommends that existing licensed operations, as well as those undertaking any potential application, consider the following matters. The Authority will give due regard to the presence or absence of such action when determining applications or considering potential action against existing licensed operations:
- Read this Policy carefully – reading it indicates that the promotion of the Licensing Objectives is being taken seriously;
 - Think about the activities provided, the risks from those activities and the appropriate steps to tackle them;
 - Consult local residents, businesses and the Responsible Authorities to ascertain concerns or current problems;
 - Undertake appropriate risk assessments and take appropriate steps to address any risks;
 - Take action to put steps in place that will address risks and meet the concerns of the community;
 - Consider whether a variation of the authorisation is required to ensure all necessary measures are in place to meet the four Licensing Objectives. This can reassure local residents, businesses and Responsible Authorities that operators are taking their responsibilities seriously and are a valuable asset to the community;
 - Licensed premises will be continually monitored (Section 14.0 – Enforcement) on how they impact on their local communities. Where operators fail to adequately address the concerns of local residents / businesses with respect to the Licensing Objectives, their premises may have its Premises Licence (PL) or Club Premises Certificate (CPC) reviewed at any time.
- 1.10** This Policy also supports the Council's Corporate Priorities and in particular has close links to the following priorities:
- Protect and improve the environment and keep our streets clean and tidy;
 - Combat crime and the fear of crime;
 - Provide opportunities for leisure and culture that together with other Council services contribute to healthier communities.

- 1.11** The Act and this Policy are not a mechanism for the general control of antisocial behaviour by individuals once they are beyond the direct control of the licensee. Licensing is about the management of licensed premises and activities within the terms of the Act. However, to the extent that such matters are within their control, licensees are expected to take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden, car park or in a smoking shelter.
- 1.12** Nothing in this Policy will undermine the rights of any person to apply for a variety of authorisations under the Act and have the application considered on its individual merits.
- 1.13** Nothing in this Policy will override the right of any person to make relevant representations on any application or seek a Review of a PL or CPC where they are permitted to do so under the Act.
- 1.14** This Policy will also be kept under review. The Assistant Director Community Services will maintain an Issues Log in which all issues pertaining to this Policy will be recorded. Therefore the Authority will make revisions to this Policy at such times as it considers appropriate, for example where relevant issues have arisen, or where matters recorded in the Issues Log indicate that that such a review is required. The Issues Log is not a public document, but any concerns regarding this Policy Statement can be submitted to the Licensing Service (Appendix 2 – useful contacts).

2.0 The Borough of West Lancashire

- 2.1** West Lancashire is the most southerly of the Local Authorities within Lancashire. It has a population of 110,700 (National Census 2011) and covers an area of over 34,000 hectares. The Borough has two market towns: Ormskirk and Burscough, with mainly rural parishes and villages to the north and the former New Town of Skelmersdale to the east. A map of the Borough is provided at Appendix 1.
- 2.2** There are approximately 350 premises that hold either a PL and/or CPC within the Borough. These premises mainly comprise of public houses, members only clubs, late bars/nightclubs, off licences and restaurants. In addition, there are approximately 100 hot food takeaways throughout the Borough.
- 2.3** The Council receives approximately 600 complaints about noise per year, with approximately 100 complaints relating to commercial premises, or their customers. Further information relating to the potential impact of licensed operations on public nuisance is provided in Section 4.0.
- 2.4** The Authority recognises that the good management of licensed businesses and the street environment within which they operate is vital to the infrastructure of the Borough and to attracting a wide range of people to work, visit or live in the Borough. However, the varied nature of the Borough means that the impact of Licensable Activities can vary. For example, the licensing issues in Ormskirk town centre can differ from those in Skelmersdale or other parts of the Borough. The Authority will expect all applicants to, where appropriate, specify the methods, precisely and clearly, by which they will promote the four Licensing Objectives and address the specific issues relating to the nature and location of the premises.

3.0 Development Process / Consultation

- 3.1** This Policy has been developed after proper consultation with statutory consultees and other interested parties. A period of public consultation operated from the 1st August 2014 until the 31st October 2014 and the Authority has given due regard to the responses from this consultation process when formulating this Policy. The list of consultees is maintained separately from this Policy and is available from the Licensing Service using the contact details in Appendix 2.
- 3.2** This Policy has not been developed in isolation. The Authority has given regard to the Guidance and to good practice advice issued by approved Government advisory bodies. As such, this Policy also supports the Council's Corporate Priorities.
- 3.3** Partnership working between licensing authorities in Lancashire has also enhanced the production of this Policy and will help ensure consistency in terms of both policy and enforcement where licensing boundaries meet.

4.0 Licensing Objectives and Licensable Activities

4.1 In carrying out its functions under the Act, the Authority must have regard to the Licensing Objectives, namely:

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

4.2 Each of the Licensing Objectives is considered of equal importance for the purposes of the Act and this Policy. The Authority will expect all applicants to, where appropriate, specify the methods, precisely and clearly, by which they will promote the four Licensing Objectives. Guidance on the Licensing Objectives is available on the Government's website at www.gov.uk

4.3 The Act covers certain 'Licensable Activities', namely:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to a member;
- The provision of 'regulated entertainment' and
- The provision of late night refreshment.

4.4 The definition of what constitutes 'regulated entertainment' is complex and has been (and remains) the subject of Government deregulation. Whilst Regulated Entertainment potentially covers live or recorded music, dancing, plays, films and certain types of sporting activities, the Act provides various exemptions and restrictions on the types of activities subject to licensing. Furthermore, the Live Music Act 2012 has removed the ability of the Authority to regulate live music at certain times and in certain circumstances. It cannot be assumed therefore that a licence is required for all forms of entertainment or, even if a licence is required, that the Authority will necessarily have the power to impose restrictions or conditions on such entertainment. Guidance on Regulated Entertainment is available on the Government's website at www.gov.uk or from the Licensing Service using the contact details in Appendix 2, or on the Licensing Service homepage www.westlancs.gov.uk/licensing

4.5 Where an activity is licensable, the promotion of the Licensing Objectives is the paramount consideration for the Authority. In the absence of valid representations from Responsible Authorities or Interested Parties, all applications must be granted subject only to any prescribed mandatory conditions and such other conditions which are consistent with the Operating Schedule provided by the applicant. Mandatory conditions are dictated by legislation are imposed on all relevant Premises Licences / Club Premises Certificates and address such issues as irresponsible drinks promotions, availability of free drinking water, age verification policies. Where valid representations are received and maintained, the application will normally be determined at a hearing before the Council's Licensing Committee. [The term 'Licensing Committee' is used throughout this Policy, and shall be

deemed to refer to the Council's Licensing and Gambling Committee, or Sub-Committee thereof unless otherwise stated.]

- 4.6** The Licensing Committee will then assess whether the application would result in the Licensing Objectives being undermined to such an extent that the application should be refused or whether it would be possible to grant the authorisation subject to such conditions as are felt appropriate by the Authority. Conditions will be tailored to the size, style, characteristics and activities taking place at the premises concerned and will be focused on matters that are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. The term 'vicinity' can only be defined when having regard to the individual circumstances of an application and also having due regard to any representations or observations received from Responsible Authorities or Interested Parties. Whether or not incidents can be regarded as being 'in the vicinity' or 'related to' licensed premises is ultimately a matter of fact to be decided by the Courts in cases of dispute. However, to assist the Authority in determining the potential risks associated with any given application in this regard, site plans are expected to clearly define the extent of the operation. This would include all areas under the control of the applicant which are used for Licensable Activities as well as those areas under the control of the applicant which are not used for Licensable Activities, but there is a clear risk to the Licensing Objectives – for example beer gardens or pavement seating where alcohol is consumed.
- 4.7** In addressing such matters, consideration will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Whilst the imposition of standardised conditions is prohibited as being disproportionate and burdensome, the Authority will use standard wording when applying conditions in similar situations. This is done to promote consistency of approach.
- 4.8** In accordance with the Guidance, this Authority will avoid duplication with other regulatory regimes (for example, the Health and Safety at Work etc. Act 1974) when considering applications and conditions attached to PLs or CPCs.

Prevention of Crime and Disorder

- 4.9** The duty of the Authority under Section 17 of the Crime and Disorder Act 1998 is in addition to its duty under Section 4 of the Act to promote the prevention of crime and disorder. The Authority is therefore committed to supporting its partnership work in the fight against crime and disorder in West Lancashire. The Authority encourages relevant businesses to participate in local Pub Watch schemes or similar forums where they are set up, and where this helps secure and/or promotes the Licensing Objectives.
- 4.10** Licensed premises, especially those offering late night entertainment, alcohol and refreshment can be a source of crime and disorder problems. Therefore, the Authority will have particular regard to the likely impact on licensing related crime

and disorder within the Borough, particularly when considering the location and impact of any application.

- 4.11** National and local (available at www.saferlancashire.co.uk) crime statistics and research indicate that the consumption of alcohol can be a significant contributory factor to levels of crime and disorder. Applicants will be expected to demonstrate in their Operating Schedule that sufficient measures have been identified, implemented and maintained to address crime and disorder within the premises and also in the vicinity of the premises. Controls must be relevant to the style and characteristics of the proposed activities.
- 4.12** The Authority recognises that only a minority of customers will behave badly and this Policy cannot address issues relating to behaviour of individuals or groups, unless they are in the vicinity of the applicants licensed premises. However, applicants should note that this Policy is an integral part of a coordinated approach to reducing crime and disorder and they should therefore demonstrate in their Operating Schedules, and day-to-day operations, how they participate in and promote local policies and initiatives.
- 4.13** The Authority will pay equal regard to relevant representations from Responsible Authorities, but will pay particular regard to relevant representations from Lancashire Constabulary (the Police) to determine if the proposed measures are sufficient to reduce the risk of crime and disorder. The Authority will not grant an authorisation where representations have been made by the Police that express serious concern regarding the potential for crime and disorder, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.
- 4.14** To ensure Operating Schedules adequately address these issues, applicants are advised to seek advice from the Police Licensing Unit before preparing their application (Appendix 2 - useful contacts).
- 4.15** The issues in the following list, which is not exhaustive, are particularly relevant to the exercise of the Authority's licensing functions and ones which applicants and existing licensees need to consider:
- The capability of the Designated Premises Supervisor or any other person appointed to be in charge of the premises to ensure effective and responsible management of the premises;
 - Provision of sufficient numbers of staff and managerial support to run the premises effectively;
 - The training given to staff in crime prevention measures. This would include how to identify offences, how to handle potential troublemakers and defuse difficult situations, how to recognise those who are drunk and to prevent sales to those who are drunk or passing alcohol to those who are drunk;
 - Physical security features installed in the premises (i.e. location and standard of CCTV equipment);
 - Procedures for risk assessing drinks promotions and events, and the plans to minimise such risks;

- Measures to control entry, including the employment of door supervisors licensed by the Security Industry Authority and weapon detection / search facilities;
- Measures to address the risk of drink-spiking;
- Measures to prevent the supply of illegal drugs, including staff training and search and entry policies (such policies also to include the banning of known offenders / targets);
- The participation in local 'Pub Watch' initiatives (where available) and methods to share information with the Police;
- The presence, or otherwise, of sufficient transport facilities to ensure that customers can leave the premises safely and swiftly;
- The use of plastic bottles and glasses and/or toughened glasses;
- Provision of sufficient numbers of toilets (in accordance with the relevant British Standard), which are sufficiently lit, kept clean and well maintained / routinely inspected;
- Adoption of best practice guidance in relation to safer clubbing etc.;
- The use of display materials conveying clear, relevant and consistent messages regarding safe drinking;
- The implications of the Health Act 2006 (smoking ban);
- For premises licensed for late night refreshment – risk assessment of persons congregating outside the premises and the methods to address potential problems.

4.16 In order to meet the Public Safety and Crime and Disorder objectives, the Council reserves its right to use powers under Section 13 of the Criminal Justice and Police Act 2001 to designate a Designated Public Places Order (DPPO) to address potential problems of anti-social alcohol drinking in public places. The Council also has power under the Violent Crime Reduction Act 2006 to declare an Alcohol Disorder Zone (ADZ), which would allow the Council to charge licensees for additional enforcement activity that affects all licensed premises in the designated area. At present, neither a DPPO nor ADZ has been designated.

Public Safety

4.17 The provision of Licensable Activities may involve potential risks to the safety of the public and to persons working at the premises. Additionally, crime and disorder both inside and outside the premises may also compromise public safety. The Authority is committed to ensuring the safety of persons visiting and working in licensed premises. Accordingly, where other legislation fails to make suitable provision to ensure public safety and the Authority's discretion is engaged, the Authority will exercise its licensing functions to secure the safety of members of the public and staff. Accordingly, the Authority expects the standards of safety, which are evidenced by full compliance with the Health and Safety at Work etc. Act 1974 (and associated secondary legislation/guidance) and Fire Safety Legislation. A voluntary commitment in the Operating Schedule to higher standards of safety, such as the use of British Standard Specification accreditation for safety measures, would be encouraged and positively considered.

- 4.18** The Authority will pay equal regard to relevant representations from Responsible Authorities, but will pay particular regard to relevant representations from the Council's Technical Officers as well as from Lancashire Fire and Rescue Service (the Fire Service) and the Police to determine if measures proposed are sufficient to ensure the safety of the public. The Authority will not grant an authorisation where relevant representations are made by one of these bodies expressing serious concern regarding public safety, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.
- 4.19** To ensure Operating Schedules adequately address these issues, applicants are advised to seek advice from the Council's Health and Safety Officers (or the Health and Safety Executive, where appropriate), the Police and the Fire Service before preparing their application (Appendix 2 – useful contacts).
- 4.20** The issues in the following list, which is not exhaustive, are particularly relevant to the exercise of the Authority's licensing functions and ones which applicants and existing licensees need to consider:
- The safe design and construction of the premises to relevant standards;
 - The age, design and layout of the premises. This would include any particular features of the premises that may cause potential problems (i.e. stairwells, fireplaces, roof terraces, uneven flooring, external areas, lighting levels / special effects devices), as well as the necessary means of escape;
 - The safe occupancy capacity of the premises, in particular having regard to floor area and means of escape;
 - A facility to monitor and control capacity at the premises;
 - The nature and duration of the licensable activities provided, in particular the sale of alcohol;
 - Customer profile (age, disability etc.);
 - The use of door supervisors (licensed by the Security Industry Authority);
 - Any necessary heating or cooling of the premises and access to free drinking water;
 - The necessary health and safety and fire risk assessments for the premises and other measures to reduce risk to public safety;
 - The number of people employed or engaged to secure the safety of all persons attending the premises or event;
 - Measures for the appropriate instruction, training and supervision of those employed or engaged to secure the safety of all persons attending the premises or event – including the response to emergencies;
 - Where appropriate, noise exposure controls, for both staff and public, which have been detailed in accordance with the appropriate legislation;
 - Arrangements to ensure that litter, generated by activities at the premises, does not present a fire hazard;
 - The implications of the Health Act 2006 (smoking ban);
 - Implementation of appropriate crowd management measures.

- 4.21** The Authority will work closely with the Fire Service to assist in assessing/determining an appropriate maximum capacity, where required, at individual venues. This will be in accordance with the service protocol issued by Fire Service, which is maintained separately from this Policy and is available from the Licensing Service using the contact details in Appendix 2, or on the Licensing Service homepage www.westlancs.gov.uk/licensing

Prevention of Public Nuisance

- 4.22** The Authority is committed to ensuring that the operation of licensed premises does not unreasonably interfere with the personal comfort or amenity of immediate neighbours or the nearby community. The impact of night-time activity has caused some considerable concern to residential and business communities in the Borough. The Authority is able to address problems arising from the provision of licensable activities at licensed premises. However, the licensing process can only seek to control those measures within the control of the licensee and in the immediate vicinity of the premises.
- 4.23** The Guidance asserts that the prevention of public nuisance could include low-level nuisance affecting a few people living locally as well as major disturbance affecting the whole community. It may also include conduct that reduces the living and working amenity and environment of other persons and businesses in the area of the licensed premises. Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping within the vicinity of the premises.
- 4.24** Where appropriate, the Authority will expect Operating Schedules to satisfactorily address these issues and provide information as to how the relevant nuisances will be prevented. It is essential that such measures, and the appropriate controls, described in the application relate to:
- Noise transmission and escape;
 - Potential noise and/or disturbance associated with patrons – for example patrons using outside areas for smoking, or awaiting entry or leaving the premises;
 - Potential noise from car parking and transport facilities;
 - The use of outside areas;
 - Any light pollution risks.
- 4.25** Applicants are advised to seek advice from the Council's Environmental Protection Section before preparing their application (Appendix 2 – useful contacts).
- 4.26** In considering all relevant applications, the Authority will assess the impact of the proposed licensable activities and consider the evidence provided by the applicant, and any relevant representations, as to the adequacy of the measures proposed to deal with the potential for nuisance and disorder having regard to all of the circumstances of the application. The issues in the following list, which is not exhaustive, are particularly relevant to the exercise of the Authority's licensing functions and ones which applicants and existing licensees need to consider:

- The type of activity, its frequency and the number and nature of customers likely to attend;
- Measures taken, or proposed, to prevent noise and/or vibration escaping from within the premises, or from the use of outside areas, given the location of the premises and proximity to residential and other noise sensitive premises (e.g. hospitals, hospices and places of worship). This would include music, ventilation equipment noise and human voice, whether amplified or not;
- Measures taken, or proposed, for management and supervision of the premises and open areas to minimise unreasonable disturbance by customers and staff arriving or leaving the premises, including the delivery of goods and services;
- The proposed hours of operation for all, or part, of the premises;
- The levels, and impact, of public transport available for customers and the likely means of public or private transport to be used;
- Means of access to the premises, including customer entrances and exits on principal pedestrian routes;
- Whether routes to and from the premises pass residential premises;
- The level of car parking on surrounding residential streets and its effects on local residents and traffic movements;
- The cumulative impact of licensed premises in an area and scope for mitigation for or against a Cumulative Impact Policy – should one be declared; (Section 15.0)
- Measures taken, or proposed, to prevent queuing. Where queuing is inevitable, measures to divert queues away from neighbouring premises, or otherwise manage the queue to prevent disturbance or obstruction;
- Arrangements made, or proposed, for security lighting at the premises, and the steps the applicant has taken or proposes to take to ensure that lighting will not cause a nuisance to residents;
- Whether the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premises, including measures taken to ensure collection of litter and disposal of litter and waste outside the premises;
- Measures to be taken to reduce drunkenness on the premises;
- If appropriate, a 'wind down' period between the end of the licensable activities and closure of the premises;
- Methods to promote access to local public transport;
- The implications of the Health Act 2006 (smoking ban) and the potential for disturbance by patrons using external areas for smoking;
- The times at which 'bottling up' or waste disposal is undertaken;
- A 'last admission time' policy.

4.27 The extent to which the above matters need to be addressed will be dependent upon the nature of the area where the premises is situated, the type of premises, the licensable activities to be provided, operational procedures and the needs of the local community. In general, the Authority will expect more comprehensive measures to be in place at late night entertainment venues or in premises with a history of public nuisance problems.

4.28 The Authority will pay equal regard to relevant representations from Responsible Authorities, but will pay particular regard to relevant representations from the Council's Technical Officers, as well as the Police, to determine if measures proposed are sufficient to reduce the risk of public nuisance. The Authority will not grant an authorisation where representations are made by one of these bodies expressing serious concern regarding the potential for public nuisance, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.

4.29 Where appropriate, applicants and licensees will be expected to propose practical steps to prevent nuisance to local residents and have regard to the 'Good Practice Guide on the control of Noise from Pubs and Clubs' produced by the Institute of Acoustics and/or other suitable available guidance that is to the satisfaction of the Authority. In relation to noise from within the building, and where appropriate, the Authority will expect the applicant to have carried out sound tests to ascertain whether there is sound leakage. Noise problems may not only relate to music, but also to ventilation equipment or customers. If there is sound leakage, the Authority will expect this to have been addressed in practical ways, such as:

- Keeping doors and windows closed and providing adequate mechanical ventilation, or if appropriate, air conditioning;
- Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level;
- Installing soundproofing measures to contain sound and vibration.

4.30 In premises where customers leave the premises late at night, or early in the morning, if appropriate, the Authority will expect the applicant to have included in the Operating Schedule such practical steps as:

- Erecting prominent notices at the exits to the premises asking customers to leave quietly and not to slam car doors;
- At appropriate times making suitable loud speaker announcements to the same effect;
- Instructing door supervisors (licensed by the Security Industry Authority) to ask customers leaving the premises to leave the area quietly;
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down;
- Improving availability of licensed hackney carriages or private hire vehicles to take customers from the premises;
- Where appropriate, requiring door staff (licensed by the Security Industry Authority) to monitor adjacent streets to assess for themselves whether there is a noise problem and how best to deal with it (having regard to only operating controls within the vicinity of the premises);
- Refusing entry to people who regularly leave in a noisy manner;
- The supervision of any queues so as to keep noise and disturbance to a minimum;
- The implications of the Health Act 2006 (smoking ban) and the need to take action to control potential disturbance by patrons using external areas for smoking.

- 4.31** If as part of a relevant representation, the Authority will also take into account previous noise and/or statutory nuisance complaints received by the Council's Environmental Protection Section, and any formal action taken by these Officers.

Protection of Children from Harm

- 4.32** Activities associated with premises that sell alcohol or provide regulated entertainment may, in certain circumstances, give rise to concerns for the health and welfare of children (a child for the purpose of this Policy is any person under the age of 18).
- 4.33** The Authority recognises Lancashire County Council Social Services Safeguarding Children's Board as being competent to advise on matters relating to the protection of children from harm (Appendix 2 – useful contacts). The Authority will pay equal regard to relevant representations from Responsible Authorities, but will pay particular regard to relevant representations from Social Services to determine if measures proposed are sufficient to reduce the risk to children. The Authority will not grant an authorisation where representations are made by this organisation expressing serious concern regarding the potential for harm to children, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.
- 4.34** The Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm. In all other cases it will be left to the discretion of the licensee. The Authority is committed to protecting children from harm and applicants will therefore need to demonstrate how they will promote this Licensing Objective – including any necessary supervision / safeguarding arrangements and relevant staff training. Where appropriate, conditions preventing or restricting the admission of children will be imposed. The Authority will not, however, impose any condition that requires the admission of children to licensed premises.
- 4.35** It is an offence to allow unaccompanied under 16s into primarily drinking venues. However, the Authority recognises that family friendly premises typically experience fewer problems of crime, disorder and public nuisance. The issues in the following list, which is not exhaustive, are particularly relevant to the exercise of the Authority's licensing functions and ones which applicants and existing licensees need to consider:
- What measures have been put in place to create a safe, child-friendly environment;
 - How vigilance regarding the sale of alcohol to under 18s, to those who are drunk and to those passing on drinks to under 18s / those who are drunk is maintained;
 - Controls preventing those who are drunk from gaining entry to the premises and methods employed to require those who become drunk on the premises to leave;

- The specification of areas, activities and times that are suitable for children instead of merely placing restrictions on access to those areas, activities and during those times that are appropriate.

4.36 It is obviously not possible to properly anticipate every issue of concern that could arise in respect of children with regard to individual premises, therefore each application will be considered on its individual merits. However, where appropriate, applicants will be expected to demonstrate, and provide evidence that, suitable controls are in place. Such areas of particular concern in respect of children would include premises where:

- There have been convictions of members of the current staff at a given premises for serving alcohol to minors or with a reputation for underage drinking;
- There is a known association with drugs, drug taking or drug dealing;
- (Without prejudice to the controls set out in the Gambling Act 2005) there is a strong element of gambling on the premises;
- There is entertainment or services of an adult or sexual nature. This would include controls ensuring that underage persons cannot enter the premises and the prevention of advertising (including the use of photographs or visual images) such entertainment outside or in the vicinity of the premises. It should also be noted that the Council has passed a resolution that the amendments made by Section 27 of the Policing and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 be adopted and shall apply to the Borough of West Lancashire. A Sexual Entertainment Venue Policy is maintained separately from this Policy. More information can be obtained from the Licensing Service using the contact details in Appendix 2, or on the Licensing Service homepage www.westlancs.gov.uk/licensing;
- There is risk of being exposed to incidents of violence or disorder;
- There is a risk of child sexual exploitation;
- There is risk of being exposed to excessive noise;
- There is risk of being exposed to other specific hazards including falls from height;
- There is a risk of purchasing cigarettes from vending machines;
- The supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

4.37 Where appropriate, and taking account of the above information and the controls contained in the Gambling Act 2005, in premises where there are suitably permitted gaming machines, the Authority will expect Operating Schedules to demonstrate the measures to be taken to prevent access by children in accordance with the Gambling Act 2005. The Authority will also expect that where there is access by children, all such machines are located within sight of bar staff so to prevent their use by children.

Under age / proxy sales

4.38 Applicants and existing licensees must have satisfactory arrangements in place to prevent underage alcohol sales. The issues in the following list, which is not exhaustive, are particularly relevant to the exercise of the Authority's licensing functions and ones which applicants and existing licensees need to consider:

- The adoption of a well-publicised Challenge 21 policy (i.e. asking those who appear to be under 21 to produce appropriate ID proving they are over 18 before considering serving them);
- The refusal of service to those believed to be passing on alcohol to under 18s (except where over 18s are buying beer, wine or cider for 16 or 17 year olds for consumption with a table meal);
- The provision of appropriate accredited staff training on the law relating to alcohol and those aged under 18 (e.g. a 'Responsible Retailing' course);
- Methods to ensure sufficient staffing and managerial support to monitor outside areas and to make the identification of those passing on drinks to under 18s practicable;
- How instances of potential proxy sales are reported to the Police;
- The use of a 'refusal book' to record details of instances where staff have refused a customer thought to be under age;
- The use of CCTV to assist the above controls;
- Where necessary, the use of an identified child 'safeguarder'.

4.39 To ensure compliance with underage and proxy sales legislation, test purchasing initiatives will be conducted with liaison with the Police and/or Lancashire County Council Trading Standards, which will be coordinated via the Council's Multi Agency Licensing Team (MALT) (Section 14.0).

5.0 Integration Strategies

General

- 5.1** There are a large number of stakeholders affected by the Act, covering a wide range of disciplines. Many are involved, directly or indirectly, in the promotion of the Licensing Objectives, particularly those relating to the prevention of crime and disorder and public nuisance. Accordingly, there is a range of strategic influences and statutory controls which affect the licensing regime in terms of policy formulation, administration and enforcement activities. Examples of these strategies can be found in the Guidance. The Authority will seek to have an active involvement in the development and review of these and all other related Council strategies by ensuring an appropriate exchange of dialogue between the Authority and other relevant regimes. Such involvement may result in the imposition of conditions and formulation of policies supporting the relevant strategies where appropriate.
- 5.2** Therefore, whilst many of the issues arising from licensable activities will be under the remit of one or more of the Responsible Authorities, the Authority will use the MALT (Section 14.0) to ensure that appropriate liaison arrangements are in place to ensure proper integration of local crime prevention, planning, local transport (including taxis, buses and rail), tourism, economic and cultural strategies.

Planning and Building Control

- 5.3** Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. The proposed development / provision of licensed premises involves an assessment of the planning merits of the scheme and therefore is a matter for the Council's Planning Committee and the market, not the Authority or this Policy.
- 5.4** The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice-versa. The licensing system will provide for the detailed control of operational matters, which are unlikely to be addressed through planning processes. However, there will be overlapping issues of interest (e.g. disturbance) which will remain material considerations for planning purposes as well as being relevant in terms of the Licensing Objectives. Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for a licence/certificate to avoid any possible enforcement action.
- 5.5** The Act does not prevent an application being submitted before any relevant planning permission has been sought or granted. However, it is advisable to only submit licensing applications for businesses with planning permission or that are lawful for other reasons. The planning consent or other reason for the use being lawful in planning terms should be demonstrated in the supporting documentation in the PL or CPC application. Therefore, prospective applicants must be aware of potential breaches of legislation arising from the decision process of both regimes. This is particularly pertinent in relation to opening hours. For example, if a closing time has been set through the planning regime, which is different from the time set through the licensing regime, the applicant must observe the earlier closing time.

Similarly, where the variation of an authorisation involves a material alteration to a building, this does not relieve the applicant of the need to obtain the relevant planning or building control permissions.

- 5.6** To preserve these arrangements, Officers involved in the planning regime will be kept regularly apprised of licensed premises within the Borough through the MALT meetings (Section 14.0).

Electronic applications

- 5.7** All applications and relevant provisions under the Act, with the exception of applications for, and renewals of, Personal Licences, reviews and representations, can be accessed at the Licensing Service homepage www.westlancs.gov.uk/licensing or www.gov.uk
- 5.8** Plans, for written and electronic applications, will not be required to be submitted in any particular scale, but they must be in a format which is 'clear and legible in all material respects', i.e. they must be accessible and provide sufficient detail for the Authority to be able to determine the application, including the relative size of any features relevant to the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.

6.0 Administration, Exercise and Delegation of Functions

- 6.1** The Authority is involved in a wide range of licensing decisions and functions and the Licensing and Gambling Committee will administer this responsibility, where required by the Act. This Committee consists of 16 elected Members and has 1 chairman and 1 vice chairman. This Committee is further divided into Sub-Committee(s) of 4 elected Members.
- 6.2** A meeting of the full Licensing and Gambling Committee will be held when it is considered necessary to review the contents of this Policy, to comply with any requirements of the Act or to determine any other matter of relevance to the Authority.
- 6.3** A Sub-Committee will sit to hear applications for authorisations as required in the Act. In practice this will mean those applications that have attracted relevant representations from an Interested Party and/or Responsible Authority or a Review of an existing authorisation.
- 6.4** Applications that do not attract relevant representations are determined under delegation to the Assistant Director Community Services. Table 6.8a summaries this delegation procedure.
- 6.5** Decisions on whether a representation, or grounds for Review of an existing authorisation, is relevant, repetitious, frivolous or vexatious are delegated to the Assistant Director Community Services. Accordingly, where a representation is considered to be irrelevant, repetitious, frivolous or vexatious, the Assistant Director Community Services will inform the author of the representation in writing and give reasons for this decision. The Assistant Director Community Services will also inform the applicant and/or licensee when such a decision is taken.
- 6.6** In exceptional circumstances it may be appropriate for the Licensing Sub-Committee to refer any matter that it is unable to deal with because of the number of its Members who are unable to take part in the consideration or discussion of any matter on any question with respect to it, to the Licensing and Gambling Committee.
- 6.7** In exceptional circumstances it may be appropriate for the Licensing and Gambling Committee to refer any matter that it is unable to deal with because of the number of its Members who are unable to take part in the consideration or discussion of any matter on any question with respect to it, to the Licensing Authority, which in normal circumstances will mean Full Council.
- 6.8** All decisions made by either the Licensing and Gambling Committee, a Sub-Committee thereof or the Assistant Director Community Services will be confirmed in writing to the applicant and any person who has made a relevant representation forthwith or within the requirements of the Act, relevant Regulations or the Guidance.

Table 6.8a - delegations

Matter to be dealt with	Delegated authority to:	
	Licensing Committee	Assistant Director Community Services
Application for Personal Licence	If a Police objection is made	If no objection is made
Application for Personal Licence, with unspent convictions	All cases	-
Application for PL / CPC	If a relevant representation is made	If no relevant representation is made
Application for Provisional Statement	If a relevant representation is made	If no relevant representation is made
Application to vary PL / CPC	If a relevant representation is made	If no representation is made
Application to vary Designated Premises Supervisor	If a Police objection is made	All other cases
Request to be removed as Designated Premises Supervisor	-	All cases
Application for transfer of PL	If a Police objection is made	All other cases
Application for Interim Authorities	If a Police objection is made	All other cases
Application to Review PL / CPC	All cases	-
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.	-	All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	-
Determination of a police objection to a Temporary Event Notice	All cases	-
Application for minor variation	-	All cases
Application from a Community Premises to remove the requirement for Designated Premises Supervisor	If a Police objection is made	All other cases

7.0 Applications, notifications and determination

- 7.1** The procedure and documentation required for the various applications and notices is prescribed by the Act and Regulations and further advice on these processes is available from the Licensing Service using the contact details in Appendix 2, or on the Licensing Service homepage www.westlancs.gov.uk/licensing. Failure to comply with the statutory requirements may result in an application or notice being invalid.

Representations - The Power to 'Have Your Say'

- 7.2** Making a comment relating to any application or notification is called a 'representation', but not everyone has the right to make a representation. There is a prescribed period from the time the Authority receives an application for representations to be received. This is usually 28 days but varies depending on the type of application under consideration. Representations can include positive / supportive comments as well as objections.
- 7.3** Responsible Authorities (Appendix 2 – useful contacts) and Interested Parties (including members of the public, businesses or their representatives) can submit a representation whenever the Authority receives an application for a new licensed premises, for a full variation to an existing authorisation or an application for a Review. In addition, certain Responsible Authorities (but not Interested Parties) can also make representations on other types of applications and notifications such as applications for Personal Licences or notifications for temporary events. If no representations are received, the Authority must grant the application as applied for (including where appropriate any conditions volunteered by the applicant,) and events become authorised.
- 7.4** Applications where only the Police have a right to make representations on limited grounds (for example transfer of licences, transfer of Designated Premises Supervisor etc.) are not covered by this Policy but will be determined on their own individual facts.
- 7.5** All representations should relate to the likely effect of the application on the promotion of at least one of the Licensing Objectives. Any representation that fails to do this will be considered as 'irrelevant' for the purposes of the Act. Therefore, it is important to note that Responsible Authorities or Interested Parties who submit representations cannot expect their views to be automatically taken into account. Representations must be based on the requirements of the law before they can be accepted as relevant. Responsible Authorities or Interested Parties (and members of the public in particular) have a vital role in the licensing process, but this cannot be in contradiction with legislation, natural justice and decided case law.
- 7.6** Representations must be made in writing to the Licensing Service (Appendix 2 – useful contacts). Representations may be made by email as long as the email contains the name and address of the person (or body) making the representation.

- 7.7** Representations cannot normally be made anonymously, even if a local MP, councillor or organisation etc. is making the representation on behalf of another. This is because the Authority needs to be satisfied that the representation is not irrelevant, frivolous, vexatious or repetitious. It is also important that an applicant is able to respond to a representation; for example, if they believe that it isn't a 'relevant' representation. If Interested Parties are concerned about possible intimidation or other repercussions, they could consider approaching the Police or another appropriate Responsible Authority, which could make a representation on their behalf so long as the Responsible Authority was satisfied with the available evidence. Where the Authority considers that an Interested Party has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, it may decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details will only be considered where the circumstances justify such action.
- 7.8** Representations will be determined on their own merits as to whether they are considered to be relevant, frivolous, vexatious or repetitious.
- 7.9** The content of each representation will form part of a report to the Licensing Committee. Responsible Authorities and/or Interested Parties must note that such reports are public documents and therefore subject to public scrutiny. Any matters of a confidential nature should be considered carefully. The Authority will remove any personal information from its reports; however the specific details of all representations must be given to the applicant, including the name and address of each representation. Where the Authority considers a representation to be libellous, it will ask for the representation to be reworded. If the representation is not suitably reworded, the Authority reserves the right to refuse to publish the representation.

Representations submitted on behalf of others (including MPs, Councillors and community / residents associations etc.)

- 7.10** It must be clear who has submitted any representation. Community / residents associations may submit a representation on behalf of its members; however, these must state the names and addresses of all persons who wish to be party to the representation. Accordingly, each person who wishes a representation to be submitted on their behalf should make their request in writing so that the individual / organisation can demonstrate the origin of the representation and the permission to address the Authority on their behalf. It will be a matter for the MP, Councillor, community / residents association etc. to decide whether they should agree to such requests. However, it should be noted that Councillors who are part of the Licensing Committee hearing a specific application will not be able to enter into discussions with any person about that application, outside of the formal hearing.

Content of representations

7.11 Any representation must provide the following information as a minimum:

- The name and address of the person (or body) making the representation;
- The grounds for the representation, including supporting evidence;
- The signature of the person (or representative of the body) making the representation;
- The date the representation was made.

7.12 There is no requirement to produce a recorded history to support a representation, which of course would not be possible for new premises. However, it will assist the Authority if representations are specific to the premises and evidence based. The Authority must be satisfied that there is an evidential and causal link between the representations made, and the effect on the Licensing Objectives, in order to place any restrictions upon any premises. In accordance with the Guidance, in borderline cases the benefit of the doubt about any aspect of a representation will be given to the person making that representation.

7.13 Whilst Regulations allow for further information to be put forward at any subsequent hearing, that material must relate to the initial representation. It is therefore vitally important that as much detail and evidence as possible is included at the time the representation is made. Representations made without supporting detail and evidence may be viewed as frivolous or vexatious and disregarded.

7.14 In the case of Reviews, it should be noted the evidence must be specific to the given premises. For example, evidence regarding the nuisance caused by patrons returning home would need to prove that this problem came from the premises in question and the reason that patrons are causing a nuisance is that the licence holder was not implementing suitable controls.

7.15 With regard to applications to vary existing authorisations, the Authority can only consider the part(s) of the authorisation proposed to be amended. Accordingly, any representations that do not relate to the variation, or are not linked some way to what the authorisation holder is asking to be changed, will be considered irrelevant and the representation dismissed.

Determination of applications – Licensing Principles

7.16 The matters which can be taken into account once the Authority's discretion has been engaged vary depending on the type of application/notification concerned. These matters are discussed in Sections 8.0, 9.0 and 10.0. The text in bold type within each section states the Authority's discretionary rules in relation to these matters – these are called 'Licensing Principles'. The reason for each Principle is shown in bold italics.

7.17 The Licensing Principles contained in this Policy are discretionary and are distinct from the statutory Licensing Objectives contained in the Act. Whilst applicants are not obliged to meet any of the Licensing Principles in their Operating Schedules, they may find that Responsible Authorities and other persons and businesses are more likely to raise representations if they do not. This can lead to a delay with the

application having to be considered by the Licensing Committee, which may then either refuse the application or impose conditions if the application is not found to sufficiently promote the Licensing Objectives and meet this Policy. On appeal, the Court is also obliged to have regard to the terms and requirements of this Policy and can only depart from it if it has good reason.

- 7.18** Any reference made to the imposition of conditions refers to conditions imposed in accordance with the requirements of the Act outlined.

8.0 Consideration of Premises Licences (PL) & Club Premises Certificates (CPC)

- 8.1** A PL or CPC is required for any premises where it is intended that a licensable activity should take place. Applications for new PLs or CPCs, or variations of the same, should be made in accordance with the Act and relevant Regulations. Applications should also take account of the discretion of this Authority as detailed in this Policy. The application should clearly and precisely identify the steps by which the applicant intends to meet the Licensing Objectives. Therefore, the information contained in the Operating Schedule should address practically how the proposed steps (and associated controls) are to be achieved.
- 8.2** The process of applying for new PL or CPC and full variations of current PLs or CPCs are dealt with in same way and involve serving the application on all Responsible Authorities and advertising the application in the prescribed way. If representations are received (and are not subsequently withdrawn following negotiation) the matter will be heard by the Licensing Committee.
- 8.3** The process for a Minor Variation to a current PL or CPC is different. Minor Variations are those which should not have a material effect on the way in which the premises are operated. For example, Minor Variations can be used to:
- Vary times of licensable activities (but not to increase the hours when alcohol can be sold);
 - Make minor structural alterations to the premises (which are to be reflected by an amendment to the Licence Plan);
 - Add or remove conditions from the authorisation.
- 8.4** There is one prescribed fee for such applications. The granting of a Minor Variation is determined by Officers after consultation with those Responsible Authorities affected. If the application is refused, the applicant can still apply to make the same changes under the full variation process.
- 8.5** In order for a representation to be accepted by the Authority it must be considered 'relevant', that is it should be positively tied or linked by a causal connection to the application premises and should relate to one or more of the Licensing Objectives. The Act creates a presumption that applications will be granted unless a valid representation is raised. An application will then be determined by the Licensing Committee unless the issue that lead to the representation can be negotiated to an agreed conclusion between the parties. The Licensing Service will seek to facilitate mediation between parties in such cases.
- 8.6** The Authority will also seek to facilitate mediation between licensees, relevant agencies, other persons and businesses where significant issues have arisen relating to an existing authorisation. This will not override the right of any, person or business from making an application for the Review of a PL or CPC. However, where possible and appropriate, the Authority expects Responsible Authorities, other persons and businesses to give early notice to PL / CPC holders of any concerns about problems identified at a premises and of the need for

improvement. It is expected that requests for a Review of any authorisation will be sought only if such notice has failed to resolve the matter or problem.

- 8.7** Where representations are received, the characteristics of an area and the impact that the premises may have upon that area in terms of the promotion of the Licensing Objectives will be a fundamental consideration in determining whether a licence should be granted and, if so, what conditions should be attached to it.
- 8.8** The Authority considers the effective and responsible management of the premises, the instruction, training and supervision of staff, and the adoption of best practice to be amongst the most important control measures for the achievement of all of the Licensing Objectives.

Licensing Principle 1

- 8.9** **The Authority expects to see evidence of the effective and responsible management of the licensed premises, the effective instruction, training and supervision of staff and the adoption of best practice being specifically addressed within the Operating Schedule.**

REASON: To ensure the promotion of the Licensing Objectives.

- 8.10** Licensing law is not the primary mechanism for the general control of the antisocial behaviour of patrons once they have left the vicinity of the licensed premises, rather it is part of a holistic approach to the management of such issues.
- 8.11** Where appropriate, the Authority will seek to identify mechanisms that are available to address the potential impact of anti-social behaviour arising both in respect of the management and operation of licensed premises themselves and that arising once patrons leave the licensed premises. Regard will be made to the Guidance in this respect and the following may be employed to address such behaviour and the potential for Cumulative Impact:
- Planning controls;
 - Measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other Council departments;
 - The provision of CCTV surveillance, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
 - Powers of Local Authorities to designate parts of the Local Authority area as places where alcohol may not be consumed publicly;
 - Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of Fixed Penalty Notices;
 - Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
 - Police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
 - The power of the police, other Responsible Authorities or other persons to seek a review of a licence or a certificate;
 - Any other local initiatives that similarly address these problems.

Licensing Principle 2

8.12 When preparing or considering applications, Applicants, Responsible Authorities, Interested Parties and the Authority should, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the appropriateness of, any conditions which may be offered or imposed on any resulting licence, certificate or permission:

- The nature of the area within which the premises are situated;
- Any measures proposed by the applicant as outlined in the Operating Schedule;
- The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises;
- Means of access to and exit from the premises;
- Transport provision in the area and the likely means of public or private transport that will be used by customers either arriving or leaving the premises;
- Parking provision in the area;
- The cumulative impact of licensed premises in an area and scope for mitigation; (Section 15.0)
- The precise nature, type and frequency of the proposed activities;
- Other means and resources available to mitigate any impact;
- Such other matters as may be relevant to the application.

REASON: To ensure that all relevant matters are taken into consideration during the application process.

8.13 Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower. The impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. The impact of noise arising from patrons that are temporarily outside the premises (e.g. smoking) must be recognised and mitigated against.

8.14 Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave. They should consider each licensable activity separately and carefully, and reflect this in their Operating Schedule. Shops, stores and supermarkets will normally be permitted to sell alcohol and/or late night refreshment at any time when they are open for shopping unless there are good reasons related to the promotion of the Licensing Objectives for restricting these hours. Applicants applying for new off-licences in residential areas should carefully consider the hours that they are applying for and, the Authority encourages and expects applicants to limit their terminal hour 23:00 in such circumstances so as to reduce the impact of noise and antisocial behaviour on the community.

8.15 Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise sensitive areas, operators should consider ceasing

the playing of dance music and switching to quieter, slower tempo music with a less pronounced beat for a period prior to the closure of the premises.

- 8.16** Applicants should also consider making arrangements with local transport operators to provide information to customers to ensure they can access public transport and leave the vicinity of the premises quickly by the most appropriate route.
- 8.17** The Authority is mindful of the responsibilities that licence holders have for preventing antisocial behaviour on their premises and within the vicinity. The Authority must, however, also bear in mind its statutory duty under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the District. Where appropriate, conditions will be imposed which reflect local Crime Prevention Strategies.
- 8.18** Applicants are expected to have carried out the relevant risk assessments under other legislation (e.g. fire precautions, health and safety at work, etc.) prior to submitting their applications. These risk assessments should be used to identify particular issues which may need to be addressed in the Operating Schedule in order to ensure that the Objectives will not be undermined.
- 8.19** In some cases it may be helpful for applicants and / or their advisors to discuss the draft Operating Schedule with Council Officers and representatives of Responsible Authorities, before it is formally submitted. This will help ensure it properly addresses all relevant issues that might give rise to concern.
- 8.20** Any conditions imposed by the Authority will be focused on matters that are within the control of individual licensees and others in possession of relevant authorisations. Consideration will primarily be given to the direct impact of the licensed activity on those who live, work or are engaged in business or other activities in the area concerned. Any condition attached to a PL or CPC should be:
- Clear;
 - Enforceable;
 - Evidenced;
 - Proportionate;
 - Relevant;
 - Expressed in plain language capable of being understood by those expected to comply.
- 8.21** Applicants and those making representations should bear these principles in mind when suggesting conditions to be attached to an authorisation.

Licensing Principle 3

8.22 Where representations have raised concerns in respect of individual premises and it is felt that access of children should be restricted, the Authority will consider imposing conditions which may include the following:

- Limitations on the hours when children may be present;
- Age limitations for persons under 18;
- Limitations or exclusion when certain activities are taking place;
- Full exclusion of persons under 18 when certain licensable activities are taking place;
- Limitations of access to certain parts of the premises for persons under 18;
- A requirement for an accompanying adult to be present.

REASON: To protect children from harm.

8.23 The issues and related concerns relating to the presence of children in licensed operations are provided in Section 4.0.

9.0 Consideration of Personal Licences

- 9.1** A Personal Licence is granted to an individual that authorises the sale and supply of alcohol in accordance with a PL. Applications for Personal Licences must be made to the Authority if the applicant is normally resident in the Borough of West Lancashire. All Personal Licences granted by the Authority must also be renewed with the Authority, until the Personal Licence lapses, is surrendered or revoked.
- 9.2** Where an applicant for a Personal Licence has relevant convictions, a licence will still be granted unless the Police lodge an objection within the prescribed period that states that the granting of the licence would undermine the Licensing Objectives. In such circumstances the application will be considered at a hearing of the Licensing Committee.

Licensing Principle 4

- 9.3** In determining initial and renewal applications for Personal Licences where the Police has lodged an Objection Notice, the Authority will take the following matters into consideration:

- The circumstances in which the offences were committed;
- The period that has elapsed since the offence(s) were committed;
- Whether the offences reveal a pattern of offending or were a one off occurrence; and
- Any mitigating circumstances.

The Authority will reject the application unless the applicant can show exceptional and compelling grounds and that it is unnecessary to do so in order to promote the Crime Prevention Objective.

REASON: Prevention of crime is both an objective of the Act and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the Crime Prevention Objective.

- 9.4** Where a Personal Licence holder is convicted of a relevant offence, the Court may order that the licence be forfeit. If an applicant is convicted of a relevant offence during the application period and this only comes to light after the licence has been granted or renewed, then the Authority must notify the Chief Officer of Police and if an objection notice is lodged within the relevant period a Hearing will be held to determine whether the licence should be revoked.

10.0 Consideration of Temporary Event Notices

- 10.1** There are two types of Temporary Event Notice (TEN) - a Standard TEN and a Late TEN. A standard TEN must be served no later than ten working days before the event to which it relates and this does not include the day it is given or the day of the event, and a late TEN is served no more than nine and not less than five working days before the event to which it relates.
- 10.2** Whilst the Authority recognises that a standard TEN may be served at least ten clear working days prior to the commencement of a Permitted Temporary Activity (the event), the Guidance encourages a locally established preferred period of notice. There is a case for not serving such Notices too early as this could make it difficult for a sensible assessment to be made of the implications of such an event on the Crime and Disorder and Prevention of Public Nuisance Licensing Objectives.
- 10.3** Accordingly, the Authority considers that a reasonable period of notice for the service of a standard TEN is 28 days. In any event, a standard TEN should not be served any more than 3 months before the event is due to take place. An exception is made for large or complex events where a greater period of time to adequately plan the event would be required.
- 10.4** Persons serving TENs must also serve a copy notice on the Police and the Responsible Authority for Environmental Health functions i.e. the Council's Environmental Protection section.
- 10.5** Only the Police and Environmental Health Officer have the right to make representations in respect of TEN. In the event of representations being received from either, the Authority's powers are limited to either allowing the event to:
- Proceed as notified;
 - Serve a Counter Notice to render the event unauthorised;
 - In cases where the notification relates to premises which are already licensed, to applying any relevant conditions on the licence to the event.

Temporary Structures

- 10.6** The Authority has adopted the provisions of Section 35 of the County of Lancashire Act 1980 which must be followed when dealing with applications relating to temporary structures.
- 10.7** It should be noted that the giving of a TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.
- 10.8** More information can be obtained from the Licensing Service using the contact details in Appendix 2, or on the Licensing Service homepage www.westlancs.gov.uk/licensing

11.0 Hearings

- 11.1** A Hearing will be arranged to deal with any applications that have attracted representations and which cannot be dealt with under delegated powers or resolved by agreement between applicants and Interested Parties and/or Responsible Authorities. The details of the specific Hearing will be provided in the format of a report to the Licensing Committee which will contain all the relevant information to the case. Copies of this report will be provided to all parties to the Hearing.
- 11.2** Each case will be determined on its individual merits and the Authority will give appropriate weight to:
- The Act and relevant Regulations;
 - The steps appropriate to promote the Licensing Objectives;
 - The information provided by all parties to the Hearing;
 - The Guidance;
 - This Policy.
- 11.3** Hearings will be held at the earliest possible date having regard to the Regulations and the laws of natural justice. The Licensing Committee will conduct a quasi-judicial consideration of the application and relevant representations. Members of the Licensing Committee will carefully consider their position should they be requested to hear a matter which occurs in their own Ward.
- 11.4** A legal advisor, advocate or a friend may represent any party to the Hearing, where such individuals choose not to represent themselves. Accordingly, in an effort to assist all parties when preparing for and participating in a Hearing, the Authority has prepared a Hearing procedure. This procedure will be adhered to in all Hearings, a copy of which will be provided to all parties in advance of the Hearing. This Hearing procedure is maintained separately from this Policy and is available from the Licensing Service using the contact details in Appendix 2, or on the Licensing Service homepage www.westlancs.gov.uk/licensing.
- 11.5** Whilst the Licensing Committee will usually meet in public, they do have the power to hear certain applications in private. Where this is required all parties to the Hearing shall be informed.
- 11.6** The Authority will aim to provide all parties to the hearing with the decision in writing within five working days of the date of the hearing. The decision determined by the Licensing Committee will be accompanied with clear reasons for the decision, having regard to the Licensing Objectives and all relevant legislation.
- 11.7** The decision of the Licensing Committee may involve the imposition of conditions on authorisations. Any such condition(s) will be appropriate for the promotion of one or more of the Licensing Objectives and in accordance with this Policy.

Site visits

11.8 Site visits will normally be made to the premises concerned (and any relevant locations) where the following applications have been submitted:

- New application for a PL and/or CPC;
- Application to Review a PL and/or CPC.

11.9 Site visits will not normally be conducted for any other application or authorisation. However, notwithstanding the previous sentence, any contested application or authorisation that presents one or more of the following may also attract a site visit:

- A substantial number of representations have been made in relation to the application or authorisation;
- The nature of the application or authorisation is sufficiently complex;
- It is reasonably foreseeable that the nature of the application or authorisation could present a significant impact on the Licensing Objectives.

11.10 The Members of the Licensing Committee that will hear the application will conduct the site visit. The visit is conducted to ensure Members have a full understanding of the application, the premises and the locality. To preserve the integrity of the Hearing process, any such visit will be carried out in accordance with a strict protocol. This protocol is maintained separately from this Policy and is available from the Licensing Service using the contact details in Appendix 2, or on the Licensing Service homepage www.westlancs.gov.uk/licensing

12.0 Reviews and suspension

Reviews

- 12.1** At any stage following the grant of a PL or CPC a Responsible Authority or an Interested Party may ask for a review of that specific authorisation. In all cases, evidence will be required to show that a specific concern exists relating to the operation in question and is relevant to one or more of the Licensing Objectives.
- 12.2** Where a review hearing is held, the Authority has a variety of options that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the authorisation. The Guidance reminds the Authority that the powers of Review are to be used in the interests of the wider community and not that of the individual authorisation holder. Whilst the financial circumstances of the authorisation holder will be a consideration for the Authority, the promotion of the Licensing Objectives will be the Authority's primary concern.
- 12.3** The Authority recognises that the promotion of the Licensing Objectives requires a partnership approach. The Authority considers that Interested Parties and Responsible Authorities will give PL / CPC holders sufficient warning of their concerns regarding any problems identified at the premises and the need for improvement. Where such warnings have been issued by any Responsible Authority, these will normally be discussed at the MALT meetings (Section 14.0) to ensure that the Authority, as well as the other Responsible Authorities, are aware of the issues. The Authority therefore expects PL / CPC holders to respond to such warnings and implement the appropriate remedial action. Any failure to respond to such warning may lead to a Responsible Authority or Interested Party requesting a review of the PL / CPC. However, where the matter is sufficiently serious for a Responsible Authority to take immediate action, this must be carried out under their lawful powers, and notification of such action communicated to the Authority at the earliest possible time.
- 12.4** Accordingly, in some circumstances, for example the use of premises for the purchase and consumption of alcohol by minors, revocation may be considered an appropriate course of action by the Authority - even in the first instance.
- 12.5** The Authority will seek to prevent attempts to review PLs / CPCs which are merely a 'second bite of the cherry' following the failure of representations on previous occasions, and will therefore examine each application in the context of previous applications and decisions.
- 12.6** Requests for reviews will be rejected where, in the view of the Authority, the request is not relevant (to the Licensing Objectives), or in the case of requests from Interested Parties, it is frivolous, vexatious or repetitious.

Red/Yellow Card Scheme

- 12.7** At a review Hearing where it is found that the premises has failed to promote one or more of the Licensing Objectives, the Authority may issue either a yellow or red card. This approach provides the PL / CPC holder a formal opportunity to reform, as a 'yellow card' would involve the imposition of tough conditions (if appropriate to

the identified problems) together with the warning that if a further review is necessary and matters are found to have not improved, the PL / CPC could be revoked – a ‘red card’. However, if the issues raised at the review Hearing are of such a serious nature, the Authority may be forced to consider revocation without the issue of a yellow card.

- 12.8** The aim of this approach is to further emphasise the punitive nature of the review process by sending a clear message to PL / CPC holders, and the public, that the Authority will take action against those who act contrary to the Licensing Objectives and the law.
- 12.9** However, the Authority is more than aware that the revocation of a PL / CPC can often effectively kill the business, particularly if it is focused on retailing alcohol. This means that not only does the business suffer, but most people working at the premises will lose their livelihoods, many of whom would be entirely innocent of any wrongdoing. There is also an impact on those who indirectly rely on income from the premises, such as food suppliers and cleaning contractors. Furthermore, the closure of a premises could deprive some sections of the community of their local shop and/or restrict local consumer choice. The Authority is acutely aware of this impact and will not take action unless it is appropriate to do so.
- 12.10** The Authority is aware that the significant impact of revocation could lead to a reticence for Responsible Authorities to review a PL / CPC. However, the Authority will not expect Responsible Authorities to negotiate additional voluntary conditions with problem premises against the threat of review. Whilst this may be a reasonable approach in the short term, it can lead to the risk that some premises may not be dealt with as firmly as necessary. Such voluntary agreements are not visible to the public and lessen the deterrent effect on other premises.
- 12.11** Accordingly, where practicable, if a Reasonable Authority wishes to review any PL / CPC, it should first raise the matter at a meeting of the MALT at which time the individual merits of the proposed review application will be discussed. Through the MALT, Responsible Authorities will be encouraged to propose suggested conditions which are designed to combat the identified problem.

‘Yellow Card’

- 12.12** Where the Authority is satisfied that action is appropriate, based on the individual merits of the review application and the evidence submitted at the review Hearing, a yellow card may be issued. This will effectively put the premises on probation. The premises are put on notice that the next offence and/or breach could mean an automatic second intervention – a ‘red card’.
- 12.13** A yellow card may also be supplemented by:
- Additional condition(s), which will be tailored to the nature of the problem and the type of premises;
 - Removal of Designated Premises Supervisor;
 - Suspension of the licence for between 1 day and 3 months
 - Restriction of trading hours and/or licensable activities;

- A clear warning that if a further review application is heard by the Authority on a similar matter it will give rise to a presumption of revocation (if appropriate to the identified problems).

12.14 The Authority will not issue physical cards, however the Authority will ensure that a yellow card is highly visible in the community. Therefore, as part of the Authority's decision, it will impose a licence condition requiring the premises to display a visible notice at the premises detailing the outcome of the review and the warning it has been given. The Authority shall prepare the notice and affix the notice on the premises. The notice shall be displayed in a prominent position on the premises where it can be conveniently read from the exterior of the premises. The Authority will stipulate how long the yellow card will remain in force and may also publicise the decision as a deterrent to other premises.

'Red Card' – second/subsequent review Hearing

12.15 In the absence of improvement at any given premises following the first review, Responsible Authorities should seek another review. Again this matter will normally be discussed within the MALT as the impact against the premises is likely to be severe.

12.16 Where the Authority is satisfied that there has been a lack of improvement and action is appropriate based on the individual merits of the review application and the evidence submitted at the review Hearing, a red card may be issued. In such circumstances, the presumption will be to revoke the licence unless there is good reason not to. The Authority will then publicise the decision as a deterrent to other premises.

Suspension

12.17 The Act requires the Authority to suspend a PL or CPC if the annual fee is not paid when it is due, unless an administrative error or dispute has been notified to the Authority. In such cases there will be a grace period of 21 days to allow the matter to be resolved. If the matter is not resolved within grace period the licence must be suspended.

12.18 Where such a suspension takes place the Authority must give a minimum of two days notice and may inform the Police and other Responsible Authorities of the suspension. All licensable activities must cease when the suspension takes effect. The suspension will only cease on payment of the outstanding fee irrespective of any transfer or hearing which may take place. The Authority will consider prosecution where licensed operations remain open to the public whilst the PL or CPC is suspended.

13.0 Appeals

- 13.1** The Authority will address the rationale for its decision with regard to the Act, the Licensing Objectives, the Guidance and this Policy.
- 13.2** Following a Hearing, the Authority will notify all parties of the decision and any conditions that have been imposed. This will be done in writing following the Hearing.
- 13.3** There is a right of appeal against the decision and/or any condition attached to an authorisation. An appeal would normally be lodged with the Justices' Chief Executive of the South West Lancashire Magistrates' Court within a period of 21 days, beginning from the day on which the Authority notified the applicant of the decision.
- 13.4** On determining an appeal the Magistrates' Court, the Court is obliged to have regard to the terms and requirements of this Policy and can only depart from it if it has good reason. Therefore the Court may:
- Dismiss the appeal;
 - Substitute for the decision any other decision which could have been made by the Authority;
 - Remit the case to the Authority to dispose of it in accordance with the direction of the Court;
 - Make such order as to costs as it thinks fit.
- 13.5** As soon as the decision of the Magistrates' Court has been made, the Authority will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action (for example as a result of a Judicial Review). Except in the case of Closure Orders, the Act provides no further appeal against the decision of the Magistrates' Courts and normal rules of challenging decisions of Magistrates' Courts will apply.

14.0 Enforcement

General

- 14.1** Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the Licensing Objectives and compliance with the specific requirements of the Act.
- 14.2** Where the Authority considers enforcement is necessary, any such action will be taken in accordance with the Community Services Enforcement Policy, which is available from the Licensing Service using the contact details in Appendix 2. Accordingly, the key principles of consistency, transparency and proportionality will be maintained.
- 14.3** The Authority will make arrangements to monitor premises and take appropriate enforcement action so as to ensure the continued promotion of the Licensing Objectives through compliance with the conditions attached to the PL / CPC. Enforcement visits will therefore be carried out as a response to a complaint(s) or as part of a proactive risk based inspection regime and/or targeted initiative.

Multi Agency Licensing Team (MALT)

- 14.4** The coordination of its duties under the Act requires the Authority to maintain close and regular liaison with Responsible Authorities as well other bodies involved in the licensing process. The MALT has been established for this purpose and is coordinated by the Authority. All Responsible Authorities are represented at the MALT, which meets approximately every 8 weeks (or more frequently if required).
- 14.5** The MALT ensures that a coordinated and proactive approach to the issues arising from licensable activities can be formulated and delivered. This is conducted on a priority basis. Those premises that have been identified as presenting a risk to the Licensing Objectives from the perspective of one or more MALT members will be targeted. Such premises could expect increased monitoring and MALT members may conduct more frequent visits to such premises. This affords the licensed operation sufficient opportunity, as well as support, to address the problems. Should the risks to the Licensing Objectives be sufficiently serious and/or the operation does not take the necessary action to address the problems, the premises will be subject to further intervention. These premises will be subject to close scrutiny and a coordinated approach to enforcement devised between the appropriate MALT members. Such premises may also be the subject of further action taken by any Responsible Authority outside of the licensing regime and/or be the subject of a review application.
- 14.6** This approach ensures an efficient and proportionate deployment of resources engaged in enforcing relevant legislation within licensed premises, as only problem and/or high-risk premises are targeted.
- 14.7** However, the role of the MALT is not solely focused upon enforcement activity. It also sees the promotion and encouragement of best practice within the industry as being fundamental in the development of responsibly managed licensed operations.

15.0 Cumulative Impact

General

- 15.1** The Authority will not seek to limit the number of licensed premises that will be permitted on the basis of 'need'. Whilst not explicitly mentioned in the Act, 'cumulative impact' (i.e. the potential impact) of licensed premises on the promotion of the Licensing Objectives is a proper matter for the Authority.
- 15.2** In areas where the number, type and density of premises selling alcohol are unusual, serious problems of nuisance and disorder may sometimes arise, or begin to arise, outside or some distance from licensed premises. While more flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises.
- 15.3** The Authority can receive representations from a Responsible Authority or an Interested Party that the cumulative impact of new licences is leading to an area becoming saturated with premises making it a focal point for large groups to gather in and circulate away from the licensed premises themselves, and that this is creating exceptional problems of disorder and/or nuisance over and above the impact of the individual premises.
- 15.4** To implement these controls, the Authority can adopt and publish a special cumulative impact policy, which must be maintained separately from, although referenced within, this Policy.
- 15.5** The Authority will expect there to be a clear evidential basis to demonstrate the need for a special policy. For example, the Community Safety Partnership may provide information which demonstrates cumulative impact as part of their general role on anti-social behaviour, or similarly, the Council's Environmental Health Officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.
- 15.6** If suitable demonstrable evidence exists, and prior to implementing a special policy, the Authority must consult those individuals and organisations listed in Section 5(3) of the Act as a minimum. In doing so, the Authority will clearly indicate the area that the special policy will affect and will also clearly state that the Authority intends to create a rebuttable presumption that applications for new PIs or CPCs (or variations of the same) that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the Licensing Objectives.
- 15.7** If the Authority adopts a special policy, it does not relieve Responsible Authorities or Interested Parties of the need to make a relevant representation on cumulative impact grounds. If there are no representations, the Authority must grant the application in terms that are consistent with the operating schedule submitted.

Current situation

- 15.8** At time of publication of this Policy Statement, no special cumulative impact policy is in place. However, the number of licensed premises within the Borough has increased - particularly within Ormskirk town centre, where the student population from Edge Hill University has also increased. The Licensing Committee has instructed Officers to examine the need for a special cumulative impact policy in 2015/16 following the adoption of this Policy. However, this does not prevent any Responsible Authority or Interested Party making representations on a new application for the grant, or variation, of a PL / CPC on the grounds that the premises will give rise to a negative cumulative impact on one or more of the Licensing Objectives.
- 15.9** The MALT (Section 14.0) will continue to regularly monitor the need for a special policy.
- 15.10** Furthermore, other mechanisms, both within and outside the licensing regime, also exist to address such issues, including:
- Planning controls;
 - West Lancashire Community Safety Partnership – which works towards, and supports initiatives designed to have a positive impact on, maintaining a safe environment throughout the Borough;
 - The provision of CCTV surveillance;
 - Powers to designate parts of the local authority area as places where alcohol may not be consumed publicly;
 - Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
 - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
 - Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
 - Police or Council Officer powers to close for up to 48 hours any premises where nuisance or disorder has occurred or is likely to;
 - The power of the Police, other Responsible Authorities or a local resident or business to seek a review of the licence or certificate in question.

16.0 Provisional Statements

- 16.1** Where premises are being or are about to be constructed for the purpose of being used for one or more licensable activities, or are being or about to be extended or otherwise altered for that purpose (whether or not they are already being used for that purpose) a person (if an individual aged 18 years or over) may apply for a Provisional Statement if they have an interest in the premises.
- 16.2** Where relevant representations have been made, applications for Provisional Statements will be dealt with in a similar manner to applications for PLs.
- 16.3** An application for a Provisional Statement must be accompanied by a schedule of the following details:
- Details of the premises;
 - The works to be done;
 - Licensable activities proposed;
 - Plan of the premises;
 - Any such other information as prescribed by Regulation.
- 16.4** If voluntarily available, the Authority would find the following additional information useful:
- Whether planning consent has been granted for the application;
 - Proposed times of activities;
 - Proposed hours of opening;
 - Where the applicant wishes the licence to have effect for a limited period, that period;
 - The name of the proposed Designated Premises Supervisor (where the sale or supply of alcohol is proposed);
 - Basic details as to how the Licensing Objectives would be promoted.
- 16.5** Applicants will be required to notify Responsible Authorities and advertise their application in a similar way to the arrangements for applications for PLs. Therefore, where Responsible Authorities or Interested Parties make representations, a Hearing will be held. In such circumstances, the Authority will determine whether, on the basis of any representations and the provisional statement application, it would consider it appropriate to:
- Attach conditions to the licence;
 - Rule out any of the licensable activities applied for;
 - Refuse to specify the person nominated as the premises supervisor;
 - Reject the application.

- 16.6** If, on the work being satisfactorily completed, the Authority believes it would grant a PL in the form described in the Provisional Statement, it will issue the applicant with a statement which:
- Gives details of the determination; and
 - States the Authority's reasons for its decision as to the steps, if any, to take as outlined in above.
- 16.7** If a Provisional Statement has been issued and the person subsequently applies for a PL in respect of the premises (or a part of the premises or premises which are substantially the same) representations by Responsible Authorities and Interested Parties will be excluded in certain circumstances. These are where:
- The application for a licence is in the same form as the licence described in the Provisional Statement; and
 - The work in the schedule of works has been satisfactorily completed;
 - Given the information in the application for a Provisional Statement, the person objecting could have made the same, or substantially the same, representations about the application but has failed to do so without reasonable excuse; and
 - There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.
- 16.8** Applicants are advised that whilst there is no limit to the duration of a Provisional Statement, the longer there is a delay before a PL is applied for, the greater the potential is for representations not to be excluded due to a genuine and material changes in circumstances. Accordingly, the PL will not become effective until a date stipulated by the Authority.

17.0 Interim Authorities

17.1 Generally, a PL / CPC will remain in force for as long as the holder continues to operate the business, unless:

- It is specified that the licence has effect for a limited period and that period has expired;
- The authorisation has been surrendered;
- The authorisation has been suspended;
- The authorisation has been revoked.

17.2 If a PL holder dies, becomes bankrupt or mentally incapable then the licence will lapse. However, if within a seven day period of such circumstances (beginning with the day after the licence lapsed) a person who had an interest in the premises or who is connected to the former holder or if the licence, gives the Authority an Interim Authority Notice, the PL will be reinstated for a period of two months.

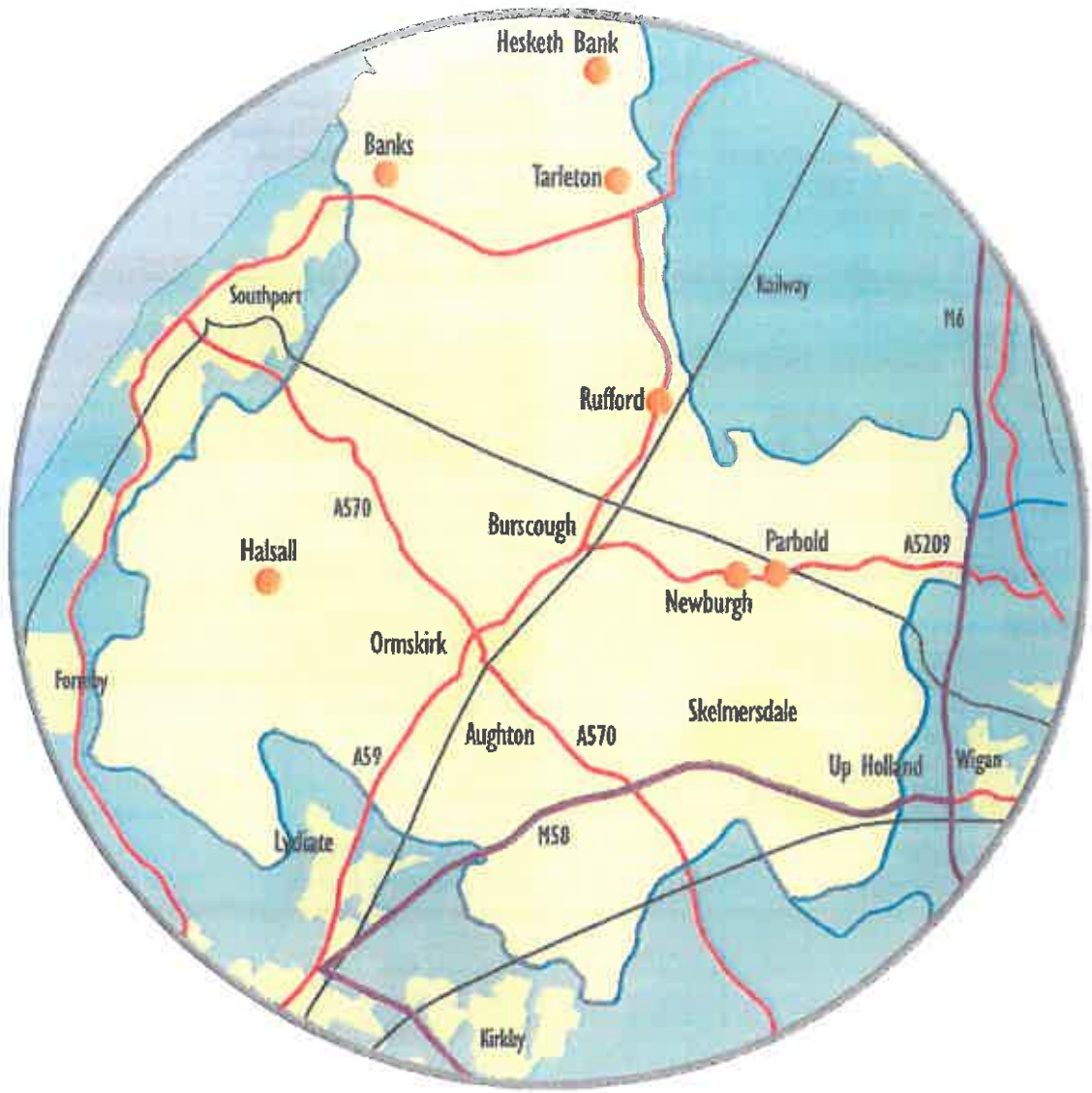
17.3 A person is deemed to be connected to the former holder of a PL, if:

- The person is the personal representative in the event of the holder's death;
- In respect of someone who has become mentally incapable is acting under Section 6 of the Enduring Powers of Attorney Act 1985; or
- In the event of insolvency/bankruptcy is acting as an Insolvency Practitioner;
- Any other person prescribed by Regulation.

17.4 Interim Authority Notices must also be served on the Police within the seven-day period of being served on the Authority. Where required, the Police may raise an objection to the notice under the 'prevention of crime and disorder' Licensing Objective. The Authority will then hold a Hearing to consider the objection.

17.5 The Authority recognises the need to consider any objections in these circumstances quickly.

Appendix 1: Key locations in the Borough of West Lancashire



Appendix 2: Useful contacts

Licensing Service:

West Lancashire Borough Council, Robert Hodge Centre, Stanley Way, Skelmersdale WN8 8EE

Telephone: 01695 585015

Fax: 01695 585126

Email: licensing.enquiries@westlancls.gov.uk

Internet: www.westlancls.gov.uk/licensingact

Crime and disorder:

Lancashire Constabulary

Licensing Unit: C Division

County Police Office, St Thomas's Road

Chorley, Lancashire PR7 1DR

Telephone: 01257 246215

Fax: 01257 246217

Email: anthony.bushell@lancashire.pnn.police.uk

Fire Safety:

Lancashire Fire and Rescue Service

Fire Safety Officer - Skelmersdale Fire Station

Tanhouse Road, Skelmersdale,

Lancashire WN8 9NN

Telephone: 01695 723853

Fax: 01695 731172

Email: skelmersdaleFireSafety@lancsfireandrescue.org.uk

Health & Safety:

Paul Charlson - Commercial, Safety and Licensing Manager

West Lancashire Borough Council

Robert Hodge Centre, Stanley Way, Skelmersdale

Lancashire WN8 8EE

Telephone: 01695 585246

Fax: 01695 585126

Email: paul.charlson@westlancls.gov.uk

Statutory nuisances / Community Safety:

Andrew Hill - Environmental Protection and Community Safety Manager

West Lancashire Borough Council

Robert Hodge Centre, Stanley Way, Skelmersdale

Lancashire WN8 8EE

Telephone: 01695 585243

Fax: 01695 585126

Email: a.hill@westlancls.gov.uk

Planning:

West Lancashire Borough Council

Development Control Service

52 Derby Street, Ormskirk

Lancashire L39 2DF

Telephone: 01695 577177

Email: plan.apps@westlancls.gov.uk

Protection of children:

Lancashire County Council

Lancashire Safeguarding Children's Board Manager

Room B52, PO Box 61

County Hall

Preston

Lancashire PR1 8RJ

Trading Standards:

Lancashire County Council

Licensing

County Hall

Pitt Street

Preston

Lancashire PR1 0LD

Telephone: 01772 533569

Email: ts@generalmail@lancashire.gov.uk

Director of Public Health:

Lancashire County Council

Licensing, Level 1 Christ Church Precinct

County Hall

Preston PR1 8XB

Telephone: 0300 123 6701

Email: PHLicensing@lancashire.gov.uk

The Licensing Act 2003, except for regulated entertainment, is the responsibility of the Home Office. Regulated entertainment licensing law is controlled by the Department for Culture, Media and Sport.

The Home Office
2 Marsham Street
London SW1P 4DF

Telephone: 020 7035 4848

Email: public.enquiries@homeoffice.gsi.gov.uk

Internet: www.homeoffice.gov.uk

The Department for Culture, Media and Sport
2-4 Cockspur Street
London SW1Y 5DH

Telephone: 020 7211 6200

Email: enquiries@culture.gov.uk

Internet: www.culture.gov.uk