



West Lancashire Borough Council Licensing Service

Application for the review of a premises licence or club
premises certificate under the Licensing Act 2003

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**Application for the review of a premises licence or club premises certificate
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I,**Andrew Hill**.....
(insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club
premises certificate under section 87 of the Licensing Act 2003 for the premises described in
Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

Jynx
Witham Road
Skelmersdale

Post town
Skelmersdale

Post code (if known)
WN8 8HP

Name of premises licence holder or club holding club premises certificate (if known)

Mr Sarju Patel and Mr Daniel Kenyon
Jynx, Witham Road, Skelmersdale, WN8 8HP

Number of premises licence or club premises certificate (if known)

000006916

This section is intentionally blank

Part 2 - Applicant details

I am

Please
tick (yes)

1) an interested party (please complete (A) or (B) below)

(a) a person living in the vicinity of the premises

☐

(b) a body representing persons living in the vicinity of the premises

☐

(c) a person involved in business in the vicinity of the premises

☐

(d) a body representing persons involved in business in the vicinity of the premises

☐

2) a responsible authority (please complete (C) below)

☒

3) a member of the club to which this application relates (please complete (A) below)

☐

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr

☐

Mrs

☐

Miss

☐

Ms

☐

Other

☐

(for example,
Rev)

Surname

First Names

Please tick ✓ Yes

I am 18 years old or over

☐

Current postal
address if different
from
premises address

Post Town

Postcode

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Andrew Hill Environmental Protection and Community Safety Manager West Lancashire Borough Council The Robert Hodge Centre Stanley Way Skelmersdale West Lancashire WN8 8EE
Telephone number (if any) 01695 585243
E-mail address (optional) a.hill@westlancs.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder ☐
- 2) public safety ☐
- 3) the prevention of public nuisance ☒
- 4) the protection of children from harm ☐

Please state the ground(s) for review (please read guidance note 1)

The Council's Statement of Licensing Policy 2015 states "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." (Paragraph 4.22). The Policy also makes numerous references to the need to control potential noise nuisance from patrons, particularly those using outside areas for smoking (Paragraphs 4.24, 4.26, 4.30 and Licensing Principle 2, Paragraph 8.13).

I have serious concerns that the operation of the Jynx bar is unreasonably interfering with the personal comfort of neighbouring residential premises.

Since the opening of the premises as Jynx in November 2016 the operation of the premises has led to numerous complaints from the public to the Environmental Protection and Community Safety Team.

There is also evidence that the following condition on the licence has been breached.

'Customers will not be permitted to congregate outside the premises at any time other than for the purposes of smoking and this will be subject to regular checks by the management to ensure any persons smoking are not causing a disturbance to residents'.

Despite repeated communication from ourselves, complaints have continued. The complaints to the Council have related to both entertainment noise and also noise from patrons; the noise from patrons being the main cause of the complaints.

A Noise Abatement Notice was served on the 6th February 2017 (under the Environmental Protection Act 1990) in respect of noise from patrons in and around the smoking area, which was not subject to appeal. A combination of officer visits and the use of recording equipment has demonstrated that there is evidence that the Notice has been breached six times (at the time of writing). A prosecution file has therefore been started to address this.

I therefore feel it is necessary to review the Premises Licence, as all other warnings from us have thus far not resulted in any tangible improvements in the situation for the residents.

Please provide as much information as possible to support the application
(please read guidance note 2)

When Mr Patel and Mr Kenyon applied for a new Premises Licence in September 2015, the Environmental Protection and Community Safety Team expressed grave concerns. This was due to the later opening hours requested and their intention to refurbish the premises into a popular entertainment venue. The concerns were borne, to some degree, from problems the venue experienced in the past, when regular complaints were received about noise from music and patrons. This required significant intervention from our Service and the Police, including the service of a Noise Abatement Notice for music noise, the issuing of formal cautions (as an alternative to prosecuting the operators) and applying for a review of the licence (where the consent to have live entertainment was removed from the licence). Patron noise was also an issue; however, the main entrance was in a different location at that time.

Our objection to the new licence application was on the grounds that there was a risk to the prevention of the public nuisance licensing objective in that the applicant wanted to open later than the previous licence allowed and also change the character of the premises from a members social club to a bar and entertainment venue - effectively a nightclub, with DJs, live entertainment and a dance floor. The concern was that by investing in a complete refurbishment of the premises, which would involve a lot of money, the applicant would need to attract a lot of patrons to repay that investment.

Jill Antrobus, Principal Environmental Health Officer, attended the application hearing on 21 October 2015 and put forward our objection at the hearing. After consideration, the Licensing Sub-Committee granted the licence with the operational hours as applied for. The hours included alcohol sale/supply, live music and recorded music until 01.30 Friday and Saturday, with the opening hours until 02.00 on those days. The premises also opens on Thursdays and Sundays.

The premises started to operate (after refurbishment) on the weekend of Friday 18th and Saturday 19th November 2016.

We first received the first complaints on Tuesday 22nd November 2016 about the opening weekend. The three complaints concerned patron and music noise as well as noise from staff using the bottle bin and taxis sounding horns. The operator was advised of this by telephone. During a further conversation on 23rd November 2016, we also arranged to visit the premises to set a level on the premises music noise limiter. This meeting took place on Thursday 8th December 2016.

After the following weekend of 25th and 26th November 2016, we received feedback from the first complainant that the noise was bad/worse on Saturday night, particularly from music and patron noise until 02.30 and taxis sounding horns. In addition, we received three further complaints from three other households about bass noise from music, rowdy patrons and noise from taxi horns. Then from December 17th 2016 we started to receive regular complaints about noise from patrons in the smoking area, shouting and taxis sounding horns. These complaints were initially received by telephone, and from early January 2017, we started to receive diary sheets (Evidence Reference 1). This resulted in a letter being sent to the Manager of Jynx (Daniel Kenyon) on 3rd January 2017 (Evidence Reference 2), as he was our main point of contact and the person we were liaising with about these complaints at that time.

On Friday 27th January 2017, two Senior Environmental Health Officers visited a neighbouring property and witnessed a statutory noise nuisance from Jynx. They witnessed raised voices, shouting, screeching and swearing noise from patrons using the smoking shelter area of the premises, which was so loud that it would have prevented persons sleeping and interfered with the use of their property.

On 6th February 2017 a Noise Abatement Notice (Evidence reference 3) was served on Mr Patel of Bar Jynx Limited as the Company Director. The Notice was served via first class post and was not appealed. On the 7th February 2017, Mr Patel met with representatives of the Council's Licensing Service and Lancashire Constabulary along with one of the Council's Senior Environmental Health Officers to discuss the Notice and its implications. As suggestions for compliance were made by Mr Patel, the Senior Environmental Health Officer agreed to allow a few weeks so that measures could be put in place to comply with the Notice.

Unfortunately further complaints were made about the next two weekends, which suggested that no productive measures were implemented.

On 24th February 2017, Mr Patel met with one of the Senior Environmental Health Officers (Mr Chris Carpenter) to discuss the matter again and Mr Carpenter handed over a letter (Evidence Reference 4). The letter clearly stated that they need to ensure that they do not breach any licence conditions that relate to control of noise and disturbance to residents. The letter also stated our intention to review the Premises Licence if licence conditions continued to be breached or if there were other noise problems.

That same night (Friday 24th February 2017) two Environmental Health Officers (1 Principal, 1 Senior) visited one of the complainant's properties. Noise from patrons using the smoking area was witnessed, consisting of raised voices, shouting and screeching between approximately 22.15 and 23.30. This went on for the duration of the visit, being constant and was, in the professional opinion of the officers, a statutory noise nuisance as it was so loud as to prevent reasonable use of the property.

The Council's noise recording equipment was also left in a neighbouring property that night and recordings indicate that the noise from patrons became even louder and remained fairly constant until after 02.30am. In the professional opinion of the officers, this was a breach of the abatement notice.

Recordings are available and will be played during the hearing. The information (recordings) will be provided to the premises beforehand.

The recording equipment was also left on the following night (Saturday 25th February 2017) and again the noise recorded indicates that the problem persisted until the premises closed and was again, in the officer's professional opinion, a breach of the abatement notice.

Recordings are available and will be played during the hearing. The information will be provided to the premises beforehand.

A Senior Environmental Health Officer spoke to Daniel Kenyon following that weekend. Mr Kenyon stated that he had not been made aware of the letter that had been given to Mr Patel or that we had discussed the potential consequences of further problems.

Following that weekend (24th and 25th February), 5 further complaints were received from 5 different properties. 2 complaints were also received concerning the weekend of the 3rd and 4th March 2017, although officers did not visit that weekend.

As a result, a further visit was made by two Environmental Health officers (1 Principal, 1 Senior) on the night of Friday 10th March 2017. During this visit it was noticed that, whilst there were some people using the smoking shelter, the noise witnessed was not deemed to be as loud as previously witnessed and was not a statutory nuisance at that time. However, the recording equipment was installed in a neighbouring residential property and after the officers left at approx. 23:00, the subsequent recordings taken later that night and the following Saturday night (11th March) after this, indicated that patron noise was loud and intrusive once again. The recordings demonstrate that, in the professional opinion of the officers, the noise on both these nights was a statutory nuisance until around 02.30 (Sunday) as it was so loud as to interfere with reasonable use of the property.

Recordings are available and will be played during the hearing. The information will be provided to the premises beforehand.

On the night of Friday 17th March 2017, further monitoring was carried out, and two Environmental Health Officers (1 Principal, 1 Senior) visited two of the complainant's properties. The noise from patrons using the smoking shelter area, and around the main entrance of the premises, was constant from around midnight until 12:45, at which point the Officers left. They witnessed raised voices, shouting and screeching noise from patrons which interfered with the reasonable use of the property and was in their professional opinion, a statutory noise nuisance again.

During this visit the officers noted that there did not seem to be any noticeable effort made to deal with the statutory noise nuisance from the patrons by staff.

The Council's noise recording equipment was again installed during this monitoring period (on the 17th March). Recordings indicate that the noise increased and went on until after 02.00am on Friday night/Saturday morning.

Recordings are available and will be played during the hearing. The information will be provided to the premises beforehand.

Two Environmental Health Officers (1 Principal, 1 Senior) visited on Saturday 25th March 2017 between 23.00 and 00.00. During the visit the noise level from patrons was acceptable. However, the recording equipment was left at a complainant's property and when the recordings were reviewed they showed that, in the professional opinion of the officers, at 00.33 a statutory noise nuisance from patrons was evident. The noise from the patrons was so loud that it would interfere with the reasonable use of the complainant's property.

Recordings are available and will be played during the hearing. The information will be provided to the premises beforehand.

On 29th March 2017 evidence reference 5 was sent to us by the legal representative for Jynx bar. On 30th March I emailed evidence reference 6 in reply and at the time of writing I have not received a response.

Further complaints have been received regarding the weekends of the 31st March and 1st April (1 complaint) and also 7th/8th April (2 complaints). On Friday 7th April a fence was installed next to the premises (without planning permission) in an attempt to reduce patron noise. As can be seen, complaints were still received following this installation. Any such barrier obviously still relies on patrons being situated behind it, but it does also appear to have channelled the noise in a different direction as a complaint from a new complainant was received.

Whilst noise from Entertainment was originally mentioned by complainants, the patron noise has been generally more problematic. However, on the 24th February and 17th of March entertainment noise was noticed by the officers. Mr Patel was interviewed under caution in relation to the first five alleged

breaches of the Noise Abatement Notice on the 22nd March. He was accompanied by his legal representative. On this date the noise from entertainment was mentioned to him. Entertainment noise was again witnessed on the 25th March. On Tuesday 4th April, the letter provided as evidence reference 7 was sent, specifically concerning noise from entertainment. The complaints received concerning the weekend of 7th and 8th April related to both patron and entertainment noise. Once again it is disappointing that a letter is sent warning the premises that has no positive result for the public.

In summary, at the time of writing, the operation of the premises has resulted in a total of 52 complaints being received from 10 sources. These have related to the following dates:-

November – 18th, 19th, 25th and 26th

December – 16th and 17th

January – 6th, 7th, 13th, 14th, 21st and 27th

February – 10th, 11th, 17th, 18th, 24th and 25th

March – 3rd, 4th, 10th, 11th, 17th, 18th, 24th, 25th and 31st

April – 1st and 8th

We are satisfied that (in the professional opinion of the officers) we have witnessed or recorded breaches of the Noise Abatement Notice on the 24th and 25th February 2017 and on the 10th, 11th, 17th and 25th March 2017.

On Monday 3rd April a local resident had a brick thrown through their window and as a result some of our complainants have become very scared to be further involved in this case.

It is rare that prosecutions are taken against entertainment venues as operators normally work with us to prevent future problems. Nevertheless, due to the seriousness, I feel we have no alternative and to also call for a review of the licence, and thus try to remedy the situation for the residents who have suffered to date. It is clear that a major licence condition (mentioned previously) has been ignored and breached in the same way the Noise Abatement Notice has. It is clear that the premises has caused a public nuisance and is significantly affecting the lives of the people who live nearby. A prosecution for the alleged breaches of the Abatement Notice may result in financial penalties against the premises, which may or may not be an incentive for change, but only the Licensing Review process can instigate changes in the details of the premises licence and thus the operation of the premises..

Recommendation

The location of the premises renders it unsuitable as a premises which effectively operates as a late night entertainment venue (dancefloor, late licence, young clientele encouraged). In addition the use of the smoking area has also been difficult to patrol and control. It is difficult to place restrictions on the licence in relation to numbers of people or hours of use.

As such I would recommend that the Premises Licence is revoked, to stop the operation of the premises unreasonably interfering with the personal comfort or amenity of immediate neighbours or the nearby community.

Please tick (yes)

Have you made an application for review relating to this premises before

☐

If yes please state the date of that application

Day		Month		Year			
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to this premises please state what they were and when you made them

Representations were made against the grant of the original Premises Licence at the hearing on 21 October 2015.

Please tick (yes)


- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

☒☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of notice giver or notice giver's solicitor or other duly authorised agent (please read guidance note 4). **If signing on behalf of the notice giver please state in what capacity.**

Signature	
Date	11.4.17
Capacity	Environmental Protection and Community Safety Manager

For joint notices signature of 2nd notice giver or 2nd notice giver's solicitor or other authorised agent (please read guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature	
-----------	--

Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this notice (please read guidance note 5)			
Post town		Post code	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail your e-mail address (optional)			

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

EVIDENCE

REFERENCE: 1

DIARY OF EVENTS

NAME: [REDACTED] ER: CC

ADDRESS: [REDACTED]

ADDRESS OF NOISE SOURCE: Jynx, Witham Road, Skelmersdale, Lancashire, WN8 8HP

DATE	START TIME	FINISH TIME	NATURE OF NOISE	COMMENTS (How Loud? e.g. woke me up, had to turn my television up to hear it.)
13/01/17	11.30	11.45	people talking shouting loud	
13/01/17	11.45	12.01	" "	
13/01/17	12.01	12.16	" "	
13/01/17	12.24	1.15	" "	Fighting about 2.00ish as I was down stairs my Husband heard it. but didn't record it as he had to be up for work about 4.30
14/01/17	11.06	11.20	people smoking outside	
14/01/17	11.20	11.40	" "	
14/01/17	11.40	11.56	" "	
14/01/17	11.56	12.12	" "	
14/01/17	12.12	12.29	Listen Carefully	you can hear the Base of the music
14/01/17	12.29	2.00	" "	

NOTE: It would be helpful if you could keep a record of the date and times when you experience the problem. You should log down the start and finish times and a brief description of the noise. Do not forget to complete the declaration of record details.

Declaration of True Record

I (Name) [REDACTED] confirm that the above list is a true record of events recorded

from (Date) 13/01/17 by [REDACTED]

(Address) [REDACTED]

Date: 14/01/17

Signature: [REDACTED]

I am/am not * prepared to appear in court to give evidence if required. (* please delete as appropriate) /Cont'd.....

DIARY OF EVENTS

NAME [REDACTED]

Job No: WK/000223782

OFFICER: CC

ADDRESS [REDACTED]

ADDRESS OF NOISE SOURCE [REDACTED]

8HP

DATE	START TIME	FINISH TIME	NATURE OF NOISE	COMMENTS (How Loud? e.g. woke me up, had to turn my television up to hear it.)
06/01/17	8.50	9.05	laughing out side Smoking are.	(in bed with flu)
06/01/17	11.23	11.42	Talking loud	
06/01/17	12.45	2.30	Talking Loud.	
07/01/17	10.10	11.13	Talking Loud	
07/01/17	10.21	10.26	Talking Loud	
07/01/17	10.28	10.33	Talking Loud car doors Slaming	
07/01/17	10.43	10.50	Talking cars doors Slaming	
07/01/17	11-11	11.17	Talking car doors	
07/01/17	11-20	11.22	Talking loud laughing	
07/01/17	11.34	11.39	Talking loud	
07/01/17	12.03	12.17	Talking Loud	
07/01/17	12.06	12.22	Talking Loud	{ Fighting Swearing I Rang the police Laughing (Fighting)
07/01/17	12.22	12.42	Talking Loud	
07/01/17	12.42	1.02	Talking Loud	
07/01/17	1.02	2.02	Talking	

NOTE: It would be helpful if you could keep a record of the date and times when you experience the problem. You should log down the start and finish times and a brief description of the noise. Do not forget to complete the declaration of record details.

Declaration of True Record

I (Name) [REDACTED] confirm that the above list the noise events recorded

from (Date) 06/01/17 by persons residing at [REDACTED]

(Address) [REDACTED]

Date: [REDACTED]

Signature: [REDACTED]

I am/am not * prepared to appear in court to give evidence if required. (* please delete as appropriate)

EVIDENCE
REFERENCE:

DIARY OF EVENTS

NAME: [REDACTED] Job No: WKJ000224223 OFFICER: CC

ADDRESS: [REDACTED]

ADDRESS OF NOISE SOURCE: Jynx, Witham Road, Skelmersdale, Lancashire, WN8 8HP

DATE	START TIME	FINISH TIME	NATURE OF NOISE	COMMENTS (How Loud? e.g. woke me up, had to turn my television up to hear it)
16/11/16	00.05	2.30pm	PEOPLE SHOUTING and taxis bumping	woke me up, and had to shut windows.
17/11/16	1.30pm	2.30pm	SHOOTING and Taxis	woke me up, windows had to be shut
23/11/16	9pm.	2.00pm	SHOOTING and taxis	
			doors slamming	Had to close windows
26/11/16	11.45pm	12.30pm	An ARGUMENT, LOUD SCREAMING	woke me up, had to close windows!
7/1/17	10.30pm	1.45pm	SHOUTING and ARGUING	woke me up, had to close windows!
15/1/17	2.00pm	2.30pm	Arguing outside the club	woke me up had to close windows!
14.1.17	00.00	1.30pm	argument outside club, glass on road	woke up, had to close window
20.1.17	12.30pm	1.15pm	Shouting and arguing	woke me up, closed windows

NOTE: It would be helpful if you could keep a record of the date and times when you experience the problem. You should log down the start and finish times and a brief description of the noise. Do not forget to complete the declaration of record details.

Declaration of True Record

I (Name) [REDACTED] confirm that the above list is a true record of events recorded

from (Date) 16/12/16 by persons residing at

(Address) [REDACTED]

Date: 4/2/17

Signature: [REDACTED]

I am/am not prepared to appear in court to give evidence if required. (* please delete as appropriate)

I AM NOT GOING TO MONITOR ANY MORE AS Sick of NOISE, AND HAVE DONE ANOTHER COUNCIL SITUATED CARRY OUT SURVEY AT 12.2AM.

[REDACTED]

21.1.17. 12.00pm to 12.45pm

Noise outside smoke hut.
shouting, taxis banging doors
cars pulling up w. M. and
music playing

woke me up,
had to close
windows

27.1.17 11.00 pm - 2.00 pm

Noise outside smoke area,
shouting and arguing,
cars pulling up with loud
music, car doors banging

woke me up,
had to close
windows

[REDACTED]

[REDACTED]

[REDACTED]

EVIDENCE

REFERENCE: 2

Daniel Kenyon
Jynx
Witham Road
Skelmersdale
Lancashire
WN8 8HP

chris.carpenter@westlancs.gov.uk

3rd January 2017

223782
Chris Carpenter

Ext 5427

Dear Sir/ Madam

**ENVIRONMENTAL PROTECTION ACT 1990, SECTION 79
COMPLAINT OF NOISE FROM Music/People**

I write concerning complaints about noise from Patrons and Music alleged to be coming from your premises. The complainants allege loud noise from patrons around your premises and also that music could be heard. They state that this went on throughout the holiday period up until 02:30 in the mornings on nights you were operating.

I am therefore writing to advise you of the complaints and to advise you to ensure that noise breakout from your premises does not cause a nuisance in neighbouring homes. When you have entertainment on you should control the volume of the music, ensure that windows and doors are kept closed and that noise levels outside the premises are checked during the entertainment. The aim should be that music is not audible at the boundary of neighbouring residential premises. I also advise that you remind yourself of the conditions attached to your premises licence to ensure you do not breach any conditions that relate to control of noise.

You should also try to ensure patrons outside and leaving the premises keep noise down to a reasonable level.

If complaints continue, further investigations will be carried out over the next three months. These investigations will take the form of officer visits and/or the use of a tape recorder and if these reveal that a statutory noise nuisance is occurring, I would have to consider taking further action.

Should you have any queries or wish to discuss this matter please contact me.

We can provide this document upon request on audio tape, in large print, in Braille and in other languages. Telephone 01695 577177 or visit our website www.westlancs.gov.uk

Yours faithfully

Chris Carpenter
Senior Environmental Health Officer

EVIDENCE

REFERENCE: 3

SR428

WEST LANCASHIRE BOROUGH COUNCIL

ENVIRONMENTAL PROTECTION ACT 1990, section 80 Noise Abatement Notice in respect of Statutory Nuisance

To: Bar Jynx Limited

Of: 124 Liverpool Road, Rufford, Ormskirk, Lancashire, L40 1SB.

West Lancashire Borough Council hereinafter known as 'The Council' are satisfied of the likely recurrence of a statutory nuisance under section 79 (1)(g) of that Act at the premises known as Jynx Bar, Witham Road, Skelmersdale, WN8 8HP, within the Borough of West Lancashire arising as a result of noise from patrons within the curtilage of the premises boundary adjacent to Witham Road, Skelmersdale.

Under the provisions of the Environmental Protection Act 1990 the Council **HEREBY REQUIRE YOU** as the person responsible for the nuisance, immediately from the service of this notice, to **HEREBY PROHIBIT** the recurrence of the same.

This is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisances (Appeals) Regulations 1995 applies. In the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

IF without reasonable excuse you fail to comply with or contravene any requirements of this notice you will be guilty of an offence under Section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to [one-tenth of the greater of £5,000 or level 4 on the standard scale] for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

Dated 6th February 2017

(Signed)

D P TILLERAY

DIRECTOR OF LEISURE AND WELLBEING

(The officer appointed for this purpose)

West Lancashire Borough Council
Leisure and Wellbeing Services
Robert Hodge Centre, Stanley Way
Skelmersdale, Lancashire, WN8 8EE

N.B. The person served with this notice may appeal against the notice to a magistrate's court within twenty-one days beginning with the date of service of the notice. See notes on the reverse of this form.

We can provide this document upon request on audio tape, in large print, in Braille and in other languages. Telephone 01695 577177 or visit our website www.westlancs.gov.uk

The Statutory Nuisance (Appeals) Regulations 1990 provide as follows:-

APPEALS UNDER SECTION 80(3) OF THE ENVIRONMENTAL PROTECTION ACT 1990 ('the 1990 Act')

2.
 - (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act against an abatement notice served upon him by a local authority.
 - (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case.
 - a) that the abatement notice is not justified by section 80(3) of the 1990 Act;
 - b) that there has been some informality, defect or error in, or in connection with, the abatement notice;
 - c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
 - d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
 - e) where the nuisance to which the notice relates -
 - i) is a nuisance falling within section 79(1)(a),(d),(e),(f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
 - ii) is a nuisance falling within section 79(1)(b) of the 1990 Act, and the smoke is emitted from a chimney,
 - f) that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
 - g) that, in the case of a nuisance under section 79(1)(g) of the 1990 Act, the requirements imposed by the abatement notice by virtue of section 80(1)(a) of that Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of -
 - i) any notice served under section 60 or 66 of the Control of Pollution Act 1974 ('the 1974 Act'),
 - ii) or any consent given under section 61 or 65 of the 1974 Act, or
 - iii) any determination made under section 67 of the 1974 Act;
 - h) that the abatement notice should have been served on some person instead of the appellant, being
 - i) the person responsible for the nuisance, or
 - ii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
 - iii) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
 - i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
 - i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - ii) in the case where the appellant is the occupier of the premises, the owner of the premises,
 - j) and that it would have been equitable for it to have been so served;
 - k) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
 - i) a person also responsible for the nuisance,
 - ii) a person who is also an owner of the premises, or
 - iii) a person who is also an occupier of the premises,
 - l) and that it would have been equitable for it to have been so served.
3. If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
4. Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(h) or (l) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which this regulation applies he may serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which this regulation applies he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question.
5. On the hearing of an appeal the court may -
 - a) quash the abatement notice to which the appeal relates, or
 - b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
 - c) dismiss the appeal;and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
6. Subject to paragraph (7) below, on the hearing of appeal the court may make such order as it thinks fit -
 - a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
 - b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
7. In exercising its powers under paragraph (6) above, the court -
 - a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
 - b) shall be satisfied, before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

SUSPENSION OF NOTICES

- 3.(1) Where -
 - a) an appeal is brought against an abatement notice served under section 80 of the 1990 Act, and-
 - b) either -
 - i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
 - ii) in the case of a nuisance under section 79(1)(g) of the 1990 Act, the noise to which the abatement notice relates is noise caused in the course of the performance of some duty imposed by law on the appellant, and
 - c) either paragraph (2) does not apply, or if it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where -
- a) the nuisance to which the abatement notice relates -
 - i) is injurious to health, or
 - ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
 - b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice -
- a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
 - b) shall include a statement as to which the grounds set out in paragraph (2) apply.

EVIDENCE
REFERENCE: 4

Mr Sarju Patel
124 Liverpool Road
Rufford
Ormskirk
Lancashire
L40 1SB

01695 585126
chris. carpenter@westlancs.gov.uk

24th February 2017

225687

Mr C Carpenter
01695 585257
5427

Dear Mr Patel

**ENVIRONMENTAL PROTECTION ACT 1990, SECTION 79.
LICENSING ACT 2003**

RE: NOISE FROM JYNX BAR, WITHAM ROAD, SKELMERSDALE, LANCASHIRE, WN8 8HP.

I write concerning further complaints about alleged patron noise from the smoking shelter area of your premises. These complaints were received in relation to the weekends of the 10th & 11th and 17th & 18th February.

During our meeting prior to these dates (7th February) we agreed that we would allow a two week period in order for you to try and deal with the issue of noise from patrons in this area of the premises. Whilst my colleague Jill Antrobus has spoken to Mr Kenyon about this, it does unfortunately seem that any action taken has not achieved the desired effect.

As a result, I am writing to advise you of the complaints and to advise you to ensure that noise breakout from your premises does not cause a disturbance to residents in neighbouring homes.

I must remind you that a Noise Abatement Notice is still outstanding and further monitoring will be carried out by the Council, and should a noise nuisance be witnessed as a breach of the noise abatement notice the Council will have to pursue enforcement action.

I also remind you of the conditions attached to your premises licence to ensure you do not breach any conditions that relate to control of noise and disturbance to residents. This Service will apply to have the premises licence reviewed if conditions are being breached or if there are other noise problems.

Should you have any queries or wish to discuss this matter please do not hesitate to contact me.

We can provide this document upon request on audio tape, in large print, in Braille and in other languages. Telephone 01695 577177 or visit our website www.westlancs.gov.uk

Yours sincerely

**MR CHRISTOPHER CARPENTER
SENIOR ENVIRONMENTAL HEALTH OFFICER
(ENVIRONMENTAL PROTECTION)**

Mr C Carpenter
Environmental Health Officer
Environmental Protection Unit
West Lancashire District Council
Robert Hodge Centre
Stanley Way
Skelmersdale
WN8 8EE

Date: 28 March 2017
Our ref: SMB/NAP/P46568-7
Doc Ref: 2145857089
Your ref:
E-mail: s.burnett@popall.co.uk
Direct line: 0203 859 7759

Dear Mr Carpenter

Jynx (formerly Skelmersdale Social Club), Witham Road, Skelmersdale
Interview Under Caution

As you are aware, I act on behalf of Bar Jynx Ltd and write with specific reference to our meeting and subsequent interview under caution with Mr Patel on the 23rd March 2017.

This interview related to a number of suspected breaches of an abatement notice served on the 6th February 2017.

I am aware from discussions with my client Sarju Patel, that he has a good working relationship with your department and at no stage has he deliberately encouraged or caused noise to emanate from his outdoor smoking area, thereby causing local residents a nuisance. To the contrary, he has continually sought to manage the area through consultation with yourself and his own contractors.

Please be assured of my client's continued commitment to work with your department and the immediate neighbour to promote the licensing objectives and especially the 'Prevention of Nuisance.'

You will see that Mr Patel has sought to address the issues raised at his own expense not only by instructing qualified contractors to assess and erect a sound barrier but also by instructing an acoustic engineer to assess and advise generally on the issues and to formulate a plan of action.

You will appreciate that Mr Patel is doing everything he can to work with and 'live with' his neighbours. He will look to you and your department to update the nearby residents and facilitate the acoustic consultant.

I am sure you will agree that we are all aiming for the same outcome, namely to operate the outside area without there being issues caused to the local residents. It is believed that all concerns can be addressed by working in partnership with yourself and the neighbours to prevent any public nuisance.

In light of the above, can I respectfully suggest that no further action is taken against my client in relation to the alleged breaches, obviously subject to him making a resolute and documented effort to resolve the situation.

I look forward to your comments, but should you have any queries then please feel free to contact me.

Yours sincerely



Mr S Burnett
Poppleston Allen

Hill, Andrew

From: Hill, Andrew
Sent: 30 March 2017 10:29
To: 'S.Burnett@popall.co.uk'
Cc: Carpenter, Chris
Subject: Jynx Bar

EVIDENCE
REFERENCE: 6

Dear Steve

Mr Carpenter has shown me your letter and I acknowledge receipt.

As you know, your client was interviewed under caution in relation to 5 alleged breaches of the noise abatement notice which was served on him in February. This interview took place on the 22nd March 2017, with you in attendance. Some 3 days later on the 25th March 2017 we gathered further evidence that the notice was again allegedly breached. As such, we will shortly be writing to your client to offer him the opportunity to discuss this (and any other subsequent breaches) again under caution.

To date the Council is satisfied with the evidence it has gathered in relation to 6 alleged breaches of the abatement notice. The ongoing nature of these alleged breaches demonstrates a poor attitude to compliance and suggests that the patrons simply cannot be controlled. Whilst I note the attempts your client appears to now be making to comply with the notice, this has no bearing on the Council's decision to prosecute your client for the alleged offences to date. Your client's business is causing numerous local residents to have their lives detrimentally affected.

I am also in the process of finalising the paperwork for the review of your client's licence, with the recommendation that the licence be revoked.

As such our current position is somewhat opposite to that you have suggested. We would like your client to surrender the licence, otherwise we will take the prosecution and the review forward as soon as possible.

If I can assist further please do not hesitate to contact me.

Yours sincerely

Andrew Hill B.Sc., P.G. Dip, E. Dip. (Man.), MCIEH
Environmental Protection and Community Safety Manager
West Lancashire Borough Council

Tel: 01695 577177 ext 5243
West Lancashire Borough Council
Robert Hodge Centre, Stanley Way, Skelmersdale, West Lancashire, WN8 8EE

www.westlancs.gov.uk

Think before you print – save energy, paper and ink

EVIDENCE
REFERENCE: 7

Mr S Patel
Bar Jynx Limited
124 Liverpool Road
Rufford
L40 1SB

Jill.antrobus@westlancs.gov.uk

4th April 2017

QDOC166/WK/000223782
Jill Antrobus

Ext 5251

Dear Mr Patel

**ENVIRONMENTAL PROTECTION ACT 1990, SECTION 79
MUSIC NOISE AT JYNX, WITHAM ROAD, SKELMERSDALE**

I write concerning the issue of noise from music, particularly bass noise coming from your premises.

I am writing to advise you that on the occasions of 24th February, 17th March and 25th March, whilst observations were being made of noise from patrons at Jynx, it was noted that bass music was also audible in the homes of nearby residents. When you have entertainment on you must control the volume of the music, particularly the bass, ensure that doors are kept closed and that noise levels outside the premises are checked during the entertainment. The aim should be that music is not audible at the boundary of neighbouring residential premises.

I acknowledge that the noise limiter was set in agreement with Environmental Health Officers. Limiters are difficult to set to account for bass whilst allowing a reasonable level of entertainment music. During the visit to set the levels I advised that DJs need to manually limit the bass output.

Should bass music noise continue to be heard in residents' homes at a level that is considered to be a statutory nuisance I would have to serve an abatement notice. We will also need to re-set the noise limiter to a lower level or an alternative setting to account more for bass noise. If you would like us to visit to set a lower level then please contact me to make an appointment.

Should you have any queries or wish to discuss this matter please contact me.

We can provide this document upon request on audio tape, in large print, in Braille and in other languages. Telephone 01695 577177 or visit our website www.westlancs.gov.uk

Yours sincerely

**Jill Antrobus
Principal Environmental Health Officer**

