

Report of	Meeting	Date
Director of People & Places	Licensing Act 2003 Sub-Committee	14 <sup>th</sup> June 2012

## **DETERMINATION OF APPLICATION FOR A PREMISES LICENCE MADE UNDER SECTION 17 OF THE LICENSING ACT 2003, FOR THE PREMISES BAKU LOUNGE.**

### **PURPOSE OF REPORT**

1. To enable Members to determine the application for a premises licence made by Mr Martin Jones of Baku Lounges limited, Charter House, Pittman Way, Preston PR2 9ZD in light of representations that have been made towards the application under Section 18 of the Licensing Act 2003.

### **RECOMMENDATION(S)**

2. Members are recommended to consider the application and any representations made by other persons and after considering those representations determine the application for the premises licence for Baku Lounge, Preston Road, Charnock Richard, Chorley

### **EXECUTIVE SUMMARY OF REPORT**

3. The Council received an application on the 18<sup>th</sup> April 2012 made under Section 17 of the Licensing Act 2003 for the Grant of a Premises Licence for Baku Lounge; the application is attached as **appendix 1**. Officers are satisfied that the application has been made in the correct manner. Officers have received 12 representations objecting to the application from other persons, 5 of the representations received have been determined to be not relevant towards the application under Section 18 of the Licensing Act 2003 and therefore do not form part of the report. 7 representations have been accepted as relevant representation to the application and are to be considered under the licensing objective for:

- a) The Prevention of Crime and Disorder
- b) The Prevention of Public Nuisance

There have been no representations received from the Responsible Authorities.

<b>Confidential report</b> Please bold as appropriate	Yes	No
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## CORPORATE PRIORITIES

4. This report relates to the following Strategic Objectives:

Strong Family Support		Education and Jobs	
Being Healthy		Pride in Quality Homes and Clean Neighbourhoods	
Safe Respectful Communities		Quality Community Services and Spaces	
Vibrant Local Economy		Thriving Town Centre, Local Attractions and Villages	
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			

## BACKGROUND

5. Officers received an application for the grant of a premises licence for the Baku Lounge made in the normal way on the 18<sup>th</sup> April 2012, Officers were invited by the applicant to discuss the application prior to its submission to provide clarity to the proposed application as the premises as a whole benefits from an existing premises licence for Hunters Lodge Hotel. The applicant Mr Jones was explicit in that he was providing a new venture and did not want his premises to be seen in any way to be associated to the licensable activities that are established at Hunters Lodge Hotel. Officers have met with Mr David Hunt the Premises licence holder for the Hunters Lodge. Mr Hunt has agreed to apply to vary his Premises licence to remove from the plan of his Premises licence, the area being applied for within this application. This application was made on the 30<sup>th</sup> May 2012. Officers are satisfied that this will allow for transparent accountability for the licensable activities at each premises. The plan attached to the application (**appendix 1**) clearly distinguishes the licensable areas for each premise.
6. Lancashire Constabulary along with Officers of the Council met with Mr Jones on the 11<sup>th</sup> May 2012 and discussed the proposed operating schedule, Mr Jones agreed to implement and attach the following as additional conditions to the operating schedule:
- a) To close all doors and windows after 22.00 when regulated entertainment is being provided.
  - b) To conduct a noise assessment to the nearest noise sensitive dwelling at regular intervals when regulated entertainment is provided, where any noise is detected that is likely to cause a nuisance, remedial action shall be taken to prevent any such nuisance, a record of each inspection and any remedial action taken shall be kept in a book kept for that purpose.
  - c) To provide signage to the exits for the premises to; 1) alert patrons to proceed with care when leaving the premises, 2) to please leave quietly having respect for the Neighbour's when leaving the premises.
  - d) Door staff will be provided on a risk assessment basis, this shall be determined by the Designated Premises Supervisor prior to any function or special occasion taking place, records shall be kept of any events and to any reasoning to the decisions taken as to the deployment or not of door staff.
- Officers have agreed with the applicant that a number of the conditions that have been proposed in the operating schedule, would in there presented form give raise to operating and enforcement difficulties, and have for the purposes of clarity been redrafted and where appropriate removed from the operating schedule.
7. To assist Members a plan of the area identifying the properties of the persons making representation is reproduced at **appendix 2**.

## 8. Outline of the Application

"The premises is located just off the A49 Preston, in the countryside area Known as Charnock Richard. It is a long established restaurant/lounge bar annexed to Hunters Lodge Hotel. Sadly the site has become dilapidated over the last few years and in fact the Restaurant/Lounge bar closed some 18 months ago. We have identified the need in the area for a facility to cater for the over 30's who still want to have a night out but are Intimidated by the town and city nightlife that is aimed at the under 25's. It is our intention to provide a comfortable, relaxing and most of all safe environment for our clients. The layout of the premises is as shown on the submitted site map. Access is through the One main spacious front door, it will be part of our operating strategy to have two 'Licensed security officers controlling the door during evening opening. The Bar area for on/off sales is located at the front end of the premises, giving the bar staff a clear view of persons entering / exiting the premises and the toilets. A full CCTV system is to be installed; this will cover any flash points and blind spots. There are no near neighbour's in the immediate area but customers will be encouraged to leave in an orderly way".

## 9. Regulated Entertainment

E, Live music, Monday to Sunday 00.00 – 24.00 indoors.

F, Recorded Music, Monday to Sunday 00.00 – 24.00 indoors.

H, Anything of a similar description to that Falling within (e), (f) or (g) Monday to Sunday 00.00 – 24.00, indoors.

I, Provisions of facilities for making music Monday to Sunday 00.00 – 24.00 indoors.

J, Provisions of facilities for dancing Monday to Sunday 00.00 – 24.00, indoors .

K, provision of facilities for entertainment of a similar description to that falling within I or J, Monday to Sunday 00.00 – 24.00 indoors.

L, Late night refreshment Monday to Sunday. 23.00 – 05.00 indoors.

M, Supply of alcohol Monday to Sunday 00.00 – 24.00 on & off the premises.

O, Hours the premises are open to the public Monday to Sunday 00.00 – 00.00.

(Members will note that the boxes required to be completed at part O of the application have not been completed in the normal manner other than a reference to 24hrs is made in the section for seasonal variations. Mr Jones accepts this is an oversight on his part, however it would be reasonable to except that the intension is to follow the times expressed at E-M above with the exception of L).

P, (This section describes the steps to be taken by the Premises Licence holder to promote the 4 licensing objectives),

### a) General

- To comply with the Licensing Act 2003 mandatory conditions and those conditions set down by the Licensing Authority.

### b) The Prevention of Crime and Disorder

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- A Challenge 25 policy will be used to the satisfaction of Lancashire Constabulary,.
- CCTV system will be fitted inside and out and operated and maintained to the satisfaction of the Data protection Act and the satisfaction of Lancashire Constabulary.
- The DPS will operate a system of screening all bookings and have regard for any relevant risk assessments.
- The premises will benefit from the implementation of a drugs policy implemented to the satisfaction of Lancashire Constabulary.
- Security lights on the outside of the premises will operate on the onset of sunset when the premises is open.
- .The Company will operate a admissions policy.
- The company will maintain a day book to the satisfaction of Lancashire Constabulary.

c) Public Safety

- The premise will where such an organisation exists maintain membership of a bar watch scheme that operates within the locality of Charnock Richard.
- Risk assessments to be reviewed on an annual basis.
- First aid kits on premises to be fully stocked.
- No Highly flammable materials to be kept/allowed on the premises.

d) The Prevention of Public Nuisance

- The drinking of alcohol will not be permitted outside of the designated areas.
- Sound deadening has already been fitted to the ceilings and walls adjoining the Hotel.

e) The protection of Children from Harm

- Compliance and Training to be given to staff regarding the Articles covering children in The 2003 Licensing Act.
- No cigarettes will be sold at any time on the premises.
- Challenge 25 policies to be strictly enforced.

## 10. Representations from Responsible Authorities

There are no representations from the responsible authorities.

Lancashire Constabulary, as previously mentioned has engaged with the applicant with regards to matters relating to this application regarding The Prevention of Crime and Disorder, and is satisfied that the operating schedule addresses the Licensing objectives. They have however asked the applicant to adopt appropriate wording in relation to the provision of CCTV as proposed in the operating schedule A copy of the letter is attached at **appendix 4**. And states;

*1. The premises shall operate and maintain a comprehensive CCTV system to the satisfaction of Lancashire Constabulary. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The main bar area and outside drinking areas should also be covered. The CCTV system shall continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of at least 28*

*days with date and time stamping. Recordings shall be made available immediately if requested by Police or Authorised Officer upon reasonable request.*

Following the nature of the representations that have been made, the Councils Environmental Health Officer (Noise pollution) was approached by officer to ensure the application had been received. They were satisfied with the application and confirmed that there were no records of complaint made towards licenced premises (Hunters Lodge) in this area.

#### 11. **Representation received from other persons**

In order to assist members with the representations that have been received they are presented as **appendix 3**, A, B, C, D, E, F & G, none are placed in order or in preference to any other.

Members should note that the representations that have been accepted as relevant to the application may also contain representations that are not relevant to the application under section 18.6 of the Act, Members are advised not to have consideration for representations that can not be directly associated to at least one of the Licensing Objectives. To assist members with the process of evaluating the representations received and to convey the results of the mediation meetings, the following paragraphs should be read in conjunction with the appropriate representation as appended. The premises can also be identified on the map (**appendix 2**) by correlation of the appendix number. Members are reminded to consider all the representations that have been accepted having consideration for the Councils Statement of Licensing Policy and the Secretary of States Section 182 Guidance revised in April 2012.

In accordance with the Hearing Regulations 2005, Officers have invited the persons who have made representation to attend todays hearing or to provide in writing additional information to further inform the Council in their absence,

The council have received 6 representations from other persons.

The issues raised by the representations relate to the licensing objective for:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance

Objections received from person who has made a representation towards the application for a premises licence for Baku Lounge:

- A) Representation received from Mr & Mrs John and Valerie Moss, the representation relates to; the premises being open for 24 hours, the possibility of noise pollution being caused by music , issues of crime & disorder relating to persons shouting and screaming, littering and trespassing,

Officers have met with Mr & Mrs Moss to discuss the representations made, they were concerned that the application related to the whole of the existing licensed area and that they would be subject to more frequent disturbances as they have already experienced from Hunters Lodge in the past, Mr & Mrs Moss indicated to officers that they accept the application is for a new applicant and that the proposed additional conditions should be appropriate to manage the issues raised where the premises operates in accordance with the description given within the application. They indicated that they would prefer that the representation remain on file as they opposed the 24 hour opening.

- B) Representation received from Mr & Mrs Abbas and family , the representation relates to; the premises being open for 24 hours, the possibility of noise pollution being caused by music , issues of the risk of crime & disorder relating persons trespassing,

Officers have met with Mr & Mrs Abbas to discuss the representations made, they were concerned that the application related to the whole of the existing licensed area and that they would be subject to more frequent disturbances as they have already experienced from Hunters Lodge in the past, Mr & Mrs Abbas indicated to officers that they accept the application is for a new applicant and that the proposed additional conditions should be appropriate to manage the issues raised where the premises operates in accordance with the description given within the application. They indicated that they would prefer that the representation remain on file as they opposed the 24 hour opening.

- C) Representation received from Mr & Mrs David Clews, the representation relates to; the premises being open for 24 hours, the possibility of public nuisance being caused by live and recorded music, issues of crime & disorder resulting from 24 hour opening,

Officers have met with Mr & Mrs Clews to discuss the representations made, they were concerned that the application related to the whole of the existing licensed area and that they would be subject to more frequent disturbances as they have already experienced from Hunters Lodge in the past, Mr & Mrs Clews indicated to officers that they accept the application is for a new applicant and that the proposed additional conditions should be appropriate to manage the issues raised where the premises operates in accordance with the description given within the application. They indicated that they would prefer that the representation remain on file as they opposed the 24 hour opening.

- D) Representation received from Mr G & Mrs R Gornall, the representation relates to; the premises being open for 24 hours, the possibility of public nuisance being caused by the playing of music and the slamming of car doors. The sale of alcohol may lead to anti- social behaviour; the representation is also supportive of the venture but suggests the licence is restricted to weekends.

Officers have met with Mr & Mrs Gornall to discuss the representations made, they were concerned that the application related to the whole of the existing licensed area and that they would be subject to more frequent disturbances as they have already experienced from Hunters Lodge in the past, Mr & Mrs Gornall indicated to officers that they accept the application is for a new applicant and that the proposed additional conditions should be appropriate to manage the issues raised where the premises operates in accordance with the description given within the application. They indicated that they would prefer that the representation remain on file as they opposed the 24 hour opening, and accepted that the premises should be licenced for 7 days a week.

- E) Representation received from Mr & Mrs F Rostron, the representation relates to; the premises being open for 24 hours, the possibility of public nuisance being caused by the playing of music and the slamming of car doors. The sale of alcohol may lead to anti-social behaviour; the representation is also supportive of the venture but suggests the licence is restricted to weekends.

Officers have met with Mr & Mrs Rostron to discuss the representations made, they were concerned that the application related to the whole of the existing licensed area

and that they would be subject to more frequent disturbances as they have already experienced from Hunters Lodge in the past, Mr & Mrs Rostron indicated to officers that they accept the application is for a new applicant and that the proposed additional conditions should be appropriate to manage the issues raised where the premises operates in accordance with the description given within the application. They indicated that they would prefer that the representation remain on file as they opposed the 24 hour opening, and accepted that the premises should be licenced for 7 days a week.

- F) Representation received from Mr J Rutter, the representation relates to; the premises being open for 24 hours and the possibility of public nuisance being caused by music.

Officers have met with Mr Rutter to discuss the representations made, he is concerned that the application related to the whole of the existing licensed area and that he would be subject to more frequent disturbances as he has already experienced from Hunters Lodge in the past, Mr Rutter indicated to officers that he accepts the application is for a new applicant and that the proposed additional conditions should be appropriate to manage the issues raised where the premises operates in accordance with the description given within the application. Mr Rutter indicated that he would prefer that the representation remain on file as he opposed the 24 hour opening.

- G) Representation received from Mr & Mrs Myers, the representation relates to; the premises being open for 24 hours, raises the possibility of public nuisance and crime and disorder occurring being caused by live and recorded music, entertainment and alcohol being served, and to being disturbed during the day by the conversation of customers.

Officers have met with Mrs Myers to discuss the representations made; Mrs Myers did not accept that any control measures could adequately manage the premises at any time. Following the meeting Mrs Myers further responded on the 16<sup>th</sup> May 2012 to propose a 23.00 hrs. closure on week nights, and a 24.00 hrs. Closure on weekends, stating that people leaving the building will cause noise and disturbance.

All parties to this application have been invited to attend the hearing under the Licensing Act 2003 (Hearing) Regulations 2005, to make representation.

The representations received are attached as **appendix 3**, A, B, C, D, E, F & G.

The Committee has the following options:

- (i) to reject the application in part or whole
- (ii) to grant the application
- (iii) to modify the conditions of the licence

## **POLICY AND LEGAL CONSIDERATIONS**

12. Section 4 of the Licensing Act 2003 provides that a Licensing Authority must have regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under section 182 of the Act, April 2012

As members will be aware the four licensing objectives are as follows:

- The prevention of crime and disorder
- Public safety

- Prevention of public nuisance
- The protection of children from harm.

13. The Licensing Authority shall determine the application, having had considered the representations that have been made, and having regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under section 182 of the Act, April 2012:

Section 18 Licensing Act 2003 is the authority the Licensing – sub - committee can rely upon with regards to this matter, which is reproduced below.

#### Section 18 Determination of application for premises licence

(1) This section applies where the relevant licensing authority—

(a) receives an application for a premises licence made in accordance with section 17, and  
 (b) is satisfied that the applicant has complied with any requirement imposed on him under subsection (5) of that section.

(2) Subject to subsection (3), the authority must grant the licence in accordance with the application subject only to—

(a) such conditions as are consistent with the operating schedule accompanying the application, and

(b) any conditions which must under section 19, 20 or 21 be included in the licence.

(3) Where relevant representations are made, the authority must—

(a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and

(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

(4) The steps are—

(a) to grant the licence subject to—

(i) the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and

(ii) any condition which must under section 19, 20 or 21 be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application.

(5) For the purposes of subsection (4)(a)(i) the conditions mentioned in subsection (2)(a) are modified if any of them is altered or omitted or any new condition is added.

(6) For the purposes of this section, “relevant representations” means representations which—

(a) are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives,

(b) meet the requirements of subsection (7),

(c) if they relate to the identity of the person named in the application as the proposed premises supervisor, meet the requirements of subsection (9), and

(d) are not excluded representations by virtue of section 32 (restriction on making representations following issue of provisional statement).

(7) The requirements of this subsection are—

(a) that the representations were made by an interested party or responsible authority within the period prescribed under section 17(5)(c),

(b) that they have not been withdrawn, and

(c) in the case of representations made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

(8) Where the authority determines for the purposes of subsection (7)(c) that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for its determination.

(9) The requirements of this subsection are that the representations—



- (a) were made by a chief officer of police for a police area in which the premises are situated, and
  - (b) include a statement that, due to the exceptional circumstances of the case, he is satisfied that the designation of the person concerned as the premises supervisor under the premises licence would undermine the crime prevention objective.
- (10) In discharging its duty under subsection (2) or (3)(b), a licensing authority may grant a licence under this section subject to different conditions in respect of—
- (a) different parts of the premises concerned;
  - (b) different licensable activities.

Members must have regard to the Statement of Licensing Policy when determining this application. In particular, member's attention is drawn to the following paragraphs:

Paragraph 1.3 The policy provides guidance on the general approach the Council, as Licensing Authority, within the meaning of the Act, will take in terms of licensing. However, each application will be considered separately, on its individual merits.

Paragraph 1.4 The Statement of Licensing Policy sets out how the licensing objectives will be achieved and to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. The Policy recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well run entertainment premises to the local economy. Balancing these interests will not always be straightforward and will be guided by the four licensing objectives.

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

Paragraph 1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, the Council in adopting this policy is indicating that a wide range of considerations will be taken into account.

Paragraph 2.2 each of the licensing objectives are of equal importance with these objectives.

Paragraph 2.3 each of the licensing objectives is of equal importance for the purposes of this policy.

Paragraph 2.4 this policy statement is designed to deal with matters within the control of the licensee. It focuses on the premises in which each business is carried on and the effect that has on members of the public living, working or engaged in normal activity in the vicinity.

Paragraph 2.5 Licensing law is not envisaged by the Licensing Authority as a mechanism to control anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Therefore any terms and conditions imposed will be focused on matters within the control of individual Licensees and others granted relevant permissions. These matters will centre on the premises and places used for licensable activities and in the vicinity of the places.

Paragraph 2.6 The Licensing Authority considers that every holder of a licence, certificate or permission and designated premises supervisor is responsible for minimising the impact

of their activities and anti-social behaviour by their customers within the vicinity of their premises.

Paragraph 5.3 the policy will not fix the hours during which alcohol can be sold. The Licensing Authority considers that stricter controls regarding noise nuisance may be appropriate in more densely populated areas. The grant of a licence will be dependent on the impact of an activity on the licensing objectives.

## **CRIME AND DISORDER**

14. Paragraph 6.1 Licensed premises, especially those offering late night entertainment, alcohol and refreshment can be a source of crime and disorder problems.

Paragraph 6.2 The Council is committed to reducing crime and disorder across the Borough through its statutory duty under the Crime and Disorder Act 1998 and the Community Safety Strategy. Statistics from the Community Safety Partnership regarding Crime and Disorder in the Licensing Authority area are given in Appendix 4.

Paragraph 6.3 The Community Safety Partnership will regularly monitor and review crime statistics within the Borough and their association with alcohol and provide reports to the Licensing Authority where appropriate. The Licensing Authority will give due consideration to any submissions made concerning the impact on crime and disorder of alcohol related problems. The Council may review this Policy where it considers it appropriate to do so.

Paragraph 6.4 The Council will have particular regard to the likely impact on licensing of related crime and disorder in the Borough particularly when considering the location, impact and the operation and management of all proposed licensed premises and applications for variations.

Paragraph 6.5 the promotion of the crime and disorder-licensing objective, places a responsibility on licence holders to try and achieve this objective. Applicants will therefore be required to address, in their operating schedules, where appropriate, those measures that have been identified and will be implemented and/ or maintained to reduce or prevent crime and disorder in the vicinity of their premises. The Licensing Authority considers that best practice will be exemplified by the night safe initiative and would recommend that licence holders join this initiative.

Paragraph 6.6 Where relevant representations are received on the crime and disorder objective, the Licensing Authority may have regard to the following where relevant: (though this is not an exhaustive list):

- Crime prevention measures.
- Physical security features installed in the premises, (this may include CCTV both inside and outside the premises, where alcohol is stored in relation to off licences, the use of toughened drinking glasses).
- Weapon detection and search facilities.
- procedures for risk assessing promotions and events such as 'happy hours', drinks promotions, for the potential to cause crime and disorder, and the plans to minimising such risks.
- Adoption of best practice guidance in relation to safer clubbing guide.
- Measures to prevent the use or supply of illegal drugs including search and entry policies.
- Employment of licensed door supervisors.
- Participation in other appropriate schemes eg pub watch scheme.
- Measures to be taken for the prevention of violence or disorder.

Paragraph 6.7 The Licensing Authority where relevant representations are made will consider attaching conditions to deter and prevent crime and disorder, if appropriate and

appropriate and these may include conditions from the model pool of conditions at Appendix 3. Certain premises may be required to install CCTV system to an evidential standard should the Council be satisfied it is appropriate and /or appropriate to meet the licensing objectives.

Paragraph 6.8 The Council reserves its right to use its powers to designate areas where alcohol may not be consumed in a public place to meet the Public Safety and Crime and Disorder objectives.

## LICENSING HOURS

15. Paragraph 7.1 The policy recognises that longer (more flexible) licensing hours can contribute to easing crime and disorder problems by ensuring that concentrations of customers leaving premises simultaneously are avoided thus helping to reduce friction at taxi ranks, private hire offices, fast food outlets etc.

Paragraph 7.2 Individual applications will be considered on their merits and in general terms a flexible approach will be adopted. Fixed predetermined closing times for particular areas will not form part of the policy and restrictions on trading hours will be considered only where appropriate to meet the licensing objectives.

Paragraph 7.3 The Licensing Authority, however, considers that the risk to disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning as the ambient noise levels will be lower. The Licensing Authority may impose stricter conditions with regard to noise control in areas, which have denser residential accommodation, but each premise will be considered on its individual merits.

\*\*\*Paragraph 7.5 The Licensing Authority also recognises the principle of 24 hour opening of all licensed premises. However, it considers that longer opening hours may be more acceptable in commercial areas with high levels of public transport. The grant of a licence will in all cases be dependent on the impact of an activity in relation to the licensing objectives.

Paragraph 7.6 where relevant representations are received, the Licensing Authority may have regard to the following where relevant (though this is a non exhaustive list);

- the nature of the area where the premises are located (e.g. commercial, residential)
- Arrangements to ensure adequate availability of taxis and private hire vehicles, public transport.
- Whether appropriate car parking is readily accessible to premises and whether the use/parking of vehicles would cause a demonstrable adverse impact on the amenity of residents.
- whether the licensable activities are likely to cause adverse impact especially on local residents and whether appropriate measures will be put in place to prevent any adverse impact
- in relation to the grant of a new premises licence whether the premises will give rise to a negative cumulative impact on one or more of the licensing objectives
  - In assessing the impact of the activity proposed the Licensing Authority may consider a number of factors inter alia,
    - the type and scale of activity, the number and nature of clientele likely to attend
    - the levels of noise from the premises, which may be acceptable later in the evening
    - the proposed hours of operation

- the levels of public transport accessibility for customers and the likely means of public or private transport that will be used, access to private hire/taxis
- the means of access to the premises e.g. whether on principal pedestrian routes
- the level of car parking demand on surrounding residential streets and its effect on local residents, and movement of traffic
- the cumulative impact of licensed premises in an area and scope for mitigation
- Frequency of the activity.

Operating Schedules to set out the measures to be taken to ensure that the licensing objectives are addressed. Applicants are also referred to paragraph 6.6.

## **PROTECTION OF CHILDREN FROM HARM**

16. Paragraph 10.1 The policy does not seek to prevent or limit the access of children to licensed premises unless it is appropriate for the prevention of physical, moral or psychological harm to them. The Licensing Authority is committed to protecting children from harm and 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. For the purpose of this Policy, a 'child' is defined as any person who is under the age of 16.

Paragraph 10.2 The Licensing Authority will not impose any conditions that specifically require access of children to premises and where no limitation is imposed this should remain a matter for the individual licence holder or club premises certificate holder. The Licensing Authority will consider the individual merits of each application. However, the Licensing Authority will have particular concern in respect of children:

- \*\*\*Where there have been convictions of the current management for serving alcohol to minors or those where there is a reputation of under age drinking.
- Where there is reputation of drug taking or dealing.
- where there is a strong element of gambling on the premises.(but not for example, the simple presence of a small number of cash prize gaming machines)
- Where entertainment of an adult or sexual nature is provided (see paragraph 29 for additional information).
- Where the supply of alcohol is the exclusive or primary purpose of the services provided at the premises.

Paragraph 10.3 The Licensing Authority, in such circumstances as outlined above, may consider it appropriate to impose a complete prohibition; it is envisaged that this would be rarely imposed. The Licensing Authority would normally be likely to impose requirements such as:

- Limitations on the hours when children may be present.
- age limitations for persons under 18
- limitations or exclusions when certain activities are taking place
- requirements for accompanying adults
- limitations of access to certain parts of the premises when particular licensable activities are taking place
- provision of suitable signage
- Such other conditions or restrictions as may be appropriate to achieve the licensing objectives.

Paragraph 10.4 Licensees are not to provide alcohol except as provided for by the Act. The Council expects applicants to consider child access in their operating schedules and volunteer appropriate conditions where relevant. The Council recommends that the following documents should be used as evidence of age:

- Passport
- Photo Card Driving licence issued in the European Union
- Proof of Age Scheme Card (i.e. Portman Group) and schemes which carry the Proof of Age Standard Scheme logo
- Citizen Card supported by the Home Office
- Official ID card issued by HM Forces or a European Union Country bearing a photograph and date of birth of the holder.

Paragraph 10.5 The Licensing Authority requires applicants to consider, where relevant, those factors that impact on the protection of children objective, and identify where appropriate, suitable measures to promote this objective. Applicants may wish to consider, where appropriate:

- arrangements to prevent children acquiring or consuming alcohol
- arrangements to prevent children being exposed to drugs, drug taking, or drug dealing
- arrangements to prevent children being exposed to gambling, or activities of an adult or sexual nature
- steps to be taken to prevent children being exposed to violence or disorder
- arrangements for training staff in relation to the protection of children
- Steps to be taken to prevent children purchasing cigarettes from vending machines and preventing access to Amusement with Prize Machines (except in accordance with the Gaming Legislation).

Paragraph 10.6 Applicants may volunteer prohibitions and restrictions on their Operating Schedules as a result of their own risk assessments determining that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the Licensing Authority these volunteered prohibitions and restrictions will become

\*\*\*conditions attached to the licence or certificate. The Licensing Authority may impose conditions where relevant representations are made if it considers it appropriate and/or appropriate including those drawn from the Model Pool of Conditions.

Paragraph 10.7 The Licensing Authority will also expect applicants, where relevant, to consider how they intend to provide for the supervision of children as unaccompanied customers and as performers providing regulated entertainment. Licence holders should give consideration to the welfare of children as performers in such cases. As a minimum requirement the Licensing Authority will require an adult to be nominated to be responsible for such child performers.

Paragraph 10.8 where large numbers of unaccompanied children are to be present e.g. children's show or pantomime; conditions may be imposed, where relevant representations are received, requiring the presence of an appropriate number of adult staff to ensure public safety and protection of children from harm. The Licensing Authority requires applicants to address those matters in their operating schedules. See paragraph 12.1 for further guidance.

Paragraph 10.9. The Licensing Authority recognises Lancashire County Council Social Services Department or a future body with the relevant legislative functions of a social services department as being competent to advise on matters relating to the protection of children from harm.

## **PREVENTION OF PUBLIC NUISANCE**

17. Paragraph 13.1 Licensed Premises have significant potential to adversely impact on communities through public nuisances arising from their operation.

Paragraph 13.2 The Licensing Authority is aware of the importance of the licensed trade to the local economy as well as in cultural and social terms. The Licensing Authority is also concerned to protect the amenity of residents and businesses in the vicinity of licensed premises. 'Vicinity' is not defined in the Act or Guidance issued by the Secretary of State. Whether or not incidents can be regarded, as 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case.

Paragraph 13.3 The Licensing Authority will interpret 'public nuisance' in its widest sense and include such matters as noise emanating from the premises, light, litter, odour and anti social behaviour where these matters impact on those living or working in an area.

Paragraph 13.4 Activities that involve public entertainment, drinking or eating, have the potential to impact adversely on their surrounding areas due to noise, litter, and odours. There is also the potential for disturbance caused by those attending licensable activities. Late at night the impact of licensed activities is likely to be more objectionable to residents living close to a licensed activity, as the ambient noise levels are often lower so noise disturbance becomes more noticeable.

Paragraph 13.5 the policy allows for later opening hours except where there will be an adverse impact on the licensing objectives. In general the Licensing Authority will expect more comprehensive measures to be proposed at late night venues and/or where there has been a history of public nuisance.

Paragraph 13.6 on receipt of relevant representations, the Licensing Authority will assess the likelihood of it causing an adverse impact, by generally considering the following factors where relevant:

- the location of the premises (in particular proximity to residential and other noise sensitive premises, e.g. hospitals, nursing homes, hospices and places of worship)
- the type of activities, the number and nature of clientele likely to attend at the time of the application
- the proposed hours of operation
- levels of public transport accessibility for customers either arriving or leaving the premises (including taxis and private hire)
- means of access to premises (whether on principal pedestrian routes)
- the level of car parking demand on any surrounding residential streets and its effect on local residents
- the cumulative impact on licensed premises in an area
- the scope for mitigating an impact i.e. CCTV, door supervisors
- the frequency of an activity
- the design and layout of the premises
- measures taken or proposed to be taken to prevent noise or vibration escaping from the premises e.g. sound proofing, air conditioning and sound limitation devices
- measures taken to prevent unreasonable disturbance by customers/staff arriving and leaving the premises, goods deliveries etc
- measures taken to lessen the impact of parking in the vicinity
- control of operating hours for all or parts of the premises (e.g. gardens, last admission times and 'wind down' periods)
- measures to be taken to prevent drunkenness on the premises
- measures to ensure collection and disposal of litter and waste outside their premises

Paragraph 13.7 The Licensing Authority when considering an application will take into account previous substantiated nuisance complaints particularly when a statutory notice has been served. Applicants may wish to have regard to the Good Practice Guide on the Control of Noise from Pubs & Clubs produced by the Institute of Acoustics and the British Beer and Pub Association.

Paragraph 13.8 On receipt of relevant representations, the Licensing Authority, where it considers appropriate may attach conditions to a licence to prevent public nuisance including those drawn from the Model Pool of Conditions - see Appendix 3. In particular, it may attach a condition requiring the use of door supervisors licensed by the Security Industry Authority.

Paragraph 13.9 The Licensing Authority requires Operating Schedules, where relevant to satisfactorily address the issue of public nuisance.

Paragraph 13.10 The Licensing Authority would also recommend applicants highlight local public transport links and taxi and private hire services within their premises, (including agreeing arrangements with nominated taxi and private hire firms for dropping off and collecting customers).

Paragraph 13.11 The Licensing Authority, will in accordance with the Guidance, focus on matters within the control of the individual Licence holder. The Licensing Authority accepts that the difficulty that a licence holder has in preventing anti-social behaviour by individuals once they are behind the direct control of the Licence Holder. However, the licensing objection of preventing public nuisance will not be achieved if customers from premises regularly conduct themselves in an anti-social manner to the detriment of local residents or businesses. In addition, the Council has a duty to do all it can to prevent crime and disorder in the Borough under the Crime & Disorder Act 1998.

\*\*\*Paragraph 14.1 The Licensing Authority considers that members of the public when visiting licensed premises, have a right to expect that due consideration has been given to public safety. The Licensing Authority notes that the public safety objective is concerned with the physical safety of people using premises and not with public health which is dealt with in other legislation.

Paragraph 14.2 The Licensing Authority is committed to ensuring public safety across the Borough by working in partnership with Lancashire Police, Lancashire Fire & Rescue and Licence Holders.

Paragraph 14.3 Applicants should carefully consider the safety of the premises having regard to the licensable activities that are proposed and to address in the operating schedule, where relevant, how public safety will be achieved. Such measures may include, where relevant to the premises:

- the occupancy capacity of the premises
- age, design and layout of the premises including means of escape
- nature of the licensable activities to be provided, in particular the sale and supply of alcohol
- hours of operation
- customer profile (e.g. age)
- Use of special effects e.g. lasers, pyrotechnics, smoke/foam machines.

Paragraph 14.4 The Act requires a plan of the premises to be supplied with operating schedules showing prescribed information.

The Licensing Authority will take notice of a health and safety risk assessment submitted with an operating schedule.

Paragraph 14.5 all licensed premises will be risk related according to a Protocol agreed with Lancashire Fire and Rescue. Inspections will be carried out by Lancashire Fire & Rescue in accordance with the Protocol. A copy is attached at Appendix 6.

Paragraph 14.6 The Licensing Authority may inspect premises where it considers it appropriate on public safety grounds.

Paragraph 14.7 on receipt of relevant representations the Licensing Authority may, where it considers it appropriate, impose conditions to secure the public safety objective including those drawn from the Model Pool of Conditions attached at Appendix 3. Any conditions imposed will relate to the particular circumstances of the individual premises and will not duplicate other requirements of the law.

## HUMAN RIGHTS ACT IMPLICATIONS

18. The Human Rights Act 1998 makes it unlawful for a local authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following convention Rights:

- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 that everyone has the right to respect for his home and family life;
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his/her possessions including for example, possession of a licence.
- Members are recommended to consider the application and any representations made by relevant authorities or other persons and after considering those representations determine the application for the purpose of the premises licence for the Baku Lounge Charnock Richard Chorley.

19. Members will be aware that on the 25<sup>th</sup> April 2012 Government amended various sections of the Licensing Act 2003 by virtue of the Police Reform & Social Responsibility Act 2011, to date Members have not yet had the opportunity to review the Councils Statement of Licensing Policy in light of the Changes that have been made. The following headings have been reproduced from that Act to inform members of those changes that are relevant to this matter but have not been addressed within the Councils Statement of Licensing Policy:

### PART 2 – LICENSING CHAPTER 1 - AMENDMENTS OF THE LICENSING ACT 2003

103 Licensing authorities as responsible authorities.

104 Primary Care Trusts and Local Health Boards as responsible authorities.

105 Premises licences: who may make relevant representations.

106 Premises licences: who may apply for review.

## IMPLICATIONS OF REPORT

20. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	x	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

## COMMENTS OF THE HEAD OF GOVERNANCE

21. The Licensing Act 2003 has been amended by the Police Reform and Social Responsibility Act 2011. The changes relevant to this application are the removal of the requirement for



representations to be made by interested parties in the vicinity of the premises. Representations can now be considered if made by other persons as long as they relate to the licensing objectives and are not frivolous or vexatious. The persons making the representations no longer need to be in the vicinity of the proposed premises.

The Applicant has the right of appeal to the magistrates court within 21 days of being notified of the decision against a refusal of a licence or the imposition of conditions which they argue are unreasonable. Persons who have made representations enjoy a similar right of appeal in relation to a decision favourable to the applicant.

JAMIE CARSON  
DIRECTOR OF PEOPLE & PLACES

There are no background papers to this report.

<b>Report Author</b>	<b>Ext</b>	<b>Date</b>	<b>Doc ID</b>
Stephen Culleton	5665	30 <sup>th</sup> May 2012	***