

Agenda

Licensing Hearing

Date:	Thursday 26 June 2014 at 10:00am
Venue:	Town Hall, St Annes
Committee members:	<p>Councillor Angela Jacques</p> <p>Councillor Keith Beckett</p> <p>Councillor Alan Clayton</p> <p>Councillor Barbara Nash (Reserve)</p>

Item		Page
1	Declarations of Interest: Any member needing advice on Declarations of Interest should contact the Monitoring Officer before the meeting.	1
2	Procedure for the Conduct of Hearings	3 - 4
3	Application for Variation to a Premises Licence: Capri, 4A Dicconson Terrace, Lytham	5 - 33
4	Application for Variation to a Premises Licence: Henrys, 5-7 Henry Street, Lytham	34 - 49

Contact: Sharon Wadsworth – Telephone (01253) 658546 – Email: sharon.wadsworth@fylde.gov.uk

The code of conduct for members can be found in the council's constitution at www.fylde.gov.uk/council-and-democracy/constitution

© Fylde Borough Council copyright 2014

You may re-use this document/publication (not including logos) free of charge in any format or medium. You must re-use it accurately and not in a misleading context. The material must be acknowledged as Fylde Borough Council copyright and you must give the title of the source document/publication.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

This document/publication is also available on our website at www.fylde.gov.uk

Any enquiries regarding this document/publication should be sent to us at the Town Hall, St Annes Road West, St Annes FY8 1LW, or to listening@fylde.gov.uk.



LICENSING ACT 2003

THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

PROCEDURE FOR THE CONDUCT OF HEARINGS

1. Preliminary

- 1.1. Under the regulations, the Licensing Authority is required to determine the procedure that it proposes to follow at any hearing under the Act. This document sets out the procedure that Fylde will normally follow.
- 1.2. A panel may decide to follow a different procedure at any hearing. If it does, it will specifically draw attention to any departures from the procedures set out in this document and the reasons for them.
- 1.3. Please refer to the regulations for other rules about procedure

2. Interpretation

In this procedure, the following words or phrases have the following meanings:

applicant	an applicant for a licence or any person who has a licence which may be reviewed or revoked as a result of the hearing
act	The Licensing Act 2003
licence	Includes any consent or permission under the act
panel	A sub-committee established by Fylde Borough Council under section 10 of the act
regulations	The Licensing Act 2003 (Hearings) Regulations 2003, and any reference to a numbered regulation is to the regulation so numbered in that statutory instrument
witness	A person given permission to appear at the hearing under regulation 8(2)

3. Before the hearing

- 3.1. At least ten days before the hearing, the panel will meet to consider:
 - 3.1.1. If the circumstances set out in regulation 9(1) apply, whether to dispense with holding a hearing;
 - 3.1.2. What, if any, particular points it considers it will want clarification on at the hearing from a party under regulation 7(1)(d), and
 - 3.1.3. What time limit to set under regulation 24.
- 3.2. If it is not practicable for the panel to meet to consider these matters, the convenor may ascertain the views of panel members separately and give effect to the majority view as if it had been reached in a meeting of the panel.

4. Opening the hearing

- 4.1. The convenor will identify all parties to the hearing who are present. The convenor will also identify any persons who are present who intend to assist or represent any party and any witnesses.
- 4.2. The convenor will then explain to the parties the procedure to be followed at the hearing, specifically drawing attention to any departures from the procedures set out in this document and the reasons for them. The convenor will also inform the parties that the proceedings will be recorded.
- 4.3. The panel will then consider any request by a party under regulation 8(2) for another person to appear at the hearing. The convenor will give any party who has made such a request (or their representative) which the panel proposes to deny an opportunity to address the panel about their request. The panel will then re-consider the request.
- 4.4. The convenor may invite any officer to carry out any functions under this paragraph.

5. Listening to the parties

- 5.1. Each of the parties will then be invited to:
 - 5.1.1. Open their case by addressing the panel;
 - 5.1.2. Give any further information requested by the panel under regulation 7(1)(d);
 - 5.1.3. Present the evidence of any witness; and
 - 5.1.4. Conclude their case by addressing the panel.
- 5.2. The order in which the parties will be invited to put their cases will be in the discretion of the panel, except that a party who is an applicant will be invited to put their case last.

6. Questioning the parties

- 6.1. Members of the panel may, following the conclusion of the case of each party, ask questions of that party or any witness appearing for them.
- 6.2. A party or their representative may only question another party if they have asked for permission from the panel after the panel members have finished questioning that party or their witness. The panel will only give permission if it is satisfied that the questioning will provide useful information about a matter relevant to their determination which is unlikely to be placed before the panel without such questioning

7. Time limits

Each party will be limited to the time set by the panel under regulation 24 in which to exercise their rights provided in paragraphs 5 and 6.2. The convenor will require the party or their representative to close their case or cease their questioning immediately this time limit is reached.

8. Considering the decision

- 8.1. The panel will consider their decision in private.
- 8.2. No officers will retire with the panel except for the committee administrator. The committee administrator may, if requested to do so, provide procedural, but not legal or technical, advice to the panel. The committee administrator will also assist the panel by drafting and finalising the wording of the panel's decision, if requested by the panel.
- 8.3. The panel may, while it is considering its decision, seek advice from legal or licensing officers. Officers will limit their advice to the specific issue identified by the panel and will leave the room where the panel is considering its decision as soon as that advice has been given and understood.

9. Announcing the decision

- 9.1. When the panel has made its decision, the public part of the meeting will resume.
- 9.2. The convenor will read out the decision of the panel, or may invite the committee administrator to do so. The meeting will then close or move on to the next business.

REPORT

REPORT OF	MEETING	DATE
RESOURCES DIRECTORATE	LICENSING PANEL	26 JUNE 2014

APPLICATION FOR VARIATION TO A PREMISES LICENCE: CAPRI, 4A DICCONSON TERRACE, LYTHAM

PUBLIC ITEM

This item is for consideration in the part of the meeting

SUMMARY

The Licensing Authority has received an application for the variation of a Premises Licence at Capri, 4a Dicconson Terrace, Lytham.

There have been representations from the Planning and Environmental Protection Departments, who are responsible authorities under the Act, and other persons. As such, the Committee must consider the application.

RECOMMENDATIONS

That the Panel determine the application.

CABINET PORTFOLIO

This falls within cabinet portfolio:

Community and Social Wellbeing - Councillor Cheryl Little

REPORT

Application

1. The application is for the grant of a premises licence at Capri, Dicconson Terrace, Lytham.
2. The matter has been referred to the panel because relevant representations have been received from responsible authorities and other persons.

Papers

3. The following papers are relevant and have been made available to panel members:
 - The application, including the plan and the operating schedule

- The statutory guidance for licensing authorities issued by the secretary of state under section 182 of the Licensing Act 2003
- The council's statement of licensing policy
- Copies of relevant representations made by the following responsible authorities:
Planning
Environmental Protection
- Copies of relevant representations made by the following interested parties
Mrs Pamela Hunt
Mr and Mrs M Womack
Cllr K Hopwood
Lytham St Annes Civic Society
Kuits Solicitors on behalf of Sheila Penn

Consideration

4. The licensing objectives are:
 - The prevention of crime and disorder;
 - Public safety
 - The prevention of public nuisance; and
 - The protection of children from harm
5. As relevant representations have been made, it is the duty of the panel to take such of the steps set out below as it considers appropriate for the promotion of the licensing objectives. The steps are:
 - (a) modify the conditions of the licence,
 - (b) reject the whole or part of the application.
6. The Guidance issued by the Secretary of State and the Council's Statement of Licensing Policy will be material in considering the application, but cannot override the licensing objectives.
7. The following parts of the secretary of state's guidance appear to be particularly relevant to the application and the relevant representations:

2.18	Public Nuisance
9.27-40	Hearings
9.38	Determining actions that are appropriate for the promotion of the licensing objectives
10.10	Proportionality
10.11	Hours of trading

However, the parties appearing in the hearing may wish to draw the panel's attention to other parts of the guidance.
8. The following parts of the council's statement of licensing policy appear to be particularly relevant to the application and the relevant representations:

12	General Approach to Licensing
----	-------------------------------

17	Licence Conditions
19	Prevention of Crime and Disorder
19.7	Crime, disorder and nuisance around licensed premises
23	Licensing hours
24	Representations
27	Hearings

However, the parties appearing in the hearing may wish to draw the panel's attention to other parts of the policy.

Further Information

9. The applicant has agreed a number of additional conditions with the Lancashire Constabulary, a responsible authority under the Act as detailed below:
 1. *In the outside area, the supply of intoxicating liquor shall be by waiter/waitress service only and only to persons seated at tables.*
 2. *The Premises Licence Holder shall ensure that staff monitor and adequately manage any queue that forms to gain entry to the premises.*
 3. *An adequate number of licensed door supervisors shall be on duty as appropriate to any risk assessment. As a minimum, one member of door staff is to be employed at the venue on Friday and Saturday evenings from 2100 hours until close of business.*
 4. *Adequate provision shall be made to prevent unauthorised access to the storage of empty bottles.*
 5. *Whenever licensable activities are available at the premises a waiter/waitress service shall be available. However, in the outside area, the supply of intoxicating liquor shall be by waiter/waitress service only and only to persons seated at tables.*
 6. *No customers will be admitted to the premises after midnight. For the avoidance of doubt, this condition shall not apply to those customers who were on the premises prior to midnight, and who exited the premises for the purpose of smoking.*
 7. *A drugs prevention strategy for the premises shall be developed and applied to include any reasonable recommendations of Lancashire Constabulary.*
 8. *Where there is reasonable suspicion that drugs are being carried the licence holder shall ensure that the outer clothing, pockets and bags of those entering the premises are searched by a trained staff member of the same sex.*
 9. *Any customers known to the management to have been previously convicted of committing criminal offences relating to drugs shall be excluded from the premises.*
 10. *No person in possession of a drink in a sealed or unsealed container will be allowed to enter the premises except for the purposes of delivery.*
 11. *All members of staff shall receive suitable training with regard to serving drunks and are to receive regular refresher training at intervals of a maximum of six months. Records to evidence this will be made available to an authorised officer upon request.*
 12. *Any person within the premises who appears to be intoxicated or who is behaving in a disorderly manner will be asked to leave the premises and will be escorted off the premises in a calm and appropriate manner.*

13. *Children under 16 shall vacate the premises by 2200 unless partaking in a meal or family function.*
14. *Patrons shall not be permitted to consume drinks in the external areas to the front and rear of the premises after 2200 each evening. Signs shall be displayed in prominent positions warning customers that they will not be permitted to eat or drink in the area after this time.*
15. *A Challenge 25 proof of age policy shall be implemented and adhered to. All staff to have received suitable training in relation to the Challenge 25 proof of age scheme. Records to evidence this will be made available to an authorised officer upon request.*
16. *Any person who looks or appears to be under the age of 25 shall be asked to provide identification that they are over the age of 18. The following are the only forms of identification acceptable:*
 - a. *A recognised proof of age card accredited under the British Retail Consortium's Proof of Age Standards Scheme (PASS)*
 - b. *Photo driving licence*
 - c. *Citizen card supported by the Home Office*
 - d. *Official ID card issued by HM Forces or European Union bearing a photograph and date of birth of the holder.*
 - e. *Any form of identification which may be locally or nationally approved in the future*

If no suitable identification is provided, the sale of alcohol to them will be refused.
17. *All staff who are involved in the sale of alcohol shall receive suitable training in relation to the proof of age scheme to be applied upon the premises. All staff are to receive regular refresher training at intervals of a maximum of six months. Records to evidence this will be made available to an authorised officer upon request.*
18. *Suitable signage will be displayed to specify that a Challenge 25 Policy is in place.*

The following conditions to be removed from the operating schedule:

1. *There shall be in place for the premises a policy to prevent the sale or supply of alcohol to persons under 18 years of age. That policy shall require any person who appears to be under the age of 21 years to produce a recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS) or if a proof of age card is not available a photo driving licence or passport indicating that they are over 18 years of age.*
2. *All staff shall receive appropriate training in relation to the proof of age scheme to be applied upon the premises. Records to evidence this shall be made available to an authorised officer upon request.*
3. *An adequate number of licensed door supervisors shall be on duty as appropriate to any risk assessment and in accordance with the guidance under the Nightsafe Scheme. Such risk assessments shall be documented and kept on the premises and provided to the enforcement authorities on request.*

Procedure

10. The applicant and the makers of the relevant representations have been invited to attend or be represented at the hearing.

11. The panel is asked to use the attached procedure in the hearing.

IMPLICATIONS	
Finance	None arising directly from the report.
Legal	None arising directly from the report.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability and Environmental Impact	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

REPORT AUTHOR	TEL	DATE	DOC ID
Chris Hambly	01253 658422	2 June 2014	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
S182 Guidance to Licensing Act 2003	June 2013	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209526/1167-A_Licensing_Act_2003_2_.pdf
Licensing Policy	January 2011	http://www.fylde.gov.uk/business/licensing/licensingact2003/licensingpolicystatement/

Attached documents:

- 1 Application for variation to a Premises Licence
- 2 Representations
- 4 Area Plan

30/5/16
R1972C

 THE LICENSING PRACTICE LTD Specialists in Local Authority Licensing	3 Cardinal Place, Cleveleys, Lancs. FY52SQ Telephone: 01253 858186 or 01253 7708109 Fax: 01253 858186 E-mail: Licensingpract@aol.com
--	---

Application to vary a premises licence under the Licensing Act 2003

We **MJN Worldwide Properties Ltd**

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number FY PL 0315
--

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
Capri Grand Cafe and Bar			
4a Dicconson Terrace			
Post town	Lytham	Postcode	FY8 5JY

Telephone number at premises (if any)	01253735034
Non-domestic rateable value of premises	£12,500

Part 2 – Applicant details

Daytime contact telephone number	01253 737111 or 07807070656		
E-mail address (optional)			
Current postal address if different from premises address	60 South Clifton Street		
Post town	Lytham St Annes	Postcode	FY8 EW

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible? Yes

If not, from what date do you want the variation to take effect?

DD	MM	YYYY

Please describe briefly the nature of the proposed variation (Please see guidance note 1)

To extend the hours permitted for the licensable activities of, Recorded Music and Late Night Refreshment to 01.00hrs and to extend the hours permitted for the Sale of Alcohol to 10.00hrs until 01.00hrs with closing a half hour later on all days of the week.

And

To allow the external seating area at the front of the premises to be used for the consumption of food and drink until 22.00hrs rather than the current 21.00hrs.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

N/A

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)

Sale by retail of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	Please give further details here (please read guidance note 3)					
Mon	08.00	01.00						
	As Existing							
Tue	08.00	01.00						
	As Existing							
Wed	08.00	01.00				State any seasonal variations for the playing of recorded music (please read guidance note 4)		
	As Existing							
Thur	08.00	01.00						
	As Existing							
Fri	08.00	01.00						
	As Existing							
Sat	08.00	01.00				Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 5)		
	As Existing							
Sun	08.00	01.00						
	As Existing							

I

Late night refreshment Standard days and timings (read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	Please give further details here (please read guidance note 3)					
Mon	23.00	01.00						
Tue	23.00	01.00						
Wed	23.00	01.00				State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Thur	23.00	01.00						
Fri	23.00	01.00						
Sat	23.00	01.00				Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 5)		
Sun	23.00	01.00						

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
			Both	<input checked="" type="checkbox"/>	
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	10.00	01.00			
Tue	10.00	01.00			
Wed	10.00	01.00			
Thur	10.00	01.00			
Fri	10.00	01.00			
Sat	10.00	01.00			
Sun	10.00	01.00			

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children
None

L

Hours premises are open to the public Standard days and timings			State any seasonal variations (please read guidance note 4)		
Day	Start	Finish	Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)		
Mon	08.00	01.30			
	As Existing				
Tue	08.00	01.30			
	As Existing				
Wed	08.00	01.30			
	As Existing				
Thur	08.00	01.30			
	As Existing				
Fri	08.00	01.30			
Sat	08.00	01.30			
	As Existing				
Sun	08.00	01.30			
	As Existing				

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

2.16 The external seating area at the front of the premises shall not be used for the consumption of food and drink beyond 9.00pm. *To be replaced with*
The external seating area at the front of the premises shall not be used for the consumption of food and drink beyond 22.00hrs

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

Licence enclosed

M

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

The Premises Licence for these premises was only issued 16 months ago and is, therefore, already subject to a significant number of conditions, agreed with the Responsible Authorities, and designed to tackle each of the licensing objectives. It is, accordingly, considered that the proposed limited increase in the permitted hours for some of the licensable activities as well as the evening closing time would not necessitate any revision of the existing Operating Schedule in order to ensure that the licensing objectives are fully met.

b) The prevention of crime and disorder

See (a) above

c) Public safety

See (a) above

d) The prevention of public nuisance

See (a) above

e) The protection of children from harm

See (a) above

Checklist:


Please tick to indicate agreement

- I have made or enclosed payment of the fee. ✓
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ✓
- I understand that I must now advertise my application. ✓
- I have enclosed the premises licence or relevant part of it or explanation. ✓
- I understand that if I do not comply with the above requirements my application will be rejected. ✓

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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 5 – Signatures (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 11). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	2 nd May 2014
Capacity	Agent

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)

**Robin Atkinson
The Licensing Practice,
28, South Strand**

Post town	Fleetwood	Post code	FY7 8RL
-----------	------------------	-----------	----------------

Telephone number (if any)	01253 770810
---------------------------	---------------------

If you would prefer us to correspond with you by e-mail, your e-mail address (optional)

Hambly, Chris

From: Stell, Andrew
Sent: 08 May 2014 14:32
To: Hambly, Chris
Subject: enq/14/0172 at 4a Dicconson Terrace, Lytham

I refer to the application for a variation of the premises licence at this property. The application refers to the hours being extended to 8am to the following 1am on every day, with the use of the front terrace for the consumption of food and drink to 2200.

I am initially concerned about the reference in the application to the site being known as 'Capri Grand Café and Bar'. The premises has a lawful planning use as a Class A3 café/restaurant and so I must take this opportunity to ensure the applicant is made aware that this does not extend to it operating as a bar as that would fall within Class A4 of the Use Classes Order and so require a planning application for a change of use, unless the bar element was at an ancillary level to the restaurant element.

As the applicant's cover letter states, the hours sought in the premises licence is in excess of the hours permitted by the planning permission for the premises. This control is condition 3 of planning permission 04/0030 and has been varied a number of times since, most recently by application 12/0641 which was approved on 19 December 2012. The relevant condition states:

The internal area of the premises shall only be open to the public for the consumption of food and drink between the hours of 08:00 hours and 23:30 on Sundays to Thursdays (inclusive) and, on Fridays and Saturdays, between the hours of 08:00 hours and 00:30 (the following morning) , with the external dining area to the front of the premises only open to the public for the consumption of food and drink between the hours of 08:00 and 21:00 on any day.

The reason for the condition explains that it is to control the potential for disturbance to neighbouring residential occupiers, and with the property having an independent residential dwelling attached to it I am concerned that the hours proposed would not adequately protect the residential amenity of the occupiers of that property.

In addition, I recall from discussions with the applicant regarding the various applications to extend the planning hours to their current level, the need for these hours has been said to be to enable a 'dinner' sitting to be served in the restaurant. I am surprised to now see the desire to extend the hours to 1am as that seems particularly late for diners in a restaurant to be eating.

I trust that these comments assists with the determination of this licence application, but if you have queries please contact me.

Regards

Andrew

Andrew Stell
Principal Development Officer
Extension: 8473

Hambly, Chris

From: Stell, Andrew
Sent: 19 May 2014 14:14
To: Hambly, Chris
Subject: Premises Licence applications in Lytham

Chris

I refer to the premises licence consultations at Henrys and Capri for which I have previously provided comments, and ask that this email is added to those.

The applications both seek to extend the hours that the premises are able to operate beyond those permitted by the planning permissions, and I have highlighted the conflict that this brings in my earlier email. The purpose of the planning conditions is to strike a balance between the economic benefits that the premises bring to the borough and the need to ensure that the operation of the premises does not detract from the residential amenity of the occupiers of their numerous neighbouring dwellings to the premises. In both cases the current conditions were introduced relatively recently, and in both cases I am aware that there have been complaints from these neighbours about the operation of the premises causing disturbance to the neighbouring residents.

I understand that the consideration of these premises licence applications needs to examine how the applicants will preserve the four licence objectives. I am concerned that the extended hours proposed here will fail to comply with the 'prevention of public nuisance' objective as the opening of these premises later into the evening has the potential to cause noise nuisance to the occupiers of numerous premises. I understand that the council's Environmental Protection officers will be submitting representations opposed to these applications, and I can confirm that their position has the support of the planning service.

I am also concerned that the applicant is seeking the amendment to the premises licence on the basis that they wish for parity with other premises. I understand these premises to be 7 Dicconson Terrace, and so to assist the Panel I can clarify that the current application would be in excess of the hours that premises can trade, which are limited to between 08:00 hours and 23:30 on Sundays to Thursdays (inclusive) and between the hours of 08:00 hours and 01:00 (the following morning) on Fridays and Saturdays with the external dining area to the rear of the premises shall only be open to the public for the consumption of food and drink between the hours of 08:00 and 20:00 on any day and the external dining area to the front of the premises shall only be open to the public for the consumption of food and drink between the hours of 08:00 and 21:00 on any day. This is secured by condition 4 of planning permission 14/0123 and condition 5 of 12/0664 which relates to 7a Dicconson Terrace only.

Please do not hesitate to ask if you have any queries with this.

Regards

Andrew

Andrew Stell
Principal Development Officer
Extension: 8473

Memorandum

To: Licensing

From: P Dent

Your Ref:

Our Ref: 72893

Date: 21/05/2014

Premises Licence Variation

Location- 4 Dicconson Terrace, Lytham St Annes, Lancashire, FY8 5JY

With reference to the above application there is the following representation from Environmental Protection:

The premises is situated on Dicconson Terrace just off Henry Street but shares a property boundary with an owner occupied dwelling and there are residents further round towards central beach. Complaints, especially in the Summer months have been received regarding loud music and noise from patrons in the outside area to the front of the premises.

People noise at the front of the premises is more difficult to control. The only option is to limit how long this takes place. This is why during the initial application for the premises the outside area was required to close at 9pm. Therefore in order to maintain this I would ask that the current hours of operation remain the same so that the residents are not disturbed later into the night and I feel the current hours of operation are a reasonable compromise.

Complaints have also been received regarding excessive noise from amplified music and disturbance can extend into the early hours of the morning at the weekends. Sometimes the general hub bub of the premises can be heard through the party wall and may not subside until the premises closes.

If this has the potential to be permitted for all days then I feel that the nuisance may become unacceptable. Local residents accept that they are adjacent to a town centre so cannot expect the same level of comfort as residents in more rural or residential settings, however local businesses also have a responsibility to ensure that they do not cause nuisance. The current hours of operation are an acceptable compromise in order to achieve this.

Philip Dent

Re: Licensing Application for Cupric
Restaurant.

Variation of Current

LYDDE BOROUGH COUNCIL

21 MAY 2014

Sydall Cottage,
1 West Beach
Lyttam St Annes
Lancashire
FY8 5QJ.

Home: 01235 795386

Mobile: 07798927019

20/5/14

Dear Sir/Madam

Regarding the above application I strongly object to any variation of this current licence.

The Cupric is only yards away from my home!!
To extend the late night drinking to 1am every night, with 30 minutes drinking up time, i.e. closure at 1.30am, would make it unbearable to live in the near vicinity.

I have already enquired regarding triple glazing to my home, which is Grade II listed.

The noise now goes on until 1am, 2am, with taxi's double parked outside Nicolson Terrace & my home well into the early hours, i.e. 2am.

To extend the music outside would add to the noise, and the behaviour of the clientele drinking until the early hours.

The taxi's "speed" up this area in the early hours, there is no adherence to the 20 mile an hour limit.

Cars speed to the main road, I am astonished we have not had a bad accident or fatality.

If the Council would care to monitor this noise, especially on a Friday or Saturday night, I would be happy to oblige the use of my sun terrace overlooking the assembly rooms, the noise is horrendous at times!!

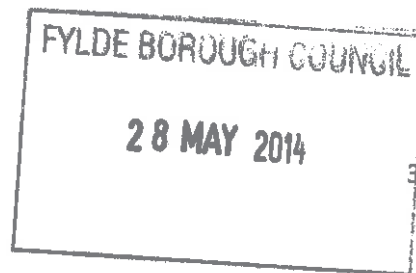
I enjoy living here, and have no wish to curtail people's enjoyment of the area, but surely consideration must be given to local residence.

Yours faithfully

Mrs Pamela Hunt

SRW SCM

27th May 2014



3 West Beach,
Lytham,
Lancashire,
FY8 5QJ.

Dear Sir/Madam,

Re: Licensing applications for Henrys Bar, 5-7 Henry Street & Capri Grand Café & Bar, 4a Dicconson Terrace – both Lytham

We are writing to you in order to register our objections in the strongest terms possible to the Licensing Hour Extensions that are currently under consideration for Henry's Bar on Henry Street Lytham and for Capri Grand Café & Bar on Dicconson Terrace – also in Lytham town centre.

We have lived within a few hundred metres of these two premises for 16 years and feel that we know the local area extremely well.

We would oppose the Licensing extensions on two principle grounds:

1/ The prevention of public nuisance

2/ Crime & Disorder

We have witnessed at first hand a steady increase of rowdy and aggressive groups of people, late at night, outside these two premises in recent years. We are also aware of a number of Lytham residents who have become fearful of walking down these streets late at night due to drunkenness and aggressive, threatening behaviour. The police are increasingly being called upon and there is a clear link between these problems and late night drinking. This is all a stark contrast to the relative peace that prevailed within the centre of Lytham prior to the advent of 24 hour drinking being introduced in 2005.

The proposed Licensing changes will clearly aggravate an already difficult situation that already exists and they should not be approved.

Yours Sincerely,

A handwritten signature in black ink, appearing to be 'M Womack'.

Martin Womack

A handwritten signature in black ink, appearing to be 'S Womack'.

Sheila Womack

Hough, Andy

From: Hopwood, Ken (Cllr)
Sent: 27 May 2014 10:31
To: Hambly, Chris; Hough, Andy
Subject: Capri Licensing Application

Good Morning Chris /Andy

I have received a letter from a Miss Sheila Penn at the following address:-
The Old House
Dicconson Terrace
Lytham St Annes
FY8 5JY
Tel +44(0) 01253 736676

Miss Penn is objecting to the application for a variation in the License Application at the Capri Restaurant. The following is a copy of her letter. I am aware we are limited with regards to objecting to this application but Miss Penn has described her fears with regards to the situation and what could happen if this application is successful. Therefore, on her behalf I feel obliged to object to the application on the grounds of increased noise and general disturbance that this application would create for local residents who would be immediately affected by this application.

Kind regards

Ken

Dear Councillor Hopwood

Licensing Application for Capri Restaurant - Variation

I am sure you are aware that Capri Bar on Dicconson Terrace has applied to vary its existing licence so that:-
- Recorded music and late night drinking can be extended to 1am every night with 30 minute drinking up time i.e. closure at 1:30 am, and
- Recorded music and drinking extended to the external areas until 10 pm every night.

I firmly believe that this will lead to significant additional rowdiness, noise and disruption on Dicconson Terrace and associated areas including noise from queuing taxis and make my residence of the next door property untenable.

I am 91 in August and lived in my home for 63 years firstly with my parents and latterly with my brother who sadly died last year. I now live alone and already suffer with the noise and activities during the existing licensing hours. I believe the new hours if approved will finally allow the premises to become the night club it wishes to be and my life will be miserable without redress.

I really would be grateful if you can raise an objection on my behalf, this really would help put my mind at rest. I have asked my solicitor to help too.

I look forward to hearing from you that you can help me.

Yours sincerely
Sheila Penn (Miss)

PS. I understand Capri is licensed as a restaurant but I think food is the least of its activities.

PPS. I will write to Councillor Davies too in case you are away - I think I only have until the 30th May to object.

Our Ref: DBSC/DPW/4850-11

Your Ref:

Date: 29 May 2014

FYLDE BOROUGH COUNCIL

30 MAY 2014



Coupe Bradbury
SOLICITORS

The Licensing Team
Fylde Borough Council
Town Hall
St Annes on the Sea
Lancashire
FY8 1LW

The Chapel House
Bath Street, Lytham
Lancashire
FY8 5ES

DX No: 28431 Lytham
Tel: 01253 736670
Fax: 01253 794108

Email: lytham@coupe-bradbury.com
www.coupe-bradbury.com

Dear Sirs

Capri Grand Café and Bar, 4a Dicconson Terrace, Lytham
Application to vary a premises licence

We are retained by the Lytham St. Annes Civic Society.

On the 22nd May our client made representations to you in respect of the above application.

Mr. Hambly has helpfully e-mailed the Chair of the Society pointing out that any representation should be based upon the likely effect of the grant of the licence upon any of the four licensing objectives.

He has stated that whilst our client's letter has been accepted and will be included in the Agenda papers, they may wish to re-submit the letter based upon the information provided within an attached Guidance Note.

Our client has asked us to more precisely define the basis of the Society's representations as follows:

1. Our client's representations were intended to focus upon the likely effect of the licensing objectives of:

- Prevention of crime and disorder
- Prevention of public nuisance.



Also at:
48 Poulton Street
Kirkham, Lancashire, PR4 2AH
DX No. 24852 Kirkham
Tel: 01772 683000 Fax: 01772 685060
Email: kirkham@coupe-bradbury.com

Partners David B.S. Coupe* Simon B. Coupe** Colin D. McGlue
Associate Solicitors Paul Lever*** Emma Gadsden* Matthew W.D. Scott Lorna Pound**** Cindy Pickering* Kellie Cook Emma Panchal
Chartered Legal Executive Julie Bullough*
Practice Manager Irene P. Hallas

*Member of The Society of Trust & Estate Practitioners **Member of The Law Society Family Panel
Member of The Association of Personal Injury Lawyers *Member of Solicitors for the Elderly (SfE)

We do not accept service by fax without prior consent. We do not accept service by Email. This firm is authorised and regulated by the Solicitors Regulation Authority SRA No. 65943


2. Our client believes that it is self-evident that if the Capri premises, which are in reality operating as a night spot rather than a restaurant, serve drink to large numbers of people through to the early hours of the morning seven days a week, a public nuisance will be created together also with the potential for crime and disorder. Indeed it is the Society's view that a public nuisance is already happening through the present use of the premises and will be made much worse by the longer hours of operation.

Our client believes that the facts speak for themselves. If a night spot is placed next door to or adjacent to residential property the quiet enjoyment of the occupants of those residences will be severely prejudiced by people noise and loud music. Furthermore the night spot will attract considerable traffic noise, e.g. the arrival and departure of taxis and the opening and closing of car doors.

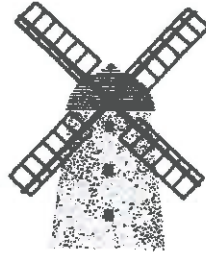
3. For the above reasons the Society is of the view that the proposed substantial variation to the existing licence should not be permitted. It will undoubtedly seriously disturb the balance of amenity for residents who live in the area.

We hope this letter will be of assistance in clarifying the Society's concerns.

Yours faithfully
For **COUPE BRADBURY**

A handwritten signature in black ink, appearing to read 'J. S. Coe', written over the typed name 'COUPE BRADBURY'.

Tel: 01253 733563
marion.coupe@gmail.com
www.lsacivic.org



Church Farm House
23 Commonside
Lytham St Annes
FY8 4EX

Lytham St Annes Civic Society

22nd May 2014

The Licensing Team
Fyde BC
Town Hall
Lytham St Annes
FY8 1LW

Dear Sir or Madam

Re: Capri Grand café and Bar, 4a Dicconson Terrace - application to vary a premises licence.

We have concerns about late night opening in this area of Lytham. This is a small town with a large number of people living in or near its centre.

It is inconceivable that this licence should be granted with residential properties next door to and immediately behind it. As a Society we are concerned about maintaining the balance of amenity for residents who live in the area. Equally we do not wish to discourage others from taking up residence in our town centre.

The Premises Licence Holder has demonstrated that they disregard regulatory matters in that they have constructed a canopy in the external area without planning permission or Listed Building consent and have failed to remove the canopy after having been requested to do so by the council. There is also no consent for the fixed bar on the forecourt.

We ask the Licensing Authorities to reject the application.

Yours faithfully



Marion Coupe (chairman)

The Licensing Team
Fylde Borough Council
Town Hall
St Annes on the Sea
Lancashire
FY8 1LW

Your Ref:
Our Ref: ASL.SAB.CO72.1

29 May 2014

Dear Sirs

Licensing Act 2003
Capri Grand Café and Bar, 4a Dicconson Terrace, Lytham

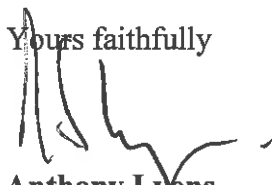
We have been instructed to act on behalf of Sheila Penn in her objection to an application to vary the Premises Licence in respect of the above.

Attached please find our client's letter of representation of today's date.

Please acknowledge safe receipt.

It would be helpful if you could please note the position that we have instructions to attend a hearing in the fullness of time.

Yours faithfully



Anthony Lyons
For and on behalf of Kuit Steinart Levy LLP

\\KSLSRV08\prdata\docs\C\O\U\COU72\1\ Run Document_Letter_7038246_1.doc

kuit | steinart | levy LLP



The Old House
2 Dicconson Terrace
Lytham
Lancashire
FY8 5JY

The Licensing Team
Fylde Borough Council
Town Hall
St Annes on the Sea
Lancashire
FY8 1LW

29th May 2014

Dear Sirs

**Application for the variation of a premises licence
Re: Capri Grand Café and Bar, 4a Dicconson Terrace, Lytham**

As the owner and occupant of the dwellinghouse 2 Dicconson Terrace, Lytham which is attached to and immediately adjoins the Capri premises, I am writing to register my objection in the strongest possible terms to the above application.

I enclose a copy of a letter dated the 11th December 2012 to the Council making them aware of my concerns in respect of the previous application for variation of the premises licence which was determined by the committee on the 14th December 2012.

The grounds of my objection are two-fold, namely:

1. The prevention of public nuisance in and outside the Capri premises,
2. The prevention of crime and disorder in and outside the premises.

I make the following specific comments in support of these grounds of objection:

- A. As described in my 2012 letter (page 2), the Capri premises are in essence being used primarily not as a restaurant but as night spot in our quiet part of Dicconson Terrace during the evenings and especially during the late permitted hours of operation of the licence on Friday and Saturday nights.
- B. This has made my life a misery. The activities next door have caused me, at 90 years of age, a huge amount of stress and sleepless nights. I am aware from conversations with neighbours

who have also registered objections that the use of the premises by the licensee (including breaches of the present licence) have likewise affected their quiet enjoyment of their homes and caused them stress and worry.

C. From my perspective there are two prime causes of this distress, these being:

- i. Loud pop music emanating from the premises, especially at the weekend. Despite the conditions attached to the 2012 licence prohibiting music being played to the outside area of the premises, the speakers to which I make reference on page 2 of my previous letter remain in place. Every time I go to bed I am full of apprehension as to whether this music will be put on. Thankfully some nights the music cannot be heard outside the premises. However on other nights the volume is turned up making it impossible for me to sleep when I retire for bed at 9.00 p.m. The only way I am able to cope with this at all is by putting on my wireless to deaden the noise.

As reported in my previous letter, the constant beat of this music distresses me greatly and is making my life in the home which I have occupied for the last 60 years almost unbearable.

- ii. People noise out on the street and especially within the canopy area. I hear the frequent screams of women and men shouting right outside my bedroom which adjoins the premises. This continues unabated until about 11.00 p.m. (I wish to be scrupulously fair and make clear that the noise quietens down after about this time). As far as I can ascertain, this people noise is from patrons of Capri coming in and out of the main building and patrons also standing and smoking under the canopy area.

D. I felt reassured by the conditions which were attached to the Council's variation of the licence in 2012 and representations made by the licensee to the 2012 hearing (I enclose my solicitor's notes of this hearing). Planning consent for the canopy was subsequently refused. This also comforted me that this large obtrusive canopy would be removed.

This comfort was very short-lived. The canopy is still there and the assurances given by the licensee to the Council have not been implemented. I have the impression that the licensee is constantly testing the boundaries with the Council to see what he can get

away with without the Council taking action.

In the absence of the Licensing Authority coming to me aid I was compelled to register complaints with the Council on a number of occasions during 2013. The Council appears to be unwilling to take action against the licensee and to have the canopy removed, despite its existence being unlawful. When Council officers intervene the licensee modifies unacceptable activities for a while and then they resume. I regard this as evidence of the licensee's blatant disregard for regulatory matters.

Furthermore, I have experienced manifestations of the licensee's unhappiness with the outcome of the 2012 hearing. Shortly after this hearing and the refusal of listed building consent and planning consent for the canopy (later in December 2012) bricks were thrown from the rear yard of the Capri premises into my rear yard. On another occasion a pair of old shoes were flung at my front window. On another occasion a bag of rubbish was flung at my rear gate. On a further occasion a Mercedes car belonging to someone at Capri was illegally parked on the forecourt to my garage from first thing in the morning until late in the evening.

This intimidatory conduct caused me to think very carefully before joining issue with the licensee, but because I felt very strongly that I should be able to live in my own home in peace and tranquility I continued to register my distress with the Council.

Some time during last year I heard loud banging on the Capri side of an internal wall which separates the back of the Capri premises from my kitchen. I understand that my neighbours were installing hi-fi equipment. Considerable damage was occasioned to this wall which is over a century old. The ingress into the wall considerably reduced its sound-insulating qualities. This resulted for a considerable time in my hearing voices emanating from next door which caused me to be very wound up. Following complaints some effort is now being made by the Capri management to reduce this noise factor, for which I am grateful.

In the absence of the Council coming to my aid I am quite simply at the mercy of the licensee.

Council representatives have helped me to an extent but they have explained that they only have limited powers given the terms of the licence and the general law. In the early part of last year I was greatly disturbed by the constant slamming of the rear door to the Capri premises. The Council intervened and thankfully this nuisance is no longer continuing.

I was advised via my lawyers that I could make application to the Council to review the licence terms. Because my life was so unbearable I took steps to assemble evidence in support of such an application.

However on the 7th October 2013 my brother Guy Penn died very suddenly. Neither Guy nor myself were married and we shared our home together (initially with my parents) for 60 years. I was greatly traumatised by Guy's death and am only slowly recovering from his loss. I felt I could not cope with fighting the licensee at that time. However the present application is of course now compelling me to act

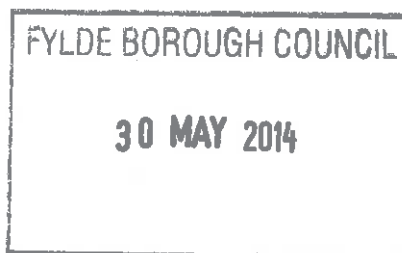
I conclude by expressing the hope that the committee will reject the application to vary the terms of the licence. I was horrified to read that the licensee is seeking to increase the night time use of the premises throughout the period Monday to Saturday to 1.00 a.m. with half an hour's drinking up time. If this is permitted the nuisance and disorder factors which I have highlighted will become of much longer duration. I really believe that if this happens I will be driven out of my home and the whole character of this part of Lytham will irredeemably change for the worse. No-one will want to live there. This cannot be right.

Yours sincerely

Sheila B Penn

Encs

11 December 2012



The Old House
2 Dicconson Terrace
Lytham
Lancashire
FY8 5JY

Mr C Hambly - Principal Officer (Licensing Team)
Fylde Borough Council
Town Hall
St Annes on the Sea
Lancashire
FY8 1LW

Your ref: LIC/CH

Dear Mr Hambly

**Licensing Hearing - 14 December 2012 at 9.30 a.m.
Application for the variation of a premises licence
re Capri, 4a Dicconson Terrace, Lytham**

My brother Guy Penn and myself are the owners of 2 Dicconson Terrace, Lytham which immediately adjoins the Capri premises.

We have lived in our home for about the last 60 years, the property originally having been purchased by our parents.

I am now 89 years old and my brother is 83. Last year my brother had one of his legs amputated to the knee and is in residential care. Accordingly I now live in the property on my own.

After a very busy and I think useful life spent in the Lytham community, I was very disturbed to receive various Notices from the Council in mid-October informing me about the above application and also planning applications made by Mr. Robinson for a change of use of the Capri premises and for the erection of a large outside canopy in front of the existing building.

Both my brother and I oppose these prospective changes. I understand from those advising us that there is a recommendation from the officers dealing with the planning applications to reject the proposed change of use and the canopy. I am told that these planning applications will come before the Council for a decision towards the end of this month.

Within a day or two of receiving notice of these applications Mr. Robinson started to construct the canopy. The Council enforcement officer went round but the Council failed to take any steps to require the canopy to be removed. I was told that the construction of the canopy and its use is unlawful but the Council is unable to take any enforcement action until the outcome of the planning applications.

Mr. Robinson has also on a regular basis obtained temporary consents to sell alcohol and transmit pop music within and outside the Capri building. This has enabled him to fundamentally change the nature of his business and in effect to operate a night spot in this quiet part of Dicconson Terrace on a week-by-week basis and to the late hours of Friday and Saturday night.

Since then my life has been a misery. The activities next door have caused me a huge amount of stress and sleepless nights.

Residing where I do I am used to living in close proximity to Lytham's night life. This does not worry or inconvenience me and I am not the sort of person who readily complains. However the night time use of the Capri premises by Mr. Robinson has prevented me from living a normal life in my own home and this is seriously affecting my health. This is why at a time in my life when I do not wish to be involved in conflict I have been compelled to take issue with Mr. Robinson and to bring the facts to the attention of the Council.

The prime cause of all this distress since October has been loud pop music emanating from the Capri premises, especially at the weekend. This has been made worse because speakers have been put in place which take the music outside the building into the area where the canopy is and indeed out into the street. This not only makes a bad situation worse for me and my neighbours but is also an unwarranted intrusion on the lives of everyone who are compelled to hear it. Surely this should not be permitted. Because of all this I am now having to endure life in my home with constant pop music with all its beats and sounds from late afternoon until the very late part of the evening, sometimes going beyond midnight.

I have tried to address this noise by not using my living room which is immediately adjacent to the Capri premises. I also occupy a bedroom which, of the three bedrooms, is furthest away from Capri. Despite this I can hear the constant beat of the music in my hall where I retire to read in the evening and in my bedroom. This makes it very difficult to get to sleep and to enjoy my life in a way which I feel I have a right to expect in my own home.

Acting on advice, Guy and I commissioned a specialist sound report from acoustic specialists. I attach a copy of this report. I am very concerned to read in this report that what I already consider to be an unacceptable level of sound is likely to get far worse if the present use of the premises continues into the summer when the hours of daylight are longer and more people are likely to be drinking and smoking at the Capri premises to the late hours of the evening. At my advanced age I really do not think that I will be able to cope with this and may be forced out of my home.

My fears as to the future level of disturbance were reinforced one Sunday evening a few weeks back. The weather was reasonably good and there appeared to be a lot of people in the town, possibly attending some event or other. At about 4.45 p.m. very loud music started to emanate from the Capri premises at a far higher level than I had experienced previously. It was truly awful. The noise was unbearable to an extent that I thought at one stage I would have to leave the house. I was fearful about complaining in case I got the blame for stopping the activity. I hoped that other members of the public would complain because it must have been unacceptable to everyone in and around Dicconson Terrace. I concluded that public complaints had been made because this music was eventually turned down to a lower level at about 7.45 p.m. I am extremely worried that if the consents and licences are granted this loud music will be a constant feature in the lives of myself and my neighbours.

Other residential occupiers in the vicinity of Capri share my worries and concerns. Neighbouring owners I have spoken to have expressed concerns similar to my own and have made it clear that they support the steps I am taking.

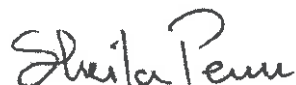
I am told that previous permissions to Capri restricted the use of the area outside the building to 9.00 p.m. for the very good reason that it protects the public well-being and in particular people like myself and my neighbours.

I am also told that outside verandahs to pubs and restaurants have become popular recently because smoking has been prohibited in such places. I suspect this is the reason why Mr. Robinson wishes to put this very large canopy in position. It is so large it reaches the bedroom windows of my house! Does this mean that I can no longer open the windows of my home in the better months of the year because of the problems of smoke and loud conversation? Surely this should not be permitted. I have been professionally advised that it is possible for restrictions to be placed by the Council on smoking in such places after say 7.00 p.m. or 8.00 p.m. Whilst such restrictions would clearly help, they will not resolve the major problems which I and my neighbours are facing.

It also seems to me that Mr. Robinson acquired the premises in full knowledge of the existing licensing and planning restrictions which had been put in place for good reason. It seems totally wrong to me that he should now be able to fly in the face of these restrictions and impose such hardship on my neighbours and myself simply in order to generate more profit for himself.

I therefore appeal with all my heart to the committee to help me and my neighbours in our current plight by refusing the applications.

Yours sincerely



Sheila PENN

Districts
 Other Lancashire Authority Districts
 Lancashire Districts



Capri Grand Cafe and Bar

This map is reproduced from Ordnance Survey material with the Permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (C) Crown Copyright.
 Unauthorised reproduction may lead to prosecution or civil proceedings.
 Lancashire County Council - OS Licence 100023320 (C)
 Centre of map: 336574:427057

Date: 02/06/2014



REPORT

REPORT OF	MEETING	DATE
RESOURCES DIRECTORATE	LICENSING PANEL	26 JUNE 2014

APPLICATION FOR VARIATION TO A PREMISES LICENCE: HENRYS, 5-7 HENRY STREET, LYTHAM

PUBLIC ITEM

This item is for consideration in the part of the meeting

SUMMARY

The Licensing Authority has received an application for the variation of a Premises Licence at Henrys, 5/7 Henry Street, Lytham.

There have been representations from the Planning and Environmental Protection Departments, who are responsible authorities under the Act, and other persons. As such, the Committee must consider the application.

RECOMMENDATIONS

That the Panel determine the application.

CABINET PORTFOLIO

This falls within cabinet portfolio:

Community and Social Wellbeing - Councillor Cheryl Little

REPORT

Application

1. The application is for the grant of a premises licence at Henrys, Henry Street, Lytham.
2. The matter has been referred to the panel because relevant representations have been received from responsible authorities and other persons.

Papers

3. The following papers are relevant and have been made available to panel members:
 - The application, including the plan and the operating schedule

- The statutory guidance for licensing authorities issued by the secretary of state under section 182 of the Licensing Act 2003
- The council's statement of licensing policy
- Copies of relevant representations made by the following responsible authorities:
Planning
Environmental Protection
- Copies of relevant representations made by the following interested parties
Catherine Hall
Mr and Mrs M Womack

Consideration

4. The licensing objectives are:
 - The prevention of crime and disorder;
 - Public safety
 - The prevention of public nuisance; and
 - The protection of children from harm
5. As relevant representations have been made, it is the duty of the panel to take such of the steps set out below as it considers appropriate for the promotion of the licensing objectives. The steps are:
 - (a) modify the conditions of the licence,
 - (b) reject the whole or part of the application.
6. The Guidance issued by the Secretary of State and the Council's Statement of Licensing Policy will be material in considering the application, but cannot override the licensing objectives.
7. The following parts of the secretary of state's guidance appear to be particularly relevant to the application and the relevant representations:

2.18	Public Nuisance
9.12	Representations from the Police
9.27-40	Hearings
9.38	Determining actions that are appropriate for the promotion of the licensing objectives
10.10	Proportionality
10.11	Hours of trading

However, the parties appearing in the hearing may wish to draw the panel's attention to other parts of the guidance.
8. The following parts of the council's statement of licensing policy appear to be particularly relevant to the application and the relevant representations:

12	General Approach to Licensing
17	Licence Conditions
19.7	Crime, disorder and nuisance around licensed premises

- 23 Licensing hours
- 24 Representations
- 27 Hearings

However, the parties appearing in the hearing may wish to draw the panel's attention to other parts of the policy.

Procedure

- 9. The applicant and the makers of the relevant representations have been invited to attend or be represented at the hearing.
- 10. The panel is asked to use the attached procedure in the hearing.

IMPLICATIONS	
Finance	None arising directly from the report.
Legal	None arising directly from the report.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability and Environmental Impact	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

REPORT AUTHOR	TEL	DATE	DOC ID
Chris Hambly	01253 658422	2 June 2014	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
S182 Guidance to Licensing Act 2003	June 2013	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209526/1167-A_Licensing_Act_2003_2_.pdf
Licensing Policy	January 2011	http://www.fylde.gov.uk/business/licensing/licensingact2003/licensingpolicystatement/

Attached documents:

- 1 Application for variation to a Premises Licence
- 2 Representations
- 4 Area Plan

ack by email 2/1/14 12/19/18 30/5/14

T&F
 THE LICENSING PRACTICE LTD
 Specialists in Local Authority Licensing

3 Cardinal Place, Cleveleys, Lancs. FY52SQ
 Telephone: 01253 858186 or 01253 7708109
 Fax: 01253 858186
 E-mail: Licensingpract@aol.com

**Application to vary a premises licence under the
 Licensing Act 2003**

We **T & F Leisure Ltd**
 being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number FY PL 0294

Part 1 – Premises Details

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

**Henry's
 5-7 Henry Street**

Post town	Lytham	Postcode	FY8 5JY
-----------	---------------	----------	----------------

Telephone number at premises (if any)	01253737111
Non-domestic rateable value of premises	£16,250

Part 2 – Applicant details

Daytime contact telephone number	01253 737111 or 07807070656		
E-mail address (optional)			
Current postal address if different from premises address	60 South Clifton Street		
Post town	Lytham St Annes	Postcode	FY8 EW

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible? Yes

If not, from what date do you want the variation to take effect?

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please describe briefly the nature of the proposed variation (Please see guidance note 1)

To extend the hours permitted for the licensable activities of Sale of Alcohol, Recorded Music, Performance of Dance and Late Night Refreshment to 10.00hrs until 01.00hrs with closing a half hour later on Sunday through to Thursday.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

N/A

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)

Sale by retail of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon	10.00	01.00			
	As Existing				
Tue	10.00	01.00			
	As Existing				
Wed	10.00	01.00	State any seasonal variations for the playing of recorded music (please read guidance note 4)		
	As Existing				
Thur	10.00	01.00			
	As Existing				
Fri	As Existing	As Existing	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat	As Existing	As Existing	As existing ie. :- An additional hour on the Friday, Saturday, Sunday and Monday of Bank Holiday Weekends, on Valentines Day, Christmas Eve, Christmas Day, Boxing Day and Lytham Club Day.		
Sun	10.00	01.00			
	As Existing				

G

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon	10.00	01.00			
	As Existing				
Tue	10.00	01.00			
	As Existing				
Wed	10.00	01.00	State any seasonal variations for the performance of dance (please read guidance note 4)		
	As Existing				
Thur	10.00	01.00			
	As Existing				
Fri	As Existing	As Existing	Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat	As Existing	As Existing	As existing ie. :- An additional hour on the Friday, Saturday, Sunday and Monday of Bank Holiday Weekends, on Valentines Day, Christmas Eve, Christmas Day, Boxing Day and Lytham Club Day.		
Sun	10.00	01.00			
	As Existing				

I

Late night refreshment Standard days and timings (read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	Please give further details here (please read guidance note 3)					
Mon	23.00	01.00						
Tue	23.00	01.00						
Wed	23.00	01.00				State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Thur	23.00	01.00						
Fri	As Existing	As Existing						
Sat	As Existing	As Existing				Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 5)		
Sun	23.00	01.00						
			As existing ie. :- An additional hour on the Friday, Saturday, Sunday and Monday of Bank Holiday Weekends, on Valentines Day, Christmas Eve, Christmas Day, Boxing Day and Lytham Club Day.					

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	10.00	01.00			
	As Existing				
Tue	10.00	01.00			
	As Existing				
Wed	10.00	01.00			
	As Existing				
Thur	10.00	01.00	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)		
	As Existing				
Fri	As Existing	As Existing			
Sat	As Existing	As Existing	As existing ie. :- An additional hour on the Friday, Saturday, Sunday and Monday of Bank Holiday Weekends, on Valentines Day, Christmas Eve, Christmas Day, Boxing Day and Lytham Club Day.		
Sun	10.00	01.00			
	As Existing				

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).

None

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	10.00	01.30	
	As Existing		
Tue	10.00	01.30	
	As Existing		
Wed	10.00	01.30	
	As Existing		
Thur	10.00	01.30	Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)
	As Existing		
Fri	As Existing	As Existing	<i>As existing ie. :-</i> An additional hour on the Friday, Saturday, Sunday and Monday of Bank Holiday Weekends, on Valentines Day, Christmas Eve, Christmas Day, Boxing Day and Lytham Club Day.
Sat	As Existing	As Existing	
Sun	10.00	01.30	
	As Existing		

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

Licence enclosed

M

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

The Premises Licence for these premises is already subject to a significant number of conditions, agreed with all the responsible authorities, and designed specifically to tackle each of the licensing objectives. It is, accordingly, considered that the proposed evening increase in the permitted hours and closing time on weekdays should not necessitate any revision of the existing Operating Schedule in order to ensure that the licensing objectives continue to be fully met.

b) The prevention of crime and disorder

See (a) above

c) Public safety

See (a) above

d) The prevention of public nuisance

See (a) above

e) The protection of children from harm

See (a) above

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee. √
- I have sent copies of this application and the plan to responsible authorities and others where applicable. √
- I understand that I must now advertise my application. √
- I have enclosed the premises licence or relevant part of it or explanation. √
- I understand that if I do not comply with the above requirements my application will be rejected. √

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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 5 – Signatures (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent (please read guidance note 11). If signing on behalf of the applicant, please state in what capacity.

Signature	<i>John G. Atkinson</i>
Date	2 nd May 2014
Capacity	Agent

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)

**Robin Atkinson
The Licensing Practice,
28, South Strand**

Post town	Fleetwood	Post code	FY7 8RL
-----------	-----------	-----------	---------

Telephone number (if any)	01253 770810
---------------------------	--------------

If you would prefer us to correspond with you by e-mail, your e-mail address (optional)

Hambly, Chris

From: Stell, Andrew
Sent: 08 May 2014 14:47
To: Hambly, Chris
Subject: FW: enq/14/0173 at 5-7 Henry Street, Lytham

Chris

I refer to the application for a variation of the premises licence at this property. The application refers to the hours being extended to 10am to the following 1.30am on Sunday to Thursday with no change to Friday and Saturdays although the existing licensable hours for those days are not stated.

As the applicant's cover letter states, the hours sought in the premises licence is in excess of the hours permitted by the planning permission for the premises. This control is under 99/0131 and has been varied a number of times since, most recently by application 11/0741 which was approved on 14 March 2012. The relevant part of the condition states:

That the use of the premises for the sale or consumption of food and drink to the public shall not be undertaken outside of the hours of:

*Sunday to Wednesday (inclusive) - 7.00am to 23.30pm
Thursday - 7.00am to midnight
Friday and Saturday - 7.00am to 01.00am (the following day)*

The reason for the condition explains that it is to control the potential for disturbance to neighbouring residential occupiers, and with the property having a number of residential neighbours in flats and houses around the site I am concerned that the hours proposed would not adequately protect the residential amenity of the occupiers of those properties.

I trust that these comments assists with the determination of this licence application, but if you have queries please contact me.

Regards

Andrew

Andrew Stell
Principal Development Officer
Extension: 8473

Andrew Stell
Principal Development Officer
Extension: 8473

Hambly, Chris

From: Stell, Andrew
Sent: 19 May 2014 14:14
To: Hambly, Chris
Subject: Premises Licence applications in Lytham

Chris

I refer to the premises licence consultations at Henrys and Capri for which I have previously provided comments, and ask that this email is added to those.

The applications both seek to extend the hours that the premises are able to operate beyond those permitted by the planning permissions, and I have highlighted the conflict that this brings in my earlier email. The purpose of the planning conditions is to strike a balance between the economic benefits that the premises bring to the borough and the need to ensure that the operation of the premises does not detract from the residential amenity of the occupiers of their numerous neighbouring dwellings to the premises. In both cases the current conditions were introduced relatively recently, and in both cases I am aware that there have been complaints from these neighbours about the operation of the premises causing disturbance to the neighbouring residents.

I understand that the consideration of these premises licence applications needs to examine how the applicants will preserve the four licence objectives. I am concerned that the extended hours proposed here will fail to comply with the 'prevention of public nuisance' objective as the opening of these premises later into the evening has the potential to cause noise nuisance to the occupiers of numerous premises. I understand that the council's Environmental Protection officers will be submitting representations opposed to these applications, and I can confirm that their position has the support of the planning service.

I am also concerned that the applicant is seeking the amendment to the premises licence on the basis that they wish for parity with other premises. I understand these premises to be 7 Dicconson Terrace, and so to assist the Panel I can clarify that the current application would be in excess of the hours that premises can trade, which are limited to between 08:00 hours and 23:30 on Sundays to Thursdays (inclusive) and between the hours of 08:00 hours and 01:00 (the following morning) on Fridays and Saturdays with the external dining area to the rear of the premises shall only be open to the public for the consumption of food and drink between the hours of 08:00 and 20:00 on any day and the external dining area to the front of the premises shall only be open to the public for the consumption of food and drink between the hours of 08:00 and 21:00 on any day. This is secured by condition 4 of planning permission 14/0123 and condition 5 of 12/0664 which relates to 7a Dicconson Terrace only.

Please do not hesitate to ask if you have any queries with this.

Regards

Andrew

Andrew Stell
Principal Development Officer
Extension: 8473

Memorandum

To: Licensing

From: P Dent

Your Ref:

Our Ref: 72895

Date: 21/05/2014

Premises Licence Variation

Location- Henry's Bar , 5 Henry Street, Lytham St Annes, Lancashire, , FY8 5LE

With reference to the above premises licence variation there is the following representation from Environmental Protection.

A number of complaints have been received from nearby residents regarding excessive noise and ASB as a result of patrons using the establishment. These range from loud music which did result in serving a noise abatement notice in 2011 and from ASB in the street – shouting jeering, laughing etc. it is difficult to determine the number of complaints as speaking to one member of the public they said that they do not complain directly anymore and accept the situation. When visits are made on Friday or Saturday nights, it is observed that there is a general “noise” in the area of Henry Street from people outside waiting for taxis, walking passed residential property

Once patrons are on the street it is difficult to control this noise and disturbance, the only real option is to reduce the times of closing of the premises so that the resultant noise diminishes earlier. If premises are allowed to open later then this street noise will continue into the early hours thus prolonging the disturbance that the residents are suffering from. Residents are suffering with the disturbance at the weekend and if this was given permission for the weekdays – albeit I understand that it will not be every night – then I feel this will not be acceptable.

I appreciate that the residents live in a town centre and should not expect the same level of comfort as those in more rural or housing areas. However the licensed establishments must also be aware that their activities are causing nuisance to the residents. In my opinion the premises should not be allowed to operate beyond their current hours and would ask that the application is refused.

Philip Dent

Hough, Andy

From: Suzanne Hall <lythamlil@gmail.com>
Sent: 27 May 2014 11:24
To: Licencing
Subject: Henrys Bar & Grill Late Licence Objection

I write yet again re Henry's bar and grill and their pursuit of a further late licence until 1.00 am. Henry st is still a residential area yet, with now seven (soon to be 8) licensed premises to allow a later licence is unthinkable.

>

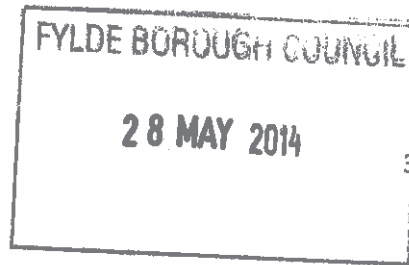
> My issues with the noise coming from Henry's is well documented however the thought of possible hundreds of people spilling into the street in the early hours could quite possibly be catastrophic for myself and my neighbours. There are already fights regularly occurring in Portofino and allowing all these bars to close at the same time will only fuel this situation. I take it the police are happy with this situation.

> I know that my appeal will fall on deaf ears as my previous complaints have. However I urge you, as representatives of the people of Lytham, and those who pay their council tax, to think about local residents. Who would think that Lytham would end up with the same reputation as Blackpool and all the issues that are associated with it.

From :

Mrs Catherine Hall
9b Henry Street
Lytham
FY8 5QG

27th May 2014



3 West Beach,
Lytham,
Lancashire,
FY8 5QJ.

Dear Sir/Madam,

Re: Licensing applications for Henrys Bar, 5-7 Henry Street & Capri Grand Café & Bar, 4a Dicconson Terrace – both Lytham

We are writing to you in order to register our objections in the strongest terms possible to the Licensing Hour Extensions that are currently under consideration for Henry's Bar on Henry Street Lytham and for Capri Grand Café & Bar on Dicconson Terrace – also in Lytham town centre.

We have lived within a few hundred metres of these two premises for 16 years and feel that we know the local area extremely well.

We would oppose the Licensing extensions on two principle grounds:

- 1/ The prevention of public nuisance
- 2/ Crime & Disorder

We have witnessed at first hand a steady increase of rowdy and aggressive groups of people, late at night, outside these two premises in recent years. We are also aware of a number of Lytham residents who have become fearful of walking down these streets late at night due to drunkenness and aggressive, threatening behaviour. The police are increasingly being called upon and there is a clear link between these problems and late night drinking. This is all a stark contrast to the relative peace that prevailed within the centre of Lytham prior to the advent of 24 hour drinking being introduced in 2005.

The proposed Licensing changes will clearly aggravate an already difficult situation that already exists and they should not be approved.

Yours Sincerely,

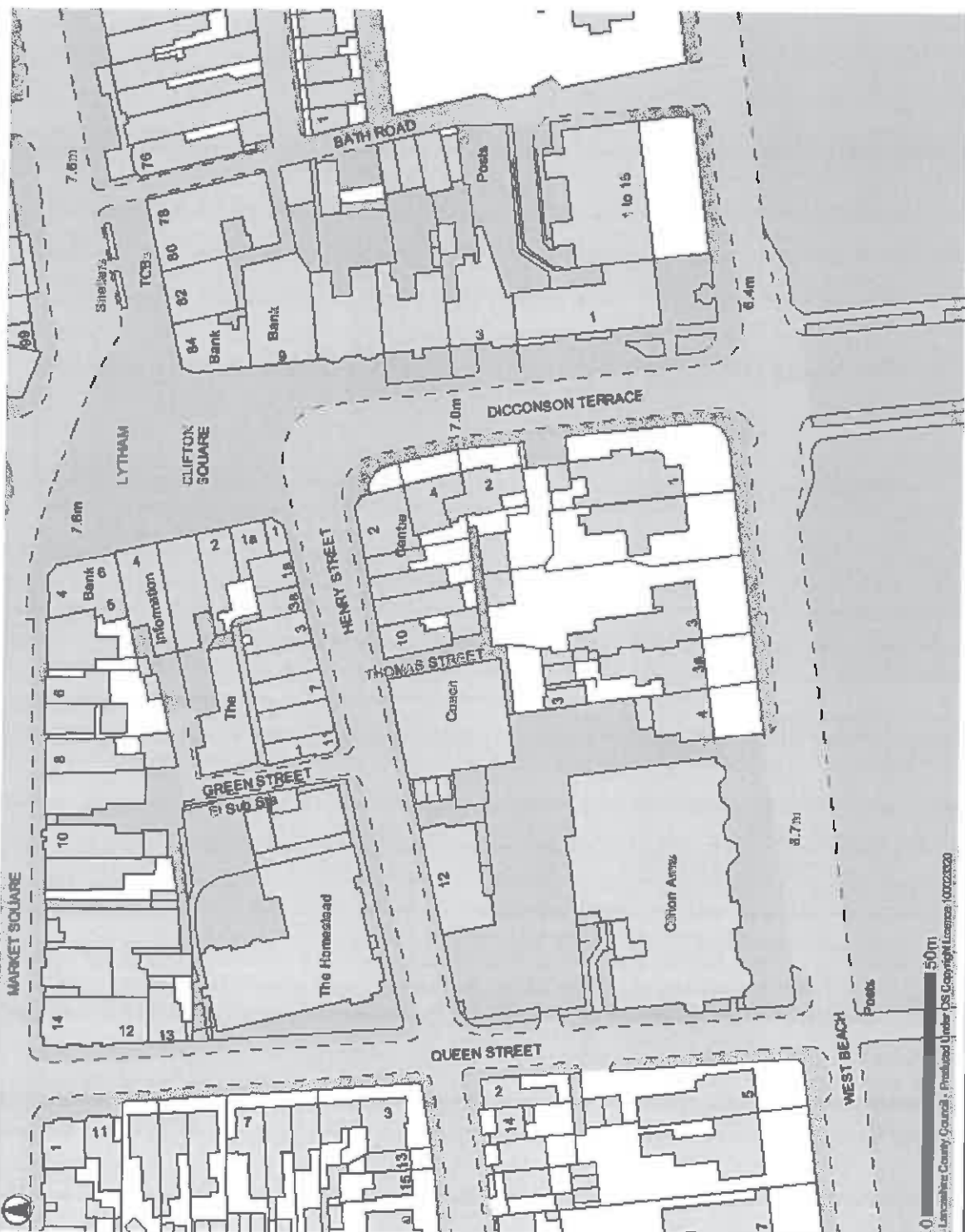
A handwritten signature in black ink, appearing to be 'M Womack', written in a cursive style.

Martin Womack

A handwritten signature in black ink, appearing to be 'S Womack', written in a cursive style.

Sheila Womack

Districts
 Other Districts
 Lancashire
 Councils



Henrys

This map is reproduced from Ordnance Survey material with the Permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office (C) Crown Copyright.
 Unauthorised reproduction may lead to prosecution or civil proceedings.
 Lancashire County Council - OS Licence 100023320 (C)
 Centre of map: 336522:427081

Date: 02/06/2014

