

## **Appendix 3 – Relevant representation and associated correspondence.**

**THIS FORM MUST BE RETURNED  
AND RECEIVED BY THE LICENSING  
MANAGER BY (date)**

22<sup>nd</sup> April 22



**Licensing Act 2003**

### **Representation made in respect of a New or variation to a Premises Licence or Club Premises Certificate by Other Persons**

#### **PLEASE READ THE FOLLOWING BEFORE COMPLETING THE REPRESENTATION FORM**

Under the Licensing Act 2003 a responsible authority or any other person may make representations about an application. Representations may be in the nature of an objection to or in support of an application.

However, all representations must relate to the licensing objectives and may not be frivolous or vexatious.

The four licensing objectives are:-

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children

Representations must be in writing setting out the likely effects that the grant of the application would have on the promotion of at least one of the licensing objectives, and must clearly relate to the premises for which application is being made. For example, representations on the basis of general noise and disturbance, without evidence of a causal link to specific premises, are unlikely to be persuasive.

It will be for the person making the representation to show reasons why the grant of the application is likely to effect on them or their business, based on how the licensing objectives would be affected.

The law does not require a representation to be in a standard format however, the licensing authority is obliged to decide whether your representation is valid within the requirements of the Act and Regulations. Under the provisions of the Licensing Act 2003 (Hearings Regulations) 2005, the Licensing Authority requests that you clarify the grounds upon which you are making your representations.

To assist you, the attached representation form should be completed. By doing this it will ensure that you have supplied sufficient information for the regulations to be satisfied.

You may wish to keep a copy of the completed form for your records and you may use your copy as an aide memoir at the Licensing Committee hearing.

Please list any additional information or details to support your application and attach any documentary or other information that you may wish to use. If you have not disclosed this information beforehand you will not be able to introduce it at the hearing unless all the other parties consent.

You may be represented by someone nominated in writing by you. This can be a legal or other representative.

Copies of all representations will be forwarded to the applicant. Only under exceptional circumstances will the Licensing Authority not disclose ANY personal details.

Please be aware that you will be invited to attend in person to a hearing should the licence application have to be determined by the Council's Licensing Committee. Your representation will also be included in the papers presented to the committee and therefore will pass into the public domain. It is therefore possible that details of your representation may be picked up by journalists.

You can also call any other person in support of your representations but you must declare on the form who they are and how they are going to assist you. Someone making a representation could ask, for example, a legal representative or friend to act on their behalf, however that the representative will act as an advocate for the person who made the representation - they can only present and explain the representation, and will not be able to present their own views on the application or add matters not referred to in the representation.

If you decide to withdraw your representation this can be accepted no later than 24 hours before the hearing, or in person at the hearing.

**Due to the rigid time scales for arranging hearings, it is essential that the form is returned during the 28 day representation period which ends on the date specified on the front page of this document.**

Please return the enclosed form **as quickly as possible** along with any additional information to:

The Licensing Manager

Wyre Council

Wyre Civic Centre

Breck Road

Poulton Le Fylde

Lancashire



FY6 7PU or send as an email attachment to [licensing@wyre.gov.uk](mailto:licensing@wyre.gov.uk)

Please note

- Any representations must relate to the specific premises which is the subject of the application.
- Any representation must refer to one or more of the licensing objectives and
- It would strengthen your representation greatly if evidence in support of your case could be provided



### Representation Form (Other Persons)

Your Name/Company Name/Name of representative body.	Peter Le Marinel
If representative body please give detail of how you represent residents or businesses	Cllr Breck Ward
Postal address	
Contact telephone number	
Email address	Peter.lemarinel@wyre.gov.uk

Name of the premises you are making a representation about.	The Business Centre
Address of the premises you are making a representation about.	18 Breck Road.

<b>Your representation must relate to one of the four Licensing Objectives. Please state Yes or No.(see note below)</b>	<b>Please detail the reason for your representation and any evidence to support it Please use separate sheets if necessary</b>
The Prevention of harm to children	

<p>To prevent Public Nuisance</p>	<p>The Application includes outside seating and asks for this to be 9pm, The Tipsy Cow has outdoor drinking until 7pm, the Business Centre backs onto residential properties on Prudy Hill and if the License is granted this will cause an unacceptable noise level.</p> <p>I would also point out that the Application is for a Wine Bar and Bistro and this will be a change of use under Planning Regulations from its current use.</p>
<p>To prevent crime and disorder</p>	
<p>Public Safety</p>	

<p><b>Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Committee to take into account.</b></p>	<p>The USE of ALL outside areas, for ANY reason, that are open to the public, should cease at 7pm.</p>
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**I wish to call the following people in support of my representation. Anybody you wish to speak to the committee must be declared here.**

Person	How they will assist you

Have you made any representations in respect of these premises before	Yes	No X
Date on which previous representations were made		

<p>I understand that the Licensing authority is obliged to give notice of a hearing to all parties to the hearing and this must include a copy of this representation. All representations are treated as public documents.</p>	<p><b>You must initial this box to state that you understand and permit this</b></p> <p>PLM</p>	
<p>I agree to attend any hearing before either the Licensing committee or magistrates court (in the event of an appeal against the Council's decision) in support of my representation</p>	<p>YES</p> <p>X</p>	<p>NO</p>

Signed:	
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	Peter Le Marinel Cllr Breck Ward
Date:	22/04/2022
Print name:	Peter Le Marinel

**From:** Cantley,Patrick

**Sent:** 28 April 2022 15:47

**To:** Cllr Le Marinel, Peter <Peter.LeMarinel@wyre.gov.uk>

**Cc:** Clarke, Wayne <Wayne.Clarke@wyre.gov.uk>; Fletcher, Stuart <Stuart.Fletcher@wyre.gov.uk>; Grimshaw, Mary <Mary.Grimshaw@wyre.gov.uk>; malcolm.ireland@harrison-drury.com; Wilson, Faye <Faye.Wilson@wyre.gov.uk>

**Subject:** 18 Breck Road, Poulton-le-Fylde. Representation against application for grant of a premises licence. Licensing Act 2003.

Dear Councillor,

The representation you submitted against the listed application has been received and accepted by the Licensing Authority at Wyre Borough Council. I note your concern that granting this licence, in its current format, may result in the licensing objective 'Prevention of public nuisance' being undermined on the basis that the outside area of the premises will cause nearby residential properties to suffer from nuisance by noise. I can accept this point as relevant.

Please note that there are aspects of your representation that cannot be accepted as relevant because they fall outside of the parameters afforded by the Licensing Act 2003. This means that you cannot rely on these points should this matter progress to a licensing hearing.

#### **What is not relevant?**

I acknowledge your point that a nearby premises has a written condition restricting the use of its outside area. However, that condition is applicable to the other premises, the licence authorising licensable activities there and is in place to support the responsible person at that premises in promoting the licensing objectives. This application relates to a different premises and it must be considered in its own right before any determination can be made in respect of it. The decision making process for matters of this type is underpinned by legislation and associated statutory

guidance that make it clear each case must be considered on its own merit. More specifically, the steps that may be taken in determining an application like this are contained within section 18 (4) of the Licensing Act 2003.

I also note your mention of the status of planning at this premises and must be clear that this point cannot be accepted as a relevant either. Please also note this application was circulated to all responsible authorities on 25<sup>th</sup> March 2022 and was therefore sent to the planning department of Wyre Council at that time. To my knowledge I am not aware of the planning authority taking opportunity to comment in respect of this matter during the consultation process.

#### **Things to consider –**

At this stage your representation is the only relevant representation that the licensing authority has received in relation to this application. If your concern cannot be mitigated by measures already in place (conditions offered when the application was submitted and those subsequently being included on the licence following mediation with Lancashire Police and Environmental Health at Wyre Council) then this matter will have to be determined at a licensing committee hearing. I have attached emails and mediation agreements to this. Please feel free to refer to them and once you have had opportunity to do so please let me know whether these measures are sufficient to mitigate your concern. If they are acceptable then the only way in which a hearing can be avoided is if you advise the authority in writing that you have withdrawn your representation because you don't consider a hearing to be necessary. However, if you still feel that a hearing is required please note that this matter will be put before the next committee in May.

Kind regards,

Patrick

**From:** [Licensing](#)

**Sent:** 22 April 2022 14:25

**To:** [Cllr Berry, Roger](#); [Cllr Le Marinel, Peter](#)

**Cc:** [Cllr Henderson, David](#); [Greenwood, Neil](#); [Licensing](#); [Grimshaw, Mary](#); [Seddon, Mandy](#); [Clarke, Wayne](#)

**Subject:** RE: Licensing

Dear All,

Thank you for your emails.



I can confirm a site notice is displayed in the front window of the premises in compliance with the advertising requirements and has been since the first day of the consultation period. Therefore, I am satisfied that required procedure has not been undermined and the consultation period remains valid.

Please note that legislation, associated regulations and statutory guidance already requires the following of applicants for matters of this type –

- Prominently display a site notice a A4 size pale blue paper and ensure all text is printed legibly in size 16 font or larger. This must be displayed from the first day of consultation for the entire consultation period.
- Publish a newspaper notice in a local newspaper or similar circular within the first 10 working days of the consultation period.

In addition to the responsibilities placed on applicants the relevant Licensing Authority display either a notice detailing the specifics of the application on their website or a redacted version of the full application. The relevant Licensing Authority are also required to ensure the circulation of the application to Responsible Authorities only (unless the applicant submits their application in the normal post and then this responsibility falls to them to circulate the application). Ward Members are not included on the list of Responsible Authorities but I note here in Wyre that applications are habitually circulated to the relevant ward members as and when they are received. Thus, if we received an application for a premises in Garstang the application is subsequently circulated to the relevant Councillor(s).

The current licensing framework is far more inclusive than its predecessor where licences were considered and determined within a Magistrates Court setting and without a public consultation process. Thus, the manner in which licensing matters are now considered affords far greater opportunity for those that are potentially going to be affected by a licensed premises to have their say on the matter. Additionally, the right to raise concerns in respect of premises covered under the 2003 Act can occur at the application stage or at any stage following the grant of a licence / certificate where there is reasonable justification to do so. In addition to this, sections 105 to 108 of the Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to remove the vicinity test for applications and licences. As a direct consequence, opportunity now exists for interested parties, irrespective of location, to comment or object.

I have thoroughly considered the content of your emails and fully understand and respect the concerns you raise. However, Licensing Authorities are typically required are required to approach matters of this type from a position of neutrality. I would also point out that the statutory guidance, issued under section 182 of the 2003 Act, makes it clear that a Licensing Authority should only exercise the function of Responsible Authority in exceptional circumstances. Standard applications cannot be habitually treated as an exceptional circumstance because that would mean adopting a standard approach when the framework is underpinned by a case by case approach to matters like this. Therefore, taking one size fits all type of approach flies in the face of standard practice and is neither proportionate or justifiable. As I say this I am conscious that there is feeling that Poulton-le-Fylde is at

saturation point for premises of this type. Of course this potentially raises the question of is there a requirement for a cumulative impact policy. However, as I understand it there is an absence of evidence at this time to support the necessity of one and it is therefore necessary to consider –

- There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.
- The concept of “Cumulative impact” is outlined within statutory guidance and used by licensing authorities within their statements of licensing policy since the commencement of the 2003 Act. ‘Cumulative impact assessments’ were introduced in the 2003 Act by the Policing and Crime Act 2017, with effect from 6 April 2018. Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.

Again, I would reiterate that whilst I understand and appreciate the concerns being raised there is still not sufficient evidence in place to make taking this step justifiable or proportionate. On this basis it is not appropriate for the Licensing Authority to depart from the mandated framework.

I am afraid this is also applicable in relation to the request to giving consideration to implementing bylaws that specify applicants must letter drop when they submit an application. This is not required in the 2003 Act or associated regulations and it is not something that Wyre Borough Council can seek to make bylaws in respect of. I would also point out that if we sought to then there is high potential that we would expose ourselves to reputational risk. .

I appreciate that what I have put in this response may not be what you want to hear and of course should you wish to discuss it further I am happy to talk directly with any of you in person because that is what I am here for. I would also like to be clear that I don't have much tolerance for badly run premises and will fully involve the Licensing Authority in conjunction with partner agencies as and where there is necessity to do so.

Kind regards,

Patrick

**From:** Cllr Berry, Roger <[Roger.Berry@wyre.gov.uk](mailto:Roger.Berry@wyre.gov.uk)>  
**Sent:** 22 April 2022 10:40  
**To:** Cllr Le Marinel, Peter <[Peter.LeMarinel@wyre.gov.uk](mailto:Peter.LeMarinel@wyre.gov.uk)>; Cantley,Patrick <[Patrick.Cantley@wyre.gov.uk](mailto:Patrick.Cantley@wyre.gov.uk)>  
**Cc:** Cllr Henderson, David <[David.Henderson@wyre.gov.uk](mailto:David.Henderson@wyre.gov.uk)>; Greenwood, Neil <[Neil.Greenwood@wyre.gov.uk](mailto:Neil.Greenwood@wyre.gov.uk)>; Licensing <[Licensing@wyre.gov.uk](mailto:Licensing@wyre.gov.uk)>  
**Subject:** Re: Licensing

Hi Peter, I think it would help if you could let us know the precise circumstances as to how the resident did not see the notice which should have been placed in a prominent position so that it could be read by the public. Additionally of course Licensing does inform councillors of applications but I think we need to check if they send us notice of all applications or just some they think might be controversial. Look forward to hearing from you. Regards Roger

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**From:** Cllr Le Marinel, Peter <[Peter.LeMarinel@wyre.gov.uk](mailto:Peter.LeMarinel@wyre.gov.uk)>  
**Sent:** Thursday, April 21, 2022 3:18:06 PM  
**To:** Cantley,Patrick <[Patrick.Cantley@wyre.gov.uk](mailto:Patrick.Cantley@wyre.gov.uk)>; Cllr Berry, Roger <[Roger.Berry@wyre.gov.uk](mailto:Roger.Berry@wyre.gov.uk)>  
**Cc:** Cllr Henderson, David <[David.Henderson@wyre.gov.uk](mailto:David.Henderson@wyre.gov.uk)>; Greenwood, Neil <[Neil.Greenwood@wyre.gov.uk](mailto:Neil.Greenwood@wyre.gov.uk)>; Licensing <[Licensing@wyre.gov.uk](mailto:Licensing@wyre.gov.uk)>  
**Subject:** Re: Licensing

Thank you Patrick for your swift response, I would like to ask that enquiries are made by the Council, into the feasibility of a by-law and how the Council can implement this, centrally mandated procedures, as we know, are not always the correct ones and I think as much help, support and protection as possible should be afforded to residents that have to suffer the consequences.

Best, Peter.

Cllr Peter Le Marinel  
Breck Ward  
Armed Forces Champion  
Wyre Council

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**From:** Cantley,Patrick <[Patrick.Cantley@wyre.gov.uk](mailto:Patrick.Cantley@wyre.gov.uk)>  
**Sent:** 21 April 2022 15:05  
**To:** Cllr Le Marinel, Peter <[Peter.LeMarinel@wyre.gov.uk](mailto:Peter.LeMarinel@wyre.gov.uk)>; Cllr Berry, Roger

<Roger.Berry@wyre.gov.uk>

**Cc:** Cllr Henderson, David <David.Henderson@wyre.gov.uk>; Greenwood, Neil <Neil.Greenwood@wyre.gov.uk>; Licensing <Licensing@wyre.gov.uk>

**Subject:** RE: Licensing

Hello,

I can quickly answer this. The advertising requirements for applications of this type are underpinned by Regs. 25 and 26 of The Licensing Act (Premises licences and club premises certificates) Regulations 2005. Section 8 of [Guidance issued under Section 182 of the Licensing Act 2003](#) also covers the topic.

In essence, the legislation and associated regulations prescribe the process that is required of an applicant when lodging their application. At no point does it specify that an applicant is required to do a letter drop to local residents.

I am not sure it would be possible to create a bylaw of this type on the basis it would be fairly contrary to a centrally mandated procedure that is already in place.

Many thanks,

Patrick

**From:** Cllr Le Marinel, Peter <Peter.LeMarinel@wyre.gov.uk>

**Sent:** 21 April 2022 14:51

**To:** Cllr Berry, Roger <Roger.Berry@wyre.gov.uk>

**Cc:** Cllr Henderson, David <David.Henderson@wyre.gov.uk>; Cantley, Patrick <Patrick.Cantley@wyre.gov.uk>; Greenwood, Neil <Neil.Greenwood@wyre.gov.uk>

**Subject:** Licensing

Hi Roger, I trust you are well. A quick question, do you know why when a License Application is made, the neighbours that will be affected are not routinely sent a letter telling them of the proposed Application? It seems to me very wrong that they are not informed when it could really adversely affect them and their families. I know that the Applicant has to put a letter in the window of the premises, or somewhere that it can be seen, but without doubt, most people would not see it and could well then be adversely affected after the License has been granted.

I would also be grateful if you could look into the procedure of the Council passing a by-law, making it a condition of an Application, that affected neighbours have to be notified.

Kindest regards, Peter.

Cllr Peter Le Marinel  
Breck Ward  
Armed Forces Champion  
Wyre Council