

Date: 22nd August 2013

Underbar Blackpool Ltd
Underbar, Bankley Street
Blackpool
FY1 4RU

Our Ref: MM/CLF
Direct Line: (01253) 478483
Email: mark.marshall@blackpool.gov.uk

Dear Sir

Re: Licensing and Health and Safety Visit – 16th August 2013

Further to our visit at 20.40 hours on the 16th August 2013, I write to follow up some concerns that were raised with Ben Mcarthy on the night.

Licensing wise, the premises was being run satisfactorily, albeit only a handful of customers were in the venue at the time and detailed examination of the conditions was not carried out.

However, with regards to the general organisation and management of the premises it was found to be in a poor state. Some of the issues would directly compromise Public Safety and some may fall within the scope of the Health and Safety at Work Act and other management regulations.

The purpose of this letter is simply to notify you of the need for improvement.

The issues fall into 2 categories:

1. Electrical Safety
 2. General maintenance/repair/organisation and cleanliness.
-
1. Electrical Safety

Firstly the Portable Appliance Tasking was unsatisfactory with many items particularly in the kitchen being at risk of over heating as the sockets they were connected to were over loaded or inadequate.

The date of the last test was February 2012 meaning many of the appliances are well overdue for re-test.

Ventilation particularly in the toilets was inadequate with air ducts being clogged up with dirt.

2. General Maintenance

The condition of the premises was scruffy and dirty throughout. The public toilets were unmaintained and dirty and because of the type of cleaning fluid used on the floor (Bleach) this created a slipping hazard in both the gents and female toilets.

The staff toilet was simply disgusting with complete overhaul urgently required.

Cleaning equipment such as brushes and mops next to the bar in the public area looks poor, not to mention that these items could easily be used as weapons should incidents of disorder break out nearby.

Rear of House was poorly organised and again required a deep clean in certain areas. Many items stored in the kitchen and cellar area were combustibles and should be minimised if not essential to the business.

I have attached a series of photographs cataloguing the concerns that were found on the evening

I do not intend to go through in detail each issue as the photographs I believe spell out the concerns.

If however, you need to clarify any of the matters discussed, do not hesitate to contact me.

Yours faithfully

Mark Marshall
**Licensing/Health and Safety
Enforcement Manager**

Date: 21st November 2013

Underbar Blackpool Ltd
Bank Hey Street
Blackpool
FY1 4RU

Our Ref: MM/CLF
Direct Line: (01253) 478483
Email: mark.marshall@blackpool.gov.uk

Dear Sir

Re: Noise Nuisance for Underbar

I write further to my attendance at your premises on Saturday 16th November 2013 where I had cause to speak with Ben McCarthy who said he was the managing the premises in your absence.

The reason for my attendance was due to loud music blaring out from the entrance area, the issue had caused the police some concern as they had clearly noted the impact it was having on the retail environment and businesses close by,

Sgt Hurt did attempt to enter into dialogue with the management over the noise levels but in his view his requests were met with some resistance. I was asked to attend to assist.

I arrived at approximately 12.40hrs on the 16th November 2013 I stood on the front step of the Underbar and could not hold a conversation with the colleague directly next to me, from experience I would estimate the noise emanating from the premises was in excess of 90db but levels aside the level was so loud that it would likely be a public nuisance if left unchallenged.

Ben rectified the situation on request, but I indicated that I would write to give an overview of the concerns the music levels are causing.

Retail businesses in the vicinity are now openly criticising the Underbar in relation to the appearance of promotional staff on the front door and of noise levels.

The police are raising concerns about the same issues and this year I have had a couple of complaints submitted by email from the public. In response to the public complaints I have spent some time on Bank Hey Street but was not duly concerned with what I saw, however this was earlier this year in May or June and my visit on Saturday 16th November was not so satisfactory.

You are well aware of the sensitivity of your location, especially during the day with shoppers and visitors, and a re-occurrence of the circumstances on Saturday could lead Authorities to take further action.

You need to be mindful of Para 2.19 of the Sec 182 Guidance which states;

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust odour and insects or where its effect is prejudicial to health.

In addition to the powers open to responsible Authorities to review the Premises Licence, the police also have meaningful powers under Section 161 of the Licensing Act 2003 which states;

1. A senior police officer may make a closure order in relation to any relevant premises if he reasonably believes that-
 - a) there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety, or
 - b) a public nuisance is being caused by noise coming from the premises and the closure of the premises is necessary to prevent the nuisance.

Saturday's example saw a police officer (Sgt 1102 Hurt) request for the music in the entrance to be turned down, the request was largely ignored, on this occasion he called upon me to assist but a re-occurrence may initiate other forms of action. Finally I need to point out why I am writing to you, in short both the local authority and the police have concerns about the level of noise coming from the premises during the day (up to 6.00pm) and the conduct of the promotional staff on the front door.

Steps you should take to rectify these concerns are

1. Ensure levels of noise from the premises are eradicated up to 6.00pm.
2. Ensure the conduct of promotional teams is in line with Section 29 of the County of Lancashire Act 184, Schedule 3 of the EPA 1986 and in general do not intimidate or cause a nuisance to members of the public in the vicinity.

Yours faithfully

Mark Marshall
Licensing/Health and Safety
Enforcement Manager

UNITED PUB PROPERTIES LTD
3 MONKSPATH HALL ROAD
SHIRLEY
WEST MIDLANDS SOLIHULL
B90 4SJ

Our Ref: 13/8210

Your Ref:

Enquiries To:

Direct Line:

E-Mail:

27 June 2013

Dear Sir/Madam

Poor Condition of Property

UNDER BAR, BANK HEY STREET, BLACKPOOL, FY1 4TE

I am writing to advise you that the Council is aiming to achieve a good standard of domestic and commercial properties within the Borough and a recent inspection has been made of the town centre, in general, by the Local Neighbourhood Team who have raised concerns about the poor condition and general appearance of the above property.

I am concerned that the property appears to have been neglected for some time and as I am sure you are aware, it now requires some cosmetic maintenance work. In particular the front entrance has 3 damaged window panes in the entrance doors and a rusty cigarette bin. I must advise you that the Council does have a discretionary power under Section 215 of the Town and Country Planning Act 1990, which allows for the service of a formal notice that would require the necessary works to be completed. If the work is not undertaken the Council can enter the land and carry out the repairs. The cost of which is then placed as a charge against the property.

Although I am anxious to resolve the problems with this vacant unit I understand that there may be circumstances which may not permit you to undertake all the necessary works. I would be happy to meet with you, or your representative to discuss an appropriate solution or a time frame for the works to progress and avoid the need for more formal action. I would therefore ask that you contact me on the above direct line number to arrange a mutually convenient time to meet at the premises and discuss these issues.

I must stress that if I do not hear from you within 14 days from the date of this letter more formal planning enforcement action will be considered. I look forward to hearing from you and hope that we can resolve this matter in the near future.



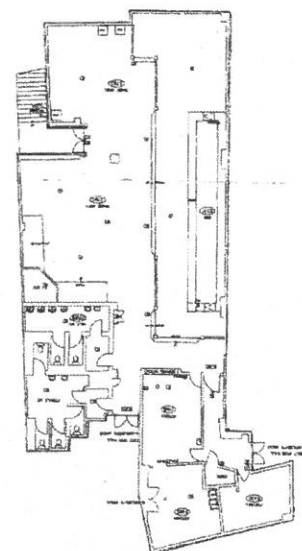
PL1878/1/1

SCALE 1:250



Street Level

SCALE 1:100



BLACKPOOL COUNCIL
PLANNING DIVISION
RECEIVED 03 MAY 2012
1210329

- 1. SITE PLAN
- 2. FLOOR PLANS
- 3. SECTIONAL ELEVATIONS
- 4. EXTERIOR ELEVATIONS
- 5. INTERIOR ELEVATIONS
- 6. FURNITURE PLANS
- 7. LIGHTING PLANS
- 8. MECHANICAL PLANS
- 9. ELECTRICAL PLANS
- 10. SANITARY PLANS
- 11. PAINT SCHEDULE
- 12. FINISHES SCHEDULE
- 13. MATERIALS SCHEDULE
- 14. SPECIFICATIONS
- 15. NOTES

Blackpool Council

Town and Country Planning Act 1990

Town and Country Planning (Control of Advertisements) (England) Regulations 2007

REFUSAL OF CONSENT TO DISPLAY ADVERTISEMENTS

PART 1 : PARTICULARS OF DEVELOPMENT

PROPOSAL: Display intermittent LED illuminated fascia sign.

LOCATION: UNDERBAR, 40 BANK HEY STREET, BLACKPOOL, FY1 4RY

DATE OF APPLICATION: 15/05/12

APPLICATION NUMBER: 12/0329

PART 2 : PARTICULARS OF DECISION

Blackpool Borough Council as Local Planning Authority gives notice that CONSENT HAS BEEN REFUSED for the display of the advertisements referred to in Part 1 for the following reasons :

- 1 The proposed advertisement would form an incongruous feature and be significantly detrimental to the visual amenities and character of the area and detrimental to the setting of the Grade I Listed Blackpool Tower Building opposite by virtue of its visibility, design, method and level of illumination. It would therefore be contrary to Policy LQ13 of the Blackpool Local Plan 2001-2016.

THE PLANS TO WHICH THIS DECISION RELATES

This decision relates to the following plans:

Location Plan stamped as received by the Council on 3rd May 2012.

Signage plans stamped as received by the Council on 3rd and 15th May 2012.

DATE OF DECISION : 16/08/2012

Signed:

G. Johnston

for HEAD OF DEVELOPMENT MANAGEMENT

PLANNING DIVISION
P.O. BOX 17, CORPORATION STREET, BLACKPOOL, FY1 1LZ
TEL: (01253) 476206 FAX: (01253) 476201
Email: planning@blackpool.gov.uk

Blackpool Council

Date: 3rd April 2014

Mr Lawrence
Underbar Blackpool Ltd
Underbar
Bank Hey Street
Blackpool
FY1 4RU

Our Ref: MM/CW
Direct Line: (01253) 478493
Email: mark.marshall@blackpool.gov.uk

Dear Mr Laurence

Re: Action Plan Meeting – 29th March 2014

Further to our meeting on Friday 29th March, which was held at Progress House with myself and Sgt Caroline Hannan. I write to confirm the agreements we entered into during the discussion.

The background was outlined by me in relation to the plan to create a safer, quieter retail space around Bank Hey Street and to that end your premises had been highlighted through officer's observations and reports from businesses in the vicinity.

Specific Issues:

1. Noise from the front of the premises.

An area of concern was raised about the volume levels coming from the vestibule area of the premises. An example was given where I visited the premises on the 16th November 2013 and the noise levels were intolerably high, this matter was followed up in writing on the 21st November 2013.

Action

To ensure that noise levels coming from the premises are minimal, do not draw unnecessary attention to the building and does not have an adverse effect on the environment or people visiting and working in the locality.

Agreed

We did take a view that some music levels may be necessary to assist with marketing but you were reminded about the sensitivity of the locality up till 6pm. I used the metaphor that up till 6pm your collar and tie needed to be buttoned up but after 6pm there is an understanding that you could loosen things off. This is not a green light to cause a public nuisance after 6pm but you need to recognise the importance of the time frame 12pm-6pm and the need for strict controls of noise between these times.



2. Communication with neighbouring businesses.

Some businesses in the vicinity will be more affected than others, the proximity of Boots puts them at the top of the list.

Action

To communicate with the management at Boots on a weekly basis to ensure that they have an opportunity to raise any concerns with you. These communications should be documented and any actions of concern noted and acted upon.

3. Licensing Conditions

It has been noted that incident reports and drug searches are some what lean. A police visit on the 22nd March flagged up concerns with drug search records going missing and incident reports being taken off site by security operations, this has happened on a number of occasions.

Actions

All records are to be kept comprehensively and available for inspection. Paginated books or diary's should be used rather than scrappy pieces of paper.

This concludes the actions which are not onerous, a number of warning letters exist for all the issues described above so there is without doubt a need for improvement, I have enclosed copies of all previous warning letters and file notes which are beginning to build a poor picture of the management of the premises.

Further Agreements

Planning Consent and General Condition of the front of the Premises.

As highlighted below, the front doors are in a very poor state. On the 27th June 2013 you were sent a letter by the Planning Authority (a copy of which is enclosed).



You relayed an unfortunate story of your plans for improvement being rejected on what you believe to be tenuous grounds. I have found the decision notice dated 16th August 2012 which confirms that the application for an LED Advertisement was refused. There is nothing to prevent you from re-applying, especially if the position has been changed, ie other premises have been granted permission for similar signs. I have made enquiries with Planning regarding the waiving of the fee which is currently £110.00, so far my request has fallen on deaf ears I am afraid so should you wish to go down this road again a resubmission of the forms with the appropriate fee will be necessary.

Agreement

You agreed to fix the glass on the doors regardless of the Planning position.

Promotions

Promotions are permitted either on the premises or on the highway immediately affronting the premises, the controlling legislation is the County of Lancashire Act 1984. If you wish to hand out promotional material such as flyers or wristbands you require a permit for this, however, verbal promotions are permitted. You asked me to clarify where exactly the Highway fronting your land was. I have inserted a photograph but in my view it would be no further then the bench shown below. Finally, the pile of block paves outside your building. This is a disgraceful situation, one I'm embarrassed to discover is down to a Council Department, Illuminations are apparently responsible, photos and an e- mail were sent yesterday to get this situation rectified immediately.



Yours sincerely

Mark Marshall
Licensing/Health and Safety
Enforcement Manager

Document 5**Mark Marshall**

From: [REDACTED]
Sent: 15 April 2014 16:13
To: Mark Marshall
Cc: [REDACTED]
Subject: RE: Underbar

Good Afternoon Mark

I have finished putting Friday 4-4-14, Saturday 5-04-2014, Friday 11-04-2014 and Saturday 12-04-2014 on disc on the Fridays the times are from 1400 till 200 and on the Saturday 1100 till 2000.

Hope this help I will leave the disks in staff entrance for you

Many Thanks

[REDACTED]

[REDACTED]

■

From: Mark Marshall [mailto:mark.marshall@blackpool.gov.uk]
Sent: 14 April 2014 13:09
To: [REDACTED]
Subject: RE: Underbar

Yes these are better, could do with confirming the time and date of each picture and the jpeg number

From: [REDACTED]
Sent: 14 April 2014 11:08
To: Mark Marshall; [REDACTED]
Subject: FW: Underbar

Good Morning Mark

I have tried sending more pictures but only lets me send so many, so I have more if need

Many Thanks

[REDACTED]

From: [REDACTED]
Sent: 14 April 2014 10:45
To: 'mark.marshall@blackpool.gov.uk'; [REDACTED]
Subject: FW: Underbar

From: [REDACTED]
Sent: 14 April 2014 10:16

24/04/2014

To: 'mark.marshall@blackpool.gov.uk'; [REDACTED]
Subject: FW: Underbar

Good Morning Mark

Here are some more pictures of the promo team from under bar, hope these are better for you.

If you need anything please don't hesitate to ask

Many Thanks

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 14 April 2014 10:04
To: [REDACTED]
Subject:

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Mark Marshall

From: [REDACTED]
Sent: 14 April 2014 15:01
To: [REDACTED] Mark Marshall
Cc: [REDACTED]
Subject: RE: Underbar
Attachments: ATT1841852.txt

Hi Mark

Hope you well

We should be able to provide you with CCTV from Bank Hey Street as well if you want it.

I've asked [REDACTED] to check it as it covers most of the street outside the Tower Lounge

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 14 April 2014 14:09
To: Mark Marshall
Cc: [REDACTED]
Subject: RE: Underbar

Hi Mark

24/04/2014

Here are the details of the Photos they are all from this weekend 11-04-2014

Number 183320 time 18.33

Number 182423 time 18.24

Number 182420 time 18.24

Number 173458 time 17.34

Number 173737 time 17.37

Hope this helps if you need anything let me know and I will do anything I can

Many Thanks

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 14 April 2014 10:04
To: [REDACTED]
Subject:

Sent from Samsung Mobile

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24/04/2014

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Mark Marshall

From: [REDACTED]
Sent: 14 April 2014 11:08
To: Mark Marshall; [REDACTED]
Subject: FW: Underbar
Attachments: 20140411_183320.jpg; 20140411_182423.jpg; 20140411_182420.jpg; 20140411_173458Jpg; 20140411_173737Jpg

Good Morning Mark

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Certificate of Analysis

Document 6

To: L. Wojarski
Public Protection Division
Blackpool Council
Progress House
Clifton Road
Blackpool
FY4 4US

I, the undersigned Public Analyst for Lancashire County Council certify that 17.00 on 25th March 2014 the sample marked as follows:

Date sample taken: 21.03.2014
Reference number, description etc: BL 1107, Bacardi rum
Weight or measure: 50 ml

was received by me from the person named above.

I certify that the sample was analysed by me or under my direction and the results are as follows:

| | |
|----------|-------------------|
| Alcohol | 37.2 per cent v/v |
| Glucose | <1 mg/l |
| Fructose | <1 mg/l |
| Sucrose | 10 mg/l |

My opinion and observations are:

Genuine Bacardi rum has the following typical composition:-

| | |
|----------|-------------------|
| Alcohol | 37.5 per cent v/v |
| Glucose | 90 – 150 mg/L |
| Fructose | 80 – 130 mg/L |
| Sucrose | 50 – 180 mg/L |

I am of the opinion that the sample was not genuine Bacardi rum.

I further certify that the sample had undergone no change which would affect my results, opinion or observations.

Certified by me this 9th day of April 2014 at Preston.

Signature: *ACS* Status: Public Analyst

Name: ANDREW CHRISTOPHER SMITH

Official Address: Lancashire County Council County Laboratory, Pedders Way, Riversway Docklands, Ashton, Preston PR2 2TX.

Tel: 01772 721660.

e.mail: andrewc.smith@lancashire.gov.uk

01253477429

CAUTION

OFFENDER'S SURNAME: Lawrence
FORNAME(S): Steven James
ADDRESS: 3 Garstang Terrace, Tockholes, Darwen, BB3 0NZ
DATE OF BIRTH: 07 August 1966
NI NO:

Date of Offence: On 29 March 2008

Nature of Offence. At Underbar, Bank Hey Street, Blackpool, Underbar Blackpool Ltd did display with food exposed by them for sale, a label which falsely described the food as being "Smirnoff Vodka", contrary to s.15(1)(a) of the Food Safety Act 1990 AND the accused was then a director of the said Underbar Blackpool Ltd and the offence was attributable to neglect on the part of the accused who is thereby guilty of the said offence by virtue of s.36 of the Food Safety Act 1990.

Declaration: I hereby declare that I admit the offence described above and agree to accept a caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should I be found to be infringing the law in future. I further understand that this caution may be cited should I subsequently be found guilty of an offence by a Court of Law.

Signed:  Date: 5.6.09

Signed: _____ Date: _____

BLACKPOOL BOROUGH COUNCIL

Return form to: Mr L Petrak, Legal and Democratic Services,
PO Box 11, Town Hall, Blackpool
FY1 1NB – Ref LP/080663

01253477429

Document 7.

CAUTION

OFFENDER'S COMPANY NAME: Underbar Blackpool Ltd
COMPANY NO: 05599082
REGISTERED OFFICE: Underbar, Bank Hey Street, Blackpool, FY1 4RU

Date of Offence: On 29 March 2008

Nature of Offence. At Underbar, Bank Hey Street, Blackpool, did display with food exposed by them for sale, a label which falsely described the food as being "Smirnoff Vodka", contrary to s.15(1)(a) of the Food Safety Act 1990.

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Signed:  Date: 5.6.09

A Company Director

Signed: _____ Date: _____

BLACKPOOL BOROUGH COUNCIL

Return form to: Mr L Petrak, Legal and Democratic Services,
PO Box 11, Town Hall, Blackpool
FY1 1NB – Ref LP/080663