



**SECTION 52 LICENSING ACT 2003**  
**NOTICE OF DETERMINATION IN RESPECT OF A HEARING**  
**WHICH TOOK PLACE ON THURSDAY 9 JULY 2026**  
**TO DETERMINE AN APPLICATION BY ANDREW DENT**  
**FOR REVIEW OF THE PREMISES LICENCE IN RESPECT OF THE AVIARY, QUEEN**  
**STREET, WHALLEY, CLITHEROE, BB7 9TA .**

The Licensing Sub-Committee met on 9 July 2026. The Sub-Committee comprised the following members:

Councillor S O'Rourke - Chair  
Councillor G McCrum  
Councillor J Rogerson

Also in attendance:

Solicitor (RVBC)  
Licensing Officer (Alcohol & Entertainment) (RVBC)  
Committee Clerk (RVBC)  
Andrew Dent RVBC Environmental Health – Applicant\*  
Nicola Berry RVBC Environmental Health (observing)  
Jordan Donohoe RVBC Environmental Health (observing)  
Police Sgt S Dundon Lancashire Police\*  
Parish Cllr G Mirfin (observing)  
Ms J Davies Member of Residents Action Group\*  
Ms S Paramore Member of Residents Action Group\*  
Ms M Blane Member of Residents Action Group\*  
Ms P Robinson-Kerr Member of Residents Action Group\*  
Ms M Kerr\*  
Cllr M Hindle\*  
Ms L Luckin\*  
Ms Chelsea Chard The Aviary (DPS)\*  
Jabbar Khan The Aviary\*  
Nadeem Ilyas The Aviary\*  
Minnie Gorton The Aviary (observing)

\*Represents a party who had made a representation (Ms Kerr and Ms Luckin did not address the meeting)

The Sub-Committee met to consider the review brought by Andrew Dent of the premises licence of The Aviary, Queen Street, Whalley, Clitheroe, BB7 9TA..

The Sub-Committee considered the contents of the report of the Head of Legal and Democratic Services prepared for the original meeting scheduled for 22 June 2026, and its appendices ("**Report**"), and further documentary evidence provided by Sgt Dundon circulated on 22 June 2026 and provided by Ms Blane on 8 July 2026. Ms Blane sought to introduce a copy of a Facebook page at the meeting; this was not agreed by all parties and therefore was not admitted.

After the Chair gave an introduction, the solicitor explained the application and the procedure for the hearing. Those present were advised that the Sub-Committee had read and would take into account the written application and representations submitted.

There had been parties who had made representations, but who had either indicated that they would not attend the hearing or had failed to reply to the notice of hearing. The sub-committee determined to proceed in the absence of those parties, but stated that their written representations would be taken into account.

The solicitor advised that, by way of legal advice and prior to the hearing, members of the sub-committee had been supplied with copies of sections 51 to 53 and section 177A of the Licensing Act 2003, together with chapter 11 of the Statutory Guidance under section 182 of the Act regarding reviews and extracts from chapter 16 relating to regulated entertainment and the ability to add conditions on review where music would not otherwise be a regulated activity. Section 10 of the Council's Statement of Licensing Policy 2026 to 2031, which had also been supplied, identified the options open to a sub-committee hearing a review, including the ability to add new conditions or alter existing conditions in respect of live or recorded music where the music would not otherwise be regulated as a licensable activity.

The applicant and Ms Chard had also previously been supplied with the same documents, which are also in the public domain.

The solicitor advised those present that their written representations were already before the sub-committee and need not be repeated in the course of the hearing. Parties were advised that the sub-committee had determined that the verbal representation of any party should not exceed 20 minutes.

The applicant, Andrew Dent, explained the role of the Environmental Health Officer ("EHO") as being neutral of either complainant or those under investigation; and that any action which they might take should be evidence based. He explained that nuisance consists of interference with the enjoyment of property; that the EHO is considered an expert to determine whether there is a nuisance; and that the sub-committee cannot substitute their own views for those of experts without there being good reason so to do.

He summarised the history of complaints since 2021, initially with officers attending and assessing the position subjectively; since his appointment in September 2022 objective assessment had also taken place with calibrated equipment. He and colleagues had engaged with The Aviary in setting noise levels in the back street for music being played in The Aviary which would not be a

nuisance in the nearest receptor at 2 Queen Street, Whalley. He explained that, regrettably, complaints continued and monitoring showed the level had been exceeded. An abatement notice was served for statutory nuisance and appealed. During the period pending the appeal hearing of about a year, monitoring continued. The appeal was resolved when The Aviary applied for a minor variation of the licence to incorporate sound levels, and the abatement notice was withdrawn.

Further meetings took place when it was established that The Aviary were trying to take sound levels using a phone app. Advice was given on suitable equipment.

Further complaints were received and investigated. Work took place with The Aviary, and they did reduce high level and vocal noise, but the principal issue of the bass persisted. Formal action was deferred to enable the police restorative justice process to take place. However, new complaints had been received in late 2025 from new complainants, and ultimately, as an EHO, it became necessary for the licence to be called in for review, to try to engineer a compromise.

He explained the manner in which readings had been taken, distinguishing sound from other premises which had been closed at the time of some readings; and technical details involving sound energy. He then played video/audio footage which demonstrated that the bass was the most intrusive aspect, which exceeded the level authorised under the minor variation.

He expressed disappointment at the sound meter evidenced by The Aviary in their representation, which was not capable of measurement of the parameters of the sound level condition, including the bass, and could not be relied upon for accurate measurement of the limit in the premises.

His intention was not to shut the business down; however, he had to balance the needs of the night-time economy with the need to control noise. Hence, to circumvent the issue of decibel levels, his request on review was to restrict the playing of live and recorded music outside the hours of 11.00am to 23.00 pm.

In answer to the Chair, he explained that there is a condition for use of a noise limiter, but that such devices can be circumvented.

Chelsea Chard, in questioning, stated that The Aviary had recently been informed that the sound limiter could be circumvented; that a new sound limiter had been purchased for £1,000, which was anti-tamper and available for inspection.

Sgt Dundon explained that the police supported the review, in that they considered the licensing objectives of prevention of public nuisance and prevention of crime and disorder were being undermined. He queried whether these premises under the current management were consistent with licensing obligations.

His evidence of complaints went back to 2023 when the licence had been transferred to Triangles Leisure Limited. The majority of the reports had been received from residents and the action group, and he said that the sub-committee should not double count complaints by considering the police logs to be separate from incidents which the residents mentioned.

He reviewed the complaints generally identifying excessive music noise, and noise from customers arriving, queuing, smoking and leaving. There had been meetings and visits to the venue, but with little or no meaningful response. Restorative justice had been embarked upon, but many of the agreed actions were not completed.

The police accepted the section 182 guidance in that the premises could not be held responsible for issues elsewhere in the village, but within their control were music, queues, dispersal of patrons, smokers, and congregation of people outside the premises. Ongoing anti-social behaviour undermined the disorder element of the licensing objective. Whilst there had been some engagement, this had not resolved the issues or given confidence that the management might so do. On a Friday and Saturday, the premises became a night club and not a bar, and it is located on a residential street.

He invited the sub-committee to consider reduction of opening hours; a review of times for amplified music; a sound limiter; and whether this DPS should remain in position as the police had no confidence in her going forward.

The overall and persistent pattern was one of noise nuisance, which required robust action to be addressed.

In response to questions he explained that the 71 incidents which he had mentioned were from 2023 onwards. He could not say how many of the 71 incidents reported to the police had been attended by officers, as priority had to be considered to reports of anti-social behaviour against other public order matters – it was likely there were very few attendances. When asked by Jabbar Khan as to the nature of the anti-social behaviour, he referred him to the complaints recorded from residents and said that he would be repeating them. There were no issues of mass disorder. Complaints were received from residents other than members of the action group.

Cllr Hindle was not personally impacted by the noise, but was affected by and on behalf of the residents, which felt like it was on a weekly basis. He tried to balance issues between people being able to enjoy themselves and the interests of residents. He considered the premises had changed from a bar to a night club. He considered this to be a good business model in the wrong place in the wrong building.

Susan Paramore explained that as real people, she and others were suffering. They suffered from lack of sleep and anxiety and stress about what was happening outside. The premises had changed from being a bar with meals and mood music as promised at the outset. What was not under the premises' control was the people arriving who were shouting. Residents heard sounds which put them in fear that someone was being attacked. There had been over 500 weekend and bank holiday nights since operations began in 2021. The external door was permanently open. Door staff only gave lip service to the dispersal policy. There was nothing in the policy about arrivals, and no plan for this in the restorative justice process. She and others dreaded weekends and were residents, not victims.

In reply to questions by Jabbar Khan, she explained the location of her home; that she could see customers coming and going to and from The Aviary; when asked about disturbance from the 200 people leaving the night club, she replied that she lived on Queen Street.

Melissa Blane gave her address but later explained that she had moved away, having lived all her life in Whalley. She knew that Whalley has a night life. The position had changed when the premises had changed from the Conservative Club to Bradys. The music had a profound, insidious effect, preventing sleep and the bass was torture – a word which she used deliberately. It was an earworm, like a dripping tap, and vibrated her pillow.

She described the very distressing circumstances when her father died in 2019, and his experience on his last night at home, and the flippant attitude of The Aviary's nighttime economy consultant at the restorative justice meeting. The operators showed no care or compassion; what they say was very different to the reality; and they flattered to deceive. They did not comply with the terms of their licence. She referred to the Environmental Protection Act 1990 and the right to a private life under article 8 of the European Convention for Human Rights.

Every Saturday afternoon bottomless brunches meant that residents could not enjoy their weekend afternoons. She described sleep problems and trying to catch up at other times.

She was amazed by The Aviary's rebuttal stating that residents had not emailed to complain; when complaints were made, residents received dismissive responses.

She understood business and the stress involved, giving detail of her and her family's involvement in Chambers of Trade. Rules could not be overridden. She sought removal of the DPS, and a robust outcome.

It was too late for some who had moved away, including her, a Whalley girl who had left having spent too much of her life dealing with The Aviary. She referred to false accusations of racism; also to a Facebook post which she had not been allowed to circulate to the hearing regarding an incident which had been recorded and investigated.

Penelope Robinson-Kerr explained that the action group had been formed due to concerns about the premises, and that the wider group exceeded 25 people in total. This had gone on for 5 years. She referred to 1.5 of the s182 guidance including protection of the public, and the right to a private life. She queried whether The Aviary was compatible with its location.

Judith Davies referred to the restorative justice process, and spoke to the issue of the surrounding area and detritus. The Aviary had promised to keep the surrounding area clear, but this had stopped. Residents had been thrilled to participate in restorative justice, thinking they could then contact Chelsea Chard and Jabbar Khan, but that had failed.

For The Aviary, Jabbar Khan explained that they were not sound experts. Their monitor did not measure the bass. With the new limiter, if the bass were to be exceeded, the sound would cut out, and a check with EHOs was requested.

They did not have incidents at the premises – it was a safe place with no fighting.

They wanted to work on the noise issue. Officers attended almost every evening to check the premises. They cleared the streets. There was also a very busy night club. They get their customers to walk to the top of the street. They needed to fix the bass.

If they had to close at 11pm, they would shut the business. Between 11pm and 1am was their busiest time.

In reply to questions, he explained that they had spent £14,000 on the roof where they had been told the sound was escaping. Their previous limiter had not recorded. The new limiter would be locked in a cupboard in the back kitchen to which DJs would not have access.

Chelsea Chard stated that they would be happy for Andrew Dent to test the system with their sound consultant. They wanted to get it in place and working properly.

She explained that the bottomless brunches were held from 2pm to 3.30pm every 5 or 6 weeks, and there may be a private function.

Sgt Dundon explained the difference between police reassurance visits carried out on Fridays and Saturdays to demonstrate visibility and compliance visits to check levels etc. He stressed that disorder as part of the licensing objective included ASB as reported by residents, and could include queuing and coming and going. The police only witnessed a snapshot.

Jabbar Khan and Chelsea Chard explained that the limiter would be on the amplifier, and that guest DJs do not bring their own speakers.

Nadeem Ilyas explained that there were procedures on the front door. Patrons would be asked to smoke at the top of the street. It was difficult to control drunk people. They operated a staggered system for people to leave.

Cllr Hindle remarked on the communication problem. Jabbar Khan pointed out that other residents of Queen Street were patrons of the premises.

Chelsea Chard explained that the limiter had been bought on 16 June 2026. They would like Andrew Dent to attend to help them sort it out, so that it was put on a setting in a lockable cupboard and therefore fixed no matter what DJs might do. She and Jabbar Khan were responsible, and the invitation was for a day when customers were in to fix on an anti-tamper setting. They were not technically aware and accepted their sound monitor had not been the best with no level for the bass.

Judith Davies expressed concern that this was another delaying tactic while residents continued to suffer.

Susan Paramore referred to the internal music limiter, but that did not limit the people outside. Whilst The Aviary admitted moving drunk people on, why did they serve them? They had said that they moved people to Accrington Road for taxis, but she saw them outside her window on Queen Street, including door staff smoking outside and shaking hands with taxi drivers which was no example. The noise of coming and going needed to be addressed. There was discussion with Nadeem Ilyas about where her house was located.

By way of closing, Andrew Dent had nothing to add save that he was there to prevent public nuisance. Sgt Dundon said the police played a small part in the review; the residents who had spoken powerfully and passionately lived with the issue of people coming and going; they had tried to resolve issues but ongoing complaints demonstrated ASB; while steps were being taken on the music, and promises had been made, there had been meetings and restorative justice which had failed; this street was not the right place for a night club, and the operation should change.

The Aviary made no closing comments.

The sub-committee then retired to consider their decision.

The sub-committee considered all evidence, both written and oral, the submissions of the parties, the Licensing Act 2003, the guidance issued under section 182 of the Act and the Council's Statement of Licensing Policy 2026-2031

The sub-committee decided that: -

1. A new condition should be introduced in the terms requested by the applicant as condition 4 of annex 3 of the licence.
2. The timings should be removed from condition 21 of annex 2
3. Further, condition 21 should be amended to state that, on review, the licensing authority had determined that the exemption of live and recorded music from being a licensable activity before 23.00 hours pursuant to section 177A of the Licensing Act 2003 was no longer applicable to these premises. This amendment was in compliance with section 177A(3).
4. No action should be taken to remove the DPS, although she should be made aware that careful consideration had been given to this request.
5. Residents should note that alleged breaches of the licence should be reported promptly to the police and licensing authority to enable investigation of such allegations during the period for retention of cctv images, which could assist either the complainant or the premises in establishing the correct position.

The sub- committee reached these decisions for the following reasons:-

1. The evidence of the applicant and complainants demonstrated that there is a current and ongoing problem resulting from the level of the bass on amplified music emanating from the premises to noise sensitive receptors, such that the licensing objective of prevention of public nuisance is being undermined. Repeated engagement with the premises to seek to address this point has not been successful. Such steps as have been taken have failed to prevent the playing of music where the volume of the music, particularly the bass, has resulted in there being nuisance to residents. Whilst the purchase of a noise limiter is welcomed, and is hoped to improve the situation moving forward, at the time of review this mitigating factor has not been introduced and problems are reported to continue. The sub-committee note that a requirement to close from 11pm would result in closure of the business. The hours permitted for opening are not being amended – it is a matter for the operator to run their business after 11pm in a compliant manner.
2. Music can be played from 11.00am to 23.00pm in accordance with the licence. It is stated that there will be a limiter which maintains the volumes at this level in place throughout. However frequently the bottomless brunches occur, the evidence is that they create a level of public nuisance so as to undermine the licensing objective of prevention of public nuisance. Removal of the timings on this condition will ensure that all regulated entertainment takes place at a volume subject to the limiter, and not just regulated entertainment which takes place after the arbitrary time of 21.30 hours.
3. For the avoidance of doubt, to ensure that this condition should not be considered to be subject to deregulation by the current or any future operators.
4. The sub-committee considered that the wider management should take responsibility for the ongoing issues both on and surrounding the premises, within the control and influence of the operators. Removal of the DPS in itself does not provide for this, which requires more robust intervention to ensure compliance with the conditions of the licence by door staff and other individuals. The review has brought attention to the reported ASB issues which may undermine the disorder aspect of the licensing objective of prevention of crime and disorder.
5. The presence of cctv on the premises is considered by the sub-committee to be an important tool for both the premises and those investigating complaints to establish the

correct position in respect of any allegations. Prompt reports enable prompt investigation during the period for which images should be retained for inspection.

**The parties are hereby notified that they may appeal against this decision to the Magistrates Court within 21 days beginning with the date of notification of this decision.**