

# Public Document Pack

**LICENSING SUB COMMITTEE**

**MONDAY 18<sup>TH</sup> OCTOBER 2010**

**AGENDA ITEM 6 - POLE POSITION INDOOR KARTING  
SUPPLEMENTARY INFORMATION SUBMITTED BY THE APPLICANT 15/10/10 –  
ENVIRONMENTAL SOUND IMPACT ASSESSMENT REPORT**

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## ACOUSTIC SOLUTIONS

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Ref: 1965/10/013

Date: 14<sup>th</sup> October 2010

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**ENVIRONMENTAL SOUND IMPACT ASSESSMENT  
CONDUCTED AT AND IN THE VICINITY OF  
POLE POSITION INDOOR KARTING,  
SOUTH ACCOMMODATION ROAD  
LEEDS,  
WEST YORKSHIRE  
LS101NQ**

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Institute of Acoustics No: 43468  
Test Report Number: 1965/10/013

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This report has been prepared by Acoustic Solutions with all reasonable skill, care and diligence within the terms of the Contract with the client, incorporating our General Terms and Conditions of Business and taking account of the resources devoted to us by agreement with the client.

We disclaim any responsibility to the client and others in respect of any matters outside the scope of the above.

This report is confidential to the client and we accept no responsibility of whatsoever nature to third parties to whom this report, or any part thereof, is made known. Any such party relies upon this report at its own risk.

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## 1.0 Summary

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I am Brian Fairclough. I have seventeen years' experience working with noise-related issues as an Officer in the City of Bradford Metropolitan District Council Environmental Health's Pollution Team and as a consultant for Acoustic Solutions. In that time the issues I have dealt with have included environmental noise investigations, planning applications, licensing applications, building acoustics and noise at work assessments. I have extensive experience investigating low frequency noise issues, both as an officer with Environmental Health and in my role as a consultant for Acoustic Solutions. I hold the Institute of Acoustics' Diploma in Acoustics and Noise Control and the Institute of Acoustics' Certificate of Competence in Environmental Noise Measurement.

Based upon an environmental noise assessment undertaken by Acoustic Solutions on 13<sup>th</sup> October 2010 this report concludes that night time amplified music events proposed to be held at the Pole Position Indoor Karting, South Accommodation Road, Leeds will not result in a public nuisance, nor will it result in a statutory nuisance to the occupiers of dwellings in the vicinity of the venue, providing that event organisers undertake specific arrangements with the owners of the Brookfield Hotel, Hunslet Road.

### **Report Prepared by:**

Acoustic Solutions

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**Acoustic Solutions**  
Consultant in Noise and Vibration

Environmental Sound Impact Assessment conducted at and in the vicinity of Pole Position Indoor Karting,  
South Accommodation Road Leeds, West Yorkshire LS10 1NQ

## 2.0 Brief

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### 2.1

A Mr Albentosa of Magicfly Limited has applied for planning permission to run a maximum of twenty (per calendar year) amplified music events at a venue currently occupied and trading as Pole Position Indoor Karting at South Accommodation Road, Leeds. It is proposed that the events will take place between 21.00 and 06.00 hours, with events co-inciding with the student social calendar (freshers' week, Halloween, Christmas etc.)

### 2.2

It is understood that Leeds City Council's health and environmental action services (HEAS) is concerned that the noise from the events will have a negative noise impact upon the occupants of nearby dwellings. The authority has therefore submitted a formal objection to the application:

*"Leeds City Council's health and environmental action services (HEAS) is of the opinion that your application contains insufficient information about how you intend to meet the licensing's objective of prevention of public nuisance. We therefore confirm that we are submitting a formal objection of your application."*

(Appendix 2)

HEAS has further stated that:

*"Using predicted noise levels based on similar music venues, the location of existing noise sensitive premises and the structure and fabric of the (venue) building we consider it highly probable that the events applied for will give rise to public nuisance."*

(Appendix 3)

### 2.3

This being the case, Acoustic Solutions has been instructed by Mr Albentosa of Magicfly Limited to provide a written analysis of the likely environmental noise impact of the music events in terms of public nuisance.

## 2.4

Details of the brief are given below:

- (A) Travel to the Pole Position Indoor Karting and conduct measurements of internal sound levels while music is played at a sound level likely to be played at the type of music event proposed.
- (B) Travel to a number of potentially noise sensitive premises in the vicinity of Pole Position, as identified by Leeds Council, and undertake an environmental sound impact assessment of the music.
- (C) The tests to be carried out in accordance with the methodology recommended in DEFRA circular: NN/31/03/2004 "Noise Act 1996 (as amended by the Anti-social behaviour Act 2003)".
- (D) The obtained results to be compared with the "the permitted level", as recommended by the Noise Act 1996. The obtained assessment finding also to be compared with the criteria for public nuisance, as set down by case law.

## 2.5

The individual assessment set out in this report considers the following issues:

- The specific and, where relevant, the underlying sound levels at, the Pole Position venue (internal and external), Clarence Dock Student Residence (internal), High rise domestic dwelling Chadwick Street (internal) and the Brookfield Hotel (internal) as measured by Acoustic Solutions between 19.30 and 22.30 hours, Wednesday 13<sup>th</sup> October 2010;
- Potential noise sources arising from the events;
- Potential attenuation/mitigation measures;
- Measured at nearby occupied dwellings compared with published sound level recommendations;
- Measured noise levels at nearby occupied dwellings compared with statutory nuisance criteria.

All of the above assessments have been addressed as appropriate. Sound measurements were undertaken between 19.30 and 22.30 on Wednesday 13<sup>th</sup> October 2010.

## **2.6 Measurement Locations**

The sound measurements were made within a (approximately) 320 metre radius of the Pole Position venue.

Four measurement locations were selected:

- Pole Position Karting, South Accommodation Road;
- Clarence Dock Student Residence, Clarence Road;
- High rise domestic apartments, Chadwick Street;
- Brookfield Hotel, Hunslet Road.

(Appendix 1)

### **2.6.1 Pole Position Indoor Karting**

An internal and external microphone position was selected. The purpose of the measurements was to establish likely sound levels at source. Internally, the microphone was positioned centrally within the structure, approximately 10 metres from source. The external measurement was taken at a point some 20 metres from the building's western facade.

### **2.6.2 Clarence Dock Student Residence, Clarence Road**

Approximate distance from Pole Position: 320 metres.

An internal microphone position was selected on the 4<sup>th</sup> storey kitchen of Flat 4.1, Block L. The kitchen overlooks Clarence Road, facing the northern facade of the Pole Position venue.

### **2.6.3 High Rise Apartments, Chadwick Street**

Approximate distance from Pole Position: 300 metres.

An internal microphone position was selected on the building's 18<sup>th</sup> storey landing. The landing's window faces south, with a clear, uninterrupted view of the northern facade of the Pole Position venue.



#### **2.6.4 The Brookfield Hotel, Hunslet Road**

Approximate distance from Pole Position: 160 metres.

An internal microphone position was selected on the hotel's ground floor dining room. The dining room's window faces towards the western facade of the Pole Position venue.

#### **2.7**

The area within the 320 metre radius is predominantly industrial in nature. The student residential building and the high rise apartments on Chadwick Street represent the northern boundary of this industrial neighbourhood. Other than the Brookfield Hotel it is not thought that there are any other domestic dwellings in the industrial area.

#### **2.8 Noise Source**

It is proposed that the music events will be held within the large building which currently houses Pole Position Indoor Karting, a go-kart race track. The venue currently hosts go-kart racing. Racing sessions take place up until midnight. It is understood from the operative of Pole Position Indoor Karting that noise from these sessions has not resulted in complaints to Leeds Environmental Health (that is, Leeds Environmental Health has not approached Pole Position Indoor Go Karting regarding noise complaints). The venue also plays host to a number of live and recorded music events. Again, it is understood that these events have not resulted in noise complaints to Leeds Environmental Health.

The Pole Position building measures 42m x 100m x 23m. Its fabric consists of steel frame portal, double brickwork up to 2.5m from ground, with plastic coated steel sheeting risings to the pitched roof. The newly installed (2006) double skin insulated roof is thought to be constructed of this same material as the walls. A series of four 3.5 x 6 metre metal roller shutter doors and two 2 x 2 metre roller shutter doors are located on the building's western facade. In terms of sound insulation it is thought that these roller shutter doors are the building's 'weak spots', offering limited resistance against sound break-out.

It is proposed that music events will take place within the building; however the building's car park, located by its western facade will play host, on a limited number of occasions, to a small fairground. It is thought that the dominant sound likely to occur during events will emanate from music generated by the internal amplification system. This being the case, this report will only directly address the internally generated sound sources.

### **2.8.1**

The identified internal noise-source is the loudspeaker system, through which it is proposed the music will be played. This equipment consists of:

- 32 x NEXO GOS Tops (reproducing noise in the mid to high frequency range);
- 4 x CD18 (sub bass speakers, reproducing noise in the low, typically 63-125 Hz frequency range);
- 4 x CD12 (sub bass speakers, reproducing noise in the low, typically 63-125 Hz frequency range);
- CAMCO vortex 6 Amplifier.

It is proposed that the loudspeakers will be positioned in a circular manner above the centre of the building, which will act as the venue's dance floor. The speakers will be positioned in such a manner that sound will be directed downwards onto the audience. This being the case, direct sound will not impact against the building's structure, although it is accepted that its fabric will be impacted by reverberant or reflected sound. For the purpose of the assessment dance music (i.e. House music), typical of that likely to be played on event nights, was played through the equipment identified above. It should be noted that for the duration of the assessment, all speakers were floor mounted, and it is accepted that this will have resulted in direct sound being directed against the building's facade. This being the case, the sound levels measured during the assessment may be slightly higher than those that would

normally be obtained during an actual event when the sound would be directed onto the building's floor space.

The identified external noise source is the fairground equipment, including the generators required to power said equipment.

### 3.0 Terms of Reference

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The following criteria will be examined in this report:

- Inaudibility
- “The Permitted Level” as defined by the Noise Act 1996
- Statutory Nuisance, as defined by Environmental Protection Act 1990, Section 79

The above criteria will be used to assess the potential noise impact of the proposed music events in terms of public nuisance.

#### 3.1 Inaudibility

In its letter to the applicants, dated 9<sup>th</sup> September 2009, Leeds Environmental Protection Team (LEPT) has made reference to the prevention of public nuisance as the licensing objective that the applicants must adhere to. To this end LEPT has set down eight conditions pertaining to noise and vibration issues; the understanding being that a public nuisance will be prevented if these conditions are adhered to. *Condition 3 states: “Noise from a licensable activity at the premises shall be inaudible at the nearest noise sensitive premises”.* This being the case it can be said that, in the case of this application, LEPT considers audibility to be a test for public nuisance. Since sound levels increase or decrease logarithmically, it can be said that the addition of a sound level to an existing sound level that is 10 dB or greater will not result in an increase in sound. This being the case an introduced sound that is 10 dB or less than an existing sound can be described as “Inaudible”. This definition of inaudibility will be used for the purpose of this report. Where appropriate, a subjective assessment of audibility will also be used by this report.

#### 3.2 “The Permitted Level”, as defined by the Noise Act 1996

The Noise Act 1996 introduced for the first time a night time noise offence relating to noise affecting domestic premises. The stated purpose of the Act is to complement statutory nuisance controls on noise, and as such it can be said that the sound assessment methodology it recommends is helpful in determining nuisance. Its

intention is to provide a swift remedy to the problems of disturbance caused by noise. The offence is based on the exceedence of an objective measured sound level: the “permitted level”. While it is important to note that exceedence of this permitted level should not be taken as an indicator - in itself – of whether a noise is causing a statutory nuisance, it does provide noise practitioners with a useful tool for assessing alleged noise disturbances.

For the purposes of night time offence, the permitted level shall be determined in accordance with the following:

- In any case where the underlying level of noise does not exceed 25 dB, the permitted level shall be 35 dB;
- In any case where the underlying level of noise exceeds 25 dB, the permitted level shall be 10 dB in excess of that underlying level.

For the purpose of this assessment, the methodology prescribed in the Noise Act 1996 was used.

### **3.3 Statutory Nuisance**

Environmental Protection Act 1990, Section 79 part *g* defines a statutory noise nuisance as “*noise emitted from a premise so as to be prejudicial to health or a nuisance*”. Case law has established a number of criteria that must be satisfied in order to show that a statutory nuisance is being caused to the occupiers of dwellings subjected to the noise in question. These criteria are:

#### **3.3.1 Character of the Neighbourhood**

When determining nuisance it is necessary to assess the appropriateness of the noise source to the neighbourhood in which it is located. For instance, an industrial noise source (such as a foundry) would be more likely to have nuisance potential if it were located in a rural, wholly residential area rather than if it were located in an urban, mostly industrial neighbourhood.

### **3.3.2 Standard of Comfort**

It can be said that noise must affect the recipient's 'normal' standard of comfort for it to be considered a nuisance. Such a perquisite would exclude those persons who display an over-sensitivity to noise or a *particular* noise. For instance, the fact that the daytime sleep of a person working night shifts is being disturbed by a noise would not necessarily mean that the noise in question is a nuisance.

### **3.3.3 Time and Duration**

The time of day at which an alleged noise nuisance is occurring is a factor when determining nuisance. Usually this means night time noise, and is linked to sleep disturbance. Equally, the time period (measured in minutes, hours, days or even weeks) over which the noise persists must be considered.

### **3.3.4 Motive**

Proof of malice or revenge on the part of the noise-maker is treated as compelling evidence that a nuisance exists. Conversely, proof of malicious noise-related complaints is usually compelling evidence that a nuisance is not occurring.

### **3.3.5 Level of Interference**

Material interference such as the loss, for instance, of sleep or privacy must be proven. However, as stated earlier, only the interference to person's *normal* pattern of behaviour is evidence of a nuisance.

### **3.3.6 Reasonableness**

Evidence that the noise-maker is being unreasonable is important when determining a nuisance. For example, DIY work conducted in the early hours of the morning would be considered unreasonable, as would evidence that the noise's author has made no reasonable attempts to address the problem. Alternately, proof that unreasonable complaints were being made would usually militate against nuisance.

## **4.0 Environmental Noise Assessment**

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### **4.1**

An Environmental noise impact assessment was undertaken between 19.30 and 22.30 hours on Wednesday 13<sup>th</sup> October 2010. The assessment adhered to the methodology set out in the Noise Act 1996.

### **4.2**

The measurements are described below

### **4.3 Measurement Positions**

#### **4.3.1 Pole Position Indoor Karting, South Accommodation Road**

Internally, the microphone was positioned centrally within the structure. The external measurement was taken at a point some 20 metres from the building's western facade. For all measurements the microphone's diaphragm was positioned facing the site of the sound source at a height of 1.5 m from the ground and 5 m from any reflecting vertical surface.

#### **4.3.2 Clarence Dock Student Residence, Clarence Road**

Approximate distance from Pole Position: 320 metres.

An internal microphone position was selected on the 4<sup>th</sup> storey kitchen of Flat 4.1, Block L. The kitchen overlooks Clarence Road, facing the northern facade of the Pole Position venue. For all measurements the microphone's diaphragm was positioned facing the site of the sound source at a height of 1.5 m from the ground and 5 m from any reflecting vertical surface.

#### **4.3.3 High rise Apartments, Chadwick Street**

Approximate distance from Pole Position: 300 metres.

An internal microphone position was selected on the building's 18<sup>th</sup> storey landing. The landing's window faces south, with a clear, uninterrupted view of northern facade of the Pole Position venue. For all measurements the microphone's diaphragm was

positioned facing the site of the sound source at a height of 1.5 m from the ground and 5 m from any reflecting vertical surface.

#### **4.3.4 The Brookfield Hotel, Hunslet Road**

Approximate distance from Pole Position: 160 metres.

An internal microphone position was selected on the hotel's ground floor dining room. The dining room's window faces towards the western facade of the Pole Position venue. For all measurements the microphone's diaphragm was positioned facing the site of the sound source at a height of 1.5 m from the ground and 5 m from any reflecting vertical surface.

#### **4.4 Equipment** (Appendix 4)

#### **4.5 Parameters**

The following SLM parameters were set:

- Frequency weighting – A
- Time weighting – Fast
- Parameters – LAeq, T and L90, T, as appropriate
- *LAeq, T*  
The equivalent continuous sound level – the sound level of a notionally steady sound having the same energy as a fluctuating sound over a specified measurement period, T. LAeq, T is used to describe many types of noise and can be measured directly with an integrating sound level meter.
- *LA90, T*  
The A-weighted noise level exceeded for 90% of the specified time period, T. LA90, T is often used to define the background noise level.



## **4.6**

The weather during the measurement period was satisfactory, being dry. Wind speeds were light; however a windshield was for all external measurements.

## **4.7 Measurements**

### **4.7.1 Pole Position (Internal Measurement)**

19:56- 20:01hours.

A single 5 minute LAeq measurement was taken. Music generated by the amplification system described in Paragraph 2.8.1 was playing during the measurement.

### **4.7.2 Pole Position (External Measurement)**

20.15 – 20.20

20.21 – 20.26 hours.

Two 5 minute LAeq measurement was taken. Music generated by the amplification system was playing during the first measurement. No music was playing during the second measurement.

### **4.7.3 Clarence Dock Student Residence, Clarence Road (Internal Measurement)**

20.45 – 20.50

20.51 – 20.56 hours.

Two 5 minute LAeq measurement was taken. Music generated by the amplification system was playing during the first measurement. No music was playing during the second measurement. The window facing the noise source remained open at the time of the assessment

### **4.7.4 High rise domestic apartments, Chadwick Street (Internal Measurement)**

21.18 – 21.23

A single 5 minute LAeq measurement was taken. Music generated by the amplification system was playing during the measurement. The window facing the noise source remained closed at the time of the assessment

#### **4.7.5 Brookfield Hotel, Hunslet Road (Internal Measurement)**

21.45 - 21.50

21.51 – 21.56

Two 5 minute LAeq measurement was taken. Music generated by the amplification system was playing during the first measurement. No music was playing during the second measurement. The window facing the noise source remained closed at the time of the assessment

## **5.0 Results**

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The full survey results are presented in Appendix 5

### **5.1 Assessment Results compared with the Assessment Criteria**

In terms of the assessment criteria, the report will restrict itself to identified noise sensitive locations. This being the case, sound measurements taken at the Pole Position venue will not be discussed.

#### **5.1.2 Inaudibility**

##### **5.1.2.1 Clarence Dock Student Residence, Clarence Road**

Subjectively the music playing at Pole Position Indoor Karting was audible at the microphone position. This said, it was quiet and indistinct to the extent that it was not possible to determine either the tune or any lyrics.

Audibility is reflected by the measured data, where the specific sound level (that is, the sound level in the presence of music playing) was measured as being 5.5 dB greater than the underlying sound level. This being the case, the sound level failed to meet the Inaudibility criterion.

##### **5.1.2.2 High Rise Domestic Apartments, Chadwick Street**

Subjectively the music playing at Pole Position Indoor Karting was inaudible at the microphone position. This being the case, the sound level met the Inaudibility criterion.

##### **5.1.2.3 Brookfield Hotel, Hunslet Road**

Subjectively the music playing at Pole Position Indoor Karting was audible at the microphone position. This said, the music was indistinct to the extent that it was not possible to determine either the tune or any lyrics.

Audibility is reflected by the measured data, where the specific sound level (that is, the sound level in the presence of music playing) was measured as being 8.4 dB greater than the underlying sound level. This being the case, the sound level failed to meet the Inaudibility criterion.

### **5.1.3 “The Permitted Level”, as defined by the Noise Act 1996**

#### **5.1.3.1 Clarence Dock Student Residence, Clarence Road**

The underlying sound level measured exceeded 25 dB. The specific sound level exceeded the underlying level by 5.5, rounded up to 6 dB. This is less than the +10 “Permitted Level”, and as such, the sound level met the “Permitted Level” criteria, and would not be actionable in the event of an actual music event.

#### **5.1.3.2 High Rise Domestic Apartments, Chadwick Street**

Given that the music emanating from the Pole Position venue was inaudible at the microphone position, it was not thought necessary to undertake a measurement of underlying sound levels at this site. In any event, inaudibility would guarantee that the sound level met the “Permitted Level” criteria, and would not be actionable in the event of an actual music event.

#### **5.1.3.3 Brookfield Hotel, Hunslet Road**

The underlying sound level measured exceeded 25 dB. The specific sound level exceeded the underlying level by 8.4, rounded down to 8 dB. This is less than the +10 “Permitted Level”, and as such, the sound level met the “Permitted Level” criteria, and would not be actionable in the event of an actual music event.

## **5.1.4 Statutory Nuisance**

### **5.1.4.1 Character of the Neighbourhood**

All properties discussed in this report are located in or at the edge of a predominantly industrial area. This would militate against nuisance.

### **5.1.4.2 Standard of Comfort**

#### **Clarence Dock Student Residence, Clarence Road**

The music was audible at the microphone position, however it is not thought that the noise level will be of a significance to adversely affect the standard of comfort at these dwellings. This would militate against nuisance.

#### **High Rise Domestic Apartments, Chadwick Street**

The music was not audible at the microphone position. This would militate against nuisance.

#### **Brookfield Hotel, Hunslet Road**

The music was audible at the microphone position, with its bass content being clearly distinctive. Subjectively, it is thought that the level witnessed is likely to result in sleep disturbance to the occupiers of the Brookfield Hotel. This would militate for nuisance.

### **5.1.4.3 Time and Duration**

It is proposed that the music events will take place a maximum of twenty times per calendar year, although it is understood that in reality the number will be less than this. Additionally the proposed event length will be nine hours: 21.00 – 06.00 hours. The nine hour duration of the event and the time of day would create the potential for nuisance at the Brookfield Hotel. It is thought unlikely that a nuisance would be caused at any of the other identified noise sensitive locations.

### **5.1.4.4 Motive**

There is no evidence that the applicants are motivated by any form of malice or revenge toward the residents of the noise sensitive locations identified.

#### **5.1.4.5 Level of Interference**

Issues of sleep loss are likely to be a factor for residents of the Brookfield Hotel.. This would militate for nuisance.

#### **5.1.4.6 Reasonableness**

In terms of nuisance, the property most likely to be affected is the Brookfield Hotel. It is understood that the event organiser has entered into an agreement with the hotel's owner that to the effect that on the evening of each event it will make a block booking of all the hotel's rooms, thus to negate any likelihood of nuisance being caused at this property. Furthermore the organiser has employed the services of Acoustic Solutions to make further sound attenuation recommendations should a premises licence be granted.

## **6.0 Errors and Accuracy**

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### **6.1**

The investigation was conducted using the methodology as prescribed by Noise Act 1996.

### **6.2**

The sound level meter was calibrated before and after all measurements, whereupon no significant deviation was noted.

### **6.3**

A deviation in the methodology has occurred insomuch that the night time noise impact assessment was undertaken between the hours of 19.30 and 22.30. The Noise Act 1996 defines night time as the period 23.00 to 07.00.

### **6.4**

The noise impact assessment undertaken on 13<sup>th</sup> October 2010 has addressed itself solely to sound emanating from internally generated music. It is accepted that some limited external noise sources will be in-situ during some events, however it is predicted that the internally generated music will create a sound level in the building's car park that will be sufficient to effectively mask any externally generated noise (i.e. fairground-related noise).

## 7.0 Conclusions

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### 7.1

In accordance with the brief, a night time noise impact assessment was undertaken on Wednesday 13<sup>th</sup> October 2010, between 19.30 and 22.30 hours. The assessment was undertaken to determine the potential for a public nuisance to occur within the vicinity of Pole Position Indoor Karting, South Accommodation Road, Leeds as a result of proposed music events at this site.

### 7.2

The inaudibility criterion raised by HEAS will not be met at Clarence Dock Student Residence, Clarence Road or the Brookfield Hotel on Hunslet Road. The criterion was met at the High Rise Domestic Apartments, Chadwick Street.

### 7.3

The "Permitted Level" criterion, as defined by the Noise Act 1996 was met at all the assessment locations.

### 7.4

The event will not cause a statutory nuisance to the occupiers of Clarence Dock Student Residence, Clarence Road or the High Rise Domestic Apartments, Chadwick Street.

There is the potential for a statutory nuisance to occur at the Brookfield Hotel; this being the closest occupied dwelling the Pole Position venue. However a statutory nuisance at this address would be predicated on the fact of whether the Brookfield Hotel was occupied at the time of any given event. It understood that the organiser has entered into an undertaking with the hotel owner that all rooms will be booked by Magicfly Limited on the evening of each event. This being the case, there will be no persons at the Brookfield Hotel to be 'nuisanced'. Case law (*Wivenhoe Port v Colchester BC [1985]*) states that "*a statutory nuisance has to be one interfering materially with the personal comfort of residents*"; this is to say, persons have to be present for a nuisance to be said to occur. If the Brookfield Hotel remains



unoccupied by residents during music events, a nuisance cannot be said to be occurring there.

#### **7.4**

Public nuisance is defined in common law as *“an act not warranted by law, materially affecting the reasonable comfort of a class of Her Majesty’s subjects ..”* The criteria set down by case law is similar to that described in Paragraph 3.3 of this report, and has been described as an elastic process where interests and factors compete with one another. Furthermore, case law has determined that, for a public nuisance to be said to occur, thirty persons or more must be caused a nuisance.

#### **7.5**

In terms of public nuisance, this report disputes the contention that the mere audibility of music emanating from the event will result in a public nuisance. To contend that audibility will result in a nuisance is too simplistic.

#### **7.5**

It is understood that HEAS has cited “predicted noise levels based on similar music venues” to predict the likelihood of a statutory nuisance. Whilst predictions do have a place in acoustics and noise assessments, this report’s findings are based upon empirical data gathered at the site of the proposed event, of music generated by the same equipment that is to be used should a premises licence be granted.

#### **7.6**

The assessment has determined that a public nuisance will not be caused by the proposed events. The conclusion has been derived by the fact that less than thirty persons are likely to be nuisanced, and that a scheme has been suggested by the organiser to negate the occurrence of a nuisance at the nearest property, the Brookfield Hotel. Furthermore it is argued that this agreement can be made fully enforceable by the adoption of the proposed condition contained within box P, page 13 of the applicant’s application form, dated 23<sup>rd</sup> August 2010 which states:

*“The premises will be risk assessed for each event by the Premises Licence Holder and risk assessments will be provided to the West Yorkshire Police, West Yorkshire fire Service and Leeds City Council Environmental Health Officer. The Event will not take place until agreement has been reached with these authorities.”*

## **7.7**

The sound levels measured at all identified noise sensitive properties will pertain on the condition that the internal sound level of the music at the Pole Position venue does not exceed 96 dB, LAeq, 5 min.

## **8.0 Recommendations**

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### **8.1**

Magicfly Limited undertakes to limit internal, dance floor sound levels to 96 dB, LAeq, 5 min for all music events at Pole Position Indoor Karting. Additionally the sound level in the 63 Hz third octave band frequency should not exceed 94 dB, LAeq, 5 min.

Provision should be made for the reduction of music noise, either by reducing the overall sound level, or by reducing the sound level at those individual frequencies that have the potential to cause a disturbance.

### **8.2**

Consideration should be given to the number, location and mounting of loudspeakers so that internal music sound levels within the function room can be kept as low as possible, and the transmission of structure-borne noise is minimalised. To this end, no loud speakers should be mounted near the external facades. It is thought that the loudspeaker configuration proposed for the Pole Position venue will meet this recommendation.

### **8.3**

Magicfly Limited undertakes to conduct a block booking of all rooms at the Brookfield Hotel, Hunslet Road as part of its licensing conditions. Bookings to coincide with all music events at Pole Position Indoor Karting organised by Magicfly Limited.

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**ENVIRONMENTAL SOUND IMPACT ASSEMENT  
CONDUCTED AT AND IN THE VICINITY OF:**

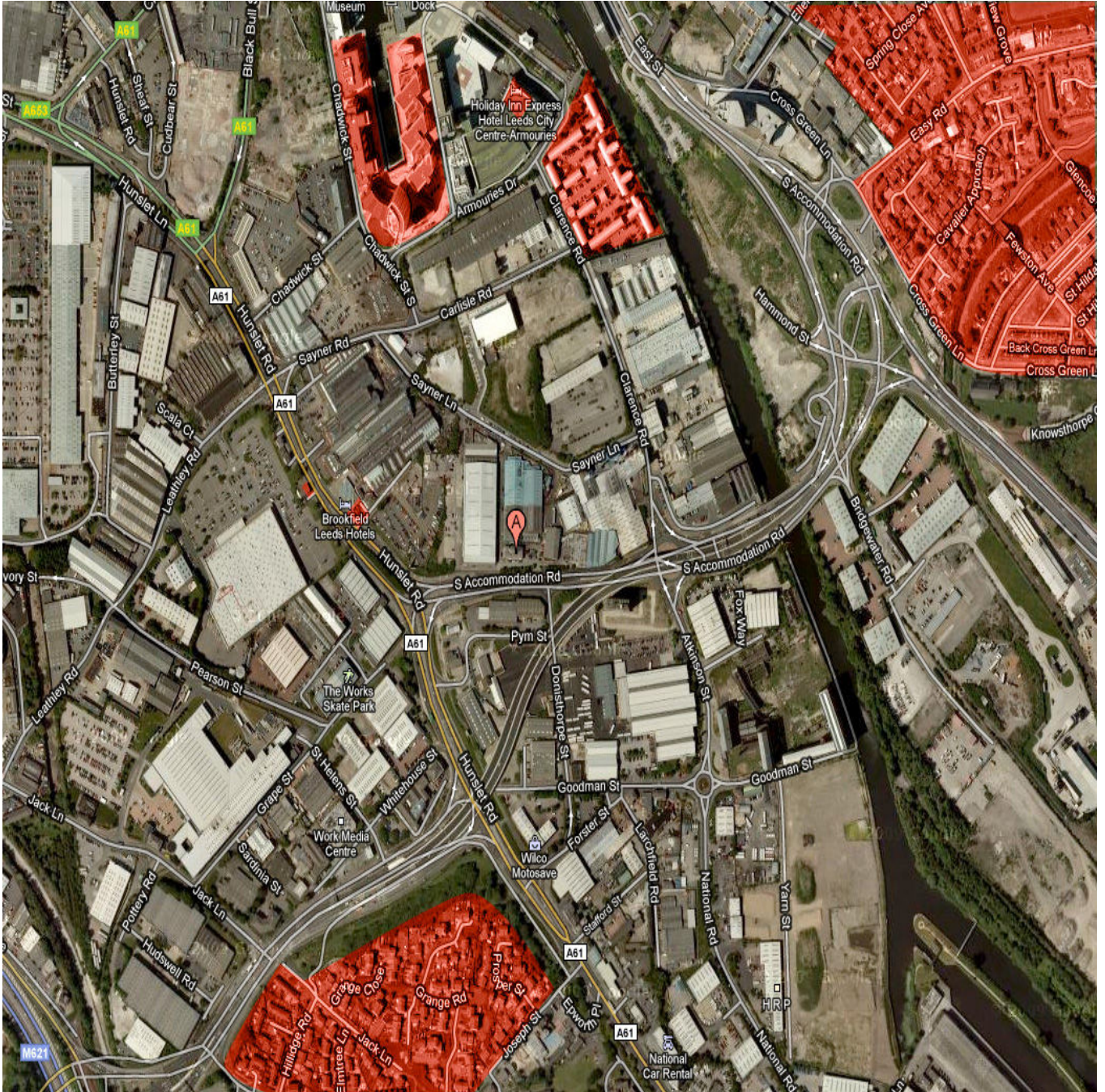
**POLE POSITION INDOOR KARTKING, SOUTH ACCOMMODATION  
ROAD, LEEDS LS 10 1NQ**

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**APPENDICES**

# APPENDIX ONE

## **ARIEL PHOTOGRAPH SHOWING THE LOCATION OF POLE POSITION INDOOR KARTING IN RELATION TO IDENTIFIED NOISE SENSITIVE PROPERTIES**



## APPENDIX TWO

### LETTER FROM LEEDS ENVIRONMENTAL HEALTH, DATED 9<sup>TH</sup> SEPTEMBER 2010



Ms Carole Collingwood  
Walker Morris  
Kings Court  
12 King Street  
Leeds  
LS1 2HL

Environmental Protection Team  
Leeds City Council  
Kent Road  
Pudsey  
Leeds  
LS28 9BN

Contact: Mrs. Vanessa Holroyd  
Tel: 0113 214 6251  
Fax: 0113 214 6250  
vanessa.holroyd@leeds.gov.uk  
Our reference: PREM/02940  
9 September 2010

Dear Madam

#### **Licensing Act 2003**

**Name of Premises: Pole Position Indoor Karting**

**Address: South Accommodation Road, Hunslet, Leeds, LS10 1PS**

Thank you for submitting your application for the above premises.

Leeds City Council's health and environmental action service (HEAS) is of the opinion that your application contains insufficient information about how you intend to meet the licensing objective of the prevention of public nuisance. We therefore confirm that we are submitting a formal objection to your application.

However you could meet this objective by incorporating certain identified measures within your operating schedule. Therefore, please find enclosed a document which at part 1 contains the suggested measures which we consider are proportionate and appropriate to the nature of your application.

If you are in agreement with the suggested measures then please complete and sign part 2 of the enclosed form and return the complete document to me as soon as possible. Once we receive this it will be taken that you wish the licensing authority to amend your operating schedule to incorporate the proposed measures. If you have any questions please do not hesitate to contact me.

If you disagree with the suggested measures, then please complete part 3 and return the complete document to me as soon as possible.

[www.leeds.gov.uk](http://www.leeds.gov.uk)

general enquiries 0113 222 4444



## **APPENDIX THREE**

### **LETTER FROM LEEDS ENVIRONMENTAL HEALTH, DATED 22nd SEPTEMBER 2010**

Dear Sir

**Application for a Variation in Licensed Activity**

**Name of Venue: Pole Position Indoor Karting**

**Address: South Accommodation Road, Hunslet, Leeds, LS10 1PS**

I refer to my representation dated 9<sup>th</sup> September 2010 and a meeting held on 17<sup>th</sup> September 2010 with Chris Rees-Gay, your client Jim Albentosa and my colleague Mike Bird at Pole Position to discuss how Mr. Albentosa intends to meet the licensing objective of the prevention of public nuisance.

Mr. Bird and I have discussed at great length your proposals and have taken advice from our Senior Scientific Noise Officer, Simon Clothier and Brian Kenny, Environmental Protection Manager.

Using Predicted noise levels based on similar music venues, the location of existing noise sensitive premises and the structure and fabric of the building we consider it is highly probable that the events applied for will give rise to public nuisance. Even though Mr Albentosa has considerable experience of successfully promoting and running large events we do not believe that your proposals/amendments will prevent public nuisance. Therefore we cannot agree to your amendments as it is our professional opinion that all our proposed conditions are essential for the premises to meet the licensing objective.

Yours faithfully

Mrs Vanessa Holroyd  
Senior Environmental Health Officer



## **APPENDIX FOUR**

### **EQUIPMENT USED FOR THE ASSESSMENT**

Noise measurements were undertaken using a precision grade sound level meter:

Larson Davis 824 Model integrating sound level meter.

Serial Number 0758

Certificate Number 12308

Last Laboratory Calibrated 12/9/09

Larson Davis CRL 5.11D Model calibrator

Serial Number 5760

Certificate 13207U

Last Laboratory Calibrated 22/3/09

Bruel & Kjaer Type 4224 Sound Source

Serial Number 1395575

The Sound Level Meter was calibrated before and after both measurement periods, with no significant change in calibration. All calibrations took place at the measurement position.

The SLM met the requirements of BS EN 60651: 1994 and BS EN 60804: 2001 IEC 60804: 2000. It was capable of simultaneously measuring Leq and Ln values. Batteries for the SLM and calibrator were checked prior to all measurements.

## **APPENDIX FIVE**

### **SOUND ASSESSMENT RESULTS**

<b>Measurement Location</b>	<b>Specific Noise Level, dB, LAeq, 5 min</b>	<b>Underlying Noise Level, dB, LAeq, 5 min</b>	<b>Difference, dB</b>
Pole Position (internal)	95.8	N/A	N/A
Pole Position (external)	74.5	53.5	21
Student Residence (internal)	49.6	44.1	5.5
High Rise Apartments, Chadwick Street (internal)	38.6	N/A	N/A
Brookfield Hotel (internal)	40	31.6	8.4

#### **1.0 Subjective Assessment**

##### **1.1 Pole Position Indoor Karting (Specific Noise - Internal Measurement)**

Microphone positioned in the centre of the building's floor space, approximately 10 metres from the noise source.

Subjectively the dominant noise was the music being played.

##### **1.2 Pole Position Indoor Karting (Specific Noise - External Measurement)**

Subjectively the dominant noise was the music being played. It is thought that the music sound level would effectively mask other potential external sound sources (i.e. fairground associated plant).

##### **1.3 Pole Position Indoor Karting (Underlying Noise - External Measurement)**

Subjectively the dominant noise was sporadic road traffic using South Accommodation Road, and a single overflying aeroplane.

##### **1.4 Clarence Dock Student Residence (Specific Noise - Internal Measurement)**

Subjectively the dominant noise source was the central heating system serving the kitchen. The music from the Pole Position was audible, but only vaguely so; its sound energy being effectively attenuated by a combination of distance and the number of buildings in the intervening space acting as sound barriers.

##### **1.5 Clarence Dock Student Residence (Underlying Noise - Internal Measurement)**

Subjectively the dominant noise source was the central heating system serving the kitchen.

**1.6 High Rise Apartments, Chadwick Street (Specific Noise - Internal Measurement)**

Subjectively the music from the Pole Position venue was inaudible. The dominant noise was sporadic road traffic using South Accommodation Road, and overflying aeroplanes.

**1.7 Brookfield Hotel (Specific Noise - Internal Measurement)**

Subjectively the bass content of the noise was clearly audible; the music's higher frequency content having being effectively filtered out by the dining room's window.

**1.8 Brookfield Hotel (Underlying Noise - Internal Measurement)**

Subjectively the dining room was very quiet. There were no audible noise sources.

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