

# REVIEW OF NOISE ISSUES

LANCASHIRE CRICKET B&Q SITE

PLANNING APPEAL REF APP/Q4245/W/20/3258552

VC-103597-EA-RP-001

R02

9<sup>TH</sup> AUGUST 2021

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**DOCUMENT CONTROL**

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**REVISION HISTORY**

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## EXECUTIVE SUMMARY

Vanguardia Ltd has been appointed to advise Lancashire County Cricket Club (LCCC) in relation to the noise issues arising from the following planning application made to Trafford Council:

*100400/OUT/20 | The demolition of existing retail unit and associated structures; erection of buildings for a mix of use including: 333 apartments (use class C3) and communal spaces ancillary to the residential use; flexible space for use classes A1, A3, D1 and/or D2; undercroft car parking; new public realm; and associated engineering works and infrastructure | Former B&Q Site Great Stone Road Stretford M32 OYP*

Following the refusal of a similar application in 2018, Accrue Capital submitted the above revised planning application, which was validated on 16 April 2020. The revised application proposed a reduction in the height of the development from the 2018 Application by proposing two residential blocks of apartments between four and nine storeys in height above basement parking, adjacent to the LCCC cricket ground.

Accrue have submitted an appeal to the Planning Inspectorate (“PINS”) for non-determination of the revised application before it had been determined by the Council.

LCCC was founded 157 years ago and the Old Trafford cricket ground is an essential part of the UK’s sporting infrastructure with four day county and five day test matches, one day games and floodlit T20 and 100 ball games in the evening. However, the LCCC site is not exclusively used for sport and the site hosts a number of large concerts with loud amplified music every year, and other noise generating non-sporting uses such as conferences, exhibitions and social functions. Consequently, the proposed development site’s close proximity to the ground means it is inappropriate for large scale residential development, as there will be conflicts in relation to noise, lighting etc. at the LCCC that could result in LCCC being constrained from carrying out its existing activities and any future expansion or changes to its operations.

Consequently, the Agent of Change principle from the National Planning Policy Framework (NPPF), as expanded upon in the National Planning Practice Guidance (NPPG), applies to the proposed scheme. The Agent of Change principle places the responsibility for mitigating impacts from existing noise-generating activities or land uses on the proposed new noise-sensitive development. In other words, the person or business responsible for the change is also responsible for managing the impact of the change so that established noise generating land uses can continue and potentially expand without hinderance.

This document provides a review and responses to the noise impact assessment submitted in support of the proposed development. A summary of the review is provided below.

- The noise assessment accompanying the application does not appropriately assess all sources of sound emitted from LCCC. For example, the surveying of noise emissions from LCCC only covers one form of cricket and was carried out in a location where screening meant the measured levels would underestimate the likely impacts on the proposed scheme. In addition, the assessment only mentions 1 to 2 large noisy concerts a year and on that basis considers that no mitigation of the loud music noise levels that would affect the proposed scheme need be incorporated into the scheme. Whereas the LCCC is permitted to have up to 7 large scale concerts and year, and it is vital that the scheme includes mitigation in its design and construction to avoid significant adverse effects from the resulting loud music noise levels that would affect the proposed scheme.
- The proposed mitigation is inadequate to meet the policy aims of avoiding significant adverse effects, mitigating and minimising adverse effects and ensuring new noise sensitive uses can integrate effectively with existing noise generating activities and land uses without prejudicing the on-going operation and future development of those sources. As a result, the Agent of Change principle from national and local planning policy and guidance has not been satisfied.
- The main means of mitigation suggested in the noise impact assessment is to for the proposed scheme to provide acoustic glazing so that windows can be kept closed against road traffic and tram noise. This will inevitably compromise ventilation and make overheating likely. However, no assessment is made of ventilation and overheating and no mitigation measures for these issues are discussed in the noise report or provided in a standalone report in the documents listed for the scheme on the Trafford Council web site.
- The noise report says it is not possible to wholly mitigate the concert noise, in which case the scheme should not go ahead. However, this is not correct. Concert noise can be mitigated by implementing robust measures such as acoustic double and triple glazing, wintergardens, and mechanical ventilation and means of controlling overheating, as carried out in housing schemes constructed near to Wembley Stadium. There will be significant minimum construction standards and therefore additional costs for acoustics to allow the scheme to mitigate these impacts adequately, particularly as the concert and floodlit cricket activities at LCCC are likely to increase rather than decrease in future.

## 1. NOISES GENERATED AT LCCC

- 1.1. LCCC is an established nationally significant sports ground with a long history of hosting Cricket and other events for the last 157 years.
- 1.2. In the last 10 to 15 years the LCCC ground has undergone substantial changes with old facilities and buildings demolished, and new buildings and stands erected.
- 1.3. There has also been a parallel change in how the ground is used when cricket is not underway, with many activities other than cricket taking place.
- 1.4. The gentle sound of willow on leather is synonymous with cricket, but modern cricket in a 20,000-capacity stadium is not a quiet activity. The list below provides an outline of the sources of noise emitted from the LCCC ground:
  - **Concerts** - 7 concerts a year at 55,000-person capacity are authorised by the premises licence until 2230 hrs. Historically, only 2 or 3 a year have occurred, but next year up to 5 are already planned, and the long-term plan is for more concerts than in the past. These concerts consist of around 8 or 9 hours of amplified music at audience levels of around 101 dBA up to 2230 hrs, plus crowd noise during the event and dispersal after the event finishes. The permitted music noise level (MNL) at existing noise receptors is 80 dB LAeq,15 min, which is higher than any other equivalent venue in the UK. However, due to attenuation from the relatively new stands and buildings plus temporary screening being installed between the new stands and buildings, in practice MNLs are rarely more than around 73 dBA at the worst affected properties along Trent Bridge Walk, which are no more than two storeys high. It is predicted that the noise level from concerts at the north-eastern façade and the northern façade of the proposed appeal scheme i.e. facing and parallel to the cricket ground, will exceed 80 dB LAeq above the 2<sup>nd</sup> storey up to the top floor, as there will be no screening of the stage and PA at these heights, and the proposed scheme will be closer than the existing houses on Trent Bridge Walk to the stage and PA (as discussed further on in this report).
  - **International T20** – Late afternoon and evening games. 10,000 to 15,000 crowd. Increased crowd noise, regular use of PA for musical “stings” i.e. 30 second bursts of music for boundaries, wickets etc. to around 85 dBA in the stands. However, some games can be louder as the crowd are enthusiastic supporters of their particular team and bring horns and musical instruments to generate near constant loud noise e.g. the recent England Vs Pakistan game on the 20<sup>th</sup> July 2021 – see coverage of the game at <https://www.youtube.com/watch?v=VuoSaVFds-g> , or download the footage at

<https://wettransfer.com/downloads/01b768f4c106804d7e9a5344819bb89d20210803115414/548237f1fe2fc6064d52cf05d631f51f20210803115440/08ef7b>

- **International one day** – 1 game per year into the early evening. 15,000 to 20,000 crowd. Increased crowd noise, regular use of PA musical “stings” i.e. 30 second bursts of music for boundaries, wickets etc. to around 85 dBA in the stands.
- **I day 50 over** - 4 games per year into the early evening. Average crowd 10,000. Medium crowd noise, regular use of PA musical “stings” i.e. 30 second bursts of music for boundaries, wickets etc. to around 85 dBA in the stands.
- **20/20** - 7 home games including against Yorkshire with a full house at 20,000, average crowd 10,000 for other games. Increased crowd noise, regular use of PA musical “stings” i.e. 30 second bursts of music for boundaries, wickets etc to around 85 dBA in the stands.
- **100** - Double headers (men’s and women’s games one after the other) that run from around 2.30pm to about 9.00pm. 5000 to 10,000 crowd. Moderate crowd noise, regular use of PA musical “stings” i.e. 30 second bursts of music for boundaries, wickets etc. to around 85 dBA in the stands
- **Test games** - 1 per year of at least 4 days but could be up to five days. 20,000 capacity crowd. Maximum crowd noise, with occasional PA use to around 75 dBA in the stands at fall of wicket etc.
- **County cricket games** - 7 home games of 4 days each into the early evening. Crowd noise from with occasional PA use to around 75 dBA in the stands at fall of wicket etc.
- **Women’s cricket games** - 3 to 4 days of either 50 over or T20 cricket each into the early evening. Crowd noise with occasional PA use to around 75 dBA in the stands at fall of wicket etc.
- **Reserve/Second Eleven** - 3 home games of 4 days each into the early evening. reduced crowd noise with occasional PA use to around 75 dBA in the stands at fall of wicket etc.

1.5. In addition to the above activities, various parts of the LCCC are used to hold conferences, workshops, exhibitions, work based social events and family celebrations etc. These take place inside different buildings, some of which are not particularly well noise insulated and can “leak” noise from parties etc. Noise is also generated when those attending such functions leave the premises and disperse, which can be late in the evening and into the night period.

## 2 . P O L I C Y

### NATIONAL

#### NOISE POLICY STATEMENT FOR ENGLAND (NPSE)

- 2.1. NPSE seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. The statement applies to all forms of noise, including environmental noise, neighbour noise and neighbourhood noise.
- 2.2. The statement sets out the long term vision of the Government's noise policy, which is to "promote good health and a good quality of life through the effective management of noise within the context of policy on sustainable development".
- 2.3. The policy promotes the effective management and control of noise, within the context of Government policy on sustainable development and thereby aims to:
  - avoid significant adverse impacts on health and quality of life;
  - mitigate and minimise adverse impacts on health and quality of life; and
  - where possible, contribute to the improvements of health and quality of life.
- 2.4. The statement adopts established concepts from toxicology that are currently being applied to noise impacts. The concept details noise levels, at which the effects of an exposure may be classified into a specific category. The classification categories as detailed within the NPSE are as follows:
- 2.5. No Observed Effect Level (NOEL) - the level below which no effect can be detected. Below this level no detectable effect on health and quality of life due to noise can be established;
- 2.6. Lowest Observable Adverse Effect Level (LOAEL) - the level above which adverse effects on health and quality of life can be detected; and
- 2.7. Significant Observed Adverse Effect Level (SOAEL) - the level above which significant adverse effects on health and quality of life occur.
- 2.8. It is recognised that SOAEL does not have a single objective noise-based level that is applicable to all sources of noise in all situations and therefore the SOAEL is likely to be different for different sources, receptors and at different times of the day.



- 2.9. No guidance has been issued at the time of writing to identify the noise levels that represent SOAEL and LOAEL for typical noise sources and receptors. Instead, sound level values must be derived for these policy concepts for each noise source, and justified in terms of existing standards and guidance, and the core principles of acoustics.

### NATIONAL PLANNING POLICY FRAMEWORK (NPPF) (JULY 2021)

- 2.10. The NPPF applies to the proposed appeal scheme in two ways e.g.

- Noise impacts on the new residents from existing noise sources e.g. road traffic and LCCC cricket ground.
- Risks to the continued operation of the cricket club should the new residents raise complaints of noise disturbance.

- 2.11. The parts of the NPPF that cover these considerations are discussed below.

#### **Noise impacts on the new residents from existing noise sources**

- 2.12. Paragraph 185 of the NPPF July 2021 advises that:

185. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life<sup>65</sup>;
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Footnote 65 - See Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010).

#### **Risks to the continued operation of the LCCC**

2.13. Paragraph 187 of the NPPF July 2021 advises that:

*“187. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”*

## NATIONAL PLANNING PRACTICE GUIDANCE (NPPG)

2.14. The NPPG at Paragraph: 003 Reference ID: 30-003-20190722 Revision date: 22 07 2019 advises that when dealing with noise aspects of planning applications Local Planning Authorities should "consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved”.

2.15. Like the NPPF and NPSE, the NPPG does not contain any noise level decibel based standards or guidelines.

2.16. At Paragraph: 006 Reference ID: 30-006-20190722 Revision date: 22 07 2019, the NPPG recognises that “The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation.” And that,

“These factors include:

- *The source and absolute level of the noise together with the time of day it occurs. Some types and level of noise will cause a greater adverse effect at night than if they occurred during the day – this is because people tend to be more sensitive to noise at night as they are trying to sleep. The adverse effect can also be greater simply because there is less background noise at night;*
- *for a new noise making source, how the noise from it relates to the existing sound environment;*
- *for non-continuous sources of noise, the number of noise events, and the frequency and pattern of occurrence of the noise;*

- *the spectral content of the noise (i.e. whether or not the noise contains particular high or low frequency content) and the general character of the noise (i.e. whether or not the noise contains particular tonal characteristics or other particular features), and;*
- *the local arrangement of buildings, surfaces and green infrastructure, and the extent to which it reflects or absorbs noise.*

*More specific factors to consider when relevant include:*

- *the cumulative impacts of more than one source of noise;*
- *whether any adverse internal effects can be completely removed by closing windows and, in the case of new residential development, if the proposed mitigation relies on windows being kept closed most of the time (and the effect this may have on living conditions). In both cases a suitable alternative means of ventilation is likely to be necessary. Further information on ventilation can be found in the Building Regulations.*
- *In cases where existing noise sensitive locations already experience high noise levels, a development that is expected to cause even a small increase in the overall noise level may result in a significant adverse effect occurring even though little to no change in behaviour would be likely to occur.*
- *Noise Action Plans (where these exist), and, in particular the Important Areas identified through the process associated with the Environmental Noise Directive and corresponding regulations should be taken into account. Defra's website has information on Noise Action Plans and Important Areas. Local authority environmental health departments will also be able to provide information about Important Areas.*
- *the effect of noise on wildlife. Noise can adversely affect wildlife and ecosystems. Particular consideration needs to be given to the potential effects of noisy development on international, national and locally designated sites of importance for biodiversity;*
- *where external amenity spaces are an intrinsic part of the overall design, the acoustic environment of those spaces should be considered so that they can be enjoyed as intended.*
- *some commercial developments including restaurants, hot food takeaways, night clubs and public houses can have particular impacts, not least because activities are often at their peak in the evening and late at night. Local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the noise that may be made by customers in the vicinity. "*

2.17. The NPPG discusses at paragraph: 007 Reference ID: 30-007-20190722 whether LPAs can set noise standards and advises the following:

*“Plans may include specific standards to apply to various forms of proposed development and locations in their area. Care should be taken, however, to avoid these being applied as rigid thresholds, as specific circumstances may justify some variation being allowed.”*

- 2.18. The NPPG provides advice on how the risk of conflict between new development and existing businesses or facilities be addressed in Paragraph: 009 Reference ID: 30-009-20190722 as follows:

*“Development proposed in the vicinity of existing businesses, community facilities or other activities may need to put suitable mitigation measures in place to avoid those activities having a significant adverse effect on residents or users of the proposed scheme.*

*In these circumstances the applicant (or ‘agent of change’) will need to clearly identify the effects of existing businesses that may cause a nuisance (including noise, but also dust, odours, vibration and other sources of pollution) and the likelihood that they could have a significant adverse effect on new residents/users. In doing so, the agent of change will need to take into account not only the current activities that may cause a nuisance, but also those activities that businesses or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made.*

*The agent of change will also need to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified. Adopting this approach may not prevent all complaints from the new residents/users about noise or other effects, but can help to achieve a satisfactory living or working environment, and help to mitigate the risk of a statutory nuisance being found if the new development is used as designed (for example, keeping windows closed and using alternative ventilation systems when the noise or other effects are occurring).*

*It can be helpful for developers to provide information to prospective purchasers or occupants about mitigation measures that have been put in place, to raise awareness and reduce the risk of post-purchase/occupancy complaints.”*

## LOCAL PLAN

- 2.19. The Trafford Council Local Plan considers noise with reference to this case in, as follows.

*L5.14 Where development is proposed close to existing sources of pollution, noise or vibration, developers will be required to demonstrate that it is sited and designed in such a way as to confine the impact of nuisance from these sources to acceptable levels appropriate to the proposed use concerned.*

*14.18 The Borough generally possesses a good quality environment which the Council intends to retain and improve wherever possible. Pollution, noise and vibration damage the environment and should be prevented or mitigated. The Council will use its planning powers as the most effective mechanism to control pollution, noise and vibration at source. Proposals for development close to sources of pollution, noise or vibration will be required to ensure an acceptable environment for users of the development.”*

*L7.3 In relation to matters of amenity protection, development must:*

- *Be compatible with the surrounding area; and*
- *Not prejudice the amenity of the future occupiers of the development and/or occupants of adjacent properties by reason of overbearing, overshadowing, overlooking, visual intrusion, noise and/or disturbance, odour or in any other way.*

2.20. The Trafford Local Plan is undergoing revision and the February 2021 Regulation 18 Consultation Draft included the following relevant proposed policy:

*“EP2.1 Development which is considered to be noise sensitive, such as housing, which will be adjacent to major sources of noise such as roads, railways and industrial premises, must be accompanied by a noise assessment as part of the planning application process. This should include a demonstration of how mitigation measures will be put in place without putting unreasonable restrictions on existing businesses.”*

## TRAFFORD COUNCIL NOISE STANDARDS

2.21. Trafford Council also have a document called “Planning Guidance – Noise Standards” which sets the noise levels the Council wishes to see achieved for new residential housing.

2.22. The document uses the Noise Exposure Categories (NECs) from the now cancelled PPG 24 advice note. The NECs only apply to transportation noise sources or mixture of transportation and industrial noise where neither is dominant. LCCG does not emit transportation like sounds or a mixture of transportation and industrial noise where neither is dominant.

2.23. The document also sets noise levels in living rooms and bedrooms. The quoted range reflects now superseded advice and is higher than current recommendations from the WHO and British Standards, reflecting the age of the document (approved in April 1995). ‘Modern good practice’<sup>1</sup>

<sup>1</sup> E.g. the ProPG guidance of noise and noise sensitive development published by the IOA, CIEH and ANC, and referenced in the NPPG.

would be to aim for levels approximately 5 to 10 decibels below those quoted in the Trafford Council document.

## POLICY AND GUIDANCE CONCLUSIONS

2.24. In summary National and local planning policy and guidance require that:

- Planning decisions shall ensure that the continued operation and future development of existing noise generating businesses should not be prejudiced by the introduction of new noise sensitive development. Because future occupiers may raise noise complaints that might lead to imposition of unreasonable restrictions on the existing business. Instead, the “Agent of Change” principle places the responsibility for mitigating impacts from existing noise-generating activities or uses on the proposed new noise-sensitive development. In other words, the person or business responsible for the change must also be responsible for managing the impact of the change.
- The worst unacceptable, effects of noise on its own that remain despite mitigation must be prevented e.g. by refusing planning permission; and,
- That the lesser significant effects of noise should be avoided e.g. by using conditions to require noise control measures; and,
- The least effects of adverse impacts should be mitigated and minimised;
- A good standard of amenity shall be achieved.
- Residential amenity shall be protected.

### 3 . A G E N T   O F   C H A N G E

- 3.1. As described in the previous section, the 'Agent of Change principle' encapsulates the position that a person or business (i.e. the agent) introducing a new noise sensitive land use is responsible for managing the impact of noise from existing land uses on that change.
- 3.2. The practical issue is that in circumstances where residents move into properties affected by noise e.g. from a long-standing licensed sports stadium or music venue, this may result in the Local Licensing Authority (LPA) imposing additional licensing restrictions on the established licensed venue; and/or being forced to take statutory nuisance enforcement action as Councils have a legal duty under the Environmental Protection Act 1990 to investigate complaints and serve abatement notices if satisfied a nuisance exists or is likely to recur. Examples of potential constraints that might arise from these forms of enforcement activity include the following: in isolation and combination:
  - a) Sports events could be prohibited, reduced in type, capacity or terminal hour.
  - b) The permitted concert music noise level off site could be reduced thereby rendering concerts unviable.
  - c) The permitted number of concerts and the terminal hour could be reduced.
  - d) Non-sporting activities that include regulated entertainment and/or supply of alcohol could be prohibited, reduced in capacity or terminal hour.
- 3.3. The case of *Coventry v Lawrence* [2014] UKSC 13 confirms the long-held principle that there would be no defence to say that the new residents had moved to the nuisance i.e. that the noise generating land use at LCCC was there before the proposed new housing. Furthermore, the agent of change principle is not a defence to proceedings in statutory nuisance under the Environmental Protection Act 1990 or in common law nuisance.
- 3.4. Consequently, existing noise generating activities at LCCC are at risk from planning permission granting change of use to allow noise sensitive development on nearby land.
- 3.5. Although not described as "Agent of Change" until the NPPF was revised in 2018, the concept existed in planning policy since at least 1994, as the old PPG 24 referred to ensuring new noise sensitive and noise generating land uses could integrate effectively with existing receptors. But the formalisation of the Agent of Change principle as a standalone policy came about with the revision of the NPPF in 2018. Prior to this there was extensive debate of the principle following the introduction of government policy allowing permitted development rights for the change of use of office buildings to residential. This policy was first introduced in the context of an economy struggling to recover and the government's desire to stimulate

development rapidly. Early in 2017 the Select Committee on the Licensing Act 2003 recommended "*that a full 'Agent of Change' principle be adopted in both planning and licensing guidance to help protect both licensed premises and local residents from consequences arising from any new built development in their nearby vicinity. (Paragraph 553)*".

- 3.6. A proposal to amend the framework to emphasise that planning policies and decisions should take account of existing businesses and other organisations when locating new development nearby and, where necessary, to mitigate the impact of noise and other potential nuisances arising from existing development, was included in the Housing White Paper 'Fixing our Broken Housing Market' (published for consultation in February 2017).
- 3.7. Subsequently, in January 2018 the Ministry of Housing, Communities and Local Government made a statement confirming that the framework would be clarified to include detailed reference to the agent of change principle.
- 3.8. The Government's response to the consultation published at the same time as the NPPF welcomed the "strong support" for the agent of change principle. In response to consultation the Government changed the term "statutory nuisance" in the NPPF to "significant adverse effects", and the footnote to paragraph 185 of the NPPF July 2021 refers to the 'Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010' which provides further guidance on the phrase "significant adverse".
- 3.9. It is well established that an entertainment venue moving into an area adjacent to residents must take measures to ensure that the activities in the new building will not cause noise problems for those living nearby. Paragraph 185 of NPPF July 2021 provides that both planning policies and decisions should ensure that new development is appropriate for its location considering the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a reasonably practicable minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 3.10. But the position in reverse, where new residential development locates near to a noise source, has not been equally clear. The previous framework stated that planning policies and decisions should "*aim to recognise that (...) existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established;*"



- 3.11. The inclusion of an explicit reference to the Agent of Change principle in paragraph 187 of NPPF July 2021 clarifies the application of the principle. The paragraph states that both planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (e.g. places of worship, pubs, music venues and sports clubs). *"Unreasonable restrictions"* should not be placed on existing businesses as a result of development permitted after they were established. *"Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."*
- 3.12. Planning authorities in England must have regard to the policies in NPPF July 2021 when making decisions on applications and in framing their own planning policy. For LPAs this means that they should have regard to the Agent of Change principle in setting their policies.
- 3.13. For developers this means that where they are proposing residential development they should consider if there could be a significant adverse effect on future occupiers of that development from any nearby source(s) of noise such as pre-existing entertainment venue(s) or sports stadia. Where a potential significant adverse effect is identified, developers are required to factor into their planning application suitable mitigation measures to avoid any significant adverse impacts on health and the quality of life for future occupiers.
- 3.14. Whilst there is a balance to be struck between competing policies and with housing supply objectives, policy and guidance are clear that existing noise generating land uses should be protected against encroachment of noise sensitive development that might lead to constraints on the continued operation and future expansion of those uses.
- 3.15. Consequently, the use of conditions and/or planning obligations to mitigate noise impacts and other nuisances is likely where the Agent of Change principle applies, which may result in knock on effects for construction costs and scheme viability. Where the noise is not or cannot be satisfactorily mitigated, this could lead to the agent of change proposal being refused.

## 4 . R E V I E W   O F   N O I S E   A S S E S S M E N T

- 4.1. The assessment of noise and vibration issues associated with the scheme is contained in the Acoustic Design Statement, Vibration Assessment and Plant Noise Limits Report Prepared by Holtz Acoustics For: Accrue (Forum) 1 LLP 12th February 2020

### OVERVIEW

- 4.2. Although the Holtz report makes a reference to the Agent of Change principle in the NPPF it does not acknowledge the detailed guidance on the matter in the NPPG.
- 4.3. The general approach in the Holtz report to identifying and assessing noise emitted from the LCCC cricket ground is inadequate as it fails to identify all the relevant sources, how often these sources might occur and for how long, and the likely resulting noise levels affecting the proposed development site.
- 4.4. Consequently, the recommended mitigation measures are not adequate to meet policy aims and objectives, and if the scheme were permitted as applied for it would put the continued and planned future operation of LCCC at risk i.e. the Agent of Change principle has not been adequately addressed.

### DETAILED COMMENTS ON THE HOLTZ NOISE AND VIBRATION ASSESSMENT

- 4.5. The detailed comments below follow the order and numbering in the Holtz report.

#### **Guidance**

- 4.6. The Holtz report references the National Planning Policy Framework (NPPF), which briefly touches on issues of conflict between established noisy land uses and proposed noise sensitive development. But the report does not acknowledge the more detailed advice on the Agent of Change principle in the NPPG.
- 4.7. Regarding Trafford Council policy, the Holtz report does not acknowledge or reference any of the relevant parts of the existing or draft emerging local plan regarding noise sensitive development, noise generating development or the need to ensure development must be compatible with the surrounding area; and not prejudice the amenity of the future occupiers of the development and/or occupants of adjacent properties by reason of noise etc.
- 4.8. The Holtz report states that:

*“2.2.1 We have had informal “informal discussions with an Environmental Health Officer (EHO) at Trafford Council regarding the typical requirements for an acoustic report relating to residential development near roads and tram lines.*

*2.2.2 It was discussed that an assessment in accordance with the new ProPG guidance would be appropriate and should demonstrate that the internal noise level recommendations in BS8233:2014 can be achieved.”*

- 4.9. No mention is made of any discussions with the EHO regarding noise from LCCC cricket ground and/or the Agent of Change principle.
- 4.10. There is no mention of any discussions with LCCC regarding the sound emitted from the ground that needs to be assessed or how often, how long and how late these sources may occur. It is understood that this is because neither Accrue or Holtz approached LCCC to discuss the issues.
- 4.11. The Holtz report references the ProPG as a source of guidance. The ProPG reflects the NPPF and NPPG by being explicit in stating that mitigation measures for noise should not compromise other factors important for good health and quality of life such as ventilation and control of overheating. The noise assessment briefly mentions trickle vents to allow windows to be kept closed to maximise the noise insulation provided by the building envelope, but these will only prevent build-up of toxic and noxious gases and fumes to prevent severe health consequences; and ordinary comfort and quality of life is likely to be compromised by the associated low air flow rates, especially regarding overheating in warmer months, when most cricket and concerts take place. There is no mention of any overheating control in the noise assessment and no overheating study is to be found in the documents logged against this application on the Trafford Council Web site.

#### **Assessment of Concert Noise**

- 4.12. Here the Holtz report discusses noise from concerts as follows:

*4.4.1 The proposed development will be within 100m from Old Trafford Cricket Ground. In addition to hosting cricket matches the cricket ground has a license to host live music events.*

*4.4.2 It is understood from the license agreement that these are limited to 7 a year. However based on previous and upcoming schedules there are typically only 1 or 2 a year.*

*4.4.3 It will not be possible to fully mitigate live music noise through scheme design and the extent to which residents are disturbed by one off concerts is likely to be linked to their sensitivity to noise.*

*4.4.4 We have therefore included proposals for a noise management plan for the development, details are to be confirmed but this is likely to take the form of the building management providing early warning of concert dates to residents so they are fully informed.*

- 4.13. In fact, the proposed development will be within considerably less than 100 metres from the LCCC cricket ground. The scheme would be adjacent to the boundary with the LCCC and around 50 metres from the temporary west stand which is removed to allow the stage and PA to be installed for concerts.
- 4.14. It is correct to say that the licence permits 7 concerts a year and in the past, there have been fewer than this. However, LCCC in future are looking to have more concerts than in the past, for example 5 concerts are already planned for next year. Notwithstanding that historically fewer than the maximum permitted number of concerts have taken place, the advice of the NPPG means that *“the agent of change will need to take into account not only the current activities that may cause a nuisance, but also those activities that businesses or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made.”* i.e. 7 concerts per year should be assumed.
- 4.15. The Holtz report states that it will not be possible to “fully mitigate” the concert noise i.e. use the design and construction of the scheme to mitigate the concert noise. The report then suggests an unspecified “Noise Management Plan” will be implemented that will merely mean residents are advised when concerts are likely to take place. A wholly inadequate suggestion that does not mitigate the concert noise at all and would still leave LCCC at risk.
- 4.16. On the face of it, not being able to fully mitigate the concert noise suggests that the scheme should be refused planning permission. In fact, the design and construction could be developed in such a way that appropriate noise conditions could be achieved. This would entail detailed assessment of the noise levels likely to be incident on the facade of the scheme and implementation of robust acoustic measures, and provision of alternative means of ventilation and control of overheating other than by opening windows e.g. mechanical ventilation and heat recovery.
- 4.17. It would be wrong to assume that the maximum concert noise likely to be incident on the facade would be no more than the 80 dB LAeq,15 min permitted in the licence for LCCC. This level applies to existing noise sensitive premises which do not extend above two storeys and most of which are further from the main stage and PA used for concerts than the proposed scheme, and are acoustically screened by buildings and stands around the perimeter of the LCCC, which will not protect the proposed development above around 3<sup>rd</sup> to 4<sup>th</sup> floor level.
- 4.18. Noise contour maps showing the predicted concert noise levels at different heights around the LCCC are provided in Appendix A. The table below shows the predicted concert Music Noise

Levels (MNLs) at the north-east facing façade of the proposed scheme i.e. overlooking the stadium, with a front of house level at the mixing desk of around 100 decibels.

TABLE 1: PREDICTED CONCERT NOISE LEVELS AT THE NORTH EASTERN FACADE OF THE PROPOSED SCHEME AT DIFFERENT HEIGHTS

Height of Proposed Scheme (m)	Predicted Concert MNLs (dBA) at north-east facade of the proposed scheme
Ground floor (1.5)	70 to 75
2 <sup>nd</sup> floor (6)	75 to 85
4 <sup>th</sup> Floor (12)	75 to 85
6 <sup>th</sup> Floor (24)	80 to 90
9 <sup>th</sup> Floor (32)	85 to 90

4.19. Table 4 of BS 8223 advises that an internal noise level of 35 dB LAeq,t is recommended for living rooms during the period 0700 to 2300 hrs, with a 5 decibel increase where this is not possible and housing is “desirable”. The table below shows the required noise insulation to achieve these targets at different heights in the scheme and outlines potential methods of achieving this.

TABLE 2: NOISE INSULATION REQUIRED BY THE BUILDING ENVELOPE AND POTENTIAL METHODS AT DIFFERENT HEIGHTS OF DOING SO

Height of Proposed Scheme (m)	Required Reduction dBA	Potential Mitigation Method
Ground floor to 2 <sup>nd</sup> floor (1.5)	35 to 40	Specialist double glazing and acoustic vents through facade
2 <sup>nd</sup> to 4 <sup>th</sup> floor (6)	40 to 45	Specialist triple glazing and acoustic vents through facade
4 <sup>th</sup> to 6 <sup>th</sup> Floor (12)	40 to 45	Specialist triple glazing and acoustic vents through facade
6 <sup>th</sup> & 7 <sup>th</sup> Floor (24)	45 to 50	Deep secondary glazing and ducted ventilation from a quieter façade
8 <sup>th</sup> & 9 <sup>th</sup> Floor (32)	50 to 55	Winter garden, specialist double/triple glazing and ducted ventilation from a quieter façade

4.20. The table above shows that without the mitigation specified there will be conflict between the uses and that if the scheme is to be permitted it should only be on the basis that such mitigation is secured by condition; and that in the absence of such mitigation the scheme will lead to conflict and should be refused.

### Noise Survey Methodology

4.21. The noise survey methodology for noise from road traffic and the tramlines is not commented on here.

- 4.22. However, the noise survey for noise from Cricket at the LCCC is considered inadequate.
- 4.23. Only a single noise survey was carried out during a one-day match between Yorkshire and Lancashire. This is not representative of all cricket associated noise levels generated at the cricket ground and does not assess how loud the noise can be for other more forms of cricket with more lively crowds, and during concerts.
- 4.24. The survey was carried in a location that is substantially screened from noise generated in the cricket ground and would only be valid for those parts of the proposed scheme at and below 1<sup>st</sup> floor level. Above this height noise levels at the façade of the proposed scheme would increase rapidly as the degree of screening of the cricket pitch and stands would fall due to the angle of view until around approximately the 3<sup>rd</sup> or 4<sup>th</sup> floor where it is anticipated there would be no screening and noise from the ground would be unhindered as it propagated the short distance to the façades of the scheme overlooking the LCCC.
- 4.25. Consequently, it is estimated that cricket associated noise levels for the majority of the proposed north-eastern and northern façades of the scheme could be at least 20 decibels higher than reported in table 6 of the Holtz report i.e. around approximately 4 times louder, as shown in the table below.

TABLE 3: ESTIMATED CRICKET NOISE LEVELS 1 M FROM UNSCREENED PARTS OF THE NORTH EASTERN AND NORTHERN FAÇADES OF PROPOSED SCHEME

Event	Estimated LAeq,10secs (dB) 1 m from the façade of the proposed scheme	Comments
Underlying ambient level i.e. general “hum” of crowd etc. noise	66	Higher than desirable level from BS 8223 for balconies and terraces. Would require enclosure of balconies in wintergardens to reach desirable level from BS 8223. Can be mitigated to meet internal guidelines by acoustic double glazing and alternative means of ventilation and control of overheating.
Applause from crowd	71	Higher than desirable level from BS 8223 for balconies and terraces. Would require enclosure of balconies in wintergardens to reach desirable level from BS 8223. Can be mitigated to meet BS 8233 internal guidelines by acoustic double glazing and alternative means of ventilation and control of overheating.

Applause and cheering after wicket	76	Higher than desirable level from BS 8223 for balconies and terraces. Would require enclosure of balconies in wintergardens to reach desirable level from BS 8223. Can be mitigated to meet Bs 8223 internal guidelines by robust acoustic double glazing and alternative means of ventilation and control of overheating.
PA system	79	Higher than desirable level from BS 8223 for balconies and terraces. Would require enclosure of balconies in wintergardens to reach desirable level from BS 8223. Can be mitigated Can be mitigated to meet Bs 8223 internal guidelines by very robust acoustic double or triple glazing and alternative means of ventilation and control of overheating.

### Summary of internal noise calculations

4.26. Table 4 in the Holtz report provides a summary of the calculation of the break in of noise into the scheme (assuming closed windows). The presented calculation is not robust as it uses broad band values and assumes that laboratory derived single figure ratings of noise insulation are the same as the A-weighted difference between external and internal conditions, which is normally not so, as this is dependent on the frequency of the noise source and the sound insulation performance of the façade in each frequency band.

4.27. Furthermore, the internal noise level calculations do not allow for any degradation in measured performance from tightly controlled optimised laboratory tests to in-situ real world circumstances, which is inevitable. An allowance of a minimum of -5dB to convert from lab to real world for workmanship, flanking etc. is considered necessary. This means the Holtz report is over optimistic and has underestimated the break in of noise to the scheme.

4.28. Consequently, based on the construction described in table 4 of the Holtz report, internal noise levels would be likely to exceed the lower preferred internal noise guidelines from BS 8223 for day and night, and be closer to the maximum relaxed standard that BS 8223 says can be permitted where housing is “*desirable*”. However, the ProPG, as referenced in the NPPG, requires that good acoustic design is used to ensure all reasonably practicable measures are used so noise levels are minimised, before noise guidelines are “relaxed”. In which case the

proposed construction described in table 4 of the Holtz report should be revised, based on a full “rigorous” noise break-in calculation from BS 8223, to more effectively reduce the break in of noise to the scheme.

### **External Amenity Area Noise Assessment**

- 4.29. The NPPG is clear in stating that outdoor amenity spaces should have acoustic conditions that allow them to be used as intended.
- 4.30. The report shows that a substantial proportion of outdoor amenity spaces in the scheme e.g. balconies etc, will have noise levels above the recommended guidelines of BS 8223. This is for ordinary conditions due to road traffic and tram noise. Whilst the noise conditions would be contrary to planning policy as they would not represent a good standard of amenity, there is no mechanism whereby action would be taken if complaints of excessive road and tram noise affecting amenity spaces were made by new residents of the scheme.
- 4.31. However, during Cricket matches and music concerts the noise levels in amenity spaces will be higher than from road traffic and trams, and complaints could be made, which the local authority has a legal duty under the Statutory Nuisance legislation to investigate and take enforcement action if satisfied a nuisance exists. Furthermore, it would only take a single resident to initiate the review process under the Licensing Act 2003 for the risk that regulated entertainment at the LCCC would be constrained to be made real.
- 4.32. The Holtz report points out that where private amenity space will be too loud, the NPPG allows nearby i.e. within 5 minutes walk, quiet public amenity space to be used as a proxy. However, this should only be considered after good acoustic design as recommended by the ProPG has been considered. In this case that would include providing winter gardens to those balconies and terraces that are above the recommended noise levels for outdoor amenity spaces so the noise levels can be reduced. The Holtz report does not mention this mitigation option.
- 4.33. This report does not comment on the other parts of the Holtz report covering vibration (from trams) and plant noise.



## 5. CONCLUSIONS

- 5.1. With 4 day county and 5 day test cricket, one day games, floodlit T20 and 100 ball games in the evening, and multiple large concerts with loud amplified music until 2230 hrs every year at LCCC, the proposed development site's close proximity to the ground makes it inappropriate for large scale residential development as there will be conflicts in relation to noise, lighting etc. that could result in LCCC being constrained from carrying out its existing activities, and future expansion or changes to its operations.
- 5.2. Consequently, the Agent of Change principle from the National Planning Policy Framework (NPPF) as expanded upon in the National Planning Practice Guidance (NPPG) applies to the proposed scheme. The Agent of Change principle places the responsibility for mitigating impacts from existing noise-generating activities or land uses on the proposed new noise-sensitive development. In other words, the person or business responsible for the change must also be responsible for managing the impact of the change so that established noise generating land uses can continue and potentially expand without hinderance.
- 5.3. Unfortunately, the noise assessment accompanying the application does not appropriately assess all sources of sound emitted from LCCC. The surveying of noise emissions from LCCC only covers one form of one day cricket and was carried out in a location where screening meant the measured levels would underestimate the likely impacts on the proposed scheme.
- 5.4. The proposed mitigation is inadequate to meet the policy aims of avoiding significant adverse effects, mitigating and minimising adverse effects and ensuring new noise sensitive uses can integrate effectively with existing businesses and community resources without prejudicing the on-going operation and future development of those sources.
- 5.5. The main means of mitigation suggested in the noise impact assessment for road traffic and concert noise is to provide acoustic glazing so that windows can be kept closed to maximise the sound insulation provided by the building envelope. This will inevitably compromise ventilation and make overheating more likely. However, no assessment is made of ventilation and overheating and no mitigation measures for these issues are discussed in the noise report or provided in a standalone report in the documents listed for the scheme on the Trafford Council web site.
- 5.6. The noise report says it is not possible to wholly mitigate the concert noise. In which case the scheme should not go ahead. However, this is not correct. Concert noise can be mitigated by implementing robust measures such as acoustic double and triple glazing, wintergardens, and mechanical ventilation and means of controlling overheating. Such measures have been implemented in the housing schemes that have been constructed near Wembley stadium.

There will be significant minimum construction standards and thus costs for acoustics to allow the scheme to mitigate these impacts adequately, particularly as the concert and floodlit cricket activities at LCCG are likely to increase rather than decrease in future.

- 5.7. Without the additional mitigation further to that proposed in the application outlined in this report, noise will cause conflict between the LCCC and the residents of the new scheme, so that if the application is permitted it should only be on the basis that the additional mitigation is secured by condition; and that in the absence of such mitigation the scheme should be refused.

## APPENDIX 1 – CONCERT NOISE CONTOUR MAPS

Figure 1 Concert noise at a height of 1.5 metres

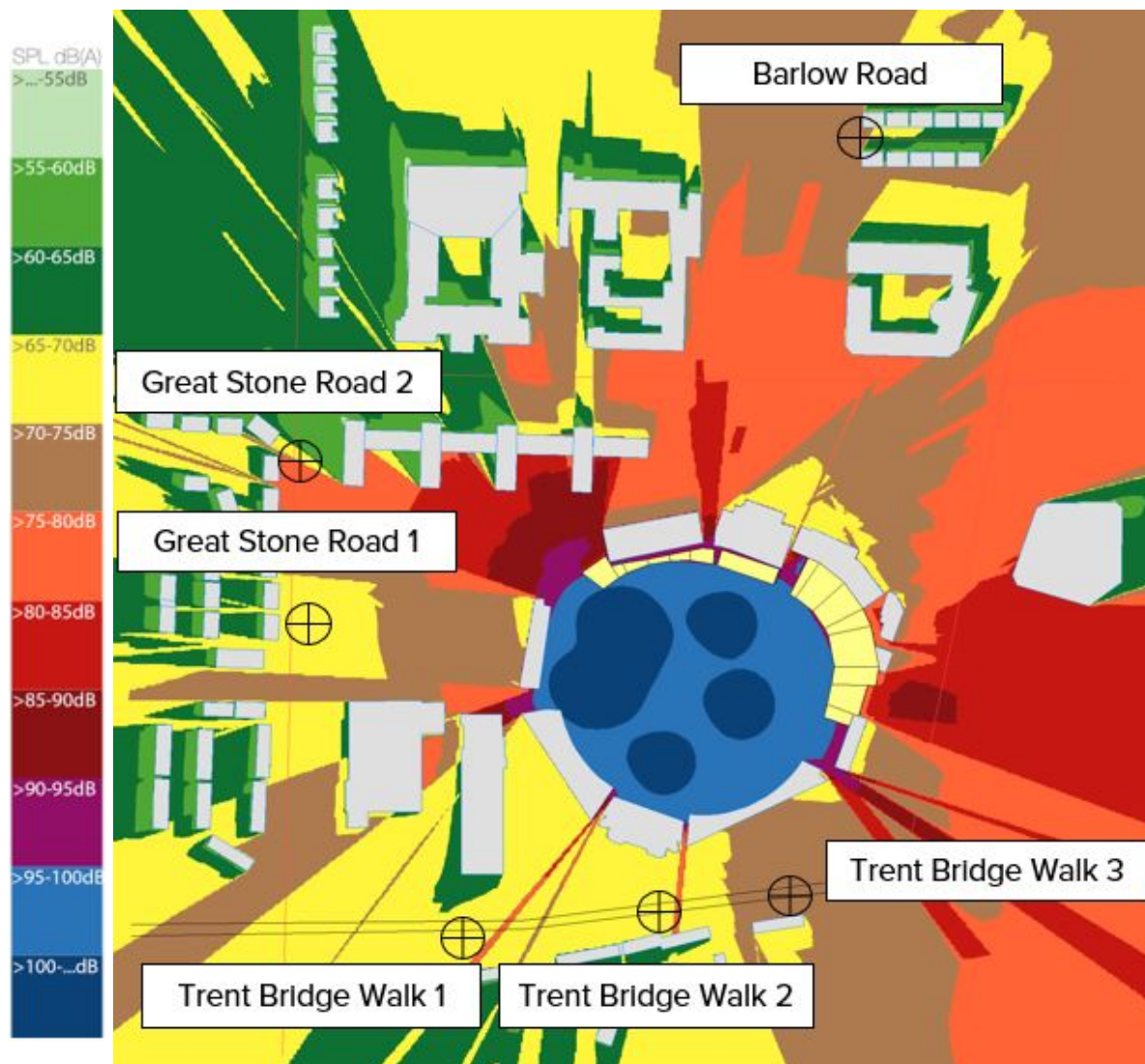


Figure 2 Concert noise at a height of 6 metres



Figure 3 Concert noise at a height of 12 metres

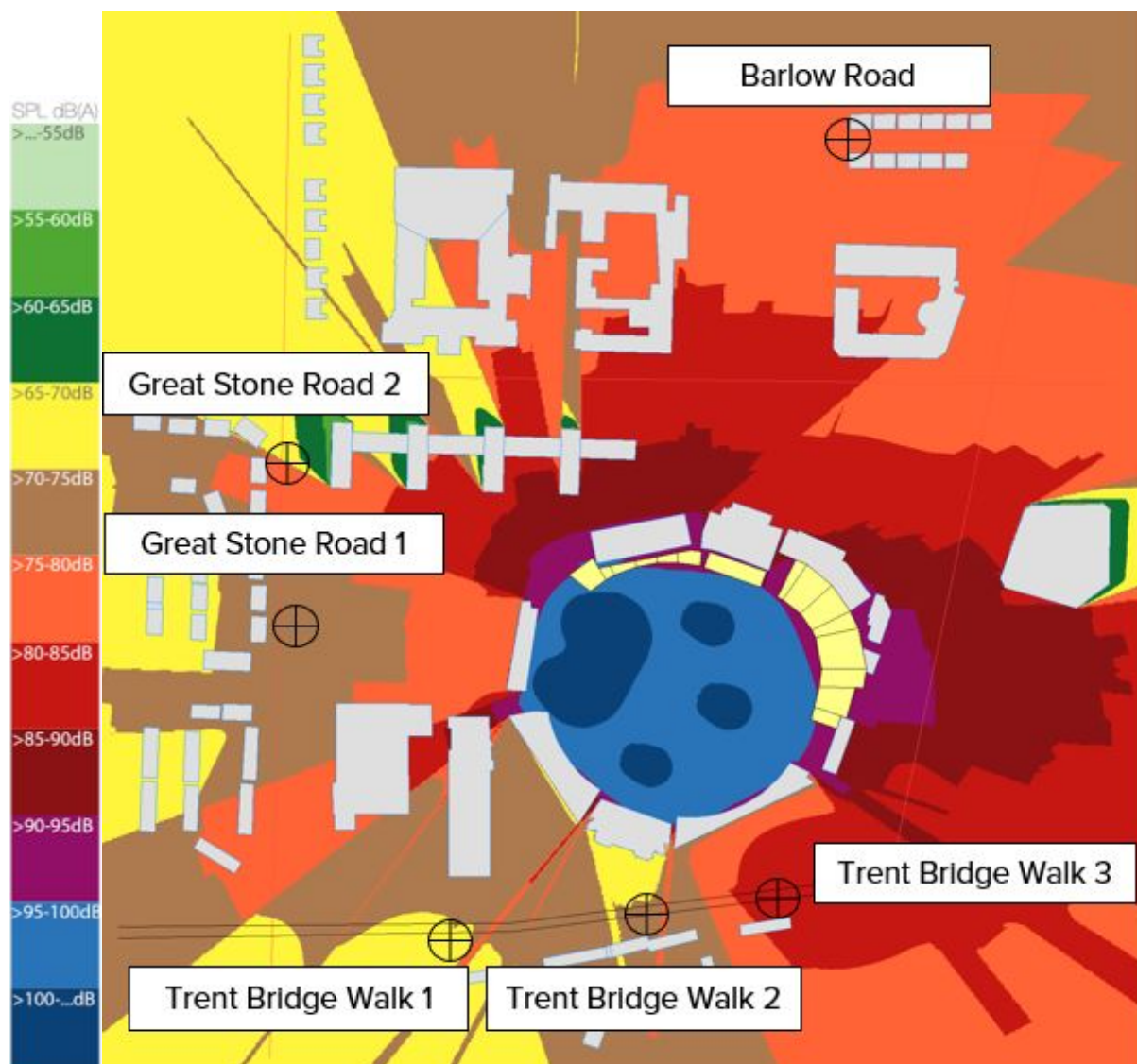




Figure 4 Concert noise at a height of 24 metres

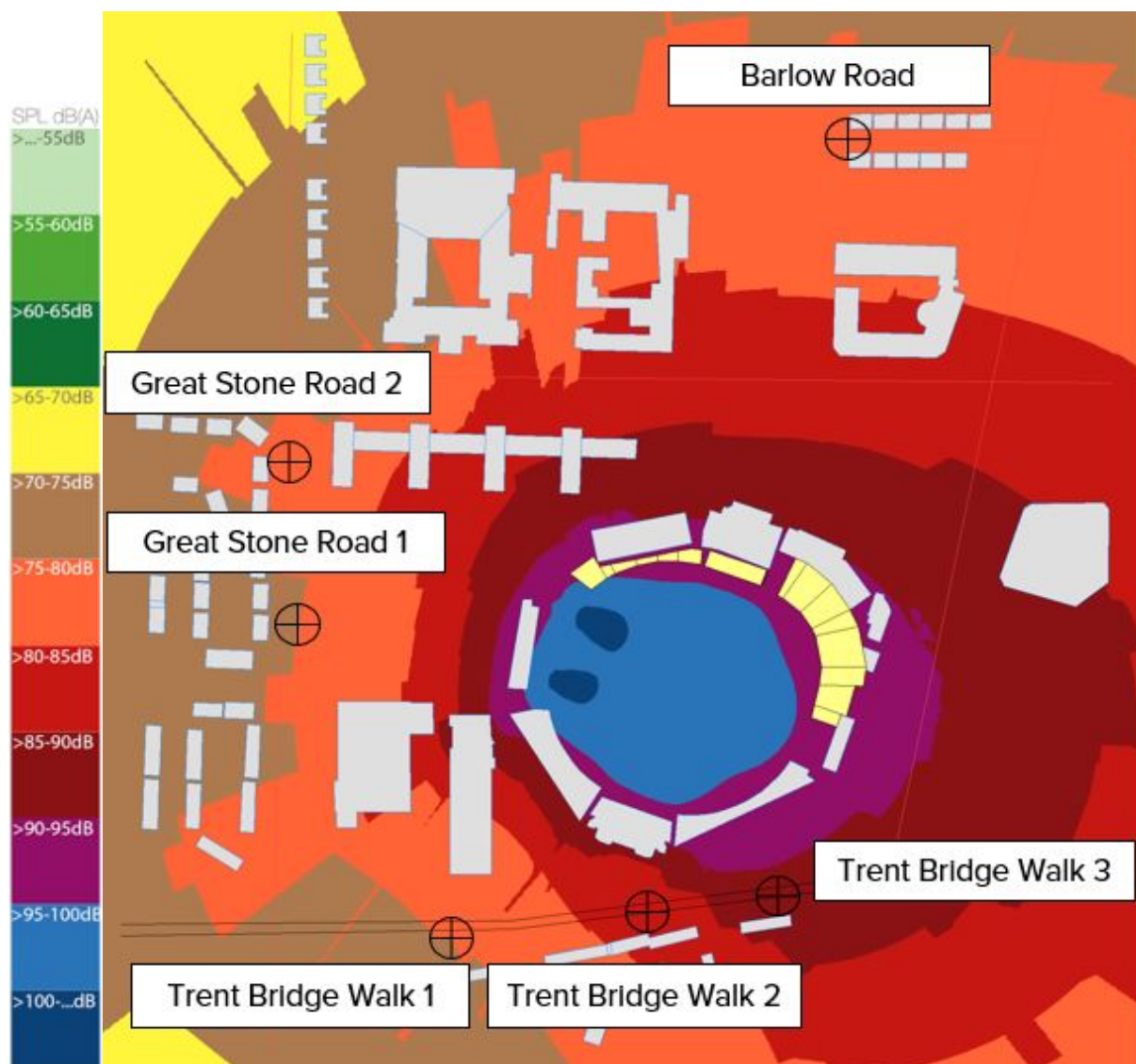


Figure 5 concert noise at a height of 32 metres

