



Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I **Abby Toms**

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

The Rising Sun
27 Spring Lane
Colden Common
Winchester
Hampshire

Post town

Post code (if known) SO21 1SB

Name of premises licence holder or club holding club premises certificate (if known)

Lucky Hoof 2023 Ltd

Number of premises licence or club premises certificate (if known)
PREM 241

Part 2 - Applicant details

I am

Please tick yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

☐

2) a responsible authority (please complete (C) below)

☒

3) a member of the club to which this application relates (please complete (A) below)

☐

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other title (for example, Rev) ☐ Please tick yes

Surname

First names

I am 18 years old or over

Please tick yes
☐

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Mrs Abby Toms Environmental Protection Manager Winchester City Council Colebrook Street Winchester Hampshire SO23 9LJ
Telephone number (if any) 01962 848097
E-mail address (optional) atoms@winchester.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

Please state the ground(s) for review (please read guidance note 2)

In the middle of July 2024, Environmental Health and Licensing received a number of reports of noise disturbance arising from The Rising Sun from 3 residential households. The local residents' affected advised that the premises had been playing Euro football matches on a television outside. One of the residents sent a movie clip of the football game on 15th July - the football commentary was so loud that the words could be clearly heard in their kitchen, with the window open slightly for ventilation. On the same day, it is understood that a live band was playing outside from the car park area on a flatbed lorry with various external speakers.

One resident reported that the pub played loud music, films and football outside until 2230 when it was turned off, but was then followed by loud shouting, noise and anti-social behaviour in the streets until 0200.

I spoke to an affected resident in detail who advised me that it wasn't just the noise from music or the television but the noise from patrons sitting outside shouting/laughing until late at night - regularly until 0100 and on one occasion until 0400 that caused such disturbance that they had decided to stay with relatives to avoid being disturbed and get a good night's sleep. They stated that they had lived very close to the pub for 25 years and had expected some noise from time to time, but not to be so significantly disturbed.

I visited the premises and spoke to the then Designated Premises Holder Jonathon Spencer on 5th August 2024 to highlight the concerns and reports made to me.

In respect of live music in the outdoor area, I advised Mr Spencer that it would be very difficult to avoid causing public nuisance from such events. This is because

there would be no attenuation that say a building could provide, there were residential premises surrounding the premises in every orientation (so you couldn't orientate the speakers away from nearby residents) and some were so close that their gardens bordered the pub garden/ car park). (See Appendix A which shows a map of the site and nearby residential properties.)

It would, therefore, be impossible to play music at a level that would both entertain the audience but not disturb the residents and so one outdoor live music event would be all I could agree to. He asked whether his licence restricted him to this and I advised that it didn't. Under the Live Music Act, the whole premises is considered to be a 'workplace' and as such is allowed, by exemption to play live music from 0700-2300 for an audience of up to 500. I did advise, however that if nuisance was caused then we might seek a licence review or serve an Abatement Notice. Mr Spencer advised that he would only hold one further live music event on 23rd August - called a 'Gig in the garden'. Other events included a beer and cider festival 16-18 August and a rum and reggae event but Mr Spencer stated that this would not include live music outside.

I advised that we would be likely to monitor the 'gig in the garden event' and he would be advised to notify the neighbours that it was happening, the finish time and provide a 'hotline' number for them to contact him if they were being disturbed.

The premises had recently (3rd August) hosted a 'family fun day' which included a bouncy castle outside, involved a children's disco inside that finished at 1700 and a barbecue. We did not receive noise complaints about that and I advised that the odd community event like that would probably be unlikely to cause nuisance.

Mr Spencer showed me a new 'smoking shelter' that he had built to the side of the property in the car park. This was a substantial wooden structure. (see photos in Appendix B) To my mind this was an attractive outdoor entertainment area, not really designed exclusively for people to have the odd cigarette, as there was a large flat screen tv mounted on one wall, a bar area with pumps, 2 speakers affixed to each end of the structure and several tables and chairs under the enclosure. It was from this that the Euro football had been played.

Although this structure was put up by Mr Spencer and he was responsible for the events, the Licence at the time of that visit was held by EI Group Ltd, the Premises Licence was transferred to Lucky Hoof 2023 Ltd on 29th August 2024, which is Jonathon Spencer's business name. He remains the tenant and licence holder of the pub.

Reports of noise disturbance from the outdoor area continued and a noise nuisance recorder was installed in a nearby resident's property from 17.8.24-08.09.24. The transcript from this monitoring is attached as Appendix C. The recordings showed that the noise from voices, music, television and speakers emanating externally from the former car park area where the outdoor structure is located constituted a statutory nuisance under Environmental Protection Act 1990 and a public nuisance.

An Abatement Notice was served on Lucky Hoof 2023 Ltd requiring the noise from the outdoor area to be abated. (Appendix D) This required noise from loud voices, television and speakers within the 'former' car park area (identified on the accompanying map) to be abated. It was intended to prevent noise disturbance from live or recorded music events in the 'former' car park, to prevent noise or music from

the television and speakers within the wooden structure and to control noise from patrons sat outside in the 'former' car park area under the wooden structure.

Mr Spencer responded by removing the television and advised me had disabled the external speakers. However the chairs and tables were not removed.

There were fewer reports of noise disturbance for the external area during the Winter months as would be expected.

Earlier this year, various reports of noise disturbance from music emanating from the inside of the pub were received and I spoke to Mr Spencer giving him advice on how to minimize noise disturbance from the inside. In addition, reports were made concerning noise from early morning deliveries and I advised Mr Spencer to ensure that deliveries were not made until after 0700 on weekdays and 0800 at weekends, which he advised me he would action.

Despite the discussions, reports of noise disturbance continued and so a noise nuisance recorder was installed in a neighbour's property, this time in a bedroom to assess the impact. Recordings were made between 12.3.25 and 7.4.25. A transcript report showing the results is attached. (Appendix E). Many recordings showed that music from inside the pub was audible in the customers' bedroom at levels that would be considered unreasonable. There were some occasions where the volume of music was so loud that the music track could be identified in the resident's bedroom. This included excessive bass, and amplified voices and which would be likely to cause sleep disturbance or prevent sleep and significantly impact the average person's use and enjoyment of their property.

Subsequent to the recordings made by Environmental Health, one of the residents made a number of MP4 video recordings. Appendix F provides a summary of the recordings as assessed by Environmental Health. There were many recordings of people shouting/ screaming /raised voices etc in the outdoor car park area within the wooden structure or nearby and some recordings of noise indoors. Note that on one occasion the resident made a recording of music noise at 0115 and reported that the music didn't stop until 0150. The licence only permits live and recorded music until 0000.

There are some occasions where the Abatement Notice has likely been breached. It would be possible to consider legal proceedings for breach of an Abatement Notice. However the Abatement Notice only addresses noise from the car park area and in view of all of the noise sources from inside and outside, it was considered more appropriate to consider a review of the licence.

It is important to note that Winchester City Council's Planning enforcement team served an Enforcement Notice on Lucky Hoof 2023 Ltd and the brewery at the end of January requiring the wooden structure to be removed as it did not have planning permission. This has been appealed and is currently awaiting a decision by the Planning Inspectorate. I am concerned that such appeals can take considerable time to be assessed and in the meantime, residents continue to be significantly disturbed, so I am recommending a condition to prohibit the use of the car park area for any patrons. There is a sizeable garden attached to the premises which historically has been available for outdoor use and it is at some distance away from the nearest residential properties in any case. I would propose to prohibit the use of the car park area for patrons (other than car parking) and should the planning inspector find in

favour of the appellant, they could subsequently apply for a variation to the licence to continue its use.

On 12th May, Environmental Health received further reports of noise disturbance from a new resident who wishes to remain anonymous, but advised that he and his baby had been regularly woken up / kept awake from loud music and bass emanating from within the pub.

I have presented a snapshot of the evidence to illustrate that I believe that the pub is causing significant public nuisance and I would like the Committee to consider altering the licence/ imposing conditions as follows:

Proposed changes/ conditions (note – please read in accordance with proposed map in Appendix G :

1. The provision of live/ recorded music at the premises shall no longer be exempt from licensing requirements under the Live Music Act 2012. Accordingly, any performance of live/recorded music shall be subject to the conditions of this premises licence and shall not take place unless specifically authorised by this licence.

(This condition is imposed on the grounds that the provision of live/ recorded music has been found to undermine the prevention of public nuisance licensing objective.)

2. To remove all of the existing public nuisance conditions attached to PREM 241

3. No live or recorded music shall be played outside.

4. To prohibit the use of the car park area (as identified on the attached map) for patrons to congregate, but retaining the small area at the front of the property for smokers.

Proposed condition: 'The areas marked A and C on the attached map shall be used for patrons/ smokers. Area B shall only be used for car parking.'

5. Proposed condition: 'The garden area marked A on the map shall not be used by customers after the hours of 2230.'

6. To install and set a Noise Limiter – to control the volume of music internally. This will allow the volume to be set to a suitable level as assessed by Environmental Health so as not to cause public nuisance to neighbours.

Proposed condition: 'A suitable noise limiting device shall be installed and set at a level agreed with the Licensing Authority within 2 months. It shall thereafter be maintained in such a manner as to control all sources of amplified music at the premises in accordance with the agreement.'

7. Proposed condition: 'All windows and doors shall be kept closed (other than for access and egress) when regulated entertainment is being played.'

8. To submit a suitable Noise Management Plan to include management of all noise sources at the premises e.g use of the noise limiter, management of patrons outside including smokers, a dispersal policy, restrictions on the hours of deliveries and any

additional controls to avoid causing public nuisance.

Proposed condition: 'The premises shall operate in accordance with a Noise Management Plan (NMP), to be agreed and approved in writing by the Licensing Authority within 2 months. The Premises Licence Holder shall ensure that the premises operates in accordance with the approved NMP. '

Accompanying documents:

Appendix A: Map showing location of Rising Sun pub and close proximity of surrounding residents

Appendix B: Photos of external wooden structure, bar area and tables/chairs and plan to show how close the structure is to nearest residential property

Appendix C: Transcript report of noise recordings taken from resident's property (lounge) 17.8.24-08.09.24

Appendix D: Abatement Notice served 24.9.24

Appendix E: Transcript report of noise recordings taken from resident's property (bedroom) 12.3.25 - 7.4.25.

Appendix F: Summary of MP4 video recordings made by resident 13.4.25-11.5.25

Appendix G: Map delineating areas of the premises to accompany proposed conditions

Please provide as much information as possible to support the application
(please read guidance note 3)

Have you made an application for review relating to the premises before?

Please tick yes

☐

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to the premises please state what they were and when you made them

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☐
- I understand that if I do not comply with the above requirements my application will be rejected ☐

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

.....

Capacity

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.