

**CITY OF
WOLVERHAMPTON
COUNCIL**

Spirit Pub Company (Leased) Ltd
Westgate Brewery
Bury St Edmonds
Suffolk
IP33 1QT

28.7.23

ELW/PWER/LR

Dear Sir/Madam

**Application for a review of a Premises Licence under the Licensing Act 2003
The Pheasant Inn, Wood End Road, Wednesfield, WV11 1YQ**

I write on behalf of Environmental Health, as a responsible authority, to advise you that I have applied for a review of Premises Licence **21/077763/Premin** under the Licensing Act 2003.

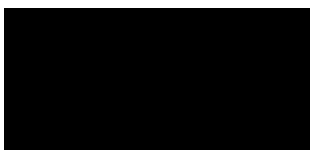
Representations are made in relation to the licensing objective(s) of the Prevention of Public Nuisance and the failure of the current management of the premises to promote and uphold these objectives.

The issues raised in the application (enclosed) relate to the persistent breach of licence conditions. These issues must be resolved in order to promote the licensing objectives.

A hearing, which I will attend, will be arranged to discuss the application and you will be advised of further details in due course.

You may wish to consider obtaining independent legal advice in preparation.

Yours sincerely,



Emma L Waites
Senior Environmental Health Officer
On behalf of Environmental Health – Responsible Authority



**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 Emma L Waites

(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 Pheasant Inn
Wood End Road
West Midlands

Post town
Wolverhampton

Post code (if known)
WV11 1YQ

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

Spirit Pub Company (Leased) Ltd
Westgate Brewery
Bury St Edmunds
Suffolk
IP33 1QT

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

21/07763/Premin

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)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

Please tick ✓ yes

I am 18 years old or over

**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	
Emma L Waite, Senior Environmental Health Officer Environmental Health Resident Services City of Wolverhampton Council Civic Centre, St Peters Square, Wolverhampton, WV1 1SH	
Telephone number (if any)	<div></div>
E-mail address (optional)	

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

- 1) the prevention of crime and disorder

2) public safety

3) the prevention of public nuisance

4) the protection of children from harm
- Please tick one or more boxes ✓

✓

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

Wolverhampton City Council has been in receipt of noise complaints emanating from The Pheasant Public House Wood End Road, WV11 1YQ since July 2020. At this time the Designated Premises Supervisor (DPS) changed from [REDACTED] to Wayne Lesley Parkes. The noise complaints correlated with Mr Parkes becoming the new DPS.

Numerous failed interventions have been attempted with both the DPS and the brewery to mitigate noise outbreak causing a Nuisance without resorting to a review of the license over the last 3 years.

The Council were mindful in its investigations and that the country was facing a Public Health Crises due to Covid 19 which impacted greatly on public houses and other businesses.

In accordance with Paragraph 11.5 of the Revised Guidance issued under Section 182 of the Licensing Act 2003 Wolverhampton City Councils Environmental Health Department are making an application to review The Pheasant Inn, Wood End Road, Wednesfield Premises licence as a result of it failing to uphold the Licensing Objective(s): The Prevention of Public Nuisance.

In accordance with Section 11.18 where responsible authorities such as Environmental Health have already issued warnings requiring improvement – either orally or in writing that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

With this in mind, given that Environmental Health have spent 3 years trying to work with The Pheasant to reduce noise emanating from the premises giving rise to both a Statutory and Public Nuisance it recommends that the licence is **Revoked**.

Should the Licensing Committee seek an alternative approach I recommend the following.

1. Suspend the licence for a period of 3 months until works and measures have been undertaken to the satisfaction of the council that includes, but is not limited to:
 - Provision of means to limit (sound) levels amplified music, vocal and other sounds; and
 - Provision of enhanced sound insulation to building elements, inclusive of door and window systems; and
 - Creation of acoustically treated lobbied entrance and exit doorways serving areas used for regulated entertainment.
2. In addition to the above all the of the existing conditions on the current licence in relation to Public Nuisance to be removed and replaced with the following.
 1. Regulated Entertainment to cease on any day at 22:00
 2. Patrons to vacate the rear garden by 21:00
 3. No Regulated Entertainment within the garden area of the premises at any time
 4. Doors and windows to remain closed at all times during events of regulated entertainment save for access and egress.

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

Please see the Pheasant – Chronology of Events to support this application

Please tick ✓ yes

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

If yes please state the date of that application

Day		Month		Year	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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

yes

Please tick ✓

- 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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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

28.7.23

Capacity

Responsible Authority Environmental Health

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.

The Pheasant – Chronology of Events

DATE	ACTION	Appendix No
4.7.20	Pubs in England are given the go ahead to reopen following Covid 19 Pandemic lockdown.	
17.7.20	Application for premises licence made by Spirit Pub Company (Leased) Ltd. Wayne Lesley Parkes takes over from [REDACTED] as the Designated Premises Supervisor (DPS) – Licence number issued is PLN – 20/015928 – Variation of DPS note conditions remain the same as previous DPS as do permitted hours of use.	APP 1 Copy of PLN 20/015928
Between July and October 2020	Over 10 separate households complain of noise, residents meeting held at the Pheasant, lots of residents scared of DPS due to alleged connections with a criminal gang.	
12.10.20	Abatement notice served pursuant to Environmental Protection Act 1990 Section 80 – notice relates to use of electrically amplified, reproduced music, speech and other sounds arising external to buildings on premises known as the Pheasant Inn, Wood End Road, Wolverhampton.	APP 2 EPA S80 Notice and covering letter
4.5.21	Application to vary Premises License by the addition of an outside bar note Premises Licence Application and subsequent notice states will run outside bar between 10:00 - 23:00 daily . Varied Premises Licence variation granted 20.5.21 – 21/07763/PREMIN	APP 3 Copy of PLN/07763/Premin and application
10.5.21	Anonymous complaint of noise from Pheasant received.	
17.5.21	Anonymous complaint of noise from Pheasant received contact made with DPS by Licensing Team advised to turn noise down.	
20.9.21	Complaint of noise from Pheasant contact made with DPS (Wayne Parkes) advised to turn noise down	
25.2.22	Complaint of noise from Pheasant contact made with DPS (Wayne Parkes) advised to turn noise down.	
27.6.22	Complaint of noise from Pheasant contact made with DPS (Wayne Parkes)	
25.8.22	Complaint of noise from Pheasant	
31.10.22	Complaint of noise from Pheasant – ongoing	
6.11.22	Noise monitoring undertaken by Emma L Waites (ELW) at complainants property. Event on inside The Pheasant. low frequency noise clearly audible in all habitable rooms of complainant's property. ELW walked along Prestwood Avenue, DJ playing. Lyrics and DJ audible but lyrics not discernible. Note the front of houses face Prestwood Avenue the	APP 4 – Map showing location of premises in relation to the Pheasant Pub.

The Pheasant – Chronology of Events

	backgardens face the rear of the Pheasant. See Appendix 4. Note at the time of monitoring there were fireworks, and it was raining yet noise still audible.	
10.11.22	Received telephone call from an anonymous complainant who had originally made an MP complaint that I had spoken to before she insisted on staying anonymous and stated that the noise is as bad as ever her issues are. <ul style="list-style-type: none"> Noise has been bad for 2 years. Council haven't done anything about it Lots of residents had enough with the noise Lots of houses recently sold (people moving due to noise) Lots of elderly/ young families are too scared to complain Lady miscarried this year she blames it on the stress from noise from Pheasant 	
11.11.22	Community Protection Warning Notice (CPWN) pursuant to the Anti-Social Behaviour Crime and Policing Act 2014 served on DPS (Wayne Parkes)	APP 5 - CPW Notice
15.11.22	Meeting at Pheasant ref means to control noise outbreak following receipt of CPWN present Wayne, Bruce Wakeling (Area Manager for Greene King), Emily Fellows (Environmental Health Team Leader) and myself. Structural works recommended to control noise outbreak from inside pub, requested a scheme of acoustic measures to address problems – not received	
17.11.22	Email sent to Bruce Wakeling reiterating action taken by Environmental Health and reiterating request for a scheme of acoustic measures to mitigate noise be submitted – Never received	APP 6 - email to Bruce Wakeling requesting scheme of acoustic measures to mitigate noise
4.1.23	Emailed [REDACTED] asking if she felt the noise situation had improved since service of CPWN she responded by saying the noise is as bad as ever.	APP 7 – emails to BT
10.1.23 – 20.1.23	Email chain to Bruce Wakeling requesting an update - structural works to mitigate noise outbreak from within the pub alluded to but never materialised.	APP 8 – email BW
29.1.23	ELW visited complainant. Music noise audible in property in living room but the lyrics were not discernible. From 21:30 the low frequency noise (bass beat) could be heard and felt. Walked along Linthouse lane music just audible but not discernible at the front of the houses. ELW left complainants property with the music still audible. Complainant complained again that the noise stopped her sleeping and her partner who visits her states he is also affected by noise. When she walks down the street neighbours talk to her and state, they are affected by noise but are too scared of the landlord to complain to the council.	

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30.1.23	Telephone call with Bruce Wakeling to inform him that the situation hadn't improved, he stated that he visited the Pheasant with a colleague who he claimed was a surveyor on the 27 th of January 2023 he did not feel that there was a noise issue. He undertook his own noise monitoring. I asked for a copy of the noise measurements and did not receive them.	
19.02.23	Noise Monitoring undertaken in the presence of Bruce Wakeling and Carrie (Brewery Surveyor), Dean Gooch (Senior Officer WCC) and myself, we met at complainants property, noise was not an issue at this time. Bruce gave the complainant his personal number and assured her that she could contact him at any time if affected by noise from the Pheasant and he would come and witness the problem himself).	
27.2.23	Email from [REDACTED] - states calling brewery not working as they ignore her.	APP 9 — email from complainant
28.2.23	Telephoned Bruce Wakeling asking if he had heard from [REDACTED] he stated he had and had contacted Wayne Parkes who walked around the premises, Wayne video called him and they did not deem it to be problem. I again discussed the option of installing a Sound Limiting Device, Bruce to discuss with Wayne.	
2.3.23	ELW messaged Bruce asking for an update on installation of a Sound Limiting Device – no response.	
6.3.23	Email from complainant she no longer gets a response from Bruce Wakeling or his manager she is totally ignored by the brewery.	APP 10 – email from complainant
26/27/28 th May 2023	Noise monitoring undertaken by Linda Fletcher, Andy Johnstone, Dean Gooch and myself all of who are Senior Officer's employed by Wolverhampton City Council. All officers agreed that there was a Statutory Noise Nuisance in accordance with the Environmental Protection Act 1990.	APP 11 Witness statements
29/5/23	Recordings taken by complainant	Submitted as evidence
9.6.23	Email to Wayne and Bruce ref potential service of notice review of licence etc.	APP 12 – email to WP and BW
12.6.23	Email to Wayne and Bruce ref 7-day intention to serve period EPA 90 S80	APP 13 – email to WP and BW
13.6.23	Telephone conversation between ELW Piers Warne Legal Director for TLT etc ref breweries intention to not let this get to a review stage, he is to submit noise mitigation proposals.	
15.6.23	Witness Statement provided by complainant	APP 14 – witness statement

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16.6.23 and 17.6.23	Email from Piers Warne outlining what the brewery intends to do to mitigate noise (not enough detail provided at this stage to give confidence that works will be done at all or enough to mitigate noise outbreak)	APP 15 – email from PW
29.6.23	Email to Piers Warne outlining what information is required.	APP 16 – email to PW
3.7.23	Email from complainant about how noise is making her feel ill and how noise is causing enormous strains on her relationship	APP 17 – email from BT
12.7.23	Email to Piers Warne – no response to previous email	APP 18 – email to PW
12.7.23	Email from Piers Warne to say that they want to sort the problem out amicably	APP 18 – email from PW
17.7.23	Telephone conversation with complainant her house on market because the noise from the Pheasant is unbearable, she is very upset because she loves her house but feels she needs to sell to escape the noise.	
21.7.23	Email from another complainant who wishes to remain anonymous detailing how noise from the Pheasant has affected her over the last 3 years. Numerous noise recording submitted as evidence.	APP 19 Email from anonymous complainant Plus noise recordings submitted as evidence
22.7.23	Noise monitoring undertaken by ELW at complainants property, amplified music clearly audible in property in particular bass beat thudding throughout the property in all habitable rooms. Note witnessed between 10pm – 11pm later informed by complainant that the same level of noise will be an issue until 1am. Note despite brewery (Piers Warne) informing Environmental Health that the Pheasant Pub is keen to work with the council to mitigate noise and not impact on residents, it is apparent that due to continuing excessive noise they are not. Discussed issues with complainants partner who was staying with complainant at time of monitoring, he has documented his views on the matter	APP 20 - statement issued by complainants partner.

The Pheasant – Chronology of Events

25.07.23	<p>Abatement Notice pursuant to the Environmental Protection Act 1990 S80 served on the Pheasant relating to amplified music and vocal sounds. Note the notice was served nearly 1 month after originally informing the brewery and relevant parties that Environmental Health had witnessed a Statutory Notice, normally the period is 7 days to submit adequate information so negate service of notice.</p>	<p>APP 21 -S80 AN plus covering letter</p>
27.07.23	<p>Emma Caddick (EC) Service Manager Environmental Health conversation with Wayne Parkes, discussed the following:</p> <p>E.C. Spoke to Wayne - Wants us to advise the brewery so that they can get the work done as he feels they are dragging their feet Wanted to know when noise was witnessed - E.C. advised Kept referring to one complainant E.C. advised that there was not just one complainant there were many complainants and that some were scared to come forward.</p> <p>E.C. advised that officers who are impartial have witnessed the noise and believe it is a nuisance.</p> <p>Wayne asked if he could no longer have live music - E.C. advised that if he could control the noise and not cause a nuisance then live music could be played but judging by the structure of the building and what has been observed by officers this is unlikely and that he should think about not having it at all. Issue with breakout if doors are open etc. E.C. explained the notice and that if further instances prosecution would occur.</p> <p>Wayne talked about giving up his lease if licence was reviewed. I explained that we would be looking at reviewing his licence and recommending that he no longer holds a licence. Explained the decision would be made by licensing committee.</p> <p>His wife advised that the council had caused the problem and have just picked on their premises - E.C advised that we had not caused the problem we had merely responded to noise complaints from members of the public and tried to work with the business to resolve these issues. This approach has failed so we have no option but to take enforcement action.</p> <p>They advised that the individual was a persistent complainer and that if he did stop his music, he would remove the fence near her property and place a play area there. He discussed that children were noisy. EC advised that it was not appropriate that they were discussing action to get back at a complainant and that this would be reported to the officer who was bringing the review. He then back tracked and said it was because he had to make money.</p> <p>Wayne insisted that the complainant complains about everything - even a light. I advised that there was more than one complainant and officers have witnessed the nuisance</p>	

The Pheasant – Chronology of Events

	<p>EC advised if he did give in his lease then the authority should be informed.</p> <p>Wayne's wife advised that they only have two music events per week, and this was a minimal amount of time when the pub was open.</p> <p>E.C advised that the pub was in a residential area and that what they were doing there was causing problems and therefore was not appropriate</p>	
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