

## **Statement of Facts in support of application to review Premises License - 21/07763/PREMIN.**

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1. I am a Senior Environmental Health Officer employed by Wolverhampton City Council and a duly authorised officer under the Environmental Protection Act 1990. I have been employed by Wolverhampton City Council since 2011.
2. I qualified as an Environmental Health Officer in 1998 and have since worked at four local authorities. I have a Batchelor of Science Degree with Honours in Environmental Health; a Master's degree in Environmental Management; and the Institute of Acoustics' Diploma in Acoustics and Noise Control. I have been a member of the Institute of Acoustics since 2000.
3. I started investigating noise complaints relating to amplified music and other sounds emanating from a public house known as The Pheasant, Wood End Road, Wednesfield, Wolverhampton in July 2020. This was at a time when the Pheasant had a new Designated Premises Supervisor, Mr Wayne Parkes. Around this period Pubs in England had been given sanction to reopen under strict government guidelines following the Covid 19 Pandemic.
4. The Pheasant Inn is located in an area that fronts onto a small enclave of commercial business but shares a common rear boundary with 4 residential properties and is within 50 metres of the rear gardens of 20 other residential properties situated on Wood End Road, Linthouse Lane and Prestwood Avenue. The rear garden of the Pheasant has a large terrace, a beer garden and a children's play area. At this time Mr Parkes hosted external events which comprised amplified music.
5. On receipt of complaints from approximately 5 separate households I met informally with Mr Parkes in company with a work colleague, Charlotte Rose ( Senior Environmental Health Officer), in an attempt to help secure suitable noise control to ensure the public house could co-exist in a reasonable manner with the neighbouring residencies which are noise-sensitive premises. A public meeting was held at the public house on the recommendations of Environmental Health, Wolverhampton City Council, to allow Mr Parkes an opportunity to share his plans how he wanted the public house to operate and for it to be a community venue. This meeting also allowed for local residents to have a contact point at the public in the event they experienced and provide residents with a contact point should they experienced any on-going concerns.
6. Notwithstanding, complaints persisted and having witnessed what I considered to constitute a Statutory Noise Nuisance pursuant to the Environmental Protection Act 1990 relating to live amplified musical performances external to the premises held in August 2020, an Abatement Notice was served. This notice required Mr Parkes to prevent noise amounting to a statutory nuisance from the activities in question.

7. As a regulatory authority officer, I was mindful at this time of ensuring that a balanced approach was taken in relation to noise control and the hospitality sector in line with government guidance, given the effects of the Covid Pandemic on this business sector. Nevertheless, due to the complainants received, as a local authority, Wolverhampton City Council remained obligated to take legal action as defined in the Environmental Protection 1990, though decided to not review the licence at this time and so permit Mr Parkes an opportunity to continue operating whilst not having live amplified music in the garden area. At this point it came to my knowledge two of the complainants had sold their houses, apparently due to noise from the Pheasant public house.
8. The council again started to receive complaints of amplified noise from the Pheasant from May 2021 onwards. This coincided with a variation to the Premises Licence (Reference 21/07763/Premis) which permitted an outdoor bar. As complaints were received, council officers contacted Mr Parkes requesting that noise levels be turned down on 5 occasions.
9. Following continued calls and emails complaining of noise stemming from the public house I undertook noise observations and monitoring on the evening of 6.11.22. On visiting a female complainant, the complaint stated that since coming out of 'Covid Lockdown' noise has become more of a problem, affecting her every Thursday, Friday, and Saturday evenings into night-time. The complainant confirmed that music typically starts between at 20:00 – 21:00 then progressively worsens until 00:45. She also stated that generally she can hear the DJ or band 'front person' shouting over the noise of the band even, though her double glazed windows are closed. As a result, she could not sit outside in the warmer months and relax indoors with the windows open on evenings. As consequence, she opted to drive to Scunthorpe to see her partner every other weekend to escape the noise generated at The Pheasant public house.
10. Throughout the period of observations and monitoring, I could both hear and feel pulsating 'bass-beat' throughout the house. At 20:49 on 6.11.22 I walked along Prestwood Avenue; it was raining and there were fireworks in the distance, however I could still hear music noise from The Pheasant a distance of up to approximately 70 metres. At 20:54 the complainant called Mr Parkes and asked him to turn the noise down. Whilst on the phone I am informed he asked the door staff if the door was open, which it was, and they closed it. There was no subjective reduction in music noise from within the complainant's property.
11. An anonymous complaint on behalf of a local resident was received by the council on 10.11.22. I had spoken to this resident in the past as they had made a formal complaint to their local MP. The resident highly distressed, claiming noise had been a problem for over 2 years, claiming that there were many other residents affected but were allegedly too frightened to formalise their complaints for fear of repercussions from the Designated Premises Supervisor or his associates. The complainant attributed a recent miscarriage of her baby due to the stress caused by noise from The Pheasant.

12. On 11.11.23 I issued a Community Protection Warning Notice pursuant to the Anti-Social Behaviour Crime and Policing Act 2014 on Mr Wayne Parkes. The purposes of this action was to encourage Mr Parkes to take the situation seriously and put in place noise mitigation without recourse to serving a more formal notice.
13. On 15.11.23 a meeting was held at The Pheasant with Mr Bruce Wakeling - Area Manager for Greene King pub and brewing company, Emily Fellows ( Environmental Health Team Leader - Wolverhampton City Council), Mr Wayne Parkes, Mrs Jeanette Parkes, and myself. The brewery were invited to this meeting as Mr Parkes had mentioned in the past that he had spent a lot of his own money on the business and he considered that the brewery should take responsibility for funding works to improve the structure of the premises to help mitigate noise outbreak. I had previously sent copies of all notices served to date to Mr Bruce Wakeling and updated him on the situation prior to the meeting. This meeting concluded with a request from me to the brewery to provide a scheme of acoustic measures that would address noise problems from The Pheasant.
14. On 15.11.23 I sent an email to Bruce Wakeling requesting him to provide a scheme of measures. Details of these measures were never received.
15. I emailed the principal noise complainant on 17.11.23 to establish whether the Community Protection Warning Notice and subsequent meeting had reduced noise levels. The complainant stated that the noise was 'as bad as ever'.
16. Between the 10th of January and the 20th January 2023 emails were exchanged between myself and Bruce Wakeling discussing the requirements for the brewery to address noise issues. No scheme of works was ever provided.
17. I visited the principal complainant on 29.1.23 as she had continued to contact me stating noise was still a problem. At the time of visit (21:30 on 29.1.23) music noise was audible in the complainant's property with all windows and doors closed, with lyrics not intelligible. Low frequency noise attributable to the 'bass-beat' could be both heard and felt throughout her property. I walked up Prestwood Avenue and music noise was audible up to 75 metres away from the rear façade of The Pheasant. On returning to the complainant's property the music noise remained audible within the property as before. I would describe the 'bass-beat' as a dominant "thudding" that could be felt throughout the house.
18. On 30.1.23 I called Mr Wakeling to inform him that the situation had not improved. He stated that he had visited The Pheasant with the Brewery's surveyor, a lady he referred to as "Carrie". He claimed that he had done his own noise monitoring within the pub when amplified music was present, and referred to levels of 97dB, 92dB and 107dB. I exclaimed that these levels of sound were high, and I asked him over what length of time he monitored and whether the measured levels were what are referred to as A-Weighted, maximum levels, a metric commonly use in this context, and for details as to how he had monitored them. He was unable to provide me with an answer. I asked him to forward the results; these were never received. We

subsequently arranged to meet at the principal complainant's property on 19.2.23 to jointly observe and monitor noise levels emanating from The Pheasant.

19. On the evening of 19.2.23 I met with Mr Wakeling, the Brewery's Surveyor known to me as Carrie, and my colleague Dean Gooch, who is a Senior Officer in Environmental Protection at Wolverhampton City Council. We met at the principal complainant's property. Throughout the monitoring period everyone agreed that noise from The Pheasant was not a problem. It was obvious at this juncture that, if minded to, Mr Parkes could exercise control over noise levels emanating from his premises. Mr Wakeling offered to be the conduit for complaints between the complainant and The Pheasant and that the complainant could ring him at any time if she was affected by noise and he would come and visit her himself to witness the problem. I considered that this would give both parties an opportunity to manage the degree of noise independent of my involvement, anticipating that this would be a solution to the continued problems moving forward.
20. On 27.2.23 I received an email from the principal complainant in which she stated that the brewery was not helping her and were now ignoring her.
21. On 28.2.23 I telephoned Bruce Wakeling asking if he had heard from the complainant. He stated that he had and on receipt of her call had then asked Mr Parkes to walk around the premises. Mr Parkes allegedly video-called Mr Wakeling during this exercise and deemed the noise to not be at a level to cause a problem. I discussed the option of installing a Sound Limiting Device, which had been discussed on previous occasions, as a possible of controlling the level of noise emanating from amplified music. Whilst by no means a total or fool-proof solution to issue of this nature, if properly installed and thereafter serviced, calibrated and utilised, they can be set at a level agreed by businesses and regulatory officers with a view to minimising noise problems. Mr Wakeling stated that he would discuss this with Mr Parkes.
22. On 2.3.23 I messaged Mr Wakeling for an update on whether he had discussed the Sound limiting device with Wayne, I had no response.
23. On the 6.3.23 I received an email from the principal complainant stating that she no longer gets a response from anyone at the brewery when she reports that noise from The Pheasant is too loud.
24. On the evening of 17.3.23 I undertook noise monitoring at the principal complainant's property as she claimed the situation had not improved. I arrived at 20:15 The 'bass-beat' from amplified music at the Pheasant was clearly audible in the living room where I was sitting in company with the complainant's partner. Subjectively the 'bass-beat' felt like a pulsating drum within your head. The complainant informed me that the singing had started in The Pheasant at 19:30. I walked along Prestwood Avenue and observed that the 'bass-beat' was clearly audible within a range approximately 75 metres from the rear facade of The Pheasant. On returning to the complainant's property, she informed that this level of noise would typically go on until 01:00 on a Friday, Saturday, and Sunday evening. We discussed what measures she felt would

reduce noise to a level that would not cause a problem. She stated that she did not wish the pub to close, but just wanted to be able to sleep and relax in her property, and that she loved her home and had spent a lot of money on it and was hence reluctant to move because of noise.

25. Over the weekend of 26/27/2 May 2023 I undertook noise monitoring with three other Senior officers employed by Wolverhampton City Council: Linda Fletcher; Dean Gooch; and Andrew Johnstone. The aim of this was to establish a range of opinions relating to noise from The Pheasant. At the time of monitoring all officers advised me that on each evening noise emanating from The Pheasant amounted, in their opinion, to a Statutory Noise Nuisance having regard to the Environmental Protection Act 1990.
26. On 9.6.23 I emailed Mr Wakeling and Mr Parkes stating that noise observations and monitoring had been undertaken and a team of officers had all agreed that they were of the opinion that the noise amounted to a statutory nuisance. I also informed them that Environmental Health as a Relevant Authority under the Licensing Act 2003 were considering reviewing their licence.
27. On the 12.6.23 I emailed Mr Wakeling and Mr Parkes informing them that they had 7-day period, in line with the Environmental Protection Act 1990, in which a Local Authority can delay serving an Abatement Notice. These circumstances are relevant where an authority considers other steps, as it thinks appropriate, can be taken for the purpose of persuading the appropriate person(s) responsible for a nuisance to abate the nuisance, or prohibit or restrict its occurrence or recurrence.
28. On 13.6.23 I spoke at length via telephone to Mr Piers Warne (Legal Director TLT) who is the solicitor working for Greene King Breweries. He agreed to submit noise mitigation proposals.
29. An email was received on 15/6/23 and 16/6/23 from Piers Warne. The email proposed that a Sound Limiting Device would be fitted within an agreed timescale. It intimated that they would look into installing an acoustic lobby and would look into secondary glazing and possible air conditioning. My concerns at this juncture were that the recommendations were only speculative. I didn't feel "looking into" remedying what was now a longstanding noise problem and was interfering with the sleep and reasonable use of the homes of local neighbouring residents on weekdays or weekends was adequate. An email was sent by myself to Piers Warne on the 29th June 2023 which outlined details of what I requested as mitigation in this matter.
30. I received an email on 3.7.23 from the principal complainant stating that noise from The Pheasant was still very bad and making her feel ill; she commented that her blood pressure was elevated, and she had arranged to visit her GP. I noted that this was over 20 days since I had originally notified the Mr Parkes that I was contemplating taking further legal action against him and calling for a review of his Premises Licence. This complainant contacted me 14 days later to inform me that she is putting her house on the market, and whilst she 'her house' she feels she needs to sell it to escape the noise.

31. I received an email from Piers Warne on 12.7.23 stating that the Brewery wanted to sort the problem out amicably.
32. I received an email from a complainant who wishes to remain anonymous following numerous conversations with her over the last 3 years. She submitted recordings of the noise taken at different times and submitted as evidence. To summarise, she feels her mental health has suffered over the years due to problems with noise associated with The Pheasant, which has manifested in physical symptoms (stress, anxiety, alleged miscarriage). The way she utilises and lives in her property has been forced to change due to noise including using earplugs to sleep; unable to open windows in the summer when the weather is hot at times when music events take place; unable to allow children to play in the garden due to foul language from patrons using the beer garden. I consider these are material, deleterious effects impacting upon the legitimate use of a residential premises.
33. In order to assess the current noise climate around The Pheasant, to aid in my assessment of whether to serve the Abatement Notice and review the premises licence, I undertook more subjective noise monitoring. On the evening of 22.7.23 at 21:37 noise from amplified music was clearly audible in the principal complainant's property, with lyrics unintelligible. I noted it was raining heavily outside and albeit music noise could still be heard over the noise of the rain. The volume of the Television had to be increased to hear it over music noise from The Pheasant. The 'bass-beat' could be felt throughout the whole property. The complainant said this noise would typically go on until 01:00 every Friday, Saturday, and Sunday evening and that she has been poorly with the stress from this situation. The complainant offered that she would like to just sit in the garden and relax at weekends but is prevented from doing so. I left the property at 22:30 and could hear music outside her house as I walked to my car. The lyrics were clearly discernible from the singer. The amplified music was audible from within the premises.
34. A Noise Abatement Notice served on the 25.07.23, 1 month after I originally informing the brewery and Mr Parkes that there was a problem that warranted intervention on the part of the council. Given that a Local Authority is only required to give a 7 day "cooling off period" before serving a notice, I considered I had given Mr Parkes ample opportunity to simply keep entertainment noise turned down.
35. I have since been informed that the principal complainant's house is now on the market.