



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 David Martschenko

(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 White Lion 20 Nottingham Street	
Post town Melton Mowabray	Post code (if known) LE13 1NW

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

Number of premises licence or club premises certificate (if known) MMA0090
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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

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 David Martschenko - Environmental Health: Senior Technical Officer Melton Borough Council Parkside Station Approach Burton Street LE13 1GH
Telephone number (if any) 01664 [REDACTED]
E-mail address (optional) [REDACTED]

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

- Please tick one or more boxes ✓
- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

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

Environmental Health is bringing this review in the interests of preventing a public nuisance.

That in 2022, the Designated Premises Supervisor (DPS) - Simon Brooks, breached the following premises licence conditions, and in doing so has:

- Failed to provide compliance data requested by the regulator
- Caused a public nuisance resulting in residential disamenity
- Created a 'no confidence in management' situation

'The Premises Licence Holder, DPS or nominated person shall ensure that music and speech from regulated entertainment does not exceed the 'background' noise level at the boundary of the nearest noise sensitive property at any time. For the purpose of this condition, noise from music and speech would not exceed the background noise level when it does not alter the perception of the ambient environmental noise that would prevail in the absense of the source in question.'

'Where regulated entertainment is to take place outside after 23:00, the Premises Licence Holder, DPS or nominated person shall undertake an observation of the noise environment at the nearest noise sensitive property to ensure compliance with condition (above). The observation shall be documented and retained for 12 calendar months and made available to the Licensing Authority or Responsible Authorities upon request.'

Note:

An objective level of 'background' or below was selected because if the volume of music in the external environment does not exceed the background sound level, it will be inaudible in the internal environment due to the protections afforded by the building fabric. This is consistent with guidance document Good Practice Guide on the Control of Noise from Pubs and Clubs 2003 issued by the Institute of Acoustics.

An observation of regulated entertainment is required for events after 23:00 due to the risk of sleep disturbance. 'Night-time' hours are recognised as 23:00 to 07:00; during this time residents have a greater expectation of residential amenity.

Failure to provide compliance data -

Environmental Health requested Simon Brooks (via George Domleo of Flint Bishop) submit his monitoring records on 22 April 2022, 5 May 2022, 14 July 2022 and 10 August 2022. At no time has Simon Brooks submitted the requested information.

In the absense of the requested information, Simon Brooks as DPS has failed to demonstrate compliance with the above conditions, namely:

- noise from music and speech shall not exceed the background noise level at any time.
- the observation shall be made available to the Responsible Authorities upon request.

Cause a public nuisance -

Environmental Health received a complaint from local resident - Kaisey Lambert on 17 April 2022 concerning nuisance noise from amplified music and speech from The White Lion. A further complaint was received on 9 July 2022.

Kaisey Lambert reported experiencing intrusive music and speech until midnight and occasionally after midnight during the 2022 summer entertainment season. The volume of the music and speech resulted in a loss of residential amenity. It impaired Kaisey Lamert's 'enjoyment' of her property, prevented her from sleeping and required her to take unreasonable steps to mitigate the noise eg. staying-up later than desired, closing windows and turning up the television.

It can be seen that the volume of music and speech experienced by Kaisey Lambert is inconsistent with the acoustic objective level of 'background' or below. For Kaisey Lambert to be so affected, noise from The White Lion must have exceeded external background levels.

No confidence in management -

Environmental Health notified Simon Brooks of the two resident complaints and requested that he submit his monitoring records on four occasions. Environmental Health did not receive a response from Simon Brooks until 11 August 2022. A period of nearly 4 months from our initial resident complaint and subsequent contact with Simon Brooks (via George Domleo of Flint Bishop) on the 22 April 2022.

Simon Brooks claimed not to know what information was required. We submit to the sub-committee that The White Lion premises licence, conditional requirements are abundantly clear. Simon Brooks was instrumental in the major variation of The White Lion premises licence in August 2020 which brought about the new conditional requirements. Moreover, Environmental Health explained what information should be recorded whilst making observations to Simon Brooks in March 2022 during at subsequent major variation. If Simon Brooks did not understand the conditional requirements or the nature of the compliance data requested, he had every opportunity to seek clarification prior to August 2022.

Simon Brooks claimed not to have been at The White Lion bar weekends, thus implying that he wasn't resident to either (a) manage regulated entertainment or (b) respond to the Regulator. We submit to the sub-committee that the premise licence identifies Simon Brooks as the DPS and the person responsible for the day-to-day running of The White Lion. He is responsible for ensuring compliance with all conditions on the premises licence. Despite this claim, Environmental Health has obtained evidence to demonstrate that Simon Brooks was in fact managing regulated entertainment at The White Lion during the Summer of 2022.

It is the opinion of Environmental Health that Simon Brooks was managing regulated entertainment at The White Lion during the Summer of 2022, he did understand what compliance information was required of him but purposefully ignored the Regulator. Simon Brooks made this decision because he did not want to be bound by the premises licence conditions and to run down the clock for enforcement action for the 2022 Summer entertainment season.

Consequently, Environmental Health has no confidence in Simon Brook as DPS of The White Lion.

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

I submit the following documents as evidence in support of this review:

David. Martschenko - Witness Statement

DM SGWDWNVM

DM01

DM02

DM03

DM04

DM05

DM06

DM07

DM08

DM09

DM10

Kaisey Lambert - Witness Statement

KL - Noise Diary

KL 09-07-22 Audio 1

KL 09-07-22 Audio 2

KL 27-08-22 Audio 1

KL 27-08-22 Audio 2

KL 27-08-22 Audio 3

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

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

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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, 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 **David Martschenko**
.....

Date 06/01/2023
.....

Capacity Responsible Authority and Local Authority Officer
.....

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.

