

## 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 Environmental Health Department

Apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below:

#### Part 1 – Premises or club premises details

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Crab and Lobster Tap Grove Road	
<b>Post town</b> Ventnor	<b>Post code (if known)</b> PO38 1TH

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Punch Taverns Plc
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<b>Number of premises licence or club premises certificate (if known)</b> IW/ 042545
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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)

X

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  Environmental Health Department Isle of Wight Council Jubilee Stores The Quay Newport PO30 2EH
Telephone number (if any) 01983 823000
E-mail address (optional) eh@iow.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

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

The premises has a licence which permits opening hours until 01:00 hours Fridays and Saturdays, and 00:01 hours on other days, with provision to extend these hours by an additional hour on Bank holiday weekends, Christmas eve and boxing day, plus an additional hour during televised sporting events on no more than 12 occasions per year. The premises are licensed for recorded and live music within these times.

There is currently only one condition on the premises licence, 'number 6: Outside consumption will cease at 23:00'. The premises do not have an outside seating area and therefore customers smoke on the public highway to the front of the premises.

The premises has received noise complaints since 2007 – however this document focuses on the most recent evidence gathered by this department which demonstrates that the current licence does not sufficiently uphold the licensing objectives in its current form.

On 17 May 2014 a complaint was received of noise nuisance from the premises from a local resident. During the investigation officers of this department have witnessed noise from both people and music from the premises which are at a level which they believe would cause sleep disturbance and nuisance.

It is therefore the opinion of this department that the licensing objective of the prevention of public nuisance is not being upheld or promoted.

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

### The premises

The Crab and Lobster Tap is a small public house just outside of the main town of Ventnor on a residential road. The pub provides live entertainment approximately 3 times per week, and has a capacity of around 130 people. The premises do not have an outside area and therefore smokers congregate to the front of the premises on the narrow pavement and in the road. Grove road is a quiet road and the noise does appear to echo late at night as the road is lined with houses both sides.

### Chronology of investigation:

On 17 May 2014 a complaint was received in relation to noise nuisance from people and music at Crab and Lobster Tap. In line with the Environmental Health procedures, letters were sent to the premises informing them of the complaint. In addition 'log sheets' were sent to the complainant requesting them to keep a log of when they are disturbed.

On 30 May 2014 a call was made to our out of hours team, and they visited the complainant between 22:45 – 23:28. There was faint music audible, but not at a level that was deemed to be a nuisance. The complainant reported that earlier (when they called) the doors had been open.

On 15 June 2014 at 00:25 hours and 19:38 hours calls were received in relation to loud music and people noise, officers were not available to respond.

On 18 June 2014 log sheets were received from the complainant, these detailed 7 occasions of disturbance in a four week period. This was deemed frequent enough to require further investigation.

On 20 June 2014 at 23:25 EH officers carried out a pro-active visit to the area, where they witnessed music noise and people noise at a level that they believed could be a nuisance to nearby residential premises. The music noise was particularly noticeable as the front doors to the premises opened.

On 20 June 2014 at 00:42 a call was received complaining of noise from the premises, Officers were unable to re-visit.

On 22 June 2014 at 00:35 EH officers carried out a further proactive visit to the area, again witnessing people noise from smokers outside at a level they believe could disturb sleep to nearby residents.

On 26 June 2014 EH officer and a Licensing officer visited the Crab and Lobster Tap to speak with the designated premises supervisor about the problem. A further letter was delivered at this time, stating that we believed that a nuisance was occurring from the premises, and action was required. Advice was also provided during this visit.

On 28 June 2014 a call was received to out of hours at 01:47 hours reporting that the complainant had been woken due to noise outside the premises. Officers were unable to visit to substantiate.

On 28 June 2014 a call was received to our out of hours service at 21:56 and again at 22:50 hours. Officers visited the area between 23:40 hours and 00:20 hours the following day. The witnessed noise from within the complainant's bedroom, of people chatting which was at a level which the officers believed would be sleep disturbing.

On 02 July 2014 the DPS at the Crab and Lobster and the area manager for the premises licence holder (Punch Taverns) were informed of the weekends visits. The DPS in response to a number of questions was informed of the music volume level that we would be looking to achieve.

On 04 July and 05 July 2014 proactive visits were made to the premises. On the 4<sup>th</sup> Officers visited the area and reported that the level of chatter outside the premises appeared acceptable. It was raining on this occasion. On 5<sup>th</sup> July Officers attended the complainant's premises, and at this time both the level of music and people noise were acceptable.  
No complaints were received this weekend.

On 08 July the DPS and the area manager were informed of the weekends visits.

On 12 July a call was received to the out of hours service at 00:17 hours to report that the complainant had been woken by noise from the premises. Officers were unable to attend to substantiate within time.

On 18 July 2014 Officers received a call to the out of hour's service and made a visit to the area. From the side of the road adjacent to the pub, officers witnessed people noise and music noise which they believed was loud enough to cause a nuisance to nearby residential.

On 19 July 2014 officers received a call to the out of hours and made a visit to the complainant's premises. They visited between 23:12 hours and 23:43 hours during which they deemed the level of the music noise and people noise to be at a level which was sleep disturbing. Again it was noted that the music noise was most prominent when the front door was opening – when officers could hear a sharp increase in the volume.

On 24 July 2014 the licence holder and designated premises supervisor were written to, to notify them that we believed that the problem was not resolving and as such we would considering further action. Comments were requested in relation to this.

On 25 July 2014 Officers received a call during out of hours shift. They attended at 23: 40 and witnessed people noise and music emanating from the Crab and lobster pub. Officers were positioned at the end of the road, and whilst they could hear music noise – the noise from people in the road outside the pub was at a higher level which they believed would disturb local people.

On 26 July 2014 at 21:42 a call was received reporting noise from the premises. Officers were unable to attend.

On 01 August 2014 between 22:00 hours and 23:15 hours a proactive visit was made to a residents property in Grove Road. During this time, noise from people outside the pub were heard, talking and occasionally shouting at a level which was intrusive and would disturb or prevent sleep. There was no music noise witnessed at this time.

On 02 August 2014 communication was received from the designated premises supervisor following our letter dated 24 July 2014. The designated premises supervisor offered, from 01 August 2014 to reduce the licensable hours by 1 hour at weekends, terminating licensable activities at midnight, and that live music would no longer be routine.

On 02 August 2014 at 23:13 hours a call was received reporting noise from people and music. Officers were unable to visit.

On 09 August 2014 at 23:17 a call was received reporting noise from music and people from the pub. Officers were unable to respond to witness.

In summary:

The premises have demonstrated that the level we are requesting and the control of the people noise is possible.

The complainant has complained since the introduction of the smoking ban in 2007, which led to people needing to be outside of the premises.

Officers believe that the premises are not upholding the objective of the prevention of public nuisance.

Complaints are of both the music volume, and of the people noise outside of the premises. The premises licence already contains a condition which prohibits drinks to be taken outside. This condition has failed to prevent noise from smokers.

Purpose of the application

This department has welcomed recent efforts by the licence holder and DPS to reduce the hours until midnight, as a means to prevent nuisance. Whilst this is encouraging, we feel that this will still routinely cause sleep disturbance to nearby residents and as such recommend the following conditions:

People noise outside the premises:

1. The sale of alcohol for consumption off of the premises shall cease at 21:00 hours.

Reason: This shall prevent customers consuming alcohol outside of the premises, and as such prevents the outside area from being used for prolonged periods of time. This is a re-wording of the current condition 6 of the licence.

2. The premises shall close to the public at 23:30 hours, with all licensable activities ceasing at 23:00 hours.

Reason: A reduction in the hours would prevent people socialising outside the front of the premises; and remove people noise late at night. Officer visits have witnessed noise levels which would prevent sleep from people outside the premises, and as such limiting this to 23:00 hours will enable local residents to be able to sleep from this time.

The committee may wish to consider options such as the use of SIA door staff, or a limit on the number of smokers to the premises as possible alternatives to control people noise outside – however it is officers opinion that in this echo-ing, and quiet residential street as few as 5 people outside the premises has been noted by officers as causing a nuisance late at night.

If the committee feel that the reduction in hours is too severe, consideration may be given to a condition such as:

- 2(a). There shall be no admittance or re-admittance to the premises after 23:00 hours

Reason: By not allowing people back into the premises – should customers wish to remain at the premises they will have to remain inside the building and refrain from smoking. This is in effect prohibiting the outside area from being used after this time. The outside area is public highway and as such we cannot place conditions on the licence

governing its use. This condition is therefore an achievable way for the premises to control their customers and necessary to prevent nuisance.

Officers have concern in relation to the management of condition 3(a) and as such favour the reduction in hours to adequately promote the licensing objectives.

Music noise:

The licence holder and DPS have offered to reduce, or stop the provision of live music. We would like to see the following condition attached to the licence to ensure that when entertainment is provided it does not cause a nuisance.

We would like the provision of live music to be controlled by the licence, and no longer exempt under the provisions of the Live Music Act 2012.

3. During the provision of regulated entertainment the noise, including any DJ announcements shall be contained within the premises, or be at a limit which will be barely audible\* at the boundary of the nearest residential premises.

\*Barely audible is defined as at a level that, whilst it may be audible (heard), is so low in volume that distinct lyrics, tunes, musical instruments and any bass beat cannot be discerned at the boundary of the nearest residential premises.

Reason: To prevent nuisance, including sleep disturbance from the provision of live and recorded music from the premises. By ensuring that the level is 'barely audible' outside – even with windows open we believe that this will not cause a nuisance to local residents. From visits carried out on the 4 and 5 July 2014 we know that this level is achievable, and as such we believe it is necessary and enforceable in this instance.



tick ✓ **yes**

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

**Please**

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"/>	<input type="text"/>	<input type="text"/>
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**If you have made representations before relating to the premises please state what they were and when you made them**

This department has written to the DPS and licence holder to inform them of the complaint and kept them up to date with occasions when both positive and negative visits have been carried out.

In our letter dated the 26 June 2014 we have detailed the area of concern that we have with the premises – that of control over the outside area, and a level on the music volume. In an email conversation on 03 July 2014 we have detailed the music level that we are wishing the premises to comply with.

On 24 July 2014 letters were sent to the licence holder and DPS of the pub, notifying them again of the problem and requesting their response to us considering further action.

In response to that letter the DPS has notified the department that the hours of operation would be reduced by 1 hour and that the provision of music would no longer 'be routine' with immediate effect. Since the implementation of this complaints have still been received by the department.

tick ✓ yes

Please

- 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            18 August 2014  
.....

Capacity    Health Protection Officer  
.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6) Claire Whitchurch Health Protection Officer Environmental Health Department Isle of Wight Council Jubilee Stores The Quay	
<b>Post town</b> Newport	<b>Post Code</b> PO30 2EH
<b>Telephone number (if any)</b> 01983 823000	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b> ehadmin@iow.gov.uk	

**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.