



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 SIMON JOYCES
(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 <u>ROSE PUBLIC HOUSE</u> <u>75 HIGH STREET</u>	
Post town <u>BIGGLESWADE</u>	Post code (if known) <u>SG18 0JH</u>
Name of premises licence holder or club holding club premises certificate (if known) <u>MR EAMON WATSON</u> <u>MISS SABAH MUKCHRONK</u>	
Number of premises licence or club premises certificate (if known)	

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 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

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 CENTRAL BEDFORDSHIRE COUNCIL PRIORITY HOUSE MONEY LAKE CHICKSANDS BEDFORDSHIRE SG17 5TQ
Telephone number (if any) 0300 300 4467
E-mail address (optional)

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 1)

I SEEK A REVIEW OF THE PRETISES
LICENCE AS I CONSIDER THAT THOSE
RESPONSIBLE ARE CAUSING A PUBLIC
NUISANCE AND FAILING TO PROMOTE
ONE OF THE FOUR LICENSING OBJECTIVES

Appendix 'A'

Please provide as much information as possible to support the application
(please read guidance note 2)

INFORMATION IN SUPPORT OF THIS
APPLICATION IS ENCLOSED

Please tick yes

Have you made an application for review relating to this 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 this premises please state what they were and when you made them

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Please tick yes

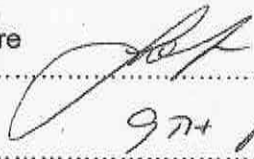
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, 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 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature



Date

9TH MARCH 2012

Capacity

ENVIRONMENTAL HEALTH OFFICER

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
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. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Information to support an application for the review of the premises licence

Premises: Rose Public House, 75 High Street, Biggleswade, SG18 OJH.

Officer: Simon Joynes

Date: 7th March 2012

I am a Chartered Environmental Health Practitioner of Central Bedfordshire Council and therefore considered to be a representative of the responsible authority. I seek a review of the above premises licence as I consider that those responsible are causing a public nuisance and failing to promote one of the four licensing objectives.

1. Premises Licence Details

The premises licence for the Rose Public House was granted on the 24th November 2005 to Mr Eamon Watson and Miss Sarah Mulchrone. The latter of whom is understood to remain responsible, own the premises and indeed who I have communicated with throughout the course of my investigations.

Relevant to this review of regulated entertainment the following activities are permitted:

- **Supply of Alcohol** – Sunday to Thursday 10.00hrs to 00.00hrs and Friday and Saturday 10.00hrs to 01.00hrs.
- **Hours open to the Public** - Sunday to Thursday 10.00hrs to 00.30hrs and Friday and Saturday 10.00hrs to 01.30hrs
- **Live Music (Indoors Only)** Friday and Saturday 20.00 to 23.30hrs
- **Recorded Music (Indoors only)** Sunday to Thursday 10.00hrs to 00.00hrs and Friday and Saturday 10.00hrs to 01.00hrs.

The premises licence, Annex 2 – conditions consistent with the operating schedule do not consider any matters relating to Public Nuisance other than requesting that prompt, clear and legible notices are to be displayed at all exists requesting patrons to respect the needs of local residents and to leave the premises and area quietly.

Prior to the Licence being granted Public Protection Officers did make appropriate representation as we were not satisfied that the information provided within the operating schedule accompanying the application fulfilled the licensing objectives.

The following conditions were recommended but not imposed on the licence:

- Ingress and egress notwithstanding, all external doors and windows to the premises are to be kept closed during regulated entertainment that involved amplified music and/or voices
- No amplified music / or speech shall be audible at the boundary of the nearest residential dwelling

2. Location of the Premises

The premise is located on the junction of Rose Lane and High Street, Biggleswade. The main access to the property is offered from the High Street whilst to the rear of the premises is a small courtyard garden accessed through double doors. To the immediate East, South and West of the premises are commercial properties, albeit those to the south do have some living accommodation above. To the immediate rear and North-East are predominantly residential properties; including Rose Lane and Church Street. Approximate distances to complainants referred to in this statement are given below.

Complainant A – Rose Lane, 16m from the rear of the premises

Complainant B – Rose Lane, 27m from the rear of the premises

Complainant C – Church Street, 58m from the rear of the premises

Complainant D – High Street, 20m from the front of the premises

A plan of the site is attached to this information. The Rose is highlighted in green whilst the extent of the area monitored where public nuisance was considered to be observed is highlighted in blue. This should be considered in the context of the information provided below.

3. Complaint History of Premises up until 2011

The complaint history of the aforementioned premises is summarised below.

Complaint of 10th October 2007 by Local Resident (Complainant A)

Appendix A

Complaint about noise from loud music and people in the rear garden. Informal attempts to resolve matters were unsuccessful and on the 16th April 2008 a "Noise Abatement Notice" was served on those responsible for the premises. On the 28th July 2008, the case was considered resolved.

Observation of the 20th September 2008 – by Simon Joynes MBDC

Monitoring conducted on the evening of the 20th September 2008 indicated that music levels external to the premises were unacceptable and needed to be reduced in order to make them acceptable at residential premises. Sarah Mulchrone was advised in writing of these observations on the 26th Sept 2008.

Complaint of the 15th June 2009 by Local Resident (Complainant A)

Additional concerns were raised by Complainant A that the situation has deteriorated and that on some weekends noise can be intrusive and others not, an indication that they can in fact manage the noise from the premises. It was agreed that we would pursue this informally and the management of the premises were informed of the complaint on the 17th June 2009. On the 25th July officers did witness noise within the complainant's property which was audible but not necessarily at a level where formal action was justifiable. The management of the premises were subsequently informed of these observations on the 17th August 2009. No further complaints were received and monitoring undertaken did not identify any further problems.

Complaint of the 26th April 2010 by Local Resident – (Complainant D)

Issues of noise disturbance raised with the Council, mainly concerning music which continues to until 3 or 4am in the morning and that when people leave at that time they are shouting and interrupting sleep.

This matter was subsequently dealt with informally but contact with Sarah Mulchrone of The Rose indicated that whilst they do empty the premises of customers at the correct time, they do sometimes put the juke box on whilst they have an after work drink/clean up. General advice was given in this instance and no further complaints were received.

Observation of the 11th June 2010 – Simon Joynes MBDC

Noted that loud noise was emanating from the premises during routine monitoring at 21.45. It was clearly audible at residential premises and on the railway bridge on the High Street.

Complaint of the 19th July 2010 by Local Resident– Complainant D

Advised that on Friday 16th July 2010 music from The Rose Public House continued blaring until 4am in the morning and that this is an ongoing problem. Complainant advised to contact OOH's service but no further contact.

In conclusion since the premises licence was granted in 2005 the Public Protection Team have received complaints about the activities which have taken place at the Rose Public House. These along with observations have required both formal intervention in the form of a noise abatement notice and many informal interventions in order to reduce the impact on local residents. The frequent nature of our intervention whilst not unusual, in this instance raises questions about the management of the premises as the majority of the complaints relate to the same issues. Further to this when intervention has taken place there is a marked reduction in the levels of noise being emitted which demonstrates that it is feasible to control noise providing the relevant management practices are in place.

4. Complaint of the 29th March 2011 – Complainant C

Summary of Complaint & Investigation of Public Protection

The complaint was received by Central Bedfordshire Council on the 29th March 2011 regarding the Rose Public House in Biggleswade. It referred to the music which frequently prevented the complainant from sleeping, interrupted sleep and referred to users of the premises being very loud. The complainant also refers to the fact that the thought of trying to sleep or being woken up that night fills them with dread. Reference was also made to the noise from the Working Men's Club on Church Street, Biggleswade, referring to the smokers outside being very loud and that combined with that from the Rose Public House means that they cannot even have their windows open.

The complainants live in a terrace property in Church Street, Biggleswade, their main living room and bedroom fronts the street and there is no direct line of site with the Rose Public House which is situated some 60m away from the premises.

Observations - 30th April 2011

A visit to the area on the 30th April 2011 validated the complaint as it was noted that noise both in the form of amplified music and from people using the rear garden at the Rose Public House was clearly audible outside the complainant's property. The levels witnessed were considered likely to amount to a nuisance but it was considered necessary for internal monitoring to be conducted within the complainants property. My observations and concerns

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were put in writing to both Sarah Mulchrone and Emanon Watson in a letter dated the 3rd May 2011 which also advised of my intention to try and resolve this matter informally and asking them to contact me to discuss. No response was received to this letter.

Further to the receipt of completed diary sheets from the complainant on the 11th May 2011, arrangements were made to try and witness noise within the complainant's properties. These opportunities because of existing commitments of both the investigating officers and complainants were limited, and therefore officers also monitored the noise externally to get an understanding of the impact of the premises on the immediate area.

On the 16th July 2011 Mark Hales, Public Protection Officer noted at 22.00hrs that a band was set up playing, the doors and windows remained shut apart from the left front double door. Standing near the complainant's property for a period of 1 hour he noted that music from the band was clearly audible, increasing when the doors to the beer garden were opened. The band was still playing at a similar level when he left.

Visit on the 6th August 2011

Monitored noise from outside complainant's property at 21.30, solo artist performing but at this time not causing any due concern. Returned at 23.30 and noise from Conservative Club in Church Street was audible along with noise from people in the rear garden of the Rose. Noted that I must keep this under review as likely to result in further complaints.

Friday 16th September 2011

Routine monitoring conducted as part of other investigations provided an opportunity to observe activities at The Rose, Biggleswade. Whilst access was not available to the complainant's premises at 20.50hrs I parked in the loading bay adjacent to the premises and with the window of the vehicle slightly open music was clearly audible within the vehicle. A reconnaissance of the immediate area identified that the front door of the premises was propped open and preparations appeared to have been made for some form of live entertainment albeit at the time music appeared to be recorded music to provide some form of background ambience and I questioned why this should be audible beyond the site boundary of the Public House.

Walking further afar the background music remained audible as far as the entrance to Wells Court in Church Street, and I noted that the rear doors to the premises were also propped open. This clearly demonstrates a lack of noise control or consideration from the premises operator. However, whilst this background music was audible at a considerable distance

and unlikely to have been intrusive in premises, the simply act of ensuring doors remain closed would in my opinion have negated any impact.

At 21.03 hours there was a significant increase in the level of music and the lyrics become clearly audible at 18 Rose Lane (62m from the venue). Commitments prevented any further monitoring that evening but as I returned to vehicle, with all windows closed the music / lyrics remained intrusive within the vehicle observing "Let me go, let me go" lyrics. It was clear that some form of entertainment had commenced and I am confident from these observations that music would be intrusive in neighbouring residential properties.

Saturday 17th September 2011

At 21.30hrs music was clearly audible emanating from The Rose at immediate residential premises and up until Wells Court, Church Street. It was noted the rear doors were shut but again the front door was open and music noise was clearly audible above background noise, consisting of traffic, motorbikes and taxi's. It was also noted during the visit that it had been raining, therefore increasing the background levels (i.e. road/tyre interaction) and despite the increased background levels, noise from music was considered likely to be intrusive at immediate residential premises and certainly audible at the complainants.

23rd September 2011

At 20.24 noise from people using the rear of The Rose Public House was observed at the entrance to Wells Court, Church Street. It is not considered a nuisance at this time of the evening but realistically the impact would increase as background levels reduce later. Shortly afterwards heard an announcement 'Good Evening Everybody'. I proceeded to walk past the rear of pub and noted the doors remain open, the garden is full of people and entertainment started.

I considered the level likely to amount to a statutory nuisance at 21.31 at premises immediately to the rear of the Rose. To demonstrate this, wider monitoring was undertaken in the vicinity of the premises and music can be heard above the traffic at the front of the Golden Pheasant and Pizza Town in the High Street. At 21.37 I observed that the rear door remained open, entertainment was still in progress and excessive noise from people and music was noted opposite The Old Boy Post Office. Announcements, noise from people in the rear garden and music continues to be clearly audible at 42 Rose Lane, some considerable distance from the premises. At 20.42 proceeded back towards complainants via Rose Lane, the back door to the premises remains open and music remains clearly

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audible at complainants, along with chatter, raised voices from people using the rear garden.

At 21.10hrs I returned to monitoring The Rose Public House from complainants property. They advise that the noise is not as bad as normal and that they were experiencing music from the Working Men's Club tonight. Firstly monitored from rear bedroom, music was emanating from Working Men's club and audible. Informed by complaint that this is not as frequent as other problems and only occasionally do they have serious concerns during hot weather when the club open the doors for ventilation.

I then proceeded to monitor the noise from first floor bedroom facing Church Street. For the first 10min this was done with the window open and noise from working men's club and The Rose Public House was clearly audible. Alongside this you could clearly hear a prominent bass beat arising from the direction of The Rose. I was confident that source of this was The Rose Public House because the type of music differed from that observed emanating from the Working Men's Club and no form of entertainment was known to be taking place at either of the immediate premises, namely the Golden Pheasant and Liberal Club.

The complainant advises that it also gets worse later in the evening when the general background noise levels drop and demonstrates that with windows shut you can still hear the bass, which in my opinion becomes more prominent and would certainly interfere with the ability to sleep. Also advised usually worse on a Saturday when live music is played.

Saturday 1st October 2011

At 21.55 hours whilst proceeding to the Rose Public House from the Market Square in Biggleswade I noted music at an unacceptable level as I proceeded past the ASK restaurant and subsequently noted this was emanating from the Rose. This stopped as the band appeared to having a break in their set as I proceeded to the complainants property. At this time I noted that an event was in progress at the Liberal Club with a low bass throb and recorded music barely detectible at the rear gates but not at other side of road.

At complainants premises I was advised that Friday 30th September had been a very bad night and they had experienced severe impact from the Rose from loud music and people.

I was also informed that an event was in progress at the working Men's Club which I subsequently observed in their rear bedroom, albeit this was a muffled low noise which would not amount to a public or Statutory Nuisance.

At 22.30 whilst speaking to the complainants in their front room facing Church Street, I noted that music could be heard once again, clearly above our conversations and television which was on in the background. I then proceeded to monitor from the first floor bedroom and observed music consisting of drums/bass which I considered to be at a level which would interfere with sleep. In order and conscious of licensed premises much closer, I confirmed the source of the noise to be that of the Rose by walking down the street. Passing the rear of the Liberal Club their music remained barely audible and was certainly at a lower level than that from the Rose.

On return to the complainants property and first floor bedroom significant levels of noise from both music and people in the rear garden remained audible and at a level which would prevent sleep. I continued to monitor and confirm source in same manner until 23.15hrs and the noise level remained similar throughout.

At 23.30 I proceeded back to my vehicle and walked along Rose Lane to the rear of the premises. Music and laughter/speech from those using the rear garden remained audible until its junction with the ASDA access road (adjacent to 44 Rose Lane), some 110m from the venue. An indication of the level of the impact from the premises.

5. Actions since the Monitoring

3rd October 2011 - warning letter and Requisition for Information served on Emanon Watson and Sarah Mulchrone and welcoming the opportunity to discuss the situation and resolve this matter informally.

18th October 2011 - a further warning letter was sent to Emanon Watson and Sarah Mulchrone requesting that we meet to try and resolve this informally.

28th October 2011 - officers noted during an inspection of the premises that noise breakout was acceptable other than when the rear door was open although they remained concerned about the levels of noise from those using the rear garden and how this may impact on local residents later at night.

4th November 2011 - at 23.34 whilst conducting monitoring noted that noise from people in the rear garden of The Rose was clearly audible outside the complainants property, (laughing, cackling and shouting). At 23.45 music become audible at a level which is likely to

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be intrusive at properties such as 15 Church Street and similar observations continued until we had to leave at 00.15hrs.

9th November 2011 - Sarah Mulchrone responded to correspondence and a meeting was held at the Council Offices. We discussed the issues, persistent nature of problems, that we had isolated these to her premises albeit others do have loud music on occasions. Problems with people smoking / drinking outside later in the evening and up until the early hours of the morning.

We discussed noise abatement notices, but more appropriate for licence review and explained opportunities for public to review licence which Sarah Mulchrone was not aware of. Discussed solutions and agreed Friday Karaoke / Music night was the worse and would look at controlling noise levels, closing all doors including front and restricting access to garden for drinkers to 11.30pm (Smokers only). I had requested 23.00pm and Sarah Mulchrone requested 00.00pm but agreed to a trial period of 23,30pm.

With regards to Saturdays and live bands Sarah Mulchrone informed me that she was keen to change this as very little profit was gained and that it was thought that this was difficult to control and likely to cause most problems. Her preference was to have a dance night and currently seeking alterations to internal part of pub to remove pillars and create a dance floor. Advised not disagreeing with this proposal because it would be easier to control volume although this depends on the building structure. She agreed as part of these works to consider a lobby at the rear of the premises to control noise. As for the suitability of venue agreed to visit one evening to assess if they were to conduct a trial event. That way it would give confidence to both parties moving forward. Requested that she review the options discussed and report back within one week. No response was received.

22nd November 2011 - in response to further allegations by a different complainant I wrote to Sarah Mulchrone requesting further discussion about those matters discussed at our meeting. No response was received to this letter.

The complainant advises that they continue to hear music and this has been observed independently by the Out of Hours Officer. It is on this basis which we chose to seek a review of the premises licence.

Conclusions

In seeking this review I have had consideration of the 2003 Act and associated guidance, made judgements about what constitutes public nuisance and what is necessary to prevent it in terms of conditions attached to specific premises licences. My consideration solely relates to 'preventing public nuisance', one of the 4 licensing objectives and those specific activities which are the subject of complaint and what are deemed to be having a disproportionate and unreasonable impact on persons living in the vicinity of the premises.

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low level nuisance perhaps affecting a few people living locally as well as a major disturbance affecting the whole community.

It has to be remembered the disturbances noted and observed usually occur during the latter part of the evening and at times until the early hours of the morning when residents in neighbouring properties may be attempting to go to sleep or are sleeping.

I have also been careful in my observations to ascertain that it is in fact the Rose Public House that is responsible for the aforementioned nuisances. Indeed at times other premises in close proximity were responsible for a level of disturbance, but this was confined to their immediate environment and given the known frequency and duration of the events at such premises, and from discussions with the complainant it was accepted that such would be characteristic of the area in which they lived. Indeed many other noises observed are typical of a town centre environment and the complainant accepts these. However, it is the frequent and persistent impact from the Rose Public House that they do not accept, particular given the distance from their home where it would not be unreasonable to expect such to be inaudible or not to alter the perception of the ambient noise.

The observations made by officers during visits to both the wider area and complainants provide evidence of the existence of a public nuisance. The noise, primarily from the music and also those occupying the rear garden is clearly audible a considerable distance from the premises, considered likely to be intrusive at residential properties and likely to either prevent the complainants getting to sleep or lead to sleep disturbance.

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It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. As an officer I have attempted to seek co-operation in this regard having brought the matters of concern to the attention of those responsible more than once. It is the failure to respond by those responsible to such warnings which has led to a decision to request a review. I consider that the following actions are required:

1. That the licensable activities which give rise to these complaints, namely live or amplified music are suspended for a period of three months.
2. That within a period of three months from the date of any hearing that a noise control scheme is submitted to and agreed by the Local Licensing Authority. This should consider, the suitability of the venue, its limitations and subsequent recommendations to control noise from live and/or recorded and from people using the rear garden. Any mitigation and/or control measures arising from such shall be implemented within 1 month of approval and thereafter maintained in perpetuity in accordance with the approved details.
3. That the terminal hours for live music and recorded music be reduced to 23.00hrs.
4. That suitable conditions are imposed preventing the use of the rear garden beyond 23.00hrs.

I believe that this response is proportionate in terms of protecting Public Nuisance and promoting the licensing objective.

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Date: 25 January 2012

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