

**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 Carol Ruddle (Environmental Health Manager)**

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>The Piston Broke 43 London Street Andover Hampshire SP10 2NU</b>	
<b>Andover</b>	<b>Post code SP10 2NU</b>

<b>Name of premises licence holder or club holding club premises certificate (if known) Elland Promotions Ltd</b>
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<b>Number of premises licence or club premises certificate (if known) PREM/10/0397</b>
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**Part 2 - Applicant details**

I am

Carol Ruddle  
Environmental Health Manager  
Housing, Health & Communities Service  
Test Valley Borough Council  
Beech Hurst  
Weyhill Road, Andover  
Hampshire SP10 3AJ

**Please tick yes**

✓

6) a responsible authority (please complete (C) below) ✓

7) 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**

**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  Carol Ruddle Environmental Health Manager Housing, Health & Communities Service Test Valley Borough Council Beech Hurst Weyhill Road, Andover Hampshire SP10 3AJ
Telephone number (if any)
E-mail address (optional) @testvalley.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 1)

The Piston Broke is located at 43 London Street which is in Andover town centre (see Appendix for a location plan). It was established in 2010 and took on the premises licence which had originally been granted to Bar Twenty Five at the same address. The Piston Broke is a late opening bar / club that sells alcohol and provides music entertainment up to 01.30 hours, typically three or four nights per week. Three residential flats are located above it. Attached to the licence is a condition (Condition 17) requiring music noise to be controlled so as not to be audible in nearby residential premises after 23.00 hours. I am satisfied that this condition has been breached on several occasions.

The first noise complaint relating to loud music from The Piston Broke was received on Friday 14<sup>th</sup> May 2010, which was only a short time after the premises opened. Justified complaints have been ongoing since this time, despite efforts to work with the bar management.

In the interests of preventing public nuisance I believe that the current level of regulated entertainment at the premises cannot continue without change to protect the nearby residents. Therefore, I am seeking the attachment of one or more conditions to achieve effective inaudibility in the residential premises between 23.00 hours and 09.00 hours and acceptable non-intrusive noise levels at all other times.

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

Following the initial complaint in May 2010 Lorna Taylor (Senior Environmental Protection Officer) entered into various communications with Mr Cooper and Mr Lavery of Elland Promotions Ltd, who appear to manage the premises on a day to day basis. Lorna Taylor advised them of the complaint and highlighted condition 17 of the premises licence. After further complaints about music noise from The Piston Broke a meeting took place at the premises on Friday 11<sup>th</sup> June 2010 between Lorna Taylor, Miss Fice (Hampshire Constabulary Licensing Team), Mr Michael White (Test Valley Borough Council's Licensing Manager) and Mr Cooper and Mr Lavery. At this meeting the conditions on the premises licence were discussed and explained, as was the role of the Environmental Protection Team in investigating Statutory Noise Nuisances under the Environmental Protection Act 1990.

As a result of noise monitoring and further complaints, noise abatement notices under the Environmental Protection Act 1990 were served on Mr Cooper, Mr Lavery and Elland Promotions Ltd on 23<sup>rd</sup> July 2010, relating to the playing of loud music. These were accompanied by an explanatory letter detailing our separate concerns under the Licensing Act 2003, and actions that they might take to avoid causing a problem to their neighbours (see Appendix).

On Tuesday 10<sup>th</sup> August Sonya Enright (Environmental Health Officer) and Lorna Taylor attended The Piston Broke and two of the flats above the premises to undertake sound testing to clarify the situation for Mr Cooper and Mr Lavery and help them to avoid causing further disturbance. It is notable that the sound equipment was set up in the rear of the basement for such tests, rather than the ground floor, following an agreed move from the ground floor to the basement for reasons of noise control. The volume of music was set at a level which was checked to ensure virtual inaudibility in the neighbours' flats. The findings from this meeting were summarised in Lorna Taylor's letter to them of 11<sup>th</sup> August 2010 (see Appendix).

On the following Saturday, 14<sup>th</sup> August 2010, Rhian Jenkins (Environmental Health Officer) witnessed the playing of continued loud music from the Piston Broke in one of the flats above the licensed premises between her arrival at 00.18 hours and 01.17 hours when she left the area. Rhian Jenkins noted that noise from people shouting within the premises was also a significant disturbance to the residents. Rhian Jenkins was satisfied that condition 17 had been contravened due to the music noise being clearly audible after 23.00 hours. The evidence from Rhian Jenkins shows that the agreed level of music set during the sound tests on 10<sup>th</sup> August 2010 had been exceeded by a very substantial margin. As a result, a warning letter was sent to Mr Lavery, Mr Cooper and Elland Promotions Ltd on 20<sup>th</sup> August 2010 (see Appendix). In this letter Lorna Taylor advised that she believed that condition 17 of their premises licence had been contravened, and requested their proposals for future noise control. This resulted in an e-mail from Mr Lavery on 23<sup>rd</sup> August 2010 advising that they intended to suspend musical entertainment and engage an acoustic consultant. To my knowledge, no insulation works or other significant management control changes have been implemented.

Further complaints were received, in early September 2010 and again in early January 2011, but these incidents were not witnessed by an officer from the Environmental Health Unit.

In the early hours of Saturday 12<sup>th</sup> February 2011, Rhian Jenkins again witnessed loud music noise emanating from The Piston Broke, as monitored from inside one of

the flats above the licensed premises. Rhian Jenkins considered the noise to be excessive and in contravention of condition 17 of the premises licence. On this occasion, noise was monitored between 00.10 hours and 01.48 hours and comprised both music noise and shouting. Because noise from shouting, as well as music, was notable I conclude that rather than this being purely a problem of excessive volume, the fabric of the building itself is not sufficiently soundproofed to contain noise. Further complaints were received on Saturday 19<sup>th</sup> and Sunday 20<sup>th</sup> February, but these incidents were not witnessed by an officer from the Environmental Health Unit.

On Friday 18<sup>th</sup> March 2011 loud music noise emanating from The Piston Broke was witnessed by Dean Bennett (Environmental Protection Officer) from two of the flats above the licensed premises. Dean Bennett considered that the level of noise he heard between 22.00 hours and 23.00 hours amounted to extreme disturbance to the occupants of at least two of the flats above The Piston Broke. This music was believed to be associated with a live band. Dean Bennett also witnessed recorded music from 23.00 hours until 23.30 hours, which he considered to be not only a breach of Condition 17 of the licence but also an unreasonable level of disturbance.

On Friday 8<sup>th</sup> April 2011 loud amplified music noise emanating from The Piston Broke was witnessed by Rhian Jenkins (Environmental Health Officer) from one of the flats above the licensed premises. Rhian Jenkins considered that the level of noise she heard between 23:45 and 01:20 hours amounted to an unreasonable disturbance to the occupants of at least one of the flats above The Piston Broke, and noted that music remained audible until 01.42. This was both a breach of Condition 17 of the licence and beyond the hours detailed in the licence for regulated entertainment.

#### **Conclusions:**

1. The bar management have been given ample opportunity to co-operate by reducing the volume of music and / or restricting times of operation and / or upgrading the soundproofing of the building, but have declined to do so.
2. Condition 17 of the licence, which requires music noise to be played at a level so as to be inaudible in the nearest residential premises, has by our own evidence been breached on the following dates: 14<sup>th</sup> August 2010, 12<sup>th</sup> February 2011 and 18<sup>th</sup> March 2011. Reports from residents suggest that this happens quite often and that private gatherings often take place after the premises has closed at 01.30 hours, and disturbance from these has continued on some occasions until 05.00 hours.
3. The premises are inadequately soundproofed for the level of music entertainment being played, and volume reduction alone would not be sufficient to prevent unreasonable disturbance to the occupants of the flats above (due to the breakout noise from raised voices).
4. Based on the accounts of the complainants and the statements of Rhian Jenkins and Dean Bennett, I am satisfied that unreasonable disturbance is being caused by The Piston Broke on a regular basis to their residential neighbours. Therefore, this review is called in the interests of the prevention of public nuisance.

**Please tick yes**

Have you made an application for review relating to this premises before  No

If yes please state the date of that application

Day

Month

Year

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

N/A

- 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

.....Carol Ruddle.....

Date

.....19<sup>th</sup> April 2011.....

Capacity

.....Environmental Health Manager.....

**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)**