

[Insert name and address of relevant licensing authority and its reference number (optional)]

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 Gateshead Council – Environmental Health

(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

Thomas Wilson Working Men's Club and Institute Ltd
16 Chowdene Bank
Low Fell

Post town Gateshead

Post code (if known) NE9 6JD

Name of premises licence holder or Club holding Club premises certificate (if known)

Thomas Wilson Working Men's Club and Institute Ltd

Number of premises licence or Club premises certificate (if known)

00CH 08027

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 Environmental Health (Paul Christer) Gateshead Council Climate Change, Compliance, Planning and Transport Civic Centre Regent Street NE8 1HH
Telephone number (if any) 0191 433 3922
E-mail address (optional) paulchrister@gateshead.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 Thomas Wilson Working Men’s Club and Institute Ltd are the source of repeated complaints to the Local Authority about noise from the premises since 2016. Complaints escalated in August 2021 after the Club re-opened after Covid.

In particular, noise from regulated and non-regulated entertainment has been investigated and the Club was issued with an abatement notice in December 2021, under the provisions of S.80 of the Environmental Protection Act 1990 to prevent the occurrence and recurrence of a noise nuisance.

The Club’s current position is that they have undertaken works to the ceiling of the function room, replaced fire doors and had an acoustic consultant visit the premises. They also maintain that the complainant is vexatious; has bought the neighbouring property at low cost and ought to be aware of the impact of a neighbouring Club; and are possibly receiving preferential treatment as they believe that they are a former council employee of 15 years’ service.

Following a meeting between the licensing authority, the Club, their solicitor, environmental health and licensing on 25.05.2022, the Club’s position was made abundantly clear in that they were not prepared to engage further and consider that the action being taken by environmental health amounts to harassment and a witch hunt and will robustly defend any action that is proposed.

As environmental health continues to receive complaints about entertainment noise and there now seems to be an impasse, then it is appropriate that this licence is reviewed impartially before the committee in the interests of ensuring protection for local residents from public nuisance or balancing that against the interests of the Club.

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

The Thomas Wilson Working Men's Club and Institute Ltd are the source of repeated complaints to the local authority about noise from the premises. Noise from the premises includes music which emanates during regulated and non-regulated entertainment; and noise from patrons who congregate at the front of the premises either to smoke, wait for taxis etc or when accessing/egressing the premises. Complaints are received frequently and at least every couple of weeks refer to an event that has given rise to disturbance. Some of these events may appear at face value to be fairly innocuous such as funerals or christenings but can end up causing significant disturbance when not adequately controlled by the Club.

It is apparent that complaints have increased with the club being used more frequently for private functions, with non-club members utilising the premises for private events, with little or no control from the club committee over these functions or patrons. The current Club Premises Certificate is inadequate for this fundamental shift in operation as there are no conditions imposed to manage and control noise.

Investigations into noise, and in particular the noise from entertainment have been undertaken by environmental health utilising the provisions of S.43 of the Anti-social Behaviour, Crime and Policing Act 2014 and S.79 of the Environmental Protection Act 1990.

Initially, the club was warned of the impact its conduct was having on neighbouring residential properties and the need to control noise from the premises by way of a formalised warning which would have been the precursor to issuing a Community Protection Notice. The warning was not headed by the club and the Council subsequently formed the view, that the noise from the premises during certain entertainment amounted to a statutory nuisance as it was clearly audible in a neighbouring property. It is also important to state at this point though, that complaints have also been received from other sources. Vocals and drumbeats could be clearly heard as well as low frequency bass. This is detrimental to the occupiers in that it impacts upon the rightful enjoyment of their own home; affects them and their children in getting to sleep and causes them great stress and anxiety as a family. In addition they are also exposed to other anti-social behaviour such as patrons urinating on their premises, disposing of cigarette ends and congregating in the vicinity of their premises

Environmental health subsequently served an abatement notice in December 2021 on the Club to abate the nuisance and prevent the recurrence of such, rather than progressing to a Community Protection Notice.

There was an appeal period of 21 days from service of the notice to the local magistrate's court. No appeal was made and therefore it is the Club's responsibility to comply with the conditions of the notice. The notice does not specify the steps that must be taken by the Club to comply with the notice, but general advice was given to the Club as to steps that it ought to consider in ensuring compliance. This included engaging the services of an acoustic consultant to consider the structure of the premises; identify weaknesses where music noise could more readily escape, take steps to remedy these issues on a priority basis where greatest impact would be achieved; using a noise limiter for all musical equipment to be played through to the ensure that entertainment noise would not exceed a predetermined and agreed noise level.

Officers from the licensing and environmental health teams have met with the Club on several occasions to discuss the impact of the complaints and to seek a resolution. The Club Secretary met with local authority representatives on 26 November 2021 to discuss concerns over a temporary event notice. He agreed to several conditions during this meeting, one of which was that the noise limiter would be reset with the assistance of an acoustic consultant to ensure that noise levels from entertainment could not exceed a predetermined and agreed level. The Club Secretary also agreed to arrange for an electrician to attend the Club in advance of the acoustic consultant attending. He

subsequently contacted the investigating officer, to advise that there was not a noise limiter installed.

The investigating officer from environmental health and I, met with a number of committee members and a solicitor acting on behalf of the CIU and representing the Club on 15 February 2022 at the Club.

The Club's position at that point was that they had undertaken works to replace the ceiling in the function room. They had been assured by the heating and ventilation contractor undertaking the works that this would sufficiently reduce the level of noise transmission between the function room and outside. This cost the Club around £12-13k. No information was provided to demonstrate the acoustic properties of the new ceiling or its effectiveness. We were also advised that they had new fire doors on order for the function room that would be denser and anticipated to have greater acoustic properties but again there was no supporting data to validate the claim.

The Club referred to the fact that they had engaged the services of an acoustic consultant and paid around £500 but were left disappointed with what they got for their money, when in fact it appears to have been a lack of communication between the Club and the acoustic consultant around brief and expectations. The acoustic consultant had only attended the premises for the purpose of setting the noise limiter but was not notified in advance that there wasn't one and he largely appears to have charged for his time. The acoustic consultant had not attended to undertake a noise survey, he was booked by the Club purely to set the non-existent noise limiter.

The CIU solicitor acting on behalf of the Club has keenly pointed out in meetings on 15 February 2022 and 25 May 2022 and in correspondence dated 31 May 2022 that the Club have gone to considerable lengths to mitigate the impact of their entertainment noise and at significant cost, whilst also maintaining that the neighbouring resident has moved to the property and therefore should be aware of the nature of the premises and some of the issues that this presents; that they too should have a responsibility for taking steps to mitigate the impact on themselves. In law, the fact that someone has moved to a nuisance does not afford any defence to those responsible for the cause of the nuisance. It is incumbent on the club therefore that it takes steps to mitigate the impact of its activities, namely the provision of entertainment.

The most recent meeting on 25 May 2022 came to an abrupt end with the CIU solicitor and the Club Secretary advising that they weren't prepared to discuss the matter further and felt that the local authority was guilty of harassing the club; that it was a Witch hunt and that the CIU would defend any continued action robustly. This was followed by the CIU solicitor's correspondence dated 31 May 2022, to which I responded on 22 June 2022.

The Club itself have various entertainment taking place at the premises and some entertainment by its very nature is quieter. This sporadic impact of not knowing what noise levels are going to be like from one day or event to the next are also a source of concern and anxiety for residents and make monitoring arrangements difficult for environmental health as they are resource intensive and require out of hours monitoring. Resource is also a scarce commodity.

Monitoring carried out on the evening of 9th April 2022 indicated that the music noise level increased the overall noise levels at the external amenity area of the residents' property by 3dB. This is a just noticeable difference and indicates that the average music noise level is equal to the average background noise level. However, the measurements also showed a significant increase in the unweighted low frequency noise levels over the background noise when the music was playing. The average low frequency music noise levels were up to 8dB above that of the average background low frequency noise levels. In short, this confirms that low frequency bass is clearly audible above the background noise level.

The CIU solicitor refers to the fact in his correspondence of 31 May 2022 that bands and DJs bring their own equipment, thus demonstrating that the Club have no ability to control the sound output from the equipment brought on to the premises at source.

The local authority has continued to recommend that the Club engage the services of an acoustic consultant to assist them in ensuring compliance with the abatement notice. An acoustic consultant is a specialist in the field of acoustics and noise control and can provide the Club with clarity as to the extent of the problem and what if anything can be done to ensure compliance, as well as providing a hierarchy of measures that will have the greatest impact, with qualified data to support the decision and avoid unnecessary costs to the Club for works that do not achieve the desired outcome.

The club have not put forward any further proposals as to how they could control music noise and nor has there been any further commitment demonstrated to installing a noise limiter.

To date the Club have not complied with the requirements of this notice and the local authority are still receiving complaints about noise levels from the Club. The club are taking an adversarial approach to remedying the noise nuisance. This application for a review of the Club premises certificate serves to afford protection to local residents from public nuisance.

This is the first business operating within the scope of a club premises certificate that environmental health has felt compelled to submit an application for review by committee to control noise. Although there is sympathy and continued support for the club in terms of its efforts to remain viable in difficult operating conditions, the Council's confidence is considerably lacking in the Club's ability to manage the impact of its activities on local residents effectively.

This application seeks support from the committee to compel the Club by way of conditions to:

- a. Install and operate a noise limiter for all entertainment activities set an agreed level with environmental health
- b. Ensure that the Club has a suitable noise management plan in place as well as arrangements in place to ensure that patrons of the Club are prevented from congregating at the front entrance of the Club.

Please tick ✓ yes									
Have you made an application for review relating to the premises before	<input type="checkbox"/>								
If yes please state the date of that application	Day Month Year <table border="1" style="display: inline-table;"><tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr></table>								

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 
.....

Date **12.08.2022**
.....

Capacity **Responsible Authority – Assistant Manager Environmental Health**
.....

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.