

**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.

We Herefordshire Council as the Licensing Authority

(Insert name of applicant)

**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

Postal address of premises or, if none, ordnance survey map reference or description Yew Tree Inn Preston-on-Wye	
Post town Hereford	Post code (if known) HR2 9JT

Name of premises licence holder or club holding club premises certificate (if known) Mr Phillip Pugh and Miss Theresa Brandeberry Yew Tree Inn Preston-on-wye Hereford HR2 9JT
--

Number of premises licence or club premises certificate (if known) PR00211
--

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 | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |

- 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 Fred Spriggs Licensing Officer on behalf of Herefordshire Council as the Licensing Authority Licensing Section, Herefordshire Council, Blueschool House, PO Box 233, Hereford HR1 2ZB
Telephone number (if any) 01432 261761
E-mail address (optional) licensing@herefordshire.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 | <input checked="" 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 1)

The premises came under new ownership in Autumn 2012.

The premises is licensed only for the sale of alcohol, although live music may be played up to 11 pm without licence.

Between 15th November 2012 and 8th February 2014 there have been 24 events where the music has gone on past 11 pm.

The Licensing Authority has sent the premises licence holder 5 warning letters in respect of the breaches and advising them of the breaches of the law.

There are 2 members of the public who have complained about the noise.

The Licensing Authority is satisfied that as the law continues to be broken that the premises licence holders are committing criminal offences and therefore are not promoting the licensing objective of the prevention of crime.

Furthermore as disturbance is being caused to neighbours the premises licence holders are failing to prevent public nuisance.

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

The premises came under new ownership in Autumn 2012.

The premises is licensed only for the sale of alcohol, although from the 1st October 2012 the Live Music Act 2012 allowed for live music to be played without a licence up to 11 pm.

A local resident has kept a log of the events held at the premises, between 15th November 2012 and 8th February 2014. There have been 24 events where the music has gone on past 11 pm. Some of these events have involved recorded music which is not licensed to be played at any time at the premises.

On 28th September 2012 the Licensing Section wrote to the premises licence holder advising them that it was alleged that an unlicensed music event took place on 14th September and informing them of the law.

On 21st November 2012 the Licensing Section again wrote to the premises licence holder advising them that they understood that music was being played at the premises without a licence and inviting application to vary the licence.

On 31st May 2013 the Licensing Section again wrote to the premises licence holder advising them that they understood that a beer festival with live music, which was played until at least half past midnight, had taken place on the previous weekend. They informed them that the authority had a number of options available to them including the launching of a review against the premises. They were also informed the Licensing Authority may make unannounced visits to the premises.

On 4th June the premises licence holder wrote to the Licensing Authority and part of that letter stated that in their opinion the plans they had for the premises did not fall outside the terms of their licence.

On 8th June a member of the Licensing Team visited the premises and witnessed live music being played which concluded at 12.05 am.

On 13th June the Licensing Authority wrote to the Premises Licence Holder and advised them of the visit and requested a response to that letter.

On 18th June the premises licence holder again wrote to the Licensing Authority and admitted that the music had been played past 11 pm.

On 4th July a Late Temporary Event Notice (LTEN) was received to allow regulated entertainment until 1 am on 14 July. This was allowed.

On 19th July a LTEN was submitted to allow licence music at the premises until 1 am on 28th July. The Environmental Health Officer objected to the LTEN and as a result it was refused.

On 8th August a Temporary Event Notice was submitted for Regulated Entertainment for the 24th August until Midnight. This was allowed.

On 18th December the Licensing Authority again wrote to Phillip Pugh and Theresa Brandeberry, the Premises Licence holders, to inform them that music had been witnessed being played on 14th December until 0020 hours.

On the evening of 20th December the Environmental Health Department installed a

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)	

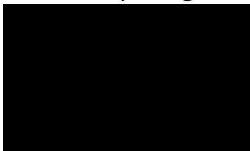
Notes for Guidance

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.

People's Services Directorate

Director: Jo Davidson

Mr Phillip Pugh & Theresa Brandeberry



Your Ref:

Our Ref: PR00211

Please ask for: Licensing Assistant

Direct Line / Extension: 01432 260 105

Fax: 01432 383412

E-mail: fspriggs@herefordshire.gov.uk

28th September 2012

Dear Sir,

YEW TREE INN

I refer to the premises licence issued in respect of the above premises.

A premise licence is issued authorising the use of the premises for certain licensable activities, the times of operating and the conditions to be complied with.

I note that your premise licence does not authorise the playing of recorded or live music,

On the evening of Friday 14th September 2012, it is alleged that there was an unlicensed event. If this is the case, then this breaches the conditions of your licence.

Under Section 136 of the Licensing Act 2003 it is an offence to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation (premises licence). This offence on summary conviction is punishable with six months imprisonment and/or £20,000.

In line with this Authority's Policy, I must advise you that should you choose to operate outside your authorisation we may take enforcement action against you.

Yours sincerely,

**EMMA BOWELL
LICENSING ASSISTANT
ENVIRONMENTAL HEALTH & TRADING STANDARDS
HEREFORDSHIRE COUNCIL**



Putting People First Providing for our Communities Preserving our Heritage Promoting the County Protecting our Future
County of Herefordshire District Council, County of Herefordshire District Council, Licensing Unit, 10 Blackfriars Street,
Hereford. HR4 9HS

Main Switchboard (01432) 260000 - www.herefordshire.gov.uk

People's Services Directorate

Director: Jo Davidson

Mr Phillip Pugh & Theresa Brandeberry

Your Ref:

Our Ref: EBO/PR00211

Please ask for: Licensing Assistant

Direct Line / Extension: 01432 260 105

Fax: 01432 383412

E-mail: licensing@herefordshire.gov.uk

21st November 2012

Dear Sir/Madam

YEW TREE INN, PRESTON-ON-WYE

I refer to the premises licence issued in respect of the above premises.

A premise licence is issued authorising the use of the premises for certain licensable activities, the times of operating and the conditions are to be complied with.

I note that your premise licence does not authorise the playing of recorded or live music. The Live Music Act 2012 came into force on 1st October 2012. The Live Music Act means that small venues in England and Wales (under a 200-person capacity) will no longer need local authority permission to host performances of live amplified music between the hours of 8am-11pm.

We are of the understanding that you hold regular live music performances beyond these times.

Under Section 136 of the Licensing Act 2003 it is an offence to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation (premises licence). This offence on summary conviction is punishable with six months imprisonment and/or £20,000.

In line with this Authority's Policy, I must advise you that should you choose to operate outside your authorisation we may take enforcement action against you.

I have enclosed an application pack to vary your licence should you wish to add live music to your licence.

Yours faithfully,

**EMMA BOWELL
LICENSING ASSISTANT
ENVIRONMENTAL HEALTH & TRADING STANDARDS**



Putting People First Providing for our Communities Preserving our Heritage Promoting the County Protecting our Future
County of Herefordshire District Council, County of Herefordshire District Council, Licensing Unit, 10 Blackfriars Street,
Hereford. HR4 9HS

Main Switchboard (01432) 260000 - www.herefordshire.gov.uk

Places and Communities Directorate

Director: Geoff Hughes

Phillip Pugh & Theresa Brandeberry

Your Ref:

Our Ref: FS/PR00211

Please ask for: Licensing Assistant

Direct Line / Extension: 01432 260105

Fax: 01432 383142

E-mail: licensing@herefordshire.gov.uk

31st May 2013

Dear Sir & Madam

LICENSING ACT 2003

THE YEW TREE INN, PRESTON-ON-WYE, HEREFORDSHIRE, HR2 9JT

Once again the way that your premises are being run has been brought to my attention.

I understand last weekend a beer festival was held within the grounds of the pub and that live music was provided which was still being played at half past midnight.

I note that the premises is only authorised for the sale of alcohol, inside the premises and for no other activities. This would mean that any sale taking place within the marquee at the rear of the premises was unauthorised. Whilst the introduction of the Live Music Act gives you an exemption for an event where there are less than 200 people and which finishes before 11 pm, no exemption exists for music played after that time, nor for the play of recorded music. I also note that no notification was given by way of temporary event notice which would have authorised these activities.

As a responsible authority I now have to consider whether the licensing objectives are being promoted by you at the premises and at this moment in time I am struggling to find that they are.

The continual breach of the law in relation to the licence does cause me some serious concerns and I am at the point now where, after having given you at least 2 previous warnings, I have to consider what steps need to be taken to promote the licensing objectives. I am now leaning towards launching a review against the premises and asking the Licensing Committee to consider whether:

- a) Theresa Brandeberry remains a suitable person to be the designated premises supervisor
- b) Whether the premises should continue to be licensed or whether the licence for the premises should be revoked.

As an alternative we could take more formal enforcement action and pursue the matter of unauthorised licensable activities through the court.

In order to avoid these steps I would suggest that you take the following action:

1. Apply for a variation to your premises licence to include live music after 11 pm and recorded music.
2. If it is your intention to hold further outside events then the application for the variation of the licence should include this fact

Working in partnership for the people of Herefordshire

PO Box 233, Hereford, HR1 2ZF

Herefordshire Council

Main Switchboard (01432) 260000, www.herefordshire.gov.uk

NHS Herefordshire

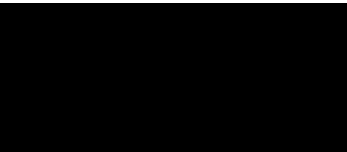
Main Switchboard (01432) 344344, www.herefordshire.nhs.uk

3. If these are only occasional events then you should apply for a Temporary Event Notice which would authorise them.

I must also advise you now that the Licensing Authority will make unannounced visits to the vicinity of your premises to ensure compliance with the law.

I understand that you have already been sent an application pack to vary your licence.

Yours sincerely,



Fred Spriggs
LICENSING OFFICER
ENVIRONMENTAL HEALTH & TRADING STANDARDS

Places and Communities Directorate

Director: Geoff Hughes

Phillip Pugh & Theresa Brandeberry

Your Ref:

Our Ref: FS/PR00211

Please ask for: Licensing Assistant

Direct Line / Extension: 01432 260105

Fax: 01432 383142

E-mail: licensing@herefordshire.gov.uk

13th June 2013

Dear Sir & Madam

LICENSING ACT 2003

THE YEW TREE INN, PRESTON-ON-WYE, HEREFORDSHIRE, HR2 9JT

I acknowledge receipt of your letter dated 4th June 2013, the contents which I have noted.

I make reference to my letter sent to you on 31st May where I advised you that 'the Licensing Authority will make unannounced visits to the vicinity of your premises to ensure compliance with the law'.

I must advise you that on the evening of Saturday 8th June between the hours of 9.55 pm and 12.05 am a member of the Licensing Authority was either inside or outside the premises. The log in relation to this reads as follows:

21:55 – Arrived at the premise. Can hear live music playing from the car park. Entered the premise, there was a trio singing. Microphones, speakers, guitars and a Bongo. No drinks being sold outside but drinks (including alcohol) consumed outside. A marquee was in the garden but was not being used.

22:05 – Music stopped – singers having a break

22:18 – Music started again

22:35 – Music still playing, can be heard outside in beer garden. People outside drinking and smoking quite loud. Approx 20 people.

23:01 – Music still playing at pub, customers still outside drinking and chatting. People outside quite loud

23:15 – People outside getting louder. Cheering, chatting, laughing.

23:27 – Live Music still being played, drinking games outside pub. Customers cheering, shouting and clapping.

23:40 – Live Music still being played. People outside still causing a noise nuisance.

00:02 – People outside drinking, chatting, shouting and swearing.

00:05 – Live Music stopped and band packing away. People still with drinks outside chatting.

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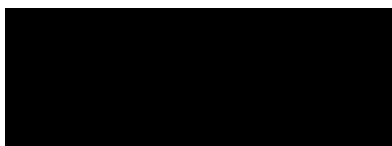
As you can see the Licensing Authority now have sufficient evidence to either prosecute you for the carrying on of an unlicensed licensable activities or to launch a review in respect of the premises licence.

Prior reaching a decision it is only right and proper that we give you the opportunity to respond to the details provided in this letter. I must advice you though that;

"You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence."

I will await a response from you until Wednesday Monday 19th June when the Licensing Authority will make a decision as to what action, if any, should be taken.

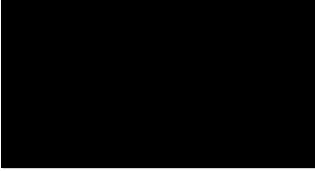
Yours sincerely,



**Fred Spriggs
LICENSING OFFICER
ENVIRONMENTAL HEALTH & TRADING STANDARDS**

**Economy, Communities and Corporate Directorate
Director: Geoff Hughes**

Phillip Pugh & Theresa Brandeberry



Your Ref:

Our Ref: FS/PR00211

Please ask for: Licensing Assistant

Direct Line / Extension: 01432 260105

Fax: 01432 261982

E-mail: licensing@herefordshire.gov.uk

18th December 2013

Dear Sir / Madam

**LICENSING ACT 2003
THE YEW TREE INN, PRESTON-ON-WYE, HEREFORDSHIRE, HR2 9JT**

Once again the way your premises are being run has been brought to our attention.

It is understood that Live Music was provided on Friday 13th December 2013 until 00:20 hours on 14th December 2013.

We are led to believe that Live Music will again be provided on Friday 20th December 2013.

I note that the premises is only authorised for the sale of alcohol, inside the premises and for no other activities. Whilst the introduction of the Live Music Act gives an exemption for an event where there are less than 200 people and which finishes before 11 pm, no exemption exists for music played after that time, nor for the playing of recorded music. I also note that no notification was given by way of temporary event notice which would have authorised these activities.

As a responsible authority we now have to consider whether the licensing objectives are being promoted by you at the premises.

The continual breach of the law in relation to the licence causes serious concerns and, having given you at least four previous warnings, we have to consider what steps need to be taken to promote the licensing objectives. An application to review the premises licence may now be considered to determine if:

- a) Theresa Brandeberry remains a suitable person to be the designated premises supervisor
- b) Whether the premises should continue to be licensed or whether the licence for the premises should be revoked.

As an alternative we could take more formal enforcement action and pursue the matter of unauthorised licensable activities through the court.

In order to avoid these steps, please take the following action:

1. Apply for a variation to your premises licence to include live music after 11 pm and recorded music.
2. If it is your intention to hold further outside events or within the marquee, then the application for the variation of the licence should include this fact

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Herefordshire Council

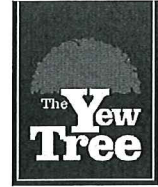
Main Switchboard (01432) 260000, www.herefordshire.gov.uk

3. If these are only occasional events then you should apply for a Temporary Event Notice which would authorise them.

If you have any queries, please do not hesitate to contact me on the number above

Yours faithfully,

**ADRIENNE POOLE
LICENSING OFFICER
ENVIRONMENTAL HEALTH & TRADING STANDARDS**



Preston-On-Wye

Hereford

HR2 9JT

04.06.13

Fred Spriggs

Environmental Health & Trading Standards

PO Box 233

Hereford

HR1 2ZF

Dear Mr Spriggs,

On receipt of your letter dated 31st May 2013, I express concern and dismay that you feel we are breaching any licensing objective.

I understand that we have been brought to your attention before, but please do not assume that the complaints have any substance behind them. I did speak to an officer from Environmental health (noise) on the Saturday to discuss any measures we could take as a preventative to a complaint as he had already received a telephone call from our neighbour who rings your office before and after every event.

We have placed signs around the premises asking patrons to respect our neighbours and leave quietly from the building, we have invited our neighbour to discuss any issues they have with us and to see if we can find any resolution to their complaints without a detrimental effect to activities enjoyed by the majority, and indeed our trade, we have moved all bottle bins as the noise was upsetting our neighbours, we haven't applied for TEN's as we have not booked bands over 11pm at night so as not to upset our neighbours, we have not sold alcohol outside our pub, we have no facility to do so as it takes more to run an outside bar than just a marquee. I can confirm that we have no outside bar facilities and no plans to ever operate one. There has never been more than 200 people at the site and I really can not see where or when we have breached our licence. I am more than happy to meet with yourself to go through our license and address any failings on our part, I am very aware of the responsibilities of having a license to supply alcohol and I can not stress how

upsetting that the constant barrage of allegations and complaints to every authority that will listen is, after our hard work to bring the community back to our local pub.

I asked licensing if there was any procedure we had to go through for having music outside, I received a variation pack with no letter or recommendation. After reading the info we concluded that our plans did not fall outside our licence. If this is an oversight on our part I do sincerely apologise.

Please can you contact myself to discuss this issue as I obviously have concerns and have tried to appease all parties previously.

Many thanks for your anticipated reply,

Theresa Brandeberry



Preston-On-Wye

Hereford

HR2 9JT

18.06.13

Dear Mr Spriggs,

Thank you for the schedule written by the member of the licensing authority on Saturday the 8th of June.

Our band for the evening was booked between 9 and 11pm. The band were late arriving, and did not start to play until 9.30 ish. They made an attempt to stop at 11.10 and got jeered on to continue until 11.30. However, your document states they went on until midnight? I have asked several locals who were in the bar and they have confirmed that the band finished at 11.30 and had indeed left by 12 completely. I do recognise that it was still later than 11 and I wholeheartedly apologise for this.

To ensure this does not happen again we have no live music booked for several weeks and will make sure we have a temp events notice in place as back up in case they should over run. Please see this as the oversight it was, not a deliberate error.

I am confused about the other points on the manuscript.

We are licensed to serve alcohol until 1pm on a Saturday with half hour drinking up time. The beer garden is included for the consumption of alcohol too.

At 10pm a large group of visitors came to the pub, they ordered drinks and sat outside, there was approximately 15 of them and two of the members did seem very loud.

After ordering several rounds of drinks, the two members became louder and I asked them to keep the noise down at around 11pm when I collected glasses.

I didn't hear any shouting or bad language and I was unaware of drinking games but they were buying a variety of drinks in a round as groups often do.

Before the band left at 12 I advised I would be calling last orders as they couldn't keep the noise down, I refused to serve the one gentleman as he displayed rowdy behaviour. He got cross with me and went back outside. At 12.30 I pulled the blinds down, turned the lights off outside and asked them to leave. All had gone bar three remaining locals by 12.40, and they followed shortly after. I had locked up by 12.50 and the other staff had gone, 40 mins earlier than in my license.

I am very apologetic to our neighbour who is clearly dismayed about living close to our village pub. I am also sincere about the issue with music on Saturday and I will endeavour to make sure it won't happen again.

However, I can not see where else we have ever breached the terms of our license and would really appreciate meeting with someone from licensing for some advice and guidance on this matter.

We are a tiny village pub in a very rural area, we have very quiet long spells and occasional busy periods of entertainment, food and visitors. Without which the business would certainly not be viable.

I have asked and followed advice from environmental health about noise, public nuisance and our neighbouring complaints.

I am sorry that you feel the need for such a formal look on our oversight and I ask you to look at our business and the fragile balance between remaining open as the village pub and another rural closure.

I await your consideration,

Many thanks,

Theresa Brandeberry