

# AGENDA

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**Meeting:** Northern Area Licensing Sub Committee  
**Place:** Council Chamber, Monkton Park Council Offices, Chippenham  
**Date:** Tuesday 9 August 2011  
**Time:** **10.30 am**  
**Matter:** To consider and determine an Application for a Review of the Premises Licence in respect of Pheonex Bar 4 High Street Wootton Bassett, Wiltshire SN4 7BS

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Please direct any enquiries on this Agenda to Liam Paul, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718376 or email [liam.paul@wiltshire.gov.uk](mailto:liam.paul@wiltshire.gov.uk)

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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## Membership:

Cllr Trevor Carbin  
Cllr Jon Hubbard

Cllr Bill Roberts

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# AGENDA

1. **Election of Chairman**

To elect a Chairman for the meeting of the Sub Committee.

2. **Procedure for the Meeting** (*Pages 1 - 8*)

The Chairman will explain the attached procedure for the members of the public present.

3. **Chairman's Announcements**

The Chairman will give details of the exits to be used in the event of an emergency.

4. **Declarations of Interest**

To receive any declarations of personal or prejudicial interests or dispensations granted by the Standards Committee.

5. **Licensing Application** (*Pages 9 - 14*)

To consider and determine an Application for a Review of the Premises Licence in respect of Pheonex Bar 4 High Street Wootton Bassett, Wiltshire SN4 7BS

5.1. **Appendix 1 - Existing Premises Licence** (*Pages 15 - 22*)

5.2. **Appendix 2 - Correspondence with the premises Licence holder**  
(*Pages 23 - 28*)

5.3. **Appendix 3 - Application for review** (*Pages 29 - 38*)

5.4. **Appendix 4 - Copies of Relevant Representations** (*Pages 39 - 62*)

5.5. **Appendix 5 - Observations of Mr J Freegard, Senior Public Protection Officer** (*Pages 63 - 64*)

5.6. **Appendix 6 - Email from Premises licence holder advising of steps to be taken** (*Pages 65 - 66*)

5.7. **Appendix 7 - Location Plan of the premises and surrounding area**  
(*Pages 67 - 68*)

## LICENSING COMMITTEE

### PROCEDURAL RULES FOR THE HEARING OF LICENSING ACT 2003 APPLICATIONS

#### 1 Purpose

- 1.1 These rules have been prepared to facilitate proper consideration of licence applications, made under the Licensing Act 2003, by the Licensing Committee and its Sub Committees.
- 1.2 The rules set out a framework for how applications are to be heard and explain the role of the participants at the Hearing.

#### 2 Definitions

- 2.1 The following definitions describe the participants at and the subject matter of a Hearing:

**“Applicant”** means the person who has submitted an Application for consideration by the Committee.

**“Applicant’s Premises”** means premises subject to the Application.

**“Applicant’s Representative”** means a person attending a Hearing to assist or represent an Applicant including a lawyer.

**“Application”** means an application for the Grant/Variation/Transfer/Review and any other decision to be made by the Committee/Sub-Committee in respect of a Licence.

**“Chairperson”** means the Member who is the Chairperson of the Committee for the particular Hearing.

**“Committee”** means the Council’s Licensing Committee and includes any Sub Committee of the Licensing Committee.

**“Committee Lawyer”** means the Council’s Lawyer (including an external Lawyer instructed by the Council’s Legal & Democratic Services Manager) who is present at a Hearing to advise the Chairperson and the Members.

**“Committee Manager”** means the Council’s Officer who is present at a Hearing to take minutes.

**“Committee Report”** means the Licensing Officer’s written report to the Committee concerning an Application, a copy of which has been previously made available to the Applicant or their Representative, a Responsible Authority or their Representative or an Interested Party or their Representative.

**“Hearing”** means a meeting of the Committee at which an Application is considered.

**“Licence”** means a Licence which the Committee has the power or duty inter alia to grant, transfer, suspend or revoke.

**“Licensing Officer”** means the Council’s Licensing Officer(s) who is/are present at a Hearing to present reports in respect of an Application and to give technical advice in respect of an Application to the Committee when requested.

**“Licensing Authority”** the Council in whose geographical area the subject matter of the Application relates to, and includes the Council’s Licensing Committee, any Sub Committee of the Licensing Committee and a Licensing Officer.

**“Member”** means a Member who is a Member of the Committee that is considering an Application.

**“Responsible Authority”** means a person who is present at a Hearing to make representations in respect of an Application in their capacity as Responsible Authority and includes any person who is present to assist or make representations on behalf of the Responsible Authority including a Lawyer.

**“Interested Party”** means a person who is present at a Hearing to make representations in respect of an Application in their capacity as an Interested Party, and includes any person who is present to assist or make representations on behalf of the Interested Party including a Lawyer.

### **3 Key Principles**

- 3.1 The principles of ‘natural justice’, and Article 6 ‘Right to a Fair Trial’, which is one of the Convention Rights in the Human Rights Act 1998, require that there is a fair Hearing of Applications.
- 3.2 Natural justice is an umbrella term for the legal standards of basic fairness. This will include that:
  - 3.2.1 the Applicant has an opportunity to make representations before a decision is made;
  - 3.2.2 those making representations have an opportunity to voice their representations before a decision is made;

- 3.2.3 the Applicant has an adequate opportunity to consider and respond to any submissions made by a Responsible Authority/Authorities and/or an Interested Party/Parties;
- 3.2.4 the Committee does not exclude an Applicant from a Hearing in order to consider submissions from a Responsible Authority/Authorities and/or an Interested Party/Parties.
- 3.3 It is also fundamental that there is an orderly presentation of submissions at a Hearing so that the relevant issues are properly understood, evidence is tested and that oral statements made at the Hearing are accurately recorded.
- 3.4 Ultimately the Chairperson determines the application of these rules, having regard to any submissions being made by those present and in particular the Committee Lawyer.

#### **4 The Hearing**

- 4.1 The Hearing shall take place in public.
  - 4.1.1 The Committee may exclude the public from all or part of the Hearing where it considers it to be in the public interest to do so and, in accordance with the Local Government (Access to Information) Act 1985, as amended. Public includes a party and any person assisting or representing a party.
  - 4.1.2 The Committee may require any person attending the Hearing who, in its opinion, is behaving in a disruptive manner, to leave the Hearing and may:
    - a refuse to permit them to return;
    - b permit them to return only on such conditions as the Committee may specify;
    - c in the event that a person is required to leave a Hearing that person may, before the end of the Hearing, submit to the Committee in writing any information which they would have given orally.
- 4.2 Prior to the Hearing commencing, the Chairperson shall advise the parties of the procedure it proposes to follow at the Hearing.
- 4.3 Where a party has previously requested permission for a person(s), other than their representative, to appear at the Hearing then the Committee shall consider whether to permit that request.
- 4.4 The Committee will allow the parties an equal maximum period of time in which to exercise their rights.

- 4.5 This equal maximum time may have been notified in advance of the Hearing;
- 4.6 Where there is a multiple of Interested Parties who have attended the Hearing to make the same representation then the Committee would normally require that a spokesperson be appointed by them to make the representations on behalf of all of those Interested Parties.

## **5 Presentation of Submissions**

- 5.1 The Chairperson will introduce the Application.
  - 5.2 In the event that the Licensing Authority has given notice to a party requiring clarification on a point(s) then that party shall respond to the points raised by the Licensing Authority.
  - 5.3 Submissions shall be made in the following order unless the Chairperson directs otherwise:
    - 5.3.1 The Licensing Officer will orally present the Committee Report and will in particular advise the Committee as to:
      - a the options available to it;
      - b the considerations that are relevant in reaching its decision.
    - 5.3.2 The Review Applicant (or the Applicant's Representative) will orally present its submission which may include:
      - a presenting their case in accordance with the papers, which will have been circulated with Agenda papers;
      - b confirming key information and answer pertinent questions; and
      - c calling witnesses in support of the Application (see paragraph 4.3).
- A Responsible Authority/Authorities and/or an Interested Party/Parties will orally present their representations in turn which shall include:
- a the grounds of the representation to the Application; and
  - b any condition(s) that the Responsible Authority/Authorities and/or an Interested Party/Parties would be happy to have the Application granted subject to which would cause the representation to be withdrawn.
- The Premises Licence Holder and/or their representative will orally present their representations which shall include;
- a The response to the representations made by the Review Applicant, a Responsible Authority/Authorities and/or an Interested Party/Parties; and

- b Whether they would be happy to accept any modifications to the Licence as suggested by the Review Applicant, a Responsible Authority/Authorities and/or an Interested Party/Parties.

## **6 Questioning of Submissions**

- 6.1 The Chairperson will regulate the order in which questions are asked by Members.
- 6.2 The Chairperson and Members, voiced through the Chairperson, may question any party following the completion of their submission.
- 6.3 The Chairperson will normally permit the Applicant, a Responsible Authority/Authorities or an Interested Party/Parties to ask questions through them of the other parties.
- 6.4 The Chairperson may direct that questions which are not relevant to the Application or one of the four Licensing Objectives are not formally put or answered.

## **7 Documentation**

- 7.1 No party shall present new documentation to the Committee at the Hearing other than with the consent of all of the other parties. This does not preclude the Licensing Officer from correcting errors, providing updated information or an extract from a local map showing the Applicant's Premises in the context of the surrounding premises and any Interested Party's premises. If any party is granted permission to present supplementary papers at the Hearing they shall provide at least 10 copies at the start of their submission.

## **8 Intervention**

The Chairperson shall permit the following interventions at any point in the Hearing:

- 8.1 The Committee Lawyer to advise the Committee on issues of law, procedure and relevant considerations on decision making. If necessary, the Chairperson may require the Committee, the Committee Lawyer and the Committee Manager to leave the Hearing so that advice can be given.
- 8.2 The Committee Manager to advise the Committee on procedure generally, or to request that statements made are repeated for reasons of clarity and so that they can be properly recorded.
- 8.3 The Licensing Officer to seek to clarify statements that have been made in light of information held on their file.

## **9 Failure of Parties to Attend Hearing**

- 9.1 If a party has informed the Licensing Authority that it does not intend to attend or be represented at a Hearing, the Hearing may proceed in its absence.
- 9.2 If a party has not indicated that it does not intend to attend or be represented at a Hearing and fails to attend or be represented at the Hearing then the Licensing Authority may:
  - 9.2.1 where it considers it be necessary in the public interest, adjourn the Hearing to a specified date; or
  - 9.2.2 hold the Hearing in the party's absence.
- 9.3 Where the Licensing Authority holds a Hearing in the absence of a party, it shall consider at the Hearing the application, representations or notice made by that party.

## **10 Closing Submissions**

- 10.1 The Chairperson shall allow first, the Responsible Authority/Authorities and the Interested Party/Parties to make a closing oral submission(s) and secondly invite the Applicant or the Applicant's Representative an opportunity to make an oral closing submission in support of the Application.

## **11 Decision**

- 11.1 The Committee, the Committee Lawyer and the Committee Manager, shall retire so that the decision may be considered in private, and to consider any legal issues raised by the Members.
- 11.2 The decision, and reasons for the decision, of the Committee shall be communicated orally by the Chairperson to the parties after the Committee has deliberated in private on the Application.
- 11.3 Written reasons shall be provided soon after the deliberations of the Application and in any event within the statutory time limits.



## **Review Hearing Procedure Summary**

1. The Chairperson welcomes all those present and introduces the Application.
2. The Chairperson invites the Sub-Committee Members, Council Officers, the Review Applicant and/or their representative, any Responsible Authorities and/or Interested Parties and the Premises Licence Holder and/or their representative to introduce themselves.
3. The Chairperson outlines the Hearing Procedure.
4. The Licensing Officer presents the Committee Report and outlines the application.
5. The Review Applicant and/or their representative address the Sub-Committee to present their case.
6. Questions to the Review Applicant by Members of the Sub-Committee, any Responsible Authorities and/or Interested Parties and the Premises Licence Holder.
7. Responsible Authorities and/or Interested Parties who have made relevant representations address the Sub-Committee.
8. Questions to any of the Responsible Authorities and/or Interested Parties by Members of the Sub-Committee, the Review Applicant and the Premises Licence Holder.
9. The Premises Licence Holder and/or their representative address the Sub-Committee to present their case.
10. Questions to the Premises Licence Holder by Members of the Sub-Committee, any Responsible Authorities and/or Interested Parties and the Review Applicant.
11. Summing up by the Responsible Authorities and/or Interested Parties who have made relevant representations.
12. Summing up by the Premises Licence Holder.
13. Summing up by the Review Applicant.
14. The Sub-Committee retires with the Committee Lawyer and Committee Manager to consider its decision.
15. Sub-Committee returns and the Lawyer gives a summary of any legal advice that may have been given to the Sub-Committee, and invites the parties present to make any comments on that advice.
16. The Chairperson either gives the decision with reasons, or advises that it will be released in writing with reasons within the statutory time limits.

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**WILTSHIRE COUNCIL**

**NORTHERN AREA LICENSING SUB COMMITTEE**

**DATE OF MEETING 9<sup>TH</sup> August 2011**

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**Application for Review of a Premises Licence; Pheonex Bar 4 High Street  
Wootton Bassett, Wiltshire SN4 7BS**

**1. Purpose of Report**

- 1.1 To determine an application for a Review of a Premises Licence in respect of Pheonex Bar 4 High Street Wootton Bassett made by Ms P Evans and Ms L Sefton local residents living in the vicinity of the premises.

**2. Background Information**

- 2.1 An application for the Review of Pheonex Bar Premises Licence has been made by Ms P Evans and Ms L Sefton. Following advertisement of the application 8 relevant representations have also been received.
- 2.2 Wiltshire Council (as the Licensing Authority) must hold a hearing to consider the review application and any representations received. In accordance with Section 52 (3) of The Licensing Act 2003 the Licensing Sub Committee is required to take such steps as it considers necessary for the promotion of the licensing objectives.
- 2.3 The licensing objectives are:
- i) The Prevention of Crime and Disorder;
  - ii) Public Safety;
  - iii) The Prevention of Public Nuisance; and
  - iv) The Protection of Children from Harm.
- 2.4 Such steps are:
- i) To modify the conditions of the licence.
  - ii) To exclude a licensable activity from the scope of the licence.
  - iii) To remove the designated premises supervisor.
  - iv) To suspend the licence for a period not exceeding three months.
  - v) To revoke the licence.
  - vi) To determine that no steps are necessary

Government Guidance issued under s.182 of the Licensing Act 2003 states that:

“Licensing Authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of

the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives”

- 2.5 The premise benefits from a Premises Licence issued under the Licensing Act 2003 since 3<sup>rd</sup> March 2008 and this is attached as **Appendix 1**.
- 2.6 The premises also benefits from a Club Premises Certificate issued under the Licensing Act 2003 since November 2005.
- 2.7 Mr Kerr and Mr Morris took over the ownership of the building in 2007 and carried out major renovations before applying for a premises Licence to run alongside the existing Club Premises Certificate. At the time the Premises Licence application was made one resident expressed concern over the possible miss use of the Fire Exit to the rear of the property by patrons of the premises. The applicants agreed to amend their application and condition the use of the fire exit and no hearing was necessary to determine the application.
- 2.8 Since the grant of the Premises Licence in 2008 a number of complaints have been received by Wiltshire Council Public Protection Noise and Licensing Teams from local residents regarding noise nuisance from the premises, and disturbance caused by patrons in and around the premises. Complaints have also related to antisocial behaviour of patrons on entering and leaving the premises and on their way home from the premises. The use of the front walkway for smoking has also attracted complaints of noise and litter. The Licence holders have on each occasion been advised of residents concerns, and have attempted to address the issues with sporadic success.

A copy of written correspondence with the premises Licence holder is attached at **Appendix 2**

### **3. Details of the Grounds for Review**

- 3.1 The review of the licence has been requested on the grounds that the premises have been conducted in such a manner as to prejudice the licensing objectives. The grounds for review are:
  - Noise Nuisance caused by entertainment held at the premises
  - Antisocial behaviour by patrons of the premises (shouting, swearing, urinating, fighting) in the vicinity of the premises and neighbouring residential area.
- 3.2 The application for review is attached as **Appendix 3**

#### 4. Consultation and Representations

4.1 The review process requires a public notice to be posted on the premises for a period of 28 days together with a copy of the notice posted at the offices of Wiltshire Council, Monkton Park, Chippenham. During the consultation period 7 relevant representations have been received from residents living in the vicinity of the premises (interested parties) and one from the local divisional member (Councillor).

- Councillor Peter Doyle Local Divisional Member
- Miss C Clark 168 High Street Wootton Bassett
- Mr N Burden 5 High Street Wootton Bassett
- Mr M Lympany 6 High Street Wootton Bassett
- MJ & ME Penny 157 High Street Wootton Bassett
- Drs B Hardman & A Repton 158 High Street Wootton Bassett
- Miss V Munnely & Mr A Foster 164 High Street Wootton Bassett
- Mr J Wilks 159 High Street Wootton Bassett

The relevant representations are attached as **Appendix 4**

During the consultation period Mr John Freegard Senior Public Protection Officer (Pollution) held a site visit with the premises licence holder Mr Kerr. Mr Freegard's observations are attached as **Appendix 5**

On the 18<sup>th</sup> July 2011 an email was received by the Licensing Authority from Mr Kerr advising of the steps the premises licence holders will be taking to address the complaints of the residents. This is attached as **Appendix 6**

A location map of premises and surrounding area is attached as **Appendix 7**.

4.2 The Sub Committee can take into account documentary or other information presented at the hearing with the consent of all other parties.

4.3 The representations included the following suggestions on how to address the concerns raised.

- Removal of the No smoking sign on footpath and repositioning of this on private property inside the premises.
- Regular cleaning of footpath.
- No customers permitted to return to the premises within 2 hours.
- Music to cease at a reasonable hour especially on week days.
- SIA door stewards to control front access.
- All doors and windows to be closed with entertainment taking place.

#### 5. Legal Implications

5.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations. These provide that hearings should be held in public unless the Licensing

Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

## **6. Officer Recommendations**

- 6.1 Officers are not permitted to make a recommendation – the decision is to be reached by the members of the Licensing Sub Committee.

## **7. Right of Appeal**

- 7.1 It should be noted that the Premises Licence Holder, the party that applied for the review and any Responsible Authority or Interested Parties who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.
- 7.2 The decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.
- 7.3 The Premises Licence Holder and all Interested Parties have been informed of the date, time and location of the hearing and their right to attend and be represented.

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Report Author: Mrs Linda Holland

Senior Public Protection Officer (Licensing) North and West,  
[linda.holland@wiltshire.gov.uk](mailto:linda.holland@wiltshire.gov.uk). Tel: 01249 706410

Date of report 28<sup>th</sup> July 2011

### **Background Papers Used in the Preparation of this Report**

- **The Licensing Act 2003**
- **The Licensing Act (Hearings) Regulations 2005**
- **Guidance issued under Section 182 of the Licensing Act 2003**
- **Wiltshire Council Licensing Policy**

### **Appendices**

- 1 Current Premises Licence**
- 2 Correspondence with Premises Licence holder**
- 3 Application for a Review by Ms P Evans and Ms L Sefton**
- 4 Copies of Relevant Representations**

- 5 Observations of Mr J Freegard Senior public protection Officer**
- 6 Email from Premises licence holder advising of steps to be taken**
- 7 Location Plan of the premises and surrounding area**

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## LICENSING ACT 2003

### PREMISES LICENCE

PREMISES LICENCE NUMBER: LN/004433 NL

#### Premises Details

Postal address of premises, or if none, Ordnance Survey map reference or description	
The Pheonex Bar 4 High Street Wootton Bassett	
Post Town Swindon	Post Code SN4 7BS
Telephone Number 01793 848656	

Licensable activities authorised by the Licence	The time the licence authorises the carrying out of licensable activities
a. Plays – Indoors Only	a. Sunday to Saturday 11.00 hrs to 01.00 hrs
b. Films – Indoors Only	b. Sunday to Saturday 11.00 hrs to 01.00 hrs
c. Indoor Sporting Events – Indoors Only	c. Sunday to Saturday 11.00 hrs to 01.00 hrs
d. Live Music – Indoors Only	d. Sunday to Saturday 11.00 hrs to 01.00 hrs
e. Recorded Music – Indoors Only	e. Sunday to Saturday 11.00 hrs to 01.00 hrs
f. Performances of Dance – Indoors Only	f. Sunday to Saturday 11.00 hrs to 01.00 hrs
g. Anything of a similar description to that falling within Live Music, Recorded Music, Performances of Dance – Indoors Only	g. Sunday to Saturday 11.00 hrs to 01.00 hrs
h. Provide Facilities for Making Music – Indoors Only	h. Sunday to Saturday 11.00 hrs to 01.00 hrs
i. Provide Facilities for Dancing – Indoors Only	i. Sunday to Saturday 11.00 hrs to 01.00 hrs
j. Entertainment of a Similar Description to that falling within Making Music or Dancing – Indoors Only	j. Sunday to Saturday 11.00 hrs to 01.00 hrs
k. Provision of Late Night Refreshment – Indoors Only	k. Sunday to Saturday 23.00 hrs to 01.00 hrs
l. Supply of Alcohol – for consumption on the premises	l. Sunday to Saturday 11.00 hrs to 01.00 hrs

The opening hours of the premises
Sunday to Saturday 11.00 hrs to 01.00 hrs

Name, (registered) address of holder of Premises Licence	
Mr A M Morris Field Cottage Christian Malford Chippenham Wiltshire SN15 4BW	Mr S Kerr 56 The Rosary Wootton Bassett Swindon Wiltshire SN4 8AZ

Name of Designated Premises Supervisor where the Premises Licence authorises for the supply of alcohol  
**Margaret Isobel Patricia Kerr**

Personal Licence Number: **LN/004312 NL** | Licensing Authority: **North Wiltshire District Council**

State whether access to the premises by children is restricted or prohibited  
**Yes - The provisions of Section 145 of the Licensing Act 2003 apply**

Licence Commencement Date

3<sup>rd</sup> March 2008



.....  
Environmental Health Manager  
*(the Officer appointed for this purpose)*

Current Licence Date

4<sup>th</sup> March 2009



.....  
Environmental Health Manager  
*(the Officer appointed for this purpose)*

*Environmental Health Licensing Section of North Wiltshire District Council, Community and Environment,  
Monkton Park, Chippenham, Wiltshire, SN15 1ER  
Tel. 01249 706555 www.northwilts.gov.uk*

## **ANNEX 1 - MANDATORY CONDITIONS**

### **Door Supervision**

Individuals who are present to guard against a, b or c must be licensed by the Security Industry Authority:

- a. Unauthorised access or occupation (eg through door supervision)
- b. Outbreaks of disorder
- c. Damage

### **Supply of Alcohol**

Where this Licence authorises the supply of alcohol:

No supply of alcohol may be made under this licence:

- a. At a time when there is no Designated Premises Supervisor in respect of it
- b. At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended"

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a Personal Licence.

### **Exhibition of Films**

Where this Licence authorises the exhibition of films:

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made:

- a. By the British Board of Film Classification (BBFC,) where the film has been classified by that Board
- b. By the Licensing Authority where no classification certificate has been granted by the BBFC or, where the Licensing Authority has notified the licence holder that section 20 (3) (b) (74 (3) (b) for clubs) of the Licensing Act 2003 applies to the film.

## **ANNEX 2A - CONVERTED CONDITIONS**

None

## **ANNEX 2B - OPERATING SCHEDULE**

### **PREVENTION PUBLIC NUISANCE**

- All doors and windows must be closed after 23.00 hrs.
- The rear fire exit is to be used as a fire exit and for delivery purposes only.
- Notices are to be prominently displayed at all exits from the premises requesting that patrons respect the needs of people living in the area and to leave the area quietly.
- No alcohol is to be sold from the premises for consumption off the premises.

### **PUBLIC SAFETY**

- At least one responsible adult is to be on the premises whenever any licensable activity is taking place.

### **PROTECTION OF CHILDREN FROM HARM**

- A recognised proof of age, which includes a photograph, is to be required for anyone who appears to be under the age of 21 and who wishes to purchase or consume alcohol.
- Notices prohibiting the use of amusement with prizes and cigarette machines by children under the age of 18 are to be displayed prominently in the vicinity of the machines.

### **PREVENTION OF CRIME AND DISORDER**

- The Premises shall register as a member of the Pubwatch Scheme in the locality and a representative of the Management Team shall attend all meeting.
- All incidents involving the use of illegal drugs and/or criminal activity are to be reported to the police as soon as practicable.

## **ANNEX 3 - HEARING**

None

## **ANNEX 4 - PLANS**

See attached



A ↑

Ballroom

SKITTLE ALLEY

Kitchen

BAR

LOBBY

Smoking Area

EXISTING TOILETS

STEPS

PAUSE OR EXISTING CLUB

EX. BTL. CORNER

EXISTING WINDOW CHANGE

DOOR

PAUSE AREA WALL

STORE

S O C I A L C L U B

BEHIND SECURITY

UNDERSTAIRS STORAGE SPACE TO BE USED FOR STORAGE OF STAIRS AS ZULU'S OR PASSENGER TRUCK

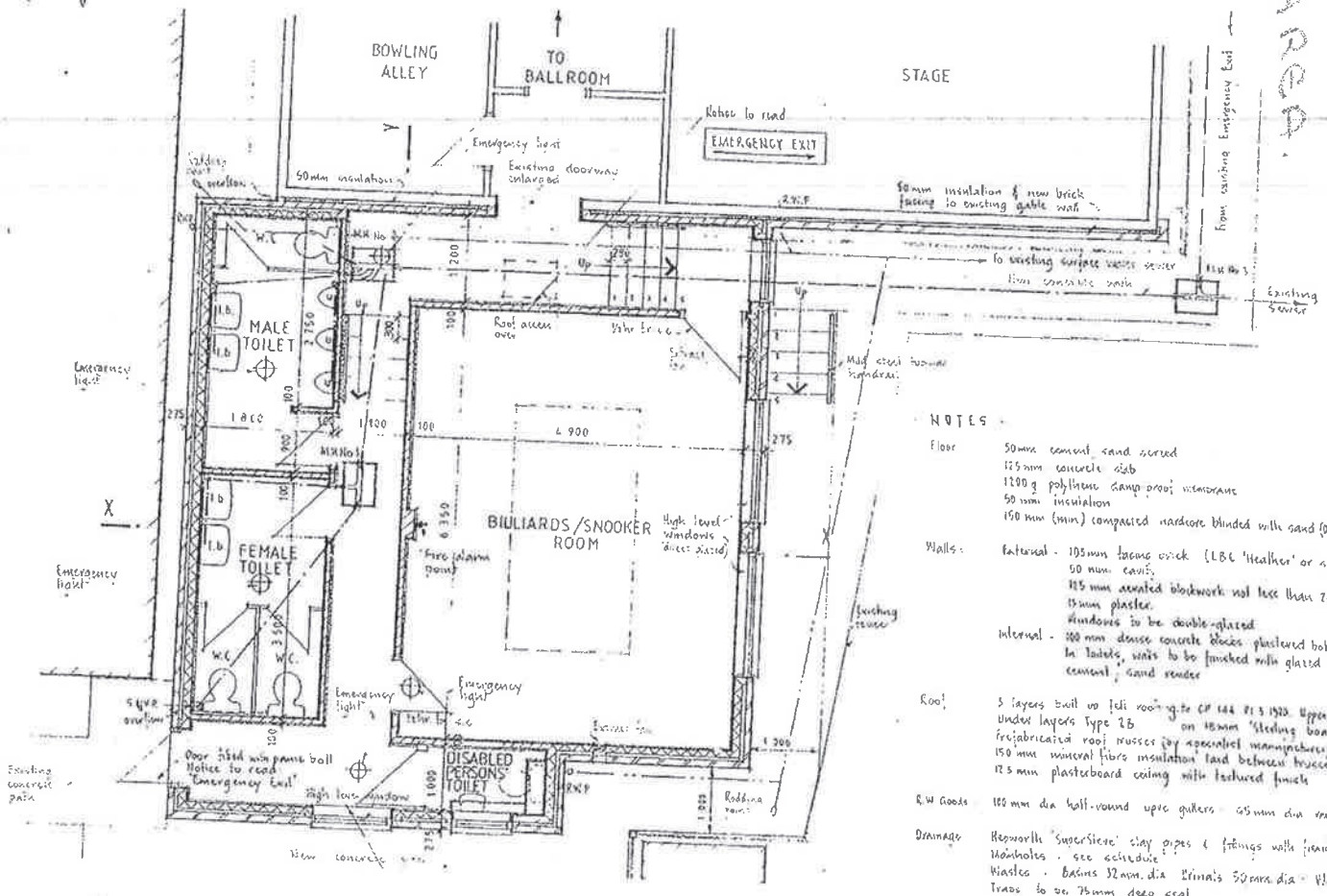
DOUBLE DOOR

BY PROVIDE (Emergency Exit) DOOR. HORIZONTAL SILL FINISH AND TYPICAL ALUMINUM HANDLES ETC. TO BE IN SAME THRESHOLD



↑ H

D.P.P.P. 03/1/10



**NOTES**

- Floor**
  - 50mm cement sand screed
  - 125mm concrete slab
  - 1200g polythene damp proof membrane
  - 50mm insulation
  - 150mm (min) compacted hardcore bladed with sand (or 150)
- Walls**
  - External - 105mm facing brick (LBC 'Weather' or similar)
  - 50mm cavity
  - 125mm acoustical blockwork not less than 7.811/1
  - 15mm plaster
  - Windows to be double-glazed
  - Internal - 100mm dense concrete blocks plastered both sides
  - In toilets, units to be finished with glazed blue cement sand render
- Roof**
  - 5 layers built up felt roofing to CP 144 21.3.1928. Upper layer under layer Type 1B on 45mm 'sterling board' prefabricated roof trusses (or special min. min. min.) at 150mm mineral fibre insulation laid between trusses.
  - 125mm plasterboard ceiling with reduced finish
- R.W. Gutter**
  - 100mm dia half-round upvc gutters - 65mm dia mineral
- Drainage**
  - Reporoth SuperSieve clay pipes & fittings with joints & manholes - see schedule
  - Wastes - Basins 32mm dia 20mm dia 50mm dia - V.C.
  - Traps to be 75mm deca seal





COPY

17th August 2010

Mr A M Morris  
The Pheonex Bar  
4 High Street  
Wootton Bassett  
Wiltshire  
SN4 7BS

Public Protection Services  
Licensing Team  
Wiltshire Council  
Monkton Park  
Chippenham  
Wiltshire  
SN15 1ER

DX 34208 CHIPPENHAM

Our ref: LN/4433/LVH/LME

Dear Mr Morris

**Re: Licensing Act 2003**

I am writing to inform you that I have received several complaints regarding anti-social behaviour by your patrons, and noise emanating from your premises.

I would like to arrange to meet you at the premises on 2<sup>nd</sup> September 2010 at 14:00 hrs to discuss these complaints.

In the meantime I ask you take measures to ensure that your licenses are fully complied with and your patrons are encouraged to leave your premises in a quiet orderly manner. Please note The Licensing Act 2003 affords the residents in the vicinity of a licensed premises the opportunity to apply for a review of a licence where they can demonstrate that matters are arising that relate to any of licensing objectives, public nuisance, public safety, crime and disorder, protection of children from harm.

Please contact me if you are unavailable so we can arrange a more suitable time.

Yours sincerely

**Linda Holland**  
**Licensing Enforcement Officer**  
Tel. 01249 706410  
Fax. 01249 444650  
Email: linda.holland@wiltshire.gov.uk

Cc: Mr S Kerr, 56 The Rosary, Wootton Bassett, Swindon, Wiltshire, SN4 8AZ



1st September 2010

Mr A Morris and Mr S Kerr  
The Pheonex Bar  
4 High Street  
Wootton Bassett  
Wiltshire  
SN4 7BS

COPY

Public Protection Services  
Wiltshire Council  
Monkton Park  
Chippenham  
Wiltshire  
SN15 1ER

DX 34208 CHIPPENHAM

WK/201005501 WK/201005493 WK/20105438 JPF/DRW

Dear Sirs,

**Re: Environmental Protection Act 1990  
Noise emissions from amplified music being played at The Pheonex Bar, 4 High Street,  
Wootton Bassett SN4 7BS**

Further to Linda Holland's (Licensing Officer) visit to you on 31<sup>st</sup> August 2010, regarding various licensing issues, I am writing to confirm that residents have also alleged that there is a 'noise' issue.

I would just like to remind you that whilst your licence allows you to play live and recorded music from 11:00 to 01:00 hrs, the music should not be played at a level that could give rise to a statutory noise nuisance under the above legislation.

At this stage, no monitoring has taken place, but if complaints persist and nuisance is substantiated, then an Abatement Noticed will be served.

I trust, however, that you will control the noise to a reasonable level and that formal action will not prove necessary.

Yours faithfully



**J P Freegard**  
**Higher Technical Officer**  
Tel. 01249 706404  
Fax. 01249 444650  
Email. publicprotectionnorth@wiltshire.gov.uk



COPY

COPY

7th September 2010

Mr & Mrs Kerr  
Pheonex Bar  
4 High Street  
Wootton Bassett  
Wiltshire  
SN4 7BX

Public Protection Services  
Licensing Team  
Wiltshire Council  
Monkton Park  
Chippenham  
Wiltshire  
SN15 1ER

DX 34208 CHIPPENHAM

Our ref: LVH/LME

Dear Mr & Mrs Kerr

**Licensing Act 2003**

**Re: Pheonex Bar, 3-4 High Street, Wootton Bassett, Wiltshire**

I write with reference to my licensing visit to the Pheonex Bar on Tuesday 31<sup>st</sup> August 2010 following complaints regarding anti-social behaviour by your patrons and noise nuisance emanating from your premises.

I have set out below the measures you offered to take, to address some of the concerns of the residents, and to ensure compliance with your Premises and Club Licences:

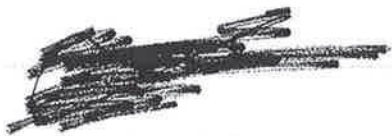
- A ban from the premise of any patrons or persons found to be causing trouble in and around the premise. *This to take effect immediately*
- CCTV to be installed to cover the outside front area, and the side smoking area. *This to be installed and operational within two months.*
- Patrons to be discouraged from using the area outside the front of the building to smoke, signs to be put up to this effect and the management to enforce. No drinks will be permitted to be taken into this area, patrons will be directed to the side smoking area nearest the school away from residential property. *This to take effect immediately*
- The outside front area to be cleaned on a more regular basis. *This to take effect immediately*
- The Smoking area to the side of the building to be fenced to ensure no glass or stones can be thrown or dropped on the adjacent school playground. *This to be done within 14 days*
- A recommendation was made to keep a noise monitoring log whilst any live or recorded music was being played to assist with controlling noise breakout from the building. *This to take effect immediately*
- Management to ensure that all staff to carry out the required ID checks on any person who appears under the age of 21, who wishes to purchase or consume alcohol. *This to take effect immediately*

All staff should be aware of the requirements of the Premises Licences issued to the Pheonex Bar and the steps needed to ensure compliance.

Cont.../

If you have any queries please do not hesitate to contact me.

Yours sincerely

A large, dark, scribbled-out area, likely representing a redacted signature or name.

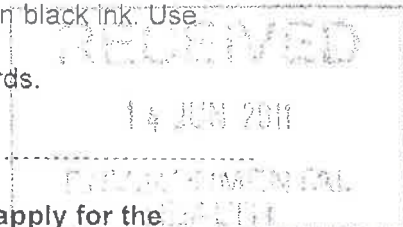
**Linda Holland**  
**Licensing Enforcement Officer**  
Tel. 01249 706410  
Fax. 01249 444650  
Email: [linda.holland@wiltshire.gov.uk](mailto:linda.holland@wiltshire.gov.uk)

12/7

## 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.



1 Pal Evans

*(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	
PHOENIX BAR NICHN STREET WOOTTON BASSETT WILTSKIRE	
Post town	Post code (if known)
WOOTTON BASSETT	
Name of premises licence holder or club holding club premises certificate (if known)	
MR STUART KERL	
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

EVANS

First names

Pat

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

7 High Street  
Wootton Bassett  
Wiltshire

Post town

Post Code

SN4 7BS

Daytime contact telephone number

~~01249 712345~~

E-mail address (optional)

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Lin Sexton  
169 High Street  
Wootton Bassett  
Wiltshire

Telephone number (if any)

~~01249 712345~~

E-mail address (optional)

~~lin.sexton@bt.com~~



**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address
Telephone number (if any)
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

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

**Please state the ground(s) for review** (please read guidance note 1)

- 1) very loud noise throughout the night into early hours of morning. latest received 3am
- 2) people stood outside smoking, shouting etc
- 3) glasses & bottles smashed on path & into road
- 4) damage to peoples properties. 12: houses, windows smashed pots removed
- 5) people urinating through the school gate
- 6) fighting outside throughout the night not just at closing when it is particularly bad
- 7) the noise just starting throughout the night
- 8) suspicions of underage drinking
- 9) injuries to customers
- 10) taxis arriving and starting horns in early hours

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

- (1) Suffered by conversation and
- (2) Banned all staff vehicles
- (3) Board at Lake Park obstructive views
- (4) obscene language being shouted in car  
hours.
- (5) Properties that are for sale opposite the  
bar are not selling due to the proximity
- (6) Properties being devalued.

### Conclusion

Unreasonable behaviour to the extreme  
Not being comfortable & safe in our  
own homes, which we have a right  
to feel.

There are many issues regarding  
this bar. On many occasions they  
have a band at the rear and a club  
at the front bar. Unbelievable noise!!!!

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

NO

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



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 120611

Capacity Residents

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 5)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**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.



## PUBLIC NOTICE

### REVIEW OF PREMISES LICENCE UNDER SECTION 51 OF THE LICENSING ACT 2003

An Application has been made to review the Premises Licence issued to The Pheonex Bar, 4 High Street, Wootten Bassett, Wiltshire SN4 7BS

The Review of the Licence has been requested by Ms P Evans and Ms L Sefton local residents living in the vicinity of the premise on the grounds that the premises have been conducted in such a manner as to prejudice the Licensing Objectives. The grounds for review are:

- Noise nuisance caused by entertainment held at the premises.
- Antisocial behaviour by patrons of the premises (shouting, swearing, urinating, fighting) in the vicinity of the premises and neighbouring residential properties.

The details of the grounds for Review may be inspected at the offices of the Licensing Authority at Monkton Park, Chippenham, SN15 1ER between the hours of 09.30 and 16.00, Monday to Friday, excluding Bank Holidays.

Interested parties and Relevant Authorities may send representations in writing to the Senior Licensing Officer, Licensing Department, Wiltshire Council, Monkton Park, Chippenham, Wiltshire, SN15 1ER between 15<sup>th</sup> June 2011 and 12<sup>th</sup> July 2011

It is an offence to knowingly or recklessly make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence is £5,000.00.

Dated 15<sup>th</sup> June 2011

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201108259

ACK  
Letter  
Sent

12/7/11

KLS

# Wiltshire Council

Where everybody matters

## REPRESENTATION FORM

This form must be returned within the statutory period, which is 28 days from the date the notice was displayed on the premises or the date specified in the Public Notice in the newspaper. Please contact the Licensing Section to confirm this date.

In the Licensing Act 2003, the term 'vicinity' is used with particular reference to those 'interested parties' who may lodge Representations to applications for Premises Licences and who may make Representations concerning existing Premises Licences. Although the Act does not define the term 'vicinity' it does define the term an 'interested party' as 'a person living in the vicinity, a body representing persons living in the vicinity, a person involved in a business in the vicinity, a body representing those persons' or a member of the relevant Licensing Authority (ie, elected Councillor).

Premises about which Representation is being made	Phoenix Bar, High Street, Wootton Bassett	
Your Name	Cllr Peter Doyle	
Postal Address	Wiltshire Councillor – Wootton Bassett South 49 New Road Wootton Bassett Wiltshire SN4 7DG	
Contact Telephone Number		
Are you:	Yes	No
• A person who lives in the vicinity?		
• A person who operates a business in the vicinity?		
• A person representing residents or businesses in the vicinity?		
• A member of the Relevant Licensing Authority (ie, elected Councillor of the Licensing Authority in which the premises is situated)?	YES	
If you are representing residents or businesses in the vicinity please list those residents or businesses who have asked you to represent them		

Your Representation must relate to one of the four Licensing Objectives, which are detailed below. Please detail the evidence supporting your Representation and the reason for your Representation. If necessary, separate sheets may be used.

OBJECTIVES	EVIDENCE
1. The prevention of harm to children	None
2. To prevent public nuisance	See detailed evidence on separate sheet attached.

OBJECTIVES	EVIDENCE
<b>3.</b> To prevent crime and disorder	<b>See detailed evidence on separate sheet attached.</b>
<b>4.</b> Public Safety	<b>See detailed evidence on separate sheet attached.</b>

Please list below any suggested actions that you feel the applicant could take to address your concerns.

Reference should be made to the evidence supplied on the separate sheet referred to when considering these suggested possible actions.

1. Acceptance of previously given undertakings to abide by decisions of Wiltshire Council licensing and other enforcement officers.
2. Re-establish and reaffirm that the footpath outside the licensed premises is public property and not provided for the benefit of patrons during the course of their visit to the Phoenix licensed premises. Possible actions could include:
  - Removal of the No Smoking Sign and repositioning of this on private property inside the premises;
  - Acceptance that all existing and future use and display of any advertising signs on the embankment railings, trees and all other publicly owned property in the immediate vicinity of the licensed premises and elsewhere on Wootton Bassett High Street should be properly authorised or not otherwise take place;
  - Agreement that there should be no use of fly-posting to advertise events at the licensed premises;
 REASON: to prevent public nuisance

3. If patrons of the licensed premises continue to congregate on the public footpath, for any purpose, then private arrangements for cleaning the footpath should be agreed to the council's satisfaction and/or otherwise paid for in full so that the public purse is not disadvantaged for private gain.
 

REASON: to prevent public nuisance

4. The introduction of a 'no customer return to the licensed premises within 2 hours policy' could reduce any congregation of patrons on the public footpath and help minimise public nuisance and threat to public nuisance, public disorder or public safety.
 

REASON: to prevent public nuisance and reduce the risk of public disorder and potential risk to public safety

5. A requirement to keep all windows and doors closed during musical or other entertainment events could help minimise noise complaints from local residents. Arrangements for mechanical ventilation of the premises should be reviewed to enable all windows and doors to be kept closed during such events.
 

REASON: to prevent public nuisance

6. A restriction on loudspeaker volumes or output power could also help minimise noise complaints from local residents.
 

REASON: to prevent public nuisance

h

If a hearing needs to be held to determine the Premises Licence Application, the Councillors will generally only be able to consider matters that have previously been disclosed. However, additional information in support of your Representation may be considered if all parties at the Hearing agree. We advise that you detail all matters that you wish to be considered on this initial Representation, attaching additional sheets if necessary.

If you do make a Representation you will be invited to attend the Licensing Sub-Committee Hearings and any subsequent appeal proceedings relevant to your Representation.

All Representations in their entirety, including your name and address, will be disclosed to the Premises Licence applicant.

Signature ... Cllr Peter Doyle (submitted and signed electronically via Wiltshire Council)

Date ..... 11 July 2011

Please return this form, along with any additional sheets, to the Licensing Officer at the Wiltshire Council Office covering the area in which the licensed premises are situated (see below):

<b>Chippenham:</b>	Wiltshire Council, Monkton Park, Chippenham, Wiltshire, SN15 1ER
<b>Devizes:</b>	Wiltshire Council, Browfort, Bath Road, Devizes, Wiltshire, SN10 2AT
<b>Salisbury:</b>	Wiltshire Council, 27/29 Milford Street, Salisbury, SP1 2AP
<b>Trowbridge:</b>	Wiltshire Council, Bradley Road, Trowbridge, Wiltshire, BA14 0RD

## 1. The prevention of harm to children

No observations here

## 2. To prevent public nuisance

As the local Wiltshire Council Member (Wootton Bassett South) I began receiving complaints from a number of local residents about the Phoenix Bar during the summer of 2010 and passed a number of these onto licensing enforcement officers for action.

Complaints made to me either in writing or verbally during August 2010 have included:

- Excessive use of advertising signs including A boards, banners and other signs. Some of these are regularly situated on the pavement. Others were attached on a regular basis to the railings alongside the roadside embankment while others were frequently screwed into trees belonging to the town council/town trust at either end of the embankment. One very large A board - I would describe it as double decker was secured to the roadside railings with a chain and padlock. The railings do not belong to the Phoenix Bar and the use of the double decker sign in particular, but also banners at this location, is not appropriate in a Conservation Area on the approach to the town.
- There is frequently a large amount of litter on both the pavement and the roadside embankment associated with the clientele of the Bar, mostly cigarette butts. I have (pre August 2010) witnessed an employee sweeping these into a dustpan from the immediate pavement area outside the entrance. I do not know whether these were disposed off properly - it could be that the 'litter' may be the result of a combination of discarded cigarettes from customers and/or sweepings from around the entrance.
- Other complaints relate to the late night behaviour of the clientele of the Phoenix Bar on the pavement in the vicinity of the door including conversational noise. I have witnessed such on odd occasions. These, however, may be no worse than for other licensed premises.

Actions taken by Wiltshire Council officers has, to my knowledge, included

- A letter was sent by planning enforcement officers to the Phoenix Club on 31 August 2010 warning about the consequences of displaying unlawfully displayed banners while the 'double-decker A board was removed shortly afterwards by highways officers
- Licensing officers visited the premises on 31 August 2010 and secured undertakings that included:
  - *Patrons to be discouraged from using the area outside the front of the building to smoke , signs to be put up to this effect and the management to enforce. No drinks will be permitted to be taken into this area, patrons will be directed to the side smoking area nearest the school away from residential property. **This to take effect immediately***
  - *The outside front area to be cleaned on a more regular basis. **This to take effect immediately***

## Observations since August 2010

I regularly walk the footpath outside the Phoenix Bar, both during the day and late at night on most days of the week including Friday and Saturday and since August 2010 I would observe:

1. While there was a temporary diminution in the display of advertising banners etc following the various actions of enforcement officers in August 2010 this was accompanied, at least initially, by the fly-posting of leaflets advertising events at the Phoenix premises, attached to the trees on both sides of Wootton Bassett High Street. Such fly-posting is suggestive of a general attitude of non-compliance on the part of the license holders, regarding the duty to avoid public nuisance;
2. I telephoned the owners of the premises in August 2010 and offered, as the local councillor, to discuss problems associated with the premises and possible resolutions. That offer was declined.
3. Generally there has been a diminution, since August 2010, in the number of persons congregating outside the front door of the club premises though small numbers still do, and also smoke – though I have observed none drinking outside. I have continued to receive complaints from local residents;
4. Those congregating outside the premises, albeit in smaller numbers and less frequently than was the case prior to August 2010, still tend to engage in loud and often abusive and/or foul language conversation, witnessed by myself, and which I consider could potentially disturb nearby residents – particularly on Friday and Saturday nights;
5. Generally there is still an increased amount of cigarette litter immediately outside the front door of the premises when compared to elsewhere on the pavement in the immediate vicinity;
6. There has been frequent disregard, particularly for weekend and/or special events held at the club, for previous undertakings given to enforcement officers in respect of not displaying banners on the embankment railings;
7. I would not describe, as a layman, the noise from on-site entertainments as any more extensive or intrusive than that might be expected from a high street premises club of this nature. Generally the front door is being kept closed while entertainment is in progress. At times, however, especially on a Friday or Saturday night, the music noise can be heard quite loudly from approximately 100 metres away (e.g. at the bus stop located to the south of the club premises on the High Street by the pedestrian crossing) – possibly because windows or a side door are open.

### 3. To prevent crime and disorder

See point 4 above (Public nuisance)

Those engaged in the sort of behaviour described at para 4 above, potentially risk causing disorder on a public footpath and potentially therefore putting passers-by at risk of harm.

### 4. Public Safety

See point 4 above (Public nuisance)

Passers-by on the public footpath experiencing the behaviour outside the premises as described at paragraph 4 could potentially feel threatened or intimidated by the same.

Signed  
Cllr Peter Doyle  
Wootton Bassett South

To accompany Section 2 Objectives on the Representation Form – all submitted electronically.





201108259

ACK  
LOWER  
Sent  
12/17/11  
KL

# Wiltshire Council

Where everybody matters

RECEIVED

11 JUL 2011

## REPRESENTATION FORM

This form must be returned within the statutory period, which is 28 days from the date the notice was displayed on the premises or the date specified in the Public Notice in the newspaper. Please contact the Licensing Section to confirm this date.

In the Licensing Act 2003, the term 'vicinity' is used with particular reference to those 'interested parties' who may lodge Representations to applications for Premises Licences and who may make Representations concerning existing Premises Licences. Although the Act does not define the term 'vicinity' it does define the term an 'interested party' as 'a person living in the vicinity, a body representing persons living in the vicinity, a person involved in a business in the vicinity, a body representing those persons' or a member of the relevant Licensing Authority (ie, elected Councillor).

Premises about which Representation is being made	THE PHEONEX BAR		
Your Name	MISS CHARLOTTE CLARK		
Postal Address	168 HIGH STREET WOOTTON BASSETT WILTSHIRE SN4 7BT		
Contact Telephone Number	<del>XXXXXXXXXX</del>		
Are you:	Yes	No	
• A person who lives in the vicinity?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
• A person who operates a business in the vicinity?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
• A person representing residents or businesses in the vicinity?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
• A member of the Relevant Licensing Authority (ie, elected Councillor of the Licensing Authority in which the premises is situated)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
If you are representing residents or businesses in the vicinity please list those residents or businesses who have asked you to represent them			

Your Representation must relate to one of the four Licensing Objectives, which are detailed below. Please detail the evidence supporting your Representation and the reason for your Representation. If necessary, separate sheets may be used.

OBJECTIVES	EVIDENCE
1. The prevention of harm to children	
2. To prevent public nuisance	NOISE FROM 'BAR' AS LATE AS 2 AM, EVEN ON WEEK DAYS. VERY LOUD MUSIC. ON MORE THAN ONE OCCASION WE HAVE HEARD THE BASE VIBRATE AGAINST THE FLATS THAT ARE AT THE BACK OF OUR GARDEN. CUSTOMERS SHOUTING AS THEY LEAVE THE BAR.



OBJECTIVES	EVIDENCE
<b>3.</b> To prevent crime and disorder	FIGHTS OUTSIDE BAR, WHERE OUR LIVING ROOM IS PEOPLE THREW EMPTY <sup>GLASS</sup> BOTTLES ON TO BUSH MAIN ROAD & THEY SMASH. = DANGER TO DRIVERS. ABUSIVE, AGGRESSIVE, SWEARING, DRUNKEN BEHAVIOR IS GETTING OUT OF CONTROL.
<b>4.</b> Public Safety	MY PARTNER & I HAVE BEEN GENUINELY SCARED TO GET TO OUR HOME SOME NIGHTS BECAUSE OF THE SHOUTING / SWEARING / DISRUPTION OUTSIDE OF OUR HOUSE.

Please list below any suggested actions that you feel the applicant could take to address your concerns.

STOP MUSIC AT A REASONABLE HOUR, ESPECIALLY ON WEEK DAYS.  
 A BOLLARD ON THE DOOR WOULD CONTROL THE FRONT ACCESS TO THE BAR!

I PERSONALLY WOULD LIKE SOMETHING TO BE DONE FOR THE SAKE OF MY NEIGHBOUR, WHO IS FINDING IT VERY HARD TO SLEEP AT NIGHT BECAUSE OF ACTIVITY IN THE PUB & FEELS A PRISONER IN HER OWN HOME!! THIS IS NOT ACCEPTABLE.

If a hearing needs to be held to determine the Premises Licence Application, the Councillors will generally only be able to consider matters that have previously been disclosed. However, additional information in support of your Representation may be considered if all parties at the Hearing agree. We advise that you detail all matters that you wish to be considered on this initial Representation, attaching additional sheets if necessary.

If you do make a Representation you will be invited to attend the Licensing Sub-Committee Hearings and any subsequent appeal proceedings relevant to your Representation.

All Representations in their entirety, including your name and address, will be disclosed to the Premises Licence applicant.

Signature ..... 

Date ..... 7/7/11

Please return this form, along with any additional sheets, to the Licensing Officer at the Wiltshire Council Office covering the area in which the licensed premises are situated (see below):

- Chippenham:** Wiltshire Council, Monkton Park, Chippenham, Wiltshire, SN15 1ER
- Devizes:** Wiltshire Council, Browfort, Bath Road, Devizes, Wiltshire, SN10 2AT
- Salisbury:** Wiltshire Council, 27/29 Milford Street, Salisbury, SP1 2AP
- Trowbridge:** Wiltshire Council, Bradley Road, Trowbridge, Wiltshire, BA14 0RD

From MR ALEX PITCHER & MISS CHARLOTTE CLARK  
168 HIGH STREET  
WOOTTON BASSETT  
WILTSHIRE  
SN4 7BT

To

Senior Licensing Officer

Licensing Dept

Wiltshire Council

Monkton Park

Chippenham

SN15 1ER

30 JUN 2011

28<sup>th</sup> Jun 2011

Review of Licence for Phoenix Bar SN4 7BS

Please note my support for Ms P Evans and Ms L Sefton with regard to the noise nuisance late at night and the Antisocial behaviour of patrons leaving the Pheonix Bar. I live very close to the bar and have also been witness/victim to this.

Regards



REP FORM  
RECEIVED FROM  
C. CLARK.  
11/07/11

\* SEE ATTACHED LETTER



201108257

ACK  
KLS  
Sen  
KLS

5 High Street, Wootton Bassett, Wiltshire, SN4 7BS

Tel: [REDACTED]

[REDACTED]

Senior Licensing Officer  
Licensing Department  
Wiltshire Council  
Monkton Park  
Chippenham  
SN15 1ER

Dear Sir

**Review of Licence for Phoenix Bar, Wootton Bassett**

I understand that the licence granted to the Phoenix Bar in Wootton Bassett is currently being reviewed. As the nearest residential neighbour to this establishment, I would like to register my complaints about the current management of this amenity, and to request that serious consideration be given to revoking the licence or changing its terms and conditions. I would also ask you to bear in mind the sensitive location of the bar. Not only is it in a residential area, it is also next door to a church on one side, and a primary school on the other.

We have lived at 5, High Street for over twenty years now, and for much of that time the building was run as the High Street Club. We experienced few problems during this time.

Since this became the Phoenix bar, however, there has been a significant increase in anti-social behaviour on the part of patrons of the bar. This includes damage to property (broken windows, upturned flower tubs and stolen plants), fighting in the street, obscene language, loud noise at anti-social hours, public urination and vomiting, and littering (empty glasses and bottles, sometimes broken, cigarette ends and packets).

There is also a significant noise nuisance associated with the bar. Music is often played very loudly until early in the morning (typically 02.00 hrs – 02.30 hrs), generally at weekends. The volume is increased significantly when patrons smoke on the pavement outside, because the entrance door is then opened.

We have other concerns about the management of the bar, including putting out of waste containers for collection and signage in inappropriate areas.

I would be happy to supply further information if required.

Yours faithfully

[REDACTED SIGNATURE]

Neil Burden

RECEIVED  
07 JUL 2011  
[REDACTED]



Scanned  
Acked

201108259  
Ack Letter Sen

Mr M Lympny  
16 High Street  
Wootton Bassett  
Swindon  
Wiltshire  
SN4 7AG



7<sup>th</sup> July 2011-07-07

To whom it may concern re;- Review of license for Phoenix bar,Wootton Bassett

I absolutely object to the license being granted for the Above dwelling.  
There is an insurmountable amount of noise, fighting youth disturbance on a continual basis from this establishment.

Yours Sincerely

Mr Mark Lympny



ACK JOURNAL SENT 12/17/11 KLS  
201108259

157 High Street  
Wootton Bassett  
Wilts  
SN4 7BT

Senior Licensing Officer  
Licensing Department  
Wiltshire Council  
Monkton Park  
Chippenham  
Wiltshire  
SN15 1ER



7th July 2011

Dear Sir/Madam

Re: Review of Licence for Pheonex Bar, Wootton Bassett

Residents have been experiencing problems with nuisance from the Pheonex Bar for a long time. I have mentioned this to the local police in the past, in the hope that something could be done about the nuisance when people are turning out of the bar, and was given the impression that we had to put up with it. After another very noisy evening of Friday, 1st July, I decided to approach the licensing department. However, I discovered that the licence is already under review.

This area of the High Street is mainly residential. The Pheonex Bar is opposite a row of 17 houses, flats and maisonettes. There are 3 houses on the same side and in the immediate vicinity of the bar. There are several other houses on each side of the road plus living accommodation above a few shops. People have to go past these in order to get along the High Street. Some people also go along Rope Yard and Beamans Lane, which also have houses along their lengths.

When there is music on at the bar, the bass beat travels a long way. Often we can hear it in our house, even with the windows closed. I would not consider our house to be so close to the bar that we should hear that. It must be very bad for people who live closer to the bar.

On any evening, people spill out onto the pavement at the front of the bar for a smoke. Sometimes they come up as far as Rope Yard. Their talk is noisy. There are no front gardens to the houses so people have been seen sitting on doorsteps and leaning on windowsills. It's intimidating to residents and passers-by, as they block the footpath (it's the only way to get along that part of the High Street).

Many of the patrons are very noisy, there are people who don't seem to consider residents at all. On occasion, I have seen people heading towards the bar with boxes of fast-food, which they then dispose of through the railings of the church or the primary school which are on either side of the bar. They then go inside.

Even people heading into the bar (usually around 9pm) are sometimes noisy. Most recently, on Friday 1st July, groups of people were shouting as they went along the High Street towards the bar. They appeared to be drunk already! It was particularly noisy as they came out later.

The turnout time seems to be around 1 - 1.30am. People don't go home immediately. They hang around shouting, swearing, sometimes arguing or fighting, for half an hour or so. At that time of night, a lot of people are in bed. For residents along the High Street, Beamans Lane and Rope Yard - it's not fair.



There are occasions when men urinate in the street. (I have sometimes seen this - just a few minutes after someone has left the bar).

This is a residential area and there is no direct access to the bar. Car parking is further along the High Street and doesn't stretch to the bar. It must be at least 50 metres from the nearest parking space or drop-off point. So everyone has to pass several houses (they're on both sides of the road), in order to get there. Most people will pass considerably more houses, as they will have further to walk.

There is very little traffic on the High Street at night and so it is very quiet. The noise made by people leaving the bar is always disruptive and, at times, disturbing.

In view of the residential aspect of this neighbourhood and the negative impact of this bar, we feel that the licence should be revoked or, at the very least, licensing hours should be greatly restricted, in order to make them more acceptable to residents.

Yours Faithfully

MJ Penny & ME Penny

It doesn't seem adequate that residents have to find out about this review by way of a notice on the wall outside the premises. Many of us have no reason to ever pass the bar, but we are affected by the current licence conditions. We only found out about this review by chance. A previous application to change the licence conditions, when it became the Pheonex Bar, went through without residents being aware. Surely these notices should be more widely displayed (as for planning applications) or those in the immediate vicinity should be notified (we have been notified about neighbouring, listed building, planning applications in the past). Could this be done for licensing matters?

201108250

Senior Licensing Officer,  
Licensing Department,  
Wiltshire Council,  
Monkton Park,  
Chippenham,  
Wiltshire,  
SN15 1ER



ACK  
JAL/KL  
Sent  
12/7/11  
KL

6 July 2011

**Re: Application to Review under Section 51 of the Licensing Act 2003 the Premises  
Licence issued to The Phoenix Bar, 4 High Street, Wootton Bassett,  
Wiltshire SN4 7BS**

Dear Sir or Madam,

We would like to make a representation as interested parties living in the vicinity of the premises in question. We live at 158 High Street in Wootton Bassett, across the road and slightly north of the Phoenix Bar.

We fully support a thorough review of this license. For some years now there has been a great deal of late-night noise and other nuisance from the patrons of this establishment, including frequent incidents of fighting; littering; vomiting and urinating on High Street and in the doorways and lanes adjacent; and vandalism to cars parked on High Street – two of ours, personally, on several occasions. We feel we comfortable asserting that the source of this trouble is the Phoenix Bar because we can and have watched from our bedroom window, as inebriated patrons of the Phoenix Bar leave its premises and wander up High Street, along which they often congregate. We have seen and listened to the late-night commotion: people running along bonnets of parked cars, shouting and swearing, brawls and arguments and general carrying on.

Owners and managers of licensed premises operating within the night-time economy have a duty of care towards their patrons and premises, but also towards the wider community in which they are situated. Phoenix Bar is in a residential area of Wootton Bassett, and particularly at the weekends, as a result of the activities of the bar and its patrons, our sleep is disturbed, our property damaged and our neighbourhood feels unsafe for our family, our friends and ourselves.

Yours sincerely,

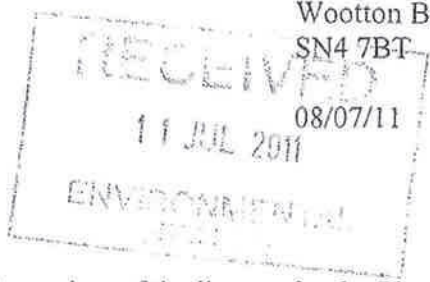
Drs B Hardman and A Repton

158 High Street  
Wootton Bassett  
Wiltshire SN4 7BT



THE WOOTTON BASSETT 10-11/11  
201108259  
KW

Flat 1/164 High street  
Wootton Bassett  
SN4 7BT



Dear Sir/Madam

I am writing to you with regard to the review of the licence for the Phoenix Bar, Wootton Bassett.

We are young professionals living across the street from this bar. Every weekend there is arguing, swearing and violence fitting for 'The Jeremy Kyle show'. The patrons of that pub, mostly, have no respect for this town, I am scared to park my car on the high street at the weekends because of what I have witnessed outside that pub. There has been physical violence, verbal abuse, property destruction and litter. It is hell living near that pub. There is no way on Earth that pub should be given a licence. The type of people that the owners allow into their pub, the type of behaviour the owners allow to happen is appalling, and clearly they are not fit to run a pub. The noise pollution is not something we should have to live with as rent-paying tenants.

Please consider these views and make the right decision. This pub is destroying this beautiful town.

Regards  
V J Munnelly and AW Foster.  
(Miss) (Mr)



Scanned Acked  
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Larker  
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06 JUL 2011  
RESIDENTIAL

2 01108254

159 High Street  
Wootton Bassett  
Wiltshire  
SN4 7BT

5<sup>th</sup> July 2011

**Review of Licence for Phoenix (sic) Bar SN4 7BS**

I recently observed a notice outside the above premises referring to comments made by Ms P Evans and Ms L Sefton regarding a licence review, adding that the documentation could be viewed at Monkton Park in Chippenham. There is a common disconnect in all such licence procedures in that the documentation is held 15 miles away from the location concerned and that local residents, and this IS a residential area, are not informed of any application or review. It is somewhat obvious that this deters any comments being made and it is equally clear that copies of all documentation should be held locally, in this case at the Town Council offices, and that all residents within a radius of (say) 500 yards of the premises concerned should receive notification by post. This is not the first time that this situation has occurred in this vicinity, and with that in mind I am copying this letter to Peter Doyle (our Wiltshire Council Councillor) in the hope that he will take action to resolve this procedural defect.

I have not seen the documentation but I can guess the problems that Ms Evans and Ms Sefton are experiencing. At weekends, excessive noise in licensed premises and antisocial behaviour both continue well into the early hours in this RESIDENTIAL part of the High Street. This whole issue goes back to 2005 when the Central Government of the time introduced legislation to allow licensed premises to have extended opening hours, and the then NWDC Council handled such applications in an offhand manner. I personally went to one Licensing Hearing on Wednesday 17<sup>th</sup> August 2005 at Monkton Park regarding an application from the licensees of the Waggon and Horses in the High Street. By this time, Central Government had already issued amended guidelines to the handling of such applications for premises in residential areas in that the concerns of the local residents should be taken into account before ANY extended hours were permitted. Representations by myself and another resident that this application would lead to increased antisocial behaviour and unacceptable noise late into the early hours were dismissed by the chairperson on the grounds that the extended hours had to be allowed because it was the law, which was and still is totally untrue, and that the antisocial behaviour would be handled by the police; there is no police presence in Wootton Bassett outside of normal working hours so it was always difficult to see how that would work; hence the chairperson completely ignored the Central Government guidelines. Also note that the chairperson and the Licensing Officer in attendance were totally ignorant of the law relating to the boundaries of licensed premises and agreed that the "café culture" would be a good thing by allowing drinking to take place outside the premises on the pavement. Thankfully, a NWDC Officer Mr Summerhayes was present and confirmed that this was illegal.

I am pleased to say that the licensees of the Waggon and Horses have since taken their position within the local community very seriously, have a well behaved clientele, and the general nuisance from their premises is now minimal. The same cannot be said of several other premises in the High Street where extended hours into the early hours have been granted, and more particularly in our neighbourhood.



As I forecast in 2005, noise and anti-social behaviour have increased well beyond the point of tolerance. The early hours of Saturday and Sunday mornings are a total nightmare for the residents in this area with shouting, foul language and car horns causing noise pollution and vomit, urine, discarded junk food and junk food packaging causing health and safety problems, and petty vandalism well out of control. These problems are caused by drunks "enjoying the café culture" heralded by NWDC in 2005, and it is time for corrective action.

Some customers from the Phoenix Bar are certainly guilty of many of these problems as they tend to accumulate outside the front door of the premises smoking and generally making a noisy nuisance of themselves, and later at the entrance to Rope Yard waiting for taxis or shouting to other departing people as they progress to the junk food outlets. This is well into the early hours when civilised people are trying to get to sleep, which I believe to be their basic human right. The management of the Phoenix Bar have made considerable efforts to alleviate these problems with notices asking customers not to smoke outside the front door and to leave quietly, but regrettably some of their clientele is not to the standard of the Waggon and Horses, and as I have noted above there is no police presence to control this antisocial behaviour as promised by that NWDC chairperson on Wednesday 17<sup>th</sup> August 2005.

There is also little doubt that the hours for music licences are a major concern to residents. This is fairly well controlled by the licensees of the Waggon and Horses, which is immediately opposite our house. The same cannot be said of the Phoenix Bar or, incidentally, the Curriers Arms, and we can hear the noise at a distance of some 200 yards. For those people living opposite it can only be an unbearable problem. The problem can be reduced by installing noise barriers in the premises, ensuring that doors and windows are kept closed, installing double glazing on all windows of the licensed premises and restricting the hours when music can be played.

I'm sorry that this is a particularly long letter but I think it is important that the errors and misjudgements of the past are corrected for the well being of the residents.

Yours sincerely,



John Wilks

Senior Licensing Officer  
Licensing Department  
Wiltshire Council  
Monkton Park  
Chippenham  
Wiltshire  
SN15 1ER

Copied to:- Mr Peter Doyle, Wiltshire Council Councillor

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# Agenda Item 5e

**From:** Freegard, John  
**Sent:** 28 June 2011 11:52  
**To:** Holland, Linda  
**Cc:** Gollidge, Kate; Steady, Graham  
**Subject:** FW: Review of Premises Licence of The Pheonex Bar, Wootton Bassett- Environmental Protection comments

Linda,

Regarding the recent Licence review of the above, I would make the following observations regarding the amplified music:

1. As you are aware, I have received complaints in the last year from residents in the High Street, regarding noise from amplified music.  
Unfortunately, despite offering to carry out monitoring at resident's properties, I have had no opportunity to substantiate whether or not a statutory nuisance has been caused. I would assume that this is mainly because when we receive complaints, either of us have written to the Licensee and things go quiet for two or three months, therefore residents do not request monitoring. Then one night in the future, the controls are relaxed, thus causing an adverse noise impact locally.
2. Nevertheless, I have visited the premises recently in order to familiarise myself with the building and what activities take place where.  
The main bar is generally fine in that, I understand, the windows are never open during the playing of music and there is air conditioning provided. The main access door is, however, a cause for concern in that if it was opened, any music would break out straight into the High Street. This would mean that if there was any live music in the bar, with potential internal noise levels of 85-90dB(A), then this would lead to 75-80dB(A) immediately outside on the pavement.  
  
It is not difficult to envisage this adversely affecting the properties opposite and I can confirm that such noise levels would be unacceptable. Indeed, this is reflected in the addresses that I have received complaints from regarding amplified music in the last year.
3. I have discussed this with Mr Kerr and he fully accepts this and intends to introduce a 'double-door' lobby/porch into this main entrance. This will significantly improve the 'noise breakout' situation and will also solve the 'banging of doors' which has also been the subject of complaint as the doors will have self-closing mechanisms. Mr Kerr has indicated that these works will be completed by 1<sup>st</sup> August 2011.
4. Regarding the Function Room to the rear of the premises, I saw no evidence of weaknesses or causes of noise breakout. The room is air-conditioned and there are double-doors and hallways before the noise could reach the outside. I have no reason to suspect that this room is the cause of my amplified music complaints.
5. In summary, with the exception of the front door that needs replacing with a lobby, I see no reason to conclude that there are activities taking place internally, that the building fabric is incapable of containing. Indeed, even if I had carried out monitoring and substantiated a statutory noise nuisance, it is likely that the introduction of a double-door lobby would be the requirement in any notice in order to abate the nuisance.

6. I have explained to Mr Kerr that whether the complaint is music, external gatherings, banging, shouting etc., it is he and Mr Morris, as Licensees, who are ultimately responsible for the 'housekeeping' of such issues so as to ensure that any impact locally is minimised. I also always explain to my complainants that we cannot deliver 'inaudibility' from any licensed premises, but can try and ensure that noise levels are not unreasonable to the extent that they constitute a statutory noise nuisance.
7. Please treat this as my formal response to the recent 'review' and I am happy for the content of this email to be shared with those that may require it.

Regards

John Freegard  
Higher Technical Officer EP (North/West)  
Public Protection  
Wiltshire Council  
01249 706404

## Holland, Linda

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**From:** Margaret Kerr [phoenexbar@fsmail.net]  
**Sent:** 18 July 2011 20:38  
**To:** Holland, Linda  
**Subject:** Licence Review

Linda

Further to the correspondence received by me on 20th June 2011 regarding the licence review of The Phoenix Bar, Wootton Bassett, I am sending this email to advise you of the steps being taken to address the complaints of the residents.

### **Anti Social Behaviour**

Since we opened the Pheonex bar in 2008 any persons found to be causing trouble or behaving in an anti social manner both inside and outside of the premises have been barred and discussed at the following Pub Watch meeting, this includes anyone urinating in the street.

On nights where there is live music, the doors are monitored and anyone that behaves in an anti social way is ejected, this includes ensuring they do not hang around outside of the premises.

Any Persons perceived to be drunk by any member of staff are refused alcohol, water and soft drinks are still available to them.

### **Noise**

New signs have been erected to direct patrons to the designated smoking area at the side of the building.

Smoking at the front of the building is no longer allowed, the cigarette bin on the wall has been removed and there is a sign to advise patrons that this is not a smoking area.

The smoking area at the rear of the property is no longer used, when there is music in the hall this door is manned to prevent patrons from opening the door and going into the area except in an emergency.

Drum and Bass nights have been limited to one per month

A Porch at the main entrance has been constructed to reduce the amount of noise escaping from the building in general

Stoppers have been fitted to the external wall to prevent the door handle banging against the wall.

We are monitoring the noise levels of all music events both to the front and rear of the property.

There is a sign at the exit of the venue to advise Patrons that it is a residential area and to respect this by keeping noise levels to a minimum.

If any groups of people are found to be hanging around outside of the premises they are dispersed and moved on by staff.

### **Under Age Drinking**

All staff employed at the Phoenix receive training which requires them to challenge anyone that does not look eighteen for identification.

We host the sixth form social events and anyone under the age of eighteen that staff believe to be drunk on arrival are refused entry to the premises and when necessary their parents have been informed to come and pick them up. Bags are searched for any person bringing alcohol into the premises. Alcoholic drinks served on these nights are limited to one per person that has valid ID, per visit to the bar. Anyone found purchasing drinks for persons under age are ejected from the premises as are those under eighteen found consuming alcohol.

As I say these are the actions being taken by me to try and eradicate any fears and complaints raised by the residents. As you aware from our previous telephone conversations, I am happy to make reasonable adjustments to ensure that the Phoenix bar does not cause any unnecessary nuisance to the residents.

I trust this is all the information you require at this time, if I can be of further assistance or you require any further details please do not hesitate to contact me.

Regards

Stuart S. Kerr

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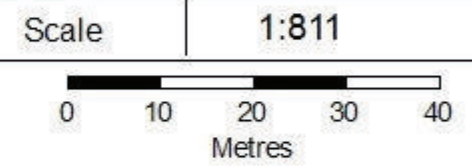
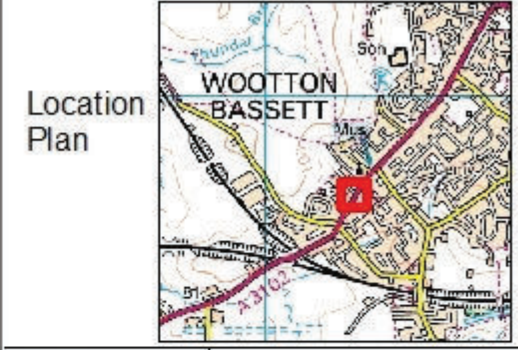
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**Review Application  
Pheonex Bar**



-  Review Applicants
-  Representation Made
-  The Pheonex Bar  
4 High Street



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