

APPENDIX A

Tendring District Council
Licensing Office, Town Hall, Station Road, Clacton on Sea, Essex, CO15 1SE
Tel: 01255 686565 Email: licensingsection@tendringdc.gov.uk

**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I The responsible authority Environmental Protection, Tendring District Council

(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

Enterprise Harwich Bar LTD
Wicks's Bar
1 Midland House
High Street

Post town Harwich

Post code (if known) CO12 3PS

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

Mr Alexander Wicks

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

23/00291/PREMTR

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

APPENDIX A

3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

<p>Name and address Environmental Protection Team Tendring District Council 88-90 Pier Avenue Clacton on Sea Essex CO15 1TN</p>
<p>Telephone number (if any) 01255 686767</p>
<p>E-mail address (optional) env.services@tendringdc.gov.uk</p>

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 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 2)

The operation of the premises has caused significant disturbance since the opening of the premises in May 2023.

The Environmental Protection team have witnessed noise nuisance from loud music and bass emanating from the premises on five separate occasions.

Tendring's Environmental Protection team served a noise abatement notice on the premises under the Environmental Protection Act 1990 on 20th July 2023.

Breaches of the noise abatement notice have been witnessed on 8th September 2023, 9th September 2023 and 30th September 2023.

It is therefore the view of the Environmental Protection team that the premises continues to operate in such a manner that is inconsistent with the requirements of the objectives set out in the Licensing Act 2003 relating to the prevention of public nuisance.

The designated premises supervisor Mr Wicks has been given ample opportunity and time since first being made aware of the complaints but has failed to make any improvements in relation to the loud music and bass emanating from the premises.

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

Wicks's Bar is located at 1 Midland House, High Street, Harwich, Essex, CO12 3PS. There are residential properties directly above the premises and within the surrounding area on Mill Lane, High Street and Cliff Road.

An aerial photograph can be found in Appendix 1.

A copy of the Premises Licence for Wicks's Bar / Enterprise Harwich Bar Ltd can be found in Appendix 2. The Premises Licence holder is Mr Alexander Wicks.

The Environmental Protection team has received seven formal complaints and two anonymous complaints regarding excessively loud music and bass emanating from Wicks's Bar. The first complaint was received on 7th May 2023.

Complaints and allegations have also been received in relation to noise from patrons congregating and drinking at the front of the premises, the premises operating out of hours, Anti-Social Behaviour, fighting, broken glass, litter, underage drinking, drug use and patron urinating on cars.

Officers from the Environmental Protection team witnessed noise that constitutes a statutory nuisance from the music and bass emanating from Wicks's Bar on 14th July 2023, 15th July 2023 and within the early hours of the morning on 16th July 2023. The loud music and bass was audible and intrusive inside a residential property, and considered likely to significantly impact the use and enjoyment of the property.

An Environmental Protection Act 1990 noise notice was served on Wicks's Bar on 20th July 2023. A copy of the notice can be found in Appendix 3.

Breaches of the notice have been witnessed on 8th September 2023, 9th September 2023 and 30th September 2023.

Environmental Protection Technical Officer Rebecca Duff-Cole has liaised with Mr Wicks, the Licensee requesting that he addresses the noise issue and public nuisance on many occasions.

Environmental Protection alongside colleagues from the Council's Licensing Team and Essex Police have held a meeting with the Licensee to address the complaints. Advice was given regarding the volume of the music, level of bass, managing and mitigation the noise from the amplified music on many occasions.

The Licensee has been made aware of the repercussions if further noise nuisance was witnessed. Several emails and letters have been sent to the Licensee concerning ongoing complaints being received and problems of noise nuisance.

Throughout this period Mr Wicks has not responded to any phone calls, emails or letters sent from the Environmental Protection team.

Copies of advisory and formal warning letters and emails sent can be found in Appendix 4.

The only contact received by Mr Wicks was on 25th September 2023 when an email was sent to Environmental Protection requesting contact to discuss an 11 hour DJ charity event taking place at Wicks's Bar on 30th September 2023.

A call was made to Mr Wicks on 26th September 2023 and a further call was received by Mr Wicks on 28th September 2023 concerning the event. Officers advised Mr Wicks that in order to comply with the noise abatement notice the music should not be excessive, he should ensure the music and bass is at a reasonable level that will not impact the nearby residential properties and that

monitoring of the noise should be undertaken from outside the premises to ensure it is not audible or excessive.

Mr Wicks advised that sound dampening curtains and foam had been installed at the premises.

Two days later Officers witnessed excessively loud music and bass from Wicks Bar on 30th September 2023. The noise witnessed was a noise nuisance and another breach of the noise abatement notice.

The Licensee has failed to expediently and adequately address the noise issue from the excessively loud music and bass, and most recently wilfully contravening his Premises Licence by causing noise nuisance despite being advised of the repercussions and allowing his premises to cause further noise nuisance.

Information to support Application

Appendix 1 – Aerial photograph of premises location

Appendix 2 – Premises Licence for Wicks's Bar / Enterprise Harwich Bar Ltd

Appendix 3 – Environmental Protection Act 1990 noise notice and covering letter

Appendix 4 – Warning letters and emails

APPENDIX A

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

APPENDIX A

Please tick ✓ yes

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

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature *R. Duff-Cole*
.....

Date **04.10.23**
.....

Capacity **Technical Officer Environmental Protection**
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Environmental Protection Team Tendring District Council 88-90 Pier Avenue	
Post town Clacton on Sea	Post Code CO15 1TN
Telephone number (if any) 01255 686767	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) env.services@tendringdc.gov.uk	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



**Review of premises licence requested by Environmental Protection team,
Tendring District Council as a Responsible Authority**

**Enterprise Harwich Bar LTD, Wicks's Bar, 1 Midland House, High Street,
Harwich, Essex, CO12 3PS**

Designated Premises Supervisor (DPS): Mr Alexander Wicks

Ground(s) for Review / Licensing Objective: The Prevention of Public Nuisance

Location: Wicks's Bar, 1 Midland House, High Street, Harwich, Essex, CO12 3PS

This Premises Review seeks to restrict the permission for the use of live, recorded and amplified music from the premises.

Current licensed activity and hours of operation:

The premises is licensed for the sale of alcohol on and off the premises, and late night refreshment. There are no specific conditions relating to music. The Regulated Entertainment falls under the Live Music Act 2012 and Deregulation Act 2015.

The opening hours of the premises:

Monday	12:00 – 00:00
Tuesday	12:00 – 00:00
Wednesday	12:00 – 00:00
Thursday	12:00 – 00:00
Friday	12:00 – 01:30
Saturday	12:00 – 01:30
Sunday	12:00 – 00:00

Sale of alcohol on and off premises

Mon – Thurs	12:00 – 00:00
Fri and Sat	12:30 – 01:30
Sunday	12:00 – 00:00

Late night refreshment

Mon – Thurs	23:00 – 00:00
Fri and Sat	23:00 – 01:30
Sunday	23:00 – 00:00

Location:

Wicks's Bar is located on High Street, Harwich. The premises is surrounded by residential properties, including five flats directly above and along Mill Lane, High Street, Hill Road and Cliff Road.

There is an outdoor seating area located at the front of the premises and on the west side of the premises there is a large, single glazed window.

See **Appendix 1** for the location of Wicks's Bar and site photos.

Summary

Under the Licensing Act 2003 there are four licensing objectives that must be adhered to by the management of the Wicks's Bar:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety
- The protection of children from harm

This review concerns the Prevention of Public Nuisance therefore the Designated Premises Supervisor must take responsibility under this objective to ensure that all reasonable steps are taken to prevent disturbance to neighbours.

Mr Alexander Wicks is the Designated Premises Supervisor and one of the directors of Enterprise Harwich Bar LTD.

In May 2023, Environmental Protection received a number of complaints concerning noise emanating from Wicks's Bar. The complaints related to loud music, loud bass and noise from patrons outside the premises screaming, shouting and singing. The noise was occurring late at night and into the early hours of the mornings over the weekend (mainly on Thursday, Friday and Saturday night).

Residents nearby advised that they were being significantly impacted by the noise, by not being able to sleep, therefore missing work, being unable to drive, disturbance to their children's sleep, unable to watch TV, unable to relax and feeling unsafe in their property. One resident alleged that the music was so loud one night that it could be heard five streets away from the premises.

Complaints and allegations were also received in relation to the premises operating out of hours, anti-social behaviour, fighting, broken glass, litter and vomit outside the premises, underage drinking, drug use, patrons urinating on cars and causing damage to street furniture.

The Environmental Protection team substantiated a statutory noise nuisance emanating from the loud music at Wicks's Bar. A noise abatement was served on 20th July 2023 under section 80 of the Environmental Protection Act 1990 on the Designated Premises Supervisor Mr Wicks.

There have been three breaches of the noise abatement notice witnessed by Environmental Protection on 8th September 2023, 9th September 2023 and 30th September 2023.

Mr Wicks has been given many opportunities and time since first being made aware of the complaints. He has failed to make sufficient improvements to the loud music emanating from the premises, in spite of being advised of the repercussions of allowing further noise nuisance.

The operation of the premises has caused significant disturbance since the opening in May 2023.

The decision to review the premises licence has not been made lightly. This review requested by the Environmental Protection team as a Responsible Authority is due to the objectives of the Licensing Act 2003 not being met, specifically in relation to the Prevention of Public Nuisance.

There are a number of residential properties in very close proximity of Wicks's Bar and to prevent further noise nuisance occurring we believe there is a requirement for permanent enforceable conditions to be added to the premises licence.

Which is why we therefore wish to restrict the use of the amplified, recorded and live music at the premises.

Summary of Noise investigations by Environmental Protection Team

In total the Environmental Protection team have received seven formal complaints and two anonymous complaints regarding excessively loud music and bass emanating from Wicks's Bar.

The Environmental Protection team have a statutory duty to investigate any noise complaints received. In the first instance, we will always work with the commercial premises to try and resolve any issues informally.

Following a number of complaints being received during May and June 2023, Officers from Environmental Protection, the Council's Licensing team and Essex Police met with the Designated Premises Supervisor at Wicks's Bar to discuss the complaints on 15th June 2023.

At this meeting, Mr Wicks was advised that Environmental Protection had received a number of complaints concerning the loud music. He was advised we would be investigating the complaints and this would include monitoring the noise from the premises. He was also advised if further complaints were received and a noise nuisance substantiated, the Council would have no alternative but to serve a Noise Abatement Notice and such action would call the licence into review.

During this meeting, the level of music was witnessed and Mr Wicks was advised that the music was too loud and likely to cause a nuisance. Mr Wicks was also informed that he is not licensed to have music after 11:00pm. A letter following this visit was sent to Mr Wicks on 19th June 2023. A copy of the letter can be found in **Appendix 2.1**.

After this visit, further complaints were received concerning loud music. Complainants advised that the music was still loud and affecting them inside their properties until the early hours of the morning. Also that the music was still being played after 11:00pm.

Following the further complaints received, on 30th June 2023 an email was sent to Mr Wicks to advise that complaints about the loud music were still being received and that he was not licensed for music after 11:00pm. A copy of the email sent can be found in **Appendix 2.2**. Mr Wicks did not respond to this email.

Further complaints of noise continued to be received again. Complainants advising the same, that the music was still loud and affecting them inside their properties, until the early hours of the morning. Also that the music was still being played after 11:00pm.

A formal letter was sent out to Mr Wicks on 11th July 2023 to advise that complaints about the loud music were still being received and that he was not licensed for music after 11:00pm. A copy of the letter sent can be found in **Appendix 2.3**. Mr Wicks did not respond to this letter.

On 14th July 2023, Officers from Environmental Protection team installed noise monitoring equipment inside a complainant's property. The noise equipment was installed at a residential property located approximately 40 meters away from Wicks's Bar, within the first floor master bedroom located at the front of the property.

The noise monitoring equipment was installed over the weekend and collected on 17th July 2023.

The complainant advised Officers that loud music and bass occurred from Wicks's Bar on Friday 14th July 2023 between 20:00 to 00:00 and on Saturday 15th July 2023 between 22:00 – 01:00. Recordings were made during this time to capture the noise. They advised that the noise from the music and patrons was audible inside their property, the noise could be heard over their TV, they were unable to relax and unable to sleep.

The noise recordings taken were then reviewed by Officers. The recordings found the noise from Wicks's Bar constituted a statutory nuisance. The music and bass was clearly audible and intrusive inside the complainant's property. Officers were satisfied that the noise was significantly impacting the use and enjoyment of the nearby residential properties. The recordings evidenced that constant music with heavy bass could be heard inside the resident's property throughout the evening and night. Noise from patrons outside the premises talking, laughing, shouting and screaming was also audible and intrusive inside their property.

On 18th July 2023, Mr Wicks sent an email to Environmental Protection advising that he will no longer be using the speakers at the premises due to complaints and that he will only be using the ceiling speakers at a low volume. A copy of the email can be found in **Appendix 2.4**.

On 19th July 2023, Officers called Mr Wicks to discuss the noise complaints. A voice message was left at 16:27 requesting Mr Wicks calls back to discuss.

On 20th July 2023, Officers called Mr Wicks again to discuss the noise complaints. A voice message was left at 12:06 requesting that Mr Wicks calls back to discuss.

Mr Wicks did not return the calls.

On 20th July 2023, a Noise Abatement Notice under Section 80 of the Environmental Protection Act 1990 was formally served on Mr Alexander Wicks as the Designated Premises Supervisor and the person responsible for managing the noise. The notice and covering letter was sent to Mr Wicks in the post first class. A copy of the notice and covering letter can be found in **Appendix 2.5**. An email was also sent to Mr Wicks on 20th July 2023 with a copy of the notice, this can be found in **Appendix 2.6**. Mr Wicks did not make contact with Environmental Protection regarding the noise abatement notice.

On 3rd August 2023, Mr Wicks sent an email to the Council's Licensing team which was then passed over to Environmental Protection concerning an 11hour DJ charity event. An email was sent to Mr Wicks concerning the event, a reminder that the notice was still enforce and that the event may breach the notice if the noise is not managed correctly. A copy of the email can be found in **Appendix 2.7**. Mr Wicks did not respond to this email.

Following the service of the Noise Abatement Notice, complainants advised us that there had been some improvement in the noise from Wicks's Bar, the music was now stopping at 11:00pm and the volume of the music had reduced. This however was short lived and complaints were received again.

On 11th and 12th August 2023, complaints were received concerning noise from Wicks's Bar. Complainants advised that the music was loud and audible inside their properties with the windows shut. An out of hours call was also received on 12th August 2023 at 02:45am complaining of extremely loud noise from patrons leaving Wicks's Bar. This noise was not witnessed by Officers.

On 19th August 2023 a call was received via the out of hours service concerning loud music from Wicks's Bar and passed onto the on-call Officer. Officers from the Environmental Protection team

attended to witness the noise. Officers witnessed excessively loud music from the premises between 22:26 – 22:41. The music was audible 50m away from the premises.

Following this out of hours visit, an informal warning was given to Mr Wicks via an email on 21st August 2023, advising him of complaints and Officer's concerns over the volume of the music witnessed from the premises. A copy of the email sent can be found in **Appendix 2.8**. Mr Wicks did not respond to this email.

On 8th September 2023 a call was received by the out of hours service concerning loud music from Wicks's Bar and passed onto the on-call Officer. Officers attended and witnessed excessively loud music from Wicks's Bar between 21:48 – 22:25. The music would be described as dance music and drum and bass music. The lyrics of the songs were clearly audible and there was a heavy bass. The noise was causing a statutory nuisance. The music was audible approximately 45m away from the premises. Officers were satisfied that the noise abatement notice had been breached. A witness statement from Rebecca Duff-Cole (Environmental Protection Technical Officer) can be found in **Appendix 3.1**.

On 9th September 2023 a call was received via the out of hours service concerning loud music from Wicks's Bar and passed onto the on-call Officer. Officers attended and witnessed excessively loud music from the premises between 22:37 – 23:00. Officers were satisfied that the noise abatement notice had been breached again. A witness statement from Rebecca Duff-Cole (Environmental Protection Technical Officer) can be found in **Appendix 3.2**.

Following these out of hours visits, on 14th September 2023 Mr Wicks was notified that he had breached the noise abatement notice on two occasions. Mr Wicks was advised that if he breached the notice again the Environmental Protection team would call his licence in to review. A copy of the letter sent can be found in **Appendix 2.9** and a copy of the email sent can be found in **Appendix 2.10**. No response was received from Mr Wicks concerning the breaches of the notice.

On 27th and 28th September 2023 Mr Wicks called Environmental Protection to discuss the upcoming 11hour DJ charity event taking place on 30th September 2023. Mr Wicks advised that he had installed sound damping curtains and will be monitoring the noise levels from outside the premises. Advice was given to keep the music at a reasonable level so that it is not audible inside nearby residential properties and that he does not breach his noise abatement notice.

On 30th September 2023 the day of the 11hour DJ charity event, a call was received via the out of hours service concerning loud music from Wicks's Bar. Officers attended and witnessed the excessively loud music from Wicks's Bar between 20:37 – 21:01. The music was audible approximately 90m away from the premises. Officers were satisfied that the Noise Abatement Notice had been breached. A witness statement from Katie Wesley-Smith (Environmental Protection Manager) can be found in **Appendix 3.3**.

This noise nuisance occurred just two days after Mr Wicks had spoken to Environmental Protection.

On 4th October 2023 the Environmental Protection team, as a responsible authority submitted an application to Review the Premises Licence of Wicks's Bar in relation to the Prevention of Public Nuisance.

A formal letter was sent to Mr Wicks on 4th October 2023 concerning the noise nuisance witnessed on 30th September 2023 and that his premises licence was being called in to review. A copy of the letter sent can be found in **Appendix 2.11**.

Impact on local residents

Officers from Environmental Protection have witnessed the noise nuisance from Wicks's Bar and a Noise Abatement Notice was served under Section 80 of the Environmental Protection Act 1990 on the Designated Premises Supervisor Mr Wicks.

The impact of the noise from the premises on the surrounding amenity is best described by the residents themselves. The Council received two Witness Impact Statements from residents to support this review. They can be found **Appendix 4**. The statements describe how the noise has affected each resident individually. They describe how they have been unable to sleep, unable to relax in their homes and gardens, constantly worrying, dreading the weekend coming and even considering selling their home.

Confidence in Management

The Environmental Protection team have no confidence in Mr Wicks's management of the amplified music at Wicks's Bar.

We have sufficient evidence to support that the amplified music is causing a significant public nuisance and having a detrimental impact on the surrounding residents, and the use and enjoyment of their properties.

Mr Wicks has not appreciated the impact he and the noise is having on the nearby residents.

Mr Wicks has not followed the advice given by Environmental Protection nor implemented the promises he has made.

Given the noise investigation, the number of opportunities given to Mr Wicks and our confidence in the management of the music at the premises, we therefore recommend the following:

- **No amplified music, recorded or live music to be played at the premises at any time**

Or the following conditions:

- **A noise limiter must be fitted and properly calibrated, and maintained in accordance with the manufacturers' instructions. The limiter must be set at a level determined by a qualified acoustician and to the satisfaction of an authorised Environmental Health Officer, so as to ensure that no noise nuisance is caused to local residents or businesses. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.**
- **No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.**
- **A noise management plan and sound insulation scheme shall be carried out by a relevantly qualified person and submitted for approval in writing to the Environmental Protection team**

Appendices

Appendix 1 - Wicks's Bar location and site photos

Appendix 2 – Letters and email correspondence

Appendix 2.1 Letter to Mr Wicks 19th June 2023

Appendix 2.2 Email to Mr Wicks 30th June 2023

Appendix 2.3 Letter to Mr Wicks 11th July 2023

Appendix 2.4 Email from Mr Wicks 18th July 2023

Appendix 2.5 EPA notice and covering letter

Appendix 2.6 Email sent to Mr Wicks 20th July 2023

Appendix 2.7 Email sent to Mr Wicks 3rd August 2023

Appendix 2.8 Email sent to Mr Wicks on 21st August 2023

Appendix 2.9 Formal breach letter sent to Mr Wicks on 14th September 2023

Appendix 2.10 Formal breach email sent to Mr Wicks on 14th September 2023

Appendix 2.11 Formal letter sent to Mr Wicks on 4th October 2023

Appendix 3 – Officer Witness Statements

Appendix 3.1 Witness Statement Rebecca Duff-Cole

Appendix 3.2 Witness Statement Rebecca Duff-Cole

Appendix 3.3 Witness Statement Katie Wesley-Smith

Appendix 4 Resident Impact Statements

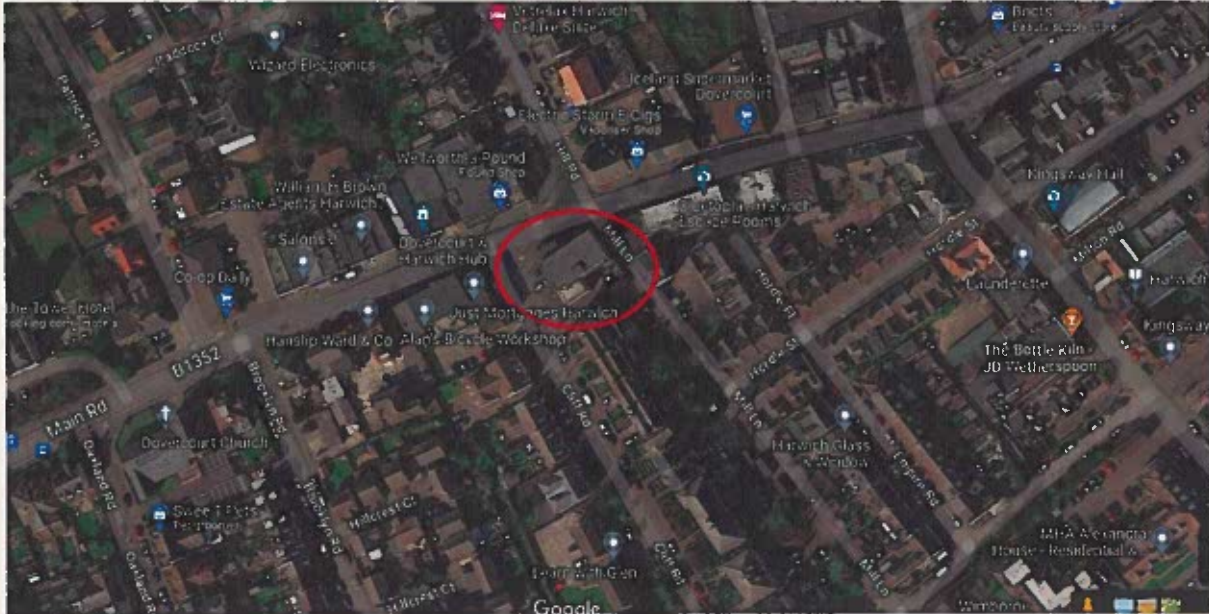
Appendix 4.1 – Resident A Impact Statement

Appendix 4.2 – Resident B Impact Statement

Appendix 1 – Wicks’s Bar location and site photos



APPENDIX A



Appendix 2.1 Letter to Mr Wicks 19th June 2023



Mr A Wicks
Enterprise Harwich Bar LTD
Wicks's Bar
1 Midland House
High Street
Harwich
Essex
CO12 3PS

Environmental Protection Team
Tendring District Council
88-90 Pier Avenue
Clacton-On-Sea
Essex CO15 1TN

Telephone: 01255 68679
Email: rduff-cole@tendringdc.gov.uk

19th June 2023

Our Ref: 23/02435/NOIMUS

Dear Mr Wicks,

ENVIRONMENTAL PROTECTION ACT 1990

RE: ALLEGED NOISE NUISANCE EMANATING FROM LOUD MUSIC AT WICKS'S BAR, 1 MIDLAND HOUSE, HIGH STREET, HARWICH, ESSEX, CO12 3PS

With reference to our visit on 15th June 2023, alongside Officers from the Licensing team and Essex Police, this service is in receipt of complaints concerning an alleged noise nuisance at the above premises of which you are the owner of. The complaints relate to loud music and bass, occurring from the premises within the evening and into the early hours of the morning.

The Environmental Protection Act 1990 places a duty on the Council to investigate such complaints and to take appropriate action if a noise is found to be causing a statutory nuisance.

As discussed, we have concerns over the noise levels witnessed inside and outside the premises at the time of our visit. We therefore strongly recommend that you take steps to minimise the impact of the noise, **by reducing the volume of the music and by taking any other such reasonable methods in order to manage and mitigate the noise** so that it does not cause any unreasonable interference with the use and enjoyment of neighbouring properties.

As stated above, we are duty bound to investigate such allegations and we will continue to monitor the situation. This can include the use of written records, Officers monitoring visits and noise monitoring equipment being installed inside complaint's properties.

You have advised that steps have been taken by turning off the base from 11:00pm, ensuring doors are kept shut and monitoring noise levels from outside the premises. As well as potentially installing sound proofing within the premise.

We would also recommend that the premises produces and implements a Noise Management Plan in order to ensure reasonable measures are put in place to reduce the noise impact to nearby neighbouring residential properties. The Noise Management Plan should include, but not limited to, details of:

- Summary of Premise, Site, License
- Statement of intent, key objectives
- Location plan / Site plan
- Noise sources
- Noise controls
- Noise monitoring

APPENDIX A

- Complainant procedures / Action to be taken in the event of complaints

Each plan will be premises/site/event specific and examples given.

Should complaints continue to be received and a statutory nuisance is substantiated, the Council has no alternative but to serve a Noise Abatement Notice requiring the noise to stop. The service of such a notice, would call your Licence to operate into question and may result in this being called into a Licencing Committee hearing.

Should you wish to discuss this further, please do contact me on the above telephone number or email.

Yours sincerely,

Rebecca Duff-Cole
Technical Officer

Appendix 2.2 Email to Mr Wicks 30th June 2023

From: Rebecca Duff-Cole

Sent: 30 June 2023 14:57

To: 'alexwicks1996@gmail.com'

Subject: Alleged noise nuisance emanating from Wicks's Bar Harwich

Dear Mr Wicks,

I hope this email finds you well.

With reference to our previous discussions, I would just like to make you aware that unfortunately this service has received further complaints concerning loud music and bass emanating from Wicks's Bar over the last few weeks.

The complainants have noted some improvements to the noise on occasions however advise it is not consistent.

Reports of loud music and bass have been reported to us on 17th June 2023, 23rd June 2023 and 24th June 2023, occurring between 19:45 and 00:15.

I therefore strongly recommend that steps are taken to reduce the impact of music to nearby residential properties this includes reducing the volume of the music. We have received a number of complaints from residents within Cliff Road, Harwich therefore recommend that noise monitoring is undertaken along Cliff Road, as well as the surrounding area, please ensure that no audible/intrusive music is witnessed from the boundary of the residential properties.

Again, as the Council's Licensing team have already advised you are not licensed for music after 23:00.

We will continue to monitor the situation. This will include the use of written records, Officers monitoring visits and noise monitoring equipment being installed inside complaint's properties.

Should complaints continue to be received and a statutory nuisance is substantiated, the Council has no alternative but to serve a Noise Abatement Notice requiring the noise to stop. The service of such a notice, would call your Licence to operate into question and may result in this being called into a

Licensing Committee hearing.

Should you have any questions concerning this, please do not hesitate to contact me.

Kindest regards,

Rebecca

Rebecca Duff-Cole BSc (Hons)

Technical Officer – Environmental Protection

? 01255 68 6779 ? rduff-cole@tendringdc.gov.uk ? www.tendringdc.gov.uk

Tendring District Council, 88-90 Pier Avenue, Clacton on Sea, Essex, CO15 1TN

Appendix 2.3 Letter to Mr Wicks 11th July 2023



Mr A Wicks
Enterprise Harwich Bar LTD
Wicks's Bar
1 Midland House
High Street
Harwich
Essex
CO12 3PS

Environmental Protection Team
Tendring District Council
88-90 Pier Avenue
Clacton-On-Sea
Essex CO15 1TN

Telephone: 01255 68679
Email: rduff-cole@tendringdc.gov.uk

11th July 2023

Our Ref: 23/02435/NOIMUS

Dear Mr Wicks,

ENVIRONMENTAL PROTECTION ACT 1990

RE: ALLEGED NOISE NUISANCE EMANATING FROM LOUD MUSIC AT WICKS'S BAR, 1 MIDLAND HOUSE, HIGH STREET, HARWICH, ESSEX, CO12 3PS

With reference to our visit on 15th June 2023 and previous correspondence, this service is continuing to receive complaints concerning an alleged noise nuisance at the above premises of which you are the owner of. The complaints relate to loud music and bass, occurring from the premises within the evening and into the early hours of the morning.

Most recent reports include loud music occurring on 7th July 2023 and 8th July 2023 between 19:30 and 01:30. The Environmental Protection Act 1990 places a duty on the Council to investigate such complaints and to take appropriate action if a noise is found to be causing a statutory nuisance.

As discussed, we have concerns over the noise levels witnessed inside and outside the premises at the time of our visit. We therefore strongly recommend that you take steps to minimise the impact of the noise, **by reducing the volume of the music and by taking any other such reasonable methods in order to manage and mitigate the noise** so that it does not cause any unreasonable interference with the use and enjoyment of neighbouring properties.

We have received a number of complaints from residents within Cliff Road, Harwich therefore recommend that noise monitoring is undertaken along Cliff Road, as well as the surrounding area. Please ensure that no audible/intrusive music is witnessed from the boundary of the residential properties.

Again, as the Council's Licensing team have already advised **you are not licensed for music after 23:00**.

As stated above, we are duty bound to investigate such allegations and we will continue to monitor the situation. This can include the use of written records, Officers monitoring visits and noise monitoring equipment being installed inside complaint's properties.

Should complaints continue to be received and a statutory nuisance is substantiated, the Council may have no alternative but to serve a Noise Abatement Notice requiring the noise to stop. The service of such a notice, would call your Licence to operate into question and may result in this being called into a Licensing Committee hearing.

APPENDIX A

Should you wish to discuss this further, please do contact me on the above telephone number or email.

Yours sincerely,

A handwritten signature in black ink, appearing to read "R. Duff-Cole". The signature is written in a cursive, slightly slanted style.

Rebecca Duff-Cole
Technical Officer

APPENDIX A

Appendix 2.4 Email from Mr Wicks 18th July 2023

From: Alex Wicks <alexwicks1996@gmail.com>

Sent: 18 July 2023 12:20

To: Rebecca Duff-Cole

Subject: Re: Alleged noise nuisance emanating from Wicks's Bar Harwich

Hello Rebecca,

Due to the locals still complaining I will not be using the sound system anymore and just use the ceiling speakers at a low level. I feel like it is unfair that there are still complaints as I know that the music has not been loud after 11pm. I also think it's very unfair when they are putting posts all over facebook of events that do not happen, so I can imagine that they just want us shut down and will do anything to achieve that. I have 100's of happy locals that love the bar and what I have done with the place as Harwich needs more places for the younger and older generation to go and enjoy themselves. Regardless, I will take further steps to reduce noise. I will also have a day where I will invite all locals that have a problem into the bar when I'm closed to discuss any issues that they may have to try and come to a solution.

Kind regards,

Alex

Appendix 2.5 EPA notice and covering letter

Tendring
District Council



Mr A Wicks
Enterprise Harwich Bar Ltd
Wicks's Bar
1 Midland House
High Street
Harwich
Essex
CO12 3PS

20th July 2023

Environmental Protection Team
Tendring District Council
Council Offices
Pier Avenue
Clacton-On-Sea
Essex CO15 1TN

Telephone: 01255 686779
Email: rduff-cole@tendringdc.gov.uk

Our Ref: 23/02435/NOIMUS

Dear Mr Wicks,

ENVIRONMENTAL PROTECTION ACT 1990

RE: EXCESSIVELY LOUD MUSIC EMANATING FROM WICKS'S BAR, 1 MIDLAND HOUSE, HIGH STREET, HARWICH, ESSEX, CO12 3PS

With reference to the above, as you are aware this service is in receipt of complaints concerning excessively loud music and bass emanating from Wicks's Bar, 1 Midland House, High Street, Harwich.

The Environmental Protection Act 1990 places a duty on local authorities to investigate such complaints and to take appropriate action if noise considered to be a statutory nuisance exists or is likely to occur or recur.

Officers have undertaken noise monitoring visits and noise recording equipment has been installed within a complainant's property. Audible loud music has been witnessed within the evenings and within the early hours of the morning. It has been substantiated that the loud music is causing a nuisance to nearby residential properties.

Please find enclosed formal notice under the above legislation, which has been served on you as the Designated Premises Supervisor of Wicks's Bar, 1 Midland House, High Street, Harwich, **requiring you to cease the excessively loud music from recorded, amplified and live music at the premises.**

You should read the notice and attached notes carefully to ensure you understand its requirements.

Steps must be taken to ensure that the music and bass from Wicks's Bar in future does not cause any unreasonable interference with the use and enjoyment of neighbouring properties.

It is a criminal offence not to abate the specific noise. Officers will continue to monitor the noise from Wicks's Bar. Failure to comply with the notice may result in further enforcement action being taken against you which may include a review of your premises license, prosecution, seizure or confiscation of the offending equipment.

Those served with an abatement notice can appeal to a magistrates court within 21 days of getting the notice.

Please also be aware that a copy of the formal notice has been sent to the owners of the premises.

Should you have any queries concerning this, please do not hesitate to contact me on the above telephone number or email address.

Yours Sincerely,

R. Duff-Cole

Rebecca Duff-Cole
Technical Officer
Environmental Protection Team

23/00038/EP90G
RDC

TENDRING DISTRICT COUNCIL
ENVIRONMENTAL PROTECTION ACT 1990
SECTION 80

Abatement Notice in respect of Statutory Nuisance

To: Mr Alexander WICKS

Of: Enterprise Harwich Bar Ltd, Wicks's Bar, 1 Midland House, High Street, Harwich, Essex, CO12 3PS

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the Tendring District Council being satisfied of the existence of a statutory nuisance under Section 79 (1)(g) of that Act at premises known as

Neighbouring properties of Wicks's Bar, 1 Midland House, High Street, Harwich, Essex, CO12 3PS

Within the district of the said Council arising from:

Excessively loud music

HEREBY REQUIRE YOU as the person responsible for the said nuisance at the premises to **FORTHWITH** from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same and for that purpose require you to:-

Cease the playing of excessively loud music, of which includes recorded, amplified and live music

THIS is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (Appeals) Regulations 1995 applies and, in consequence, in the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

IF without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale**, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

DATED 20th day of July 2023

(Signed)..... *R. Duff-Cole*
Technical Officer, Environmental Protection Team

Tendring District Council, Council Offices, Pier Avenue, Clacton-On-Sea, Essex CO15 1TN

N.B. The person served with this notice may appeal against the notice to a magistrates' court within twenty-one days beginning with the date of service of the notice. See notes attached to this form.

APPENDIX A

The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:-

APPEALS UNDER SECTION 80(3) OF THE ENVIRONMENTAL PROTECTION ACT 1990

2 (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.

(2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case:-

- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
- (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
- (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
- (e) where the nuisance to which the notice relates -
 - (i) is a nuisance falling within section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
 - (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
 - (iii) is a nuisance falling within a section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes. that the best practical means were used to prevent, or to counteract the effects of, the nuisance;
- (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of -
 - (i) any notice served under section 60 or 66 of the control of pollution 1974 Act (control of noise on construction sites and from certain premises), or
 - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
 - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
- (g) That in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the noise and statutory nuisance 1993 act (loudspeakers in streets or roads);
- (h) that the abatement notice should have been served on some person instead of the appellant, being -
 - (i) the person responsible for the nuisance, or
 - (ii) the person responsible for the vehicle, machinery or equipment, or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
- (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
 - (i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
 - (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
 - (i) a person also responsible for the nuisance, or
 - (ii) a person who is also owner of the premises, or
 - (iii) a person who is also an occupier of the premises, or
 - (iv) a person who is also the person responsible for the vehicle, machinery or equipment. and that it would have been equitable for it to have been so served.

(3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

APPENDIX A

(4) Where the grounds upon which an appeal is brought include a ground specified in paragraph 2(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.

(5) On the hearing of the appeal the court may -

- (a) quash the abatement notice to which the appeal relates, or
- (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
- (c) dismiss the appeal:

and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the Local Authority.

(6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit -

- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.

(7) In exercising its powers under paragraph (6) above, the court -

- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
- (b) shall be satisfied, before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

SUSPENSION OF NOTICE

3. (1) Where -

- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -
- (b) either -
 - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of the works before the hearing of the appeal, or
 - (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
- (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met,

the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) This paragraph applies where -

- (a) the nuisance to which the abatement notice relates -
 - (i) is injurious to health, or
 - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
- (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

(3) Where paragraph (2) applies the abatement notice -

- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
- (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.

Appendix 2.6 Email sent to Mr Wicks 20th July 2023

From: Rebecca Duff-Cole

Sent: 20 July 2023 14:19

To: 'Alex Wicks'

Subject:RE: Alleged noise nuisance emanating from Wicks's Bar Harwich

Attachments: COPY of EPA notice Wicks's Bar 20.07.23.pdf

Importance: High

Dear Mr Wicks,

Thank you for your email.

I have tried to contact you to discuss this.

As you are aware, we have received a number of complaints in relation to loud music and bass emanating from Wicks's Bar and have been monitoring the situation with noise monitoring equipment and Officer monitoring visits over the past weeks.

Despite recommendations from this team, the Council's Licensing team and Essex Police to the reduce the volume of the music from the amplified speakers at Wicks's Bar we have continued to receive a number of complaints over the past weeks concerning loud music and bass.

Officers from the Environmental Protection team have witnessed noise nuisance from loud music emanating from the premises. We are satisfied that the noise from the loud music is causing a statutory nuisance and therefore we will be serving a formal noise abatement on you as the Designated Premises Supervisor of Wicks's Bar. The notice will require you to cease the playing of excessively loud music, of which includes recorded, amplified and live music.

You will receive the notice in the post and you should read the notice and attached notes carefully to ensure you understand its requirements. I have attached a copy of the notice for your reference.

The manner in which you comply with the requirements of the notice will be for you to decide. However, reasonable steps to comply with the notice could include ceasing the use of the sound system as you have stated within your below email.

Should you have any questions concerning this please do not hesitate to contact me.

Kindest regards,

Rebecca

Rebecca Duff-Cole BSc (Hons)

Technical Officer – Environmental Protection

? 01255 68 6779 ? rduff-cole@tendringdc.gov.uk ? www.tendringdc.gov.uk

Tendring District Council, 88-90 Pier Avenue, Clacton on Sea, Essex, CO15 1TN

Appendix 2.7 Email sent to Mr Wicks 3rd August 2023

From: Katie Wesley-Smith

Sent: 03 August 2023 13:54

To: 'alexwicks1996@gmail.com'

Cc: Licensing Section; Rebecca Duff-Cole

Subject: WICKS Bar, High Street, Harwich

Good Afternoon Mr WICKS – I have received a communication from colleagues in the Councils Licencing Team regarding a request for an event to take place at Wicks's Bar.

As you are aware my colleague, Rebecca DUFF-COLE, has been liaising with you in relation to the formal noise complaints, from several residential premises, that this Team has received in relation to the excessively loud music emanating from the bar, alongside complaints of breaches in respect of the times music is being played.

Monitoring was undertaken and as a result of the monitoring, a formal noise abatement notice was served on you, as the person responsible, on the 20th July 2023. This was sent to you via email (this email address), and via first class Royal Mail postal service.

The notice required you to cease the playing of excessively loud music.

Please be aware the notice is still in force and should officers from the Environmental Protection Team substantiate any breaches of the abatement notice, we will pursue further action, of which can include formal prosecution under The Environmental Protection Act 1990, or a referral back to the Councils Licencing Committee.

In respect of your enquiry concerning holding this intended event, we will require you to submit information pertaining to how you intend to manage the music, and confirmation of the times as to when you wish the music to be played, and when it will cease.

Should the information not be submitted within a timely manner prior to the event, or if it does not evidence reasonable control or management of noise from the premises, we will have to lodge an objection.

Should you have any queries concerning this, please do not hesitate to contact this Team using the environmental.services@tendringdc.gov.uk, marking it for the attention of the Environmental Protection Team – using the above email address will ensure it is passed onto the relevant officer and is recorded.

Regards

Katie W Smith BSc (Hons) MCIEH CEnvH

Chartered Environmental Health Practitioner

Environmental Protection Team Manager

Tel: 01255 686 763 / 686 767

Email: kwesley-smith@tendringdc.gov.uk / environmental.services@tendringdc.gov.uk

Appendix 2.8 Email sent to Mr Wicks on 21st August 2023

From: Rebecca Duff-Cole

Sent: 21 August 2023 15:58

To: 'alexwicks1996@gmail.com'

Cc: Licensing Section

Subject: Wicks's Bar, High Street, Harwich

Dear Mr Wicks,

Just to again make you aware that Officers are continuing to monitor the loud music and bass from Wicks's Bar since the service of the noise abatement notice on 20th July 2023.

On Saturday 19th August 2023, an out of hours noise complaint was received concerning loud music from Wicks's Bar and Officers undertook a noise monitoring visit.

Firstly, I would like to thank you for your efforts made to reduce the music after 11:00pm. Complainants have informed us that there has been a reduction in music after 11:00pm and this was witnessed by Officers on Saturday 19th August 2023.

However we are still in receipt of complaints and Officers have concerns over the volume of the music and level of the bass before 11:00pm emanating from Wicks's Bar. Officers witnessed loud bass from the Wicks's Bar during the monitoring visit from approximately 10:25pm up until 11:00pm on Saturday 19th August 2023. The bass was witnessed audible and loud 40 - 50m away from the premises, at the front boundary of residential properties along Cliff Road, Harwich.

We therefore strongly recommend that the music and bass is reduced at the premises. This is to ensure compliance of the notice and so that the music and bass does not cause any unreasonable interference with the use and enjoyment of neighbouring residential properties. Loud noises from patrons at the front of the premises was also noted throughout our noise monitoring visit. Management of the outdoor area is important, regular monitoring and control essential. It may be appropriate to restrict or prohibit public access to front area late in the evening and night, to adequately control the noise.

Please also ensure that you are monitoring from the curtilage of your premises and at nearby residential properties throughout evening/night, to ensure that any noise is not causing a nuisance. You should keep a written record of this.

Should you wish to discuss this further please do not hesitate to contact me.

Kindest regards,

Rebecca

Rebecca Duff-Cole BSc (Hons)

Technical Officer – Environmental Protection

? 01255 68 6779 ? rduff-cole@tendringdc.gov.uk ? www.tendringdc.gov.uk

Tendring District Council, 88-90 Pier Avenue, Clacton on Sea, Essex, CO15 1T

APPENDIX A

Appendix 2.9 Formal breach letter sent to Mr Wicks on 14th September 2023

Tendring
District Council



Mr A Wicks
Enterprise Harwich Bar LTD
Wicks's Bar
1 Midland House
High Street
Harwich
Essex
CO12 3PS

Environmental Protection Team
Tendring District Council
88-90 Pier Avenue
Clacton on Sea
Essex
CO15 1TN

Tel: (01255) 686779
Email: rduff-cole@tendringdc.gov.uk

14th September 2023

Our Ref: 23/02435/NOIMUS

Dear Mr Wicks,

ENVIRONMENTAL PROTECTION ACT 1990
RE: A WICKS'S BAR, 1 MIDLAND HOUSE, HIGH STREET, HARWICH, ESSEX, CO12 3PS

Further to my email sent to you on 21st August 2023, I am writing to inform you that this service is still in receipt of complaints concerning loud music and bass emanating from Wicks's Bar.

As you are aware a noise abatement notice was served on 20th July 2023, a breach of a noise abatement notice can result in a prosecution against the recipient.

On Friday 8th September 2023 and Saturday 9th September 2023, out of hours noise complaints were received concerning loud music and bass from Wicks's Bar and Officers undertook a noise monitoring visits.

Officers witnessed noise nuisance on Friday 8th September between 21:48 to 22:25 and on Saturday 9th September between 22:37 to 23:00 emanating from Wicks's Bar.

Where the Council is satisfied that a premises is causing further noise nuisance, legal proceedings may be commenced, which could lead to a fine upon conviction of up to £20,000 and seizure of all noise making equipment. Further to this, the Environmental Protection team are considering call for a Review of the Premises License if the issue of noise nuisance is not resolved.

We strongly recommend that the music and bass is reduced at the premises and steps are taken to mitigate the noise from the amplified music. This is to ensure compliance of the notice and so that the music and bass does not cause any unreasonable interference with the use and enjoyment of neighbouring residential properties.

In writing this letter, this is the final warning prior to undertaking the above mentioned actions if there is no improvement within the situation.

The Environmental Protection team are happy to assist and discuss recommendations in order to mitigate the noise from the premises.

APPENDIX A

Should you wish to discuss this matter further or wish to arrange another site meeting please do not hesitate to contact me on the above contact number or email address.

Yours sincerely,

Rebecca Duff-Cole
Technical Officer

Appendix 2.10 Formal breach email sent to Mr Wicks on 14th September 2023

From: Rebecca Duff-Cole

Sent: 14 September 2023 13:37

To: 'Alex Wicks'

Cc: Licensing Section

Subject:RE: Wicks's Bar, High Street, Harwich

Attachments: Mr Wicks Letter 14.09.23.pdf

Dear Mr Wicks,

Please find attached letter which has also been sent out to you.

We are still in receipt of complaints and Officers still have concerns over the volume of the music and level of the bass before 11:00pm emanating from Wicks's Bar.

Officers witnessed noise nuisance on Friday 8th September between 21:48 to 22:25 and on Saturday 9th September between 22:37 to 23:00 emanating from Wicks's Bar.

Where the Council is satisfied that a premises is causing further noise nuisance, legal proceedings may be commenced, which could lead to a fine upon conviction of up to £20,000 and seizure of all noise making equipment. Further to this, the Environmental Protection team are considering call for a Review of the Premises License if the issue of noise nuisance is not resolved.

We strongly recommend that the music and bass is reduced at the premises and steps are taken to mitigate the noise from the amplified music. This is to ensure compliance of the notice and so that the music and bass does not cause any unreasonable interference with the use and enjoyment of neighbouring residential properties.

Officers will continue to monitor the loud music and bass from Wicks's Bar.

Should you wish to discuss this further please do not hesitate to contact me.

Kindest regards,

Rebecca

Rebecca Duff-Cole BSc (Hons)

Technical Officer – Environmental Protection

? 01255 68 6779 ? rduff-cole@tendringdc.gov.uk ? www.tendringdc.gov.uk

Tendring District Council, 88-90 Pier Avenue, Clacton on Sea, Essex, CO15 1TN

Appendix 2.11 Formal letter sent to Mr Wicks on 4th October 2023

Tendring
District Council



Mr A Wicks
Enterprise Harwich Bar LTD
Wicks's Bar
1 Midland House
High Street
Harwich
Essex
CO12 3PS

Environmental Protection Team
Tendring District Council
88-90 Pier Avenue
Clacton on Sea
Essex
CO15 1TN

Tel: (01255) 686779
Email: rduff-cole@tendringdc.gov.uk

4th October 2023

Our Ref: 23/02435/NOIMUS

Dear Mr Wicks,

ENVIRONMENTAL PROTECTION ACT 1990
RE: WICKS'S BAR, 1 MIDLAND HOUSE, HIGH STREET, HARWICH, ESSEX, CO12 3PS

Further to my previous letter, and telephone calls on 26th September 2023 and 28th September 2023, as you are aware a noise abatement notice was served on 20th July 2023 and breaches of the notice have been witnessed on 8th and 9th September 2023.

On 30th September 2023, Officers received a number of out of hours noise complaints concerning excessively loud music and bass emanating from Wicks's Bar.

Officers attended and witnessed noise nuisance on 30th September 2023 between 20:37 – 20:58 emanating from the music and bass at Wicks's Bar. The music and bass was excessively loud and audible over 90metres away from the premises.

The Environmental Protection team have now triggered a Review of the Premises Licence.

Furthermore, as previously advised where the Council is satisfied that a premises is causing further noise nuisance, legal proceedings may be commenced, which could lead to a fine upon conviction of up to £20,000 and seizure of all noise making equipment. **We are now left with no alternative other than to refer this case file over to our Legal Team, to assess for prosecution for non-compliance.**

Again, we strongly urge that the music and bass is significantly reduced at the premises and steps are taken to mitigate the noise from the amplified music. This is to ensure compliance of the notice and so that the music and bass does not cause any unreasonable interference with the use and enjoyment of neighbouring residential properties.

Yours sincerely,

Rebecca Duff-Cole
Technical Officer

Appendix 3.1 Witness Statement Rebecca Duff-Cole

Statement of Witness

STATEMENT OF Rebecca Duff-Cole

Age of Witness (if over 18, enter "Over 18): **Over 18**

Occupation of Witness: **Environmental Protection Technical Officer**

The following statement, consisting of 2 pages all signed by me, is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true

Dated the 18 day of October 2023

Signature..... *R. Duff-Cole*

I am Rebecca Duff-Cole and I have been employed by Tendring District Council since November 2016 within the Environmental Service Team. I have been a Technical Officer within the Environmental Protection team since April 2019. I hold a BSc degree in Environmental Management.

On 8th September 2023 I was working with Larissa Scotney, Environmental Protection Technical Officer undertaking out of hours noise complaint visits. Whilst we were out we received a call to advise an out of hours noise complaint had come in regarding loud music from Wicks's Bar.

We arrived at High Street Harwich at 21:48 and parked the car. We walked towards Wicks's Bar. The bass from Wicks's Bar was audible from 55meters away. We walked to the front of the premises and noted that the front door was left open. There were no door staff at the premises. The music and bass was audible at the front of the premises. There were a handful of patrons at the front of the premises. We witnessed the noise from the boundary of Steele House, High Street which was approximately 20meters away from the premises. The music was dance music and drum and bass. The music was excessively loud and we were satisfied that the music was a breach of the notice and causing a statutory nuisance. We then monitored the noise further down Cliff Road approximately 30meters away. The music was loud and the bass was audible. We went further down Cliff Road approximately 45meters away the volume of the music and bass started to decrease but was still audible. At time we could hear the patrons shouting and laughing over the music.

Signature ... *R. Duff-Cole* Date: 18.10.23

We knocked at and spoke to the residents at [REDACTED] and witnessed the noise inside their property. Their property is approximately 45meter away from the premises. The noise was not significantly loud inside their property but the bass was audible. They advised that they are unable to sleep in their front bedroom tonight and will sleep in the back room so they are not disturbed by the noise from Wicks's Bar. The residents shared their frustrations with the premises and the ongoing issues.

We left the site at 22:25 and the music was still excessively loud from Wicks's Bar and heard 45m away.

Signature ... *R. Duff-Cole* Date: 18.10.23

Appendix 3.2 Witness Statement Rebecca Duff-Cole

Statement of Witness

STATEMENT OF **Rebecca Duff-Cole**

Age of Witness (if over 18, enter "Over 18): **Over 21**

Occupation of Witness: **Environmental Protection Technical Officer**

The following statement, consisting of 2 pages all signed by me, is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true

Dated the 18 day of October 2023

Signature..... *R. Duff-Cole*

I am Rebecca Duff-Cole and I have been employed by Tendring District Council since November 2016 within the Environmental Services team. I have been a Technical Officer within the Environmental Protection team since April 2019. I hold a BSc degree in Environmental Management.

On 9th September 2023 I was working with James Bates, Environmental Protection Officer undertaking out of hours noise visits. Whilst we were out in Harwich Mr Bates received a call from Careline advising that a noise complaint had been received concerning loud music from Wicks's Bar.

We arrived at Cliff Road, Harwich at 22:37 and parked the car. We walked towards Wicks's Bar and could hear the bassline of the music from Wicks's Bar. We witnessed the noise from the front boundaries at the nearby residential properties approximately 20m, 30m and 40m away from the premises. The music from Wicks's bar was dance and drum and bass music. There was a heavy bassline and the lyrics of songs were clear a times. The level of the bass and volume of the music did flocculate depending on the song being played. We witnessed the noise for approximately 20minutes along Cliff Road and the High Street. The music was excessively loud and we were satisfied that it was a breach of the noise abatement notice. The music was loud at the front boundary of the nearby property and no doubt would be intrusive and affecting them inside their properties. The music appeared to be louder than the previous night,

Signature .. *R. Duff-Cole* Date: 18.10.23

There were a handful of patrons outside the front of the premises standing up. I could hear the voices of patrons, talking, shouting and laughing from 30 meters away over the music at times.

We knocked on the door of the resident who called into Careline at [REDACTED]
[REDACTED] They advised us that the music had been turned down and was louder when they called in.

We left the site at 23:00 and the music has been turned off and was no longer audible from outside the premises or at the front boundaries of the properties.

Signature .. *R. Duff-Gole* Date: 18.10.23

Appendix 3.3 Witness Statement Katie Wesley-Smith

Statement of Witness

Statement of: Katie WESLEY-SMITH

Age of witness: Over 21

Occupation of witness: Environmental Protection Team Manager, Chartered Environmental Health Practitioner

The following statement, consisting of 3 pages all signed by me, is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true

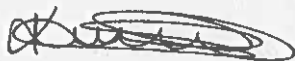
Dated the 20th October 2023

Signature



-
1. My name is Katie **WESLEY-SMITH** and I have been employed as a member of Tendring District Council's Environmental Health Team since January 2008. I hold a first-class honours degree BSc in Environmental Health and a Chartered Accreditation from the Chartered Institute of Environmental Health. My current position within the team is as the Environmental Protection Team Manager. I deal with all manner of nuisance and public health complaints, including those of noise nuisance from Licenced premises.
 2. On Saturday the 30th September 2023, I attended an out of hours monitoring visit to Wicks's Bar, High Street, Harwich, CO12 3PS, alongside my colleague Rebecca DUFF-COLE (RDC). The

Signature

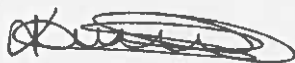


Date: 20th October 2023

monitoring visit was in response to concerns over excessive noise emanating from Wicks's Bar, concerning a planned event being held between the hours of 12:00 to 23:00. In addition officers were also undertaking a compliance check with the formal noise abatement notice that had been served on the Licence holder in July 2023, under The Environmental Protection Act 1990, due to excessive noise from music being played at the premises.

3. The premises is located on the ground floor of Midland House. The premises comprising of two floors and would be referred to as a mixed commercial and residential premises. The upper floor is residential, the ground floor comprises commercial units. The frontage of the premises is onto the High Street, Harwich, facing a number of commercial units, and residential flats. Areas to the south, east and west are predominantly residential premises comprising of town houses, flats and basement flats.
4. We arrived at the High Street Car Park at approximately 20:35 and walked from the car park up to the premises. Officers noted the weather conditions at the time of the visit to be 17c, westerly light winds/moderate gusts of winds at times, it was dark with 100% cloud cover.
5. We noted a large number of patrons congregating outside the front of the bar, associated noise from the patrons and a loud bass sound was clearly audible when passing. We positioned ourselves on Cliff Road – as shown in map submitted as evidence marked **KWS1**.
6. Music and bass were clearly audible approximately 90m away from the premises and considered loud by officers.
7. At approximately 20:45 officers witnessed loud music and bass whilst on the front boundary of several residential properties within Cliff Road. Officers noted that the excessively loud music and bass witnessed, would be considered to have a material impact on nearby residential properties, and were satisfied the current level of music and bass emanating from the site, is a statutory nuisance; therefore the formal notice served on the licence holder for Wicks's Bar and the formal guidance and advice given to the licence holder by Officers of Tendring District Council in relation to minimising impact to nearby residents, had not been followed and as such the formal notice had not been complied with. Officers also concluded

Signature




Date: 20th October 2023

Page 2 of 3

that the level of noise emanating from the bar would be audible within the internal areas of nearby residential premises, and as such would have a detrimental impact on residents.

8. Officers also noted accumulations of cigarette ends on the pavement outside the premises, as well as some broken glass. In addition, the noise generated by patrons congregating outside the premises, could be considered a public nuisance under the relevant Licencing Objectives in accordance with The Licencing Act 2003 .
9. We left the site at approximately 21:00, where the music and bass were still audible.

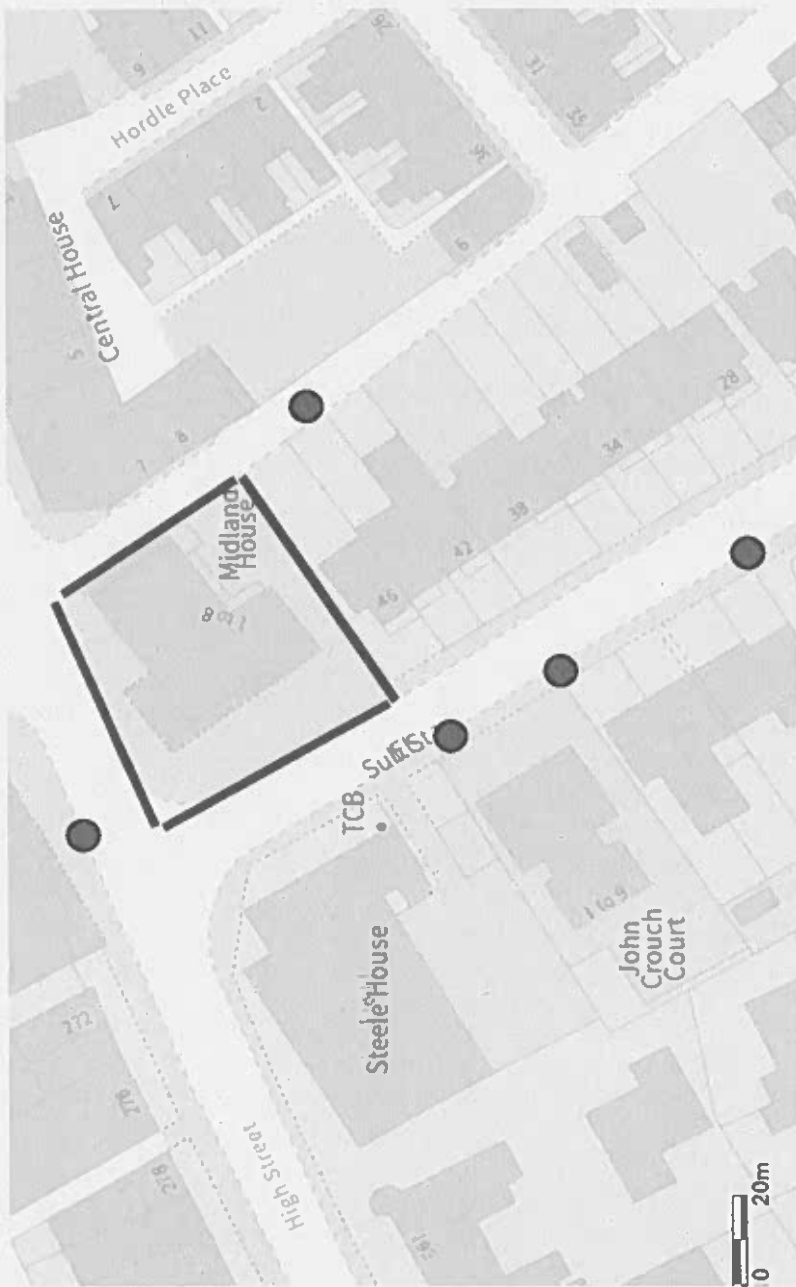
Signature



Date: 20th October 2023

Page 3 of 3

KWS1 – site plan and monitoring positions
23/04439/LIQU: Wicks's Bar, 1 Midland House, High Street, Harwich, CO12 3PS



Wicks's Bar shown outlined in RED
Officers Monitoring Positions shown in BLUE

Appendix 4.1 – Resident A Impact Statement

Statement of Witness

STATEMENT OF [REDACTED]

Age of Witness (if over 18, enter "Over 18"): [REDACTED]

Occupation of Witness: [REDACTED]

The following statement, consisting of 2 pages all signed by me, is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true

Dated the 25th day of October 2023

Signature [REDACTED]

When I heard that Wicks's bar was opening at the beginning of May 2023 I must admit my heart sank as I knew what was ahead. I contacted the manager the night before they were due to open and asked if they would be more considerate to local residents than the previous tenants and he assured me, via Facebook messenger, that music would be turned down at 11pm. However that weekend was a bank holiday and unfortunately the music was played at excessive levels & customers were stood outside shouting & screaming at each other. every evening:

- 05.05.23 19.45-01.45-loud music and customer noise
- 06.05.23 20.30-01.45-loud music and customer noise
- 07.05.23 20.00-01.45-loud music and customer noise

On the night of 27.05.23 I messaged the owner at 23.25 asking if the music could be turned down-it had been extremely loud and could be clearly heard at the other end of the street.The volume was so high that even with our windows closed tight we could still hear the music and noise from outside.The owner/manager claimed that he had not been on the premises and would now turn it down however it was still audible in our home.

27.05.23 20.00-01.30-loud music and customer noise.

02.06.23 & 03.06.23 20.00-01.30 music was again played at such a volume that it could clearly be heard in my home with all the windows shut. The manager had said earlier in the week on a Facebook post that customers would be moved inside the premises at 12pm and

Signature [REDACTED]

Date: 25.10.23

the front doors would be closed to minimise the noise however despite me messaging him twice on the evening of 02.06.23 at 23.27 & 00.26 nothing was done.

On 04.06.23 I emailed the environmental services team to inform them that I had a noise complaint. Two months of every weekend being disrupted by the noise from Wicks's bar due to music levels, customers outside shouting and very often fighting, the sound of glasses & bottles being smashed were having a negative effect on mine and my family's quality of life. We were tired due to either not being able to get to sleep or being woken up by fighting outside or the police turning up which was becoming an almost weekly affair. I was dreading the weekends as I knew it would be impossible to get to sleep or relax.

Sadly the music continued to be played at ridiculously high levels all through June 2023 and into July 2023. I messaged the owner several times asking for the music to be turned down however these messages were ignored.

09.06.23-10.06.23 music was clearly audible until 23.30hours and then the volume was increased significantly

17.06.23 20.30-01.30 music clearly audible then volume increased at 23.15 hours making getting to sleep impossible until they finally closed and the customers finally left the area.
23.06.23 20.15-01.30 extremely loud music making getting to sleep impossible- had to close all windows tight and use earplugs to sleep.

27.06.23 23.50-12.30 extremely loud music which woke me up

30.06.23 19.30-01.30 clearly audible music in our home making getting to sleep impossible
01.07.23 20.00-01.30 loud music & noise from customers on smoking area and pavement
07.07.23 23.00-01.30 loud music which had volume increased at 23.30 until closing,customers outside very loud

08.07.23 19.00-01.30 music audible until 00.00 then volume increased significantly

10.07.23 I emailed both environmental and licensing departments to lodge another noise complaint. The noise levels were getting worse, customers were outside on the smoking area and on the pavement directly outside and across the road making loads of noise. That same evening, a Monday, there was extremely loud music from 20.00-01.00hrs. The bar was open until 3am-there were 2 fights at the premises which spilled outside which resulted in the police attending twice. My email resulted in noise monitoring equipment to be installed in my home by the environmental team over the weekend of 14/15/16 July 2023.

Sadly despite a noise abatement being served on Wicks's the noise continued albeit lower after 11pm, fights were breaking out nearly every week, the bar remained open long after it's opening hours, I sent the environmental dept, licensing dept and Ivan Henderson a diary and photos of the bar remaining open until at least 02.30am.

Signature



..... Date: 25.10.23

28.07.23 bar remained open until at least 02.30, police called to attend a huge fight at premises. Customers hung around until around 3am

29.07.23 music was on until at least 01.30 when they do not have a late music license.
05.08.23 customers extremely loud outside premises until 02.00.

11.08.23 music from 20.00-21.30 at a high volume, turned down then off at 02.00.
Customers outside until 02.40 running across the road, moving road cones & turning off temporary traffic lights, staff left the premises and did nothing to move them along.

12.08.23 20.00-23.00 extremely loud music

09.09.23 I called Careline to report the music as it was so loud-officers from environmental attended.

30.09.23 called Careline as music from a charity event had been played exceedingly loud from 13.30- I reported it around 17.30 when I'd had enough of the constant bass.

I cannot downplay the impact this place has had on my own and my family's quality of life- we are exhausted from lack of sleep at weekends, we are unable to relax in our home or garden due to the noise from Wicks's. There is constant worry that our cars will be damaged or that customers will take it upon themselves to urinate in our garden or on our fences-this has been witnessed. We are snappy with each other as we are so stressed with the situation. I absolutely dread weekends as I know there will be noise, often fighting and police attending. We should be able to walk along the road without seeing lots of broken glass in the streets or not have to see drug dealing going on at the end of our road. My daughter has had to call the police when a fight broke out and watch in disbelief as staff and police did nothing. When you have to get up at 5am every weekday morning for work weekends at home should be something to look forward to however I start dreading them from Thursday onwards as I know it will be anything but relaxing in the evenings. I run a [REDACTED] which means I need to be completely alert and on it as I am dealing with small children, parents, social services and other agencies-I need my time at home to be relaxing and a place to escape the stresses of the week. I shouldn't have to be thinking it's not worth going to bed until at least 2am because I wouldn't be able to get to sleep anyway. We shouldn't have to feel like it's better to be out somewhere or go away because it's more peaceful. Our home should be our sanctuary and it's not. The whole time Wicks's has been open has been nothing short of a nightmare, messages to the manager are ignored-he suggests going to see him face to face however it is such an intimidating place that I couldn't face doing it. At one point over the summer we even discussed selling our home of over 20 years just to get away from the noise. It's not fair, local residents should be able to enjoy their homes without worrying what is happening across the road.

Signature

[REDACTED]

Date: 25.10.23

Appendix 4.2 – Resident B Impact Statement

Statement of Witness

STATEMENT OF

Age of Witness (if over 18, enter "Over 18): Over 18

Occupation of Witness:

The following statement, consisting of 2 pages all signed by me, is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true

Dated the day of

Signature.....

I would kindly ask at this stage that TDC uphold full data protection and that my personal details - name address mobile - are redacted from my submission for reasons previously discussed.

The opening of Wicks Bar in May 2023 has had a very negative affect on my quality of life. I work long shifts - weekdays & weekends - as my work as a specialist nurse dictates. I get up for work at 0500 and return home after 1830. I have been unable to rest in my home. I never know if I will sleep through the night or be woken (bass/ music/ customers) . I am fearful that this unrelenting disturbance will have a negative impact on my ability to undertake my public duties of practice.

The continued anti-social behaviour created by the venue - outside on the deck area and behind in the car park area - that spills into the residential road both during opening hours and at closing time when customers are frequently involved in arguments, screaming, shouting, hanging around, cars pulling up and screeching away, observed but anecdotal drug use/ selling, vomit and broken glass. This has often resulted with local police presence. This consistent drain on local police service is apparent to us as residents. This regularly occurs on Friday & Saturday any time from 0100 to after 0300 - there have also been incidents outside of these hours. Residents have a fundamental right to an adequate standard of living allowing rest and relaxation. This disruption of sleep is intolerable and unrelenting. If the Licensee has been given guidance and taken measures to

Signature Date:

address this, they have been lacking and ineffective without any positive impact. Where is the refusal/ incident register? Who is on the banned list?

The Licensee ignored licence criteria for many months from opening in May 2023 - allowing loud music & bass to be played after 2300 up until the early hours of the morning, mostly Friday & Saturday but also on occasion midweek nights. Music and bass are so loud that it is clearly audible from inside my home over approx 80 metres away . During the summer all windows and doors had to be closed and despite this, the music and bass remained audible inside even with the TV on. This prevented me from relaxing in my garden and sleeping in my bedroom - having to sleep in a back room where the music & bass - whilst still audible - was a little less so. This is a regular and ongoing problem and causes disturbance to sleep. I have submitted regular diarised comments of such activity. The Licensee recently held a DJ event and curtains had been hung to reduce sound. I can tell you that no reduction to sound was achieved. Would the Licensee tolerate such an intrusion on his family & children's home lives? I understand that members of the Environmental Team have witnessed these disruptions themselves. The intrusion on my household is intolerable and unreasonable.

I understand that there have been many opportunities for the venue to follow advice & guidance and yet these problems still remain. Given this point, it is reasonable to offer that any tweak to the detail of the licence will be yet again ignored. An attitude of “we don't really care” is conveyed and since Mr Wicks appears to be incapable of the responsibility that comes with such a venue, I might suggest that a full review of the License and indeed a review of the all the terms of any business operating from this venue is now well overdue.

Signature Date: