

# AGENDA SUPPLEMENT (1)

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**Meeting:** Western Area Licensing Sub Committee  
**Place:** Council Chamber - County Hall, Trowbridge BA14 8JN  
**Date:** Thursday 6 August 2015  
**Time:** 1.30 pm

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**The agenda for the above meeting was published on 29 July 2015. Additional documents are now available and are attached to this agenda supplement.**

Please direct any enquiries on this agenda to Fiona Rae, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 712681 or email [fiona.rae](mailto:fiona.rae)

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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5b      **Appendix 2 - Relevant Representations** (*Pages 3 - 14*)

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|------------------------------------|
| DATE OF PUBLICATION: 4 August 2015 |
|------------------------------------|

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Photographs to show the position of the extraction flue at the Corner Food Bar. The building painted white is an occupied residential property. The yard it sits above is the outside area of the residential property.





**ENVIRONMENTAL PROTECTION ACT 1990, Section 80**

**Abatement Notice in respect of Noise Nuisance**

To: Corner Food Shop Ltd  
1a Bratton Road  
Westbury  
Wiltshire  
BA13 3EN

Ref: 201513137

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the **WILTSHIRE COUNCIL** being satisfied of the ~~(existence)~~ ~~(likely occurrence)~~ ~~(recurrence)~~ of noise amounting to a statutory nuisance under Section 79(1)(g) of that Act at Corner Food Shop Ltd (within the district of the said Council) arising from the kitchen extraction system, giving rise to a statutory noise nuisance to [REDACTED]

**HEREBY REQUIRE YOU** as the ~~(person responsible for the said nuisance)~~ ~~((owner))~~ (occupier) of the premises from which the noise is or would be emitted) within 12 weeks 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  
**-See attached schedule 1**

~~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 noise to which this Notice relates is (likely to be of a limited duration such that suspension would render the Notice of no practical effect) (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 22 July 2015

Signed: [REDACTED]  
Environmental Health Officer

Address for all communications:-  
Public Protection  
Wiltshire Council  
County Hall  
Bythesea Road Trowbridge BA14 8JN

NB: 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 on the reverse of this form.

\*\*Currently £5,000 subject to alteration by Order

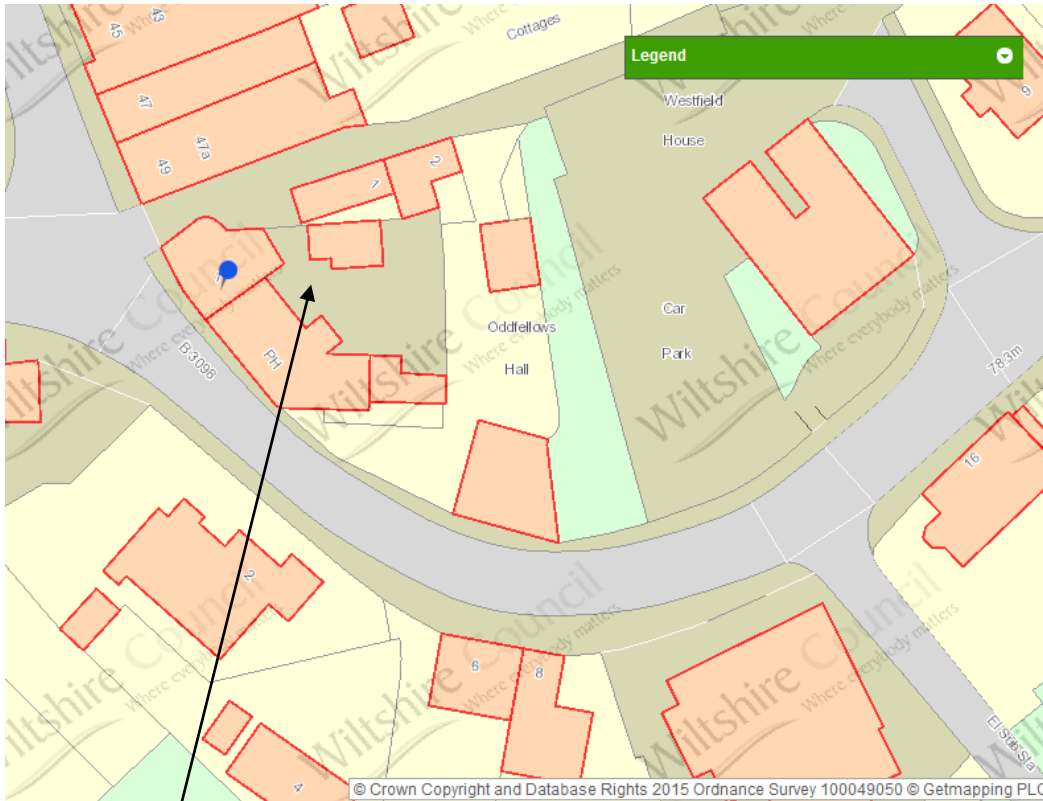
## Schedule 1

Reduce noise levels emanating from the ventilation equipment when in operation. This may be achieved by:

- Replacement of the equipment with plant that is capable of achieving LAeq15mins 35dB and NR30 when measured from mid court yard (See schedule 2) within the Castle,
- Relocation away from residential properties,
- attenuation through use of an enclosure or other engineering solutions
- or other such measures to achieve the noise levels specified above.

Ref: WK201513137  
1a Bratton Road  
Westbury  
Wiltshire  
BA13 3EN

**Schedule 2**  
**1a Bratton Road Westbury (Property Marked with a blue dot)**



This point denotes the measurement position

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**ENVIRONMENTAL PROTECTION ACT 1990, Section 80**

**Abatement Notice in respect of Statutory Nuisance**

To: Corner Food Shop Ltd  
1a Bratton Road  
Westbury  
Wiltshire  
BA13 3EN

Ref: 201513137

**TAKE NOTICE** pursuant to Section 80(1) of the Environmental Protection Act 1990 **WILTSHIRE COUNCIL** being satisfied of the ~~(existence)~~ ~~(likely)~~ (occurrence) ~~(recurrence)~~ of a statutory nuisance under Section 79(1)(d) of that Act at the premises known as Corner Food Shop Ltd within the district of Wiltshire Council arising from odour from the kitchen extract giving rise to a statutory odour nuisance to [REDACTED]

**HEREBY REQUIRE YOU** as the ~~(person responsible for the said nuisance)~~ ~~(owner)~~ (owner or occupier) of the premises within 12 weeks from the service of this Notice, to abate the same and also

**HEREBY (PROHIBIT) (RESTRICT)** the ~~(occurrence)~~ (recurrence) of the same and for that purpose require you to implement measures to control cooking odours that emanate from the ventilation system serving Corner Food Shop Ltd. In achieving this, regard should be had to the document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (Defra, 2005).

~~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 nuisance to which this Notice relates is (injurious to health) (likely to be of a limited duration such that suspension would render the Notice of no practical effect) (such that 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 £5,000 together with a further fine of an amount equal to one-tenth of that level (£500) for each day on which the offence continues after conviction. In the cases of offences committed on industrial, trade or business premises you will be liable 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 pursuant to Section 81(5). Further, if you fail to execute all or any of the works in accordance with this Notice, the Council has power under Section 81(3) and (4) to execute the works and recover from you the necessary expenditure incurred.

**DATED** 22 July 2015

Signed [REDACTED]  
Environmental Health Officer

Address for all communications:-

Wiltshire Council Public Protection Services Bythesea Road TROWBRIDGE Wilts BA14 8JN  
Tel 0300 456 0100 email [publicprotectionwest@wiltshire.gov.uk](mailto:publicprotectionwest@wiltshire.gov.uk)

**NB** 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 on the reverse of this form.

\*\*Currently £5,000 subject to alteration by Order.

Updated. 10 June 2013, v1.1

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Letter Pg 1

22nd July 2015

The Company Secretary  
Corner Food Shop Ltd  
1 Bratton Road  
Westbury  
Wiltshire  
BA13 3EN

Public Protection Services  
Pollution Team  
Wiltshire Council  
Byethesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Our ref: WK/201513137

Dear Sir or Madam

**The Environmental Protection Act 1990**  
**Re: Statutory Nuisance from Kitchen Extraction Unit at Corner Food Shop Ltd.**

Following my letter dated the 22<sup>nd</sup> June 2015, to Mr Refki Ibizi, I have visited the complainant to assess noise and odour from the extraction unit at the Corner Food Shop. The noise from the extraction is a statutory nuisance.

I therefore enclose Abatement Notice, which requires that the nuisance be abated within 12 weeks of the date of the notice.

In order to abate the nuisance, it is necessary to make sure the noise level is reduced. The notice requires that as a minimum noise from the unit achieves LAeq<sub>15mins</sub> 35dB and NR30 when measured from mid court yard within the Castle (Please see schedule 2). You should consider achieving this by noise attenuation means, or replacement.

I strongly recommend that you engage the services of a Building and Engineering Services Association (B&ES) registered company that specialise in commercial kitchen extraction systems, and attenuating noise from such systems. Although I cannot recommend any such companies, I enclose a list without prejudice (Appendix 1). It may also be necessary to seek the advice of a noise consultant. The Association of Noise Consultants (ANC) has a website which allows individuals to search for a locally based noise consultancy that is ANC registered. The web address is: [www.association-of-noise-consultants.co.uk](http://www.association-of-noise-consultants.co.uk).

On my visit, wafts of odour from the extract could be detected in the courtyard of The Castle, and was a statutory nuisance. You are advised to consult with a B&ES registered company, and ensure that there is an extraction system in place that does not cause an odour nuisance. The extraction system should conform to advice within 'Guidance on the Control of Odour and Noise from Commercial Kitchen Extracts' (Defra, 2005)

.....continued overleaf

Letter page 2

Please do not hesitate to contact me if you require any further information, although I do hope you can keep me informed of what actions will be taken with regard to this matter

Yours sincerely



**Damaris Broad**  
**Environmental Health Officer**

tel: 01225 716686

email: damaris.broad@wiltshire.gov.uk

Enc.



15<sup>th</sup> June 2015

Mr. T. Ibshii,  
1A Bratton Road,  
Westbury,  
Wiltshire  
BA13 3EN

Economic Development and Planning,  
County Hall,  
Trowbridge,  
Wiltshire  
BA14 8JN  
Email: [enforcement@wiltshire.gov.uk](mailto:enforcement@wiltshire.gov.uk)  
[www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

Dear Tony,

|                        |  |
|------------------------|--|
| <b>Reference No:</b>   | <b>15/00509/ENF</b>  |
| <b>Alleged breach:</b> | <b>Breach of condition 01 of planning permission reference W92/1137 dated 8<sup>th</sup> December 1992</b> |
| <b>Location:</b>       | <b>Corner Food takeaway, 1 Bratton Road, Westbury, Wiltshire BA13 3EN</b>                                  |

I refer to the above, my recent site visit and our subsequent telephone conversations.

As you know the Council has received representations regarding breaches of planning control at this site, which includes the above matter. I explained the permitted hours of operation over the telephone and sent you a copy of the planning permission. To remind you, condition 01 states:

*"In order to safeguard the amenities of local residents, the premises shall be used for the purposes hereby permitted only between the hours of 0900 and 2300 on each day Mondays to Fridays and between the hours of 0900 to 2330 on Saturdays and no trade shall take place on Sundays."*

The Council continues to receive representations that the premises are routinely open outside of the above hours. If this is correct, it is in breach of planning control and is not acceptable. The condition is liable to be monitored by officers to establish whether any breach is occurring.

In order to remedy this you should:

- a) Cease any trading outside of the permitted hours, or;
- b) apply for planning permission to vary the above condition.

The relevant forms, together with guidance on how to complete them and other information required to support your application, can be found on the Council's website at:

<http://www.wiltshire.gov.uk/planninganddevelopment/planningapplicationformsandfees.htm>

Planning officers are happy to discuss matters and give you advice on preparing your application by appointment, or you may have a planning consultant or architect that you propose to use. Please contact the planning office if you require any help and assistance in completing the forms etc. **However, please note that there is a fee for planning advice or pre-application advice provided by officers.**

Alternatively, further guidance is available on the Council's website at:

<http://www.wiltshire.gov.uk/environmentandplanning/planninganddevelopment.htm>

You are advised to pay close attention to the forms and guidance notes and do your best to submit an application which meets all the requirements to enable it to be registered, including submitting the correct numbers of copies of: the application forms -with the correct ownership certificate completed; accurate scaled plans; correctly coloured location plans; a design and access statement (where necessary) together with the relevant fee. Officers are also happy to check your application prior to submission to address any obvious omissions.

However, you should note that, if your submitted application is not considered capable of being registered and is invalid, it is liable to be returned to you immediately and formal enforcement action is then liable to commence without further notice being given.

Please note that the invitation to submit a planning and listed building application should not be taken as an indication that permission will be forthcoming. That is something for the Council to consider in the light of all the circumstances. However in the event of a refusal you would have the right of appeal to The Planning Inspectorate.

I must also inform you that in the event that the action required by a) or b) above is not carried out within twenty eight days from the date of this letter consideration will be given to formal enforcement action. Please could you advise me on your intended course of action, within the next 14 days.

In the event that enforcement action is taken by the Council, any notice served would be registered against the property and disclosed to prospective purchasers. The absence of planning permission/listed building consent is likely to delay the sale of the property or discourage prospective purchasers in future.

I also advised removal of the A board displayed on the highway. If further representations are received in this respect I will arrange for the board to be removed as an obstruction under highways legislation.

The views expressed in this letter represent an officer's opinion only and are not binding on any future decisions made by elected members of the Council or under powers delegated to officers.

If you wish to discuss the contents of this letter further, please feel free to contact me.

**MR STEPHEN HAWKINS**  
Team Leader (Enforcement)  
Wiltshire Council

For further enquiries please contact the above officer on  
Tel: 01 225 770 397 ext 15397  
Fax: 01 225 770 314

c.c. Messrs N & S Ismajli, 22 The Broadway, Wealdstone, Harrow Middlesex HE3 7EH