

25 July 2014

Public Protection Services
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Mr Daniel Hurring
Alexandra House
Church St
Upton Noble
Somerset
BA4 6AS

Our Ref: 201419548

Dear Mr Hurring

**Environmental Protection Act 1990
Complaint of Alleged Noise Nuisance from Loud Music at Thoulstone Park,
Thoulstone, Chapmanslade**

I regret to inform you that I have received a number of complaints with regard to noise from events that have occurred at Thoulstone Park, notably, the weekends of 12th and 13th July and 19th and 20th July.

I have, therefore, enclosed two legal Notices served under the Environmental Protection Act 1990, which require you to ensure the activities on the site which involve any form of music do not cause a statutory noise nuisance.

We have served two separate notices; one with respect to the Off Grid Festival and one with respect to parties and other events held at the premises.

Abatement Notice Ref: 201419556

This notice applies solely to the Off Grid Festival that is to run from 14th to 17th August 2014 and places various restrictions on the site, including the hours during which amplified music, recorded music and or musical instruments may be played and also sets maximum music noise levels.

You will note that the times match the times you submitted with your application for a Temporary Event Notice and the MNLs moreorless match the ones submitted with your draft Noise Management Plan.

You should be able to demonstrate and provide evidence that the notice and specified Music Noise Levels have been complied with.

To clarify section 7 of the schedule of the notice (and which forms part of the notice) refers to drumming workshops. This type of activity caused significant disturbance to those living in the locality during the Beltain Gathering event organised by "Sun Bird".

.....continued overleaf

Abatement Notice Ref: 201419548

This notice applies to the whole site on all dates apart from 14th to 17th August 2014 and requires you to take such measures as may be necessary to prevent statutory noise nuisance from being caused.


We will be monitoring the site including the Off-Grid Festival and would advise that if breaches are witnessed legal action may be taking having regard to our enforcement policy. Fines, on summary conviction in a Magistrates' Court, are up to £20,000 each time a notice is breached.

As stated previously, you are advised to review your proposals for the site and your Noise Management Plan. We would also suggest you apply for a premises licence for the site as this has the potential to bring clarity for all. We would propose a debrief meeting for September to review this year's activities, the impact on the community and future events.

Please note you will, of course, need to ensure that you have planning permission that covers you to carry out the activities/events you run/hold on site prior to running them.

Please do not hesitate to contact me should you seek further clarification or wish to discuss this matter.

Yours sincerely



PP Mrs Annabel Wilkinson
Environmental Health Officer

tel no 01225 770219

email: annabel.wilkinson@wiltshire.gov.uk

ENVIRONMENTAL PROTECTION ACT 1990, Section 80

Abatement Notice in respect of Noise Nuisance

To: Mr Daniel Hurring
Alexandra House
Church St
Upton Noble
Somerset
BA4 6AS

Ref: 201419548

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 from music amounting to a statutory nuisance under Section 79(1)(g) of that Act at:

1. 1 and 2 Thoulstone Cottages, Chapmanslade BA13 4AQ
2. Thoulstone Park House, 1 Thoulstone, Chapmanslade BA13 4AQ
3. Dilton Court, Hisomley , Dilton Marsh, BA13 4DE
4. Chalcot House, Chalcot Lane, Dilton Marsh BA13 4DF

(within the district of the said Council) arising from noise from the playing of amplified, recorded and musical instruments at Thoulstone Park former golf course, Thoulstone, Chapmanslade Wiltshire.

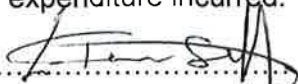
HEREBY REQUIRE YOU as the person responsible for the said nuisance and occupier of the premises from which the noise is or would be emitted forthwith from the service of this Notice, to take such measures as may be necessary to prevent statutory noise nuisance from being caused

This notice shall not apply between the 14th August 2014 and the 17th August 2014

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 25 July 2014

Signed: 
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

Linda Waugh
NO022

Version 1.1

15 .06. 09

APPEALS UNDER SECTION 80(3) of the ENVIRONMENTAL PROTECTION ACT 1990 ("the 1990 Act")

- 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 1980 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 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.
- (f) that, in the case of a nuisance under Section 79(1)(g) 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 Act 1974 ("the 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 Act 1993 (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 persons 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.
- (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 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) The 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.