


**URGENT BUSINESS AND SUPPLEMENTARY INFORMATION**
**Licensing Sub Committee**
**22 June 2022**

Agenda Item Number	Page	Title	Officer Responsible	Reason Not Included with Original Agenda
3.	(Pages 3 - 8)	Objection to Temporary Event Notice at 117 Bicester Road, Gosford, Kidlington, OX5 2PX  Additional Appendices to the report from Environmental Health  Appendix I - Abatement Notice for a Statutory Nuisance  Appendix J - Alleged breach of Abatement Notice letter  Appendix K- Letter informing of an Investigation into alleged breach of abatement order on 3rd to 5th June 2022	Chris Pegler, Lead Licensing Enforcement Officer	Additional information from Environmental Health

*If you need any further information about the meeting please contact Aaron Hetherington / Emma Faulkner, Democratic and Elections [democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk), 01295 227956*

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**ENVIRONMENTAL PROTECTION ACT 1990, section 80**
**Abatement Notice in respect of Statutory Nuisance**
**To:** Stephen Saunders

**Of:** [REDACTED]

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the Cherwell District Council ("the Council") being satisfied of the likely occurrence of a statutory nuisance under section 79(1)(g) of that Act at **OS Parcel 5987 Adj River Cherwell An!1 Part Of A34 By Hampton Gay And Poyle Hampton Gay And Poyle Oxfordshire (also known as Casa A ido)**

within the district of the said Council arising from: **loud music causing a nuisance to residential premises.**

**HEREBY REQUIRE YOU as the person responsible for the said nuisance within 1 day from the service of this notice to abate the same and also**

**HEREBY PROHIBIT the recurrence of the same.**

THIS is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisances (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 nuisance to which this notice relates is likely to be of a limited duration such that suspension would render the notice of no practical effect and 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 the greater of £5000 or level 4 on the standard scale 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 of any amount.

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.

**Signed** [REDACTED]

Dated: 20• August 2021

 Designation: Environmental Health Officer  
 (the officer appointed for this purpose)

*address to which all communications should be sent:-*

Cherwell District Council  
 Bodicote House  
 Bodicote  
 Banbury  
 Oxfordshire  
**OX15 4AA**

**N.B.** A person served with this notice may appeal against the notice to a magistrates' court within 21 days beginning with the date of service of the notice. See notes on the reverse of this form. Oxfordshire Magistrates' Court address is The Court House, Speedwell St, Oxford OX11RZ Telephone number: 01865 448020

Notice Reference: 21/00094/EP79G

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

**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, 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(1Xa),(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(1Xb) of the 1990 Act and the smoke is emitted from a chimney; or
    - (iii) is a nuisance falling within section 79(1Xga) 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(1Xg) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1Xa) of that 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(1Xga) 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(1Xa) 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 of 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 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.
- (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 an 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 power 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 NOTICES**

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.

## Regulatory Services & Community Safety

Richard Webb – Assistant Director



**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

Mr Stephen Saunders  
[REDACTED]

Bodicote House  
Bodicote  
Banbury  
Oxfordshire  
OX15 4AA

[www.cherwell.gov.uk](http://www.cherwell.gov.uk)

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Please ask for:	Neil Whitton	Direct Dial: +441295221623
Email:	<a href="mailto:Neil.Whitton@Cherwell-DC.gov.uk">Neil.Whitton@Cherwell-DC.gov.uk</a>	Our Ref: EP94 / 140941

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21 April 2022

Dear Mr Stephen Saunders

**Environmental Protection Act 1990 Part III  
Complaint Alleging Breach of Abatement Notice at: Os Parcel 5987 Adj River Cherwell And,  
Hampton Gay And Poyle, Oxfordshire**

I am in receipt of several complaints alleging a breach of the requirements of the abatement notice served on you on 20th August 2021 in connection with loud music causing a nuisance to residential premises.

I would draw to your attention to the requirements of the notice which are that you abate the nuisance in order to prevent any further disturbance being experienced by your neighbours.

An investigation into the allegations will now take place and should a breach of the abatement notice be witnessed then consideration will be given to the instigation of legal proceedings against you.

A copy of our noise policy and procedure can be found at:

<http://www.cherwell.gov.uk/index.cfm?articleid=1742>

Yours sincerely

**Neil Whitton**  
Environmental Health Officer  
Environmental Protection Team

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## Regulatory Services & Community Safety

Richard Webb – Assistant Director



**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

Mr Stephen Saunders  
[REDACTED]

Bodicote House  
Bodicote  
Banbury  
Oxfordshire  
OX15 4AA

[www.cherwell.gov.uk](http://www.cherwell.gov.uk)

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Please ask for:	Neil Whitton	Direct Dial: +441295221623
Email:	Neil.Whitton@Cherwell-DC.gov.uk	Our Ref: EP94 / 143355

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06 June 2022

Dear Mr Stephen Saunders

**Environmental Protection Act 1990 Part III  
Complaint Alleging Breach of Abatement Notice at: Os Parcel 5987 Adj River Cherwell And,  
Hampton Gay And Poyle, Oxfordshire**

I am in receipt of a numbers of complaints alleging a breach of the requirements of the abatement notice served on you on 20<sup>th</sup> August 2021 in connection with loud music from events at the above site.

I would draw to your attention to the requirements of the notice which are that you abate the nuisance in order to prevent any further disturbance being experienced by your neighbours.

I am aware that a Temporary Event Notice (TEN) was granted for the event from the 3<sup>rd</sup> to 5<sup>th</sup> June after a colleague had spoken with event organiser (James Nelson) who assured him that the music would not be audible at nearby residential premises and that they would check this.

Clearly this didn't happen based on the large number of complaints received by us and the police. I have therefore decided any such applications in the future will receive an objection to the licensing department from Environmental Protection based on the history of noise nuisance from the site.

As we discussed when I issued you with the notice this site is not appropriate for the type of events that you are hosting as they are causing a nuisance for large number of nearby residents.

An investigation into the allegations will now take place and should a breach of the abatement notice be witnessed then consideration will be given to the instigation of legal proceedings against you.

APPENDIX K

A copy of our noise policy and procedure can be found at:

<http://www.cherwell.gov.uk/index.cfm?articleid=1742>

Yours sincerely

**Neil Whitton**  
**Environmental Health Officer**  
**Environmental Protection Team**

CC: James Nelson [REDACTED]  
CDC Licensing Department (via email)  
Thames Valley Police, Kidlington (via email)