

Mr Daniel Apsee,

Gwasanaethau Rheoliadol a Rennir / Shared Regulatory Services

Deialu uniongyrchol / Direct line: **0300 123 6696**

Gofynnwch am / Ask for: **Matthew Jones**

Ein cyf / Our ref: **B / MJO / 1139493**

Eich cyf / Your Ref:

Dyddiad / Date: **24th October 2024**

Dear Mr Apsee,

ENVIRONMENTAL PROTECTION ACT 1990 (AS AMENDED)
NOISE NUISANCE DUE TO AMPLIFIED MUSIC & SPEECH
ADDRESS: THE LOFT BAR, 14 & 20 NOLTON STREET, BRIDGEND, CF31 1DU

I refer to our recent conversation on 18th September 2024 regarding complaints of amplified music and speech emanating from above premises. Unfortunately, further complaints of excessive levels of noise have been received by this Service from multiple complainants, on multiple dates. Investigations by officers of this department have confirmed the likely recurrence of a statutory nuisance following a site visit on Saturday 19th October 2024 where the amplified music and speech was witnessed by 2 officers of this department that amounted to a statutory nuisance.

As a result, I enclose an Abatement Notice under Section 80 of the Environmental Protection Act 1990 that requires you to ensure that the volume of amplified music and speech does not materially interfere with the enjoyment of any other premises. Failure to comply with this Notice is a criminal offence which could result in prosecution and/or confiscation of your sound equipment. You have the right to appeal this notice. An appeal must be made to a Magistrate's Court within 21 days of the date of this notice. The grounds for appeal can be found on the back of the notice.

If you have any queries regarding this matter, please do not hesitate in contacting me on the above number or by e-mail at majones@valeofglamorgan.gov.uk.

Yours faithfully



Matthew Jones, Housing and Pollution Enforcement Supervisor

Mae'r Cyngor yn croesawu gohebiaeth yn Gymraeg a Saesneg a byddwn yn sicrhau ein bod yn cyfathrebu â chi yn yr iaith o'ch dewis, boed yn Saesneg, yn Gymraeg neu'n ddwyieithog cyhyd â'n bod yn ymwybodol o'ch dewis. Cysylltwch â safonaucymraeg@bromorgannwg.gov.uk i nodi dewis iaith. Os na fyddwn yn derbyn eich dewis iaith, byddwn yn parhau i gyfathrebu â chi yn unol â'r weithdrefn bresennol. Ni fydd gohebu yn Gymraeg yn creu unrhyw oedi.

The Council welcomes correspondence in English or Welsh and we will ensure that we communicate with you in the language of your choice, whether that's English, Welsh or in Bilingual format as long as we know which you prefer. Please contact welshstandards@valeofglamorgan.gov.uk to register your language choice. If we do not receive your language choice, we will continue to correspond with you in accordance with current procedure. Corresponding in Welsh will not lead to any delay.

CC Kirsty Evans, Licensing Manager, Bridgend County Borough Council
Fiona Colwill, Licensing Officer, South Wales Police

ENVIRONMENTAL PROTECTION ACT 1990 SECTION 80

ABATEMENT NOTICE : STATUTORY NUISANCE

To: MR DANIEL APSEE

Of:

1. TAKE NOTICE that the Shared Regulatory Service, an enforcement authority for (“the local authority”) for the purposes of the aforementioned legislation, is satisfied of the **likely recurrence** of a statutory nuisance under Section 79(1)(i) of that Act at the premises known as **The Loft Bar, 14 & 20 Nolton Street, Bridgend, CF31 1DU** arising from **amplified music and speech**.
2. HEREBY REQUIRE YOU as the **person(s) responsible for the said nuisance** to abate the nuisance **immediately** from the service of this notice **and to hereby prohibit the recurrence of the same** and for that purpose require you to:

Ensure that the volume of amplified music and speech does not materially interfere with the use and enjoyment of any other premises.
3. 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 of any amount, together with a further fine of up to £500 for each day on which the offence continues after conviction. A person(s) who commits an offence on an industrial, trade or business premises will be liable on summary conviction to a fine of any amount.
4. The person(s) on whom this notice is served may appeal to a magistrates’ court against the notice. Any appeal must be made within the period of 21 days beginning with the date of this notice.
5. 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 local authority; **the expenditure which would be incurred by any person(s) 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.**

Signed:



Dated:

24th October 2024

Name:

MATTHEW JONES, HOUSING AND POLLUTION ENFORCEMENT SUPERVISOR

Address:

Shared Regulatory Services, Civic Offices, Angel Street, Bridgend, CF31 4WB

Tel:

0300 123 6696

Email:

majones@valeofglamorgan.gov.uk

Please read these notes carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

Appeal

The Statutory Nuisance (Appeals) Regulations 1995.

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(s) 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), (fa) 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 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,
 - (iv) is a nuisance falling within section 79(1)(fb) of the 1990 Act and –
 - (aa) the artificial light is emitted from industrial, trade or business premises, or
 - (bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility (within the meaning given by section 80(8A) of the 1990 Act),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 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 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;

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- (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.

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(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.

A person served with an abatement notice may appeal against the notice to a magistrates' court within the period of 21 days beginning with the date on which this notice is served.

Cardiff Magistrates' Court , Fitzalan Place, Cardiff, CF24 0RZ

Email sw-cardiffmceng@justice.gov.uk Telephone 029 2046 3040 Fax 0870 324 0236

Additional Notes

Additional powers for local authority to secure abatement of nuisance - (Section 81(3) of the Environmental Protection Act 1990) (Section 10 of the Noise Act 1996)

Where an abatement notice has not been complied with the local authority may, whether or not they take proceedings for an offence as above, abate the nuisance and do whatever may be necessary in execution of the notice. This can involve the local authority carrying out the works in default and in relation to noise nuisance include the local authority seizing and removing any equipment which it appears to the authority is being or has been used in the emission of noise.

Any expenses reasonably incurred by a local authority in abating, or preventing the recurrence of, a statutory nuisance may be recovered by them from the person by whose act or default the nuisance was caused and, if that person is the owner of the premises, from any person who is for the time being the owner thereof; and the court may apportion the expenses between persons by whose acts or defaults the nuisance is caused in such manner as the court consider fair and reasonable.

If a local authority is of opinion that proceedings for an offence as above would afford an inadequate remedy in the case of any statutory nuisance, they may, take proceedings in the High Court for the purpose of securing the abatement, prohibition or restriction of the nuisance, and the proceedings shall be maintainable notwithstanding the local authority have suffered no damage from the nuisance.

Recovery of expenses (Section 81(4) and 81(A) of the Environmental Protection Act 1990)

Any expenses reasonably incurred by a local authority in abating, or preventing the recurrence of, a statutory nuisance may be recovered by them from the person by whose act or default the nuisance was caused. The expenses also carry interest, at such reasonable rate as the local authority may determine.

A demand for recoverable expenses will be served on each person from whom the local authority are seeking to recover them.

Where the local authority are seeking to recover expenses from an owner of the premises; until recovered, the expenses recoverable by the local authority together with any accrued interest on them, are a charge on the premises to which the abatement notice relates. This means that it will be recorded in the register of local land charges kept by the local authority. This register is public and anyone may search for entries in it upon payment of a fee. Purchasers will normally search this register. For the purposes of enforcing the charge, the local authority have the same powers and remedies, under the Law of Property Act 1925(c.20) and otherwise, as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.