

Little Angel (Whitby) Limited  
18 Flowergate  
Whitby  
YO21 3BA

Your Ref:  
Our Ref: 22/01266/ERN060/EHTC

23 September 2022

Dear Sirs

**Environmental Protection Act 1990  
Licensing Act 2003**

**Re: Noise complaints- The Little Angel Public House, 17-18 Flowergate, Whitby,  
YO21 3BA – Service of abatement notices**

Further to the letter dated 27 April 2022 and follow up emails on the 5 May 2022 and 24 June 2022.

I have for some time been investigating complaints alleging loud music (live and recorded), noisy patrons in the rear beer garden late at night and emptying of beer bottles.

I have now concluded that you are causing a statutory nuisance from these activities.

As a result the local authority is duly bound to serve notices upon you.

Please find enclosed the following notices:

22/00041/EHN101/EHTC- arising from the tipping of empty bottles or cans into external bins – compliance immediately

22/00040/EHN101/EHTC- arising from patrons talking, shouting, laughing and singing in the rear beer garden – compliance immediately

22/00039/EHN101/EHTC – arising from the playing of live and recorded music at such a level it is clearly audible at nearby residential property – 28 days compliance period

Failure to comply with the notices is an offence. You may appeal to Scarborough Magistrates Court within 21 days of the service of this notice.

Yours faithfully

Tim Croot

Tim Croot

Served a true copy of the notice on Little Angel (Whitby) Limited at 13:30 hrs on 23/9/22 by hand delivery to premises by T. Croot this 23 day of September 2022 Signed [Signature]	wendy lowts
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Environmental Health Officer

✉ [tim.croot@scarborough.gov.uk](mailto:tim.croot@scarborough.gov.uk)

🌐 [www.scarborough.gov.uk](http://www.scarborough.gov.uk)

☎ 01723 232571

Scarborough Borough Council  
Environmental Services  
Town Hall  
St Nicholas Street  
Scarborough  
YO11 2HG  
Telephone: (01723) 232323

Director: Paul Thompson



**ENVIRONMENTAL PROTECTION ACT 1990, Section 80**

**Abatement Notice in respect of Statutory Nuisance**



Our Ref: 22/00039/EHN101/EHTC

To: Little Angel (Whitby) Limited  
At: 18 Flowergate, Whitby, North Yorkshire, YO21 3BA

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the Scarborough Borough Council being satisfied of the likely recurrence of a statutory nuisance under section 79(1) (g) of that Act at the premises neighbouring The Little Angel Public House, 18 Flowergate, Whitby, North Yorkshire, YO21 3BA, within the district of the said Council, arising from the playing of live and recorded music at the Little Angel Public House, 18 Flowergate, Whitby, North Yorkshire, YO21 3BA at such a level it is clearly audible at nearby residential property.


**HEREBY REQUIRE YOU** as the person responsible for the said nuisance, 28 days from the service of this notice, to


**HEREBY PREVENT** the recurrence of the same.

**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. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to an unlimited fine.

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:   
Name: Tim Croot  
Designation: Environmental Health Officer  
Date: 23 September 2022  
Address: Commercial Regulation Team, Environmental Services, Scarborough Borough Council, Town Hall, St Nicholas Street, Scarborough, YO11 2HG  
Telephone: 01723 232323  
e-mail: crt@scarborough.gov.uk

Served a true copy of the notice  
on Little Angel (Whitby) Limited - Wendy Lewis  
at 13.30 hrs 23/9/22 by  
hand delivery to premises  
by T. Croot  
this 23 day of September 2022  
Signed 

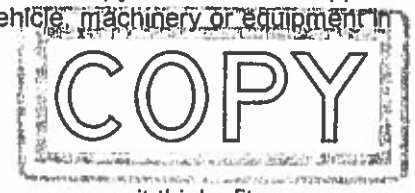
**NB** The person served with this notice may appeal against the notice to a magistrates' court within twenty one days beginning with the date of service of the notice. See notes attached to this form.

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(3) 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 section 79(1)(ga)(a) 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 practicable 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 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 (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 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,
    - (ii) a person who is also an 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,

- (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 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 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 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 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 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 if 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.

Served a true copy of the notice of the grounds set out in paragraph (2) apply at 13:30 hrs 23/9/22 by hand delivery to premises by F Oroot this 23 day of September 2022 Signed [Signature]

Wendy Lewis

and that it would have been equitable for it to have been so served.

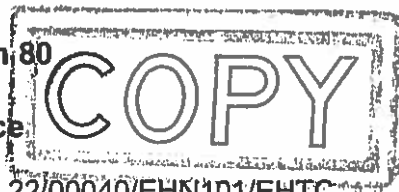
Scarborough Borough Council  
Environmental Services  
Town Hall  
St Nicholas Street  
Scarborough  
YO11 2HG  
Telephone: (01723) 232323

Director: Paul Thompson



**ENVIRONMENTAL PROTECTION ACT 1990, Section 80**

**Abatement Notice in respect of Statutory Nuisance**



Our Ref: 22/00040/EHN101/EHTC

To: Little Angel (Whitby) Limited  
At: 18 Flowergate, Whitby, North Yorkshire, YO21 3BA

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the Scarborough Borough Council being satisfied of the likely recurrence of a statutory nuisance under section 79(1) (g) of that Act at the premises neighbouring The Little Angel Public House, 18 Flowergate, Whitby, North Yorkshire, YO21 3BA, within the district of the said Council, **arising from patrons talking, shouting, laughing and singing in the rear beer garden.**

**HEREBY REQUIRE YOU** as the person responsible for the said nuisance, immediately from the service of this notice, to

**HEREBY PREVENT** the recurrence of the same.


**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. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to an unlimited fine.

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:   
Name: Tim Croot  
Designation: Environmental Health Officer  
Date: 23 September 2022  
Address: Commercial Regulation Team, Environmental Services, Scarborough  
Borough Council, Town Hall, St Nicholas Street, Scarborough, YO11  
2HG  
Telephone: 01723 232323  
e-mail: crt@scarborough.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.

Served a true copy of the notice on Little Angel (Whitby) Limited at 13:30 hrs on 23/9/22 by hand delivery to premises by T. Croot this 23 day of September 2022 Signed 

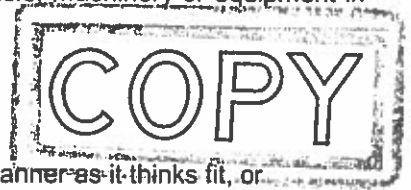
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- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case:-
- (a) that the abatement notice is not justified by section 80(3) 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 section 79(1)(ga)(a) 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 practicable 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 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 (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 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,
    - (ii) a person who is also an 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,



- (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 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 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 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 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 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 if 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) applies.

Served a true copy of the notice  
 at 13:30 hrs 23/9/22 by hand delivery to premises  
 by T. Crook  
 this 23 day of September 2022  
 Signed [Signature]

Witnessed  
 Wendy  
 Lewis

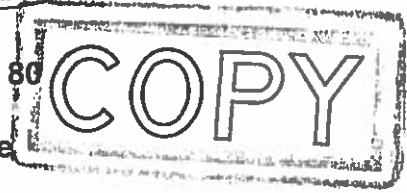
and that it would have been equitable for it to have been so served.

Scarborough Borough Council  
Environmental Services  
Town Hall  
St Nicholas Street  
Scarborough  
YO11 2HG  
Telephone: (01723) 232323

Director: Paul Thompson



ENVIRONMENTAL PROTECTION ACT 1990, Section 80



Abatement Notice in respect of Statutory Nuisance

Our Ref: 22/00041/EHN101/EHTC

To: Little Angel (Whitby) Limited  
At: 18 Flowergate, Whitby, North Yorkshire, YO21 3BA

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the Scarborough Borough Council being satisfied of the likely recurrence of a statutory nuisance under section 79(1) (g) of that Act at the premises neighbouring The Little Angel Public House, 18 Flowergate, Whitby, North Yorkshire, YO21 3BA, within the district of the said Council, **arising from the tipping of empty bottles or cans into external bins.**

**HEREBY REQUIRE YOU** as the person responsible for the said nuisance, immediately from the service of this notice, to

**HEREBY PREVENT** the recurrence of the same.

**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. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to an unlimited fine.

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:   
Name: Tim Croot  
Designation: Environmental Health Officer  
Date: 23 September 2022  
Address: Commercial Regulation Team, Environmental Services, Scarborough Borough Council, Town Hall, St Nicholas Street, Scarborough, YO11 2HG  
Telephone: 01723 232323  
e-mail: crt@scarborough.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. Use notes attached to this form.

Served a true copy of the notice on Little Angel (Whitby) Limited at 13:30 hrs 23/9/22 by hand delivery to premises by T. Croot this 23 day of September 2022 Signed T. Croot

on Little Angel (Whitby) Limited at 13:30 hrs 23/9/22 by hand delivery to premises by T. Croot this 23 day of September 2022 Signed T. Croot

Wendy Lewis

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- (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(3) 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 section 79(1)(ga)(a) 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 practicable 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 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 (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 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,
    - (ii) a person who is also an 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,

- (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 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 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 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 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 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 if 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.

Served a true copy of the notice  
 on Mr. and Mrs. Anthony Limited as per  
 at 13:30 hrs on 23/9/22 by Louis  
had delivery to premises  
 by SF Wood  
 this 23 day of September 2022  
 Signed [Signature]

and that it would have been equitable for it to have been so served.