

ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80

NOTICE TO ABATE A STATUTORY NUISANCE



To: [Redacted]

Of: **The Whitebeach, 24 Upper Maze Hill, St Leonards-on-sea, East Sussex, TN38 0LA**

TAKE NOTICE that the Hastings Borough Council ("The Council"), being satisfied of the existence and likely recurrence of noise amounting to a statutory nuisance under section 79(1)(g) of that Act at **The Whitebeach, 24 Upper Maze Hill, St Leonards-on-sea, East Sussex, TN38 0LA** arising from **playing of amplified music**

HEREBY REQUIRE YOU as the [person responsible for the said nuisance] [Redacted] of the premises from which the noise is or would be emitted **immediately** from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same

And take further notice that the Council being of the opinion that **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.** The Notice shall not in the event that you appeal against it be suspended until the appeal has been decided by the Court or abandoned.

If without reasonable excuse you contravene or fail to comply with any requirement or prohibition imposed by this Notice you will be guilty of an offence under section 80(4) of the Environmental Protection Act 1990, punishable on summary conviction by an **unlimited fine** and possibly a daily fine of one tenth of the greater of £5,000 or level 4 on the standard scale if the offence continues thereafter.

And take further notice that where this Notice is not complied with the Council may, without prejudice to its power to take proceedings as aforementioned, itself abate the nuisance and do whatever may be necessary in execution of this Notice and recover from you the expenses reasonably incurred in so doing.

Dated: 14th June 2018

Signed: [Redacted Signature]
(The Officer appointed for this purpose)

Our Ref: WK201606219

N.B. See notes on the reverse of this form.

Head of Environmental Health, 3rd Floor, Muriel Matters, Breeds Place, Hastings, East Sussex, TN34 3UY – Tel 01424 451079 www.hastings.gov.uk

Appeals may be made against this Notice to a Magistrates Court. Any such appeal must be brought within 21 days of the date of service of the Notice. There is a fee payable to the Court should you wish to pursue an appeal. We advise you speak to the Court concerning this.

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

2(2) The grounds on which a person served with (an Abatement Notice) may appeal under S80 (3) (of the Environmental Protection Act 1990) 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;
- (b) that there has been some informality, defect or error in, or in connection with, the Abatement Notice, 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.
 - (iii) is a nuisance falling within section 79(1)(ga)[4]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, 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"), or
 - (ii) any consent given under Section 61 or 65 of the 1974 Act, or
 - (iii) any determination made under Section 67 of the 1974 Act;
- (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 of 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 equipmentand that it would have been equitable for it to have been so served.

Certificate of Service by Post

Magistrates' Courts Rules 1981, Rules 67 9

I [REDACTED]of Hastings Borough Council hereby certify that I served the persons listed with the attached papers of which this is a true copy, by sending to them in a prepaid envelope (first class) posted by me and collected from the Muriel Matters House, Breeds Place, Hastings by an employee of the Royal Mail at approximately 15:30 on 14/6/18 and addressed to them at their respective addresses. These addresses being their last known address (or usual) place of abode.

Environmental Protection Act 1990 – in respect of:

The Whitebeach, 24 Upper Maze Hill, St Leonards-on-sea, East Sussex, TN38 0LA

Recipient(s):

[REDACTED] The Whitebeach, 24 Upper Maze Hill, St Leonards-on-sea, East Sussex, TN38 0LA

I believe that the facts stated in this Certificate of Service dated 14/6/18 are true.

Signed [REDACTED]

Date 14/6/18

