



**Winchester**  
City Council

TRUE COPY SERVED BY HAND/POSTED

MR. JOHNATHAN SPENCE

Uniform case & notice references

24/01261 / N01NRH & 24/00015/EPABAT

Address & exact location/person served on

LUCKY HOOF 2023 LTD, 47 TYNE ROAD, OAKHAM, RUTLAND. LE15 6SJ

Date & time of service

24.9.24 at ~ 1430 HRS.

Officer (name & signature) MRS ABIGAIL TOMS

**ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80**

**Abatement Notice in Respect of Statutory Nuisance**

**Ref: 24/00015/EPABAT**

**To:** Lucky Hoof 2023 Ltd

**Of:** 47 Tyne Road, Oakham, Rutland, United Kingdom, LE15 6SJ

Take Notice that Winchester City Council ('the Council') is satisfied of the existence and likely recurrence of a statutory nuisance under Section 79(1)(g) of the Environmental Protection Act ('the Act') at residential premises adjacent to The Rising Sun, 27 Spring Lane, Colden Common, Winchester. Hampshire. SO21 1SB within the district of the Council.

The nuisance is: **Noise from loud voices, television and speakers within the car park of The Rising Sun, 27 Spring Lane, Colden Common Winchester. Hampshire. SO21 1SB (as marked on the attached map)**

You are: **The company responsible for the nuisance**

What you are required to do: **To abate the nuisance and thereafter neither to cause, permit nor otherwise allow its recurrence.**

Time for compliance: **Within 28 days from the date of service of this notice**

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 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 would not be disproportionate to the public benefit to be expected in that period from such compliance**

**WARNING:**

1. If without reasonable excuse you contravene or fail to comply with any requirements of this notice you will be committing an offence under Section 80(4) of the Act. On summary conviction an unlimited fine may be imposed.
2. The Council may also take proceedings in the High Court for securing the abatement of the nuisance. Further, if you fail to execute any or all of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure.

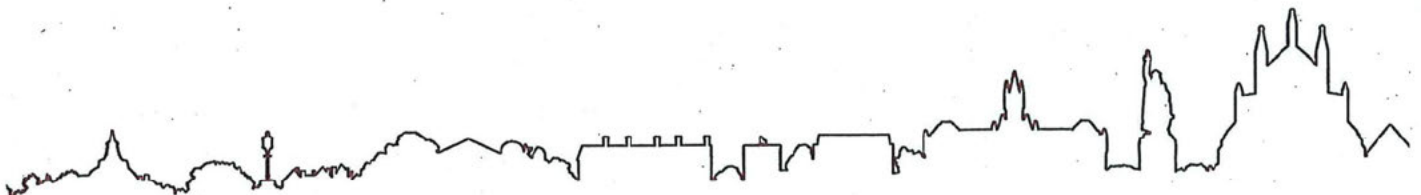
Dated: 24<sup>th</sup> September 2024

Signed: 

Name: Abigail Toms

Designation: Environmental Protection Manager

**RIGHT OF APPEAL:** You may appeal against this notice to a Magistrates Court within 21 days beginning with the date of the service of this notice. The grounds of appeal prescribed in the Regulations are detailed in the accompanying





notes.

## Notes

The Statutory Nuisance (Appeals) Regulations 1995 provides 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 magistrate) 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 connection with any copy of the abatement notice served under section 80(A)(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] of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, business or trade 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[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 1974 Act (consent for work 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 of 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 in addition to 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 connection with, any copy of the notice served under section 80[A][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 hearing 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 has been varied under sub-paragraph b) above shall be final and shall otherwise have effect, as so varied, as if it had been made so by the local authority.

[6] Subject to paragraph [7] below, on 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 80(A) 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 an 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 a 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 practicable 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.

Map accompany Abatement Notice (reference 24/00015/EPABAT)

