

**KETTERING BOROUGH COUNCIL**  
**ENVIRONMENTAL PROTECTION ACT 1990 - SECTION 80**  
**ABATEMENT NOTICE**

To: Ronan Flood

Ref: 86365RF

(Please quote in all correspondence relating to the notice)

Of: 4 Montagu Street, Kettering, NN16 8RU

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990, Kettering Borough Council ("the Council") being satisfied / that a nuisance has occurred and is likely to recur/~~of the existence\* / the likely occurrence\* of a statutory nuisance\*~~ by virtue of Section 79(1)(a)~~premises\* / (b) smoke\* / (c) fumes\* / gases\* / (d) dust\* / steam\* / small\* / effluvia\* / (e) accumulation\* / deposit\* / (f) animal\* / (g) noise\* / (ga) noise in the street\* / (fa) insects\* (fb) artificial light at:~~

The Angel Public House, 8 Carrington Street, Kettering NN16 0BY

within the District of the Council.

**THE NUISANCE IS DUE TO: Noise arising from the amplified playing of recorded music**

**THE COUNCIL DO HEREBY REQUIRE YOU** as the person responsible for the nuisance\*/owner/occupier **TO:** abate\*/prevent the occurrence / recurrence of\* the said nuisance forthwith\*/ within \_\_\_\_\_ minutes\*/days\* from the service of this notice upon you

~~The said Council are also satisfied that such nuisance is likely to recur and accordingly **HEREBY PROHIBIT** its recurrence forthwith\*/ within \_\_\_\_\_ minutes\*/days\* from the service of this notice upon you.\*~~

~~The period specified for compliance with this notice shall be extended by \_\_\_\_\_ minutes\*/hours\* in accordance with Section 80A(4) of the Environmental Protection Act 1990\*.~~

**WARNING**

If you fail to comply with any of the requirements of this notice you may be prosecuted by the Council for an offence under Section 80(4) of the Environmental Protection Act 1990. On summary conviction you will be liable to a fine not exceeding level 5 on the standard scale (currently £5000) together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after the conviction, unless the offence relates to industrial, trade or business premises where the fine may not exceed £20,000. The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, the Council reserves the right to execute any necessary works to abate the nuisance themselves and recover from you any expenditure incurred.

**RIGHT OF APPEAL**

You have the right of appeal against this notice to NORTHAMPTONSHIRE MAGISTRATES COURT, Court Office, Regent's Pavilion, Summerhouse Road, Moulton Park, Northampton NN3 6AS. within a period of twenty one days beginning with the date of service of this notice.

After balancing your interests and the interests of those adversely affected by the nuisance in the event of an appeal this notice will\* / will not\* be suspended as specified in the grounds set out in paragraph 10(ii)\*/(iii)\* in the notes accompanying this notice.

Your attention is drawn to the notes accompanying this notice

Dated: 7th September 2011

Signed   
Duly Authorised Officer

All communications in connection with this notice to be addressed to the:

**Environmental Services Manager,**  
**Kettering Borough Council, Bowling Green Road, Kettering, Northamptonshire NN15 7QX**  
**Telephone 01536 534280**

**ENVIRONMENTAL PROTECTION ACT 1990, NOISE AND STATUTORY NUISANCE ACT 1993**  
**STATUTORY NUISANCE (APPEALS) REGULATIONS 1995, CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005**

1. Where a Local Authority is satisfied that a statutory nuisance exists, or is likely to occur or recur, in the area of the Authority, the Local Authority shall serve a notice ('an abatement notice') imposing all or any of the following requirements:-
  - (a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;
  - (b) requiring the execution of such works, and the taking of such other steps, as may be necessary for any of these purposes, and the notice shall specify the time or times within which the requirements of the notice are to be complied with.
2. The abatement notice shall be served:-
  - (a) Except in a case of falling within paragraph (b) or (c) below, on the person responsible for the nuisance.
  - (b) Where the nuisance arises from any defect of a structural character, on the owner of the premises.
  - (c) Where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, on the owner or occupier of the premises.
  - (d) Where the person responsible for the vehicle, machinery or equipment can be found, on that person.
  - (e) Where the person cannot be found or where the Local Authority determines, by fixing the Notice to the vehicle.
  - (f) Where an Abatement Notice is served in accordance with (d) above, and the person responsible for the vehicle, machinery or equipment can be found and served with a copy of the Notice within 1 hour of the Notice being fixed to the vehicle, machinery or equipment, a copy of the Notice shall be served on that person accordingly.
  - (g) Where an abatement Notice is served in accordance with (f) above, the Notice shall state that, if a copy of the Notice is subsequently served under (f) above, the time specified for compliance with the Notice will be extended by such further period as is specified in the Notice.
3. A person with the notice may appeal against the service of a notice to a Magistrates' Court within the period of twenty-one days beginning with the date on which he was served with the notice under Section 80(3) of the Environmental Protection Act 1990.
4. The grounds on which a person served with such a notice may appeal are one or more of the following that are appropriate in the circumstances of the particular case:
  - (a) that the notice is not justified by section 80 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 80(A)(3);
  - (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 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), (f), (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, that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
  - (f) 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 occurred, the owner or occupier of the premises;
  - (g) 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;
  - (h) 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 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.
5. If and so far as an appeal is based on the grounds 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.
6. Where the grounds upon which an appeal is brought include a ground specified in paragraph (4)(g) or (h) 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 person having an estate or interest in the premises, vehicle, machinery or equipment in question.
7. 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 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.
8. If a person on whom an abatement notice is served, without reasonable excuse, contravenes or fails to comply with the requirement or prohibition imposed by the notice, he shall be guilty of an offence. A person who commits such an offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after the conviction, except in the case where a person who commits such an offence does so on industrial, trade or business premises then he shall be liable on summary conviction to a fine not exceeding 20,000.
9. Where an abatement notice has not been complied with the Local Authority may whether or not they take proceedings for an offence for non-compliance, abate the nuisance and do whatever may be necessary in execution of the notice. 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 or persons by whose act or default the nuisance was caused.
10. Where an appeal is brought against an Abatement Notice the notice will be suspended pending the outcome of the appeal, except where the nuisance to which the 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
  - (iii) 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.

In such circumstance the notice will not be suspended pending the outcome of the appeal.

07/09/11

**KETTERING BOROUGH COUNCIL**  
**ENVIRONMENTAL PROTECTION ACT 1990 - SECTION 80**  
**ABATEMENT NOTICE**

To: Simon Green

Ref: 86365SG

(Please quote in all correspondence relating to the notice)

Of: 4 Danesholme Square, Corby, NN18 9EJ

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990, Kettering Borough Council ("the Council") being satisfied / that a nuisance has occurred and is likely to recur/~~of the existence\* / the likely occurrence\* of a statutory nuisance\*~~ by virtue of Section 79(1)(a)~~premises\* / (b)smoke\* / (c)fumes\* / gases\* / (d)dust\* / steam\* / smell\* / effluvia\* / (e)accumulation\* / deposit\* / (f)animal\* / (g) noise\* / (ga) noise in the street\* / (fa) insects\* (fb) artificial light at:~~

The Angel Public House, 8 Carrington Street, Kettering NN16 0BY

within the District of the Council.

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**RIGHT OF APPEAL**

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  - (c) Where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, on the owner or occupier of the premises.
  - (d) Where the person responsible for the vehicle, machinery or equipment can be found, on that person.
  - (e) Where the person cannot be found or where the Local Authority determines, by fixing the Notice to the vehicle.
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