

# Report of the Assistant Director Environmental & Regulatory Services to the meeting of the Bradford Area Licensing Panel to be held on 14 November 2012.

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## Subject:

Application for a Review of a Premises Licence for Wyke Rose, 435 Huddersfield Road, Wyke, Bradford.

## Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol and the provision of regulated entertainment.

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John Major  
Assistant Director  
Environmental & Regulatory Services

## Portfolio:

**Environment & Waste Management**

Report Contact: Melanie McGurk  
Senior Licensing Officer  
Phone: (01274) 431873  
E-mail: [melanie.mcgurk@bradford.gov.uk](mailto:melanie.mcgurk@bradford.gov.uk)

## Overview & Scrutiny Area:

**Environment & Waste Management  
Safer & Stronger Communities**



## **1. SUMMARY**

The application is for the review of a Premises Licence authorising the sale of alcohol and provision of regulated entertainment.

## **2. BACKGROUND**

### **2.1 Premises Licence holder**

Clifton Properties (Yorkshire) Limited

### **2.3 Designated Premises Supervisor**

Kenneth Greenhough until 11/10/12

Pauline Spikings from 19/10/12, who has also had involvement and been managing the premises since at least July 2011.

### **2.2 The Premises**

Wyke Rose, 435 Huddersfield Road, Wyke, Bradford.

A copy of the Licence is attached at Appendix 1.

## **3. Application Received asking for a Review of the Licence**

### **3.1 Responsible Authority**

The Environmental Health Department has submitted an application for review of the licence, following complaints of noise nuisance from regulated entertainment at the premises. Monitoring of the premises revealed a statutory noise nuisance and an Abatement Notice was served under the Environmental Protection Act 1990 on the Designated Premises Supervisor on the 12 June 2012. A breach of the Notice was witnessed on 19 June 2012 and a warrant granted on 25 June 2012 to allow officers to seize any equipment deemed to be contributing to causing noise nuisance during the provision of regulated entertainment. The warrant was executed on 4 July 2012.

From 1 October 2012, the Live Music Act 2012, came into force and live music ceased to be classed as regulated entertainment if the following criteria are satisfied;

There is a premises licence or club premises certificate in place permitting 'on sales';

The premises are open for the sale and supply of alcohol for consumption on the premises;

Live music is taking place between 8am and 11pm;

If the live music is amplified, the audience consists of no more than 200 people.

There are a number of mechanisms for the protection of residents and two of these are;

Upon review of the premises licence the Licensing Authority can determine that conditions on the premises licence relating to live music will apply even between 8am and 11pm.

The Licensing Authority can determine that live music at the premises is a licensable activity and live music can no longer be provided unless authorised by the premises licence or a Temporary Event Notice.

In order to address the prevention of public nuisance objective and avoid further complaints, the Officer has requested that Members determine that live music at the premises is a licensable activity and live music can no longer be provided without permission on the Premises Licence or a Temporary Event Notice. Further, that the performance of live music and the playing of recorded music, is removed from the Licence. However, if Members do not wish to dis-apply the live music exception, then the Officer has requested that Members determine that the conditions on the licence relating to live music will apply even between 8am and 11pm.

The application for review and supporting documents are attached at Appendix 2.

#### **4. Representations**

West Yorkshire Police have submitted a representation due to growing concerns over the number of calls from local residents regarding anti-social behaviour and disorder and noise complaints. The Police also attended the premises with the Environmental Health Officers on 4 July 2012 and noted that drug abuse had taken place in the gents' toilets in breach of condition 9 of the licence, and that the CCTV images were not downloaded as requested in breach of condition 10 of the licence. Letters to both the Premises Licence Holder and DPS to arrange a meeting to discuss the rising number of complaints being made against the premises were also ignored.

The Police are of the opinion that the application for review is fair and proportionate in the circumstances.

The representation is attached at Appendix 3.

#### **5. OVERVIEW AND SCRUTINY COMMITTEE CONSIDERATION**

Not applicable.

#### **6. OTHER CONSIDERATIONS**

##### **Legal Appraisal**

6.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

- 6.2 The Council must also have regard to the Guidance issued by the Department of Culture Media and Sport under Section 182 of the Licensing Act 2003. Regard must also be taken of the Council's statement of Licensing Policy for the District. Paragraph 11.1 to 11.15 of the Guidance specifically details how applications for review of licences should be determined.

An extract of the Guidance is attached to this report at Appendix 4.

- 6.3 Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.
- 6.4 Only "relevant representations" by or expressly on behalf of a defined "interested party" or "responsible authority" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.
- 6.5 Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

## **7. Statement of Policy Issues**

- 7.1 The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of Crime & Disorder) and Part 6 (prevention of Public Nuisance).
- 7.2 The Annexes to the Policy sets out various types of model condition that could be considered.

## **8. OPTIONS**

- 8.1 Members may:
- (a) Refuse the application for review of the licence; or
  - (b) Decide not to impose any further restrictions on the licence; or
  - (c) Decide to impose additional restrictions or remove any licensable activities on the licence, where necessary in order to address the licensing objectives; or
  - (d) Suspend the licence for a period not exceeding 3 months; or
  - (e) Revoke the premises licence; or
  - (f) Remove the named Designated Premises Supervisor from the Licence.
- 8.2 Should the applicant or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court.

**9. FINANCIAL & RESOURCE APPRAISAL**

There are no apparent finance or resource implications.

**10. RISK MANAGEMENT**

There are no apparent risk management implications.

**11. LEGAL APPRAISAL**

Referred to in part 6 of this report.

**12. OTHER IMPLICATIONS**

**12.1 EQUAL RIGHTS**

There are no apparent equal rights implications.

**12.2 SUSTAINABILITY IMPLICATIONS**

There are no apparent sustainability implications.

**12.3 GREENHOUSE GAS EMISSIONS IMPACTS**

There are no apparent sustainability implications.

**12.4 COMMUNITY SAFETY IMPLICATIONS**

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 6.1 of this report.

**12.5 HUMAN RIGHTS ACT**

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest. The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

**12.6 TRADE UNION**

Not applicable

**12.7 WARD IMPLICATIONS**

Ward Councillors have been notified of receipt of the application.

**13. NOT FOR PUBLICATION DOCUMENTS**

None.

**14 RECOMMENDATIONS**

Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application(s).

**15. APPENDICES**

1. Premises Licence
2. Application for review received 5 October 2012.
3. Representation from West Yorkshire Police
4. Extract from the Government Guidance.

**13. BACKGROUND DOCUMENTS**

Application form, plan etc.

Licensing Act 2003  
**Premises Licence**

**BD/PRA0659**

Date Issued: 29/09/2011

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

**Wyke Rose (The)**

435 Huddersfield Road, Wyke, Bradford, West Yorkshire, BD12 8NP.

Telephone 07813 790003

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To	
E. Performance of live music (Indoors)	Monday to Thursday	10:00am	Midnight	
	Friday and Saturday	10:00am	1:00am	
	Sunday	10:00am	Midnight	
	Christmas Eve	A further additional hour to those stated above.		
	Christmas Day	11:00am	3:00pm	
	Christmas Day	7:00pm	11:00pm	
	Boxing Day	A further additional hour to those stated above.		
	New Years Eve	10.00 hours until the start of permitted hours the following day.		
	Non Standard Timings:			
	A further additional hour into the morning following on, Friday, Saturday, Sunday, and Monday of every statutory Bank Holiday weekend.			
	F. Playing of recorded music (Indoors)	Monday to Thursday	10:00am	Midnight
		Friday and Saturday	10:00am	1:00am
Sunday		10:00am	Midnight	
Christmas Eve		A further additional hour to those stated above.		
Christmas Day		11:00am	3:00pm	
Christmas Day		7:00pm	11:00pm	
Boxing Day		A further additional hour to those stated above.		
New Years Eve		10.00 hours until the start of permitted hours the following day.		
Non Standard Timings:				
A further additional hour into the morning following on, Friday, Saturday, Sunday, and Monday of every statutory Bank Holiday weekend.				
M. The sale by retail of alcohol for consumption ON and OFF the premises		Monday to Thursday	10:00am	Midnight
		Friday and Saturday	10:00am	1:00am
	Sunday	10:00am	Midnight	

Date First Granted: 19/09/2005

(Annual Fee Date - Statutory Instrument 2005 No. 79 - Licensing Act 2003 (Fees) Regulations 2005)

## Licensing Act 2003 Premises Licence

**BD/PRA0659**

Date Issued: 29/09/2011

### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON and OFF the premises continued ...	Christmas Eve A further additional hour to those stated above.		
	Christmas Day	11:00am	3:00pm
	Christmas Day	7:00pm	11:00pm
	Boxing Day A further additional hour to those stated above.		
	New Years Eve 10.00 hours until the start of permitted hours the following day.		
	Non Standard Timings: A further additional hour into the morning following on, Friday, Saturday, Sunday, and Monday of every statutory Bank Holiday weekend.		

### THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Thursday	10:00am	1:00am
Friday and Saturday	10:00am	2:00am
Sunday	10:00am	1:00am
Christmas Eve A further additional hour to those stated above		
Boxing Day A further additional hour to those stated above		
Christmas Day	11:00am	4:00pm
	7:00pm	Midnight
New Years Eve 10.00 hours until the start of permitted hours the following day.		
Non Standard Timings: A further additional hour into the following morning on, Friday, Saturday, Sunday and Monday of every statutory Bank Holiday weekend.		

### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

### Part 2

#### NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

CLIFTON PROPERTIES (YORKSHIRE) LTD      FAO R C Thewlis, 351 Bradford Road, Batley, West Yorkshire, WF17 5PQ.  
cliftonprop@btconnect.com      Telephone 01924 475647

#### REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

#### NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Kenneth GREENHOUGH      1189 Leeds Road, Bradford, West Yorkshire, BD3 7DD.  
Telephone 07517880818

07549315513



Licensing Act 2003

## Premises Licence

**BD/PRA0659**

Date Issued: 29/09/2011

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. BD/PER3067

Issued by Bradford

### ANNEXES

#### **Annex 1 - Mandatory Conditions**

1. No supply of alcohol may be made under the premises licence;-
  - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring;
  - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

Licensing Act 2003

**Premises Licence**

**BD/PRA0659**

Date issued: 29/09/2011

ANNEXES continued ...

4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
7. The responsible person shall ensure that-
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
- (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

## **Annex 2 - Conditions Consistent with Operating Schedule**

All four Licensing Objectives:

8. Staff shall be trained on the requirements of the Licensing Act 2003 with regard to the licensing objectives when they are recruited.

### **The Prevention of Crime & Disorder:**

9. The Licensee shall at all times maintain a "zero tolerance" policy with regard to illegal drugs, including appropriate staff training in detection and prevention.
10. A CCTV system, of a standard approved in advance by the Licensing Authority and West Yorkshire Police shall be installed prior to any licensable events commencing at the premises to cover both the internal and external areas, and relevant recordings shall be kept for at least 30 days and be available on demand at the request of the Licensing Authority or a Responsible Authority.
11. No licensable activities or alcohol shall be allowed or customers be permitted to take out or consume alcohol in the external areas of the premises after 23.00.

### **Public Safety:**

None

### **The Prevention of Public Nuisance:**

12. Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.

Licensing Act 2003

**Premises Licence**

**BD/PRA0659**

Date Issued: 29/09/2011

ANNEXES continued ...

13. All external outward opening doors and windows to the licensed premises where regulated entertainment is being provided shall remain closed during the course of the entertainment other than for normal access and egress.
14. The outdoor drinking areas are to be cleared of customers no later than 23.00 hours with prominent appropriate signage displayed encouraging patrons to co-operate with this requirement.
15. Notices shall be displayed in prominent positions near exists reminding patrons to leave in a quiet and orderly manner.

**The Protection of Children from Harm:**

16. The Licensee shall enforce an efficient recognised "proof of age policy" at all times and ensure appropriate staffing training in its operation.

**Annex 3 - Conditions attached after a hearing by the Licensing Authority**

Not Applicable.

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Licensing Act 2003

## Premises Licence Summary

**BD/PRA0659**

Date Issued: 29/09/2011

### Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

## Wyke Rose (The)

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Telephone 07813 790003

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

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Licensing Act 2003

**BD/PRA0659**

## Premises Licence Summary

Date Issued: 29/09/2011

### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To	
M. The sale by retail of alcohol for consumption ON and OFF the premises continued ...	Sunday	10:00am	Midnight	
	Christmas Eve	A further additional hour to those stated above.		
	Christmas Day	11:00am	3:00pm	
	Christmas Day	7:00pm	11:00pm	
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### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

### NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

CLIFTON PROPERTIES (YORKSHIRE) LTD      FAO R C Thewlis, 351 Bradford Road, Batley, West Yorkshire, WF17 5PQ.

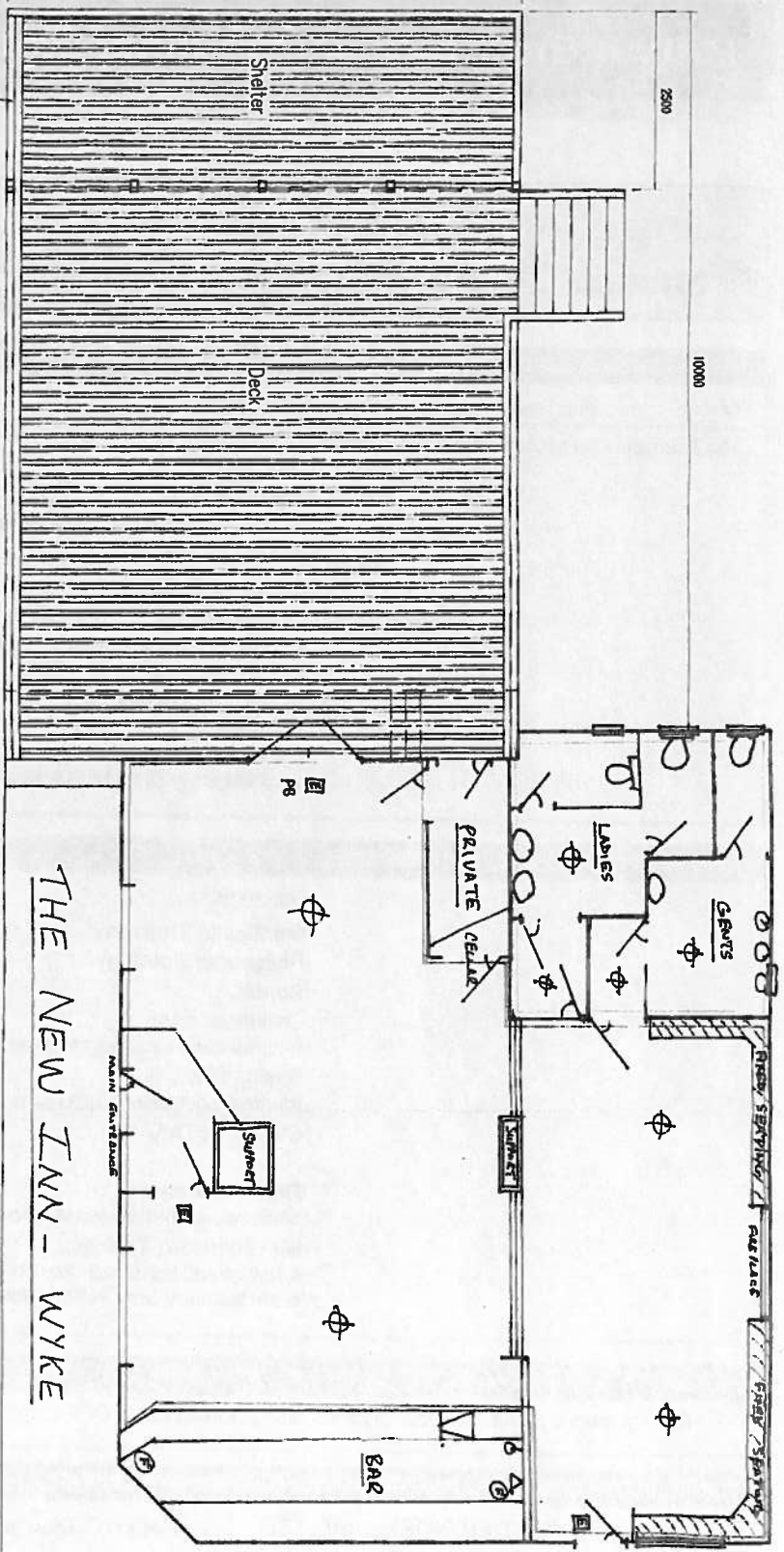
### REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

### NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Kenneth GREENHOUGH

### STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

No Restrictions.



THE NEW INN - WYKE

SCALE 1:100

Footpath

KEY

- INTERIOR SUPPORT WALL
- LICENSED AREA
- TOILETS
- ////// FIXED SEATING
- ⊕ EMERGENCY LIGHTING
- Δ ALARM SOUNDER
- ⊕ ALARM BREAK GLASS
- P8 PUSH BAR
- ☐ EMERGENCY EXIT LIGHT

Licensing Team, 6<sup>th</sup> Floor North, Jacobs Well, Bradford, BD1 5RW**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003****PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.  
You may wish to keep a copy of the completed form for your records.

**I Jeanette Howarth***(Insert name of applicant)*

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

**Part 1 – Premises or club premises details****Postal address of premises or, if none, ordnance survey map reference or description**

The Wyke Rose  
435, Huddersfield Road  
Wyke

Post town Bradford

Post code (if known) BD12 8NP

**Name of premises licence holder or club holding club premises certificate (if known)**

Clifton Properties (Yorkshire) Ltd,  
351, Bradford Road, Batley, West Yorkshire, WF17 5PQ

**Number of premises licence or club premises certificate (if known)**

BD/PRA0659

**Part 2 - Applicant details**

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick ✓ yes

Mr  Mrs  Miss  Ms  Other title  
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal  
address if  
different from  
premises  
address

Post town

Post Code

Daytime contact telephone number

E-mail address  
(optional)

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address

Jeanette Howarth  
Environmental Health Officer  
Bradford MDC  
Department of Environment and Sport  
Environmental Health  
6<sup>th</sup> Floor  
Jacobs Well  
Bradford  
BD1 5RW



Telephone number (if any)

**01274 433963**

E-mail address (optional)

jeanette.howarth@bradford.gov.uk

**This application to review relates to the following licensing objective(s)**

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

**Please state the ground(s) for review (please read guidance note 2)**

I wish to apply for a review of the Premises Licence on behalf of Environmental Health. The Wyke Rose (formerly known as the New Inn) has been one of our problem premises for a number of years.

I first had involvement with the premises in 2005 and over the years the Department has received a number of complaints from local residents about noise from the playing of amplified music within the pub. An Abatement Notice under Section 80 of the Environmental Protection Act 1990 was served on a previous Designated Premises Supervisor and as it was contravened it resulted in a PACE Interview being scheduled but the DPS has moved on and we were unable to locate him.

Unfortunately, since **April 2011** the number of noise complaints received by the Department has increased significantly and those affected are being disturbed on an evening and into the early hours of the morning. Several complaints have been made to the Council on an evening and into the early hours of the morning via the CCTV room. These have been referred to Environmental Health to follow up.

On **1st July 2011** between **22:45 hours and 23:25 hours** I witnessed a statutory nuisance from the playing of amplified music in the Wyke Rose. I subsequently served **Abatement Notices** on **Pauline Spikings** and also **Pauline Faulding** as she had given me both names during earlier visits where she had also informed me she was managing the Wyke Rose. The notices were served in person on Pauline Spikings/Faulding at **16:20 hours** on **5<sup>th</sup> July 2011**.

On **4<sup>th</sup> July 2011**, the Premises Licence transferred to Clifton Properties.

The Abatement Notices were contravened on **22<sup>nd</sup> July 2011** and again on **5<sup>th</sup> August 2011** and were witnessed by Officers from the Emergency Call Out Team following complaints received via the CCTV room from a local resident. I wrote to Pauline Spikings/Faulding on **9<sup>th</sup> August 2011** and invited her to attend a PACE Interview at the Council Offices on **19<sup>th</sup> August 2011**.

A letter was also sent for the **Attention of R C Thewlis at Clifton Properties** on **10<sup>th</sup> August 2011** to make the company aware that we were investigating on-going complaints of noise nuisance. I also advised that Abatement Notices had been served and contravened and that we had invited Pauline Spikings/Faulding to attend a PACE interview on **19<sup>th</sup> August 2011**. I also advised in the letter that the Department would apply for a review of the Premises Licence if the noise continued to cause a disturbance to local residents.

Following on from this I was contacted by Robert Thewlis from **Clifton Properties** who advised he had not been aware of the problems with noise from the pub. He told me he had acquired Pauline Spikings as the tenant/manager when he purchased the pub. He told me he would be making an application to change the DPS as it was currently listed as Nikki Faulding. He also advised me that he was looking at terminating the tenancy of Pauline Spikings as he wanted someone to run the pub without causing any problems to local residents.

On **29<sup>th</sup> September 2011**, the DPS was changed from Nikki Faulding to **Kenneth Greenhough**. He had contacted Scott Hardy prior to the change and advised he wanted to work with us to resolve the issues of noise as he didn't want to cause a disturbance to local residents. He also informed Scott that there would be a handover period when he took over where Pauline Spikings would continue to run the pub.

A decision was made by the Department in consultation with the people complaining about the noise that no further legal action would be taken at this stage if Pauline Spikings was moving out in the near future. Between **20<sup>th</sup> April 2011** and **4<sup>th</sup> October 2011** there were complaints made by 4 separate people who live in the vicinity of the Wyke Rose.

On **5<sup>th</sup> October 2011**, I visited the premises with Scott Hardy following another complaint about noise. Pauline Spikings was present and very hostile towards us. We asked to speak to Kenneth Greenhough and he wasn't present. Pauline Spikings made contact with him on her mobile phone and passed it to me to speak to him. I advised of the recent complaint and that I would contact him to make an appointment to re-visit him to discuss the issues. I telephoned **Mr Greenhough** on his mobile on **7<sup>th</sup> October 2011** and left a voicemail for him to contact me to arrange an appointment. I did not get any response to that call and no message was left for me to contact him.

In January 2012 a further complaint was received by a local resident advising that the noise had once again increased in volume in the run up to Christmas. The resident had hoped it would reduce again in the New Year but it had got steadily worse and remained the same hence the reason why they had made contact again. As I was on annual leave one of my colleagues Brian Fairclough rang the resident who had complained and asked them to get in touch with him. He did not get any response to the complaint.

On **25<sup>th</sup> March 2012**, 4 complaints were received by the Emergency Call Out Team about noise from the premises as follows:

- 25.03.2012 – 18:38 hours – Client A**
- 25.03.2012 – 19:48 hours – Client E (never contacted us before)**
- 25.03.2012 – 19:57 hours – Client F (never contacted us before)**
- 25.03.2012 – 20:28 hours – Client G (never contacted us before)**

The Officer on call agreed to attend to witness the noise as she was aware of previous problems at the premises and had been out to witness the noise in 2011. In her opinion it was a contravention of the Abatement Notices we had previously served on Spikings/Faulding.

As I was off work sick, Brian Fairclough was asked to look into the case in my absence. He checked the Premises Licence and saw that the DPS was Kenneth Greenhough, so he sent a **warning letter** to him about the noise on **28<sup>th</sup> March 2012**. He was unaware of the Abatement Notice and that Pauline Spikings/Faulding was still managing the

premises.

Unfortunately, despite the warning letter to Mr Greenhough further complaints about loud music were received as follows:

**25.05.2012 – 21:37 hours – Client A**

**25.05.2012 – 21:45 hours – Client E**

**27.05.2012 – 00:36 hours – Client E**

**27.05.2012 – 18:18 hours – Client A**

**27.05.2012 – 20:33 hours – Client E**

A 2<sup>nd</sup> warning letter was sent to Mr Ken Greenhough on 28<sup>th</sup> May 2012 by my colleague Brian Fairclough making him aware of further complaints, action that would be taken if witnessed and asking Mr Greenhough to make contact. No contact is made.

**29.05.2012 – 16:01 hours – Client A** – sent an online enquiry form asking when the noise is going to stop.

**30.05.2012 – 22:11 hours – Client A** rang to report very loud music, windows and doors at the pub open.

**31.05.2012 – 22:39 hours – Client A** rang to report loud music again.

On 31<sup>st</sup> May 2012, we told Client A that we would refer the case to the Departments Noise Witnessing Service (NWS). They were advised of the number they had to ring and the reference number to quote when they were being disturbed by the noise and that an Officer would attempt to witness the problem. The case was on the service from Monday 4<sup>th</sup> June 2012 for 4 weeks.

On 8<sup>th</sup> June 2012 at 20:30 hours Client A rang to report loud music coming from the Wyke Rose. Debra Ayre, EHO arrived on site at 21:00 hours and entered the home of Client A. She stayed until 22:05 hours during which time the music from the pub was clearly audible in their home and the songs and words could be clearly heard and identified by the EHO. It was her opinion it was a statutory nuisance.

On 9<sup>th</sup> June 2012 at 22:10 hours a further call was received from Client A reporting loud music from the Wyke Rose. Debra Ayre was the EHO on call and arrived at the home of the client at 22:38 hours. She stayed at their home until 23:15 hours and once again could clearly hear the music in their home. She was of the opinion it was excessive and constituted a statutory nuisance.

On 10<sup>th</sup> June 2012 at 20:25 hours Client A rang to report loud music once again. Unfortunately, the EHO on call – Debra Ayre was unable to attend as she was tied up on another job.

Brian Fairclough served an Abatement Notice on Mr Ken Greenhough on 12<sup>th</sup> June 2012. The notice was served by 1<sup>st</sup> Class post and sent to him at the Wyke Rose. A copy was also sent to his home address as given on the Premises Licence, however this was returned to our office on 18<sup>th</sup> June 2012 stating that the building had been demolished.

A letter was sent to Clifton Properties on 18<sup>th</sup> June 2012 and a copy of the Abatement Notice was enclosed with the letter. No response has been received from Clifton Properties in relation to the letter or the Abatement Notice.

On 19<sup>th</sup> June 2012 at 18:10 hours a further complaint of noise was made to the Noise

Witnessing Service. The Officer on call, Michael Petts visited the home of Client A at 19:00 hours where he noted the windows at the front of the premises were wide open as was the front and side doors. There was a large gathering of people outside the pub and loud music was clearly audible in the home of Client A. It was his opinion that the noise constituted a statutory nuisance and a contravention of the Abatement Notices. He left the home of Client A at 19:25 hours and the music was still playing.

Brian and I discussed the case with Andrew Lodge, Environmental Health Manager. A decision was made to apply for a warrant to enter the Wyke Rose to remove any noise making equipment from the premises to Abate the nuisance and prevent further disturbances to local residents.

The paperwork was drafted and sent to the Councils Legal Team. A date was arranged for court and Brian & I attended and made an application for a warrant at Bradford Magistrates on 25<sup>th</sup> June 2012. The warrant was granted authorising Brian with such other persons as may be necessary to enter the Wyke Rose, if need be by force, to remove any equipment it appears has been or is being used to in the emission of the noise.

Arrangements were then made with West Yorkshire Police, a locksmith and a removal vehicle to execute the warrant on 4<sup>th</sup> July 2012. At the time the warrant was executed, Pauling Spikings and a gentleman who I believe to be her partner, Andrew Ratcliffe were present. We had to knock several times to get them to open the door as they were asleep in the flat above the Wyke Rose on our arrival. Kenneth Greenhough, the DPS was not on site and when questioned as to his whereabouts, we were informed he had gone to Odsal to visit his wife as they were having problems.

Between March 2012 and the 4<sup>th</sup> July 2012, 9 x local residents contacted the Department to make complaints about noise from the Wyke Rose. Some of these people contacted us on several occasions and had never contacted us previously. When we looked at the location of the people being affected it was clear that the noise levels had significantly increased due to the distance between the pub and the homes of some of the people who had complained. Officers did visit some of these people when they witnessed the noise from the Wyke Rose.

Unfortunately, there has always been a reluctance on the part of local residents to give evidence against the pub. I am fully aware that 2 of the Councils Licensing Officers were taken hostage in the premises a few years ago, so I can understand their concerns. It is therefore necessary to review the licence so that local residents can enjoy their homes and not have to be disturbed by the noise coming from the pub on a regular basis.

Clifton Properties have been the Premises Licence Holders since July 2011 and have been made aware of the problems with noise on several occasions. Mr Kenneth Greenhough has been the Designated Premises Supervisor since September 2011 and he has also been made of the noise issues and served with an Abatement Notice. Finally, Pauline Spikings/Faulding has been managing the pub since April 2011 and has been spoken to on several occasions and also served with an Abatement Notice. The Abatement Notices have been contravened and this Department has seized the equipment from the premises and we have a pending prosecution.

I would therefore recommend that Regulated Entertainment is removed from the Premises Licence as there are already conditions in place to control noise and they are not been adhered to. No attempts have been made by Clifton Properties, Kenneth Greenhough or Pauline Spkikings/Faulding to reduce the level of noise so that it does

not cause a disturbance to local residents.

I would also request that the existing conditions remain in place and apply to live music between 08:00 hours and 23:00 hours.

Enclosed with this application are the following documents:

- JH1** – EPA 1990 Section 80 Notice – served on Pauline Spikings – 05.07.2011
- JH2** – EPA 1990 Section 80 Notice – served on Pauling Faulding – 05.07.2012
- JH3** – Letter to Pauline Spikings/Faulding re: PACE Interview – 09.08.2011
- JH4** – Letter to Clifton Properties re: noise complaints – 10.08.2011
- JH5** – Letter from Nikki Faulding re: Wyke Rose being Aunties pub – 24.08.2011
- JH6** – Email from Scott Hardy – 31.08.2011
- JH7** – Map of area
- JH8 – JH13** - Photos of Wyke Rose from Google
- BPF1** – 1<sup>st</sup> Warning Letter to Kenneth Greenhough re: noise – 28.03.2012
- BPF2** – 2<sup>nd</sup> Warning Letter to Kenneth Greenhough re: further complaints – 28.05.2012
- BPF3** – EPA 1990 Section 80 Notice served on Kenneth Greenhough – 12.06.2012
- BPF4** - EPA 1990 Section 80 Notice served on Kenneth Greenhough at home address as listed on Premises Licence – building has been demolished – 12.06.2012
- BPF5** – Letter to R C Thewlis, Clifton Properties – 18.06.2012
- BPF6** – Questions to Kenneth Greenhough under caution sent on 09.07.2012 and replied to dated 17.07.2012
- BPF7** – Letter received from Kenneth Greenhough dated 09.07.2012

**Please provide as much information as possible to support the application (please read guidance note 3)**

[Large empty rectangular box for providing supporting information]

Have you made an application for review relating to the premises before

**Please tick ✓ yes**

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

**If you have made representations before relating to the premises please state what they were and when you made them**

[Empty box for representations]

**Please tick ✓ yes**

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures (please read guidance note 4)**

**Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.**

**Signature**

.....

**Date**      **5<sup>th</sup> October 2012**

.....

**Capacity**      **Environmental Health Officer**

.....

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)**

**Post town**

**Post Code**

**Telephone number (if any)**

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)**  
jeanette.howarth@bradford.gov.uk

#### **Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



City of Bradford Metropolitan District Council

www.bradford.gov.uk

Department of Environment and Sport  
Environmental Health  
6<sup>th</sup> Floor South, Jacobs Well, Bradford, West Yorkshire,  
BD1 5RW

NOTICE NO POL/299520/28

**ENVIRONMENTAL PROTECTION ACT 1990 - SECTION 80**  
**NOTICE IN RESPECT OF STATUTORY NUISANCE**

To: Pauline Spikings  
Wyke Rose  
435, Huddersfield Road  
Wyke  
Bradford  
BD12 8ND

COPY

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the City of Bradford Metropolitan District Council being satisfied of the occurrence and likely recurrence of a statutory nuisance under S.79 (1) (g) of the above act at properties within the vicinity of the Wyke Rose, 435, Huddersfield Road, Wyke, Bradford, BD12 8ND within the District of the said Council, arising from:

the playing of amplified music at the Wyke Rose, 435, Huddersfield Road, Wyke, Bradford, BD12 8ND

**HEREBY REQUIRE YOU** as the person responsible for the said nuisance forthwith from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same.

IN the event of an appeal the 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 YOU CONTRAVENE** without reasonable excuse any requirement of this notice you will be guilty of an offence against Part III of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding Level 5 (£5,000) and a further fine not exceeding £500 for each day on which the offence continues after conviction. The Council may take proceedings for securing the abatement, prohibition or restriction of the nuisance. (If you fail to execute all or any part of the works in accordance with this notice, the Council may execute those works and recover from you the necessary expenditure incurred.) If the contravention takes place on industrial, trade or business premises, you will be liable, on summary conviction, to a fine not exceeding £20,000.

Dated this: 5<sup>th</sup> day of July 2011

Signed: .....  
Director: Department of Environment and Sport



# City of Bradford Metropolitan District Council

www.bradford.gov.uk

**NOTE:** The person served with this notice may appeal against the notice to a Magistrates' Court within twenty-one days from service of the notice. See enclosed notes.

**NOTE:** Any enquiry relative to this Notice may be made at the office of the Director, Department of Environment and Sport, 6<sup>th</sup> Floor, Jacobs Well, Bradford, BD1 5RW daily from 0830 to 0930 and 1630 to 1700 (Monday to Thursday) and 0830 to 0930 and 1600 to 1630 (Friday), or by telephoning 01274 434366 and asking for Miss Howarth.

Additional copies of this notice may be purchased at a cost of £2.82 including VAT per page.

A notice of which this is a true copy, was served upon  
**PAULINE SPAKINGS** of **WYKE ROSE, 435, HODDERSFIELD RD**  
by ~~handing same personally to~~ .....  
by **HAND** ~~post/delivery~~  
by ~~affixing same to~~ .....  
at **16:20HRS** this **5<sup>th</sup>** day of **JULY** 20**11**  
(Signed).....



## NOTES

**APPEALS UNDER SECTION 80(3) OF THE  
ENVIRONMENTAL PROTECTION ACT 1990 ("the 1990 Act")  
(Statutory Nuisance (Appeal) Regulations 1995 - Relevant Sections)**

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 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 of the 1990 Act;
  - (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).
  - (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, 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 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 -

**NOTES**

- (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 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, 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 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

**NOTES**

- (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 to 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 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 there under 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 works before the hearing of the appeal, or

## NOTES

- (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.

### **Recovery of Expenses Under Section 81 and 81A of the Environmental Protection Act 1990**

4. (1) Any expenses reasonably incurred by a Local Authority in abating, or preventing the recurrence of a statutory notice ..... may be recovered by them from the person by whose act or default the nuisance was caused (the person who has had the notice served on them). Environmental Protection Act 1990 Part III Section 81 (4).
- (2) Expenses will include the cost of any work carried out, an administration charge of £15.00 and the cost of the Officer's time, once the notice has been defaulted, charged at £33.26 per hour.
- (3) Where these expenses are recoverable from the owner of the premises they will include interest until the whole amount is paid. Environmental Protection Act 1990 Part III Section 81A (1).

**Department of Environment and Sport**

**Environmental Health**

6<sup>th</sup> Floor South, Jacobs Well, Bradford, West Yorkshire,  
BD1 5RW

**NOTICE NO POL/299520/29**

**ENVIRONMENTAL PROTECTION ACT 1990 - SECTION 80**  
**NOTICE IN RESPECT OF STATUTORY NUISANCE**

To: Pauline Faulding  
Wyke Rose  
435, Huddersfield Road  
Wyke  
Bradford  
BD12 8ND

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the City of Bradford Metropolitan District Council being satisfied of the occurrence and likely recurrence of a statutory nuisance under S.79 (1) (g) of the above act at properties within the vicinity of the Wyke Rose, 435, Huddersfield Road, Wyke, Bradford, BD12 8ND within the District of the said Council, arising from:

the playing of amplified music at the Wyke Rose, 435, Huddersfield Road, Wyke, Bradford, BD12 8ND

**HEREBY REQUIRE YOU** as the person responsible for the said nuisance forthwith from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same.

IN the event of an appeal the 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 YOU CONTRAVENE** without reasonable excuse any requirement of this notice you will be guilty of an offence against Part III of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding Level 5 (£5,000) and a further fine not exceeding £500 for each day on which the offence continues after conviction. The Council may take proceedings for securing the abatement, prohibition or restriction of the nuisance. (If you fail to execute all or any part of the works in accordance with this notice, the Council may execute those works and recover from you the necessary expenditure incurred.) If the contravention takes place on industrial, trade or business premises, you will be liable, on summary conviction, to a fine not exceeding £20,000.

Dated this: 5<sup>th</sup> day of July 2011

Signed: .....  
Director: Department of Environment and Sport



# City of Bradford Metropolitan District Council

www.bradford.gov.uk

**NOTE:** The person served with this notice may appeal against the notice to a Magistrates' Court within twenty-one days from service of the notice. See enclosed notes.

**NOTE:** Any enquiry relative to this Notice may be made at the office of the Director, Department of Environment and Sport, 6<sup>th</sup> Floor, Jacobs Well, Bradford, BD1 5RW daily from 0830 to 0930 and 1630 to 1700 (Monday to Thursday) and 0830 to 0930 and 1600 to 1630 (Friday), or by telephoning 01274 434366 and asking for Miss Howarth.

Additional copies of this notice may be purchased at a cost of £2.82 including VAT per page.

A notice of which this is a true copy, was served upon  
PAULINE FAULING of WYKE ROSE, 435 HODDERSFIELD RD  
by handing same personally to .....  
by HAND post/courier  
by affixing same to .....  
at 16:20 HRS this 5<sup>th</sup> day of JULY 2011  
(Signed).....





**NOTES**

**APPEALS UNDER SECTION 80(3) OF THE ENVIRONMENTAL PROTECTION ACT 1990 ("the 1990 Act") (Statutory Nuisance (Appeal) Regulations 1995 - Relevant Sections)**

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 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 of the 1990 Act;
  - (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).
  - (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, 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 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 -

## NOTES

- (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 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, 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 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

**NOTES**

(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 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 there under 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 works before the hearing of the appeal, or

**NOTES**

- (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.

**Recovery of Expenses Under Section 81 and 81A of the Environmental Protection Act 1990**

4. (1) Any expenses reasonably incurred by a Local Authority in abating, or preventing the recurrence of a statutory notice ..... may be recovered by them from the person by whose act or default the nuisance was caused (the person who has had the notice served on them). Environmental Protection Act 1990 Part III Section 81 (4).
- (2) Expenses will include the cost of any work carried out, an administration charge of £15.00 and the cost of the Officer's time, once the notice has been defaulted, charged at £33.26 per hour.
- (3) Where these expenses are recoverable from the owner of the premises they will include interest until the whole amount is paid. Environmental Protection Act 1990 Part III Section 81A (1).

JHS

City of Bradford Metropolitan District Council

www.bradford.gov.uk

Department of Environment and Sport

Environmental Health

6<sup>th</sup> Floor, Jacobs Well  
Bradford, West Yorkshire, BD1 5RW

Tel: (01274) 434366  
Fax: (01274) 740839  
Contact: Miss Jeanette Howarth  
Email: jeanette.howarth@bradford.gov.uk

Our Ref: POL/299520/28  
Your Ref:

Date: 9<sup>th</sup> August 2011

Pauline Spikings/Faulding  
Wyke Rose  
435, Huddersfield Road  
Wyke  
BD12 8ND

COPY

Dear Ms Spikings/Faulding

**ENVIRONMENTAL PROTECTION ACT 1990**

**RE: BREACH OF ABATEMENT NOTICE NUMBER POL/299520/28 & POL/299520/29**

I am investigating contraventions of the Abatement Notice numbers POL/299520/28 & POL/299520/29 served on you on Tuesday 5<sup>th</sup> July 2011.

In order that a decision can be reached as to the best course of action to be taken in this matter, I write to invite you to attend an interview at the Environmental Health Office, 6<sup>th</sup> Floor, Jacobs Well, Bradford, BD1 5RW on Friday 19<sup>th</sup> August 2011 at 10:00 hours.

It is now Council Policy for such interviews to be tape recorded and you will be given an opportunity after the event to obtain copies of the recordings made.

**You will be required at the interview to state your full name, date of birth and national insurance number. Please ensure you have details of your national insurance number with you when you attend.**

As the reason for the interview is to discuss offences under the above legislation, I must advise you that you are entitled to consult a solicitor or your legal representative and they may accompany you

I must also request that if you intend to refer to any documentary evidence, photographs, etc., that you bring them to the interview with you. This may avoid the need for further interviews to examine such evidence at a later date

If, for any reason, you think you will have difficulty understanding the contents of the interview and require a translator to be present, you must contact us prior to the date of the interview in order that the necessary arrangements can be made



If for any reason, you are unable to attend the interview on Friday 19<sup>th</sup> August 2011, I would appreciate it if you could contact me as soon as possible so we can re-schedule the interview.

Yours sincerely

Jeanette Howarth  
Environmental Health Officer  
Pollution Team

### **Why have I been asked to attend an interview under caution?**

The Council has asked you to attend an interview under caution because evidence it has obtained suggests that there are grounds to suspect that you have committed a criminal offence.

This does not mean that the Council believes that you are guilty and will prosecute you.

The interview will be held in order to give you the opportunity to provide an explanation of the events that appear to have occurred.

### **Do I have to attend an interview?**

No, you do not have to attend an interview, you can provide a signed written statement. Clearly, by failure to respond, you may lose the opportunity to provide an explanation to the Council who may then have no alternative but to test their evidence in court.

### **Who can come to the interview with me?**

A person who has no interest in the matter can attend the interview with you. You may seek legal advice prior to attending the interview and can have a solicitor/legal advisor present with you. You can appoint a solicitor/legal advisor yourself or your local Citizens' Advice Bureau may be able to help you.

If the person you bring to the interview is not a solicitor/legal advisor, then they will have no right to speak, advise you or to ask questions during the interview. They will not be allowed to be present if there is any possibility that they may be required to give evidence themselves.

If you have a severe visual or hearing impediment, or English is not your first language, please contact the Council prior to the interview to enable us to make appropriate arrangements for someone to be present who can assist you or who can act as an independent interpreter.

### **Who will interview me?**

You will usually be interviewed by one or two officers of the Council's investigation staff. These officers are specifically trained to conduct interviews under caution.

### **What happens at the interview?**

As soon as you enter the interview room, two cassette tapes will be unsealed from their packaging in front of you and will be placed into a tape recorder. The tape recorder will then be switched on and will start to record the interview.

Before you are asked any questions, the Council's officers will explain a number of things to you, including:

- That the interview is being tape recorded.

- That the interview is being conducted in accordance with the Police and Criminal Evidence Act 1984 and that a copy of the Codes of Practice for the Act are available for you to consult.
- You will be cautioned and advised of your rights (that you are not under arrest, that you are free to leave the interview at any time and that you may seek legal advice at any time).
- You will be advised as to why you have been asked to attend the interview.

You will then be asked questions about the matter being investigated. The Council's Officers are not bound to accept the first answer you give but are under a duty to try to establish the truth about what has happened.

At the end of the interview, you will be asked to sign a papers seal which will be used to seal one of the tapes. You will be given a form explaining how you can have access to a copy of the tape recording of the interview. You will also be given a form showing what will happen next.



JH4

# City of Bradford Metropolitan District Council

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## Department of Environment and Sport

### Environmental Health

6<sup>th</sup> Floor South  
Jacobs Well  
Bradford  
West Yorkshire  
BD1 5RW

Clifton Properties (Yorkshire) Ltd  
351, Bradford Road  
Batley  
West Yorkshire  
WF17 5PQ

FAO: R C Thewlis

Tel: (01274) 434366  
Fax: (01274) 740839  
Email: [jeanette.howarth@bradford.gov.uk](mailto:jeanette.howarth@bradford.gov.uk)

Our Ref: POL/299520/JGH

Date: 10 August 2011

Dear Sir/Madam

### Environmental Protection Act 1990

**Re: Wyke Rose, 435, Huddersfield Road, Wyke, Bradford, BD12 8ND**

I write with reference to on-going complaints received by this Department alleging noise nuisance from the playing of amplified music within the Wyke Rose, 435, Huddersfield Road, Wyke, Bradford, BD12 8ND.

You may not be aware that Abatement Notices were served under the above legislation on a Pauline Spikings and a Pauline Faulding on 5<sup>th</sup> July 2011, this being the day after the Licence was transferred to your Company. I served two separate notices on this lady as she has identified herself by these names when Officers have visited the premises and spoken to her about the allegations on three separate occasions prior to the service of the notices. I understand that she is managing the pub although she is not the Designated Premises Supervisor (DPS).

Unfortunately, the noise has continued and Officers have witnessed breaches of the notice on Friday 22<sup>nd</sup> July 2011 and Friday 5<sup>th</sup> August 2011. I have therefore written to her and invited her to attend a PACE Interview under caution on Friday 19<sup>th</sup> August 2011. A decision will then be made following the interview as to whether the Council instigates legal proceedings against her.

Additionally, Scott Hardy, Licensing Enforcement Officer, has written to Nikki Faulding, the DPS, to invite her to attend a PACE Interview in relation to breaches of the conditions on the Premises Licence.

As you are the Premises Licence Holder, I am bringing these issues to your attention as this Department will be applying for a review of the current Premises Licence if the noise continues to cause a disturbance to local residents.



I would therefore appreciate it if you could contact me on the above telephone number to discuss the content of this letter and also advise me on what action you are going to take to prevent further complaints being made to this Department.

Yours faithfully

[Redacted]  
Miss Jeanette Howarth  
Environmental Health Officer  
Pollution Team  
[Redacted]

JHU

The Bank  
Eccleshill  
Bradford  
BD10 8BN

24th August 2011

Dear Sir/Madam,

As of the 1st June 2011, I have been residing at the above address. I am no longer the Designated Premises Supervisor of The Prospect Pub, Eccleshill and have never been the DPS of The Wyke Rose, Wyke, this Pub is my aunties.

Therefore, I am hoping these matters are nothing to do with myself.

Yours Sincerely

( )

JHB

**Jeanette Howarth**

**From:** Scott Hardy  
**Sent:** 31 August 2011 15.09  
**To:** Jeanette Howarth  
**Subject:** Wyke Rose

Hi

Had call from Ken Greenough He is ready to go into Wyke Rose, has signed paper work and is waiting for Clifton to submit application.

He wants to work with us and is wanting advice on noise limiting devices and anything which will help eliminate any disturbance. He is writing to all residents to let them know his intentions for the pub.

I said I would pass his number on to you and we would go and see him when he go's in. There may be a handover period when Pauline still be there for a bit.

**Scott Hardy**  
**Licensing Enforcement & Liaison Officer**

**Environmental & Regulatory Services**  
City of Bradford Metropolitan District Council, 6th Floor, Jacobs Well (North), Bradford, BD1 5RW  
**Telephone: 01274 432535**  
**Fax: 01274 432109**  
**Web: [www.bradford.gov.uk](http://www.bradford.gov.uk)**

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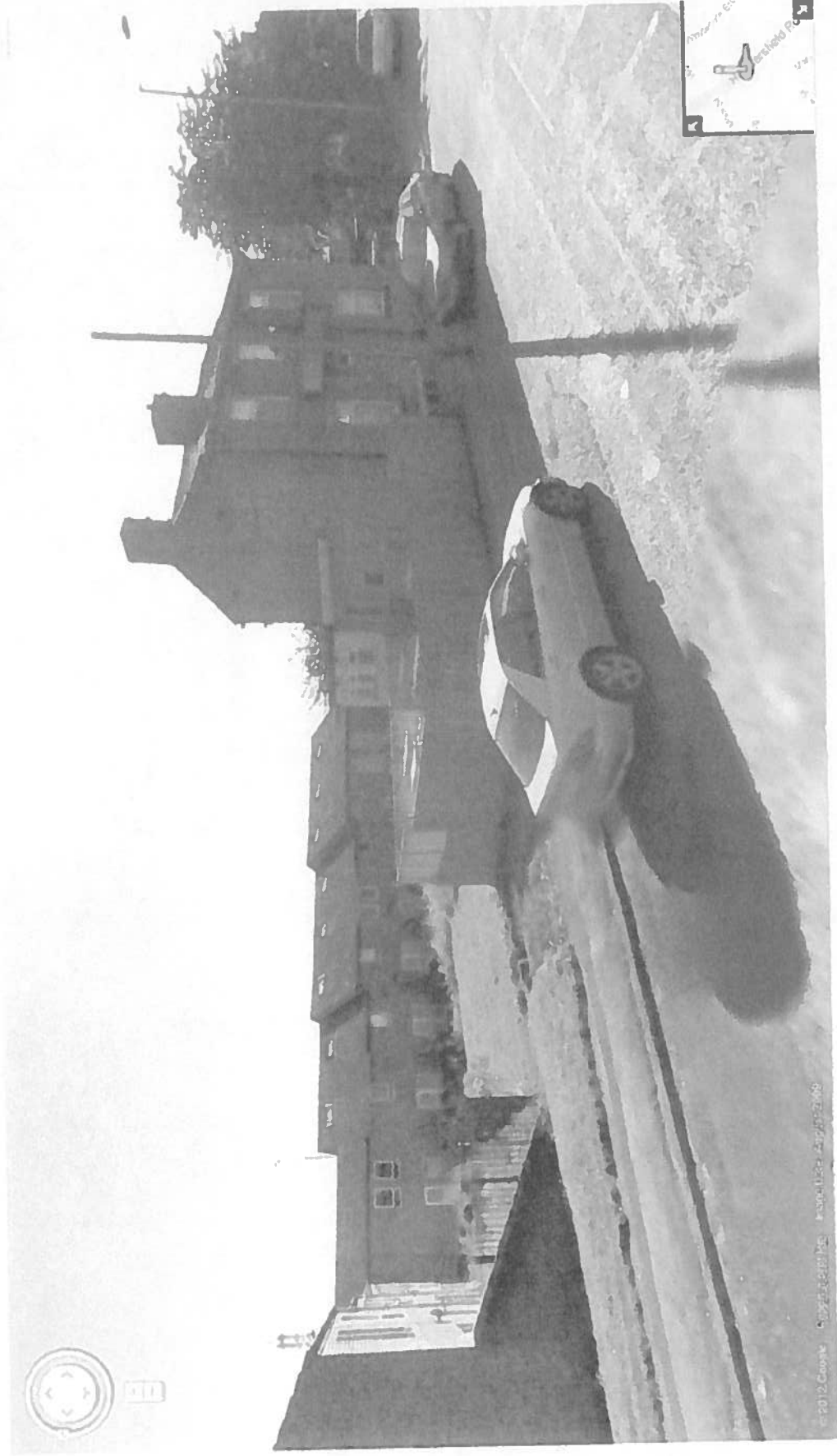
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31/08/2011

JH3

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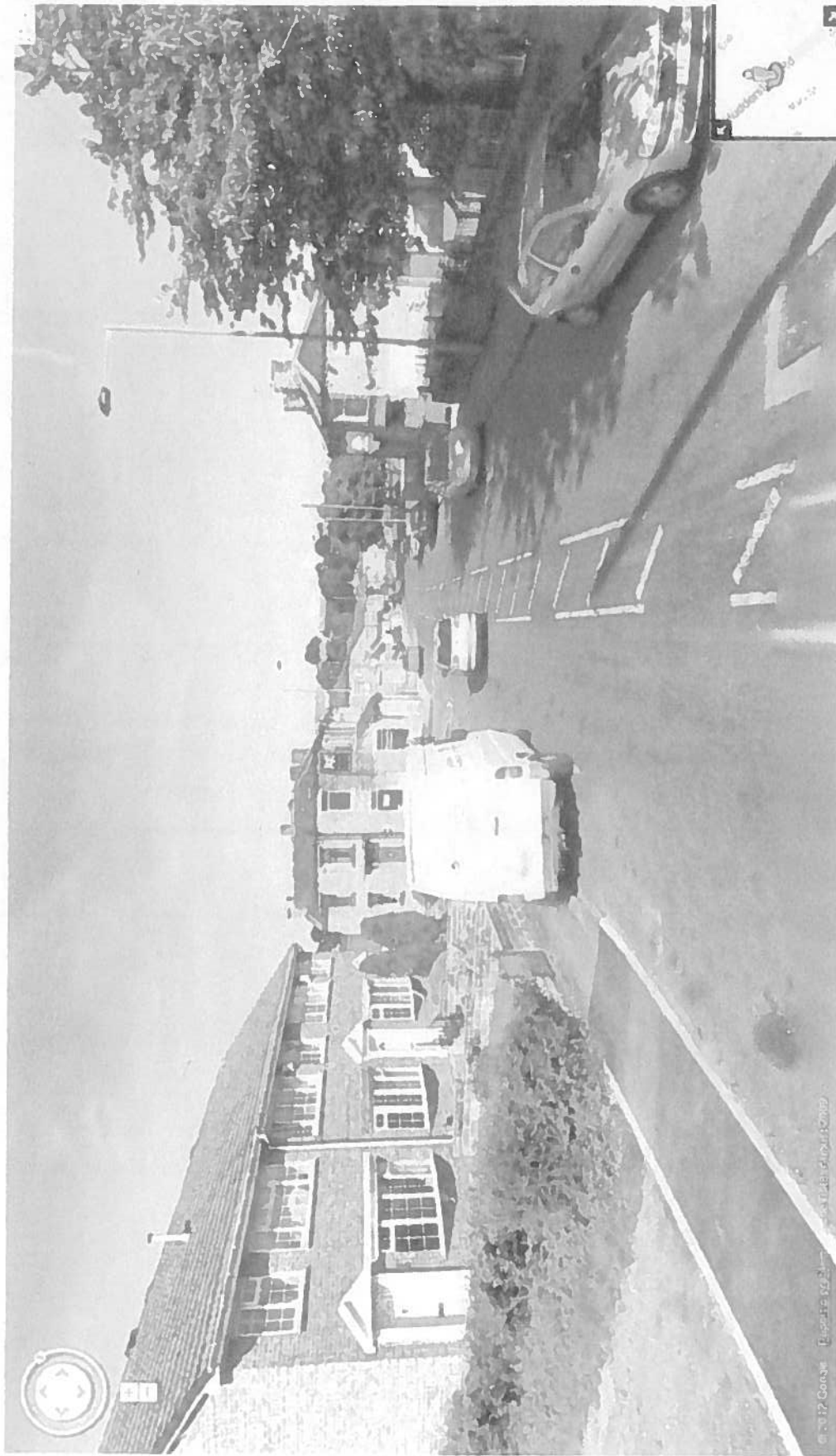
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JH13

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City of Bradford Metropolitan District Council

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EXH. BIT: BPF/316728/1

Department of Environment and Sport

Environmental Health  
6<sup>th</sup> Floor, Jacobs Well, Bradford  
West Yorkshire, BD1 5RW

Kenneth Greenhough  
Wyke Rose Public House  
435 Huddersfield Road  
Bradford  
BD12 8ND

Tel: (01274) 434366  
Fax: (01274) 740839  
Contact: Brian Fairclough  
Website: www.bradford.gov.uk  
Our Ref: BPF/316733  
Your Ref:

Date: 28<sup>th</sup> March 2012

Dear Mr Greenhough

**ENVIRONMENTAL PROTECTION ACT 1990, SECTION 79  
ALLEGED STATUTORY NUISANCE: NOISE FROM WYKE ROSE PUBLIC HOUSE,  
435 HUDDERSFIELD ROAD, BRADFORD**

This Department is in receipt of a complaint alleging that a nuisance is being caused by noise from the playing or performance of loud amplified music at the above premises. It is alleged that the music can play until 02:00 hours.

In order that I can assess the validity of this allegation, I must advise you that should the complaints of noise nuisance continue, this Department will try and witness the alleged problem. This may involve monitoring, measuring, and/or recording the noise being complained about using one or more of the following methods:

- (a) Asking the person(s) who complained to us to keep records of the alleged problem
- (b) Arranging for our own officers to visit, either in response to complaints or as an arranged visit in order to witness and assess the extent of the alleged problem
- (c) The use of monitoring and/or recording equipment such as sound level meters or audio recorders.

This monitoring may happen at any time. Officers will select the most appropriate time, method and duration of monitoring taking into account the type of noise and whether complaints are continuing.

In any case case, I shall be glad if you will contact me on Bradford 01274 434366 to discuss this matter

Yours sincerely

  
Brian Fairclough  
Technical Officer

# City of Bradford Metropolitan District Council

[www.bradford.gov.uk](http://www.bradford.gov.uk)

Kenneth Greenhough  
Wyke Rose Public House  
435 Huddersfield Road  
Bradford  
BD12 8ND

## Department of Environment and Sport

**Environmental Health**  
6<sup>th</sup> Floor Jacobs Well  
Bradford  
West Yorkshire, BD18 3EJ

Tel: (01274) 434366  
Fax: (01274) 740839  
Contact: Brian Fairclough  
Website: [www.bradford.gov.uk](http://www.bradford.gov.uk)  
Our Ref: BPF/316728  
Your Ref:

Date: 28<sup>th</sup> May 2012

Dear Mr Greenhough

### **ENVIRONMENTAL PROTECTION ACT 1990, SECTION 79 ALLEGED NOISE NUISANCE FROM THE WYKE ROSE PUBLIC HOUSE, 435 HUDDERSFIELD, ROAD, BRADFORD**

This Department has received a further complaint regarding noise from loud music emanating from the above address. It is alleged that noise occurs every Friday and Saturday evening.

This being the case I intend to undertake noise assessments. This may involve monitoring, measuring, and/or recording the noise being complained about using one or more of the following methods:

- (a) Asking the person(s) who complained to us to keep records of the alleged problem
- (b) Arranging for our own officers to visit, either in response to complaints or as an arranged visit in order to witness and assess the extent of the alleged problem
- (c) The use of monitoring and/or recording equipment such as sound level meters or audio recorders.

This monitoring may happen at any time. Officers will select the most appropriate time, method and duration of monitoring taking into account the type of noise and whether complaints are continuing. In any case I shall be glad if you will contact me on Bradford 434366 to discuss this matter.

Please be aware that if a statutory nuisance is witnessed by an officer from this Department an abatement Notice will be served upon you. Such a Notice will typically prohibit the recurrence of a statutory nuisance caused by noise emanating from the



Wyke Rose Public House. Furthermore, should such a Notice be breached by the occurrence of a further statutory nuisance, you may be prosecuted under Section 80 of the Environmental Protection Act 1990. This could lead to a fine of up to £20,000 if you are convicted in the Magistrates' court.

You should also be aware that action will be taken to seize any sound-making equipment associated with the noise nuisance. An application for a forfeiture order will be made alongside any prosecution, and if granted by the Magistrates' Court will mean that this Authority will retain the equipment indefinitely. This being the case, I will be glad if you will contact me.

My telephone number is 01274 434366

Yours sincerely,

Alan Fairclough  
Technical Officer

# City of Bradford Metropolitan District Council

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EXHIBIT BPF/316728/2

## Department of Environment and Sport

### Environmental Health

6<sup>th</sup> Floor Jacobs Well

Bradford, West Yorkshire, BD1 5RW

NOTICE NUMBER: POL/316728/BPF

## ENVIRONMENTAL PROTECTION ACT 1990 – SECTION 80 NOTICE IN RESPECT OF STATUTORY NUISANCE

To Kenneth Greenhough  
Wyke Rose Public House  
435 Huddersfield Road  
Bradford  
BD12 8ND

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the City of Bradford Metropolitan District Council being satisfied of the occurrence and likely recurrence of a statutory nuisance under Section 79 (1)(g) at:- dwellings in the vicinity of the Wyke Rose Public House, 435 Huddersfield Road, Bradford BD12 8ND within the district of the said Council arising from:-

noise from the playing and/or performance of loud amplified music at the Wyke Rose Public House, 435 Huddersfield Road, Bradford

**HEREBY REQUIRE YOU**, Kenneth Greenhough, as the person responsible for the said nuisance forthwith from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same.

**IN** the event of an appeal the 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 YOU CONTRAVENE** without reasonable excuse any requirement of this notice you will be guilty of an offence against Part III of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding Level 5 (£5,000) and a further fine not exceeding £500 for each day on which the offence continues after conviction. The Council may take proceedings for securing the abatement, prohibition or restriction of the nuisance. (If you fail to execute all or any part of the works in accordance with this notice, the Council may execute those works and recover from you the necessary expenditure incurred.) If the contravention takes place on industrial, trade or business premises, you will be liable, on summary conviction, to a fine not exceeding £20,000.

Dated this: 12<sup>th</sup> day of June 2012

.....  
Director, Department of Environment and Sport



INVESTORS  
IN PEOPLE



2009-2010  
Investment  
Award  
2006-2007  
Beacon Authority



# City of Bradford Metropolitan District Council

www.bradford.gov.uk

Department of Environment and Sport  
Environmental Health  
6<sup>th</sup> Floor Jacobs Well  
Bradford, West Yorkshire, BD1 5RW

NOTICE NUMBER: POL/316728/BPF1

## ENVIRONMENTAL PROTECTION ACT 1990 – SECTION 80 NOTICE IN RESPECT OF STATUTORY NUISANCE

*Handwritten notes:*  
S. 80  
BD12

To Kenneth Greenhough  
1189 Leeds Road  
Bradford  
BD3 7DD

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the City of Bradford Metropolitan District Council being satisfied of the occurrence and likely recurrence of a statutory nuisance under Section 79 (1)(g) at:- dwellings in the vicinity of the Wyke Rose Public House, 435 Huddersfield Road, Bradford BD12 8ND within the district of the said Council arising from:-

noise from the playing and/or performance of loud amplified music at the Wyke Rose Public House, 435 Huddersfield Road, Bradford

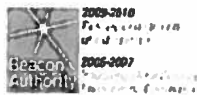
**HEREBY REQUIRE YOU**, Kenneth Greenhough, as the person responsible for the said nuisance forthwith from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same.

IN the event of an appeal the 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 YOU CONTRAVENE** without reasonable excuse any requirement of this notice you will be guilty of an offence against Part III of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding Level 5 (£5,000) and a further fine not exceeding £500 for each day on which the offence continues after conviction. The Council may take proceedings for securing the abatement, prohibition or restriction of the nuisance. (If you fail to execute all or any part of the works in accordance with this notice, the Council may execute those works and recover from you the necessary expenditure incurred.) If the contravention takes place on industrial, trade or business premises, you will be liable, on summary conviction, to a fine not exceeding £20,000.

Dated this: 12<sup>th</sup> day of June 2012

.....  
Director, Department of Environment and Sport





## City of Bradford Metropolitan District Council

[www.bradford.gov.uk](http://www.bradford.gov.uk)

R C Thewlis  
Clifton Properties (Yorkshire) Limited  
351 Bradford Road  
Batley  
WF17 5PQ

**Department of Environment and Sport**

Environmental Health  
6<sup>th</sup> Floor Jacobs Well, Bradford  
West Yorkshire, BD1 5RW

Tel: (01274) 434366  
Fax: (01274) 740839  
Email: [brian.fairclough@bradford.gov.uk](mailto:brian.fairclough@bradford.gov.uk)

Our Ref: POL/316728/BPF  
Your Ref:

Date: 18<sup>th</sup> June 2012

Dear Mr Thewlis

**ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80  
STATUTORY NUISANCE: WYKE ROSE PUBLIC HOUSE, 435 HUDDERSFIELD ROAD,  
BRADFORD**

For your information.

On 9<sup>th</sup> June 2012 an officer from this Department witnessed a statutory noise nuisance, caused by the playing of loud amplified music at the above premises.

This being the case Environmental Health has had no choice but to serve an Abatement Notice under Environmental Protection Act 1990, Section 80 upon the Designated Premises Supervisor, Kenneth Greenhough.

Please find enclosed a copy of the Notice. The Notice is a legal document. It requires Mr Greenhough to abate the noise nuisance and prevent it from happening again in the future. Should Mr Greenhough ignore the Notice and continue to cause a noise nuisance, he may be prosecuted under Section 80 of the Environmental Protection Act 1990. This could lead to a fine of up to £20,000 if he is convicted in the magistrates' court.

Yours sincerely

  
Brian Fairclough  
Technical Officer





# City of Bradford Metropolitan District Council

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Gxh.B.F

BPF/316728/7

RECEIVED  
23 JUL 2012

## Department of Environment and Sport

Environmental Health  
6<sup>th</sup> Floor, Jacobs Well, Bradford  
West Yorkshire, BD1 5RW

Tel: (01274) 434366  
Fax: (01274) 432109  
Contact: Brian Fairclough  
Website: www.bradford.gov.uk  
Our Ref: BPF316728  
Your Ref:

Kenneth Greenhough  
Wyke Rose Public House  
435 Huddersfield Road  
Bradford  
BD12 8ND

Date: 9<sup>th</sup> July 2012

Dear Mr Greenhough

### ENVIRONMENTAL PROTECTION ACT 1990 RE: BREACH OF ABATEMENT NOTICE NUMBER POL/316728/BPF

I am investigating a contravention of an Environmental Protection Act 1990, Section 80 Abatement Notice that was served on you on 12<sup>th</sup> June 2012.

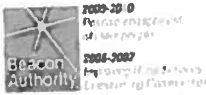
It is alleged that on 19<sup>th</sup> June 2012 you were responsible for a statutory nuisance being caused in contravention of an Environmental Protection Act 1990, Section 80 Abatement Notice that was served upon you on 12<sup>th</sup> June 2012.

In order that a decision can be reached as to the best course of action to be taken in this matter, I enclose a list of questions for you to answer and return to this office. These questions give you the opportunity to state your version of events with regard to this matter.

As failure to comply with a notice served under Environmental Protection Act 1990, Section 80 is a criminal offence for which this Authority can consider taking legal proceedings, I must caution and advise you that: -

***You do not have to say anything, but it may harm your defence if you do not mention, when questioned, something which you later rely on in Court. Anything you do say may be given in evidence.***

I should advise you that this caution relates to any written information that you may provide; therefore you may wish to discuss this with your solicitor.



# City of Bradford Metropolitan District Council

[www.bradford.gov.uk](http://www.bradford.gov.uk)

As already stated, I enclose a number of questions for you to answer in writing and return. If I do not receive a response before 20<sup>th</sup> July 2012, this Authority will have to consider the most appropriate action to be taken.

If you wish to discuss this matter in more detail, I can be contacted on Bradford 01274 434366.

Yours sincerely,

Technical Officer  
(Pollution Team)



List of Questions. Page 1 of 3

As already stated, I enclose a number of questions for you to answer in writing and return.

IN ACCORDANCE WITH THE POLICE AND CRIMINAL EVIDENCE ACT 1984 (AS AMENDED) I HEREBY GIVE YOU THE FOLLOWING SPECIAL WARNING: -

- A. I am investigating the alleged offence as set out in my letter dated 9<sup>th</sup> July 2012
- B. I am asking you to account for the allegation as set out in that letter.
- C. It is believed that you committed the alleged offence as set out in that letter.
- D. The Court may draw up proper inference if you fail or refuse to account for the facts upon which you are being questioned, namely causing a statutory nuisance to recur on 19<sup>th</sup> June 2012, as alleged, or that your account has been fabricated.
- E. A copy of these questions and your responses may be placed before the Court. This caution applies to any written or oral response.

**LIST OF QUESTIONS**

1. Are you Kenneth Greenhough, the Designated Premises Supervisor of the Wyke Rose Public House, 435 Huddersfield Road, Wyke, Bradford?

YES

2. Where you the Designated Premises Supervisor of the Wyke Rose Public House over the period 1<sup>st</sup> June to 30 June 2012?

YES

3. Can you confirm that an Environmental Protection Act 1990, Section 80 Abatement Notice, reference POL/316728/BPF, dated 12<sup>th</sup> June 2012, was served upon you (see Appendix 1)?

I DID NOT RECEIVE THE NOTICE AS IT WAS POSTED BY RECORDED DELIVERY AND NO ONE WAS AVAILABLE TO SIGN FOR IT.

4. Have you appealed against the Abatement Notice, reference POL/316728/BPF?

YES.



5. It is alleged that you have committed an offence, namely that you are responsible for a statutory noise nuisance being caused in contravention of an Environmental Protection Act 1990, Section 80 Abatement Notice that was served upon you on 12<sup>th</sup> June 2012. Do you understand this?

YES.

6. Is there anything that you would like to clarify about any of your answers?

7. Is there anything that you would like to add?

THE DAY IN QUESTION WHERE THE NUISANCE WAS REPORTED WAS THE FUNERAL<sup>OF</sup> SAM BLOWMAN, A SERVING SOLDIER IN AFGHANISTAN.  
I AM SURE YOU CAN UNDERSTAND WE HAD DOZENS OF SOLDIERS, FAMILY AND FRIENDS OF SAM'S IN ATTENDANCE AT THE PUB AND, HOW EMOTIONS WERE RUNNING HIGH.  
I AM SORRY FOR THE NOISE, WHICH CAUSED PROBLEMS FOR PEOPLE WHO FELT THE NEED TO COMPLAIN. I AM SURE THEY WOULDN'T HAVE COMPLAINED IF THEY HAD KNOWN THE SITUATION.  
I HAVE NO INTENTION OF HAVING ANY BANDS/ACTS, KARAOKE, DISCO OR ANY SORT OF MUSIC THAT COULD CAUSE PROBLEMS.



INVESTORS  
IN PEOPLE



2009-2010  
Beacon Authority  
2006-2007  
Beacon Authority  
Leadership Centre  
Learning Centres



HEREBY CERTIFY that the answers to the above questions are true so far as the same are within my knowledge.

Dated this: 17/7/12 day of 2012

Signature: *Kenneth Greenhouse*

Full Name (Block Capitals) KENNETH GREENHOUSE

Position in Company (If Relevant) D.P.S

Address 435, MUDDESFIELD ROAD  
BRADFORD  
BD12 8WD (WYKE ROSE)



316728/APPENDIX 1

Department of Environment and Sport  
Environmental Health  
6<sup>th</sup> Floor Jacobs Well  
Bradford, West Yorkshire, BD1 5RW

NOTICE NUMBER: POL/316728/BPF

**ENVIRONMENTAL PROTECTION ACT 1990 – SECTION 80**  
**NOTICE IN RESPECT OF STATUTORY NUISANCE**

To Kenneth Greenhough  
Wyke Rose Public House  
435 Huddersfield Road  
Bradford  
BD12 8ND

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the City of Bradford Metropolitan District Council being satisfied of the occurrence and likely recurrence of a statutory nuisance under Section 79 (1)(g) at:- dwellings in the vicinity of the Wyke Rose Public House, 435 Huddersfield Road, Bradford BD12 8ND within the district of the said Council arising from:-

noise from the playing and/or performance of loud amplified music at the Wyke Rose Public House, 435 Huddersfield Road, Bradford

**HEREBY REQUIRE YOU**, Kenneth Greenhough, as the person responsible for the said nuisance forthwith from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same.

**IN** the event of an appeal the 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 YOU CONTRAVENE** without reasonable excuse any requirement of this notice you will be guilty of an offence against Part III of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding Level 5 (£5,000) and a further fine not exceeding £500 for each day on which the offence continues after conviction. The Council may take proceedings for securing the abatement, prohibition or restriction of the nuisance. (If you fail to execute all or any part of the works in accordance with this notice, the Council may execute those works and recover from you the necessary expenditure incurred.) If the contravention takes place on industrial, trade or business premises, you will be liable, on summary conviction, to a fine not exceeding £20,000.

Dated this: 12<sup>th</sup> day of June 2012

Director, Department of Environment and Sport



INVESTORS  
IN PEOPLE



Mr Brian Larcloagh  
Department of Environment and Sport

Environmental Health

6th floor  
Jacobs Well  
Bradford.  
BD1 5RW

Received  
9/7/12. -BPF

Dear Mr Larcloagh.

RE: Wyke Rose Public House, 435 Huddersfield Road,  
Bradford, BD12 8ND.

As spoken to you during our telephone conversation I would like to inform you of my plans over the Section 80 Abatement Notice (POL1316728/BPF) which has been served.

I am hoping a prosecution can be avoided and with the fact that I have been responsible for two previous public houses and have never received a single complaint from the Department of Environment or the police. You could decide against a prosecution on this occasion. Since I was viciously assaulted June 2011 I have been left with severe injuries to my neck and spine which still cause me great pain and discomfort to this day which has resulted in me not spending the time and effort needed at the Wyke Rose. I understand the pain I suffer is no excuse for what has happened regarding the Wyke Rose.

have taken no monies what so ever from the Wyke Rose. I am not a wealthy person with the trouble I have found myself in I have decided to withdraw from the Wyke Rose and the D.P.S.

hope this matter can be dealt with swiftly as it is a great worry to me and it is affecting my health and causing me sleepless nights.

I am deeply sorry for all the complaints received and to be honest I wish I had never set foot in the Wyke Rose.

I would also like to consider the abatement notice issued 12<sup>th</sup> June 2012 was posted to me via recorded delivery. The post person left a ticket to say they had been unable to gain a signature so I needed to go and collect it. I understand this was a mistake on my behalf. In my defence recorded delivery items tend to be advertising matters, Beer Mats and alike in my experience

If I had suspected the recorded delivery item contained such important documentation, then I would of collected it immediately and would of guaranteed I wouldn't of found myself in the position I am in now.

My house address is:

Darren Street  
Bradford,  
West Yorkshire  
BD4 8LF

If you could contact me at this address or on my telephone number provided I would be much grateful.

Yours Sincerely



APP 3

**WITNESS STATEMENT**

(Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B;  
Criminal Procedure Rules, r.27.2)

NICHE Ref. No:	<input type="text"/>	URN:	<input type="text"/>
<b>Statement of:</b>	Susanne Alexandria Dawson		
Date of birth:	Over 18	Occupation:	PC 5413
<p>This statement (consisting of: 4 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.</p>			
Signature:		Date: 13 <sup>th</sup> July 2012	
<i>KCS413</i>			

Check box if witness evidence is visually recorded  (supply witness details on rear)

I am a police officer in the West Yorkshire Force currently stationed at Trafalgar House Police Station with Bradford South Division.

My current position is the Divisional Licensing Officer for Bradford South Division, for which I investigate any Licensing Offences relating to Licensed Premises ranging from Off Licences, Clubs, Public Houses and also Nightclubs, I have held this position since May 2005.

Within the Bradford South Division there is an area known as Wyke that has a number of Licensed Premises ranging from Off Licences, Public Houses and Working Mens Clubs.

One such premise is known as the **Wyke Rose**, Huddersfield Road, Wyke, Bradford that was formally known as The New Inn.

Since the Licensing Act 2003 came into force these premises have generally been a source of complaints from local residents, with an increase in Crime and Disorder, anti social behaviour and noise nuisance.

Over the years these have generally been resolved by working with the Premises Licence Holder who has either removed the Designated Premises Supervisor, Lease Holder or on a number of occasions closed the premises down for a period of time.

On 4<sup>th</sup> July 2011 the Premises Licence was transferred into the name of Clifton Properties (Yorkshire) Ltd with a Designated Premises Supervisor by the name of **Kenneth Greenhough** being made on the 29<sup>th</sup> September 2011.

Since the beginning of 2012 there has been a gradual increase in calls regarding Anti Social Behaviour and disorder.

During the month of June, calls have increased tremendously to such an extent that the general running of the premises was becoming a concern to the police.

On Sunday 3<sup>rd</sup> June 2012 at 9:40pm a 999 call was received stating that there was an on going fight and a number of police officers attended.

Signature:

*KCS413*

Signature witnessed by:

**RESTRICTED** (when complete)

NICHE Ref. No:		URN:	
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Continuation Statement of Susanne Alexandria Dawson

Upon attending at the premises it was the opinion of the police that a fight had taken place but no persons were coming forward to discuss the incident with them.

It was also noted at the time that a couple who were believed to be the landlady and landlord of the premises but in fact only managers- **Pauline SPIKINGS** and **Andrew RATCLIFFE** were both 'drunk'.

On Monday 11<sup>th</sup> June 2012 two letters were sent by registered post, one to the Designated Premises Supervisor at the address of the Wyke Rose and another to the address of the Premises Licence Holder, requesting them to contact the Police Licensing Department to arrange a convenient time and date for a meeting to discuss the rising number of complaints being made against the premises.

On Sunday 17<sup>th</sup> June 2012 at 00:53am a call was received from a member of the public stating that there was unacceptable noise coming from the premises, anti social behaviour taking place by persons stood outside and that glasses were being thrown.

A subsequent call was also received stating that their car had been damaged whilst driving by the Wyke Rose and had been caused by the customers throwing a glass at the car.

A total of 4 calls were received from members of the public and resulted in the police attending and speaking with the Landlady/landlord who at 01:03am that it was a private party they were subsequently advised regarding the behaviour of the customers and the noise complaints.

On the evening of Tuesday 19<sup>th</sup> June 2012 I was working as a member of the Evidence Gathering Team for the European Football Championships, at approximately 5:30pm I attended the Wyke Rose with a view to completing a Licensed Visit, the purpose of the visit was to establish who actually held the responsibility for the day to day running of the premises as it was believed that a woman by the name of Pauline Spikings/Faulding was still present in the capacity of a manager.

Upon our attendance it was apparent that a large number of customers were present, stood directly outside the premises on the pavement, the majority were dressed in black and it was established that this was a funeral party.

Whilst observing the group after a matter of minutes it was obvious that this group were hostile towards the police and the presence of the marked van.

It was therefore decided that the visit would not take place so as not to exacerbate the situation any more.

During the evening a number of drive bys were made by myself and the group had gained in numbers, with them now standing on the pavement and the road directly in front of the pub.

A call was received by a member of the public giving concerns for the number of persons present and stood outside, they were spoken with via phone and the situation explained to them.

Since the letters were posted to the Premises Licence Holder and Designated Premises Supervisor no contact has been made by either Landline, mobile or email.

Signature:



Signature Witnessed by:

NICHE Ref. No:		URN:	
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Continuation Statement of Susanne Alexandria Dawson

At 08:00am on Wednesday 4<sup>th</sup> July 2012 a joint operation took place between Environmental Health Officers and Bradford South Police NPT Tong, Wyke and Holmewood officers where we attended at the WYKE ROSE – Huddersfield Road, Wyke, Bradford.

Upon arrival at the premises we found that it was closed with the curtains drawn, eventually the occupants were awoken and I spoke with the following persons:-

**Andrew RATCLIFF bn 25/07/64**

**Pauline SPIKINGS bn 11/06/58**

**Pauline SPIKINGS** confirmed that she was the manager and that the Designated Premises Supervisor **Kenneth GREENHOUGH** was not present.

Environmental Health officers made a search of the premises under Schedule 3 of the Environmental Protection Act 1990 and a quantity of music equipment was located and subsequently seized.

During the visit I made an inspection of the premises to ensure that the current Premises Licence was being adhered with.

The premises have a number of conditions on the Licence under the four Licensing Objectives.

- 9. The licensee shall at all times maintain a zero tolerance policy with regard to illegal drugs, including appropriate staff training in detection and prevention.**

Therefore I made an inspection of the public toilets both male and female and observed a large amount of white powder on the cistern of the toilets in the Gents Toilets, I therefore wiped this with a cocaine wipe which immediately turned blue, this is an indication that the white substance was Cocaine and subsequently showed that drug abuse had taken place in the toilets within Licensed Premises.

- 10. A CCTV system of a standard approved in advance by the Licensing Authority and West Yorkshire Police shall be installed prior to any licensable events commencing at the premises to cover both the internal and external areas and relevant recordings shall be kept for a t least 30 days and be available on demand at the request of the Licensing Authority or Responsible Authority.**

Therefore I requested **Pauline SPIKINGS** to show me the CCTV system, a screen was located behind the bar showing images from different cameras. The hard drive was located upstairs in the living room and again had a screen showing the different images. I requested **Pauline SPIKINGS** to show me 18:00hrs on Tuesday 3<sup>rd</sup> July 2012.

At first she appeared not to be aware of how to do this stating that the system had only recently been installed, however after prompting she managed to search for the relevant time and place the images onto the screen.

I then asked her to download these images onto a disc; she stated that she did not know how to do this, and in any case did not have any discs or media stick.

Signature:

Signature Witnessed by:

KCS413

NICHE Ref. No:		URN:	
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Continuation Statement of Susanne Alexandria Dawson

I then completed a Licensing Inspection sheet and pointed out the following under caution:-

1. That there was evidence of drugs being used in the toilets and that it would appear to be open due to the amount of white powder residue left insitu.
2. CCTV was in working order but that no-one present had the knowledge or capability of downloading images when requested by the Police a Responsible Authority under the Licensing Act 2003.

Pauline SPIKINGS had nothing to add to the points outlined to her but signed the Inspection sheet and was provided with the top copy.

Prior to leaving the premises I also asked Pauline SPIKINGS why she or the DPS – Kenneth GREENOUGH had not replied to the two letters that had been sent to the premises by the Police Licensing Department, one of which had been sent by recorded delivery.

SPIKINGS stated that it was not her responsibility and had given all the post to Kenneth GREENOUGH for him to deal with; however she then produced a Red Recorded Delivery Notice dated the 13<sup>th</sup> June 2012.

I explained that the notice was dated the 13<sup>th</sup> June 2012 and by the fact that she still had it would be the reason it had not been picked up from the Post Office and surely a recorded delivery notice should have been a priority, she would not make any comment about it and shrugged her shoulders.

All officers involved in the operation then left the premises.

Later that same day I then received a telephone call from Kenneth GREENOUGH wanting to know what had happened at the premises earlier that morning and why property had been removed.

I explained that a warrant had been executed at the premises by Environmental Health and that a copy had been left with Pauline SPIKINGS.

I then asked why letters that had been sent by the Police Licensing Office had not been acted upon, one of which had been sent by Recorded Delivery and that surely Pauline SPIKINGS should have notified him of such a letter and that it should have been collected.

He replied that he took no notice of such letters from the Royal Post as it would be junk mail; I explained that the reason important letters were sent by recorded delivery was so that in theory they would not be ignored and this had obviously been the case.

The police are of the opinion that the Environmental Health Departments request to review the current Licence of the Wyke Rose is fair and proportionate in the circumstances.

Signature: <sup>c</sup>

— K0415

Signature Witnessed by:





Log 244  
4/7/12

Licensing Inspection - Licensing Act 2003

Premises Wyke Rose - 435 Huddersfield Rd, Wyke, Bradford  
 Licence Holder Clifton Properties Ltd DPS Kenneth Greenhugh  
 Date of Inspection 04/07/12 Time of Inspection 0840am

The purpose of this inspection is to ascertain whether any activities are being held in your premises which require the benefit of a Premise Licence or other authorisation under the Licensing Act 2003. For this reason the inspection is carried out during the operation of your business and reflects the situation at the time of the inspection. TO CONTINUE TO OPERATE WILL BE A BREACH OF THE LICENSING ACT 2003 AND MAY MAKE YOU LIABLE TO PROSECUTION.

Licence Number: <u>BD/ PRA 0659</u>	Breaches/Comments
<ul style="list-style-type: none"> <li>● DPS as named on Licence</li> <li>● Valid Personal Licence held by DPS</li> <li>● Premises Licence available for inspection</li> <li>● Licence Summary displayed on premises</li> <li>● Door Supervisors SIA Registered</li> <li>● Compliance with Licence Conditions</li> </ul> <p><u>Manager present :- Pauline Spinkings: 11/6/58</u></p> <p><u>① use of drugs avoidance</u></p> <p><u>② CCTV - in place, working but does not know how to download recordings</u></p> <ul style="list-style-type: none"> <li>● Unlicensed activities taking place</li> </ul> <p><u>Premises to enter under Warrant Sch 3 of the Environmental Protection Act 1990.</u></p>	<p>Yes / No <u>- NOT PRESENT.</u></p> <p>Yes / No <u>---</u></p> <p>Yes / No <u>Yes.</u></p> <p>Yes / No <u>No.</u></p> <p>Yes / No - Condition of Premises Licence; Yes / No <u>N/A</u></p> <p>Yes / No - Details <u>---</u></p> <p>Yes / No - Details <u>---</u></p>

Comments from Licensee/DPS :-

Nothing to Add.

I certify that the issue(s) identified above under "Breaches/Comments" have been brought to my attention. I have been advised that I will be reported to the Licensing Team who may consider taking legal action.

Signed [Signature] Date 04/07/12  
 Licensee/Manager/Other (please specify) Manager: Pauline Spinkings

Signed [Signature] Inspecting Officer PC 5413 Dawson  
Licensing ICA  
01274 376695

original.

WEST YORKSHIRE POLICE  
RESTRICTED (when complete)

**WITNESS STATEMENT**

(Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B;  
Criminal Procedure Rules, r.27.2)

NICHE Ref. No:	<input type="text"/>	URN:	<input type="text"/>
<b>Statement of:</b>	RICHARD NEEVES		
Date of birth:	Over 18	Occupation:	PC 6076
This statement (consisting of: 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.			
Signature:		Date: 04/07/12	

Check box if witness evidence is visually recorded  (supply witness details on rear)

I am a Police Constable with West Yorkshire Police and I am currently based at Bradford South Police Station.

On Sunday 3<sup>rd</sup> June 2012 at 2150 hours I was on duty in full uniform when I received a radio message to attend THE WYKE ROSE PUB, HUDDERSFIELD ROAD, WYKE, BRADFORD to a report of people fighting with pool cues.

I attended the report in company with a number of other Police units. On arrival there were no people outside the pub and no fighting ongoing. I alighted the Police vehicle and could immediately hear very loud music coming from the pub. I entered the pub and saw a number of people stood around DJ equipment with loud 'Bassline' music being played. In my opinion the music was at a level that would be played at a party rather than inside a pub. It would certainly disturb local residents at the volume at which it was being played.

I spoke to the landlord and landlady behind the bar. I believe them to be Pauline SPIKINGS and Andrew RATCLIFFE. They both stated that no fight had occurred in the pub. I very quickly noticed that they were both under the influence of alcohol. Both were slurring their words and their eyes were glazed. I was of the opinion that they were drunk.

Signatur

Signature witnessed by:

NICHE Ref. No:		URN:	
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Continuation Statement of **RICHARD NEEVES**

The Police units in attendance soon left the location as there was no incident ongoing or complaints. On returning to the Police Station I telephoned the reporting person. They stated that THE WYKE ROSE PUB was very anti-social. It often played loud music well into the night. There were often disturbances inside and outside the pub. The pub itself has a number of residential houses in close vicinity.

Signature:

Signature Witnessed by:



**WEST YORKSHIRE  
POLICE**

**Licensing**

Licensing Department  
Trafalgar House  
Nelson Street  
Bradford  
BD5 0DX

Tel: 01274 376695

Email:

[susanne.dawson@westyorkshire.pnn.  
police.uk](mailto:susanne.dawson@westyorkshire.pnn.police.uk)

Mobile:- 07736 084845

Your ref:  
Our ref: SAD 5413

Date 11<sup>TH</sup> June 2012

Wyke Rose  
435 Huddersfield Road  
Wyke  
Bradford  
BD12 8NP

Dear Kenneth Greenhough (DPS)

Could you please contact me as regards The Wyke Rose, Wyke in your capacity as the current Designated Premises Supervisor, to arrange a convenient meeting with you.

A number of complaints have been made in relation to the Premises and need to be discussed.

I am available on the above telephone numbers and email for you to contact me.

Yours faithfully

Su Dawson  
Pc 5413  
Licensing Officer  
Bradford South





**WEST YORKSHIRE  
POLICE**

**Licensing**  
Licensing Department  
Trafalgar House  
Nelson Street  
Bradford  
BD5 0DX

Tel: 01274 376695  
Email:  
[susanne.dawson@westyorkshire.pnn.  
police.uk](mailto:susanne.dawson@westyorkshire.pnn.police.uk)  
Mobile:- 07736 084845

Your ref:  
Our ref: SAD 5413

Date 11<sup>TH</sup> June 2012

Clifton Properties Ltd  
351 Bradford Road  
Batley  
WF17 5PQ

Dear RC Thewlis ( c/o Clifton Properties)

Could you please contact me as regards The Wyke Rose, Wyke in your capacity as the current Premises Licence Holder, to arrange a convenient meeting with you. A copy of this letter has also been sent to the premises for the attention of the current Designated Premises Supervisor Kenneth Greenhough.

A number of complaints have been made in relation to the Premises and need to be discussed.

I am available on the above telephone numbers and email for you to contact me.

Yours faithfully

Su Dawson  
Pc 5413  
Licensing Officer  
Bradford South

ail®

Recorded

ail®

Bradford South Police Station  
Trafalgar House  
Nelson Street  
BRADFORD  
BD5 0DX

Your company name

Address

Details of each item being sent

Address



AI 4525 9741 2GB

Address



AI 4525 9742 6GB

Address



AI 4525 9743 3GB

Address



AI 4525 9744 3GB

Address



AI 4525 9745 7GB

Address



AI 4525 9746 5GB

Address Kannatta Greenhough  
The Wyke Close, 435 Huddersfield Rd  
Bradford

Postcode BD12 8NP



AI 4525 9747 4GB

Total no. items

7

Sender's signature

Sender's printed name

1

Total no. bags

Date

32 11 2005

For official use  
Date Stamp

# 11. Reviews

## THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via Business Link or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at a premises and wants to intervene early without waiting for representations from other parties. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this



separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 Any application for a review received by the licensing authority from responsible authorities and any other persons should be given due consideration and treated by the authority in precisely the same way, regardless of the body or individual which made it. This includes an application made by the local authority acting in a separate capacity (for example, environmental health or child protection).
- 11.8 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.9 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.
- 11.10 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.
- 11.11 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, responsible authorities and any other persons in pursuit of common aims. Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.12 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

### **REPETITIOUS GROUNDS OF REVIEW**

11.13 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

11.14 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

11.15 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

11.16 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

## **POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW**

- 11.17 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.18 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.19 However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 11.20 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
  - to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
  - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - to suspend the licence for a period not exceeding three months;
  - to revoke the licence.
- 11.21 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

- 11.22 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.23 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.24 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

## **REVIEWS ARISING IN CONNECTION WITH CRIME**

- 11.25 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.26 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.27 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.28 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.

11.29 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;



- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

11.30 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Community Safety Partnership.

11.31 As noted below (Chapter 13, paragraph 13.59), it is unlawful to discriminate or to refuse service on grounds of race, disability, gender reassignment, pregnancy and maternity, religion and belief, sex and sexual orientation or by displaying discriminatory signs on the premises. Representations made about such activity from responsible authorities or other persons would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

#### **REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER**

11.32 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review - the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within 10 working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than 5 working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

#### **REVIEW OF A PREMISES LICENCE FOLLOWING PERSISTENT SALES OF ALCOHOL TO CHILDREN**

11.33 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.

# 12. Appeals

12.1 This chapter provides advice about entitlements to appeal in connection with various decisions made by a licensing authority under the provisions of the 2003 Act. Entitlements to appeal for parties aggrieved by decisions of the licensing authority are set out in Schedule 5 to the 2003 Act.

## GENERAL

- 12.2 With the exception of appeals in relation to closure orders, an appeal may be made to any magistrates' court in England or Wales but it is expected that applicants would bring an appeal in a magistrates' court in the area in which they or the premises are situated.
- 12.3 An appeal has to be commenced by the appellant giving of a notice of appeal to the designated officer for the magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which is being appealed.
- 12.4 The licensing authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant, licence holder, club or premises user against the representations of a responsible authority or any other person, or the objections of the chief officer of police or local authority exercising environmental health functions, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal, and the person who made the relevant representation or gave the objection will be the appellants.
- 12.5 Where an appeal has been made against a decision of the licensing authority, the licensing authority will in all cases be the respondent to the appeal and may call as a witness a responsible authority or any other person who made representations against the application, if it chooses to do so. For this reason, the licensing authority should consider keeping responsible authorities and others informed of developments in relation to appeals to allow them to consider their position. Provided the court considers it appropriate, the licensing authority may also call as witnesses any individual or body that they feel might assist their response to an appeal.
- 12.6 The court, on hearing any appeal, may review the merits of the decision on the facts and consider points of law or address both.
- 12.7 On determining an appeal, the court may:
- dismiss the appeal;
  - substitute for the decision appealed against any other decision which could have been made by the licensing authority; or
  - remit the case to the licensing authority to dispose of it in accordance with the direction of the court and make such order as to costs as it thinks fit.

## **LICENSING POLICY STATEMENTS AND SECTION 182 GUIDANCE**

- 12.8 In hearing an appeal against any decision made by a licensing authority, the magistrates' court will have regard to that licensing authority's statement of licensing policy and this Guidance. However, the court would be entitled to depart from either the statement of licensing policy or this Guidance if it considered it was justified to do so because of the individual circumstances of any case. In other words, while the court will normally consider the matter as if it were "standing in the shoes" of the licensing authority, it would be entitled to find that the licensing authority should have departed from its own policy or the Guidance because the particular circumstances would have justified such a decision.
- 12.9 In addition, the court is entitled to disregard any part of a licensing policy statement or this Guidance that it holds to be ultra vires the 2003 Act and therefore unlawful. The normal course for challenging a statement of licensing policy or this Guidance should be by way of judicial review, but where it is submitted to an appellate court that a statement of policy is itself ultra vires the 2003 Act and this has a direct bearing on the case before it, it would be inappropriate for the court, on accepting such a submission, to compound the original error by relying on that part of the statement of licensing policy affected.

## **GIVING REASONS FOR DECISIONS**

- 12.10 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.

## **IMPLEMENTING THE DETERMINATION OF THE MAGISTRATES' COURTS**

- 12.11 As soon as the decision of the magistrates' court has been promulgated, licensing authorities should implement it without delay. Any attempt to delay implementation will only bring the appeal system into disrepute. Standing orders should therefore be in place that on receipt of the decision, appropriate action should be taken immediately unless ordered by the magistrates' court or a higher court to suspend such action (for example, as a result of an on-going judicial review). Except in the case of closure orders, the 2003 Act does not provide for a further appeal against the decision of the magistrates' courts and normal rules of challenging decisions of magistrates' courts will apply.

## **PROVISIONAL STATEMENTS**

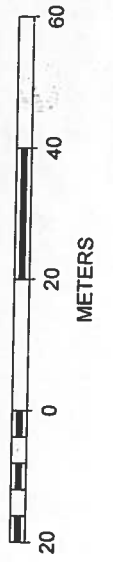
12.12 To avoid confusion, it should be noted that a right of appeal only exists in respect of the terms of a provisional statement that is issued rather than one that is refused. This is because the 2003 Act does not empower a licensing authority to refuse to issue a provisional statement. After receiving and considering relevant representations, the licensing authority may only indicate, as part of the statement, that it would consider certain steps to be appropriate for the promotion of the licensing objectives when, and if, an application were made for a premises licence following the issuing of the provisional statement. Accordingly, the applicant or any person who has made relevant representations may appeal against the terms of the statement issued.

# Wyke Rose, Wyke

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