



LICENSING SUB-COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
WEDNESDAY, 25TH APRIL, 2012 AT 10.00 AM

MEMBERSHIP

Councillors

P Latty - Guiseley and Rawdon;
C Townsley - Horsforth;
G Wilkinson - Wetherby;

Agenda compiled by:
Tel No:
Governance Services
Civic Hall
LEEDS LS1 1UR

Helen Gray
247 4355

AGENDA

Item No	Ward	Item Not Open		Page No
6	Calverley and Farsley;		<p>"LA LIGA" - APPLICATION FOR THE REVIEW OF THE PREMISES LICENCE HELD AT LA LIGA, DICK LANE, THORNBURY, BRADFORD</p> <p>STATEMENT FROM ENVIRONMENTAL PROTECTION TEAM</p> <p>(Copy attached)</p>	1 - 12

ISSUE: 2

DATE: 4th April 2012

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WITNESS STATEMENTS
(CRIMINAL PROCEDURE RULES, PART 27)

Statement of witness
(Criminal Procedure Rules, r 27.1(1);
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF (name of witness) Ruth Turner

Age of witness (if over [18] enter over [18]): Over 18

Occupation of witness: Environmental Health Officer
Leeds City Council
Environmental Protection Team
Knowsthorpe Gate
Cross Green
Leeds
LS9 0NP



This statement (, consisting of ... 4 ... pages 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.

Dated the ... 4th ... day of ..April ... , 2012 ... A.B.

Signed:

I Ruth Turner am employed by Leeds City Councils Environmental Action Service as a Senior Environmental Health Officer. I have worked for the Department for 7 years and 7 months. My duties include the investigation of noise complaints in relation to licensed premises.

This Department has received a number of complaints from local residents in relation to noise and light nuisance at the premises now known as La Liga, Phoenix Park Leisure Club, Dick Lane, Thornbury.

In October 2009 this Department received a referral from the Councils Planning

Department in relation to nuisance from floodlights at the above premises which had been erected without the necessary planning consent. On 3rd November 2009 contact was made with Simon Baker, Director of Kelvic Holdings, the company responsible for the premises. Mr Baker advised he would sort the problem of the light nuisance out. This Department continued to receive complaints in relation to nuisance from the lights. On 28 January 2010 a visit was made by officers from the Councils Out of Hours Noise Service who deemed that the floodlights were in fact causing a statutory nuisance. The case officer contacted Simon Baker on 29 January 2010 and advised that the floodlights were causing a statutory nuisance and they should be removed. A visit was made on 5 February 2010 and it was noted that the floodlights had been removed. In January 2009 this Department received a complaint in relation to noise nuisance from events at the premises which went on till the early hours of the morning, an investigation was carried out and officers from the Councils Out of Hours Noise Service visited the complainant on 1 February 2009. At the time of the visit noise from music could be heard at the complainants property and the source of the noise was confirmed as from the premises known as La Liga. As the noise was audible at the complainants property this was a breach of a condition attached to the premises licence. On 3 February 2010 the case officer spoke to Simon Baker and advised him that noise had been witnessed at the complainants property and this was a breach of his licence condition. No further complaints were received at this time. In April 2010 further complaints were received from local residents in relation to noise from the premises. A letter was sent to The Company Secretary, Kelvic Leisure Ltd on 5 May 2010 advising of noise disturbance from loud music and patrons in the grounds (Exhibit RT01). Further complaints were received in relation to noise nuisance from the



premises and contact was once again made with Simon Baker on 18 May 2010 to advise of the problems. Mr Baker advised he would speak to the manager on site about the issues.

On 20 May 2010 I was working on the Councils Out of Hours Noise Service and received a call from a resident in Grange Avenue to advise that they were suffering from loud music emanating from La Liga and it was causing them a problem in their property. I visited the complainant and determined that the noise witnessed within the property emanating from La Liga would disturb or prevent sleep and constituted a statutory nuisance as defined by section 79 of the Environmental Protection Act 1990. The bass beat was clearly audible at noise sensitive premises and would be a breach of an inaudibility condition under the Licensing Act 2003.

Details of the visit were passed to the case officer and I provided a witness statement (Exhibit RT02) to support the service of a noise abatement notice under the provisions of the Environmental Protection Act 1990 – Section 80.

On 26 May 2010 contact was again made with Simon Baker to advise that a statutory nuisance had been witnessed and the issue in relation to breach of the licensing conditions attached to the premises licence. Mr Baker advised that the company Kelvic Leisure Ltd had been dissolved and that the co director of Kelvic Holdings Ltd, Mr Robert Blackburn was accepting responsibility for the premises as the owner and new licence applicant.

On 27 May 2010 a noise abatement notice was served on Robert Blackburn as the occupier of the premises under the provisions of the Environmental Protection Act 1990 – Section 80. (Exhibit RT03)



A further complaint was received in December 2010 in relation to loud music emanating from the premises, no evidence was collected in relation to this allegation and to date this Department have not received any further complaints.

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a series of loops and a horizontal stroke.

NOTE. Wherever possible statements should be on foolscap paper. If statements are typed double spacing should be used. One side only of the paper should be used; a space should be left at the top of the first page for headings to be entered by the clerk of the court [justices' chief executive for the court]; and each page should have a wide margin on the left.

EXHIBIT RT01



The Company Secretary
Kelvic Leisure Ltd
The Coachhouse
Tyersal Hall Farm
Bradford
BD4 0RE

Environmental Protection Team
Leeds City Council
Kent Road
Pudsey
Leeds
LS28 9BN

Contact: Mr Mike Bird
Tel: 0113 214 6246
Fax: 0113 214 6250
michael.bird@leeds.gov.uk

Your reference:
Our reference: 10/12109/NOILIC
5 May 2010

Dear Sir/Madam

**THE LICENSING ACT 2003
THE ENVIRONMENTAL PROTECTION ACT 1990
RE: NOISE DISTURBANCE FROM LOUD MUSIC AND PATRONS IN GROUNDS
AT: LA LIGA SOCCER CENTRE, GALLAGHER LEISURE PARK, DICK LANE,
THORNBURY, BRADFORD, BD3 7AT**

I am writing to advise you in your capacity as premises licence holder that this Department has received further complaints regarding the above matter.

I would remind you that your Premises Licence contains conditions relating to the control of noise and if this complaint was to be substantiated, you would be in breach of those conditions. For example, your Premises Licences contains conditions which requires noise from licensed activities to be inaudible at the nearest noise sensitive premises and patrons not to use external areas after 23.00.


The alleged noise has not been witnessed yet by an officer of this Department, but the complainants have been asked to contact our night-time and weekend service should the problems recur. However, I must advise you that failing to comply with a Premises Licence is a criminal offence punishable by a £20,000 fine or a prison sentence or both. Persistent or serious breaches of a Premises Licence can also lead to a review. On review a licence can be suspended, amended or revoked.

Additionally under the provisions of the Environmental Protection Act 1990, if the noise arising from your premises is found to be at such a level that it constitutes a statutory noise nuisance, then an Abatement Notice will be served requiring the abatement of that nuisance. Failure to comply with the notice may result in legal proceedings being instituted.

I would also like to advise you that this Department is continuing to receive complaints of noise from motorbikes on the surrounding land, which I understand from speaking with your company Director Simon Baker is under your control. In order for us to consider if you are taking all reasonable precautions to secure your land against unauthorised use and prevent a potential noise nuisance being caused, I would ask you to confirm the steps you have taken with regard to this issue.

Should you wish to discuss this matter further please contact me on the above telephone number.

Yours faithfully



M Bird

Senior Environmental Health Officer



WITNESS STATEMENTS
(CRIMINAL PROCEDURE RULES, PART 27)

Statement of witness
(Criminal Procedure Rules, r 27.1(1);
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF Ruth Carolyn Turner

Age of witness :Over 18

Occupation of witness: Environmental Health Officer

Address: Environmental Health Services (W)
Kent Road
Pudsey
Leeds
LS28 9BN

This statement, (consisting of 2 pages 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.

Dated the 14th day of June 2010

Signed:

I, Ruth Carolyn Turner, am employed by Leeds City Councils' Health and Environmental Action Service as an Environmental Health Officer. I have worked for the Department for five years and 10 months. I qualified in December 2006 and am a member of the Chartered Institute of Environmental Health. One of my duties is the investigation of noise nuisance complaints. On Thursday 20th May 2010 I was working as lead officer on the Councils Out of Hours Noise Service shift 20.00 – 02.00 with Patrick Bird as Driver. We received a call from a local resident regarding loud music emanating from La Liga, Phoenix Park Leisure Club, Dick Lane, Thornbury, BD3 7AT. I arrived at 23.10, I could clearly hear music emanating from behind the complainants property in Grange Avenue BD3 the bass beat was clearly audible. I went into the

complainants property, I went to the rear ground floor sitting room, I could clearly hear bass beat emanating from La Liga, Phoenix Park Leisure Club, Dick Lane, Thornbury, BD3 7AT, the bass beat was incessant and very intrusive in the property. The noise was emanating from La Liga football which is situated behind the complainants property. At 23.15 I went to the first floor rear bedroom where there was a young man trying to sleep as he had to be at school the following day. As I went into the bedroom I noticed from the window that a police van had just arrived at La Liga. The music was switched off. The level of the noise witnessed would disturb or prevent sleep and would constitute a statutory nuisance as defined by section 79 of the Environmental Protection Act 1990.

The bass beat was clearly audible at noise sensitive premises and would be a breach of an inaudibility condition under the Licensing Act 2003. I left the complainants property at 23.25 and the music was still switched off.



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[Formerly form 13, Magistrates' Courts' (Forms) Rules 1981 (SI 1981/553), relating to rule 70 of the Magistrates' Courts Rules 1981, section 9 of the Criminal Justice Act 1967 and section 5B of the Magistrates' Courts Act 1980].



Leeds
CITY COUNCIL

Environmental Protection Team
Leeds City Council
Kent Road
Pudsey
Leeds
LS28 9BN

Reference: 10/03663/EP80

**Environmental Protection Act 1990 – Section 80
Abatement Notice**

To: Mr Robert Blackburn
Of: 270a Cowcliffe Hill Road, Huddersfield, West Yorkshire, HD2 2NE

Whereas the Leeds City Council, being the local authority referred to in the above mentioned Act, is satisfied that a statutory nuisance is likely to recur at premises in the vicinity of

LA LIGA, GALLAGHER LEISURE PARK, DICK LANE, THORNBURY, BRADFORD, BD3 7AT

And whereas you are the occupier of the premises giving rise to the nuisance specified in the Schedule, the said Council hereby prohibits the recurrence of the nuisance from the date of service of this Notice upon you.

Should you, without reasonable excuse, contravene or fail to comply with any requirement or prohibition imposed on you by this Notice you shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 together with a further fine of an amount equal to £500 for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

The provisions of Regulation 3(2)(a)(i)(ii)(b) of the Statutory Nuisance (Appeals) Regulations 1995 apply to this Notice and as a consequence it shall have effect notwithstanding any appeal to a Magistrates' Court which has not been decided by the court.

Dated this 27th day of May 2010

Signed: Mr. Bird

Name: Mr Mike Bird
Senior Environmental Health Officer

Tel: 0113 214 6246

IMPORTANT

You may appeal against this Notice to a Magistrates' court within 21 days from the date of service of the notice. See attached notes..

27/05/2010

Environmental Protection Act 1990 –
Section 80

10/03663/EP80

LA LIGA, GALLAGHER LEISURE PARK, DICK LANE, THORNBURY, BRADFORD, BD3
7AT

SCHEDULE

Noise nuisance from the playing of amplified music at La Liga, Gallagher Leisure Park, Dick Lane, Thornbury, Bradford, BD3 7AT.

NOTICES RELATING TO THIS MATTER HAVE BEEN SERVED ON:

Mr Robert Blackburn 270a Cowcliffe Hill Road, Huddersfield, West Yorkshire, HD2 2NE

I, MT ROBINSON hereby certify that I served
MR ROBERT BLACKBURN with the Notice of which this is a true copy, by
~~banding it to him/her at~~ _____ or by sending the Notice by
post/~~the recorded delivery~~ service to him/~~her~~ in a prepaid (~~registered~~) letter posted by me at the
DEANFIELD AVENUE Post ^{BOX} office on the 27th day of
MAY 2010 and addressed to AS OVER at
_____ Dated the
27th day of MAY 2010. Signed [Signature]

NOTES

THE STATUTORY NUISANCE (APPEALS) REGULATIONS 1995 provide as follows:-

Appeals under Section 80(3) of the Environmental Protection Act 1990 ("The 1990 Act")

- (1) The provisions of this regulation apply in relation to an appeal brought by any person under Section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under Section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case –
 - (a) that the abatement notice is not justified by Section 80 of the 1990 Act (summary proceedings for statutory nuisances);
 - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under Section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
 - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unseasonable 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) in 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 –
 - i) any notice served under Section 60 or 65 of the 1974 Act (consent for work on construction sites and from certain premises), or
 - ii) any consent given under Section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
 - iii) any determination made under Section 67 of the 1974 Act (noise control of new buildings):
 - (g) that, in the case of a nuisance under Section 79(1) (ga) of the 1990 Act (noise emitted from or caused by vehicles machinery or equipment), the requirements imposed by the abatement notice by virtue of Section 80 (1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 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, or in connection with any copy of the notice served under Section 80A (3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2) (i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may –
- (a) quash the abatement notice to which the appeal relates, or
 - (b) vary the abatement notice in favour of the appellant in such manner as it think 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 an appeal the court may make such order as it thinks fit –
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
 - (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above the court –
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
 - (b) shall be satisfied before it imposes any requirement thereunder 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

- (1) Where –
- (a) an appeal is brought against an abatement notice served under Section 80 or Section 80A of the 1990 Act, and
 - (b) either –
 - i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
 - ii) in the case of a nuisance under Section 79(1) (g) or (ga) of the 1990 Act, the noise which the abatement notice relates is noise necessarily cause in the course of the performance of some duty imposed by law on the appellant, and
 - (c) either paragraph (2) does not apply, or 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 person 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.