

[Insert name and address of relevant licensing authority and its reference number (optional)]

**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 Alan Riley**

(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**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Trilogy, 6-8 Whitchurch Parade, Whitchurch lane, Edgware, Middlesex, HA8 6LR	
<b>Post town</b> HARROW	<b>Post code (if known)</b> HA8 6LR

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Local Restaurant Limited
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<b>Number of premises licence or club premises certificate (if known)</b> LN/000001049/2015/16
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**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 [REDACTED]
Telephone number (if any) [REDACTED]
E-mail address (optional) [REDACTED]

**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)**

1. Failure to comply with an abatement notice under the Environmental Protection Act 1990 section 80.
2. Causing a statutory noise nuisance which shows no or very little regard for neighbours and the surrounding properties. This consistently undermines the public nuisance objective.
3. The crime and disorder objective has been undermined as certain conditions attached to the premise licence have been breached. Also a noise abatement notice under Environmental Protection Act 1990 section 80 has been breached. Prosecution is being considered.

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

Having received 3 valid complaints. All with supporting diary sheets regarding a substantial noise nuisance originating from Trilogy. A site visit was made on the.

On the 11/1/19.

At this time there were no managers, DPS or owner present on the premises. Advice was given to [REDACTED] (a member of front of house staff) on the fact that we were investigating noise issues and advised on keeping the doors shut and reducing the volume. A visit was booked in with the manager over the Phone for the, 14/1/19 at 12:00. A voice mail was left for the owner advising he attend. Noise continued over this weekend.

On the 14/1/19.

A meeting with [REDACTED]. At this meeting we discussed possible solutions and advised on precautions to ensure problems did not persist.

On the 15/1/19

This was put in writing and hand delivered. See attached copy.(exhibit A)

On the 20/1/19

A night time visit was made starting at 01:20 and finished 02:50. During this time the music was clearly audible and witnessed at a level that was deemed to be a statutory nuisance in several locations. 1. Outside graham lodge 2 Montgomery road. 2. Outside a property on Whitchurch lane. 3. Inside a property on Whitchurch lane in front room/ lounge and master bedroom. 4. Outside a property in mead road. 5. at the far end of mead road (over 180 metres away from restaurant). 5. Outside the restaurant to the point the roller shutters were vibrating due to the bass. We entered the restaurant at 02:30 we spoke to [REDACTED] he turned the music off and was re advised about breaching the licencing objectives and causing a statutory nuisance. He promised that he would take steps to rectify this. As we left the music was switched off however the noise continued as patrons were leaving the door staff having little or no effect on the quiet dispersal. Also noted at this visit copious amounts of smoking related rubbish on the street.

On the 21/1/19.

A letter was written and hand delivered. See attached copy.(Exhibit B)

On the 23/1/19

[REDACTED] called left a message on my desk phone. He advised the bass bins were being removed and an effort would be made to reduce the noise in the form of monitoring.

On the 9/2/19

Visit to area at 00:08 people noise but no music evident from outside Graham lodge 2 Montgomery road. at 00:35 We sat at the bus stop opposite the restaurant from here bass and singing could be heard at 00:40 music could be heard clearly this was made worse as people were exiting and entering for cigarettes. At 00:44 7 patrons came out making quite a lot of noise. at 01:06 music could clearly be heard from the bus stop so we entered the premises and spoke to [REDACTED] he was adamant that he was trying to control the noise it was a lot better the previous so took him at his word.

14/2/19

Music noted to be loud as recorded in diary sheets starting again on then continuing every weekend since.

11/3/19

Message left from complainant advising that noise had increased and continued.

14/3/19

Abatement Notice served on [REDACTED] hand delivered to restaurant and business address see attached.(Exhibit C cover letter) (Exhibit D Notice)

15/3/1

Having noted an issue with the 75dB limit applied on the notice and that it could have still caused a statutory nuisance the wording was adapted and a revised notice was sent out. See attached.(Exhibit E cover letter) (Exhibit F revised notice)

1/4/19

Received more diary sheets from complainant. More evidence of statutory nuisance. And breach of notice served on the 15/3/19. Also included was a petition with 11 signatures. Petition not included as it contains sensitive data.

7/4/19

Visit to the area. At 01:30 music was audible from outside graham lodge 2 Montgomery road this was confirmed to be originating from trilogy. The music was audible at the bus stop opposite and deemed to be a statutory nuisance. We then entered the premises and requested that the music be turned down. It was briefly turned down then the volume crept up while we were still there. After some persuasion the music was turned down and was at a suitable volume as we left at this point the shutters were put down.

#### Summary

Despite numerous visits and correspondence [REDACTED] has failed to meet the following licencing objectives under the licencing act 2003:

#### Public Nuisance:

Section 2.16 of the Statutory Guidance issued under the Licensing Act 2003 states (in part): Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.

Section 2.17-2.19 of the Statutory Guidance issued under the Licensing Act 2003 states:

2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

#### Crime and disorder

Section 2.5 of the Statutory Guidance issued under the Licensing Act 2003 states:

2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

As [REDACTED] is breach of an abatement notice under the environmental protection act 1990 section 80. This is a criminal offence.(we are considering Prosecution.)

#### Recommendations

It is recommended to the committee that in order to uphold the licensing objectives, regulated entertainment i.e. Exhibition of films, live music (e), recorded music(f), and performance of dance(g) and performance similar to e f g be removed from the licence. This would mean that live and recorded music may be played at the premises during 08:00 and 23:00 hours each day as per the exemption for licensed premises that are allowed to sell alcohol for consumption on the premises.

Section 16.55 of the Statutory Guidance states:

On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension<sup>74</sup> and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.

If the committee should be minded to allow music between the hours of 08:00 and 23:00 hours, then the following conditions would be recommended:

1. AT the end of trading the pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge,  
- Shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements. (This ensures that the area is kept clean and tidy and does not impact the neighbouring community helping to prevent public nuisance.)

2. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly. (This is to protect licencing objectives regarding public nuisance)

3. Loudspeakers shall not be located in the entrance lobby or outside the premises building. Loudspeakers and other sound amplification equipment must not be directed outwards towards any street or installed externally to the Premises. Section 177A does not apply to this condition. (This is to protect licencing objectives regarding public nuisance)

4. Appropriate automatic noise control device must be fitted to all amplified sound equipment. The device must be:

a) Set so that the volume of any amplified sound emanating from the premises does not cause a public nuisance. A Compliance Certificate must be supplied to the licensing authority for the installation of the unit before any regulated entertainment is carried out stating the operating parameters of the unit.

i) The installation must be carried out by a competent/qualified person and submitted to licensing authority for approval. The compliance certificate should contain the following.

Min. 5 minute LAEQ

Frequency analysis between 200Hz - 35Hz

ii) The devices must be fitted to all power outlets to the premises (i.e. to the main distribution unit) The Premises Supervisor must ensure that any amplified sound from the premises does not cause a public nuisance by ensuring that amplified sound is inaudible at the boundary of any properties where the occupiers are likely to be sensitive to noise. Section 177A does not apply to this condition. (This is to protect licencing objectives regarding public nuisance)

5. The Licensee shall comply with all reasonable crime prevention and/or public safety measures that may be required by the Licensing Authority and/or the Environmental Health Officer and/or the Metropolitan Police and which are consistent with the premises operating schedule. (This is to protect licencing objectives regarding public nuisance and crime and disorder)

6. At least one First Aider trained to deal with problems associated with alcohol and drugs will be on duty when premises are open for licensable activities. (having witnessed patrons vomiting in the street on several occasions this was added to help with public safety also to help protect the licencing objectives regarding public nuisance)

7. No more than 6 customers are permitted in the outside smoking area at any one time. (This is to protect licencing objectives regarding public nuisance)



Please tick ✓ yes

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

If yes please state the date of that application

Day		Month		Year	
↓	↓	↓	↓	↓	↓

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

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 ALAN RILEY  .....

Date 15/4/2019 .....

Capacity Environmental Health Technician. ....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**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.

EXHIBIT A

Community Directorate  
Corporate Director  
Paul Walker

[REDACTED]  
Trilogy  
6-8 Whitchurch Parade  
Whitchurch Lane  
Edgware  
Middlesex  
HA8 6LR

15th January 2019

Our ref: CE/CSS/AR/WK/000662517

 COPY

Dear [REDACTED]

**Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, Middlesex, HA8 6LR**

**Environmental Protection Act 1990 Noise Nuisance from amplified music.**

Following our meeting on 14<sup>th</sup> January 2019. As discussed going forward you are going to make a conscious effort to ensure noise and vibration leakage is reduced by.

1. Carrying out regular checks of the volume of the sound system. By this as we agreed going outside the premises and if the music is audible then turned down.
2. Ensuring that the doors of the restaurant are used as intended to reduce sound leakage.
3. Ensuring that any portable sound equipment is in fact being played through the sound limiter.
4. Training/informing of all staff of the importance of carrying out the requested actions.

For the avoidance of doubt, you are advised that the Council will be carrying out monitoring as part of its investigation. This monitoring may take the form of periodic visits which could be carried out at any time of day and night, by officers who will undertake such observations as are necessary or use such electronic equipment as necessary, to determine whether statutory nuisance exists.

I am sure that you would not wish to intentionally disturb your neighbours but I must point out that the Council has legal powers under the Environmental Protection Act to serve a formal notice (called an "Abatement Notice") on any person who creates a noise nuisance requiring them to control noise levels and to curtail noisy/anti-social activities.

Yours faithfully

[REDACTED]



Faint header text, possibly containing a title or reference number.

First main paragraph of text, containing several lines of faint, illegible characters.

Second main paragraph of text, continuing the faint, illegible content.

Third main paragraph of text, with some faint structural markers.

Fourth main paragraph of text, appearing as a list or series of points.

Fifth main paragraph of text, possibly a concluding sentence or short paragraph.

Bottom section of the page, containing faint text and possibly a signature or footer area.

EXHIBIT B

Community Directorate  
Corporate Director  
Paul Walker

Trilogy  
6-8 Whitchurch Parade  
Whitchurch Lane  
Edgware  
Middlesex  
HA8 6LR

21st January 2019

Our ref: CE/CSS/AR/WK/000663210



Dear [REDACTED]

**Environmental Protection Act 1990 Noise Nuisance from amplified music and people noise emanating from Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, Middlesex, HA8 6LR.**

Despite previous site meetings and written action plans. it disappoints me to have to recontact you regarding the nuisance that you are causing. Having actually witnessed the noise allowed to escape the property, the music noise was clearly audible at the far end of mead road approximately 180 metres away.

As discussed previously in our meeting on the 14<sup>th</sup> January 2019 and in my letter hand delivered on the 15<sup>th</sup> January 2019.

"You are going to make a conscious effort to ensure noise and vibration leakage is reduced by.

1. Carrying out regular checks of the volume of the sound system. By this as we agreed going outside the premises and if the music is audible then turned down.
2. Ensuring that the doors of the restaurant are used as intended to reduce sound leakage.
3. Ensuring that any portable sound equipment is in fact being played through the sound limiter.
4. Training/informing of all staff of the importance of carrying out the requested actions. "

Following our visit on the morning of the 20<sup>th</sup> January 2019. It is evident that none of these steps have been implemented or even taken on board.

I therefore request that a qualified sound engineer is employed before next weekend, to test and reset the noise limiter. This is to be set to a level that does not allow the music to be audible from the bus stop opposite your restaurant also to ensure that any/all external equipment is played through this limiter. I will require proof of this in the way of a report.

Additionally it is clearly evident that your door supervisors have little or no control over your noisy patrons whilst outside smoking as their voices could also be clearly heard from 100 metres away. Also at the end of the evening dispersal of drunken patrons would be an additional thing to look into. Also smoking related littering to the front of the premises. Although ashtrays are in place they are clearly not used.

This is my last warning. If noise can not be limited as to not cause a nuisance, an Abatement notice will be served and a licence review may be implemented.

Yours faithfully



EXHIBIT C

Community Directorate  
Corporate Director  
Paul Walker  
MR

Trilogy  
6-8 Whitchurch parade,  
Whitchurch lane,  
Edgware,  
Middlesex,  
HA8 6LR.

14<sup>th</sup> of March 2019

Our ref: CE/CSS/AR/WK/000663210

**ENVIRONMENTAL PROTECTION ACT 1990 S80 Noise Nuisance from amplified music and speech from Trilogy ,6-8 Whitchurch parade, Whitchurch lane,Edgware,Middlesex,HA8 6LR.**

Dear [REDACTED]

Despite previous correspondence and site visits. The noise emanating from Trilogy, 6-8 Whitchurch Parade has continued to cause a Noise Nuisance to neighbouring properties.

Therefore please find the attached notice, served under the above legislation, requiring you, as the owner of the premises, to carry out steps to remedy the problem.

I must inform you that failure to comply with the notice can result in prosecution and a review of your premises licence.

It is important that you read through the notice carefully and understand exactly what it means. You may wish to seek independent legal advice. In the event of an appeal arising, all papers relating to it should be sent via the appropriate Magistrates Court to the Director of Legal Services, Harrow Council, Civic Centre, Station Road, Harrow HA1 2UT.

If you wish to discuss this matter further, please contact me on the number below.

I trust you will cooperate to avoid the need for any further enforcement action.

Yours Sincerely,

[REDACTED]

Ref CSS/WK/000663210/A

London Borough of Harrow  
Environmental Protection Act 1990 Section 80

# Notice for Abatement and/or Prohibition or Restriction of Nuisance

To: The Owner

Of: Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, Middlesex, HA8 6LR

The Council of the London Borough of Harrow

are satisfied that a statutory nuisance exists and likely to recur from the premises at

**Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, Middlesex, HA8 6LR**

Arising from:

**Noise nuisance arising from loud amplified music and speech**

and that you are the person responsible for this nuisance from those premises.

**TAKE NOTICE THAT** Harrow Council, using their powers under the Environmental Protection Act 1990 **DO HEREBY PROHIBIT** a recurrence of the said nuisance and

**REQUIRE** you to immediately abate and

To take such steps as may be necessary to prevent recurrence of this nuisance:

1. Ensuring all music is played through a working calibrated noise limiter set at 75db.
2. Ensuring door staff has some control over patrons outside the premises whilst smoking limiting the noise from this and patrons leaving the premises.
3. Engage a suitably qualified engineer to provide a schedule of works to improve the sound insulation within the licenced premises within 28 days.

**NOTE THAT** if this nuisance (whether abated or not) occur or recurs (or if you fail to comply with any of the requirements of this notice) an offence will have been committed and such offence may then be dealt with in a Magistrates' Court.

DATED .....



**Notes:**

1. **A Person, Industrial or trade premises guilty of an offence is liable to an unlimited fine and a daily penalty of £500.**
2. Failure to comply with the requirements of this Notice may result in the Council doing whatever is necessary to abate the nuisance and recovering any expenses reasonably incurred is so doing.
3. The person served with this Notice may appeal against the Notice to Magistrates' Court within 21 days from the service of the Notice.
4. The Statutory Nuisance (Appeals) Regulations, 1995 shall apply in relation to any appeal against this notice including the specified grounds of appeal contained therein.



5. In the event of an appeal against this Notice, the operation of the Notice shall not be suspended pending the result of the appeal [because (the nuisance is injurious to health) (the nuisance is likely to be of limited duration such that a suspension of the Notice would render it of no practical effect) (the expenditure that would be incurred by any person in the carrying out of works in compliance with the Notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance)] NB. section 3 paragraph (2) applies - see 'Suspension of Notice' attached.

6. See attached note on Regulation of Investigatory Procedures Act 2000.

## **Statutory Nuisance (Appeals) Regulations 1995 (Appeals under section 80(3) of the 1990 Act)**

### *Citation, Commencement and Interpretation*

1. - (1) These Regulations may be cited as the Statutory Nuisance (Appeals) Regulations 1995 and shall come into force on 8th November 1995.
- (2) In these Regulations -
  - 'the 1974 Act' means the Control of Pollution Act 1974;
  - 'the 1990 Act' means the Environmental Protection Act 1990; and
  - 'the 1993 Act' means the Noise and Statutory Nuisance Act 1993.
2. (1) The provisions of this regulation apply 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 connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
  - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
  - (d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
  - (e) where the nuisance to which the notice relates-
    - (i) is a nuisance falling within section 79(1)(a),(d),(e),(f) or (g) of the 1990 Act and arises on industrial trade or business premises, or
    - (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, 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 66 of the 1974 Act (control of noise 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-
    - (j) 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.
- (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 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 a 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 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 an 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 shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that the 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
    - (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 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.

### Regulation of Investigatory Procedures Act 2000:

For the avoidance of doubt, you are advised that the Council will be carrying out monitoring of the requirements of the Notice to ensure you have complied with it. This monitoring will take the form of periodic visits, to be carried out at any time of day or night, by officers who will undertake such observations as are necessary to determine whether the Notice has been complied with.



EXHIBIT E

Community Directorate  
Corporate Director  
Paul Walker  
MR

Trilogy,  
6-8 Whitchurch parade,  
Whitchurch lane,  
Edgware,  
Middlesex,  
HA8 6LR.

 COPY

15<sup>th</sup> of March 2019

Our ref: CE/CSS/AR/WK/000663210

**ENVIRONMENTAL PROTECTION ACT 1990 S80 Noise Nuisance from amplified music and speech from Trilogy ,6-8 Whitchurch parade, Whitchurch lane,Edgware,Middlesex,HA8 6LR.**

Dear 

Please find enclosed a revised copy of the notice issued on the 14th march 2019. Please destroy the original.

Yours Sincerely,



Ref CSS/WK/000663210/A

London Borough of Harrow  
Environmental Protection Act 1990 Section 80

# Notice for Abatement and/or Prohibition or Restriction of Nuisance

To: The Owner  
Of: Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, Middlesex, HA8 6LR

The Council of the London Borough of Harrow

are satisfied that a statutory nuisance exists and likely to recur from the premises at  
**Trilogy, 6-8 Whitchurch Parade, Whitchurch Lane, Edgware, Middlesex, HA8 6LR**

Arising from:

**Noise nuisance arising from loud amplified music and speech**

and that you are the person responsible for this nuisance from those premises.

**TAKE NOTICE THAT** Harrow Council, using their powers under the Environmental Protection Act 1990 **DO HEREBY PROHIBIT** a recurrence of the said nuisance and **REQUIRE** you to immediately abate and

To take such steps as may be necessary to prevent recurrence of this nuisance:

1. Ensuring all music is played through a working calibrated noise limiter set at a level that ensures that music is not audible at the nearest noise sensitive property.
2. Ensuring door staff has some control over patrons outside the premises whilst smoking limiting the noise from this and patrons leaving the premises.
3. Engage a suitably qualified engineer to provide a schedule of works to improve the sound insulation within the licenced premises within 28 days.

**NOTE THAT** if this nuisance (whether abated or not) occur or recurs (or if you fail to comply with any of the requirements of this notice) an offence will have been committed and such offence may then be dealt with in a Magistrates' Court.

DATED .....



**Notes:**

1. **A Person, Industrial or trade premises guilty of an offence is liable to an unlimited fine and a daily penalty of £500.**
2. Failure to comply with the requirements of this Notice may result in the Council doing whatever is necessary to abate the nuisance and recovering any expenses reasonably incurred in so doing.

3. The person served with this Notice may appeal against the Notice to Magistrates' Court within 21 days from the service of the Notice.
4. The Statutory Nuisance (Appeals) Regulations, 1995 shall apply in relation to any appeal against this notice including the specified grounds of appeal contained therein.
5. In the event of an appeal against this Notice, the operation of the Notice shall not be suspended pending the result of the appeal [because (the nuisance is injurious to health) (the nuisance is likely to be of limited duration such that a suspension of the Notice would render it of no practical effect) (the expenditure that would be incurred by any person in the carrying out of works in compliance with the Notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance)] NB. section 3 paragraph (2) applies - see 'Suspension of Notice' attached.
6. See attached note on Regulation of Investigatory Procedures Act 2000.

### **Statutory Nuisance (Appeals) Regulations 1995 (Appeals under section 80(3) of the 1990 Act)**

#### *Citation, Commencement and Interpretation*

1. - (1) These Regulations may be cited as the Statutory Nuisance (Appeals) Regulations 1995 and shall come into force on 8th November 1995.
- (2) In these Regulations -
  - 'the 1974 Act' means the Control of Pollution Act 1974;
  - 'the 1990 Act' means the Environmental Protection Act 1990; and
  - 'the 1993 Act' means the Noise and Statutory Nuisance Act 1993.
2. (1) The provisions of this regulation apply 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 connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
  - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
  - (d) that the time, or where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
  - (e) where the nuisance to which the notice relates-
    - (i) is a nuisance falling within section 79(1)(a),(d),(e),(f) or (g) of the 1990 Act and arises on industrial trade or business premises, or
    - (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, 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 66 of the 1974 Act (control of noise 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 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)(l) 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 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 a 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 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 an 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 shall be satisfied before it imposes any requirement thereunder on any person other than the appellant, that the 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
    - (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 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.

### Regulation of Investigatory Procedures Act 2000:

For the avoidance of doubt, you are advised that the Council will be carrying out monitoring of the requirements of the Notice to ensure you have complied with it. This monitoring will take the form of periodic visits, to be carried out at any time of day or night, by officers who will undertake such observations as are necessary to determine whether the Notice has been complied with.