

**Statement regarding application for Licence Review
Stellar Bar and Coffee House, 56 High Street, Haverhill**

I am a Senior Enforcement Officer in the Private Sector Housing and Environmental Health team which undertakes the Responsible Authority role regarding Licensing matters on behalf of the Council. It is under this role that we have requested a review of the licence held by The Stellar Bar and Coffee House. The changes proposed are as follows:

Exclusion of a licensable activity from the scope of the Licence by the removal of the exemption (conferred by the Licensing Act 2003 (Deregulation of Entertainment) (Amendment) Order 2013) from licensing for live and recorded music played between 0800 and 2300, and the exclusion of a licensable activity from the scope of the Licence by removal from the Licence of regulated entertainment (live and recorded music).

The reason that we have applied for this review to the current licence are:

That amplified music from within the premises causes a nuisance and affects the quality of life and quiet enjoyment of local residents in their homes.

The times at which residents are being disturbed are such to cause sleep deprivation and the noise is of regular occurrence, therefore further actions are required from the licence holder to abate this problem.

There is a noise abatement notice currently in force.

The layout and structure of the building containing the licensed premises and the affected domestic dwellings is of inappropriate and inadequate construction to contain noise from amplified music played at the current volume. At the time of first use of these premises for the purposes of live and recorded music the operator was advised that it would be necessary for the premises to be assessed to determine necessary noise mitigation measures and that noise management plans would be required to ensure that neighbouring premises were not affected by noise breakout.

This team subsequently received complaints of noise affecting a neighbouring property. The complainant has provided numerous recordings using the Noise App and the detail of these complaints has been corroborated by visits from officers of the Private Sector Housing and Environmental Health team. The exhibits attached provide details of the noise app recordings submitted by the complainant, witness statements from the officers who have attended the site, noise recordings, copies of correspondence to the operator of the Stellar Bar and Coffee House, and documentation regarding the noise abatement notice and subsequent appeal against this notice which was dismissed by the Court.

The witness statements and information provided by the complainant attest to the degree of disturbance caused with music clearly audible in the residential premises to the extent that words to songs can be clearly distinguished and the bass beat felt through the floor and causing vibration of the fabric of the building.

Informal attempts to deal with noise disturbance have been unsuccessful. The operator has been contacted on several occasions regarding the unacceptable level

of noise, has received a noise abatement notice and Temporary Events Notices for extension to hours have previously been rejected. We are therefore satisfied that the premises operator is fully aware of the disturbance caused. Complaints of noise disturbance continued to be received up to 31 March 2023. Whilst it is reported that there has been a reduction in the disturbance caused by the activity within the premises we are concerned that significant disturbance could recur.

Included with this application are copies of correspondence with the Designated Premises Supervisor, a log of Noise app recordings made by the complainant, witness statements of Officers who have observed the noise disturbance on site, copies of the Noise Abatement Notice, a note regarding the rejection of the appeal against that notice, Counter Notices refusing Temporary Event Notices in December and January 2023 and recording of noise made on site by an officer of the Private Sector Housing and Environmental Health team.

Julie Roberts
Senior Enforcement Officer (Private Sector Housing and Environmental Health)

22/06/23

From: planning@westsuffolk.gov.uk
To: [Fundira, Don](#)
Subject: Consultee Comments for Planning Application DC/22/0403/FUL
Date: 11 April 2022 15:19:52

Consultee comments

Dear Mr Don Fundira,

You have been sent this email because you or somebody else has submitted a consultee comment on a Planning Application to your local authority using your email address. A summary of your comments is provided below.

Comments were submitted at 11/04/2022 3:19 PM from Mr Don Fundira (Not Available) on behalf of Public Health And Housing.

Application Summary

Reference:	DC/22/0403/FUL
Address:	56 High Street Haverhill Suffolk CB9 8AR
Proposal:	Planning application - a. change of use from retail shop (class E) to cafe and bar (class E and Sui Generis) b. extended opening hours to be 0900 - midnight Sunday - Thursday and 0900 - 0130 Friday and Saturday
Case Officer:	Ed Fosker

[Click for further information](#)

Comments Details

I have had a look at the above-mentioned planning application, and I have the following comments:

The development appears to be in a building with a mixed commercial and residential use. The applicant has already begun to operate as the proposed and we have already begun to receive noise complaints.

Prior to the commencement of the development, an environmental noise assessment, sound insulation and ventilation scheme and a verification plan shall be submitted to and be approved in writing by the Local Planning Authority.

The environmental noise assessment shall include the impact of any noise from people in the Bar and Coffee house and noise from any music live or amplified that is played in the bar or coffee house and this must be carried out whilst the activities in the development are likely to have an adverse effect on nearby sensitive receptors or it shall include predicted noise levels from the sources described above within the bar and coffee shop which will form part of the development, octave band analysis and all assumptions made (e.g. glazing and façade areas, commercial / residential separation).

The sound insulation and ventilation scheme shall include the specification and acoustic data sheets for the ceiling and floor area of the Bar and coffee shop and the residential properties above and adjacent to the development, glazed areas of the development and any complementary acoustic ventilation scheme and be designed to achieve the following internal noise levels inside the nearest sensitive receptor properties:

- i. Not exceeding 30dB LAeq(1 hour) and not exceeding NR 25 in bedrooms for any hour between 23.00 and 07.00,
- ii. Not exceeding 35dB LAeq(1 hour) and not exceeding NR 30 for bedrooms and living rooms for any hour between 07.00 and 23.00,
- iii. Not normally more than 45dB Lmax(1 min) in bedrooms (measured with F time weighting) between the hours of 23.00 and 07.00,
- iv. for the control of low frequency noise, the Lmax for each hour shall not exceed;
 - a. Lmax of 55dB at 40Hz
 - b. Lmax of 53dB at 50Hz

- c. Lmax of 51dB at 63 Hz
- d. Lmax of 49dB at 80 Hz
- e. Lmax of 47dB at 100Hz
- f. Lmax of 44dB at 125 Hz

The sound insulation and ventilation scheme verification plan shall include details of the post-completion acoustic measurements and other data that will be collected following completion of the development in order to demonstrate that the internal noise levels set out above have been achieved.

The sound insulation and ventilation scheme and verification plan shall be carried out in accordance with the approved details unless varied with the express written approval of the Local Planning Authority.

Prior to first occupation of the development, a verification report, which shall include the measured data referred to in the verification plan, to demonstrate that the approved sound insulation and ventilation scheme and any complementary acoustic ventilation is fully operational and meets the required internal noise levels, shall be submitted to and be approved in writing by the Local Planning Authority. The verification monitoring must be carried out on an evening/night which has been agreed with [the Premises of Concern] as a representative operational night with a band / live music typical and representative of music noise levels from the premises.

Environmental Noise Assessment

The environmental noise assessment shall be suitable and sufficient, where appropriate shall consider the impact of vibration, and shall be undertaken by a competent person having regard to BS 7445: 2003 Description and Measurement of Environmental Noise and any other appropriate British Standards. The internal noise levels referred to are derived from BS 8233: 2014 Sound Insulation and Noise Reduction for Buildings.

In this case where noise sources share a floor / ceiling separation or party walls with the development then a sound insulation test of the relevant separation will be required as well as an assessment of the noise source itself and how it is limited or controlled.

The sound insulation and ventilation scheme verification plan must include the impact of any noise from people in the Bar and Coffee house and noise from any music live or amplified that is played in the bar or coffee house and this must be carried out whilst the activities in the development are likely to have an adverse effect on nearby sensitive receptors or it shall include predicted noise levels from the sources described above within the bar and coffee shop which will form part of the development. In particular, it shall specifically consider the impact of low frequency noise breakout from the Bar and Coffee house.

The verification report shall confirm that the approved sound insulation and ventilation scheme has been implemented and shall include;

- The specification and acoustic data sheets for insulated floor/ ceiling spaces glazed areas of the development and any complementary acoustic ventilation scheme
- Example photographs of the products eg glazing and ventilation units in situ (prior to identifying labels being removed)
- Photographs, drawings (and where applicable) product data sheets of any other sound insulation measures eg floor joists, floating floors, independent acoustic ceilings or walls etc
- The approved post-completion acoustic measurements

Comments:

The approved sound insulation and ventilation scheme must be maintained &, in the case of mechanical ventilation, must be maintained, serviced and operated in accordance with manufacturer's recommendations.

I also recommend that:

Prior to the occupation of the development a detailed Noise Management Plan shall be submitted to and be approved in writing by the Local Planning Authority.

The Noise Management Plan shall identify the types and locations of operational activities which are likely to cause noise disturbance to sensitive receptors and:

- Minimise noise arising from operational activities by technical and physical means, and through management best practice

- Identify (and make stakeholders aware of) the person responsible for recording, investigating & dealing with complaints from any residents
- Provide details of the sound insulation and ventilation scheme which shall include mitigation measures to achieve the internal noise levels specified in BS 8233 at any affected residential property
- Provide details of the sound insulation and ventilation scheme for the envelope of the building to prevent noise breakout of the premises
- Provide details of how the internal noise levels in all parts of the proposed development will be controlled & managed to ensure that the noise breakout does not cause noise disturbance
- Provide details of how noise on the street immediately surrounding the proposed development either from customers entering & exiting the premises, queues, smoking areas will be managed
- Regularly review the Noise Management Plan.

On-Going / Regulatory

Informative

The applicant must adhere to the agreed Noise Management Plan while the premises remain operational. The Noise Management Plan must provide:

- Details of the sound insulation and ventilation scheme for the envelope of the building to prevent noise breakout of the premises together with the third octave band analysis of the maximum internal noise levels that the improved building envelope may accommodate.
- Where there are residential premises above, below or adjacent to the proposed development, details of the sound insulation and ventilation scheme for the party walls & ceilings / floors between the proposed development & the surrounding residents or other noise sensitive receptors to prevent the transmission of noise & vibration through the building structure together with the third octave band analysis of the maximum internal noise levels that the improved party walls & ceilings / floors may accommodate.

The sound insulation and ventilation scheme shall include mitigation measures to achieve the following internal noise levels at any affected residential property:

- Not exceeding 30dB LAeq(1 hour) and not exceeding NR 25 in bedrooms for any hour between 23.00 and 07.00,
- Not exceeding 35dB LAeq(1 hour) and not exceeding NR 30 for bedrooms and living rooms for any hour between 07.00 and 23.00,
- Not more than 45dB L_{Amax}(1 min) in bedrooms (measured with F time weighting) between the hours of 23.00 and 07.00,
- Not more than 50dB LAeq(1 hour) for garden areas (including garden areas associated with residential homes or similar properties).

NB According to Noise from Pubs & Clubs - Phase 1 by Davies et al on behalf of Defra (Oct 2005), noise levels measured in bars & restaurants during quiet periods showed noise levels of 65-70 dB LAeq. Noise levels of up to 88 dB LAeq were measured during busy periods in bars not playing music ie just customer noise. Many bars playing music had noise levels of 90-95 dB LAeq during busy periods with noise levels on dance floors of night clubs measured at up to 105 dB LAeq. Noise levels of up to 115 dB Leq in the 63 Hz octave band & 110 dB Leq in the 125 Hz octave band were recorded on dance floors of night clubs. L_{max} noise levels are obviously higher than Leq noise levels. Differences of between 5 & 15 dB were noted between Leq & L_{max,f} for both A-weighted & octave band measurements.

- Details of how the internal noise levels in all parts of the proposed development will be controlled & managed to ensure that the noise (including noise from customers) does not exceed the maximum internal noise levels determined above.
- Details of how noise on the street immediately surrounding the proposed development either from customers entering & exiting the premises, queues, smoking areas will be managed so as not to affect amenity and potentially cause a noise nuisance to surrounding residents or other noise sensitive receptors.
- Regularly review the Noise Management Plan. Any amendments which may have an impact on noise sensitive receptors shall be agreed in advance with the

regulator and communicated to all other stakeholders

Kind regards

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From: [Roberts, Julie](#)
To: [REDACTED]
Subject: Stellar Bar and Coffee House, 56 High Street, Haverhill
Date: 14 April 2022 16:39:00

Environmental Protection Act 1990 56 High Street, Haverhill

FAO Mr Andrei Octavian Neculaita

This team have received complaints regarding disturbance caused by loud music and vibration (low frequency noise) from the premises at 56 High Street, Haverhill.

I am aware that the premises has been operating as a public venue. Representations have been made regarding the planning application in respect of this premises and these include the requirement that, should a change of use be permitted, suitable sound proofing works are completed in accordance with a noise report prepared by a suitably qualified acoustic consultant. This is because we consider that the current construction and location mean that the building is unsuitable for use as a venue such as this.

You have advised the council that the venue will not be open to the public at this time. It is important that you understand that **all** noise from the premises must be kept to a level such that occupiers of neighbouring premises are not unreasonably disturbed. This will include any private gathering of people.

If we continue to receive complaints formal action is available to this team under the provisions of the legislation detailed above if the level of noise is found to be excessive.

If you require any further information please contact me using the details below.

Regards

Julie Roberts
Senior Enforcement Officer (PSH & EH)
Private Sector Housing and Environmental Health
Direct dial: 01284 757044
Email: Julie.Roberts@westsuffolk.gov.uk
www.westsuffolk.gov.uk
West Suffolk Council
#TeamWestSuffolk

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West Suffolk Council is playing its part to support our communities and businesses during the COVID-19 outbreak. Prioritising this work may mean other services are impacted or you may get a slower response than normal.

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Mr A O Neculaita
[REDACTED]
[REDACTED]
[REDACTED]

Our Ref: WK/202235813
Contact: Julie Roberts
Tel: 01284 757044
Email: julie.roberts@westsuffolk.gov.uk

18 May 2022

Dear Mr Neculaita

Environmental Protection Act 1990
Stellar Bar & Coffee House, 56 High Street, Haverhill, Suffolk, CB9 8AR

Further to my email of 14 April 2022 I write to advise you that we have continued to receive complaints regarding noise from the Stellar Bar and Coffee House premises at 56 High Street Haverhill.

I have advised you previously that the current condition of the building is inappropriate for use as a venue with music at the volume that is currently played. For this use to continue noise should not adversely affect neighbouring premises. It is unlikely that this will be achieved without considerable works to the structure of the property to mitigate transfer of sound between the venue and other properties within the building. If the volume of music is reduced, you must still ensure that the level is such that other properties are not affected.

The use of the premises must be in accordance with all necessary planning and licensing consents and conditions. The obtaining of a premises licence and/or planning consent do not preclude action under the above act.

It is likely that should the disturbance continue formal action by way of service of abatement notice under s.80 of the above legislation will be taken.

If you require any further information please contact me using the details above.

Yours sincerely

Julie Roberts

Julie Roberts
Senior Enforcement Officer
Private Sector Housing and Environmental Health

Mr A O Neculaita


Our Ref: WK/202237290

Contact: Julie Roberts

Tel: 01284 757044

Email: julie.roberts@westsuffolk.gov.uk

23 June 2022

Dear Mr Neculaita

Environmental Protection Act 1990

Licensing Act 2003

Stellar Bar & Coffee House, 56 High Street, Haverhill, Suffolk, CB9 8AR

Further to my previous email of 31 May 2022 and the noise abatement notice served on you dated 25 May 2022 I regret to inform you that we are still receiving complaints alleging loud amplified music coming from your premises known as Stella Bar and Coffee House at 56 High Street, Haverhill. This is currently an allegation supported by noise recordings and has not been witnessed by one of our officers.

However, I must inform you that we intend to undertake proactive monitoring of the alleged disturbance in the form of visits to affected properties and the use of digital recording equipment. If we witness any such loud music that we consider amounts to a statutory noise nuisance in breach of the abatement notice served on you this would constitute an offence under the Environmental Protection Act 1990, for which legal proceedings against you could be instigated in the Magistrates' Court. Breach of an abatement notice carries a maximum penalty of an unlimited fine for commercial properties.

We may also consider exercising our powers under the Licensing Act 2003 and submit an application to the Licensing Authority for a Review of your Premises Licence. A Review under the Licensing Act could

- 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
- 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)
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management
- suspend the licence for a period not exceeding three months
- revoke the licence.

Cont/.

We would naturally hope to avoid any such action. I would therefore strongly urge you to consider the contents of my previous correspondence and the abatement notice served on you and take appropriate steps to prevent causing a noise nuisance and to avoid further action.

Yours sincerely

Julie Roberts

Julie Roberts
Senior Enforcement Officer
Private Sector Housing and Environmental Health

WK/202237290

ENVIRONMENTAL PROTECTION ACT 1990 Section 80

Abatement Notice in respect of Statutory Nuisance

To: Mr Andrei Octavian Neculaita

Of: [REDACTED]

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the **West Suffolk Council** (the Council) being satisfied of the **occurrence and likely recurrence** of a statutory nuisance under section 79(1)(g) of that Act from the premises known as:

Stellar Bar & Coffee House, 56 High Street, Haverhill, CB9 8AR

Within the district of the Council arising from: **the playing of amplified music.**

HEREBY REQUIRE YOU, as the person responsible for the said nuisance within 21 days from the service of this notice, to abate the same and also **HEREBY PROHIBIT** the recurrence of the same.

The person served with this notice may appeal against the notice to a magistrates' court within 21 days beginning with the date of service of the notice. See notes on the reverse of this form. This notice shall NOT be suspended until the appeal has been decided, as in the opinion of the Council, the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal would not be disproportionate to the public benefit to be expected in that period from such compliance.

IF without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine. The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance.

Dated: 25 May 2022

Signed: 

Julie Roberts
Senior Enforcement Officer
Private Sector Housing & Environmental Health

The officer appointed for this purpose

Please address any communications to:
West Suffolk House
Western Way
Bury St Edmunds
IP33 3YU

The Statutory Nuisance (Appeals) Regulations 1995 provide as follows: -

APPEALS UNDER SECTION 80 (3) OF THE ENVIRONMENTAL PROTECTION ACT 1990 ("the 1990 Act")
Appeals under section 80(3) of the 1990 Act

- 2.— (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to 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 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)(1) 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, 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 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 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 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
 - (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.

WEST SUFFOLK COUNCIL

STATEMENT OF WITNESS

(C.J.Act, 1967,s9;MC Act 1980, ss5A(3)(a) and 5B, Criminal Procedure Rules 2005, r27.1(1))

Statement of: Julie Anne Roberts

Age of Witness: over 18


Occupation of Witness: Senior Enforcement Officer (Private Sector Housing and Environmental Health)

Address: West Suffolk Council, Western Way, Bury St Edmunds

Telephone No. 01284 757044

This statement consisting of four 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...30.....day of ...March 2023

Signed

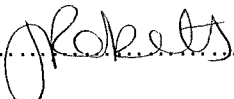
1. My name is Julie Anne Roberts. I am employed by West Suffolk Council as Senior Enforcement Officer (Private Sector Housing and Environmental Health). I hold a BSc (Hons) Environmental Studies and Geography, HNC Environmental Health, The Institute of Acoustics Diploma in Acoustics and Noise Control and I am a member of the Chartered Institute of Environmental Health. I have 30 years' experience working in Environmental Health investigating noise complaints. I make this statement from my own personal knowledge and experience or from inspection of the Council's official records.
2. On Friday 15 July 2022 I visited the first floor flats at 60 High Street Haverhill arrived 2135 hrs. Music audible from position in car park at Helions Walk. Door to rear entrance Stellar Bar open, music clearly audible at rear yard area of building. At the common hallway access to flats very intrusive music noise was heard . Loud clear bass beat and lyrics to song clearly audible .

Signed

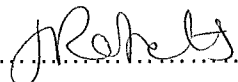
Vibration from bass beat could be felt on heavy fire door of [REDACTED] which is located directly above the Stellar Bar premises. Bass beat and lyrics clearly and intrusively audible. The occupier of flat [REDACTED] stated that he is very disrupted by noise from music in his flat and that that he avoids being in his home Friday to Sunday if possible due to the noise. I witnessed disturbance within flat which comprises bed sitting room with kitchen area and separate bathroom, from very intrusive music noise with disturbing bass beat.

3. At 2220 hrs I visited Flat [REDACTED]. Music and bass beat clearly audible in flat could be heard during duration of visit over both normal conversation and over conversation and a small fan unit operating at moderate to high speed. Noise from music and bass was persistent and intrusive. 2310 hrs I left flat [REDACTED] and witnessed the Stellar Bar from the High Street and could confirm that source of the disturbance to both flat [REDACTED] and flat [REDACTED] originated from the Stellar Bar and not another premises. Royal Exchange pub was open and busy but no noise from that premises was such to affect the flats on opposite side of road where [REDACTED] and [REDACTED] are located. I returned flat [REDACTED] at 2320 hrs. Noise from music and bass still affecting premises. Left at 2335 hrs with music from Stellar Bar still continuing.

4. On 26 November 2022 I made a further visit to the flats at [REDACTED] High Street, Haverhill with Emma Forsberg, arriving at 2130 hrs. Music and a bass vibration could be clearly heard in the common parts hallway. I knocked at the door to flat [REDACTED] and the occupier invited us into the flat. Inside the premises music could clearly be heard over normal conversation. The disturbance also consisted of a significant element of bass noise and vibration such that the vibration could be felt through shod feet. At 2138 hrs the noise continued and the occupier demonstrated that he was able to use a song identification app "Shazam" to reveal the title of the song played at the Stellar Bar beneath his home.

Signed.....

5. At 2142 the occupier turned the television on and music could be heard over the television, which was operating at the usual volume for a property of that size, interfering with viewing.
6. At approximately 2155 Mrs Forsberg and I visited the High Street. Music was audible in the High Street from a position directly in front of Stellar Bar which was open. The music could be identified as the same as that affecting the flats and common parts at 60 High Street. No other premises could be identified as playing music audible in the High Street in this area. In Eden Road it was possible to identify some music noise from the Royal Exchange Public House but the music was not audible on the High Street and was of a different genre of music.
7. Mrs Forsberg and I returned to the entrance to the flats at 60 High Street at 2203. Music could be clearly heard outside the entrance to the flats. On entering the common parts to flats immediately above Stellar Bar (62/64 High Street) music could be clearly heard emanating from a location beneath the hallway. On leaving this area the same music could be heard clearly coming from the rear fire escape doorway of the Stella Bar. Returning to flat [REDACTED] music was intrusively audible over my conversation with the occupier and there was a significant bass vibration which could be felt through the floor of the flat in both hard floor and carpeted areas. In my opinion this disturbance was unreasonable causing normal activity such as conversation, television watching and sleeping to be adversely affected, and sufficient to cause a statutory nuisance at the premises.
9. Mrs Forsberg and I left the premises at 2217. Music was clearly audible in the car parking area to the rear of the building containing the affected flats and the Stellar Bar.
10. On Friday 3 March 2023 I visited [REDACTED] High Street Haverhill with my colleague Matthew Bullock. We arrived at the premises at 2209. Music was clearly audible at the rear entrance to the flats. Inside the common parts hallway

Signed 

music was clearly audible and bass vibration could be felt through our feet. Within flat [REDACTED] bass noise was clearly audible over the television which was showing a music program at a usual volume for the size of the room, affecting viewing. The repetitive bass beat, music melody and vocals although fluctuating slightly according to the song played could all be heard over normal conversation. At 2234 the level of bass was elevated and amplified voices could be clearly heard. At 2235 a representative noise app recording was made by Mr Bullock. At 2254 bass and singing could be clearly and intrusively heard over the television and normal conversation.

11. At 2302 we left the flat and observed the Stellar Bar from the street at the front of the premises. It was apparent that the noise affecting the flat originated at the Stellar Bar as there was no other noise audible in the area. Both the Haverhill Arts Centre and the Royal Exchange Public House were closed and silent.
12. Mr Bullock and I returned to the flats at 2310. In the common parts the external door to flat 60 could be felt to vibrate to the bass noise and this vibration could also be felt through thick soled boots. At 2315 bass noise and voices could be clearly heard within flat [REDACTED] in my opinion significantly affecting the occupation of the flat and disturbing usual activities and rest or sleep.
13. Mr Bullock and I left the premises at 2320 at which time the music at which time the music was continuing.

END

Signed 

WEST SUFFOLK COUNCIL

STATEMENT OF WITNESS

(C.J.Act, 1967,s9;MC Act 1980, ss5A(3)(a) and 5B, Criminal Procedure Rules 2005, r27.1(1))

Statement of: **Emma Forsberg**

Age of Witness: over 18

Occupation of Witness: Private Sector Housing and Environmental Health Manager/Environmental Health Officer

Address:

West Suffolk Council, Western Way, Bury St Edmunds

Telephone No. 01638 719388

This statement consisting of 3 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 3rd day of April 2023

Signed.....

Signature witnessed by.....

On the 26 November 2022 I arrived with Julie Roberts at the flats of 60 High Street. On entering the common hallway of the flats I could hear music and vocals emanating from what I believed to be the Stellar Coffee Bar.

Julie knocked on the door of Number [REDACTED] and the occupant invited us in. On entering the flat it was clear the flat was a bedsit with the bedroom and lounge located in the same room. The TV was turned on and I could clearly hear the music above the TV.

Signed.....

The occupant, [REDACTED], turned the TV off and I could clearly hear music, vocals and a strong base beat. I touched the floor and could feel vibrations from the music in the flooring. The music was loud and intrusive to the point the occupant used Shazam to identify the music on his phone.

At 9:42 [REDACTED] turned the TV back on at a normal level, it was louder than what I would have had it on. Music remained audible and intrusive. I would have struggled to concentrate on the TV programme. At 9:45 the volume appeared to increase.

At 9:52, we left the flat to confirm the source of the music. The Stellar Bar was open and music from the premises was clearly audible on the street, it was the same type of music heard in the flats above. I walked down the High Street to the Haverhill Arts Centre, crossed the street and walked back up. There were no other noise sources on the High Street. I walked past the Royal Exchange and down Eden Road. Music from the Royal Exchange was observed outside the furthest window and was more rock style than a dance style. The music was not audible on the High Street.

I returned to the rear of the flats and entered the flat common entrance door of flats to the left (as viewed from the rear car park) of the complainant's flat and building entrance. The extract fan to the rear of the building was dominant until the door to the flat hallway was closed. I could clearly hear dance, bass music which I believe to emanate from the Stellar Bar. The volume was such the tracks could be easily identified if you knew the music.

I exited and walked past the rear fire escape door to the Stellar Bar, music was clearly emanating from this premises onto the rear car park.

At 10pm we returned to ■ The High Street to continue monitoring. The music was constant, intrusive and I considered unreasonable for the full duration of my time there. I would find it difficult to sleep with the level of intrusion witnessed.

Left at 10:17.

I listened to intrusive and persistent music from what I believed to be the Stellar Coffee Bar in the sleeping room of ■ The High Street. I am of the opinion this would constitute a statutory nuisance.

Signed.....*Eraby*.....
Signature witnessed by.....*ER*.....

Signed.....*Eraby*.....

WEST SUFFOLK COUNCIL

STATEMENT OF WITNESS


(C.J.Act, 1967,s9;MC Act 1980, ss5A(3)(a) and 5B, Criminal Procedure Rules 2005, r27.1(1))

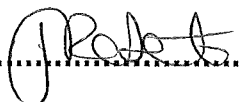
Statement of: Matthew Bullock
Age of Witness: over 18
Occupation of Witness: Environmental Health Officer
Address: West Suffolk Council


Telephone No. 01284 757069

This statement consisting of 2 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 2nd day of May 2023

Signed.....

Signature witnessed by.....

1. My name is Matthew Bullock. I am employed by West Suffolk Council as an Environmental Health Officer. I hold an MSc in Environmental Health and I am a Chartered member of the Chartered Institute of Environmental Health. I hold a certificate of registration by the Environmental Health Registration Board, and I have over ten years' experience working in Environmental Health in an enforcement role. I make this statement from my own personal knowledge and experience or from inspection of the Council's official records.
2. On the 3.3.2023 at 22.09 I visited the premises  High Street, Haverhill with my colleague Julie Roberts. The purpose of our visit was to monitor a noise complaint from the occupier of the flat.

3. I entered the hallway of the flats with Julie and I could instantly hear loud music as we walked around to the entrance door to the flat. I could feel the vibration and the base as we approached the front door to the flat. The occupier then invited us in.
4. As we entered the flat, I could still clearly hear the music and the base which was clearly intrusive as we walked through, the TV was on at the time at a typical volume and the music could be heard over the volume of the TV.
5. I noted the time at 22.36 and the music increased further. I made a recording on my phone using the Noise App. Julie and I continued to listen to the music which continued with no break. The flat is a bed-sitting flat with the living room and bedroom combined. In my opinion the volume of the music witnessed would be enough to cause the occupier to lose sleep.
6. I noted the time as 22.49 and the music became louder the lyrics of the songs became more noticeable and louder. Julie and I then left the flat and we walked outside through the hallway to the main entrance door the music was still very loud. We walked around the front of the building and stood across the street opposite the premises known as the Stellar Bar we identified the music we had witnessed as arising from this premises.
7. We returned to the flat and concluded our visit with the complainant, we left at 23.20 and the music was still playing at this time. In my professional opinion the music arising from the Stellar Bar was significantly loud enough to constitute a Statutory Nuisance. The music was witnessed at such a volume that it would prevent the occupant from sleeping and watching television. It is therefore, in my view, causing an unreasonable interference to the rightful enjoyment of her home.

Signed..... 
Signature witnessed by..... 

Complainant Details



























Last updated 01 Apr 2023 00:32am


















Source Address



















The Stella Bar , 58 High Street, Haverhill , CB98AR


















Activity

-  Recording Submitted 30 Apr 2022 12:43am
Can't sleep. Vibration and sounds from the music constantly since 9pm. My phone is broken so doesn't do the recording any justice, have recordings also on my phone of different times and dates
-  Status : Pending Review 30 Apr 2022 12:46am
-  Recording Submitted 13 May 2022 9:20pm
-  Recording Submitted 13 May 2022 10:00pm
The vibration of the bass is horrific. Can't get any peace until gone 1.30am when they finally shut. It's a living nightmare
-  Recording Submitted 14 May 2022 6:04pm
This is all rooms of my flat at 6pm and will continue until 1.30am at the earliest
-  Recording Submitted 14 May 2022 9:36pm
-  Recording Submitted 14 May 2022 10:43pm
-  Recording Submitted 14 May 2022 10:45pm
-  Recording Submitted 14 May 2022 11:28pm
Nearly midnight and cannot sleep!!!!

-  Recording Submitted 22 May 2022 7:12pm
Sunday night until midnight live music and band this is over my tele at 7.15pm
-  Recording Submitted 27 May 2022 9:16pm
9pm will continue to 1.30am Atleast. Cannot sleep cannot hear anything on the tele yet again after working 11 hour days all week it's miserable
-  Recording Submitted 27 May 2022 10:59pm
-  Recording Submitted 17 Jun 2022 11:18pm
This is 11.20pm the music and bass over my television and my television is nearly on max
-  Recording Submitted 17 Jun 2022 11:21pm
-  Recording Submitted 17 Jun 2022 11:23pm
-  Recording Submitted 18 Jun 2022 9:18pm
Absolutely sick of it!!! Can't have windows open makes the noise worse even though that seems impossible it isn't! At the end of my tether
-  Recording Submitted 18 Jun 2022 9:46pm
-  Recording Submitted 18 Jun 2022 11:00pm
The bass and music is just beyond a joke now
-  Recording Submitted 19 Jun 2022 5:38pm
This is not even 6pm on a Sunday! Been going since 5pm and will last all night, can't hear my tele let alone myself think I'm SICK of it!!!!
-  Recording Submitted 19 Jun 2022 6:19pm
-  Recording Submitted 19 Jun 2022 7:44pm
-  Recording Submitted 19 Jun 2022 10:05pm
It's gone 10pm I have my alarm for work at 5am and it's been all evening it's unbearable!!!!
-  Recording Submitted 19 Jun 2022 11:42pm
This is 11.45 on a SUNDAY this isn't ok or acceptable!!!! Shouting screaming music bass it's horrendous
-  Recording Submitted 20 Jun 2022 12:22am
Nearly half past MIDNIGHT on a Sunday!!!! This is unbearable this isn't ok or fair i have work in under 5 hours

-  Recording Submitted 24 Jun 2022 9:52pm
-  Recording Submitted 24 Jun 2022 10:41pm
Worked 13 hour shifts all week and I have this every weekend I'm at my wits end how am I meant to sleep!!!!!! I can't keep dealing with this
-  Recording Submitted 24 Jun 2022 11:28pm
-  Recording Submitted 24 Jun 2022 11:30pm
-  Recording Submitted 07 Aug 2022 12:29am
UNBEARABLE
-  Recording Submitted 07 Aug 2022 12:32am
-  Recording Submitted 07 Aug 2022 12:33am
-  Recording Submitted 04 Sep 2022 12:42am
-  Recording Submitted 30 Sep 2022 11:55pm
Midnight, absolutely dreadful can't hear myself think!!! Let alone sleep!!?
-  **Paul Speakman** Good morning, I acknowledge receipt of your contact. I shall inform Julie Roberts. Kind regards Paul Speakman 03 Oct 2022 10:01am
-  Recording Submitted 14 Oct 2022 9:25pm
-  Recording Submitted 14 Oct 2022 9:27pm
Bloody unbearable!!! And it's just started
-  Recording Submitted 15 Oct 2022 12:31am
-  Recording Submitted 15 Oct 2022 12:32am
-  Recording Submitted 28 Oct 2022 11:08pm
Horrendous!!! Bass is shaking my flat!!!!
-  Recording Submitted 28 Oct 2022 11:10pm
-  Recording Submitted 28 Oct 2022 11:21pm
The bass from the Stella bar has caused the Arcades shop next door (directly below my flat) to set the intruder alarm off!!!!!!

	Recording Submitted	29 Oct 2022 12:54am
	Recording Submitted Bass is unbearable it's 1am!!!!!!	29 Oct 2022 12:56am
	Recording Submitted	25 Nov 2022 9:16pm
	Recording Submitted This is just the start!!!	25 Nov 2022 9:23pm
	Recording Submitted	25 Nov 2022 9:24pm
	Recording Submitted This is the music and bass over my television on a loud volume!!!! It's unbearable!!!	06 Jan 2023 9:43pm
	Recording Submitted	06 Jan 2023 10:31pm
	Recording Submitted	06 Jan 2023 11:37pm
	Recording Submitted	20 Jan 2023 8:40pm
	Recording Submitted Been like it since 8pm. Louder then ever making my units vibrate!	20 Jan 2023 8:42pm
	Recording Submitted	20 Jan 2023 9:57pm
	Recording Submitted	03 Mar 2023 10:40pm
	Recording Submitted	03 Mar 2023 10:43pm
	Recording Submitted	03 Mar 2023 11:30pm
	Recording Submitted	03 Mar 2023 11:53pm
	Recording Submitted	04 Mar 2023 12:09am
	Recording Submitted	04 Mar 2023 12:25am
	Recording Submitted	04 Mar 2023 12:45am

-  Recording Submitted 04 Mar 2023 1:14am
-  Recording Submitted 04 Mar 2023 11:59pm
-  Recording Submitted 08 Mar 2023 8:02pm
Wednesday night since 7pm!!!
-  Recording Submitted 08 Mar 2023 8:17pm
-  Recording Submitted 08 Mar 2023 8:56pm
-  Recording Submitted 08 Mar 2023 9:10pm
This is over my television!! On a Wednesday evening when I'm up at 5am for work!!!
-  Recording Submitted 08 Mar 2023 10:03pm
-  Recording Submitted 08 Mar 2023 10:20pm
The later it gets the louder it gets!!! It's unbearable!!! I have a 12 hour shift in less then 7 hours!!
-  Recording Submitted 08 Mar 2023 10:33pm
-  Recording Submitted 08 Mar 2023 10:41pm
-  Recording Submitted 08 Mar 2023 11:01pm
It's gone 11pm!!!!!!
-  Recording Submitted 08 Mar 2023 11:08pm
This is beyond a joke!!!!!!!!!! It's gone 11pm, I am up for work in less then 6 hours for a 12 hour shift. How is this aloud!!!! The music the bass the screaming and shouting!!!!
-  Recording Submitted 08 Mar 2023 11:27pm
-  Recording Submitted 19 Mar 2023 7:47pm
Sunday evening!!!! Ridiculous up at 5am for a 12 hour shift when will this stop !!!
-  Recording Submitted 19 Mar 2023 9:41pm
-  Recording Submitted 31 Mar 2023 9:41pm
-  Recording Submitted 31 Mar 2023 10:20pm
It's driving me crazy!!!!!! The bass is rattling the floor and furniture !!



Recording Submitted

01 Apr 2023 12:32am

Declaration

I [redacted] [redacted] confirm that this report and the recording I am submitting through The Noise App
a [redacted] e [redacted] entation of the noise nuisance I have experienced.

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File Attendance Note

Legal Services

Matter: Appeal against Noise Abatement Notice - Steller Coffee House Bar, High Street, Haverhill

Matter Ref: WS0005\807

Date: 31 October 2022

Attended By: David Smithet

Subject: Contested Appeal Hearing

Attending at Ipswich Magistrates' Court for contested hearing of Stellar Coffee House's appeal against the Noise Abatement Notice.

Mr Neculaita not in attendance. I explained the process to both Julie Roberts and Matt Bullock, both attending as witnesses today.

Liaising with Legal Advisor

Clarifying the process of proceeding given that the appellant is not present to make submissions as to why it is not considered that a statutory nuisance existed as of 25th May 2022.

The appellant was in attendance on 15th August when directions were made and a contested hearing set for today's date.

The correct approach is that the appeal should be dismissed in the absence of any grounds as set out in Reg 2 Statutory Nuisance (Appeals) Regulations 1995.

Hearing

I opened the hearing by providing a brief chronology: the appellant had attended court on 15th August 2022 and been informed that his stated grounds of appeal did not meet any of the statutory appeal grounds. The court had been perhaps somewhat lenient in allowing him the opportunity to amend those grounds to essentially state that there had been no statutory nuisance and the court had issued directions for the further progress of the appeal; setting a date for the hearing.

Mr Neculaita had not attended court today and could not advance any submissions to persuade the court that there had not been a statutory nuisance and any challenge to take place.

He had been served with the council's case which included the statements of both Julie Roberts and Matt Bullock who attended to give evidence.

My application that the appeal should be dismissed was acceded to.

Costs

My application for costs in the sum of £2,945.23 (£204.25 for environmental protection and £2,740.98 legal) was granted.

Responsibility for costs

My submissions were to support my assertion that, since Mr Neculaita, as sole director of the corporate business, the business operator and the person on whom the Noise Abatement Notice had been served, he should be personally responsible for paying the costs.

Moreover, there had not been any suggestion that the NAN had been served on the wrong person.

Although the lay bench was in agreement, they took the advice from their legal advisor who confirmed that the complaint had been taken out by Stellar Coffee House. All concerned were far from happy that this was ideal. The legal advisor spoke of going behind the veil of incorporation (my words). My view was, and remains, that the person served with the NAN, being the cause of the statutory nuisance, was Mr Neculaita

The costs are to be met by SCH accordingly.

The issue as to enforcement of the court's order for costs will have to be resolved. Unlike criminal proceedings, a collection order could not be made requiring the payee to either pay in full or provide a payment plan with the court responsible for collection.

Decision notice

Date of Hearing: 8 December 2022

Licence Type: 2 x Temporary Event Notice

Name of Applicants: Mr Andrei-Octavian Neculaita

Name and Address of Premises: 56 High Street, Haverhill, Suffolk, CB9 8AR

Determination – The Committee’s decision and reasons

What was considered:

What was relevant:

What was considered to be irrelevant:

Any particular guidance or sections of Councils Licensing Policy referred to:

Detail of Decision:

Activities Sought	Committee Decision – Exclusions/modifications
The sale by retail of alcohol, the provision of regulated entertainment, the provision of late-night refreshment 24 December 2022 01:30 – 04:00 25 December 2022 01:30 – 04:00 25 December 2022 23:00 – 23:59 26 December 2022 00:00 – 04:00	To reject the temporary event notice as applied for and issue a counter notice which will prevent the event going ahead.
The sale by retail of alcohol, the provision of regulated entertainment, the provision of late-night refreshment 31 December 2022 01:30 – 03:30 1 January 2023 01:30 – 04:00	To reject the temporary event notice as applied for and issue a counter notice which will prevent the event going ahead.

Decision and Reasons

The sub-committee decided to issue counter-notices in respect of both TENs submitted by Mr Neculaita. The reasons for this determination are as follows

1. Having heard the oral submissions of the premises user and the relevant person, the sub-committee is satisfied the temporary events will result in an unreasonable and unacceptable noise nuisance to neighbouring dwellings.
2. The premises user has not offered any acceptable means of mitigation to reduce any noise emanating from the premises.
3. Application of any conditions from the existing premises licence would be insufficient to mitigate or reduce any noise emanating from the premises.

Right of a Party to appeal against the determination of the Authority

For your information, both the person who has given the TEN and the relevant person who had submitted the objection notice, who is aggrieved by the decision, or the imposition of any term, condition or restriction, have a right of appeal to the Magistrates' Court. The appeal must be made to the Local Magistrates Court within 21 days of the date on which they are notified of the decision and at least 5 working days before the day on which the event period specified in the TEN.

Notification Date: 9 December 2022

Ipswich Magistrates' Court, Elm Street, Ipswich, Suffolk. IP1 2AP

Email: Enquiries: suffolkcmt@hmcts.gsi.gov.uk;
Admin: suffolkadmin@hmcts.gsi.gov.uk.
Phone: [01473 217 261](tel:01473217261)
Fax: [01473 231 249](tel:01473231249)

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