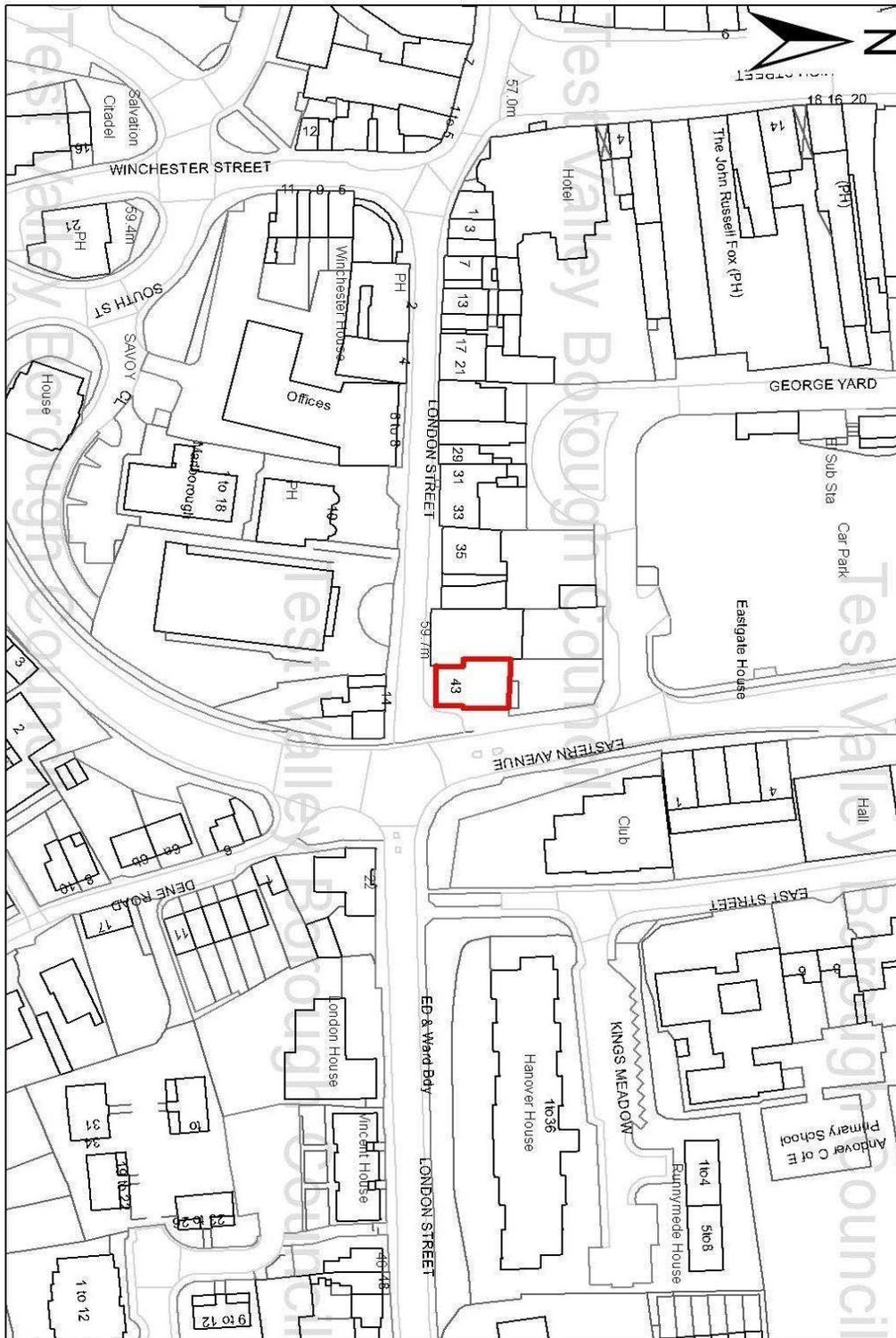


Plan showing location of
The Piston Broke, 43 London Street, Andover



Not to Scale

Housing, Health & Communities Service,
Council Offices, Duttons Road,
Romsey Hampshire SO51 8XG



TEST VALLEY
BOROUGH COUNCIL

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The Company Secretary
Elland Promotions Ltd
11 Minden Close
Andover
Hampshire
SP10 4LT

23 July 2010

Your ref:	Our ref:	Ref No.	Property ref:
E-mail: lornataylor@testvalley.gov.uk	Please contact:	Lorna Taylor	Ext or DDI: 01794 527967

Dear Sir / Madam

ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80
NOISE NUISANCE FROM THE PLAYING OF LOUD MUSIC
THE PISTON BROKE, 43 LONDON STREET, ANDOVER, HAMPSHIRE SP10 2NU

Having investigated an alleged nuisance associated with the playing of loud music at the Piston Broke, I must inform you that I am satisfied that a statutory nuisance has occurred on more than one occasion and is likely to recur without the intervention of the Council.

This conclusion is largely based upon noise recordings made on the evenings of Friday 16 July 2010 and Saturday 17 July 2010, extending in to the early hours of each following day. On both occasions the level of the music was extraordinarily high, apparently with little regard for nearby residents.

Therefore, the Council is obliged to serve upon you, as the operator of the premises responsible for the nuisance, a 'noise abatement notice' under section 80 of the Environmental Protection Act 1990. This noise abatement notice is enclosed. You are required to take appropriate steps to ensure that a statutory nuisance is not caused in future. The noise abatement notice comes in to force immediately.

It is an offence to breach the requirements of the abatement notice without reasonable excuse. I would draw your attention to the appeals procedure, details of which are attached to the abatement notice. Also enclosed is a summary of our Enforcement Policy. We will be monitoring compliance with the noise abatement notice, which might include visits to the area and/or the further use of noise recordings.

It appears to me that the ground floor is, in its current state, completely unsuitable for the playing of any music other than low level background music, because the premises do not appear to be effectively sound-proofed. Therefore, if you intend to play music above and beyond a background music level this weekend, you are strongly advised to confine it to the basement (as the previous occupier of the premises did), as well as keeping music to a moderate level.

In the medium term, you should consider insulating the premises to prevent the escape of music and other noise from the premises. To do this, you are advised to engage the services of an acoustic consultant. A list of consultants registered with the Institute of Acoustics is available at: <http://www.ioa.org.uk/find-a-specialist/default.asp>.

The action being taken in terms of serving the enclosed noise abatement notice is completely separate from possible action that might also be taken under the Licensing Act 2003. You should be aware that, as a responsible authority for purposes of the Licensing Act 2003, we have the power to call a review of your premises licence. This would be heard by a Licensing Panel consisting of elected members, if we believed there were a strong case for seeking additional restrictions to the premises licence, for example with respect to operating times. Unless a satisfactory resolution to the noise problem can be achieved, this is a course of further action that we would certainly envisage taking.

The evidence we have gathered would also suggest breaches of condition 17 of the premises licence, which states: "No amplified music or amplified speech shall be audible at the boundary of any residential premises between 23:00 and 12.00." Accordingly, I am copying this letter to the Council's Licensing Manager in order that consideration be given to prosecution proceedings under the Licensing Act 2003.

Should you have any queries or wish to discuss anything then please do not hesitate to contact me, or my colleague Sonya Enright on 01794 527917.

Yours sincerely

Lorna Taylor
Senior Environmental Protection Officer

Enc.

cc. Mr Michael White, Licensing Manager, Test Valley Borough Council

Mr A Lavery and Mr E Cooper
Elland Promotions
The Piston Broke
43 London Street
Andover, Hampshire
SP10 2NU

11th August 2010

Your ref:	Our ref:	EP/B/10/02911/NOI MUS	Property ref:	
E-mail: lornataylor@testvalley.gov.uk	Please contact:	Lorna Taylor	Tel:	01794 527967

Dear Mr Lavery and Mr Cooper

ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80
NOISE NUISANCE FROM THE PLAYING OF LOUD MUSIC
THE PISTON BROKE, 43 LONDON STREET, ANDOVER, SP10 2NU

I write following the visit made to your premises, by myself and my colleague Sonya Enright on 10th August 2010.

The purpose of the meeting was to carry out a sound test to assess the impact of varying music levels from your disco equipment on the residential premises above. To do this we played music at a range of volumes until an acceptable level was identified.

Initially the test took place with the disco equipment positioned to the front of the basement area, but it became apparent that in this position the sound travelling to the upstairs premises was such that the volume within your bar would need to be substantially restricted. The equipment was then moved to the rear right hand side of the basement area, which has better separation from the upstairs premises.

Based on the equipment continuing to be used from the rear of the basement area, it was found that the main deck volume should not exceed 6.5 (on the decks own scale) at any time. This was with mid-range set to 2, bass to 1 and the equaliser to 4. Should the equipment be returned to the front of the basement for any reason then the main deck volume should not exceed 4.

These levels were acceptable in the conditions under which the test took place. Varying background levels and the addition of a lot of people may alter the situation. Should we find that there continues to be an unacceptable level of disturbance in the future then we would need to re-visit these levels.

Whilst writing I confirm that your efforts in moving the disco equipment following the service of the notice on 23rd July 2010 have been noted. During our visit you mentioned that you will also be looking into the possibility of insulating your premises. To do this you are advised to engage the services of an acoustic consultant. A list of consultants registered with the Institute of Acoustics is available at: <http://www.ioa.org.uk/find-a-specialist/default.asp>. As advised we would be happy to speak with any consultant you do approach to ensure that they are fully apprised of the problem and our concerns.

We thank you for your assistance, and that of your DJ's, in carrying out the tests and I hope that this has helped to clarify matters for you and will help you to avoid causing further disturbance. We are obliged to continue to respond to any complaints from your neighbours but hope that we have found a position which will be acceptable to all parties.

Yours sincerely

Lorna Taylor
Senior Environmental Protection Officer
Housing, Health & Communities Service

The Company Secretary
Elland Promotions Ltd
11 Minden Close
Andover
Hampshire
SP10 4LT

20 August 2010

Your ref:	Our ref:	Ref No.	Property ref:
E-mail: lornataylor@testvalley.gov.uk	Please contact:	Lorna Taylor	Ext or DDI: 01794 527967

Dear Sir / Madam

ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80
LICENSING ACT 2003
NOISE NUISANCE FROM THE PLAYING OF LOUD MUSIC
THE PISTON BROKE, 43 LONDON STREET, ANDOVER, HAMPSHIRE SP10 2NU

I am writing to you in order to notify you formally that I am satisfied that a contravention of each of the noise abatement notices (served upon Elland Promotions Ltd, Mr Andrew James Lavery and Mr Ellis Cooper on 23 July 2010) occurred in the early hours of Sunday 15 August 2010.

My colleague Rhian Jenkins, Environmental Health Officer, visited the area between approx. 0020 hrs and 0115 hrs on Sunday 15 August 2010 following receipt of a complaint about noise from the Piston Broke. The complaint was that the noise was both clearly audible and very disturbing that evening, commencing Saturday 14 August 2010. Rhian Jenkins noted noise from amplified music emanating from within the Piston Broke to be not only clearly audible but also sufficiently annoying and intrusive so as to be a statutory nuisance. Accordingly, she concluded that a contravention of the noise abatement notice had occurred.

The contravention of the abatement notice is a criminal offence for which Elland Promotions Ltd, Mr Andrew James Lavery and Mr Ellis Cooper are each liable to prosecution under section 80(4) of the Environmental Protection Act 1990. In addition, I am satisfied that a contravention of condition 17 of the premises licence held by Elland Promotions Ltd in respect of the Piston Broke occurred, because it is evident that amplified music and speech was clearly audible at and beyond the boundary of nearby residential premises. Again, Elland Promotions Ltd is liable to prosecution in respect of breach of the premises licence condition. I am currently taking legal advice as to what action, if any, should be taken in respect of these contraventions.

These contraventions are particularly disappointing after the efforts that my other colleague Sonya Enright, Environmental Health Officer, and I went to on the evening of 10 August 2010 to assist with sound tests, thereby ensuring that music could be played at a level which is inaudible (or at such a low level so as to be negligible) in nearby residential premises.

You must ensure that the noise level of music and amplified speech is controlled to no more than the level referred to in my letter dated 11 August 2010 (addressed to Mr A Lavery and Mr E Cooper). Any further incidents of noise in excess of such agreed levels will also be considered to be contraventions of the noise abatement notices. You should be aware that, in the event of prosecution resulting in conviction, the number of offences would be taken into account by the magistrates' court when setting the level of any fine imposed.

It is notable that, as part of the investigation visit on Sunday 15 August, my colleague was also concerned by the volume of raised voices from inside the Piston Broke (in addition to noise from loud music and amplified speech from the DJ). This further brings into question the suitability of the premises as they stand for the provision of late evening entertainment. In my view, there is now a compelling case for upgrading the sound-proofing of the premises.

Therefore, irrespective of whether there are prosecutions in respect of the offences referred to above, I am minded to call a review of the premises licence seeking additional safeguards and restrictions to prevent public nuisance. This might include a combination of additional licence restrictions relating to noise management controls, sound-proofing measures and/or hours of operation. However, before taking such action, I would be pleased to receive any proposals from you within 14 days in respect of future noise control measures to be applied.

Should you have any queries or wish to discuss anything then please do not hesitate to contact me.

Yours faithfully

Lorna Taylor
Senior Environmental Protection Officer

Enc.

cc. Mr Michael White, Licensing Manager, Test Valley Borough Council