

# Licensing Sub-Committee

## Agenda

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**Date:** Thursday, 10th September, 2009  
**Time:** 9.30 am  
**Venue:** Committee Suite 1, Westfields, Middlewich Road, Sandbach  
CW11 1HZ

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 - MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Review of Premises Licence - The Music Box, Congleton (Pages 5 - 52)**

To consider an application for a review of the premises licence for The Music Box, Congleton.

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For requests for further information

**Contact:** Julie Zientek  
**Tel:** 01270 529641  
**E-Mail:** [julie.zientek@cheshireeast.gov.uk](mailto:julie.zientek@cheshireeast.gov.uk)

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## CHESHIRE EAST COUNCIL

### PROCEDURE FOR HEARINGS – LICENSING ACT 2003

#### The Licensing Committee

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

#### Officers at Hearings

- **The Committee Officer** introduces all parties and records the proceedings
- **The Legal Adviser** provides independent advice to the Members on legal matters and procedure.
- **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

#### PROCEDURE

**NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.**

<b>1</b>	<b>Chairman</b>	The Chairman will: (i) call the matter to be considered; (ii) call for any declarations of interest; (iii) ask all parties to introduce themselves; (iv) summarise the procedure to be followed at the hearing; (v) will consider any request made by a party for another person to appear at the hearing; (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties).
<b>2</b>	<b>Licensing Officer</b>	Will introduce and summarise the application, highlighting areas of contention or dispute.
<b>3</b>	<b>Committee Members</b>	May ask questions of the Licensing Officer
<b>4</b>	<b>Applicant</b>	Will present his/her case, calling witnesses, as appropriate.  <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>
<b>5</b>	<b>Responsible Authorities (who have made representations)</b>	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.

6	<b>Local residents</b> (ie. defined as “interested parties”)	To be invited to ask <u>questions</u> of the applicant, by way of clarification.  <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	<b>Committee Members</b>	Each in turn may ask <u>questions</u> of the applicant.
8	<b>Applicant</b>	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	<b>Responsible Authorities</b>	Will make their representations.
10	<b>Applicant</b>	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	<b>Local residents</b> (ie. defined as “interested parties”)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification.  <b>(Note: This is not the point at which local residents should be stating their objections.)</b>
12	<b>Committee Members</b>	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	<b>Local residents</b> (ie. defined as “interested parties”)	The local residents who are objecting to the application will be invited <b><u>to make observations on the application</u></b> and present the bases of their objections.
15	<b>Applicant</b>	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
16	<b>Committee Members</b>	May ask <u>questions</u> of the Local Residents.
17	<b>Chairman</b>	To invite both <b>Responsible Authorities</b> and <b>Local Residents</b> to make their closing addresses.
18	<b>Applicant</b>	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
19	<b>Committee</b>	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	<b>Committee</b>	Will return to <u>give its decision</u> , with reasons, which will be announced by the Chairman and subsequently confirmed in writing to the applicant and to all the parties that made representations.

		In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.
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**Notes**

1. The hearing shall normally be held in public. There may be occasions on which the Committee find it necessary to exclude members of the press and public; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to leave the hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chair may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

**SUMMARY OF PROCEDURE**

- 1 Chairman appointed (if this has not been done previously).
- 2 Chairman to call for declarations of interest and request that all parties introduce themselves.
- 3 Chairman summarises the procedure for the hearing
- 4 The Licensing Officer summarises the application
- 5 Applicant to present his/her case.
- 6 Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
- 7 Applicant to be questioned by the Committee.
- 8 Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
- 9 **Local residents** (defined as interested parties) will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
- 10 The applicant will be invited to sum up his/her case
- 11 Committee/Sub-Committee withdraws to make its decision
- 12 Committee/Sub-Committee returns to announce its decision to all present.

## CHESHIRE EAST COUNCIL

### LICENSING COMMITTEE

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**Date of meeting** 10th September 2009  
**Report of:** Vilma Robson Licensing Officer  
**Title:** Review of Premise Licence  
The Music Box, 12 Mill Street, Congleton. CW12 1AB

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#### **1.0 Purpose of Report**

- 1.1 The purpose of the report is to provide details of an application for the review of a Premise Licence under section 51 of the Licensing Act 2003 (**appendix A**). It outlines the current licence authorisations together with the evidence presented by the parties in relation to the review.

#### **2.0 Decision Required**

- 2.1 The Licensing Committee is requested to:
- 2.1.1 consider the review application and any relevant representations received; and
- 2.1.2 determine what steps, if any it considers are necessary for the promotion of the licensing objectives.

#### **3.0 Financial Implications for Transition Costs**

- 3.1 None

#### **4.0 Financial Implications 2009/10 and beyond**

- 4.1 None

#### **5.0 Legal Implications**

- 5.1 Where application for a review under section 51 is made, the Licensing Authority must hold a hearing within 20 working days to consider the application and any relevant representations received.

Section 52 of the Licensing Act 2003 provides that before determining the application, the authority must hold a hearing to consider it and any relevant representations.

The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.

- a) to modify the conditions of the licence;
- b) to exclude a licensable activity from the scope of the licence;
- c) to remove the designated premises supervisor;
- d) to suspend the licence for a period not exceeding three months;
- e) to revoke the licence;

## 6.0 Risk Assessment

- 6.1 The Environmental Health made an application for review under section 51 of the Licensing Act 2003 on the grounds of the prevention of crime and disorder and the prevention of public nuisance. The Committee is requested to consider what steps (if any) are required to prevent future harm to the licensing objectives. (**Appendix A**)

**Appendix A1** contains supporting evidence for the application for review, which is referred to in the application.

## 7.0 Background and Options

### Background

- 7.1 The Music Box (formerly known as The Lion and Bell) applied in 2005 to convert their existing licence to a premises licence under the Licensing Act 2003.
- 7.2 The licence authorises the following club activities:

- Supply of Alcohol
- Exhibition of a film
- Performance of a play
- Indoor sporting events
- Performance of live music
- Performance of recorded music
- Dancing
- Making music
- Provision of facilities for dancing

The times the certificate authorises the carrying out of those activities are:

Monday to Wednesday	11:00 – 23:00
Thursday	11.00 – 00:00
Friday & Saturday	11:00 – 01:00
Sunday	12.00 - 22.30



Friday, Saturday, Sunday and Monday of Bank Holiday weekends, Christmas Eve and Boxing Day until 01:00

The beginning of New Years Eve to the end of New Years Day.

A copy of the licence is attached to the report (**Appendix B**)

- 7.3 The premise licence holder is Enterprise Inns Plc of 3 Monspath Hall Road, Shirley Solihull. B90 4SJ. The designated premises supervisor (DPS) is Mr Lee Sean Hulme.

The premise first came to the attention of the Environmental Health team on 9th January 2009. Following the receipt of two independent noise complaints, the standard (Environmental Health) procedure was implemented; the complainants were requested to complete diary sheets for monitoring purposes. The Premise Licence holder and DPS were both notified of the complaints.

Since that time, the premises are continuing to regularly allow entertainment noise to emanate from the building, in particular, live bands. This is despite a Section 80 Abatement Notice being served upon the premises under the provisions of the Environmental Protection Act 1990. (**Appendix C**)

**Appendix C1** contains additional documents relating to the Section 80 Abatement Notice.

- 7.4 Within the prescribed consultation period in relation to the review, the council received no further letters of representation from members of the public or responsible authorities.
- 7.5 In reviewing the Premises licence and making its decision, the Licensing Committee must have regard to representations made by the Premises Licence holder and any representations received from responsible authorities or interested parties. The Committee is required to take such steps (if any) as it considers necessary for the promotion of the licensing objectives, including a decision as to whether any such steps incorporate the interim measure imposed on the Premises Licence.

## **8.0 Overview of Day One, Year One and Term One Issues**

- 8.1 Not Applicable

## **9.0 Reasons for Recommendation**

- 9.1 The Committee is required, by virtue of section 88 of the Licensing Act 2003, to determine the review application made under section 51.

***For further information:***

*Officer: Mrs V Robson Licensing Officer*  
*Tel No: (01270) 529750*  
*Email: vilma.robson@cheshireeast.gov.uk*

**Background Documents:**  
*None*



CEC Reference:

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**Application for a review of a premises licence or club premises certificate  
under the Licensing Act 2003**

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**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 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.

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I...*Michael Peter Goodfellow*... (insert name(s) of applicant) apply for the review of a premises licence under section 51/~~apply for the review of a club premises certificate under section 87~~ of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

**Part 1 – Premises or club premises details**

Postal address of premises or club premises, or if none, ordnance survey map reference or description	
<i>Music Box, 12 Mill Street Congleton</i>	
Post town	Post code (if known)
<i>Congleton</i>	<i>CW12 1AB</i>

Name of premises licence holder or club holding club premises certificate (if known)
<i>Mr Lee Sean Hulme (Designated Premises Supervisor: Personal licence Ref LAPER / 0043 / 09)</i>
<i>Enterprise Inns PLC, 3 Monkspath Hall Road, Shirley, Solihull, B90 4SJ (Holder of premises licence LAPRE / 1227 / 05)</i>

Number of premises licence or club premises certificate (if known)
<i>LAPRE / 1227 / 05</i>

**Part 2 – Applicant details**

I am

Please tick ✓

- 1) An interested party:
  - a) A person living in the vicinity of the premises  please complete (A) or (B) below
  - b) A body representing persons living in the vicinity of the premises  please complete (A) or (B) below
  - c) A person involved in business in the vicinity of the premises  please complete (A) or (B) below
  - d) A body representing persons involved in business in the vicinity of the premises  please 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)**

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

Surname       First names

Please tick ✓

I am over 18 years old or over

Current address

Post Town       Postcode

Daytime contact telephone number

Email address (optional)

**(B) DETAILS OF OTHER APPLICANT**

Name

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Address

Telephone number (if any)
E-mail (optional)

**DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name <b>Mr Michael Peter Goodfellow Environmental Health Officer</b>
Address  On behalf of: <b>Cheshire East Borough Council, Westfields, Middlewich Road, Sandbach, Cheshire, CW11 1HZ</b>
Telephone number (if any) 01270 529676
E-mail (optional) <a href="mailto:michael.goodfellow@cheshireeast.gov.uk">michael.goodfellow@cheshireeast.gov.uk</a>

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

**Please tick one or more boxes ✓**

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/>            |

**Please state the ground(s) for review (please read guidance note 1)**

The premises are continuing to allow entertainment noise to emanate from the playing of amplified music, particularly live bands so as to cause regular and repeated disturbance to neighbouring residential properties.

This is in despite of a Section 80 Abatement Notice being served upon the premises under the provisions of the Environmental Protection Act 1990 on the 22<sup>nd</sup> June 2009, which deemed the premises to be causing a Statutory Noise Nuisance and was effective immediately. The notice required Mr Lee Sean Hulme to abate the music from noise generative entertainment activities and prevent the recurrence of the same from this date onwards. The notice was not appealed. This notice has not been complied with.

Please provide as much information as possible to support the application (please read guidance note 2)

**Michael Goodfellow – Cheshire East Council Environmental Health Officer**

**Recent events leading upto this request for a review began on the 9<sup>th</sup> January 2009 when two complaints were received from separate residential properties in connection with amplified music (in particular live bands playing at the premises) emanating from the Music Box premises so as to cause disturbance to them within their properties.**

**9<sup>th</sup> January 2009:** The standard complaint procedure was followed in that a letter was sent to each complaint requesting they maintain a diary sheet of events recording dates and times they were affected by noise from the premises, additionally a letter was sent to the premises on the 9<sup>th</sup> January 2009 and Enterprise Inns, Solihull.

**13<sup>th</sup> January 2009:** reply received from Enterprise Inns, Solihull in which they state that such matters of noise emanating from the premises are the responsibility of the licensee

**5<sup>th</sup> February 2009:** Follow up letters were sent requesting diary sheets back from both complainants.

**25<sup>th</sup> February 2009:** Phone calls received from complaints and spoke of nature of problem and that live music is played too loud compared to normal music.

**26<sup>th</sup> February 2009:** Visit to the premises regarding the complaints and also issues in relation to noise from live music and how to keep windows, doors closed during music events to contain the noise from the premises.

**7<sup>th</sup> March 2009 (Saturday night) :** Reports of live music from a complainant (could hear a band in the background whilst a message was left on my phone at 22:11, 22:23 and 22:25).

**14<sup>th</sup> March 2009 (Saturday night) :** Reports of live music from a complainant (could hear a band in the background whilst a message was left on my phone at 22:08 and 23:05).

**4<sup>th</sup> April 2009 (Saturday night) :** Reports of live music from a complainant (could hear a band in the background and identify the songs played by the band whilst a message was left on my phone at 19:42 and 23:20).

**22<sup>nd</sup> April 2009:** Transcript of a digital audio tape recording installed in a complainants property reveals music from a live band so loud that you can identify the songs.

**1<sup>st</sup> May 2009:** Transcript of another digital audio tape recording installed in a complainants property reveals music from a live band so loud that you can identify the songs

**26<sup>th</sup> May 2009 :** Reports of live music from a complainant (could hear a band in the background whilst a message was left on my phone at 22:18).

**29<sup>th</sup> May 2009:** Personal visit to premises to discuss issues with Mr Lee Hulme. Specifically discussed volume of music clearly audible at residential properties, the necessity to keep windows and doors closed and to reduce the volume of the music.

**6<sup>th</sup> June 2009 (Saturday night):** I undertook a visit around the area of premises (Mill Street, Congleton) between 23:20 and 23:55, noise of amplified live music loud and clearly audible at residential façades in South Street, Holford Street and Antrobus Street, Congleton.

**9<sup>th</sup> June 2009:** Letter sent to premises and Enterprise Inns, Solihull stating that a Statutory Nuisance exists from the premises owing to the volume of the music. Additionally I enclosed the following paragraphs:-

*"...I wish to give you 7 days from the date of this letter, in which to provide Cheshire East Council with a written scheme of mitigation to attenuate the music / entertainment noise emanating from your premises. It may be appropriate to consult not only with Enterprise Inns PLC, 3 Monkspath Hall Road, Shirley, Solihull, B90 4SJ, but also appoint an Acoustic Engineer who can provide you with the appropriate engineering solution and mitigation measures that you shall require in order to abate the noise nuisance.*

*However, should you fail to take this opportunity then the above mentioned Abatement Notice shall be served on you as the person responsible and any subsequent breaches of the notice shall be subject to potential prosecution by Cheshire East Council and in addition your Premises Licence LAPRE/1227/05 shall be reviewed by this department in view of the breaches of Condition 4 in Annex 2 namely: Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties."*

**10<sup>th</sup> June 2009:** reply received from Enterprise Inns, Solihull in which they state that such matters of noise emanating from the premises are the responsibility of the licensee

**22<sup>nd</sup> June 2009:** Written report not received from either Enterprise Inns, Solihull or Mr Hulme as requested, therefore a Section 80 Abatement Notice was served under the provisions of the Environmental Protection Act 1990 by post upon Mr Lee Sean Hulme (the Designated Premises Supervisor) and The Company Secretary of Enterprise Inns PLC (the holder of the premises licensee).

**24<sup>th</sup> June 2009:** reply received from Enterprise Inns, Solihull in which they state that such matters of noise emanating from the premises are the responsibility of the licensee.

**4<sup>th</sup> July 2009 (Saturday night):** I undertook a visit around the area of the premises between 22:55 and 23:30. No live music audible from the Music Box but premises open and having a disco rather than live music.

**23<sup>rd</sup> July 2009:** transcript of another digital audio tape recording installed in a complainants property to monitor for notice breach reveals music from a live band so loud that you can identify the songs and is a clear indication that despite several and an Abatement Notice served on both Enterprise Inns and Mr Lee Sean Hulme they have had little or no effect and this is why a review of the licence is being sought rather than prosecution for breaches of the notice first.

Please tick ✓

Have you made an application for review relating to this premises before?

 No

If yes please state the date of that application

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

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

Please tick ✓

- 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

<input type="checkbox"/>
<input type="checkbox"/>



**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 3)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 4). If signing on behalf of

Signature .....

Date **23<sup>rd</sup> July 2009**

Capacity **Environmental Health Officer Cheshire East Borough Council**

<b>Contact Name (where not previously given) and address for correspondence associated with this application</b> (please read guidance note 5)	
<b>Post town</b>	<b>Post code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b>	

**Notes for guidance**

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

Please return the form together with any evidence (e.g. diary of events) to the relevant Council Office below. If you require further help or information please contact the Licensing Team via the telephone numbers below.

	<b>Congleton (01270 529750)</b>	<b>Crewe &amp; Nantwich (01270 537114)</b>	<b>Macclesfield (01625 504206)</b>
<b>Licensing Authority Cheshire East Council</b>	Licensing Officer  Westfields, Middlewich Road, Sandbach, Cheshire CW11 1HZ.	Licensing Officer  Municipal Buildings, Earle Street, Crewe CW1 2BJ	Licensing Officer  Macclesfield Town Hall, Market Place, Macclesfield, Cheshire, SK10 1DX

Your Ref  
 Our Ref 140916  
 Please reply to Mick Goodfellow  
 Direct Line 01270 529676  
 Email Michael.Goodfellow@Congleton.gov.uk  
 Date 1 May 2009

9<sup>TH</sup> JANUARY 2009.



**The Manager  
 The Music Box  
 12 Mill Street  
 Congleton  
 Cheshire  
 CW12 1AB**

Westfields  
 Middlewich Road  
 Sandbach  
 Cheshire  
 CW11 1HZ

Telephone  
 01270 529529  
 Fax  
 01270 529889

Website  
[www.congleton.gov.uk](http://www.congleton.gov.uk)

Dear Sir/Madam

**RE: ENVIRONMENTAL PROTECTION ACT 1990**

I regret to inform you that a complaint has been received by this Division alleging noise nuisance arising from amplified music emanating from your premises.

As you may imagine, Environmental Health receive many complaints of this nature, some of which are found, upon investigation, to be unjustified. However, as we have a statutory obligation to respond to all complaints received, I am currently writing to you informally to ask for your co-operation in this matter.

I would ask you to consider whether or not any of your actions could give rise to a noise nuisance and if so, what action you could take to minimise any noise disturbance from your premises and so negate the need for a formal investigation by this Division.

Where necessary however, this Division will begin investigations in accordance with any evidence supplied by the complainant. It is necessary to inform you therefore that you may in the coming weeks become the subject of noise monitoring by use of either recording equipment or by officer attendance. The results of such monitoring will be communicated to you as necessary.

Please also note that the licensing division will also be informed of any evidence gathered. If the evidence gathered does indicate that a statutory nuisance is present then a review of your premise licence may be called.

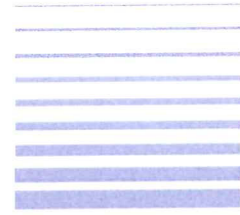
I am grateful for your assistance in this matter. If you require further information then please do not hesitate to contact me.

Yours Sincerely

**Mick Goodfellow  
 Environmental Health Officer**

□  
**ENVIRONMENTAL  
 HEALTH  
 DEPARTMENT**

**John Gerring  
 Head of Healthy  
 Communities  
 MCIEH MIOSH MSc**



Our Ref.: 031521

Your Ref.: 140916

13 January 2009



Congleton Borough

15 JAN 2009

Council

Mr Mick Goodfellow  
Environmental Health Officer  
Congleton Borough Council  
Westfields  
Middlewich Road  
Sandbach  
Cheshire  
CW11 1HZ

CONGLETON B C  
15 JAN 2009  
ENVIRONMENTAL HEA

Dear Mr Goodfellow

**Re: Music Box Congleton**

Thank you for your letter dated 9 January 2009 which was received in our office on 13 January 2009 regarding the above public house.

In accordance with the terms of the lease agreement, all items detailed in your report are the responsibility of the licensee, and it has been requested that they attend to these works within the prescribed timescale. The report details have also been forwarded to our Regional Property Manager Graham Priest for reference purposes only.

Yours sincerely

Kimberley Causer  
**Property Co-Ordinator**  
**Enterprise Inns Plc**

**Cc. Graham Priest Regional Property Manager**  
**Jeremy Muff Regional Manager**

Mr Petre – Music Box Congleton

Our Ref.:031521

13 January 2009



Mr Petre  
Music Box  
12 Mill Street  
Congleton  
CW12 1AB

Dear Mr Petre

**Re: Environmental Health Correspondence**

We have recently received the attached correspondence from Congleton Borough Council.

I write to advise you that in accordance with the terms of your lease agreement, all items within this letter are your responsibility to rectify. I would ask you to attend to these works within the prescribed timescale.

Should you have any further queries, please contact Graham Priest on [REDACTED]

Yours sincerely

[REDACTED]  
Kimberley Causer  
**Property Co-ordinator**  
**Enterprise Inns Plc**

C.C. RM – Jeremy Muff  
RPM - Graham Priest

There is only a small number of entries as since the music <sup>started</sup> often stays at my partner's house as otherwise I would not get any.

DIARY SHEETS FOR WRITTEN RECORD OF NUISANCE

Your Name & Address:

THE MUSK BOX, 12 MILL ST, CONGLETON

Name & Address of Person Complained of (if known)

Date	Time		Description of nuisance & how you are affected by it	Signature & time record made if different from time witnessed.
	Start	Finish		
24/01/09	10:00pm	01:45am	Loud music coming from back of pub, lots of shouting, last time started at 11:15pm	
31/01/09	11:30pm	02:30am	Arrived home to loud music. Didn't manage to sleep until 02:30am	
05/02/09	9:00pm	12:30am	Again very loud music from back of pub sounds like a bad band/karaoke	
06/02/09	11:30pm	01:00am	Arrived back to yet again loud music and shouting, couldn't sleep	
				CONGLETON B C
				16 FEB 2009
				ENVIRONMENTAL HEA

Congleton Borough  
 16 FEB 2009  
 Council

PLEASE RETURN TO ENVIRONMENTAL HEALTH DIVISION, "WESTFIELDS", MIDDLEWICH ROAD, SANDBACH, CW11 1HZ

Appendix A1

Transcript of The Music Box, Mill Street, Congleton CW12 1AB

FLARE REF: 140916

<u>DATE</u>	<u>TIME START</u>	<u>TIME STOP</u>	<u>DESCRIPTION</u>	S/N
Tuesday 7 <sup>th</sup> April 2009	14:46:00	14:49:12	Calibration tone signal and M. Goodfellow EHO states the location of the monitoring equipment, the date and the time.	
	14:50:00	14:51:48	M. Goodfellow discusses collection of equipment whilst demonstrating the operation of the equipment.	
Saturday 11 <sup>th</sup> April 2009	21:43:55	21:47:13	Music clearly audible (sounds like live music), people outside talking, general noise associated with a pub beer garden although audible conversations not clearly distinguishable. Drumming very audible along with lead guitar solo. When guitarist finishes lots of cheers and whistles audible (which would suggest that a live band is playing in the pub at the time of recording), ((A copy of the local paper reveal that a Band called Firegarden is billed to play at The Music Box on the 11 <sup>th</sup> April 2009)) when band stops traffic noise is audible not noise from pub garden or musicians.	
Saturday 11 <sup>th</sup> April 2009	21:47:14	21:50:10	Band tuning up for next song and voices begin to be audible from beer garden first, then band starts and drumming, guitar and singer clearly audible, unable to determine song as lyrics distorted through phasing in and out of singer. Drumming becomes faster and more pronounced along with bass guitar. Due to the	
Tuesday 14 <sup>th</sup> April 2009	14:02:47	14:03:50	Calibration tone signal and M. Goodfellow EHO states the location of the monitoring equipment, the date and the time and begins to dismantle the recording equipment . TAPE ENDS	

<u>DATE</u>	<u>TIME START</u>	<u>TIME STOP</u>	<u>DESCRIPTION</u>	<u>S/N</u>
Friday 24 <sup>th</sup> April 2009	17:01:00	17:01:50	Calibration tone signal and M. Goodfellow EHO states the location of the monitoring equipment, the date and the time.	
Saturday 25 <sup>th</sup> April 2009	20:47:35	20:49:03	Music very clearly audible (sounds like live music just ending), guitar and drumming very loud. Music ends and just background noise of slight traffic and birds . Bass guitar and lead guitar now audible (sounds like testing / tuning up). Heavy riffs on lead guitar and then singing starts with lyrics clearly audible. Tape stops before able to identify song title	
	20:50:35	20:51:01	Tape starts again, lots of background noise, in the room but no music audible.	
	20:52:26	20:55:50	Water running in bathroom in close proximity to microphone. Guitar audible in background clearly above this and drumming starts. Music very intermittent, music starts again along with distorted lyrics and very loud very heavy bass weighted drumming. Plays briefly then stops again after approx 30 seconds. Background quiet is returned when music stops. Internal movement sounds like window is closed. However music can be heard briefly in background, particularly through the closed double glazed bathroom window.	
	22:14:14	22:20:20	Music back again, extremely loud drumming and singing, talking and shouting from pub beer garden just about audible due to the loudness of the music emanating from the premises. Live cover version of Green Day's "Welcome to paradise" albeit very distorted and very loud. Band song changes to cover of Oasis "What's the story morning glory", very heavy bass weighted sound at property, little attenuation offered at premises during drumming solos, extremely loud and distorted at property owing to bass weighting. Drummer finishes set, whistles, cheers and shouts, then quiet resumes and low background noise.	

FLARE REF: 140916 Transcript of The Music Box, Mill Street, Congleton CW12 1AB

22:20:21	22:25:50	<p>Quiet for about 20 seconds before singer announces next song, thumping bass drumming, lead guitar starts and song is identified as "High and Dry" by Radiohead. Lyrics clearly audible and confirms this is the track. Song fades, quiet almost resumes from premises whilst singer talks/introduces next track.</p>
22:25:51	22:29:15	<p>Talking continues, bass guitar briefly tuned, heavy drumming begins again, "Fire (let me stand next to your fire)" Jimi Hendrix cover beings, very heavy drumming and guitar work. Lyrics distorted, unable to discern if patrons singing along due to noise and distortion from music at complainants property. Song stops, singer talks.</p>
22:29:16	22:34:30	<p>Background noise resumes, brief traffic noise and general low noise, laughing audible and talking between a group of people, unable to ascertain location. Music starts again at 22:30:04 with bass guitar, then drumming starts, "Never again" by Nickelback cover. Song stops at 22:34:26</p>
22:34:31	22:37:29	<p>Music starts again, loud drumming, lyrics distorted but song identified as a cover of "Girl all the bad guys want" by Bowling for Soup. Heavily bass weighted drumming. Shouting and loud talking audible from outside, in-between music. Music stops at 22:37:29</p>
22:37:30	22:43:15	<p>Shouts and whistles audible, traffic noise briefly audible, then band tuning i.e. bass guitar audible, lead guitar then drumming commences, unable to discern lyrics. Drumming begins to change beat, then a cover of "Another Brick in the Wall" by Pink Floyd very distinguishable, all instruments audible, including lyrics. Singer ends to applause from crowd.</p>
22:43:16	22:49:39	<p>Briefly quiet shouting then lead guitar resumes at 22:43:50, drumming commences, to cover Free and "Alright now". Strong drumming, guitar and lyrics all very, very clearly audible. Singer has stopped but band continue.</p>



	22:49:40	22:54:00	Continuation of drumming, and guitar but song now changes into lyrics changes into a cover version of White Stripes "Seven Nation Army". Music stops at 22:53:45 to applause and whistles as singer announces "goodnight and thank you", quiet resumes with background noise.	
	22:54:01	23:01:12	Drum / bass beat starts at 22:54: 24, possibly amplified music rather than live music. Volume considerably reduced in comparison to live music although still clearly audible, unable to ascertain exact location given proximity of other pubs / premises nearby. Talking and general noise audible from outside at property. Slight internal noise audible from within property.	
Monday 27 <sup>th</sup> April 2009	15:06:12	15:06:30	M. Goodfellow EHO states the location of the monitoring equipment, the date and the time and begins to dismantle the recording equipment. TAPE ENDS	

Appendix A1



**The Music Box**  
12 Mill Street  
Congleton  
Cheshire  
CW12 1AB

**Environmental Health Department**  
Westfields, Middlewich Road  
Sandbach, Cheshire  
CW11 1HZ

Tel: 01270 529529

Fax: 01270 529959

Email: [Michael.Goodfellow@cheshireeast.gov.uk](mailto:Michael.Goodfellow@cheshireeast.gov.uk)

DATE: 01 May 2009

OUR REF: C/140916

YOUR REF:

Please Contact: Mick Goodfellow

Direct Dial: 01270 529676

Dear Mr Hulme

**RE: ENVIRONMENTAL PROTECTION ACT 1990**

You may re-call that I wrote to you on the 9<sup>th</sup> January 2009 informing you that a complaint had been received with regards to music emanating from your premises so as to cause disturbance to neighbouring properties owing to its volume at night.

Since that letter was sent to both yourself and Enterprise Inns PLC, Solihull, I have gathered evidence from both diary sheets completed by complainants and additionally I have undertaken noise monitoring within the vicinity of your premises. I wish to provide you with the following evidence.

Answer phone messages were left by a complainant as follows in relation to noise emanating from your premises:

DATE	TIME	INFORMATION
Saturday 7 <sup>th</sup> March 2009	22:11, 22:23 and 22:25	Music clearly audible in background whilst complainant was describing the noise from the premises.
Saturday 14 <sup>th</sup> March 2009	22:08 and 23:05	Music clearly audible in background whilst complainant was describing the noise from the premises

As a result of the above information, noise-monitoring equipment was installed, collected and transcribed by myself between the following dates Tuesday 7<sup>th</sup> and Tuesday 14<sup>th</sup> April 2009 and Friday 24<sup>th</sup> and Monday 27<sup>th</sup> April 2009. (please refer to the enclosed sheets for exact details). Of particular note is the fact that both occasions relate to live bands. Firstly Firegarden billed as playing at The Music Box in the Congleton Chronicle dated 19<sup>th</sup> March 2009 and secondly, a live band called WKD as advertised on Sean Latham's myspace page <http://www.myspace.com/seanwkdguitarist> as billed to play on your premises on Saturday 25<sup>th</sup> April 2009.

It is my opinion that music, in particular live music / bands playing on your premises are at a volume and duration that amount to a significant disturbance given the dates, times and I believe the problem of noise emanating from your premises is due to the excessive volume of the music / bands, and doors and windows remaining open whilst such events occur.

Therefore it is strongly recommended that you reduce the volume, keep all windows and doors closed during regulated entertainment during licensable activities i.e. when either live bands or amplified music (disco's) are undertaken so that noise does not emanate from your premises so as to cause further disturbance to neighbouring residential properties.

Once again where necessary however, this Division will begin investigations in accordance with any evidence supplied by the complainant. It is necessary to inform you therefore that you may in the coming weeks become the subject of noise monitoring by use of either recording equipment or by officer attendance. The results of such monitoring will be communicated to you as necessary.

Failure to adhere to this advice shall amount to service of a Statutory Nuisance Section 80 Abatement Notice under the Environmental Protection Act 1990 that shall require you to do the same or face prosecution on summary conviction should the notice be breached.

Copies of this letter have been forwarded to Enterprise Inns PLC, 3 Monkspath Hall Road, Solihull, West Midlands, B90 4SJ and Cheshire East Licensing Department for action.

I am grateful for your assistance in this matter. If you require further information then please do not hesitate to contact me on the above number.

Yours sincerely



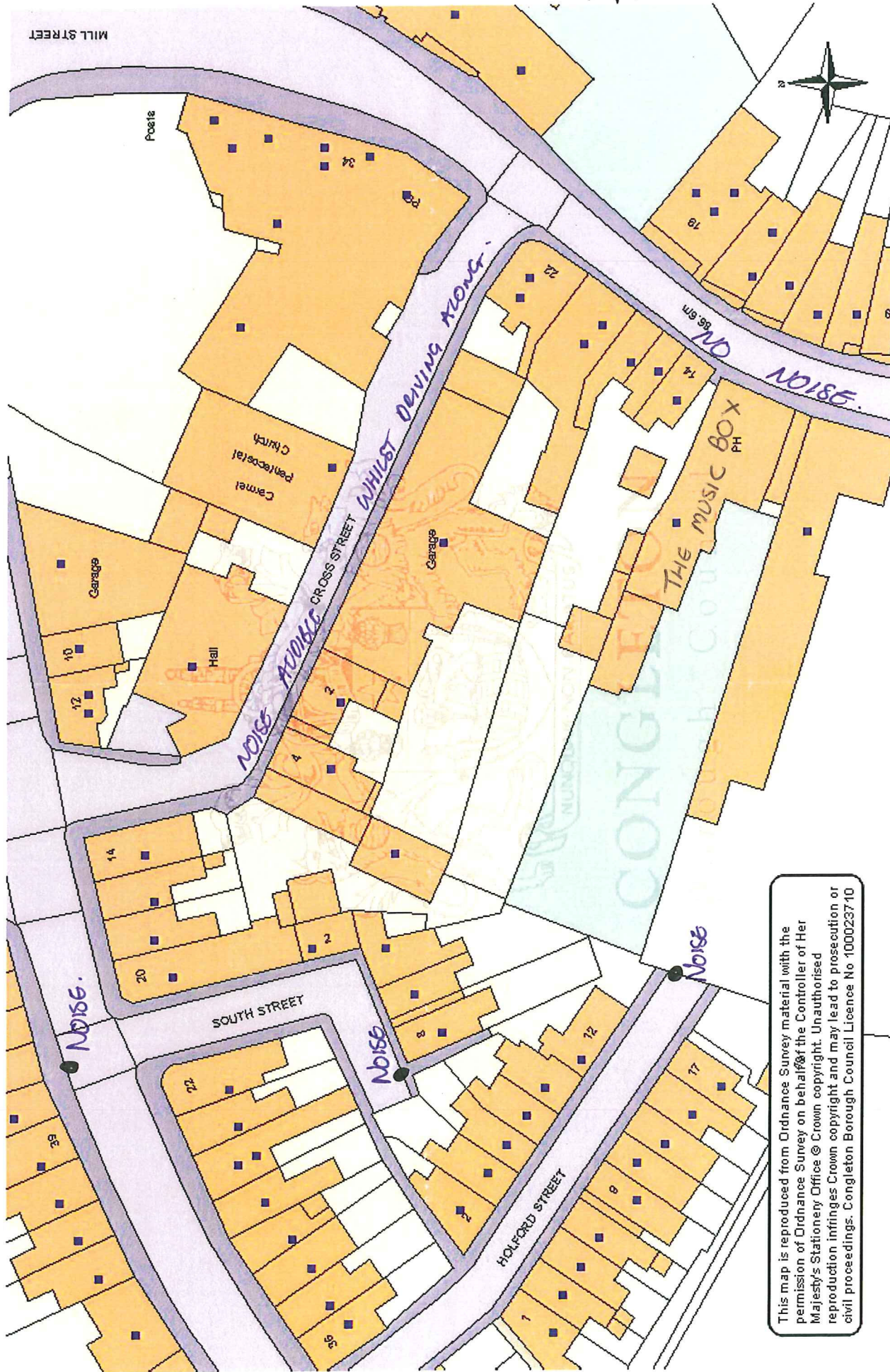
**Mick Goodfellow**  
**Environmental Health Officer**

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Appendix A1

VISIT UNDERTAKEN. 6<sup>TH</sup> JUNE 2009. BETWEEN 23:20 - 23:55.

FLARE 140916 - 1:533



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**The Music Box**  
12 Mill Street  
Congleton  
Cheshire  
CW12 1AB

**Environmental Health Department**  
Westfields, Middlewich Road  
Sandbach, Cheshire  
CW11 1HZ

Tel: 01270 529529

Fax: 01270 529959

Email: [michael.goodfellow@cheshireeast.gov.uk](mailto:michael.goodfellow@cheshireeast.gov.uk)

DATE: 09 June 2009

OUR REF: C/140916

YOUR REF:

Please Contact: Mick Goodfellow  
Direct Dial: 01270 529676

Dear Mr Lee Hulme

**RE: ENVIRONMENTAL PROTECTION ACT 1990  
CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005  
LIVE AND AMPLIFIED MUSIC EMANATING FROM YOUR PREMISES**

I write with reference to the continuous investigation into the matter of live music and entertainment noise emanating from your premises so as to cause disturbance to neighbouring properties.

During the evening of Saturday 6<sup>th</sup> June 2009 I undertook routine surveillance of Congleton and other surrounding towns and villages between the hours of 22:00 (Saturday) and 01:00 (Sunday). At approximately 23:20 I parked my car in Antrobus Street and opposite South Street, I was immediately met with noise from live and amplified music clearly audible above any passing traffic. This location is approximately 70 metres directly from the rear of your premises, although no direct line of sight exists.

I then walked to the top of South street and the noise was becoming louder, clearly audible as a live band. This location is approximately 50 metres directly from the rear of your premises, although no direct line of sight exists.

I then walked around to the end of Holford Street to the closed metal gates leading to the Bulls Head Hotel car park, again the noise was increasing in volume and was a live band. The lead singer was talking to an audience and this was going to be the last song of the evening at around 23:50. This location is approximately 30 metres directly from the rear of your premises, although no direct line of sight exists.

It is most unfortunate that despite a personal visit on the 29<sup>th</sup> May 2009, repeated letters to both yourself and Enterprise Inns Plc in Solihull requesting that you take such measures so as to prevent the music disturbing neighbouring residential properties (of which I witnessed and also recorded previously using Digital Audio Tape within a nearby residential property), such communication appears to have been in vain.

Therefore, I am satisfied that in accordance with the provisions of the Environmental Protection Act 1990 that a Statutory Noise Nuisance under Section 79(1)(g) exists from your premises and as such an Abatement Notice in respect of Noise Nuisance shall be served upon you as the person responsible for the said nuisance.

Under the provisions of the *Clean Neighbourhoods and Environment Act 2005, Part 7, Chapter 2: General; Noise from premises, paragraph 86*, (see below)

### **86 Deferral of duty to serve abatement notice**

In section 80 of the Environmental Protection Act 1990 (c. 43) (summary proceedings for statutory nuisances), at the beginning of subsection (1) insert "Subject to subsection (2A)" and after subsection (2) insert—

"(2A) Where a local authority is satisfied that a statutory nuisance falling within paragraph (g) of section 79(1) above exists, or is likely to occur or recur, in the area of the authority, the authority shall—

(a) serve an abatement notice in respect of the nuisance in accordance with subsections (1) and (2) above; or

**(b) take such other steps as it thinks appropriate for the purpose of persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence.**

(2B) If a local authority has taken steps under subsection (2A)(b) above and either of the conditions in subsection (2C) below is satisfied, the authority shall serve an abatement notice in respect of the nuisance.

(2C) The conditions are—

(a) that the authority is satisfied at any time before the end of the relevant period that the steps taken will not be successful in persuading the appropriate person to abate the nuisance or prohibit or restrict its occurrence or recurrence;

(b) that the authority is satisfied at the end of the relevant period that the nuisance continues to exist, or continues to be likely to occur or recur, in the area of the authority.

**(2D) The relevant period is the period of seven days starting with the day on which the authority was first satisfied that the nuisance existed, or was likely to occur or recur.**

(2E) The appropriate person is the person on whom the authority would otherwise be required under subsection (2A)(a) above to serve an abatement notice in respect of the nuisance."

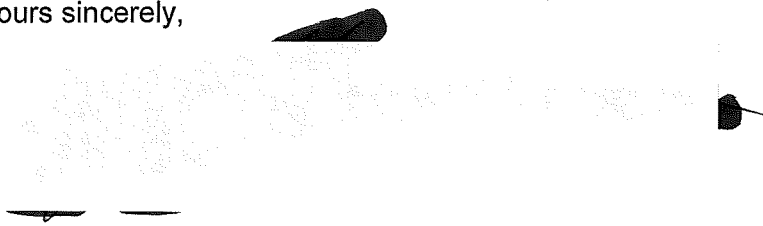
In accordance with the above, I wish to give you **7 days** from the date of this letter, in which to provide Cheshire East Council with a written scheme of mitigation to attenuate the music / entertainment noise emanating from you premises. It may be appropriate to consult not only with Enterprise Inns PLC, 3 Monkspath Hall Road, Shirley, Solihull, B90 4SJ, but also appoint an Acoustic Engineer who can provide you with the appropriate engineering solution and mitigation measures that you shall require in order to abate the noise nuisance.

However, should you fail to take this opportunity then the above mentioned Abatement Notice shall be served on you as the person responsible and any subsequent breaches of the notice shall be subject to potential prosecution by Cheshire East Council and in addition your Premises Licence LAPRE/1227/05 shall be reviewed by this department in view of the breaches of Condition 4 in Annex 2 namely: Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.

Additionally a copy of this letter has been sent to Enterprise Inns PLC, Solihull and Cheshire East Licensing Department for appropriate action and information.

If you require further information then please do not hesitate to contact me.

Yours sincerely,



**Mick Goodfellow**  
**Environmental Health Officer**

*Cheshire East Council is the brand name of Cheshire East Borough Council*

Appendix A1



**Enterprise Inns PLC**  
**Re: The Music Box**  
3 Monkspath Hall Road,  
Solihull,  
West Midlands  
B90 4SJ

**Environmental Health Department**  
Westfields, Middlewich Road  
Sandbach, Cheshire  
CW11 1HZ

Tel: 01270 529529  
Fax: 01270 529959

Email: [michael.goodfellow@cheshireeast.gov.uk](mailto:michael.goodfellow@cheshireeast.gov.uk)

*Sent 9<sup>th</sup> June 2009*

DATE: ~~19 June 2009~~

OUR REF: C/140916

YOUR REF:

Please Contact: Mick Goodfellow  
Direct Dial: 01270 529676

Dear Sir/Madam

**RE: ENVIRONMENTAL PROTECTION ACT 1990**

I write by way of copying you in to correspondence sent to Mr Hulme, The Music Box, 12 Mill Street, Congleton, CW12 1AB.

Hopefully the enclosed letter sent to Mr Hulme is self-explanatory but should you require any further clarification then please contact me directly at your earliest opportunity to discuss the matter further.

I am grateful for your assistance in this matter.

Yours sincerely

**Mick Goodfellow**  
**Environmental Health Officer**

*Cheshire East Council is the brand name of Cheshire East Borough Council*



Appendix A1

Our Ref.: 031521



Your Ref.: C/140916

Mr Mick Goodfellow  
 Environmental Health Officer  
 Cheshire East Council  
 Environmental Health Department  
 Westfields  
 Middlewich Road  
 Sandbach  
 Cheshire  
 CW11 1HZ



CHESHIRE EAST  
 11 JUN 2009  
 ENVIRONMENTAL HEA

Dear Mr Goodfellow

**Re: Music Box**

Thank you for your letter dated 9 June 2009 which was received in our office on 10 June 2009 regarding the above public house.

In accordance with the terms of the lease agreement, all items detailed in your report are the responsibility of the licensee, and it has been requested that they attend to these works within the prescribed timescale. The report details have also been forwarded to our Regional Property Manager Graham Priest for reference purposes only.

Yours sincerely

Kimberley Causer  
**Property Co-Ordinator**  
**Enterprise inns Pic**

**Cc. Graham Priest Regional Property Manager**  
**Jeremy Muff Regional Manager**

Our Ref: 031521



10 June 2009

Mr Hulme  
Music Box  
12 Mill Street  
Congleton  
CW12 1AB

Dear Mr Hulme

**Re: Music Box**

We have recently received the attached correspondence from Cheshire East Council.

I write to advise you that in accordance with the terms of your lease agreement, all items within this letter are your responsibility to rectify. Terms within your lease specify that you must comply with any statutory notices.

Should you have any further queries, please contact your Regional Property Manager  
Graham Priest

Yours faithfully,

Kimberley Causer  
**Property Co-ordinator**  
**Enterprise Inns Plc**

C.C. RM – Jeremy Muff  
RPM – Graham Priest

DATE	TIME START	TIME STOP	DESCRIPTION	S/N
Friday 10 <sup>th</sup> July 2009	17:35:18	17:36:21	Calibration tone signal and M. Goodfellow EHO states the location of the monitoring equipment, the date and the time.	
Saturday 11 <sup>th</sup> July 2009	20:47:59	20:55:00	Tape started, birdsong audible, loud bass drum clearly audible, band just starting or practising, (it also sounds like its raining too) only drumming audible. Stops at 20:49:11. Quiet background noise of birds and rain. At 20:50:25 amplified microphone sound check "two-one-two", "two-one-two", and bass guitar tuning up too. Bass reverberating around room, when it stops birdsong and raining very distinct. Brief drum roll (sounds like a snare drum), a bit of drumming without bass, then stops. Background noise of rain and birdsong continues very clearly.	
Saturday 11 <sup>th</sup> July 2009	20:55:01	21:00:01	Tape continues. Background noise of rain, birdsong and passing road traffic audible – No music. 20:56:35 single drum beats on a snare drum? X3, then quiet, amplified voices audible, possibly from singer using microphone, unable to distinguish words. 20:59:16 quite heavy rain audible, masking a lot of other noises, although some amplified music barley audible – unable to determine source.	
Saturday 11 <sup>th</sup> July 2009	21:00:01	21:05:00	Tape continues. Background noise of heavy rain, birdsong and passing road traffic audible – No music. 21:03:56 music audible, possibly recorded as band is starting to "tune up" and get ready for first song, bass guitar, drums and lead guitar audible,	
Saturday 11 <sup>th</sup> July 2009	21:05:01	21:10:00	Tape continues. Background noise of heavy rain and birdsong audible. 21:05:45 BAND STARTS PLAYING, music very, very loud then stops suddenly at 21:06:07 ?, birdsong audible and rain, instruments tuning up, band resumes playing at 21:07:30 very loud again, clearly audible, cover of "All the small things" by Blink 182, then stops at 21:08:10, background noise of rain audible. Guitar solo audible, drum beats, then stops.	

Saturday 11 <sup>th</sup> July 2009	21:10:01	21:15:00	Bass drum beat, guitars audible, cover of <b>"High and dry"</b> by <b>Radiohead</b> starts at 21:09:50, stops at 21:10:15, rain continues to fall heavily, guitar noise still audible through the heavy rain falling.	
Saturday 11 <sup>th</sup> July 2009	21:15:01	21:17:08	Very heavy downpour of rain still continuing, quite loud. Bird song audible, distant noises audible as music has stopped. Tape stopped.	
Saturday 11 <sup>th</sup> July 2009	21:46:10	21:51:30	Tape started. Cover of <b>"All the small things"</b> by <b>Blink 182</b> , very clearly audible, very loud, also voices audible possibly from rear beer garden. Music very audible, definitely live music and not recorded. Fades at 21:48:20 to cheers and guitar solo, lyrics to <b>"Basket Case"</b> by <b>Green day</b> almost karaoke quality (i.e. loud enough to sing along too!), then music starts with heavy drumming and lyrics dominant. Voices and loud talking audible too. Song finishes 21:51:30	
Saturday 11 <sup>th</sup> July 2009	21:51:31	21:55:12	Rain and voices audible from outside, then music resumes with drumming, lead guitar, singing starts cover of <b>"Lifestyles of the rich and the famous"</b> by <b>Good Charlotte</b> . Song finishes at 21:55:12	
Saturday 11 <sup>th</sup> July 2009	21:55:13	21:59:20	Rain and voices audible from outside, then music resumes with drumming, singing, unable to identify song, although music clearly audible. Song finishes at 21:59:20	
Saturday 11 <sup>th</sup> July 2009	21:59:21	22:04:44	Rain and voices audible from outside, then music resumes with drumming, guitar, singing starts cover of <b>"You stole the sun from my heart"</b> by <b>The Manic Street Preachers</b> very audible and loud. Loud voices audible from beer garden. Song finishes at 22:03:47 with singer talking, but unable to discern words due to raised voices in beer garden and rain falling outside.	
Saturday 11 <sup>th</sup> July 2009	22:04:45	22:08:07	Rain and voices audible from outside, then music resumes with drumming, guitar, singing starts cover of <b>"Local boy in the photograph"</b> by <b>The Stereophonics</b> very loud and clearly audible. Heavy drumming dominates, with thudding bass drumming to song. Loud raised voices still audible from beer garden. Song fades at 22:08:07 with singer talking.	

Saturday 11 <sup>th</sup> July 2009	22:08:08	22:11:30	Rain and voices audible from outside, then music resumes with drumming, guitar, singing starts cover of " <b>Paranoid</b> " by <b>Black Sabbath</b> very loud and clearly audible. Heavy drumming dominates, with thudding bass drumming to song. Loud raised voices still audible from beer garden. Song fades at 22:11:16 with singer talking. 22:11:24 loud crashing of bottles, probably emptying bottles into a bottle bank
Saturday 11 <sup>th</sup> July 2009	22:11:31	22:15:45	Rain and voices audible from outside, then music resumes with heavy drumming, guitar, singing starts cover of " <b>Longview</b> " by <b>Green Day</b> very loud and clearly audible. Heavy drumming dominates, with thudding bass drumming to song. Loud raised voices still audible from beer garden. Song fades at 22:15:31 to whistles and cheers.
Saturday 11 <sup>th</sup> July 2009	22:15:46	22:21:09	Rain and voices from beer audible from outside, then music resumes with heavy drumming, guitar, singing starts cover of " <b>High and dry</b> " by <b>Radiohead</b> clearly audible. Heavy drumming dominates, with thudding bass drumming to song. Loud raised voices still audible from beer garden. Song fades at 22:21:00 to whistles and cheers.
Saturday 11 <sup>th</sup> July 2009	22:21:10	22:25:40	Rain and voices from beer audible from outside, then music resumes with singing first, then guitar, then drumming, unable to identify song despite it being audible, the lyrics are too distorted. Very loud and clearly audible. Song fades at 22:25:30
Saturday 11 <sup>th</sup> July 2009	22:25:41	22:29:40	Rain and voices from beer audible from outside, then music resumes with heavy drumming at 22:26:30, guitar, singing starts cover of " <b>Let me stand next to your fire</b> " by <b>Jimi Hendrix</b> very clearly audible. Song stops at 22:29:28 to whistles
Saturday 11 <sup>th</sup>	22:29:41	22:34:27	Rain and voices from beer audible from outside, car passes then music, voices

July 2009			from singer resumes with heavy drumming at 22:31:10, guitar, singing starts cover of "How you remind me" by Nickelback clearly audible. Very heavy bass resonating in property and very distorted. Song fades at 22:34:22 to whistles and guitar reverberation.	
Saturday 11 <sup>th</sup> July 2009	22:34:28	22:37:50	Music continues with cover of "Girl all the bad guys want" by Bowling for Soup. Heavy drumming, cymbals crashing, guitar audible, lyrics identifiable, although noise from beer garden and rain still in background. Very strong bass drumming. Song fades at 22:37:46	
Saturday 11 <sup>th</sup> July 2009	22:37:51	22:45:00	Rain and voices from beer audible from outside, different music audible, possibly from a jukebox/pa system, but different level to live band, quieter. Loud crashing audible at 22:39:58 (bottles being emptied?) Music and rain and background voices audible.	
Saturday 11 <sup>th</sup> July 2009	22:45:01	22:47:04	Rain and voices from beer audible from outside, different music audible, possibly from a jukebox/pa system, but different level to live band, quieter, but bass weighted music still dominant. Tape stopped at 22:47:04	
Saturday 11 <sup>th</sup> July 2009	22:56:53	23:05:10	Live music audible, heavy drumming, guitar audible, and lyrics audible, cover of "I predict a riot" by Kaiser Chiefs. Song fades at 23:00:15. Music continues with cover of "Dakota" by Stereophonics. Heavy drumming, cymbals crashing, guitar audible, lyrics identifiable, although noise from beer garden and rain still in background. Very strong bass drumming. Song fades at 23:05:01	
Saturday 11 <sup>th</sup> July 2009	23:05:11	23:10:00	Rain and voices from beer audible from outside, then music resumes at 23:05:50 with guitar, then drumming, cover of "You're all I have" by Snow Patrol clearly audible, but the lyrics are distorted. Very loud and clearly audible. Song fades at 23:09:52 to cheers, claps and whistles.	

<p>Saturday 11<sup>th</sup> July 2009</p>	<p>23:10:01</p>	<p>23:14:15</p>	<p>Rain and voices from beer audible from outside, then amplified talking audible but words not identifiable, guitar starts, music resumes at 23:11:00 with drumming then guitar, cover of <b>"Ever fallen in love (with someone you shouldn't've" by The Buzzcocks</b> clearly audible, but the lyrics are distorted. Very loud and clearly audible. Song fades at 23:14:04 to cheers, claps and whistles.</p>	
<p>Saturday 11<sup>th</sup> July 2009</p>	<p>23:14:16</p>	<p>23:15:44</p>	<p>Rain and voices from beer audible from outside, amplified talking, guitar starts, then drumming commences, singer shouts "can you shut the fuck up!" at 23:14:47 audible, unable to identify song. Internal noises audible near microphone then recording ends. 23:15:44</p>	
			<p><b>END OF RECORDING</b></p>	

**Schedule 12  
Part A**

Regulation 33,34

**Premises Licence  
Congleton Borough Council**

Premises Licence Number

LAPRE/1227/05

**Part 1 – Premises Details**

**Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code**

Music Box  
12 Mill Street  
Congleton  
Cheshire  
CW12 1AB

**Telephone number** 01260 273384

**Where the licence is time limited the dates**

06.03.2009 -

**Licensable activities authorised by the licence**

Supply of Alcohol  
Exhibition of a Film  
Indoor Sporting Events  
Performance of Live Music  
Performance of Recorded Music  
Dancing  
Making Music  
Provision of Facilities for Dancing

**Times the licence authorises the carrying out of licensable activities**

Supply of Alcohol and Permitted Regulated Entertainment

Monday to Wednesday	11:00 - 23:00
Thursday	11.00 - 00.00
Friday and Saturday	11.00 - 01.00
Sunday	12.00 - 22.30

Friday, Saturday, Sunday and Monday of Bank Holiday weekends, Christmas Eve and Boxing Day until 01.00.

Beginning of New Years Eve to the end of New Years Day.



**The opening hours of the premises**

Monday	11:00 - 23:30
Tuesday	11:00 - 23:30
Wednesday	11:00 - 23:30
Thursday	11:00 - 00:30
Friday	11:00 - 01:30
Saturday	11:00 - 01:30
Sunday	12:00 - 23:00

**Where the licence authorises supplies of alcohol whether these are on and / or off supplies**

Alcohol is supplied for consumption both on and off the Premises.

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

Enterprise Inns Plc  
3 Monkspath Hall Road  
Shirley  
Solihull  
B90 4SJ

**Registered number of holder, for example company number, charity number (where applicable)****Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Mr Lee Sean Hulme

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

Personal Licence Reference: LAPER/0043/09

Licensing Authority: Congleton Borough Council

**Annex 1 – Mandatory conditions**

- 1 No supply of alcohol may be made under the premises licence: At times when there is no designated supervisor in respect of the licence, or at a time when the designated premises supervisor does not hold a personal licence, or their licence is suspended.
- 2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3 Any persons carrying out a security function must be licensed with the Security Industry Authority (S.I.A).
- 4 Where children are admitted to the exhibition of films, their admission must be restricted in accordance with recommendations of the licensing authority or a film classification body specified on the licence. If only adults are admitted to the film exhibition, no classification is required.

**Annex 2 – Conditions consistent with the Operating Schedule**

- 1 No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.
- 2 Alcoholic and other drinks may not be removed from the premises in open containers save for consumption in any external area provided for that purpose.
- 3 A sign will be located at the exit(s) requesting that customers leaving the premises do so quietly and with consideration to neighbours.
- 4 Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.
- 5 Children under the age of 16 shall not be permitted to enter the premises.

**Annex 3 – Conditions attached after a hearing by the licensing authority**

None

**Annex 4 – Plans**

The Plan 1227/05 can be viewed at the Licensing Authority.

**Part B****Premises Licence Summary  
Congleton Borough Council****Premises Licence Number**

LAPRE/1227/05

**Part 1 – Premises Details****Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code**

Music Box  
12 Mill Street  
Congleton  
Cheshire  
CW12 1AB

**Telephone number** 01260 273384**Where the licence is time limited the dates**

06.03.2009 -

**Licensable activities authorised by the licence**

Supply of Alcohol

**Times the licence authorises the carrying out of licensable activities**

Supply of Alcohol and Permitted Regulated Entertainment

Monday to Wednesday 11:00 - 23:00

Thursday 11.00 - 00.00

Friday and Saturday 11.00 - 01.00

Sunday 12.00 - 22.30

Friday, Saturday, Sunday and Monday of Bank Holiday weekends, Christmas Eve and Boxing Day until 01.00.

Beginning of New Years Eve to the end of New Years Day.

**The opening hours of the premises**

Monday	11:00 - 23:30
Tuesday	11:00 - 23:30
Wednesday	11:00 - 23:30
Thursday	11:00 - 00:30
Friday	11:00 - 01:30
Saturday	11:00 - 01:30
Sunday	12:00 - 23:00

**Where the licence authorises supplies of alcohol whether these are on and / or off supplies**

Alcohol is supplied for consumption both on and off the Premises.

**Name, (registered) address of holder of premises licence**

Enterprise Inns Plc  
3 Monkspath Hall Road  
Shirley  
Solihull  
B90 4SJ

**Registered number of holder, for example company number, charity number (where applicable)****Name of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Mr Lee Sean Hulme

**State whether access to the premises by children is restricted or prohibited**

Restricted

CERTIFIED COPY OF NOTICE SERVED 22<sup>ND</sup> JUNE 2009  
NOTICE REGISTER

ENVIRONMENTAL PROTECTION ACT 1990, section 80



Appendix C

**Abatement Notice in respect of Noise Nuisance**

To: Mr Lee Sean Hulme  
Of: Music Box, 12 Mill Street, Congleton, Cheshire, CW12 1AB

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the CHESHIRE EAST BOROUGH COUNCIL, being satisfied of the occurrence of noise amounting to a statutory nuisance under section 79(1)(g) of that Act at

**Music Box, 12 Mill Street, Congleton, Cheshire, CW12 1AB**

[within the district of the said Council] arising from:-

**Noise generative entertainment activities.**

HEREBY REQUIRE YOU as the occupier of the premises from which the noise is or would be emitted with immediate effect from the service of this notice, to abate the same and also HEREBY PROHIBIT the recurrence of the same.

This is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (appeals) Regulations 1995 applies and, in consequence, in the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

IF 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 not exceeding level 5 on the Standard Scale \*\*, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

DATED 22<sup>ND</sup> JUNE 2009 (Signed).....

Michael Goodfellow... Environmental Health Officer...  
(The officer appointed for this purpose)

Please address any communications to:  
*Environmental Health, Cheshire East Borough Council,  
Westfields, Middlewich Road, Sandbach, Cheshire CW11 1HZ*

N.B. The person served with this notice may appeal against the notice to a magistrates' court within twenty-one days beginning with the date of service of the notice. See notes on the reverse of this form.

\*\* Currently £5,000, subject to alteration by order

**APPEALS UNDER SECTION 80 (3) of the ENVIRONMENTAL PROTECTION ACT 1990**  
 ("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 against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-
- (a) that the abatement notice is not justified by section 80 of the 1990 Act;
  - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice;
  - (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, 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) of the 1990 Act, 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 Control of Pollution Act 1974 ("the 1974 Act"), or
    - (ii) any consent given under section 61 or 65 of the 1974 Act, or
    - (iii) any determination made under section 67 of the 1974 Act;
  - (g) that the abatement notice should have been served on some person instead of the appellant, being-
  - (h) the person responsible for the nuisance, or
    - (i) (ii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
    - (iii) 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;
  - (h) that the abatement notice might lawfully have 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;
  - (i) 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,
    - (ii) a person who is also an owner of the premises, or
    - (iii) a person who is also an occupier of the premises,
 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, 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)(h) or (i) above, the appellant shall serve a copy of this notice of appeal on any person referred to, and in the case of any appeal to which this regulation applies he may serve a copy

of his notice of appeal on any other person having an estate or interest in the premises in question.

- (5) On the hearing of an appeal the court may-
  - (a) quash the abatement notice to which the appeal relates, or
  - (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
  - (c) dismiss the appeal;
 and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of appeal the court may make such order as it thinks fit-
  - (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
  - (b) as 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 NOTICES

3. (1) Where-
  - (a) an appeal is brought against an abatement notice served under section 80 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) of the 1990 Act, the noise to which the abatement notice relates is noise caused in the course of the performance of some duty imposed by law on the appellant, and
  - (c) either paragraph (2) does not apply, or if it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where-
  - (a) the nuisance to which the abatement notice relates-
    - (i) is injurious to health, or
    - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
  - (b) the expenditure which would be incurred by any person in 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.

Appendix C1



**Music Box**  
12 Mill Street  
Congleton  
Cheshire  
CW12 1AB

**Environmental Health Department**  
Westfields, Middlewich Road  
Sandbach, Cheshire  
CW11 1HZ

Tel: 01270 529529  
Fax: 01270 529959

Email: [michael.goodfellow@cheshireeast.gov.uk](mailto:michael.goodfellow@cheshireeast.gov.uk)

DATE: 22<sup>nd</sup> June 2009      OUR REF: C/140916      YOUR REF:

Please Contact: Mick Goodfellow  
Direct Dial: 01270 529676

Dear Mr Lee Hulme

**RE: ENVIRONMENTAL PROTECTION ACT 1990  
CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005  
LIVE AND AMPLIFIED MUSIC EMANATING FROM YOUR PREMISES**

I write with reference to the continuous investigation into the matter of live music and entertainment noise emanating from your premises so as to cause disturbance to neighbouring residential properties.

Following my letter to you dated Monday 8<sup>th</sup> June 2009 in which you were requested to forward in **7 days** from the letter, to provide Cheshire East Council with a written scheme of mitigation to attenuate the music / entertainment noise emanating from your premises. It was also suggested that it may be appropriate to consult not only with Enterprise Inns PLC, 3 Monkspath Hall Road, Shirley, Solihull, B90 4SJ as the holder of the premises licence, but also appoint an Acoustic Engineer who can provide you with the appropriate engineering solution and mitigation measures that you might require in order to abate the noise nuisance.

As of Monday 22<sup>nd</sup> June 2009 this department has not received any such written scheme or indeed have had any contact directly from you. However a letter from Enterprise Inns PLC was received on the 11<sup>th</sup> June 2009 (see copy enclosed) in relation to this matter.

Therefore, a Section 80 Abatement Notice is now duly served upon you Mr Lee Sean Hulme under the provisions of the Environmental Protection Act 1990.

This notice requires you to immediately prohibit the occurrence and recurrence of a Statutory Nuisance from noise generative entertainment activities. You shall comply with this notice in respect to any noise from your licensable activities as per your Premises Licence LAPRE/1227/05.



Appendix C1

The licensable activities authorised by Premises Licence LAPRE/1227/05 are as follows:

- Supply of alcohol
- Exhibition of a film
- Indoor sporting events
- Performance of live music
- Performance of recorded music
- Dancing
- Making music
- Provision of facilities for dancing

Such measures to abate the noise nuisance could include ensuring all windows and doors are closed during licensable activities, reducing the volume and bass of the music so that it does not continue to disturb neighbouring residential properties and the wider community, the installation of a noise limiting device and/or consultation with an acoustic professional such as those who are members of the Institute of Acoustics.

This letter has been copied to The Company Secretary of Enterprise Inns PLC, 3 Monkspath Hall Road, Shirley, Solihull, B90 4SJ and an Abatement Notice has been duly served upon them as the person responsible for your premises as they are named as the holder of the premises licence in accordance with Premises Licence LAPRE/1227/05.

Should you require further information or clarification in connection with this matter then please do not hesitate to contact me directly.

Yours sincerely

**Mick Goodfellow**  
**Environmental Health Officer**

*Cheshire East Council is the brand name of Cheshire East Borough Council*

Appendix C1



**The Company Secretary**  
**Enterprise Inns PLC**  
3 Monkspath Hall Road,  
Solihull,  
West Midlands  
B90 4SJ

**Environmental Health Department**  
Westfields, Middlewich Road  
Sandbach, Cheshire  
CW11 1HZ

Tel: 01270 529529

Fax: 01270 529959

Email: [michael.goodfellow@cheshireeast.gov.uk](mailto:michael.goodfellow@cheshireeast.gov.uk)

DATE: 22<sup>nd</sup> June 2009

OUR REF: C/140916

YOUR REF: 031521

Please Contact: Mick Goodfellow

Direct Dial: 01270 529676

Dear Sir/Madam

**RE: Music Box, 12 Mill Street, Congleton, CW12 1AB**  
**ENVIRONMENTAL PROTECTION ACT 1990**  
**CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005**  
**LIVE AND AMPLIFIED MUSIC EMANATING FROM YOUR PREMISES**

I write by way of copying you in to correspondence sent to Mr Hulme, The Music Box, 12 Mill Street, Congleton, CW12 1AB.

Despite repeated attempts to resolve the issues of noise from entertainment at the premises with Mr Hulme a Section 80 Abatement Notice has now been duly served upon Mr Lee Sean Hulme, today Monday 22<sup>nd</sup> June 2009. Additionally an Abatement Notice has been duly served upon you, The Company Secretary as the person responsible for the premises as Enterprise Inns PLC are named as the holder of the premises licence in accordance with Premises Licence LAPRE/1227/05. Whilst Mr Lee Sean Hulme is named as the Designated Premises Supervisor.

Hopefully the enclosed letter sent to Mr Hulme is self-explanatory but should you require any further clarification then please contact me directly at your earliest opportunity to discuss the matter further.

I am grateful for your assistance in this matter.

Yours sincerely

**Mick Goodfellow**  
**Environmental Health Officer**

*Cheshire East Council is the brand name of Cheshire East Borough Council*

CERTIFIED COPY OF NOTICE SERVED 22<sup>nd</sup> JUNE 2009

**NOTICE REGISTER**

ENVIRONMENTAL PROTECTION ACT 1990, section 80



**Abatement Notice in respect of Noise Nuisance**

**To: The Company Secretary**  
**Of: Enterprise Inns PLC, 3 Monkspath Hall Road, Shirley, Solihull, B90 4SJ**  
**Company Registration Number 02562808**

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the **CHESHIRE EAST BOROUGH COUNCIL**, being satisfied of the occurrence of noise amounting to a statutory nuisance under section 79(1)(g) of that Act at

**Music Box, 12 Mill Street, Congleton, Cheshire, CW12 1AB**

[within the district of the said Council] arising from:-

**Noise generative entertainment activities**

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

**This** is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (appeals) Regulations 1995 applies and, in consequence, in the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.

**IF** 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 not exceeding level 5 on the Standard Scale \*\*, together with a further fine of an amount equal to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

**The Council** may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

DATED 22<sup>nd</sup> June 2009 (Signed).....

Michael Goodfellow, Environmental Health Officer...  
(The officer appointed for this purpose)

Please address any communications to:

*Environmental Health, Cheshire East Borough Council,  
Westfields, Middlewich Road, Sandbach, Cheshire CW11 1HZ*

N.B. The person served with this notice may appeal against the notice to a magistrates' court within twenty-one days beginning with the date of service of the notice. See notes on the reverse of this form.

\*\* Currently £5,000, subject to alteration by order

**APPEALS UNDER SECTION 80 (3) of the ENVIRONMENTAL PROTECTION ACT 1990**  
 ("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 against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-
- (a) that the abatement notice is not justified by section 80 of the 1990 Act;
  - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice;
  - (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, 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) of the 1990 Act, 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 Control of Pollution Act 1974 ("the 1974 Act"), or
    - (ii) any consent given under section 61 or 65 of the 1974 Act, or
    - (iii) any determination made under section 67 of the 1974 Act;
  - (g) that the abatement notice should have been served on some person instead of the appellant, being-
    - (h) the person responsible for the nuisance, or
    - (i) (ii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
    - (iii) 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;
  - (h) that the abatement notice might lawfully have 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;
  - (i) 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,
    - (ii) a person who is also an owner of the premises, or
    - (iii) a person who is also an occupier of the premises,
 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, 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)(h) or (i) above, the appellant shall serve a copy of this notice of appeal on any person referred to, and in the case of any appeal to which this regulation applies he may serve a copy

of his notice of appeal on any other person having an estate or interest in the premises in question.

- (5) On the hearing of an appeal the court may-
  - (a) quash the abatement notice to which the appeal relates, or
  - (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
  - (c) dismiss the appeal;
 and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of appeal the court may make such order as it thinks fit-
  - (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
  - (b) as 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 NOTICES

3. (1) Where-
  - (a) an appeal is brought against an abatement notice served under section 80 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) of the 1990 Act, the noise to which the abatement notice relates is noise caused in the course of the performance of some duty imposed by law on the appellant, and
  - (c) either paragraph (2) does not apply, or if it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where-
  - (a) the nuisance to which the abatement notice relates-
    - (i) is injurious to health, or
    - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
  - (b) the expenditure which would be incurred by any person in 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.



Appendix C1

Our Ref.: 031521

Your Ref.: C/140916

24 June 2009

Mr Mick Goodfellow  
Environmental Health Officer  
Westfields  
Middlewich Road  
Sandbach  
Cheshire  
CW11 1HZ



CHESHIRE EAST

25 JUN 2009

ENVIRONMENTAL HEA

Dear Mr Goodfellow

**Re: Music Box Congleton**

Thank you for your letter dated 22 June 2009 which was received in our office on 23 June 2009 regarding the above public house.

In accordance with the terms of the lease agreement, all items detailed in your report are the responsibility of the licensee, and it has been requested that they attend to these works within the prescribed timescale. The report details have also been forwarded to our Regional Property Manager Graham Priest [redacted] for reference purposes only.

Yours sincerely

Kimberley Causer [redacted]  
**Property Co-Ordinator**  
**Enterprise Inns Plc**

**Cc. Graham Priest Regional Property Manager**  
**Jeremy Muff Regional Manager**

Mr Hulme – Music Box Congleton