Neutral Citation Number: [2025] EWHC 1218 (Admin)

Case No: AC-2023-LON-002387

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/05/2025

Before :
Mr Justice Dexter Dias

- -

Between :

London Borough of Enfield — **Appellant**

- and –

Anthony Beckford — **Respondent**

- -
- -

Andrew Price (instructed by **Enfield Council**) for the **Appellant**
Jonathan Powell (instructed by **Stokoe Partnership**) for the **Respondent**

Hearing dates: 7 May 2025
(*Judgment circulated in draft: 9 May 2025*)

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Approved Judgment

This judgment was handed down remotely at 10.30 am on Monday 19 May 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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THE HON. MR JUSTICE DEXTER DIAS

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Mr Justice Dexter Dias :

1. This is the judgment of the court.

2. To assist the parties and the public to follow the main lines of the court's reasoning, the text is divided into six sections, as set out in the table of contents above. The table is hyperlinked to aid swift navigation.

I. *Introduction*

3. This is case concerns an appeal by way of case stated.

4. The appellant is the London Borough of Enfield. The appellant is represented by Mr Price of counsel. The respondent is Anthony Beckford, who is represented by Mr Powell of counsel. The court is grateful to both counsel for their submissions. I also acknowledge the assistance of Mr Jeyes of counsel, who drafted the appellant's skeleton argument, but became part-heard on an important matter and could not attend the appeal.

5. The appealed decision is by District Judge (Magistrates' Court) Julia Newton ("**the Judge**") in respect of her decision at the Highbury Corner Magistrates' Court on 14 April 2023 to quash an abatement notice ("**the Notice**") dated 5 April 2022 in respect of "the production of noisy music", pursuant to section 80(1) of the Environmental Protection Act 1990 ("the EPA" or "the Act"). Section 80(1) provides:

> "Subject to subsection (2A), where a local authority is satisfied that a statutory nuisance exists or is likely to occur or recur in the area of the authority, the local authority shall serve a notice ("an abatement notice") imposing all or any of the following requirements:
>
> (a) requiring the abatement of the nuisance or prohibiting or restricting its occurrence or recurrence;
> (b) requiring the execution of such works, and the taking of such steps, as may be necessary for any of those purposes,
>
> and the notice shall specify the time or times within which the requirements of the notice are to be complied with".

6. The Notice stated:

> "**The production of noisy music**
>
> HEREBY REQUIRE YOU as the owner of the premises 13 Rochester Close, Enfield, EN1 3NR from which the noise is or would be emitted [forthwith] from the service of this notice to abate the same and also hereby prohibit the recurrence of the same and [the ensuing text has been called the second part of the Notice] for that purpose require you to:
>
> > Exercise proper control of the volume of sound generated at the premises [his home at 13 Rochester Close, Enfield EN1 3RN] to ensure that the total volume of sound emitted is not likely to cause a nuisance to persons residing in the vicinity".

7. The respondent appealed the Notice pursuant to section 80(3) of the Act and Regulations 2(2)(a) and (c) of the Statutory Nuisance (Appeals) Regulations ("the Regulations"). Relevant aspects of the regulations include:

> 2(2)(a): "that the abatement notice is not justified by s.80 of the EPA"
>
> 2(2)(c): "that the authority has 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".

8. The decision of the Judge was summarised in her statement of case ("**the Case**") as follows at paras 9-10:

> "9. The decision of the court was that whilst the issuing of the Notice was justified pursuant to s.80 EPA, as a result of an omission in the Notice to specify the steps to be taken, as may be necessary for the purpose of abating the nuisance and prohibiting the recurrence of the same, the Notice was invalid.
>
> 10. If that was incorrect, then it was held that the requirements of the Notice were unreasonable in character or extent. The wording was unfair and unreasonable. Consequently, the Notice was quashed."

10. On 5 May 2023, the appellant requested the Judge to state a case following her decision to quash the Notice.

II. *Appellate jurisdiction*

11. Section 111 of the Magistrates' Court 1980 provides materially:

> "**Statement of case by magistrates' court**.
> (1) Any person who was a party to any proceeding before a magistrates' court or is aggrieved by the conviction, order, determination or other proceeding of the court may question the proceeding on the ground that it is wrong in law or is in excess of jurisdiction by applying to the justices composing the court to state a case for the opinion of the High Court on the question of law or jurisdiction involved; but a person shall not make an application under this section in respect of a decision against which he has a right of appeal to the High Court or which by virtue of any enactment passed after 31st December 1879 is final."

12. As explained in *Cuciurean v CPS* [2024] EWHC 848 (Admin) at para 31, an appeal from the Magistrates' Court to the High Court by way of case stated is strictly restricted to issues of law and jurisdiction. The High Court is not the finder of primary fact; the facts are as stated in the Case (*Wheeldon v CPS* [2018] EWHC 249 (Admin), para 5).

III. *Facts*

13. I summarise the facts as found by the Judge and set out clearly in the Case.

14. The subject premises are the respondent's home, an end-of-terrace property sharing a party wall with neighbours. He moved in around 2010 and the present neighbours arrived in 2017. He first complained about the noise that

his neighbours were causing and they complained as well. After an initial visit on 2 March 2022, an Environmental Noise Officer ("the EHO") employed by the appellant corresponded with the respondent about the level of noise emanating from his premises. The EHO sought informal resolution, but the complaints from the neighbours continued and a Final Warning email was sent to the respondent on 22 March 2022. On 31 March 2022, the EHO returned and assessed that the noise level constituted a nuisance. Having spoken with her manager, the EHO issued the Notice to the respondent.

15. The Judge was satisfied based on the officer's evidence that a statutory nuisance had occurred on 31 March 2022. It should be noted that despite the respondent submitting to this court that the neighbours are "not independent" and not "neutral observers", the Judge made her finding of nuisance based exclusively on the officer's evidence and the neighbours did not give evidence at the court below.

IV. *Questions posed by the Case*

16. The Case sets out the following questions for the opinion of the High Court:

(a) was I right to find that the wording of the abatement notice issued to the Appellant on 5 April 2022, (to "exercise proper control of the volume of sound generated at the premises to ensure that the total volume of sound emitted is not likely to cause a nuisance to persons residing in the vicinity"), required the notice to specify steps to be taken in order to abate the noise nuisance?

(b) If so, was I right to find the abatement notice invalid?

(c) If I erred in finding that the notice required steps to be specified or that the notice was invalid, was I right to find that the wording was "unreasonable in character or extent"?

(d) If I was right to find that the wording was unreasonable in character or extent, was I correct to quash the notice?

(e) Although not strictly a question of law, was I correct, in the circumstances of the case (where I found the Respondent to have been justified in serving the abatement notice, but the Notice to be invalid), to the order the Respondent to pay half of the Appellant's costs?

17. In very short order, the positions of the parties are as follows.

18. **The appellant**. It submits that the Judge was wrong by determining that the Notice specified steps and then did not specify the requirements with sufficient clarity. The Notice was not invalid on either that basis or due to the second part of the Notice, which in any event could be deleted or varied under the Regulations without affecting the Notice's validity. There should be no order as to costs, the local authority simply doing its statutory duty to issue a notice following a finding of nuisance.

19. **The respondent**. He submits that the Notice specified steps by the inclusion in the Notice of the word "and", the introduction to the second part of the Notice ("and for that purpose require to exercise proper control" et cetera). However, the authority was not or not sufficiently clear about what steps were required. The Notice was thus invalid. Further, the term "likely to cause nuisance" is an unreasonable and unenforceable requirement in practice and in itself renders the Notice invalid, compounding the unreasonableness of the failure to specify steps in either half of the Notice. The costs order in favour of the respondent made below should remain undisturbed and was made after a careful examination of all the relevant factors by the Judge. It is consequently an unassailable exercise of discretion.

V. *Discussion*

20. I divide the Discussion into three parts, in the way the parties argued the case on appeal in writing and orally:

(1) Questions (a) and (b)
(2) Questions (c) and (d)
(3) Question (e)

(1) Questions (a) and (b)

21. The point of embarkation is that the decision of the Judge about invalidity was reached because of "an omission in the Notice to specify the steps to be taken" (Case, para 9). This is an appeal by way of case stated and not a judicial review and therefore the task of the court is to answer the questions posed and not to perform wider judicial review of the decision. The law is clear: a notice is not necessarily invalid when the essence of a notice is a requirement to abate and no steps are specified. This is plain from section 80(1)(a) of the EPA, which simply requires abatement, restriction or prohibition. Indeed, the Judge directed herself to the relevant passage in *Stone's Justices' Manual* ("*Stone's*") (7.10518) that states:

> "… an abatement notice must inform the person on whom it is served the nature of the nuisance complained of, but it need not specify the works or other steps to be taken to abate the nuisance. In all cases the local authority has a discretion to leave the choice of means of abatement to the perpetrator of the

> nuisance. If however, the means of abatement are required by the authority then they must be specified in the notice. *R. Falmouth and Truro PHA ex parte South West Water Ltd* [2000] 3 All ER 306."

22. Therefore, the situation is different if the local authority goes further and pursuant to section 80(1)(b) requires "the execution of such works, and the taking of such steps, as may be necessary for any of those [abatement, restricting, prohibiting] purposes". If the local authority proceeds to subsection (1)(b), then as a matter of fairness, not to mention subsequent enforceability, the steps required must be spelled out clearly. It is important, as ever, to read the statutory provision in context (*R v Secretary of State for the Environment, Transport and the Regions, Ex p Spath Holme Ltd* [2001] 2 AC 349 ("*Spath Home*")). Lord Nicholls stated in *Spath Holme* at para 396:

> "Statutory interpretation is an exercise which requires the court to identify the meaning borne by the words in question in the particular context."

23. The meaning of the term "steps" is made sense of in the context of its neighbouring term "execution of such works". This latter term lends colour to the kind of thing envisaged by the legislation as steps. Applying common sense, it seems to me this is a world away from turning down the volume on a music centre.

24. Whether a notice requires any steps to be taken must be gleaned from an objective reading of the Notice. The proper approach is for this court to construe the Notice objectively and fairly in a "common sense" way (*Cambridge City Council v Douglas* [2001] Env. L.R. 41 ("*Cambridge*") per Waller LJ at para 30). Once that is done, the answer is plain.

25. One must look at the substance, not form. The Notice required that the nuisance stops: "HEREBY REQUIRE YOU … to abate the same". That is, to abate the "noisy music" causing the "nuisance" found by the EHO on 31 March 2022. Once that finding was made, the appellant had no discretion but had a statutory duty under the Act to issue the Notice.

26. I judge that this is not a "steps" case. What the Notice requires is clear: an abatement of the noise nuisance. Nothing more, nothing less. The local authority and indeed its issued notice leaves it up to the respondent to decide how to achieve that abatement, just as envisaged by the legislation and explained in *Stone's*. That said, in the instant case it is obvious what should be done. With respect, the Judge undoubtedly had the very best intentions, and in an effort to be fair-minded, she may have strayed into an unnecessary level of technicality for what was a simple situation. This can be understood by the two succinct questions posed by Jowitt J in *Cambridge* at para 25 (slightly modified):

> (1) What am I said to have done?

(2) What am I required to do?

The answers here are:

(1) Played music too loudly, causing a nuisance to your neighbours;
(2) Do not play your music so intrusively loudly.

27. This immediately engages the submission made on behalf of the respondent that the Notice gives "no indication of how a satisfactory level should be achieved" and that "the actual content of the requirement to 'exercise proper control' is left unspecified". This is the complaint, acceded to by the Judge, that this is a steps case and no steps have been specified.

28. Context is everything. This began with a dispute between neighbours about loud music. The appellant local authority investigated and found that the respondent was playing his music at a level that caused a nuisance. Indeed, the Judge found that the issuing of the Notice was "justified pursuant to s.80 EPA" (Case, para. 9). The solution is for the respondent not to play his music so excessively loudly. This is not a "step" as understood by the statutory regime and regulations. It is just an obvious solution. There may be other viable fixes. It appears that before the current neighbours moved in, the respondent insulated his first floor bedroom with a view to dampening the noise. He may, for example, opt to upgrade his noise insulation. That is a matter for him. For the purposes of the law, the means are not relevant, not having been specified in the Notice. It is the end that is critical, tested by a straightforward question: whether the subsequent level of noise is causing a nuisance. As said by Waller LJ in *Cambridge* at para 30:

> "in all cases an authority could if it wished leave the means of abatement to the perpetrator of the nuisance, including in a case of nuisance by noise through amplified music, switching the amplified music down or off and carrying out no works, or if the perpetrator could abate the noise by carrying out works, carrying out those works (see *R. v. Falmouth and Truro Port Health Authority, ex p. South West Water* [2000] 3 All E.R. 306)."

29. The submission made on behalf of the respondent that the authority made a steps requirement cannot survive a clearsighted reading of Waller LJ's judgment. While it is submitted that the word "and" introducing the second half of the Notice introduces a steps requirement, it does not. The requirement to "exercise proper control of the volume" is no more than a repetition of the requirement to abate. While the respondent submits that the "difficulty here is that "how control is to be achieved is not specified", Waller LJ makes plain that the means need not be specified in a simple noise nuisance case. This is such a case.

30. This balance between one's own private enjoyment and the impact on our neighbours is one very many households at some point may need to be attentive to, not just with music but with parties or festivities. Any

suggestion that what is required here is some identified permissible decibel level or the use of noise monitoring equipment is unrealistic and unnecessary. No sophisticated technical modifications would be required by the respondent. He simply needs to reduce the volume played by his music system, whatever its technical setup. That is not onerous or complicated. It is simply turning a dial or adjusting the slider on a device such as a paired mobile phone or laptop. No expense need be incurred by the respondent save for being considerate. Each of us can be taken to have a good idea of when our activities may impinge on the peaceful enjoyment of our neighbours, and the majority of people adjust their behaviour accordingly. In this case, the respondent failed to do so and caused a nuisance. That is at the heart of these proceedings and I judge that an unnecessarily legalistic and overly technical approach to the construction of the Notice has been taken.

31. I would add that the respondent plainly knew what he was required to do under the Notice. As the Judge noted in her decision at para 73:

> "73. Whilst the court is required to consider the situation at the date that the Notice was served, I am mindful of the fact that LBE officers attended the complainant's address on three occasions following the service of the notice, as a result of complaints about the noise and found that no breach had occurred."

32. This is prime evidence about the effectiveness and intelligibility not only of the Notice, but of the appellant's monitoring of it in a fair and balanced way. After the issuing of the Notice, despite further complaints, it was found that the respondent was playing his music in a way that did not amount to a statutory nuisance, whereas before he had been found to have played his music excessively loudly.

33. Therefore, the answer to Questions (a) and (b) is "no".

(2) Questions (c) and (d)

34. The first point is whether this court has power to direct that the Judge should vary the Notice. While there is, as Mr Powell tactfully termed it, interesting jurisprudence touching on whether the court could suggest alternative wording, this court does not need to engage with those possibilities. The question here is not additive but subtractive: whether there should be deletion of any parts of the Notice. On the availability of the power to so direct, Mr Powell accepted that it lies open to this court to remit with a direction to vary by deletion. That must be correct. The court below has power under the Statutory Nuisance (Appeals) Regulations 1995. The power to delete what is unnecessary is to be found in in regulation 2(5). The power having been ascertained, the question is whether it should be exercised.

35. It seems to me that the meaning of the second part of the Notice can be understood from the meaning, objectively determined by the court, of the first part of the Notice. This is not a steps case. It is up to the respondent how he chooses to abate and avoid future noise nuisance. As a result, the second part of the Notice achieves nothing of substance further. It does not make a requirement about any step the respondent should take. The phrase "exercise proper control of volume of sound" is simply another way of saying "abate" the nuisance. Thus the second part of the Notice does not impose any unreasonable requirement.

36. However, it seems to me that the ending of the paragraph with the words "not likely to cause a nuisance" may be confusing. The requirement to abate is to stop causing a noise nuisance. The introduction of likelihoods does not assist. While it does not stipulate any step or make any requirement, it achieves nothing of value. It should be removed. Thus, the second part of the Notice including and coming after the words "and for that purpose require you to" should be deleted.

37. This is the course that the Judge should have taken. Such a course was available to her in her function scrutinising the appeal against the Notice at first instance. Mr Powell submits that the court is "not in the business of saving invalid or defective notices". Counsel is correct in that the function of the court, subject to its overriding supervisory jurisdiction, is to adjudicate on the applications before it. The Judge had an application by the respondent that the Notice is invalid. She had found as a fact that he had caused a statutory nuisance. It was entirely reasonable and within the statutory powers and duties of the local authority to issue him with a notice requiring him to abate the nuisance. If, as here, there is unhelpful or unnecessary surplusage in the Notice, it is entirely within the power of the court at first instance to vary the Notice to ensure its clarity. This is not to salvage the validity of an inherently invalid notice, but to avoid confusion and promote understanding, which assists all parties and the public interest in avoiding needless further administrative steps and/or litigation. The Judge not having taken this precautionary step, it is open to this court, as the respondent accepts, to do so. Support for this approach is to be found in Waller LJ's judgment in *Cambridge* at paras 32-33:

> "32. I would just add this. If the recipient was entitled to have any anxiety about the terms of this notice (which in my view he was not) that anxiety could only relate to the inclusion of the last sentence. I say that because on any view the notice did not require any works to be done immediately and thus prior to any appeal. The choice of control was clearly the recipient's. There was no requirement to spend money immediately which is what the suspension provision is concerned with.
>
> 33. Accordingly on the appeal it would have been open to the magistrates to vary the notice so as to exclude the last sentence under regulation 2(5) if there was any doubt about it and

> confirm the notice as valid. That would indeed have been an obvious solution in this case for the avoidance of any doubt, and would not have lead to the abatement notice being declared invalid."

38. Such deletion is the parsimonious approach rather than leaving the Notice as is and construing it unfair or "unreasonable in character or extent" (for the purposes of Regulation 2(2)(c)). It was not. There was simply surplusage. That is because a material distinction must be drawn between words that are unnecessary as opposed to requirements that are unreasonable or unnecessary. It is clear that the Regulation is directed at requirements being imposed that cannot be properly or reasonably justified.

39. The respondent's counsel was asked whether the Notice would be valid if the second part of the Notice were removed. Mr Powell submitted that "in practical terms" the situation would remain the same and the respondent "would not know what to do with the music". I cannot accept that. He should play his music at a reasonable and considerate level. It is submitted that this leaves the respondent having to "take a guess how to adjust his graphic equaliser" to ensure his chosen level is not excessive. It is not guesswork; it is the exercise of judgement and restraint in a neighbourly and socially sensitive way. It is not "manifestly unfair" not to "give him any steps he can take". He simply needs to moderate the volume he plays his music at, as Waller LJ spells out in *Cambridge*.

40. Further, the implication of the respondent's stance on this question is that there should not be an abatement notice simpliciter, but there is the need to spell out what steps a recipient should take. That cannot be correct as a matter of law since the statutory scheme makes it plain that the issuing authority can either issue an abatement notice without specifying steps or if it elects to specify the works or steps it requires to effect the abatement, then they must be specified with a clarity as a matter of procedural fairness. I derive support for this approach from the authorities laid before me. I need not repeat them all, but the words of Waller LJ in *Cambridge* at para 30 make the point unmistakably: in "all cases" an authority could leave the means of abatement to the "perpetrator of the nuisance". It seems to me that the position could not be clearer.

41. Finally, I would further observe that the Notice overall, as modified, clearly strikes a fair balance between these neighbours in conflict. It ensures that the respondent does not cause a nuisance by listening to music at an excessively intrusive volume (and it seems that sensibly he has subsequently modified his music-listening habits accordingly), while protecting his right to enjoy music within his home so long as the noise levels are kept within reasonable, that is, sociable and considerate, bounds.

42. Therefore, the answer to Questions (c) and (d) is "no".

(3) Question (e)

43. The respondent's appeal against the validity of the notice as a whole should have been dismissed by the Judge. While there should be the identified variation for the sake of clarity, overall at first instance the respondent's appeal should have been dismissed. Therefore, the basis for the award of his costs falls away.

44. This court must then look at which party overall should have succeeded at first instance and does in fact succeed once the decision of this court is allowed for. There is no doubt: the successful party is the appellant local authority since the respondent's appeal below should have been dismissed. The modest refinement of the Notice does not affect the core validity of the Notice. There was, as the Judge found, a statutory nuisance. The Notice required its abatement. That was a legally valid requirement. The minimal alteration of the Notice, envisaged under the regulations, does not alter the overall destination of success.

45. I concur with the appellant's submission that the correct decision on costs below is that there should be no order as to costs. The appellant correctly relied on a line of authorities that emphasises that a local authority should not be deterred from taking steps in good faith in compliance with its statutory duties. Thus where an administrative decision is made by a regulatory authority acting honestly, reasonably, properly and on grounds that reasonably appeared to be sound and in the exercise of its public duty, the proper approach to the award of costs under section 64(1) of the Magistrates' Courts Act 1980 is not to start from the presumption that costs followed the event, but from the presumption that no order for costs should be made *(R (Peripanathan) v City of Westminster Magistrates' Court* [2010] 1 WLR 1508; *Competition and Markets Authority v Flynn Pharma Ltd and another* [2022] 1 WLR 2972; *Commissioner of Police of the Metropolis v Malik* [2024] 4 WLR 19).

46. Therefore, the answer to Question (e) is "no".

VI. *Disposal*

47. The answers to the question in the Case are:

(a) was I right to find that the wording of the abatement notice issued to the Appellant on 5 April 2022, (to "exercise proper control of the volume of sound generated at the premises to ensure that the total volume of sound emitted is not likely to cause a nuisance to persons residing in the vicinity"), required the notice to specify steps to be taken in order to abate the noise nuisance? **NO.**

(b) If so, was I right to find the abatement notice invalid? **NO.**

(c) If I erred in finding that the notice required steps to be specified or that the notice was invalid, was I right to find that the wording was "unreasonable in character or extent"? **NO. THERE WERE UNNECESSARY WORDS (SURPLUSAGE) BUT NOT UNNECESSARY OR UNREASONABLE REQUIREMENTS.**

(d) If I was right to find that the wording was unreasonable in character or extent, was I correct to quash the notice? **NO.**

(e) Although not strictly a question of law, was I correct, in the circumstances of the case (where I found the Respondent to have been justified in serving the abatement notice, but the Notice to be invalid), to the order the Respondent to pay half of the Appellant's costs? **NO. THE NOTICE WAS VALID AND THE APPEAL AGAINST IT SHOULD HAVE BEEN DISMISSED.**

48. The Judge's decision is quashed and the case remitted to the Highbury Corner Magistrates' Court with a direction to dismiss both the appeal and the costs order. There should be no order as to costs below.

49. As to the costs of this appeal, there is no application before the court from the appellant. However, Mr Price informs the court that one is "imminent". The court will consider the position on the papers upon receipt, provided the application is filed within 7 days of this judgment. The respondent must have an opportunity to respond in writing to the successful party's application.

50. There is no need for a further hearing.