

Witness

AS EXHIBIT NUMBER: 15 SIGNED: _____

Richard Francis

(CRIMINAL PROCEDURE)

Statement of Witness

(Criminal Procedure Rules, r27.1(1)):

Criminal Justice Act 1967, s.9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF: RICHARD FRANCIS

Age of witness: over 18

Occupation of witness: Senior Environmental Health Officer

This statement (consisting of 6 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.


Dated the 11 January 2013

Signature..... 

1. My name is Richard Francis and I am a Senior Environmental Health Officer within the Environmental Protection Team, of Wiltshire Council. I have been working for the council for 4 years and prior to that I worked at South Gloucestershire Council as an Environmental Health Officer (EHO) for ten years. I am a corporate member of the Chartered Institute of Environmental Health. I have a Post Graduate Diploma in Acoustics and Noise Control. I am an authorised officer of Wiltshire Council.

2. First meeting and advice

My first meeting with a representative of Trowbridge Cricket Club was over two years ago. I accompanied a colleague Mr Guy SHARP (Environmental Health Officer) to a site visit to meet a Mr Popplett to

Signature  dated 11/1/2013

discuss a noise complaint resulting from live music events, a very amicable meeting was held and advice was given regarding holding a live music event at the club. I believe that my lasting impression was that an old grand cricket pavilion of that design and construction although a fantastic building was not suitable for live music and recommended to Mr Popplett that the Cricket Club should look at employing a noise consultant to undertake a noise assessment of the structure in order to provide recommendations to prevent music escaping the structure.

3. Noise observations August 2010

On the On the 14 August 2010 I was undertaking evening visits. One of the jobs of the evening was to assess the noise levels from an event being held at Trowbridge Cricket Club. It was my intention to meet my colleague Guy SHARP (EHO) at the premises to accompany him on his visit and provide him with my opinion of the levels of music. I arrived at the Cricket club at approximately 10.10 p.m. and parked in the car park in the grounds of the cricket club, beside the main pavilion. I could hear a live band playing music inside the pavilion and I could identify the track a "I can't get no satisfaction" by the Rolling Stones as I could clearly hear the words.

4. I telephoned my colleague Mr SHARP to enquire his whereabouts; I now know he was stood outside the complainant's house in Downhayes Road. I asked him if he could identify the track that was being played, he responded with "I can't get no satisfaction".

Signature



dated

11/1/2013

5. Following our telephone conversation, Guy asked me to join him in Downhayes Road and listen to the music from there. When I arrived the music had stopped, we then proceeded to the cricket club car park to listen at the premises to see if there was any music playing. On returning to the venue the music had stopped playing and there was a large congregation of people on the front veranda of the cricket club. I believe the band was having a break.
6. Whilst sat in the car Guy received a telephone call from the out of hours officer who informed him that she had received a complaint from his complainant who lived in Downhayes Road. At approximately 10.55 p.m. I accompanied Mr SHARP to the complainant's house at 23 Downhayes Road and went inside the property to the first floor master bedroom. The three sash windows were open half way and I could clearly hear music coming from the direction of the cricket club, it was at a level where I could pick out the current track as "Born to Run" by Bruce Springsteen. After this track finished it was followed by another and I identified this as Sweet Home Albama. I had to leave the property at approximately 22.59 p.m. as I had an appointment at Bradford on Avon.
7. The music was clearly audible and discernible within this bedroom. In my opinion, the loudness of the music and the fact that the vocals of the song were communicating with me would prevent me from being able to sleep within this bedroom. I am of the opinion that the music being played from the cricket club was a statutory nuisance at the complainant's property.

Signature



dated

11 / 11 / 2013

8. Setting the noise limiter

I attended Downhayes Road on the 27th June 2011 with as part of a team of 4 officers to repeat the setting the acceptable music levels of the noise limiter. I attended the house with my colleague Vicky BROWN (Public Protection Officer) and two of my colleagues Peter McMILLAN (Senior Environmental Health Officer) and Helen PINCHEN (Environmental Health Officer) with Graham STEADY (Environmental Protection Manager) observing the exercise at both the Cricket Club and Downhayes Road. The levels experienced within the house were barely audible with no music being identifiable at the levels set. Both I and my colleagues agreed that the levels were acceptable.

9. Absence from involvement in the investigation

As Guy SHARP (Environmental Health Officer) was the lead officer for both the statutory nuisance investigation and original licensing application my role within this case has been limited to providing assistance where needed.

10. Recent Noise Investigation History

On the 5 May 2012 my colleague Susie VOWLES (Public Protection Officer) was called out to attend Downhayes Road and witnessed music at levels that were both audible and intrusive, as I was the Senior Environmental Health Officer I was tasked with making contact with the cricket club. I wrote a letter to the Cricket Club on the 17 May 2012

Signature



dated

11/1/2013

reminding them of their licence conditions and noise abatement notice and hand delivered it to Christine DAVIES the licence holder. Which is included as **Exhibit 11** of the main report.

11. A written response was received off the Cricket club specifying mitigating circumstances i.e. an electrical fault had occurred allegedly preventing the noise limiter from operating. A copy of this letter is included as **Exhibit 12** of the main report.

12. On the 25 August 2012 I attended Downhayes Road with Linda HOLLAND (Senior Licensing Officer) at 22.30 p.m. When we first arrived in Downhayes Road I could hear music faintly coming from the direction of the Cricket Club, as I was stood by the fence at the end of Downhayes Road, the music was faint although no vocal could be heard. We then both entered 23 Downhayes Road and I Sat on the bed with the sash windows approximately 4 inches open. The music was audible and I could hear music although I didn't recognise the tracks my colleague and Mr Aldam could. The vocal and the guitar was audible throughout my visit to the property, although at low levels. Mr Aldam stated that levels he had experienced at his house in the past were louder than this. Based on this we decided to return to Downhayes Road later that evening. We walked away from the premises towards the main road placing greater distance between us and the Cricket Club and I could still hear the music although

Signature



dated

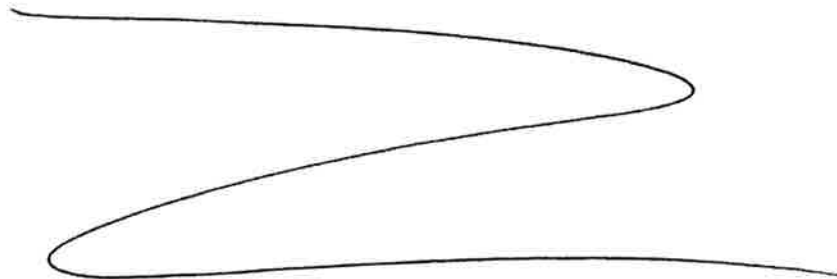
11/1/2013

not at levels that were a nuisance. I returned to Downhayes Road at 23.15 and no music was audible.

13. On the 31 August 2012 Graham STEADY (Environmental Protection Manager) and myself visited the Cricket club and had a meeting with Christine DAVIES the licence holder at the cricket club and discussed her concerns with the noise limiter, I reminded her that the cricket club should continue to use it and recommended that they write to licensing team formally raising their concerns.

14. The Environmental Protection Team have throughout this investigation had concerns regarding the acoustic properties of the cricket club structure and the limited effect it has on preventing music escaping to the external environment and affecting neighbours. On the 8 October 2012 I wrote to two acoustic engineering companies requesting they enter into a formal tender process to undertake a Noise Assessment of Trowbridge Cricket Club. A company called Industrial Noise and Vibration Centre (INVC) were appointed on the 15 October 2012

15. The Noise assessment was undertaken on Thursday 25 October 2012. The report is included as **Exhibit 20** of the main report.



Signature



dated

11/1/2013