

**Witness** AS EXHIBIT NUMBER: 18 SIGNED: \_\_\_\_\_

Richard Francis

(CRIMINAL PROCEDURE RULES, ...)

**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 5 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 18 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. On the 12 October 2012 I installed Noise recording equipment in the bedroom of 23 Downhayes Road. Prior to me leaving the equipment unattended I undertook a recording of me speaking and introducing the set up of the equipment to demonstrate the room acoustics in order to allow

Signature



dated

18/1/2013

me to compare music recordings. I instructed Mr ALDAM to press the record button and make recordings when the music was at a level that was audible to him within his home. The recordings made demonstrate both the ambient levels within the bedroom when the music is not playing and also levels of music that can be heard when the music is playing. I include a noise assessment record sheet of these recordings undertaken over the period of the 12 October and the 13 October 2012 as **Exhibit RF1**.

Having listened to the recordings the music is both audible and discernible within the bedroom and is communicating with the receiver during times when people can be expected to be trying to sleep. The music is clear and tracks can be identified. The recordings demonstrate that the music on the evening of 13 October 2012 went beyond the 11.30 p.m. permitted finishing time on the Premises License which is a breach of the license and is an offense. I believe the recordings demonstrate that the music at these levels indicates that the noise limiter within the club is not being used. In my opinion the music at this level is both a breach of the noise abatement notice and a public nuisance at distances further than 23 Downhayes Road.

3. On the 9 November 2012 I installed Noise recording equipment in the bedroom of 23 Downhayes Road. Prior to me leaving the equipment unattended I undertook a recording of me speaking and introducing the set up of the equipment to demonstrate the room acoustics in order to allow me to compare music recordings. I instructed Mr ALDAM to press the record button and make recordings when the music was at a level that was

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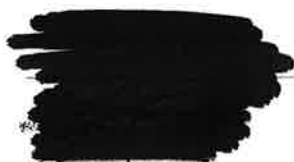
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audible to him within his home. In addition I requested him to make a recording of ambient noise (without music playing). This allows a comparison to be made between the anonymous noise, which is predominantly made up of the traffic noise experienced within the bedroom and the music levels when playing. The recording equipment is controlled by the operator by pressing an on and off switch.

4. Recordings of both ambient noise and music were made by Mr ALDAM during an event held at the cricket club on the 10 November 2012. I have listened to all the recordings made on the evening of the 10 November 2012 and there is a clear difference in the levels between the ambient noise in the bedroom and when music is playing. The recordings were both audible and discernible in the bedroom and communicated with the receiver to the point that the tracks and artist could be identified. I believe the recordings demonstrate that the music at these levels indicates that the noise limiter within the club is not being used. The music at this level is a breach of the noise abatement notice served by the council and at these levels and can be heard at distances further than 23 Downhayes road and I believe is a public nuisance. I include a noise assessment record sheet of these recordings undertaken over the period of the 9 November and the 10 November 2012 as **Exhibit RF2**.

5. On the 15 January 2012 a meeting was organised between representatives of the cricket club, myself and Graham STEADY. An agenda was sent to the Cricket Club detailing the items that were to be

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dated

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discussed. This included the Noise assessment report and its recommendations, the playing of music recordings made by the council and any other matters that the cricket club wanted to propose. Mr POPPLETT attended the meeting on behalf of the license holders and the committee of the cricket club. On his arrival he handed me a sealed letter addressed to Kate Golledge (Licensing Manager) requesting an adjournment of the hearing as the Cricket Club wished to have Council representing them at the hearing. Mr POPPLETT stated that the club had spoken to Council in London and had been advised not to make any comments regarding the noise assessment and its recommendations for mitigation. I asked him if he would be prepared for additional assessment to be undertaken to assess the effectiveness of the roof, he said no as they didn't want a cherry picker driving along their drainage channels and someone above their roof, with the risk of damaging it. I outlined an alternative method of assessment to allay his fears and asked him to take that to the committee. I asked Mr POPPLETT if he would listen to the recordings made of music with 23 Downhayes Road, he said he was not willing to comment regarding these recordings and was not prepared to listen to them. I asked him if there was anything else he wished to discuss and Mr POPPLETT reply was "No".

6. Prior to the meeting ending I reiterated that we still wished to undertake the noise assessment during a music event, he was unaware that the club were having any events in the near future. Although I agreed that I was still

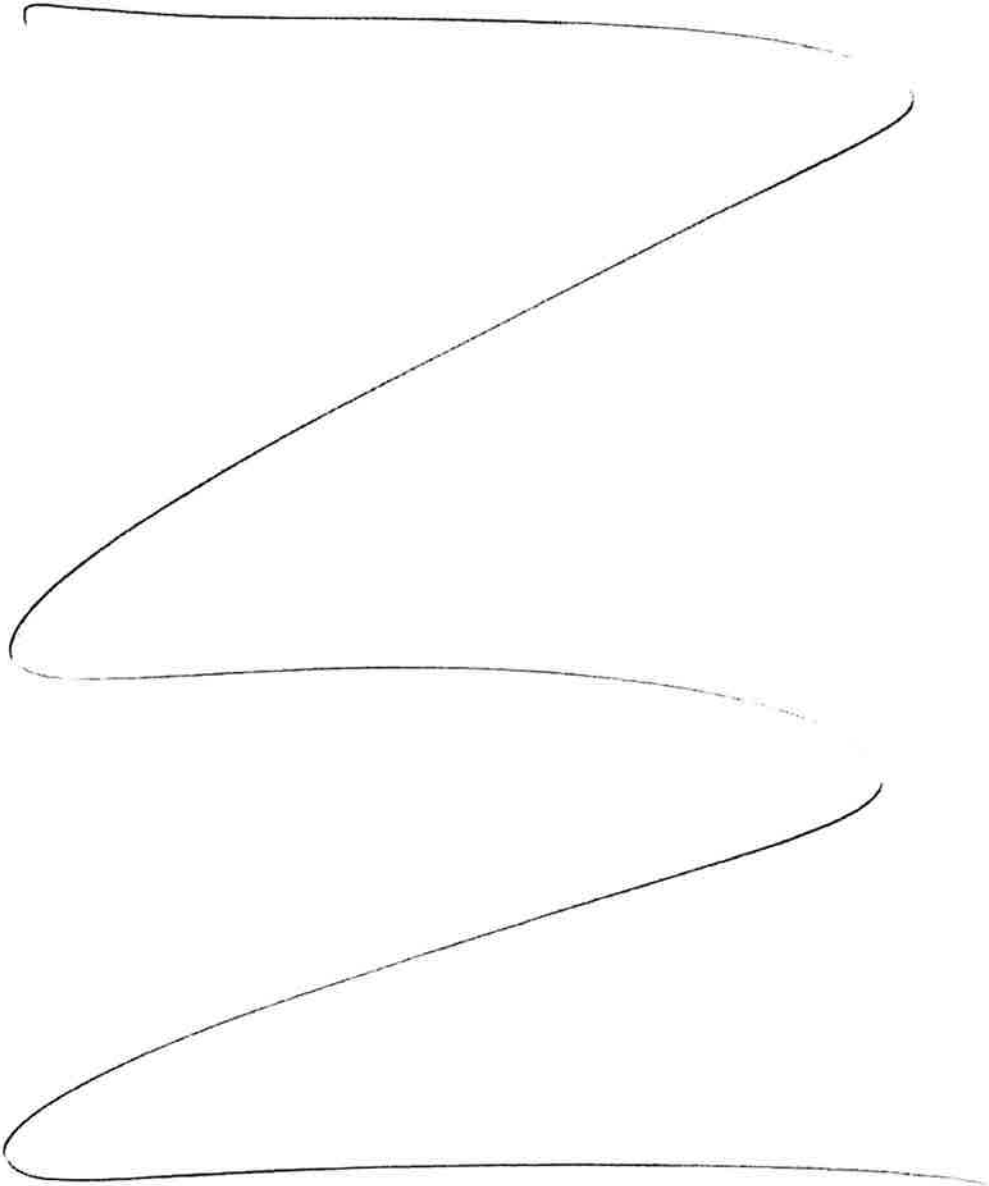
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prepared to speak to the cricket club prior to the hearing and agreed that both myself and Mr STEADY would attend the cricket club for a meeting if required.



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dated

18/1/2013




NOISE ASSESSMENT RECORD

WILTSHIRE COUNCIL: PUBLIC PROTECTION SERVICE

REFERRED TO IN THE COMMITTEE REPORT Exhibit 18

OFFICERS: Richard Francis

Reed, Trowbridge DATE: 12/10/2012

AS EXHIBIT NUMBER: RF1 SIGNED:   
Richard Francis

		COMMENTS
1	NORMAL <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	End terrace with bedroom window facing the cricket club.
2	RECORDING LOCATION DISTANCE FROM SOURCE ..... <u>Approx 75 Meters</u> EQUIPMENT LOCATION ..... <u>Bedroom</u> WINDOWS OPEN /CLOSED..... <u>Open</u>	3 South windows open 4 to 6 inches.
3	FREQUENCY DAILY WEEKLY MONTHLY OTHER ..... 2 x <input type="checkbox"/> <input checked="" type="checkbox"/>	2 Saturdays a Month.
4	CHARACTER OF NOISE INTERMITTENT CONTINUOUS FREQUENCY IMPACT OTHER .....	Music audible and discernable, enables receiver to identify tracks. Would disturb sleep or period when you try to sleep.
5	NOISE LEVEL SPL ..... Leq ..... WEIGHTING LIN/A/C ..... <u>A</u>	<del>.....</del> N/A.
6	SENSITIVITY NORMAL NIGHT WORKER HEIGHTENED SENSITIVITY <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	Ongoing 3yrs, very difficult not to become sensitive because of duration of non compliance & disturbance.
7	TIME SEASONAL DAY NIGHT <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	9:00 p.m. - 11:30 p.m.
8	DURATION SECONDS MINUTES HOURS <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	2.30 hrs set with 20min interval
9	BPM CONSIDERATION	
10	OTHERS:- MOTIVE INTERFERENCE REASONABLENESS RISK TO HEALTH	Reasonable Potential risk to health prolonged exposure.

CONCLUSION: NOISANCE/NO NOISANCE

REASON FOR DECISION: Audible & discernable, music is communicating with the receiver, can identify tracks at this distance. Statutory Nuisance.

Date and Time of recording	Officer observation
12/10/2012 16.23 32sec	Calibration Signal 93.5 dBa.
12/10/2012 16.26 23secs	I am introducing setting up the recording, recording.
13/10/2012 20.09 1min 40	Introduction by Mr Aldam, recorded ambient noise, windows open. Can hear road traffic.
13/10/2012 21.20 1min 16	Can hear music, bass guitar & drums Also hear passing traffic in surrounding streets.
13/10/2012 21.31 52secs	Could hear the music above the ambient noise. Do not recognise the track.
13/10/2012 22.05 2min 28	Hear music, vocals more discernable, quieter than earlier recordings. Audible although quieter.
13/10/2012 22.40 53secs	Music can be heard, drum, steady beat Vocals unclear. Audible not discernable.
13/10/2012 22.44 2min 52	Music, drums, vocals, cover track of "status quo" possibly "whoa hee" heard in chorus Hear town bells chime.
13/10/2012 22.45 1min 20s	Identifying the track "The Kinks" All of the day and all of night", <del>was not</del> R.F. <del>was not</del> Audible and discernable traffic noise dropped off <del>was not</del> R.F.
13/10/2012 22.50 57secs	Hear knock knocking on heavens door "Guns & Roses". Road traffic noisy.
13/10/2012 22.55 1min 9secs	Music can be heard, vocals muffled bass can be heard.
13/10/2012 22.59 13secs	Anonymous noise (road traffic)
13/10/2012 23.00 1min 30	Music, drums, vocal muffled, although couldn't identify the track.
13/10/2012 23.14 1min 22	Music can be heard, drums & guitar quieter track in comparison to earlier recordings. Identify <del>track</del> band "Oasis". R.F.



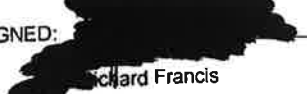




ASSESSMENT RECORD

OFFICERS: Richard Francis

Road, Trarbridge DATE: 9/11/2012

AS EXHIBIT NUMBER: RF2 SIGNED:  Richard Francis











		COMMENTS
SEMI-RURAL RURAL	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	End terrace, with bedroom big window facing the cricket club.
2 RECORDING LOCATION		3 Sash windows
DISTANCE FROM SOURCE	<u>Approx 75 Meters</u>	open 4 to 6 inches.
EQUIPMENT LOCATION	<u>Bedroom</u>	
WINDOWS OPEN /CLOSED	<u>OPEN</u>	
3 FREQUENCY		
DAILY	<input type="checkbox"/>	
WEEKLY	<input type="checkbox"/>	
MONTHLY	<input type="checkbox"/>	
OTHER	<u>2 x</u> <input checked="" type="checkbox"/>	
4 CHARACTER OF NOISE		
INTERMITTENT	<input type="checkbox"/>	Music, bass intrusive
CONTINUOUS	<input type="checkbox"/>	Volume and loud, enables
FREQUENCY	<input type="checkbox"/>	receiver to identify the
IMPACT	<input type="checkbox"/>	tracks, write down the
OTHER		lyrics.
5 NOISE LEVEL		
SPL		See separate table.
Leq		
WEIGHTING LIN/A/C	<u>A</u>	
6 SENSITIVITY		
NORMAL	<input checked="" type="checkbox"/>	History = Approx 3yrs
NIGHT WORKER	<input type="checkbox"/>	Very difficult not to become
HEIGHTENED SENSITIVITY	<input type="checkbox"/>	sensitive because of duration
7 TIME		
SEASONAL	<input type="checkbox"/>	9:00 p.m - 11:30 p.m.
DAY	<input type="checkbox"/>	twice a month
NIGHT	<input checked="" type="checkbox"/>	
8 DURATION		
SECONDS	<input type="checkbox"/>	Short interval in
MINUTES	<input type="checkbox"/>	the middle.
HOURS	<input checked="" type="checkbox"/>	Approx 2.3hr set with 15/2min
9 BPM CONSIDERATION		interval.
10 OTHERS:- MOTIVE		
INTERFERENCE		Reasonable however, conditions
REASONABLENESS		imposed not controlling noise.
RISK TO HEALTH		Potential risk to health prolonged

CONCLUSION: NOISANCE NO NOISANCE

REASON FOR DECISION: Lyrics and songs can be identified  
communicating with receiver, bass clear.  
Night-time and twice a month, unnecessary disturbance  
greater than a little disturbance. Nuisance.

Date and Time of recording	Officer observation
9/11/2012 17:04 19secs	Calibration signal
9/11/2012 17:04 24secs	I am introducing setting up the equipment. Approx = (50-54dB)
9/11/2012 22:53 5mins	Background Mr Aldom introduces, can hear cars accelerating and clock ticking
10/11/2012 19:54 5mins	Background early, near traffic, clock ticking horn beeping. Window OPEN
10/11/2012 20:54	Anonymous noise, traffic levels have gone up (window x 2) Near fireworks, Constant Anonymous.
10/11/2012 21:08 5mins	Hear music being played, drums, drone vocal bass guitar.
	Recognize "Rolling, Rolling Rolling" down the river" drums & bass evident.
	Soloist begins, then bass & drums kick in, raises to 31-35 dB on this occasion.
10/11/2012 21:29 5mins	Quiet, anonymous noise, then hear guitar and drums, Katrina & Waves "Walking on Sunshine". Clearly identify the song.
	2 bangs of fireworks, compare music with near noise source ticking clock.
	Quiet then breaks into "Mustang Sally"
10/11/2012 21:38 5mins	Music Blondie Maria, music can be identified over the level of anonymous noise, near church bell chime.
10/11/2012 22:12 5mins	Can hear distant music, possibly disco whilst group are on a break. Acceptable.
10/11/2012 22:30 5mins	Music clear, vocal, drum beat & melody "Smiling from her head to her feet"
	Vocal clear can be written down "Alright now, its alright now"
10/11/2012 22:48 5mins	Music could be heard, intrusive truck could identify "crazy little thing called Love". Vocal & bass guitar.
22:51:45secs	"Up Town Girl" begins vocals clear. Leq = 35 dBA throughout song.

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Date and Time of recording	Officer observation
10/11/2012 23:09 5min	Music, vocal clear, first track music 34 dBA, drops down to 27 dBA with no road traffic
23:11	"Get your Motor running", believe song out of film Easy Rider, track "Born to be Wild"
	hear that repeated in the chorus Bass guitar and drums evident.
10/11/2012 23:17 5Min	"Sweet Alabama" Music and vocals loud enough to identify the track
10/11/2012 23:24 5Min	Identify Kings of Leon "Sex is on Fire" levels 34 dBA consistently.
23:27 30	Quiet music stops left with anonymous noise.
10/11/2012 23:31 5Min	No music quiet anonymous noise car traffic levels 25-27 dBA.
	
	
	
	
	
	
	
	
	
	

**NOISE ASSESSMENT RECORD**

COMPLAINT NO: ..... OFFICERS: .....

COMPLAINT ADDRESS: ..... DATE: .....

**1 CHARACTER OF AREA**

URBAN  
RESIDENTIAL  
SEMI-RURAL  
RURAL


**COMMENTS**

**2 RECORDING LOCATION**

DISTANCE FROM SOURCE .....  
EQUIPMENT LOCATION .....  
WINDOWS OPEN /CLOSED.....

**3 FREQUENCY**

DAILY  
WEEKLY  
MONTHLY


OTHER .....

**4 CHARACTER OF NOISE**

INTERMITTENT  
CONTINUOUS  
FREQUENCY  
IMPACT


OTHER .....

**5 NOISE LEVEL**

SPL .....  
Leq .....  
WEIGHTING LIN/A/C .....

**6 SENSITIVITY**

NORMAL  
NIGHT WORKER  
HEIGHTENED SENSITIVITY


**7 TIME**

SEASONAL  
DAY  
NIGHT


**8 DURATION**

SECONDS  
MINUTES  
HOURS


**9 BPM CONSIDERATION**

**10 OTHERS:- MOTIVE**

INTERFERENCE  
REASONABLENESS  
RISK TO HEALTH

CONCLUSION: NUISANCE/NO NUISANCE

REASON FOR DECISION.....  
.....  
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