

RESTRICTED (when complete)

WITNESS STATEMENT

(Criminal Procedure rules, r27.1(1); CJ Act 1967, s.9; MC Act 1980, s.5B)

Statement of: Robert David Thompson Bell

Age if under 18: O/18 (if over 18 insert Occupation: Environmental Health Officer
'over 18')

This statement (consisting of 5 page(s) 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 anything in it, which I know to be false or do not believe to be true.

Signature: Date 25 August 2011

being unable to read the statement below I of Hastings Borough Council, read it to him before he signed it. Dated the day of

I am Robert David Thompson Bell currently employed by Hastings Borough Council on a temporary contract as a Principal Environmental Health Officer in the Environmental Protection Team. I have been an Environmental Health Officer since qualifying as such in 1969. In my current position I am an authorised officer of the Council in respect of the Licensing Act 2003, the Environmental Protection Act 1990 and other legislation. As part of my duties I am responsible for investigating noise complaints arising from licensed premises and commenting on applications for new premises licences and variations to existing premises licences in respect of the licensing objective "Prevention of Public Nuisance".

In the course of my duties I have had involvement with the premises known as the London Trader, 4-7 East Beach Street, Hastings. In August 2005 I made representation regarding an application to transfer the Justices Licence to a Premises Licence and simultaneously vary the licence. I produce a copy of my letter dated 26 August 2005 marked DB/1 (Exhibit number). I attended and addressed a meeting of the Licensing Sub-Committee on 25 October 2005 when it was resolved to grant the application in part subject to operating conditions. As far as I can recall Mr Stephen Foot attended that meeting. I again made representation in September 2009 in respect of an application to vary the Premises Licence. I produce a copy of my letter dated 15 September 2009 marked DB/2 (Exhibit number). I attended and addressed a meeting of the Licensing Sub-Committee on 15 October 2009 when it was resolved to grant the variation in part subject to a condition but refuse the

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remainder of the application. Mr Stephen Foot attended that meeting accompanied by his representative.

The Environmental Protection Team records for the London Trader show that on Monday 23 August 2010 a complaint was received about very loud music from the premises the previous Saturday night until 01:00 hrs on Sunday morning. My colleague, Scott Lawson, wrote to Mr Foot on that date and I produce a copy of the letter marked DB/3 (Exhibit number). Further complaints relating to noise from the premises were received on 29 August, 21 September 2010, 4 January and 13 February 2011. I wrote to Mr Foot on 17 February 2011 and I produce a copy of that marked DB/4 (Exhibit number). Further complaints were received on 20 March and 13 April as a result of which I again wrote to Mr Foot at the premises on 15 April and I produce a copy of that marked DB/5 (Exhibit number). On the same date I sent a copy of the letter to him at his home address with a covering letter which I produce marked DB/6 (Exhibit number). I had asked Mr Foot for a written response within 2 weeks but heard nothing from him until I received an email from him on 28 April alleging that he had been trying to contact me and asking when I might be free to meet him the following week. I replied the same day advising that I could meet him any time on the following Tuesday but received no response. I produce a copy of the emails exchanged marked DB/7 (Exhibit number). Meanwhile, further complaints had been received on 22 and 25 April and I am aware that colleagues visited the area as a result of that received on 22 April. Further complaints were received on 15, 16, 21, 28 & 29 May and 9 July. I discussed the ongoing complaints with Mr Bob Brown, Licensing Manager, and arranged with him that we would work on the night of 29 / 30 July to make visits to areas of the town to monitor what was happening in and around various licensed premises. We visited the vicinity of the London Trader at approximately 23:00 hrs walking along the road known as Hastings Wall which is immediately behind the

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premises where music was clearly audible; particularly at the Eastern end. We walked down the front of premises in Pleasant Row, Winkle Island where the music was very clearly audible and then crossed the A259 to the Stade Open Space where we had a clear view of the front and the East end of the London Trader. It was clear that a disco was operating in the premises and the music which we were still hearing clearly was from there. The doors to the front of the premises were open and a number of people were congregating outside to the front. I counted approximately 12 people seated at the tables to the front of the premises and approximately 10 standing and from what I could see most, if not all, had drinks. There was a good deal of movement of those people who were not seated and people coming out off and going into the premises constantly. I could see no sign of anyone making any attempt to stop use of outside tables and seating. At approximately 23:15 hrs we moved back into Hastings Wall and stood in front of the entrance to Nos. 14, 15, 17 & 18 at the East end of the road. The music continued to be clearly audible with the bass beat being particularly pronounced although it was clear that there were vocals. There were bursts of much louder music which coincided with people entering or coming out of the side door of the premises. The noise of people was also clearly evident. At approximately 23:20 hrs we moved down to the front of houses in Pleasant Row where the music was very clearly audible at the junction with All Saints Street approximately 75 metres from the London Trader and I noted that it was echoing back from the new Stade Café building. We moved further along into Rock-a-Nore Road to the pavement in front of the Mermaid Restaurant approximately 100 metres from the London Trader and the music remained very clearly audible. We move back to the Stade Open Space adjacent to the new café and at approximately 23:25 hrs observed 2 female staff members from the London Trader covering the outside tables and seating to the front of the building with what appeared to be plastic type sheeting. Nothing was done to try to take the 2 outside tables and associated seating located at the East end of the premises out of use. At approximately 23:30 I clearly heard females in front of

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the premises shouting "We are going to town" and I saw people outside the Western door to the front of the premises jigging along to the music. Both front doors were still open. I also saw customers setting down 2 drinks glasses on the table immediately to the East of the Western front door. A song "Money Money was clearly audible. We left the area at approximately 23:40 hrs and returned again at approximately 00:30 hrs. From a position across the road, adjacent to the new Stade Café, I saw that the front doors of the London Trader were now closed. Nevertheless music from there was clearly audible although not as loud as earlier. I also saw a group of females talking loudly in front of the premises just to the West of the Western front door. It was not clear if these were customers or passersby as they then moved on towards the town centre. At approximately 00:35 hrs we moved across the road to Pleasant Row and stood in front of a residence near the junction with All Saints Street. Again the music was at a lower volume but still clearly audible to the extent that I clearly recognised the words of "The Queen" song "We will rock you". I also heard a male in front of the London Trader shouting to a female who I could see was crossing the road asking if she was going home and she called back to the effect that she was. She then got into a "Mini" car which was parked next to the new Stade Café and which I had noticed was there when we had visited earlier. At approximately 00:45 we moved to Hastings Wall in front of the entrance to Nos. 14, 15, 17 & 18. Again whilst not as loud as earlier the music remained clearly audible and customer voices could also be heard. At approximately 00:47 we had moved back across the road to where I had parked my car adjacent to the new Stade Café when I saw a customer outside the Western front door place a glass containing a drink on a top of the plastic sheeting over a table. Another customer came out of this door with a bottle which he threw into a plastic bin by the door. I also observed 2 people come out of the side door and sit at one of the tables at the Eastern end of the building which had not been covered over. I saw one glass placed on the table.

From my observations I am quite satisfied that there was a clear breach of conditions attached to the

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premises licence; namely "Noise and music arising from the licensed premises shall be no more than barely audible, as perceived by an authorised officer of Hastings Borough Council, at the façade of any building containing residential premises at any time. For the avoidance of doubt noise shall include that arising from all mechanical or electrical equipment used by the premises and that noise arising from customers in the immediate vicinity of the premises." and "There shall be no use of the external tables after 23:00 hours." I am also satisfied that Mr Foot is clearly aware of these conditions as he was present at the Licensing Sub-Committee meetings leading to his being granted a premises licence and being varied in part. Indeed, at the meeting on 15 October 2009 his application to vary the condition relating to times for use of external tables and chairs was specifically refused. Furthermore, Mr Foot can not be unaware of the fact that his premises are located in a noise sensitive area in close proximity to residential premises by virtue of the fact that I made representations at the time he applied to convert to a premises licence and simultaneously vary and when he subsequently applied for further variations. Neither can he have been unaware of the fact that residents were experiencing problems and potential consequences as a result of letters sent to him by this Department. The fact that the offences were witnessed as a result of a visit on a weekend date selected at random leads me to the conclusion that information from residents that the problems are persistent and serious is accurate. On 6 August 2011 a further complaint was received about noise from the premises and I am aware that this was brought to the attention of colleagues from the Licensing Team who were working that night.

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