

## **Licence review – Angola 76, Mustons Lane, Shaftesbury**

*Environmental Health submission to the Licensing Authority in respect of the review of the Premises Licence for Angola 76, Shaftesbury.*

### Background:

Mustons Lane is in the vicinity of Shaftesbury town centre, leading off High Street; it is a narrow road without the benefit of pavements, with a mixture of commercial and domestic properties. In addition to 'Angola 76', there is one other nearby commercial premises (Italian Restaurant) and a number of residential properties – the nearest being across the narrow road almost directly opposite Angola 76.

Angola 76 is self-contained within one building with customer access directly off Mustons Lane. The front façade onto the street is mostly composed of glazing. To the side of the building is an open yard area fronted by iron gates; this area is used by customers and has more recently been provided with a temporary tent-like cover over some tables and chairs and a metal structure providing customer lavatories. Access to the yard area is gained via glazed doors set within a larger glazed opening to the side of the building, towards the rear.

The other side of the yard abuts another building which was previously operated under different ownership as a small vegan café under the name of 'Beggars Banquet', which provided some occasional musical entertainment. The licence was subsequently transferred to Mr Morgan at the other building now operating as Angola 76; that licence now provides for:

#### Opening hours:

|                   |               |
|-------------------|---------------|
| Sunday – Thursday | 11:00 – 23:00 |
| Friday & Saturday | 11:00 – 01:30 |

#### Live Music:

|                      |               |
|----------------------|---------------|
| Monday & Tuesday     | 11:00 – 21:30 |
| Wednesday & Thursday | 11:00 – 22:00 |
| Friday & Saturday    | 11:00 – 22:30 |
| Sunday               | 11:00 – 21:00 |

#### Recorded Music:

|                     |               |
|---------------------|---------------|
| Sunday - Wednesday  | 11:00 – 22:00 |
| Thursday - Saturday | 11:00 – 00:30 |

#### Alcohol sales:

|                   |               |
|-------------------|---------------|
| Sunday - Thursday | 11:00 – 22:30 |
| Friday & Saturday | 11:00 – 00:30 |

However, it would seem that the building in which Angola 76 operates does not have the benefit of planning consent for the premises to be used as a bar and music venue.

Dorset Council, and before it North Dorset District Council, has received over time a number of complaints from local residents of 'anti-social behaviour' by persons in the street and nuisance (principally noise) arising from Angola 76. The noise issues complained of relate to:

- Amplified music (live performances and pre-recorded) and amplified speech within the building
- Customers using the adjoining yard area, particularly later in the evening/night
- Customers in the street accessing/exiting the premises, again particularly later in the evening/night.

The activities of people in Mustons Lane – i.e. on the public highway – are outside of the 'statutory nuisance' regime enforced by the Environmental Health Service and this submission will therefore address only the first two bullet points above – noise from activities on the premises. I understand that evidence regarding noise, and other alleged anti-social activities, arising from persons in the street, is likely to be provided by other witnesses.

#### Amplified music:

Angola 76 operates as a bar/music venue, offering a variety of music styles performed (usually) inside towards the rear of the building, in the area adjacent the glazed area and doors providing access to the yard. The former North Dorset District Council initially received complaints in respect of 'live' performances of amplified music. In accordance with standard procedures, the business operators were notified of the complaint in order to provide them with an opportunity to consider and address any changes they might wish to implement in order to avoid further complaints.

Over time there have been further complaints from residents leading to repeated interactions with the owners of the business, John Morgan and Marianne Van Straaten. A husband and wife team of Mr Andy and Mrs Sally Francis were appointed in early 2019 to manage the premises; however, Mr Morgan retains the position of 'Designated Premises Supervisor' and licence holder in terms of the licensing regime. The new managers have revised the operating model with less emphasis upon the number of live musical performances, reducing them to a Thursday evening and Sunday afternoon performances, using Friday and Saturday nights for pre-recorded music. The council was advised that this was intended to reduce the level of disturbance affecting nearby residents.

### Customer noise:

Chairs and tables and, more recently, a patio heater and 'tent-like' structure have been provided to facilitate customer use of this outside area. Given the close proximity of residential premises, especially with bedroom windows overlooking the area, it is perhaps unsurprising that complaints have been received in respect of the noise generated by customers using the courtyard, particularly later into the evening. By providing tables and seating, coupled with a cover and patio heater(s), this would appear to be designed to encourage customers to make use of the courtyard. It therefore follows that customers are likely to resort to this area and thereby create a convivial atmosphere.

### Environmental Health:

The Environmental Health Service ('EHS') has notified the operators of the complaints received by the council, and has endeavoured to provide basic advice on measures which might reduce the likelihood of causing disturbance to neighbours. Staff from the Environmental Health and Licensing Teams have visited and met with the operators on two occasions. The council has written to the operators on a number of occasions outlining the issues which have given rise to complaints from nearby residents.

In spite of these efforts, complaints continued to be received by the council. As a result of evidence obtained, the EHS served a "Warning Letter" upon the operators (20 February 2018), under the provisions of the Anti-social Behaviour, Crime and Policing Act 2014. This is the first step before the service of a "Community Protection Notice" because of noise amounting to continued 'anti-social behaviour'. The warning letter explained that the council was satisfied that noise from both amplified music and speech, and from customers on the premises, was having a detrimental effect upon local residents and met the criteria<sup>1</sup> for enforcement action as set out in the Act.

A subsequent report of observations made by a Planning Enforcement Officer indicated that activities at the premises continued to generate off-site noise later in the evening which was considered likely to give rise to disturbance to nearby residents. Consequently the EHS wrote to the operators (letter dated 28 August 2018) reminding them of the 'warning letter' and the potential consequences for enforcement action in the event of confirmed further incidents of unreasonable disturbance.

However, the council received further complaints of continued noise disturbance and has recently received a report from an independent acoustic consultant appointed by a nearby resident (copy attached); that report detailed the consultant's findings during a period of observation and noise measurement on a Saturday evening in October this year.

The report is unequivocal in that it clearly identifies that the volume of (pre-recorded) music played at the premises on that evening was clearly audible within the bedroom of the nearest residential premises until after midnight - times when most of the population would expect to be sleeping. The author is also clear in their opinion that the measured volume of noise and resultant impact upon the resident was such as to amount to a “statutory nuisance” pursuant to the Environmental Protection Act 1990. Having reviewed this report and having regard to the evidence previously obtained, the council has determined that the volume of music and amplified speech played on the premises amounts to a recurring nuisance and accordingly Abatement Notices have been served upon the Directors of the business, requiring them to ‘abate the nuisance’.

Those served with Abatement Notices do have the option to appeal against the Notices to the Magistrates; at the time of writing we are still within the period when an appeal might be lodged, and it is not known whether Mr Morgan or Ms Van Straaten will do so. Should an appeal be lodged the Notices will be suspended until such time as the matter is concluded, which is likely to be many months from now.

The EHS believes that it should not be unduly difficult to comply with the Abatement Notices:

- Reduce the volume at which amplified music and speech are played within the building
- Ensure that the courtyard area is not used by customers after a given time in the evening, e.g. 23:00hrs. (There is a separate area to the rear of the building where smoking might be permitted.)
- Implement adequate management measures to ensure that customers using the courtyard area do not cause unreasonable disturbance.

#### Summary:

The evidence acquired over time shows a history of complaints from a number of local residents adversely affected by the activities on and around the premises operating as Angola 76. Many of the issues raised are related to noise from the premises, matters directly under the control of the management of the business and these have been brought to the attention of the operators on a number of occasions. Some changes to the musical offerings do appear to have led to an improvement in noise emissions, but it can be seen from the acoustic consultant’s recent report that the volume of amplified music continues to cause unreasonable levels of disturbance at a time when most people would be wishing to sleep.

Despite the involvement of the council’s Environmental Protection and Licensing Teams, these matters have continued to give rise to complaints alleging nuisance. The independent consultant’s report confirms the volume of music

noise impacting upon a local resident's bedroom and the council has served Abatement Notices to address the recurring nuisance of noise generated on the premises. It remains to be seen whether the Abatement Notices are appealed; if an appeal is lodged, the notices would be suspended until determined by the Magistrates. There is of course the possibility that an appeal might see the notices dismissed following a hearing in the Magistrates' Court.

It should also be borne in mind that, even if the notices are not appealed, or are upheld following an appeal, compliance with their requirements does not require that noise from within the premises be entirely inaudible off-site (i.e. within nearby residential properties), only that it does not give rise to an actionable nuisance. And as previously mentioned, the notices cannot address issues related to noise from persons in the street – i.e. customers accessing or leaving the premises.

Footnote:

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<sup>i</sup> Section 43(1) of the Anti-social Behaviour, Crime and Policing Act 2014:

- (a) the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and
- (b) the conduct is unreasonable

MRS A CUNNINGHAM, 5 MUSTONS LANE, SHAFTESBURY SP7 8AD  
NOISE EMINATING FROM PREMISES KNOWN AS ANGOLA '76

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**Acoustic Expert Report of Peter Rogers**

Dated

24<sup>th</sup> October 2019

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Specialist Field : Acoustics , Noise and Vibration  
Case Ref : -  
On behalf of : Mrs A Cunningham  
Prepared for : Trethowans LLP  
On Instructions of : Trethowans LLP  
Survey Periods : 19<sup>th</sup> to 20<sup>th</sup> October 2019

Report Reference: EXHIBIT PR/1

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*[Report format based on Academy of Experts Model Form ]*

## Acoustic Expert Report of Peter Rogers

MRS A CUNNINGHAM, 5 MUSTONS LANE, SHAFTESBURY  
NOISE EMINATING FROM ANGOLA '76

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Report No.: Exhibit PR/1

Date: 24 October 2019

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Prepared by:

Peter Rogers  
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Specialist Field : Acoustics  
On behalf of : Mrs Cunningham  
Prepared for : Trethowans LLP  
Reference : **EXHIBIT PR/1**

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# 1 INTRODUCTION

## 1.1 FORMAL DETAILS

1.1.1 My name is Peter James Rogers of Sustainable Acoustics, 5 Charlecote Mews, Staple Gardens, Winchester, Hampshire, SO23 8SR and I practice as a Consultant in Acoustics, Noise and Vibration. I have been professionally involved in acoustics for 26 years, initially as a local authority authorised officer for 5 years and thereafter an independent consultant. I have undertaken environmental noise measurement and assessment throughout my professional career, including a particular focus on the assessment of nuisance as an authorised officer. I have been providing expert witness services since 1996, and registered since 2003.

1.1.2 My specialist field is in acoustics, with a particular expertise in buildings and environmental acoustics, noise and vibration, transfer and control. My experience as both a consultant and in local government allows me to be able to take a balanced view of the evidence and also form subjective judgements based on that experience. I hold a Bachelor of Science honours degree in Physics with Medical Physics from the University of Cardiff and a Master of Science degree in Environmental and Building Acoustics from South Bank University, London. I am a Chartered Engineer, and a Fellow of the Institute of Acoustics and a Fellow of the Royal Society of Arts. I am also a member of the Institute of Licensing, and currently a member of a Home Office industry working group considering Licensing and Planning. I am also currently a Trustee of the Institute of Acoustics, and I am a registered and vetted member of the Register of Expert Witnesses.

1.1.3 My field of expertise covers the particulars of this investigation, but is limited to not providing cost information on remedial works, or in the wider information provided on antisocial behaviour, or health affects linked with medical matters, medicines or details of sleep disturbance as these areas are not within my expertise. Where these are mentioned they are done so as part of providing witness of factual evidence only.



## 1.2 THE RELEVANT PARTIES

1.2.1 The following parties will be referred to in this report:

- i. MRS ANNE CUNNINGHAM (“AC”)
- ii. MR PETER ROGERS (“PR”)
- iii. MR KERRY PITT-KERBY, ENVIRONMENTAL HEALTH (“KPK”)
- IV. DORSET COUNCIL UNITARY AUTHORITY (“DC”)
- v. SUSTAINABLE ACOUSTICS LIMITED (“SA”)
- vi. TRETOWANS SOLICITORS LLP (“TLLP”)
- vii. VENTA ACOUSTICS (“VA”)

## 1.3 THE DOCUMENTS CONSIDERED

1.3.1 The following documents have been considered as part of the bundle and may be referred to in this report, although are not appended to it:

- i. VA ACOUSTIC REPORT VA2677.190709.NIA dated 12<sup>th</sup> July 2019 (“VAR”)
- ii. ISVR report dated October 2018, associated with planning application 2/2018/1775/FUL
- iii. Angola Facebook Page (“FB”)
- iv. Angola Website Page (“WP”)

## 1.4 SYNOPSIS

1.4.1 Angola’ 76 describes itself as a live music venue on its facebook page (see Appendix 2), and on its website [angola76.co.uk](http://angola76.co.uk) describes itself as a Jungle café/ music bar. It is a licensed premises which operates as a nightclub, including live and pre-recorded music played by DJ’s. They advertise on their website as having “Live music every Thursday evening & Sunday afternoon, and say they are available for “private functions and party celebrations”. Opening hours are 4pm to 11pm Monday, noon to 11pm Tuesday to Thursday and Sunday and noon to half past midnight on Fridays and Saturdays. The opening hours permitted under the license, as indicated on the Licensing Authorities website, are slightly different in that they are Sunday to Thursday 11am to 11pm, Friday to Saturday 11am to 1.30am, with late refreshment sales permissible until 2am on those days.



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- 1.4.2 Until 2016 the premises was operated as a small nursery/ florist and a Licence was applied for to turn it into a café and was granted a 02:30 licence. There was no planning permission sought for the change of use, which remains a matter of contention to the present day after an application was refused on the 26<sup>th</sup> November 2018. The operation was intensified and became a music café , and later a nightclub. There were two additional refusals on 9<sup>th</sup> October 2019.
- 1.4.3 Mrs Cunningham lives at 5 Mustons Lane, Shaftesbury, SP7 8AD, which is located opposite Angola'76 on a narrow street, with no pavement in front of her house. Her lounge is on the ground floor with a front door that opens directly onto the street, and two of her bedrooms (including her own) overlook the street, with windows opening onto it.
- 1.4.4 The Environmental Health team at DC have had official complaints from Mrs Cunningham over a period of time, and have served a warning notice on the premises for antisocial behaviour, after a planning officer attended. They have also made recordings within the premises, but Environmental Health had not visited to investigate by witnessing it themselves to date.
- 1.4.5 PR liaised with KPK of DC and made him aware of his intentions to make a planned visit, and agreed to keep him informed by SMS text. On this basis he agreed to attend and witness the noise from the premises, which he did between 22:00 and approximately 22:30.
- 1.4.6 Mrs Cunningham has made a number of recordings of incidence on her smart phone, and has sent these to various parties. These have not been considered in any detail, as this will form part of her own evidence to demonstrate how often the noise occurs and the source of it.
- 1.4.7 My investigation considers whether an example of a typical Saturday night when a DJ is operating is likely to be sufficiently intrusive to be causing a nuisance as part of a regularly occurring operation. The previous measurements taken by VA over a weekend from the 5<sup>th</sup> to the 8<sup>th</sup> July of this year have also been taken into account, as it covered a music festival likely to be an atypical event. The results from this latest investigation are compared with those to benchmark a more typical impact against what was reported.



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1.4.8 My opinion is that sufficient evidence exists to meet the criminal evidential bar and that a nuisance does exist, which caused material interference and that considering the regularity, character of the area, and time of day can be considered to also therefore be a Statutory Nuisance under S79 of the Environmental Protection Act 1990 as it relates to noise emanating from the premises, as music and people noise that is made worse during dispersal in the early hours of the morning. This opinion is based on my witnessing the noise, taking measurements, and reviewing the other material available in light of the experience gained over 5 years as an authorised officer under this Act. The reasoning is set out in detail through this report.

## 1.5 INSTRUCTIONS

1.5.1 Instructions were received from TLLP to deal with the following matters :

- Investigate a typical Saturday night of operation
- Take acoustic measurements
- Prepare an expert report to capture the findings, in context with the material provided, which included the documents listed.



## 2 BACKGROUND

2.1 The site location is an ancient urban town location, in Shaftesbury, in north Dorset, which is generally low levels of night life and streets are often quiet through the night. Mustons Lane links Bell Street and High Street, which loops around the town centre.

2.2 The location is show in Figure 1 below.

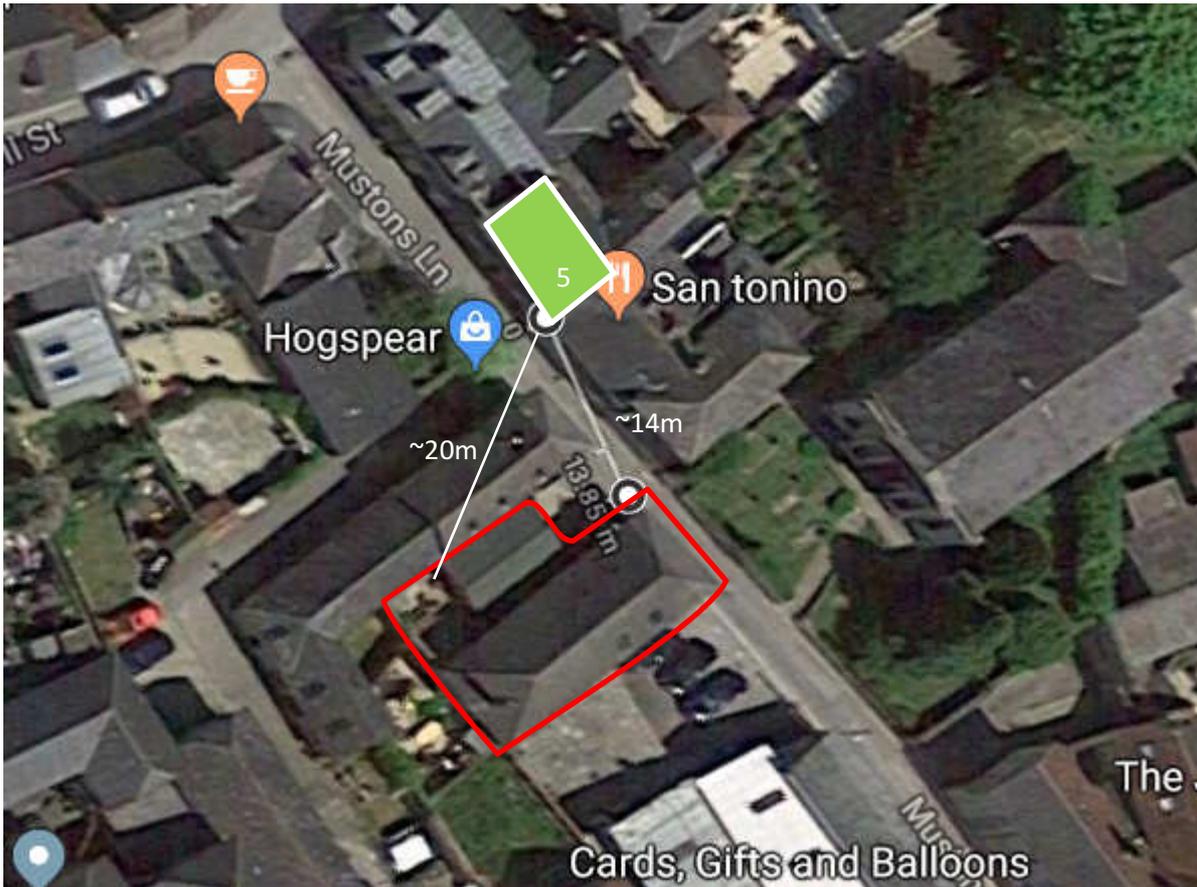


Figure 1: Residential proximity to Angola '76

## 3 THE TECHNICAL INVESTIGATION

### 3.1 INSTRUMENTATION USED

3.1.1 The following equipment was used during the survey.

| Equipment | Type | Serial Number | Calibration |
|-----------|------|---------------|-------------|
|-----------|------|---------------|-------------|



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|   |         |          | Date     | Certificate no |
|---|---------|----------|----------|----------------|
| <b>Nor145</b>                             |         |          |          |                |
| Norsonic Nor145 Class 1 sound level meter | NOR145  | 14529095 | 11/04/19 | 4712116694     |
| Preamplifier                              | NOR1209 | 22160    | 26/02/19 | 4712116694     |
| Microphone                                | NOR1227 | 332250   | 26/02/19 | 4712116694     |
| Svantek SV36                              | SV36    | 83721    | 27/06/19 | No cert number |

Table 1 : Instrumentation

3.1.2 Prior to and on completion of the survey, the sound level meter and microphone calibration were checked using a SV66 Calibrator. The calibrator was last calibrated on 27 June 2019, in accordance with the requirements of ISO 10012 and a calibration and conformance certificate is available. No significant change in the calibration level occurred during the survey following a check on the completion of measurements.

## 3.2 PERSONNEL

3.2.1 Peter Rogers took all measurements and completed the analysis associated with this report.

## 3.3 RESULTS

3.3.1 The results in full are presented in Appendix 1 as octave band manual measurements over the stated periods, to capture the noise associated with the observations made in that table.

3.3.2 In summary the relevant results are show overleaf in Table 2.

3.3.3 The results are presented as four graphs Figures 2 to 5, which show the impact over the frequency range of interest for music noise through the night, a mixture of people noise and music and dispersal noise against the ambient after operations had ceased with windows open and closed.



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| Measurement  | Comments  | Time        | Duration | LAeq        | LAFmax      | LAF,90%     | Lfeq 31.5 Hz | Lfeq 63 Hz | Lfeq 125 Hz | Lfeq 250 Hz | Lfeq 500 Hz | Lfeq 1 kHz | Lfeq 2 kHz | Lfeq 4 kHz | Lfeq 8 kHz |
|--------------|---|-------------|----------|-------------|-------------|-------------|--------------|------------|-------------|-------------|-------------|------------|------------|------------|------------|
| 10           | Bass heavy music - Robin Flack "Blured Lines"       | 21:59       | 00:49    | <b>45.9</b> | <b>62.3</b> | <b>38.5</b> | 53.3         | 59.7       | 52.9        | 39.9        | 43.3        | 40.9       | 36.5       | 32.6       | 27.3       |
| 11,12,13 av. | People and music audible - window open              | 22:52-23:00 | >3:00    | <b>41.6</b> | <b>54.8</b> | <b>31.7</b> | 58.5         | 52.9       | 47.6        | 39.2        | 40          | 36.7       | 30.8       | 24.8       | 23.5       |
| 19           | Bass with window open                               | 23:37       | 01:28    | <b>38.2</b> | <b>48.9</b> | <b>33.1</b> | 61.5         | 55.7       | 46.8        | 40.2        | 33.9        | 31.1       | 26.0       | 20.6       | 21.8       |
| 20           | Internal glazing closed - Bass still very noticable | 23:39       | 01:56    | <b>32.1</b> | <b>45.4</b> | <b>26.5</b> | 49.2         | 47.7       | 38.5        | 27.7        | 28.6        | 25.5       | 22.8       | 21.4       | 22.3       |
| 24           | Music only - "You've got the love"                  | 00:09       | 02:52    | <b>38.9</b> | <b>50.5</b> | <b>32.4</b> | 54.0         | 55.5       | 49.9        | 38.1        | 33.9        | 32.1       | 28.2       | 21.6       | 21.3       |
| 26-27 av.    | Dispersal: People only - window open                | 00:35-00:39 | >02:00   | <b>63.2</b> | <b>79.5</b> | <b>41.2</b> | 43.8         | 42.2       | 44.9        | 53.1        | 60.2        | 58.7       | 57.1       | 47.3       | 34.0       |
| 28           | Dispersal : People only - window closed             | 00:40       | 00:43    | <b>38.2</b> | <b>51.3</b> | <b>25.2</b> | 42.6         | 37.5       | 35.4        | 32.8        | 36.1        | 32.9       | 30.7       | 26.0       | 23.8       |
| 29-30 Av     | Ambient - window open                               | 00:43-00:45 | >3:00    | <b>26.7</b> | <b>50.2</b> | <b>21.1</b> | 32.9         | 30.9       | 30.1        | 21.1        | 19.5        | 17.3       | 18.8       | 20.6       | 20.6       |
| 31           | Ambient - Secondary pane closed only                | 00:48       | 01:11    | <b>20.7</b> | <b>27.4</b> | <b>20.3</b> | 28.1         | 23.3       | 19.4        | 10.3        | 8.9         | 8.7        | 10.2       | 11.3       | 20.2       |
| 32           | Both windows closed - No activity on Street         | 00:51       | 02:00    | <b>21.6</b> | <b>31.3</b> | <b>20.1</b> | 31.1         | 25.1       | 21.8        | 14.3        | 12.0        | 11.1       | 12.4       | 12.9       | 19.8       |

Table 2 : Summary of noise results , grouped into music noise dominated (Purple), People noise dispersal (blue), Ambient with different window configurations (green)

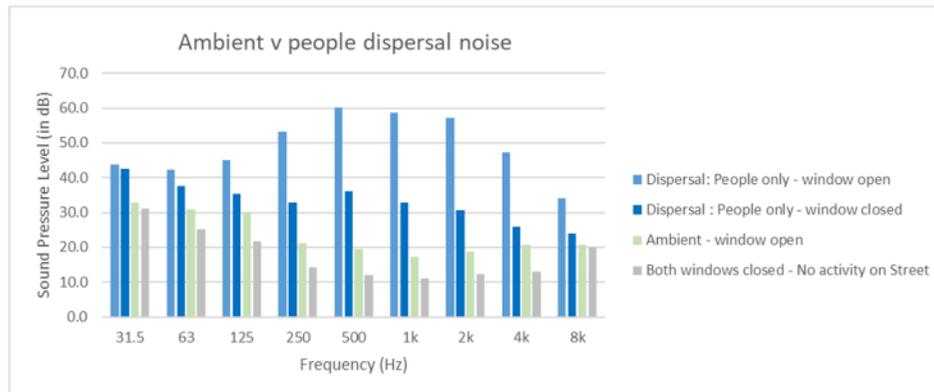


Figure 2: Comparison over frequencies of noise from dispersal against the ambient in the bedroom

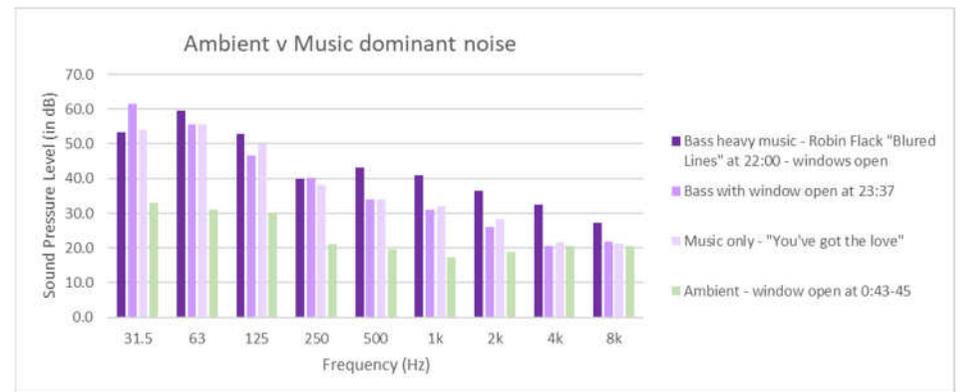


Figure 3: Comparison noise from music against the ambient in the bedroom

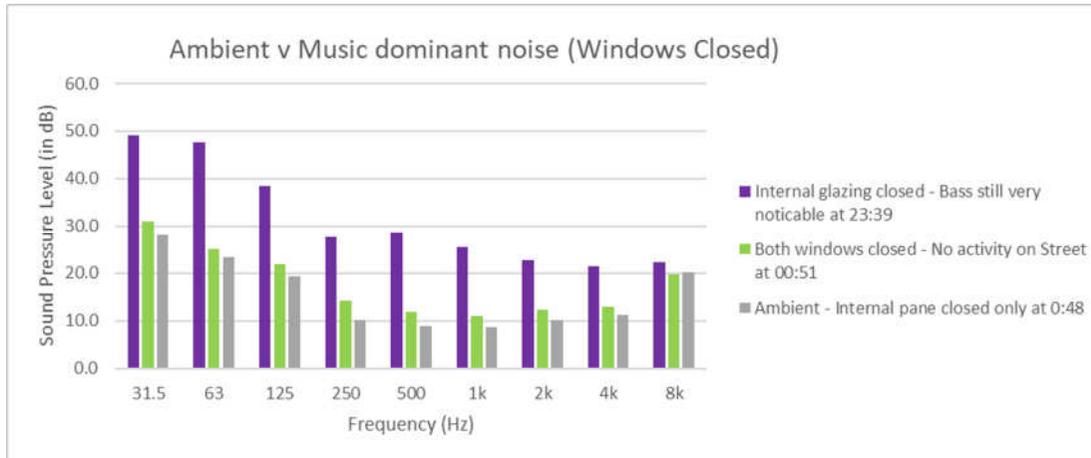


Figure 4: Comparison over frequencies of noise from music against the ambient with windows closed in the bedroom

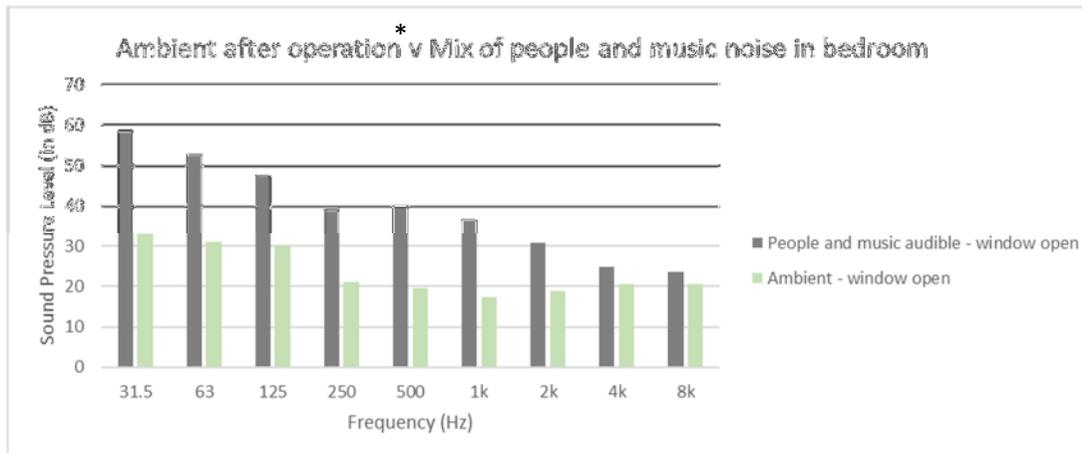


Figure 5: Comparison over frequencies of noise from a mixture of music and people against the ambient at 0:51 in the bedroom

\* After the premises have finished is music, and people had left the areas associated with the operation of the venue.



- 3.3.4 The results in table 2 and Figures 2 to 5 show a clear and significant impact in terms of overall levels and also in frequency, whether the windows are open or not.
- 3.3.5 Of particular note is the clear bass intrusion within Figure 3, which can also be seen for the window closed case in Figure 4. This carried on throughout the night until 0:35, which was comparable to that experienced by KPK of DC during his brief visit, but more disturbing as the background levels fell. The existence of very low bass at 31.5Hz, which peaked at 23:37 shows a concerning increase in intrusion which can be felt in the chest as well as heard, and penetrated through the house.
- 3.3.6 Also the mix of people noise from the courtyard area and music noise means that levels inside the bedroom are raised 20dB in almost all frequencies between 31.5Hz and 2kHz, as can be seen in Figure 5.
- 3.3.7 The levels of noise peaked at 0:35 to 0:40 hours when Figure 2 shows a bulge in sound in the 250Hz to 8kHz range, which is associated with speech, which is up to 40dB above the ambient levels at 500Hz and 1kHz with no speech. This is a very significant impact level. Even with windows closed it was 15dB above the ambient without it (with window closed).
- 3.3.8 Considering the overall levels in Table 2 this can be summarised in terms of levels as an impact on the level raised above 28dB, with windows open, which was the ambient with no activity inside the bedroom:

### Music

- by some 19dB to 47dB at 22:00 hours for one track where the doors to courtyard were likely to be open,
- 11dB to 39dB at midnight, with a strong bass element and doors expected to be closed
- These are highly significant adverse impact levels inside the bedroom.

### People in the venue and courtyard and music

- By some 14dB to 42dB at just before 23:00 hours as an average of three measurements
- These are highly significant adverse impact levels inside the bedroom.

### People dispersing from the venue

- By some 35dB to 63dB 0:35 to 0:40 hours as an average of two measurements
- Maximums were as high as 80dB when without operation it falls to between 50dB with the window open.



- With windows closed it was 18dB above the levels when the venue was closed.
- These are highly significant adverse impact levels inside the bedroom.

### 3.4 OBSERVATIONS

3.4.1 I made contemporaneous notes during my observations from within the bedroom of 5 Mustons Lane, which were not always associated with acoustic measurements, and so are summarised more fully in Table 3 below, with references to photos presented in Appendix 3:

| Time  | Contemporaneous observation  |
|-------|--|
| 20:32 | Blast of music – amplified voice shouted “evening tiger”. Heavy bass audible from the venue, with window open  |
| 20:34 | Two women whooping and looking up at the windows of the house as they passed and then entered the premises.  |
| 20:37 | Music mainly dominant with voices inside audible. People down at end of street shouted obscenity, and then went into the venue.  |
| 20:44 | Scraping sound as gate closed to courtyard   |
| 21:00 | Heard person say from other side of courtyard gates to doorman “got any speed on you ? ... the good stuff”. No response was heard.   |
| 21:02 | 4 men went in as a group, quietly. The music seemed to get louder, with a noticeable bass beat and voices from the courtyard area  |
| 21:14 | Party of 7 go into the venue. Man and woman smoking outside talking quietly. Photo 2 shows as they go in.  |
| 21:17 | Group of 4 go in plus 1 single man – not overly noisy.   |
| 21:21 | Heavy bass clearly audible from premises and people noise from the garden with hardly any noise from the street.   |
| 21:28 | Music seems to have increased. Three people outside, including one door staff.   |
| 21:49 | Two door staff now visible outside – effectively greeting people and chatting  |
| 22:00 | Mr Pitt-Kerby arrived, and stood in bedroom for some 2 minutes. Then talked in hall for around 10 minutes before returning to again witness music and voices from courtyard of venue. He left at 22:20 |
| 22:58 | Resumed observations – 5 women go in, and were followed by both door staff   |
| 23:00 | 2 people left – not noisy but music and people noise from courtyard both still very audible and similar to that witnessed when Mr Pitt-Kerby was present.  |
| 23:04 | 6 left . One was heard saying “She complains about noise” and a girl saying “Dan .. don’t do it”.  |
| 23:05 | Entry of one male allowed.   |



|       |   |
|-------|---|
| 23:09 | No one outside , music still very audible. John Morgan emerged with door staff, who were looking up to the bedroom window and were heard saying “the windows have been open most of the night” ... “it’s a strange way to live your life” . This coincided with Mrs Cunningham going to her bedroom window to observe goings on. Music levels seemed to increase shortly afterwards |
| 23:16 | Heavy bass music – able to recognise the track and hear the vocals. No one in the street, but people noise dominant   |
| 23:34 | String of individual people leaving and dispersing quietly  |
| 23:37 | Heavy bass continuing – noted the 31.5Hz levels to be noticeable and could feel in my chest inside the bedroom. Closing the window made no difference to this.  |
| 23:46 | Music continued – two women left quietly  |
| 23:50 | Tobacco smoke detectable in the bedroom   |
| 23:50 | 4 young men left , one urinated by bins opposite the house. They were not noisy.  |
| 23:54 | Heavy bass music continued and was now very noticeable and more intrusive than earlier. Could smell smoke again.  |
| 00:00 | 2 men left , with signs of intoxication and swearing loudly to each other. A rare car movement occurred down the street, and they walked the rest of the street without a sound.  |
| 00:03 | Heavy bass music again – door open to courtyard as could hear people singing inside clearly. Could smell smoke again.   |
| 00:07 | 4 women leaving “cackling” saying they were “heading up to Kings”. The doorman walked up the street with them with his arm around ones shoulder. See Photo 3.   |
| 00:13 | 3 women leave venue and walk down the street chatting.  |
| 00:17 | Both doorman back outside and smoking – smoke very noticeable in bedroom. Heavy bass dance track audible from venue. No one is in the street.   |
| 00:22 | Group of 5 leave the premises – see photo 4.  |
| 00:30 | 2 men passed down street not making any noise. Group of 8 left the venue loudly shouting to each other. Doorman shouted in a deliberate way “Keep it down please – have a little consideration for the neighbours”.   |
| 00:35 | Music stopped   |
| 00:38 | Street filled by people exiting the premises loudly for about 2 minutes – see photo 6   |
| 00:43 | 1 man on phone in street from the venue – Photo 8, otherwise empty & quiet.   |

Table 3 : Observations from bedroom window of 5 Mustons Lane on the 19<sup>th</sup> – 20<sup>th</sup> October 2019



## 4 ANALYSIS OF OTHER EVIDENCE

### 4.1 VENTA ACOUSTICS DATA (JULY 2019)

- 4.1.1 The VA report in 2.2 of their report states that maximum levels of over 75dB within the same bedroom on the Saturday night, with  $L_{Aeq}$  values of 55 to 60dB until 23:00 hours before reducing to 02:00 hours. Analysis of audio files indicated that this was a mixture of “music, people talking and noise from general revelry”. The levels were monitored with the window open in the same way as during my survey. These results are not dissimilar to those report in 3.3.8. This means that this was not an exceptional level of impact, but typical of what is experienced on a regular basis.
- 4.1.2 VA conclude the “Noise from entertainment was measured at levels considerably above the Internal background noise levels, by an order of 30dB”. I found this to be an underestimate of the case during dispersal, as stated at 3.3.8, as levels were 35dB above background. They concluded that Angola’76 was “presenting a serious noise issue to the nearby neighbours”.
- 4.1.3 The VAR supports that even during a festival that the presence of people in the street, and music from Angola ’76 is comparable with the regularly occurring level of impact caused by the premises operating with a DJ. This supports that recurrence of the very significant adverse impact has been established already by an independent acoustician.

### 4.2 ISVR REPORT (OCT 2018)

- 4.2.1 The acoustic report was based on a BS4142:2014 assessment, to support a planning application. This is not appropriate for assessment of entertainment noise or people noise, and this is expressly stated in the scope of the standard. The findings should therefore be disregarded and are unsafe to rely on in terms of that assessment.
- 4.2.2 There are some elements worthy of mention however. The report identifies three sources of noise, which include breakout of amplified music and live bands and noise of customers in the courtyard, which are relevant.
- 4.2.3 It reports the levels from music outside 5 Mustons Lane as 54 to 57  $L_{Aeq}$  during their tests, where were approximately 20dB above background levels. It concludes “this may be considered to be a very significant adverse impact and likely to result in complaints”. Allowing for a reduction of 10 to



15dB<sup>i</sup> for the open window this was very similar to what was measured inside the bedroom during my survey, and I would agree with this part of the assessment.

- 4.2.4 In relation to customer noise it states the noise varied from 50 to 70dBA, some 20 to 40dB above background. It again concludes “this may be considered to be a very significant adverse impact and likely to result in complaints”.
- 4.2.5 The mitigation proposed includes improvements to glazing, doors and the roof, and extensive works were proposed. If completed it anticipates that a level during live music outside the property would be reduce to 27dB(A)  $L_{Aeq}$ . This is certainly not what is happening in practice on the basis of my results and shows how the venues own appointed acoustic consultant has identified the problem that currently exist, and has not been improved. It also sets out how extensive the mitigation would need to be in order to address what is continuing to cause Mrs Cunningham as the occupant of 5 Muston Lane a very significant adverse impact and as a result justified complaints.
- 4.2.6 The ISVR report supports that there is likely to be an ongoing problem without extensive mitigation, which has not been completed on the basis of the measurements taken during my survey.

## 5 NUISANCE & STATUTORY NUISANCE

### 5.1 NUISANCE

- 5.1.1 When considering whether a noise is causing a nuisance, it is necessary to consider whether the disruption was severe enough to consider whether an average person would find it difficult to enjoy the external or internal areas of their property as they would expect to be able to reasonably do.
- 5.1.2 If the noise would cause material interference, and when considering these other factors it may be possible to conclude that it is causing a nuisance:
- a) the level of the impact caused and how audible it
  - b) tonal characteristics of the sound
  - c) frequency of occurrence and any likely seasonal variation
  - d) the motive of those making the noise, and any wider benefit to society
  - e) the general background noise levels and character of the area
  - f) is there a cumulative impact that might create a greater impact
  - g) the context in which the noise is heard.

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<sup>i</sup> WHO 1999 and BS8233:2014



## 5.2 STATUTORY NUISANCE

5.2.1 S79(1)(g) of the Environmental Protection Act 1990 defines a statutory nuisance as “noise emitted from a premises so as to be prejudicial to health or a nuisance”. The term “nuisance” is not defined in the statute, but it has the same meaning as nuisance in common law, as dealt with in 5.1. A duty is placed on the Local Authority to serve an abatement notice under S80 if it becomes satisfied that a statutory nuisance exists.

5.2.2 Case law assists us to understand this in more detail. In the Court of Appeal case *Barr and others v Biffa Waste Services Ltd* [2012] EWCA Civ 312 a clear and concise resume of nuisance law is given:

- Para 36 i: “There is no absolute standard; it is a question of degree whether the interference is sufficiently serious to constitute a nuisance. That is to be decided by reference to all circumstances of the case.”
- Para 36 ii: “There must be a real interference with the comfort or convenience of living, according to the standards of the average man”.
- Para 36 iii: “The character of the neighbourhood area must be taken into account”.
- Para 36 iv “The duration of the interference is an element in assessing its actionability, but it is not a decisive factor; a temporary interference which is substantial will be an actionable nuisance”.

5.2.3 In the words of Knight Bruce VC in the *Walter v Selfe* case of 1851 (4 De G&Sm 315, at p 322) “...not merely according to elegant or dainty modes and habits of living, but according to the plain and sober and simple notions among the English people”.

5.2.4 A defence is available under S82(9) “*it shall be a defence to prove that the best practicable means were used to prevent, or to counteract the effects of, the nuisance*” provided the defendant satisfies S82(10) condition under S79(1)(g) and the nuisance arises from on industrial, trade or business premises. Angola '76 falls within this description as a business, but whether BPM has been achieved is a relevant matter for me to express my opinion on. The ISVR works suggests that the extensive mitigation works have not been completed, and so BPM could not be claimed.

## 6 OPINIONS

6.1.1 The matters under consideration include the listed points below:

- Is the impact from noise from music and people using the premises of Angola '76 attributable to that premises ?



- Is the impact of noise from dispersal of people linked to people leaving Angola '76 ?
- Is the impact on the occupant of 5 Mustons Lane sufficient to be causing a nuisance and potentially a Statutory Nuisance ?
- Does the evidence from VA and ISVR support that this matter is likely to recur ?

6.1.2 It is my opinion that the noise I witnessed, which included music and people noise, was without doubt associated with the operation of Angola '76. This included the dispersal of people from the premises, which I witnessed and was able to confirm was entirely associated with the premises and not passers-by from other premises.

6.1.3 It is my strong opinion that based on the evidence I have collected, and what I witnessed during my survey that Angola '76 is causing a nuisance to Mrs Cunningham of 5 Mustons Lane for the following reasons:

- The level of noise within her bedrooms with windows open or closed as a result of music, and people associated with the premises either in the Courtyard or as they are entering or leaving is sufficient to be highly likely to cause material interference, including the inability to be able to sleep until past 0:45 hours. This is an unreasonable time to expect a person to wait to then be able to sleep.
- The tonal characteristics of the sound generated is heavy in bass and so penetrating and varied over time to make it particularly annoying. Also the sound of people in the courtyard is distinct and very audible within the bedroom, with periodic shouts and raised voices causing high maximums of sound that make it particularly disturbing. The sound of people in the street during dispersal is very disturbing indeed as a result of the level and character and content of the language being used as people that have been inside the premises disperse along the street. It was particularly noted that compared with noise generated by other people passing, which was negligible the premises can be considered to be entirely responsible for the sustained noise impact witnessed.
- The example experienced was with a DJ on a Saturday night that did not appear to be particularly busy, but is likely to be typical of what happens on a Saturday night, and therefore every week. As the venue operates also with Live music on other days (See Appendix 2) it is clear that this level of impact and greater is likely to occur and recur. Monitoring by VA in July 2019 also show



that the level of impact is likely to be similar to that encountered during the festival, although perhaps not as sustained and consistently intrusive as that was over a whole weekend.

- The motive of those making the noise is simply commercial and although there is a wider social benefit to those using the club, this benefit should not out weight the right for Mrs Cunningham to be not unreasonably interfered with in her home to the point where sleep is not possible until after 0:40 hours.
- The character of the area, and so the context, is that the town does have other late night premises, and if Angola'76 was not operating then the street would be largely quiet, with some people passing along it, who might occasionally make some noise. This is entirely a different level of impact that is being suffered by Mrs Cunningham. This was illustrated after 0:40 when the street was completely deserted and quiet once the premises had vacated.
- A cumulative impact is created by the blend of music from the venue and people noise from the courtyard, which create a level of noise that covers most of the audible spectrum within the facing bedrooms of 5 Mustons Lane that is very much higher than the natural ambient noise climate would be. The impact is then punctuated by the dispersal noise which caused maximums of up to 80dB in the bedroom for a short period of time, which combined to make the impact intolerable.

6.1.3 It is my view that the evidence of VA and ISVR supports that the nuisance has and will recur.

6.1.4 It is my opinion as a previously authorised officer under the Act, and with a further 20 years experience as an Acoustics expert that the level of impact witnessed was highly significantly adverse and as such was sufficient to cause a nuisance to the occupant of 5 Mustons Lane, which is likely to recur on a number of times a week. It is my opinion that the evidence proves beyond doubt that a nuisance exists, and as such could constitute a Statutory Nuisance.

6.1.5 It is clear from the ISVR evidence that extensive mitigation measures were identified but it would appear that they have not been implemented. It is my strong opinion that such works may deal with some of the music noise break-out, but not the people noise from the courtyard or from the dispersal process, and that a nuisance would continue to exist. As a result no clear remedy exists, beyond requiring the premises to cease operation.



## 7 SUMMARY OF CONCLUSIONS

- 7.1 Peter Rogers, a registered expert witness of Sustainable Acoustics (SA) has investigated the noise affecting 5 Mustons Lane, Shrewsbury and in particular within the guest bedroom of the property which is next to that of the occupant.
- 7.2 Monitoring was conducted over the Saturday evening into Sunday morning on the 19<sup>th</sup> to 20<sup>th</sup> October 2019 by Mr Rogers, combined with the review of the evidence available.
- 7.3 Mr Rogers was joined by Mr Pitt-Kerby, of Dorest Council Unitary Authority who witnessed the noise impact from music and people between 22:00 and 22:30 hours intermittently.
- 7.4 It is concluded on the strength of the evidence that noise impact from music with a heavy bass beat, and people noise from within the venue and in the external courtyard of that venue and during dispersal of people from the venue did result cumulatively in a nuisance, which would have prevented the occupant from reasonably attempting to sleep within her bedrooms whether the windows were open or closed.
- 7.5 The evidence available proves beyond doubt that a nuisance has occurred and is likely to recur at 5 Mustons Lane as a result of the premises known as Angola '76.



## 8 EXPERT'S DECLARATION

I **Peter James Rogers** DECLARE THAT:

- 8.1.1 I understand that my duty is to help the Court to achieve the overriding objective by giving independent assistance by way of objective, unbiased opinion on matters within my expertise, both in preparing reports and giving oral evidence. I understand that this duty overrides any obligation to the party by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied with and will continue to comply with that duty.
- 8.1.2 I confirm that I have not entered into any arrangement where the amount or payment of my fees is in any way dependent on the outcome of the case.
- 8.1.3 I know of no conflict of interest of any kind, other than any which I have disclosed in my report.
- 8.1.4 I do not consider that any interest which I have disclosed affects my suitability as an expert witness on any issues on which I have given evidence.
- 8.1.5 I will advise the party by whom I am instructed if, between the date of my report and the court case, there is any change in circumstances which affect my answers to points 8.1.3 and 8.1.4 above.
- 8.1.6 I have shown the sources of all information I have used.
- 8.1.7 I have exercised reasonable care and skill in order to be accurate and complete in preparing this report.
- 8.1.8 I have endeavoured to include in my report those matters, of which I have knowledge or of which I have been made aware, that might adversely affect the validity of my opinion. I have clearly stated any qualifications to my opinion.
- 8.1.9 I have not, without forming an independent view, included or excluded anything which has been suggested to me by others, including my instructing lawyers.
- 8.1.10 I will notify those instructing me immediately and confirm in writing if, for any reason, my existing report requires any correction or qualification.
- 8.1.11 I understand that;
- i. my report will form the evidence to be given under oath or affirmation;
  - ii. the court may at any stage direct a discussion to take place between experts;
  - iii. the court may direct that following a discussion between the experts that a statement should be prepared showing those issues which are agreed, and those issues which are not agreed, together with the reasons;



Report of : Peter Rogers  
Specialist Field : Acoustics  
On behalf of : Mrs Cunningham  
Prepared for : Trethowans LLP  
Reference : **EXHIBIT PR/1**

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- iv. I may be required to attend court to be cross-examined on my report by a cross-examiner assisted by an expert;
- v. I am likely to be the subject of public adverse criticism by the judge/ magistrates if the Court concludes that I have not taken reasonable care in trying to meet the standards set out above.

8.1.12 I have read Part 19 of the Civil Procedure Rules and the accompanying practice direction and I have complied with their requirements.

8.1.13 I confirm that I have acted in accordance with the Code of Practice for Experts.

8.1.14 I confirm that I am aware of the continuing nature of my responsibilities of disclosure and I confirm that I have complied with my duties to record retain and reveal material in line with my responsibilities.

**STATEMENT OF TRUTH** I confirm that the contents of this report are true to the best of my knowledge and belief and that I make this report knowing that, if it is tendered in evidence, I would be liable to prosecution if I have wilfully stated anything which I know to be false or that I do not believe to be true.

22<sup>nd</sup> October 2019

Signature..... Date.....



Report of : Peter Rogers  
Specialist Field : Acoustics  
On behalf of : Mrs Cunningham  
Prepared for : Trethowans LLP  
Reference : **EXHIBIT PR/1**

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## GLOSSARY

### Acoustic Terminology



## ACOUSTIC TERMINOLOGY

**Ambient noise (sound);** the totality of noise (sound) arising from all of the sources that are normally present in an environment such as road traffic and mechanical services. Noise is generally described as the unwanted aspects of sound.

**The decibel (dB):** the decibel is a logarithmic unit used to describe the sound pressure level of sound (or noise). The usual range is 0 (threshold of hearing) up to 140dB (threshold of pain), with the reference used as  $P_0$  as  $2 \times 10^{-5}$  Pascals.

**Hertz(Hz) :** frequency is measured in cycles per second (or hertz). Larger frequencies can be also noted as kilo-hertz (kHz), so 1000Hz = 1kHz. The normal range of hearing is 20Hz to 20kHz. The range of speech is 500Hz to 8kHz. The area of interest for bass music is the 63Hz to 125Hz region.

**Bass:** Low frequency sound typically generated by loudspeakers that create sound in the frequency range between 125Hz and 63Hz or below.

**$L_{Aeq}$  :** the A-weighted sound pressure level relative to a reference of  $2 \times 10^{-5}$  Pascals that is the equivalent continuous level, which is energy average over a period T. The descriptor is often 'A-weighted' to take account of the typical response of the human ear to different frequencies (denoted  $L_{Aeq}$ ).

**$L_{Amax}$  :** the maximum A-weighted sound level that was recorded during the measurement time period.

**$L_{A90}$  :** the A-weighted sound pressure level relative to a reference of  $2 \times 10^{-5}$  Pascals that is exceeded for 90% of the time period (T).  $L_{A90}$  is used as a measure of background noise, and is included within BS4142: 2014.

**Background :** The sound that is present for 90% of the time ( $L_{A90,T}$ ) when the noise source in question is not operating.

**Noise or sound:** acoustic energy in an indoor space or an external environment is perceived as sound. 'Noise' is often defined as unwanted sound. In the absence of a more specific description, 'sound' is therefore implicitly benign or wanted.



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## APPENDIX 1

### RAW NOISE DATA



| Measurement | Comments  | Time  | Duration | LAeq        | LAFmax | LAF,90% | Lfeq 31.5 Hz | Lfeq 63 Hz | Lfeq 125 Hz | Lfeq 250 Hz | Lfeq 500 Hz | Lfeq 1 kHz | Lfeq 2 kHz | Lfeq 4 kHz | Lfeq 8 kHz |
|-------------|---|-------|----------|-------------|--------|---------|--------------|------------|-------------|-------------|-------------|------------|------------|------------|------------|
| 1           | Music plus some voices (outside) + laughing (courtyard)       | 20:54 | 03:01    | <b>45.3</b> | 63.6   | 34.2    | 50.0         | 52.1       | 42.5        | 38.2        | 42.2        | 41.7       | 36.7       | 30.2       | 26.4       |
| 2           | Music with strong bass  | 21:03 | 01:11    | <b>44.7</b> | 55.1   | 38.3    | 52.6         | 57.4       | 48.9        | 42.8        | 44.4        | 38.6       | 33.6       | 27.6       | 24.4       |
| 3           | Music only - window open                                      | 21:11 | 00:31    | <b>37.4</b> | 49.1   | 32.7    | 48.1         | 57.2       | 45.0        | 32.3        | 32.1        | 30.3       | 28.0       | 25.1       | 24.6       |
| 4           | Music only - window closed (single pane)                      | 21:12 | 00:24    | <b>31.6</b> | 39.3   | 27.7    | 41.6         | 52.6       | 39.0        | 24.9        | 25.7        | 22.8       | 19.3       | 19.5       | 22.7       |
| 5           | Heavy bass and people noise from courtyard - no street action | 21:21 | 01:09    | <b>44.8</b> | 57.7   | 36.4    | 50.0         | 56.8       | 46.4        | 38.7        | 43.7        | 39.6       | 35.3       | 29.5       | 25.5       |
| 6           | Music, doorstaf and people in courtyard - window open         | 21:51 | 00:38    | <b>43.3</b> | 59.0   | 36.6    | 47.5         | 56.2       | 45.9        | 39.0        | 41.6        | 37.1       | 35.9       | 29.9       | 26.3       |
| 7           | Voices only - break in bass- window open                      | 21:53 | 00:42    | <b>40.6</b> | 49.7   | 34.0    | 47.5         | 47.7       | 44.7        | 37.9        | 39.7        | 35.6       | 29.7       | 24.6       | 24.6       |
| 8           | Voices and music - window open                                | 21:54 | 00:11    | <b>43.8</b> | 50.6   | 38.0    | 53.0         | 58.5       | 48.3        | 37.4        | 41.9        | 39.4       | 33.3       | 28.2       | 24.9       |
| 9           | music from the venue and noise of door staff talking          | 21:56 | 00:41    | <b>42.6</b> | 53.1   | 37.9    | 57.6         | 57.7       | 46.8        | 36.4        | 39.8        | 37.2       | 35.0       | 28.9       | 25.4       |
| 10          | Bass heavy music - Robin Flack "Blured Lines"                 | 21:59 | 00:49    | <b>45.9</b> | 62.3   | 38.5    | 53.3         | 59.7       | 52.9        | 39.9        | 43.3        | 40.9       | 36.5       | 32.6       | 27.3       |
| 11          | People and music audible - window open                        | 22:52 | 01:57    | <b>40.5</b> | 54.8   | 31.7    | 62.9         | 52.0       | 43.3        | 38.5        | 38.1        | 35.4       | 31.7       | 26.9       | 25.2       |
| 12          | People and music audible - window open                        | 22:54 | 00:29    | <b>43.2</b> | 53.9   | 33.9    | 48.7         | 49.8       | 42.4        | 40.6        | 42.4        | 38.8       | 30.3       | 23.1       | 21.4       |
| 13          | People and music audible - window open                        | 23:00 | 01:13    | <b>40.6</b> | 50.5   | 34.2    | 50.6         | 55.2       | 51.3        | 38.2        | 37.7        | 34.6       | 30.2       | 23.0       | 23.1       |
| 14          | People noise on street from those leaving - window open       | 23:03 | 02:09    | <b>47.1</b> | 63.4   | 37.1    | 51.9         | 60.1       | 50.3        | 40.7        | 44.9        | 42.5       | 38.9       | 30.8       | 26.4       |
| 15          | Bass still dominant with window internal glazing closed       | 23:06 | 00:36    | <b>33.0</b> | 42.2   | 27.3    | 53.7         | 49.5       | 37.8        | 26.4        | 29.4        | 26.2       | 24.1       | 22.7       | 22.6       |
| 16          | Music noise dominant - window open                            | 23:15 | 01:48    | <b>40.5</b> | 49.0   | 36.9    | 48.7         | 58.2       | 48.8        | 38.6        | 38.1        | 34.4       | 29.2       | 24.8       | 24.4       |
| 17          | Break in the bass , people noise from inside- window open     | 23:20 | 01:35    | <b>42.2</b> | 51.5   | 37.3    | 48.9         | 58.4       | 50.5        | 41.6        | 40.0        | 36.4       | 30.2       | 24.8       | 23.8       |
| 19          | Bass with window open   | 23:37 | 01:28    | <b>38.2</b> | 48.9   | 33.1    | 61.5         | 55.7       | 46.8        | 40.2        | 33.9        | 31.1       | 26.0       | 20.6       | 21.8       |
| 20          | Internal glazing closed - Bass still very noticable           | 23:39 | 01:56    | <b>32.1</b> | 45.4   | 26.5    | 49.2         | 47.7       | 38.5        | 27.7        | 28.6        | 25.5       | 22.8       | 21.4       | 22.3       |
| 21          | Music and two women leaving quietly                           | 23:48 | 00:49    | <b>43.4</b> | 52.8   | 36.5    | 58.8         | 58.7       | 52.2        | 41.8        | 39.6        | 38.9       | 33.8       | 25.3       | 21.6       |
| 22          | Heavy bass track - noticable and intrusive                    | 23:54 | 01:48    | <b>39.2</b> | 48.5   | 34.1    | 55.3         | 53.6       | 47.7        | 40.7        | 35.1        | 33.8       | 27.1       | 20.3       | 21.8       |
| 23          | Heavy Bass track with door open                               | 00:03 | 00:51    | <b>38.4</b> | 50.7   | 32.1    | 54.8         | 55.5       | 45.5        | 36.3        | 34.4        | 32.0       | 29.0       | 26.2       | 24.9       |
| 24          | Music only - "You've got the love"                            | 00:09 | 02:52    | <b>38.9</b> | 50.5   | 32.4    | 54.0         | 55.5       | 49.9        | 38.1        | 33.9        | 32.1       | 28.2       | 21.6       | 21.3       |
| 25          | Group 5 left - window open                                    | 00:23 | 00:59    | <b>46.8</b> | 65.0   | 37.0    | 46.9         | 53.8       | 50.3        | 42.4        | 46.5        | 40.1       | 38.2       | 32.7       | 26.5       |
| 26          | Dispersal :People only - window open                          | 00:35 | 01:09    | <b>57.6</b> | 78.5   | 41.2    | 40.3         | 38.5       | 43.4        | 48.1        | 57.6        | 51.7       | 47.0       | 38.0       | 29.3       |
| 27          | Dispersal: People only - window open                          | 00:39 | 00:55    | <b>65.6</b> | 79.5   | 52.6    | 45.7         | 44.1       | 46.0        | 55.4        | 61.9        | 61.2       | 59.9       | 50.1       | 36.2       |
| 28          | Dispersal : People only - window closed                       | 00:40 | 00:43    | <b>38.2</b> | 51.3   | 25.2    | 42.6         | 37.5       | 35.4        | 32.8        | 36.1        | 32.9       | 30.7       | 26.0       | 23.8       |
| 29          | Ambient - window open   | 00:43 | 01:01    | <b>28.7</b> | 50.2   | 23.0    | 32.9         | 32.4       | 31.7        | 22.7        | 21.4        | 19.3       | 21.0       | 23.2       | 21.4       |
| 30          | Ambient - window open   | 00:45 | 02:19    | <b>22.8</b> | 35.4   | 21.1    | 32.9         | 28.7       | 27.6        | 18.5        | 16.1        | 13.7       | 14.5       | 12.9       | 19.6       |
| 31          | 1st Pane closed - no activity                                 | 00:48 | 01:11    | <b>20.7</b> | 27.4   | 20.3    | 28.1         | 23.3       | 19.4        | 10.3        | 8.9         | 8.7        | 10.2       | 11.3       | 20.2       |
| 32          | Both windows closed - No activity on Street                   | 00:51 | 02:00    | <b>21.6</b> | 31.3   | 20.1    | 31.1         | 25.1       | 21.8        | 14.3        | 12.0        | 11.1       | 12.4       | 12.9       | 19.8       |



Report of : Peter Rogers  
Specialist Field : Acoustics  
On behalf of : Mrs Cunningham  
Prepared for : Trethowans LLP  
Reference : **EXHIBIT PR/1**

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## APPENDIX 2

### ANGOLA'76 ADVERTISING



Report of : Peter Rogers  
Specialist Field : Acoustics  
On behalf of : Mrs Cunningham  
Prepared for : Trethowans LLP  
Reference : **EXHIBIT PR/1**

From website on the 22/10/19:

**ANGOLA '76**

JUNGLE | CAFE | MUSIC | BAR

Weekly Live Music, Great Food, Funky Cocktails and a Family Friendly Atmosphere Awaits You.

Burgers, Nachos, Wings, Ribs, Vegan, Veggie etc  
Great selection of worldwide beers, cocktails & spirits  
Comfy sofas, relaxing atmosphere with upstairs & outside seating  
Live music every Thursday evening & Sunday afternoon  
Available for private functions & party celebrations  
Family & Dog friendly

**OPENING HOURS**

Monday - 4pm to 11pm  
Tuesday to Thursday & Sunday - 12 noon to 11pm  
Friday & Saturday - 12 noon to 12:30am  
Food Served - 12 to 2:30pm & 8 to 9pm

Extracted from facebook on the 22/10/19:

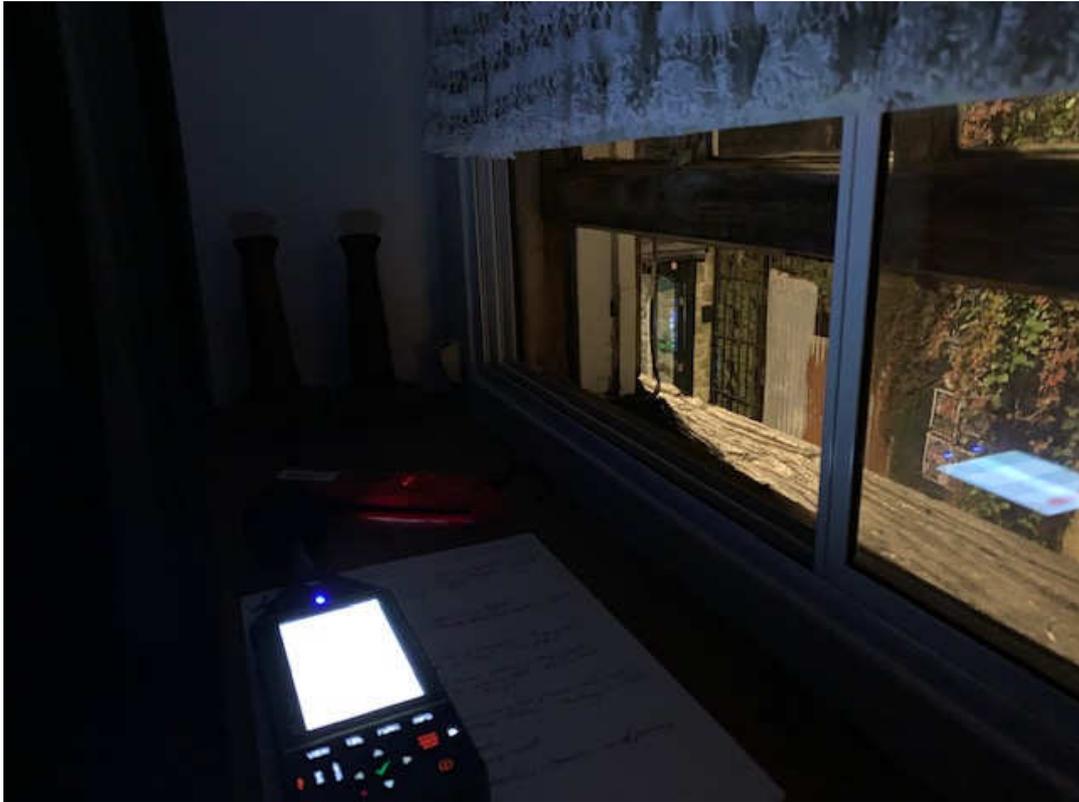


Report of : Peter Rogers  
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## APPENDIX 3

### PHOTOGRAPHS



*Photo 1 : 20:48 – Window open and internal secondary glazing open*



*Photo 2 – 21:25 people going into the venue*



*Photo 3 – 00:07 People dispersing from the venue*



*Photo 4 – 00:21 People lingering outside venue*



*Photo 5 – 00:38 People dispersing from the venue noisily*



*Photo 6 – 00:42 People dispersing with male on shoulders*



*Photo 7 – 00:43 Deserted and quiet street*



*Photo 8 – 00:43, last dispersing person from venue*



*Photo 9 – 00:58 Staff leaving area by car*

Please accept the following as our formal comments on the current license review for Angola 76.

As of today senior management have given authority for planning enforcement notices to be served on the property. I will be endeavouring to draft notices in the coming days/weeks these will have to be checked by legal services prior to service a process which can take a few weeks.

Our notices will be two fold and in broad terms be served for the reasons given in the last planning refusal :-

1. Will tackle the unauthorised change of use of the left hand side building(when looking from the road) and yard to a bar/night club without planning permission. Due to the harm being caused to the amenity of the area.
2. Will tackle unauthorised building works including the container in the yard used as a wc, partition screen wall erected in the yard and the gates clad in metal across the front of the yard. Due to unacceptable visual impact on the conservation area.

I note in appendix 1 the original license application indicates that patrons will be directed to area B the rear yard after 10.00pm. Part of this area has now been built on a wooden extension to the back of the building in unauthorised use having been constructed there on.