Case No: G00MK161

IN THE COUNTY COURT AT OXFORD

St Aldate's, Oxford OX1 1TL

Date 12 October 2021

B e f o r e:

HER HONOUR JUDGE MELISSA CLARKE

- -

B e t w e e n:

DR MARY FAIRHURST

Claimant

- and –

MR JON WOODARD

Defendant

- -
- -

Mr Charles Phipps (instructed by Slade Legal) for the **Claimant**
Mr Jonathon Rushton (instructed on a direct access basis) for the **Defendant**

Hearing dates: 6 and 7 May 2021

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JUDGMENT

Her Honour Judge Melissa Clarke:

A. Introduction

1. This is judgment following the 2 day trial of the Claimant Dr Fairhurst's claim in harassment, nuisance and breach of the Data Protection Act 2018 arising from the Defendant Mr Woodard's use of several security cameras and lights at and around his property in Thame.

2. The parties are neighbours. The Claimant is a scientist who owns 83 Cromwell Avenue, Thame, Oxfordshire ("No 83"). She has lived there since 1997. The Defendant is an audio-visual technician. He owns 87 Cromwell Avenue ("No 87") and has lived there since at least 2003, although he moved out temporarily when refurbishing the property in 2017/2018.

3. No.83 is the end property of a terrace of houses. To the east of No 83, running along its side boundary, is an access road ("the driveway") leading into a large private parking area with a number of spaces owned and/or used by local residents ("the car park"). To the east of that driveway is 85 Cromwell Avenue, which is the first property of a second terrace of houses. At all relevant times, No 85 was occupied by a Ms Paige Vantuykom. Attached to the west of No 85 is No 87, a mid-terrace property. The rear gardens of, *inter alia*, No 83, No 85 and No 87 back onto the car park.

4. In the car park, The Claimant owns two parking spaces located immediately behind the rear garden boundary fence of No 83. The Defendant owns one parking space immediately behind the rear garden boundary fence of No 87 and rented the adjacent space from the owners of 89 Cromwell Avenue since November 2019.

5. The Defendant keeps a shed in his rear garden, up against that fence. On that shed he has mounted (i) a floodlight and sensor ("the Floodlight"); and (ii) a video and audio surveillance camera with an integrated motion sensitive spotlight known as a 'Ring' Spotlight Camera (Battery) (the "Shed Camera") pointing in the direction of the car park.

6. Next to the front door of No 87, the Defendant has also installed a combined doorbell and video and audio surveillance system known as a 'Ring' Video Doorbell 2 (the "Ring Doorbell") and pointing in the direction of Cromwell Avenue.

7. On the gable end wall of No 85 (i.e. Ms Vantuykom's property), the Defendant installed a second 'Ring' Spotlight Camera (Battery) (the "Driveway Camera"), pointing down the driveway towards the car park.

8. Finally, the Defendant placed a camera which he says was a 'Nest' camera inside the front windowsill of No 87 ("Windowsill Camera"), pointing out of the window towards Cromwell Avenue..

9. I will come back to the chronology of those installations. However, it is common ground that the Defendant removed the Driveway Camera and the Windowsill Camera sometime in November 2019 before the commencement of these proceedings. The Floodlight, Shed Camera and the Ring Doorbell remain in situ. Where convenient, I will refer to the Shed Camera, the Driveway Camera, the Ring Doorbell and the Windowsill Camera as "the Cameras".

10. In relation to the Driveway Camera and the Windowsill Camera there is an issue about whether they were ever in use as cameras, or, as is the Defendant's case, never commissioned and so merely visible 'dummy' deterrents (and in the case of the Driveway Camera, used only as a motion sensitive spotlight).

11. In relation to each of the Cameras, there are issues between the parties about:

    i) its field and depth of view, i.e. the extent it can 'see' beyond the boundaries of the Defendant's property, in particular whether it can 'see' the Claimant or her visitors entering and leaving her property, her car, or the car park;

    ii) the sensitivity of its microphone;

iii) the extent to which it activates itself automatically, or is triggered, to capture, transmit or record video images and/or associated audio from the field of view (it being accepted that once the camera is set up, the user can do so at any time);

iv) whether the Defendant undertook adequate consultation of neighbours before installation or provided adequate notices or warnings after installation;

v) how and for what purpose the Defendant stores and processes the video or audio files produced by it.

B. THE PARTIES' POSITIONS

12. The Claimant's case in broad summary is that the Defendant has consistently failed to be open and honest with the Claimant about the Cameras, has unnecessarily and unjustifiably invaded her privacy by his use of the Cameras and has intimidated her when challenged about that use, and that this amounts to:

i) a nuisance; and

ii) breach of the Data Protection Act 2018 and Regulations thereto ("DPA 2018"); and

iii) a course of conduct designed to harass the Claimant contrary to the Protection from Harassment Act 1997 ("PHA 1997").

13. It is her case that his actions have caused her such distress that she left her home on 29 April 2019 and has not been able to return to reside there again. The Claimant seeks damages, and injunctive relief against the Defendant *inter alia* mandating the removal of the Ring Doorbell and Shed Camera and forbidding the installation of further surveillance cameras.

14. The Defendant denies each aspect of the Claimant's claims.

C. WITNESSES

15. The Claimant relies on evidence from (i) herself; (ii) her friend Dr Ruggero Franich; and (iii) Mr Simon Steen who is a friend of Dr Franich. All filed witness evidence, came to court and were cross-examined and in the case of The Claimant and Dr Franich, re-examined

16. The Defendant relies on evidence from (i) himself; (ii) Ms Lesley Harker, who is a neighbour living at 95 Cromwell Avenue who deals with the question of consultation prior to installation of the cameras; (iii) Mr Gerry Byrne who had previously lived at 93 Cromwell Avenue who addresses when CCTV was installed at the property; and (iv) Ms Fiona Hayward, who lived at 99 Cromwell Avenue until her death in May 2020. A hearsay notice has been filed in respect of Ms Hayward's witness statement, signed before her death. The Defendant, Mr Byrne and Ms Harker attended at court and were cross-examined and The Defendant was re-examined.

17. The Defendant sought to rely on a witness statement from Ms Paige Vantuykom, a former resident of 85 Cromwell Avenue, but The Defendant says that she made it clear to him several weeks before trial that she did not propose to come to court and she did not, in fact, attend. She did not sign the document that the Defendant relies on as her witness statement, although it appears to be executed by her. In fact, affixed to the witness statement beneath the statement of truth is a photograph of Ms Vantuykom's signature taken from another document entirely. That document is also in the bundle.

18. At the start of trial there was no evidence before me about how that photograph came to be affixed to this witness statement and I made clear that I would place no weight on the statement without understanding how it had come to be created in that form. Accordingly, the Defendant's partner Ms Nicola Copelin produced a witness statement in which she described that she had spoken on the telephone with Ms Vantuykom about her witness statement, that Ms Vantuykom was not able to sign it either physically or electronically and so Ms Vantuykom had authorised Ms Copeland to copy her signature from a previous witness statement and

transpose it onto the new statement. The Claimant did not choose to cross-examine Ms Copelin and accordingly her evidence is unchallenged.

19. If that is in fact what happened, it is still not a witness statement signed with a statement of truth because it has not been signed by Ms Vantuykom at all. She has not affixed her signature or mark to it and the way Ms Copelin did it means that I cannot be satisfied that Ms Vantuykom knew exactly what evidence her signature was being attached to, or that the evidence is in her own words. If Ms Vantuykom had come to Court she could have been asked to sign the document with a. statement of truth and swear that the evidence was true, but she has not come to Court and no real explanation has been given for her absence. In those circumstances I can place no reliance on the purported witness statement.

20. My assessment of the witnesses who did attend at court is as follows.

21. I found Dr Fairhurst to be a good, careful witness who was precise in her use of language. She did not seek to evade or dissemble or exaggerate in her answers to questions, albeit she did have a tendency to seek to advocate her case. She was unshaken in cross-examination. I found her to be both credible and reliable.

22. I found Dr Franich to be a palpably honest witness who came to court to assist it to the best of his ability. He was careful to limit his evidence to that which was in his personal knowledge, and where he was unable to give direct evidence he said so. He was candid, credible and reliable.

23. I found Mr Steen to be a credible witness who I am satisfied came to court to give truthful evidence of the experiments that he had carried out on a Ring Doorbell and Ring Spot Cam installed at his house.

24. Mr Byrne was a good, straightforward witness. He was a previous neighbour who had moved away from Cromwell Avenue in 2005, and candidly accepted that his evidence that there were no cameras at No 87 in 2017 and 2018 was based on what the Defendant had told him in 2019.

Accordingly it doesn't take me further, save to wonder why the Defendant had called him.

25. Ms Harker was another good witness, and I am satisfied she came to court to assist it to the best of her ability. She confirmed the presence of several floodlights in the car park, and that she found them, including the floodlight on the Defendant's shed, helpful at night. She accepted that she did not know if there was a camera on the shed in 2018 or not but believed that there was not because the Defendant had told her that he was putting a camera up in 2019. Again, her evidence was therefore of limited assistance.

26. I found the Defendant Mr Woodard to be a very poor witness. He admitted that some of his evidence was incorrect. Different accounts given at different times contradicted each other. Some of it he changed in oral evidence as he went along, as difficulties with his evidence were revealed by Mr Phipps' questioning. Much of his evidence was exaggerated. Some of it is contradicted by contemporaneous documentation or correspondence. Some of it was simply unbelievable. In several ways, I found him to be untruthful. I can believe almost nothing that he tells the Court unless it is supported by other evidence which is both credible and reliable, or the inherent probabilities. Where his evidence is in direct conflict with that of the Claimant and Dr Franich, I prefer their evidence.

27. I will set out a few examples where I consider the Defendant's evidence was dishonest, exaggerated or otherwise incredible. This is by no means a comprehensive list:

28. His evidence at trial that he did not install, have in contemplation, and discuss with the Claimant the installation of SMART cameras on the Shed or at the front door was contradicted by the letter written on his instructions by his solicitors Horwood & James on 19 September 2019 in response to a letter written by the Claimant's solicitor's Slade Legal. Slade Legal had set out the Claimant's position on this point clearly:

> "In Spring 2018 you showed our client some home improvements that you were working on inside your house, including describing some of your

> plans and work in progress for use of so-called "SMART" technology that would enable you to control some aspects of your home remotely… [the Shed Camera] came to her attention during that conversation in your house. At the time you informed our client that the Shed Camera immediately alerted you to activity within its range…".

29. It goes on, but that is a flavour of it. Horwood & James responded:

> "It is accepted that our respective clients spoke about various SMART devices which had been installed in our clients' house, including the Shed Camera, which was installed to protect our clients' vehicles, when parked in the parking spaces used by our clients"

30. The Defendant's attempts in cross-examination to explain this contradictory position away, by saying Horwood & James must have been referring to discussions he had with the Claimant *"at a different time"* were themselves contradicted by his written evidence that he made a deliberate decision not to consult the Claimant before any of the cameras were installed, although he had consulted his other neighbours. He had previously confirmed that he had not spoken directly to her about it previously in the cross-examination. When this was put to him in cross-examination he became rather flustered, in my assessment. He then gave new, and equivocal, evidence of another conversation with the Claimant, saying *"At some point, I don't know when, they were installed, and I think I spoke to her just after they were installed"*. I am afraid I did not find him at all convincing. I do not consider his evidence on this point was honestly given.

31. The Defendant relied on printouts of photographs he had taken of his front door, unadorned by a Ring Doorbell or other security surveillance device, which he said were taken I September 2018. In cross-examination he said that he could be sure of the date those photos were taken as he had taken them using his phone, which captured the data and time. That being so, it is surprising that he has chosen to disclose only a printed version of the photos, with a printed caption added by him stating 'September 2018', rather than disclosing the photographs digitally which would enable the metadata to be examined. I remind myself he is an audio-visual engineer who can send video and photographs electronically, as he has done so at

other times during the relevant period, and that he can be expected to know (and appears by his evidence to know) about the information which can be gleaned from metatags. I draw the inference, which I am entitled to do, that he did not disclose those photos electronically because the metadata would not have supported his case on the date they were taken.

32. The Defendant said in his witness evidence that he started to explore how to install a security camera to look after his car only in February and March 2019, not in 2018, and that as part of that process he contacted the Information Commissioner's office via the web page to read about what he had to do before installing such a camera. His evidence that he asked the ICO if he could register to be a data controller but was told that he could not, as No 87 was a domestic dwelling, is extremely surprising advice for the ICO to give, as it is patently wrong and is as wrong under the DPA 2018 as it was under its predecessor legislation, the Data Protection Act 1998. I do not believe, on the balance of probabilities, that he was told this at all.

33. The Defendant described the Driveway Camera in a text to the Claimant (responding to one she sent to him when first she noticed it) as *"a dummy camera with a working light"* when he now accepts that it was a Nest Ring camera in full working order identical to the Shed Camera. However, he said that it was never operational as a camera and only used as a floodlight, up until he became aware that the Claimant had discovered that he had sent footage from the Driveway Camera to some neighbours. He then said, and initially argued at trial, that he had only momentarily made it operational during the course of installation, in order to place it convincingly and check its field of view, following which he then disconnected it from the internet (which he said he had accessed by wireline draped from his house to the Driveway Camera location on the end wall of the terrace, because his Wi-Fi signal could not reach it) and thereafter used it only as a motion-sensitive floodlight. The letter from Horwood & James of 16 September 2019 describes the Driveway Camera in similar terms: *"Although this camera has the ability to be operational, such that it was purchased as a working*

*camera, other than during initial mounting (when it was checked to see if it could work), the camera is not, and has not been, operational. It therefore acts as a dummy camera (and it is our clients' intentions to keep it as a dummy camera), attempting to dissuade any criminal activity from entering the communal car park by its placing in the only entrance and exit to the car park. This camera is **not** operational."*

34. Given that the manufacturer's documentation does not appear to disclose any method by which it can be used as a motion-sensitive floodlight without (a) being connected to the internet and (b) without the camera also being operational, which the Defendant eventually, finally, accepted in cross-examination; and given that there appears to be no reason why he should place it so carefully and check its field of view if he never had any intention of using it as a camera, and given that (for reasons I will set out in due course) I am satisfied that he was alerted by the functioning Driveway Camera itself to the presence of Dr Franich on the driveway inspecting the camera, I have no doubt that his evidence on this point was dishonestly given. He eventually accepted in cross-examination that the Driveway Camera was in wife range, which makes the story he told about draping a wire from one house to the other for the purposes only of set up, in my judgment, entirely concocted to attempt to support his position that it was never a functioning camera.

D. FACTUAL BACKGROUND

35. It seems that the Claimant and Defendant had somewhat remote but perfectly civilised neighbourly relationship before the events which have brought them to this Court. The Defendant says he installed the floodlight on the shed shortly after he bought No 87 in 2003, to help provide night time lighting around the area of his car parking bay. The Claimant accepts that it has been there for a long time and so I accept his evidence.

Spring 2018 – Were the Shed Camera and Ring Doorbell installed?

36. In Spring 2018 the Defendant was in the process of undertaking a comprehensive refurbishment of No 87, when he offered the Claimant a tour of the building works he was carrying out. She accepted.

37. The Claimant says she was *"alarmed and appalled"* to notice that the Defendant had a surveillance camera mounted on the shed, because she was *"very surprised that the Defendant was keen to intrude into others' comings and goings"*. She says that the Defendant told her that he could view footage from the Shed Camera at any time from wherever he was and that he received alerts whenever it detected any movement. She described this as *"alarming"*. In her witness statement she described that the Defendant showed her how he received alerts from the camera on his mobile phone or smartwatch and showed her a clip of a car moving in and out of a parking space on his smartwatch. She said in oral evidence that she felt he was showing her because he thought he would be impressed by the technology. In her witness statement she says she told him that this might be a privacy concern for other people, and in oral evidence she clarified that she meant people other than him: she says she was concerned for her own privacy at No 83 and when using the car park. She says that the Defendant told her that the Shed Camera only allowed him to view the area of the car park immediately around his car and van, and she accepted that assurance as she had a good history with him.

38. The Claimant also says that during the tour, the Defendant mentioned a doorbell camera, although she could not remember whether he had already installed it or said that he was going to install it. She said she understood from this conversation that the camera was or would be activated by the doorbell and would view no more than someone standing on the doorstep immediately in front of the door.

39. Dr Franich, who I have found to be a highly credible and reliable witness, says that he remembers the Claimant returning from that visit to the building works at No 87 and telling him about the cameras, and says he remembers noticing a camera mounted on the Defendant's shed even before the Claimant went on her tour. Dr Franich says that he saw the Ring

Doorbell affixed to the porch of No 87 on many occasions since about the middle of 2018.

40. The Defendant says that the Claimant's evidence is *"absurd":* that at the time of the tour there was no camera on the shed (although the Floodlight and an associated sensor was there); there were no discussions about a camera on the shed or a doorbell camera; and that he did not install the Shed Camera and Ring Doorbell until 9 April 2019, about a year after the Claimant's visit. He says that at the time of the tour, No 87 was a building site with bare walls, unfinished wiring and no broadband installed and there were no Cameras installed when the Claimant visited. He points out that the Cameras require Wi-Fi to function. He says the tour took barely five minutes. He says that he did not have any of the discussions about SMART devices that the Claimant says they had. I have already set out my concerns about this evidence, in particular the contradictory account he authorised his solicitors Harwood & Johnson to give in written correspondence to the Claimant's solicitors.

41. The Defendant's case is that he moved back home to No 87 in September 2018 when the refurbishment was complete. He intended to buy a car. Because he only had one parking space, which he used to park his work van, he says he went to see his neighbour at No 87, Ms Sandie Tricks, in November 2018 who agreed to rent to him her parking space, which was adjacent to his and immediately behind his rear boundary fence. He says he then researched suitable devices and after consulting with neighbours (but not the Claimant) he bought and installed the Shed Camera and Ring Doorbell on 9 April 2019. I have already set out my view that the Defendant's evidence that he deliberately had not spoken to the Claimant about the devices before they were installed undermines his attempts to provide a different explanation for Harwood & Johnson's acceptance, on his behalf, that he had spoken to the Claimant about SMART devices than the obvious one: namely, that he had that discussion with the Defendant during her tour of No 87 in April 2018.

42. I do not accept the Defendant's evidence that the Shed Camera and Ring Doorbell were not installed until 9 April 2019. I have also already set out my concerns that the Defendant did not disclose digital versions of the photographs of the front door which he says date from September 2018, and which he relies on as evidence that no Ring Doorbell was installed by that time. For the reasons already given, I find it more likely than not that they pre-date the Claimant's tour of No 87 in April 2018. Similarly, he relies on a receipt for a two-pack of Ring Spot Cameras purchased from Costco on 9 April 2019. This does not answer the weight of evidence against him on this point. As an audio-visual engineer I have no doubt he purchases equipment for the purposes of his work all the time. In all the circumstances I cannot be satisfied that that receipt supports his case that he did not install the Shed Camera and Ring Doorbell until 9 April 2019.

43. For all those reasons I find on the balance of probabilities:

    i) that by the time of the Claimant's tour of No 87 in March 2018 the Defendant had installed the Shed Camera;

    ii) the Defendant demonstrated its workings on his smartwatch for the Claimant as she describes;

    iii) he told her that the Shed Camera's field of view only encompassed the area where his van and car were parked, i.e. his parking spaces;

    iv) at that time the Ring Doorbell had been installed

44. These findings also fit with a reference that the Defendant made in his cross-examination that the Claimant and Dr Franich had issues with the Shed Camera and Ring Doorbell *"way before"* 28 April 2019.

45. I further accept the Claimant's evidence that she did not raise any other or more formal objections about what she knew of the Claimant's actual or planned surveillance cameras in the year or so after March 2018, until 28 April 2019, because she had understood from the Defendant's explanations

that the Shed Camera and Ring Doorbell were not capable of capturing any images or other data of her going about her daily business.

46. The remainder of the dispute between the parties relates to events which took place over a 5 day period from 25 to 29 April 2019.

Did a masked gang attempt to steal the Defendant's car in the early hours of 25 April 2019?

47. The Defendant says in his witness statement that on this day at around 3am "there was an attempt to steal my Audi and in the process the masked thieves ripped the Ring shed camera from its mounting and stole it. This terrifying incident of a masked criminal was recorded whilst the camera remained functional and I was able to provide a copy of the video to the police as well as the Claimant".

48. This is a different account to that which he gave in a letter from his solicitors Horwood & James to the Claimant's solicitors Slade Legal on 16 September 2019, which refers to a *"traumatic attempted theft of [the Defendant's] motor vehicle by a gang of masked persons in balaclavas in or around April 2019. These persons attended our clients' property on no less than 3 occasions, with our clients' contacting the police"*. The Defendant in cross-examination accepted that the gang only attended once, so far as he is aware and so far as he reported to the police. The Defendant appears to have given a third account to Ms Hayward, who refers in her witness statement to the fact that *"armed robbers were in the car park"*. He agreed he told her that they were armed with a weapon. In an email to the Claimant's solicitors of 19 January 2020 he described himself as "the victim of a terrifying robbery by an armed criminal gang". He continued to suggest at trial that the events of that night were an attempt to steal his car by an *"armed criminal gang"*.

49. I have watched, carefully and several times, a copy of the video captured by the Shed Camera before it was disconnected and stolen. That shows that two men approached the Defendant's car parking space and the Shed Camera, with a third man in a car visible behind them. I have no reason to

think that they were not working together. The Defendant described the man in the car as a getaway driver and that may well be a fair description. The two men appear to be dressed in black wearing hats, and one has his face covered. There is no evidence of a weapon, in my judgment. Although one man does appear to be carrying something small in his right hand, the Defendant accepted it was not a gun or a bat but said it was something *"bigger than a pen"* and said he thought it might be a knife or a bar. The Defendant did not mention a weapon or that he thought the men were armed in his statement given to the police three weeks later, which he accepted in cross-examination was his best recollection of the events of that night. He told the police that they were wearing hats and he could only see the top of their heads. He told them that he could not provide them with any further information.

50. I am satisfied that the Defendant's assertion that the men attended three times was untrue and he knew it was untrue; that they were not wearing balaclavas although this may have been an honest mistake by the Defendant; and that the description of them as *"armed"* was an exaggeration. I do accept that he honestly believes that they came to steal his car and that the incident was frightening for both him and his partner.

51. The Defendant called 999 and the police attended at No 87 at about 4.30am. His evidence is that they told him to step up security.

52. The Defendant says that he bought a two-pack of replacement, identical camera and installed one on the shed (which I will continue to call the Shed Camera as it is identical to the one which was stolen) and one on the gable wall of No 85 (which became the Driveway Camera) the next day.

What happened next?

53. The Claimant and Dr Franich say that they noticed the Driveway Camera for the first time on 28 April 2019 when they returned to the Claimant's house by car. After parking, the Claimant says she went to talk to Fiona Hayward, a neighbour who lived at 99 Churchill Avenue, who was in the

car park at the time. The Claimant says that Fiona told her that the Defendant had installed the Driveway Camera because a gang of men wearing balaclavas had tried to steal the Defendant's car; that the Defendant had showed her (Ms Hayward) footage from his cameras including the new Driveway Camera; and Ms Hayward described the footage from the Driveway Camera as including the bins below it, the Claimant's garden wall and gate and foliage in her garden. The Claimant says that Ms Hayward also told her that she had only just found out that the Shed Camera had been 'watching her' for a year, and that the Defendant's partner Ms Copelin had set up a WhatsApp 'neighbourhood watch' group to share information including footage from the Cameras, and several households had joined it.

54. The Claimant texted the Defendant after she entered her house: "Just got back and noticed intrusive camera. Pls can we talk ASAP. I'm around tonight – else pls suggest when soonest. Thx M"

55. The Defendant replied, "It's a dummy camera with a functioning light as there was four thieves all with balaclavas trying to steal our car on Thursday night and stole our real camera above my car looking at my car only".

56. The Claimant replied "I'm v sorry about your car. Fiona said briefly. Would still like to chat asap pls…"

57. The Claimant and Dr Franich then discussed the Defendant's description of the Driveway Camera as a *"dummy camera with a working light"* and Fiona Hayward's description of having seen footage from the Driveway Camera. They agreed that Dr Franich would go out and look at the Driveway Camera again, because he had thought it looked exactly like the Shed Camera, and they were concerned it was a fully operational camera, not a dummy. It was dusk, so Dr Franich went out with a torch, but says when he approached it the floodlight activated. He walked up towards the Driveway Camera which was above where some wheelie bins were kept and had a look at it. He then returned to No 83. I note here that his oral

evidence about where he was standing fits with what the Claimant says she was told about the field of view from the Driveway Camera by Ms Hayward's description of the footage she had seen.

58. The Claimant says received a phone call from the Defendant after Dr Franich had been outside inspecting the Driveway Camera for a minute or so. She says he told her that Ms Vantuykom from No 85 had called him in a panic because there was a strange/suspicious man out on the driveway with a torch. The Claimant told the Defendant it was Dr Franich who was checking the camera. She says that the Defendant then became very defensive and started *"a rant"* about the need for cameras everywhere due to the attack on his car and the presence of dangerous criminal gangs. He told her about the events of the early hours of 25 April, that he thought it was targeted because his car was desirable, and that he expected the gang would return.

59. The Claimant says that she was out watering her plant pots at the front of her house at 6.30 the following morning, 29 April 2019, when she saw Ms Vantuykom park her car and walk up the driveway towards her house. The Claimant went over and spoke to her. She says that she apologised if Dr Franich had alarmed her the previous evening, but Ms Vantuykom had no idea what the Claimant was talking about. The Claimant explained that the Defendant had told her that she had been alarmed by someone on the driveway the previous night, but Ms Vantuykom said she knew nothing about any such activity the previous evening and had not been in touch with the Defendant. The Claimant says that Ms Vantuykom showed no signs of being distressed or irritated about being asked about these events, and they parted amicably.

60. The Claimant says that she continued tidying her pots and the area outside her house, and at about 7am thought she heard noises from the Defendant's shed. She says that she thought he might be coming out to go to work, so waited by his car, which was parked in one of his parking spaces, to speak to him. She was wearing a pink jacket with the hood up, which she often wore. He didn't come out, so she returned home. She later went to work

herself. She texted the Defendant saying that she had spoken with Ms Vantuykom and asked to *"talk cameras in person at soonest"*. She did not provide any details of her conversation with Ms Vantuykom. The Defendant responded by text message, *"Paige rang me and said you was waiting for her earlier in the morning as she hadn't realised it was her other half that was alerting us to suspicious behaviour from her phone yesterday evening"*. That is a confusing message, but the Defendant explained in cross-examination that he was saying that Ms Vantakuyom had telephoned him to tell him that she hadn't contacted him the previous evening, but her partner had, and had used Paige's phone to do so. The Claimant reiterated in her text in response that she found the privacy situation very concerning, saying *"[I] would urgently like to see what your real cam does cover at the back/parking pls. I do *not* want my or my visitors 'seen' by cameras"*.

61. The Defendant's response to that was to send the Claimant two still photographs of herself standing by the Defendant's car that morning, together with a message saying, *"This was our latest suspicious behaviour this morning which we had to report to the police"*. The Defendant confirmed that he had captured those stills from footage from the Shed Camera, which had been triggered by the Claimant's presence near his car.

62. The Claimant submits that the Defendant knew full well that those were pictures of the Claimant, and not evidence of any suspicious behaviour which needed to be reported to the police. She relies on that message as part of a course of conduct amounting to harassment.

63. Let me make some findings in relation to these events. I remind myself that I do not give any weight to the purported witness evidence of Ms Vantuykom.

Was the Driveway Camera operational?

64. I accept the Claimant's evidence that Ms Hayward told the Claimant she had seen footage from the Driveway Camera. That is because the Claimant has shown the Court messages from Ms Hayward to Dr Franich in which

she forwarded to him footage from the Shed Camera that the Defendant had posted on the WhatsApp Group but apologised that she didn't have a copy of the Driveway Camera footage as she must have been shown it on a phone.

65. Although the Defendant told the Claimant at the time of her first complaint that the Driveway Camera was a dummy camera and not operational, his position on this has changed. His solicitor in correspondence with Slade Legal originally stated, on his instructions no doubt, that *"neither this firm nor our client are aware of what the dummy [Driveway] camera would be able to view"*, but in later correspondence confirmed that it was not, in fact, a dummy, saying *"Although this camera has the ability to be operational, such that it was purchased as a working camera,* ***other than initial mounting (when it was checked to see if it could work)****, the camera is not, and has not been, operational. It therefore acts as a dummy camera…"* (my emphasis). So the Defendant before trial accepted that the Driveway Camera was operational while he set it up, and it was his evidence that the footage Ms Hayward saw was footage from that set-up operation.

66. The Defendant's position at trial remained initially that the Driveway Camera was only ever momentarily operational during installation, as I have already described. I have set out in my assessment of the Defendant as a witness my concerns about his evidence on this point.

67. I do not accept the Defendant's evidence that he was telephoned by Ms Vantuykom's partner from Ms Vantuykom's phone in a panic, but he originally thought it was Ms Vantuykom and reported it to the Claimant as such. That seems to be highly improbable, and he tripped himself up in cross-examination when he confirmed that he was a very old family friend of Ms Vantuykom, said that he answered the phone thinking it would be her, but realised it wasn't her when he spoke to her partner. If that was true, i.e. that he knew during the conversation who he was speaking to, why would he later text the Claimant that he had been phoned by Ms Vantuykom in a panic or fright? That was put to him, and he said, *"Because she was on Paige's phone and she [the Claimant] wouldn't know*

who Paige's partner is". That is, in my judgment, extremely unconvincing. I do not believe this evidence was truthful.

68. What was interesting about this part of the Defendant's cross-examination was that although his pleaded case was that his telephone call to the Claimant about his alleged conversation with Ms Vantuykom or her partner *"was nothing more than that of a concerned neighbour, the Defendant's property having its gable end and fence line running the length of the driveway"*, he did not repeat this in his witness statement. In cross-examination he said that Paige's partner had described the 'strange man' who panicked her, and he had recognised Dr Franich from her description because *"he had been there four or five times a week taking photos of my property. He had been spotted"*. When it was put to him that the Claimant had only found out about the Driveway Camera on 28 April 2019, the evening of the phone call in question, he said, *"They [meaning the Claimant and Dr Franich] had issues with the Shed Camera and the front doorbell way before that"*. He has not provided any evidence in his witness statement of the Claimant or Dr Franich having issues *"way before that",* as I have previously mentioned. I consider his evidence on this point supports my earlier finding the Claimant did discuss her concerns about the Shed Camera with him during her tour of his property in 2018. Mr Phipps put this to him directly in cross-examination, responding: *"When - in 2018?"* and the Defendant, seemingly stuck in a web of his own lies, answered limply, *"Whenever they were installed. 2019. Four months after we moved in*".

69. Far more likely, in my judgment, is the simple and obvious explanation for the Defendant's phone call to the Claimant that night: that he saw Dr Franich inspecting the Driveway Camera because Dr Franich activated the Driveway Camera when he moved into its activation zone, which alerted the Defendant by sending a clip of footage to his mobile devices. In other words, contrary to the Defendant's case and evidence, the Driveway Camera was fully operational. The Defendant's confused and confusing evidence on this point seems to be an attempt to tailor his evidence to try to

cover a lie - namely that he had received a call from the household at No 85 about a stranger on the driveway. It was put to him in cross-examination that he made the whole story about Ms Vantuykom and her partner up to cover up the fact that he had seen Dr Franich through the operational Driveway Camera, and he denied it. Nevertheless, I am satisfied that is what he did.

Was the Defendant being honest with the Claimant when he told her that (a) he thought the footage of her captured by the Shed Camera was a suspicious stranger; and (b) that he reported it to the police?

70. In my judgment the answers to both these questions are no. The Defendant has disclosed a two still images from the Shed Camera showing the Claimant by his car. Of course, his camera did not provide stills. It provided video clips of 30s long, as he accepted in cross-examination. He has not disclosed the rest of the video. The Defendant described what the Shed Camera caught as "an individual loitering by my car and attempting to conceal their face at the same time". He says that he was upset and anxious that the thieves were back to have another go. He says it was only later that day that he discovered that it was the Claimant, who had identified herself from the images he sent her.

71. The Defendant was asked in cross-examination if he had chosen those stills in full knowledge that it was the Claimant, because her face was the most obscured of all the frames of the full video. He denied it, explaining that she had walked up and down one side of his vehicle with her head down. When it was pointed out that she must have faced the camera if she walked both up and down the side of his car, he said she did not, because she shuffled sideways or backwards. I found his evidence on the point entirely unbelievable and in my assessment he was making it up as he went along. He had lived as a close neighbour of the Claimant for many years at this point, and I am satisfied on the balance of probabilities that he recognised her from the video clip.

72. In relation to the alleged report to the police, the Defendant's position has changed over time. In his answer to Part 25 questions he confirmed that he sent the photo of the Claimant to the police. In correspondence from him to the Claimant's solicitors on 10 January 2021 he wrote *"I recall I stated to the Claimant this was going to be reported to the police, but I have checked and can find no record of me sending it to the police"*. I note that he did not tell the Claimant that it was **going to be** reported to the police but that it **had** been reported to the police, and he eventually accepted that distinction in cross-examination, but only after being pressed by me. At trial he said he *"may have sent it to the police"* and that he was *"pretty sure I did but I can't 100% say"* and *"I'm pretty sure I sent it but I can't find any correspondence"* and *"I'm sure I sent it. I'm positive I sent it but whether I sent it I don't know"*. He has not been able to find any evidence that he sent it to the police.

73. I am satisfied on the balance of probabilities that he did not send it to the police, because he knew that it was the Claimant and that she posed no threat to him. The Claimant's evidence is that she perceived his text message and the images he sent her to be a form of intimidation. She said that she considered he was warning her not to ask him about or otherwise pursue her concerns about his surveillance activity and threatening to misuse the images that he was capturing of her going to and from her house if she displeased him in any way. The Defendant accepted in oral evidence that he had sent those images of the Claimant to some of the neighbours with a message saying, *"This is the most recent suspicious activity",* so it seems that her concerns about misuse of the images were well-founded. It was put to him that he told the Claimant that he had sent her image to the Police to intimidate her, because he was angry that she had told him she found his cameras intrusive. He denied it, but I am satisfied that it is more likely than not that this was the case.

Telephone calls between the parties on 29 April 2019

74. Following the Claimant's message asking to talk to him about the situation, she telephoned him later, from work, on 29 April 2019. She gives a detailed

account of the call in her witness statement. Dr Franich says that he was present during the phone all and he could hear the Claimant's side of the conversation and some of what the Defendant was saying, because he was significantly raising his voice. The Defendant does not deal with this telephone call at all, although he accepted in cross-examination that there was such a call. The Claimant was not questioned about that detail in her cross-examination by Mr Rushton. Accordingly, it is effectively unchallenged.

75. The Claimant says that the Defendant assured her that he had already sent those images to the police. I have found that he did not. She says that the Defendant refused to provide her with more information about the cameras and what they captured. She said *"As I tried to explain my concerns he came increasingly emphatic, obstructive, and unwilling to listen. Each time I tried to speak he began to repeat all over again his view that total camera coverage was essential due to the extreme threat posed by the criminal gang who had tried to steal his car the previous week. I was concerned that his version of events in relation to that incident was sounding more exaggerated each time he retold it, which led me to suspect he was deliberately trying to scare me into accepting his cameras. He also repeated, even more emphatically and without explaining that away in any other terms, that he had 'everything covered now'"*. Dr Franich says that his impression of the conversation was the Claimant trying to talk to the Defendant who was merely repeating that his cameras were staying as they were, very emphatically and very loudly.

76. The Claimant says she asked the Defendant to meet to discuss the situation, but he refused and she felt there was no prospect of further discussion or compromise. The Claimant said that she considered that the situation was *"rapidly getting worse with every communication with the Defendant"*, although she accepted the telephone call finished on civil terms. I accept her evidence.

77. The Claimant says she discussed the matter with Dr Franich, and they decided she needed to have more information about the cameras. When

they returned to her home at around lunchtime, Dr Franich went to take photographs of the cameras to try and ascertain from the manufacturer's specification what they were capable of. That required him to stand in one of the Defendant's parking spaces, quite close to the camera, to capture the details of the make and model of the camera. The Claimant then noticed she had a missed call from the Defendant followed by a text message from him attaching an image of Dr Franich looking at the camera, with a message saying, *"I am gonna call the police if ruggero comes onto my property again"*. Accordingly, she called the Defendant back immediately. Dr Franich had returned to the house and was present in the same room for the beginning of this call.

78. Before I move onto the telephone call, I pause to note that the Defendant, in an email to the Claimant's solicitor of 18 July 2019, described this image of Dr Franich in the following terms: *"A male, unknown to me, was taking a significant number of photos of my camera, property and my vehicles, without my permission – I now believe this to be your client's friend. This footage was sent to the police as they requested all suspicious activity, following the robbery. At the time I did not know who this male… was… I believed he may belong to the organised criminal gang".* Once again, this appears to be the Defendant stating that he doesn't know who his camera has captured but informing the Claimant he has forwarded it to the police. Of course he did know who the man was, because he had sent the Claimant that text, which I have seen a screenshot of, clearly identifying him as Ruggero, i.e. Dr Franich. The Defendant accepted in cross-examination that he knew who he was when he saw him, and when asked on what basis he had sent the photo to the police he said, *"He was a suspicious man in a long raincoat – in a suspiciously long raincoat"*. He then said he didn't know if he had sent the footage to the police or not, then said that he did not know if Dr Franich had anything to do with the criminal activity. Finally he got hopelessly entangled, saying that he did know that it was Dr Franich when he had looked at the alert sent to his phone by his camera, but he had sent it on to the police before he had looked at the images. I have no doubt that, as was fairly put to him, he was making it up as he went along. I find

on the balance of probabilities that he did not send this footage of the police because he knew full well that the man was Dr Franich who had nothing to do with any criminal activity directed at his car or his shed, but that he said he had provided that footage to intimidate the Claimant.

79. Turning back to the second phone call of 29 April 2019, the Claimant describes the Defendant during this call as confrontational, belligerent and aggressive. Dr Franich says that the Defendant was shouting so loudly that even when the Claimant went upstairs and he remained downstairs, he could still hear the Defendant shouting and ranting down the phone. The Defendant denied this characterisation in cross-examination, saying only that it was *"slightly heated"*. I prefer the evidence of the Claimant and Dr Franich. The Claimant says that the Defendant repeated that he *"had everything covered now"*, that there was *"nothing you can do"* about the Driveway Camera which Ms Vantuykom had given permission for him to install, and that he said he would *"set up more cameras, including concealed cameras"*. She said that it seemed that he was at least as keen to do so to attack her desire for privacy at home as because he thought his vehicles were at risk. He told her that his cameras had been approved by Thames Valley Police and he had friends in the police. Again, the Defendant does not address these accounts in his witness evidence, and it is effectively uncontroverted. I accept her evidence.

80. The Claimant says that she was alarmed by this conversation, which increased her impression that the Defendant was now focussed on harassing her, because of her resistance to his maintenance of the whole area under surveillance. She said that she felt unsafe staying in her own home because of the extent of the surveillance he implied he had in place by saying he *"had everything covered"* and because of the Defendant's hostility which seemed be escalating. Dr Franich says that the Claimant looked shaken after the call had finished and told him that she did not feel safe in her home environment any more.

81. The Claimant decided to leave home. She went to work, looked up some information on the website of the Information Commissioner and reported

her concerns to the police. She spent the night of 29 April 2019 elsewhere and has not returned to her home since.

After 29 April 2019

Conversation between Dr Franich and the Defendant on 8 May 2019

82. Dr Franich's evidence is that he regularly went back to Cromwell Avenue to collect post or look after the garden for the Claimant while she was not there. He says that on 8 May 2019 at around 8pm on one such visit he saw the Defendant walking down the driveway and went to talk to him. He described him as aggressive from the start. He said the Defendant told him that he knew Thames Valley Police well, the police were laughing about this matter, he had total support from the neighbours as everyone felt safer with the technology he discussed. He says that the Defendant then launched into a diatribe about how he was an expert installer of camera equipment for billionaires, had technology that *"even the Chinese have no access to"* and could "hack things". He said that he regularly installed hidden cameras in restaurants and that Dr Franich was naïve to believe that anyone really respected regulations in regard to CCTV installation. Dr Franich says that the Defendant then began to talk about the Claimant, and said she could *"go to Hell"*, and if she did not like his cameras she could *"go and live down the drain"*. He said that if she did not like his current cameras, *"she would enjoy some of his future surveillance projects even less"* and that he was going to install cameras *"good enough to see the colour of her eyes"*.

83. Dr Franich was cross-examined about this conversation and his evidence was unshaken. I have already assessed him as palpably honest. Dr Franich said that he was particularly concerned about the Defendant's reference to hacking, and although some of the things he had said were just boasts and abuse, other matters including the threats about future projects, were concerning.

84. The Defendant does not properly address this conversation in his witness evidence. He says that he was never hostile or rude to Dr Franich, but he did not want to engage with Dr Franich about the Claimant and *"his recent*

antics". Those *"antics"* appear to be Dr Franich's regular inspections of the Cameras. It seems that the Defendant considers that the Claimant and Dr Franich should be content to be subject to surveillance by the Defendant, but Dr Franich is to be deprecated for inspecting the surveillance equipment itself. That is an unattractive position for the Defendant to take, in my view. The Defendant in cross-examination said in terms that Dr Franich was lying. Mr Rushton says that the sort of belligerence that both the Claimant and Dr Franich describe the Defendant as displaying is completely out of character for him. In fact that is the evidence of both the Claimant and Dr Franich. They describe in their witness evidence that they considered the first phone call on 29 April 2019 to be completely out of character, but that his behaviour deteriorated and the level of concern they felt from what he was saying increased. The Defendant was asked in cross-examination if he had threatened in that conversation to install more secret or invisible cameras and the Defendant gave an evasive answer, saying that he had no concealed CCTV. That doesn't answer the question of whether he threatened it. I do not believe that Dr Franich was lying, and I accept his evidence. I consider that his behaviour was oppressive, likely to cause alarm and distress, and unjustified in the circumstances.

When was the Windowsill Camera installed? Was it a mere dummy camera?

85. The Defendant says he placed the Windowsill Camera on the front windowsill in approximately late April or early May 2019. Having originally described the Windowsill camera as a dummy, and in the letter from his solicitors Horwood & James to the Defendant's solicitors on 16 September 2019 as *"an old, unconnected camera"* which was not operational and placed there to dissuade criminal activity against No 87, in cross-examination The Defendant accepted that it was a modern, new Nest camera which had been given to him as a present. I accept this latest version of his evidence.

86. The Defendant's evidence is that the Windowsill Camera was never plugged in, and so not used as a camera. The Claimant says that a

neighbour, Sandy Tricks, told her in July 2019 that it was a working camera which captured footage through the Defendant's front window of another of the Defendant's cars parked at the front of his house, and also of passers-by because the device operated continuously. I bear in mind all the Defendant's untruthful evidence about the other Camera installations, and I am afraid I cannot accept his evidence that it was not operational. As well as being contradicted by the Claimant's evidence from Ms Tricks, I think that is inherently unlikely, given his interest and expertise in surveillance technology and the fact that he activated all the other cameras, including the Driveway Camera which originally said he said he did not activate. I think it is more likely than not that it was active.

CCTV Sign

87. The Defendant put a sign in his front window stating, *"WARNING Concealed CCTV cameras operate on these premises".* I have seen a photograph of this sign. He says he did so as a direct result of the recommendations made by PC Kent of the Thames Valley Police and the guidance provided by the ICO. The ICO guidance does not suggest that those who do not use concealed CCTV should warn of it. His evidence is that PC Kent advised that he should display CCTV signage to the front and rear of his property, but again he does not state that he was advised to warn of concealed CCTV when he was not using it. The Claimant describes this sign as feeling intimidating to her, because of the threats that the Defendant had made to Dr Franich that he would conceal cameras in his property. I accept her evidence.

Current situation

88. The Defendant's evidence is that in early November 2019 "as a goodwill gesture" he took down the Driveway Camera and removed the Windowsill Camera. The Claim was issued in February 2019. The Shed Camera and the Ring Doorbell remain installed and in use, as do their floodlights. Dr Franich's evidence is that the lighting settings of the Shed Camera and the Floodlight had changed so that a visitor to No 83 would be subjected to a

succession of bright, sometimes blinding lights; that the orientation of the Shed Camera changed from time to time; and that he was informed by the police on 30 October 2020 that they had been provided with evidence, including footage, of him visiting No 83 on 6 identified dates in September and October 2020 and one other unidentified occasion. He says that on checking, he found that each of the identified dates were dates he attended at No 83, and that on five of those days he had been captured on footage merely by driving down the driveway and parking in the Claimant's car parking spaces. This is after the Defendant says that he removed the Driveway Camera and so that footage must have come from the Shed Camera. Dr Franich says he made a subject access request to the Defendant to obtain the footage, but the Defendant denied having any of Dr Franich's personal data.

E. TECHNICAL SPECIFICATIONS AND SET UP OF THE CAMERAS

89. The Shed Camera (both the one stolen on 25 April 2019 and its replacement) and the Driveway Camera are/were Spotlight Cam Battery cameras manufactured by Ring. The manufacturer specifications disclose that they are battery-powered high definition (1080 HD) motion-activated video security cameras with a wide-angle lens, built-in motion-activated spotlight, infrared night vision, built-in microphone and speakers, two-way audio facility and a 110-decibel alarm. The device can send motion-activated alerts to a phone, tablet, PC or smart watch in the form of a 30 second video clip, but it can also be used to provide video and audio feeds on demand at the push of a button or use of the app.

90. These cameras are customisable to a certain extent. Firstly, they have three potential activation zones each of which can be disabled if there is excessive motion in one third of the field of view which would cause an unnecessarily large number of alerts, but it appears from the evidence before me that even if an activation zone is disabled so that the camera does not activate to film by movement in that area, activation by movement in one of the other non-disabled activation zones will cause the camera to film

across the whole field of view. Secondly, the motion sensitivity can be adjusted, which affects the speed at which the camera can detect approaching motion. Thirdly the frequency at which the camera captures motion can be set at frequent, standard or light.

91. The manufacturer's information discloses that although the cameras can be used without the floodlight, the floodlight cannot be used without the camera, and neither can work without being connected to the internet. It discloses a field of view of 140 degrees horizontal.

92. The Ring Doorbell is also manufactured by Ring. It too is a high definition (1080 HD) motion-activated video security cameras with a wide-angle lens, infrared night vision, built-in microphone and speakers, two-way audio facility and a 110-decibel alarm. Like the Ring Spotlight Cams, its sends motion-activated alerts in the form of a 30 second video clip, and can also be used to provide video and audio feeds on demand at the push of a button on the app. The manufacturer's information discloses that it has a wider field of view than the Ring Spotlight Cams, at 155 degrees horizontal.

93. Mr Steen, who is a solicitor and not an expert in electronic installations, conducted tests on a Ring Spotlight Cam fitted to his house to check its audio recording functionality. He describes how he accessed the Ring Spotlight Cam from the Ring app on his phone, counting from 1-10 in a conversational volume while walking away from the house so that the microphone on the device would pick up his words and play them back to him through the app. He continued to walk until his words were no longer played back to him, and he measured the distance from the Ring Spotlight Cam with a tape measure. In this manner he says he found that the audio quality of his speech was perfectly clear 40ft from the Ring Spotlight Cam, and the limit of reliable capture was about 53ft.

94. He did the same experiment from the Ring Doorbell and found that the limit of reliable capture was at about 68ft.

95. Of course there are criticisms that can be made of these experiments: that the audio capture in one location may be different to another because of

ambient or background noise, or because of the windiness of the location, etc; that Mr Steen is not an expert sound technician or audio scientist and so it cannot be known how careful and precise his methods are; that counting clearly from one to ten repeatedly is easier to understand and may be better captured than the ebb and flow of normal conversation; that just because one device produces one result does not mean that another device will perform identically, and we have no idea of the margin of variation from device to device – but it provides some idea of the capabilities of the Cameras and is the best evidence I have about the audio range of these devices.

96. Dr Franich has plotted a circle of 68 ft from the Ring Doorbell and 53ft from the Shed Camera onto a google aerial image of the houses and car park of Cromwell Avenue to show the distance at which, according to Mr Steen's experiments, those devices are reliably able to capture audio. The circle of the Ring Doorbell covers the whole of the Claimant's house and most of her garden. The circle of the Shed Camera covers almost the whole of the Claimant's garden, and her parking space as well as all the back gardens of the Defendant's next door neighbours and the gardens of the houses in the terrace to the north east of the car park. Between the two cameras, the whole length of the driveway is captured.

97. Mr Steen also tested the distance at which the Ring Video Doorbell would activate when placed on its minimum sensitivity setting using the app. He placed markers on the ground at 13, 15, 17, 19 and 21 ft from the front door next to which the Ring Doorbell was installed and walked past the camera at different distances to see the distance at which the camera would activate. He found that it reliably and regularly activated at 17ft from the door, although sometimes activated up to 21ft or more. It seems to me that this is a simpler experiment with a binary result – either the device activates and sends an alert, or it does not. Whether the markers are 17 feet or 6 inches off either way, it once again provides some idea of the approximate activation distance at a minimum setting. Again, Dr Franich has plotted this on a google aerial image to show where 17ft extends. That appears to show

that the Ring Doorbell will be activated by anyone walking along the pavement immediately in front of the Defendant's property and No 85, but not by anyone driving up or down the Driveway nor by any activity in front of the Claimant's property.

98. I have seen evidence which makes clear that at the time with which we are concerned, it was not possible to turn off the audio recording facility on these devices (although it is now possible to do so following a firmware update in 2020).

99. The parties have filed competing plans of the likely field of view from each of the installed cameras which I have considered. Of course I also have some footage from the Shed Camera and other evidence to assist me, including descriptions of the field of view of the Driveway Camera already described.

100. I make the following findings on the evidence before me:

The Driveway Camera

101. The position of the Driveway Camera high up on the gable end wall of No 85 and the description of the footage seen by neighbours is such that I am satisfied on the balance of probabilities that:

i) from when it was installed, until it was removed, the Driveway Camera surveyed the area set out in the Claimant's plan, including the Driveway (half of which is owned by the Claimant), the area where the bins are kept beneath the Driveway Camera, the side wall of the Claimant's garden including the side gate, some of her garden visible over the side wall, her parking spaces save what was blocked from the field of view by the walls of her garden, and that part of the car park that the Claimant would access in order to enter and leave her parking spaces. None of the area that it surveyed encompasses the Defendant's property. This could have been viewed at any time by the Defendant from his app, and the act of doing so would have triggered the floodlight of the Driveway Camera in the hours of darkness.

ii) the Driveway Camera (and the floodlight in the hours of darkness) would have been activated by any vehicle entering or leaving the car park by the Driveway, any pedestrian using the Driveway, any person leaving the Claimant's side gate or accessing the bin storage via the Driveway, and any car leaving the Claimant's car parking spaces.

iii) activation of the Driveway Camera also activated the audio function so that any conversations inter alia on the Driveway, in the Claimant's back garden, or in the Claimant's car parking spaces were susceptible to being heard and recorded.

The Shed Camera

102. The Defendant's evidence is that the Shed Camera was trained as closely as possible onto the two car parking spaces at the rear of No 87. However the video and stills I have seen in evidence, although subject to some variation, show a much wider field of view. In some of the stills, including those capturing Dr Franich, almost the entirety of the far wall of the car park can be seen. The Defendant was asked about this inconsistency, and he said that the Shed Camera was susceptible to being knocked by cats or moved out of position by the wind, but when he noticed, he adjusted it so that it was once again trained on his car parking spaces.

103. I am satisfied on the balance of probabilities that:

i) the Shed Camera routinely captured, and continues to capture, areas of the car park outside the Defendant's spaces, including sometimes, but not always, the top of the Driveway and part of the Claimant's car parking spaces, as I have seen those in some of the images which have been put in evidence from the Shed Camera. That means this area, when the Shed Camera was or is positioned to capture it, could have or can be viewed at any time by the Defendant from his app, which also activates the floodlight in the hours of darkness.

ii) the Shed Camera was and continues to be routinely activated by vehicles entering or leaving the car park by the Driveway, most

commonly those that access the spaces at the back wall of the car park but also, when the Shed Camera is positioned to capture it, any car leaving or entering the Claimant's car parking spaces, and any pedestrian entering the car park from the Driveway. Any such activation will also activate the floodlight in the hours of darkness.

iii) activation of the Shed Camera also activates the audio function so that any conversations inter alia, much of the car park but particularly including in the Claimant's car parking spaces and the top of the Driveway, are susceptible to being heard and recorded. I am not able to find on the balance of probabilities that the Shed Camera captures audio in the Claimant's back garden because, as Dr Franich accepts, the microphone will not capture audio as clearly if there are obstacles such as garden walls in the way.

The Ring Doorbell

104. I am satisfied on the balance of probabilities that:

i) the Ring Doorbell captured, and continues to capture, an area of pavement outside of No 87 and 85 as well as the front step of No 87. That means that this area can be viewed by the Defendant at any time from his app.

ii) it is likely to be activated by those walking along the pavement, although I think it is more likely than not that it is not activated by passing cars. It can also be activated by somebody pressing the doorbell.

iii) activation of the Ring Doorbell also activates the audio function so that any conversations within a significant distance as discussed, including inter alia, at the Claimant's front door, in the pavement in front of her house, on the Driveway including that part of the Driveway which belongs to her are susceptible to being heard and recorded. Once again I am not satisfied on the balance of probabilities that conversations in

the Claimant's back garden will be captured: I think that is less likely than such conversations being captured by the Shed Camera.

Windowsill Camera

105. I have less evidence about this camera. However the evidence I do have is that it was pointing outside the window in the direction of the Claimant's property (as that is where the Defendant's additional vehicle was parked) and so I can be satisfied that it captured images from outside the Defendant's Property, and that captured video continuously. It does not seem to me from the positioning that I have seen that it would have captured images of the Claimant's Property itself, save perhaps part of a front hedge, but I am satisfied that it is more likely than not that it did capture people walking along the pavement between No 87 and No 85.

106. Finally, I am satisfied on the evidence before me that the video and audio feeds when the Shed Camera, Driveway Camera and Ring Doorbell were or are activated are recorded and uploaded to cloud storage hosted by Amazon until automatically deleted after 30 days.

F.THE LAW

Harassment

107. Section 1 of the PHA 1997 provides that:

"1 (1) a person must not pursue a course of conduct-

(a) which amounts to harassment of another, and

(b) which he knows or ought to know amounts to harassment of the other.

(2) For the purposes of this section, the person whose course of conduct is in question ought to know that it amounts to harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.

(3) Sub-section (1)… does not apply to a course of conduct if the person who pursued it shows-

> (a) that it was pursued for the purpose of preventing or detecting crime… or
>
> …
>
> (c) that in the particular circumstances the pursuit of the course of conduct was reasonable."

108. Section 2 of the PHA 1997 makes the pursuit of a course of conduct in breach of section 1 a criminal offence. Section 3 provides a civil remedy in the following terms, so far as is relevant:

> "3 (1) An actual or apprehended breach of section 1(1) may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question.
>
> (2) On such a claim, damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss resulting from the harassment…"

109. Section 7 provides assistance with the interpretation of the foregoing sections, and of relevance to this case are the following subsections:

> "7… (2) References to harassing a person include alarming the person or causing the person distress.
>
> (3) A 'course of conduct' must involve-
>
> (a) in the case of conduct in relation to a single person, conduct on at least two occasions in relation to that person…
>
> (4) 'Conduct' includes speech."

110. The parties do not seem to have any material dispute on the applicable law. Mr Phipps for the Claimant relies upon the analysis of the authorities and several specific aspects of the law relating to the PHA 1997 carried out by Richard Spearman QC in *Gerrard v Eurasian Natural Resources Corp Ltd* [2020] EWHC 3241 (QB), [2021] E.M.L.R. 8. This includes consideration of the main authority relied upon by Mr Rushton for the Defendant, being the decision of Simon J in *Dowson v Chief Constable of Northumbria Police* [2010] EWHC 2612 (QB), but also authorities of the higher courts including (i) the Supreme Court decisions in *Majrowski v Guy's and St*

Thomas's NHS Trust [2007] 1 A.C. 224, particularly the judgments of Lord Nicholls and Lady Hale and in *Hayes v Willoughby* [2013] 1 W.L.R. 935 and (ii) the Court of Appeal decisions in *Thomas v News Group Newspapers Ltd* [2001] EWCA Civ 1233, [2002] E.M.L.R., and *Levi v Bates* [2016] Q.B. 91.

111. Mr Rushton sets out in his skeleton, and relies on, Simon J's six-point summary of what he considers must be proved as a matter of law in order for a claim in harassment to succeed, found at [142] of *Dowson v Northumbria*, but the Court of Appeal in *Levi v Bates* overruled the second of his six points, finding that the conduct in question need not be "*targeted at the claimant*", as Simon J held it must. With that caveat, I respectfully agree with Richard Spearman QC that the Court of Appeal appears to otherwise have approved the remainder of Simon J's list, i.e.:

i) There must be conduct which occurs on at least two occasions (required by 7(3(a) of the PHA 1997)

ii) …

iii) Which is calculated in an objective sense to cause alarm or distress, and

iv) Which is objectively judged to be oppressive and unacceptable

v) What is oppressive and unacceptable may depend on the social or working context in which the conduct occurs

vi) A line is to be drawn between conduct which is unattractive and unreasonable and conduct which has been described in various ways: 'torment' of the victim, 'of an order which would sustain criminal liability'.

112. Conduct may amount to harassment for the purposes of the PHA 1997 even if no alarm or distress was caused. However per Lady Hale in *Majrowski*, *"there is no requirement that harm, or even alarm or distress, be actually foreseeable, although in most cases it would be".*

Nuisance

113. The Claimant's complaint in nuisance is by way of interference with enjoyment of land. Both counsel rely for assistance on Chapter 19 of Clerk & Lindsell on Torts (23rd edition, 2020). Mr Rushton draws to my attention to 19-06:

> ".. A private nuisance may be and usually is caused by a person doing, on his own land, something which he is lawfully entitled to do. His conduct only becomes a nuisance when the consequences of his act are not confined to his own land but extend to the land of his neighbour by:
>
> (1) causing an encroachment on his neighbour's land, when it closely resembles trespass;
>
> (2) causing physical damage to his neighbour's land or building or works or vegetation upon it; or
>
> (3) unduly interfering with his neighbour in the comfortable and convenient enjoyment of his land.

114. Both Mr Rushton and Mr Phipps set out in their skeleton argument extracts from paras 9-09 to 19-11 of Clerk & Lindsell. I have read these sections in full. Mr Phipps picks up quotations covering the main points as follows:

> "…there is no absolute standard to be applied… the course in deciding whether an interference can amount to an actionable nuisance have to strike a balance between the right of the defendant to use his property for his own lawful enjoyment and the right of the claimant to the undisturbed enjoyment of his property. No precise or universal formula is possible, but a useful test is what is reasonable according to ordinary usages of mankind living in a particular society… A nuisance of this kind, to be actionable, must be such as to be a real interference with the comfort or convenience of living according to the standards of the average man…"

115. Counsel both agree that foreseeability of damage is a necessary.

116. Data Protection

117. Section 2 of the Data Protection Act 2018 ("DPA") provides that individuals shall be protected by the "UK GDPR" which is the EU's General Data Protection Regulation (EU 2016/679) ("the Regulations") as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

118. Personal data is defined in section 3 of the DPA as "any information relating to an identified or identifiable living individual" who is a living individual who can be identified directly or indirectly, by reference to a list of identifiers or other factors set out in that section. The individual can be identifiable from the personal data themselves or the personal data in combination with other information which the data controller has or would be able to acquire. As long as the individual is identified or identifiable any data which relates to them is personal data in relation to that individual.

119. "Processing" is defined in section 3(4) of the DPA and means, in relation to information, an operation or set of operations performed on it, or on sets of information, such as collecting, recording, structuring, storage; adaptation or alteration; retrieval, consultation or use; disclosure by transmission, dissemination or otherwise making available; alignment or combination; restriction, erasure or destruction. However this list is merely indicative and not comprehensive.

120. A "controller" of personal data is defined in Article 4 of the UK GDPR as a natural or legal person… which alone or jointly with others determines the purposes and means of the processing of personal data.

121. Article 5(1) of the Regulations sets out guidelines for the processing of personal data. They provide that personal data shall be:

i) processed lawfully, fairly and in a transparent manner in relation to the data subject;

ii) collected for specified, explicit and legitimate purposes and not further processed in a manner which is incompatible with those purposes; and

iii) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

122. However, the processing of personal data is not lawful unless it is necessary for one of the specified purposes. Necessary means, *per* Baroness Hale in *South Lanarkshire Council v Scottish Information Commissioner*, that it is

"…"reasonably" rather than absolutely or strictly necessary… a measure would not be necessary if the legitimate aim could be achieved by something less".

123. Section 167 of the DPA provides the court with jurisdiction to grant injunctive relief if it is satisfied that there has been an infringement of the data subject's rights under the data protection legislation in contravention of that legislation and may make an order for the purposes of securing compliance with such legislation. That can be an order requiring a data controller to take specified steps, or refrain from taking specified steps and to put a timetable in place for compliance.

124. Article 82 of the UK GDPR provides for compensation for material or non-material damage, including distress.

G. APPLICATION OF THE LAW TO THE FACTS

Harassment

125. The particulars of harassment alleged by the Claimant are set out at para 52 of the Particulars of Claim. The facts relied on are either not disputed or I have made findings supporting all of them except (f) (which does not apply as I have found that the Driveway Camera did transmit images); and the second sentence of (n) which I haven't dealt with yet, but now find that I am not satisfied on the balance of probabilities that the use of a minions sticker on the Windowsill Camera was intended to mock the Claimant. In relation to (d), it is pleaded that the Defendant knew or ought to have known that the Driveway Camera shining a floodlight onto the Claimant's property would be distressing to the Claimant but it is not necessary for any distress to be reasonably foreseeable and so I make no finding in relation to that. I accept that as a matter of fact the Driveway Camera did shine onto a glass-roofed section of the Claimant's house.

126. The question is whether, taken together and without deconstructing them into individual acts, all these facts and findings amount to harassment for the purposes of the Act. Warby J (as he then was) in *Hourani v Thomson &*

Ors [2017] EWHC 432 (QB) at [129] suggests that when considering whether a PHA 1997 claim is made out, the Court should ask itself the following questions which I now ask myself:

i) *Did the Defendant engage in a course of conduct?* I don't think there is any doubt about this. A course of conduct is at least two occasions and there are more incidents relied on than that in this case.

ii) *Did any such course of conduct amount to harassment?* Mr Rushton for the Defendant makes several submissions on the point which do not survive my factual findings. I have found several occasions when the Defendant has caused the Claimant alarm and distress, which although not necessary, is within the concept of harassment. That includes when the Defendant falsely told her he had sent her image to the police as an unknown suspicious person which she said, and I accept, that she perceived as intimidation; the first phone call of 29 April 2019 in which she felt that the Defendant was deliberately trying to scare her; his threat by text to call the police on Dr Franich that day; his lie that he had sent Dr Franich's image to the police; the second phone call of 29 April 2019 in which he threatened to set up more cameras including concealed cameras and which left her so alarmed and shaken she left home; the conversation with Dr Franich on 8 May in which he made threats that I have set out, which I have found was oppressive and likely to cause alarm and distress; Dr Franich's discovery that his concern he was being surveilled at the Claimant's property was well-founded, when he was informed that the Defendant had sent footage of him on dates that he had attended No 83. I must also take into account other findings which are part of the course of conduct, including the lies that the Defendant told about the Driveway Camera and the Windowsill being non-operational dummy cameras, and the lies he told to support those lies, in particular arising from Dr Franich's first investigation of the Driveway Camera. Taking all the behaviour into account, I am satisfied that it crosses "the boundary between that which is unattractive and even unreasonable and that which is oppressive and

unacceptable", per Rix LJ at [45] of *Iqbal v Dean Manson Solicitors* [2011] IRLR 428, relied on by Richard Spearman QC in *Gerrard v Eurasian*.

iii) *Did the Defendant know, or should the Defendant have known, that the conduct amounted to harassment?* The question is whether a reasonable person in possession of the same information would consider that it amounted to harassment in the social context in which the conduct occurs. I am satisfied that the reasonable person would. The context is, as the Defendant accepts, a neighbourhood in which the Defendant had lived for over 20 years in seeming harmony with all his neighbours, including the Claimant, albeit that they had relatively little to do with each other. I am satisfied that the reasonable person would consider that to go from that to the level of belligerence, dishonesty, threats and oppressive behaviours exhibited by the Defendant over, initially, the course of a few days was unusual and alarming behaviour amounting to harassment.

iv) *Did the course of conduct not amount to harassment because it was (i) pursued for the purposes of preventing or detecting crime; and/or (ii) in the particular circumstances, reasonable?* This is where Mr Rushton focussed his submissions for the Defendant. He submits that the Driveway Camera was installed for the purposes of preventing or detecting crime in circumstances where the Defendant had just had a terrifying encounter with a gang of criminals. In closing, he submitted that the Claimant showed *"no understanding or compassion of how the theft of his security device affected him"* and deprecated the Claimant for showing him no empathy for his true motive in installing it. This sounds to me like victim-blaming. The Court is unimpressed by arguments that women who are being bulldozed and intimidated by men should show them empathy and understanding for the circumstances which 'made them' do it. Mr Rushton submits that the Defendant's actions were reasonable within the factual matrix of this

terrifying incident, and the Claimant was *"unduly sensitive"*. I strongly disagree.

127. For all those reasons, I find that the claim in harassment succeeds entitling the Claimant to damages for distress.

Nuisance

128. The Claimant's pleaded case in nuisance is set out at paragraph 35 of the Particulars of Claim.

i) In relation to 35(a) I have found that the Claimant (and her visitors) were subject to visual surveillance by the Driveway Camera in the manner that I have set out above, which accords with the pleading, but I have not found that the Driveway Camera could have detected sound or conversation within the Claimant's rear garden for the reasons I have given.

ii) In relation to 35(b) I have found that the Driveway Camera light was switched on with movement of vehicles or pedestrians on the Driveway in the hours of darkness, and that it illuminated the Driveway, her garden wall and her conservatory. I do consider that I have sufficient evidence to make that finding in relation to the entirety of the Claimant's back garden.

iii) In relation to 35(c) I have found that on occasion the position of the Shed Camera means that the Claimant (and her visitors) were subject to visual surveillance when driving in and out of the car park and when at her car parking spaces.

iv) In relation to 35(d) I have found that the Ring Doorbell means that people walking past No 87 and 85 are subject to visual surveillance.

v) In relation to 35(e) I accept that the Floodlight and the light connected to the Shed Camera (and the Driveway Camera when installed) draw attention to those who trigger them by movement but I do not consider that it is a privacy issue inasmuch as I have had no argument or

> authority put before me to suggest that there is any legitimate expectation that a person walking in a place used by the public or a community such as the Driveway or Car Park has a right to remain shrouded in darkness. It may be a light nuisance issue, but it is not pleaded as such.

129. The pleaded case in relation to 35 (a) (c) and (d) then is one of nuisance caused by loss of privacy. The difficulty acknowledged by Mr Phipps for the Claimant is that the Court of Appeal decision in *Fearn and Ors v Board of Trustees of the Tate Galler*y [2020] EWCA Civ 104 is against the Claimant's case, and it is authority which binds me. The Court of Appeal held that mere overlooking from one property to another is not capable of giving rise to a cause of action in private nuisance. Given Mr Phipps' acceptance that I am bound to follow *Fearn*, although he reserves the Claimant's position in respect of the principle as he submits *Fearn* is wrongly decided, I will not spend any further time on it. The claim in nuisance to that extent cannot succeed.

130. That leaves the pleaded case for nuisance caused by light from the Driveway Camera, which the Defendant does not dispute is a valid cause of action. The question is one of degree. What is and is not reasonable according to the ordinary usages of man living in a particular society. The Defendant submits that in proceeding with this claim, given the Driveway Camera was removed 4 months before the claim was issued, the Claimant is either hypersensitive or pursuing a vendetta. He also submits, and the Claimant accepts, that if it is not foreseeable that because of the distress caused by the nuisance the Claimant would leave the property, the damages claim will fail (per *Raymond v Young* [2015] HLR 41). I accept that light triggering on and off through a conservatory roof may be, and probably was, of some irritation for the Claimant. However she is living in a town, not the countryside, where night-time lights are a feature. I do not consider that it was an undue interference with her use or enjoyment of her property, or that the amenity value of the property was materially reduced for the period during which the Driveway Camera light was operating. Nor do I

consider that it was reasonably foreseeable by the Defendant that the Claimant would leave her property and live elsewhere because of it. For all those reasons, the claim in nuisance fails.

Data Protection

131. The Claimant's pleaded case is that: images and audio files of the Claimant are personal data within the meaning of Article 4(1) of the General Data Protection Regulation 2016/679 ("the Regulations"); that the Cameras collected such personal data, that the transmission to the Defendant's phone or computer or other device, the retention of any such images or sound on such a device and their onward transmission to others (whether neighbours, the police, or the cloud for storage) are processing of personal data within the meaning of Article 4(2) of the Regulations; that the Defendant as the person determining the purpose and means of that personal data is, and was at all material times a data controller within the meaning of Article 4(3) of the Regulations, and accordingly must comply with the principles set out in Article 5(1) of the Regulations.

132. I don't think any of that analysis is disputed, and I so find. The question is whether the Defendant has processed such personal data lawfully and in accordance with the principles.

133. I note that the Information Commissioner has provided Guidance on the meaning of 'transparently' in which she says that "Transparent processing is about being clear, open and honest with people from the start about who you are, and how and why you use their personal data". Given the extensive findings that I have made relating to the manner in which the Defendant sought to actively mislead the Claimant about how and whether the Cameras operated and what they captured I am satisfied that the Defendant has breached: the first principle as he cannot be said to have processed data fairly or in a transparent manner; and the second principle, as he has not collected data for a specified or explicit purpose but rather sought to mislead the Claimant (i) that the Shed Camera was focussed only on his car parking spaces when I am satisfied that on many occasions it had a very

wide field of view and captured the Claimant's personal data as she drove in and out of the car park; and (ii) that the Driveway Camera was not collecting her personal data at all, when I am satisfied that it was.

134. My findings that the Defendant collected data outside the boundaries of his property, particularly by way of the Driveway Camera but also in respect of the other Cameras, means that it is for him to satisfy the Court that such processing of data *"is necessary for the purposes of the legitimate interests of the controller… except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject"* (Article 6(1)(f)). The Defendant submits that all his data collection and processing was necessary for the purposes of crime prevention at his property and in the car park, but the Claimant submits that her right to privacy in and around her home overrides that purpose. I consider that the balance between the legitimate interests of the Defendant and the right of the Claimant to privacy and a home life are met in relation to the processing of video personal data from the Ring Doorbell, and I am so satisfied. That is because any video personal data of the Claimant is likely to be collected only incidentally as she walks past, unless the Claimant stands on the Defendant's door and rings his doorbell, and I consider that his legitimate interest in protecting his home whether he is there or not are not overridden by her right to avoid such incidental collection on a public street, albeit in the vicinity of her home. However I consider the processing of audio personal data from the Ring Doorbell to be problematic and I will return to that.

135. In relation to the Driveway Camera which was trained on the Claimant's property including her side gate, garden and her car parking spaces, I do not consider that the Defendant has satisfied me that this is necessary for the purposes of his legitimate interests. The Driveway Camera only collects data from outside the Defendant's property; it does not view his cars or shed or anyone approaching his property from the front or rear; it is not legitimate for the Defendant to carry out video and audio surveillance of a road leading to a car park used by others in which he maintains two parking

spaces, when his cars and property could be protected in a lesser way that does not sacrifice the privacy of the Claimant and the other users of the Driveway, for example by a camera that does have a close focus on only the cars in his parking spaces. The Defendant says that he could not afford a camera with a more restricted view but he puts no evidence about the cost of any such system before the court which presumably, as an audio-visual specialist, he would not find difficult to do, nor any evidence about his finances. I note he has a high-performance Audi that he is seeking to protect so it seems unlikely that cost is an issue. If I am wrong about that, I consider that such interests are overridden by the Claimant's right to privacy in her own home, to leave from and return to her house and entertain visitors without her video personal data being captured. Again, the audio personal data collected and processed by means of this Driveway Camera is even more problematic and detrimental than video data in my opinion. For those reasons I am satisfied that the Defendant's processing of the Claimant's personal data by means of the Driveway Camera is not lawful.

136. In relation to the Windowsill Camera, I do not have any evidence that it processed personal data of the Claimant during the period it was in operation and so I will not consider it further.

137. In relation to the audio personal data collected by the Shed Camera, Driveway Camera and Ring Doorbell, I remind myself of the third principle, that personal data "*shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed".* This is the data minimisation principle. I am satisfied that the extent of range to which these devices can capture audio is well beyond the range of video that they capture, and in my view cannot be said to be reasonable for the purpose for which the devices are used by the Defendant, since the legitimate aim for which they are said to be used, namely crime prevention, could surely be achieved by something less. A great deal of the purpose could be achieved without audio at all, as is the case with the bulk of CCTV systems in use in public places in this country, or by a

microphone that only picks up sound within a small diameter of the device. That finding means that I am satisfied that the processing of such audio data by the Defendant as data controller is not lawful. The extent of the range means that personal data may be captured from people who are not even aware that the device is there, or that it records and processes audio personal data, or that it can do so from such a distance away, in breach of the first principle. The Claimant has fallen into each of these categories during the relevant time. The living individuals whose conversation it captures may well be identifiable from the data itself or from other information which can be obtained from the data controller particularly in a case such as this where the Defendant knows and is familiar with his neighbours and can probably identify many of them by voice alone, and certainly identify them with both the audio and video data that these devices capture.

138. For all those reasons, I am satisfied that the Claimant's claim that the Defendant has breached the provisions of the DPA 2018 and the UK GDPR succeeds. She is entitled to compensation and orders preventing the Claimant from continuing to breach her rights in the same or a similar manner in the future.

H. REMEDIES

139. The Claimant seeks damages for the harassment and data protection breaches I have found and injunctive relief relating to the removal of the Shed Camera, the Removal of the Ring Doorbell and preventing the reinstallation of the Driveway Camera.

140. I would like to hear further submissions on these points at the handing down of this judgment given the findings and determinations I have made so far. In particular, I would like to hear further submissions on the basis on which the Claimant seeks damages for breach of data protection legislation and harassment using the measure of damage for loss of amenity. I would also like to understand if the Ring Doorbell and Shed Camera as now installed are able to be utilised without audio recording.

I. SUMMARY

141. The Claimant's claims in harassment and breach of the DPA 2018 succeed.

142. The Claimant's claims in nuisance are dismissed.

143. I will determine quantum and consequential matters at the handing down of this judgment.