

IN THE BOROUGH OF MERTON

BETWEEN:

BLUE FOX EVENTS LTD

Applicant

-and-

Mr & Mrs Skriczka (THE RESIDENTS)

Respondent

POSITION STATEMENT PREPARED ON BEHALF OF THE RESIDENTS FOR THE
HEARING IN FRONT OF THE SUB-LICENCING COMMITTEE (“THE COMMITTEE”)
ON 30.01.19

Introduction

1. The Festival was first held in 2017 after which a number of complaints were raised by the local residents, mainly that of public nuisance. The Festival was again held in 2018. It was noted that Merton Council received over 400 complaints about noise for the 2018 event even though volume levels were kept to below the agreed limits.

Background

1. In the light of new recently available documentation and information we, Mr & Mrs Skriczka, would like to add few points to our representation. Amongst other points and as stated in our representations submitted to the council, the main issue experienced by our family was the continuous noise and hearing poor language. At one point on the Sunday in 2018 it was so loud that we could hear in our back garden these exact words: “put your f***ing hands up in the air”. My 2.5 year old son was exposed to this language! We were unable to use our garden due to the disturbing noise. The noise from the music and later from the attendees leaving the site considerably disturbed our family’s sleep.

This hearing

2. This hearing is consequential to the Applicant’s application to obtain a permanent licence, whereby the Applicant has stated but not adduced evidence which purported to tackle the Residents’ concerns, which is in fact suggestive in particular of the scale of

unreasonable interference of the Festival suffered by the Residents. Therefore, notwithstanding that the Residents resisted the application on the basis that substantive welfare decisions ought to be made, and that the Applicant's application was a deliberate attempt to draw the Committee in to entertaining their further efforts to undermine the intentions of the use of the Park and the residential area surrounding it, it is hoped that the Committee will share the view of the Residents that its welfare, and the welfare of its children matters, and that the issues that had occurred by the Festival are nothing short of public nuisance.

3. The Applicant has now suggested a number of proposals that are deeply disappointing to the Residents and in our view contain a preliminary analysis which is deeply flawed. It is inconceivable to the Residents that the Applicant cannot see that the Festival in its previous years is the cause of material unreasonable interference with the enjoyment of one's land, the safety of our children, and the character of the Park and the surrounding area.

The Applicant's proposals

4. In relation to noise - the Applicant states they have employed Noise Management Consultants whose recommendation was that the specific sound system which leaked low base frequency causing noise inside and outside of the event area would no longer be there. Even if the redundancy of this sound system reduces the noise levels further off site, there are still properties situated in close proximity to the Park as well as children's playgrounds being located inside the Morden Park. During the public meeting on the 22nd November the applicant stated that they have a strategy for managing complaints during the event and operate a noise hotline that residents can call to log a complaint. If complaints are received the noise consultants visit residents to take a dB reading and ensure levels are not being exceeded. This was not the case in 2018 as we have phoned the hotline and was told this will be logged. We didn't not receive a visit from anyone to measure the dB levels. Regardless of the compliance to the agreed decibel levels the nuisance experienced by the local residents is much too great and too long in duration. Having a telephone hotline in no way alleviates the disturbance suffered by the residents from being exposed to loud music. We here also refer to the Environmental health memorandum dated 3rd December 2018 by A. Pickup which states that noise management plan had to that date not been submitted and also pointing out that having a complaints hotline lacks substance in regards to achieving any form of "noise management". We would like to add that we have lived on Hillcross avenue for number of years and have witnessed and attended several events that were held in Morden Park. None of these events had caused this amount of nuisance to our daily lives and certainly none of them had forced us to submit formal complaints.
5. In relation to the use of misogynistic and poor language – the Applicant states that they have advised the organiser to move away from having MCs using such language. It is critically important to understand psychological impact of such language on our

children who have heard profanity and vulgar language whilst playing in their garden. Not only do the Residents nor any parent for that matter, wish to expose children to such language, but being able to hear it in your own garden only further demonstrates the close proximity of our land to the Park. We fail to see how simply “advising organiser to move away from this style of music” (as stated at the community meeting on 22nd November 2018) guarantees no poor language will be heard. [see case of *Thompson-Schwab v Costaki* in re: emotional distress which is also deemed interference].

6. In relation to security and stewarding – the Applicant states that they will have increased security and 2 mobile units patrolling the streets. The Applicant has failed to adduce evidence of the number of people comprising the security and mobile units teams. Given the Applicant’s proposal to have capacity up to 30,000 attendees, merely stating there will be increased security is insufficient.
7. It is also vital to consider the emotional harm suffered to date by the children and the Residents (including the residents of a nursing home) to consider the harm they will suffer as consequence of the application sought being approved.
8. In relation to public urination – the Applicant suggests they would raise awareness that if one is to see someone urinating in the street, that one should tell them it is not ok to do so. This is absurd! This is a residential area populated by many families and young children, approaching attendees who are likely to be intoxicated and seem to think that public urination is acceptable, is unrealistic. In any event, the attendees are unlikely to listen nor physically stop themselves from urinating. The suggestion that there will be increased provision of external toilets is also insufficient. This is only likely to encourage more anti-social behaviour such as drug taking. It is clear that having to factor in toilets off site, means that the event is not sufficiently equipped to deal with 30,000 capacity since there are inadequate number of toilets on site!
9. In relation to litter – the Applicant admits that they were unable to cope with the volume of litter due to being busy with clearing litter inside the event area. This only further demonstrates the large scale of the Festival and how it is out of control and impossible to manage. The Applicant suggests they will employ an external team to deal with the litter off site. With respect, it is evidently clear from the last year’s event, that it is a matter of common sense, and the people employed to clear the litter, simply didn’t think to do a thorough enough job of it. It is bad enough that the families are unable to take their children to the Park for 3 days over the weekend (family time), but to have to suffer ongoing nuisance of waiting for the area to be cleared thoroughly before it can be used for its original intention such as family time, or indeed weddings, is simply not acceptable.
10. In relation to drug use – the Applicant acknowledged that the provision of external toilets could result in drug use and other anti social behaviour. The Applicant suggests

that the external toilets will be accompanied by security. With respect, once again, this is a residential area, and it is inconceivable that the Residents have to accept that during the duration of the event there could be drug taking in the area.

11. In relation to considering the organisers experience and proven track record of handling events of this size – It should be noted that the applicant for the 2019 event is Blue Fox Events Ltd. The Metropolitan’s Police objection to this application states that “*From my experience of the operator and the quality of the Event Safety Management Plans submitted to the relevant authorities for the 2017 and 2018 events, I am confident in the applicant’s ability to produce satisfactory Management Plans for Eastern Electrics going forward....*” However the 2017 and 2018 applications were made by “We Are the Fair” not “Blue Fox Events Ltd”. So while the event planned is for “Easter Electrics” there is no clarity on the connection between Blue Fox Events Ltd and We are the fair Ltd or any guarantees provided that a large experienced events company will be managing these events in the future.

Conclusion

16. Public nuisance materially affects the reasonable comfort and convenience of life. It is evident from the Residents’ submissions that there has been unreasonable interference. It is evident that the Park is not purpose-built for an event of this scale. Allowing the Festival to take place in the Park each year is a clear departure from its historical use which ought to be preserved. The Festival is out of place with locality [*see Sturges v Bridgman*]

17. The Park is in close proximity to a large number of residential properties, several children’s nurseries (some of which are open all year such as the Busy Bees) and to a nursing home which is next door. It is evident from the past events that the attendees are incapable of normal behaviour causing noise and emotional distress.

18. The Festival is proposed to be a 3 day event, this only means ongoing nuisance for the Residents, and preventing comfort and convenience of life for unreasonable amount of time [*see case of Halsey v Esso Petroleum in re: time and duration which demonstrates unreasonableness*]. It is understood from the Licensing Sub-Committee Report distributed to the interested parties that recommendations have been made for the event license to be granted only for a two day event, not a three day event applied for. We wish to stress that even a one day event of this size and volume presents an unbearable nuisance and disturbance to our daily life. We have the right to quiet and peaceful enjoyment of our property and the Park. The weekend is the only time that we can spend as a family together and we will be unable to do that in our own home or even the Park if this event goes ahead.

19. The Committee simply cannot ignore that the application for the September event (MJMK Limited - “Dynamic Festival”, Notice of determination dated 17 August 2018) was rejected largely based on the experience and the mechanics with the

Festival. This only further demonstrates the serious impact that the noise, anti-social behaviour, lack of safeguarding, and plain nuisance has on a largely residential area.

20. It seems to us that the local residents are being treated as guinea pigs given that the Applicant is each year increasing the capacity and proposing further increases which it clearly cannot cope with. Local residents have the right to quiet and peaceful enjoyment of their properties, and the Park. We are not guinea pigs who should be denied our rights for the Applicant's or anyone else's profit.

Mr & Mrs Skriczka

20.01.2019

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