

Correspondence with Steve Holiingworth, Assistant Director Leisure, Sport & Culture, and Simon Ingyon, Interim Head of Parks & Leisure, LBHF, regarding live and recorded amplified music and the Covenants of Bishops Park.

Dear Steve/Simon

I know you are waiting to hear from legal colleagues regarding the email below. I am writing with regard to my question 2.

2. **Can you please confirm if your department has given or intends to give permission to the contractors to play amplified music at the park cafe in Bishops Park?**

I am now aware that a number of changes have been made to the Licensing Act 2003 resulting from new legislation being implemented, namely the Live Music Act 2012, Licensing Act 2003 Entertainment Amendment Order 2013.

This legislation now means that if a premises licence is granted to the Park Cafe, that the current contractors and indeed any future contractors who may inherit the lease, will have the automatic right to play amplified live music and recorded music, potentially up to 11pm at night, 7 days a week, with no further consent being needed.

Question two therefore becomes,

2. **Can you please confirm why the Parks Department/LBHF do not believe that playing amplified live and recorded music at the park cafe, (which would automatically be part of the granting of a premises licence), is a breach of the below covenant.**

'That the Vestry successors and assigns shall not do or suffer to be done to any part of the said hereditaments and premises hereby conveyed any act deed matter or thing which may be or tend to the nuisance damage annoyance or disturbance of the Commissioners their successors or assigns or **the owners or occupiers of any property in the neighbourhood.**'

As I have said in previous correspondence,

- The park cafe is situated 75 metres from the nearest residential dwellings which are Bishops Mansions apartments. These apartments have balconies and living and sleeping spaces that overlook the park and approximately 40 of the 148 apartments directly overlook the area of the park where the park cafe, bowling green and club house are situated.
- I note that in their application the contractors have said that the no amplified music is to be heard outside the premises. I am afraid that this statement is at best naïve and at worst disingenuous. I live in one of the apartments overlooking the park cafe area and the river. We are able to hear the amplified music very clearly at weekend events at the boat houses on the other side of the river, which are 400 meters - over 4 times further away than the park cafe.
- Any amplified music being played in the park cafe would therefore be very clearly audible to many residents in Bishops Mansions and on Stevenage Road and some of Cloncurry, Doneraile and Ellerby streets, in their homes, even if every door and window was closed at the Park Cafe. The reality of course is that doors, including the big bi-fold doors, and windows will be open and people will be moving from indoor and outdoor seating, especially in the summer months.

- There is no way therefore that playing amplified live and recorded music would not be heard outside the premises and would definitely cause nuisance damage annoyance or disturbance..... of the owners or occupiers ofproperty in the neighbourhood.
- Furthermore, if the contractors continue to try to apply for private event hire and/or Temporary Event Licenses, in an attempt to turn the Park Cafe in Bishops Park into a licensed event venue, then the nuisance damage annoyance or disturbance..... of the owners or occupiers ofproperty in the neighbourhood' would be greatly increased.

The reality of amplified live and recorded music being automatically bolted on to the granting of a premises licence is yet further evidence that the park cafe in Bishops Park is not a suitable location for a licensed premises, with specific reference to the parks covenants and the close proximity of residential dwellings.

Simon, I would be grateful if you could confirm receipt of this email and that you have forwarded it to the legal department.

Many Thanks

Marc

Marc Medina

Prof (psych), MA (Psych), BACP