

Marc and Brenda Vandamme

Partway House

Swalcliffe,

Banbury

OX15 5HA

28th August 2016

Swalcliffe Park Equestrian Ltd.

Wykham Park Lane

Swalcliffe,

Banbury,

OX15 5EU

LETTER BEFORE ACTION

Dear Directors,

This letter is served as part of the pre action protocol for Court claims and is to advise you that a failure to comply with the conditions attached to planning permission 14/01762/F, in particular with regards levels of noise and the nuisance caused by activities at the site exceeding the granted limit of 45 dB LA eq (15mins) may result in one or more of the actions listed below

- Application for a Noise Abatement order
- Application for an injunction to cease activities at the site
- Damages for nuisance
- Costs in making applications

It is appreciated that you recently applied for a variation of the planning permission that was granted on 29th May 2015, however I respectfully remind you that there are a number of High Court findings and authorities that demonstrate that a Local Planning Authority would be acting unlawfully to seek to allow an increased nuisance to occur by a grant of permission for such nuisance.

Swalcliffe Park Equestrian Ltd has demonstrated on two occasions that were monitored by Cherwell District Council that not only can you operate within the set limit, but that large events (as defined in the planning permission) can operate within the set limit.

We appreciate (but do not agree with) the stance given by Cherwell District Council that it has insufficient resources to monitor activities effectively. In view of this we have put in place our own monitoring, this will occur through a contractor and will produce periodic reports that we may use in evidence to support a claim by ourselves. In accordance with the Court Pre Action Protocol, in the event of this matter needing to be escalated to a claim against yourselves then you will be provided with a copy of any reports relied upon.

In the interests of transparency, we have attached a copy of an email from Jackie Fitzsimons – the officer for Cherwell District Council that is dealing with our complaint with regards noise.

Finally, please note that any action, may be served jointly with or in isolation to any action taken by Michelle Boycott, who we understand is also serving you with a letter before action.

Yours Faithfully

Marc and Brenda Vandamme

From: Jackie Fitzsimons
[mailto:Jackie.Fitzsimons@cherwellandsouthnorthants.gov.uk]
Sent: 22 August 2016 18:10
To: 'Michelle Boycott'
Cc: Trevor Dixon; Helen Osborn
Subject: RE: Swalcliffe Park Equestrian

Dear Mrs Boycott,

Thank you for your email of the 7th August 2016.

The equestrian event held over the weekend of the 5th to 7th August was monitored by Cherwell District Council Officers who visited on Friday 5th and Sunday 7th August.

Their overall impression was that the noise from the event was not excessive. The tannoy was audible but the sound from this was faint and in their opinion not a problem. The layout of the site was good with the noisier activities located away from residential properties and there was a buffer zone of around 100m between the event and residential properties. The measured noise levels as a result of activities on the site were within the level of 45dBLAeq(15mins) required by condition 5 on the planning consent. This level is below the general ambient noise level in the area and so other extraneous noises, such as the noise from passing traffic on the surrounding roads, which was generally above the noise from activities on the site, were excluded from the measurement.

I will comment on each of the other matters you have raised as numbered in the text of your email:

1. There are conditions on the planning consent which Swalcliffe Park Equestrian must comply with and the Planning Enforcement Team wrote to them in May this year to remind them of this. The Environmental Protection Team have also had discussions with Swalcliffe Park Equestrian about the noise limit and the requirements of the Noise Management Plan. The recent event was monitored and the noise levels were satisfactory so no further steps are considered necessary at this time.
2. We cannot give any guarantee that Swalcliffe Park Equestrian will not cause any antisocial noise intrusion in the future. If they are found to be in breach of the requirements of the planning condition then the Council will have to consider taking further action. This would be the same for any planning consent.
3. Planning consent has been granted with conditions which Swalcliffe Park Equestrian have to comply with. A written statement from Swalcliffe Park Equestrian that they will adhere to the conditions is therefore not required.
4. We cannot insist on a minimum buffer zone of 10m between the event activities and residential properties, however from the visits made to the last event the buffer zone was actually greater than this.

Should you require any further information or clarification on the above matters please contact Trevor Dixon on

trevor.dixon@cherwellandsouthnorthants.gov.uk or 01327 322279.

I have cc'd Trevor above for your convenience

Kind Regards

Jackie Fitzsimons

Jackie Fitzsimons | Shared Public Protection Manager | South Northamptonshire
Council and Cherwell District Council | Direct tel: 01327 322283
| Switchboard: 01327 322322 |