

**NOTICE OF APPEAL**

**IN THE MATTER OF THE LICENSING ACT 2003, SECTION 181 AND SCHEDULE 5,  
PARAGRAPH 8**

**AND IN THE MATTER OF FINSBURY PARK, SEVEN SISTERS ROAD, LONDON N4 2AB**

**TO: The Designated Officer, Highbury Magistrates' Court, 51 Holloway Road, London N7 8JA**

**Respondent: London Borough of Haringey**

**Complainant: Live Nation (Music) UK Ltd**

**Address: c/o Bermans Solicitors, 3rd Floor, One King Street, Manchester M2 6AW (Ref Simon Taylor)**

The Complainant is aggrieved by a decision of the Respondent's Licensing Sub-Committee notified to the Complainant on 22<sup>nd</sup> October 2018 in respect of an application for a review of the premises licence held by the Complainant for Finsbury Park, Seven Sisters Road, London N4 2AB, whereby the Respondent varied the conditions of the licence and curtailed the terminal hour of the Wireless Festival which is operated under the terms of the licence.

A copy of the decision is appended hereto.

In particular, the Complainant appeals against:

- (1) Amended condition 31.
- (2) Amended condition 105.
- (3) Amended condition 107.
- (4) A new, unnumbered, condition referred to in paragraph 55 of the decision.
- (5) The altered timings for the Sunday of the Wireless event referred to in paragraph 68 of the decision.

The general grounds of appeal are that:

- (1) In the above respects, the decision was wrong, disproportionate and contrary to the evidence.
- (2) The new conditions agreed by the Complainant with the London Borough of Islington and officers of the Respondent were sufficient to meet the exigencies of this case.

Without prejudice to the generality of the foregoing, the specific grounds are as follows:

**Finding of nuisance**

1. The finding that the event caused a public nuisance was contrary to the evidence and opinion of:
  - The Respondent's own specialist officer on noise matters, Rockwell Charles.
  - Independent officers employed by the London Borough of Islington. (The Respondent wrongly excluded such evidence on the basis that the London Borough of Islington had withdrawn its representation: however, the material was in the Council's agenda pack and the Complainant was obviously entitled to deploy it as it saw fit.)
  - Independent auditors from Reading Borough Council commissioned by the Complainant.
  - Independent environmental health auditors commissioned by the Complainant.
  - The Complainant's noise consultant Jim Griffiths, whose seniority and expertise in the field of festivals is unparalleled.
2. There was no other expert evidence in relation to the 2018 event before the Licensing Sub-Committee.
3. The Licensing Sub-Committee gave no reasons for rejecting the evidence set out above. This is the more concerning since it stated that Mr. Charles' evidence carried significant weight. His clear evidence was that there was not a public nuisance yet the Sub-Committee, while purporting to accord it significant weight, apparently rejected it without stating any reason.
4. Moreover, the Licensing Sub-Committee remarked on the low level of complaints and representations to the review, which was itself a clear indicator that the sound levels should not be considered a nuisance, yet nevertheless went on to hold that there had been a nuisance.
5. Further the Sub-Committee gave inadequate weight to the temporary nature of the noise.
6. Accordingly, the finding that there was a nuisance was wrong.
7. Further and in any event, the Sub-Committee failed to consider the extent to which any nuisance would be ameliorated by the agreed conditions.

**Amended conditions 31 and 107**

8. Amended condition 31 imposes a new maximum bass level of 85 dB while condition 107 imposes a new maximum sound level of 75 dB(A).

9. For all the reasons given above, the levels set in the existing and proposed licence conditions (a maximum bass level of 90dB(C) and maximum sound level of 15dB(A) above background noise levels) which were supported by the Respondent's own officers and by Jim Griffiths, were sufficient to meet the justice of the case.

10. Moreover:

- a. A bass level of 85 dB is inconsistent with the level of 90 dB (C) set for other urban parks within London and specifically recommended by Mr. Charles.
- b. The sound limit of 75 dB(A) is unnecessarily low on Seven Sisters Road, which is a busy road with background noise levels of 63 dB(A). The current limit of 78 dB(A) was agreed between Mr Charles and Mr Griffiths, and accords with a long-established criterion of the background level plus 15 dB (Code of Practice on Environmental Noise Control at Concerts: the Noise Council 1995). Further, it was unnecessary to reduce the maximum level on Seven Sisters Road to 75 dB(A) when the main source of complaint was apparently the bass level, limits on which were proposed (and agreed by Haringey officers) for the first time.
- c. Wireless Festival is unlikely to be commercially viable or practically feasible with such bass levels or with such sound levels on the adjoining Seven Sisters Road. Headline artists will be deterred from appearing and the enjoyment of the audience will be materially diminished, to the extent that extensive audience complaints about low sound levels will be received, there will be an adverse response on social media and the worldwide reputation of the Complainant will be affected. In the light of the advice in paragraphs 2.12 and 10.10 of National Guidance as to the avoidance of imposing conditions that could deter events which are valuable to the community, the Sub-Committee incorrectly balanced the low level of complaints and the temporary nature of the disturbance against the importance of the event to the borough and the community.

#### **Assessment of background levels**

11. By paragraph 55 of the decision, the Sub-Committee required an annual assessment of background levels. This was not suggested by any party and nor were submissions invited by the Sub-Committee upon it. In fact, it is simply disproportionate and unnecessary.

#### **Amended condition 105**

12. This condition apparently requires continuous monitoring of seven noise monitoring locations during the festival. Again, this was not suggested by any party and nor were submissions invited by the Sub-Committee upon it. Sample monitoring is perfectly adequate in this and other festivals. The condition is wholly disproportionate and excessive.

### Terminal hour on Sunday

13. The imposition of a terminal hour for alcohol of 9 p.m. and regulated entertainment of 9.30 p.m. on the Sunday of the event as imposed by paragraph 68 of the decision is wholly disproportionate, particularly in the light of the agreed conditions as to noise and street guardianship, and the clear evidence that the event does not amount to a nuisance.
14. As to the proposed timing:
- a. It is at odds with Sunday terminal hours for other events in urban areas.
  - b. It will be seriously damaging to the commerciality and attractiveness of the event. Headline artists of international repute will not be interested in finishing their performance at 9.30 p.m. before it is even dark enough for an effective light show as part of the climax of the act. The audience will complain about early closing and the reputation of the event and the premises licence holder will suffer. Specifically, the terminal hour will deter an event which is valuable to the community, contrary to paragraphs 2.12 and 10.10 of National Guidance.
  - c. Further, such an early terminal hour will fail to promote the licensing objectives, since the egress from the area will be more challenging with audience members more likely to loiter in the area and attempt to purchase alcohol from local licensed premises.
15. The Complainant reserves the right to amend or add to these grounds as it considers appropriate.
16. The Complainant therefore appeals to the Court pursuant to section 181 of the Licensing Act 2003.

Date of Complaint: 12<sup>th</sup> November 2018

Signed Bermans

For and on behalf of the Complainant.  
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