



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1303/5/7/19

BETWEEN:

MELANIE MEIGH
(TRADING AS THE PRINKNASH BIRD AND DEER PARK)

Claimant

- v -

PRINKNASH ABBEY TRUSTEES REGISTERED

Defendant

ORDER

UPON reading the claim form and fast-track application filed by the Claimant on 8 February 2019

AND UPON reading the defence filed by the Defendant on 14 March 2019

AND UPON reading the submissions of the parties filed in advance of the case management conference (“CMC”) on 21 March 2019

AND UPON hearing counsel for the parties at the CMC

AND HAVING REGARD TO the Tribunal’s powers under the Competition Appeal Tribunal Rules 2015 (the “Tribunal Rules”)

IT IS ORDERED THAT:

Forum

1. Pursuant to Rules 52 and 18 of the Tribunal Rules the proceedings be treated as proceedings in England and Wales.

Split trial

2. The issues arising in these proceedings be split, with liability being determined first, and all questions of damages (quantification and the question of exemplary damages) adjourned to be heard after judgment on liability.

Fast-track designation

3. The liability aspect of the claim be subject to the fast-track procedure under Rule 58 of the Tribunal Rules.

Annexures to the pleadings

4. As far as practicable and in compliance with Rule 35(3) of the Tribunal Rules, the Defendant file and serve a copy of every document referred to in the defence (except where such documents have been annexed to the claim form) by 4pm on 29 March 2019. In so far as the Defendant is unable by that deadline to file and serve a copy of every such document, the Defendant is to notify the Tribunal in writing by which date the outstanding documents can be produced.
5. The Claimant file and serve a copy of the annexures to the licence for alterations dated 2 December 2011 (which licence is annexed to the claim form at Tab 7), insofar as the same are presently in her possession or control, by 4pm on 29 March 2019.

Further particulars

6. By 4pm on 5 April 2019, the Claimant file and serve:
 - (a) Further particulars of paragraphs 79.3 and 92 of the claim form, namely of: (i) the gifts and souvenirs that are presently sold by the Claimant and (ii) the gifts and souvenirs which the Claimant would have sold or would sell absent the restriction in clause 5.15 of the licence for alterations dated 13 January 2014, and the sale of which the

Claimant contends is within the terms of clause 9.1 of the lease dated 2 December 2011 (the “2011 Lease”).

(b) Further particulars of paragraph 81 of the claim form, namely of the commercial activities described in that paragraph which the Claimant would have provided or would provide absent the restriction in clauses 1 and 2 of the settlement agreement dated 9 July 2015, and which the Claimant contends are within the terms of clause 9.1 of the 2011 Lease.

7. The Defendant be permitted to file and serve voluntary further particulars in response to the Claimant’s provision of particulars under paragraph 6 above.

Disclosure

8. By 4pm on 18 April 2019 the Claimant disclose to the Defendant the following documents, classes of documents and information relating to the Prinknash Bird and Deer Park (the “Bird Park”), for the period 1 January 2010 until the present day (with the exception of item (e) below), insofar as the same are presently in her possession or control:

(a) Management accounts, including (if separate) records of: (i) the number of admissions; (ii) the charges for admission; and (iii) the revenue split between admissions, sales of food and drink, sales of other items and revenue from events.

(b) Pre-existing business plans.

(c) The zoo licence (as renewed).

(d) Publicity material about the Bird Park and such events as there have been.

(e) Any current published menu and/or tariff of food and drink items presently being sold at the Bird Park.

9. By 4pm on 18 April 2019 the Defendant disclose to the Claimant the following documents, classes of documents and information, for the period 1 January 2010 until the present day (with the exception of item (c) below), insofar as the same are presently within its possession or control:
- (a) Management accounts for the Defendant's shop and café.
 - (b) Pre-existing business plans relating to the Defendant's shop and café.
 - (c) Any current published menu and/or tariff of food and drink items presently being sold at the Defendant's café.
 - (d) Any analyses, studies, surveys or reports prepared by or on behalf of the Defendant concerning the sale of and demand for food, drink and refreshments at the Prinknash Estate.
 - (e) Copies of all concluded leases and licences between the Defendant and Simon Chorley Art & Antiques Limited ("Chorley's").
 - (f) Minutes of the meetings of the Defendant's Board of Trustees (redacted for legal professional privilege) that concern (i) dealings with the Claimant; (ii) dealings with Chorley's; and/or (iii) any other requests for commercial lettings.

Witness statements

10. Each party be permitted to adduce the evidence of up to two factual witnesses.

Expert evidence

11. Each party be permitted to adduce the evidence of a single economic expert on the issues of market definition and the effects (if any) on competition of the alleged restrictions identified by the Claimant in the claim form.

12. Each party be permitted to adduce the evidence of a single expert on the activities that would normally be involved in operating a bird park open to the public as at the date of conclusion of the 2011 Lease.

Hearing

13. The hearing be listed for the week beginning 15 July 2019, with a time estimate of three days and a fourth in reserve.
14. Separately from and prior to the hearing, there be a site visit by the Tribunal, estimated for half a day, on a date to be fixed.

Further CMC

15. A further CMC be listed for 25 April 2019 at 10:30am.
16. By 4pm on 15 April 2019 and in preparation for the CMC:
 - (a) The parties file and serve their respective cost budgets.
 - (b) The Claimant file and serve a statement from her economic expert on the consumer survey proposed to be conducted.
 - (c) The parties submit to the Tribunal a timetable for the filing and service of their respective expert reports and experts' joint meeting and statement.

Confidentiality

17. A confidentiality ring be established by separate Order to be confined to the parties' external legal representatives and economic experts, with liberty to apply.

General

18. Costs in the case.

19. Liberty to apply.

The Hon Mr Justice Roth
President of the Competition Appeal Tribunal

Made: 21 March 2019
Drawn: 27 March 2019