

11<sup>th</sup> August 2016.

To Whom It May Concern

**Kelpies Burger Bar (Your Ref: P/16/0313/FUL/JM)**

I write in response to the notice received by e-mail on 29<sup>th</sup> July regarding the review process of the positioning of the Fake Bavarian Burger Bar at The Kelpies sculptures.

The Fake Bavarian Burger Bar is simply and unarguably wrong for that location. Falkirk Council's Planning officers evidently agree with this statement.

It beggars belief that permission was even given by Falkirk Community Trust for this eyesore within The Kelpies site in the first place, irrespective of the fact this was done without the necessary statutory permissions.

I urge you to re-read my original letter again, and consider again that this comes from the *originator of the Kelpies artworks*, and the implications of that.

To add to the comments and issues raised therein, having sought legal advice I would like to add the following.

Away from any planning and contractual issues between FCT, Falkirk Council and Scottish Canals, there is a legal and moral imperative that my voice is heard in this process. And should have been heard in the first place prior to the installation of the Burger Bar. This is a point of law.

Artists Integrity and Moral Rights are enshrined in law under the Copyright Designs and Patents Act 1988.

As the artist who designed and initiated The Kelpies sculptures, I have a legal right to say how they are presented to the public. And a legal right to object when derogatory presentation of the artwork happens.

The Fake Bavarian Burger Bar in question quite clearly affects how the public perceives the artworks. It is within clear sight from almost every angle as one approaches and views the sculptures. It is a late intervention to the site, as it was installed almost two years after their public inauguration. That was done with no consultation to either me as the artist, or to Scottish Canals as actual owners of the structures.

At the risk of repeating points raised in my first letter, the Fake Bavarian Burger Bar's positioning defiles the sculptures' cultural standing in the eyes of the audience. In doing so, it undermines my professional standing, and in effect therefore has the potential to harm my reputation and in turn my career and future income.

*Put simply, the positioning of the Burger bar within the immediate vicinity of the sculptures has a clear derogatory impact on the perception of the artworks, and therefore breaches my Artists Integrity Rights, as laid out in the Copyright Design and Patents Act of 1988.*

Importantly the Fake Bavarian Burger Bar also undermine the sculptures' suitability for adoption by other more appropriate revenue-raising pursuits. The world's largest equine sculptures offer unique filming and photographic opportunities.

As locations for tv, film and photographic backdrops and sets, they could surely generate large revenue, to say nothing of the further tourism benefits this would then generate. Without demeaning their kudos as sculptural landmarks.

This realm of opportunity is obliterated by the siting of a tacky timber Fake Bavarian Burger Bar within close proximity to the structures.

For example, the current Visit Scotland film campaign, which has been so well received, effectively now mis-sells the Kelpies as it was made before the Burger Bar was installed. That film would now be impossible to produce, and further opportunities have been jeopardized, as the Burger Bar interferes with critical sight lines.

Visitors are now confronted by a wholly inappropriate concession stand destroying the ambience which was so well presented by our national tourism agency.

I know of one major car manufacturer who was, to say the least, utterly dismayed when they arrived on site to film and found this unexpected intervention.

Commissioning public art, especially public art on this scale, is a two-way street. It demands the very best from the artist and the design teams involved in its creation. But it also demands the very best from those custodians charged with the responsibility of the artworks in the public realm.

Placing a Fake Bavarian Burger Bar at the foot of the sculptures, a tacky concession stand which even had the gall to sell "Kelpie Burgers", shows that the management of FCT apparently have no understanding of the cultural importance of the asset they have inherited, nor of their obligations to the artist who created them.

On several occasions my company has initiated meetings with the project partners to build on the success of The Kelpies together. Sustainability of this project can only be secured if The Kelpies are treated with respect as artworks and national icons through carefully considered branding and activity. This is legally bounded by the agreement all parties signed in 2008.

The decision to allow this Fake Bavarian Burger Bar was taken outwith this agreement and shows that sculptures' management is currently not in the right hands. It jeopardizes the credibility of the artworks, the sustainability of the project and future income of the local economy and the project partners.

If the Fake Bavarian Burger Bar is not removed at the soonest opportunity through planning procedures I will reluctantly be forced to instruct my lawyers to take appropriate steps, and will take additional measures myself in terms of my on-going relationship with the project.

I hope this additional letter goes some way to reinforcing the contents of my first statement, and that the Fake Bavarian Burger Bar is finally removed from the vicinity of The Kelpies sculptures.

That it has come to this is quite frankly ludicrous and a waste of time and resources.

I thank you for taking the time to consider this additional letter of objection and hope that finally commonsense and good taste prevails.

Regards

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