

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, CB11 4ER, on TUESDAY, 14 DECEMBER 2021 at 10.00 am**

Present: Councillor P Lavelle (Chair)
Councillors S Barker and G Smith

Officers in attendance: A Bonham (Senior Environmental Health Officer), C Gibson (Democratic Services Officer), K James (Licensing Support Officer), S Mahoney (Senior Licensing and Compliance Officer) and E Smith (Solicitor).

LIC25 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Those present in the Council Chamber introduced themselves. There were no apologies for absence or declarations of interest.

**LIC26 APPLICATION TO VARY A PREMISES LICENCE - THE AXE PUB, 60
ASHDON ROAD, SAFFRON WALDEN CB10 2AT**

Four Members of the public all presented their objections to the application, remotely through Zoom.

The Senior Licensing and Compliance Officer gave a summary of the report which requested that members considered an application to vary a Premises Licence for the Axe Pub, Saffron Walden. He said that the variation application was to remove conditions 1, 2 and 3 of Annexe 3 of the licence:

- Drinks shall not be consumed outside the premises except in designated areas and in no event between the hours of 11.20 pm and 10.00 am.
- No regulated entertainment shall take place outdoors.
- Music events to be limited to six in any twelve month period.

He said that on a recent visit to the pub he had found that the copy of the premises licence on display to be out of date but that he had found the premises and outside area to be in good order.

The applicant outlined a serious of her unfortunate personal circumstances and said that over the past four years she had been looking to eradicate the previous poor reputation of the pub. She said that it was usually only her working in the pub but some additional support was provided on Fridays and Saturdays. She said that the pub opened at 3.00 pm and closed at 11.00 pm but sometimes closed earlier through lack of custom. She said she was looking for additional flexibility to organise more than six events per year as was currently allowed and spoke about the possibility of holding events around every six weeks.

Members gave credit to the applicant for running the pub through difficult times. They asked questions relating to staffing arrangements, the non-production of a

noise management plan, the organisation of music events, the non-use of Temporary Event Notices (TENs) and the current time restrictions.

The Senior Environmental Health Officer outlined his report and said that he shared the concerns that had been expressed by the public speakers. He said that the possibility existed for TENs applications to be submitted.

The applicant said that no TENs applications had been submitted as the number of people attending the pub had not merited it due to the pandemic.

The Chair explained that the Panel would retire to consider the case.

The applicant left the meeting at 10:48 am and the Committee retired to make its decision.

DECISION NOTICE:

The matter before the Committee today is an application for a variation in the conditions attached to the premises licence the Axe Public House on Ashdon Road, Saffron Walden. This hearing is a hybrid one with the Panel, our Legal Advisor and the Licensing Team present in the room and Environmental Health and the public speakers attending remotely. These are long established premises and are now surrounded by residential properties, some at least of which postdate the grant of the first Justices' licence in respect of the premises. The first premises licence granted by the Council was dated 23rd August 2005 and was made subject to conditions additional to those required by the Magistrates.

It is fair to say that the premises have changed hands several times since then, most notably a sale of the premises and consequent transfer of the licence in March 2013, a review in October 2014 leading to the imposition of additional conditions, and in July 2019 an application for a variation in the conditions of the licence was brought, largely unsuccessfully. However, some of the requirements imposed in 2019 have not been complied with.

Also of note is that there have been five changes of DPS since 2014 and the current postholder is Deborah Hooper, who has been on the licence since March of this year and who has addressed us today.

The current premises licence permits indoor sporting events, live and recorded music indoors only from 7pm to Midnight Monday to Sunday. It permits the sale of alcohol both on and off the premises from 10am until Midnight Monday to Sunday. Permitted opening hours are Monday to Sunday 10am to Midnight.

The variation application is to remove conditions 1,2 & 3 of Annexe 3 of the licence:

- Drinks shall not be consumed outside the premises except in designated areas and in no event between the hours of

11:20 pm and 10:00am.

- No regulated entertainment shall take place outdoors.
- Music events to be limited to 6 in any 12 month period

Copies of this application have been served on all statutory consultees. Environmental Health have responded on the basis of noise nuisance. Details of their written representations are in the papers before us and we have also heard from Andrew Bonham, a Senior Environmental Health Officer. Mr Bonham attended remotely and answered our questions. Essex Police, the statutory consultee for crime and disorder issues, state they have no objection to this application, and no other responsible authority has raised any objections.

However, 18 representations have been received from interested parties, primarily local residents, raising concerns based upon the prevention of public nuisance objective and supporting the views of Environmental Health. Residents are opposed to the removal of some of the Annex 3 conditions from the Axe's licence. Their letters and emails are before us and we have also heard from five public speakers who have attended before us remotely.

Under the Licensing Act 2003 there is no obligation to write to residents advising them of applications received by the local authority. The responsibility is on the applicant to place a blue public notice on the premises for 28 days and to insert a notice in a local newspaper which circulates in the area in which the premises are situated. The Licensing Authority must advertise the applications in their website and advise all statutory consultees ~~and~~ the application and all these things have been done.

By way of background, in carrying out the statutory function, the Licensing Authority must promote the four licensing objectives. There is no hierarchy of importance and the weight each will be given depends on the facts of each individual case. The order in which they are listed in the statute is, however, as follows:

- a. The prevention of crime and disorder
- b. Public safety
- c. The prevention of public nuisance
- d. The protection of children from harm

The decisions that the Committee can make in respect of this application are to:

- Grant the application.
- Modify the application by inserting conditions.
- Reject the whole or part of the application.

When determining an application due regard should be given to the Council's Licensing Policy:

This states, inter alia,

“Licensed premises have a significant potential to adversely impact on communities through public nuisances that might arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognizing the valuable cultural, social and business importance that such premises provide”

The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti- social behaviour, particularly where these matters impact on those living, working or otherwise engaged in normal activity in an area.

Applicants need to be clear that the Licensing Authority may impose stricter conditions than they might wish, including controls on licensing hours, where licensed premises are in or near residential areas and where relevant representations have been received. Conversely, premises which can demonstrate that they have effective controls and measures in place or proposed to prevent public nuisance, may be suitable for 24-hour opening. If relevant representations are made, as is the case here, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance. These may vary depending on the location of the premises and the nature of the activities to be undertaken there.

When addressing the issue of prevention of public nuisance therefore, the applicant should consider those factors that might impact upon on the likelihood of public nuisance occurring. A non-exhaustive list may include:

- (a) the location of premises and proximity to residential and other noisesensitive premises, such as hospitals, hospices and places of worship.
- (b) the hours during which the licensable activities will be carried out particularly between 23.00 and 07.00.
- (c) A “wind down period” between the end of the licensable activities and closure of the premises the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.
- (d) the design and layout of premises and in particular the presence of noiselimiting features.
- (e) the occupancy capacity of the premises.
- (f) the availability of public transport.
- (g) A last admission time.

Finally, when determining an application, we are obliged to give due regard to the Secretary of State’s Guidance issued in accordance with the

Act. The most recent edition of this is dated April 2018, and the relevant sections of that Guidance state:

The Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licenses and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from the premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden on smaller venues.

As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities

should be one of prevention and where their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late- evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address and disturbance anticipated as customers enter and leave.

Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

We have heard from the Case Officers, from the Applicant Ms Hooper and we have also heard from four residents and Mr Bonham,. We have also read the papers before us with great care, and we have considered the terms of the decision we made in 2019. A copy of the 2019 decision notice will be forwarded to the parties alongside this one, but for the avoidance of doubt the conditions imposed were as follows:-

1. Conditions 1 – 3 of Annexe 3 shall remain in force.
2. Condition 5 will be deleted; the level of sound permitted thereby is unreasonably low being below background level and as we understand it was imposed following a misunderstanding as to legislative wording..
3. Condition 4 shall be amended as hereinafter appears –
 - a. A noise management plan shall be submitted to the Licensing Authority within 28 days from the date hereof for approval by the Licensing Authority. No event involving amplified music shall take place without Licensing Authority approval of the noise management plan. The noise management plan shall include details on measures, controls and actions to ensure that the playing of amplified music does not cause a public nuisance. Measures, controls and actions will include an approach to monitoring that also assesses the impact of any noise on neighbouring premises at the start of the regulated

entertainment and periodically throughout the regulated entertainment and take any action to ensure compliance with the management plan. The management plan shall ensure a telephone number is made available for local residents to contact in the case of disturbance from noise or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Record will be made available for inspection either by any relevant responsible authority throughout the trading hours of the premises. The Premises License Holder must comply with the agreed noise management plan at all times during regulated entertainment.

- b. The Premises Licence Holder shall within 28 days of receiving instructions by the Licensing Authority install a noise limiting device to the approval and satisfaction of the Licensing Authority. A noise limiting device (the specification and design to be agreed with Uttlesford District Council's Environmental Health Service) shall be fitted so that all regulated entertainment is channelled through the device(s). The maximum noise levels will be set by agreement with Uttlesford District Council's Environmental Health Service and will be reviewed from time to time as appropriate. The noise limiting device shall be kept at the settings approved by the Council through an authorised officer of the Uttlesford District Council's Environmental Health service. The Premises Licence Holder or nominated person shall ensure that the noise limiting device is sealed after commissioning so that sound operators cannot override the system during the performance of live and recorded music. If deemed necessary the noise limiting device shall only be reset to a level approved by the Council through an authorised officer of the Uttlesford District Council's Environmental Health Service within 7 days of notification.

If the Committee in their discretion wishes to impose conditions, the only conditions that can be imposed are those that are appropriate and proportionate to promote the licensing objective relative to the representations received. Equally, the Committee cannot impose conditions that duplicate the effect of existing legislation.

We have considered this application very carefully. Though we have very considerable sympathy for Ms Hooper the application before us relates to an alteration in the conditions attached to the premises licence, i.e. to the building, and though Ms Hooper's real requirements are limited, were she to leave the premises then the amendments sought are wide ranging and could be exploited by an incoming licensee to the detriment of neighboring occupiers.

Accordingly, our decision is as follows:-

The application to amend Conditions 1-3 of Annexe 3 to the licence is dismissed and the conditions remain in force. The 6 music events in Condition 3 may be supplemented by use of the TENS system and we would suggest this is used for predictable events such as Christmas, Valentine's Day, Bank Holidays, etc leaving the 6 conditioned events available for more ad hoc functions.

The requirements as to a Noise Management Plan (NMP) imposed by this Committee in July 2019 and set out in Condition 4 of the licence are renewed. The NMP must be filed with the Council by 17th January 2022 and a failure to do so will render the licence liable to review and potential revocation.

We appreciate that Ms Hooper may find this disappointing. However, we must balance the needs of her business with those of the local residents and their families to enjoy quiet occupation of their homes. This does not mean that this is our final position on the matter and if an acceptable NMP is submitted and implemented, and evidence as to her ability to manage events provided via appropriate use of the TENS system, then after a period of time, not less than 12 months, then a fresh application for a variation of conditions would be considered upon its merits.

All parties have a right of appeal against this decision to the Magistrates Court. This must be exercised within 21 days of the date of service of this decision notice, hence the appeal window will close on 6th January 2022. All parties will receive notification from the Legal Department explaining this.

APPENDIX A

DECISION NOTICE – THE AXE, 60 ASHDON ROAD, SAFFRON WALDEN

The application before the Panel today is for a variation in the conditions of a premises licence to remove conditions 1 – 3 & 5 of Annex 3 of the licence. The application is dated May 2019 and is made by The Axe Pub Limited. Representations have been made by the Environmental Health Department of Uttlesford District Council, a statutory consultee, on the grounds of potential noise nuisance, and by 18 local residents (Interested Parties) and accordingly the matter has been referred to us for determination.

We have had sight of a detailed report and have considered the extensive background papers, including:-

- (a) Variation application form.
- (b) Current licence

- (c) Representation from Statutory consultee (Environmental Health)
- (d) Bundle of letters and emails from Interested Parties.
- (e) Plan of premises
- (f) Location map of premises

Our attention has also been drawn to the Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 and to Uttlesford District Council's Statement of Licensing Act 2003 Policy 2017-22

By way of background facts, we note that the Axe is located on the northern side of and facing Ashdon Road, Saffron Walden. There are residential dwellings situated on all four sides of the pub, and some at least of these post-date the grant of the first licence (by the Magistrates) to the premises, which is a two storey building with a single storey range to the rear. Access is onto Ashdon Road adjacent to Mill Lane with the pub garden and parking to the rear. There is a brick and flint wall adjoining the eastern boundary with Mill Lane.

The original application for a licence from UDC was submitted in 2005 during the transitional period. Representations were received which required a hearing and the licence was granted subject to conditions on 23 August 2005. On 20 March 2013 the licence was transferred from Greene King Ltd to Axe Pub Ltd of Unit 3 Ashdon Road Commercial Centre, Saffron Walden, Essex, CB10 2NH. This company still holds the premises licence. On 6 October 2014 a review of the premises licence took place resulting in additional conditions being imposed by the Licensing and Environmental Health Committee. These conditions are set out in Annexe 3 of the licence. Since then, there have been four changes of premises supervisor and the current post holder is Karen Storey who has been there since 4 June 2019, taking over from Jeffrey Stell.

The current premises licence permits Indoor sporting events, and live and recorded music (indoors only) from 7pm to 12.00 midnight Monday to Sunday. It also permits the sale of alcohol both on and off the premises from 10am until 12.00 midnight Monday to Sunday; and finally, the permitted opening hours of the premises are Monday to Sunday, 10am to 12.00 midnight.

The variation application before us today is to remove conditions 1,2 3 & 5 of Annexe 3 to the licence imposed following the 2014 review hearing., The following replacement conditions have been put forward for our consideration:-

- Drinks shall not be consumed outside the premises after 11.20pm Sunday- Thursday and Midnight Fridays and Saturdays.
- New Year's Eve recorded and live music to end at 12.30am and sale of alcohol to end at 01:00am.

Copies of this application have been served on all statutory bodies and a representation from Environmental Health has been received, based upon the ground of noise nuisance. A copy of this representation is before us.

An email from the Essex Police Licensing Officer dated 19 June (statutory consultee for crime and disorder issues), states that they have no objections to this variation application, and an email dated 4 June 19 from the Essex County

Council Children's Safeguarding Service similarly confirms they have no objections in relation to the Child protection/safeguarding element of this licence application.

However, eighteen representations have been received from interested parties, primarily local residents, raising concerns based upon the prevention of public nuisance objective, and hence they support the views of Environmental Health.. Residents are strongly opposed to the removal of the current Annexe 3 conditions from the Axe's licence.

The main reasons for their objections and their preferred outcomes are:

- That music events should be limited in numbers and kept inside the pub, (although when music is very loud indoors this noise is also unacceptable).
- They have concerns about the increased frequency of indoor events if the condition pertaining thereto were to be removed. Removing the dB level during events will increase the risk of noise nuisance for residents impacting upon their ability to enjoy their gardens.
- Playing music through outdoor speakers is not acceptable
- Rowdiness from customers in the garden area and upon leaving the premises, in the car park, and the pavement outside.
- Strong objections to the adding a new condition and to drinks being consumed outside the premises after 11.20pm.
- Frequent shouting, swearing and drunken behaviour from patrons in street resulting in bottles and broken glass over the road and pavement falling to residents to clear up.

The Licensing Authority has no statutory obligation to notify local residents of applications of this type, but as a matter of courtesy UDC does contact the occupants of the properties most closely adjacent to the premises: Applicants, however, are obliged to a) place a statutory notice on the premises for 28 days and b) to place a notice in a local paper circulating in the area in which the premises are situated.

In carrying out its statutory functions, the Licensing Authority must promote the licensing objectives as defined in the Licensing Act 2003:-

- a. The prevention of crime and disorder
- b. Public safety
- c. The prevention of public nuisance
- d. The protection of children from harm

There is no hierarchy of objectives and all have equal weight/importance.

The decisions available to the Committee in respect of this application are to

- a. Grant the application
- b. Modify the application by inserting conditions
- c. Reject the whole or part of the application

When determining an application we have to give due regard to the Council's Licensing Policy. The relevant parts thereof state, inter alia,

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that might arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Licensing Authority intends to interpret "public nuisance" in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours, where licensed premises are in or near residential areas and where relevant representations have been received. Conversely, premises which can demonstrate that they have effective controls and measures in place or proposed to prevent public nuisance, may be suitable for 24-hour opening.

5.6 If representations are made applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

5.7 When addressing the issue of prevention of public nuisance, the applicant should consider those factors that impact on the likelihood of public nuisance. These may include:

- (a) the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
- (b) the hours during which the licensable activities will be carried out particularly between 23.00 and 07.00
- (c) A "wind down period" between the end of the licensable activities and closure of the premises the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- (d) the design and layout of premises and in particular the presence of noise limiting features
- (e) the occupancy capacity of the premises
- (f) the availability of public transport
- (g) A last admission time

We must also consider the Home Office Guidance issued under S182 Licensing Act 2003. The most recent edition of this is dated April 2018, and the relevant sections of that Guidance state as follows :

2.15 The Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from the premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden on smaller venues.

2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and where their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive

periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address and disturbance anticipated as customers enter and leave.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

If this Committee in its discretion wishes to impose conditions, the only conditions that can be imposed are those that are appropriate and proportionate to promote the licensing objective relative to the representations received, in this case public nuisance. We cannot, however, impose conditions that duplicate the effect of existing legislation and we bear this in mind in considering some of the representations that have been made to us this afternoon.

We have heard today from Mr Chamberlain, the Enforcement Officer, and from Janet O'Boyle, the Council's Environmental Health Officer. We invited the Interested Parties to elect spokespersons, and we have listened carefully to what Messrs Schiebel, Burton and Bearton have had to say. Finally, an employee, Deborah Hooper, has addressed us on behalf of the applicant company; we note that neither Mr Stringer, the sole director of the Axe Pub Ltd nor Karen Storey, the DPS, have appeared before us today.

In considering this application we have to bear in mind that these are long established licensed premises and that the majority of the residents knew there was a pub in that location when they purchased their properties. In that respect they chose to "come to the nuisance". We also note that they none of them have any complaint about the current management of the premises and they acknowledge that Ms Hooper is doing her best, without, it must be said, very much support from the premises licence holder. We observe that her aspirations for the future of the premises are relatively modest and it is our view that these could be fulfilled without the removal of the Annexe 3 conditions requested today. We are mindful of the right of the neighbours to the peaceful occupation of their homes but also note that none of them use the pub so dialogue has been somewhat limited; however there is some, and we applaud this and hope all concerned can arrive at a modus vivendi acceptable to them all.

To recap, the options available to us today are as follows:

1. Grant the application as asked.
2. To reject the whole or part of the application
3. To modify the application by inserting conditions.

Having debated the matter carefully among ourselves, our view is that we should refuse the application as asked but modify the existing conditions of the Annexe as suggested by Environmental Health. Accordingly, our decision is as follows:-

1. Conditions 1 – 3 of Annexe 3 shall remain in force.
2. Condition 5 will be deleted; the level of sound permitted thereby is unreasonably low being below background level and as we understand it was imposed following a misunderstanding as to legislative wording..
3. Condition 4 shall be amended as hereinafter appears –
 - a. A noise management plan shall be submitted to the Licensing Authority within 28 days from the date hereof for approval by the Licensing Authority. No event involving amplified music shall take place without Licensing Authority approval of the noise management plan. The noise management plan shall include details on measures, controls and actions to ensure that the playing of amplified music does not cause a public nuisance. Measures, controls and actions will include an approach to monitoring that also assesses the impact of any noise on neighbouring premises at the start of the regulated entertainment and periodically throughout the regulated entertainment and take any action to ensure compliance with the management plan. The management plan shall ensure a telephone number is made available for local residents to contact in the case of disturbance from noise or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Record will be made available for inspection either by any relevant responsible authority throughout the trading hours of the premises. The Premises License Holder must comply with the agreed noise management plan at all times during regulated entertainment.
 - b. The Premises Licence Holder shall within 28 days of receiving instructions by the Licensing Authority install a noise limiting device to the approval and satisfaction of the Licensing Authority. A noise limiting device (the specification and design to be agreed with Uttlesford District Council's Environmental Health Service) shall be fitted so that all regulated entertainment is channelled through the device(s). The maximum noise levels will be set by agreement with Uttlesford District Council's Environmental Health Service and will be reviewed from time to time as appropriate. The noise limiting device shall be kept at the settings approved by the Council through an authorised officer of the Uttlesford District Council's Environmental Health service. The Premises Licence Holder or nominated person shall ensure that the noise limiting device is sealed after commissioning so that sound operators cannot override the system during the performance of live and

recorded music. If deemed necessary the noise limiting device shall only be reset to a level approved by the Council through an authorised officer of the Uttlesford District Council's Environmental Health Service within 7 days of notification.

For the avoidance of doubt these requirements are sequential and if the noise management plan is efficacious then the noise limiting device will not be required. It is therefore up to the applicant to make this work.

All parties have a right of appeal against this decision to the Magistrates Court. This must be exercised within 21 days of the date of service of this decision notice, hence the appeal window will close on 15th August. All parties will receive notification from the Legal Department explaining this.