

Appendix E – Representation from Statutory Consultee

Objection to application for variation to the premises licence in respect of The Axe, 60 Ashdon Road, Saffron Walden, CB10 2AT: removal of conditions 1-3 and 5 of Annexe 3. Licence No: 21/0893/LAVDPS

As Senior Environmental Health Officer (Protection) at Uttlesford District Council I am making a representation to the application because I consider there is potential for a public nuisance to occur should the application be approved.

Background

The Axe is surrounded on all sides by residential properties. The properties are not subject to noise from heavy traffic or commercial activities, and the public house as a result must be operated with sensitivity to the amount of noise which may be produced from amplified music and from customers at or leaving the premises.

The current conditions contained in Annex 3 of the premises licence 21/0893/LAVDPS were applied on 31 October 2014 following a review of the premises licence on grounds of failure of a previous licence holder to comply with the licence conditions relating to the prevention of public nuisance. Premises licence PL0126 was later updated by The Licensing and Environmental Health Committee on 22 July 2019. However they determined that conditions 1-3 of annexe 3 shall remain in force. Condition 5 will be deleted. Condition 4 was amended to add that a noise management plan was to be produced within 28 days and to install a noise limiting device within 28 days. There was no appeal against the change of the premises conditions.

The 2014 review followed a time when activities at The Axe had caused widespread disturbance to a large group of residents in the vicinity of the premises due to excessive noise from entertainment events and rowdy behaviour by customers. Complaints concerning activities at The Axe had been received by the Environmental Health Service from ten separate households.

The conditions were imposed to ensure the licensing objective is met for current and any future licence holder.

It is acknowledged that the level of complaints concerning the premises has reduced significantly since the current manager has been in place although this has to be seen in the context of the public house being closed for a considerable amount of time during the Covid19 pandemic lockdown.

It is accepted that since 2019 only a few complaints have been received from neighbours, primarily around alleged non-Covid19 restrictions compliance and no formal action has been taken by enforcing bodies.

Complaints received by Environmental Health since the current applicant took over on 4th June 2019 are summarised below:

28th July 2020: Complaint regarding loud music that was being played at a private function for a wake during Covid19 lockdown. Resulted in alleged loud music and party behaviour with loud shouting and screaming. Actions by Covid19 team are not recorded.

22 June 2020: Complaint of noise from sanding furniture. Advice was given by Environmental Health and no further action necessary as this was viewed as a reasonable activity.

30 May 2020: Complaint of landlady letting people in, selling drinks and no social distancing during Covid19 lockdown. Investigated by Police. Landlady informed them it was a family gathering and no further action was taken.

26 November 2019: Complaint of antisocial rowdy behaviour of customers when people are leaving from raised voices, slamming of car doors etc. Police visited and offered advice.

June 2019: Complaints of loud disco type music playing outside 14.00 to 19.00hrs, followed by noise and disturbance from patrons in the garden area, including foul language and shouting. General advice given to landlady.

Removal of conditions in Annex 3 Licence No: 21/0893/LAVDPS

Considering the specific conditions which the application seeks to remove:

Condition 1: Drinks shall not be consumed outside the premises except for in designated areas and in no event between the hours of 11:20pm and 10:00am.

In addition to the removal of the above condition the applicant is wishing to extend outside drinking hours to midnight on all evenings.

By restricting the location and hours when drinks can be consumed outside, the condition limits the potential for raised voices and rowdy behaviour causing a disturbance to neighbours. The likelihood of disturbance would be increased by allowing later outside drinking on evenings and removal is therefore not supported.

Condition 2: No regulated entertainment shall take place outdoors.

It is not possible to contain noise from outdoor events. Outdoor entertainment in a residential area has the potential to cause widespread disturbance. The condition does not prevent such events occurring as the licence holder can serve Temporary Event Notices (TEN's) but it does limit the number of such events to the current maximum of

6 per annum plus the TEN's. Use of the outdoor area can lead patrons using the area for extended periods and therefore removal of this condition is not supported.

Although not specifically mentioned within the existing conditions the applicant requests that background music can be played. I have no objection to this occurring internally, nor would I object to TV screens internally but would not support this externally as this will likely cause neighbours disturbance.

Condition 3: Music events to be limited to 6 in any 12 month period.

The limit of 6 music events in any 12 month period plus 20 TEN's brings the total permitted events to 26 if the full quota of TENs are served. By removing event limits in addition to TEN events, the risk of disturbance to neighbours is increased.

As no TEN's have been applied for by the applicant I am unable to determine good compliance for such events. Removal is therefore not supported

Condition 5: Noise from regulated entertainments shall not exceed 34 decibels:

- a) At the boundary with 58 Ashdon Road adjacent to The Axe building;
- b) On the pavement immediately opposite the Axe building.

I raise the query here whether the applicant is seeking a change of the current Licence No: 21/0893/LAVDPS and not referring to a previous version of the licence. Condition 5 concerned noise levels at the boundary of 58 Ashdon Road and was previously removed after the committee hearing in 2019 and supplemented by a revised condition 4 concerning the submission of a noise management plan. The applicant has not objected to this condition 4 and no noise management plan has ever been submitted. The removal of this would not be supported.

Conclusion

Relaxation of the licence controls removes the obligation of the licensee to serve TENs for events which have the potential to cause disturbance, and for which no conditions relating to public nuisance are in place. Whilst this obligation remains, the Environmental Health service has the ability to raise an objection to a TEN, should evidence of disturbance be gathered from previous events. The existing conditions control the risk of public nuisance and although the level of complaints relating to noise have been low recently due to the pandemic, consideration should be given to the possibility that residents have tolerated a degree of disturbance in the knowledge that operational timings and noise controls are in place. The absence of complaints does not justify the removal of those controls.

Complainants have previously acknowledged that the current manager is amenable to a request to lower the volume of music, however there is the risk that the current managers will be replaced at some future date by managers who are not as responsive to neighbours' complaints.

Public nuisance is given a statutory meaning in many pieces of legislation. In the context of noise, a public nuisance occurs when there the act substantially interferes with the reasonable use of neighbouring land. It is important to note that the prevention of public nuisance could include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. This service maintains that the above conditions are considered reasonable and intended to ensure there is no unreasonable interference in the use and enjoyment of neighbouring land. This is in keeping with the requirements of licensing guidance as the approach to public nuisance should be one of prevention.

The history of complaints concerning noise and anti-social behaviour associated with the premises has demonstrated that the controls and measures attached to the licence to support the licensing objective of prevention of public nuisance have not always been met, and any relaxation of the controls should be resisted.

Andy Bonham

Snr Environmental Health Officer (Protection)

Uttlesford District Council

30/11/2021