

Licensing Panel Report



Listening Learning Leading

Report of Head of Environmental Health

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Date of meeting: 15th February 2010

Time of meeting 10:00 am

AGENDA ITEM NO

Purpose of Meeting:

1. To consider the relevant representations received in respect of an application for a review of the premises licence of Garsington Manor, Southend Manor, Southend, Garsington, Wallingford, under the Licensing Act 2003.

Introduction

2. The Licensing Act 2003 Sections 51 and 52 permits an Interested Party or Responsible Authority to apply to the licensing authority for a review of a Premises Licence on a ground relating to the four licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children From Harm

3. The standard procedure for the review hearing is attached as **Appendix A**.

Section 17 Crime and Disorder Act 1998

4. Section 17 states: "Without prejudice to any other obligation imposed upon it, it shall be the duty of each Authority to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can, to prevent crime and disorder in its area."

Review Application:

5. The following information appears on the application for a review from Ms Waud, of Home Close, Southend, Garsington, regarding Garsington Opera licence, which was received by the council as the licensing authority on 23rd December 2009. A copy of the application for review is attached as **APPENDIX D**.

6. It should be noted that the council also received an application for review regarding the Opera from a Mr R Lloyd Williams of 73 Southend, Garsington on the 11th January 2010.

7. The council spoke to Mr Lloyd Williams to inform him that the council had already received an application for review from Ms Waud and the authority would normally be required to hold two separate review hearings for each application for a review. Mr Lloyd-Williams agreed that this was not a practical approach for the parties involved, and decided to support Ms Waud application, and retract his application of review.

8. Mr Lloyd-Williams' application has been withdrawn. It is recommended that the committee treats the contents of the application with equal weight together with Ms Waud's application for review. I enclosed a copy of Mr R Lloyd-Williams' application of review in **APPENDIX D**.

Type of application:	Review of Premises Licence
Applicant / Address	Ms Monica Waud, Home Close, Southend, Garsington, Oxon. OX44 9DH
Which of the four licensing objectives does the application for review relate to?	1. The Prevention of Public Nuisance 2. Public Safety
What are the grounds for the review?	<p>1. The Prevention of Public Nuisance: There continues to be excessive noise and there has been smoke smelling chemicals from the premises.</p> <p>2. Public Safety: An Event Risk Assessment for 2009 was carried out, and no reference to certain activities that occur on site could be found, which appear to present a potential danger to the Public.</p> <p>The main points MS Waud highlights in the review paper work is as follows:</p> <ul style="list-style-type: none"> • Control supplied by 2002 planning permission. • Absence of documents setting out

	<p>benchmark/baseline acceptable noise from premises.</p> <ul style="list-style-type: none"> • Public nuisance / Public Safety in relation to apparent absence of noise and risk assessments for workshop uses. • Public Safety and Gate 1. • Public Safety and public right of way. • Public nuisance and wedding receptions. • Public Safety and Mixed use field. • Public nuisance and music noise.
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Background

9. Garsington Manor has historically held a number of “entertainment” licences, ranging from Public Entertainment licence that permitted singing and dancing in the Great Barn of the Manor to the occasional theatre licence issued to the Garsington Players to perform amateur dramatics in the gardens of the Manor. A Theatre licence was also granted to Garsington Opera Limited, this licence was a restricted Theatre Licence which permitted larger performances of Opera in the grounds of Garsington Manor.
10. In the transition stage of the Licensing Act 2003 , Garsington Opera Limited applied for a premises licence, to permit licensing activities to take place in a specific area of the grounds of Garsington Manor.
11. The application received objections from both local residents and the council’s Environmental Protection team now known as the Health and Housing Department
12. This application went before the licensing committee on the 20th April 2006, the committee granted the premises licence to Garsington Opera Limited with a number of conditions attached to the premises licence.
13. An application for review was received on the 2nd March 2007 from an Ms Monica Waud of Home Close, Southend, Garsington. The grounds for review related to public nuisance and public safety. A copy of the review hearing report can be found in **APPENDIX B** together with a copy of the licensing committee decision notice.
14. On the 26th April 2007 the council as the licensing authority held a licensing review hearing. The licensing committee determined the application for review and decided to take no further action. The reasons given by the chair of the licensing committee were :

(i) That on the evidence the Panel had heard, there are no additional conditions that need to be applied, conditions that need to be revoked, or conditions that need to be amended that of themselves would reduce public nuisance or increase public safety.

(ii) The Panel considered that the existing conditions are sufficient to meet the licensing objectives.

(iii) The Panel also considered that there was insufficient evidence of public nuisance or a risk to public safety to warrant any other course of action open to them

15. Garsington Opera Ltd are currently looking for alternative premises to stage the opera, and therefore this years season could be the last one held at Garsington Manor.

16. The current Premises Licence, as amended at the hearing on 20th April 2006, is attached at **APPENDIX C**.

Premises Licence

17. Details of the current Premises Licence are summarised below. A copy of the current Premises Licence which details of the permissions for regulated entertainment and the supply of alcohol is attached at **APPENDIX C**. Also included upon this licence are the details of all of the current conditions imposed upon the premises.

Details of Premises Licence No. 4992	(a) To allow regulated entertainment in the forms of play performance, live music, recorded music, dance performance, music facilities, dancing facilities. (b) To allow alcohol sales, on the premises
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Promotion of Licensing Objectives

18. The operating schedule for Garsington Manor is attached to the premises licence in **APPENDIX C** and shows how the premises will address and abide by the licensing objectives.

19. The following background information is known about this premise.

Previous licences held:	Public Entertainment licence and Theatre licences. Premises licence under Licensing Act 2003
Current convictions under Licensing Act 2003.	None
Details of licence reviews:	The premise was granted a premises licence on the 20 April 2006. The authority received application of review from Mrs Waud on the 2 March 2007, This application for review was dismissed by the committee on the 26 April 2007.
Complaints:	<p>There have been 43 complaints received by the council's Health and Housing Department in relation to Garsington Opera Limited and the Garsington Players since 1995.</p> <p>The majority of the complaints referred to the council relate to music noise. The remainder relate to disturbance from patrons vehicles attending the performances, construction and commercial vehicles, light pollution, construction and dismantling works and also the occasional complaint regarding bonfires.</p> <p>Since the last review held in 2007 the council has received 9 complaints, these relate to noise from setting up, noise from the performance and also the council as the licensing authority has received complaints regarding breaches of licence conditions.</p> <p>The council's Health and Housing Department have investigated the complaints that did not confirm the existence of a statutory nuisance over which formal action could be instigated please see below.</p>

20. Garsington Manor has had a number of licences as mentioned above, these licenses covered a number of different events organised by Garsington Opera Limited, Garsington Players and the Garsington Society that took place at the Manor.

21. Historically representations have been received from local residents in relation to previous applications and referred to a number of different issues. These included noise from the performances, noise and vibration from construction/dismantling activities and associated traffic movements, noise from private vehicles attending the events and road traffic safety issues.

22. In recent years noise from the Garsington Opera has been controlled by licence conditions see **APPENDIX C.**

23. The council's Health and Housing Department considers that these controls have proven to be effective in minimising the disturbance from noise from the opera performances and in ensuring that the noise environment has not deteriorated. This was confirmed by the monitoring undertaken in 2005, which recorded levels similar to those measured ten years ago. The noise monitoring that was carried out is further explained below.

24. As a result of the Licensing and General Purposes Committee meeting regarding an application for a Restricted Theatre Licence in 2005 made by Garsington Opera Limited, an independent consultant was employed by the council to monitor the noise levels from the opera performances in 2005. This was presented to the Licensing and General Purposes Committee in December 2005.

25. The consultant's monitoring report concluded that

- i) In 2005 the levels of noise arising from the opera and the background levels were very similar to those which occurred ten years ago.
- ii) The difficulty in measuring the music noise level in this situation, making the use of a formal limit effectively impractical.

26. The consultants conclusion in their Noise Monitoring Report 2005 are consistent with those previously drawn by the council's Health and Housing Department following in-house monitoring undertaken in 2000, 2001, 2002 and 2003.

27. The professional view of the four officers who have monitored the opera during that period: 2000, 2001, 2002 and 2003 is that whilst the level of noise arising from the opera could be said to be intrusive for short periods of time, it did not amount to a statutory noise nuisance.

Relevant Representations

28. Relevant representations from responsible authorities have been made in respect of the review application.

Police:	No Response
Fire & Rescue Service:	No Response
<p>Environmental Health (The council's Health and Housing Department):</p> <p>Public Nuisance</p>	<p>Application for review of premises licence for Garsington Manor, Garsington OX44 9DH, submitted by Ms Monica Waud on 23 December 2009</p> <p>Extensive monitoring undertaken by the council's Environmental Protection team and acoustic consultants employed by the council has not identified a noise nuisance at Garsington Manor, from either performances or ancillary activities. This confirms the council's view that the controls already in place through both the planning and licensing regimes are adequate in controlling noise arising from Garsington Opera. Investigations of complaints of other matters, such as fumes and smoke from bonfires, have likewise not confirmed the existence of a nuisance.</p> <p>The council's Environmental Protection team does not, therefore, support Ms Waud's application for a review of the premise licence in respect of the prevention of public nuisance.</p> <p>I have concerns over the validity of some of the claims made by Ms Waud in support of her application, and would like to comment as follows on some of the allegations/observations Ms Waud has made in respect of the prevention of public nuisance:</p> <p>Control supplied by the 2002 planning permission</p> <ul style="list-style-type: none"> • Extensive monitoring undertaken by the council's Environmental Protection team and acoustic consultants employed by the council has not identified a nuisance, from either performances or ancillary activities. This confirms that the controls already in place through both the planning and licensing regimes are adequate in controlling noise arising from Garsington Opera. • Ms Waud has suggested that additional

licensing conditions be imposed in the absence of any action by the Planning Service with respect to noise levels that she considers are not being controlled by the 2002 planning permission. However, the Opera gives rise to an unusual type of intermittent non-amplified noise, in a locality with widely variable background and ambient levels, and it is not possible to measure the level of intrusive noise directly. The noise levels recorded during the interval and before the performance are sometimes higher than those recorded during the performance, even though there is no music contributing to the noise level at that time. It is therefore not appropriate to specify a noise limit above which the noise from the Opera would be considered unacceptable.

Absence of document(s) setting out benchmark/base line acceptable noise from the premises

- Our information as to what takes place on site has arisen from numerous sources over the years, including planning applications and the planning enquiry, licence applications, acoustic reports, complaint investigations and site visits'. This is by no means unusual where events evolve over a period of time, as is the case with Garsington Opera.
- Changes on site which give rise to noise would only be considered relevant if they had a significant impact on residents, as defined by relevant legislation. Thus it is the impact that we would be assessing initially; details of the source activity would only be relevant if the assessment of the resulting noise was considered to be significant.
- We do not consider it necessary to have a highly detailed knowledge of all the activities on site over and above that which we already possess; should monitoring or a complaint identify a problem, the source of the problem would of course be investigated and at that stage further details would be required.

Apparent absence of noise and risk assessments for use of garden for performing

- The garden area adjacent to the stage is well below the level of the stage, which rests on the loggia. It is also well protected by a wall running along the length of the garden and by buildings on site. It is the professional opinion of the environmental protection officers familiar with the Manor grounds that the use of the garden for short periods of singing would be insignificant in terms of the noise levels experienced by Ms Waud.
- Use of the garden has always formed a part of some opera performances and has contributed to the noise environment during previous monitoring exercises, including those undertaken by acoustic consultants.

Public nuisance/public safety in relation to apparent absence of noise and risk assessments for workshop areas

- Ms Waud refers to solvent smells drifting in to her garden. However, our records show only one complaint of fumes, in August 2006, which was reported to Planning initially rather than Environmental Protection so that an assessment at the time was not possible. Should further complaints be received, they would be investigated and the appropriate action taken under the Environmental Protection Act 1990.
- We are satisfied that the noise from setting up and dismantling does not constitute a nuisance. This is based upon the professional view of four officers who visited Home Close in 2008 and witnessed noise from scaffolding, hammering, grinders, drilling etc, together with ten days of automated monitoring in 2007, diary sheets submitted by Ms Waud, and site visits undertaken during the setting-up and dismantling operations over a number of years.

Public nuisance and wedding receptions

- It is my understanding that the wedding

receptions held at Garsington Manor to date have not needed a premise licence. The Environmental Protection team would therefore investigate any complaints of noise arising from such events under the powers provided by the Environmental Protection Act 1990. Should a statutory nuisance be proved, an abatement notice would be served.

Public nuisance and apparent burning of waste material other than garden waste

- The incident of burning waste to which Ms Waud refers was reported on 31 July 2007, several days following the alleged incidents on 12 and 13 July, thereby preventing a full investigation to establish whether or not the smoke generated constituted a statutory nuisance. For information, the Environment Agency is responsible for any enforcement action which may be necessary for the burning of trade waste without the benefit of the appropriate waste management licence. This matter was drawn to the attention of the Environment Agency.
- Should further complaints of nuisance from smoke be received in future the Environmental Protection team would investigate using the powers provided by the Environmental Protection Act 1990. Should a statutory nuisance be proved, an abatement notice would be served. The matter would also be referred to the Environment Agency for investigation.

Public nuisance and music noise

- The noise arising from the use of raised sets on the stage is unlikely to be significant in terms of the overall noise from a performance, due to the relatively short period over which the raised sets are used. Use of raised sets has always formed a part of some opera performances and has contributed to the noise environment during previous monitoring exercises, including those undertaken by acoustic consultants. It is the professional opinion of the environmental protection officers familiar with

the Manor grounds that the use of raised sets for short periods of singing would be insignificant in terms of the noise levels experienced by Ms Waud.

- The council has on several occasions asked Ms Waud to contact Environmental Health if she believes that a performance is significantly louder than those experienced in previous years, together with some kind of justification for this claim, so that an assessment can be made and monitoring can be undertaken if appropriate. This has been the subject of extensive correspondence and a number of examples have already been provided of what justification could be provided.
- Ms Waud has stated that the council refused to monitor in 2007 when she had reported that music levels were significantly louder for one of the dress rehearsals. It appears that there may have been some misunderstanding, as officers were under the impression at the time that Ms Waud was guessing that a performance was louder. It was not made clear, until receipt of a letter from Ms Waud in April 2008, that her guess was based on personal experience. Unfortunately the evidence provided, which related to just a single dress rehearsal, was not clear and was insufficient to have triggered monitoring.
- Ms Waud states that the council has refused to specify over what time period she should assess the loudness of music. Ms Waud has been asked to provide a subjective assessment of whether or not she feels that a performance is significantly louder than those experienced in previous years, together with some kind of justification for this claim. If the change in noise levels is not obvious to Ms Waud, we would not consider it to be significant. We have not asked that she assess noise levels over a 15 minute period, or to assess what the noise levels may be, as this is something which she would be unable to do. The 15 minute period is only useful when undertaking noise monitoring,

	<p>employing sound level meters, rather than when making assessments using the human ear.</p> <ul style="list-style-type: none">• Ms Waud states that there is no evidence available regarding public nuisance. However, as already indicated, extensive monitoring undertaken by the council's Environmental Protection team and acoustic consultants employed by the council has failed to identify a nuisance, from either performances or ancillary activities.• Ms Waud has asked that the council replicates acoustic modelling to confirm that singers at a higher level make more noise. As indicated above, the noise arising from the use of raised sets on the stage is unlikely to be significant in terms of the overall noise from a performance, due to the relatively short period over which raised sets are used. Use of raised sets has always formed a part of some opera performances and has contributed to the noise environment during previous monitoring exercises, including those undertaken by acoustic consultants, when noise levels were considered to be acceptable. Therefore, there appear to be no grounds for undertaking further acoustic modelling.• In respect of Ms Waud's suggestion that Garsington Opera monitor noise from performances, there would appear to be no grounds to require them to do this as previous monitoring has never identified a problem. Furthermore, the variation in background levels together with the nature of the noise would not make this a practical option.• The council has no evidence to serve an abatement notice in respect of weddings/events which are clearly audible at other residential boundaries after 23.00 hours. As indicated above, the Environmental Protection team would investigate any complaints of noise arising from such events under the powers provided by the Environmental Protection Act 1990 and, should a statutory nuisance be proved, an
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abatement notice would be served.

- It is not appropriate to compare the current review of Garsington Opera's premises licence with that of the local public house to which Ms Waud refers. The circumstances were very different (e.g. loud music until 2.00 am) and the council had robust evidence of several breaches of the premises licence which the licence holder failed to remedy when given the opportunity to do so.

I should also like to comment as follows on the letter dated 16 January submitted by Ms Waud in respect of the review of the premises licence:

Conditions to limit working hours in order to prevent public nuisance

- Extensive monitoring undertaken by the council's Environmental Protection team and acoustic consultants employed by the council has not identified a nuisance, from either performances or ancillary activities. This confirms that the controls already in place through both the planning and licensing regimes are adequate in controlling noise arising from Garsington Opera.

Control of music noise in order to prevent public nuisance

- As indicated above, the Opera gives rise to an unusual type of intermittent noise, in a locality with widely variable background and ambient levels, and it is not possible to measure the level of intrusive noise directly. It is therefore not considered appropriate in this particular case to specify noise limits above which the noise from the Opera would be considered unacceptable.
- Ms Waud refers to noise levels recorded in 2002. She is correct in saying that the levels occasionally exceeded the design target for music noise set by the Inspector at the Planning Appeal. However, it is important to note that this was merely a design target, not a level above which noise was to be

considered unacceptable, and for most of the performance the levels recorded were below the design target. Furthermore, noise levels recorded during the interval also exceeded the design target, when there was no music performance taking place, demonstrating the problem with trying to set a maximum noise level. The Inspector did not include the design target as a planning condition at appeal, and noise levels have not been specified in any subsequent planning consents.

- Ms Waud comments on an email from Trevor Brown dated 15 October 2010, in which he refers to noise levels recorded in 2002 being a problem in planning terms. However, in subsequent conversations with Environmental Health it became apparent that the recorded levels had been taken out of context, and he had not taken account of the fact that the level set by the Inspector was a design target and that it had also been exceeded occasionally in other years.
- Although the planning consent granted in 2005 allowed one more performance, it also reduced the number of non-opera events by one, thus reducing the overall impact of the additional full performance. Despite the additional performances since the Opera was considered by the Planning Inspector, the professional opinion of all those Environmental Protection officers who have been involved in assessment of the Opera is that whilst the levels of noise generated could be said to be intrusive for short periods of time, they do not constitute a nuisance. It is not felt necessary to consult Stephen Turner on the appropriateness of music noise design target, in view of the fact that extensive monitoring has not identified a problem.

The Environmental Protection team has not had an opportunity to investigate the matters which have been raised by the five other local residents who have made representations in support of this application for review. Although Dr Kearsley's concerns about noise from evening and weekend

	<p>working were passed to me by the Planning Service, our offer to investigate further was not taken up. Likewise, Mr Lloyd-Williams' concerns about noise from cars leaving the car park late at night were passed on by the Planning Service, but I had no response to my offer to investigate further if the problem continued. I was therefore under the impression that this matter had been resolved by the actions which Garsington Opera had already proposed to minimise noise from cars late at night. No complaints were received from the remaining three residents who have made representations.</p> <p>Sally Coxell Senior Environmental Health Officer Environmental Protection</p>
Health and Safety	<p>My name is Ian Crick and I am currently employed as a (Local Authority) Health and Safety Inspector in the Food and Safety Team of the Health and Housing Service at South Oxfordshire District Council. I am a duly authorised inspector of health and safety appointed by written instrument under section 19(2) of the Health and Safety at Work etc. Act 1974.</p> <p>I have carried out the last 3 routine (preventative/pro-active) health and safety inspections of Garsington Opera Limited, the last of which was on 3 June 2009 (during which Mrs. Nicola Creed and John Sursham (Garsington Opera Limited's health and safety consultant) were present.</p> <p>On 24 December 2009, the council's Food and Safety Team received, as the relevant health and safety enforcing authority, a copy of an application for a premises review submitted by Ms Monica Ward. I have examined the public safety aspects contained in this application.</p> <p>Under Health and Safety legislation, Garsington Opera Limited, as an employer, is required to carry out a suitable and sufficient assessments of:</p> <p>(a) the risks to the health and safety of their employees to which they are exposed whilst they are at work;</p> <p>(b) the risks to the health and safety of persons not in</p>

	<p>their employment arising out of or in connection with the conduct by them of their undertaking, for the purpose of identifying the measures they need to take to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions.</p> <p>Where the employer employs five or more employees, they shall record (a) the significant findings of the assessment; and (b) any group of their employees identified by it as being especially at risk.</p> <p>The risk assessment that Garsington Opera Limited submits to licensing to comply with condition C2 of its premises licence is an assessment of the health and safety risk to the public. Ms Waud's application raises concerns that the Garsington Opera Limited's signage and supervision to prevent unauthorised access into certain areas (workshops, etc.) may not be suitable and/or sufficient. These, potential public health and safety concerns, can and will be discussed and resolved by me prior to the beginning of the next Opera season (in and around 2nd May 2010). Garsington Opera Limited will be encouraged to review their public safety risk assessment, in light of the matters contained in this application, prior to the beginning of the next Opera season (in and around 2nd May 2010).</p> <p>Therefore I do not support this application for a premises review on public safety grounds, as I feel it is more appropriate that I, on behalf of this health and safety enforcing authority, treat the potential public health and safety risks/concerns contained in this application as a complaint under health and safety legislation which I will investigate and resolve prior to the opera setting up for the 2010 season.</p>
<p>Planning:</p>	<p><u>Licence Review Application Garsington Opera, Garsington Manor, Garsington</u></p> <p>My name is Tim Small and I am a Senior Enforcement Officer (Planning) employed by South Oxfordshire District Council to investigate alleged breaches of planning control and the subsequent negotiations and actions to remedy them.</p> <p>In 2009, I became responsible for dealing with matters relating to Garsington Opera and any alleged</p>

breaches of planning control that arose during the season.

During 2009 season there were two matters raised by local residents that following investigation caused the council to believe that sufficient planning harm was being caused to issue 2 Breach of Condition Notices.

The first was for failing to ensure that the clearing away of items related to Garsington Opera took place within the consecutive eighty day period stipulated in Condition 11.

The second was for failure to ensure that all vehicles associated with the public performance permitted by P01/N0620 leave the car park before 11.00 p.m. stipulated by Condition 18.

Although the season had ended prior to the issue of the notices they are still current and can be used for the prosecution of offences during the 2010 season.

The other ongoing matter was a difference in understanding of Conditions 11, 12 and 13 of P01/N0620 between the Local Planning Authority (LPA) and a local resident Ms Monica Waud. Ms Waud held the opinion from her attendance at meetings and correspondence received that the construction of sets and scenery were setting up and came under the criteria required for Condition 11 and 12

- Condition 11: The Opera festival, including setting up and clearing away periods, shall take place within a consecutive eighty day period in each calendar year and the setting up shall not exceed 25 consecutive working weekdays (see Condition 5).
- Condition 12: All work associated with the setting up, dismantling and removal of the temporary structures hereby permitted shall only take place between the hours of 8:00am and 6:00pm Monday to Friday, and no work shall take place during weekends and Bank Holidays.

In my communication with Ms Waud I stated that there has been no change in the interpretation about the nature of the work that is permitted to take place as part and parcel of performances. This being

	<p>covered by Condition 13.</p> <p>The effect of these conditions therefore is not to prohibit ordinary or necessary work on scenery or sets during the production of a play.</p> <p>Therefore I do not support this application for a premises review on planning grounds, as I feel it is more appropriate that I, on behalf of this Local Planning Authority, deal with any potential breaches of planning control that arising as a result of the opera season under planning legislation which I will investigate, assess and resolve either prior to or during the 2010 opera season.</p> <p>Tim Small Senior Enforcement Officer (Planning)</p>
Trading Standards:	No Response
Child Protection:	No Response

Interested Parties

29. Relevant representations have also been received from six local residents, five of those support the request for the review by Ms Waud and one supports the Opera.

30. Copies of the letters from the local residents are attached at **APPENDIX E.**

Legal Implications

31. Under Schedule 5, Part 1 of the Licensing Act 2003 the applicant for the review, the premises licence holder or a person who made a relevant representation may appeal to the Magistrates Court against the decision of the Licensing Panel within 21 days of the decision letter being sent to all parties.

32. Under Section 52(11) of the Licensing Act 2003 the decision of the Licensing Panel does not take effect until the end of the period given for appealing against the decision (21 days) or if the decision is appealed against, until the appeal is disposed of.

Policy Considerations

33. In determining the review application the Panel must give appropriate weight to:

- a. Representations received from Responsible Authorities;
- b. Relevant Representations made by Interested Parties;
- c. The Secretary of State's Guidance;
- d. The Statement of Licensing Policy;
- e. The steps necessary to promote the Licensing Objectives

34. The Licensing Officer considers the following policies specifically relating to the review process and taken from the Statement of Licensing Policy should be taken into consideration by the Licensing Panel.

Policy RE 1: Reviews (1)

Generally, unless the Authority regard the issue as serious, a review will only be conducted where there has been a failure to address matters previously raised.

Policy RE 2: Reviews (2)

Where a request for a review is made, the Authority will expect the person making the Representation to declare the nature of their interest and provide specific evidence to demonstrate why a review is necessary.
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Policy RE 3: Reviews (3)

The Authority will not review licences simply because Representations may have failed on previous occasions or under other legislation.

Policy RE 4: Reviews (4)

If a request for a review is received from an Interested Party or Responsible Authority, the Authority will decide whether a reasonable interval has elapsed since a previous review, if any, has taken place. It will generally not expect to hold a review into a licence on Representations from an interested person more than annually, unless there has been a significant change in the use of the premises or there are exceptional circumstances.
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Licensing Officer's Observation

35. A plan showing the location of Garsington Manor is attached at **APPENDIX E.** This plan also shows the locations of the local residents who have made representations in relation to this review application as well as those persons who applied for the review.

Relevant Case Law:

R (on the application of Bristol Council) -v- Bristol Magistrates Court (2009)

Held: The prescribed form of an application for a premises licence did not require the licence to be granted in accordance with the operating schedule, nor did the Licensing Act 2003 s.18(2) require the schedule to be incorporated. There was no legal obligation to impose a condition, in order to promote the licensing objectives, to give effect to anything contained in the operating schedule where the licensing authority considered that compliance with other legislation was sufficient for that purpose.

This case supports the Secretary of State statutory Guidance issued under section 182 of the Licensing Act 2003 that states:

"It is perfectly possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.

Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties"

(A copy of this relevant case law can be obtained from the licensing authority on request and a copy will be available at a licensing hearing).

36. This report provides information submitted by the applicant for the review. The Panel is obliged to determine this application with a view to promoting the Licensing Objectives which are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children From Harm

37. In making its decision, the Panel is obliged to have regard to the relevant provisions of the Act, Guidance and Policy.

38. The Panel must also have regard to the application, all the relevant representations made and the evidence it hears. Members of the Panel when considering the application must confine themselves to considering only those aspects of the application in respect of which relevant representations have been made.

39. The Panel may take such of the following steps as it considers necessary for the promotion of the four licensing objectives:

- i. Modify the conditions of the licence, by altering or omitting or adding to them
- ii. Exclude a licensable activity from the scope of the licence
- iii. Remove the Designated Premises Supervisor
- iv. Suspend the licence for a period not exceeding three months
- v. Revoke the licence
- vi. Take no action.

(iii and iv may be specified for a limited period not exceeding three months).

The Licensing Act 2003 Guidance also stipulates that In addition to above, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

PROCEDURE FOR REVIEW HEARINGS BEFORE THE LICENSING PANEL

INTRODUCTION

1. Where parties intend to produce documents in support of their case they shall send a copy of these documents to all parties not less than five working days prior to the date of the hearing. Alternatively, parties shall supply the Council's Licensing Officer with sufficient copies of those documents, not less than seven working days prior to the date of the hearing, with instructions to the Licensing Officer to send them to the other parties.
2. By reason of the confidential nature of some types of case heard by the Licensing Panel the public and press may be excluded from all or part of the proceedings.
3. Parties will have the right to be accompanied at the hearing by a representative, who may present the case on behalf of that party.
4. At the commencement of the hearing, the parties will present to the Licensing Panel the names of any witnesses to be called and a brief description of the point(s) on which that person may be able to assist the Licensing Panel. The Licensing Panel shall then determine whether those witnesses may be called.

LICENSING OFFICER

5. **The Licensing Officer** will present the circumstances of the case.
6. **The applicant for the review** may ask questions of the Licensing Officer.
7. **Responsible Authorities** may then ask questions.
8. **Interested Parties** may then ask questions.
9. **The Premises Licence Holder** may then ask questions.
10. **Licensing Panel members** may ask questions of the Licensing Officer.

APPLICANT FOR THE REVIEW

11. **The applicant for the review** will present their reasons for calling the licence in for review, as supported by documentary evidence and may call witnesses, if permitted to do so by the Licensing Panel.
12. **The Licensing Officer** may then ask questions of the applicant and any witnesses.
13. **Responsible Authorities** may then ask questions.
14. **Interested Parties** may then ask questions.
15. **The Premises Licence Holder** may then ask questions.
16. **Licensing Panel members** may ask questions of the applicant and any witnesses.

RESPONSIBLE AUTHORITY

17. **The Responsible Authority** will present details of their representation on the review application which may be supported by documentary evidence and witnesses may be called.
18. **The applicant** for review may then ask questions of the Responsible Authority and any witnesses called.
19. **The Licensing Officer** may then ask questions.
20. **Interested Parties** may then ask questions.
21. **The Premises Licence Holder** may then ask questions.
22. **Licensing Panel members** may then ask questions of the Responsible Authority and any witnesses called.

This procedure will be repeated where more than one Responsible Authority attends the hearing.

INTERESTED PARTY

23. **The Interested Party** must begin by stating whether they support the review application or object to it. They will then present details of their representations which may be supported by documentary evidence and witnesses may be called, if permitted to do so by the Licensing Panel.
24. **The applicant** for review may then ask questions of the Interested Party and any witnesses called.
25. **The Licensing Officer** may then ask questions.
26. **Responsible Authorities** may then ask questions.
27. **The Premises Licence Holder** may then ask questions.
28. **The Licensing Panel members** may then ask questions of the Interested Party and any witnesses called.

This procedure will be repeated where more than one Interested Party attends the hearing.

THE PREMISES LICENCE HOLDER

29. **The Premises Licence Holder** may present submissions to the Licensing Panel on the review application, this may be supported by documentary evidence and witnesses may be called, if permitted to do so by the Licensing Panel.
30. **The applicant** for review may then ask questions of the Premises Licence Holder and any witnesses called.
31. **The Licensing Officer** may then ask questions.
32. **Responsible Authorities** may then ask questions.
33. **Interested Parties** may then ask questions.
34. **The Licensing Panel members** may then ask questions of the Premises Licence Holder and any witnesses called.

SUMMING UP

35. The Licensing Officer, the applicant for the review, Responsible Authorities, Interested Parties and the Premises Licence Holder will then have the opportunity to sum up their cases if they so wish.
36. All parties and their witnesses will then be requested to withdraw from the meeting whilst the Licensing Panel deliberates in private. In the event of uncertainty on any of the evidence, all parties will be recalled regardless of the fact that the point in question may relate only to the evidence of one of the parties.
37. When the Licensing Panel has completed its deliberations all parties will be recalled to the meeting and the Chairman will announce the Licensing Panel's decision and the reasons for that decision.

APPENDIX C

PREMISES LICENCE LICENSING ACT 2003	
Premises licence number	4992

Premises details Garsington Opera Ltd Garsington Manor, South End, Garsington, OXFORD, OX44 9DH	Telephone Number 01865-361636
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Name, (registered) address of holder of premises licence The Garsington Opera Ltd Garsington Manor South End Garsington OXFORD OX44 9DH
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Name address and telephone number of designated premises supervisor, where the premises licence authorises the supply of alcohol:- Mr Angus Boyd-Heron Garsington Manor, South End, Garsington, OXFORD, OX44 9DH

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol Licence Ref : 882 Authority : Oxford City Council

Opening Hours of the Premises			
<table><thead><tr><th>Day</th><th>Start</th><th>End</th></tr></thead></table>	Day	Start	End
Day	Start	End	

Signed: _____
Clare Kingston, Head of Environmental Services
Dated: 13th July 2006

Licensable activities authorised by the licence

Activity

Play Performance

Details

Indoor & Outdoor. To use the premises for the performance of open air opera between 17:30 and 22:15 Mondays to Sundays on 24 days per year (such days to include at least 3 dress rehearsals) such days to be notified to the Licensing Authority by the 31st March of each year. Such performance of Opera to take place in the area marked Opera Stage on the attached plan and any temporary seating to be erected and dismantled in accordance with planning permission dated 9th April 2002 and then only where there is a conflict between the conditions attached to the said planning permission and the conditions attached to this licence the said planning permission shall prevail.

To use the premises for the performance of theatre between 17:30 and 22:30 Mondays to Sundays for a maximum of 7 days per year (such days to include at least 1 dress rehearsal) such days to be notified to the Licensing Authority by the 31st March of each year. Such performance of Theatre to take place in the area marked Garsington Players on the attached plan.

To use the outbuildings marked 15 on the attached plan and situated on the premises for the performance of theatre on any day between the hours of 17:30 and 22:30 PROVIDED THAT the performers shall notify the licensing authority of an intention to use the outbuildings for the performance 14 clear days in advance of such performance and shall further provide the Licensing Authority with the details of a person to be responsible for the observance of the four licensing objectives during the use of the outbuildings.

Live Music

Indoor & Outdoor. Due to the differences between each type of activity the box to the left has not be completed with typical times. See below for details of the timings for types of entertainment.

Any live music played may be amplified EXCEPT in the case of the outdoor opera which shall be unamplified unless amplified opera is approved by the Licensing Authority. The performance of outdoor opera will be accompanied by the performance of an orchestra. There will be a further number of concerts staged during the year (see below)

Recorded Music

Indoor & Outdoor. Due to the differences between each type of activity the box to the left has not be completed with typical times. See below for details of the timings for

	types of entertainment.
Dance Performance	Indoor & Outdoor. Due to the differences between each type of activity the box to the left has not be completed with typical times. See below for details of the timings for types of entertainment.
Music Facilities	Indoor & Outdoor. Due to the differences between each type of activity the box to the left has not be completed with typical times. See below for details of the timings for types of entertainment.
Dancing Facilities	Indoor. The Great Barn (marked 15 on the plan) will be used one a year for the staging of the Garsington Society Barn Dance In addition there may be incidental dancing at other entertainment events that take place on the premises.
Alcohol On Sales Adult Entertainment	Indoor. The premises will not be used for any adult entertainment or services.

The times the licence authorises the carrying out of licensable activities

Activity	Day(s)	Start	End
Play Performance	x	x	x
Live Music	x	x	x
Recorded Music	x	x	x
Dance Performance	x	x	x
Music Facilities	x	x	x
Dancing Facilities	x	x	x
Alcohol On Sales	x	x	x
Adult Entertainment	x	x	x

Seasonal Variation for licensable activities authorised by the licence

Activity	Details
Dancing Facilities	The Barn Dance will take place between 17:30 and 00:00

Non Standard Timings for the Licensable activities authorised by the licence

Activity

Play Performance

Details

To use the premises for the performance of open air opera between 17:30 and 22:15 Mondays to Sundays on 24 days per year (such days to include at least 3 dress rehearsals) such days to be notified to the Licensing Authority by the 31st March of each year. Such performance of Opera to take place in the area marked Opera Stage on the attached plan and any temporary seating to be erected and dismantled in accordance with planning permission dated 9th April 2002 and then only where there is a conflict between the conditions attached to the said planning permission and the conditions attached to this licence the said planning permission shall prevail.

To use the premises for the performance of theatre between 17:30 and 22:30 Mondays to Sundays for a maximum of 7 days per year (such days to include at least 1 dress rehearsal) such days to be notified to the Licensing Authority by the 31st March of each year. Such performance of Theatre to take place in the area marked Garsington Players on the attached plan.

To use the outbuildings marked 15 on the attached plan and situated on the premises for the performance of theatre on any day between the hours of 17:30 and 22:30 PROVIDED THAT the performers shall notify the licensing authority of an intention to use the outbuildings for the performance 14 clear days in advance of such performance and shall further provide the Licensing Authority with the details of a person to be responsible for the observance of the four licensing objectives during the use of the outbuildings.

Live Music

Live music to take place outdoors only on the same dates and between the same hours as the Outdoor Opera (17:30 - 22:15) and Outdoor Theatre performance (17:30 - 22:30)

Live music to take place indoors only on the same dates and between the same hours (17:30-22:30) as the performance of theatre and concerts indoors.

Live music to take place indoor on the date of the Garsington Society Barn Dance between the hours of 17:30 and 24:00.

Live music concerts to take place between 17:30 and 22:30 Mondays to Sundays on up to 5 days per year such days to be notified to the Licensing Authority by the 31st March of each year. Such performance of live music concerts to take place in the area marked 15 on the attached plan.

Recorded Music	<p>Recorded music to take place outdoors only on the same dates and between the same hours as the Outdoor Opera (17:30 - 22:15) and Outdoor Theatre performances (17:30-22:30)</p> <p>Recorded music to take place indoors only on the same dates and between the same hours (17:30 - 22:30) as the performance of theatre and concerts indoors.</p> <p>Recorded music to take place indoor on the date of the Garsington Society Barn Dance between the hours of 17:30 and 24:00.</p>
Dance Performance	<p>Performance of Dance to take place outdoors only on the same dates and between the same hours as the Outdoor Opera (17:30-22:15) and Outdoor Theatre performances (17:30 - 22:30)</p> <p>Performances of Dance to take place indoors only on the same dates and between the same hours (17:30 - 22:30) as the performance of theatre or concerts indoors.</p> <p>Performances of Dance to take place indoor on the date of the Garsington Society Barn Dance between the hours of 17:30 and 24:00.</p>
Music Facilities	<p>The provision of facilities for making music to take place outdoors only on the same dates and between the same hours as the Outdoor Opera (17:30 - 22:15) and Outdoor Theatre performances (17:30 - 22:30)</p> <p>The provision of faculties for making music to take place indoors only on the same dates and between the same hours (17:30 - 22:30) as the performance of theatre or concerts indoors.</p> <p>The provision of facilities for making music to take place indoors on the date of the Garsington Society Barn Dance between the hours of 17:30 and 24:00.</p>
Dancing Facilities	<p>The date of the Barn Dance will be notified to the Licensing Authority not less than 14 days prior to it taking place and the date of any other on which dancing may take place will be notified to the Licensing Authority not less than 14 days prior to these events.</p>
Alcohol On Sales	<p>Alcohol to be supplied only on the nights when there is indoor or outdoor regulated entertainment, namely the performance of a play or opera, the performance of live music, the performance of recorded music or the provision of facilities for dancing taking place on the premises between the hours of 16:00 and 22:30 EXCEPT in the case of the Garsington Society Barn Dance where alcohol will be supplied between the hours of 17:30 and 24:00.</p> <p>Any other dates for which the supply of alcohol is required will be notified to the Licensing Authority by 14 days in advance of such date and such dates will entail the supply of alcohol between 16:00 and 24:00.</p>

Opening Hours	When the premises is open for regulated entertainment the premises will be open to the public between the hours of 12:00 and 23:30. EXCEPT THAT the premises will remain open to the public until 01:00 on the evening of the Garsington Society Barn Dance.
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Registered number of company or charity if applicable
Not applicable

Note	
1	Conditions attached to this licence numbered 1-10 are listed in Annex 1, 2, and 3
2	A plan of the premises attached to this licence is shown in Annex 4
3	The Operating Schedule of the premises is shown in Annex 5

Annex 1 – Mandatory conditions

1.	No supply of alcohol may be made under the Premises Licence; (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2.	Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.

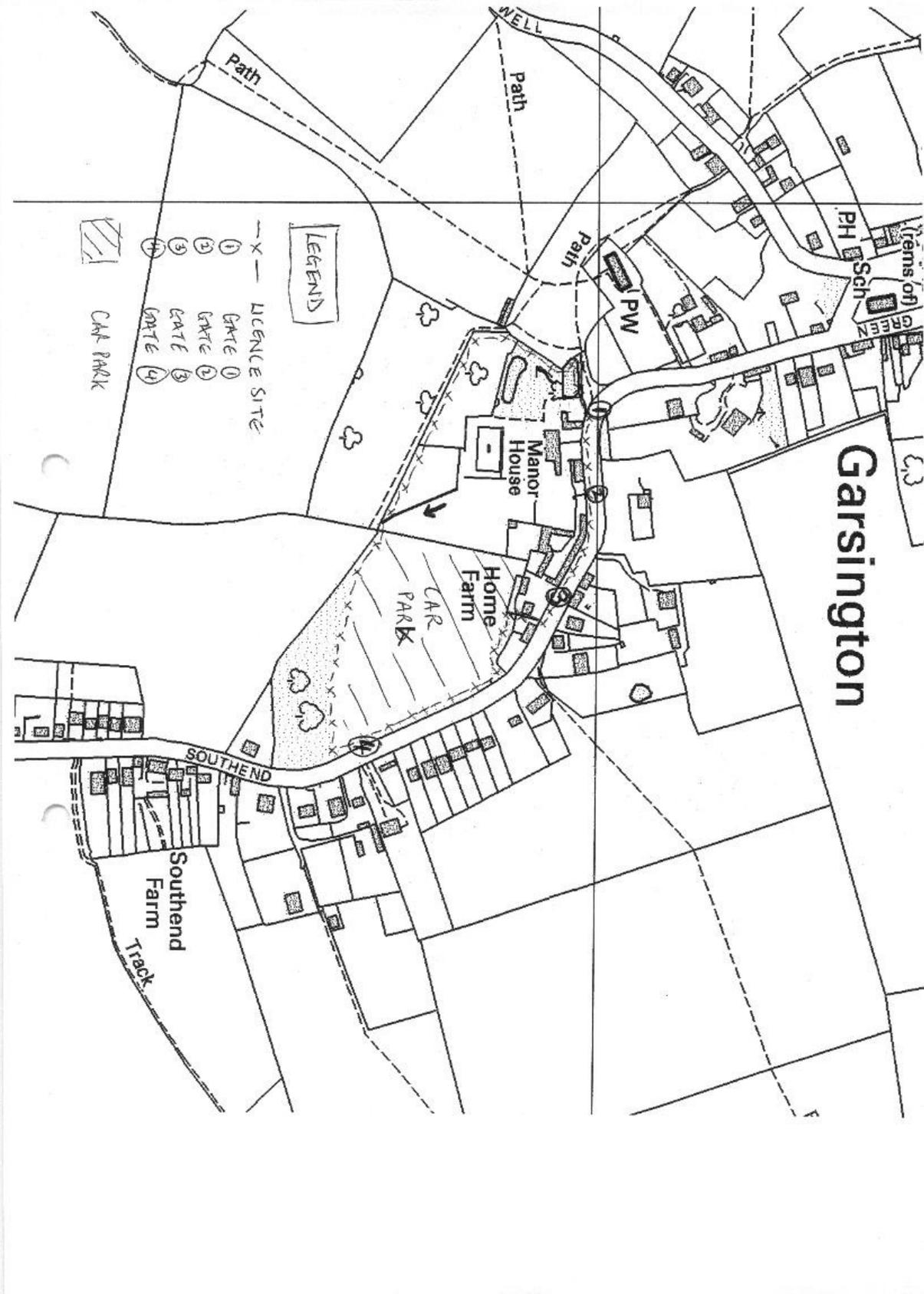
Annex 2 – Conditions attached by the licensing authority after negotiation

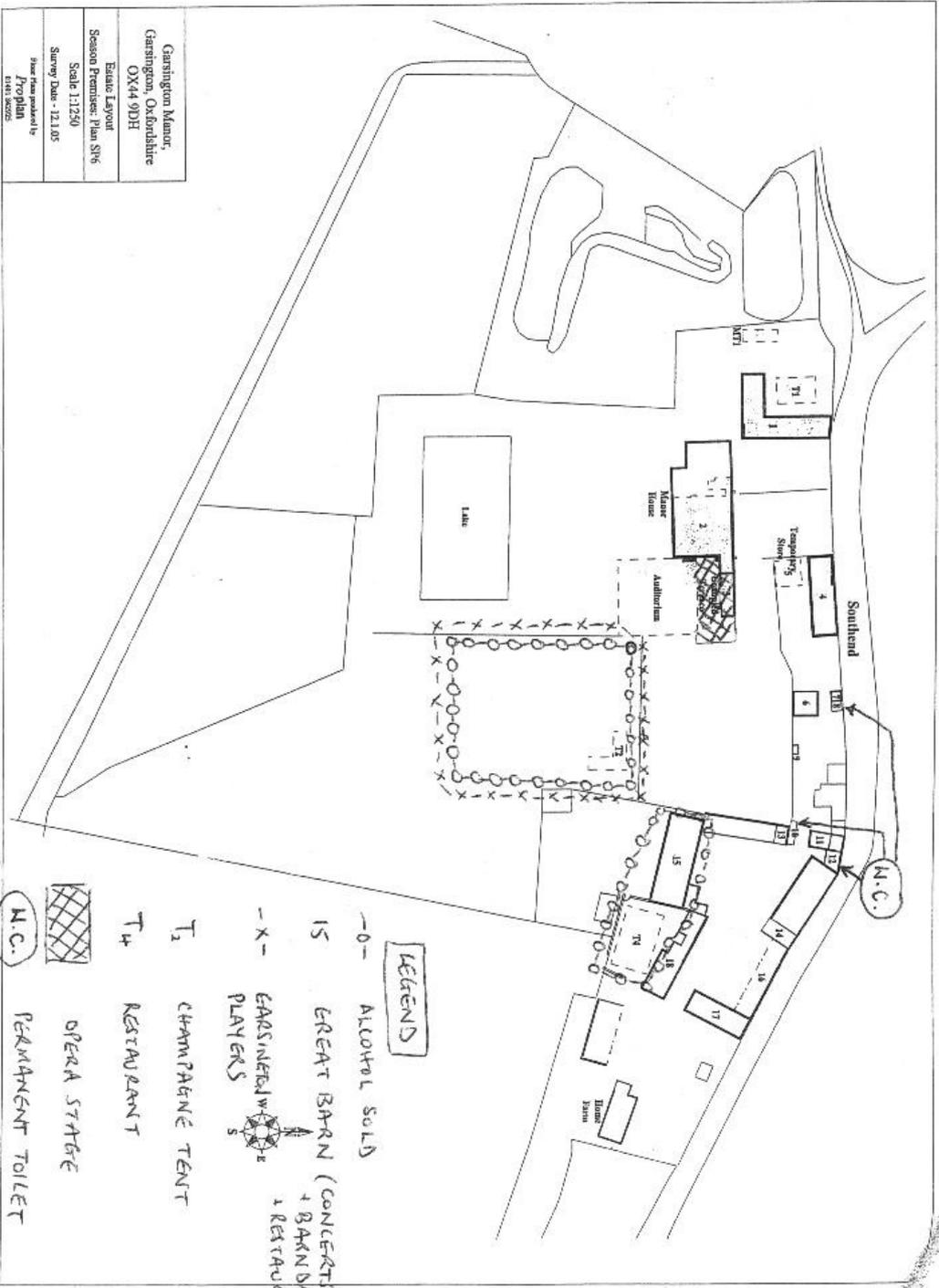
None

Annex 3 – Conditions attached after a hearing by the licensing authority

Mandatory Conditions	
3.	A lighting scheme for non-performance areas of the Opera shall be submitted to the Head of Environmental Health for approval in writing a minimum of 10 working days before the first public performance, and that this scheme shall be required for health and safety purposes and address the potential disturbance to neighbours.
4.	A lighting scheme for theatrical performances within the garden shall be submitted to the Head of Environmental Health for approval in writing a minimum of 10 working days before the first performance.
5.	The lighting of non-performance areas and theatrical performances within the garden shall only be undertaken in accordance with the scheme approved by the Head of Environmental Health pursuant to Conditions 1 and 2.
6.	The use of gate 3 for activities relating to the Opera and ancillary activities shall be restricted to the hours of 8am-6pm Monday to Friday, except for emergency vehicles and those associated with the normal use of Home Farm and ancillary buildings on site. This condition shall apply from the beginning of setting up to the completion of the dismantling of the temporary structures associated with the Opera.
7.	Any activities associated with or ancillary to the carrying on of the Opera which generate noise that is clearly audible at the boundary of any residential accommodation shall be prohibited between the hours of 11.15pm-8am, with the exception of staff vehicles arriving and leaving the car park field and emergency situations. This condition shall apply from the beginning of setting up to the completion of the dismantling of the temporary structures associated with the Opera.
8.	A scheme shall be submitted to the Head of Environmental Health for approval in writing detailing measures to be taken to ensure that staff leaving the premises after 11pm do so in such a manner as to prevent or minimise disturbance to residents.
9.	The Licensee shall implement the measures detailed within the scheme approved in accordance with Condition 8.
10.	Plans of the stage (excluding details of sets etc) and the auditorium shall be submitted and approved in writing by the Head of Environmental Health 10 working days before the first public performance in 2006. The Head of Environmental Health shall be notified in writing of any subsequent changes and any such changes to be approved in writing.

Annex 4 – Plan(s)





Garsington Manor,
 Garsington, Oxfordshire
 OX44 9DH

Estate Layout
 Season Premises: Plan SP6

Scale: 1:1250
 Survey Date: 12.1.05

Plan produced by
 Propplan
 01235 50000

LEGEND

- 0- ALCOHOL SOLD
- 15 GREAT BARN (CONCERT + BARN DANCE) + RESTAURANT
- X- GARSINGTON PLAYERS RESTAURANT
- T₁ CHAMPAGNE TENT
- T₄ RESTAURANT
- OPERA STAGE
- M.C. REMAINENT TOILET

Annex 5 - Operating Schedule

- A
1. At all times the applicant will comply with planning permission number P01/N0620 dated 9th April 2002
 2. The number of public events shall not exceed a total of 35 days duration in any 12 month period of regulation
 3. The proposed regulated entertainment will be conducted in accordance with the proposals contained herein
- B
1. Alcohol will only be sold under the supervision of a designated DPS or his delegated deputy who will hold a personal licence under the Licensing Act 2003
 2. Experienced and/or trained stewards will patrol the grounds during opera performances
 3. All bar staff will be trained in respect of the law relating to service of alcohol and will not serve underage drinkers or those who are visibly intoxicated.
- C
1. A traffic management policy is to be produced to the approval of Thames Valley Police to ensure that traffic control measures are in place at all events covered by this Premise Licence.
 2. A separate risk assessment will be produced each year and submitted to the Licensing Authority and appropriate action will be taken to minimise risk for all users of the premises.
 3. The recommendations of the Fire and Rescue Authority will be complied with.
 4. A report from a member of the institute of Structural engineers will be provided to the effect that the opera auditorium structure is capable of safely accommodating the proposed number of seats and this will be submitted to the Licensing Authority a minimum of one clear working day before the first public performance of the Opera.
 5. Car park tracking to be provided where necessary to allow the car park field to be used when necessary due to the inclement weather.
 6. The public will be directed to access and egress the car park field by way of the Gate marked Gate 4 on the attached plan and when exiting opera patrons will be instructed to turn right.
- D
1. No sound amplification equipment will be employed by the opera without the prior written approval of the Licensing Authority
 2. Opera performances shall commence no earlier than 17:30 and finish no later than 22:15
 3. Acoustic screens will be in place before all performances and rehearsals of the Opera as required by Planning Permission
 4. The approved lighting scheme for the non-performance areas of the premises will be complied with so as to provide the minimum disturbance to those in the vicinity
 5. The number of seats for the opera will be limited to 516 and 2 wheelchairs
 6. The number of seats for the concerts will be limited to 250
 7. The number of seats for the outdoor theatre will be limited to 150
 8. The public will be directed to access and agress the car park field by way of the Gate marked Gate 4 on the attached plan and when

E

exiting opera patrons will be instructed to turn right.

1. No children will perform without a licence.

2. All children will be chaperoned.

3. Child Protection policies shall be adhered to at all times

4. Soft drinks, including tap water, will always be equally available with alcoholic drinks

5. Bar staff will be trained not to serve a child under 18. A "think 21" attitude will be adopted by bar staff during training.

APPENDIX D

**Application for review of the premises licence held by
The Garsington Opera Ltd, Garsington Manor, Southend, Garsington**

APPENDIX E

**Letters of Support for the Review application
from Interested Parties**

Letters from the local residents opposing the review and thereby supporting the premises

Site plan of area showing location of Garsington Manor, the Applicant, Supporters and Objectors

