

Licensing Panel Report



Report of Head of Environmental Services

Originator: Alastair Dearling

Tel: 01491 823426

e-mail: alastair.dearling@southoxon.gov.uk

Date of meeting: 26 April 2007

Time of meeting: 14.00



Purpose of Meeting:

1. To consider the relevant representations received in respect of an application for a review of the premises licence in respect 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 [licensing objectives](#).
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."

Background

5. Garsington Opera Limited has previously held a restricted Theatre Licence for performances of opera at Garsington Manor. Garsington Players have previously held an occasional Theatre Licence for amateur dramatic performances held in the gardens of the Manor and

the late Mr Ingrams held a Public Entertainment Licence in respect of the Great Barn at the Manor for music, singing and dancing. A new Premises application under the Licensing Act 2003 went before the licensing panel on the 20th April 2007 after receiving representation from residents and the authority's environmental health team. A licence was granted to the premises by the Licensing Committee with addition conditions attached to the premises licence.

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

Premises Licence

7. 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 B**. Also included upon this licence are the details of all of the current conditions imposed upon the premises.

Details of Premises Licence 4992	<p>a. To allow regulated entertainment in the forms of play performance, live music, recorded music, dance performance, music facilities, dancing facilities.</p> <p>b. To allow alcohol sales, on the premises</p>
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8. The following information appears on the application for a review of a premises licence which was received by the licensing authority on 2 March 2007. A copy of the application for review is attached at **APPENDIX C**.

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?	It is stated by the applicant: <i>"The noise from the use of the premises has increased in</i>

	<p><i>intensity and duration.</i></p> <p><i>On occasions it has been dangerous to drive along the road outside the premises as well as being difficult/impossible to access our property. The traffic management plan agreed with the police has not always been adhered to with the result that the road outside the premises has not always been safe to use”.</i></p>
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Promotion of Licensing Objectives

9. The operating schedule is attached to the premises licence in **Appendix B** and shows how the premises will address and abide by the licensing objectives.

Background

10. The following background information is known about the premises.

Previous licences held:	Public Entertainment licence and Premises licence under Licensing Act 2003
Current convictions:	None
Details of licence reviews:	This is the first review hearing held in respect of this premises. However, a licensing hearing was held on 20 April 2006 to determine the premises licence, as detailed in paragraph 7.
Complaints:	<p>Thirty Five complaints have been received by Environmental Health in relation to Garsington Opera and the Garsington Players since 1990. The majority of the complaints referred 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. Out of these 35 complaints, eight of these have been lodged after a premises licence was granted on the 20/4/06.</p> <p>Investigation of the complaints by the Environmental Health service did not confirm the existence of a statutory nuisance over which formal action could be instigated please see below:</p>

11. Since 1990, Garsington Manor has had a number of licences as mentioned above, these licenses were to cover a number of different events organised by Garsington Opera, Garsington Players and the Garsington Society that took place at the Manor.

12. 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.
13. In recent years noise from the opera has been controlled by licence conditions - see Appendix B
14. The Environmental Health service 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 with time. This is borne out 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.
15. As a result of the Licensing and General Purposes Committee meeting regarding an application for a Restricted Theatre Licence in 2005 by Garsington Opera, 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 and the contents noted.
16. The consultant's monitoring report concluded that in 2005 the levels of noise arising from the opera and the background levels were very similar to those which occurred ten years ago. The report also points out that the difficulty in measuring the music noise level in this situation, making the use of a formal limit effectively impractical.
17. The consultant's conclusions in their Noise Monitoring Report 2005 are consistent with those previously drawn by the environmental health service following in-house monitoring undertaken in 2000, 2001, 2002 and 2003. The professional view of the four officers who have monitored the opera during that period 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

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

Police:	No Response
Fire & Rescue Service:	No Objections
Environmental Health:	No Objections
Planning:	No Response
Trading Standards:	No Response
Child Protection:	No Response

Interested Parties

19. Relevant representations have also been received from 5 local residents. They all support the request for the review of the licence for Garston Manor and support the reasons for the review as mentioned in paragraph 9.
20. Copies of the letters from the local residents supporting the application for review are attached at **APPENDIX E**.

Legal Implications

21. Under Schedule 5 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.

Policy Considerations

22. 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
23. 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.

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.

Licensing Officer's Observation

24. A plan showing the location of the premises is attached at **Appendix G**. 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.
25. 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
26. In making its decision, the Panel is obliged to have regard to the relevant provisions of the Act, Guidance and Policy.
27. 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.
28. The Panel may take such of the following steps as it considers necessary for the promotion of the licensing Objectives:
 - i. Take no further action
 - ii. Issue a formal warning
 - iii. Modify the conditions of the licence, by altering or omitting or adding to them
 - iv. Exclude a licensable activity from the scope of the licence
 - v. Remove the Designated Premises Supervisor
 - vi. Suspend the licence for a period not exceeding three months
 - vii. Revoke the licence

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

APPENDIX A

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.

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APPENDIX B

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

Opening Hours of the Premises

Day	Start	End
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The times the licence authorises the carrying out of licensable activities

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

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

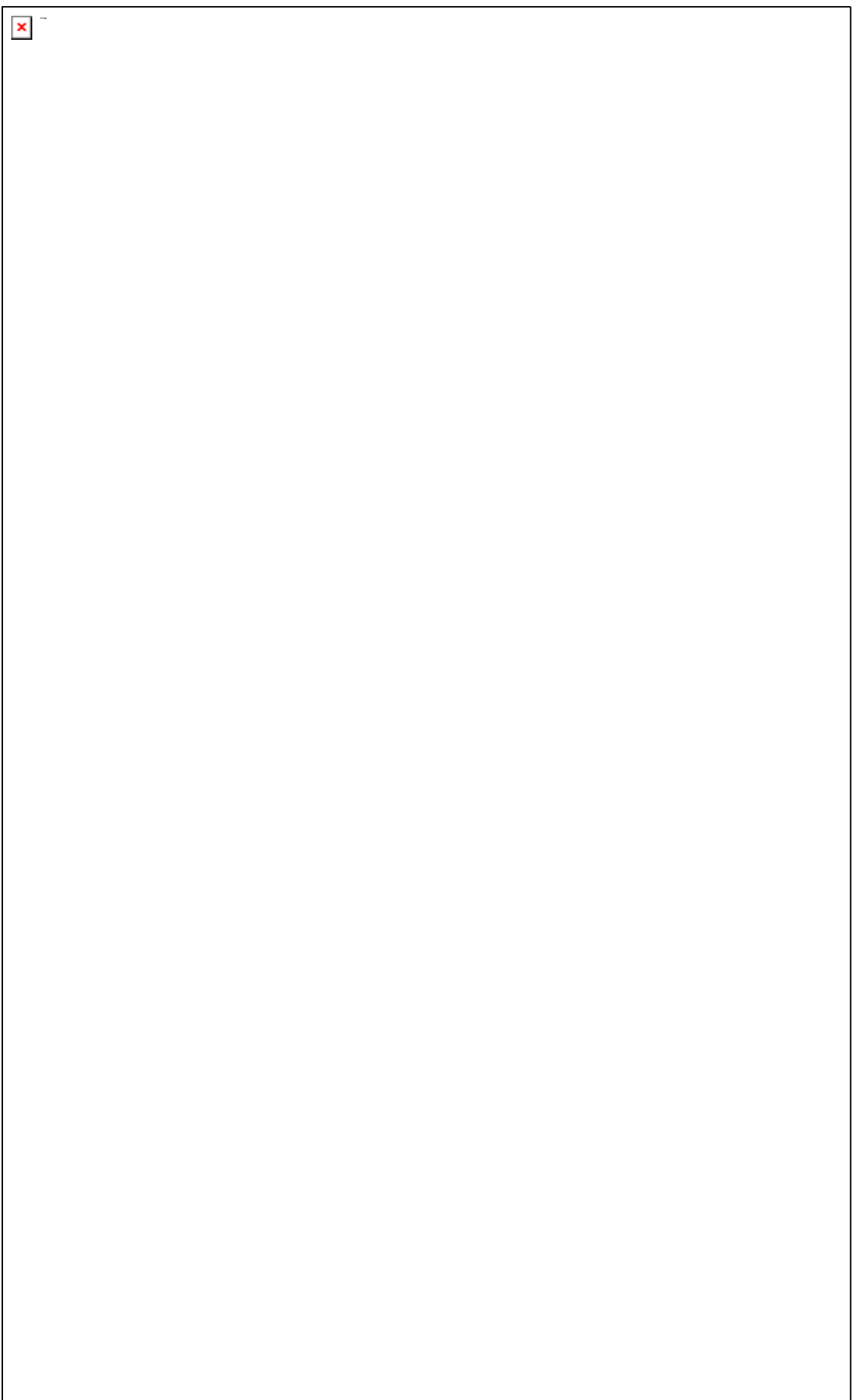
Activity	Details
Play Performance	<p>To use the premises for the performance of open air opera between 17:30 and 22:15 Mondays to Sundays on 24 days per year (such days to include at least 3 dress rehearsals) such days to be notified to the Licensing Authority by the 31st March of each year. Such performance 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.</p> <p>To use the premises for the performance of theatre between 17:30 and 22:30 Mondays to Sundays for a maximum of seven 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.</p>
Live Music	<p>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.</p> <p>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)</p> <p>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.</p> <p>Live music to take place indoor on the date of the Garsington Society Barn Dance between the hours of 17:30 and 24:00.</p>
Recorded Music	<p>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.</p> <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</p>

	and concerts indoors.
Dance Performance	Recorded music to take place indoor on the date of the Garsington Society Barn Dance between the hours of 17:30 and 24:00. 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) 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.
Music Facilities	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. 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) The provision of facilities 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.
Dancing Facilities	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. 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.
Alcohol On Sales	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. 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.

Registered number of company or charity if applicable	Not applicable
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Signed: _____

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



Annex 5 - Operating Schedule

A To extend existing standards and procedures so that they are applied over the proposed extended trading period and apply to all licensable activities requested.

This will enable the premises to continue to operate as premises providing a location for customers to socialise as well as purchase alcohol and food and be entertained.

Maintenance of existing standards will enable the premises to operate lawfully, peacefully, safely and without harm to children.

B To continue with the responsible management of the premises in such a way that all patrons are aware that crime and disorder of any nature will not be tolerated.

To ensure that all staff are trained so as to maintain high standards of operation.

This will include a cooling off period of 30 minutes after last sale of alcohol when music will be turned down to background level.

C To continue to maintain the premises and operate them in a manner so that public safety is not put at risk.

To comply with all the relevant legislation relating to public safety.

D To continue to ensure that sound from the premises is maintained at a level that does not cause a public nuisance.

Music will be reduced to background level during the cooling off period, when soft drinks will be available.

Notices at entrances/exits requesting customers to leave quietly and have regard to any neighbours and members of staff to request customers to leave quietly at closing time.

E Staff fully trained in the implementation of proof of age schemes requiring photographic identification.

To ensure that all staff are aware of the requirements of the Licensing Act 2003 so far as persons under 18 and under 16 are concerned.

Annex 6 - Imposed restrictions to be removed due to licence variation

Remove any embedded restrictions as imposed pursuant to paragraph 6(8) of the eighth schedule to the Licensing Act 2003

APPENDIX C

Application for review of the premises licence held by

**The Garsington Opera Ltd, Garsington Manor, Southend,
Garsington**

Attached overleaf

APPENDIX D

Relevant representations from responsible authorities

NONE

APPENDIX E

Letters of Support for the Review application

from Interested Parties

ATTACHED

APPENDIX F

**letters from the local residents opposing the Review and thereby
supporting the premises**

None

APPENDIX G

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

Aerial View

Location of representations

