

3 April 2019

Dear Councillor

Land north and west of Wavendon Business Park (18/01304/REM)

You will recall that a decision on the reserved matters application was deferred at the last committee meeting on 7 March 2019. The purpose for the deferral was to see if there was a mechanism which would address the concerns of the Stables and ensure its protection against potential complaints from new residents. The applicant had said that it wasn't prepared to enter into a deed of easement as it wasn't a planning matter, a position endorsed by the Council's legal advice at the time. However, Members were not convinced and deferred their decision.

There has been a lot of activity since that meeting. The main points can be summarised as follows:

1. Two Opinions have been provided to the Council on the question of whether a deed of easement of noise is a lawful planning mechanism for mitigating against the risk of future complaints about noise. One opinion was instructed by the Stables (from a leading planning QC) and the other by the Council.
2. Both Opinions have been received, and both confirm that contrary to the Council's internal legal advice, a deed of easement is a lawful planning mechanism. They confirm that if Members consider that there is a risk to the Stables because of future noise complaints, the Council can lawfully compel the applicant to enter a deed of easement.
3. The Opinions also confirm that the deed can be required either as a planning obligation (under s106) or through a planning condition.

We understand the Officer's Report is in the process of being amended to reflect the new legal advice. However, we do not know whether the amended report will now recommend a deed of easement being required.

For the Stables, what seemed a legal impasse a few weeks ago has now changed into a solution that is within reach. The deed of easement has now been confirmed as lawful. It represents good planning, protecting the Stables and allowing the new houses to be built. It's a win-win.

The only reason not to require a deed would be if the committee believed that there was no risk of future complaints from new residential owners. However, we all know that's not the case, as music venues are being forced to close across the country directly as a result of

complaints from new residents. Even your Officers recognise there is a residual risk because otherwise there would be no need for proposed condition 13 (i.e. notifying the new owners about operational noise from the Stables).

At the recent committee meeting, Members appeared minded to help the Stables and secure its future. However, because of the prevailing legal advice, Members were told such help wasn't legally available. That advice has now been changed and the correct legal position has been confirmed. We are now in a different planning position.

We also now know (from the WSP review) that the Council cannot safely rely on the submitted acoustic reports. Amongst numerous reasons, WSP cite atypical northerly wind conditions at the time of the measurements (which distorted more typical noise conditions), a lack of consideration of low frequency bass noise (which is the pre-eminent noise impact leading to complaints), inadequate durations for measurements and inappropriate siting of noise measuring equipment. In short, the submitted reports do not accurately measure noise impact from the Stables on the new homes. This is extremely concerning for the Stables and underlines the threat that the Stables is now facing.

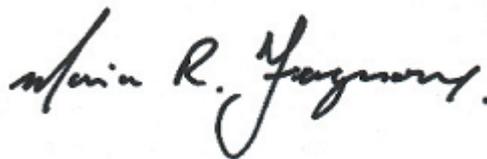
The Stables notes the reluctance of the applicant to enter into the deed. With respect to the applicant, though, it is irrelevant whether it wants to enter into the deed or not. You are the decision-makers and provided you make a lawful decision, it cannot be successfully challenged. That is the advice of the Council's own barrister (paragraphs 27 and 29(3) of the Opinion by Andrew Parkinson).

On behalf of the Stables, the 3,000 people who wrote in support of protecting the venue, the 50 people who work here, and the hundreds of thousands of people who enjoy our events each year, we would urge you to do the lawful things, do the right thing, and ensure a deed of easement is required as part of any approval of the application. The Stables can be saved, and it is within your power to do so.

Yours sincerely



Jim Rice
Chair of Trustees



Monica Ferguson
Chief Executive & Artistic Director