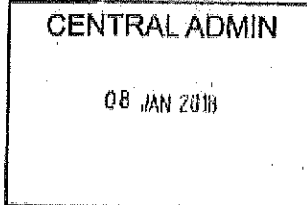


Mr Nigel Gibbs
Planning and Regeneration
Dacorum Borough Council
The Forum
Marlowes
Hemel Hempstead
Herts
HP1 1DN



8th January 2018

Dear Mr Gibbs,

Re: Conversion of Boxmoor Hall In to 7 Residential Flats 4/02224/17/FUL

Further to the meeting of the Development Management Committee on 14th December, I feel the need to set straight some facts and perceptions expressed at the hearing. Once an Objector has retired to the public gallery he or she has no opportunity to make further observations at the hearing itself. I will also offer some information and thoughts which may assist the flat owners on the highways issues which were troubling you at the hearing.

Community use and Policy CS23

My wife and I purchased our home in November 1982. Boxmoor Hall was then a community premises with the business being operated by the Council. My son attended the play school there. It operated those community functions for 20 years without significant issues.

The Applicant repeatedly blamed her neighbours and stated that none of the problems were of her making. With respect, this was not true.

When the Applicant came to the premises in 2007 it was operated for the first year as a dance school and for beauty therapy. No one could take exception to this use and, indeed, we expressed our pleasure in it.

Then in 2008 she made an application for a liquor licence which was opposed by not only my family, but other neighbours and third parties.

It should first be observed that, in addition to the Planning Covenant to which I have previously referred, it is recorded at paragraph 5 of the Charges Register of the

Applicant's title to Boxmoor Hall, that, when she bought the premises, they were subject to a Covenant imposed in the 1869 Conveyance to which I have already referred and of which the Council has a copy, that "no shops shall be built on the said premises, nor any house for the sale of wine, beer or spirits or in any way as a licenced public house". The imposition of such a Covenant was consistent with the philanthropic and charitable origins of the building. The Applicant ignored the Covenant.

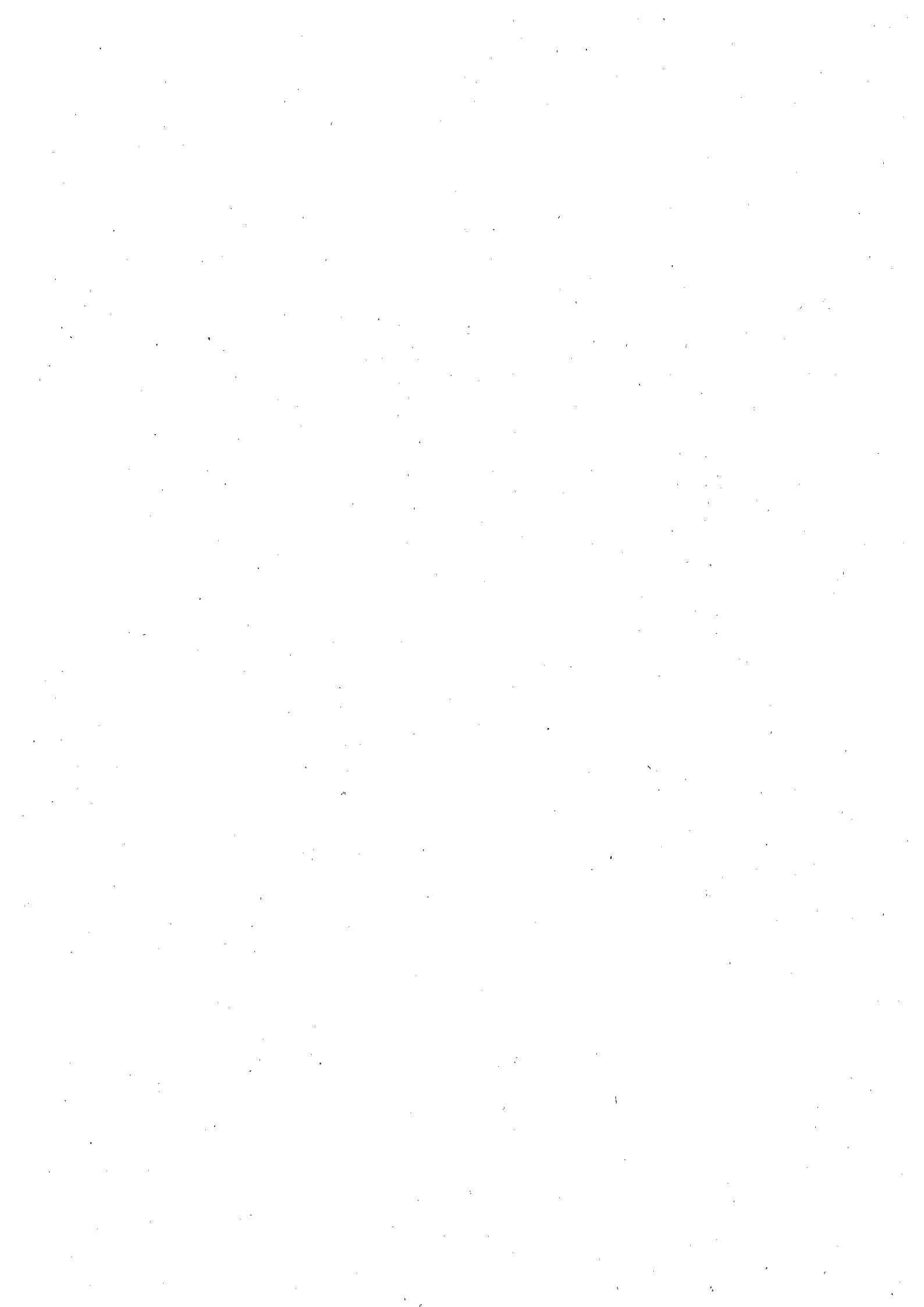
The application was heard in September 2008 and granted because the law is such that there have to be most exceptional grounds for refusing an application for a grant of a liquor licence. However, the Committee imposed some conditions and after the hearing I was urged by one of the licencing Councillors to "wait and see". Although the Applicants suggested that my wife had been mean to her throughout, we took no action in respect of the Covenant, although it was imposed by Mr Balderson who also owned 6 and 8 St Johns Road at the time, and an argument could be put forward that my wife and I, as successors of Mr Balderson, have been able to enforce the Covenant.

At first the licence activities went off satisfactorily, but the Applicant then started to ratchet up the activities, noise levels, late hours and so on to the disturbance and annoyance of neighbours – not only us but the flat owners. On one occasion the music could be heard 250 metres from the premises.

Various conditions of the licence were extensively breached and an application for review was made, which was heard in June 2014. We (and without our knowledge, a number of neighbours of the flats) lodged applications more or less at the same time – separately reaching conclusions that the levels of noise and nuisance were provocatively intolerable. The Applicant maintained to the Committee that she was behaving reasonably, but the Objectors' case was proved to the Committee and additional conditions were imposed, on the expressed ground that they had found proof of "public nuisance" emanating from the Hall and that there was a need for steps to be taken for "the prevention of crime and disorder". The findings are a matter of public record. If you doubt that the Applicant acted unlawfully, you also doubt the findings of your colleagues.

At the June 2014 hearing, the Committee elected not to make a finding in respect of issues of excessive noise which had been raised. They deferred those to the Environmental Health Department. At least one of the flat owners feared that structural damage might be caused as a result of the noise levels. Even though the Applicant had been put on notice that Environmental Health were involved, within a week or so the Environmental Health Officer used a noise meter in one of the flats to confirm that the noise levels were so obviously excessive, that a Noise Abatement Notice had to be issued urgently. Environmental Health were due to install a noise meter in number 4 but cancelled the appointment because the noise levels had been so gross and obvious that a Noise Abatement Notice was clearly appropriate.

The Applicant cannot therefore remotely suggest that these issues were not of her own making. The problems the Applicant caused were proved to your licencing colleagues and to the Environmental Health Officer. It was always possible for the



Applicant to conduct her business and the noise levels in such a manner that she remained within the law. The Applicant suggested that she cannot conduct her dance activities and so on. We recognise that there will be some level of noise and some disturbance from the community building, but the activities must comply with law.

It seemed to be suggested by one or two Councillors that there was some inconsistency in our position but there is not. I am absolutely sure that the Applicant could properly conduct her business to advance it in both a lawful and viable manner – or if the Applicant does not feel able to do so, then others could achieve this.

The Applicant ought not to be able to influence the council to agree a change of use of historic community premises on the basis of factors arising from her own unlawful use of those premises. To allow the Applicant to substantially profit (at the expense of Council Tax payers) from her own unlawful activities and to clear the way for the Applicant to be released from her covenants with the Council (on the basis of which the Council sold the premises for a lowly sum) would, in my view, offend against the principles of equity and fairness.

The Applicant even blamed the building of number 4 for some of their building maintenance issues. Planning permission had been granted for this prior to her purchase. A planning search would have revealed this. Further, as I said before, the proximity of number 4 is not the problem. It is a failure on the part of the Applicant to maintain her gutters – as was evidenced by the waterfall over the side of her building during heavy rain over Christmas.

The Public Highway

While I appreciate that it has been proposed that if Councillors were minded to terminate the community use of the premises, any grant of planning permission will be conditional upon the obtaining of a stopping up order in respect of the public highway, I thought that I would provide a little further information to you, firstly because I have quite a lot of information available from my research over the years and secondly, to express some views which might allay some of the concerns you expressed at the hearing about the alterations which were made to the steps and the disabled access in 1986.

It was a very long time ago, but I believe that when my wife and I purchased the property in 1982, I made a specific enquiry as to whether the stretch of road outside our intended purchase was publicly maintained. It would not have helped me to learn through a standard local search simply that "St Johns Road" was publicly maintained because I would need to know that the stretch outside the house was regarded as part of that Road, because it is an offshoot of what is now the main St Johns Road. There are some concrete pavings in the road a couple of metres or so beyond the vehicular access to 4 and 6 St Johns Road and I believe that I searched to check that that particular section of road was public highway at the time. The frontage at Boxmoor Hall and indeed that outside what was at the time the Heath Park Public House and the car parking area was all surfaced in a similar manner. The whole area was entirely open – much as it had been when the photos were taken in Victorian and Edwardian times. There was nothing to suggest that the land outside Boxmoor Hall was anything

other than one and the same – and the areas remained in the same open format down to the time when the Applicant purchased. There used to be a public notice board and a public telephone outside Boxmoor Hall. These were likely to have been erected on public highway rather than private land.

The first time when I was caused to make enquiries as to the extent of the public highway beyond the frontage of my own property was in July 2001, when new management at Ye Olde Projectionist Public house (the successor of the Heath Park pub) placed 8 tables and benches and some advertising boards in the car park outside the pub with associated ruckus, late night noise, litter, broken glass and so on. These activities not only involved breaches of the pub's licence, but, as I say, the situation prompted me to confirm the highway position. I note that you have had discussions and meetings with Hertfordshire County Council who hold the definitive map, but I established that in March 1958 the original junction of St Johns Road with Station Road was diverted and a 2ft (600mm) strip at the mouth of that old road was "stopped up" by a Magistrates Court Order. In July 2002 the DBC Highways Agency, having confirmed that the area outside the pub was public highway, directed the management of the pub to remove all obstructions to it.

I refer to photographs which are with this letter. There are photographs taken in Victorian/Edwardian times showing the original junction and the entrance to the Heath Park Public House and illustrates some of the historic events held at the hall. This had steps, four stone columns and a canopy at the time and extended beyond the front elevation of the building. I also took some photographs in 2001 to illustrate the obstructions, and it will be seen that one of these also shows that to the right of the steps (the canopy had been removed) there were wooden covers over the steps leading down to the beer cellar. I believe that one of the flats has a basement in what was the beer cellar. The Heath Park Public House had been constructed in or about 1867. I have a copy of the auction particulars in respect of the sale of the building which was expressed to be for use as a public house. The features to which I have referred would tend to suggest that, whatever the definitive map may presently say, the boundary of the highway will have been in front of these features. I think it unlikely that the original steps of Boxmoor Hall were part of the highway. One remembers that Mr Balderson who sold the land on which Boxmoor Hall was built, was a member of the Highways Board. I have always felt that the highway boundary was probably properly immediately at the front of the steps/canopy/beer cellar entrance. The boundary outside Boxmoor Hall may properly have been immediately in front of the old steps. It is possible therefore that the gardens and private car parking spaces outside the Heath Park flats were not constructed on highway land. An application to amend the Definitive Plan might be made. Hertfordshire County Council could perhaps check their source documentation (which I believe goes back to 1909/10) as to the highways boundary outside the flats. The owners of some of the flats may not need to make a stopping up application. These are only opinions, but they may assist.

The photographs also showed that some low walls with a small garden area had been constructed at right angles to the corner of the pub. This may have been within the area stopped-up in 1958.

Finally, the photographs also show the open ancient street scene prior to the Applicant's purchase which I have been anxious to restore and preserve, together with the public notice board. It will be seen that there was nothing to suggest that the whole tarmac area was of the same nature. Any Solicitor acting for any purchaser of either the Hall or the pub or the private car parking spaces outside the flats ought, in my opinion, to have made specific enquiries to establish that those areas (not just "St Johns Road") were publicly maintained, since otherwise private pedestrian and vehicular easements of way would have been required from a conveyancing perspective.

You expressed to Councillors at the hearing concerns that the Council had extended the steps and constructed a disabled access in 1996. I suspect that the Legal Department would not have been consulted about such a matter. While the alterations could hardly be regarded as pretty, my wife and I were hardly likely to object to the creation of a disabled ramp. I cannot think that the Council will have made any misrepresentations to the Applicant as purchaser about the Council's right to construct the replacement steps and access in its current position. I cannot see that the Council can have any liability in this respect. It is the normal conveyancing situation of "let the buyer beware".

In 2001, I also began making enquiries of Scottish & Newcastle Brewery, who then owned the public house, to try to establish the extent of the land which they owned - bearing in mind that they were putting out tables etc. The title to the land was unregistered at the Land Registry. They were later able to persuade the Land Registry to include part of the car park as being within their registered title, not on the basis of it being on plans attached to Conveyances or the like in the usual way, but by providing a Statutory Declaration from an employee of the company in Northampton. That frontage remains public highway, subject to what I have said about the boundary of the highway and the 2ft wide strip of land which was stopped up.

After the Applicant purchased Boxmoor Hall, she erected a patio which doubles as a parking area. Hertfordshire County Council as Highway Authority took the view that although these obstructions were placed on the public highway, they did not prevent the public from still passing over that land and did not take any action to have the patio removed because it was not part of the main thoroughfare. A fence was later erected on the frontage next to the Heath Park flats. The Highways Authority did require this to be removed as being an obstruction to the public highway.

I hope this is of help. If you have any queries I shall be happy to hear from you.

JONATHAN CARR

