

Licensing Act Sub-Committee

Agenda

Date: Thursday, 3rd January, 2013
Time: 10.00 am
Venue: Committee Suite 2/3 - Westfields, Middlewich Road, Sandbach, CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda and for Members to declare if they have pre-determined any item on the agenda.

3. **Application for variation of Premises Licence, Newton Brewery Inn, 68 Webbs Lane, Middlewich (Pages 5 - 22)**

To consider an application for the variation of a Premises Licence by Admiral Taverns (Chester) Limited, in respect of Newton Brewery Inn 68 Webbs Lane, Middlewich.

THERE ARE NO PART 2 ITEMS

For requests for further information

Contact: Julie Zientek
Tel: 01270 686466
E-Mail: julie.zientek@cheshireeast.gov.uk

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CHESHIRE EAST COUNCIL

PROCEDURE FOR HEARINGS – LICENSING ACT 2003

The Licensing Committee

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

Officers at Hearings

- **The Committee Officer** introduces all parties and records the proceedings
- **The Legal Adviser** provides independent advice to the Members on legal matters and procedure.
- **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

PROCEDURE

NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.

1	Chairman	The Chairman will: (i) call the matter to be considered; (ii) call for any declarations of interest; (iii) ask all parties to introduce themselves; (iv) summarise the procedure to be followed at the hearing; (v) will consider any request made by a party for another person to appear at the hearing; (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties).
2	Licensing Officer	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	Committee Members	May ask questions of the Licensing Officer
4	Applicant	Will present his/her case, calling witnesses, as appropriate. <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>
5	Responsible Authorities (who have made representations)	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.

6	Local residents (ie. defined as “interested parties”)	To be invited to ask <u>questions</u> of the applicant, by way of clarification. <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	Committee Members	Each in turn may ask <u>questions</u> of the applicant.
8	Applicant	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	Responsible Authorities	Will make their representations.
10	Applicant	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	Local residents (ie. defined as “interested parties”)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification. (Note: This is not the point at which local residents should be stating their objections.)
12	Committee Members	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	Local residents (ie. defined as “interested parties”)	The local residents who are objecting to the application will be invited <u>to make observations on the application</u> and present the bases of their objections.
15	Applicant	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
16	Committee Members	May ask <u>questions</u> of the Local Residents.
17	Chairman	To invite both Responsible Authorities and Local Residents to make their closing addresses.
18	Applicant	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
19	Committee	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	Committee	Will return to <u>give its decision</u> , with reasons, which will be announced by the Chairman and subsequently confirmed in writing to the applicant and to all the parties that made representations.

		In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.
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Notes

1. The hearing shall normally be held in public. There may be occasions on which the Committee find it necessary to exclude members of the press and public; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to leave the hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chair may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

SUMMARY OF PROCEDURE

- 1 Chairman appointed (if this has not been done previously).
- 2 Chairman to call for declarations of interest and request that all parties introduce themselves.
- 3 Chairman summarises the procedure for the hearing
- 4 The Licensing Officer summarises the application
- 5 Applicant to present his/her case.
- 6 Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
- 7 Applicant to be questioned by the Committee.
- 8 Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
- 9 **Local residents** (defined as interested parties) will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
- 10 The applicant will be invited to sum up his/her case
- 11 Committee/Sub-Committee withdraws to make its decision
- 12 Committee/Sub-Committee returns to announce its decision to all present.

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting:	Thursday 3 rd January 2013 at 10.00am
Report of:	Mrs V Selfe – Licensing Administration Officer
Subject/Title:	Application for variation of Premises Licence Newton Brewery Inn, 68 Webbs Lane, Middlewich

1.0 Report Summary

- 1.1 The report provides details of an application for the variation of a premises licence together with information as to representations received in relation to the application.

2.0 Recommendations

The Licensing Act Sub-Committee is requested to determine the application for the variation of a Premises Licence made by Admiral Taverns (Chester) Limited, for a premises known as Newton Brewery Inn 68 Webbs Lane, Middlewich CW10 9DN.

Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives, and where Members consider matters have engaged one or more of the objectives, they may exercise their discretion.

Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to, and should provide reason(s) for any decision taken, or where they might consider departing in any way from the Policy or Guidance.

Licensing Objectives / Guidance / Policy Considerations

The relevant representations engage the licensing objectives. The Sub-Committee in respect of this application is referred to the Guidance issued under Section 182 of the Licensing Act 2003, specifically those sections relating to the licensing objective, premises licenses and hearings.

Statement of Licensing Policy

Members should carefully consider the relevant sections of the Council's Statement of Licensing Policy.

Members are reminded that should any conditions be added, they should be practical, enforceable and appropriate to promote the Licensing Objectives.

Finally, Members are also reminded that in determining the application in accordance with the Licensing Act 2003, Members must also have regard to:

- The rules of natural justice
- The provisions of the Human Rights Act 1998

3.0 Reasons for Recommendations

3.1 The Licensing Act Sub-Committee has the power to determine this application in accordance with the provisions of the Licensing Act 2003.

4.0 Wards Affected

4.1 Middlewich

5.0 Local Ward Members

5.1 Cllr John Paul Edwards, Cllr Simon Nicholas McGrory and Cllr Michael John Parsons

6.0 Policy Implications

6.1 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 and Guidance issued under section 182 of the Act.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

7.1 Not applicable.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 In accordance with the provisions of section 35 of the Licensing Act 2003 the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. Section 35(4) provides that the authority may (a) modify the conditions of the licence; or (b) reject the whole or part of the application.

9.0 Risk Management

9.1 Section 181 and Schedule 5 of the Licensing Act 2003 make provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

10.0 Background and Options

10.1 The application is for the variation of a Premises Licence under section 34 of the Licensing Act 2003.

10.2 The operating schedule indicates that the relevant licensable activities applied for are:

Sale and Supply of Alcohol (for consumption both on and off the premises)

10.3 The hours applied for are as follows:

Sale and Supply of Alcohol (for consumption both on and off the premises)

Sunday to Wednesday 11.00 to 00.30
Thursday 11.00 to 01.00
Friday and Saturday 11.00 to 02.00

Seasonal variations: additional hour to the standard and non-standard times when British Summertime commences

Non-standard timings: from the start of standard timing on New Year's Eve to the start of standard timing on New Year's Day

The hours the premises shall be open to the public

Sunday to Wednesday 11.00 to 01.00
Thursday 11.00 to 01.30
Friday and Saturday 11.00 to 02.30

Seasonal variations: additional hour to the standard and non-standard times when British Summertime commences

Non-standard timings: from the start of standard timing on New Year's Eve to the start of standard timing on New Year's Day

10.4 Designated Premises Supervisor: Mr Adrian Garner

10.5 The operating schedule includes the following steps to promote the licensing objectives:

(a) Public safety

All customers will exit via the rear of the premises onto the public footpath and not the road.

(b) Prevention of public nuisance

All customers will exit via the rear of the premises onto the public footpath and not the road.

(c) Protection of children from harm

No children allowed beyond 8pm.

10.6 Relevant Representations:

Responsible Authorities

10.6.1 The Police Licensing Officer – for response and agreed conditions please see appendix 1 to this report.

10.6.2 The Environmental Health Department – for response and agreed conditions please see appendix 2 to this report.

10.6.3 The Cheshire Fire Service – No response.

10.6.4 Local Planning Authority – No response.

10.6.5 Local Safeguarding Children Board – As Police response.

10.6.5 Health and Safety Officer – No response.

10.6.6 Trading Standards – No response.

Other Persons

10.6.7 The Licensing Authority has received one letter of representation from a neighbour objector, as appended to this report.

10.6.8 The Licensing Authority had received an objection from a neighbour whose concerns were in relation to public nuisance. He has since spoken to both the DPS and the licence holder and is now satisfied with the outcome and has withdrawn his objection.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Mrs V Selfe

Designation: Licensing Administration Officer

Tel No: 01270 371117

Email: vanessa.selfe@cheshireeast.gov.uk

APPENDICES

Appendix 1 – Representation from Police with agreement from the applicant.

Appendix 2 – Representation from Environmental Health with agreement from the applicant.

Appendix 3 - Representations from neighbour objector

Appendix 4 – copy of existing Premises Licence Summary and conditions

Appendix 5 – map of the area

SELFE, Vanessa

From: David Smethurst
Crewe.Congleton.Licensing@cheshire.pnn.police.uk
Sent: 21 November 2012 08:36
To: LICENSING (Cheshire East)
Subject: Newtons Brewery, Middlewich - Premises Licence variation <NOT PROTECTIVELY MARKED>
Attachments: 181012 Newton Brewery Inn, Middlewich - Full Variation Application Form.doc

Please note below agreement from the applicant, who is varying the premises licence at Newton Brewery, 68 Webbs Lane, Middlewich, to the following condition being added to the amended premises licence in order to promote the licensing objectives:

- There shall be no entry or re-entry to the premises after 01:00 save for existing customers observing the ban on smoking in public places.

Please forward to me a copy of the amended licence when issued.

Kind regards

David Smethurst MLO
Police Licensing Officer
Sandbach Police Office
Middlewich Road
Sandbach
Cheshire
CW11 1HU

Hi David,

I can confirm we are happy for the below condition to be attached onto the premises licence as per our application.

Many thanks

Darren Kelly
Licensing Supervisor

Admiral Taverns Ltd
Steam Mill Business Centre
Steam Mill Street
Chester
CH3 5AN

From: David.Smethurst
Behalf Of: Crewe.Congleton.Licensing@cheshire.pnn.police.uk
Sent: 20 November 2012 11:49
To: Darren Kelly
Subject: Premises Licence variation at Newton Brewery, Middlewich <NOT PROTECTIVELY MARKED>

uk] On

Darren,

I have now received, on behalf of the Chief Officer of Police, your application to extend the hours at Newton Brewery in order to ostensibly accommodate regulars who are shift workers. I am now seeking agreement with you for one further condition to be attached to the premises licence in order to address any potential late night migration issues caused by the variation and that is:

- There shall be no entry or re-entry to the premises after 01:00 save for existing customers observing the ban on smoking in public places.

Having spoken at length with your tenants I do not see this having any adverse effect on what they plan and on the majority of nights they will be closed by 01:00 anyway. Please 'Reply with history' with your comments so that I can forward this entire communication thread to the Licensing Authority.

Kind regards

David Smethurst MLO
Police Licensing Officer
Sandbach Police Office
Middlewich Road
Sandbach
Cheshire
CW11 1HU

LICENSING ACT 2003 Environmental Health Consultation Response

My Ref: ELL/024031

Date Received:

8th November 2012

Name of Applicant:

Newton Brewery Inn

Address to which application relates:

Newton Brewery Inn, 68 Webbs Lane, Middlewich,
Cheshire East, CW10 9DN

Conversion:

Variation:

New:

<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

Approve

Approve with Conditions

Object to Section(s)

Proposed Conditions

The following conditions should be applied:

Prevention of Public Nuisance

All necessary steps shall be taken to ensure that any noise from the premises shall not be at a level which could cause a noise nuisance at the boundary of the nearest residential premises, therefore:

Refuse such as bottles shall be disposed of from the premises at a time (i.e. between 9am to 9pm) when it is not likely to cause a nuisance to residents in the vicinity of the premises.

There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and area quietly.

No nuisance shall be caused by noise coming from the premises or by vibration transmitted through the structure of the premises.

When regulated entertainment takes place, all windows and external doors shall be kept closed except to allow access and egress.

Signed: Tracey Billington

Dated: 29th November 2012

SELFE, Vanessa

From: Darren Kelly
Sent: 30 November 2012 09:18
To: SELFE, Vanessa
Subject: RE: Premises Licence Variation - Newton Brewery , Webbs Lane, Middlewich

Hi Vanessa,

I can confirm that Admiral Taverns are happy with the below conditions to be added onto the premises licence.

Many thanks

Darren Kelly
Licensing Supervisor

Admiral Taverns Ltd
Steam Mill Business Centre
Steam Mill Street
Chester
CH3 5AN

From: SELFE, Vanessa [<mailto:Vanessa.Selfe@cheshireeast.gov.uk>]
Sent: 29 November 2012 16:11
To: Darren Kelly
Subject: Premises Licence Variation - Newton Brewery , Webbs Lane, Middlewich

Hi Darren, I've had the conditions listed below from the Environmental Health Officer in respect of the above application, would you please confirm your approval or if you need to discuss them then please contact :

Tracey Billington MCIEH
Enforcement Officer

Proposed Conditions

The following conditions should be applied:

Prevention of Public Nuisance

All necessary steps shall be taken to ensure that any noise from the premises shall not be at a level which could cause a noise nuisance at the boundary of the nearest residential premises, therefore:

Refuse such as bottles shall be disposed of from the premises at a time (i.e. between 9am to 9pm) when it is not likely to cause a nuisance to residents in the vicinity of the premises.

There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and area quietly.

No nuisance shall be caused by noise coming from the premises or by vibration transmitted through the structure of the premises.

When regulated entertainment takes place, all windows and external doors shall be kept closed except to allow access and egress.

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Sent: 24 November 2012 10:36
To: LICENSING (Cheshire East)
Subject: Variation of license by Admiral Tavern's Middlewich.

I would like to express my extreme concern about the application by Admiral Taverns (68 Webbs Lane Middlewich), to extend their opening hours to the proposed level.

As a single parent who lives at [redacted] with two young children i object most strongly to the idea of drinking, in what is a highly residential area, being allowed to continue until 02.30 on a weekend and 01.00 on week nights extending to 01.30 on Thursday onwards. As a Nurse who works full time i can only imagine that the extra noise of drunks leaving/using the pub either by foot or taxi will be a significant disturbance to myself and other hardworking residents who similarly have young children sleeping in rooms facing the street.

I would also like to add that we have another Public House on the road which incurs further traffic back towards the direction of Middlewich town, and this would exacerbate what is already a very distressing situation for residents at night particularly in Summer months. Loud and noisy drunken groups of people walking down a very narrow pavement several yards from our front doors often swearing, vomiting and often leaving pint glasses on our doorsteps etc.

As a resident who has lived on the street for 9 years, i can tell you we already have significant public disorder offences on this street due to the location of the canal park and tow path which attracts young people to hang around at night, i'm sure this can be verified by Community Police officers who are aware of the ongoing complaints regarding this.

There are a high number of Elderly residents on the street and Dane Housing have also housed several young vulnerable families in the Terraced houses which adjoin the Premises so this will also impact upon them. In closing i would also like to add that the published application in the local paper was very small, and could very easily be missed or overlooked by anyone with Eyesight difficulties therefore could be effect our right as local residents to raise concerns. It would seem better practice to inform neighbouring residents directly as would happen with a planning application. I hope that these concerns will be viewed and considered by the council, i await your response.

From:
Sent:
To:
Attachments:

02.JPG; Thursday 6th

Dear Vanessa,

Further to our discussions regarding my concerns about issues relating to extended licensing application by Admiral Taverns, I wanted to forward pictures to the Committee which illustrate the existing problems due to drunken behaviour on the street. These pictures were taken this morning after drunken individuals causing noise and disruption on leaving a public house on the street then vomited outside my house. As I explained in my previous emails I am concerned there will be a significant increase in these kind of already regular events if customers are encouraged to drink until 02.30 in the morning. Although I accept Door supervision controls rowdy behaviour at the premises, it will do nothing to alleviate the disturbance made by pub users making their way up and down the street at very antisocial hours; therefore I feel it is the issue of the very late hours suggested and the impact this has on local residents every night of the week that is more pertinent to the problem.



**Cheshire East
Council**
**PART B
Premises Licence Summary**

Premises Licence Number:

LAPRE/0745/05

Premises Details

Postal address of Premises or, if none, Ordnance Survey map reference or description:

Newton Brewery Inn
68 Webbs Lane
Middlewich
Cheshire East

Post Town: Middlewich

Post Code: CW10 9DN

Telephone Number: 01606 833052

Where the Licence is time limited, the dates:

Not applicable

Licensable activities authorised by the Licence:

Sale and Supply of Alcohol
Recorded Music
Indoor Sports
Film Exhibitions
Live Music
Making Music
Provision of facilities for dancing
Similar Regulated Entertainment

The time the Licence authorises the carrying out of licensable activities:

All permitted licensable activities

Every Day 11:00 - 00:00

The opening hours of the Premises:

Monday	11:00 - 00:30
Tuesday	11:00 - 00:30
Wednesday	11:00 - 00:30
Thursday	11:00 - 00:30
Friday	11:00 - 00:30
Saturday	11:00 - 00:30
Sunday	11:00 - 00:30

Where the Licence authorises supplies of alcohol, whether these are on and/or off supplies:

Alcohol is supplied for consumption both on and off the Premises

Name, (registered) address of holder of Premises Licence:

Admiral Taverns Limited
Milton Gate
60 Chiswell Street
London
EC1Y 4AG

Registered number of holder, for example company number, charity number (where applicable):

Company No: 05438628

Name of designated Premises Supervisor where the Premises Licence authorises for the supply of alcohol:

Mr Adrian Garner

State whether access to the Premises by children is restricted or prohibited:

Restricted

Licence Issued: 10th October 2012

J. Cornes

Mrs Jane Cornes on Behalf of: Cheshire East Council
Licensing Department
Westfields
Middlewich Road
Sandbach
Cheshire. CW11 1HZ



Licensing Act 2003 – Premises Licence

Duration of a Premises Licence

A premises licence has effect until such a time that it is suspended, revoked or surrendered.

Duty to notify change of name or address

The holder of a premises licence must, as soon as is reasonably practicable, notify the relevant licensing authority of any change of name or address.

Where the designated premises supervisor (DPS) under a premises licence is not the holder of the licence, he should notify the licensing authority of a change in name or address as soon as possible. The DPS must also notify the holder of the premises licence.

Failure without reasonable excuse to comply with the above is an offence, and a person will be liable on summary conviction to a fine not exceeding level 2 on the standard scale (ie £500)

Duty to keep and display licence

The holder of a premises licence must ensure that the licence or a certified copy of it is kept at the premises in the custody of or under the control of the holder of the licence or a person who works at the premises whom the premises licence holder has nominated in writing. A notice should be prominently displayed at the premises specifying the position of any such nominee.

The premises licence holder has a duty to ensure that a summary of the licence or a certified copy of that summary is prominently displayed at the premises.

Failure without reasonable excuse to comply with the above is an offence, and a person will be liable on summary conviction to a fine not exceeding level 2 on the standard scale (ie £500)

Duty to produce licence

A constable or an authorised person may require production of the premises licence for examination. An authorised person must, if requested, produce evidence of his authority to exercise the power.

Failure without reasonable excuse to comply with the above is an offence, and a person will be liable on summary conviction to a fine not exceeding level 2 on the standard scale (ie £500)

Theft or loss of premises licence

Where a premises licence or summary is lost, stolen, damaged or destroyed, the holder of the licence may apply to the relevant licensing authority for a copy of the licence or summary. A fee of £10.50 is payable in relation to such an application.

Where an application is made for a replacement licence or summary the licensing authority must issue the holder of the licence with a licence or summary if it is satisfied that –

- (a) the licence or summary has been lost, stolen, damaged or destroyed; and
- (a) where it has been lost or stolen, the holder has reported that loss or theft to the police.

Surrender of premises licence

Where the holder of a premises licence wishes to surrender his/her licence he/she may give the licensing authority a notice to that effect. The notice must be accompanied by the premises licence, or where that is not practicable, by a statement of the reasons for the failure to provide the licence. Where a notice of surrender is given, the premises licence lapses on receipt of the notice by the licensing authority.

Death, incapacity, insolvency of licence holder

A premises licence lapses if the holder of the licence –

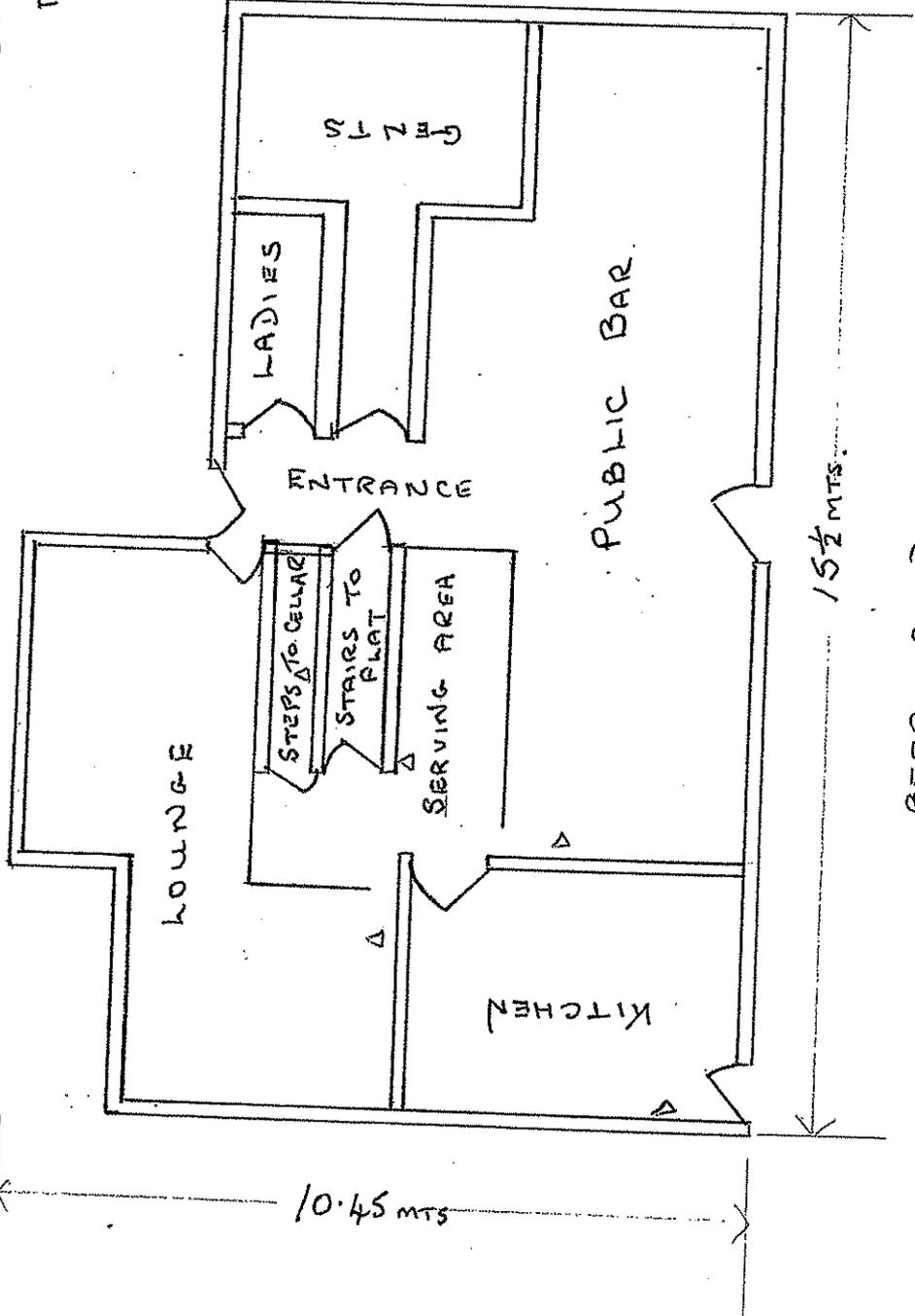
- (a) dies,
- (a) becomes mentally incapable (within the meaning of section 13(1) of the Enduring Powers of Attorney Act 1985)
- (b) becomes insolvent,
- (c) is dissolved, or
- (d) if it is a club, ceases to be a recognised club

(subject to provision for re-instatement in certain circumstances).

WEBBS LANE

CAR PARK

NEWTON BREWERY
68 WEBBS LANE
MIDDLEWICH
CHESHIRE
CW10 9DN



SCALE
1:100

▲ FIRE EXTING.

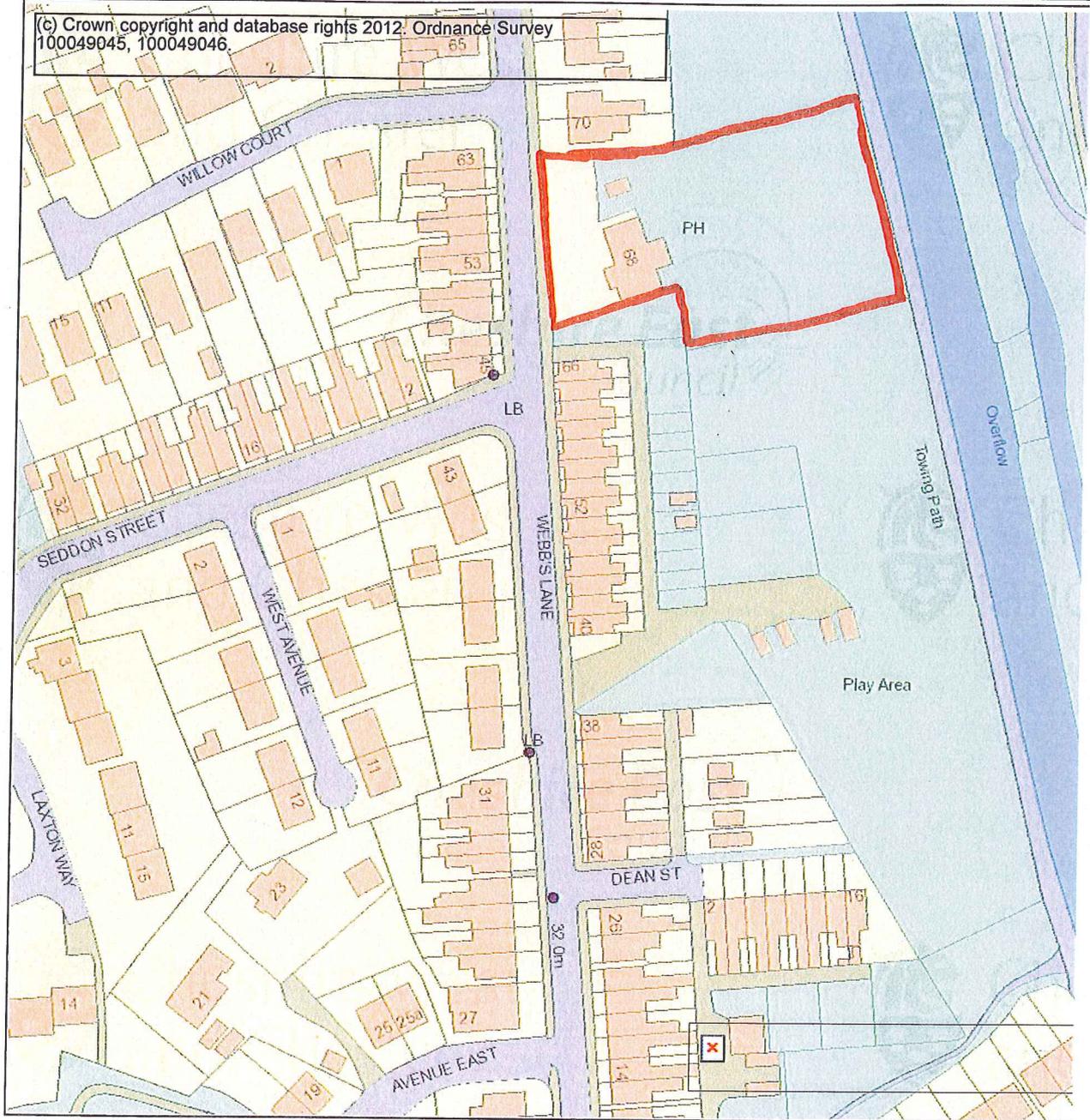
BEER GARDEN

LAPRE 10745/05



Cheshire CC WebGIS

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