

Licensing Act Sub-Committee

Agenda

Date: Wednesday, 30th May, 2012
Time: 2.00 pm
Venue: Meeting Room B, Macclesfield Library, Jordangate,
Macclesfield, Cheshire SK10 1EE

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 personal and/or prejudicial interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Notice of Temporary Event: Warford Hall, Warford Hall Drive, Great Warford, Alderley Edge SK9 7TP** (Pages 5 - 14)

To consider a temporary event notice which has been served in respect of Warford Hall, Warford Hall Drive, Great Warford, Alderley Edge and the objection notice which has been received in respect of this temporary event notice.

THERE ARE NO PART 2 ITEMS

For requests for further information

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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

LICENSING ACT SUB-COMMITTEE

Date of meeting: 30 May 2012

Report of: Peter Simester, Licensing Administration Officer

Title: Notice of Temporary Event
Warford Hall, Warford Hall Drive, Great Warford, Alderley Edge,
SK9 7TP.

1.0 Report Summary

- 1.1 The report provides details of a temporary event notice which has been served in respect of Warford Hall, Warford Hall Drive, Great Warford, Alderley Edge, SK9 7TP. The notice requests authorisation for (i) the sale by retail of alcohol (for consumption on the premises), (ii) the provision of regulated entertainment, and (iii) the provision of late night refreshment in a marquee in the grounds of the hall. The Environmental Health Service has submitted an objection notice in relation to this temporary event notice.

2.0 Recommendations

- 2.1 The Licensing Act Sub-Committee is requested to:
- 2.1.1 consider the temporary event notice served in relation to Saturday 15 September/Sunday 16 September 2012 (19:00 hours to 02:00 hours) and the objection notice received in respect of this temporary event notice; and
- 2.1.2 determine whether, having regard to the objection notice, to give a counter notice under section 105 of the Licensing Act 2003.

3.0 Reasons for Recommendations

- 3.1 The Licensing Act Sub-Committee has the delegated authority to consider this temporary event notice.

4.0 Wards Affected

- 4.1 Mobberley

5.0 Local Ward Members

- 5.1 Councillor Jamie Macrae

6.0 Policy Implications

- 6.1 The Council has adopted a Statement of Licensing Policy under the 2003 Act relating to its functions as a Licensing Authority under the Act.

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

7.1 None.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Section 104 of the Licensing Act 2003 provides that where a 'relevant person' (i.e. the Chief Officer of Police or the Environmental Health Service) are satisfied that allowing a premises to be used in accordance with a temporary event notice would undermine a licensing objective, that 'relevant person' is required to give a notice ("an objection notice") stating the reasons for being so satisfied.

8.2 Where a licensing authority receives an objection notice it is required, by section 105(2) of the Licensing Act 2003 to:

a) hold a hearing to consider the objection notice, unless the premises user, the relevant person who gave the notice and the licensing authority agree that a hearing is unnecessary; and

b) having regard to the objection notice, give the premises user a counter notice if it considers it appropriate for the promotion of a licensing objective to do so.

8.3 In circumstances where an objection notice has been given (and not withdrawn) and the licensing authority has determined not to give a counter notice under section 105, the authority may impose one or more conditions on the standard temporary event notice if (a) the authority considers it appropriate for the promotion of the licensing objectives to do so; (b) if the conditions are already imposed on the premises licence that has effect in respect of the premises; and (c) the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

9.0 Risk Management

9.1 The Licensing Sub-Committee will hear representations made on behalf of both the premises user and the 'relevant person' who has submitted the objection notice and will make a decision on the basis of the evidence presented to it. The Licensing Act 2003 provides a right of appeal to the Magistrates' Court against the decision of the Local Authority.

10.0 Background and Options

10.1 The premises which are subject of the temporary event notice is a private home and the front garden is to be used to erect a marquee in which the event will take place. Location plans are attached as **Appendices 1 and 2**.

10.2 The temporary event notice served in relation to Saturday 15 September/Sunday 16 September 2012 seeks to authorise: (i) the sale by retail of alcohol (for consumption on the premises); (ii) the provision of regulated entertainment; and (iii) the provision of late night refreshment between the hours of 19:00 and 02:00. The notice indicates that the licensable activities

would take place in a marquee in the front garden of the hall. The event is described as a charity event with live music, live singer, DJ, along with a pay bar and auction.

10.3 Objection from 'relevant person':

10.3.1 The Environmental Health Service has submitted an objection notice in respect of this temporary event notice. A copy of the objection notice is attached as **Appendix 3**.

10.3.2. The Police have not submitted an objection notice in respect of the temporary event notice.

11.0 Access to Information.

There are no background papers associated with this report.

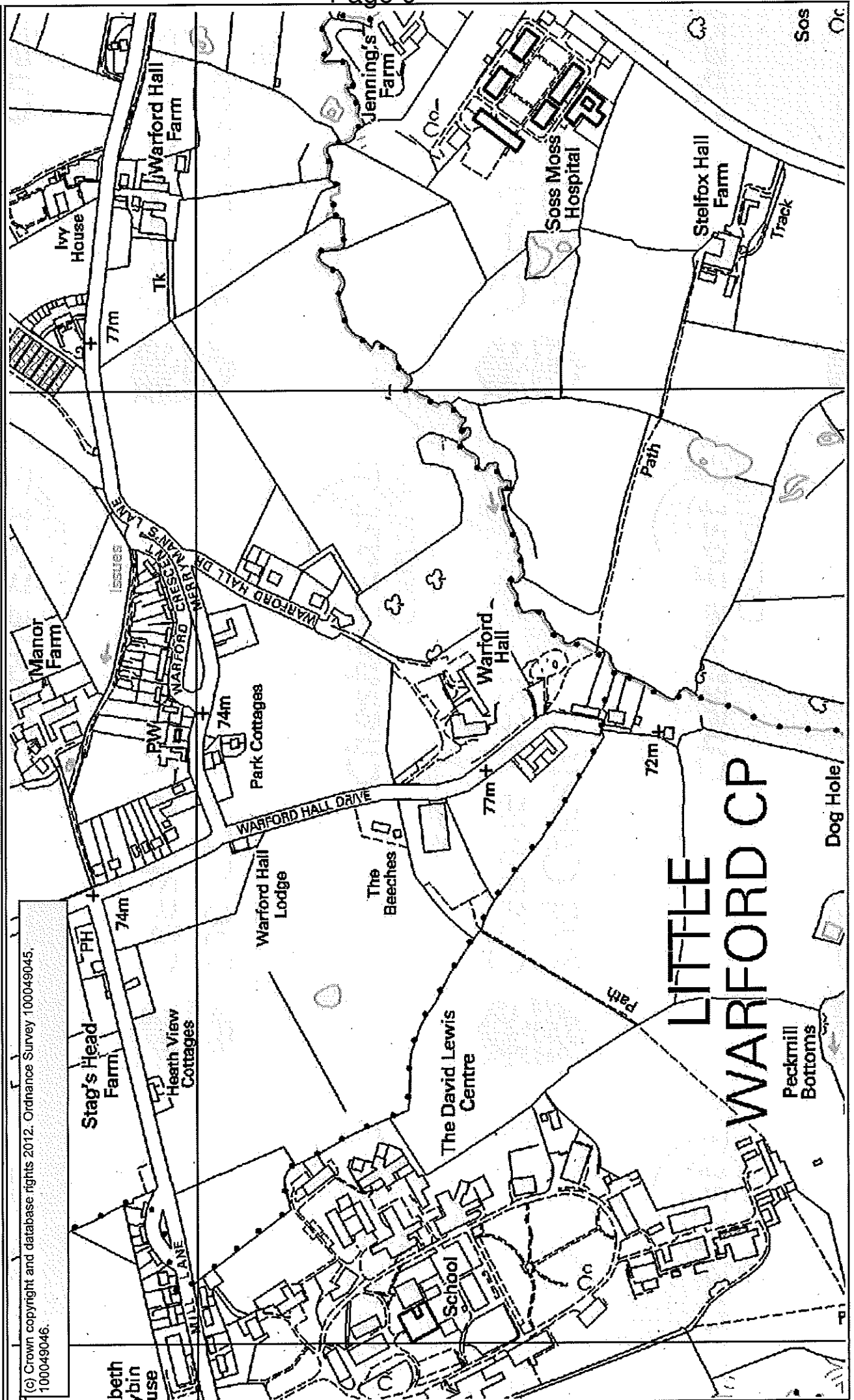
Name: Peter Simester
Designation: Licensing Administration Officer
TEL: 01270 371378
Email: licensing@cheshireeast.gov.uk

Appendix 1 - Location Plan.

Appendix 2 - Plan of Warford Hall.

Appendix 3 - Objection notice submitted by Environmental Health.

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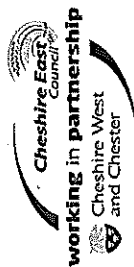


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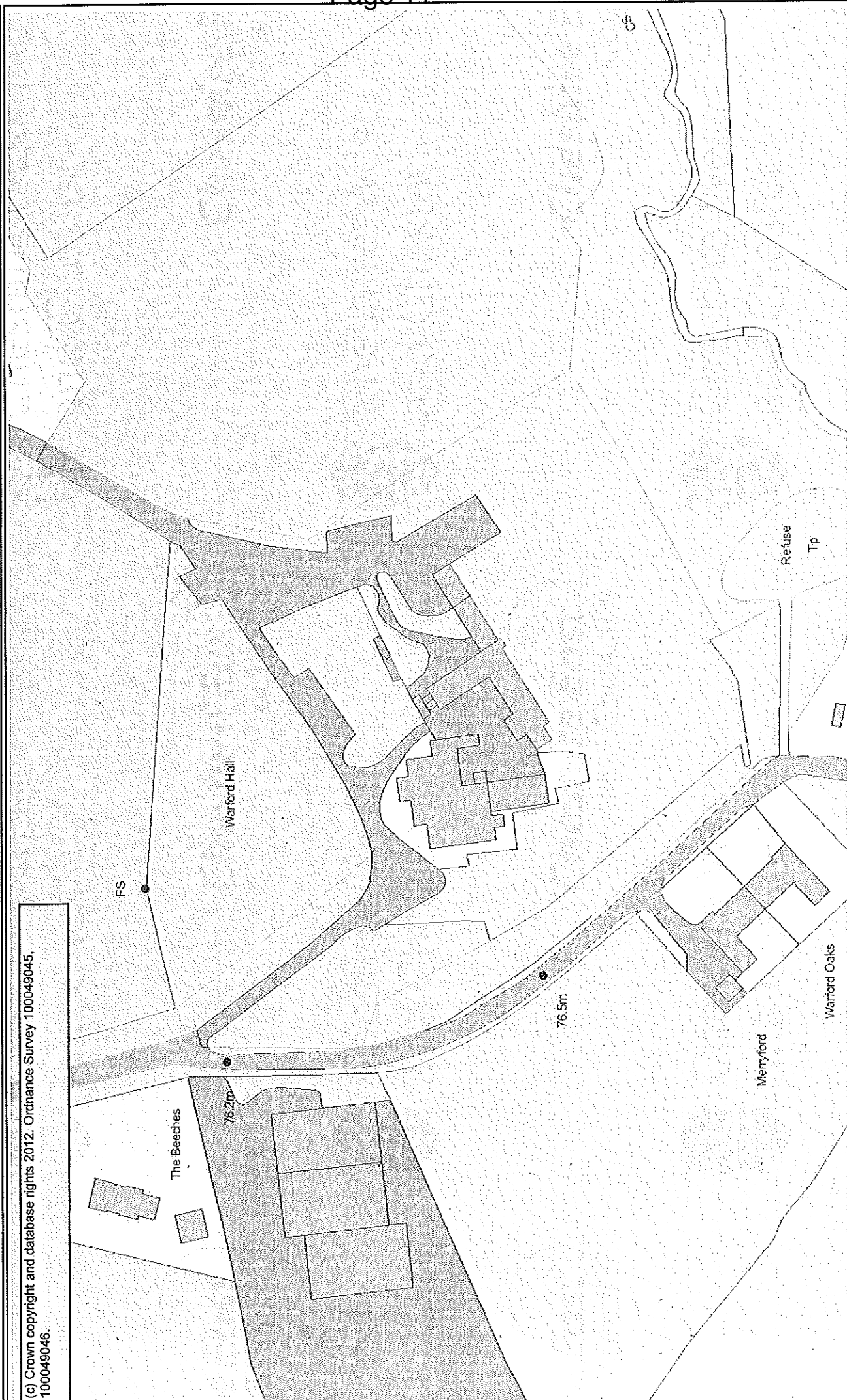


Warford Hall, Warford Hall Drive

APPENDIX - 2



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LICENSING ACT 2003

Environmental Health TEN Consultation Response

Date Received: 21st May 2012

Name of Applicant: Dawn Ward

Address to which application relates: Warford Hall
Warford Hall Drive
Great Warford
SK9 7TP

Date of event(s): 15th September 2012 19.00hrs to
16th September 2012 02.00hrs

☐ Approve

☒ Object Grounds:- Prevention of Public Nuisance

Observations

This is now an annual re occurring event in a marquee involving live and other amplified music, with significant attendees (450).

The community where the event has been in the past and is again proposed to be held this year is small and relatively rural. However, there are a number of close neighbours, located on a small narrow access road.

In 2010 this event prompted numerous and significant complaints regarding noise from the event, related traffic noise and people noise when the event finally finished. This event was alleged to significantly over run. Information suggested that the TENS permitted event finished at the said time but the organisers continued a private party to 4.30am, (-like a lock in) as reported by a number of complainants and later confirmed by the organisers. Following this event the parish council was involved to help with communication with the local community.

The 2011 event was notified and at this time the licensing laws did not permit us to object.

Therefore considerable liaison was undertaken between ourselves, the police, the event organisers (-a professional event organising company) and the parish council to try and mitigate the public nuisance impact from the 2011 event.

We required traffic signage to the correct entrance -as one end of a named road is blocked off causing confusion and traffic access issues both on arrival and departure with taxis using sat nav, etc.

We required neighbour and community liaison via means of a letter drop, complete with organiser contact numbers.

Meeting at the police station to try and gain improvements on the night.

Parish council meetings were held before and after the event to address issues of both noise and traffic management.

Following the event we received complaints that the event over ran again by some 20 minutes. This was additionally disappointing as we placed great store in the hours controls in the 2011 year and had clear acknowledgement from the organisers of the curfew time and the need to stick to it after the 2010 event overrun, this was shared with the community in the letter drop.

This overrun was later confirmed by the organisers, as there was a health issue with an attendee.

In subsequent debrief meetings and the parish council meeting following the event where the organisers attended, we were strongly led to believe, if not confirmed, that the event was so popular and oversubscribed that all future events would be held in a bigger and more appropriate purpose built entertainment venue, thus this community issue would not be occurring in the future. Whilst the general feeling was the event was better, some residents still felt marginalised and that young families had to put up with the event.

Thus we are very disappointed that this TENs application has been submitted for the same marquee event as has caused significant disturbances and time over runs as previous years.

We have not had any additional mitigation information submitted, nor have we or the parish council, that I am aware, been invited into any discussions regarding the proposed event with a view of improving the events noise or traffic management. Given the work, meetings, parish and community involvement needed last year we would have expected that the organisers recognise the community issues and volunteer amelioration to support this application which is sadly not the case.

This event is again in a marquee within a private dwelling garden. Marquees provide little or no noise attenuation, thus the community is subjected to the full noise produced by professional -amplifier equipment with significant attendee numbers (-up to 450). They are also faced with the associated noise of people coming and going, and even if the event finishes on time (-2am), there will still be a period of noise beyond this time as 450 people disperse via vehicles.

For information there are a number of dwellings on Warford Hall Drive that are affected by the events and due to the open field aspect of the area, the terrace and semi-detached dwellings on Merrymans Lane also face the proposed venue, the medium distance and trees provide little acoustic attenuation.

Consequently Environmental Health must regretfully object to the granting of the Temporary Event Notice under the licensing objective of the prevention of public nuisance.

Signed.....Hamish Roscoe. Senior Enforcement Officer Environmental Health Dep't Cheshire East Borough Council.

date.....22.5.012.....