

# **Licensing Act Sub-Committee**

## **Agenda**

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**Date:** Thursday, 15th August, 2013  
**Time:** 2.00 pm  
**Venue:** Committee Room 3 - Municipal Buildings, Earle Street, Crewe  
CW1 2BJ

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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. **Notice of Temporary Event: The White Horse, 22 Pillory Street, Nantwich, CW5 5BD** (Pages 5 - 20)

To consider a temporary event notice which has been served in respect of The White Horse, 22 Pillory Street, Nantwich, CW5 5BD and the objection notice which has been received in respect of this temporary event notice.

### **THERE ARE NO PART 2 ITEMS**

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13:23:03 For requests for further information

**Contact:** Julie Zientek

**Tel:** 01270 686466

**E-Mail:** [julie.zientek@cheshireeast.gov.uk](mailto: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.**

<b>1</b>	<b>Chairman</b>	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).
<b>2</b>	<b>Licensing Officer</b>	Will introduce and summarise the application, highlighting areas of contention or dispute.
<b>3</b>	<b>Committee Members</b>	May ask questions of the Licensing Officer
<b>4</b>	<b>Applicant</b>	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>
<b>5</b>	<b>Responsible Authorities (who have made representations)</b>	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.

6	<b>Local residents</b> (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	<b>Committee Members</b>	Each in turn may ask <u>questions</u> of the applicant.
8	<b>Applicant</b>	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	<b>Responsible Authorities</b>	Will make their representations.
10	<b>Applicant</b>	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	<b>Local residents</b> (ie. defined as “interested parties”)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification.  <b>(Note: This is not the point at which local residents should be stating their objections.)</b>
12	<b>Committee Members</b>	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	<b>Local residents</b> (ie. defined as “interested parties”)	The local residents who are objecting to the application will be invited <b><u>to make observations on the application</u></b> and present the bases of their objections.
15	<b>Applicant</b>	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
16	<b>Committee Members</b>	May ask <u>questions</u> of the Local Residents.
17	<b>Chairman</b>	To invite both <b>Responsible Authorities</b> and <b>Local Residents</b> to make their closing addresses.
18	<b>Applicant</b>	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
19	<b>Committee</b>	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	<b>Committee</b>	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

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**Date of meeting:** Thursday 15<sup>th</sup> August 2013 at 2:00 p.m.  
Committee Suite 3, Municipal Buildings, Crewe  
**Report of:** Amanda Hinton, Licensing Administration Officer  
**Title:** Notice of Temporary Event

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#### 1.0 Report Summary

- 1.1 The report provides details of a temporary event notice submitted by Mr Ben Johnson which has been served in respect of:

White Horse  
22 Pillory Street  
Nantwich  
CW5 5BD

- 1.2 The notice requests authorisation for the following licensable activities to take place between 16.00 hours on 25<sup>th</sup> August 2013 to 00.30 hours on the 26<sup>th</sup> August 2013:

- i. the sale by retail of alcohol (for consumption on the premises)
- ii. the provision of regulated entertainment
- iii. late night refreshment

#### 2.0 Recommendations

- 2.1 The Licensing Act Sub-Committee is requested to consider the temporary event notice served, the objection received and determine whether to give a Counter Notice under section 105 of the Licensing Act 2003. A Counter Notice will render any licensable activities provided unlawful.

- 2.2 Members are also reminded that regard must be given 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 delegated authority to consider this matter in accordance with the provision of the Licensing Act 2003 and the Council's Constitution.

**4.0 Wards Affected**

- 4.1 Nantwich South and Stapeley

**5.0 Local Ward Members**

- 5.1 Cllr Peter Groves  
Cllr Andrew Martin

**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.
- 6.2 The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.
- 6.3 Members of the Licensing Sub-Committee are reminded that they should provide reason(s) for any decision taken, or where they might consider departing the Guidance or Policy.

**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 Licensing Authority.

## **10.0 Background and Options**

- 10.1 The premises which are the subject of the temporary event notice is a public house, which benefits from a Premises Licence (number 313). A copy of the Premises Licence is attached as **Appendix 1** and a location plan is also attached as **Appendix 2**.
- 10.2 The temporary event notice served in relation to 25<sup>th</sup>/26<sup>th</sup> August 2013 seeks to authorise: (i) the sale by retail of alcohol (for consumption on the premises); (ii) the provision of regulated entertainment and (iii) Late Night Refreshment between the hours of 16.00 and 00.30 hours, in a marquee in the beer garden/car park of the premises. The existing premises licence does not authorise the use of the outdoor area after 23:30 hours as in condition number 1 attached by Magistrates following appeal.
- 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: Amanda Hinton  
Designation: Licensing Administration Officer  
Tel: 01270 371116  
Email: amandahinton@cheshireeast.gov.uk

**Appendix 1 - Premises Licence number 313**

**Appendix 2 – Location Plan**

**Appendix 3 – Objection notice submitted by Environmental Health**

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**PREMISES LICENCE****Cheshire East Borough Council**

Premises licence number	<b>313</b>
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**Part 1 - Premises details**

Postal address of premises, or if none, ordnance survey map reference or description

**White Horse**  
**22 Pillory Street**

Post town **Nantwich**

Post code **CW5 5BD**

Telephone number **01270 624801**

Where the licence is time limited the dates

**Not applicable**

Licensable activities authorised by the licence

**Supply of alcohol**  
**Provision of regulated entertainment**  
**Provision of late-night refreshment**

The times the licence authorises the carrying out of licensable activities

<b>Monday</b>	)	
<b>Tuesday</b>	)	
<b>Wednesday</b>	)	
<b>Thursday</b>	)	<b>Please see attached tables</b>
<b>Friday</b>	)	
<b>Saturday</b>	)	
<b>Sunday</b>	)	

The opening hours of the premises

<b>Monday</b>	<b>09:00</b>	<b>to</b>	<b>02:30</b>
<b>Tuesday</b>	<b>09:00</b>	<b>to</b>	<b>02:30</b>
<b>Wednesday</b>	<b>09:00</b>	<b>to</b>	<b>02:30</b>
<b>Thursday</b>	<b>09:00</b>	<b>to</b>	<b>02:30</b>
<b>Friday</b>	<b>09:00</b>	<b>to</b>	<b>02:30</b>
<b>Saturday</b>	<b>09:00</b>	<b>to</b>	<b>02:30</b>
<b>Sunday</b>	<b>09:00</b>	<b>to</b>	<b>02:30</b>

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

**On and off**

Part 2

Name, (registered) address, telephone number and email (where relevant) of the holder of the premises licence

**Spirit Pub Company (Leased)Ltd**  
**Sunrise House**  
**Ninth Avenue**  
**Burton Upon Trent**  
**Staffs**  
**DE14 3JZ**

**Tel: 01283 501600**

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

**5699544**

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

**Ben Johnson**  
**14 Oakfield Avenue**  
**Wrenbury**  
**CW5 8ER**

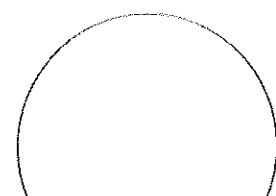
**Tel: 01270 624801**

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

**Personal licence number 05-11-096**  
**Issued by the Cheshire East Borough Council**

Issued by:  
Carole Kerr  
Licensing Section  
Cheshire East Borough Council  
Municipal Buildings  
Earle Street  
Crewe CW1 2BJ

.....  
29<sup>th</sup> November 2011



The times the licence authorises the carrying out of licensable activities

Recorded music, live music, karaoke and facilities for dancing - all indoors			
Monday	10:00	to	01:00
Tuesday	10:00	to	01:00
Wednesday	10:00	to	01:00
Thursday	10:00	to	01:00
Friday	10:00	to	01:00
Saturday	10:00	to	01:00
Sunday	10:00	to	01:00

Late night refreshment – indoors			
Monday	23:00	to	02:30
Tuesday	23:00	to	02:30
Wednesday	23:00	to	02:30
Thursday	23:00	to	02:30
Friday	23:00	to	02:30
Saturday	23:00	to	02:30
Sunday	23:00	to	02:30

Sale of alcohol			
Monday	10:00	to	02:00
Tuesday	10:00	to	02:00
Wednesday	10:00	to	02:00
Thursday	10:00	to	02:00
Friday	10:00	to	02:00
Saturday	10:00	to	02:00
Sunday	10:00	to	02:00

Licensable activities and opening times are extended by one hour on the following days or dates:

On Bank Holiday week ends (ie, Friday, Saturday, Sunday and Monday) and on Maunday Thursday and on Christmas Eve.

On 1<sup>st</sup> March, 17<sup>th</sup> March, 23<sup>rd</sup> April and 30<sup>th</sup> November – subject to the giving of 7 days notice and the agreement of the police.

On occasions of local national or international significance or for charitable events (but not more than 10 per year) – subject to the giving of 7 days notice and the agreement of the police.

Annex 1 - Mandatory conditions

1. No supply of alcohol may be made under the Premises licence:
  - At a time when there is no Designated Premises Supervisor in respect of the Premises licence, or
  - At a time when the Designated Premises Supervisor does not hold a Personal licence, or his/her Personal licence is suspended.
2. Every supply of alcohol under the Premises licence must be made or authorised by a person who holds a Personal licence.

Annex 2 - Conditions consistent with Operating Schedule

1. Disc jockeys, if used, will ask customers to leave quietly.
2. All instances of crime and disorder will be reported to the police and kept in an incident log book.
3. Free drinking water will be available at all times.
4. Additional patrols will take place by members of staff, internally and externally, to limit any noise pollution when entertainment is taking place.
5. Notices will be displayed asking customers to respect the neighbours when leaving the premises.
6. When children are allowed upon the premises, any entertainment offered will be suitable for young persons.
7. Children must be supervised by an accompanying adult at all times.
8. A recognised Proof of Age policy will be enforced.

Annex 3 - Conditions attached after a hearing by the licensing authority

1. No nuisance shall be caused by noise coming from the premises or by vibration transmitted through the structure of the premises.
2. Refuse such as bottles shall be disposed of from the premises at a time (ie, between 8.00 hours and 20.00 hours) when it is not likely to cause a disturbance to residents in the vicinity of the premises.
3. All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency.
4. The beer garden/out door drinking area shall be closed to customers by 23.30 hours.
5. The windows and rear door of the premises shall not be kept or held in an open position after 20.00 hours each evening.
6. No glasses or open bottles or vessels shall be taken outside the premises by patrons after 01:00.
7. The number of occasions of significance and charitable events for which the extension of one hour beyond normal licensing hours is granted shall be limited to 10 (ten) per year.
8. Regulated entertainment shall not be provided in the beer garden/out door drinking area/car park except during the currency of the annual Nantwich Jazz Festival and Nantwich Folk Festival.

**CONDITION ATTACHED BY MAGISTRATES FOLLOWING APPEAL**

1. The Beer Garden/Outdoor Drinking area shall be closed at 23:30 hours except for the purpose of the designated smoking area as shown on the attached plan. No more than twenty people may use the area at any one time. The condition is subject to there first being installed, a double door entry system. The appellant must submit the plan for agreement to the licensing authority clearly showing where the designated area is to be. This is to be the area closest to the licensed premises.

The Beer Garden/ Outdoor Drinking area may not be used after 23:00 hours for the purpose of smoking until the double door entry system has been installed.



Annex 4 – Conditions attached after a review of the premises.

1. A challenge 21 proof of age scheme shall be in operation in relation to all sales of alcohol.
2. The Designated Premises Supervisor or their representative is required to regularly attend Pubwatch meetings to ensure that people the subject of Pub watch bans are identified and where possible to take reasonable steps to ensure that those persons are excluded from the premises.
3. A minimum of two Security Industry Authority door supervisors are on duty at the premises every Friday and Saturday, and on the Sunday preceding the Easter Bank Holiday Monday, from 20:00 until the premises closes to the public.
4. All authorised staff shall receive training at the commencement of their employment so that they have an awareness of the licensing law and wider social responsibilities attached to the sale of alcohol and the conditions attached to the licence. All current staff shall also receive this training. Such authorisations and evidence of such training should be recorded in writing.
5. CCTV should within the next four months be sited on the premises. The precise siting of each camera and number of cameras where possible to be agreed between the Premises Licence holder and the Police. Such system to be maintained in working order and recordings be retained for such period as agreed between the Premises Licence holder and the Police.

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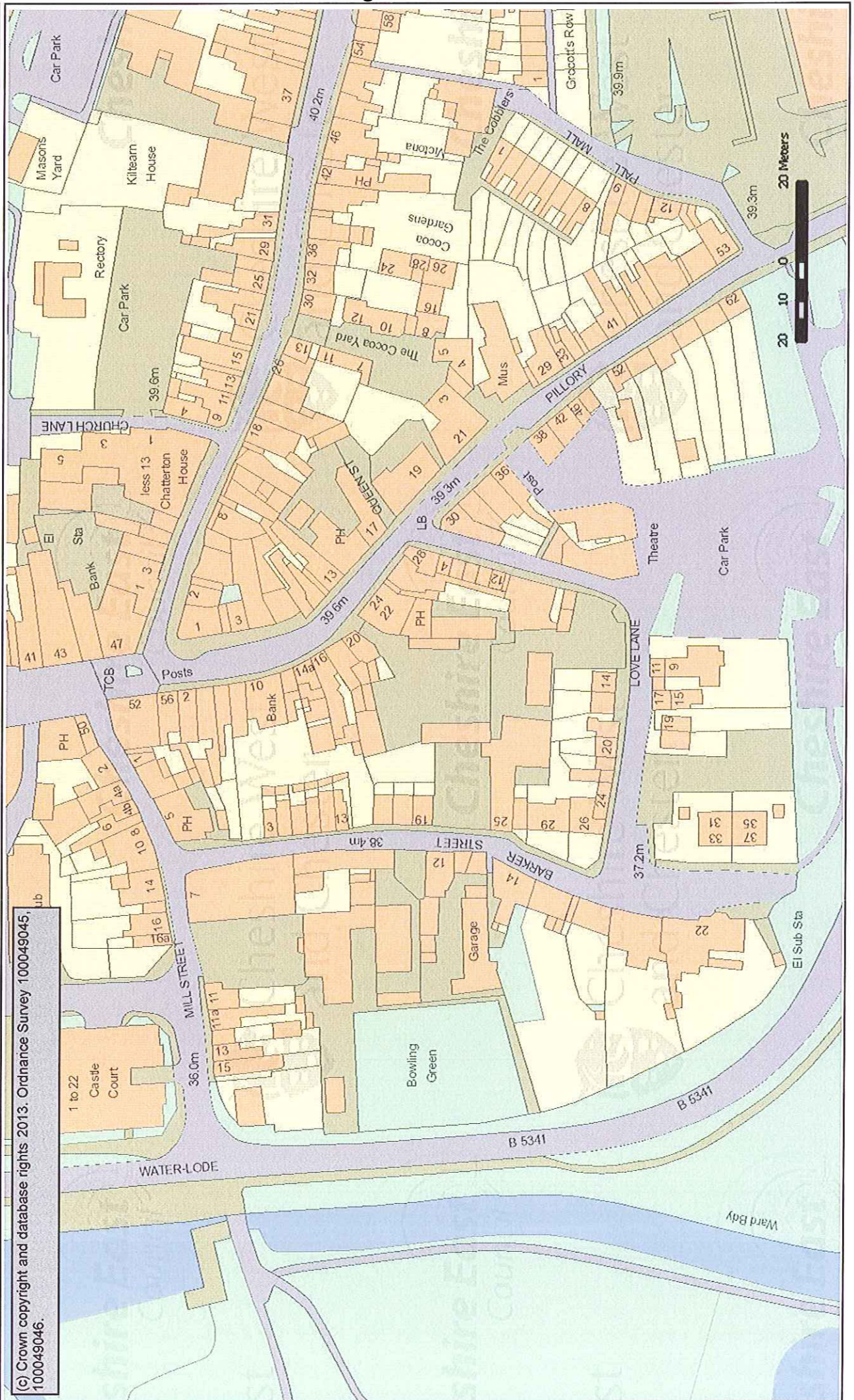


# APPENDIX - 2

## Cheshire CC WebGIS



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**LICENSING ACT 2003 APPENDIX - 3**  
**Environmental Health TEN Consultation Response**

Date Received: 2<sup>nd</sup> August 2013

Name of Applicant: Ben Johnson

Address to which application relates: The White Horse  
22 Pillory Street  
Nantwich  
CW5 5BD

Date of event(s): 25<sup>th</sup> – 26<sup>th</sup> August 2013

☐ Approve

☒ Object

**Observations**

I have considered the above application and wish to object under the licensing objective of:

**The prevention of public nuisance**

This application is for live music and a DJ in a marquee in the beer garden/car park of the premises from 4pm until 00.30am. The beer garden backs onto numerous residential properties and there will be very little in terms of sound attenuation offered by the marquee. Hence a potential 8.5 hours of live music on a Sunday until 00.30am, when people will be trying to sleep, is excessive and would fail to meet the licensing objective of the prevention of public nuisance.

It is important to note that Environmental Health received complaints from local residents, about the last Temporary Event Notice held at the White Horse, where live music was permitted outside until 12am. This application wishes to extend live music later than the last event.

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

SIGNED: Sarah Allwood

DATED: 6<sup>th</sup> August 2013

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