

# CHESHIRE EAST COUNCIL

## LICENSING ACT SUB-COMMITTEE

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<b>Date of Meeting:</b>	<b>Monday 8th May 2017 at 10:00am</b>
<b>Report of:</b>	<b>Jennifer Knight, Senior Licensing Officer</b>
<b>Subject/Title:</b>	<b>Determination of a Temporary Event where an objection notice has been received</b>

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### 1.0 Report Summary

- 1.1 The report provides details of a temporary event notice submitted by Mrs Dawn Ward which has been served in respect of:

Warford Hall – Marquee in front garden  
Warford Hall Drive  
Great Warford  
SK9 7TP

- 1.2 The notice requests authorisation for the following licensable activities to take place between 19:00 hours on 23<sup>rd</sup> September 2017 to 02:00 hours on the 24<sup>th</sup> September 2017:

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

- 1.3 A maximum of 480 person can attend the event.

### 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.
- 2.3 Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to do so. Careful consideration should be given to the notice and objection.
- 2.4 The Sub-Committee in respect of this application must have regard to the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.
- 2.5 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 and the Council's Constitution.

### **4.0 Wards Affected**

- 4.1 Mobberley

### **5.0 Local Ward Members**

- 5.1 Cllr Jamie Macrae

### **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.
- 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 should provide reason(s) for any decision taken and should set out the reasoning where they determine to depart in any way from the Policy or Guidance.

### **7.0 Financial Implications**

- 7.1 Not applicable.

### **8.0 Legal Implications**

- 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. Section 181 and Schedule 5 (part 3) 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 On 24<sup>th</sup> April 2017 the Licensing Authority received a Temporary Event Notice in respect of an event to be held at Warford Hall. A copy of the notice is attached at appendix 1. A summary of the licensable activities is provided in paragraphs 1.2 and 1.3 (above).
- 10.2 The premises which is the subject of the temporary event notice is a private dwelling. A plan showing the location of the premises is attached at appendix 2.
- 10.3 The Council's Environmental Health Team has submitted an objection notice in respect of this temporary event notice. A copy of the objection notice is attached as Appendix 3.
- 10.4 The Cheshire Constabulary has not submitted an objection notice in respect of the temporary event notice.

## **11.0 Access to Information**

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

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## **APPENDICES**

Appendix 1 – Temporary Event Notice  
Appendix 2 – Plan  
Appendix 3 – Objection Notice