

AGENDA ITEM NO.

TRAFFORD COUNCIL

THE PUBLIC PROTECTION SUB-COMMITTEE – 20th JUNE, 2013

REPORT OF THE HEAD OF PUBLIC PROTECTION

REPORT REF. NO.

APPLICATION FOR RENEWAL OF APPROVAL TO HOLD CIVIL MARRIAGES AND CIVIL PARTNERSHIPS – DAVENPORT GREEN HALL MARQUEE, SHAY LANE, HALE BARNES

PURPOSE

To advise the Sub-Committee of an application to renew an approval to hold civil marriages and civil partnerships at Davenport Green Hall Marquee, which has attracted objections.

OPTIONS

The Sub-Committee is asked to consider the report and any written or verbal submissions and determine either:

- to refuse to approve the premises; or
- to approve the premises

Iain Veitch
Head of Public Protection

Further Information From:

Name: Joanne Boyle

Extension: 4129

Proper Officer for the purposes of L.G.A 1972,S:100D
(background papers): Head of Public Protection

Background Papers:

The Marriage Act 1949

The Civil Partnership Act 2004

The Marriages and Civil Partnerships (Approved Premises) Regulations 20

1. BACKGROUND

- 1.1 Premises that wish to be used as a venue for civil marriages and civil partnerships must be approved by the local authority in whose area they are situated. The regime to approve premises for the solemnization of civil marriages and the registration of civil partnerships is governed by the Marriage Act 1949, the Civil Partnership Act 2004 and the Marriages and Civil Partnerships (Approved Premises) Regulations 2005.
- 1.2 Approvals are granted for a period of 3 years and the holder can apply for a renewal, although the process is the same as for a new application.
- 1.3 "Premises" are defined in the 2005 Regulations as a permanently immovable structure comprising at least a room or any boat or other vessel which is permanently moored. Any premises outside this definition, such as the open air, a tent, marquee or any other temporary structure and most forms of transport, would not be eligible for approval.
- 1.4 The premises must, in the opinion of the authority, be a seemly and dignified venue for proceedings. The primary use of a building would render it unsuitable if that use could demean proceedings or bring them into disrepute.
- 1.5 Premises that are religious premises may not be approved for civil marriages. However, following amendments to the 2005 Regulations made in December 2011, they may now be approved for the registration of civil partnerships.
- 1.6 In terms of other considerations, the Registrar General's Guidance states at paragraph 2.7 'In addition to being satisfied that the requirements relating to the type of premises are met, the authority will want to be satisfied that the fire assessment in place at the premises is suitable for the intended purpose. The authority will also want to be content that no planning permission is necessary for the use of the venue for marriages or civil partnerships.'

2. PREMISES

- 2.1 Davenport Green Hall Marquee, Shay Lane, Hale Barns Cheshire, WA15 8UD.
- 2.2 The Davenport Green Hall site occupies approximately 4 hectares of land and comprises a two storey Grade II listed house known as Davenport Green Hall with two large detached outbuildings adjacent to the main house which are referred to as 'The Lodge' and the 'Cheshire Barn' as well as a large marquee. (See Appendix D)

3. APPLICATION

- 3.1 An application has been received from Davenport Green Hall Limited for the renewal of the approval to continue to use the marquee within the grounds of Davenport Green Hall for the solemnization of marriages.
- 3.2 The marquee was first approved as a marriage venue on the 29th April 2010 and the approval expired on the 28th April 2013. The marquee was deemed to be a permanent structure and was approved in accordance with the Regulations, but Davenport Green Hall Limited was advised on initial grant that it must apply for the relevant planning permission.
- 3.3 Where the holder of an approval applies for renewal of the approval before it expires, the approval will continue until the application has been determined. The renewal application was received on the 26th April 2013.
- 3.4 In accordance with the Regulations, the application was advertised on the Council's website informing the public that any objections must be given to the Council within 21 days. The application was also made available for inspection by members of the public at the Council's Licensing Offices.

4. REPRESENTATIONS

- 4.1 The Council has received two representations against the use of the premises as a venue for marriages and civil partnerships.
- 4.2 The first representation was received from Trafford Council's Planning Department on the grounds that the marquee is an unauthorised structure; and that a prosecution case is pending against the owner for failure to comply with a request to remove it. (See Appendix A)
- 4.3 The second representation was received from Suzanne Fell, Trafford's Superintendent Registrar, on the grounds that the pending court case casts doubt on the ability of the venue to facilitate bookings for marriages. (See Appendix B)

5. KEY ISSUES

- 5.1 The authority may grant an approval only if it is satisfied—
- (a) that the application has been made in accordance with the Regulations;
 - (b) that the premises fulfil the requirements set out in Schedule 1 of the Regulations (See Appendix C); and
 - (c) that the premises fulfil any other reasonable requirements which the authority considers appropriate to ensure that the facilities provided at the premises are suitable.

- 5.2 The application has been made in accordance with the Regulations and the premises fulfil the requirements set out in Schedule 1 of the Regulations.
- 5.3 However, in view of the representations, the Sub-Committee is asked to decide whether the fact that the premises do not have planning permission to operate as a wedding venue, means it fails to offer a basic facility – i.e. the ability to stage the event.

6. OPTIONS

- 6.1 The Sub-Committee is asked to consider the report and any written or verbal submissions and determine either:
 - 6.1.1 to refuse to approve the premises; or
 - 6.1.2 to approve the premises

Site Address: Davenport Green Hall, Shay Lane, Altrincham WA15 8UD

RE: Application/Renewal of Approval for Premises as a venue for Marriages and Civil Partnerships.

Planning Departments Recommendation: Refuse

Planning history of the premises (Marquee at Davenport Green Hall) and update of current planning enforcement position as follows:-

A planning enforcement notice was served on the owner and occupier of the land Mr Mohammed Isaq on 21 July 2010. The notice required the following :-

Remove the unauthorised Marquee, catering tent and all its associated parts and 2x toilet blocks, 2 x metal storage containers units used for storage and washing facilities, electricity generator box, fuel box, skips and hay bale bund from the land.

The period for compliance with the requirements of the enforcement notice was within 2 weeks from the notice taking effect on the 19 August 2010. Accordingly, unless an appeal was lodged against the enforcement notice, the requirements of the notice should have been complied with by 2 September 2010. In the event, an appeal was lodged against the enforcement notice.

The site is located on the south side of Shay Lane in Hale Barns (approximately 1.3km to the north-east of Hale Barns local centre) and occupies land extending to approximately 4 hectares, located within the Green Belt. The site comprises a two storey Grade II listed house known as Davenport Green Hall with two large detached outbuildings adjacent to the main house which are referred to as 'The Lodge' and 'The Cheshire Barn'.

The Cheshire Barn has the benefit of a planning permission for a change of use from residential (ancillary to the house) to use as a venue for hosting wedding and similar functions. Trafford Council granted planning permission for that change of use in January 2008. The Lodge is currently used for both residential accommodation ancillary to Davenport Green Hall and also as the main office for the running of the wedding/venue business at the site.

In April 2009 Mr Isaq the owner of the site made a planning application to Trafford Council seeking planning permission for the retention of a large marquee which had been erected

within the grounds of Davenport Green Hall without the benefit of planning permission. This planning application was due to be reported by officers to the Council's Planning Committee on 8 October 2009. Officers were recommending that the planning application should be refused. Mr Isaq withdrew the planning application before 8 October 2009.

In light of the harmful impact of the marquee on the Green Belt (in which it is located), the setting of listed building (Davenport Green Hall is a grade II listed building), and residential amenity (there are dwellings nearby on the opposite side of Shay Lane), the Council decided to take enforcement action in respect of the unauthorised marquee. Accordingly an enforcement notice was issued.

Mr Isaq appealed against the enforcement notice. That appeal was determined by way of a public inquiry. The inquiry lasted for four days and took place in April 2011.

The Planning Inspector who conducted the Inquiry dismissed the appeal and upheld the enforcement notice (subject to minor amendment) in a decision letter dated 17 May 2011.

Mr Isaq then sought to challenge the Planning Inspector's decision in the High Court. The challenge was heard in the High Court on the 19 and 20 October 2011. The High Court dismissed the legal challenge. Mr Isaq then attempted to challenge the decision of the High Court. His application to the Court of Appeal for permission to pursue a challenge was dismissed on the 8 May 2012

The effect of Mr Isaq's unsuccessful appeal against the enforcement notice means that the requirements of the notice, as amended by the Planning Inspector, were:

Remove from the land the unauthorised marquee and 2 catering tents plus all their associated parts; 2 toilet blocks; 2 metal storage container units used for storage and washing facilities; the electricity generator box, the fuel tank, the skip and the hay bale bund (all as marked on the plan appended to the appeal decision).

The period for complying with the notice was two weeks. Accordingly, following Mr Isaq's unsuccessful appeal, the requirements of the enforcement notice should have been complied with by the 31 May 2011.

Following the decision by the Court of Appeal in May 2012, an updated enforcement report appeared on the Planning and Development Control Planning Committee agenda on the 13 September 2012. The report updated members of the committee in respect of Mr Isaq's unsuccessful attempts to overturn the decision of the Planning Inspector who had upheld the enforcement notice. The report also addressed arguments advanced by Mr Isaq in an attempt to justify retention of the unauthorised marquee. The report concluded with a recommendation to continue appropriate enforcement action.

Following the Council's resolution to pursue enforcement action at the September 2012 Planning and Development Control Committee, the Council wrote to both Mr Mohammed Isaq and Nina Khan on the 20 September 2012 requesting that the unauthorised structures be removed within fourteen days of the letter (i.e. by the 3 October 2012). The marquee and structures were not removed by this date.

The Council determined to pursue prosecution against Mr Isaq for non-compliance with the requirements of the enforcement notice. The Council issued a summons against Mr Isaq to appear at Trafford Magistrates Court on the 12th April 2013. During this appearance in court Mr Isaq pleaded not guilty to the charge of non-compliance with the enforcement notice. A trial date has been set for a period of two days beginning on the 7th October 2013 at Trafford Magistrates Court. In the interim no further planning enforcement action can be undertaken until the outcome of the trial is determined.

The planning department object to the application for use of the premises (Davenport Green Hall) as a venue for Marriages and Civil Partnerships.

Given that the unlawful development has been found to cause significant harm (towards Green Belt, the Listed Building and residential amenity), and that the finding of harm has been confirmed by a Planning Inspector and is now very longstanding. The Planning Department would consider the issuing of a marriage license for ceremonies within the marquee, as counterproductive to our efforts to remove this unauthorised structure.

The planning department is still in receipt of complaints from local residents regarding noise and disturbance from the marquee. It should be noted that as there is no planning approval in place for the marquee the planning department have no control over numbers attending, parking and hours of use (this is not an exhaustive list) issues which are normally controlled by appropriate planning conditions.

Boyle, Joanne

From: Bate, Stephen
Sent: 20 May 2013 12:00
To: Boyle, Joanne
Subject: FW: Marriage application

From: Fell, Suzanne
Sent: 16 May 2013 16:13
To: Bate, Stephen
Subject: Marriage application

Hello Steve,

Thank you for the copy of the application in respect of the Davenport Green Hall Marquee in Grounds.

I am concerned about taking bookings for this venue in light of the pending court case. I feel that there is doubt as to whether these bookings can be facilitated, depending on the outcome of the hearing. I do not think that it would be very professional or sincere for the Trafford Registration Service to enter into a contract with couples on this basis. As we are aware of the situation when taking bookings, could we be seen to be liable at a later date if couples had to be told that their marriage venue has had to be cancelled.

Please do not hesitate to contact me should you require further clarification on this matter.

With Thanks
Suzanne

Suzanne Fell
Superintendent Registrar
Trafford Registration Service
Trafford Register Office
Sale Town Hall
Sale Waterside
Sale, M33 7ZF

Phone 0161 912 3026
Fax 0161 912 3021
Suzanne.fell@trafford.gov.uk

Trafford is a well-performing, low-cost council delivering excellent services to make Trafford a great place to live, learn, work, and relax. You can find out more about us by visiting www.trafford.gov.uk

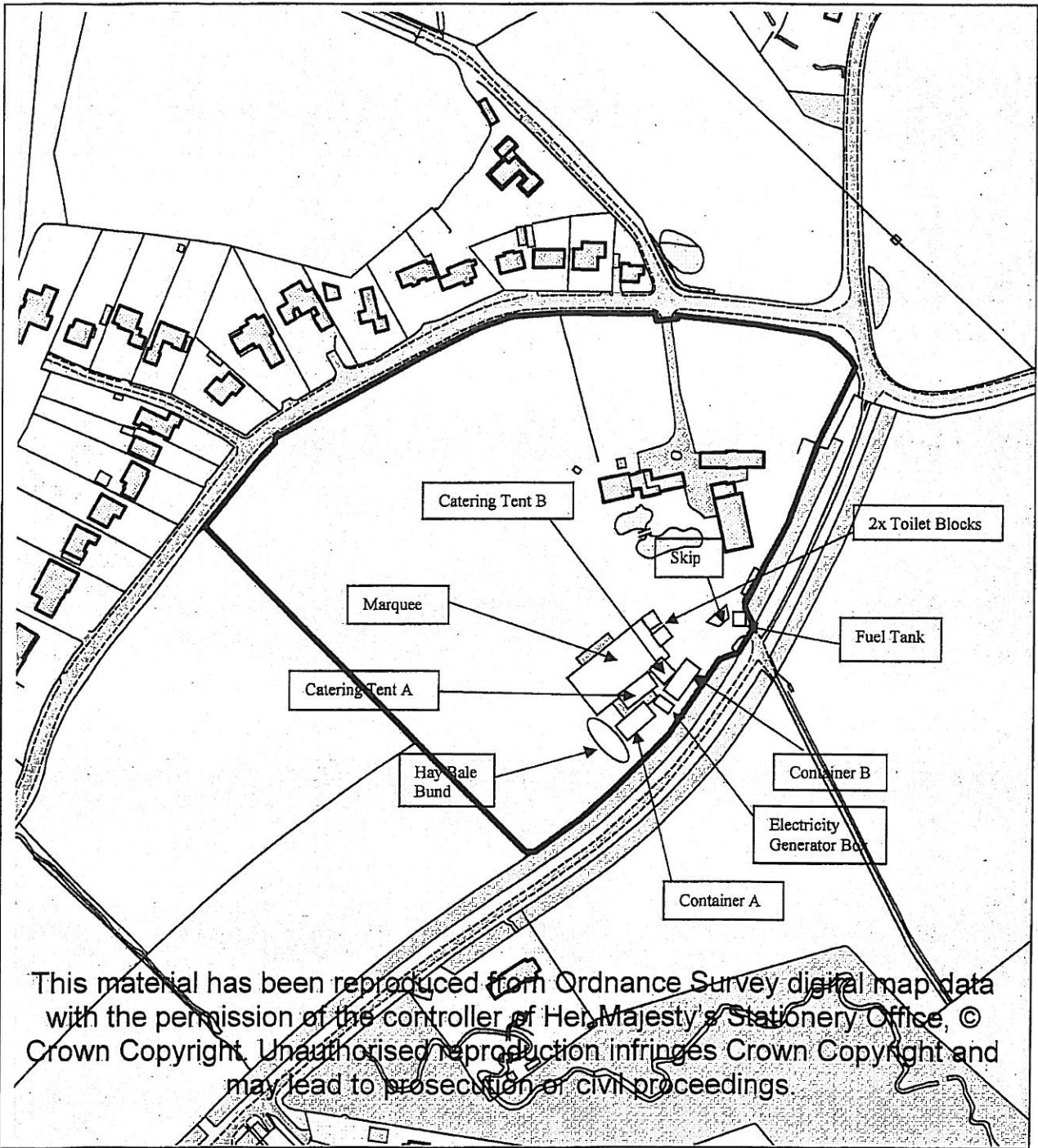
SCHEDULE 1

REQUIREMENTS FOR THE GRANT OF APPROVAL OF PREMISES THAT ARE NOT RELIGIOUS PREMISES

1. Having regard to their primary use, situation, construction and state of repair, the premises must, in the opinion of the authority, be a seemly and dignified venue for the proceedings.
2. The premises must be regularly available to the public for use for -
 - (a) the solemnization of marriages; or
 - (b) the formation of civil partnerships.
3. The premises must have the benefit of such fire precautions as may reasonably be required by the authority, having consulted with the fire and rescue authority, and such other reasonable provision for the health and safety of persons employed in or visiting the premises as the authority considers appropriate.
4. The premises must not be -
 - (a) religious premises;
 - (b) a register office⁽¹⁾, but this paragraph does not apply to premises in which a register office is situated, provided that the room which is subject to approval is not the same room as the room which is the register office.
5. The room or rooms in which the proceedings are to take place if approval is granted must be identifiable by description as a distinct part of the premises.

⁽¹⁾ For the meaning of "register office" see the 2004 Act, section 6(3C). Section 6(3C) was inserted into the 2004 Act by paragraph 2(2) of the Schedule to the Civil Partnership (Amendments to Registration Provisions) Order (S.I. 2005/2000).

Davenport Green Hall, Shay Lane, Hale Barns
 Enforcement Ref: ENF1352



This material has been reproduced from Ordnance Survey digital map data with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Site Plan No.1: Location of Marquee and Ancillary Structures

Scale 1:2500 for identification purposes only.

Chief Planning Officer

PO Box 96, Waterside House, Sale Waterside, Tatton Road, Sale M33 7ZF

Top of this page points North