

Licensing Act Sub Committee

Date of Meeting: 27 February 2020

Report Title: Application for a new Premises Licence at Lady Grey Farm,
Lady Lane, Mobberley, Knutsford, Cheshire, WA16 7NE

Senior Officer: Frank Jordan - Executive Director Places

1. Report Summary

- 1.1. The report provides details of an application for a Premises Licence, and the proposed operating schedule together with details of relevant representations received in relation to the application.

2. Recommendations

- 2.1. The Licensing Act Sub-Committee is requested to determine the application for a Premises Licence by Daniel Morgan, in respect of:

Lady Grey Farm, Lady Lane, Mobberley, Knutsford, Cheshire, WA16 7NE

- 2.2. Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives. And where Members consider that matters have engaged one or more of the Objectives, they may exercise their discretion. The Licensing Objectives are:

- a) The prevention of crime and disorder
- b) Public Safety
- c) The prevention of public nuisance
- d) The protection of children from harm

- 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 application and the evidence presented by the parties in relation to the application for a new premises licence.

2.4. Finally, Members are also reminded that in determining the application, consideration also needs to be given to:

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

3. 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, and provide the key reasons why the recommendation/s has been made. Link your reasons into appropriate council policies and corporate objectives.

4. Other Options Considered

4.1. Not applicable

5. Background

5.1. The application was received by the Licensing Authority and sent out for consultation on the 2nd January 2020. The application is for a new Premises Licence under section 17 of the Licensing Act 2003.

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

To permit the provision of Live Music Indoors
Monday to Sunday 23.00 – 01.30

To permit the provision of Recorded Music Indoors
Monday to Sunday 23.00 – 02.00

To permit the Sale and Supply of Alcohol
Monday to Sunday 10.00 – 01.30

For the consumption on the premises only.

All licensable activities on New Years Eve to start from 10am until the terminal hour on New Years Day

- 5.3. Members should take into consideration the Licensing Act 2003 Schedule 1 (7A) whereby the provision of recorded music in an alcohol licensed premises for an audience of less than 500 people between the hours of 08.00 and 23.00 is not to be regarded as the provision of regulated entertainment for the purposes of Section 16.6 of the Guidance issued under Section 182 (Issued in April 2018) of the Licensing Act 2003. Additionally, any conditions attached to a licence that relate to deregulated entertainment would be suspended between the hours of 08:00 and 23:00, provided that appropriate but relevant conditions are put in place as Members deem fitting.
- 5.4. A copy of the application form is attached as Appendix 1.
- 5.5. Responsible Authorities:
- 5.5.1. The Council's Environmental Protection team have submitted a representation attached at Appendix 2.
- 5.5.2. Cheshire Police have proposed conditions to be included in the application which have been agreed by the applicant. A copy of the conditions is attached at Appendix 3.
- 5.6 Other Persons:
- 5.6.1 The Council has received forty representations from the public, which are set out at Appendix 4.
- 5.7 On the 5th of February 2020, the agent acting for the applicant contacted the Licensing Team to register an objection to the number of representations deemed relevant. There is no mechanism for the applicant to object to the number of representations that have been deemed to be relevant.
- 5.8 Any decision on the relevance of a representation is delegated to Licensing Officers. In this case three officers reviewed all the representations and collectively determined whether or not they were relevant. Twenty-eight representations were deemed not to be relevant.
- 5.9 At all times when considering the relevance of a representation, the following must be taken into consideration:
1. The relevant legislation
 2. The Council's Statement of Licensing Policy

3. The Statutory Guidance issued under section 182 of the Licensing Act 2003

- 5.10 To be considered relevant a representation must address the undermining of one or more of the Licensing Objectives. Representation cannot be speculative but must raise concerns regarding the likely effect of the granting of the application.
- 5.11 In respect of borderline decisions the Statutory Guidance states that ‘...the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.’
- 5.12 The Members of the Sub-Committee will need to consider each relevant representation (and any oral amplification given at the hearing) and determine how much weight it should be given.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. In accordance with the provisions of section 18 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 18(4) provides that the authority may:

- I. Grant the licence subject to the relevant mandatory conditions and conditions consistent with the operating schedule
- II. Modify the application to such extent as the Authority considers appropriate for the promotion of the Licensing Objectives
- III. Exclude from the scope of the licence any of the Licensable Activities to which the application relates
- IV. Reject the application

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

6.1.3 Members are also reminded of the statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1998 to exercise its various functions, doing all that it can to prevent Crime and disorder, and Anti-social Behaviour, behaviour adversely affecting the environment as well the misuse of drugs, alcohol and re-offending in the Local Environment.

6.2. Finance Implications

6.2.1. There are no financial implications

6.3. Policy Implications

6.3.1. The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

6.3.2. The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

6.3.3. 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.

6.4. Equality Implications

6.4.1. There are no direct equality implications

6.5. Human Resources Implications

6.5.1. There are no human resources implications

6.6. Risk Management Implications

6.7. The Licensing Sub-Committee will hear representations made on behalf of both the applicant and the 'relevant persons' who have submitted their representations and will make a decision on the basis of the evidence presented to it. The Licensing Act 2003 makes provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

6.8. Rural Communities Implications

6.8.1. There are no direct implications for rural communities.

6.9. Implications for Children & Young People/Cared for Children

6.9.1. There are no direct implications for children and young people.

6.10. Public Health Implications

6.10.1 There are no direct implications for public health.

6.11. Climate Change Implications

6.11.1. There are no direct implications for Climate Change

7. Ward Members Affected

7.1. Mobberley – Councillor Charlotte Leach

8. Consultation & Engagement

8.1. Consultation in respect of submitting an application for a Premises Licence Application is prescribed in the Licensing Act 2003 and has been fully complied with.

9. Access to Information

9.1. The background papers relating to this report can be made available by contacting the report writer.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

Name: Jennifer Knight

Job Title: Senior Licensing Officer

Email: Jennifer.knight@cheshireeast.gov.uk

Appendix 1 – Application

Appendix 2 – Environmental Health Representation

Appendix 3 – Cheshire Police Conditions

Appendix 4 – Representations submitted from other persons

Appendix 5 – Map of the Premises