

DECISION NOTICE

PREMISES: LADY GREY FARM, LADY LANE, MOBBERLEY, KNUTSFORD, CHESHIRE, WA16 7NE

The Application

The Licensing-Act Sub-Committee has been asked to consider an Application dated 6 December 2019 submitted on behalf of Daniel Morgan for the grant of a premises licence in accordance with section 17 of the Licensing Act 2003.

The hours applied for are as follows:

1. Provision of Live Music (Indoors)
23:00 – 01:30, Monday to Sunday
2. Provision of Recorded Music (Indoors)
23:00 – 02:00, Monday to Sunday
3. Sale and Supply of Alcohol (for consumption on the premises only)
10:00 – 01:30, Monday to Sunday
4. All licensable activities on New Year's Eve to start at 10.00 am and end at the terminal hour on New Year's Day

Procedural Matters

The hearing was held in accordance with the Licensing Act Sub-Committee's published procedure and the Licensing Act 2003 (Hearings) Regulations 2005.

Considerations

In reaching its decision, the Sub-Committee has taken into account:

- the Secretary of State's Guidance under section 182 Licensing Act 2003;
- Cheshire East Borough Council's Statement of Licensing Policy;
- the four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) and the steps appropriate to promote them;
- the oral and written representations (including supporting information) presented by all the parties.

Evidence

In determining the application with a view to promoting the licensing objectives in the overall interests of the local community (both business and residential), the Sub-Committee has taken into account the written representations included in the Committee Report of the Applicant, the Responsible Authorities and the objectors representations. The documents in the Supplementary Agenda and the noise consultant reports submitted at a late stage on behalf of both the Applicant and the objector Mr Tim Mort were also considered.

68 written representations were submitted to the local authority, of which 40 were deemed to be valid. The exclusion of representations had been challenged by both sides. Kim Evans, Licensing Team Leader at

Cheshire East Council explained the process of evaluating each of the representations received against the legislative requirements (i.e. the effect on the 4 licensing objectives in the Licensing Act 2003), the statutory guidance and the Council's own Statement of Licensing Policy.

Responsible Authorities

Cheshire Constabulary proposed that conditions be included in the application; these were agreed by the Applicant.

Representations were made by the Cheshire East Council's Environmental Health Team ('the EHT') requiring that a Noise Impact Assessment ('NIA') be submitted by the Applicant to demonstrate that any live, recorded music or people noise, emanating from the premises is not clearly audible at the boundary of the nearest residential property. The NIA was to be produced by a competent noise consultant and required to indicate how the applicant will comply with the noise design criteria stipulated in the EHT's representation. A Noise Management Plan was also required to be prepared in support of the Application for consideration by the EHT.

Representations on behalf of the Applicant

Mr Geoff Dixon attended the hearing as agent for the Applicant, Mr Daniel Morgan. Mrs Vanessa Morgan and Mr Eric Daniels were also in attendance for the Applicant.

Mr Dixon made representations on behalf of the Applicant, giving an outline of the application for an entertainment and alcohol licence at Lady Grey Farm.

Mr Dixon submitted that all 4 licensing objectives had been answered. Referencing the local authority's Statement of Licensing Policy (specifically sections 8.2 (public safety), 9.1 (public nuisance) and 9.4 (operating schedule; noise and vibration), he set out the following:

- in respect of public safety i.e. physical safety of persons using the premises, a qualified first-aid officer will be in attendance at every event. The fire safety officer has not made any representations on public safety;
- with regard to the prevention of public nuisance (noise from the premises, waste, litter, car parking, light pollution and noxious odours) and the measures included in the operating schedule, to limit the escape of noise from the premises or open site, the site has double exit/entrance lobby door systems for the northwest entrance (the entrance furthest away from the nearest residential property);
- the building has sound proofing measures to the interior with additional sound proofing into the chapel in the roof space (because of aircraft noise);
- the external smoking area is closed in on 3 sides;
- the picture window to the side of the property is non-opening and will be shuttered during licensed events;
- to restrict noise emissions below levels which might affect people going about their business, sound proofing is in place for doors and windows;
- the acoustic report in place was requested by the EHT and provided by the Applicant and accepted as compliant with the request to demonstrate the decibel level is below permitted levels. The noise level inside the building will be at a safe and ambient level for guests and staff working

at the premises. With reference to the plan of the premises, the interior is very open; the design of the room does not allow for excessive noise;

- to minimise and control noise from customers arriving and departing from the premises, a 45-space car park and a pick up and drop off point have been provided at the northwest entrance to the building furthest away from any residential property;
- arrivals and departures to the building will take place during the times at which Manchester Airport is at its busiest; the passage of aircraft is probably once every 4-5 minutes;
- the double-entry lobby system will further reduce noise emissions; a system called 'Taxi Butler' is in place. This is an automatic system which is used and involves summoning a taxi from a local firm which has an arrangement with Owen House and Lady Grey. The arrival and departure of taxis and guests will be controlled by a security firm. No guests will be allowed to leave on foot without being asked why;
- an agricultural cement panel wall has been put around the entire area of the car park and drop-off point to prevent light sweep from cars across open fields and to provide a noise buffer from car engines;
- with regard to light pollution, the only part of the building which faces residential premises in the area is the residential part of Lady Grey Farm and the Applicant does not expect any light pollution from that side of the building;
- the licensing authority should not impose conditions that do not relate to the vicinity of the premises.

An objector, Mr Ansell, wished to clarify that with regard to light pollution, his property does experience light pollution from the venue at his property 200m away.

In response to a questions from the legal representative of the objectors and the committee Members, the Applicant confirmed that 2 Temporary Event Notices (TENs) have been put in place for events this year (weddings in February and July) and that no others had been booked. The February event had already taken place (22 February).

Mr Dixon, in response to a question from Mr Tim Mort, confirmed that the Applicant did not have any photographs available at the hearing showing the configuration of the building/what has taken place at the development but made reference to the floor plan included with the Application.

Mr Dixon and the Applicant, in response to a question from Mr Andrew Mort, explained the internal configuration of the building and its location in relation to the site (the back bar and fire equipment locations); how the 3 roofs of the 3 outbuildings had been removed and replaced with 1 overarching roof to make 1 building. He confirmed that the front section of the Application site is residential (occupied by Mr and Mrs Morgan); the wedding venue and car park being located at the rear.

Representations from Stephanie Bierwas on behalf of the EHT

Ms Bierwas confirmed that the EHT initially objected to the application following concerns over public nuisance as to noise. A NIA was requested by the EHT to ensure that the licensing objective on prevention of public nuisance was upheld.

The Applicant submitted the NIA which was assessed by Ms Bierwas. The Applicant stated that the background noise level would not be exceeded and the EHT was satisfied with that; the Applicant also set

out considerations for the aircraft noise impact that may have assisted with masking any noise from the premises.

The NIA predicted that the worst case of noise calculations from the build envelope is to the objectors' properties; the report predicted that the background level noise would not be exceeded at the premises.

Ms Bierwas conducted a visit to the site on 12 February 2020 during which the NIA was discussed with the Applicant and the agent (Mr Dixon). A number of conditions were discussed, in particular the taxi call point, the area outside of the premises, the agricultural fencing surrounding the premises and the orientation of the premises away from noise sensitive properties. The terminal hour was also discussed and it was agreed that it would be tightened to midnight. The NIA, the visit and the 7 conditions agreed with the Applicant (as proposed by the EHT to control noise and protect residents) would uphold the licensing objectives.

In response to a question from Ms Tulloch (of Kuits Solicitors on behalf of the objectors) on the issue of other types of noise than 'breakout noise' not being included in her report, Ms Bierwas confirmed in her experience that the sort of noise that people object to from licensed premises is usually breakout noise from entertainment such as disco/music noise rather than 'people' noise. This was discussed during the site visit; the location of the break out areas where people would congregate, the orientation of the building and the agricultural fencing in place fully enclosing the site so as to mask noise coming from it – Ms Bierwas was happy with that.

With regard to the 2 noise reports submitted at a very late stage (one commissioned by the Applicant and another commissioned by objector Mr Tim Mort), Ms Bierwas confirmed that she had not had time to consider the reports in full, having only had sight of both NIAs on the morning of the hearing. She would need further time to assess the reports in full and also undertake further assessments but did note that the noise consultant for Mr Mort states that the weather conditions were inappropriate for taking such noise assessments.

The EHT is trying to uphold the licensing objective on the basis of public nuisance; statutory nuisance is something completely different; they are along the same lines but they are slightly different when it comes to assessment.

Ms Bierwas confirmed she would need more time to consider the reports and conduct further assessments. The EHT did not receive any noise complaints following the event on Saturday 22 February 2020; complaints may have been received but were not as yet on the council's system.

Following a short adjournment of the hearing and in response to a further question from the objectors' representative, Ms Tulloch, Ms Bierwas confirmed that if the site is controlled by licensing and managed and operated appropriately and adequately so as to not cause a public nuisance, another wedding barn in this area of Mobberley would not be inappropriate.

Having had the opportunity to consider them during the short adjournment, Ms Bierwas addressed the committee on the 2 noise impact assessment reports submitted on behalf of the Applicant and Mr Mort as follows:

- the noise consultants have undertaken noise measurements on the same night (Saturday, 22 February 2020); the Applicant's representative took noise measurements from visiting the site during the event, whereas the objector's noise consultant installed noise equipment at his property which was subsequently assessed remotely by way of review of the audio recordings taken;
- the objector's noise consultant stated that there was no noise after 11.00 pm, yet the premises had a TEN until midnight. The noise consultant for the Applicant states that the noise continued until

midnight. There is then a discrepancy between the two reports as to what was actually heard after 11.00 pm;

- the noise levels that were recorded were for a live band; Ms Bierwas's concern/query to the Applicant would be what time did the band start and finish and what particularly occurred after 11.00 pm;
- the noise consultants have each addressed their briefs to undertake a noise assessment from their respective clients. Noise consultants look at noise levels; the EHT use the noise generated inside the venue to provide for a noise installation scheme for the build envelope so that noise from live bands and DJs does not break out from the envelope impacting residents living in proximity to the premises;
- returning to the time of 11.00pm, Ms Bierwas stated that there is a need to establish if there were any doors open at the premises as noise should not have been heard. The original noise consultant's report predicted that noise would not be audible at the premises; it would actually be below background;
- noise reports can be fixated on a noise level, however, the EHT tries to move away from noise levels as they are very difficult to achieve as a way to monitor something. EHT has moved towards a subjective assessment of noise, which has been stipulated in the noise conditions for the premises licence. Subjectively speaking can the noise be heard? One report states that it can, whereas the other consultant states it cannot;
- the licence condition then requires the Applicant to undertake his own subjective noise assessments - not noise monitoring – at the perimeter of the property to establish whether noise escapes from the premises to cause a nuisance to noise sensitive premises. If, in the Applicant's opinion, it does, then further controls on their operations to reduce the volume should be in place;
- having considered the reports, it was Ms Bierwas's professional opinion that the licence conditions on noise were sufficient to manage noise at the premises.

Mr Dixon did not have any questions for Ms Bierwas, however, he stated on behalf of the Applicant that a door at the venue had been left ajar on 22 February 2020. He confirmed that ensuring that this does not happen again is the Applicant's number 1 priority. As this was the first event at the venue, Mr Dixon stated that there will be teething issues; it was appreciated that this was a serious issue but that steps will be taken immediately to ensure it cannot happen again and that security on the door will be improved. The event did continue until midnight and taxis picked people up after 11.00 pm; music was still played at the venue after 11.00 pm.

In response to a question from Mr Ansell, Mr Dixon clarified with reference to the Applicant's floor plan that it was the staff 'back bar' door which was left open. That door is closer to the residential property and hence why the noise could be heard at the higher level. This door will not be able to be opened in future. The Applicant confirmed that as the building is not quite finished, a 'closer' had been missed off the back bar door; he went outside at 11.00 pm and closed the door.

In response to questions from Mr Tim Mort, Ms Bierwas confirmed that one of the conditions being imposed on the Applicant was that live or recorded music should not be heard at the boundary of the nearest residential property and that this same condition had been imposed on Owen House to protect local residents.

Mr Tim Mort asked Ms Bierwas if at the time of her first report, whether she required further details as to the construction of the building so as to assess if noise breakout expenditure was required by the Applicant. Mr Mort also asked Ms Bierwas if, before she had visited the premises and before a noise

assessment had been carried out, she believed that there was sufficient distance between the premises and residential properties (including Mr Mort's house which is 100m away from the barn); as at that stage no details had been provided regarding the construction envelope for the 3 converted barns that make up the premises to ensure adequate control of noise breakout from the proposed wedding function centre. Mr Mort asked if it was that when Ms Bierwas visited the premises on 12 February 2020 having received the noise impact assessment report which indicated that the background noise exceeded on the predictions the noise coming from the venue was there no need to spend money on an expensive exercise inside the building.

Ms Bierwas responded by saying that the noise report provides details of the build envelope for the venue and the noise mitigation required for the build envelope (steel sandwich between a tiled roof as detailed in the report) that is required to assess the noise level on the dance floor.

Mr Mort stated that the report to which Ms Bierwas was referring to (the acoustic report of 9 February 2020) has not been seen by the objectors. Mr Dixon on behalf of the Applicant stated in response that the noise report produced before Ms Bierwas's visit on 12 February 2020 was not included in the report as the EHT was satisfied with the report; the conditions asked for had been met and the objections had been withdrawn.

Mr Mort asked if residents who had heard noise coming from the premises were expected to accept that the noise heard on 22 February was attributable to a door being left open or whether or not there are problems with the way in which the building had been insulated; the objectors have not seen the interior of the interior of the building; what has been complied with, what has been done because there is no planning application. There is no plan so residents are in the dark as what has been proposed and what has been done.

Mr Dixon on behalf of the Applicant confirmed that the noise breakout on 22 February 2020 was as a result of the door being left open and will not happen again.

Mrs Philippa Mort made a representation regarding the situation of the noise monitoring equipment in relation to her home; the inclement weather on the night of 22 February 2020 may well have interfered with the readings.

In response to questions from Members, Ms Bierwas confirmed that she had attended the site on 12 February 2020; she had not visited the site since then. She confirmed that the site was still under construction; some building works were outstanding e.g. toilets and internal doors not being in place and the roof structure was still being finalised.

Ms Bierwas confirmed that the issue of fire doors and fire safety assessment was not within the remit of the EHT. She also confirmed that any matters of construction of the building for the EHT related to the noise impact assessment only. The upgrading of the mitigation measures for the build envelope i.e. walls, doors and roof space; those are the only details for the build that Ms Bierwas had seen.

Mr Dixon for the Applicant stated that a visit has been made by a fire officer from Cheshire Fire; he has no issues with the site regarding the installation of fire-fighting equipment. Fire-fighting equipment is marked as 'FE' on the application plan. The Applicant confirmed that there are 4 fire exits.

Ms Tulloch for the objectors sought clarification on the number of people that can be accommodated at the site; this goes to the heart of some of the issues that had been raised. The Applicant did not have figures for Lady Grey Farm but confirmed that Owen House can accommodate up to 600 people but never does, so probably in the region of 200. The Applicant also confirmed that a fire safety assessment was due to be carried out in the week following the licence application hearing.

Kim Evans, Licensing Team Leader, clarified that capacity limits are set by the fire safety risk assessment. As the Applicant did not have a figure to hand, she asked whether or not the assessment had been done. The Applicant clarified that it had not; it was due to be completed during the week following the hearing.

Ms Tulloch pointed out that the venue had also held an event without the fire safety risk assessment having been carried out.

In response to a question from the Chair regarding a reference in her report to the sufficient distance of the venue from residential properties as contrasted with wording regarding noise sensitive premises, Ms Bierwas clarified that in her professional opinion that she has dealt with residents living in closer proximity to a licensed premises but in this case there are still residents close to the venue.

Ms Bierwas also confirmed that she has no further clarification to make on the terminal hour (taxis leaving etc.) save for the Applicant's initial request for 02.00 am raised concerns and that it was agreed that the terminal hour (as was also stated in the noise consultants' report) should be brought back to midnight for a premises at that location.

Mr Dixon, at the Chair's invitation, clarified that if the entertainment/bar stops at midnight, carriages are at 00.30 am. Guests will have already left the event. It is rare to have an amount of people still at the premises.

In response to Ms Tulloch for the objectors, Ms Bierwas clarified the typographical error in the report; it should read 'Monday to Sunday'.

Mr Dixon clarified for the Chair that the terminal hour of midnight is the hour that the premises close; entertainment and alcohol service stops and guests are invited to take carriages.

In response to questions from Kim Evans and the Legal Adviser to the Committee (Bankole Thomas), Mr Dixon confirmed that the Applicant had not amended their application for a terminal hour of 01.30 am to the earlier point of midnight; the Applicant still wanted the hours as set out in the application. The events will comply with the request from EHT for regulated entertainment to end at midnight but the option to go past midnight to 01.30 am/02.00 am is still required. The majority of events finish at midnight. A further impact assessment would be made for events to be held after midnight.

Kim Evans clarified, in response to a question from Members, that conditions cannot be attached to a TEN.

Representations from Objectors

68 written objections were received in respect of the application encompassing concerns around noise nuisance, light pollution, drunken and disorderly behaviour, impact on wellbeing of local residents e.g. sleep disturbance for adults and children caused by noise nuisance, the excessive hours applied for, the Suggested Hours Matrix in the council's licensing policy, lack of fire safety assessment, the impact of increased traffic on road safety in the vicinity of the site, the lack of planning permission in place for the wedding barn, the site of the barn falling within or very near to the public safety zone for Manchester Airport and in close proximity to Crash Gate 9.

Representations by Kuits Solicitors on behalf of the Objectors

Ms Tulloch of Kuits Solicitors made representations on behalf of a number of the objecting residents generally; however, some of those objectors reserved the right to speak on their own behalf. Ms Tulloch set out the following:

- her clients have found it difficult to navigate the licensing process. They are thankful to Cllr Charlotte Leach for her support and assistance but they have had hurdles to overcome from the very beginning. They have been frustrated by the request to pay £10.50 to obtain a copy of the application. They had difficulty obtaining papers at the end of the consultation period. Information received has been at a late stage;
- while 68 representations were submitted, only 40 have been accepted as valid by the licensing authority. Some of those, as seen by Kuits, are considered to be valid by them; there is the option of challenging the decision to reject those representations by way of judicial review. Judicial review remains an option for her clients;
- there is considerable strength of feeling among the objectors to the application; the application should be rejected in its entirety. Any licence at the premises is inappropriate with the grant of a licence causing nuisance by way of noise and anti-social behaviour undermining the public safety licensing objectives. This is notwithstanding the agreements with Cheshire Police, the EHT in place. Even in its amended form, the licensing objectives will still be undermined;
- the original application is wholly inadequate; the operating schedule is insufficient by any standards but especially so in relation to the late hours applied for and the sensitive nature of the location of the premises. The application appears to have been drafted in the widest possible terms with the most basic conditions to see if anything sticks;
- the objectors have serious concerns regarding hours (until 02.00am) and the number of days applied for i.e. 7, Monday - Sunday. If the Applicant is serious about operating 7 days per week, this fills her clients with absolute dread. If not, the application has been drafted without specific thought to the hours for licensable activities that they require;
- as the operator of Owen House nearby, the Applicant should know what makes a good application. The Owen House licence has earlier times than those proposed for Lady Grey Farm and more conditions;
- with reference to the conditions offered on the licensing objective of crime and disorder, the offering of CCTV, an incident log and keeping a written notice of authority conditions etc. are not over and above the requirements of the Licensing Act 2003 to show how they will satisfy the licensing authority;
- it is not for responsible authorities to draft conditions. The onus is on the applicant to demonstrate what steps they have taken or plans to take to promote the licensing objectives;
- with regard to the licensing objective on public safety, a fire alarm and a first-aider on site is a legal requirement. An event has already taken place at the premises without a fire safety assessment having taken place. Holding an event under a TEN does not negate the requirement for an operator to fulfil other legislative safeguards for planning and fire safety;
- the Applicant has not had regard to traffic in the operating schedule; there is no planning permission in place or any building regulation/control;
- as far as the objectors are aware, a wedding venue licence can only be given issued for completed venues; there is doubt as to the order of the various applications made by the Applicant. The approach is 'upside down';
- with regard to the licensing objective of prevention of public nuisance which was - engaged by the application and addressed in more detail by the objectors, only 3 conditions were offered in the original application – notices outside the venue regarding leaving the premises quietly, monitoring

litter in the vicinity of the outlet and closing doors and windows where possible after 11.00 pm. These do not go far enough. The objectors would have expected a condition in which the Applicant categorically states that doors and windows will be closed after 11.00 am. Although the objectors acknowledged that matters had moved on and that conditions had been agreed, it is not the job of the EHT to draft conditions. Conditions have only been included after consultation with the responsible authorities but even the conditions as agreed, do not go far enough;

- the Applicant did not engage in any pre-application consultation with the residents, or offer to engage and meet with groups once the consultation period had ended. There was no attempt to reach out to objectors, rather the Applicant sought to have representations struck out. This raises doubts for the objectors as to whether or not the Applicant will communicate with them in future;
- the letter encouraging objections (a copy of which was included in the supplementary bundle for the hearing by the Applicant) is not underhand; this is quite normal in licensing matters. As a result of that letter 68 people submitted objections to the application. The Applicant could have exhibited its own letter to residents inviting them to a meeting to explain to them what was going to happen – that would have been the right thing to have done. Partnership working and communication is at the heart of the Licensing Act 2003;
- although agreements with the police and the EHT have been agreed, notwithstanding the reduction of licensable hours to midnight for entertainment, the application remains unacceptable to the objectors. Noise nuisance will be significant. In wet and windy conditions, noise could be heard during a recent noise monitoring exercise; the noise was so clear that songs/lyrics could be identified. This will worsen in summer months;
- the objectors were disappointed that EHT has not maintained their objection. There are conflicting noise reports. The committee may determine that they cancel one another out. The objectors did not believe that the application or hearing hinged on the production of noise reports; the objectors maintain that a nuisance was caused on 22 February 2020. The Applicant disagrees;
- the issues are wider than just noise. This is the latest licence in the area. The Church Inn public house in Mobberley would not get a 02.00 am licence and Lady Grey Farm should not either. Unlike a pub, where customers gradually disperse during the course of an evening, wedding venues are the exact opposite;
- there is doubt over the exact capacity of the premises; it has already been open to the public for an event. The fire safety certificate is outstanding. There is the potential for a huge number of people exiting the premises at the same time at a very late hour. The residents are disappointed not to have seen a dispersal policy – this remains a live issue;
- the provision of a 45-space car park will not tackle but add to the noise with guests expected to arrive and depart at the venue by car; the 'Taxi Butler' system is no different to summoning a taxi via Uber as it will not be less noisy arriving at 02.00 am to collect passengers;
- the submissions from the Applicant on the hours he wishes to operate are confusing. There is no suggestion by the Applicant that the hours for the sale of alcohol be brought back. The concession is for regulated entertainment only;
- the objections from the residents are similar but are not repetitious and should not be treated as such. Other issues raised by residents which fall outside the licensing objectives (e.g. planning) do not negate concerns of the residents or valid points made elsewhere in their objections;

- made reference to the council's licensing policy – specifically paragraphs 2.4 and 2.8 regarding the protection of amenity and the location and environmental impact of the proposed activity respectively;
- with regard to the Suggested Hours Matrix in the council's Statement of Licensing Policy and what is acceptable for premises in different locations; logically licences for town centres are later than for elsewhere. Late night premises in Mobberley are not permitted. Where there is a reference to a late night bar in the matrix, there is a cross marked against it;
- Lady Grey Farm is not a neatly categorised venue. It is not a restaurant as food and drink are not allowed after 11.00pm; entertainment will stop at midnight. The sale of alcohol from midnight to 01.30 am means that the venue will be a late night bar. This is not suitable for an area such as Mobberley;
- the objectors believe that this is a premature application; the licence is not even needed. A TEN is in place to cover the only other event scheduled this year in July. An operator can have up to 15 TENs per year; if only 2 have been used by July then there are plenty left over to cover other events that might take place in the latter part of the year. The Applicant should prove he can operate under TENs first, obtain the necessary planning permission and then submit a fully formed licensing application;
- the hours applied for even in their amended form are too late. There are insufficient conditions proposed or a satisfactory operating schedule and there has already been a noise breach before a licence has been granted;
- 40 valid objections have been made to the Application and not a single representation in support. Given the weight of the evidence, the application must be refused in its entirety.

Representations from Mr Tim Mort

Mr Mort set out how long he and his family had lived in Mobberley. The position of the runway at Manchester Airport has protected the position of the family in that while the runway operates there is a window from 11.00 pm to 06.00 am during which planes do not go off runway 2. That is the designated sleep pattern for this part of Mobberley as a result of the concessions made by the airport when permission for the runway was granted.

Mr Mort set out a short history of Lady Grey Farm (CPO by the airport and then tenanted, following its purchase during the 1990s). The barns had been used for low-key activities such as storage of equipment/vehicles but nothing that impeded his family's enjoyment of their home. He stated he was delighted that house would be used as residential dwelling by a young family. He was lead to believe that the family were getting away from Owen House by living at Lady Grey Farm but there may be a few wedding event occasions. As it was very low key and no planning application, Mr and Mrs Mort did nothing about it. There was however a huge upsurge in activity at the premises with building work having taken place, followed by an application for a licence.

The first wedding was held on 22 February 2020. Mr Mort felt that that might be an opportunity to find out how bad the noise might be and how he could react. There was a constant noise of a generator or heating, the wind did affect the noise, however, Mr Mort stated that he was not exaggerating that he could hear music; he went outside and could hear the voices of partygoers outside talking and laughing and believes that sets the pattern of what is likely to happen thereafter.

On 13 February 2020, Mr Mort was working in a downstairs room at the front of the house (about 109 metres from the barns) when between 6.15 pm and 6.30 pm, the walls and the desk in the room vibrated

from noise from Lady Grey Farm. He presumes that somebody was just testing the noise. He was gravely concerned as the noise was far in excess of the noise that was heard on 22 February 2020. Mr Mort was concerned that the noise had been kept deliberately low during the wedding on 22 February in the face of the application hearing on 27 February.

The wedding venue is a life-changing proposition for him and his family; he is very concerned about it. He is at pains to say to the Applicant and his family that he has never fallen out with neighbours and does not want to now. He finds this very difficult to cope with.

With reference to paragraph 2.7 of the council's Statement of Licensing Policy, Mr Mort underlined the need to protect the public and local residents from crime, ASB and noise nuisance caused by irresponsible licensed-premises and the duty to protect amenity. The impact on the local environment is considerable. Mr Mort stated that there is a question mark over the suitability of the premises – it was only on 12 February 2020 that the Applicant told the local authority that he is in fact a director of Owen House Farm and that the same limited company owns Lady Grey Farm. The Applicant describes himself as an individual but is patently a company director.

Although he is the designated premises supervisor for Owen House Farm, there is no reference to considerations as to how to deal with noise nuisance. In the Owen House conditions, there are no less than 13 conditions dealing with noise nuisance. The fact that only 2 are included in the Lady Grey Farm application is a concern. Is the Applicant trying to pull the wool over people's eyes by trying and distance himself from Owen House?

The licensing application of 6 December 2019 describes the premises as a rural location consisting of 3 converted barns. While planning is not part of the licensing committee's remit, Mr Mort submitted that it is relevant for the licensing committee in so far as suitability is concerned.

For the purposes of planning, the existing building has been described as 'agricultural'; where there is no change of use, there is no need to consult with the responsible authorities such as the airport. It is, however, a converted barn.

Reliance on TENs does not excuse the requirements of planning permission. There is no planning permission; and no building regulations in place. There may be a public liability insurance policy in place, but what self-respecting insurer faced with a substantial claim is going to pay out when the premises is not covered by building regulations?

Mr Mort stated that he has to face the possibility of events at the venue every Friday and Saturday night. It will not just be music in the summer, but people laughing and enjoying themselves outside, smoking having a laugh – all clearly audible. Vehicle deliveries will increase significantly and, if there are going to be 45 car parking spaces, this means that there – will be at least 90 vehicle movements, leaving aside deliveries and taxis.

This seems to be an infinitely expandable venue; with potentially up to 600 people there. The Applicant does not even provide measurements for the room shown on the application plan.

If the venue has a capacity of 600 persons, this will impact on what is currently a quiet country road.

There are too many unknowns in this application. There is another event scheduled for July and Mr Mort hopes that building regulations and planning permission will be in place before then. If not, the event in July will be in breach of other relevant legislation and potentially without suitable public liability insurance.

Mr Mort stated that the order of the applications is wrong; the application should be dismissed.

Representations of Jane Hopkins

Mrs Hopkins stated that from her home (where she lives with her 3 children) she can clearly see Lady Grey Farm. She would not have purchased her home had she known Lady Grey Farm would be used as a wedding venue.

A wedding barn is a romantic name for what will essentially be a nightclub but with longer opening hours.

The neighbours may seem far apart in comparison to a suburban area but noise travels much more easily in the countryside. Mrs Hopkins stated she was in no doubt that the venue will cause noise nuisance at the boundary of her property and also within her home.

Mrs Hopkins has experienced noise nuisance from venues further away than Lady Grey Farm. On a calm summer night, she has heard music (electronic or live) from all bedrooms within her home.

The Applicant could have spoken to his neighbours before buying the premises to find out issues and potential objections to the venue.

The application is very broad and expensive; the stress and uncertainty caused by this potential business with no current planning permission for a change of use has been enormous. The threat of noise nuisance from the wedding barn operating fills her and her family with dread; the boom-boom of music making it impossible to sleep.

Mrs Hopkins expressed further dread of the increased traffic and people unfamiliar with the lanes, driving to the limit making it impossible to use the lanes for recreational use; as well as inebriated party guests getting lost trying to find their way in the rural residential area.

There was a wedding held at Lady Grey Farm on 22 February 2020; Mrs Hopkins could clearly hear a band playing from her home and garden.

One of her children is already worried about the loss of sleep; he needs a peaceful environment to sleep. She is worried about her children's health, happiness and the ability to gain an education if the premises licence is granted.

Mrs Hopkins stated that she did hear noise from the venue on 22 February 2020 but did not lodge a complaint as she knew she would be attending the Licensing Act Sub-Committee hearing on 27 February 2020.

Representations of Phil Roberts

Mr Roberts lives with his family approximately 300 metres away from Lady Grey Farm. It is a rural location and noise travels long distances in the area. The hours applied for are far more than any other venue in the locality and is not appropriate for a quiet residential area.

Mr Roberts stated that music from the adjacent Owen House Wedding barn, Tatton Park outdoor concerts, Capesthorne Hall, the Jodrell Bank Blue Dot Festival and frequent marquee weddings in the surrounding area can already be heard by him and his family; these cause frequent and persistent disturbance.

From a public nuisance perspective, Mr Roberts stated the noise proposed from this venue particularly the repetitive music bass-beat and increased volume of traffic would therefore cause massive disturbance and inconvenience.

Mr Roberts expressed concerns regarding public safety on the local lanes; Lady Lane and Davenport Lane are narrow and winding country lanes and do not have the capacity to cope with regular increased volumes of traffic. There are cycleways and bridleways used by many people including children. There are no road markings, streetlights or pavements. The road surfaces are poor. There is very limited mobile phone signal in the area and limited public transport.

From an overall safety perspective Mr Roberts does not believe that it is a suitable venue for large numbers of people, unfamiliar with the area, spilling out and there is no dispersal policy in place for the venue.

The increase in vehicle volumes, especially taxis – as there is very limited public transport in Mobberley – will automatically create noise and disturbance into the early hours. Despite previous comments regarding aircraft noise, even Manchester Airport is subject to noise restrictions in its planning permission; runway 2, which is nearest to Mobberley, cannot operate between 11.00 pm and 6.00 am. There are limited movements during those hours, not the 4-5 minutes stated earlier (during the Applicant's submissions).

Despite representations on noise closers etc., there has been noise disturbance already from Owen House Farm, half a mile away often after midnight. Loud music can be heard and the songs can be identified; also noise of people departing from the venue with no consideration for the quiet neighbourhood.

There are already 2 licenced wedding barns in the vicinity and other venues capable of holding such functions locally. There is no need for another licensed venue in the locality. Another venue will cause unnecessary noise and disturbance to residents who have chosen to live in a quiet rural location. The protection of a safe, peaceful rural environment is paramount, therefore constant noise and disturbance is inappropriate. The application should be rejected in its entirety.

Representations of Andrew Mort

Mr Andrew Mort spoke on behalf of himself and his sisters. He is the son of Mr Tim Mort and Mrs Philippa Mort. Andrew Mort grew up in Mobberley but left at 18 years of age to go to university.

Mr Mort stated that it is a quiet rural community with narrow country lanes, there are blind corners and a nasty crossroads used by cyclists and walkers alike.

The building is much closer to people's homes than the Owen House Farm wedding barn.

There is some inconclusiveness regarding the noise report; recorded music being audible to the actual word at his parents' property not to mention the drunken revelry inside and out at wedding venues right throughout the day; speeches (jeering and cheering). There will be an irrevocable change in the environment affecting residents' peaceful enjoyment of their homes.

He asked how others would feel if someone decided to dump a nightclub in their back garden to operate 7 days per week.

Mr Mort stated that he and his sisters are concerned about the anxiety this has caused to their parents who live opposite the venue; sleep deprived nights will impact on their health.

Mr Mort is concerned that any visits that he and his sisters make with their children to their parents' home will be subjected to the same sleepless nights. They visit their parents' home, often at the end of very busy weeks, to escape the hustle and bustle of city life, not to subject themselves to more sleepless nights.

Mr Mort is most concerned by the Applicant having been presented with the list of objections and yet they have not attempted to reach out to their neighbours, collaborate or find compromise.

Mr Mort also drew the Committee's attention to the conservationist report published on 26 February in connection to the planning report as indicative of the behaviour of the Applicant so far.

Mr Mort asked the –Committee to consider what precedent would be set by granting a music and alcohol licence in such a quiet area. Any approval would condone individualism. There will be an irreversible change to this part of Mobberley.

Representations of Andrew Ansell

Mr Ansell lives within view of Lady Grey Farm. He stated he could see lighting in the dance area (spotlights) coming from the venue during the event on 22 February 2020.

He has teenage children, 2 of whom are at important stages of their academic careers. He is concerned about the impact of noise nuisance on their sleep and studies.

Mr Ansell explained how his knowledge of the application was by chance; having been informed of it by Mrs Hopkins. He stated he believed the previous family had moved out of Lady Grey Farm because of the noise from Owen House Farm. Mr Dixon for the Applicant objected to this statement as hearsay. It was clarified by the Legal Adviser and the Chair that hearsay is allowed in such hearings.

Mr Ansell explained the background to researching the application and licensing policies and procedures. It was clear to Mr Ansell that the application could not go ahead as per paragraph 4.2 of the council's Statement of Licensing policy; while it is recognised that licensing and planning are separate legislative regimes, and that the licensing authority will not consider any breach of planning, it is the case that planning permission is usually required before the use of premises or licensable activities.

Lots of work has been done at the site without planning permission. The entirety of the site does not have planning permission; the change of the roof is only 1 aspect of the building work done and subject to a planning application. Other aspects have been omitted. Building regulations approval has not been obtained and a fire safety certificate is not in place. The proper process has not been gone through.

Mr Ansell made reference to the paragraph 5 (sic) of the Policy regarding Building Regulations governing a *'variety of issues which directly contribute to the licensing objectives including means of escape, structural integrity, accessibility and public safety. Building Regulation Approval and completion certificates may be required prior to the use of the premises for licensable activities'*.

Kim Evans, Licensing Team Leader confirmed that the grant of a licence can take place when planning permission does not exist, however, operating under the licence without planning permission is not supposed to happen. Regarding planning, different activities can be delivered without a change of use of the land taking place.

Mr Ansell stated that he felt that the process was complex to go from a domestic residence but the process has been approached 'upside down'.

Mr Ansell's primary concern was noise nuisance although he did not hear noise from the venue on 22 February 2020 due to the wind. He knows others did hear the noise but understands that the noise monitoring was affected by the weather. Mr Ansell believed that the venue should be tested so that environmental impacts can be measured from different neighbouring properties.

Mr Ansell expressed concerns about the roads, parking and navigation of traffic insofar as the Applicant will do his best but cannot stop other drivers. He also went on to say that in summer, it is the natural behaviour of people to open doors and windows and questioned how this could be controlled with 150 – 200 people at the venue. A proper sound survey can address these issues.

Mr Ansell questioned why the application was made by the Applicant as an individual and not by the business.

Mr Ansell believed that the venue was not at all suitable for any compromise and that the application should be rejected in its entirety.

In conclusion, Mr Ansell expressed that he was concerned about his children's safety including that of the Applicant living in residential accommodation so close to the venue.

Replies/Questions from the Applicant to the Objectors

In response to the representations made by the objectors, Mr Dixon for the Applicant made the following points:

- the Application for Lady Grey Farm is a mirror of that made for Owen House; why is this application considered to be vague when Owen House was accepted without objection?
- with regarding to planning, the hearing was not able to consider planning matters under section 4.2 of the policy. Planning and building regulations did not make any representations on the licensing application;
- regarding engagement, Vanessa Daniels (sic) did have a conversation with Mr Tim Mort and gave him his telephone number. No call was made;
- the noise reports have been compiled by professionals and have formed the basis of the agreed conditions. They are a matter for consideration by the EHT and are not required to be public documents. The EHT was satisfied with the report;
- it is not correct to say that the Church Inn nearby would not get a late licence. The pub would be subject to the same application process as Lady Grey Farm;
- the hours of operation do need clarification. The hours applied for are 01.30 am and 02.00 am and with reference to Owen House, which does have slightly different hours. At the weekends, Owen House is licensed until 02.00 am. Very rarely does it use the 02.00 am licence but it is in place. That application went through without any objections;
- with reference to the proximity of properties, noise was not heard at Mr Ansell's property 400 m away from Lady Grey Farm. Proximity is not an issue. Other residents who have made representation are 1.5 kilometres away. If you do not live close to the venue, you cannot be affected by the roads around the property. Mr Mort's, Mrs Hopkins's and Mr Ansell's are the closest properties;

With reference to the objector's noise monitoring report which stated that the event finished at 23.00 pm, Mr Dixon asked Mr Tim Mort if the noise reduced after 23.00 pm to a noise level expected? Mr Mort replied that unless he had been sitting outside in his garden (which he was not), he was unable to say. Mr

Mort was so concerned about what the noise level might be, he commissioned the noise report. The expert put the equipment in the garden at Friday lunchtime until Monday as he did not know which night the event would take place. On the night, it was Mr Mort's impression that the event ended at about 11.00 pm. As to what time it was that was all from the acoustics report; Mr Mort was not outside listening.

Mr Dixon asked Mr Mort whether from the inside of the property, the noise level made him assume that the event had ended. Mr Mort agreed that this was perfectly fair; the noise was not like that experienced on 13 February 2020 when the walls vibrated.

Mr Dixon asked Mr Mort about subsequent noise from taxis and revellers leaving the venue, and whether that happened on the night. Mr Mort said he could hear vehicle movement and in fairness to the Morgans, knowing there was to be a licensing application hearing 4 days after the event, Mr Mort said he would be astute to the music being turned down in the barn. Whether that was representative of an actual night of music, he doubted. He also said that the event was held for friends; friends would be astute to their loyalty to keep quiet because of the pending application.

Mr Dixon stated that the Morgan's were responsible on the evening. Mr Mort stated that he wholeheartedly agreed.

Mr Dixon continued stating that the issue of the ownership of the venue or the name of applicant is irrelevant for the basis of an application.

In response to a question from Mr Dixon, Mr Roberts confirmed that he could hear noise from other venues such as Tatton Hall during the day time through to the evening up 11.30 pm and that this did not depend upon the wind direction. He has been able to sit in his garden and listen to events at Tatton Hall and Capesthorpe Hall as if at those venues. Mr Roberts confirmed that he had not made any objections to such events as they occurred infrequently, not every Friday and Saturday.

In response to Mr Dixon, Mr Andrew Mort confirmed that he grew up in Mobberley. He now lives in London and visits his parents in Mobberley once per month at the weekend; it is a great opportunity to unwind. His sisters are parents to young children; the children stay with their grandparents weekly to give his sisters respite. The music is talked about as being well-contained but his concern is that while he does not live at his parents' house, the noise is sufficient for him to be disturbed. He is concerned about the disturbance to his parents and their long-term health. That is why he and his sisters have submitted an objection.

In response to Mr Dixon, Mr Ansell confirmed that he did not hear noise on 22 February 2020; he confirmed that he could see the lighting from the venue from his downstairs kitchen window which is eye-level to the site. He stated that he installed double-glazing on moving in to his home to mitigate the noise from the air traffic to Manchester Airport. He went to bed early on the night of 22 February 2020; Mr Ansell believes that the noise impact would be different on a clear day.

When asked by Mr Dixon if the noise on 22 February 2020 was the standard level of noise and would he be happy with it, Mr Ansell responded that he believes that there should be testing carried out on a suitable day to determine what can be heard and when. That will avoid reliance on a complaints procedure. It makes sense to Mr Ansell not to grant the licence now, and to test the site and grant a licence later on if appropriate.

Regarding a question from Mr Dixon on the content of the letter distributed to drum up objections (based on supposition and fear, not fact – fireworks and planning), Mr Ansell confirmed that he was not the author of the letter and while he was aware of its existence, he had not had sight of it or distributed it. Mr Ansell explained the nature of the meeting arranged for residents at the cricket club and his presentation to others to explain the licensing process and objectives. It was agreed that the residents had insufficient expertise in licensing and so instructed Kuits to represent them.

Mr Dixon clarified that he was trying to ascertain the basis for the claims in the letter distributed, not to have it discounted.

In response to a further question from Mr Dixon, as to why he thought the Applicant would put their children in the way of harm living next to the wedding barn, Mr Ansell confirmed he was concerned about the effect of noise on all parties, including the children of the Applicant.

Mr Armitage made the point that the protection of children from harm is not solely confined to noise from the venue; the traffic impacts on the lanes put children at risk riding, cycling and in prams. The lanes are not suitable to take the volume of traffic talked about. Children will be at a greater risk of harm than they are at the moment.

In response to Mr Armitage, Mr Dixon stated that such concerns were not for the licensing meeting.

Kim Evans, Licensing Team Leader clarified that the committee can take into consideration any activity that – is linked to the licensable activities being provided at the premises; it is not necessarily just within the premises.

Questions from Committee Members

In response to questions from Councillor Leslie Smetham, the Applicant confirmed:

- that he intends to continue to run both venues and there is sufficient business to do so;
- that bookings are rarely taken for each day of the week; people only really want to book for Friday, Saturday and the odd Sunday wedding (which are infrequent). Part of the reason why they have expanded is because there are only so many Fridays and Saturdays available to facilitate weddings;
- the reason for the application covering every day of the week, was because the application mirrored Owen House; it would be feasible to reduce the number of days;
- that a planning application has been submitted in respect of the roof of the barns at Lady Grey Farm and another application for a slightly larger septic tank. The change of use planning application is in progress; he is trying to get everything lined up for that application and it is quite a complicated procedure. A planning agent is acting for the Applicant to ensure everything is done correctly;
- that guests do not have to wait for a long time for taxis. Owen House has been operated for a long time; stringent procedures are in place with good relationships with taxi firms;
- while the license for Owen House covers the showing of films, boxing etc. they only hold weddings there. Children's parties are held but that is it. 18th and 21st birthday parties would not be held as they are unmanageable. There is a 7-year track record at Owen House that Lady Grey is replicating. There have been no objections in the last 6 years. Owen House is the blue print for Lady Grey.

Kim Evans, Licensing Team Leader clarified that licenses are issued by the licensing authority with conditions attached to licensable activities. There is nothing to say that a different operator would act differently. Future considerations cannot be taken into account.

In response to Councillor Stan Davies, the Applicant confirmed:

- that the site was formerly used as a farm. It had been compulsorily purchased by Manchester Airport as part of the second runway development. A farm was reduced to a farm house and the outbuildings. Mr and Mrs Morgan live in the farm house; they are the closest residential property to the venue.

In response to questions from Councillor Leslie Smetham, Kim Evans, Licensing Team Leader explained:

- what amounts to licensable activities and what are deregulated activities within certain criteria;
- that the lack of planning permission does not cause difficulty for the grant of a premises license application. The council's licensing policy clearly deals with the separation of planning and Licensing control; while the committee shall not be influenced by planning matters, there is a statement in the policy that it can take into consideration non-compliance with other statutory regimes e.g. fire safety risk assessments not being in place etc.;
- that capacity is usually dealt with by the fire safety risk assessments. Licensing does not usually deal with capacity matters unless attention has been specifically drawn to the point under the licensing objective relating to public safety.

The Applicant explained to the committee that there are 200 people per fire door excluding the main fire doors; dispersal is about how fast people can get out of the building.

In response to Cllr Smetham, Kim Evans confirmed that Manchester Airport does not have any special status as a consultee under the Licensing Act 2003; this was echoed by the Legal Adviser and Mr Tim Mort.

Summing Up

The EHT's concluding remarks included:

- the conditions agreed with the Applicant are sufficient to promote the licensing objectives and are appropriate for the venue, its location and the protection of residents living in noise sensitive properties.

The Objectors' concluding remarks included:

- the application should be dismissed in its entirety;
- the Applicant is naïve to think that the licensing objectives will not be undermined; a breach has already occurred before a licence has been granted;
- while engagement has taken place with the responsible authorities, none has taken place with residents;
- a late licence over 7 days a week is too much in such a noise sensitive location. The premises will be a late night bar; the Schedule of Hours Matrix does not allow for that in this location;
- A compromise is not suitable even with reduced hours/no. of days;
- The grant of a license would undermine the licensing objectives.

The Applicant's concluding remarks included:

- the family have a long history of farming in the area. They are not newcomers to the area and do care about local residents;

- they are saddened by the escalation in the objections and at least 2 leaflet drops in a 2-mile radius of Lady Grey to drum up support against the application;
- the applicant wishes to mirror the licence at Owen House (situated about half a mile away from Lady Grey Farm) that has no history of issues. Over 400 weddings have been held at Owen House without problems/complaints;
- fireworks have never and will never be allowed at the venue;
- Lady Grey Farm's name change is named after their pet dog and not an attempt to mislead anyone;
- They strongly refute the objector's suggestion that they do not adhere to their licence at Owen House.

Kim Evans, Licensing Team Leader addressed the committee confirming:

- with reference to the Suggested Hours Matrix; it is supposed to concentrate applicants' minds to address specific issues in their operating schedules so that applications are fulsome in their descriptions as to how they will uphold the licensing objectives. It is not there to fetter the discretion of the committee. It is up to the committee to determine whether the conditions in the operating schedule go far enough;
- commercial need is not a relevant consideration for the licensing committee;
- the public register of licensing applications is viewable for free pursuant to s.8 Licensing Act 2003. For a copy of the register, the local authority is able to charge a reasonable fee under s.8(5) of the 2003 Act – that was set by the committee last April;
- there is no longer a vicinity test in that representations are only acceptable from persons living within close proximity to the application site. It is for the committee to attribute the appropriate weight to those representations;
- that a maxim of 15 TENs can be used per year. A single TEN can cover up to 168 hours; up to 21 calendar days can be used in total.

Determination

THE DECISION OF THE LICENSING ACT SUB-COMMITTEE WAS AS FOLLOWS:

The Licensing Act Sub-Committee has decided to **REFUSE** the application for a new premises licence for Lady Grey Farm, Lady Lane, Mobberley, Knutsford, Cheshire, WA16 7NE

Reasons for the Decision

The Sub-Committee reached its decision, after carefully considering all relevant representations and having regard to the licensing objectives and in particular public safety, the prevention of public nuisance and the protection of children from harm. There were a number of inconsistencies including:

- the lack of a dispersal plan in the operating schedule that would ultimately mitigate public nuisance on account of the noise, safety and well-being of children in the vicinity;
- the fact that building works are yet to be completed in addition to the lack of planning permission and the appropriate liaison with the fire safety officer which have heightened rather than reduced the concerns of the committee for public safety.
- Those arising around the noise impact assessment and the Applicant's' admission that a door was left open during the event held on 22 February 2020 when the weather was extreme with high

winds, highlights the fact that it is difficult for the committee to be satisfied that a public nuisance arising out of noise emanating from the property will not occur.

In making its determination, the Sub-Committee has considered the application of the judgment in *Thwaites v Wirral Borough Magistrates' Court & others [2008] EWHC 838* and the requirement that decisions are made on the basis of evidence of the potential harm to the licensing objectives rather than purely speculative concerns, which the facts revealed in this case highlight.

Appeal

Section 181 and schedule 5 of the Licensing Act 2003 states that the Parties that made relevant representations can appeal against the decision of the Sub Committee in writing to the Magistrates' Court within 21 days of service of the written notice of the decision.