

Appendix S

Response from Nigel Connor, JD Wetherspoon Solicitors on 7 June 2013

From: Nigel Connor [mailto:NConnor@jdwetherspoon.co.uk]
Sent: 07 June 2013 22:23
To: Licensing Enquiries
Subject: Possible Ormskirk EMRO - Pre-Consultation Response
Importance: High

Dear Sir/Madam

We do not appear to have been invited formally to respond to the pre-consultation regarding proposals to introduce an EMRO in Ormskirk but we have heard about the existence of the process from third parties and wish to contribute to it.

JD Wetherspoon do not currently operate a premises in Ormskirk but do hold a premises licence granted this May for the former Best DIY store at 4 Wheatsheaf Walk which we anticipate being open later this year. The premises licence allows sale of alcohol until 0100 Thursday to Saturday and would therefore be effected by what we understand to be a proposal to have the EMRO take effect at Midnight.

The premises will employ around 40 people on a part time and full time basis and provide a significant amenity to those who use it either for food, drink or a combination of both from first thing in the morning to later at night.

In the absence of a detailed proposal for the EMRO both in its geographical extent, supporting evidence and when it would apply from, it is difficult to make a detailed response to the pre-consultation. On a point of general principle however we would oppose the introduction of any EMRO in Ormskirk for a number of reasons.

We do not know the town in detail as yet but did have liaison with both Lancashire Police and the New Way Residents Association so have some idea of the issues in the late night economy. Whilst there are issues to address we are not aware that there are serious enough problems of crime and disorder in Ormskirk to justify the introduction of an EMRO. The s182 Guidance on EMROs requires a Licensing Authority who wishes to introduce an EMRO to have "sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objective".

The s182 Guidance states that an EMRO is

"a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO"

If problems have been identified, then consideration should be given to those other measures before an EMRO is formally considered. These might range from an active Pubwatch, a well organised Best Bar None or a formal mechanism by which the authorities and the operators of premises in the late night economy can work together. The type of partnership initiatives would avoid the need for the "iron fist"

approach of an EMRO. As a company we would fully support such an initiative as we have done in other towns and cities. The energy operators would have to expend on opposing an EMRO would be far more productively spent in this fashion.

Of course "other measures" do not simply mean partnership initiatives, as welcome as they are. The Licensing Act has supplied responsible authorities and local residents with a number of tools such as reviews, closure orders etc. to bring errant operators who are not promoting the licensing objectives into line and where problems can be reasonably linked to individual premises, these tools must be used first. The advantage of such an approach is that it means responsible operators who do promote the licensing objectives are quite rightly left unaffected. Contrast this with the indiscriminate effect of an EMRO.

The economic effect of an EMRO should also be considered on both a premises specific basis and a collective basis. For a late night operator who has to curtail its hours, the introduction of an EMRO will have a fundamental effect on its business. The selling point of many night clubs for example is their ability to trade later than other premises. If this is lost and that operator has to close at the same time as many other operators in an already crowded market, then the likelihood of that business failing with a knock effect on jobs and the creation of another empty town centre premises is significant. Whilst an EMRO can force certain premises caught by its terms to close earlier, it cannot force those beyond its scope to do so and the differential in hours many late night operators rely upon from standard bars and pubs is lost.

It is extrapolated that an EMRO will mean that customers who currently stay at home until late, often it is said pre-loading on alcohol bought from supermarkets, will be forced to come out earlier. This is not supported by any research and the danger is that they either simply not come out at all or alternatively go to a neighbouring town/city with a later late night economy. They would then return to Ormskirk in the very small hours of the morning with resultant disturbance. Given that most late night economies outside of big cities are economically struggling with a reduced footfall that is a significant risk to take. Many bars and pubs rely, especially on Fridays and Saturdays, on customers of the later night clubs for trade and with those night clubs either closed or curtailed in trading hours, such customers are likely to be lost with obvious economic impact.

We hope that the above submission is helpful. If there are issues with which targeted enforcement in the town cannot deal, then the proper approach should be swift and open dialogue between all stakeholders to resolve those issues before any consideration is given to a formal EMRO consultation process and we urge that approach is taken. Ormskirk is small enough to allow such liaison to have a very immediate effect.

It is worthy of note that when we applied for our premises licence, the application was granted administratively with the concerns of the Police and one local resident addressed during consultation. It shows the random and deeply unfair impact of an EMRO that we should lose the benefit of the being able to trade until 0100 before we have even opened our doors due to the misdemeanours of others.

If you wish to discuss any of the above with me further, please do not hesitate to contact me.

Please acknowledge safe receipt.

Regards

Nigel Connor
Solicitor
Head of Legal
JD Wetherspoon PLC
01923 477892
07818 232529

JD Wetherspoon plc,
Company registered in England number: 1709784
Registered Office:
Wetherspoon House, Reeds Crescent, Watford, Herts, WD24 4QL

Please note that we do not have visitor parking available and you may need to allow some extra time to walk to our offices. For further assistance please refer to the contact us section of our web site at <http://www.jdwetherspoon.co.uk/>

The information contained in this document is strictly private and confidential and may also be privileged. If you are NOT the person to whom this e-mail is addressed, please notify the sender immediately by reply. You should not copy the document or any of the attachments which may be contained herein or use it for any purpose or disclose its contents to any third parties.

Employees of J D Wetherspoon plc are expressly required not to make any defamatory statements or infringe, or authorise any infringements of, copyright or any other legal right by e-mail communications. Any such communication is contrary to company policy and outside the scope of the employment of the individual concerned. The company will not accept any liability in respect of such a communication, and the employee responsible must be personally liable for any damages or other liability which may arise from it.

J D Wetherspoon plc does not accept responsibility for changes made to this message, after it was sent.
