

Appendix T
Response from Ian Gordon, IKO Ventures in respect of The Green Room, Ormskirk on
7 June 2013

iKOVENTURES

The Green Room
39 Moor Street
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Lancashire
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1st June 2013

FAO Paul CHARLSON

I write this letter to strongly object to the wholly inappropriate proposal by Councillor Adrian OWENS for an Early Morning Restriction Order (EMRO) to be enforced in the Ormskirk area. The proposal is not only contrary to the spirit of the 2011 amendments to the Licensing Act 2003, but also totally ignores whole sections of the strongly worded Statutory Guidance in respect of the consideration of an EMRO by local authorities.

One of the relatively few other councils considering an EMRO is Norwich City Council where the levels of alcohol related crime can truly be said to be 'high' - one of the criteria in the guidelines for an EMRO. Since the introduction of further extended licensing hours three years ago in Norwich, violent crime has increased by almost 11% and Criminal Assault by a staggering 64% compared to the previous three year period. Norwich seek only to limit licensing hours to 2.30a.m on weekdays and 3.30a.m at weekends.

The Committee will be aware that the Statutory Guidance specifies that an EMRO is intended to address 'high levels of alcohol related crime and anti-social behaviour' and is to be considered only as a last resort. Figures quoted by Councillor OWENS indicate that there were 230 incidents of anti-social behaviour between midnight and 6am for the two year period from March 2011, approximately four a week. Councillor OWENS quoted these statistics as being supplied by Lancashire Police. The Police have however responded that the figures quoted by the Councillor do not accurately reflect the figures for Ormskirk alone and that recently Ormskirk has actually shown a decrease. A log kept by Councillor OWENS, of complaints directly to him, are naturally much higher.

In his letter to the Council formally requesting consideration be given to enforcing an EMRO Councillor OWENS casually paraphrases the wording of the Home Office notes of Guidance which are in contrast quite explicit. For example, he airily claims that the Guidance suggests that "Other measures might be appropriate". However, the Legislators make it abundantly clear that an EMRO is a weapon of last resort to be considered in extreme cases and states that "All other options should have been considered". It is also very specific about what those options should be. The burden of proof for having exhausted all other suggested options lies with the enforcing Council.

Another important guideline, which the Councillor fails to mention, is the provision for a licensed premises to be exempted if it has demonstrated that it has not contributed to the problem. This is obviously intended to protect a legitimate, well run business from the punitive effects of an EMRO. This exemption is not only a recognition of natural justice but more pragmatically, that to do otherwise could not subsequently be defended. Despite claiming to have thought about this matter "long and hard" he has none the less demanded a complete ban thereby penalising all businesses whether or not they contribute to the problem!

In his initial letter formally requesting the Council to consider an EMRO he refers to the Statutory Guidance in a very misleading fashion. He speaks of "good practices" already adopted in Ormskirk having failed, an

obvious implication that this is sufficient to justify his proposal. The Statutory Guidance however makes very clear that all options should have been considered including, among others, the enforcement of existing laws including Police powers to immediately close offending premises for up to 48 hours, review of licences and the introduction of a Cumulative Impact Policy.

The Legislators, clearly conscious of the far reaching effects of an EMRO, emphasise the need to consider not only what a Committee looks to achieve but also the 'burdens' already borne by the licensed trade. Again the Councillor glosses over this responsibility. He says in his letter, "We must strike a balance that allows a night time economy to flourish while protecting the amenity of local residents." What he suggests is not a balance, it is, as referred to in the Guidance, a weapon of last resort'. So called I believe because of the Government forecast of inevitable financial damage to licensed businesses and thereby the local economy. He goes on to cynically observe "That significantly there is no right of appeal to the Magistrates Court". I presume he wishes to leave the impression that any Judicial examination of the process is unlikely because of cost and therefore a decision in his favour would have fewer ramifications.

Councillor OWENS has stated that he will submit evidence to the Committee in support of this proposal at "the appropriate time". From my own bitter experience I trust this will not be at a time when the accuracy of what he says cannot be challenged. He has in the past closely allied himself with, and quoted the views of, the New Way Tenants and Residents Association. The Committee will be aware that this group displayed photographs on their website, taken at night, of two women sprawled in a gutter and a male slouched asleep on a street bench under a feature about "Pound a Pint Night" in Ormskirk. When challenged about the content of their website they insisted that they "stood by everything" but when it was pointed out that the photographs were in fact taken in Cardiff City Centre and Ohio, USA they refused to discuss the matter further and later declined to comment to the local newspaper which verified and printed the story. The photographs have obviously now been removed from their website!

I am not aware of any observations made, about the use of the photographs, by Councillor OWENS but he must concede that to have used these types of images, available worldwide; in this way is not only dishonest but more importantly is unlikely to have enhanced the image of Ormskirk as either a place to live or do business. The group also claim to represent in excess of 300 households but have admitted that their meetings are attended by only a fraction of the number of people actually living there. They claim justification for alleging to represent a greater number than is the case because - "they've all [the households] been invited". Some meetings only attract a handful of people, I was invited to one when only seven residents were present. It might be said that as a group they are certainly imaginative in maximising their cause.

The area which this group represent is, on the admission of their Chair Mary WRIGHT, made up of 50% student accommodation it therefore matters not where those students spend their evenings they still return to that area. Licensed venues from Liverpool, Preston, Wigan, Southport, Formby and closer to home Maghull, all have terminal hours of 2am and later. Many have already stated their intention to provide transport to and from their venues from Ormskirk. Some already do and pick up and drop off at Ormskirk bus station from where people then walk back to their homes around the town, having spent their money at out of town venues to the benefit of other local economies. I stress an EMRO will not solve the problems suffered by Mary WRIGHT and others but it will make businesses, already having difficulties, less viable and create further unemployment.

Councillor OWENS has claimed that when he was student he was able to enjoy himself on an evening out and still return home at a 'reasonable hour'. However it is inescapable that there is now a generation who choose to socialise later in the evening. It is a recognised national trend and has been so for a very long time and will not change, the licensed trade has thus been driven to alter its hours of business accordingly. Councillor

OWENS has said that he wants the "Night time economy to flourish" but strenuously campaigns for a measure that will undoubtedly damage it.

My business plan was based on many factors but licensing hours was clearly a major consideration when I committed to substantial business loans to open my venue in Ormskirk some three years ago. In that time I have received many compliments about my venue and the way in which it is run. I have been similarly complimented by the Police on a number of occasions.

I do understand the underlying problem and have sympathy for those affected, if not their methods, but I set out to open and run a business in my home town which would be popular and enjoyed by the community. I am led to believe by others, including one of the protestors, that I have achieved this and I certainly feel that I have. It is a family friendly venue attracting a broad demographic, making it attractive to the people we wish to attract. This means extra work and extra cost but I considered this a worthwhile investment in my home town, where my family and friends live and socialise, but this is now one business that will be put at risk. None of this matters to Councillor OWENS who says that one of the advantages of an EMRO is that it "Treats all venues equally", the Councillor is set upon a curfew for Ormskirk and people, who merely wish to come out for a quiet drink or a meal and return home to their children, will be denied that relaxation.

Councillor OWENS claim that he has "thought long and hard" about a "balance" has a very hollow ring when he is prepared, from the outset, to penalise well run businesses and the staff they presently employ when they do not contribute to the problem. His unsupported assertion that businesses would be unlikely to be unduly affected by an EMRO is a perfect example of someone happy to casually gamble with someone else's money. His view is not supported by those better qualified to make this judgement among whom are the Legislators who drew up the Act, the Government who forecast substantial losses to the licensed trade and the Association of Licensed Multiple Retailers (ALMR) which has stated publicly that they will instruct Poppleston Allen (The leading UK Licensing Solicitors) to challenge any proposed implementation of an EMRO and have already successfully done so.

Margins in almost every business are under pressure with an increasing number of businesses failing and Ormskirk is regrettably no exception. There are currently in the town centre eighteen empty premises, (two very prominent units by the clock tower), fifteen 'For Sale' or 'To Let' signs and ten Charity shops. As I work in the town I am aware that there are also a number of shops which are on very short term lease which would otherwise be empty and a number of businesses fighting to survive.

This is desperately sad and the sight of empty shops and signs is not only depressing for locals but has a very negative effect on visitors, who have the choice to come again or not. Councillor OWENS concedes 'the benefits of the night time economy' but, naturally, not that his proposal would severely endanger it. Those engaged in trying to regenerate Ormskirk, many of them LOVE Ormskirk volunteers supported by the Council, already face a daunting challenge in the present economic climate and a failing local economy is only going to make that task incredibly difficult.

I repeat my objection to this entirely inappropriate proposal which will not solve the problem for which it is allegedly brought, will damage the local economy, threaten local businesses and deprive local people of local venues for an evening's relaxation in their home town.

Van GORDON

