

**24. APPLICATION FOR A PREMISES LICENCE IN RESPECT OF SKELMERSDALE SOCIAL CLUB, WITHAM ROAD, SKELMERSDALE, WN8 8HP**

On the 21 October 2015 the Licensing Sub-Committee considered an application for a new Premises Licence from Mr S Patel and Mr D Kenyon submitted under Section 17 of the Licensing Act 2003. This application was in respect of Skelmersdale Social Club, Witham Road, WN8 8HP

With the permission of the panel and in accordance with the council's hearing procedure the Licensing Officer introduced the application. The applicant was represented by Mr Jonathan Smith from Poppleston Allen Solicitors who addressed the panel. The Environmental Health Officer and Local Residents accompanied by their ward councillor also made their representations.

Prior to the hearing the applicant had confirmed that after consultation with the police they were amending their application in relation to the hours applied for and as such the Police had withdrawn their representation.

During the hearing the applicant offered to amend their application and add the following conditions to those already present on the operating schedule:

1. The noise limiter shall be reset at a level to be determined by a Senior Environmental Health Officer of WLBC following completion of the refurbishment.
2. No new patrons will be allowed entry to the premises after 01.00 hours.
3. The premises licence holder shall ensure that a sign is displayed on the exterior of the premises providing a contact telephone number for members of the public to use in order to raise issues arising from the premises. The premises licence holder shall ensure that someone is available to answer the calls whenever the premises are open to the public.
4. The application be amended to remove the non-standard timings in respect of the additional hours requested for Bank Holidays.
5. The Premises will facilitate a residents meeting once every four months at the premises in order that any issues can be discussed

The Committee welcomed the offer of the conditions and felt that it was appropriate and proportionate given the evidence before them that these are added to the licence.

The Applicant also confirmed that they will surrender the previous Licence No. LN/000002073 upon completion of the refurbishment works outlined in the application and plan.

Having fully considered the representations (written and oral) made by the local residents, Environmental Health Officer and the application made by the applicant, the panel retired to reach its decision.

In reaching its decision the panel took into account the following:

- both written and oral evidence presented in connection with the hearing
- Licensing Act 2003
- S182 Amended Guidance of the Licensing Act 2003 and taken into account the

references to the guidance made by both parties

- West Lancashire Borough Council's Licensing Policy

Consideration was also given to the report of the Assistant Director Community Services as contained on pages 117 to 300 of the Book of Reports.

### Decision

When considering whether the four Licensing Objectives has been undermined the Committee concluded that on this occasion the 'prevention of public nuisance' and "prevention of crime and disorder" were potentially an issue.

### Crime and Disorder

The Councillors considered the issue of crime and disorder and the issues raised by the local residents. The Councillors believed that it was not beyond the bounds of reasonableness that the premises operating at the times applied for may lead to increased crime and disorder given people would be leaving late having had longer periods to consume alcohol. It was noted that the residents had raised issues of low level crime and disorder as had the local councillor but there had been no complaints to the responsible authorities. The issues had only been raised within the consideration of this application.

They noted that the applicant had already been operating under a different licence, they had benefitted from TENS for hours in excess of those currently applied for and since David Webster had been appointed as DPS there had been no issues. In addition, that despite the fact the Police had initially put in a representation that this had later been withdrawn when they had apparently become satisfied with the new proposed hours. The Committee took on board the statements from the residents that in their opinion there was no point complaining to the police as they never responded but the Committee felt that if this was actually the case they needed to take it up with the Police Authority directly.

The Committee also noted that residents had complained about issues with the running of the premises historically. The only complaints since the current DPS had been appointed on the evidence where to environmental health and that the applicant had stated that after those incidents they had personally taken steps to address the issues such as removing/moving the smoking area.

On a balance of probabilities they did not feel that all the examples of problems raised could be directly attributed to this premise.

They did not accept the evidence from the residents and Councillor that the only reason why the Police were not present at the hearing was because they were under resourced. The Police are statutorily bound to respond to licensing applications if there is evidence that the prevention of Crime and Disorder objective was being undermined. They had in fact done so by submitting a representation against the application but after negotiation with the Applicant had come to a position where they felt the application would not undermine the four licensing objectives if granted and they subsequently withdrew their representation.

The Committee considered para 9.12 of the S182 Guidance as well as para 2.1 which states that LA should look to the police as the main source of advice on crime and

disorder. This was considered alongside the case of Daniel Thwaites (as provided by the applicant) and the examples of crime and disorder in the representations. The committee considered the conditions the applicant had put forward in their operating schedule to see whether what they had proposed went far enough to balance any undermining of the crime and prevention objective.

When taking into account all of the above they concluded that they gave greater weight to the fact that the Police had no objections to the amended application, that the premises had operated on TENS without incident and the conditions put forward by the applicant were considered to be sufficient to ensure that the crime and prevention objective was not undermined.

### Public Nuisance

The Committee felt that common sense would say given the location of the premises in relation to nearby residents and the road infrastructure there was the potential of public nuisance. They took on board the comments of the Environmental Health Officer and the fact that they have no statutory powers to deal with noise on the street and that in their opinion there was a certain level of noise when people dispersed and if the hours the premises were open to the public are increased the later in the evening that disturbance would occur. The Committee accepted that the nature of the area had changed considerably since the club had first opened.

The Committee noted that there had not been any complaints or representations regarding noise issues generated by the regulated entertainment either currently taking place or being proposed. They noted the conditions in the operating schedule that had been offered in order to deal with public nuisance arising from regulated entertainment and concluded that they did not feel that there was any evidence that would support the requirement for them to take action in this respect.

The evidence in fact indicated that the only noise and nuisance issues generated were from patrons leaving the premises.

In respect of parking the committee felt that this was more an issue for the planning committee/highways authority rather than licensing and therefore gave those representations less weight although did accept noise from cars could be a problem. Again they could not conclude that all the examples given could be specifically attributed to the premises

They noted that the environmental health officer had issues with potential noise problems that may be generated if the application was granted but also noted that there was no evidence of complaints other than three complaints received prior to the DPS taking control of the premises. They also noted that the Licensing Authority had had no issues with the premises even when TENS were being used and that the hours were for later hours than what was currently applied for. There was no evidence of issues other than representations from local residents when extended hours had been taking place. There were additional conditions put forward in the operating schedule and at the hearing to provide more resilience. The applicant had in fact done what had been suggested in the WLBC Licensing Policy in order to prevent nuisance.

They took into account the information contained in the S182 Guidance from Para 2.14 to 2.20 regarding nuisance and considered how long after a patron leaves a premises shall the premises be responsible for their actions. They also once again considered the “Thwaites” case and went on to look at what actual evidence was available to show the prevention of public nuisance objective was being undermined. They accepted that although this was an application for a new licence, a licence was already in place and evidence had been given by both parties on how they believed the activity at the premises under the present licence demonstrated how the premises was or was not undermining the prevention of public nuisance objective.

They concluded that there was insufficient evidence of public nuisance to warrant them not granting the licence. The applicant had put sufficient provision in place to satisfy the committee that no further conditions than those offered where required.

In the event there were issues in the future those affected by them had the opportunity of following the Review procedure as outlined in the Licensing Act 2003.

In light of the above the Committee came to the following conclusion:

The application for a premises licence be granted as follows:

RESOLVED:

A. That the premises shall be open to the public:-

Mon to Wed	10.00 hours to 12.30 hours or 01.30 if any day falls on a bank holiday
Thurs and Sun	10.00 hours to 01.30 hours
Fri and Sat	10.00 hours to 02.00 hours

In addition to the above the patrons will be permitted to remain in the premises for a maximum of an additional thirty minutes to allow waiting time for collection by taxis. No alcohol shall be consumed within this thirty minute period.

B. Non Standard Timings in respect of the opening hours are as follows:

From the end of the permitted hours on New Year’s Eve to the start of permitted hours on New Years Day.

An additional hour to the standard and non-standard timings on the day when British Summertime commences.

C. That the sale of alcohol shall be permitted ON THE PREMISES ONLY:-

Mon to Wed	10.00 hours to 00.00 hours(midnight) or 01.00 if any day falls on a bank holiday
Thurs and Sun	10.00 hours to 01.00 hours
Fri and Sat	10.00 hours to 01.30 hours

- D. That the performance of plays, films, indoor sporting events, boxing or wrestling, provision of live music, recorded music, performance of dance and anything of a similar description shall be permitted to take place INDOORS ONLY:-

Mon to Wed	10.00 hours to 00.00 hours(midnight) or 01.00 if any day falls on a bank holiday
Thurs and Sun	10.00 hours to 01.00 hours
Fri and Sat	10.00 hours to 01.30 hours

- E. That late night refreshment shall be permitted as follows:-
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| Mon to Wed    | 10.00 hours to 00.00 hours(midnight) or 01.00 if any day falls on a bank holiday |
| Thurs and Sun | 10.00 hours to 01.00 hours   |
| Fri and Sat   | 10.00 hours to 01.30 hours   |

- F. Non-standard timings for all the licensable activities in points C, D. and E. above are as follows:

From the end of the permitted hours on New Year's Eve to the start of permitted hours on NewYears Day.

An additional hour to the standard and non-standard timings on the day when British Summertime commences.