

Report of	Meeting	Date
Director of Public Protection, Street scene and Communities	Licensing Act 2003 Licensing Sub - Committee	11 June 2015

## **APPLICATION FOR A PREMISES LICENCE UNDER SECTION 17 OF THE LICENSING ACT 2003, FOR THE HEAPEY AND WHEELTON VILLAGE HALL.**

### **PURPOSE OF REPORT**

1. To enable Members to determine an application received from Mrs P Dickenson for the grant of a premises licence for the Heapey and Wheelton Village Hall, West View, Wheelton, Chorley PR6 8HJ.

### **RECOMMENDATION(S)**

2. Members are recommended to consider the application and any representations made by responsible authorities and / or other persons and after considering those representations determine the application for the purpose of the premises licence for Heapey and Wheelton Village Hall,

### **EXECUTIVE SUMMARY OF REPORT**

3. On 15 April 2015 the Council has received an application from Mrs P Dickenson made under Section 17 of the Licensing Act 2003 for the grant of a Premises Licence for the Heapey and Wheelton Village Hall. The application is attached as **Appendix 1**. The application is for regulated entertainment only and seeks to regulate the entertainment provision applied for through the proposed conditions included in the operating schedule of the application to promote the Licensing objectives. The application has received one representation from other persons; the representation is appended to the report at **Appendix 2**.
- 4.

<b>Confidential report</b> Please bold as appropriate	Yes	<b>No</b>
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### **CORPORATE PRIORITIES**

5. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all	X	A strong local economy	X
Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	X

## BACKGROUND

The premises is situated at the heart of the village and is surrounded by a mix of residential dwellings, it has a long history as a village hall and previously as a school. The building currently offers a range of facilities and activities for locals and groups. The application seeks to offer regulated activities that one would normally expect to be provided at such a venue. It is understood the premises has likely benefited from a Public Entertainment Licence in the past, however the Councils records do not extend sufficiently to establish this.

6. The current application seeks regulated provisions to provide;

Provision of Plays; Monday to Sunday 07.30 – 01.00 indoors and outdoors.

Provision of Films; Monday to Sunday 07.30 – 01.00 indoors and outdoors.

Provision of Indoor Sporting Events; Monday to Sunday 07.30 – 01.00.

Provision of Boxing or Wrestling Entertainment; Monday to Sunday 07.30 – 01.00 indoors and outdoors.

Provision of Live Music; Monday to Sunday 07.30 – 01.00 indoors and outdoors.

Provision of Recorded Music; Monday to Sunday 07.30 – 01.00 indoors and outdoors.

Provision of Performances of Dance; Monday to Sunday 07.30 – 01.00 indoors and outdoors.

Provision of Anything of a Similar Description to Live Music Recorded Music or Performance of Dance; Monday to Sunday 07.30 – 01.00 indoors and outdoors.

Provision of Late Night Refreshment; Monday to Sunday 07.30 – 01.00 indoors.

Hours Premises are Open to the Public; Monday to Sunday 07.30 - 01.00.

The application has made reference to each of the above proposed regulated activities providing further details of how each of the activities will be managed were the activity is conducted outside. Members attention is directed to the application at **Appendix 1** for the details in relation to the specific activity.

7. The applicant has proposed to include the following provisions to address the Licensing Objectives.

### **General**

A hire contract will be drawn up stating the rules and regulations with regard to the use of the premises for all users highlighting the four licensing objectives. All leader/users will need to sign the document to state that they have read and fully understand the requirements when using the hall. A copy will be retained by both parties. Any leader/user not following the guidance will be removed from the premises and booking fees etc will not be returned. The premises license will not include the retail supply of alcohol. Those hiring the hall will be required to make their own provisions if they wish alcohol to be for sale on site, such as an application for a Temporary Event Notice.

### **The prevention of crime and disorder;**

Fortunately Heapey and Wheelton Village Hall is situated within a low crime area in the Borough. The activities taking place on these premises will usually be family orientated with parents in attendance. The Committee will not allow parties for teenagers to prevent any problems arising associated with alcohol and young adults.

Any adult only event will be all ticketed no one fewer than 18 allowed on the premises as per hire agreement.

### **The prevention of public nuisance.**

Public safety is paramount.

Risk assessments will be undertaken with regards to safety and monitored. There will be annual inspections for gas appliances, fire extinguishers, the fire alarm system, along with weekly inspections of the buildings by members of the Committee to ensure that there are no hazards present within the building. Additionally, the outside lighting will be regularly inspected, more frequently in the winter months to ensure that it is fully functional for entering and exiting the building. Users will be shown the emergency exits and the meeting point if an emergency arises. Fire regulations and escape routes in case of fire are posted within the building

### **Public safety**

This will be brought to the attention of the hirer and will form part of the hire contract, there is a provision/clause within the contract to advise hirers that they are required to ensure that activities do not cause a nuisance. Signage will be provided to the exits of the premises to alert users of the hall to a) proceed with care when leaving the premises b) leave quietly having respect for neighbours when leaving the premises c) not congregate outside the main doors to the premises.

The Nursery Room acts as a buffer to sound between Main Hall and neighbours as it is not generally used after 6pm Monday to Friday or at weekends. Parties for teenagers will not be allowed.

The protection of children from harm

This will be brought to the attention of the hirer and will form part of the hire contract to ensure that children are not harmed.

Adult events to be all ticket with proof of ID, no person U18 allowed on premises during the event.

The application received one representation from Lancashire Fire & Rescue Services, the representation was later withdrawn.

#### **8. Representations received from interested parties.**

The Council have received one representation from an interested party. The issues raised by the representations relate to the licensing objective for;

#### **9. Members will be advised that the Lead Licensing & Enforcement Officer took the decision following receipt of the representation to engage in the mediation process with the interested party, to examine in detail the nature of the complaint and if any remedies could be found to the benefit of both parties. Unfortunately the mediation process was unsuccessful as Mr Melrose believes the activities being sought would only increase the disturbance he currently**

encounters on a day to day basis from the current business activity of the premises which are not necessarily licensable or regulated activities, Mr Melrose also raises issues that public safety will be compromised as the premises does not specify the rear doors of the main hall as emergency exits.

10. From discussion with Mr Melrose, it was evident that Mr Melrose is seeking to address on-going issues with the premises through the premises licence application process.
11. Where relevant representations have been received by the council in a timely manner, the persons making representation has been invited to attend today's hearing by the prescribed statutory notice.
12. Members attention is drawn to the representation received, consideration should only be given to those statements that have been made that would ordinarily be affected by the Licensing Objectives.

All parties to this application have been invited to attend the hearing under the Licensing Act 2003 (Hearing) Regulations 2005, to make representation.  
The representation received is attached as **Appendix 1**.

The Committee has the following options:

- (i) to reject the application in part or whole
- (ii) to grant the application
- (iii) to modify the conditions of the licence should any part of the application be granted

## **POLICY AND LEGAL CONSIDERATIONS**

13. Section 4 of the Licensing Act 2003 provides that a Licensing Authority must have regard to its Statement of Licensing Policy, the guidance issued by the Secretary of state under section 182 of the Licensing Act 2003, the most recent version of which in paragraphs 15.10 onwards addresses the provisions of the Live Music Act 2012." The Live Music Act 2012." is provided as a background document.

As members will be aware the four licensing objectives are as follows:

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- The protection of children from harm.

14. The Licensing Authority shall determine the application, having had considered the representations that have been made, and having regard to its Statement of Licensing Policy and to the guidance issued by the Secretary of State under section 182 of the Act. Section 35 Licensing Act 2003 is the authority the Licensing – sub - committee can rely upon with regards to this matter, which is reproduced below.

Section 18, Determination of application made under Section 17

- (1) This section applies where the relevant licensing authority—
  - (a) receives an application, made in accordance with section 17 for the grant of a premises licence, and
  - (b) is satisfied that the applicant has complied with any requirement imposed on him by virtue of [subsection \(5\)](#) of that section.

the authority must grant the application.

(2) Where relevant representations are made, the authority must—

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
- (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers [appropriate] <sup>1</sup> for the promotion of the licensing objectives.

(4) The steps are—

- (a) to modify the conditions of the licence;
- (b) to reject the whole or part of the application;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

(5) In this section “*relevant representations*” means representations which -

- (a) are about the likely effect of the grant of the application on the promotion of the licensing objectives, and
- (b) meet the requirements of subsection (6).

(6) The requirements are—

- (a) that the representations are made by [a responsible authority or other person] <sup>2</sup> within the period prescribed under [section 17\(5\)\(c\)](#)
- (b) that they have not been withdrawn, and
- (c) in the case of representations made by [a person who is not a responsible authority] <sup>3</sup>, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

(7) Subsections (2) and (3) are subject to [\[sections 19 to 21\]](#) <sup>4</sup> (which require certain conditions to be included in premises licences).

- 15. Members must have regard to the Statement of Licensing Policy when determining this application. In particular, member’s attention is drawn to the following paragraphs:
- 16. Paragraph 1.3 The policy provides guidance on the general approach the Council, as Licensing Authority, within the meaning of the Act, will take in terms of licensing, However, each application will be considered separately, on its individual merits.
- 17. Paragraph 1.4 The Statement of Licensing Policy sets out how the licensing objectives will be achieved and to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry. The Policy recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well run entertainment premises to the local economy. Balancing these interests will not always be straightforward and will be guided by the four licensing objectives.

18. Paragraph 1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, the Council in adopting this policy is indicating that a wide range of considerations will be taken into account.
19. Paragraph 2.2 each of the licensing objectives are of equal importance with these objectives.
20. Paragraph 2.3 each of the licensing objectives is of equal importance for the purposes of this policy.
21. Paragraph 2.4 this policy statement is designed to deal with matters within the control of the licensee. It focuses on the premises in which each business is carried on and the effect that has on members of the public living, working or engaged in normal activity in the vicinity.
22. Paragraph 2.5 Licensing law is not envisaged by the Licensing Authority as a mechanism to control anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Therefore any terms and conditions imposed will be focused on matters within the control of individual Licensees and others granted relevant permissions. These matters will centre on the premises and places used for licensable activities and in the vicinity of the places.
23. Paragraph 2.6 The Licensing Authority considers that every holder of a licence, certificate or permission and designated premises supervisor is responsible for minimising the impact of their activities and anti-social behaviour by their customers within the vicinity of their premises.
24. Paragraph 5.3 the policy will not fix the hours during which alcohol can be sold. The Licensing Authority considers that stricter controls regarding noise nuisance may be necessary in more densely populated areas. The grant of a licence will be dependent on the impact of an activity on the licensing objectives.

## **LICENSING HOURS**

25. Paragraph 7.1 The policy recognises that longer (more flexible) licensing hours can contribute to easing crime and disorder problems by ensuring that concentrations of customers leaving premises simultaneously are avoided thus helping to reduce friction at taxi ranks, private hire offices, fast food outlets etc.
26. Paragraph 7.2 Individual applications will be considered on their merits and in general terms a flexible approach will be adopted. Fixed predetermined closing times for particular areas will not form part of the policy and restrictions on trading hours will be considered only where necessary to meet the licensing objectives.
27. Paragraph 7.3 The Licensing Authority, however, considers that the risk to disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning as the ambient noise levels will be lower. The Licensing Authority may impose stricter conditions with regard to noise control in areas, which have denser residential accommodation, but each premise will be considered on its individual merits.
28. Paragraph 7.5 The Licensing Authority also recognises the principle of 24 hour opening of all licensed premises. However, it considers that longer opening hours may be more acceptable in commercial areas with high levels of public transport. The grant of a licence

will in all cases be dependent on the impact of an activity in relation to the licensing objectives.

29. Paragraph 7.6 where relevant representations are received, the Licensing Authority may have regard to the following where relevant (though this is a non exhaustive list);
- the nature of the area where the premises are located (e.g. commercial, residential)
  - Arrangements to ensure adequate availability of taxis and private hire vehicles, public transport.
  - Whether appropriate car parking is readily accessible to premises and whether the use/parking of vehicles would cause a demonstrable adverse impact on the amenity of residents.
  - whether the licensable activities are likely to cause adverse impact especially on local residents and whether appropriate measures will be put in place to prevent any adverse impact
  - in relation to the grant of a new premises licence whether the premises will give rise to a negative cumulative impact on one or more of the licensing objectives
30. In assessing the impact of the activity proposed the Licensing Authority may consider a number of factors inter alia,
- the type and scale of activity, the number and nature of clientele likely to attend
  - the levels of noise from the premises, which may be acceptable later in the evening
  - the proposed hours of operation
  - the levels of public transport accessibility for customers and the likely means of public or private transport that will be used, access to private hire/taxis
  - the means of access to the premises e.g. whether on principal pedestrian routes
  - the level of car parking demand on surrounding residential streets and its effect on local residents, and movement of traffic
  - the cumulative impact of licensed premises in an area and scope for mitigation
  - Frequency of the activity.
31. Operating Schedules to set out the measures to be taken to ensure that the licensing objectives are addressed. Applicants are also referred to paragraph 6.6.

## **PREVENTION OF PUBLIC NUISANCE**

32. Paragraph 13.1 Licensed Premises have significant potential to adversely impact on communities through public nuisances arising from their operation.
33. Paragraph 13.2 The Licensing Authority is aware of the importance of the licensed trade to the local economy as well as in cultural and social terms. The Licensing Authority is also concerned to protect the amenity of residents and businesses in the vicinity of licensed premises. 'Vicinity' is not defined in the Act or Guidance issued by the Secretary of State. Whether or not incidents can be regarded, as 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case.
34. Paragraph 13.3 The Licensing Authority will interpret 'public nuisance' in its widest sense and include such matters as noise emanating from the premises, light, litter, odour and anti social behaviour where these matters impact on those living or working in an area.
35. Paragraph 13.4 Activities that involve public entertainment, drinking or eating, have the potential to impact adversely on their surrounding areas due to noise, litter, and odours.

There is also the potential for disturbance caused by those attending licensable activities. Late at night the impact of licensed activities is likely to be more objectionable to residents living close to a licensed activity, as the ambient noise levels are often lower so noise disturbance becomes more noticeable.

36. Paragraph 13.5 the policy allows for later opening hours except where there will be an adverse impact on the licensing objectives. In general the Licensing Authority will expect more comprehensive measures to be proposed at late night venues and/or where there has been a history of public nuisance.
37. Paragraph 13.6 on receipt of relevant representations, the Licensing Authority will assess the likelihood of it causing an adverse impact, by generally considering the following factors where relevant:
  - the location of the premises (in particular proximity to residential and other noise sensitive premises, e.g. hospitals, nursing homes, hospices and places of worship)
  - the type of activities, the number and nature of clientele likely to attend at the time of the application
  - the proposed hours of operation
  - levels of public transport accessibility for customers either arriving or leaving the premises (including taxis and private hire)
  - means of access to premises (whether on principal pedestrian routes)
  - the level of car parking demand on any surrounding residential streets and its effect on local residents
  - the cumulative impact on licensed premises in an area
  - the scope for mitigating an impact i.e. CCTV, door supervisors
  - the frequency of an activity
  - the design and layout of the premises
  - measures taken or proposed to be taken to prevent noise or vibration escaping from the premises e.g. sound proofing, air conditioning and sound limitation devices
  - measures taken to prevent unreasonable disturbance by customers/staff arriving and leaving the premises, goods deliveries etc
  - measures taken to lessen the impact of parking in the vicinity
  - control of operating hours for all or parts of the premises (e.g. gardens, last admission times and 'wind down' periods)
  - measures to be taken to prevent drunkenness on the premises
  - measures to ensure collection and disposal of litter and waste outside their premises
38. Paragraph 13.7 The Licensing Authority when considering an application will take into account previous substantiated nuisance complaints particularly when a statutory notice has been served. Applicants may wish to have regard to the Good Practice Guide on the Control of Noise from Pubs & Clubs produced by the Institute of Acoustics and the British Beer and Pub Association.
39. Paragraph 13.8 On receipt of relevant representations, the Licensing Authority, where it considers it necessary and/or appropriate may attach conditions to a licence to prevent public nuisance including those drawn from the Model Pool of Conditions. In particular, it may attach a condition requiring the use of door supervisors licensed by the Security Industry Authority.
40. Paragraph 13.9 The Licensing Authority requires Operating Schedules, where relevant to satisfactorily address the issue of public nuisance.
41. Paragraph 13.10 The Licensing Authority would also recommend applicants highlight local public transport links and taxi and private hire services within their premises, (including



agreeing arrangements with nominated taxi and private hire firms for dropping off and collecting customers).

42. Paragraph 13.11 The Licensing Authority, will in accordance with the Guidance, focus on matters within the control of the individual Licence holder. The Licensing Authority accepts that the difficulty that a licence holder has in preventing anti-social behaviour by individuals once they are behind the direct control of the Licence Holder. However, the licensing objection of preventing public nuisance will not be achieved if customers from premises regularly conduct themselves in an anti-social manner to the detriment of local residents or businesses. In addition, the Council has a duty to do all it can to prevent crime and disorder in the Borough under the Crime & Disorder Act 1998.

## **PUBLIC SAFETY**

43. Paragraph 14.1 The Licensing Authority considers that members of the public when visiting licensed premises, have a right to expect that due consideration has been given to public safety. The Licensing Authority notes that the public safety objective is concerned with the physical safety of people using premises and not with public health which is dealt with in other legislation.
44. Paragraph 14.2 The Licensing Authority is committed to ensuring public safety across the Borough by working in partnership with Lancashire Police, Lancashire Fire & Rescue and Licence Holders.
45. Paragraph 14.3 Applicants should carefully consider the safety of the premises having regard to the licensable activities that are proposed and to address in the operating schedule, where relevant, how public safety will be achieved. Such measures may include, where relevant to the premises:
- the occupancy capacity of the premises
  - age, design and layout of the premises including means of escape
  - nature of the licensable activities to be provided, in particular the sale and supply of alcohol
  - hours of operation
  - customer profile (e.g. age)
  - Use of special effects e.g. lasers, pyrotechnics, smoke/foam machines.
46. Paragraph 14.4 The Act requires a plan of the premises to be supplied with operating schedules showing prescribed information.
47. The Licensing Authority will take notice of a health and safety risk assessment submitted with an operating schedule.
48. Paragraph 14.5 all licensed premises will be risk related according to a Protocol agreed with Lancashire Fire and Rescue. Inspections will be carried out by Lancashire Fire & Rescue in accordance with the Protocol.
49. Paragraph 14.6 The Licensing Authority may inspect premises where it considers it appropriate on public safety grounds.
50. Paragraph 14.7 on receipt of relevant representations the Licensing Authority may, where it considers it necessary and/or appropriate, impose conditions to secure the public safety objective including those drawn from the Model Pool of Conditions.. Any conditions imposed will relate to the particular circumstances of the individual premises and will not duplicate other requirements of the law.

## 51. Human Rights Act Implications

The Human Rights Act 1998 makes it unlawful for a local authority to act in a way that is incompatible with the European Convention on Human Rights. The Council will have particular regard to the following convention Rights;

- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 that everyone has the right to respect for his home and family life;
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his/her possessions including for example, possession of a licence.

### Schedule 5

#### APPEALS

##### Part 1 PREMISES LICENCES

Application for a Premises Licence under Section 17

- (1) This paragraph applies where an application for a premises licence is granted (in whole or in part) under [section 18](#)
- (2) The applicant may appeal against any decision to modify the conditions of the licence under [subsection \(2\)\(a\) or \(b\)](#) of that section.
- (3) Where a person who made relevant representations in relation to the application desires to contend—
  - (a) that the licence ought not to have been granted, or
  - (b) that, on granting the licence, the licensing authority ought not to have imposed different or additional conditions of the licence, or to have taken a step mentioned in [subsection \(4\)\(b\) or \(c\)](#) of that section, he may appeal against the decision.
- (4) In sub-paragraph (3) "*relevant representations*" has the meaning given in [section 18\(6\)](#).

#### IMPLICATIONS OF REPORT

51. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

## COMMENTS OF THE MONITORING OFFICER

52. Some changes to the Licensing Act 2003 have been taken into account in the Section 182 Guidance issued by the Secretary of State but have not been reflected in the Council's Statement of Licensing Policy. For example the concept of vicinity in relation to representations this no longer applies and the test for imposing conditions has been amended from what is necessary to what is appropriate for the promotion of the licensing objectives. Members are advised to give more weight to the Section 182 Guidance where the Council's Statement of Licensing Policy is out of date.
53. The applicant may appeal a refusal in whole or part of the application or the modification of conditions attached to the premises licence.
54. Appeals are made to the local magistrates' court within 21 days of notice of the decision.

### JAMIE CARSON DIRECTOR OF PUBLIC PROTECTION, STREETSCENE AND COMMUNITIES

There are background papers to this report.

Report Author	Ext	Date	Doc ID
S Culleton	5665	26 <sup>th</sup> May 2015	***

Background Papers			
Document	Date	File	Place of Inspection
Live music Act 2012	2012		On line
The Secretary of State Section 182 Guidance	Oct 2014		
The Councils Statement of Licensing Policy.	2011		