



Report to:	SPEAKERS PANEL (LIQUOR LICENSING)
Date:	25 October 2022
Reporting Officer:	Emma Varnam – Assistant Director of Operations and Neighbourhoods
Subject:	APPLICATION FOR A FULL VARIATION OF A PREMISES LICENCE – HYDE FESTIVAL THEATRE, CORPORATION STREET, HYDE, SK14 1AB (PL0686)
Report Summary:	Members are requested to determine the application.
Recommendations:	<p>Having regard to the application and the relevant representations, Members are invited to take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. The steps available are:</p> <ul style="list-style-type: none"> a) To modify the conditions of the licence b) To reject the whole or part of the application
Corporate Plan:	Living Well – Improve satisfaction with local community.
Policy Implications:	Members are provided with policy guidelines to assist in the decision making process.
Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer)	There are limited financial implications for the Council, as detailed in the report, however, any legal challenge to a policy decision may potentially incur costs.
Legal Implications: (Authorised by the Borough Solicitor)	<p>If the Panel rejects whole or part of the application, the decision can be challenged by the Applicant. The Applicant can appeal against any of the conditions imposed on the licence. Any person who made relevant representations can appeal against the decision to grant the application or against any of the conditions imposed on the licence. Any challenge would be by way of an appeal to the Magistrate’s Court, which may dismiss the appeal, substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court and may make such order as to costs as it thinks fit.</p> <p>If an appeal were successful the Magistrates would be unlikely to order costs against the Local Authority if the authority had acted honestly, reasonably, properly and on grounds that reasonably appeared to be sound, in exercise of its public duty.</p>
Risk Management:	Failure to give full consideration to the determination of licensing issues has the potential to impact on public safety.
Access to Information:	<p>The author of the report is Mike Robinson, Regulatory Services Manager (Licensing)</p> <p> Telephone: 0161 342 4122</p> <p> e-mail: mike.robinson@tameside.gov.uk</p>

1. INTRODUCTION

- 1.1 Under Section 34 of the Licensing Act 2003 a premises licence holder may apply to the Licensing Authority for a variation of a premises licence.
- 1.2 Section 35(3) of the Licensing Act 2003 states that where relevant representations are made in respect of an application, 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 steps as mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
- 1.3 The steps mentioned in subsection (4) of the Licensing Act 2003 are:
- a) to modify the conditions of 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 are altered or omitted or any new condition is added.

2. REPORT

- 2.1 Hyde Festival Theatre, Corporation Street, Hyde, SK14 1AB is a licensed premises. A site plan, including an up to date photograph of the premises, is attached at **Appendix 1**.
- 2.2 Hyde Festival Theatre has been a Licensed Premises since 22 August 2006. Mr Daniel Oliver-Grant has been the Premises Licence Holder since 16 November 2020. A copy of the Premises Licence is attached at **Appendix 2**. There are currently no enforceable conditions within the Operating Schedule (Annex 2).
- 2.3 On 8 August 2022, Mr Oliver-Grant submitted an application to vary the Premises Licence for Hyde Festival Theatre. The Applicant is seeking the authorisation of additional licensable activities, namely:
- films
 - indoor sporting events and
 - boxing or wrestling entertainment
 - supply of alcohol for consumption off the premises
- 2.4 In addition to this, the Applicant is seeking to vary the opening hours and the hours of the current licensable activities, namely:
- plays
 - live music
 - recorded music
 - performances of dance
 - the sale of alcohol
 - seasonal variations

A copy of this application is attached at **Appendix 3**.

- 2.5 A table showing a comparison of the opening hours, current licensable activities and the licensable activities applied for is attached at **Appendix 4**.

- 2.6 Prior to the end of the consultation, discussions took place between Licensing Authority and the Applicant, which resulted in a comprehensive list of conditions have been agreed. The list of agreed conditions is attached at **Appendix 5**.

3. REPRESENTATIONS & EVIDENCE SUBMITTED

3.1 Members of the Public

Representations have been received from 11 members of the public. These representations are attached at **Appendices 6 to 16**.

4. HOME OFFICE GUIDANCE

In determining this application, the Panel must have regard to the Council's Statement of Licensing Policy and the statutory guidance issued pursuant to Section 182 of the Licensing Act 2003. The statutory guidance includes the following:

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination

5. CONCLUSION AND OPTIONS FOR THE PANEL

- 5.1 Panel are requested to consider the evidence and decide what (if any) steps to take as it considers appropriate for the promotion of the licensing objectives. The options available to the Panel are:

- a) To modify the conditions of the licence
- b) To reject the whole or part of the application