

Report to:	SPEAKERS PANEL (LIQUOR LICENSING)
Date:	17 January 2023
Reporting Officer:	Emma Varnam– Assistant Director, Operations & Neighbourhoods
Subject:	APPLICATION FOR A PREMISES LICENCE - DROYLSDEN CRICKET CLUB, GARDENFOLD WAY, DROYLSDEN, M43 7XU
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> <p>(a) to grant the licence subject to –</p> <p style="padding-left: 40px;">(i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and</p> <p style="padding-left: 40px;">(ii) current mandatory conditions;</p> <p>(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;</p> <p>(c) to refuse to specify a person in the licence as the premises supervisor;</p> <p>(d) to reject the application.</p>
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 the application that decision can be challenged by the Applicant. If the Panel grants the licence the Applicant can appeal against any of the conditions imposed on the licence or against a decision to refuse to specify a person in the licence as the premises supervisor.</p> <p>Any person who made relevant representations can appeal against the decision to grant the licence or against any of the conditions imposed on the licence or on the grounds that the Panel should have refused to specify a person in the licence as the premises supervisor. 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. If an appeal were successful the Magistrates would be unlikely to order costs against the Local Authority if the authority had acted</p>

honestly, reasonably, properly and on grounds that reasonably appeared to be sound, in exercise of its public duty.

Risk Management:

Failure to give full consideration to the determination of licensing issues has the potential to impact on public safety.

Access to Information:

The author of the report is Mike Robinson, Regulatory Services Manager (Licensing)

Background Information:

The background papers relating to this report can be inspected by contacting Mike Robinson



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1. INTRODUCTION

- 1.1 Section 17 of the Licensing Act 2003 outlines the procedure whereby an application can be made to the Licensing Authority for a premises licence.
- 1.2 Section 18(3) of the Licensing Act 2003 states that where relevant representations are made in respect of such 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) are:
- (a) to grant the licence subject to –
 - (i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and
 - (ii) current mandatory conditions;
 - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the premises supervisor;
 - (d) to reject the application.

2. REPORT

- 2.1 Droylsden Cricket Club, Gardenfold Way, Droylsden, M43 7XU, is a licensed premises. A location map, including a photograph of the premises, is attached at **Appendix 1**.
- 2.2 Droylsden Cricket Club has held a Club Premises Certificate since 7 March 2006. A copy of this Club Premises Certificate is attached at **Appendix 2**.
- 2.3 The Club Premises Certificate allows the supply of alcohol by, or on behalf of a club, to a member of the club and the sale of alcohol by, or on behalf of a club, to a guest of a member.
- 2.4 The current licensable activities and timings are detailed below:-

Performance of a Play:

Sunday – 12:00 - 22:30

Monday - Saturday – 11:00 - 23:00

Good Friday – 11:00 - 23:00

Performance of Live Music (Indoors):

Sunday – 12:00 - 22:30

Monday - Saturday: 11:00 - 23:00

Good Friday – 11:00 - 23:00

Playing of Recorded Music (Indoors):

Sunday – 12:00 - 22:30

Monday - Saturday – 11:00 - 23:00

Good Friday – 11:00 - 23:00

The supply of alcohol by, or on behalf of a club, or to the order of a member of the club, for consumption ON the premises only (Indoors):

Sunday – 12:00 - 22:30

Monday - Saturday – 11:00 - 23:00

Good Friday – 11:00 - 23:00

The sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption ON the premises where the sale takes place (Indoors):

Sunday – 12:00 - 22:30

Monday - Saturday – 11:00 - 23:00

Good Friday – 11:00 - 23:00

Provision of Regulated Entertainment (Indoors):

Sunday – 12:00 - 22:30

Monday - Saturday – 11:00 - 23:00

Good Friday – 11:00 - 23:00

- 2.5 The Licensing Department received a complaint on 20 June 2022, in relation to noise, and allegations that the premises had been operating outside the hours of the club premises certificate. The complaint which was received by email is attached at **Appendix 3**.
- 2.6 The complainant (Resident A) provided videos to the Council taken from a bedroom within their property, these videos showed that the noise from Droylsden Cricket Club could be heard inside their property. The videos were sent to Gemma Lee, Regulatory Compliance Officer on 27 June, 18 July and 7 October. Resident A has requested for these videos to be played at the Panel hearing and a list of the files received is attached at **Appendix 4**.
- 2.7 On 18 July 2022, a meeting took place between committee members from the club and officers from the Licensing Department to discuss the allegations. It became apparent that the club was not operating solely as a club, as on occasions the premises was hired out for private functions. The committee of the club were advised that a premises licence would be required and in the interim, if licensable activities were to take place outside the permitted hours on the Club Premises Certificate, then a Temporary Event Notice (TEN) would be required.

Following this meeting, the club subsequently applied for a number of Temporary Event Notices (TEN). TEN's were in force on the following dates:

6/8/2022

1/10/2022

3/12/2022

4/12/2022

- 2.8 On 1 November 2022, the Licensing Office received a premises licence application from David Pickles in relation to Droylsden Cricket Club. A copy of this application is attached at **Appendix 5**.
- 2.9 The licensable activities and timings that have been applied for are as follows:-

Live Music (Indoors and Outdoors*):

Monday - Thursday – 12:00 - 22:00

Friday - Saturday – 12:00 – 22:30

Sunday – 12:00 – 22:00

Recorded Music (Indoors and Outdoors*):

Monday - Thursday – 12:00 - 23:00

Friday - Saturday – 12:00 – 00:00

Sunday – 12:00 – 23:30

Anything of a similar description to live music and recorded music

Monday – Thursday – 12:00 – 23:00

Friday – Saturday - 12:00 – 00:00

Sunday – 12:00 – 23:30

Late Night Refreshment (Indoors and Outdoors*):

Monday – Thursday – 12:00 - 00:00

Friday – Saturday – 12:00 – 02:00

Sunday – 12:00 – 00:00

Supply of Alcohol:

Monday – Thursday – 12:00 - 00:00

Friday – Saturday – 12:00 – 02:00

Sunday – 12:00 – 00:30

*Note that the above licensable activities stating outdoors may only be permissible indoors as the outdoor area is not covered on the plan submitted with the application.

- 2.10 In accordance with the Live Music Act 2012 and Deregulation Act 2015, performances of live music and recorded music, for audiences of no more than 500 people, between the hours of 0800 and 2300 hours, have been deregulated and so should not be regarded as licensable activities for the purposes of this application.
- 2.11 On 9 November, a visit to the premises was conducted by Gemma Lee, Regulatory Compliance Officer. Ms Lee observed that the notice was not displayed, therefore, the consultation was stopped immediately. Ms Lee re-visited the following day and the notice was displayed and the advertisement requirements contained in Regulations 25 and 26 of the Licensing Act (Premises licences and club premises certificates) Regulations 2005 had been correctly followed. The consultation restarted on 10 November and concluded on 7 December.
- 2.12 On 1 December and prior to the end of the consultation, discussions took place between Ms Lee and the applicant and proposed conditions were agreed which the Licensing Authority felt were reasonable and proportionate to promote the licensing objectives. These conditions are attached at **Appendix 6**.
- 2.13 On 6 December, a representation was received from the member of the public. On 19 December, the videos which were previously sent to Ms Lee were sent to Mike Robinson, Regulatory Services Manager (Licensing). Due to the member of the public's concerns regarding the premises licence application, a mediation meeting was arranged to take place on 10 January 2023 to consider whether any further proposed conditions could be agreed.

3 REPRESENTATION & EVIDENCE SUBMITTED

3.1 Member of the Public

On 6 December, a representation was received from a member of the public (Resident A). The representation is attached at **Appendix 7**.

- 3.2 In advance of the mediation meeting proposed conditions that would be acceptable to Resident A, were submitted to the Licensing Authority on 9 January 2023. These conditions and relevant amendments following mediation are attached at **Appendix 8**.

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 s182 of the Licensing Act 2003. The statutory guidance includes the following:

Determining actions that are appropriate for the promotion of the licensing objectives

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 grant the licence subject to –

- (i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and
- (ii) current mandatory conditions;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application.

6. RECOMMENDATIONS

6.1 As set out at the front of the report.