

**Classification:** Private

**Key Decision:** No

## **Gravesham Borough Council**

**Report to:** Licensing Panel

**Date:** 6 January 2022

**Reporting officer:** Emily Lane-Blackwell

**Subject:** Cricketers, 47 Arthur Street, Gravesend, Kent DA11 0PR

### **Purpose and summary of report:**

To consider the the application for a review of the premises licence for Cricketers, 47 Arthur Street, Gravesend, Kent DA11 0PR

### **Recommendations:**

1. Members are requested to determine this review on its merits

## **1. Introduction**

- 1.1 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various functions so as to promote the following four licensing objectives:
  - 1.1.1 The prevention of crime and disorder
  - 1.1.2 The protection of public safety
  - 1.1.3 The prevention of public nuisance
  - 1.1.4 The protection of children from harm
- 1.2 The 2003 Act requires the council to publish a 'Statement of Licensing Policy' that sets out the policies the council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The council adopted its Statement of Licensing Policy on 20 December 2004. As required by section 5 of the Act this policy has been subject to three yearly revisions with the current policy set to expire on 15 April 2024. The Policy will be available at the meeting for reference purposes.
- 1.3 Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the Guidance, it may depart from it when it

has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for any departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination which gives rise to an appeal or judicial review. The Guidance will be available at the meeting for reference purposes.

- 1.4 A copy of the council's approved procedure for hearings of the Panel in relation to an application, along with a copy of the Hearing regulations has been circulated to all parties prior to the meeting.

## **2. Background**

- 2.1 The current premises Licence for Cricketers, 47 Arthur Street, Gravesend, Kent DA12 2EB is held by Mr Mandeep Manik.
- 2.2 Mr Manik has been the licence holder since July 2018.
- 2.3 This licence allows the sale of alcohol for consumption on and off the premises and recorded music.
- 2.4 A copy of the full licence can be seen as Appendix 2.

## **3. The Review Application**

- 3.1 On 16 November 2021 the Licensing Authority received an application from Environmental Protection for a review of the premises licence in respect of Cricketers, 47 Arthur Street, Gravesend, Kent DA12 2EB.
- 3.2 The grounds for the review are that:
  - 3.2.1 Three separate households have been unreasonably disturbed by loud music from the premises on a frequent basis;
  - 3.2.2 The Environmental Protection team imposed a noise abatement notice under the Environmental Protection Act 1990, which required the recipient to cease further noise nuisance.
  - 3.2.3 A very clear breach of this notice was witnessed.
- 3.3 The Environmental Protection team are asking that the panel impose a condition that remove the ability for the premises to have music.
- 3.4 A copy of the application can be seen as Appendix 3.
- 3.5 On 14<sup>th</sup> December 2021, Environmental Protection submitted a witness statement and some google street shots that are referred to in the statement. These can be found as Appendix 4.
- 3.6 The Environmental Protection team have also submitted a video clip taken on a mobile phone on the night of the noise abatement notice breach.

## **4. Consultation period**

- 4.1 It is a requirement of the Licensing Act 2003, that the licensing authority advertise the review inviting representations from any person for 28 consecutive days. A notice was displayed on the Gravesham Borough Council website and at the premises.

- 4.2 During this period the licensing authority received one representation. This can be found as Appendix 5.

## **5. Papers from Premises Licence Holder**

- 5.1 On 30 November 2021 the licence holder contacted Environmental Protection notifying them of extra measures that have implemented and a copy of their risk assessment.
- 5.2 Following confirmation from the licence holder these documents have been included as part of this report. These can be found as Appendices 6 and 7.
- 5.3 On 15 December the licence holder submitted a letter in response to the representation received from a member of public.

## **6. Live and recorded music at a premises licensed under the Licensing Act 2003**

- 6.1 The Live Music Act 2012 and The Legislative Reform (Entertainment Licensing) Order 2014 amended the Licensing Act 2003 and deregulated forms of previously regulated entertainment.
- 6.2 Following the above amendments, the premises licence for the Cricketers, is currently permitted to carry out the following without the need of a licence:
- 6.2.1 Live unamplified music between 08.00 to 23.00;
- 6.2.2 Live amplified music with an audience of no more than 500 between 08.00 to 23.00;
- 6.2.3 Recorded music with an audience of no more than 500 between 08.00 to 23.00
- 6.3 Section 177A (4) of the Licensing Act 2003 states
- 6.3.1 On a review of a premises licence or club premises certificate a licensing authority may (without prejudice to any other steps available to it under this Act) add a condition relating to music as if –
- 6.3.1.1 The music were regulated entertainment, and
- 6.3.1.2 The licence or certificate licensed the music.
- 6.4 If the panel wish to add any conditions specifically related to live or recorded music in any form, the condition must include a statement that Section 177A does not apply to the condition.

## **7. Decision**

- 7.1 At the hearing the panel must decide what steps it considers appropriate for the promotion of the licensing objectives.
- 7.2 The steps the panel can take are:
- 7.2.1 The modification of the conditions of the premises licence;
- 7.2.1.1 This can include the alteration or modification of existing conditions or addition of any new conditions, including those that

restrict the times at which licensable activities authorised by the licence can take place.

7.2.1.2 This can also include conditions relating to music as if

7.2.1.2.1.1.1 The music were regulated entertainment, and

7.2.1.2.1.1.2 The licence licensed the music.

7.2.2 The exclusion of a licensable activity from the scope of the licence;

7.2.3 The removal of the designated premises supervisor from the licence;

7.2.4 The suspension of the licence for a period not exceeding 3 months; and

7.2.5 The revocation of the licence.

## **8. BACKGROUND PAPERS**

8.1 Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS	APPENDIX 1
<b>Legal</b>	<p>The Licensing Panel is obliged to determine this application with a view to promoting the four licensing objectives. In making its decision, the licensing panel is also obliged to have regards to the Secretary of State's Guidance and the Council's adopted Licensing Policy.</p> <p>The licensing panel must also have regard to all the representations and evidence it hears.</p> <p>In accordance with the provisions of the Act, the decision can be appealed to the Magistrates' Court within 21 days of the notification of decision.</p>
<b>Finance and Value for Money</b>	<p>There are no direct financial requirements at this time. There is the possibility of a challenge by way of appeal.</p>
<b>Risk Assessment</b>	
<b>Data Protection Impact Assessment</b>	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of <a href="#">personal data</a> or <a href="#">special category data</a> or <a href="#">criminal offence data</a>? A definition of each type of data can be found on the Information Commissioner's Office website via the above links.</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice?</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at <a href="mailto:gdpr@medway.gov.uk">gdpr@medway.gov.uk</a>.</p>
<b>Equality Impact Assessment</b>	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
<b>Corporate Plan</b>	<p>There are direct links to Corporate objective 1 - Safe Gravesham, there are indirect links to Corporate objectives 2 - Stronger Gravesham and 3 - Sustainable Gravesham.</p>
<b>Crime and Disorder</b>	<p>There are obvious links to community safety and the perception of crime and disorder if licensed premises, particularly those that supply alcohol are not managed properly and adequately enforced.</p>

<b>Digital and website implications</b>	Basic notices will need updating on the website.
<b>Safeguarding children and vulnerable adults</b>	<p>The Licensing Act requires premises licence holders to promote the licensing objective to protect children from harm.</p> <p>Licensing authorities must play their part in taking the required action against those that don't appear to be upholding this objective.</p>