

Determination of an Application for the Review of the Premises Licence for Stellar Bar and Coffee House, 56 High Street, Haverhill

Report No:	LSC/WS/23/005
Report to and date/s:	Licensing & Regulatory Sub-Committee - 8 August 2023
Cabinet Member:	Councillor Gerald Kelly Portfolio Holder for Governance and Regulatory Tel: 07968 396389 Email: gerald.kelly@westsuffolk.gov.uk
Lead officer:	Gary Moran Licensing Officer Tel: 01284 757058 Email: Licensing@westsuffolk.gov.uk

Wards impacted: Haverhill Central

Recommendation: That Members determine the review application and take such steps as the Sub-Committee consider necessary for the promotion of the licensing objectives, giving appropriate weight to:

- the merits of the review application
- the representations and supporting information presented by all parties
- the Guidance issued by the Home Office under Section 182 of the Licensing Act 2003
- the Council's Statement of Licensing Policy
- any further relevant information presented to the Sub-Committee on the day of the hearing.

The Sub-Committee will be asked to determine this application and has the option to:

a) Modify the conditions of the licence

This could include either imposing further conditions on the licence or changing (for example, further restricting) the hours of certain licensable activities, where this is proportionate and relevant to the licensing objectives; for this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new condition is added.

b) Exclude a licensable activity from the scope of the licence

The Sub-Committee may decide that it is proportionate and relevant to the licensing objectives to remove one or more of the licensable activities;

c) Remove the Designated Premises Supervisor

d) Suspend the licence for a period not exceeding three months

e) Revoke the licence

Depending on the decision of the Sub-Committee, the licence holder and the applicant have rights of appeal to the Magistrates Court. When announcing its decision, the Sub-Committee is asked to state its reasons.

1. Summary of application

- 1.1 This report sets out an application under the provision of Section 51 of the Licensing Act 2003 for a review of the premises licence held by Stellar Bar and Coffee House Limited. The application is attached as **Appendix A**.
- 1.2 The applicant for the review is Private Sector Housing and Environmental Health, a responsible authority under the Licensing Act 2003. The application has been made on the grounds of prevention of public nuisance.
- 1.3 The application was received on the 22 June 2023 and has been advertised as required by regulation, on the premises, in the main reception of the Council office and on the Council website. All other responsible authorities have been sent a copy of the application form and supporting documentation.
- 1.4 The applicant has produced a summary of evidence supporting their application, attached as **Appendix B**.

2.0 Background / context

- 2.1 On 22 June 2023 an application was received from Julie Roberts, Private Sector Housing and Environmental Health, a responsible authority, for a review of the premises licence for Stellar Bar and Coffee House, 56 High Street, Haverhill, CB9 8AR. A copy of the application is attached at **Appendix A**. The application was accompanied by supporting documents attached at **Appendix B**. A noise recording was also provided which is available electronically upon request.
- 2.2 In accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, a public notice was displayed at the premises and surrounding area for a period of 28 consecutive days with the closing date for representations being 20 July 2023. A notice was also placed on the local authority website and displayed in the main reception of the Council building.
- 2.3 During the 28 day public consultation period responsible authorities or other persons may make representations in connection with one or more of the licensing objectives, which are:
- Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
- 2.4 The premises known as Stellar Bar and Coffee House has the benefit of a premises licence under the provisions of the Licensing Act 2003 which authorises the carrying out of licensable activities as per the premises licence attached at **Appendix C**. The licence was granted 7 March 2022.
- 2.5 The premises were subject to a Hearing in December 2022 due to representations by Private Sector Housing and Environmental Health to an application for two temporary event notices for the extension of hours. The decision of the Sub-Committee was to reject the Temporary Event Notices and issue counter notices to prevent the event going ahead.

- 2.6 The applicant has called for a review of the premises licence as amplified music from within the premises causes a nuisance and affects the quality of life and quiet enjoyment of local residents in their homes. There is a noise abatement notice currently in force.
- 2.7 The grounds for the review are based on the licensing objective – prevention of public nuisance.
- 2.8 During the 28-day consultation period the local authority received one relevant representation supporting the review application, attached at **Appendix D**.
- 2.9 No other relevant representations were received from responsible authorities or other persons within the 28-day consultation period prescribed by the Act.
- 3.0 The applicant requests that the Licensing Sub-Committee consider their suggested measure to remove regulated entertainment from the licence and restrict the provision of regulated entertainment as set out in their application at **Appendix A** to successfully resolve the noise issues.

3. Legal Compliance

- 3.1 When consideration is given for an application for review of a Premises Licence, the Sub-Committee shall carry out its functions with a view to taking steps it considers appropriate for promoting the licensing objectives. The licensing objectives are:
- Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
- Members should note that each objective is of equal importance.
- 3.2 In accordance with the provisions of Section 52(2) of the Licensing Act 2003 the licensing authority must hold a hearing to determine an application for a review of a premises licence. At the hearing, the Sub-committee must, having regard to the application and any relevant representations, take such of the steps following steps (if any) as it considers appropriate for the promotion of the licensing objectives:
- a) Modify the conditions of the licence**
This could include either imposing further conditions on the licence or changing (for example, further restricting) the hours of certain licensable activities, where this is proportionate and relevant to the licensing objectives; For this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new condition is added.
 - b) Exclude a licensable activity from the scope of the licence**
The Sub-Committee may decide that it is proportionate and relevant to the licensing objectives to remove one or more of the licensable activities;
 - c) Remove the Designated Premises Supervisor**
 - d) Suspend the licence for a period not exceeding three months**
 - e) Revoke the licence**
- 3.3 The Sub-Committee may decide that no action is necessary if it finds that the review does not require it to take any steps to promote the licensing objectives. In deciding what remedial action, if any, it should take the Sub-Committee must direct its mind to the causes or concerns which the application and representations identify. The remedial action should generally be directed at these causes or concerns and should always ensure that any response is necessary and proportionate.

- 3.4 Each application should be considered on its own merits, having regard to the Council's Statement of Licensing Policy and the guidance issued under Section 182 of the Licensing Act 2003. The Guidance to Licensing Authorities issued by the Home Office under Section 182 of the Licensing Act 2003 advises that it is imperative that the Licensing Authority ensures that the factors which form the basis of its determination are limited to considerations of the promotion of the licensing objectives and nothing outside of those parameters. The authority's determination should be evidence-based, justified as being appropriate to the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 3.5 The Sub-Committee should state in reaching its determination those matters which it considered relevant, those matters which it did not consider as they were irrelevant, and its reasons for the decision. A determination under this section does not have effect—
(a) until the end of the period given for appealing against the decision, or
(b) if the decision is appealed against, until the appeal is disposed of.
- 3.6 In accordance with the provisions of Section 181 and Schedule 5 of the Licensing Act 2003, the applicant, the holder of the premises licence, or any person who made a relevant representation in relation to the application has a right to appeal the decision made by the Licensing Authority. The appeal must be made to the Magistrates' Court within a period of twenty-one days from the date on which the appellant receives notification of the decision from the licensing authority.

4. Appendices

- 4.1 Appendix A – Application for review from Private Sector Housing and Environmental Health
Appendix B – Evidence supporting review
Appendix C – Current premises licence
Appendix D – Representation supporting the review

5. Background documents

- 5.1 Licensing Act 2003 - <http://www.legislation.gov.uk/ukpga/2003/17/contents>

Guidance issued under S.182 of the Licensing Act 2003 – [Revised guidance issued under section 182 of the Licensing Act 2003 \(December 2022\) \(accessible\) - GOV.UK \(www.gov.uk\)](#)

West Suffolk Council Statement of Licensing Policy – <https://www.westsuffolk.gov.uk/Business/Licensing-and-regulation/Licensing/upload/WSC-Statement-of-Licensing-Policy.pdf>