## Licensing Act Sub-Committee

<table>
<thead>
<tr>
<th>Title of Report:</th>
<th>Application for Review of Premises’ Licence – Flex Nightclub, Devonshire House, 51 St Andrew’s Street South, Bury St Edmunds</th>
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</thead>
<tbody>
<tr>
<td>Report No:</td>
<td>LSC/SE/15/001</td>
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<td>Decisions plan reference:</td>
<td></td>
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<tr>
<td>Report to and date/s:</td>
<td>Licensing Act Sub-Committee 9 February 2015</td>
</tr>
</tbody>
</table>
| Portfolio holder: | Cllr Terry Clements  
Portfolio Holder for Planning and Regulation  
Tel: 01284 827161  
Email: terry.clements@stedsbc.gov.uk |
| Lead officer:    | Tom Wright  
Business Regulation and Licensing Manager  
Tel: 01638 719223  
Email: tom.wright@westsuffolk.gov.uk |
| Purpose of report: | To consider an application for review of the premises licence for Flex Nightclub.  
Suffolk Constabulary, acting in their role as a responsible authority, have highlighted concerns relating to the Licensing Objective of the prevention of crime and disorder |
**Recommendation:** It is **RECOMMENDED** that the Sub-Committee determines the application having regard to the four Licensing Objectives, Statement of Licensing Policy, the representations attached to this report, and any further relevant information presented to the sub-committee on the day of the hearing; and having regard to the above, take any of the steps set out below provided they are proportionate and appropriate for the promotion of the four Licensing Objectives:

The steps may be:

(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 (DPS)**

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

(e) **Revoke the licence.**

It is also open to the Sub-Committee to take no action.

| **Key Decision:** | No, it is not a Key Decision - ☒ |
| **Consultation:** | The Licensing Authority is required to place a notice on the premises and in the Council Offices. The Licensing Authority also advertises the application on the Council website. The applicant seeking the review serves a copy of the application on all the other responsible authorities. The application met the statutory requirements |
| **Alternative option(s):** | N/A |
### Implications:

<table>
<thead>
<tr>
<th>Are there any <strong>financial</strong> implications? If yes, please give details</th>
<th>Yes ☐ No ☒</th>
</tr>
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<tbody>
<tr>
<td>Are there any <strong>staffing</strong> implications? If yes, please give details</td>
<td>Yes ☐ No ☒</td>
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<tr>
<td>Are there any <strong>ICT</strong> implications? If yes, please give details</td>
<td>Yes ☐ No ☒</td>
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<tr>
<td>Are there any <strong>legal and/or policy</strong> implications? If yes, please give details</td>
<td>Yes ☒ No ☐</td>
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<tr>
<td>See No 2.1 below</td>
<td></td>
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<tr>
<td>Are there any <strong>equality</strong> implications? If yes, please give details</td>
<td>Yes ☐ No ☒</td>
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### Risk/opportunity assessment:

(potential hazards or opportunities affecting corporate, service or project objectives)

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<thead>
<tr>
<th>Risk area</th>
<th>Inherent level of risk (before controls)</th>
<th>Controls</th>
<th>Residual risk (after controls)</th>
</tr>
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<tbody>
<tr>
<td>Any decision reached which is not in accordance with the Act and any regulations made under the Act may be considered ultra vires and could be subject to an application for Judicial Review.</td>
<td>High</td>
<td>The Sub-Committee, in determining the application, should have regard to its statement of licensing policy and any guidance issued under section 182 of the Licensing Act 2003, but may depart from these where reasons are given.</td>
<td>Low</td>
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### Ward affected:

Abbeygate

### Background papers:

(all background papers are to be published on the website and a link included)

- Licensing Act 2003
- St Edmundsbury Borough Council Statement of Licensing Policy

### Documents attached:

(Please list any appendices.)
- Appendix 1 – Review Application
- Appendix 2 – Supporting Documents
- Appendix 3 – Premises Licence
- Appendix 4 – Location Plan
1. Key issues and reasons for recommendation(s)

1.1 Key Issues

1.1.1 An application has been received for a review of premises licence by Stuart Elliott-Smith, of Suffolk Constabulary Licensing Team. The licence-holder has been provided with a copy of the review application and this is attached as Appendix 1.

1.1.2 The grounds for the application are set out below:

“This application is made following significant and ongoing issues at Flex Nightclub in Bury St Edmunds which show failure to uphold the licensing objective of the Prevention of Crime and Disorder.

Since June 2014, a large number of assaults have taken place within the premises with victims suffering injuries including bruising, cuts, and facial injuries. Due to this, local police officers and Suffolk Force Licensing Team have made regular visits to the premises to discuss the matter with the Designated Premises Supervisor, Mr Creffield, and management members. These meetings have highlighted concerns about the levels of intoxication, the levels of violence, vulnerability issues and drugs.

Despite these meetings, the level of violent crime has continued and the Constabulary now feel that the risk of assault at the premises is far too high.

Due to this, a covert visit to the premises was carried out by the Constabulary on Friday 28 November 2014. During this visit officers observed concerns about door staffing, lack of searches, intoxicated people being served more drinks and issues about vulnerable females.

Further assaults have since taken place in the venue following this covert visit and it is clear that there have been no significant attempts by the DPS or management to improve the situation.

As such, the Constabulary feels that a Review of the Premises Licence is necessary in order for the Prevention of Crime and Disorder licensing objective to be upheld.”

1.1.3 Suffolk Constabulary has provided a bundle of supporting documents which are attached as Appendix 2.

1.1.4 A nightclub has been located on this site since 2005.

1.1.5 The Designated Premises Supervisor is listed on the licence as Dominic Creffield.

1.1.6 The existing Premises’ Licence and plan is attached as Appendix 3.

1.1.7 A location plan is attached as Appendix 4.
1.1.8 The four Licensing Objectives of the Licensing Act 2003 are set out below. Any representations for consideration must relate to one or more of these objectives.

(i) Prevention of Crime and Disorder
(ii) Public Safety
(iii) Prevention of Nuisance
(iv) Protection of Children from Harm

1.1.9 Relevant Representations

(a) The review application was advertised, both at the premises and in the Council’s offices in accordance with current legislation. Details are also available on the Council’s website.

(b) No representations have been received.

1.1.10 Matters for consideration

(a) In exercising its licensing functions, the licensing authority has stated in its licensing policy that it will consider the direct impact of the licensable activities on members of the public living, working or engaged in normal activity in the vicinity of licensed premises. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential adverse consequence of the operation of licensed premises whilst recognising the valuable contribution that such premises make to the local economy as well as their social and cultural significance.

(b) Members have to take each application upon its merits in conjunction with the views of any representations made and the Statement of Licensing Policy. By doing this, the Licensing Authority can ensure the interests of the community are balanced with those of the applicants and licensees through the promotion of the licensing objectives.

(c) Section 17 of the Crime and Disorder Act 1998 imposes a duty on each local authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area.

(d) In making their decision, Members are advised to consider the Licensing Act 2003, the Guidance on the Act, the Council’s Statement of Licensing Policy and the application for review.

(e) The relevant notices about this hearing have been served on the applicant and respondent.

1.1.11 Other options considered

No other relevant options were available
2. **Additional supporting information**

2.1 **Legal and policy implications**

2.1.1 The Sub-Committee may take any of the steps set out below, provided they are proportionate and appropriate for the promotion of the licensing objectives:

(a) Modify the conditions of the licence
   This would 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 (DPS).

(d) Suspend the licence for a period not exceeding three months where the committee is satisfied that this is proportionate and necessary to promote the Licensing Objectives.

(e) Revoke the Licence only where the committee is satisfied that this is proportionate and necessary to promote the Licensing Objectives.

2.1.2 Guidance issued under Section 182 also provides that a licensing authority may issue an informal warning to the licence holder and/or recommend specified improvements within a particular period of time or take no action at all.

2.1.3 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.

2.1.4 The Committee should also consider this application in the light of the Human Rights Act 1998. It is unlawful for a public authority to act in a way which is incompatible with a human right.

2.1.5 The decision may be appealed, by the applicant or any other party to the hearing, within 21 days of written notification of the determination made by the Sub-Committee. 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.