

PART A

Report to: Licensing Sub Committee
Date of meeting: Wednesday, 6 September 2023
Report of: Senior Licensing Officer (AY)
Title: Application to renew a Sexual Entertainment Venue Licence -
Diamonds & Strings, Market Street, Watford

1.0 Summary

- 1.1 An application has been made by Admiral Bars (Herts) Limited to renew the sexual entertainment venue (SEV) licence for the premises at 9 Market Street, Watford WD18 0PA. The premises trades as Diamonds & Strings.
- 1.2 During the consultation period representations against this application were received from a local resident.

2.0 Risks

2.1	Nature of Risk	Consequence	Suggested Control Measures	Response <i>(Treat, tolerate, terminate, transfer)</i>	Risk Rating (the combination of severity and likelihood)
	Appeal against decision by applicant or objector	Decision overturned by the courts with potential of costs being awarded against the council if decision is not justified or legal	Determination of application given with detailed reasons and after considering evidence before the committee, the council's licensing policy, relevant guidance, and legislation	Treat	2

Judicial review of decision by applicant, objectors, or consultees	Negative perception of the council and its licensing system	Treat in accordance with the legislation, the relevant guidance, and the council's licensing policy, with both applicants and objectors being given fair chance to present their arguments to the committee	Treat	1
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3.0 Recommendations

- 3.1 That the Licensing Sub-Committee determines whether to grant the application as set out in the report.

Contact Officer:

For further information on this report please contact: Austen Young telephone: 01923 278474 email: austen.young@watford.gov.uk

Report approved by: Justine Hoy, Associate Director, Housing and Wellbeing

4.0 Application

4.1 Type of application

- 4.2 Application to renew a sexual entertainment venue (SEV) licence under the Local Government (Miscellaneous Provisions) Act 1982 (as amended). The original application is attached at appendix 1.

- 4.3 It is noted that the original application was part of an application to renew and subsequently vary the SEV licence. Only the renewal application is due for consideration before the Sub-Committee.

4.4 **Description of premises**

4.5 The premises is situated on Market Street between the High Street and Exchange Road.

4.6 Under Part C of the council's sex establishment licensing policy, one SEV licence is deemed to be appropriate for this location of Market Street falling between the High Street and Exchange Road.

4.7 A plan showing the location of the premises is attached at appendix 2.

5.0 **Background information**

5.1 The following background information is known about the premises.

5.2 **Current licences held**

5.3 The premises currently benefits from a premises licence under the Licensing Act 2003 to allow the provision of licensable activities including the sales of alcohol and an SEV licence under the Local Government (Miscellaneous Provisions) Act 1982 to allow the provision of relevant sexual entertainment.

5.4 SEV licences may only be issued to be in force for up to one year only and are required to be renewed before the expiry of each licence.

5.5 The existing licence states that it was due to expire on 14 August 2023. The legislation does state that where an application has been made for a licence renewal prior to the expiry of the licence, the licence shall be deemed to remain in force until the withdrawal of the application or its determination by the appropriate authority. In this case, the application for renewal was submitted before the expiry of the licence and therefore the premises is still currently authorised to provide relevant sexual entertainment.

5.6 A copy of the existing SEV licence is attached to this report at appendix 3.

5.7 **Closing date for representations**

5.8 10 August 2023

5.9 **Public notice published in newspaper**

5.10 14 July 2023

5.11 **Visits and Enforcement action**

5.12 The committee have requested that we note the history of visits and enforcement actions. There is no recent history of visits or enforcement action against this premises in respect of their SEV licence, although it is noted that Admiral Bars (Herts) Limited have only held a licence since 9 September 2022.

6.0 **Representations**

6.1 **Police**

6.2 The Police are automatically consulted on all SEV licence applications, including renewals.

6.3 The Police had no comments to make with regards to this renewal.

6.4 **Other Relevant Bodies**

6.5 Any other person may object to an application to renew an SEV licence.

6.6 Representations were received from a local resident. These representations are attached at appendix 4. No representations were received from any other parties.

6.7 It is a legal requirement that the name and address of all objectors shall not be disclosed to the applicant without the explicit consent of the individual making the representations. Therefore, these details have been redacted from the public report. This is also in accordance with paragraph 4.3 of the council's sex establishment licensing policy.

7.0 **Policy considerations**

7.1 The following provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which specifically relates to the control of sex establishments, apply to this application:

- Sections 8 – 11 – Grant, renewal and transfer of licences for sex establishments
These sections detail the process of applying for the grant, renewal and transfer of a sex establishment licence. Section 9 confirms that a licence shall remain in force for one year or for such a shorter period as specified in the licence as the licensing authority may think fit. Section 10 sets out the application process and how to consider objections. Section 11 confirms that a licence remains in force while the relevant renewal is being determined.

- Section 12 – Refusal of licences
Section 12 sets out the statutory grounds of refusal, which are not relevant in this case, and what matters the licensing authority may consider when determining an application for a sex establishment licence upon receiving representations. A licensing authority may refuse an application for the grant or renewal of a licence on one or more of the following grounds -
 - (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - (c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;]
 - (d) that the grant or renewal of the licence would be inappropriate, having regard—
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- Section 13 – Power to prescribe standard conditions
This section explains that licensing authorities may prescribe standard conditions to any sex establishment licence which they grant. The licensing authority does prescribe standard conditions and these are detailed in the council’s sex establishment licensing policy.

7.2 Statutory and other relevant guidance

7.3 The following provisions of the Home Office guidance for England and Wales on Sexual Entertainment Venues (March 2010) apply to this application:

- Paragraphs 3.23 and 3.24
These paragraphs confirm that the licensing authority shall have regard to any representations received against an application for the grant, renewal or transfer of a licence, and that the representations should be relevant to the grounds set out in section 12 of the Local Government (Miscellaneous Provisions) Act 1982
- Paragraphs 3.25 and 3.26
These paragraphs confirm that a licensing authority must give applicants

the opportunity to appear before and be heard by the relevant licensing authority before determining the application.

- Paragraphs 3.27 to 3.31
These paragraphs lay out the factors that can be considered when determining a licence application, and replicate the relevant factors listed in the legislation. The guidance reaffirms that any decision to refuse a licence must be relevant to one or more of these grounds and that the rights of the applicant under other legislation, such as the Human Rights Act, must be respected. Finally, the guidance states that the reasons for the decision must be given in writing.
- Paragraphs 3.32 to 3.38
These paragraphs address the issue of relevant locality, which is relevant in this case. Applications may be refused if the number of sex establishments, or sex establishments of a particular type, is equal to or exceeds the number of establishments that the licensing authority considers appropriate for that locality, or is inappropriate having regard to the character of the relevant locality. The council's policy does state that one SEV venue may be appropriate in this location. When considering the relevant locality this is a matter for the relevant licensing authority and must be decided on the facts of the individual application.
- Paragraphs 3.39 to 3.42
These paragraphs concern licence conditions, and how the licensing authority are able to impose terms, conditions or restrictions on that licence, either in the form of standard licence conditions applicable to all licences granted by the relevant licensing authority or conditions specific to the individual licence.

7.4 **Sex establishment licensing policy**

7.5 The following paragraphs of the licensing authority's sex establishment licensing policy (July 2020 – July 2023) apply to this application:

- Paragraph 3.6
This paragraph states that representations will be considered by Sub-Committee in accordance with the council's published hearing protocol.
- Paragraph 7.6
This section confirms the maximum number of SEV premises which the council considers appropriate for different areas of the borough.

The location of this premises, being situated on Market Street between the

High Street and Exchange Road, has been deemed appropriate for the operation of one SEV licensed premises.

- Paragraph 7.7
This section sets out what factors the licensing authority will particularly take account of when determining the characteristics of the locality, including:
 - (1) the size of the neighbourhood
 - (2) impact of thoroughfares
 - (3) the density and proximity of residential accommodation
 - (4) the density and proximity of parks and children's areas
 - (5) the density and proximity of other retail units (and their uses)
 - (6) the density and proximity of schools
 - (7) the density and proximity of communal buildings
 - (8) the density and proximity of alcohol or entertainment licensed premises
- Paragraph 7.8
The council determines to grant licences for the full available length of one year unless there are exceptional reasons otherwise.
- Appendix II
This appendix to the policy is where the standard licence conditions for SEV licences are listed.

7.6 The relevant policy for this application is the policy dated July 2020 – July 2023 due to the date of submission of this application, which was 13 July 2023.

7.7 The Sub-Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.

7.8 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

8.0 **Officers' observations**

8.1 The representations received in respect of this premises specifically mention that they object to the renewal of the licence. As mentioned earlier in the report, it is noted that the application was submitted to both renew and vary the SEV licence. These are two different applications. The consultation on the application to vary the licence has closed. The application before Members today is regarding the renewal

of the licence only, and whether the premises should be relicensed to provide sexual entertainment. If the renewal is permitted, the licence will be granted reflecting the variation application.

- 8.2 It is noted that this application is to renew an existing licence which was granted without a hearing. However, it is possible for locations and their uses to change over time and the licensing authority are bound to consider any relevant representations received against an application. Both the objector and applicant are invited to present their arguments for the Sub-Committee to consider and to assist the Sub-Committee in determining this application.
- 8.3 The representations concern the proximity of a bus stop to the premises. Officers can confirm that there is a physical bus shelter immediate outside the front of the premises, and this can be seen in the photographs showing the front of the premises in annex 2 of the application form, attached at appendix 1.
- 8.4 The council's Transport & Infrastructure team have confirmed that there has been a bus stop in this location for at least eight years. While the physical bus shelters were relocated and realigned in 2022 following improvement works to Market Street, including the addition of a taxi rank on Market Street, the use of the area for waiting for buses is long established. The physical bus shelter has been in place outside of the premises since April 2022, prior to the previous applications in August 2022 to both renew the previous licence and transfer the licence to Admiral Bars (Herts) Limited.
- 8.5 The licensing authority does have the power to attach such conditions and terms to a licence as may be so specified, providing that they do not replicate legal requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005. Members will be experienced in not attaching conditions which duplicate or gold-plate existing legislative requirements through hearing applications under other licensing regimes.
- 8.6 Due to the nature of the representations, which specifically concern the locality, officers have not proposed any additional or bespoke conditions to be attached to this licence. This does not prevent the Sub-Committee from attaching any conditions, terms or restriction which they may see fit to attach to any licence granted under this application. Should the application be granted, the standard licence conditions for an SEV licence will automatically be attached to the licence.
- 8.7 The officers' observations and the comments regarding the representations are in no way meant to bind Members. They are for guidance only and Members may attach whatever weight they see fit.

- 8.8 Members are also to attach whatever weight they see fit to both the submissions of the applicant, and to the submissions of the objectors, when considering this application.
- 8.9 The Sub-Committee is reminded that it should have regard to the licensing policy but is not bound by it. However, should Members wish to depart from the policy then detailed reasons for this must be given as part of any decision.
- 8.10 In determining this application, the Sub-Committee must have regard to the representations. The steps are:
- (a) grant the application in full.
 - (b) grant the application for a lesser time period than one year or with modified conditions.
 - (c) refuse the application.
- 8.11 It is a legal requirement that the licensing authority give any decision to refuse an application to renew a licence in writing including the reasons for their decision. In line with other licensing hearings and applications, it is important to give any reasons for a decision, refusal or otherwise, so that applicants and objectors know how the Sub-Committee reached the decision and may assist in any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.
- 8.12 Although not a legal requirement, to promote consistency with other licensing regimes, officers would suggest that any decision is given within 5 working days of the conclusion of the hearing.

Appendices

- Appendix 1 – Application
- Appendix 2 – Location plan
- Appendix 3 – Existing licence
- Appendix 4 – Representations

Background Papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

- Local Government (Miscellaneous Provisions) Act 1982 (as amended)
- Home Office's Guidance for Sexual Entertainment Venues in England and Wales (March 2010)
- Watford Borough Council's sex establishment licensing policy (July 2020 – July 2023)
- Provision of Service Regulations 2009

Guidance on the Provision of Services Regulations (March 2021)