

# Allerdale Borough Council

## Licensing Panel – 22 March 2022

### Application for the review of a premises licence

#### Electric Soup, 2<sup>nd</sup> Floor, 41-45 Jane Street, Workington

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<b>Portfolio holder</b>	Councillor Colin Sharpe Finance and Legal
<b>Report from</b>	Deborah Fletcher, Licensing and Compliance Officer (Specialist – Licensing and Compliance)
<b>Wards affected</b>	St John's Ward
<b>Is this a key decision</b>	No

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#### **1.0 The reason for the decision**

- 1.1 The Council is asked to consider an application under section 51 of The Licensing Act to review the premises licence for PL0747. The application has been made by Cumbria Constabulary.

#### **2.0 Recommendation**

- 2.1 The Panel should consider all the information contained in the report. They should make a decision from the options available in paragraph 7.0 taking into account information received from the applicant, licence holder, responsible authorities, any other persons and any relevant legislation or guidance.

#### **3.0 Background and Introduction**

- 3.1 Section 51 of the Licensing Act 2013 (The Act) allows for a responsible authority or any other person to apply to the licensing authority for a review of a premises licence. Before determining the application, the authority must hold a hearing to consider the application and any relevant representations received.

#### **4.0 Legislation and guidance**

- 4.1 The Act allows for premises licences to be issued indefinitely. Where a responsible authority or any other person has issues with a premises, they can make an application under section 51 which requires the licensing authority to review that licence.
- 4.2 The application starts a consultation process with other responsible authorities and interested parties which lasts for 28 consecutive days starting the day after the application is made. Notices are placed at the premises and displayed at Allerdale House, Workington.
- 4.3 The consultation period is to allow for relevant representations to be received. Relevant representations are defined in The Act as representations that are relevant to one or more of the licensing objectives and have been made by the premises licence holder, responsible authority or an interested party. They must have been made within the required timescale and must not have been withdrawn.
- 4.4 The Act states that the licensing authority must hold a hearing to consider the review application and any relevant representations within 20 working days following the end of the consultation period.
- 4.5 The Home Office issued revised guidance under section 182 of the Licensing Act 2003 in April 2017. Paragraphs 11.17 and 11.18 state as follows:
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 4.6 Paragraph 11.20 states that when considering which powers to invoke it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 4.7 In reference to making temporary changes to the premises licence, the Guidance states that it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives (paragraph 11.23).

## **5.0 Application to review a premises licence**

- 5.1 An application was received from Cumbria Constabulary on 3 February 2022. The premises licence relates to the premises known as Electric Soup, 2<sup>nd</sup> Floor, 41-45 Jane Street, Workington. It benefits from a premises licence ref PL00747 which can be found at Appendix A.
- 5.2 The premises is on the second floor of a mixed-use building. There are other businesses in the building that benefit from a premises licence, and they are mentioned in the representations from local residents. The layout of the premises can be found at Appendix B.
- 5.3 The premises licence holder is Luke Stanger. Mr Stanger is also the designated premises supervisor.
- 5.4 The application to review relates to the following licensing objectives
- 1) The prevention of crime and disorder
  - 2) Public safety
- 5.5 As part of the application to review the premises licence the applicants must state their grounds for review. The reasons are summarised as follows and expanded on in the application which is at Appendix C:
- 1) The prevention of crime and disorder: ability to comply with the conditions contained in PL0747
  - 2) Public safety: concerns regarding the condition of the premises
- 5.6 The application was sent to the applicant and circulated to the remaining responsible authorities. The licensing authority must advertise the application by way of notices at its main office and on the premises in question. Notices were placed on display at Allerdale House, Workington and placed on the premises on 3 March 2022.
- 5.7 The application asks the applicant to state if they have made an application to review the premises previously. The applicant has not made any previous applications to review this premises licence.

## **6.0 Representations**

- 6.1 Relevant representations were received against the application. They comply with the requirements of section 52(7) of The Act.
- 6.2 Responsible Authority – Allerdale Borough Council Environmental Health (Appendix D)
- 6.3 Responsible Authority – Cumbria Fire and Rescue (Appendix E)
- 6.4 Other persons – 7 representations (Appendix F)

## 7.0 Options available to the Panel

- 7.1 Section 52 of The Act makes provision for determination of an application for review. The Panel must, having regard to the application and any relevant representations, take such of the steps mentioned in paragraph 7.2 as it considers necessary for the promotion of the licensing objectives.
- 7.2 The steps permitted under section 52(4) of The Act are:
- (a) To modify the conditions of the licence;
  - (b) To exclude a licensable activity from the scope of the licence;
  - (c) To remove the designated premises supervisor;
  - (d) To suspend the licence for a period not exceeding three months;
  - (e) To revoke the licence;
- 7.3 The conditions of the licence are considered to be modified if any of them are altered or omitted or any new condition is added.
- 7.4 If steps are taken to modify the conditions of the licence or exclude a licensable activity then that modification or exclusion can be made for a period specified by the panel. This period must not exceed three months.
- 7.5 The determination made under section 52 of The Act does not have effect until the end of the period given for appealing against the decision or if the decision is appealed against, until the appeal is disposed of.
- 7.6 The period allowed for appeal is 21 days from a party being given notice of the decision in writing. The appeal is to a Magistrates' Court.

## Appendices attached to this report

Appendix number	Title of appendix
A	Premises Licence PL0747
B	Building layout
C	Review application
D	Representation – Allerdale Borough Council Environmental Health
E	Representation – Cumbria Fire and Rescue
F	Representation – Other persons

## Background documents available

Name of background document	Where it is available
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**Report author and contact officer:**

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