

Licensing Sub-Committee 23 December 2021

Report Title	Review of the Premises Licence at The Angel Hotel trading as Decades, Carrington Street, Kettering, NN16 0BY
Report Author	Russ Howell, Health Services Manager (Kettering) Russell.Howell@Northnorthants.gov.uk

List of Appendices

- Appendix A - Licensing Act 2003 Application for Review**
Appendix B - Site Plan
Appendix C - Representation – Rowan Castle, Environmental Protection Team Leader, Kettering
Representation – Fire Officer
Representation – Kettering Town Council
Appendix D - Current Premises Licence

1. Purpose of Report

- 1.1 To consider an application for review of the premises licence under the Licensing Act 2003 in relation to the premises known as The Angel Hotel trading as Decades, Carrington Street, Kettering.

2. Executive Summary

- 2.1 An application to review the premises licence for the premises known as The Angel Hotel trading as Decades, Carrington Street, Kettering has been received from Mr Malcolm Maples of Carrington Street, Kettering.
- 2.2 The application relates to excessive noise from the premises, anti-social behaviour relating to the premises and a failure by management to properly manage the licensing objectives detailed in the Licensing Act 2003.
- 2.3 The application has been out for consultation in accordance with the requirements of the Licensing Act 2003 and further comments have been received from Environmental Protection, North Northamptonshire Council, Northamptonshire Fire Service and Kettering Town Council.

3. Recommendations

- 3.1 The Committee is asked to consider the application from Mr Maples, the additional information contained in the representations and any submission made by the Licensee.
- 3.2 After considering the information before it, the Committee may take such of the steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives.

The steps 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;

(and for this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.)

Where the authority takes a step mentioned above, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

4. Report Background

- 4.1 The Sub-committee must carry out its functions to promote the licensing objectives having regard to:
- (a) The Licensing Act 2003
 - (b) The Council's Statement of Licensing Policy
 - (c) S182 Guidance made under the Licensing Act 2003.
- 4.2 Section 51 of The Licensing Act 2003 allows any person to call a premises licence in for review. The review application must be relevant to one or more of the licensing objectives, and in the case of an application made by a person other than a responsible authority, must not be frivolous or vexatious, or repetitious.
- 4.3 The licensing objectives are—
- (a) the prevention of crime and disorder;
 - (b) public safety;
 - (c) the prevention of public nuisance; and
 - (d) the protection of children from harm.
- 4.4 The applicant, Mr Maples, lives in Carrington Street, Kettering in close proximity to Decades. A copy of his application is at Appendix A.
- 4.5 In summary, his application refers to excessively loud music from the premises and anti-social behaviour outside of the premises.

- 4.6 A plan showing the location of Decades within Kettering town centre is attached at Appendix B
- 4.7 A representation has been received from Rowan Castle, Environmental Protection Team Leader at Kettering. Noise complaints relating to Decades have been received from other residents in the area, other than Mr Maples. As a result, Mr Castle has been working with the licensee on the installation of a noise limiting device. It would appear that this has not resolved the problem and so further action may be required.
- 4.8 The Fire Officer has submitted a representation as he has failed to gain access to the premises to carry out an inspection.
- 4.9 Kettering Town Council has submitted a representation relating to noise nuisance and the changing landscape of the area within which Decades is situated.
- 4.10 The representations can be seen in Appendix C.
- 4.11 A copy of the current premises licence is attached at Appendix D.

5. Issues and Choices

- 5.1 After considering the information before it, the Committee may take such of the steps mentioned below (if any) as it considers appropriate for the promotion of the licensing objectives.

The steps 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;

and for this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

- 5.2 Where the authority takes a step mentioned above, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.
- 5.3 This section highlights the elements of the licensing policy that are considered to be most relevant with respect to this application (numbering as policy). This list is not exhaustive, and the policy should be considered fully prior to making decisions with respect to applications: -

2.7 Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions will be focused on matters which are within the control of individual licensees and others granted relevant permissions.

- Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.
- 2.8 This authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. However this Council recognises that licensing legislation is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.
- 2.9 The Licensing Act 2003 is not the primary mechanism for the general control of nuisance and anti- social behaviour by individuals once they are away from licensed premises and, therefore, beyond the control of the licence holder. Nonetheless, it is a key aspect of such control and licensing laws will always be part of the holistic approach to the management of the evening and night-time economy.
- 2.10 The objective of the licensing process is to allow for the carrying on of retail sales of alcohol, supply of alcohol by or on behalf of a club to its members, regulated entertainment, and late night refreshment, and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. This Licensing Authority wishes to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

6.2 The prevention of public nuisance

The public nuisance objective is designed to deal with any disproportionate and unreasonable impacts of licensable activities at specific premises, on persons living and working (including doing business) in the vicinity. The main issues for concern will be noise nuisance, light pollution, noxious smells and litter.

The provision of welfare facilities such as toilets within licensed premises is relevant to the prevention of public nuisance. Adequate welfare provisions may prevent nuisance activities taking place within the street, such as urination. Licensees should therefore ensure that adequate facilities are provided within the premises and include these details within their operating schedule.

Public nuisance is not defined within the Act but is given a broad common law definition. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally, as well as major disturbances affecting the whole community. This may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined) in the vicinity of the licensed premises.

This Licensing Authority will have regard to the powers available within the Anti-Social Behaviour Act 2003. This provides that if noise from licensed premises is causing a public nuisance the local authority has powers to issue a closure order for up to 24 hours. This compliments the police powers under Part 8 of the 2003 Act.

- 5.4 The Authority must also have regard to the Guidance produced under Section 182 of the Licensing Act 2003. Sections 2.15 to 2.21 provide guidance in relation to Public Nuisance.

6 Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 There are no resource or financial implications in relation to this report.

6.2 Legal

- 6.2.1 An appeal may be made against the decision by—

- (a) the applicant for the review,
- (b) the holder of the premises licence, or
- (c) any other person who made relevant representations in relation to the application.

- 6.2.2 An appeal must be made to magistrates' court and must be commenced by notice of appeal given by the appellant to the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

6.3 Risk

- 6.3.1 There are no significant risks arising from the proposed recommendations in this report.

6.4 Consultation

- 6.4.1 The consultation process has been carried out in accordance with the requirements of the Licensing Act 2003 and associated guidance.

6.5 Consideration by Scrutiny

- 6.5.1 Not considered

6.6 Climate Impact

- 6.6.1 No climate impact.

6.7 Community Impact

- 6.7.1 A licensing authority must carry out its functions under The Licensing Act 2003 with a view to promoting the licensing objectives.

The licensing objectives are—

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

6.7.2 In carrying out its licensing functions, a licensing authority must also have regard to—

- (a) its licensing statement published under section 5, and
- (b) any guidance issued by the Secretary of State under section 182.

7 Background Papers

Kettering Borough Council Statement of Licensing Policy
Section 182 guidance issued under the Licensing Act 2003