

Licensing and Appeals Sub Committee

Report Title	Licensing Act 2003 – Review of Premises Licence
Report Author	Iain Smith Assistant Director of Regulatory Services iain.smith@northnorthants.gov.uk

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- Appendix A - Licensing Act 2003 Application for Review**
Appendix B - Site Plan
Appendix C - Applicant for Review – Rowan Castle, Environmental Protection Team Leader, North Northamptonshire Council (Kettering) 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 Rowan Castle, Environmental Protection Team Leader (Kettering) North Northamptonshire Council. A copy of the application is included at Appendix A.
- 2.2 The application relates to excessive noise witnessed from the premises and a failure by the management to address the problem thereby failing 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 Kettering Town Council.

3. Recommendations

- 3.1 The Committee is asked to consider the application from Mr Castle, the additional information contained in the representation from Kettering Town Council and any submission made by the Licensee. The Committee also needs to consider that this premises licence was also the subject of a review

hearing in December 2021 following allegations of public nuisance and anti social behaviour.

- 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 a responsible authority to call a premises licence in for review. Mr Castle acts on behalf of the authority in the role of the responsible authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health.
- 4.3 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.
- 4.4 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.

4.5 Mr Castle was working in Kettering town centre monitoring noise issues and visited Decades in Carrington Street, Kettering. He saw that the outer doors to the premises were fixed in the open position which is a breach of their licence. At the time there was significant noise breakout from the premises and in Mr Castle's opinion this was largely due to the outer doors being open. Mr Castle spoke to the door supervisors, the site manager and by telephone to Mr Cross who is currently in the process of becoming the licensee of the premises. No action was taken to remedy the situation.

4.6 The relevant conditions on the licence are:

All external doors, other than those used for emergency exits only, shall be fitted with automatic closing devices. The doors shall be kept closed, so far as is practicable, at any time when regulated entertainment is taking place, or facilities are being provided for regulated entertainment.

Should there be noise breakout of regulated entertainment, the fire exit doors shall be fitted with acoustic seals or other necessary acoustic measures, and the main doors shall have lobbies added to them.

4.7 Mr Cross claimed to Mr Castle that there is a public safety risk from the doors being closed and therefore it is not practicable to do so.

4.8 It is the licensing authority's opinion that meeting one licensing objective cannot be at the expense of another. If Mr Cross's claim is accepted then the committee would need to consider what further steps need to be taken to reduce the level of noise from the premises so that there is no conflict with the public nuisance objective.

4.9 In summary, the application refers to excessively loud music from the premises and a failure to manage the licensing objective of the prevention of public nuisance.

4.10 A plan showing the location of Decades within Kettering town centre is attached at Appendix B

4.11 Kettering Town Council has submitted a representation relating to noise nuisance, public behaviour around the site and a general failure by the premises management to deal with these issues.

4.12 The representations can be seen in Appendix C.

4.13 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 the 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.

2.10 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)

6.2 Resources and Financial

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

6.3 Legal

- 6.3.1 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.

6.4 Risk

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

6.5 Consultation

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

6.6 Consideration by Scrutiny

6.6.1 Not considered

6.7 Climate Impact

6.6.1 No climate impact.

6.8 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