

LICENSING COMMITTEE	AGENDA ITEM No. 4
1 OCTOBER 2019	PUBLIC REPORT

Report of:	Adrian Chapman, Service Director Communities and Safety	
Cabinet Member(s) responsible:	Irene Walsh - Cabinet Member for Communities	
Contact Officer(s):	Kerry Leishman - Licensing and Business Manager Terri Martin - Strategic Regulatory Officer Licensing	Tel. 453502 Tel. 453561

Sexual Entertainment Venue (SEV) Licence Application

R E C O M M E N D A T I O N S	
FROM: Licensing Team	Deadline date: N/A
<p>It is recommended that the Licensing Committee:</p> <ol style="list-style-type: none"> <i>Determine the application based on the information contained within the application, this report and any further information provided to them on the 1 October 2019 at the committee meeting.</i> 	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Licensing Committee following receipt of a new grant application from Angels 2004 Ltd, for a Sexual Entertainment Venue (SEV) licence for Angels, Earlham House, Brook Street, Peterborough, PE1 1FQ. Please see **Appendix 1** for a copy of the application.

2. PURPOSE AND REASON FOR REPORT

- 2.1 Angels at Earlham House have operated and held a SEV licence since the provision was adopted by the council, they failed on this occasion to serve a renewal application within the statutory timeframe. Therefore they are required to apply for a new grant licence, which must be determined by the Licensing Committee.

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	NO
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4. BACKGROUND AND KEY ISSUES

- 4.1 Angels at Earlham House, has been a licensed premises offering adult entertainment in excess of 14 years. In 2005 the applicant converted a Justices licence and Public Entertainment Licence and were issued a premises licence under the Licensing Act 2003 in September 2005.
- 4.2 A change in legislation brought about by Section 27 of the Policing and Crime Act 2009, allowed Local Authorities to adopt a change in law, to allow regulation of SEV's under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, rather than under the Licensing Act

2003. This would mean that premises offering sales of alcohol, regulated entertainment and 'relevant entertainment' would need to hold two licenses, one under each Act.

(*Relevant entertainment* is defined as, 'any live performance, or any live display of nudity, which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)).

- 4.3 On 8 December 2010, following recommendations from the Licensing Committee, Full Council determined to adopt the legislative amendments with an effective date of 8 February 2011.
- 4.4 Angels submitted a new grant application for a SEV licence under the 1982 Act in June 2012, the application requested operation of the premises offering relevant entertainment, 24 hours a day 7 days a week. The application was determined and granted by the Licensing Committee with Special Conditions attached. Please see **Appendix 2** for a copy of the conditions.
- 4.5 Angels have subsequently renewed and retained a SEV licence since that date, until the 13 August 2019 when the licence lapsed, as a renewal application was not received during the term of the licence.
- 4.6 Angels continue to hold a premises licence issued under the Licensing Act 2003, which authorises sales of alcohol and regulated entertainment 24 hours a day 7 days a week.

5. CONSULTATION

- 5.1 Under the Local Government (Miscellaneous) Provisions Act 1982, there is a mandatory consultation period of 28 days, where objections can be made. The Act also requires the applicant to publish a public notice in a local circulated newspaper within 7 days of the application, and display a notice at the premises for 21 days.
- 5.2 The application was received on 30 August 2019, the deadline date for objections is the 27 September 2019. The application requests operation of the premises offering relevant entertainment, 24 hours a day 7 days a week.
- 5.3 At the time of writing this report (17 September 2019) no objections had been received. Members will be provided copies of any relevant objections prior to, or at the committee meeting on 1 October, should any be received.
- 5.4 Please see **Appendix 3** for a copy of the public notice which appeared in the local press on Thursday 5 September 2019 and **Appendix 4** for a photograph of the notice at the premises.
- 5.5 As required by the Act, a copy of the application was sent to the Police. All Councillors were also emailed a redacted copy of the application.

6. KEY CONSIDERATIONS

- 6.1 The council can only refuse the application on the grounds specified in paragraph 12 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, as detailed below:
 - (1) A licence under this Schedule shall not be granted -
 - (a) to a person under the age of 18; or
 - (b) to a person who is for the time being disqualified under paragraph 17(3) below; or
 - (c) to a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
 - (d) to a body corporate which is not incorporated in an EEA state; or
 - (e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
 - (2) Subject to paragraph 27 below, the appropriate authority may refuse -

- (a) an application for the grant or renewal of a licence on one or more of the grounds specified in sub-paragraph (3) below;
- (b) an application for the transfer of a licence on either or both of the grounds specified in paragraphs (a) and (b) of that sub-paragraph.

(3) The grounds mentioned in sub-paragraph (2) above are -

- (a) that the applicant is unsuitable to hold a 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.

(4) Nil may be an appropriate number for the purposes of sub-paragraph (3)(c) above.

(5) In this paragraph 'the relevant locality' means -

- (a) in relation to premises, the locality where they are situated; and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

6.2 Where an authority refuses to grant a licence, the applicant has a right of appeal to the Magistrates court within 21 days, except in certain circumstances.

7. ALTERNATIVE OPTIONS CONSIDERED

7.1 Not determine the application. This would be in breach of the council's constitution and the Local Government (Miscellaneous Provisions) Act 1982 as amended.

8. IMPLICATIONS

Financial Implications

8.1 As the applicant failed to renew within the statutory timeframe, they are required to pay a higher fee, which has been costed to include convening the Licensing Committee to determine the application. At time of application, a renewal fee was £743.00, a new grant fee was £2,575. £1,575 payable on application and £1,000 payable on grant. The applicant has paid £1,575.

Legal Implications

8.2 As outlined in the body of the report.

Equalities Implications

8.3 None identified.

9. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 9.1
 - Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009
 - The Licensing Act 2003

10. APPENDICES

- 10.1
 - 1. Application form (redacted of personal information) from Angels for a new grant SEV licence.

2. Special Conditions for SEV licence
3. Copy of public notice in locally circulating newspaper
4. Photograph of notice at premises