

CITY COUNCIL - 8 JULY 2013

REPORT OF THE CHAIR OF THE LICENSING COMMITTEE

REVIEW OF STATEMENT OF LICENSING POLICY

1 SUMMARY

- 1.1 As a Licensing Authority for the purposes of the Licensing Act 2003 (the Act), the Council is required to produce and publish a Statement of Licensing Policy (the Statement). A new Statement is required to come into force with effect from 7 January 2014 and is required to go through a consultation process prior to its adoption. The proposed draft Statement is attached to this report for approval prior to its release for public consultation (Appendix 1). Details of the method of consultation are also set out in the report.
- 1.2 The purpose of the Statement is to inform those making and considering applications for licences and other notifications under the Act of the Authority's standards and values in promoting the licensing objectives within the framework of the Act and Statutory Guidance issued by the Home Office.
- 1.3 The consultation document also includes consideration and review of the existing City Centre Saturation Zone and Policy and also proposes a new Saturation Zone and Policy to cover parts of the Berridge, Arboretum, and Radford wards.
- 1.4 The Statement was presented to the Licensing Committee on 3 June 2013 which approved its content prior to submission to Council.

2 RECOMMENDATIONS

It is recommended that Council:

- 2.1 approve the release of the draft Statement of Licensing Policy for public consultation.

3 REASONS FOR RECOMMENDATIONS (INCLUDING OUTCOMES OF CONSULTATION)

- 3.1 It is a statutory requirement that a new Statement of Licensing Policy be adopted with effect from 7th January 2014.

- 3.2 It is proposed that the outcome of the consultation, (including any proposed amendments to the Statement,) be reported to Council at its meeting in December 2013 when Council will be required to approve the Statement in order to meet its statutory duties.

4 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 4.1 NONE – statutory requirement.

5 BACKGROUND

- 5.1 The Council is a Licensing Authority for the purpose of the Licensing Act 2003.

- 5.2 Section 5 of the Act requires the Licensing Authority to prepare, consult and publish a Statement. At the time of the adoption of the existing Statement policies had to be reviewed every three years meaning that it is now appropriate to review the document. However, by virtue of the Police Reform & Social Responsibility Act 2012 Statements will now only need to be reviewed every five years. The Statement is in any event kept under review and the Authority may make revisions to it as and when it deems appropriate. The Statement must be published before the Authority carries out any functions in respect of applications or notifications made under the terms of the Act. Approval of the Statement of Policy is not an Executive function and only the Licensing Authority (Full Council) can adopt or review it.

- 5.3 Before determining its Statement, the Authority must consult with:
- The chief officer of police for the Authority's area
 - The fire and rescue authority for that area
 - Each Local Health Board for an area any part of which is in the licensing authority's area,
 - Each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area
 - Such persons as the Authority considers to be representative of holders of premises licences issued by the Authority
 - Such persons as the Authority considers to be representative of holders of club premises certificates issued by the Authority
 - Such persons as the Authority considers to be representative of holders of personal licences issued by the Authority

- Such other persons as the Licensing Authority considers to be representative of businesses and residents in its area.

- 5.4 It is proposed that the consultation should last for a 12 week period.
- 5.5 As with previous Statements there has been liaison with neighbouring Licensing Authorities whilst preparing the draft Statement. The purpose of this is to try and ensure a consistency of approach where possible and appropriate whilst appreciating that each Authority will have its own specific issues and areas which need to be tackled individually.
- 5.6 Most of the policies are similar to those in the current Statement. However the Statement has been revised to bring it up to date with regard to changes in the law and Statutory Guidance. The existing City Centre Saturation Zone and Policy has been reviewed and it is proposed that this Policy be retained. In addition (following receipt of information from Nottinghamshire Police, and Community Protection,) it is proposed that a new Saturation Zone be added relating to off sales within parts of the Berridge, Arboretum and Radford wards. The information provided in support of both Saturation Zones and policies from the Police and Community Protection form background documents to this report and has been made available for inspection in the Members room in the run up to Council. Officers have been consulted internally over the proposed retention of the City Centre Saturation Zone and the Statement “refreshed” accordingly.

6 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY)

- 6.1 The statutory fees levied for the regime are intended to cover the cost of the review of the Statement of Policy.

7 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS, CRIME AND DISORDER ACT IMPLICATIONS AND EQUALITY AND DIVERSITY IMPLICATIONS)

- 7.1 It is a statutory requirement that the draft Statement be the subject of consultation with prescribed bodies and individuals and that thereafter the Statement be approved by full Council to come into effect on 7 January 2014.
- 7.2 The draft Statement has been the subject of legal advice to try to ensure conformity with the relevant legislation and Guidance and that

the policies contained within it are justifiable. As with any Council policy, once adopted it will be open to challenge by way of Judicial Review though it is unlikely that any formal challenge would be made prior to this on the basis of the consultative draft currently before Council.

- 7.2 The most contentious elements of the Statement are likely to relate to the Saturation Zones and Policies. In this respect the Guidance states that there should be an evidential basis for the decision to include such policies within the Statement and that Cumulative Impact (saturation) means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The boundaries for such Zones and Policies therefore need to be considered accordingly.
- 7.3 With regard to the newly proposed Berridge, Arboretum and Radford Zone and Policy some of the information received in support relates to health issues rather than the four licensing objectives of:
- the prevention of crime and disorder
 - the prevention of public nuisance
 - public safety
 - and the protection of children from harm.

Whilst the Home Office has issued a public consultation on the possibility of introducing health as a licensing objective for the purposes of cumulative impact policies only, the results of that consultation and any consequential legislative changes have not been published. Health is not therefore a matter which Council can take into account at this stage. Paragraphs 3-19 and Appendices 1-12 of Melanie Fretwell's statement must therefore be given no weight and should be disregarded when considering whether to include such a policy in the consultation draft Statement. The situation may change by the time that the Statement comes back before Council in December for adoption and Council will be advised appropriately at that time. The remainder of the information and appendices put forward by Ms Fretwell does relate to the licensing objectives and can be taken into account in reaching a decision on this issue.

- 7.4 The draft Statement has been prepared to enable fairness to all parties in relation to Equality & Diversity issues/

8 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED

WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

- 8.1 Evidence in support of retention of City Centre Saturation Zone and Policy and new Berridge, Arboretum, Radford Saturation Zone and Policy:-
- Statement of Sergeant Richard Shaw dated 27 March 2013
 - Item RS/1 – Pub, Club and Off-Licence density in the East Midlands
 - Item RS/2 – Violence- City Division
 - Item RS/3 – Alcohol Report February 2013
 - Statement of Melanie Fretwell dated 23 May 2013 (paragraphs 3-19 disregarded)
 - Appendices 1-12 (disregarded)
 - Appendix 13 - People, Premises, Places Initiative
 - Appendix 14 - e-mail from Trading Standards
 - Appendix 15 - map of DPPO (Hyson Green) boundary
 - Appendix 16 - map of DPPO (City Centre) boundary
 - Appendix 17 - map of proposed DPPO (Berridge, Arboretum, Radford) boundary
 - Appendix 18 – map of City Centre Saturation Zone boundary
 - Appendix 19 - proposed boundary for Berridge, Arboretum, Radford Saturation Zone
 - Appendix 20 – Statement of Sergeant Neil Radford dated 13 May 2013
 - Appendix 21 – Statement of Inspector Robert Wilson dated 15 May 2013 including Crime Pattern Analysis
 - Appendix 22 – Statement of Inspector Gurmit Kaur dated 18 February 2013 including Crime Pattern Analysis
 - Appendix 23 – Map showing density of off licences in Nottingham
 - Appendices 24 – 43 photographs of off licences in the proposed area.

9 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

- 9.1 Licensing Act 2003
- 9.2 Guidance issued under section 182 of the Licensing Act 2003, October 2012.

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