

**REPORT OF LEAD SERVICES DIRECTOR CITY DEVELOPMENT
NOTIFICATION OF APPLICATIONS FOR LICENCE
LICENSING ACT 2003**

1 SUMMARY

- 1.1 This report outlines the options for further notifying local residents who may be affected about an application for a premises licence or club registration certificate.

2 RECOMMENDATIONS

- 2.1 IT IS RECOMMENDED that the Committee notes the report and determines to wait for the outcome of the review of the Guidance accompanying the Act.

3 BACKGROUND

- 3.1 The Government recognised the need for residents that might be affected by application for certain types of licence to be notified that the application had been deposited with the licensing authority. The process used for such notifications was based on that used with the Planning regime and comprises:

- Display of a pale blue notice;
- A4 size paper in font 16 or larger black ink;
- Able to be read from outside the premises;
- Displayed for 28 consecutive days;
- Containing a summary of the nature of the application; and
- A similar notice advertised in a local newspaper circulating in the locality of the premises on one occasion not more than 10 working days after the application is made.

For larger sites the A4 notice must be placed at regular points around the site where it abuts the highway.

- 3.2 Planning Services operating in Nottingham advertise using site notices and postcards to residents and businesses within the locality of application premises. The area identified within which residents and businesses will be notified is varied accordingly to a number of factors including the size of the application premises and its perceived impact on the local community arising from the nature of the activity applied for. A sophisticated bespoke database system is used that incorporates access to the local land and property gazetteer together with the corporate geographical information system to accurately plot the properties to receive notification and to print the labels and postcards. The Licensing Service does not have that facility and its introduction would require an outlay estimated at £5,000 for the basic system plus additional software development to enable sharing of the data and identification system used by Planning which is estimated at a further £5,000. It is understood that such a project would not be able to be commenced until 2007.

- 3.3 On the matter of notification of applications other than by way of the statutory scheme the guidance that accompanies the Act states clearly that any matters an Authority wishes to take beyond the recommended minimum is at the expense of the Authority and if challenged the Authority would need to show good reason for taking that action. Any such challenge would be by way of judicial review. Indications are that relatively few authorities send any additional notification to local residents and businesses following submission of an application. In the few instances where such notifications are made they appear to differ in style eg some detail the basic activities and operating hours proposed whilst other do not. The risk with detailing the application rather than simply notifying that an application has been made is that the application may change as consultation progresses and the final outcome may not fully reflect that described in the application. In addition by carrying out consultation over and above the statutory requirements there is a risk that the Authority may be perceived as seeking to create opposition to applications thereby jeopardizing it's role as arbiter and administrator of the Act. Potentially such action is open to challenge by way of Judicial Review.
- 3.4 The Committee will be aware that the Government has recently commenced a review of the guidance that accompanies the Act. The Authority has been appointed as one of 10 councils that will take part in the review of the guidance and comments have already been submitted to the Government around relevant matters under the guidance including the advertisement of applications. It is expected that the review findings will emerge towards the end of the current year. There is no conclusive information that the present advertising requirement is leading to problems for residents, businesses or applicants although there is a cost of around £200 against the applicant for an advertisement in the Nottingham Evening Post. There is some evidence that in some cases the advertising requirements are not strictly adhered to but the extent of non-compliance and the reasons for it are not known.
- 3.5 Residents and businesses within the locality of the application premises are not required to be provided with a copy of the application by the applicant but may access details about submitted applications via the public register available free of charge during office hours. It is also the intention of the Authority to make access available to the register on line and considerable progress has already been made in this respect. It is anticipated that this facility will be available around the end of the year. Access on line by residents will be an option from any computer connected to the internet including local libraries. The development of any other system of notification would duplicate that currently being progressed and required of applicants by statute.
- 3.6 In addition to the statutory advertising of applications the Licensing Service notify elected members of applications submitted and confirm applications received with the statutory consultees.

4 PROPOSALS

- 4.1 The options open to members around the notification of application for licence to residents and businesses are:
1. Do nothing. Applicants are required by law to advertise their applications as set out above. The facilities for examining the public register are available free of charge and Councillors are already notified and may choose to notify interested parties within the affected area. Toward the end of the year an on line service is expected to operate that will enable both applications to be uploaded and the public register to be examined (at any time) free of charge.

2. Ask officers to prepare a notification service that is along the lines of that used by the Planning Service. Once the system had been developed residents and businesses would receive notification that an application had been made and would be able to examine the detail of the application via the licensing register.

3. Wait for the outcome of the review of guidance. The review outcome is expected toward the end of this year. The Government is expected to give further details about the advertising of applications in the revised guidance or may even change the law; however there is no clear indication of what the changes might be.

5.0 FINANCIAL IMPLICATIONS

5.1 The fees established under the Act that apply to applications cover only those matters that are set out in the Act or the regulations made there under. Any additional services offered by the Authority will fall outside of the fee regime and must be borne by the Authority.

5.2 The estimated cost to introduce the on line application scheme is £23,000 of which £11,000 is yet to be committed from shared services. The development of a further system similar to that used by Planning Services is estimated to be an additional £10,000.

6.0 LEGAL IMPLICATIONS

6.1 These are contained within the body of the report.

7.0 EQUAL OPPORTUNITIES IMPLICATIONS

None.

8.0 STRATEGIC AIMS

Regeneration - Promotion of regeneration and effects on quality of life, citizenship and support for local communities;

Creating a more attractive place to live, work and visit.

Making Nottingham a safer city - Working with communities and partners to reduce crime and fear of crime and promoting community safety;

Maximising leisure and culture - supporting cultural diversity and providing leisure and community facilities;

9.0 BEST VALUE

The Licensing regime is expected to be delivered at no cost to the local Community Tax payer.

10.0 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

NONE.

11.0 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

Guidance issued under section 182 of the Licensing Act 2003.

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