

CAMBRIDGE CITY COUNCIL

REPORT OF: Jas Lally
Head of Refuse and Environment

TO: Licensing Committee

08/10/2012

WARDS: All

OUTCOME OF REVIEW OF STATEMENT OF LICENSING POLICY

1 INTRODUCTION

- 1.1 Section 5 of the Licensing Act 2003 provides that each Licensing Authority must determine and publish its policy with respect to the exercise of its licensing functions. This section further provides that the Licensing Authority must keep its policy under review and make such revisions to it, at such times, as it considers appropriate.
- 1.2 On 25 April 2012, the Licensing Act 2003 was amended by the Police Reform and Social Responsibility Act 2011. These amendments made parts of the Council's current Statement of Licensing Policy incorrect.
- 1.3 On 25 June 2012, the Committee considered a draft Statement of Licensing Policy that had been updated to take account of the amendments to the legislation. The Committee resolved to:
Incorporate those changes to the Statement of Licensing Policy identified in Appendix A as amended and agree to commence the statutory consultation process.
- 1.4 A 12 week consultation process took place between 26 June 2012 and 17 September 2012 and the responses received are set out in Appendix A. These have been considered and where appropriate, incorporated in to the draft policy. The post-consultation draft of the policy is attached to the report as Appendix B.
- 1.5 Any proposed revision to the Statement of Licensing Policy will be referred to full Council for consideration and adoption.

2. **RECOMMENDATIONS**

2.1 Members are recommended:

To endorse the post-consultation draft Statement of Licensing Policy shown in Appendix B and recommend to full Council that the policy is adopted from 25 October 2012.

3. **BACKGROUND**

3.1 On 25 April 2012, the Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 as follows:

3.1.1 The Licensing Authority and Primary Care Trust became responsible authorities;

3.1.2 The vicinity test for those who make a representation was removed and 'interested parties' became 'other persons';

3.1.3 The evidential burden on Licensing Authorities has been reduced, so instead of the Sub-Committee having to take 'necessary steps' to promote the licensing objectives when determining an application, they must now take 'appropriate steps' to promote the licensing objectives;

3.1.4 A Late Temporary Event Notice may now be accepted up to 5 working days prior to the event instead of 10 working days, and the Environmental Protection Team are now a consultee for all Temporary Event Notices received by Cambridge City Council in addition to the Chief Officer of Cambridgeshire Constabulary. The time limits for temporary event notices have also been relaxed such that an event may last for up to 168 hours instead of 96 hours and events may now take place on no more than 21 days in a calendar year, instead of 15 days;

3.1.5 A Premises Licence or Club Premises Certificate must be suspended for non-payment of the statutory annual fee unless the amount payable is disputed, or non-payment is due to an administrative error in which case, a 21 day grace period is provided; and

3.1.6 The Statement of Licensing Policy must now be reviewed at 5 yearly intervals instead of 3 yearly intervals.

3.2 A draft Statement of Licensing Policy that had been updated to reflect the amended legislation was considered by the Licensing Committee on 25 June 2012. The Committee agreed that, subject to a number of amendments, the draft policy should undergo consultation to enable a final policy to be determined.

3.3 The post-consultation draft policy is attached to the report as Appendix B.

4. CONSULTATIONS

4.1 Consultation on the draft policy took place between 26 June 2012 and 17 September 2012 and the responses received are shown in Appendix A.

4.2 The responses refer to a perceived flaw in the legislation, namely the inability to address adequacy when determining applications, which the responder considers is the primary cause of increased violent crime and antisocial behaviour within parts of Cambridge. The Council cannot change primary legislation through local policy and therefore this has not been incorporated in to the policy.

4.3 There is also reference to an omission of a definition of vicinity in the policy. The legislative amendments mean that there is no longer a need for those making representation to live within the vicinity of the premises and the draft policy that was subject to consultation reflected this.

4.3 No changes to the draft policy have therefore been made in light of the consultation responses.

5. OPTIONS

5.1 The Committee may resolve to:

5.1.1 Endorse the post-consultation draft Statement of Licensing Policy shown in Appendix B and recommend to full Council that the policy is adopted from 25 October 2012.

5.1.2 Communicate the changes to the public and to interested groups by use of the Council's website.

6. CONCLUSIONS

6.1 Cambridge City Council has a duty to determine and publish a Statement of Licensing Policy. The amendments made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2011 mean that parts of the policy are incorrect. A revised Statement of Licensing Policy therefore needs to be determined by the Council.

7. IMPLICATIONS

(a) **Financial Implications**

The review of the Statement of Licensing Policy is a statutory function. The cost of consultation will be covered by the fees paid by Licence and Certificate holders.

(b) **Staffing Implications**

Existing staff resources will apply the policy once adopted.

(c) **Equal Opportunities Implications**

This is a statutory policy and it promotes equal opportunities. The policy does not prohibit any person from making an application or objecting to an application where they have a statutory right to do so.

(d) **Environmental Implications**

There are no apparent environmental implications that will result from the adoption of the policy.

(e) **Community Safety**

Cambridge City Council must fulfil its obligations under section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in Cambridge. The policy promotes that fact and states that any decision by the Licensing Authority will be with a view to promoting the licensing objectives (prevention of crime & disorder, ensuring public safety, prevention of public nuisance and protection of children from harm).

APPENDICES

Appendix A

Consultation responses

Appendix B

Post-consultation Draft Statement of Licensing Policy

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

- [Licensing Act 2003](#)
- [Police Reform and Social Responsibility Act 2011](#)
- [Guidance Published by the Secretary of State under section 182 of the Licensing Act 2003](#)
- [Cambridge City Council's Existing Statement of Licensing Policy](#)

The author and contact officer for queries on the report is Yvonne O'Donnell on extension 7956.

Report file:

Date originated: 17 October 2012

Date of last revision: 17 October 2012

Appendix A – Consultation Responses

Date Received	Type of Responder	Response
08/08/12	Member of public	<p>I have reread the document and find weaknesses of the legislation (Act 2003) derive directly from the 'relaxation' which it sought to introduce, a gap between the intent and the reality which determines activities affecting the four licensing objectives and which has led to the identification of three Cumulative Impact Zones, contiguous with the residential areas of Petersfield. After the City Centre, Petersfield (Mill Road) is significantly higher than any other ward, including the Leisure Park. There is a direct correlation between the number of outlets and the levels of Violent Crime and Anti-social Behaviour, as experienced by residents and evidenced in the statistics of the Police statement included.</p> <p>The clear intention to allow the market to decide 'adequacy / need' is a failure to understand the relationship between competition, to maximise profit from sales of alcohol, and the obligations of licensees to deny sale 'to the already inebriated', which underlies levels of anti-social behaviour across the area, just as the omission of a 'definition of vicinity' denies the impact of such sales is, in reality, wider than the immediate locality of business premises involved.</p> <p>Paragraphs 4.2 to 5.3 contain an internal flaw of logic, avoidance of a correlation which has persisted from the time when adequacy was an issue for the Magistracy.</p> <p>Until this is addressed, the direct experience of residents will require the unvarying local setting of priorities to deal with substance abuse, of which the consumption of alcohol is part. While much of this document is concerned with aspects of the night time economy, the reality of a Leisure Society operating 24 hours / Seven Days a Week, street drinking is largely a day time delinquency as great as Binge Drinking by night and more likely to be witnessed by children which the legislation sets out to protect.</p>
06/09/12	Residents Society	<p>Our committee - Highsett House Residents Society - is very much in favour of the four licensing objectives set out in your letter and we were glad to note that you have upheld them in refusing to grant</p>

		extended licensing hours to the new Tesco Express on Hills Road / Glisson Road.
15/9/12	Park Street Residents Association	<p>Section 5. Cumulative impact</p> <p>We note that the Licensing Authority has received representations from Cambridge Police that within the city centre a high concentration of licensed premises has produced a detrimental impact upon the licensing objectives. We therefore welcome the fact that the Authority has, in the draft policy, continued to adopt a special policy relating to cumulative impact for the city centre.</p> <p>We are dismayed to note that, despite the presumption against grant of a licence (or variation of an existing licence), unless relevant representation is received, the application must be granted. This places an unreasonable burden on residents to try and monitor applications for new licences and applications to vary existing licences in the city centre. The notices that are required by law to be displayed are sometimes very hard to spot and on occasion have not been obviously displayed at all.</p> <p>This also applies to decisions about conditions attached to licences (para 8.2) where the draft policy states that the Licensing Authority may only attach conditions to a licence if relevant representations have been received.</p> <p>However we warmly welcome the fact that the Licensing Authority itself has now become a responsible authority and is therefore able to make representations when an application is received. We very much hope that the Authority will take into account the likely effect on local residents of any licence application. Is it too much to ask that local residents be informed when an application for a new licence or for variation of an existing licence is received by the Licensing Authority?</p> <p>We note the statement in para 5.16 that 'Once away from the licensed premises, a minority of consumers will behave badly and unlawfully' and the list of other mechanisms, both within and outside the licensing regime that are available for addressing such issues. However none of them appear to get at what seems to be the root cause of this problem - the existence of a number of vertical drinking establishments whose aim is to get their customers to drink as much</p>

		<p>as possible, as fast as possible for as long as the premises are open.</p> <p>Section 6. Licensing hours</p> <p>We welcome the inclusion of the statement at the end of para 6.1 about the rights of local residents to peace and quiet but doubt if this will ever be achieved while the vertical drinking establishments referred to above continue to operate.</p> <p>Section 10. Licence Reviews</p> <p>We welcome the inclusion of details relating to the review of licenses and agree that such a review, if carried out in a sufficiently rigorous manner, should provide a key protection for the community.</p>
--	--	--