

**1 September 2015**

**Planning and Licensing Committee**

**Licensing Act 2003 – Review of Statement of Licensing Policy**

*Report of: Ashley Culverwell – Head of Borough Health Safety and Localism*

*Wards Affected: All*

*This report is : Public*

## **1. Executive Summary**

- 1.1 The Licensing Act 2003 (as amended) requires that each Licensing Authority must produce a Statement of Licensing Policy in respect of each 5-year period. This report is to request that Members consider the draft Licensing Policy for the period 2016 – 2021 and agree that it should undergo a 12 week consultation. The final adopted policy must be agreed by Ordinary Council and published no later than 31 January 2016.

## **2. Recommendation**

**Members are requested to:**

- 2.1 **That the amendments to the Statement of Licensing Policy, as detailed in this report be approved; and that it go out for consultation; and**
- a) **If no comments are received, that the Policy be forwarded direct to Ordinary Council for adoption; or**
  - b) **If comments are received that these are considered by this Committee on 19th January 2016, and any further amendments as a result of the consultation are agreed prior to the Policy being formally adopted by the Council.**

## **3. Introduction and Background**

- 3.1 Brentwood Borough Council is the Licensing Authority for the Borough of Brentwood as defined under provision of section 3(1) (a) of the Licensing Act 2003 (the Act)
- 3.2 The Act requires that all licensing authorities should issue a Statement of Licensing Policy and that the Policy should be reviewed every 3 years.

However, as a result of the Police Reform & Social Responsibility Act 2011 the term for a full review of the Licensing Policy Statement has been extended from 3 years to 5 years.

- 3.3 The current Policy was adopted in January 2011 and was originally due to be reviewed and re-adopted by January 2014, however, due to the change in legislation highlighted in paragraph 3.2, the Council must now review and re-publish in its updated form by 31 January 2016.
- 3.4 This is the fourth Statement of Licensing Policy to be issued and explains how the Council, acting in its capacity as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that local residents and communities need and expect. It outlines the expectations of the Licensing Authority relating to applicants and details what applicants and service users may expect from the Licensing Authority.
- 3.5 The licensing policy may refer to matters that the Licensing Authority would expect to see addressed in the applicant's operating schedule, where appropriate, in order to ensure that the four licensing objectives (detailed at 3.7 of this report) are met. When assessing applications, the Licensing Authority must be satisfied that the measures proposed in the operating schedule aim to achieve this outcome as far as possible.
- 3.6 It should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 11pm. For this reason, the policy cannot detail all the factors that influence the achievement of the licensing objectives nor can it detail all the control measures that may be appropriate.
- 3.7 In carrying out its functions as the Licensing Authority, the Council must have regard to the four licensing objectives as set out in the Act. These are:
  - The prevention of crime and disorder
  - The prevention of public nuisance
  - Public Safety
  - The Protection of Children from Harm

#### **4. Issues Options and Analysis of Options**

- 4.1 Officers have undertaken a thorough review of the current Policy, taking into account a number of changes to the Act and the latest revised Guidance from the Home Office issued under section 182 of the Act.
- 4.2 Appendix A provides a draft of the proposed consultation document with all proposed changes incorporated, subject to approval.
- 4.3 Some of the key changes since the Licensing Act came into force are:
- Additional Mandatory conditions that are applicable to all alcohol licences
  - Removal of the requirement for some community based premises to operate with a Designated Premises Supervisor (DPS)
  - A simplified process of Minor variations for some changes to a Premises Licence or Club Premises Certificate in cases where the licensing objectives will not be adversely affected
  - The ability for the Police to call for an expedited review of a Premises Licence in cases of serious crime or disorder
  - The discretionary ability for the Council to introduce Early Morning Restriction Orders and/or a Late Night Levy subject to consultation and availability of evidence that it is appropriate to introduce
  - Partial deregulation of live and recorded music (between the hours of 8am and 11pm) on alcohol licensed premises
  - Amendments to the limits and frequency of Temporary Event Notices
  - The ability for 'any other person' to make representation in respect of a premises licence application or to call for a review of a premises licence or club premises certificate
  - Relaxation of the burden of proof during a review or in implementing a cumulative impact policy (CIP)
  - Removal of the requirement to renew a personal licence
- 4.4 The policy must be kept under review and may be updated (subject to consultation) at any time, subject to the maximum 5 year period.

#### **5. Reason for Recommendations**

- 5.1 The Council must fully consult and publish its revised policy through Ordinary Council. Therefore the compulsory consultation must take place in good time to allow for the full recommended 12 weeks and review of any responses received enabling appropriate consideration as to whether it is appropriate to alter the policy in line with those comments.

- 5.2 The Council must have a policy in place, which should reflect as closely as possible, the current law, Secretary of State Guidance and Government Codes of Practice as this ensures that the Council is able to consistently and effectively carry on its function as the Licensing authority.
- 5.3 There are a number of changes and additions to the policy as these reflect the numerous changes over the last five years as the licensing of alcohol, regulated entertainment and late night refreshments under the Act has evolved. These changes are highlighted in red for ease of reference, with all content in black being unchanged from the current policy.

## **6.0 References to Corporate Plan**

- 6.1 The proposals contained within this report link directly to the following priorities of the corporate plan:

### **A prosperous Borough –**

“Safeguarding public safety through a risk based regulation and licensing service.”

### **Street Scene and Environment –**

“Develop effective partnership arrangements so all issues affecting neighbourhoods are delivered in a timely and efficient way”

### **Localism –**

Encourage local businesses to invest directly in Brentwood’s communities”

## **7. Consultation**

- 7.1 Consultation is required under provision of section 5(3) of the Act, which specifies a number of statutory consultees. These are:
- The Chief Officer of Police for the Licensing Authority area
  - The Fire and Rescue Authority for that area
  - The Director of Public Health (formally Primary Care Trust)
  - Such persons as the Licensing Authority considers to be representative of holders of Premises Licences issued by that Authority
  - Such persons as the Licensing Authority considers to be representative of holders of Club Premises Certificates issued by that Authority
  - Such persons as the Licensing Authority considers to be representative of holders of Personal Licences issued by that Authority
  - Such other persons as the Licensing Authority considers to be representative of businesses and residents in its area

7.2 The full list of consultees relating to the requirements of section 5(3) of the Act is listed in annex E of the existing policy in Appendix A of this report.

7.3 In addition, the consultation will be published on the Council website

## **8. Implications**

### **Financial Implications**

**Name & Title:** Christopher Leslie, Finance Director

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8.1 Any incidental costs of the consultation will be met from existing budgets.

### **Legal Implications – Monitoring Officer Comment**

**Name & Title:** Christopher Potter, Monitoring Officer and Head of Support Services

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8.2 The Council is required to review its Statement of Licensing Policy every five years in accordance with Section 5(1) of the Licensing Act 2003 and to widely consult on that review with responsible authorities and other prescribed parties. Best practice is that consultations should run for a period of 12 weeks.

The Council has to have its Statement of Licensing Policy agreed, published and in place by the 31 January 2016. Failure to meet this deadline would mean that the Council would be acting ultra vires in respect of any application made under the Licensing Act 2003 submitted after that date.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

There are no significant implications arising from agreement to the recommendations of this report.

**9. Appendices to this report**

Appendix A - Draft statement of Licensing Policy

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