

REPORT TO LICENSING COMMITTEE

Date of Meeting: 3 February 2015

Report of: Assistant Director Environment

Title: Responses to the consultation relating to the Licensing Act 2003 Statement of Licensing Policy

Is this a Key Decision?

Yes

Is this an Executive or Council Function?

Council Function

1. What is the report about?

- 1.1. Exeter City Council's current Statement of Licensing policy was written in 2010 and came into effect in January 2011. There is a legal requirement to review such policy statements every five years. The current policy must be reviewed by 2016, a consultation commenced in September 2014 and concluded on the 12 December 2014. It is the responses to the consultation that is the subject of this report.

2. Recommendations:

- 2.1. This policy document (circulated) has been amended from the original draft to accommodate the responses received; these have been compiled into the schedule attached (Appendix 1), together with the response of the Assistant Director Environment identified to assist the Licensing Committee. There are two areas that need Licensing Committee consideration and these are:
 - Item 11 that is seeking to retain the special policy relating to the cumulative impact of premises;
 - Item 14 which it is recommended to reject as it seeks to impose a tighter restriction on the opening times for new alcohol-led premises suggesting that opening times should be limited to 02:00 on each night rather than the 02:30 closing time circulated in the consultation document. Further consultation would be required if the proposal to bring the closing times back to 02:00 were to be agreed as an option.

3. Reasons for the recommendation:

- 3.1. The Licensing Authority must determine and publish a statement of Licensing Policy in order to determine applications for the grant of new licenses and variations to existing licenses. For this reason the current policy must be adopted by Council. The Licensing Authority is under a duty to keep its policy under review and make such revisions as it considers appropriate during each five-year period.
- 3.2. In order to be sure that the Policy is adopted it will need to be considered by the Executive Committee on the 17 March 2015 and by Council on the 21 April 2015.

4. What are the resource implications including non financial resources.

- 4.1. The legislative changes and proposed changes to policy do not give rise to any additional resource implications nor have any revenue impact.

- 4.2. There are no reductions, restructuring and/or redundancy implications as the key changes identified in this report do not give rise to any additional resource requirements as changes are to existing processes. However, in delivering the changed requirements there may be some training implications for existing staff.

5. Section 151 Officer comments:

- 5.1. There are no cost implications to the Council in adopting this revised policy.

6. What are the legal aspects?

- 6.1. Section 5 of the Licensing Act 2003, the Council as Licensing Authority is duty bound to adopt such Statement of Licensing Policy. As with all policies produced by the Council, it is necessary for it to be reasonable and workable in order to avoid any legal challenge by third parties. Failure to adopt a policy in the prescribed timescale may lead to challenges that would be very difficult to defend.

7. Monitoring Officer's comments:

- 7.1. The monitoring officer will advise the committee accordingly at the meeting.

8. Report details:

- 8.1. Section 5 of the Licensing Act 2003 ("the LA03") formally required that the Licensing Authority had to prepare and publish a statement of its licensing policy ("the Policy") every three years, but changes made to the LA03 by the Police Reform and Social Responsibility Act 2011 in April 2012 extended this period to every five years.
- 8.2. The Statement of Licensing Policy now incorporates the vast majority of the outcomes of the member working groups that took place between October 2013 and March 2014 which were outlined in a report to the Licensing Committee on 23 May 2014.
- 8.3. The proposed Licensing Policy addresses the Council's desire to promote a vibrant night time economy with a rich mix of entertainment and activity which is welcoming, clean and safe and that accommodates a wide range of tastes of a diverse population. Officers, the Police and other partner organisations are concerned with regard to the proliferation of licensed premises concentrated in particular areas and the impact they may have in any given neighbourhood.
- 8.4. A comprehensive Pool of Conditions that can be used by the Licensing Committee, responsible authorities and applicants can be found at Appendix 2 of the policy.
- 8.5. Part of the consultation sought considerations of the Cumulative Impact Policy, so that its impact is clearer and more accessible to both applicants and responsible authorities. To address this matter the police have submitted documents that support the continuation of the special policy in the area that has been identified previously.

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1. Formulating a licensing policy that recognises the key outcomes of the Members working groups will contribute to a healthy and safe city, and lend support to a

vibrant, business friendly night-time economy that is welcoming to a wider range of citizens.

10. What risks are there and how can they be reduced?

10.1. There are risks that a poorly drafted policy that is neither proportionate nor reasonable, nor is inadequately consulted upon, may give rise to legal challenge. These risks have been minimised by ensuring appropriate consultation has taken place, the responses accepted where they add to the policy, those that may give rise to challenges rejected (primarily because the proposals are not legal) and by giving due regard to the reasonableness and proportionality of policy tools.

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

11.1. Formulating a licensing policy that recognises the key aims of the Council, responsible authorities and other stakeholders should make a positive impact on creating a vibrant city to live, work and visit.

12. Are there any other options?

12.1. The current policy must be reviewed and an updated policy statement produced by 2016.

Assistant Director Environment

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

The Licensing Act 2003.

The Police Reform and Social Responsibility Act 2011.

SI No. 1129 (C.38) / 2012 *The Police Reform and Social Responsibility Act 2011 (Commencement No. 5) Order 2012.*

Guidance issued under Section 182 of the Licensing Act 2003.

Report to Licensing & Regulatory Committee, 28th May 2012 – *Changes to the Licensing Act 2003.*

Existing Statement of Licensing Policy.

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