

COUNCIL

9TH DECEMBER 2015

APPROVAL OF THE STATEMENT OF LICENSING ACT POLICY 2016-2021

Kevin Parkes

Executive Director Economic Development and Communities

PURPOSE OF THE REPORT

1. To seek Council approval for the Statement of Licensing Act Policy 2016-2021 and for the policy statement to be reviewed by June 2017 to align with related Council and multi-agency strategies and policies currently being developed.

BACKGROUND

2. The Licensing Act 2003 came into force on 24 November 2005. It established a single integrated scheme for the supply of alcohol, the provision of regulated entertainment and late night refreshment. Permission to carry on some or all of these functions is contained in a “premises licence” and “personal licences” are required relating to the supply of alcohol. As part of the application process, applicants are required to submit an operating schedule to the Licensing Authority (Local Authority) which addresses the four licensing objectives of:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm.
3. The Licensing Act 2003 requires the Licensing Authority to set down its policy in relation to exercising licensing functions and to publish a Licensing Policy Statement. The first Licensing Policy Statement for Middlesbrough was published in January 2005. The Act requires the Licensing Authority to review its policy every five years (previously every three years). The proposed policy for 2016-2021 is required to be reviewed, consulted on, and approved by full Council by 7th January 2016.

4. The Statement of Licensing Policy will be reviewed by June 2017 in line with developments in related Council and multi-agency strategies and policies such as alcohol strategy, safeguarding vulnerable children and adults, events management, town centre objectives, economic regeneration plans, community safety, NHS, Police, Police and Crime Commissioner and health and well-being. The review will be carried out in line with the requirements of the Licensing Act 2003.

The Statement of Licensing Policy 2016-2021.

General Changes to the previous Statement of Licensing Policy

5. The general format of the new Licensing Policy 2016-2021 has been amended and restructured to produce a policy which is more accessible to the wide target audience. This Policy is used by Licensing Sub Committee in their decision making, and also by the licensed trade, local businesses and the general public in making their applications, therefore a suitable format is required for all uses.
6. Since the last review of the Middlesbrough's Licensing Policy in 2011, there have been a series of amendments to Licensing legislation. These include a range of deregulation measures e.g. in relation to the regulation of certain types of entertainment and lower risk premises and additional powers/procedures such as the Early Morning Restriction Order, Late Night Levy and the addition of Health as a Responsible Authority. Middlesbrough's Statement of Licensing Policy has been amended accordingly to incorporate the legislative changes and also to include local alcohol related health data.

Specific changes to the previous Statement of Licensing Policy

7. The previous three Licensing Policies have taken a general approach to policies and conditions and premises matters are dealt with on an individual basis. It is the Licensing Authority's intention to maintain this approach, however there have been some key emerging issues in Middlesbrough in relation to licensing functions. Some of these matters have been dealt with through conditions imposed through licensing reviews and also through developed good practice. The 2016 – 2021 Policy has included some of these examples under each of the licensing objectives. These are included to assist and encourage applicants to consider and include these in their applications.

Cumulative Impact Policies (CIP)

12. The Licensing Authority can have a Cumulative Impact Policy in place for a geographical location where the concentration of licensed premises is having a negative impact of the promotion of the licensing objectives, primarily that of crime and disorder and public safety. There are two Cumulative Impact Policies in the Licensing Policy 2016-21.

Town Centre Area Licensed Premises

13. It is proposed to maintain a Cumulative Impact Policy in relation to a specified area of the town centre which is shown in Appendix 6 to the Policy. This CIP has been in place since 2005 and it relates to the density of licensed premises in the town centre area. It is considered that the concentration of licensed premises is having a

negative impact of the promotion of the licensing objectives, primarily that of crime and disorder and public safety. 27 % of all takeaways and 29% of all pubs/clubs are concentrated in this small area of the town. Cleveland Police crime and anti-social behaviour figures support this Policy:

- In 2014 there were 715 crimes recorded in the Cumulative Impact area accounting for 13.2% of the Local Policing Area.
- Public Order offences within this zone accounted for 26% of the LPA total.
- 329 (46% of offences in the CI area) are associated with licensed premises and takeaways in this area.

14. In this area applications for the following licences, if they are likely to add to the existing cumulative impact, would normally be refused, if relevant representations are made:

- new premises licences for the sale of alcohol on the premises or club premises certificates
- material variations to existing on licence premises or club premises certificates
- applications for new premises, seeking to provide a licence for hot food between 11pm and 5am where the food is purchased to takeaway from the premises and variation to extend the hours of such sales.

15. In practical terms, any fears about a CIP sending negative messages and discouraging development in the town centre have not materialised. Some applications have been discouraged, but applications which were considered not to have a negative impact have been granted. It is considered that the Cumulative Impact Policy has encouraged a higher standard of premises management and a diversification in the type of premises with a different “offer” in the town centre.

Cumulative Impact Policy for Off Licence Premises.

16. A second CIP for off licence premises in targeted wards has been included in the 2016/2021 Licensing Policy. This is a new policy area. Since 2005, it has become apparent that the number of off licence premises in Middlesbrough has significantly increased. In 2005 there were 94 off licence premises and in November 2015 there were 141. It has become clear that some small retail premises, some with a very different primary retail offer, e.g. Post Offices, newsagents have extended into a wider remit to selling alcohol. Alcohol sold from off licences can be considerably cheaper than on licence sales – it is being sold as cheaply as 13p/unit.

17. The evidence shows that the wards of Central, Newport, Park, Longlands and Beechwood and North Ormesby have the highest level of crime and antisocial behaviour, the highest number of off licence premises and alcohol attributable hospital admissions. These wards account for:

- 43% of alcohol attributable admissions to James Cook University Hospital
- 61% of all crime and disorder
- 53% of antisocial behaviour
- 63% of off licence premises.

18. A Cumulative Impact Policy in relation to off licence premises has been applied to the wards of Central, Newport, Park, Longlands and Beechwood and North Ormesby. As with the Town Centre CIP, the same principle is applied. Applications for off licence applications will be considered on an individual basis and if representations are made, those which demonstrate that they will not add to the cumulative impact will be granted. It is considered that that this CIP will also encourage a high standard of management and retailing in off licence premises.
19. In response to an increase in under 18 aged events being held in licensed premises in Middlesbrough , the Guidance in relation to this matter has been attached as an Appendix to the Policy to provide clarity to premises licence holders in providing such events. “Guidance for the protection of young people under 18 years of age who attend events at licensed premises” is included as an appendix in the policy.

Licensed Premises in Middlesbrough

20. The structure and type of licensed premises in Middlesbrough (November 2015) is shown in the table below:

Type of Licensed Premises	Number of Premises (June 2015)
Church hall	8
Club	28
Community Centre	14
Educational Establishment	7
Hotel/Guest House	7
Off Licences	141
Open Spaces	2
Other	17
Public House/ Nightclub	109
Restaurant	46
Takeaway	99
Total	478

21. Since the implementation of the Licensing Act in 2003 and the publication of the first Licensing Policy there have been some changes to the structure of licensed premises in the town:
- A reduction in the number of large vertical drinking style premises in the town centre.
 - Many public houses have taken advantage of the extended opening hours and allow dancing in their premises, in effect replacing the large “night club” style premises.
 - An increase in the number of restaurants in the town centre.
 - Diversification in the types of licensed premises in the town centre and development of a variety of night time hubs such as Baker Street,

Southfield Road, the Campus Heart and the established Wilson Street/Albert Road location.

- An increase in off licence premises across the town. Many retailers have extended their offer to include the sale of alcohol. Alcohol is now more available and being sold at a cheaper price than in 2005, emphasising the importance of responsible retailing and a robust licensing scheme.

22. The proposed Statement of Licensing Policy 2016-2021 aims to continue to support the development of a vibrant and safe night time economy, within the remit of the licensing objectives.

Regulation of Licensed Premises

23. Licensing Officers inspect licensed premises on a risk basis, working closely with Cleveland Police Licensing Officers. From January 2011 to June 2015, Middlesbrough Council has carried out 663 inspections of licensed premises to check compliance with the Licensing Act. In general, officers find high levels of compliance premises licence conditions, with only minor issues of non compliance.

24. When problems arise in a licensed premises, the Licensing Act provides a process for reviewing licences which can be an effective means to deal with licensed premises. Reviews are instigated by Responsible Authorities (Police, Trading Standards, Environmental Health, Health and Safety, Planning and the Fire Authority) and are made relation to the premises upholding the licensing objectives. Licensing Sub-Committees hear Review applications and have imposed a range of highly effective conditions specific to the issues in question.

25. These conditions have set a standard for other licensed premises and some of this best practice has been incorporated into the new policy. In some cases, Licensing Sub-Committee have revoked premises licences. In the period of the last Licensing Policy:

- 17 review applications were referred to the Licensing Committee resulting in 4 licence revocations, 1 suspension and 8 licences where additional conditions were added.
- 43 applications for premises licences/variations have been referred to the Licensing Committee of which 16 were refused.
- 18 convictions/cautions have been issued for offences including breach of licence conditions, underage sales, selling alcohol after hours and trading without a licence.

The appeal against any licence revocation is through the Magistrates Court.

Consultation

26. A six week period of consultation was carried out with those who may be affected by or otherwise have an interest in the Licensing Policy, in accordance with the statutory requirements. Details of the consultees are shown in the Policy.

27. Two written responses were received from the following during this consultation period:

- A Legal Firm specialising in Licensing law. They asked for further clarification and the evidence in relation to the off licence cumulative Impact Policy. After consideration of the further requested information no objection was raised.
- Coulby Newham Community Council. They questioned the process for consulting on premises licence applications, relating to a specific application. They also requested that a Cumulative Impact Policy be considered for Coulby Newham. A response has been provided to them in relation to these matters. Consultation on premises applications is already included in the Policy (section 3.14). A Cumulative Impact Policy could not be considered for the Coulby Newham Ward as there are a relative small number of off licence premises (6) in this area and crime and disorder incidents. Therefore, the density of licensed premises is not contributing negatively to the licensing objectives. No further r amendment is required.

IMPACT ASSESSMENT

21. An initial Impact Assessment has been carried out and no negative or adverse impacts have been identified .

OPTION APPRAISAL/RISK ASSESSMENT.

22. The Licensing Policy is a requirement of the Licensing Act 2003 to ensure legal compliance for the Council in assessing applications and other processes under this legislation. The Licensing Policy must be ratified by full Council and is required to be fully adopted by 7th January 2016.
23. If the Authority choose not to review its Licensing Policy this would be a breach of statutory duty and is therefore this cannot be considered as an option.

FINANCIAL/LEGAL AND WARD IMPLICATIONS

24. There are no financial implications for the consultation and review of the Licensing Policy. The annual fee levels paid by licensed premises are set by the Secretary of State to provide for full cost recovery of all licensing functions including the preparation and publication of the Licensing Policy Statement.
25. All wards are likely to be affected by the proposal as licensed establishments are widely dispersed throughout the town in both commercial and residential areas. There are specific Wards which are affected by Cumulative Impact Policies.
26. The Licensing Act 2003 requires Licensing Authorities to review their Licensing Policy Statement every five years, and to assess whether it is necessary to publish a new policy. The proposed changes to Middlesbrough's Licensing Policy Statement are sufficient to require republication and a period of consultation has been undertaken with the required statutory bodies. The Licensing Policy must be in place by 7th January 2016 to ensure legal compliance and to allow for the Council to assess applications and other processes under the Licensing Act 2003.

The Licensing Policy must be ratified by full Council in order to be fully adopted by 7th January 2016.

RECOMMENDATION

27. It is proposed that the Licensing Policy Statement 2016-21 is approved by Council and for the policy statement to be reviewed by June 2017 to align with developments in the related Council and multi-agency strategies and policies.

REASONS

28. Licensing Authorities are required to review their Licensing Policy Statement every five years. Middlesbrough's Licensing Policy 2016-21 must be in place by 7th January 2016 to ensure legal compliance and to allow for the Council to assess applications and other processes under the Licensing Act 2003. The Licensing Policy must be ratified by full Council in order to be fully adopted by 7th January 2016.

BACKGROUND PAPERS

29. None.

Contact:

Judith Hedgley – Environmental Health and Trading Standards Manager,
Tim Hodgkinson – Licensing manager, Middlesbrough Council
728215