

CABINET MEETING – 17 NOVEMBER 2020

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

Licensing Act 2003 – Approval of the Council’s Statement of Licensing Policy

Author(s):

Executive Director of Neighbourhoods

Purpose of Report:

To brief the Cabinet upon the responsibility of the Council with regard to the publishing of a Statement of Licensing Policy under the Licensing Act 2003

Description of Decision:

To recommend to Council that the existing Statement of Licensing Policy be rolled forward as from and including the 7th January, 2021 to the 6th January, 2026, with a review of the Licensing Policy being undertaken as and when deemed appropriate to do so within the stated five year period.

Is the decision consistent with the Budget/Policy Framework? *Yes

If not, Council approval is required to change the Budget/Policy Framework

Suggested reason(s) for Decision:

To enable the Council to comply with the statutory obligation to publish a Statement of Licensing Policy.

Alternative options to be considered and recommended to be rejected:

None

Impacts analysed;

Equality Privacy Sustainability Crime and Disorder

Is the Decision consistent with the Council’s co-operative values? Yes

Is this a “Key Decision” as defined in the Constitution? Yes

Is it included in the 28 day Notice of Decisions? Yes

CABINET – 17 NOVEMBER 2020

LICENSING ACT 2003 – APPROVAL OF THE COUNCIL’S STATEMENT OF LICENSING POLICY

REPORT OF THE EXECUTIVE DIRECTOR OF NEIGHBOURHOODS

1.0 Purpose of Report

- 1.1 To brief the Cabinet upon the responsibility of the Council with regard to the publishing of a Statement of Licensing Policy under the Licensing Act 2003, (“the Act”).

2.0 Description of Decision/Recommendations

- 2.1 To recommend to Council that the existing Statement of Licensing Policy be rolled forward as from and including the 7th January, 2021 to the 6th January, 2026, with a review of the Licensing Policy being undertaken as and when deemed appropriate to do so within the stated five year period.

3.0 Introduction/Background

- 3.1 Section 5 of the Act requires all Licensing Authorities to prepare and publish a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act. Such Statements are to apply across a stated five year period. Pursuant to the Act, the Council’s Licensing Policy is required to be approved by Council. The Licensing Policy is considered when the Council exercises its functions under the Licensing Act 2003.
- 3.2 The Council’s current Licensing Policy was agreed by Council at its Meeting of the 25th November 2015 and was subsequently published. It took effect on the 7th January 2016 and was to have application up to and including the 6th January 2021. A copy of this document is attached at Appendix 1. During each five year period the Council is required to keep its Licensing Policy in respect of the relevant five year period under review and to make such revisions as it considers to be appropriate.
- 3.3 The Council’s current Licensing Policy should have been subject to review during 2020, with a revised document potentially having application as from and including the 7th January 2021. The review process requires a consultation process to be followed. Section 5(3) of the Act sets out the required consultees. As to the Council, these translate as to the following :-
- (i) Northumbria Police;
 - (ii) Tyne and Wear Fire and Rescue Service;
 - (iii) Local Authority Director of Public Health;
 - (iv) Representatives of the licensing trade and members’ clubs;
 - (v) Local businesses and their representatives; and
 - (vi) Local residents and their representatives.

- 3.4 Under Section 5A of the Act the Council may publish a Cumulative Impact Assessment, ("CIA"), to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number, or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives.
- 3.5 On the 19th September, 2018, following a consultation exercise, the Council approved proposals for the implementation of a CIA in respect of the following areas :-
- The City Centre and East End, ie. parts of the Hendon, Millfield and St Michael's Wards;
 - Millfield and Pallion, ie. parts of these Ward;
 - Hendon, ie. parts of the Hendon and St Michael's Wards;
 - Southwick;
 - Shiney Row;
 - Washington North; and
 - Hetton, ie. parts of the Copt Hill and Hetton Wards.
- 3.6 Also, under Section 5A of the Act, after publishing a CIA the Council must, within three years, consider whether it remains of the opinion set out in the assessment. As the Council's CIA was published in September 2018, this document is required to be reviewed no later than September 2021. It is intended that Officers will commence the preparatory work to review the CIA in early 2021 subject to the prevailing conditions at the time.

4.0 Current Position

- 4.1 According to the statutory procedure set out in Section 5 of the Act, the Council is required to undertake a review of its Licensing Policy, publish its revised Licensing Policy and for it to be in force from the 7th January 2021.
- 4.2 As to the current Licensing Policy, which was reviewed in 2015, in the first instance Officers presented a Report to the Licensing Committee in July 2015 inviting Members to approve arrangements for consultation on a revised draft Policy Statement. Following the consultation exercise the final draft was approved by Council on the 25th November 2015. As stated above, the current Licensing Policy was subsequently published and had effect from the 7th January 2016 in line with the statutory procedure.
- 4.3 In preparation of a review of the current Licensing Policy, Officers had planned to administer the process following a procedure similar to that applied in 2015. Officers had intended to prepare a revised draft in readiness to present it to the Licensing and Regulatory Committee by June 2020. Unfortunately, for the reasons explained below, the Council is not in a position to undertake a full review of its Licensing Policy.
- 4.4 The intended review work has not been possible due to the extreme difficulties that have been caused by the existing Coronavirus Pandemic. This has included the closure of all 'On' licensed premises for an extensive period across late March 2020 to the 3rd July 2020. Such licensed premises have had to implement Covid-secure requirements which have had a

resultant impact on how they trade and operations. Restrictions and requirements relating to licensed premises have changed frequently in recent months due to the introduction of guidance and new legislation aimed at mitigating the public health risks posed by Coronavirus, including the reduced hours of trading and a resultant loss in income. This has culminated in an unprecedented impact on the hospitality trade which is ongoing. The impact of the Coronavirus Pandemic will take licensed premises a significant period to potentially recover. In the event of further lockdown measures being implemented, this impact may increase. Given the prevailing circumstances, it has not been, nor is it currently considered an appropriate time to consult with the industry regarding the Council's Licensing Policy to any meaningful degree.

- 4.5 There has also been some uncertainty on the part of Councils, who are Licensing Authorities, about whether the Government would issue a dispensation to allow councils to delay their policy reviews until an appropriate time, perhaps in early 2021, once the difficulties posed by the current Coronavirus Pandemic have reduced. In recent months, the Local Government Association has also been actively pursuing with the Home Office the issue of postponing reviews because of the difficulties faced by both councils and licensed businesses as a result of the Coronavirus Pandemic.
- 4.6 On the 9th October 2020 the Council was made aware of a letter dated the 1st October 2020 sent by the Right Honourable Kit Malthouse MP, Minister of State for Crime and Policing, to the Leaders of Westminster, Birmingham, Leeds and Manchester City Councils. A copy of this letter is attached at Appendix 2. The Minister's letter is in response to requests made by the said Councils for a two year pause of the statutory requirements to review Statements of Licensing Policy and CIAs.
- 4.7 As Members will note, in his letter the Minister has stated that there are currently no provisions to alter the statutory timeframe for undertaking five-yearly reviews of Statements of Licensing Policy. As to how Councils can look to meet their statutory obligations in this regard the Minister suggested the following, :-
- “In particular, when consulting on your statement of licensing policy, you could consider if it would be appropriate to undertake the statutory consultation on the basis that you propose to roll forward your existing statement of licensing policy in its current form and consider any representations that you receive in response. As you know, statements of licensing policy last for a maximum of five years but you are required to keep your statement under review during that period, and to make revisions if appropriate before that period has expired. You may, therefore, want to consider committing to a further review when it is feasible to do so after the pandemic has passed”.*
- 4.8 Having regard for the above information provided by the Minister of State for Crime and Policing, a report concerning a review of the Statement of Licensing Policy was referred to the Licensing and Regulatory Committee on 26th October 2020. In order to ensure that the Council may be in a position to undertake a review of its Statement of Licensing Policy and subsequently publish its revised Licensing Policy by 7th January 2021 in accordance with

the statutory timescale, at the above meeting the Licensing and Regulatory Committee approved recommendations as follows:-

- (a) A period of consultation is commenced with the relevant stakeholders as set out within the Report to obtain comments on the proposal that the existing Statement of Licensing Policy be rolled forward as from and including from the 7th January, 2021 to the 6th January, 2026, with a review of the Licensing Policy being undertaken as and when deemed appropriate to do so within the stated five year period;
- (b) The period of consultation commences on the 19th October, 2020 until 5pm on the 2nd November, 2020; and
- (c) Recommend to Council that the existing Statement of Licensing Policy be rolled forward as from and including the 7th January, 2021 to the 6th January, 2026, with a review of the Licensing Policy being undertaken as and when deemed appropriate to do so within the stated five year period.

4.9 As the period for the proposed consultation set out in (b) above was due to commence on 19th October 2020, one week prior to the Licensing and Regulatory Committee's scheduled meeting, it was necessary for officers to consult with Committee's Chair, Councillor Fletcher and the Cabinet Portfolio Holder, the Leader to seek their approval of these arrangements. Such approval was provided, and the arrangements having been endorsed by the Licensing and Regulatory Committee, consultation on the review of the Statement of Licensing Policy commenced on 19th October 2020 for the period to 5.00pm on 2nd November 2020.

4.10 A report regarding the review of the Statement of Licensing Policy was subsequently considered by the Economic Prosperity Scrutiny Committee on 3rd November 2020. At that meeting the Committee was recommended to:-

- (a) Support the proposed arrangements for the roll forward of the existing Statement of Licensing Policy; and
- (b) Provide its comments to Cabinet on the responses to the consultation.

4.11 At the above meeting, having considered the report together with the responses to the consultation, the Scrutiny Committee agreed to support the proposed arrangements for the roll forward of the existing Statement of Licensing Policy, and also noted that the respondents to the consultation had stated that they are in agreement with such approach.

4.12 Subject to the intended approach being approved, when the review is undertaken and the new Licensing Policy is determined following the required consultation and subsequent approval by Council, once published it could have application for five years from when it is determined to have effect. The intention is that a further substantive review would take place before the 7th January 2026 the timing of such review would depend upon the prevailing circumstances, including the position regarding the Coronavirus Pandemic. For the avoidance of any doubt, the review will be undertaken as soon as reasonably possible.

5.0 Reasons for Decision

5.1 To facilitate compliance with the requirements of the Licensing Act 2003 and to ensure that the Council continues to have a Licensing Policy in place as

from and including the 7th January 2021. The review will be undertaken as soon as reasonably possible.

6.0 Alternative Options

- 6.1 There are no alternative options available open to the Council which are considered appropriate. The rolling forward of the Council's existing Statement of Licensing Policy as set out in the Report is the only appropriate option available.

7.0 Impact Analysis

- 7.1 **Equalities** – No impact
- 7.2 **Privacy Impact Assessment** – No Impact
- 7.3 **Sustainability** - The Statement of Licensing Policy is intended to assist responsible businesses and to minimise the environmental impact of non-complaint businesses, eg, with regard to noise pollution.
- 7.4 **Reduction of Crime and Disorder** – One of the objectives of the Licensing Act is the prevention of crime and disorder and this is addressed through the Statement of Licensing Policy.

8.0 Other Relevant Considerations/Consultations

- 8.1 **Financial Implications** – There are no direct financial implications from publishing the policy. The Council's role in ensuring compliance with the policy will be met from its annual revenue budget provision.
- 8.2 **Legal Implications** – It is a legal requirement under Section 5 of the Licensing Act for all Licensing Authorities to prepare and publish a Statement of Licensing Policy they propose to apply in exercising their functions under that Act. The Statement of Licensing Policy lasts for a specified five year period however should be reviewed as appropriate during that five year period. Pursuant to the Licensing Act 2003, the Council's Statement of Licensing Policy is required to be approved by Council. The Council's current Statement of Licensing Policy was agreed by Council at its Meeting of the 25th November 2015, was subsequently published and took effect on the 7th January 2016. The Council is therefore legally required to undertake a review of its Licensing Policy, publish its revised Licensing Policy and for it to be in force from the 7th January 2021. The recommendation to Council set out in this Report for the existing Statement of Licensing Policy to be rolled forward as from and including the 7th January, 2021 to the 6th January, 2026, with a review of the Licensing Policy being undertaken as and when deemed appropriate to do so within that stated five year period ensures that the Council as a Licensing Authority is complying with its legal obligations under the Licensing Act 2003.
- 8.3 **The Public /External Bodies** – Statutory consultees have been consulted.

9.0 List of Appendices

- 9.1 Appendix 1: The Council's Licensing Act 2003 Statement of Licensing Policy;
and
- 9.2 Appendix 2: Copy of letter from the Right Honourable Kit Malthouse, MP,
Minister of State for Crime and Policing.

10.0 Background Papers

- 10.1 None.