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MUNICIPAL YEAR 2014/2015 - REPORT NO.

MEETING TITLE AND DATE

Licensing Committee
19 November 2014

REPORT OF:

Director of Regeneration &
Environment
Mark Galvayne
020 8379 4743
mark.galvayne@enfield.gov.uk

Agenda - Part: 1	Item: 4
Subject: Licensing Act 2003 - Enfield's Policy	
Wards: All	
Cabinet Member consulted: Cllr. Chris Bond	

1. EXECUTIVE SUMMARY

- 1.1 To consider the responses to the public consultation on the Council's Licensing Policy Statement and to approve policy recommendations for adoption by Council.

2. RECOMMENDATIONS

- 2.1 To approve the continuance of the Cumulative Impact Policy within the Council's Licensing Policy Statement under the Licensing Act 2003.
- 2.2 To approve the retention of the four Cumulative Impact Policy areas.
- 2.3 To approve the retention of the midnight terminal hour for restaurants, take-aways, plays, films and indoor sports within the Cumulative Impact Policy areas.
- 2.4 To approve the extension of the terminal hour for pubs/bars, off licences & music and/or dancing within the Cumulative Impact Policy areas from 11pm to midnight.
- 2.5 To approve the removal of Section 15 (Olympics & Paralympics) from the Licensing Policy Statement.

3. THE CONSULTATION AND ITS RESULTS

- 3.1 On 1 April 2012 full Council approved a Cumulative Impact Policy ('CIP'). This policy was inserted into our Licensing Policy Statement without otherwise amending the extant policy.
- 3.2 The current 4th Edition of Licensing Policy Statement is attached as Annex A.
- 3.3 A 5th Edition of our Licensing Policy Statement must be approved by full Council by/in January 2015.
- 3.4 On 9 July 2014 the Licensing Committee recommended that the Council did not consult specifically on removing the Enfield Town CIP area, or on extending core hours in the CIP areas to either midnight or 1am, but did consult on the Licensing Policy Statement using broad questions. The Committee further recommended that the public consultation period be extended to 31 October 2014.
- 3.5 Accordingly, between 8 August and 31 October 2014 (twelve weeks) a borough-wide public consultation, using broad questions on the Licensing Policy Statement, was conducted.
- 3.6 Consultation letters/emails were sent to 956 recipients, as follows:
 - 3.6.1 Letters were sent to 790 Licensed Premises;
 - 3.6.2 Letters were sent to 76 Residents Associations;
 - 3.6.3 Emails were sent to 63 Members; &
 - 3.6.4 Emails were sent to 27 Responsible Authorities and other persons.
- 3.7 We received 27 responses to the consultation, which is a 2.8% return.
- 3.8 The responses may be summarised as:
 - 3.8.1 90% of respondents want to retain the 4 CIP Areas.
 - 3.8.2 56% of respondents want to retain an 11pm terminal hour in the CIP areas for pubs/bars, off licences & music and/or dancing.
 - 3.8.3 75% of respondents want to retain a midnight terminal hour in the CIP areas for restaurants, take-aways, plays, films and indoor sports.
- 3.9 A table of the responses is attached is Annex B.
- 3.10 Within the current Licensing Policy Statement (Annex A) is historical Police data for crime and anti-social behaviour in the 4 CIP areas. In their response to this consultation, the Metropolitan Police Service have provided recent Police data concerning alcohol related crime in the 4 CIP areas. This recent Police data is attached as Annex C.

- 3.11 The comments from the respondents may be summarised as:
- 3.11.1 There is a general consensus that the 4 CIP areas should be retained.
 - 3.11.2 There is a general consensus that set terminal hours within the 4 CIP areas should be retained.
 - 3.11.3 The Police and Licensing Enforcement generally agree that the current 11pm terminal hour in the CIP areas (for pubs/bars, off licences & music and/or dancing) should generally be extended to midnight (in line with restaurants, take-aways, plays, films and indoor sports).
 - 3.11.4 The respondents provided a number of ideas in respect of how the Council could attract more people into our town centres each day for social, leisure and entertainment purposes; and how we would like to keep those people in our town centres for a longer period of time.
- 3.12 A list of the response comments is attached as Annex D.

4. THE CUMULATIVE IMPACT POLICY IN CONTEXT

- 4.1 The Cumulative Impact Policy ('CIP') within the current Licensing Policy Statement (annex A) took effect on 1 April 2012.
- 4.2 The CIP only applies to applications under the Licensing Act 2003 for new premises licences/club premises certificates ('licences') and to applications to extend the hours of existing licences for alcohol, entertainment and late night refreshment ('licensable activities').
- 4.3 And, in respect of those new & variation applications, the CIP only applies to a particular application if:
- 4.3.1 The application is for a premises located within 1 of the 4 CIP areas; and
 - 4.3.2 The application seeks licensable activities outside the core hours detailed in the CIP; and
 - 4.3.3 The Police or the Licensing Authority (or any other responsible authority or person) make a representation against ('object to') the application.
- 4.4 The CIP is not an absolute rule nor is it a barrier to businesses in the 4 CIP areas:
- 4.4.1 If the applicant for a licence satisfies the Police and Licensing Authority that their proposal does not pose a risk to the licensing objectives so those authorities don't object to the application it is possible for a new or variation application, in a CIP area for licensable activities beyond the core hours, to be granted by officers. This has occurred since 1 April 2012.

- 4.4.2 If the applicant for a licence, which is subject to objections, satisfies the Licensing Sub-Committee that their proposal does not pose a risk to the licensing objectives it is possible for a new or variation application, in a CIP area for licensable activities beyond the core hours, to be granted by the Sub-Committee. This has also occurred since 1 April 2012.
- 4.4.3 However, if the applicant for a licence, which is subject to objections, fails to satisfy the Licensing Sub-Committee that their proposal does not pose a risk to the licensing objectives, the application may be refused by the Sub-Committee.
- 4.5 In the two years before the CIP took effect, the Licensing Sub-Committee refused 5 new & variation applications. In the two years after the CIP took effect, the Sub-Committee also refused 5 applications.
- 4.6 The CIP has not prevented applications from being made and the CIP has not caused any more applications to be refused.
- 4.7 However, the CIP has had one significant effect:
- 4.7.1 When an applicant for a licence does not satisfy the Police or the Licensing Authority that their proposal does not pose a risk to the licensing objectives, those authorities object to the application and it is referred to a hearing of the Licensing Sub-Committee. When the objections of the authorities centre on the hours of the licensable activities and the applicant and objectors are unable to agree on the appropriate hours, the Sub-Committee will decide the matter.
- 4.7.2 But when the objections of the authorities centre on the hours of the licensable activities and the premises is located in 1 of the 4 CIP areas, the authorities are able to refer to the CIP. The CIP details the core hours that the Council considers appropriate for the CIP areas and indicates to applicants what hours they could generally expect to achieve. This has enabled the authorities to conduct more effective negotiations with applicants.
- 4.7.3 In the two years before the CIP took effect, 17% of new & variation applications were referred to the Licensing Sub-Committee for Members to decide the appropriate hours. In the two years after the CIP took effect, because of more effective negotiations, only 9% of applications were referred to the Sub-Committee.

5. REASONS FOR THE RECOMMENDATIONS

To ensure that the Council is able to discharge its statutory obligations and promote its four licensing objectives.

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

6.1 Financial Implications

Formal adoption of the Licensing Policies detailed in this report should have no financial implications to the Council other than officers' time in matters of administration and enforcement, which will be met from within existing resources.

6.2 Legal Implications

The Council has the power to adopt the Cumulative Impact Policy within the Licensing Policy Statement under the Licensing Act 2003 and supporting legislation.

Although if there were any doubt about the power to adopt these policies, the Localism Act 2011 (Commencement No. 3) Order 2012 (*SI 2012/411*) brought the general power of competence into force for principal local authorities. The introduction of the general power of competence means that the well-being power no longer applies to English Local Authorities and as such the general power of competence will provide the Council with the power to adopt the policy outlined within this report.

The general power of competence is set out in s. 1.1 of the Localism Act 2011 and states that "a local authority has power to do anything that individuals generally may do. " Ss (2) states that "Subsection (1) applies to things that an individual may do even though they are in nature, extent or otherwise— (a) unlike anything the authority may do apart from subsection (1), or (b) unlike anything that other public bodies may do." Where the authority can do something under the power, the starting point is that there are to be no limits as to how the power can be exercised. For example, the power does not need to be exercised for the benefit of any particular place or group, and can be exercised anywhere and in any way. Section 2 sets out the boundaries of the general power, requiring local authorities to act in accordance with statutory limitations or restrictions

6.3 Property Implications

None

7. KEY RISKS

The Council is at risk of public challenge if it does not promote its licensing objectives.

The Cumulative Impact Policy reduces risk around four key objectives and also tackles the risk of cumulative impact in identified areas.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

This report ensures that the Council's Licensing Policy meets its statutory obligations and is able to prevent licensable activity that is not in the public interest and to reduce crime and antisocial behaviour arising from concentrations of licensed premises operating in areas affected by such disorder.

8.2 Growth and Sustainability

These recommendations do not restrict growth and by reducing crime and disorder will promote sustainable business.

8.3 Strong Communities

The recommendations in this report fully support this Council priority.

9. EQUALITIES IMPACT IMPLICATIONS

No equality impact assessment is required.

A predictive equalities impact assessment was completed for the introduction of the Cumulative Impact Policy in 2012.

The main finding of that assessment was that the licensing policy statement has no adverse/specific impact on different disadvantaged groups in the community or on staff.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

The effectiveness of these policies will be assessed through the Council's performance at reducing crime and antisocial behaviour associated with licensed premises and in particular the public perception of people being drunk or rowdy in public spaces, measured by the Residents Survey.

11. PUBLIC HEALTH IMPLICATIONS

None

Background Papers

Licensing Committee report – 9 July 2014