

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 21 NOVEMBER 2018

Title of report	REVIEW OF STATEMENT OF LICENSING POLICY AND CUMULATIVE IMPACT ASSESSMENT
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Purpose of report	To consult with the Licensing Committee on the draft Statement of Licensing Policy and Cumulative Impact Assessment
Council Priorities	Business & Jobs Homes and Communities
Implications:	
Financial/Staff	There are no additional financial or staffing implications
Link to relevant CAT	Business CAT
Risk Management	There is a risk that the council's Statement of Licensing Policy is challenged. Legal advice has been sought in its preparation to mitigate the risk of challenge
Equalities Impact Assessment	An Equality Impact Assessment has already been undertaken and issues identified have been actioned
Human Rights	Protocol 1, Article 1 of the Human Rights Act 1998 provides that everyone is entitled to the peaceful enjoyment of his possessions except in the public interest and subject to the conditions provided by the law
Transformational Government	This relates to the new ways in which councils are being asked to deliver their services
Comments of Head of Paid Service	The report is satisfactory

Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	As required under section 5(3) of the Licensing Act 2003 – Listed at Paragraph 2
Background papers	Home Office – Guidance issued under Section 182 of the Licensing Act 2003 – April 2018 Licensing Act 2003 – Statement of Licensing Policy – Issue 6
Recommendations	<p>THAT LICENSING COMMITTEE:</p> <ol style="list-style-type: none"> 1. COMMENT ON THE STATEMENT OF LICENSING POLICY AND CUMULATIVE IMPACT ASSESSMENT 2. RECOMMEND APPROVAL OF THE STATEMENT OF LICENSING POLICY AND CUMULATIVE IMPACT ASSESSMENT TO COUNCIL AT ITS MEETING ON 26 FEBRUARY 2019 3. RECOMMEND THE RETENTION OF THE CUMULATIVE IMPACT POLICY RELATING TO ASHBY DE LA ZOUCH TOWN CENTRE TO COUNCIL AT ITS MEETING ON 26 FEBRUARY 2019

1.0 BACKGROUND

- 1.1 Section 5 of the Licensing Act 2003 requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years.
- 1.2 A statement of licensing policy explains how the licensing authority will carry out its role under the Licensing Act 2003. The statement can be used as follows:
- As a guide by members of the licensing authority in their decision making.
 - To inform applicants about how applications will be viewed and how a licensed premises is likely to be able to operate within the area of the licensing authority, albeit that each application will be examined and considered on an individual basis.
 - To inform residents and businesses about how applications will be viewed and how their needs will be addressed.
 - To support decisions made by the licensing authority when these decisions are challenged in a court of law.
- 1.3 The current policy (issue 6) was determined by Council on 25 March 2014 and came into force on 26 March 2014 and shall remain valid until 25 March 2019 unless amendments are necessary before this date.

- 1.4 The scope of the review has included both the policy statement as a whole and the cumulative impact assessment relating to an area of Ashby de la Zouch town centre.

2.0 CONSULTATION PROCESS

- 2.1 Before a licensing authority can publish its policy it must consult with bodies/persons listed in section 5(3) of the 2003 Act. They are as follows:

- Chief officer of police for the area.
- The fire & rescue authority for the area.
- Persons/bodies representative of local holders of premises licences.
- Persons/bodies representative of local holders of club premises certificates.
- Persons/bodies representative of local holders of personal licences.
- Persons/bodies representative of local holders of businesses and residents in its area.

- 2.2 The consultation period commenced on 7 June 2018 and ended on 24 August 2018.

- 2.3 A letter was sent to consultees listed at paragraph 2.1 referring them to a consultation document detailing structured questions relating to the special policy on cumulative impact and a draft statement of licensing policy.

3.0 PROPOSED CHANGES TO CURRENT POLICY

- 3.1 The draft policy sent to all consultees contained the following amendments:

- The profile of the district has been updated (paragraph 1.1)
- The draft policy sets out criteria, considerations and conditions which applicants should bear in mind when putting together their application. Minor amendments have been made to the content of this guidance (paragraphs 4,5,6 and 7)
- The further explanation of the purpose of an Early Morning Alcohol Restriction Order (paragraph 8)
- Retention of the current cumulative impact policy in Ashby Town Centre – amendments to the wording of the cumulative impact policy (paragraph 10)
- Amendment to the section on Temporary Permitted Activities (Temporary Event Notices) to reflect legislative changes (paragraph 18)
- Further clarification on the interaction between licensing and development control (paragraph 19.2)
- Minor changes to wording of the equalities section (paragraph 19.4)
- Minor changes to the wording of the list of responsible authorities listed at Appendix 3 of the policy

4.0 REPRESENTATIONS

4.1 Both Castle Donington Parish Council and Measham Parish Council confirmed that they did not have any comments to make on the draft policy. Leicestershire Police submitted comments and data relating to the retention of the cumulative impact policy.

4.2 A draft policy taking into account all comments made by consultees is at **Appendix 1**.

5.0 CUMULATIVE IMPACT ASSESSMENT

5.1 A review of the cumulative impact assessment has been carried out. Fresh updated evidence has been received from Leicestershire Police. A copy of the cumulative impact assessment is attached at **Appendix 2**

5.1.1 Types of Premises

Although the overall crime data does not identify premises types, a list of crime reports relating to the night time economy in Ashby de la Zouch town centre does identify the following premises types: nightclub, vertical drinking public houses and late night refreshment providers.

The cumulative impact policy cannot be absolute. Officers will continue to allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives will be granted. After receiving relevant representations officers will consider whether the council would be justified in departing from the cumulative impact policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or theatre may not.

5.1.2 Hours

Data submitted from Leicestershire Police shows a spike in violent crime in Ashby town centre during the evening and early morning.

5.1.3 Area covered by policy

Leicestershire Police has suggested the area be extended to include the Wetherspoons Shoulder of Mutton public house on Derby Road.

Leicestershire Police records have identified 14 incidents either inside or associated with the public house since 2012. The police have stated that the public house is likely to have a major impact on the drinking habits of local people and the premises abuts the zone.

An email was sent to Wetherspoons seeking comments on the request from Leicestershire Police to extend the cumulative impact zone to include the Shoulder of Mutton public house. A response to the consultation email has not been received. Should a response be received before committee it will be shared with members via an update.

5.2 Having consulted all bodies/persons listed at paragraph 2.1 above and considered the comments and crime data submitted by Leicestershire Police a conclusion has been made

that it is likely that granting further premises licences and/or club premises certificates in the area detailed at **Appendix 1** of the policy, would be inconsistent with the authority's duty to promote the licensing objectives.

Recommendation - It is recommended:

That the special policy relating to cumulative impact in Ashby de la Zouch town centre be retained;

That the policy applies to applications for new premises licences or club premises certificates or variations;

That the policy applies to premises of all types and characteristics (subject to paragraph 5.1.1);

That the policy applies to licensed premises between 20:00 and 06:00;

That the policy relates to premises within the area defined at Appendix 1 of the draft policy

6.0 APPROVAL PROCESS

- 6.1 A procedural irregularity by a licensing authority in relation to the determination of its policy may be subject to a challenge by way of Judicial Review to the Administrative Court. To mitigate the risk of challenge the review and determination of this policy has been carried out in accordance with the Home Office guidance issued under Section 182 of the Licensing Act 2003 issue April 2018.
- 6.2 Members confirmation is sought that the draft Statement of Licensing Policy may be taken to Council on 26 February 2019 for final approval and publication.