



## Licensing Committee

7 November 2019

### Report from the Strategic Director of Regeneration & Environment

## Draft Statement of Licensing Policy

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
<b>No. of Appendices:</b>	4
<b>Background Papers:</b>	None
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### 1.0 Purpose of the Report

- 1.1 The Council in its role as a Licensing Authority under the Licensing Act 2003 has a duty to determine, publish and keep under review its Statement of Licensing Policy ('Policy') which has a five-year shelf-life but can be replaced at any time during that five-year period.
- 1.2 The current Policy is due to expire on 6th January 2021. The review of the current Policy has been brought forward due to increase in alcohol fuelled crime and anti-social behaviour since the Policy was last reviewed in 2015. It also takes account of revisions to the Home Office Guidance issued under S.182 of the Licensing Act 2003.
- 1.3 The proposed draft Policy introduces 29 specific policies including ten cumulative impact zones where street drinking and alcohol related crime exist to prevent growth of more off-licences, encourages applicants to include a voluntary condition that the applicants will not sell alcohol at a price under 70 pence per unit of alcohol. The Policy also supports a 24-hour night time economy in Wembley and Kilburn to facilitate enhancement of leisure and entertainment functions with appropriate safeguards.

## **2.0 Recommendation(s)**

- 2.1 That members approve the draft Statement of Licensing Policy in Appendix A and Cumulative Impact Zones proposed in Appendix B.
- 2.2 That members note that the Cumulative Impact zones proposed will have to be reviewed within 3 years.

## **3.0 Detail**

- 3.1 The Licensing Act 2003 (“the Act”) requires that the Council determine and publish a Statement of Licensing Policy (‘Policy’) at least once every five years, setting out its policies in order to exercise its licensing functions.
- 3.2 The Council’s current Policy came into effect on 7 January 2016 and is due to expire on 6th January 2021.
- 3.3 The review of the current Policy has been brought forward because of increase in alcohol fuelled crime and anti-social behaviour as well as to take account of the revisions to the Home Office Guidance issued under section 182 of the Act, since the Policy was last reviewed in 2015. The source of alcohol is from off-licences across the Borough. The majority of the small grocers and newsagents survive through the sale of alcohol.
- 3.4 An evidence-based approach was adopted during the review of the current Policy, which included analysis of the following datasets:
  - crime reports (all crime, alcohol related crime, violent crime & sexual offences);
  - health (alcohol flagged data)
  - licensed premises (licences held, reviewed, refused and revoked).

Furthermore, views from responsible authorities such as the Police, Nuisance Control Team etc. were sought prior to formulating the Policy.

- 3.5 The draft Policy introduces 29 specific policies as well as measures that promote the four licensing objectives; namely prevention of crime & disorder, prevention of public nuisance, public safety and protection of children from harm. The policies would inform decision making in a meaningful way as well as provide useful and practical guidance to applicants, local residents, responsible authorities and magistrates (who decide cases on appeal).
- 3.6 Proposed policies include introduction of ten cumulative impact zones where street drinking and alcohol related crime exist to prevent growth of more off-licences. It encourages applicants to include a voluntary condition that the applicants will not sell alcohol at a price under 70 pence per unit of alcohol as well as policies that encourages culture, arts and tourism.
- 3.7 In addition, since the publication of the last Statement of Licensing Policy the Mayor of London has outlined his vision for London as a 24-hour City and has also appointed a Night Czar and a Night Time Commission to encourage the

development of London as a vibrant, diverse, cultural city with a Night Time Economy that is of global significance. The Policy supports 24-hour night time economy in Wembley and Kilburn in order to facilitate an enhancement of leisure and entertainment functions and the night time economy, with appropriate safeguards.

- 3.8 The Policy sets out the Council's standards that operators are expected to achieve and address issues that licensable activities may cause in relation to location of premises, hours of operation etc.

### **Consultation**

- 3.9 To assist in formulating the draft Policy informal consultation was undertaken with all the following responsible authorities designated by the Act:

- Metropolitan Police
- Community Safety
- Public Safety
- Public Health
- London Fire Brigade
- Children Safeguarding team
- Nuisance Control
- Trading Standards
- Planning

As a consequence, a number of comments and suggestions have been incorporated into the draft policy.

- 3.10 Before determining the Policy, the licensing authority must consult the persons listed in section 5(3) of the Licensing Act 2003. As is good practice, the licensing authority has consulted widely and not limiting the consultation to the persons listed in section 5(3) of the Act.
- 3.11 In line with the Constitution, the Strategic Director for Regeneration & Environment gave approval for consultation on Draft Statement of Licensing Policy and the proposed cumulative impact zones after briefing the lead member for Community Safety & Engagement on 23 August 2019.
- 3.12 A six week public on-line consultation was undertaken between 23 August 2019 and 4 October 2019. The consultation consisted of a full version of the draft Licensing Policy, summary document for cumulative impact zones and a survey with a range of questions to encourage responses as well as questions covering demographic information. Further approximately 900 letters were sent to licensed premise operators and agents.

- 3.13 The consultation with those listed in section 5 (3) of the Act and the public commenced on 23rd August 2019 and ended on 4th October 2019. Brent Forums were consulted and their comments and views taken into account.
- 3.14 Persons consulted included, Chief Police Officer, London Fire Brigade, Director of Public Health, local premises licence holders, club premises licence certificate holders as well as bodies representative of businesses, residents, Planning, Trading Standards, Children Safeguarding, Public Safety, Noise Team, Licensing Authority and the Home Office.
- 3.16 Consultation with members of the Licensing Sub-committee has been undertaken together with members in areas where proposed cumulative impact zones are proposed as well as with Town Centre Managers.
- 3.17 Thirty-five (35) submissions were received via the on-line survey on the website.
- 3.16 There were no concerns raised regarding cumulative impact policies for 10 different areas from local residents or businesses.
- 3.17 However, there were concerns expressed by Wine & Spirit Trade and Association of Convenience Stores regarding Policy 24 in relation to minimum unit price. Legal opinion from Counsel was sought and the Policy has been amended accordingly.
- 3.18 The policy seeks a voluntary condition. Every licence application will be determined on its own merit in accordance with section 182 guidance issued by the Home Office, however applicants are encouraged to decide whether they wish to include a minimum price in their operating schedule. The Policy states that if there are relevant representations on an application or if on a review it is shown that the pricing used at the premises is harming the licensing objectives, the licensing authority may decide to impose a minimum price of 70p, although each case will be judged on its merits.
- 3.19 Other minor amendments to the Policy have been undertaken following consultation responses.
- 3.20 The consultation report is attached in Appendix C
- 3.21 The work aimed at developing and improving the Council's Policy will continue even after this draft Policy has been adopted. The cumulative impact zones will need to be reviewed and re-evaluated within 3 years. In line with this Policy, all the key stakeholders and members will be given the opportunity to inform the review of any future Policy and its outcomes.

#### **4.0 Financial Implications**

- 4.1 There are none arising from this report, any cost associated with publishing this policy would be contained within existing budgets

#### **5.0 Legal Implications**

- 5.1 As set out in the report, the Licensing Act 2003 places a statutory duty on the Council as the Licensing Authority to determine, publish and keep under review a Statement of Licensing Policy, reviewed at least every five years.
- 5.2 Before determining the Policy, the licensing authority must consult the persons listed in section 5(3) of the Licensing Act 2003.
- 5.3 Cumulative impact assessments were introduced into the Licensing Act 2003 by the Policing and Crime Act 2017. The relevant provisions came into effect on 6th April 2018. They are introduced as a tool for licensing authorities to limit the growth of licensed premises in problem areas.
- 5.4 The legislation stipulates that every licensing authority has the discretion to publish a cumulative impact assessment stating that it considers that the number of premises licences in one or more parts of its area is such that it is likely it would be inconsistent with the promotion of the licensing objectives to grant any further relevant licenses in respect of more premises in the identified parts of its borough.
- 5.5 The cumulative impact assessment must set out the evidence that is being relied upon. Before publishing the cumulative impact assessment, the licensing authority must consult all the people affected by the assessment including those specifically mentioned in the legislation (section 5(3) Licensing Act 2003). These include responsible authorities, businesses and the public.
- 5.6 The licensing authority is also required to review the cumulative impact assessment every three years to consider whether it remains of the opinion stated in the assessment. This review must be consulted upon before a decision is made as to whether the assessment remains or not. Any revision of a cumulative impact assessment must be published and supported with the requisite evidence.
- 5.7 Once approved, the Statement of Licensing Policy will play in key role in the determination of any future applications made to the Council under the Licensing Act 2003.

## **6.0 Equality Implications**

- 6.1 An equality impact assessment has been conducted and is attached in Appendix D.
- 6.2 There are no specific diversity implications for the purposes of this report.

## **7.0 Consultation with Ward Members and Stakeholders**

- 7.1 All members and stakeholders have been consulted (please see details in section 3 above).

## **8.0 Human Resources/Property Implications (if appropriate)**

- 8.1 None

**Report sign off:**

**STRATEGIC DIRECTOR: Amar Dave**

Strategic Director of Regeneration & Environment.