

Gravesham Borough Council

Report to: Licensing Committee
Date: 21st September 2010
Reporting officer: Assistant Director (Communities)
Subject: Review of Statement of Licensing Policy under the Licensing Act 2003

Purpose and summary of report:

To apprise Members of the proposed methodology to be followed in reviewing Gravesham's Statement of Licensing Policy under the Licensing Act 2003

Recommendations:

Members to note and endorse the contents of the report and request officers to proceed with the review process

1. Background

- 1.1 Members will be aware that a second Statement of Licensing Policy under the Licensing Act 2003 was approved by Council on 11 December 2007.
- 1.2 The policy was developed in close conjunction with all the other local authorities and responsible authorities (Police, Fire, Trading Standards, Child Protection) in Kent via the mechanism of the Kent & Medway Regulatory Licensing Steering Group. In development of the policy, full account was taken of the guidance issued under Section 182 of the Licensing Act 2003 and to which licensing authorities must have regard.
- 1.3 The aim of the county wide approach is two fold. Firstly, to promote consistency to the benefit of licensees, potential licensees, businesses, residents and to regulatory services having a Kent wide remit. Secondly to minimise risk of judicial review of the individual policies.
- 1.4 The format of the of the current Gravesham policy is a main body document based on the Kentwide template, and a series of appendices so as to give detail and to 'personalise' the policy to Gravesham. The appendices are as follows:
 - Appendix 1 – Useful addresses
 - Appendix 2 – Good Practice Guides and Contact Points
 - Appendix 3 – Definitions
 - Appendix 4 – Gravesham's Community Safety Strategy and Action Plan

- Appendix 6 – Enforcement
 - Appendix 7 – Local Plan Policies
 - Appendix 8 - Gravesham Cultural Policy as part of the Kent Thameside Cultural Strategy
 - Appendix 9 – Help with the Operating schedule
- 1.5 Section 5 of the Act requires a licensing authority to prepare and publish a statement of its licensing policy every three years. This will be the third revision of the policy. It is necessary that the Council review and publish a revised version by no later than 7 January 2011.

2. Policy review

- 2.1 In drafting the revised Statement of Licensing Policy for Gravesham it has been necessary to take into account revised Guidance issued under section 182 of the Licensing Act 2003 and provisions of the Policing and Crime Act 2009 and the Crime and Security Act 2010 which have introduced changes in legislation and which have been reflected in the policy, which is attached as Appendix A. The changes are shown in italics.
- 2.2 The changes are detailed below:
- 2.2.1 Paragraph 1.25 – Early Morning Alcohol Restriction Orders introduced by the Crime and Security Act 2010 which will amend the Licensing Act 2003 by inserting new sections 172a – 172 e.
- The effect of the change will be that it enables an authority to impose a ban on the sale of alcohol between 03.00am and 06.00am in any particular area in order to promote the licensing objectives. Whilst the Crime and Security Act 2010 received Royal Assent on 8 April 2010 the provisions will not come into force until the Secretary of State lays a Commencement Order, which is anticipated in the near future and it was therefore considered necessary to include details of the effects of the Order within the revised policy.
- 2.2.2 Paragraph 1.32 – Minor Variation Procedure for Premises Licences and Club Premises Certificates.
- The Licensing Act 2003 was amended to insert sections 41a-41c and 86a-86c to allow a simplified application process for minor variations to licences and certificates where there was no negative impact on the licensing objectives. Members will recall they approved this revised process at the Licensing Committee of 18 November 2009.
- 2.2.3 Paragraph 1.33 – Adult Entertainment.
- Section 27 of the Policing and Crime Act 2009 enables a local authority to extend the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to introduce a new category of sex establishment called “sexual entertainment venues”. Whilst adoption of these provisions is not mandatory Cabinet has endorsed this approach and reports will be presented both to

Licensing Committee and to full Council as a policy is developed, this including public consultation. If a Council does resolve to adopt the provisions of the Act then it must do so before 5 April 2011.

- 2.3 Revision to the appendices of the Gravesham policy is a more local matter. This has been carried out by consulting with Council officers and other local responsible authorities as was done in the formulation of the two previous editions of the policy and the appendices revised accordingly.

3. Consultation

- 3.1 The Act and the Guidance require a consultation process prior to determining the statement of licensing policy. Authorities, bodies and persons to be consulted are laid out in the Act and proposed consultees will be the same as have been contacted in the two earlier versions of the policy. This list is shown as Appendix B.
- 3.2 A consultation period of six weeks is proposed from 22 September until 2 November 2010.
- 3.3 All incoming responses will be entered on to a grid for consideration as recommended by Local Government Regulation.
- 3.4 The Senior Licensing Officer will conduct an evaluation of each response and give a recommendation as to whether or not to amend the policy statement. This will be done in consultation with other GBC officers and/or the Kent & Medway Regulatory Licensing Steering Group as necessary.
- 3.5 The grid and recommendations will be put before Licensing Committee on 17 November for consideration.
- 3.6 The amended version of the Gravesham Statement of Licensing Policy will then be presented for approval by the Council on 7 December 2010 and published by the due date of 7 January 2011.

4. Risk assessment

- 4.1 The publication of a Statement of Licensing Policy under the Licensing Act 2003 is a statutory requirement and failure to do so by 7 January 2011 as required may lead to negative publicity and criticism from central government.
- 4.2 Close adherence to the mandatory guidance in terms of policy development and consultation will minimise the risk of judicial review at a later date. This risk is further minimised by working in close co-operation and consistency with the other licensing authorities within Kent.
- 4.3 It is a legal requirement to review the policy every three years and must be done despite the Coalition Government's intention to complete a comprehensive overhaul of the Licensing Act 2003 in the near future and to introduce the reforms through the provisions of the Police Reform and Social Responsibility Bill which was included in the Queen's Speech on 25 May 2010 and on which there is currently consultation taking place. The Home Office have indicated that any changes are not likely to be implemented before 2012.

5. Equal Opportunities

- 5.1 The Licensing Act 2003 is fully inclusive and affects all people equally. The consultation pool for the draft statement is diverse and includes all faiths, racial equality groups and interested business groups as well as the general public.

6. Section 17 of the Crime and Disorder Act 1998

- 6.1 Fulfilling powers and duties under the Licensing Act 2003 is of direct relevance to the Council's S.17 obligations in that the objectives of the Licensing Act 2003 are:

- Prevention of crime and disorder
- Prevention of public nuisance
- Protection of public safety
- Protection of children from harm

7. Financial Implications

- 7.1 None with the exception of printing costs and mailing costs which will be met from within existing budgets