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REPORT

Cllr Brown : Cabinet Member for Environment & Transport

LICENSING ACT 2003

1. The council in its capacity as the licensing authority must have a statement of licensing policy. The policy must be first subject to consultation and this was carried out between 3rd September and 25th October 2004.
2. The results of the consultation were presented to the Environment & Transport Scrutiny and Overview Panel meeting on 8th November 2004 along with a commentary on the main issues arising - see agenda item to 8th November panel meeting attached.

One of the most controversial elements is whether a terminal hour should be set and in this respect three options were given i.e.

- No restrictions on licensing hours (other than those that may already be imposed or those requested by an applicant or those imposed by way of review)
- An overall terminal hour of 3.00 a.m. (unless an individual case is made for a later hour). There are presently two premises operating to 3.00 a.m. and they will continue to do so.
- A terminal hour of midnight Sunday to Wednesday and 2.00 a.m. Thursday, Friday and Saturday.

The Scrutiny Panel considered the above and the following points were made:-

- Some Members felt that it might be preferable to have people leaving licensed premises at a specified time (i.e. at a terminal hour) rather than at different times, which could be more disruptive for local residents.
- It would be useful if the quantity of actual disturbance levels could be measured. CCTV could be used to chart the level of disturbance over a specified time period.

The Head of Environmental Services replied that CCTV information could be extremely useful and the Principal Environmental Health Officer added that the Community Safety Partnership might be able to provide further information on disturbance levels.

- The Head of Environmental Health Services informed Members that it was important for the Council to have regard to the guidance on the new licensing regime as provided by Central Government. The more SDC deviated from this guidance, the more likely it would be challenged.
- Enforcement issues such as antisocial behaviour and noise disturbance should be carefully considered when drafting the new licensing policy. The Principal Environmental Health Officer replied that matters not under the control of the licensee fell outside the policy but reference to other control measures would be made.
- Although the control of (a) "happy hours" and (b) the latest time people can enter a licensed premises cannot be required as part of the new policy, the Licensing Authority would encourage licensees to have regard to these.

- In terms of acoustic trauma, i.e. deafness, does SDC have a duty of care in relation to pub and club goers / staff? The Principal Environmental Health Officer replied that there are legal limits in relation to noise in order to prevent ear damage. Not only is there an emphasis on premises to prevent noise escaping outside, the local authority is able to impose noise limits within premises and employers are under a duty of care to ensure health and safety regulations are met.
- It is intended that the new licensing policy will be self-funding, but until Central Government confirms licence fees, it is not known how much the new regime will cost SDC.
- Can the policy agreed by the Council now, be amended in the future?
- The Principal Environmental Health Officer replied that the policy could be reviewed and amended at any time in the future, but it would require full consultation, similar to the exercise undertaken in this case. The policy must be reviewed every three years.

The Scrutiny Panel recommended to Cabinet:-

1. That the amendments to the draft policy in respect of the recommendations made on the consultation sheets in Appendix 1 (as attached to the previously circulated report) be approved.
2. That the changes to the policy in respect of paragraphs 3.4.1, 3.4.2 and 4 as set out in the previously circulated report be approved.
3. That a survey be undertaken comparing disturbance levels experienced now with those experienced 12 months after the introduction of the new licensing policy. This survey should include the city area and other parts of Salisbury.
(NOTE - Members resolved that in light of this recommendation a report should be brought back to the E & T Panel for consideration at its January meeting, focusing on how to quantify and measure disturbance/antisocial behaviour levels.)
4. That there be no restrictions on licensing hours (other than those that may already be imposed or those requested by an applicant or those imposed by way of review).

In respect of Recommendations 1 and 2 above the attached draft policy has been amended as follows:-

- Original text is shown as plain type
- Words recommended for deletion are shown in grey italics and will be deleted depending on the Cabinets decision
- Words to be added are shown in bold type and will be added dependant on the Cabinets decision

3. Implications for Anti Social Behaviour

There is a concern that the draft policy as it is currently written will not achieve the licensing objectives of preventing public nuisance and crime and disorder. One of the key conclusions drawn from the 3rd Crime, Antisocial Behaviour & Drugs for Wiltshire and Swindon is that 'national evidence and the results local surveys indicate that alcohol-related violence and disorder, particularly on Friday and Saturday nights is a major cause for concern'. Alcohol related crime is already at saturation point in certain areas in the city centre and Amesbury.

The Community Safety Partnership would like the following to be added to the policy:-

More emphasis needs to be placed on whether the licensed activity is likely to cause an adverse impact, particularly to local residents. It is suggested that draft policy should be written in a way that will enable the licensing authority to give greater consideration to issues such as the level of public transport accessible for customers either arriving or leaving the premises; the likely means of public or private transport that will be used by customers; the adequacy and impact of car and cycle parking on local residents or businesses; the scope of mitigating any impact when determining an application.

Unfortunately the statutory guidance issued by the Department of Culture Media and Sport states in para 3.11 of the fundamental principles that:

'Statements of policies should make clear that licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events with the terms of the 2003 Act, and that the conditions attached to various authorizations will be focused on matters which are within the control of individual licenses and others in possession of relevant authorizations. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity (see draft policy for interpretation) of those premises. Statements of licensing policy should make it clear that in addressing this matter, the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are away from the licensed premises, and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorization concerned.

It is therefore difficult to cover this aspect in detail in the policy, but guidance will be given to applicants with regard to what will be expected to be included in operating schedules. See also para 3.4.2 of the agenda to the panel meeting on 8th November 2004.

4. **Recommendations:**

1. It is recommended that the Cabinet considers the draft licensing policy and makes recommendations to the Council on

- (i) The preferred option for setting a terminal hour for licensed premises
- (ii) Adoption of the amendments as set out in the draft policy attached

2. in accordance with the Scrutiny Panel's recommendation (3) above, a survey be undertaken comparing disturbance level's experienced now with those experienced 12 months after the introduction of the new licensing policy. This survey should include the City Area and other parts of Salisbury.

5. **Background Papers:** attached. A copy has been put in the Members Room.

6. **Implications:**

Financial: It is understood that the Government will be setting the fees Local Authorities can charge and that the intention is that the fee structure will enable the licensing function to be self-financing.

Legal: Contained in this report.

Human Rights: The consultation process requires that the views of Police, The fire Authority, Bodies representing operators and those representing businesses and residents in the area are taken into account. The competing Human Rights will be taken into account at this stage

Personnel: Additional staff will be needed but it is not possible to specify the staffing requirement at present.

Community Safety: covered in report - see above.

Environmental: The proposed policy will take into account environmental implications.

Council's Core Values: Providing excellent service, promoting a thriving local economy, being environmentally conscientious, being fair and equitable.

Wards Affected: All