

North East Derbyshire District Council

Council

20 May 2024

Review of the Council's Policy under the Licensing Act 2003

Report of Councillor S Pickering, Portfolio Holder for Environment and Place

Classification: This report is public

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PURPOSE / SUMMARY

To invite Council to adopt the revised draft Statement of Principles under the Licensing Act 2003.

RECOMMENDATIONS

1. The Council approve the recommendation from the Licensing and Gambling Acts Committee that the draft Statement of Principles under the Licensing Act 2003 be adopted to take effect immediately.

Approved by the Portfolio Holder – for Environment and Place, Cllr Pickering
(Delete completely for Scrutiny Reports)

IMPLICATIONS

Finance and Risk: Yes No

Details:

There will be a minor cost associated with carrying out the consultation. This can be accommodated from existing budgets.

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

It is a legal requirement under the Licensing Act 2003 that a licensing authority prepare and publish a statement of principles every five years. Having a policy which is up to date, compliant with the legislation, fit for purpose and clear, assists with the implementation of rules and reduces the risk of legal challenge by way of appeal or judicial review.

On Behalf of the Solicitor to the Council

Staffing: Yes No

Details:

There are no staffing implications of the proposals in this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input checked="" type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	All
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input checked="" type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input checked="" type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/>	Yes Details: Public Stakeholders Senior Leadership Team

Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.
All

REPORT DETAILS

1 **Background** (reasons for bringing the report)

- 1.1 Under the Licensing Act 2003 ('the Act'), North East Derbyshire District Council ('the Council') is responsible for the administration and regulation of licences and certificates which authorise the following activities:

- The sale and supply of alcohol;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

1.2 The Act contains four licensing objectives which are central to the regulatory regime created by the Act, and are:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance
- The Protection of Children from Harm
- Public Safety

When discharging its functions, the Council, as a statutory Licensing Authority, must make decisions with a view to promoting these objectives.

1.3 The Licensing Act 2003 imposes a statutory requirement upon the Council, to prepare and publish a Statement of Principles (alternatively referred to as a 'Policy') every five years.

1.4 In 2018 a review was undertaken to ensure that the Council's Policy was consistent with statutory guidance and in a format common to neighbouring authorities to enable consistency and transparency. The Act requires the Council to republish its Policy every five years. The current Policy was published in 2019 and is now due for renewal.

1.5 The Policy establishes a set of controls which the Council considers appropriate for the effective management of licensable activities within the district. The Policy acts as a guide for Members, applicants, responsible authorities, and members of the public and aims to promote fair, consistent, and proportionate decision making.

1.6 The Joint Environmental Health Service conducted an initial review of the Policy and identified a number of amendments necessary to bring the Policy up to date.

1.7 In summary the proposed amendments aimed to achieve the following:

- Ensure the Policy is consistent with legislation and statutory guidance
- Increase the clarity of the Policy
- Improve the standards of premises in the district through the recommendation of more robust management practices
- Provide clarity on delegations; and
- Update local demographics.

1.8 Following consideration of the draft policy through the Licensing and Gambling Acts Committee, a six-week public consultation opened between 26th February 2024 and 7th April 2024.

1.9 The consultation was published via the Ask Derbyshire website and publicised through the Council's website and social media platforms. A number of stakeholders were also contacted directly via email or letter.

1.10 Despite carrying out an extensive consultation exercise, the Council only received one response to the consultation. The results of the consultation were subsequently considered by the Licensing and Gambling Acts Committee on 30th April 2024.

1.11 The Committee noted the lack of response to the consultation and that this likely indicated there was an indifference to the amendments made to the Policy. The Committee also noted the importance that the Policy was inclusive and acknowledged the impact of the Policy on all individuals in the community.

2 Details of Proposal or Information

2.1 The revised draft Statement of Principles under the Licensing Act 2003 has been drafted in line with legislation and current guidance and can be found attached as **Appendix 1**.

2.2 An Equality Impact Assessment has been conducted in line with the Council's Equality and Diversity Policy.

2.3 Following an extensive public consultation and member scrutiny, a recommendation has been made to Council that the final draft Policy, agreed by the Licensing and Gambling Acts Committee on 30th April 2024 (Attached as **Appendix 1**) be adopted.

3 Reasons for Recommendation

3.1 The Council has a statutory duty to prepare and publish a Statement of Principles under the Licensing Act 2003 every five years.

4 Alternative Options and Reasons for Rejection

4.1 The Council can choose not to prepare and publish a new Statement of Principles under the Licensing Act 2003; however, this would leave the Authority open to legal challenges by way of appeals against decisions on licensing matters or judicial review.

DOCUMENT INFORMATION

Appendix No	Title
1	Draft Statement of Principles 2024-2029 – Licensing Act 2003
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Flagged Crimes Performance Report for Community Safety produced by Derbyshire Constabulary in September 2023 Office for Health Improvement & Disparities, Local Alcohol Profiles for England - Data - OHID (phe.org.uk) Office for Health Improvement & Disparities, Local Alcohol Profiles for England - Data - OHID (phe.org.uk) Monitoring alcohol consumption and harm during the COVID-19 pandemic: summary - GOV.UK (www.gov.uk)	