

## **Committee:** Licensing Committee

**Date:** 24 February 2015

**Agenda item:** 4

**Wards:** All.

**Subject:** Update of the Council's Statement of Licensing Policy, proposed Cumulative Impact Zone for Mitcham Town Centre and timetable for the update of the Council's Statement of Principles under the Gambling Act 2005.

**Lead officer:** Chris Lee, Director of Environment and Regeneration.

**Lead member:** Councillor Nick Draper, Cabinet Member for Community and Culture.

**Forward Plan reference number:** N/A

**Contact Officer:** Barry Croft, Licensing Manager, London Boroughs of Merton and Richmond upon Thames Joint Regulatory Services Partnership and Guy Bishop Senior Lawyer Litigation and Planning Team.

### **Recommendations:**

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- A. The Licensing Committee to approve the recommended amendments to the revised Statement of Licensing Policy before the start of public consultation.
  - B. The Licensing Committee to discuss and debate recommendations contained within this report in respect of the proposed Cumulative Impact Zone (CIZ) for Mitcham Town Centre.
  - C. The Licensing Committee to note the timetable for the update of the Council's Statement of Principles under the Gambling Act 2005.
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### **1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 There is a statutory requirement under section 5 (1) of the Licensing Act 2003 (as amended) for the Council to review and re-publish its Statement of Licensing Policy every five years.
- 1.2 Combined with the review and re-publication of the Council's Statement of Licensing Policy, consideration is to be given to a new Cumulative Impact Zone (CIZ) for Mitcham Town Centre, the extent of the proposed CIZ and type of licensed premises the CIZ is to cover before the Licensing Authority starts its public consultation. It is proposed the CIZ for Mitcham Town Centre covers the following:
  - London Road Mitcham;
  - Holborn Way; and
  - Upper Green.

- 1.3 There is a statutory requirement under section 349 of the Gambling Act 2005 for the Council to review and republish its Statement of Principles under the Gambling Act 2005 every three years.

**2. DETAILS.**

**2.1 Review of the Statements of Licensing Policy for the London Borough of Merton.**

There is a statutory requirement under the Licensing Act 2003 for the Council to review and re-publish its Statement of Licensing Policy every five years. The requirement to review and re-publish the Council's Statement of Licensing Policy was extended from three to five years by an amendment to the Licensing Act 2003 brought about by the Police Reform and Social Responsibility Act 2011. The current Statement of Licensing Policy will expire on 6<sup>th</sup> January 2016.

As part of the work already undertaken by the Licensing Manager and the Senior Lawyer and legal advisor to the Licensing Sub-Committee, work has been completed showing legal and licensing amendments arising from legislative changes. These changes are shown in the attached draft Statement of Licensing Policy, at appendix "A" with track changes for members to consider.

Counsel was instructed to check the alterations made, and to offer legal opinion. Counsel's legal opinions on the proposed changes are also shown in the attached draft Statement of Licensing Policy at appendix "A" for members to consider.

Following this meeting it is proposed that officers of the Licensing Authority shall meet with all Responsible Authorities before the start of the public consultation period. This meeting will enable officers to discuss the proposed changes to the Council's Statement of Licensing Policy, and to take into consideration points a Responsible Authority may want to present for consideration during the public consultation of the document. It is proposed details, comments and points raised during this meeting will be brought before a meeting of the Licensing Committee on the 9 June 2015. This will enable members to consider any final changes or proposed amendments before the start of the public consultation period.

If agreed, the draft Statement of Licensing Policy will be circulated for public consultation starting on the 22 June 2015. It is recommended that the public consultation period shall last for a minimum period of twelve weeks (three months).

As part of the consultation processes, following the Licensing Committee meeting on 9 June 2015, the Licensing Authority will write to all responsible authorities notifying them of the start of the public consultation and of the proposed changes.

The Licensing Authority does not propose to distribute paper copies of the draft Statement of Licensing Policy, but it will be available in electronic format on the Council's website. An on-line questionnaire will also be created for use of those responding during the consultation period.

Details of the responsible authorities are as follows:

- The local Chief Officer for the Metropolitan Police;
- The London Fire and Emergency Planning Authority;
- The local Planning Authority;
- The Director of Public Health;
- The local Children's Safe Guarding Board;
- The Manager of the local Environmental Health Team; and
- The Manager of the local Trading Standards Team;

The Licensing Authority will also notify the following organisations or individuals:

- Safer Merton;
- The British Transport Police;
- All local Ward Councillors;
- Local area forums;
- The Musician's Union and Equity;
- Persons/bodies representing local holders of premises licenses;
- Persons/bodies representing local holder of club premises certificates;
- Persons/bodies representing local businesses; and
- Local residents associations.

Electronic submissions of responses to the consultation for the revised Statement of Licensing Policy will be encouraged. This will ensure the process is cost efficient, and it should save time for local residents, businesses, responsible authorities and any person wishing to make comment of the proposed changes.

Following the end of the public consultation period, which it is proposed will end at midnight on Monday 14 September 2015; officers of the Licensing Authority will collate comments received. Details of the comments received and any suggested changes to the draft Statement of Licensing Policy will be made available to members for discussion at a meeting before the Licensing Committee on a date yet to be confirmed.

Following this meeting if Committee members agree to the proposed amendments to the draft Statement of Licensing Policy, the Licensing Committee shall recommend adoption by Full Council that will formally adopt the revised Policy. It is proposed to take the final draft of the Statement of Licensing Policy to a Full Council meeting scheduled to take place on Wednesday 18 November 2015 for adoption.

## 2.2 **Consideration of a Cumulative Impact Zone (CIZ) to be introduced for Mitcham Town Centre.**

At the previous Licensing Committee meeting held on the 27<sup>th</sup> November 2014, a section of a report published for that meeting covered a proposal to introduce a Cumulative Impact Zone (CIZ) for Mitcham Town Centre.

The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

There are currently two CIZs in the borough, one in Wimbledon Village, the other in the Wimbledon town centre area.

The adoption of a CIZ requires that it be included in the Statement of Licensing Policy, following the procedure described in this report, meaning that the matter must effectively be decided by Full Council.

The steps that must be followed when considering the adoption of a CIZ are governed by Chapter 13 of the Guidance issued under Section 182 Licensing Act 2003. Those steps are as follows:

1. Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm;
2. Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm;
3. If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
4. Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise); and

Consult those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation, include and publish details of the special policy in the licensing policy statement.

Paragraph 13.23 stipulates that “ ... *There must be a clear evidential basis for the decision to include a special policy within the statement of licensing policy ...*” The Guidance then goes on to list the information from which the necessary evidence can be gleaned, which includes crime and disorder statistics; complaints made to the police and local authorities regarding anti-social behaviour and environmental health issues; complaints made to the local authority by local residents; residents’ questionnaires; evidence from local councillors and evidence obtained from local consultation.

The Guidance also states that the authority can also take into consideration such matters as trends in licensing applications, for example the type of application and terminal hours; changes in terminal hours to premises and the capacity of premises at various times of the day.

The Guidance also states that where the local authority believe that where there are problems in an area resulting from the cumulative impact of licensed premises, and where the information to support that assertion is insufficient or not readily available, it can consider undertaking or commissioning a specific study to assess the position.

The consultation process involves contacting various parties, namely:

- The Chief Officer of Police for the Licensing Authority’s area;
- The Fire and Emergency Planning Authority for that area;
- Such persons as the Licensing Authority considers to be representative of holders of premises licences issued by that authority;
- Such persons as the Licensing Authority considers to be representative of holders of club premises certificates issued by that authority;
- Such persons as the Licensing Authority considers to be representative of holders of personal licences issued by that authority; and
- Such other persons as the Licensing Authority consider being representative of business and residents in its area.

Part of the twelve week (three months) public consultation process will focus on the proposed introduction of a CIZ for Mitcham Town Centre. It will also ask for comment and take views on the proposed area the CIZ in Mitcham Town Centre is to cover. Attached to this report at appendix “B” is a map showing the proposed area of the CIZ for Mitcham Town Centre and the roads to be covered, which include:

- London Road Mitcham;
- Holborn Way; and

- Upper Green.

Members are asked for their views on this proposal to ensure the area and roads suggested to be covered by the Mitcham Town Centre CIZ are suitable and sufficient before the start of the public consultation.

Evidence will be sought from Responsible Authorities including Safer Merton, Public Health England and the Local Police. Details of evidence collated will be made available to members at a later Licensing Committee hearing, together with details of the responses received during the public consultation period.

Members are also asked to consider what licensable activities the proposed CIZ for Mitcham Town Centre is to cover. For example the CIZ could cover premises which sell alcohol for consumption off the premises (off licensed premises) only or it could cover all types of licensed premises including pubs, bars, restaurants and late night refreshment premises.

### 2.3 **Review of the Statement of Principles under the Gambling Act 2005.**

There is a statutory requirement under the Gambling Act 2005 (the Act) for the Council to review its Statement of Principles under the Gambling Act 2005 every three years and the current Statement of Principles will expire on 31 January 2016.

It is proposed to lay the revised draft of the Statement of Principles under the Gambling Act 2005 before members at the next Licensing Meeting due to take place on (*details of day and date required from Democratic Services*).

Following this meeting a public consultation process, similar to that proposed for the revised Statement of Licensing Policy under the Licensing Act 2003 will be required.

### 3. **Alternative options.**

- 3.1 Members may choose to increase the proposed area as suggested for the Cumulative Impact Zone for Mitcham Town Centre.
- 3.2 Members may choose not to implement or agree to the proposed Cumulative Impact Zone for Mitcham Town Centre.

### 4. **Consultation undertaken or proposed.**

- 4.1 A twelve week (three month) public consultation to be undertaken on the proposed revisions to the Statement of Licensing Policy and proposed Cumulative Impact Zone for Mitcham Town Centre.

### 5. **Timetable.**

- 5.1 Draft Statement of Licensing Policy to be used for public consultation to be brought before the Licensing Committee meeting on Tuesday 9 June 2015.
- 5.2 Public consultation to start on Monday 22 June 2015. Public consultation to last for a twelve week period.

5.3 Comments received during the public consultation period and the final draft of the Statement of Licensing Policy to be submitted before the Licensing Committee on (date of meeting to be confirmed in due course).

5.4 Statement of Licensing Policy to go to Full Council meeting for adoption on Wednesday 18 November 2015.

**6. Financial, resource and property implications.**

6.1 None for the purposes of this report.

**7. Legal and statutory implications.**

7.1 None for the purposes of this report.

**8. Human rights, equalities and community cohesion implications.**

8.1 These are statutory functions and are applied globally.

**9. Crime and Disorder Implications.**

9.1 The service has a statutory duty to contribute to the reduction of crime and disorder within the London Borough of Merton under Section 17 Crime and Disorder Act 1988. The prevention of crime and disorder is also one of the licensing objectives as defined in the Licensing Act 2003 and in the Council's current Statement of Licensing Policy.

By examining issues raised such as the possible adoption of a CIZ in Mitcham town centre and the possible introduction of a scheme to limit the sale of high strength alcohol, the licensing authority is contributing to that commitment.

**10. Risk management and health and safety implications.**

10.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.

**11. Appendices – the following documents are to be published with this report and form part of the report.**

11.1 Appendix "A" Draft revised Statement of Licensing Policy showing proposed changes using track changes and Counsels opinion.

11.2 Appendix "B" Map showing the proposed area of the Cumulative Impact Zone for Mitcham Town Centre.

**12. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report.**

12.1 The Licensing Act 2003; and

12.2 Revised guidance issued under section 182 of the Licensing Act 2003.

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