

BABERGH DISTRICT COUNCIL

FROM: Head of Natural and Built Environment

REPORT NUMBER F96

TO: LICENSING AND APPEALS COMMITTEE

DATE OF MEETING: 5 October 2006

LICENSING ACT 2003: REVIEW OF STATEMENT OF LICENSING POLICY

1. SUMMARY

- 1.1 At its meeting on 19 October 2004, the Council adopted a Statement of Licensing Policy ('the policy'), in accordance with the provisions of the Licensing Act 2003. The policy is effective for a period of three years from 7 January 2005 until 7 January 2008, after which time the policy must by law have been reviewed and consulted upon. However, the Council resolved that the policy should be reviewed by the Licensing and Appeals Committee after one year, in addition to the statutory three year review.
- 1.2 At its meeting on 27 January 2006 (Paper E247 from the Acting Head of Legal and Administrative Services refers) the Council accepted the recommendation that the first Babergh review be postponed in anticipation of publication of an interim review of the statutory guidance, issued by the Government under section 182 of the Licensing Act 2003.

2. RECOMMENDATIONS TO COUNCIL

- 2.1 That the first formal Babergh review of the Statement of Licensing Policy now be conducted during 2007, in accordance with the statutory timescales involved with publication of a second local version Statement of Licensing Policy to be effective from 7 January 2008.
- 2.2 That the annual policy review by the Licensing and Appeals Committee previously resolved by Council be revised to a three-yearly review in accordance with statutory requirements. The legislation already makes provision for Licensing Authorities to review their policy within the three year period should circumstances require it.

3. FINANCIAL IMPLICATIONS

- 3.1 Deferring the first policy review until publication of any full revision to the statutory guidance will avoid duplication of work and associated costs to the Authority. The Authority will be able to pool resources and split costs, including advertising, with other Suffolk Authorities who will all be conducting this statutory review during 2007. This would also enable Authorities to take into account fully revised government guidance and any best practice arising from it.

4. KEY INFORMATION

- 4.1 The interim review of the statutory guidance has now been published. A full review is ongoing and a further 'full review publication' is now scheduled for the end of 2006/early 2007. A summary of the interim revisions to the guidance as published June 2006 is attached as Appendix 1.

- 4.2 Whilst this interim revised guidance has made some useful comment and clarification on some areas of the Act, for example on personal licence holder requirements, it only appears to serve as a 'stop-gap' pending publication of the full review findings. The government is working closely with ten 'scrutiny councils' on administration and delivery of the new licensing system and it is hoped that the full review will remove some of the inconsistencies and uncertainties experienced by Licensing Authorities in administration of the new licensing system.
- 4.3 The policy may be reviewed by the Licensing Authority at shorter intervals than the statutory three year period, as may be required in the light of local circumstances, good practice and any relevant case law. Any review of the policy necessitates a statutory period of public consultation and associated advertising.
- 4.4 At its meeting on 6 September 2005, the Council approved an addendum for annexing to the policy for purposes of clarification following a decision reached by the magistrates' court in a case between a trade association (and others) and a Licensing Authority – where the Authority's policy was successfully challenged as being overly prescriptive and inferring greater powers to the Authority than the legislation allows. The addendum was duly annexed to the Babergh policy to clarify the role of the Licensing Authority.
- 4.5 Further to the 27 January 2006 Licensing and Appeals Committee meeting, Babergh officers consider that in the light of the current timescales, risks involved, and in view of the limited matters covered by the interim review publication, the Committee may wish to consider a recommendation that the first review of the Babergh District Council policy should now be deferred further until the first compulsory review is due to take place in 2007. Otherwise, the Council will be reviewing the policy, and incurring associated costs of consultation/advertisement etc, twice in the space of the next 10-12 months - once voluntarily and then compulsorily. There appears to be nothing in the interim revisions to the guidance to necessitate a review of the existing policy before the compulsory review.
- 4.6 It seems apparent that no other Suffolk Licensing Authorities will be reviewing their policies as a consequence of the limited application of the interim guidance revisions, and will be waiting until the first formal review is due to incorporate any revisions to their existing policies.
- 4.7 Officers are confident that the addendum already added to Babergh's existing policy is sufficient to clarify the role of the Licensing Authority under the Licensing Act 2003, and that the existing version of the policy will be adequate to see the Authority through until the first compulsory review is carried out.

5. **APPENDICES**

Appendix 1: Summary of Amendments (published June 2006).

6. **BACKGROUND PAPERS REFERRED TO**

None.

CONTACT: Lee Carvell (Principal Licensing Officer) **DIRECT LINE:** 01473 825719