

# **The Abbey Resident's Association**

## **Response to Review of Licensing Act 2003 Statement of Licensing Policy**

### **Context of the Consultation**

It is slightly unfortunate that this consultation is taking place at this time given the coalition government commitment in the Queen's speech to introduce new legislation in this area.

According to the No 10 web site the new Bill will contain:

- the power for directly elected individuals to hold the police to account, ensuring that local policing activities meet the needs of the local community;
- Amended health and safety laws that do not stand in the way of "common sense" policing (there are no clues as to what "common sense" means);
- Overhaul of the Licensing Act 2003 to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems;
- banning the sale of alcohol below cost price;
- allowing local councils to charge more for late-night licences to pay for additional policing;
- giving local councils powers to shut down shops or bars persistently selling to children;
- increasing the maximum fine for selling to children to £20,000

These are all changes which TARA supports in principal and which would require much of the proposed new policy to be redrafted.

### **Targets and Goals**

Both the old and new policy statements make reference to targets the policy sets out to achieve, some explicit and some implied. It would be useful in evaluating the proposed new policy to have information about how successful the old policy was in achieving the goal it set for the Licensing Authority.

The new policy statement, and the old policy statement, often imply goals and targets without suggesting how its effectiveness at a means of achieving them will be measured. For example:

"The Licensing Authority aims to facilitate the development of a healthier economy in Bath and North East Somerset that feels both safe and offers diverse cultural activities to enable a broad age range of people to enjoy themselves whilst at the same time improving the quality of life of residents and increasing the attractiveness of the area to visitors."

How will the quality of life of residents be measured?

## **The Purple Flag**

Reference is made to the Purple Flag but no explanation is offered as to how this policy will support the ongoing achievement of Purple Flag standards.

## **Southgate**

The reference to the Southgate fails to explain how the Licensing Authority will operate in relation to this development going forward.

## **Relationship with Planning Policy**

No attempt has been made to resolve this inherent conflict between licensing policy and planning policy or indeed other strategic policy processes. We are not aware of any legal barrier preventing the Licensing Authorities attempting to do this within its policy statement. This is of particular significance in relation to the Cumulative Impact Policy and to assist with this we attach an opinion we have received from leading counsel on the de facto relationship.

## **Licensing Objectives**

This policy document does not explain how the licensing objectives will be measured nor how well the old policy succeeded in achieving them and therefore how this policy might have been shaped by that performance. The policy document does not explain how the licensing authority interprets these objectives, set nationally, in the local context.

## **General Principles**

The quality of resident and visitor experience depends on effective enforcement of the full range of statutory conditions. The document should explain how this is to be achieved. It is the customer experience, and that of neighbours, that counts and that justifies the range and cost of statutory interventions.

Where the licensing authority seeks to rely on other legislation or statutory obligations it should give due consideration to how onerous enforcement of that legislation is particularly when the most likely to be affected by any breaches are individuals. Noise nuisance is a good example, since Environmental Protection officers cannot or will not be proactive in enforcement, individuals affected by noise nuisance face a lengthy, onerous and bureaucratic procedure to get the nuisance addressed. This burden would be lifted if proper noise control conditions were attached to the premises licence.

## **Relationship with the planning process**

Many applicants, rightly or wrongly, seem to operate under a belief that planning permission particularly as it relates to hours can be used to pressure the licensing process and visa versa and we think this policy should make it clear that this is not the case

## **Integrating Strategies**

The document needs to explain what integration has been achieved between these various strategies and note successes and indicate outstanding issues. Otherwise it tells us nothing

We are pleased see 'needs of local community' added to the list of 'matters the licensing authority will have regard to'.

## **Cumulative Impact Policy**

Why do the Council's findings on Cumulative Impact, arrived at after thorough and exhaustive review, play no part at all in planning policy for the city centre and in decisions of the Local Planning Authority? There is no mention of cumulative impact in the Local Plan. Why not?

## **Suggested additions to operating schedules**

The list of standard conditions for Cumulative Impact Areas is welcome. Conditions 2 and 10 could usefully be amended to read: 'SIA registered door staff (numbers to be stated) shall be on duty at (times to be stated) to supervise entry to and exit from the premises at busy times. Among their duties will be to ensure that customers gathering at or near the premises entrance are not excessive in number, do not litter or obstruct the pavement or highway and do not make such noise as is likely to disturb residents and others in the neighbourhood'.

'The Licensing Authority will expect all licensed premises to take a socially responsible approach by participating in schemes such as Bath Night Watch or similar...' This is an empty expectation as it cannot be consistently enforced by the Licensing Authority unless there is an application for a new licence or a licence variation or through review of all the seventy-odd licenses that have been granted in the city centre.

## **Other mechanisms for controlling cumulative impact**

The use of "other mechanisms" includes

- \* Planning controls
- \* Police enforcement of the 'general law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices for relevant offences.'
- \* The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to persons who are drunk'. We would be interested to know how often has this has happened?
- \* Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.' How often has this happened?

All these appear unenforced or unenforceable or both.

### **Local Amenity**

To have any practical impact this policy needs to indicate what criteria the licensing authority will use in judging the balance between “the legitimate aspirations of the entertainment industry and the needs of the Residents”.

### **The Portman Group**

We believe it should be explained how the Portman Group is funded and whom it seeks to represent