

**LICENSING AND SAFETY COMMITTEE  
1 FEBRUARY 2007**

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**NEIGHBOUR NOTIFICATION  
(Director of Environment and Leisure)**

**1 PURPOSE OF DECISION**

- 1.1 This report advises the Committee of a new initiative in relation to the introduction and implementation of a 'Neighbour Notification' procedure for applications for premises licences under the Licensing Act 2003 and the Gambling Act 2005.
- 1.2 This procedure would be in addition to the statutory requirements that are already in place in respect of advertising applications in a local newspaper and by means of a notice outside the premises.
- 1.3 The procedure builds on the learning in respect of how planning applications are made public beyond that required by statute.

**2 RECOMMENDATIONS**

- 2.1 That the Committee considers and comments on the Neighbour Notification procedure (as attached); and**
- 2.2 That the officers provide a briefing to Committee at its meeting in October 2007 in relation to the experience gained.**

**3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

Borough Solicitor

- 3.1 The relevant legal provisions are contained within the main body of the report.

Borough Treasurer

- 3.2 There are no significant financial implications arising from this report that cannot be met from existing budgets.

Impact Assessment

- 3.3 There are no implications identified.

Strategic Risk Management Issues

- 3.4 There are no strategic risks identified.

**4 SUPPORTING INFORMATION**

- 4.1 Existing legal requirements require that where there is an application for a new premises licence or an application to vary an existing licence, the applicant must:
- (i) display a notice of A4 size (or larger) on or near the premises for a continuous period of not less than 28 consecutive days, starting the day after the application was submitted to the licensing authority;

- (ii) publish a notice in a local newspaper which circulates in the vicinity of the premises.
- 4.2 The displayed and published notices must contain details of the relevant licensable activities which it is proposed will be carried on at the premises, details of how interested parties can inspect the application and the date by which relevant representations must be made to the licensing authority.
- 4.3 It has become evident that residents particularly in the immediate vicinity of a premises and most likely to be affected by the regulated activity to be licensed are commonly not aware of the application in time to make representation within the relevant 21-day period. This has left residents angry and disappointed that they have not been able to have their say.
- 4.4 In all instances where concerns were raised, it was determined that the legislative notification procedures had been complied with by the applicant. This may indicate that the present legal requirements are inadequate to provide for effective consultation with those most likely to be affected by the activity.
- 4.5 LACORS (the Local Authorities Coordinators of Regulatory Services) have stated that it is a matter for local authorities if they wish to undertake additional advertising outside of the statutory requirements, but that care must be taken to ensure that there could be no accusation of bias or indication as to preference to the outcome of the application process.
- 4.6 The intention is therefore that immediate neighbours adjoining the "premises" will be informed by means of a letter which includes the information contained on the statutory notice that must be displayed outside the premises. The procedure will lay down guidelines as to which neighbours should be contacted, and an officer visiting the site will also have discretion upon contact with other neighbours if in their view those licensed activities might significantly impact upon their property.
- 4.7 There will be a small cost to the implementation of any procedure and these cannot be met by an additional fee to the applicant as charges are set by the government through regulations. The costs will therefore need to be met by the Council through the Council tax provision. Officers, in drawing up the procedure, have sought to keep costs to a minimum, so that they can be met within existing budgetary provision, but still hopefully provide much improved notification for those residents most likely to be affected. The intention is that the procedure be trialled for a period of up to 7 months and that officers should report back to the Committee, at its October meeting, on the costs, benefits or problems identified.

#### Background Papers

Draft procedure for Neighbour Notification

#### Contact for further information

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## **GUIDANCE - NEIGHBOUR NOTIFICATION**

This procedure seeks to ensure that persons living in property that might be significantly adversely affected by a licensable activity will be directly notified of any such applications.

Neighbour notification will ensure immediate neighbours have the knowledge and opportunity to consider an application and respond if appropriate.

The process will begin when any one of the following is received:

- Application for new premises licence
- Application to vary premises licence
- Application for new club premises certificate
- Application to vary club premises certificate
- Application for gambling premises licence

When the application has been validated and logged on to the IT system, an A4-sized Ordnance Survey extract, which will be produced and kept with the application. On this extract, the properties identified for direct neighbour notification by letter will be identified. Details below give guidance on how these properties will be identified.

### **Guidance on how to identify properties to be notified**

Occupiers of residential properties are to be notified as follows as a result of a desktop review:

- Residential property sharing a boundary
- Residential properties immediately in front of premises (opposite side of road)

Admin will send letters to those properties identified, duplicating the information required to be entered upon the statutory notice.

The application file will then be forwarded to the Licensing Officer. The Officer should complete the validation of the application as appropriate, and a site visit should be arranged at the earliest convenience, but within 5 days.

During the site visit, the Licensing Officer should ensure that the premises has displayed the appropriate statutory notice. The Officer will then check whether the letters sent by Admin to the neighbours are sufficient.

The Officer should be looking out for:

- Properties sub-divided into flats or smaller units
- New properties not shown on Ordnance Survey extract
- Changes to names of properties

If further properties are identified, the Licensing Officer should where possible immediately deliver copies of previous correspondence and/or note details and pass these to Admin Section for further letters to be sent within 2 working days.

Where a further application is then received in respect of the same site, the Admin Officer should check whether any further properties were identified during the last site visit of the Licensing Officer and include them on the initial mailing list.

## **NB - Use of Discretion**

The Licensing Officer is expected to use judgement in circumstances where:

- (a) other parties, not identified under these notes, may reasonably be considered to be affected due to the nature/location of the activities or geographical factors which might impact upon, particularly noise or nuisance;
- (b) distances between buildings, or other circumstances, are such that notification in precise accordance with the above guidance is considered necessary or unnecessary;
- (c) the premises is in a rural location, in which case any neighbour who might reasonably be construed to be affected should be notified.