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SCRUTINY COMMITTEE

ROOMS 2 & 3, BURNLEY TOWN HALL

Thursday, 15th September, 2022 at 6.30 pm

SUPPLEMENTARY AGENDA

10) ***Statement of Licensing Policy 2022-2027 (Licensing Act 2003)*** 3 - 6

To consider the post-consultation draft Statement of Licensing Policy and make a recommendation to Full Council.

PUBLISHED 14th September

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APPENDIX D – SUPPLEMENT

Late Representations

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We have read the draft Statement of Licensing Policy 2022 – 2027 and comment as follows –

Firstly, let us congratulate the Council on their 14 page document. This is a great improvement on the 27 page 2016 – 2021 document and a massive improvement on the 151 page Revised Guidance previously issued under section 182 of the 2003 Act. We agree with Thoreau`s definition of best government.

Our overriding criticism of the document is that it is written in what can best be described as `civil service speak`, that is to say, it is full of good intentions but lacking in practical applications. It is thus bland, sounding highly responsible on paper but very far from being a plan of action. It gives the impression of having been written by an administrator or lawyer, not by a person familiar with the exercise of executive authority in addressing practical problems. The language needs to be firmer in expressing the Council`s wishes.

We also recognise that the Council is limited in what it can achieve by the flaws in the Licensing Act 2003. These flaws were drawn to the attention of the Secretary of State at the time but disregarded, as the decision to change alcohol licensing, from being a judicial process to being an administrative process, was a political decision and nothing was allowed to impede this change. Nevertheless, nineteen years on and with the resultant experience gained, we would encourage the responsible authorities, charged with implementing the Act, to seek a revision of the Act, to eliminate the obvious weaknesses and to make the administration of the same easier and more effective. It does not need a new Act, just an Act to modify the existing Act, in the same way that the Council has modified and updated its Licensing Policy on several occasions.

We note that the Council, when drawing up its draft policy, claims to have consulted representatives of Premises Licence Holders and Personal Licence Holders. We find this statement surprising, as at no time have we been invited to nominate the said representatives, who have apparently appointed themselves to represent us, nor have we been given the opportunity to express our views to those representatives. There is no organised and representative body existent in Burnley, which the Council could have consulted. The BAND scheme is certainly not representative of the licensed trade in Burnley and the employees of the Burnley Improvement District have a very limited knowledge of the subject.

3.1.3 We have reason to believe that, in the past, simple confirmation from applicants that advertising requirements have been met has proved to be inadequate. We suggest that this confirmation should be supported by photographs.

3.1.5 We would urge the Licensing Committee in its policy document to make it clear to applicants that Operating Schedules will be reviewed by the Licensing Office and that, when schedules fail to meet the Licensing Objectives, then the application would be opposed by that office. As an example,

4.1.1 If the Council is to require the Designated Premises Supervisor to be present for more than 50% of the opening hours in any 7 day week, then it follows that no person can be a DPS for more than one premises. We submit that this should be made clear by stating it in the Policy.

We also submit that the Policy makes provision for the DPS to take time away from the business, due to holidays and sickness, thus allowing the business to remain trading while the DPS is not present for up to perhaps two weeks at a time. Perhaps a longer period might be allowed in the case of sickness. It will be noted that the 2003 Act makes no provision for joint DPSs.

We do not understand how, in the past, the Licensing Committee has granted permitted hours, which conflict with the 50% requirement. If one were to assume that a business were to be granted permitted hours of over 80 hours in a 7 day week, then it follows that the Council also requires the DPS to work a week of more than 40 hours, without leave for holidays or sickness. We submit that this issue is addressed in the Policy and it is made clear that, due to the DPS 50% requirement, permitted hours of more than 80 in any 7 day week will not be granted unless the DPS certifies their willingness to work at least 50% of the hours granted.

4.1.2 We welcome this clause. One of the weaknesses of the 2003 Act is that all Personal Licence Holders are deemed equal and are thus equally competent to manage any licensed premises.

5.2.1 When the 2003 Act was first proposed, it was suggested that staggered closing hours would assist in the staggered dispersal of customers. We did not believe this at the time and are surprised that this totally untrue belief still holds sway in certain quarters. Unfortunately, it fails to take account of human nature. If one premises closes earlier than another, then customers gravitate to the latter upon the former closing. If the later sets a time for last entrance, then customers will gravitate sooner. Preventing this movement of customers by force would place an unrealistic burden on the police.

5.3.1 We have observed that many of the pavements in Burnley are narrow and late night customers are forced into the carriageway due to volume pressures, as well as for the reasons specified. On weekend nights, commercial traffic is non-existent and private car traffic very low. The safety issue revolves around the taxis. We submit that taxis should not be permitted in the core of the town centre, where the late bars are situated, on specified evenings.

5.4.1 Prior to the present Act, the Licensing Bench made it clear as to what comprised an `event`. `Events` determined by the calendar eg Christmas, were not deemed to be `events`. We submit that the Council do likewise, in order that the unscrupulous might not subvert the Act. We draw attention to the unregulated `pop up bars` which have appeared in Burnley and elsewhere on public holidays.

5.6 We refer to our comments on 4.1.1 and 5.2.1.

5.7 We refer to our comments on 5.2.1.

5.8.3 We submit that, when considering applications for licences, the Council makes it clear that, as well as scrutinising the suitability of persons for the position of DPS, they will also require detailed information on the partners/owners of the business and any changes therein during the term

5.9.1 We note that minimum pricing has been ineffective in Scotland.

5.10 Whilst accepting that the licensing and planning regimes need to be kept separate, we suggest that there should be greater correlation between the two and this should be made clear in the Licensing Policy. It is illogical when, as happens in Burnley, the Planning Committee allows certain opening hours and the Licensing Committee later grants different permitted hours. Clearly, in such a case, the later opening hours and earlier closing hours should be adhered to but in practice this does not happen and the reverse applies. The key is `correlation`. We submit that when planning is granted, the hours be `subject to licensing approval`. This would allow those hours to be amended if it was felt that the hours granted were inconsistent with the Licensing Policy.

5.13 The Policy states that an EMRO is to be avoided and should be considered to be a last resort. We do not agree. The liberalisation of licensing hours in the 2003 Act has had the effect of increasing disorder and drunkenness and made the late night policing of Burnley more difficult. More alcohol is purchased in the supermarkets and drunk at home before going out to the town. This has been bad for business. Saturday night hours have changed from 7.00 – 11.00 to 11.00 – 4.00. We believe that many sole traders, owning licensed premises in Burnley, would welcome an EMRO,

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XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. However, due to Burnley's licencing laws there are drunk and drugged up people fighting in the streets until 7-8am in the morning. XXXXXXXXXXXXXXX At the weekends people have to make their way through fighting in the streets most if not every weekend. It is not all drink related as we have evidence that drugs are openly being sold on the streets and mindless people out of control are causing damage to property and prevent normal people from living a normal life.

The night clubs seem to promote the taking of drugs, as can be seen from XXXXXXXXXXXX. I have many videos to support this claim. XXXXXXXXX wanted to regenerate more buildings in Burnley Town Centre, however, until Burnley can adopt sensible Licensing hours and properly Police people going home the area will add to the bad reputation it is developing and going forward, investors in both property and business will avoid Burnley. I would suggest 2.00 am latest, like many other good quality towns throughout the UK.

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