

Leicester
City Council

WARDS AFFECTED
All Wards

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Cabinet

7th April 2003

Review of Class A3 Policy: Supplementary Planning Guidance

Report of the Corporate Director of Environment, Regeneration and Development

1. Purpose of Report

To put before the Cabinet for its approval Draft Supplementary Planning Guidance (SPG) on the use of premises for food and drink purposes (A3 uses) in the town, district and local centres

2. Summary

This report sets out the representations that were made following the public consultation on the draft Supplementary Planning Guidance on the future development of food and drink premises (A3 uses) in the town centres of Beaumont Leys and Hamilton, district centres (Uppingham Road, Evington Road, Belgrave Road, and Narborough Road) and local centres. It includes responses to the representations and proposes a revision of the draft guidance.

3. Recommendations

Members are asked to approve the final version of the Supplementary Planning Guidance for publication

4. Headline Financial and legal Implications

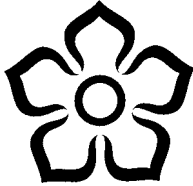
None as a result of this report

5. Report Author/Officer to contact:

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DECISION STATUS

Key Decision	No
Reason	N/A
Appeared in Forward Plan	No
Executive or Council Decision	Executive (Cabinet)



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SUPPORTING INFORMATION

1. Report

1.1 This report proposes Supplementary Planning Guidance (SPG) to control the future development of food and drink premises (A3 uses) in the town centres of Beaumont Leys and Hamilton, district centres (Uppingham Road, Evington Road, Belgrave Road, and Narborough Road) and local centres. Class A3 is a category of food and drink uses which includes bars, pubs, restaurants, hot food takeaways, and cafés. The report sets out the issues arising from the public consultation on the draft SPG and the Council's response to them. A revised draft SPG is attached as Appendix A

1.2 The guidance covers issues such as opening hours, and the size, numbers and concentrations of A3 uses in these centres. Such matters will be taken into account when considering planning applications, for example, for new A3 uses, extensions to existing premises in A3 use and changes to permitted opening hours.

Consultation with Development Control Sub-Committee and Strategic Planning and Regeneration Scrutiny Committee

1.3 The Development Control Sub-Committee considered the SPG on 3rd December 2002 and their comments were incorporated into the consultation document. In particular the SPG was revised to include further guidelines (9 and 10) on outside areas used by customers for drinking and the design of shop fronts.

1.4 The Strategic Planning and Regeneration Scrutiny Committee made the following comments on 20 February 2003:

- Each case should be considered on its merits, with limits not necessarily applied strictly in areas such as outer estates.

- Enforcement of hours restrictions is important. It may be difficult to enforce 11.00pm closing time if there are existing late hours establishments in local centres.
- The consultee list was not long enough to include enough people with a “residents” viewpoint.
- Concern about premises established before existing planning legislation and forthcoming new licensing powers.

1.5 As a result of the Scrutiny Committee’s comments paragraph 2.28 of the draft SPG has been revised to provide clarification of the application of the 30% threshold in the smaller centres. As the consultation was advertised in the local press and the SPG was available on the Council’s website individual residents were able to take the opportunity to comment on the guidance.

Consultation process

1.6 Consultation was carried out for a period of six weeks ending on March 7th and a list of consultees is included in Appendix B. A press release appeared in the Leicester Mercury newspaper on Thursday 30th January giving details of how the the document could be obtained or viewed on the City Council’s website. A public notice appeared in the same paper on Saturday 8 February.

Representations received

1.7 Fifteen representations were made: six by residents, one from the Knighton and Clarendon Park Residents Association, five from organisations including the LRC, the Campaign for Dark Skies and the Police, two from consultancies; and finally the City Centre Manager. General comments were made about the city centre particularly by organisations and especially the Police. Residents were concerned about their local area, Braunstone Gate/Narborough Road and Queens Road featured prominently.

Responses

1.8 In general the Representations indicated that individuals welcomed the Guidelines. However a key concern was the importance of retaining a balance of retail premises. What will happen In centres where the 30% limit has been reached? There may be pressure for A2 uses to change to A3, some of which support the retail function and are socially inclusive in a way which A3 uses may not be. A3 uses should only be allowed when they are a primarily daytime use.

Council response: When the limit is reached then applications for A3 uses can be refused. It should be noted that number of A3 uses have been allowed on appeal, e.g. 80a, 52/54 Queens Road. The Inspector’s view in the former case was that there was not a disproportionate amount of A3 uses on Queens Road.

The SPG does address financial services (A2) in Guidelines 5 and 6 but the scope of the SPG does not cover the retention of A2 Uses.

1.9 Restricting opening hours to 23.00 hours is regarded as important but must be enforced. Such action has not been particularly successful and pressures will increase when the licensing regime changes. SPG may not be sufficient to control this and a policy is required in the local plan. One resident considers there should not be a presumption in favour of Sunday opening and no late night opening in locations bounded by residential properties.

Council response: More resources are now available for enforcement However the Council relies on the public for information on breaches of conditions. Proposed opening hours take account of residential amenity and Sunday opening hours will be more restricted.

1.10 Extra street cleaning should be considered in the areas where increased licensed premises are permitted. Contributions should be sought from operators for additional street cleaning, vandalism and graffiti.

Council response: The issue of developer contributions for maintenance arising from A3 uses is being considered but is outside the scope of this SPG.

1.11 A new attitude to the use of upper floors is welcomed, an aspect Planning Inspectors have ignored in the past when considering appeals. Where adjacent upper flats become difficult to let this may affect the viability of retail premises. Ground floor only premises are more likely to be friendlier to people with disabilities, for example, toilets will be downstairs.

Council response: Agreed

1.12 Several residents considered that crime and disorder issues must be considered in district and local centres as well as the city centre. The Police consider that crime and disorder patterns will be governed by restricting opening hours, limiting size and by dispersal. Their main concern is bars and clubs on linear routes adjacent carriageways where sufficient pavement space outside entrances is needed to allow for queuing and dispersal of customers without spillage onto the highway.

Council response: Agree with the Police assessment

1.13 The Police state that although there are some incidents of disorder in the Braunstone Gate area it is controllable at present. A significant increase in bars, the introduction of large scale club type premises or hours extended beyond 0100 hours would stretch police resources. That area is currently policed from Hinckley Road LPU supplemented by Charles Street.

Council response: The aim of the SPG is to prevent such a situation arising

1.14 There was an objection that no mention is made of delivery vehicles and parking and that these have been underestimated in the past. Where there are recognised parking problems parking should be provided. New A3 uses should not be granted in front of bus stops where customers' car parking cause problems for bus users. Contributions could be sought towards residents parking schemes.

Council response: Paragraph 2.12 refers to the disregard for traffic and parking conditions when making short stay visits to takeaways. Hence the recommendation that in the smallest local centres presumption in favour of A3 uses is suspended. Policies S11 in the adopted Local plan and R07 in the Deposit Replacement Local Plan include criteria referring to the effect of parking and traffic.

1.15 Additional concerns and suggested constraints are: excluding delivery services; switching off illuminated signs at closing time; bright (security) lighting at the rear of A3 uses; proper soundproofing measures; restrictions on late night entertainment. Where runs of more than two non-retail premises already exist, it

was suggested that the guideline on frontages will not apply to the Aylestone shopping centre because of the complex street naming.

Council response: These general issues are addressed in other planning policies and guidance. Each centre should be considered as a whole regardless of street names.

1.16 Respondents asked what conditions will be attached to protect residential amenity and how will these be monitored and enforced; what will happen when new licensing legislation is introduced permitting 24-hour opening and when a shop becomes vacant could the Council support the retention of the use rather than permitting a change of use to A3.

Council response: The Council has standard conditions relating to hours of use. The change of use to A3 could be refused if levels the threshold for A3 uses has been reached. However if a centre is no longer able to attract shops then the boundary of that centre could be reviewed.

1.17 The consultants Landmark Planning take a more critical view. They consider that the proposed restrictions will lead to more vacant properties, which will encourage further decline of small centres. Restricting the number of non-retail uses adjacent each other is opposed. A 2400 hour closing time is unnecessarily restrictive on Braunstone Gate, many existing operations have later hours. It is better to use regularly reviewed licensing to effect control emphasising the importance of good management. This appears to be the Government's approach to reflect current social attitudes.

Council response: The guidelines may be restrictive but there is a need to have a balance with residential amenity, particularly as there will be new residential developments in the area

1.18 They consider also that limiting A3 uses to ground floor only is draconian. Party wall disturbance can be controlled by conditions. Commercial viability can be affected if space is restricted. Consultants DPDS take a similar view but accept that the guidelines 8 and 11 provide some flexibility. Acceptable conversions have taken place using upper floors. Scope to use the upper floors should be given provided a proposal, particularly one around the size thresholds, does not conflict with the policies in the adopted local plan.

Council response: There is scope to consider each proposal on its merits, with advice from the Pollution Control Group.

1.19 The increase in the number of bars with exterior lights angled upwards into the sky or outwards on the public highway is leading to light pollution and highway hazards respectively. All future applications for pubs and bars should be considered with light pollution issues in mind. Requests that light pollution be considered in the current SPG and that current planning policy should be that all such premises have lights that shine downwards.

Council response: With regard to the issue of lighting raise by a number of respondents, the deposit Replacement Local Plan recognises the problem of light pollution. Policies BE14 'ADVERTISEMENT DESIGN', BE24 'OUTSIDE LIGHTING' and ST05 'RESIDENTIAL AMENITY & NEW DEVELOPMENT' cover the issue in a range of circumstances.

2. Recommendations

Members are asked to approve the final version of the Supplementary Planning Guidance for publication, to support the policies in the adopted Local Plan and the Deposit Replacement Local Plan.

3. Financial, Legal and Other Implications

(a) Financial Implications

None.

(b) Legal Implications

None

(c) Other Implications

None.

OTHER IMPLICATIONS	YES/NO	Paragraph references within this report
Equal Opportunities	NO	
Policy	YES	Throughout the documents.
Sustainable and Environmental	YES	Throughout the documents.
Crime and Disorder	YES	1.12 and 1.13.
Human Rights Act	NO	
Elderly People / People on Low Income	NO	

4. Background Papers - Local Government Act 1972

1. City of Leicester Local Plan (1994)
2. First deposit draft Replacement Local Plan (2001)

5. Report Author/Officer to contact:

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