

# ROBERTA BLACKMAN-WOODS MP

(CITY OF DURHAM)

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Ian Thompson  
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9 April 2019

Our Ref: D/NR

Dear Ian

## RE: Review of Statement of Licensing Policy

I am writing to you in relation to the review of the local authority's Statement of Licensing Policy, which runs until 3 May 2019.

As you will know, along with local residents, I have for many years raised a number of issues relating to County Durham's Licensing Policy and its failure to address the unique challenges of Durham City as well as requesting on a number of occasions that the licensing policy be reviewed. As this review is finally taking place, I am getting in touch to once again raise a number of concerns, and I will address these in turn. My comments on this policy relate to many residents meetings that I have held over the years, a significant number of emails from constituents, and the most recent public meeting I held to discuss the issue of licensing on 1 March 2019.

## Structure of the Review

First, as I raised in my response to the formal notification of the review, there are a number of issues with the process of this review itself. Within the text of the letter indicating that a review would be taking place, it is claimed that "*licensing authorities must prepare and publish a statement of their licensing policy every five years*", where in fact the guidance from the Secretary of State indicates that this must be done **at least once** every five years.

This means that the local authority could at any point in the last five years made the decision to carry out a review. Given the number of issues that I and others have raised over the years, it is disappointing that the council felt that this process could not be brought forward.

Furthermore, in my response to the consultation notification, I highlighted my concern that the letter stated the Council was seeking to "consult with existing licensed premises and with organisations, persons and bodies representing responsible authorities and **most importantly, the licensed trade in our area.**" This statement appears to completely disregard the purpose of a licensing policy as outlined in both the Act and the most recent guidance. Both of these documents say that the aim of the Licensing Act is to promote the four statutory objectives.

The guidance itself states that the principles of the objectives include providing a regulatory framework that “reflects the needs of local communities” and “encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.”

It is difficult to see how any policy that considers the views of the licensed trade above those of responsible authorities, residents and their representatives can fully uphold the licensing objectives, rather than being focused on the economic and financial needs of the businesses operating in Durham. This is not in keeping with the aims of the legislation.

As the Council will be aware, the aim of a licensing policy is to uphold and support the four licensing objectives outlined in the Licensing Act 2003. These are the prevention of crime and disorder; prevention of public nuisance; public safety and the protection of children from harm. There are no other licensing objectives contained within the Act, and each of these four is of equal importance, and must be the paramount consideration of any licensing policy.

Given the proliferation of licensed premises within the city, it appears that the Statement of Licensing Policy, and the process of determining licenses needs to be strengthened in a number of areas.

### **Current Licensing Process**

Alongside the four licensing objectives, there are a number of issues relating to the current process of licence applications that must also be addressed. Paragraph 2.16 of the Statement of Licensing Policy states that “Licensing Services works almost exclusively with, through and for people”, yet it is hard to determine how this is achieved in practice.

It is clear from the correspondence I have received from residents on this issue, as well as the feedback I have been given at numerous public meetings, that many of those who live within the city feel that the steps that the Council take to ensure that new applications for licensed premises, or variations to existing licences are well publicised are simply not good enough. It is worth noting that planning applications received by the Council are displayed on the planning portal, yet should a resident wish to look at the details of a licence application, this can only be done by appointment at council offices located in Meadowfield. As the determination of licences can have a significant effect on those who live or work in the vicinity of the premises, it seems very unfair that people are presented with such an onerous task when viewing the details of an application.

It would be helpful if, as part of the review of the Statement of Licensing Policy the local authority would commit to greater transparency around applications, and ensure that residents living within the vicinity of the proposed establishment were better informed when a premises licence application has been received. It is also imperative that members of the public are able to view the details of a licensing application, either online as with planning applications, or at a location in the city. This could also potentially be expanded to other key locations throughout the county.

Indeed, Paragraph 9.2 of the most recent guidance indicates that hearings on licence applications should not take place unless representations have been received by the licensing authority, but it is apparent that in many cases people are simply not aware that an application has been made, nor have the opportunity to properly scrutinise the information submitted by the applicant.

Turning to the Statement of Licensing Policy itself, it seems that the current policy does not uphold the four licensing objectives, and I will address these in turn.

## **Public Safety**

One of the key requirements of a Statement of Licensing Policy is that it promotes public safety, and it would appear that the local authority's current policy does not do this.

While some of the content of the policy is appropriate when applied to individual premises, such as the requirement that applicant discuss such matters as fire and building safety with the local authority, it is clear that the sheer number of licensed premises within the city centre is causing a wider safety concern.

In fact, the number of people leaving the Walkergate complex late at night and seeking transport home creates such a danger to the public that Durham County Council now closes Claypath to road traffic between 9pm and 4am on Friday and Saturday nights. Such drastic action indicates that this area has reached saturation point for bars and clubs, and public safety is a huge concern in the Walkergate area.

Alongside this, in February 2018, a young student died following a crushing incident while queueing outside a venue in the Walkergate complex. Although investigations are still ongoing, eyewitness reports at the time indicate that the area was full of people, and that it was not unusual for queues on busy nights to be disorderly.

It appears then that the continued approval of licences, and particularly late licences, in the City of Durham has led to a significant negative cumulative impact on public safety.

## **Prevention of Crime and Disorder**

In paragraph 7.1 (Prevention of Crime and Disorder), the Statement of Licensing Policy indicates that licensed premises, especially those offering late night/ early morning entertainment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems.

The policy itself seems to acknowledge the issues around crime and disorder in paragraph 12.7 (Licensing Hours) which states that there is evidence to suggest that late night, alcohol-related crime and anti-social behaviour remains a problem in parts of the county. It goes on to say that the effect any such disturbance may have *"is a genuine matter to be considered when addressing the hours during which licensable activities may be undertaken."*

Publicly available crime statistics indicate that reports to the police of the three offences most linked to alcohol consumption (Public Order offences, Anti-Social Behaviour and Violence) are concentrated in the Walkergate area and North Road (Appendix 1). Indeed, between March 2018 and February 2019, nearly fifty percent of these crimes that were reported to the police were concentrated in these two areas.

This clearly indicates that there is an issues with overcrowding and saturation of venues in these areas, especially when considering that this reported crime rate is significantly in excess of other locations within the county (see Appendix 1).

Given the above crime statistics, there is clearly an issue in Durham City that needs to be addressed, and this supports the argument that a specific policy for Durham City is needed, as other towns are not experiencing these issues to the same extent as Durham.

### **Prevention of Public Nuisance**

Equally, the policy states in paragraph 9.1 (Prevention of Public Nuisance) that licensed premises that open late at night can cause a range of nuisances for people living, working or sleeping in the vicinity. These concerns relate to, amongst other things, litter; light pollution; noise and vehicles.

It is clear from the feedback I have received from residents over many years that the policy in its current form is not upholding this licensing objective for people living in the city centre. The noise created by people moving around the city in the early hours of the morning is extremely disruptive, and many people feel the condition of the market place and the surrounding streets, particularly on a Sunday morning, is unacceptable, with a significant amount of litter left uncollected, and the city appearing dirty and unappealing.

The issue of public nuisance is not just experienced by those living in the immediate city centre however. As Durham is a small city, many people choose to make their way home on foot. The immediate city centre is surrounded by residential areas in all directions, so whichever direction people choose to move through the city, whether this be up Claypath towards Gilesgate, or through the city towards Neville's Cross, South Road or Framwellgate Moor, there will be disruption and noise for residents.

Furthermore, Appendix B of the policy indicates the framework licensing hours – that is the recommended hours for the operation of licensable activities across County Durham. This appendix indicates that the recommended closing time for premises licensed for the sale of alcohol on Friday and Saturday nights is 1am, yet within the city there are a number of venues, mostly clustered around Walkergate and on North Road, that open to 2 am on Saturday nights. One is licensed until 2.30am. Within the Walkergate complex, four out of six bars operate until 2am on Fridays and Saturdays.

While it is sensible for the local authority to produce a framework of suitable hours, what is not clear is how this framework was decided. As has been highlighted above, paragraph 2.16 of the Statement of Licensing Policy states that "Licensing Services works almost exclusively with, through and for people", yet residents in the city clearly do not want licensed venues to be open to these hours. It is hard to determine therefore where the mandate for the Council to produce this framework comes from, or how the creep up to 2am for some venues has been allowed.

This problem is exacerbated by the increasing use of Temporary Event Notices (TENS) by venues in the city centre. Current legislation allows for a venue to apply for fifteen TENS in a year, and this has seen a number of venues in Durham, particularly clustered around Walkergate, open until 4am for certain events. Given that there are six bars within the Walkergate complex, this could potentially lead to ninety TENS being granted over a year in this small area alone – nearly two a week. While the legislation may allow for this, the effect this will have on the local community has clearly not been considered by the licensing committee when granting licenses in such a small, residential city centre, and it is simply ridiculous that venues should be allowed to open to such early hours with such frequency.

It is clear that this framework has not been fully considered or adhered to, and allowing the proliferation of licenses to this time has contributed to a cumulative impact of public nuisance in the city centre. It could equally be argued that moving away from this framework has had a significant impact on public safety and the prevention of crime and disorder.

### **Protection of Children from Harm**

In correspondence I have received, a number of residents and business owners indicated that drinking at weekends is starting earlier. This of course has an impact on families and visitors in the city, and the increased number of stag and hen parties visiting Durham mean that more raucous behaviour and inappropriate language is evident within the city at times when Durham should be particularly welcoming to visitors and families. The policy does state that applicants for a licence will be expected to demonstrate that suitable measures will be implemented to minimise disruption, but the sheer number of venues with licences in such a compact area is leading to a cumulative effect of significant volumes of people drinking in the city centre late at night, and increasingly during the day.

### **Cumulative Impact Policy**

Given the above information, and the concerns that have passed on to me by residents of the city it seems that Durham City has reached saturation point for bars and clubs, and a specific policy is needed to address the licensing issues faced by Durham City Centre.

Durham is a small, compact city with very challenging topography, and a significant number of licensed premises. It is also home to Durham University, which has in the region of 17,000 students, most of whom live within the city centre.

The area that could be considered the centre of Durham covers approximately one square mile, yet contains in the region of forty licensed premises, mostly concentrated in Walkergate and North Road. A number of these premises operate with late licenses on Friday and Saturday nights. Alongside this, each college at Durham University also contains a bar that is open to students.

The compact nature of the city centre, the unusual topography of the area, and the concentration of licensed premises mean that the blanket policy for the county does not address the unique issues within Durham, and a more targeted approach to licensing within the city centre must be taken. As the local authority will be aware, this can be achieved through the introduction of a Cumulative Impact Policy, via a cumulative impact assessment.

Cumulative impact assessments were introduced in the 2003 Act by the Policing and Crime Act 2017 and are the method by which a licensing authority measures the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. The most recent revised guidance issued under section 182 of the Licensing Act 2003 provides further detail on this in paragraph 14.21:

*“In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.”*

Indeed, Durham County Council's own Statement of Licensing Policy itself recognises the potential cumulative effect of the number, type and density of licensed premises in a given area in Section 11, and in paragraph 11.2 states that *"Where there is evidence that such a problem exists, the Licensing Authority may decide that it is no longer appropriate for any further licensed premises to be established or variations to existing licenses to be made in the area, and that a Policy relating to cumulative impact should be adopted."*

The local authority does not have to look too far to find an example of a successful cumulative impact policy, with Newcastle City Council introducing such measures in seven different areas of the city. The Statement of Licensing Policy adopted by Newcastle City Council states in paragraph 7.1.1.

*"There is evidence of a clear positive relationship between increased outlet density and alcohol consumption in adults and young people. The evidence shows that increases in alcohol outlet density tend to be associated not only with an increase in alcohol consumption, but also increased alcohol-related crime and violence and under-18 alcohol-specific hospital admissions. Also where licensed premises are clustered together within an area they are more likely to compete on price and promotions which can lead to increased consumption and alcohol related injury and violence."*

Newcastle City Council has also gone one step further in ensuring that these special policies are as effective as possible, by introducing two different policies, which apply to different types of licensed premises and with different requirements for each zone (Appendix 2).

Given that Newcastle is a significantly larger city than Durham, with a much more clearly defined area for city centre activities, it is astonishing that Newcastle City Council have put in place seven Cumulative Impact Policies, yet despite all the representations made by myself, residents and others over many years, Durham County Council has not yet introduced a single one.

Another example of how a Cumulative Impact policy can be applied can be found in Cambridge City Council's Statement of Licensing Policy (Appendix 3). Within this document, the Council also identifies several different areas across the city, and in some cases goes as far as to break these down to individual streets.

Chester is another historic city, such as Durham, that has residents living in close proximity to city centre activities, and a further example of how a Cumulative Impact Policy can be used to minimise disruption and promote the licensing objectives can be found in the Statement of Licensing Policy of Cheshire West and Chester Council. Within this policy, paragraph 11.3 states that:

*"The Council introduced the Cumulative Impact Policy in parts of Chester because of the impact on the promotion of the licensing objectives of the number, type and density of licensed premises in the area defined in the Special Policy. The concentration of licensed premises in this area has led to problems of noise, nuisance, crime and disorder outside of, or a distance from licensed premises particularly late at night or early in the morning..."*

A good example of how existing legislation can be used to define uses within an area can be found in Lambeth's Statement of Licensing Policy (Appendix 4). This policy not only contains a Cumulative Impact Policy, but also specifies which areas of the borough are considered to be Major, District and Local Town Centres, and outlines what the Council expects from applicants in

these zones. This is also a great example of how local authorities can protect residential areas, and how local people can be more involved in the licencing process, as this policy requires all applicants to canvass residents' views before submitting an application and producing an operating schedule.

Given that Durham County Council is currently examining responses to the recent consultation on the County Durham Plan, which contains analysis of sub-regional and town centres, it would seem a simple step for this work to be applied to the Statement of Licensing Policy, and requirements for applicants to properly canvass the views of people in areas that contain residential properties should be adopted by the local authority as part of this review.

It is clear therefore, that there are steps that Durham County Council can take to properly uphold the licensing objectives within the city, and to deal with the issues that have been raised with both myself and the local authority for many years. This is not the first time I have raised with the local authority how other areas of the country are doing licensing much better however, and is a matter of great sadness and distress to the people of Durham that this information has not been acted on previously to strengthen

It is therefore imperative that the local authority urgently carry out a cumulative impact assessment on Durham to address these issues.

The evidence that local authorities can draw on when carrying out a cumulative impact assessment is outlined in the revised guidance (paragraph 14.29) and includes local crime and disorder statistics; crime hotspots; anti-social behaviour offences; health related statistics; environmental health complains, particularly in relation to litter and noise; residents questionnaires; evidence from elected members and information gathered through consultation.

In fact, Durham County Council's own Statement of Licensing Policy outlines the process that the Council would follow in order to introduce such a measure. Paragraph 11.5 states that, should the local authority be minded to introduce a Cumulative Impact Policy, then concerns relating to crime and disorder or public nuisance must be identified and consideration must be given as to whether it can be evidenced that incidents of crime and disorder and nuisance are arising from and caused by the customers of licensed premises. If so, then the local authority must identify the area from which problems are arising or whether risk factors are such that the area is reaching a point when a cumulative impact is imminent. Following this, consultation must take place with the prescribed statutory consultees on the content of the policy.

It is clear that evidence exists of a significant negative cumulative impact of licensed premises on the city centre already, and it is important that, as the local authority are already consulting on the Statement of Licensing Policy, that a cumulative impact assessment is carried out as soon as possible.

The Statement of Licensing Policy indicates that "residents need to live and work in a safe and healthy environment". It seems apparent from the correspondence I have received, and no doubt from that received by the local authority, this is simply not the experience of many living in the city centre.

Furthermore, as indicated above, investigations are still ongoing into the death of a student in Walkergate in February 2018. It would be helpful to know when the Council expects the outcome of these investigations to be known and, given that the review of the Statement of Licensing Policy

is happening now, how any recommendations made by the final report will affect the Statement of Licensing Policy should that be needed.

I urge Durham County Council to acknowledge the specific issues affecting Durham and take steps immediately to carry out a cumulative impact assessment and introduce a specific licensing policy for Durham City Centre.

Yours sincerely

A handwritten signature in black ink that reads "Roberta C. Blackman-Woods". The signature is written in a cursive style with a large initial 'R'.

Roberta Blackman-Woods MP  
City of Durham