

## \*PART A

**Report to:** Licensing Committee (Licensing Act 2003)  
**Date of meeting:** 26th September 2018  
**Report of:** Head of Community and Environmental Services  
**Title:** Proposed Licensing Act 2003 Statement of Licensing Policy 2018-2023

### 1.0 Summary

1.1 At its meeting in June 2018, the Licensing Committee agreed the process by which officers would consult on a review to the Statement of Licensing Policy (SLP) under the Licensing Act 2003.

1.2 Although it was agreed that the consultation was to be a light touch consultation, a number of questions were proposed for the consultation, to focus on specific areas of the policy. The questions asked revolved around:

- If the definitions of different types premises in the policy should be kept
- If we should keep the approach to dealing with different types of premises licence applications
- If we should change the approach to licensing petrol stations and garages
- If the revised policy regarding circuses was appropriate
- If Policy LP3 (Creating a Family Friendly Town Centre) should be retained
- If the geographical area covered by Policy LP3 should be changed
- If the Sensitive Licensing Areas should be retained
- If there were any other locations that could be considered for a Sensitive Licensing Area
- If the current link between the licensing and planning regimes should be changed
- If the conditions laid out in our policy are sufficient to promote the four licensing objectives
- If the approach to certifying films that do not have a BBFA rating should be changed
- If the approach to dealing with representations should be changed
- If the current approach to complaints and enforcement regarding licensed premises should be retained
- If the current approach to dealing with requests to review a licence should be changed

1.3 The consultation has now finished, and the responses have been collated. The Committee is now asked to finalise the policy and recommend that is adopted by the Council.

## 2.0 Risks

2.1

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(Treat, tolerate, terminate, transfer)</i>	Risk Rating (the combination of severity and likelihood)
Legal challenge from failure to properly adopt the policy	Failure to meet requirements under the Licensing Act	Ensure that a policy is adopted before 19 November 2018	Treat	2
Legal challenge from failure to properly consult	Negative perception of council and its licensing functions, and challenge through the Courts	Carry out consultation in accordance with legal requirements under the Licensing Act 2003 and in accordance with the Government's published principles of consultation	Treat	2
Policy is unreasonable, irrational, discriminatory etc.	Legal challenge through the Courts	Ensure that the results of the public consultation are taken into account in the final Statement of Policy	Treat	2
Further legislation or	Policy may be outdated as	Monitor situation and,	Treat	2

reported cases arising during course of consultation and adopting policy	soon as it is published	if necessary, take amendments to September Committee		
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### 3.0 Recommendations

- 3.1 That the Licensing Committee recommends to Council, acting as the Licensing Authority for the Borough of Watford, that it adopts the amended Statement of Licensing Policy for 2018-2023 as attached at Appendix 1 at its meeting on 16th October 2018.

#### **Contact Officer:**

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**Report approved by:** Alan Gough, Head of Community and Environmental Services

### 4.0 Detailed proposal

- 4.1 The Council is the licensing authority under the Licensing Act 2003 for alcohol, regulated entertainment and late-night refreshment within the Borough. It is required to prepare, consult and keep under review a statement of licensing policy (SLP) that sets out how it approaches its responsibilities under the Act, so that applicants, other statutory bodies and local bodies can ascertain its general approach to particular situations.
- 4.2 In preparing the SLP, the authority must have regard to the statutory guidance published under the Act by the Secretary of State and approved by Parliament. This is known as the s.182 Guidance and was most recently updated in April 2018
- 4.3 On 25th June 2018, the Committee agreed that a light touch consultation on reviewing the SLP was appropriate. This enabled the SLP to remain current and valid, to reflect minor policy changes already identified as recommended and to enable a broader and more considered and coordinated review to take place in line with other corporate timelines.
- 4.4 In particular, the broader review will take account of the Cultural Plan recently approved and the vision for the Town Centre that is currently under development. The SLP is a tool to deliver these and other similar policies and plans, therefore it must be developed after their approval. It was proposed that the SLP be reviewed again either when the Town Centre Vision has been completed, or by June 2020;

whichever is sooner. The full rationale behind the consultation can be found in the report for the Committee on 25 June and in the minutes for that meeting.

#### 4.5 **Consultation on the proposed policy**

The consultation on the SLP took place between 6 July 2018 and 17 August 2018, during which time we consulted:

- the statutory responsible authorities
- 469 residential properties within the town centre
- 1037 residential properties within the Sensitive Licensing Areas
- 14 residents' associations
- all 36 local ward councillors
- 329 licensed premises
- 5 council departments (Culture & Events, Legal & Democratic Services, Transport & Infrastructure, Place Shaping & Corporate Performance, and Corporate Strategy & Communications)
- Watford BID

4.6 The consultation was advertised on our website during this time, with people invited to participate in a survey on the proposed changes, and was also advertised in the Watford Observer on 6 July 2018.

4.7 Overall, 31 responses were received to the consultation. The breakdown of the respondents is as follows:

Residents – 9  
Responsible authorities – 4  
Councillors – 1  
Licence holders – 3  
Council officers – 2  
Residents' associations – 2  
Local business – 1  
Uncategorised – 9

4.8 The comments received during the consultation, and the officers' responses to these comments, is attached to this report at appendix 2. Not every question has the same number of comments as people sometimes skipped questions, or only commented on specific issues. Some comments did contain allegations against specific premises, and for the sake of fairness the names of premises have been sanitised. The full original responses are available upon request from officers. Officers are investigating these allegations where appropriate.

## 5.0 **Response to the consultation**

- 5.1 As stated earlier, the responses to the consultation are attached to this report at appendix 2. Broadly speaking, the responses were in favour of the policy and supportive of the revised policy.
- 5.2 As mentioned some responses did include complaints about specific premises, or about specific locations. While the comments have been sanitised for this report so that premises are not directly named, officers can advise that the comments have been passed to officers, other council departments, or outside agencies, as appropriate. Exact details can be found in the officers' comments on the appendix. The complaints have been passed as anonymous complaints, without sharing the personal data of those who made the complaints.
- 5.3 A number of comments asked for the policy to be changed in a manner which is incompatible with the legislation or the statutory guidance. Examples of such comments included a request for a cap on the issuing of licences; that owners of premises should hold a licence and not the operators of the business; or that petrol stations should not be able to sell alcohol at all. Officers have responded against the relevant comments on the appendix where a request was incompatible and the reasons why such a change cannot be made.
- 5.4 The following aspects of the consultation were supported by the majority of respondents:
- the premises definitions (Policy LP1)
  - the approach to licensing petrol stations and garages (LP2A)
  - the revised policy regarding circuses (LP2B)
  - Creating a Family Friendly Town Centre (LP3)
  - the geographic area covered by Policy LP3
  - retain the Sensitive Licensing Areas (LP4)
  - the link between planning and licensing regimes (LP5)
  - the steps to protect children from harm (LP9)
  - officers certifying films for exhibition where there is no BBFA rating
  - dealing with representations against applications (LP11)
  - the approach to dealing with complaints about licensed premises (LP12)
  - dealing with requests to review a licence (LP13)
  - the approach to enforcement
- 5.5 While there was not a majority of respondents in support of retaining Policy LP2, regarding the location and operation of premises, some of the comments received against this question were held to not be relevant to the question asked as part of the consultation. One comment was received requesting that Woodside Leisure Park be 'rezoned' to a residential area. As a result of this comment, officers have added a

clarifying statement to the policy regarding that the officers' comments are a recommendation of what location the premises falls within, but it is for the sub-committee to confirm if they agree with this or not. This confirms that the sub-committee may advise that, based on the application in front of them, they consider that the premises falls within a different location, and may therefore be treated differently.

- 5.6 No specific comments were received suggesting that a different approach to Policy LP2 was required. In the absence of such comments, officers therefore recommend that the Committee adopts the policy as laid out in the draft policy attached as appendix 1.
- 5.7 While the overwhelming majority of responses were in support of retaining the policy of Sensitive Licensing Areas, there was a slim majority of respondents in support of additional areas being covered by this policy. Cassiobury Park and Vicarage Road were specifically named as areas where respondents would like to see a Sensitive Licensing Area, although the number of comments received nominating areas were fewer than the number of respondents who indicated they would support more areas.
- 5.8 There is no significant evidence available to council officers that Cassiobury Park suffers specific problems from the supply of alcohol to street drinkers, that premises licensed for alcohol and/or late night refreshment have significantly different times from other premises in the area, or that there is a concentration of late night takeaways contributing to litter and other nuisances. These are the criteria which the council have set in order to justify highlighting an area as a Sensitive Licensing Area, and the issues which council officers have highlighted as requiring extra controls through conditions. The Police and the council's Community Safety Co-Ordinator did not provide any evidence to suggest that the licensing authority need to take such an approach in the park. For this reason, officers have not recommended the park for a Sensitive Licensing Area. Officers do recognise the importance of the park as a place where events wish to be held, and also recognise that the park is surrounded by residential houses. These are matters which have been taken into account by the responsible authorities when applications have historically been submitted for the park, and officers can see no reason as to why this approach would change.
- 5.9 With regards to Vicarage Road, officers have not received any evidence from the police or the council's Community Safety Co-Ordinator to suggest that there are any specific concerns in this location which can be addressed via a change in policy. Officers have also considered the area against the criteria set aside for Sensitive Licensing Areas, as highlighted in para 4.8, and there is no evidence to suggest that these are issues in this area that require a change in policy in order to be addressed. For this reason, officers have not recommended Vicarage Road for a Sensitive Licensing Area. Officers meet with the Police licensing unit on a regular basis and will monitor the situation in this area.

- 5.10 Officers wish to clarify that by not recommending a location for a Sensitive Licensing Area, this does not mean that there are no issues in the area. Any issues with specific licensed premises should still be reported to the licensing team for investigation. It may also be more appropriate to deal with problems from specific, existing, premises, rather than creating a new policy.
- 5.11 Although there was no majority in support of maintaining the approach as laid out in Policy LP6, regarding the promotion of the licensing objective of the prevention of crime and disorder, there were few comments received for consideration. One comment was received regarding the need for a greater Police presence, which is ultimately a matter for the Police to decide. Another comment was received regarding how this statement was too political and that current laws could be applied. Officers would advise that the statutory guidance does state that applicants should demonstrate a knowledge of the area in relation to an application, and the approach taken in this policy, and the other policies regarding the promotion of the licensing objectives, do lay out the approach that applicants should be taking, and matters which they should be considering. It also highlights areas that will be taken into consideration during a hearing. While the policy does state that specific measures, it does not limit the sub-committee to these measures, allowing the application to be considered on its own merits. In lieu of any suggestions as to how this section could be improved or changed, and considering that the policy does allow for other matters to be considered on a case-by-case basis, officers would recommend that the Committee adopts the policy as laid out in the draft policy attached as appendix 1.
- 5.12 There was also no majority in support of maintaining the approach to the promotion of public safety, as laid out in Policy LP7. Again, similar comments were made against this policy as were made against Policy LP6. The Fire Service did provide some documentation to be made available for would-be applicants, and we will make this information available through our website. This approach allows the documents to be visible, and also for them to be updated more easily than if they were physically attached to the SLP. In lieu of any further suggestions as to how this section could be improved or changed, and considering that the policy does allow for other matters to be considered on a case-by-case basis, officers would recommend that this policy remains as it was proposed.
- 5.13 There was also no majority in support of maintaining the approach to the promotion of prevention of public nuisance. One comment was submitted which asked for the definition of 'nuisance' to be defined. However, the statutory guidance does advise that 'nuisance' has the broad definition retained at common law, which is also stated within the SLP. Factors to be considered in determining when an issue could be considered to be a nuisance are also given in the SLP as examples. While not being able to give a clearer definition, officers do advise that the current approach is sufficient. A suggestion was made by the Environmental Health team to clarify the

issues of odour and light regarding nuisance, which officers did consider to be valid suggestions, and so the policy has been updated to reflect this input. In lieu of any further suggestions as to how this section could be improved or changed, officers would recommend that this policy is approved with the aforementioned changes.

## **6.0 Implications**

### **6.1 Financial**

6.1.1 The Shared Director of Finance comments that it is expected that there will be no change in income or workflow cost from the proposals, although this can only be confirmed or amended as necessary after the consultation. The income is a statutory fee and any Watford 2020 implications will be dealt with separately to this report.

### **6.2 Legal Issues (Monitoring Officer)**

6.2.1 The Head of Democracy and Governance comments that the legal implications are contained within the body of the report. The policy will need to be agreed by Council and the report asks for the Committee to recommend that the policy is agreed by full Council.

### **6.3 Equalities/Human Rights**

6.3.1 An Equalities Impact Assessment of the proposed policy was undertaken and is attached at appendix 3. The assessment did not identify any negative impacts associated with the policy so no amendments have been made to it.

### **6.4 Staffing**

6.4.1 There are no staffing issues associated with this report

### **6.5 Accommodation**

6.5.1 There are no accommodation issues associated with this report

### **6.6 Community Safety/Crime and Disorder**

6.6.1 The Statement of Licensing Policy aims to promote the four licensing objectives, one of which is the prevention of crime and disorder.

### **6.7 Sustainability**

6.7.1 There are no sustainability issues associated with this report



## **Appendices**

- Appendix 1 Draft Licensing Act 2003 Statement of Principles 2018 – 2023
- Appendix 2 Consultation Responses
- Appendix 3 Equalities Impact Assessment

## **Background Papers**

Consultation responses – available upon request.

## **File Reference**

Licensing Act 2003 Statement of Licensing Policy