

Part A

Report to: Licensing Committee

Date of meeting: Thursday, 14 January 2021

Report author: Senior Licensing Officer (AY)

Title: Review of Licensing Act 2003 Statement of Licensing Policy

1.0 Summary

1.1 In its role as the licensing authority under the Licensing Act 2003 the council has a duty to prepare, and keep under review, a Statement of Licensing Policy (SLP). This policy was last reviewed in 2018.

1.2 At a meeting on 19 October 2020 the Licensing Committee asked officers to create a Cumulative Impact Assessment in order to retain a Cumulative Impact Policy within the town centre, and to bring a new amended SLP before the Committee before starting consultation on the policy.

1.3 This report is accompanied by a draft Cumulative Impact Assessment and draft amended SLP. It also contains details of the proposed consultation on the changes to the policy.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
Legal challenge from failure to properly adopt the policy or follow legislation and Government guidance	Failure to meet requirements under the Licensing Act and policy not being able to be implemented.	Ensure that the policy is reviewed and adopted before 1 April 2021.	Treat	2

Legal challenge from failure to specify evidence used in drawing up policy and the cumulative impact assessment	Failure to meet requirements under the Licensing Act and policy not being able to be implemented.	Scrutinise evidence obtained and presented, with reasons as to why the evidence is relevant	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 Licensing Policy.	Treat	2
Further legislation or reported cases arising during course of consultation and adopting policy	Policy may be outdated as soon as it is published	Monitor situation and, if necessary, take amendments to subsequent committee meetings	Treat	2

3.0 Recommendations

- 3.1 That the Committee decide, taking account in particular of the implications of the Covid-19 epidemic, whether it is satisfied that sufficient evidence has been gathered to support the commencement of the statutory consultation process in respect of the proposed cumulative impact policy area specified in the report and the draft cumulative impact assessment.

- 3.2 The Committee approve officers going out to consultation on the proposed cumulative impact assessment and amended Statement of Licensing Policy as set out in paragraph 7.1 and 7.2.
- 3.3 The Committee approves officers going out to consultation with those areas no longer covered by the proposed cumulative impact assessment as set out in paragraph 7.3.
- 3.4 That officers report back to the March Licensing Committee with the responses of the consultation.

Further information:

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Report approved by: Justine Hoy, Head of Community Protection

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 its SLP, the council must have regard to the statutory guidance published under the Act by the Secretary of State. This is known as the s.182 Guidance and was most recently updated in April 2018.
- 4.3 The Policing and Crime Act 2017 amended the Licensing Act by allowing councils to publish a Cumulative Impact Assessment to support a Cumulative Impact Policy, in order to specifically publish the evidential basis for such policies. Before this Act, the concept of cumulative impact had been covered by the s.182 Guidance but not specifically by legislation. Many councils, including Watford, had adopted Cumulative Impact Policies on the basis of the guidance.
- 4.4 The relevant sections of the Policing and Crime Act came into force on 6 April 2018. The s.182 Guidance was amended to state that there were no transitional provisions for Cumulative Impact Policies and as such any such policy should be reviewed within 3 years of the enactment of the legislation. This 3 year window expires on 6 April 2021. This report is concerned with the reviewing of the council's SLP and its Cumulative Impact Policy in line with the s.182 Guidance before this deadline.

- 4.5 On 17 October 2020, the Licensing Committee agreed for officers to start looking into drawing up a Cumulative Impact Assessment, to be brought back before Committee before going out for public consultation. The draft assessment is attached to this report at appendix 1.
- 4.6 The adoption of a Cumulative Impact Assessment will also result in amendments to the council's SLP, and so a draft policy is attached at appendix 2.

5.0 Cumulative Impact Assessment

- 5.1 The Licensing Act 2003 was amended so that any licensing authority has the discretion to publish a 'Cumulative Impact Assessment'. If published, this document must set out that the licensing authority considers that the number of relevant authorisations within the specified area is such that it is likely that granting any further licences in respect of the relevant location(s) would be inconsistent with the promotion of the licensing objectives. This document must also publish the evidence considered by the licensing authority in adopting the policy.
- 5.2 For the avoidance of doubt, the term 'authorisations' refers to both premises licences and club premises certificates. Please note that temporary event notices are not covered. When referring to granting any further authorisations, this includes variations to existing licences or certificates, even those in force before the policy is adopted.
- 5.3 The s.182 Guidance gives the following examples of evidence that may be considered:
- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
 - statistics on local anti-social behaviour offences;
 - health-related statistics such as alcohol-related emergency attendances and hospital admissions;
 - environmental health complaints, particularly in relation to litter and noise;
 - complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
 - residents' questionnaires;
 - evidence from local and parish councillors; and
 - evidence obtained through local consultation
- 5.4 The following data was requested and collected in accordance with the s.182 Guidance:
- crime and disorder statistics from Hertfordshire Constabulary for the period of 01/06/18 to 30/09/20

- noise complaints logged with the council's environmental health authority from commercial premises for the period of 01/04/17 to 31/10/20
- complaints received by the council's licensing authority for the period of 01/04/17 to 31/10/20
- the results of the council's Community Survey 2017
- litter complaints logged by Veolia for the period of 01/04/17 to 31/10/20

The analysis of the data collected was as follows

5.5 **Crime and disorder statistics**

5.6 The data from the Police forms the basis of the proposed cumulative impact assessment. There is a correlation between incidents of alcohol-related crime and offences of theft in the High Street and The Parade and the incidents of crime within and associated with licensed premises. There is also a correlation between when the Police say most crime occurs and the terminal hours of licensable activities within the town centre. Officers believe that this demonstrates the need to retain a specific policy within this section of the town centre. The evidence of alcohol-related disorder means that it is appropriate to specify that the policy applies to alcohol-led premises, in accordance with the s.182 Guidance.

5.7 The proposed cumulative impact policy is smaller than the existing cumulative impact zone due to the evidence from the Police that crime numbers are higher in the High Street and The Parade when compared to other locations even within the town centre.

5.8 Members are reminded that the council has a duty under Section 17 of the Crime and Disorder Act 1998 to give due regard to the likely effect of the exercise of its functions on crime and disorder in its area and to do all it reasonably can to prevent these. In seeking to promote the licensing objective of the prevention of crime and disorder by putting alcohol premises under scrutiny and applying a specific policy to them, the council will be promoting its duty under this Act.

5.9 **Noise complaints**

5.10 The evidence of noise complaints did not explicitly show that there is a direct correlation between the number of licensed premises within the town centre and the level of complaints received from residents.

5.11 In general, the level of noise complaints received from licensed premises within the town centre did not show a consistent level of complaints and did not show a marked increase. The number of complaints were also quite low, with the most complaints being 8 received in 2019/2020. These figures include specific complaints about premises' activities and also from customers using or departing from a premises. As is noted in the cumulative impact assessment, as of 31 October 2020

there were 98 licensed premises within the cumulative impact zone, a figure which has not changed significantly since 2017. Officers acknowledge that this does not necessarily mean that licensed premises are not causing nuisance, and it may be that only few complaints are being received.

5.12 Complaints received by the licensing authority

5.13 The evidence of complaints logged by the licensing authority did not show a direct correlation between the number of licensed premises within the town centre and the details of the complaints received from residents.

5.14 The overwhelming number of complaints received and logged by the licensing authority were related to taxis. Where complaints were received, most were relating to breach of existing conditions of a licence, trading without a licence, or trading beyond permitted licensed hours. We are not required to address these matters through policy since proof of breaching a licence or trading without a licence are criminal offences and it is appropriate to take enforcement action against the individual premises and their operators.

5.15 Results of the Community Survey 2017

5.16 The results of the last Community Survey were considered, although it is acknowledged that the survey was undertaken in 2017 and the trends or views may have changed since this survey. It is also acknowledged that the survey itself did not specifically ask any questions which specifically related to licensing.

5.17 However, it is noted that the most popular response from residents was that they wished to feel safe in their home and the local area, being chosen in 68.55% of responses. This can be linked to the promotion of the licensing objective of crime and disorder with regards to offences and crime statistics, and officers believe that that the council can promote this licensing objective and respect these results by adopting a cumulative impact policy in considering crime statistics.

5.18 Litter complaints

5.19 The data collected for litter complaints was not conclusive and not entirely clear, although there were factors which were considered when analysing the data.

5.20 While the High Street did attract the most litter complaints during this period, most of the complaints were summarised as being 'general litter', although this is based upon the details which are reported to the council, making it difficult to assess whether the litter was related to licensed premises or not. Complaints appeared to only have been received daytime hours. The earliest report of litter was logged at 06:51, with the latest being logged at 18:53. Members are reminded that late night take-aways, which have historically been associated with litter, particularly

discarded food wrappers and other such items, only need to be licensed between the hours of 23:00 and 05:00.

- 5.21 However, what must be acknowledged in terms of litter complaints is that the town centre is subject to regular cleaning. The area of The Parade down to the junction of the High Street with Beechen Grove is on a 7 day cleaning schedule between 06:00 and 20:00, with two shifts covering this area (a morning shift and an afternoon shift). A result of this is that as soon as litter is dropped there is likely to be someone along shortly after to pick it up, which results in fewer complaints being received. The morning shift is normally responsible for cleaning the town centre by 10:00 each morning to a high standard. As part of this cleaning, no note is taken of what litter is collected but it is collected, and such an approach would be disproportionate to note all litter collected and where it came from. This approach is therefore proactive and not reactive.
- 5.22 In terms of assessing whether particular litter is associated with particular premises, it must also be acknowledged that it not always clear from the litter which premises it comes from. A discarded food wrapper, for example, when crumpled and thrown on the floor may not be recognisable because it does not clearly show the name of the premises it originates from.

6.0 Statement of Licensing Policy

- 6.1 Should the cumulative impact assessment be adopted, it will be necessary to make minor changes to the council's SLP to accommodate the assessment. This will mean replacing the existing Policy LP3 with information on the cumulative impact assessment, which for information will be attached to the policy, and making minor amendments throughout the policy as part of general housekeeping and updating the policy.
- 6.2 A draft licensing policy with such amendments is attached at appendix 2.

7.0 Consultation

- 7.1 A cumulative impact assessment must go out for consultation with the following bodies:
- Hertfordshire Constabulary
 - Hertfordshire Fire & Rescue Service
 - Public Health at Hertfordshire County Council
 - such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
 - such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
 - such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and

- such other persons as the licensing authority considers to be representative of businesses and residents in its area.

This is the same as the list of bodies that must be consulted on any changes to the councils SLP.

7.2 Officers would propose that we consult the following, as has been the case with previous SLP consultations:

- residents' associations
- all residents within The Parade and High Street, as special consideration is given to these areas
- One Watford
- Watford Business Improvement District
- Watford Community Safety Partnership
- all licensed premises and club premises (both as holders of authorisations and as representatives of personal licence holders)
- the statutory responsible authorities

7.3 It is recognised that the proposed policy area is smaller than the previous policy area. Officers would ask the Committee to consider whether a special consultation should be undertaken with residents and businesses in the following roads, in addition to the consultees listed above:

- Albert Road South
- Church Street
- Clarendon Road, between The Parade and Beechen Grove
- George Street
- King Street, between High Street and Exchange Road
- Market Street, between High Street and Exchange Road
- New Street
- Wellstones
- Queens Road, between High Street and Beechen Grove

7.4 A specific consultation would be justified on the grounds that the policy changes will result in these locations no longer being covered by a cumulative impact policy. The evidence obtained in drawing up the cumulative risk assessment did seek to obtain evidence from within the town centre, including these locations, but the evidence does not appear to justify retaining the previous policy area.

7.5 Officers would propose consulting on whether residents and businesses in these locations would seek to be classified as a Sensitive Licensing Area (as stated in Policy LP4 of the council's SLP) or whether a separate licensing policy should be in place to focus on different concerns to litter from take-aways, significantly different licensed hours, and street drinking. Gathering evidence and feedback from residents and

businesses, as well as the statutory responsible authorities, would enable a policy to be drawn up for approval from the Licensing Committee.

7.6 Although any replacement policy would not carry the same presumption of refusal as the policy previously allowed, the consultation could focus on seeking specific conditions or considerations which licensing officers could refer to when being consulted on applications, or should an application come before a licensing sub-committee. These could be the same grounds referred to above as a Sensitive Licensing Area, or new grounds. It is acknowledged that one of Hertfordshire Constabulary's priorities is tackling street drinking, and including these areas within a Sensitive Licensing Area with concerns over street drinking may help address this issue.

7.7 Consultation will be undertaken in accordance with the Government's Consultation Principles and in conjunction with the council's communications team. It would commence within two working days and run until 14 February 2021.

8.0 Implications

8.1 Financial

8.1.1 The Shared Director of Finance comments that there are no financial implications arising from the contents of this report.

8.2 Legal Issues (Monitoring Officer)

8.2.1 The Group Head of Democracy and Governance comments that the results of the consultation will need to be considered by the committee at its March meeting and any revised Policy recommended to Council for formal adoption.

8.3 Equalities, Human Rights and Data Protection

8.3.1 A new equalities impact assessment will need to be completed as a result of the proposed changes to policy. An updated assessment is attached at appendix 3. Due to the application process being set out in legislation, including how applications are to be determined, it is not considered that there is a negative impact on any particular group as a result of this policy.

8.4 Crime and Disorder

8.4.1 The council is required to consider the effect on crime and disorder when adopting any new or revised policy. One of the Licensing Objectives is the prevention of crime and disorder.

Appendices

Appendix 1 – draft cumulative impact assessment

Appendix 2 – draft amended Statement of Licensing Policy

Appendix 3 – equalities impact assessment on the proposed policy and consultation

Background papers

Crime and disorder statistics from Hertfordshire Constabulary for the period of 01/06/18 to 30/09/20

Noise complaints logged with the council's environmental health authority from commercial premises for the period of 01/04/17 to 31/10/20

Complaints received by the council's licensing authority for the period of 01/04/17 to 31/10/20

The results of the council's Community Survey 2017

Litter complaints logged by Veolia for the period of 01/04/17 to 31/10/20

Licensing Act 2003 (as amended)

Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018)

Watford Borough Council's Statement of Licensing Policy (2018-2023)