

Part A

Report to: Licensing Committee

Date of meeting: Thursday, 6 July 2023

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).

1.2 The SLP lays out the council's approach to licensable activities such as the sale of alcohol, the supply of hot food after 11pm and the provision of regulated entertainment, such as live music. The framework it contains is used as the starting point for dealing with premises licence applications.

1.3 The Licensing Act sets out four licensing objectives which must be taken into account when a local authority carries out its functions. They are:

- the prevention of crime and disorder
- the prevention of public nuisance
- public safety
- the protection of children from harm

1.4 This report sets out the options available to the authority to review the policy and to confirm the principles of the consultation for reviewing 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	Failure to meet requirements under the Licensing Act	Ensure that a policy is adopted before 19 November 2023	Treat	4

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	3
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	3
Further legislation or reported cases arising during course of consultation and adopting policy	Policy may be outdated as soon as it is published	Monitor situation and, if necessary, take amendments to September Committee	Treat	3

3.0 Recommendations

- 3.1 That the Licensing Committee agrees the timetable for the implementation of a new licensing policy by 19 November 2023 as set out in paragraph 6.3 and the approach to be taken with regards to the new policy.
- 3.2 That the Licensing Committee agrees the focus of the public consultation, as set out in paragraphs 5.1 through 5.12.
- 3.3 That officers consult with the parties set out in paragraph 6.2 and report to the Licensing Committee at its meeting on 28 September 2023.

Further information:

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Report approved by: Alan Gough, Director of Partnerships

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 a 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. This is known as the s.182 Guidance and was most recently updated in December 2022.

4.3 Cumulative Impact Assessment

4.4 The current cumulative impact assessment (CIA), which was adopted from 1 April 2021, lasts for 3 years. It is a legal requirement to review this policy at least every 3 years. It is noted that the dates of the CIA and the SLP do not match up.

4.5 Members are reminded that CIAs were formally incorporated into the legislation in 2018 (prior to this date they did not have a statutory footing). By doing this, the process for adopting and reviewing a CIA was established via statute. This includes the requirement that evidence is published along with the CIA to establish how and why the relevant licensing authority considers that a CIA is reasonable.

4.6 The evidential basis which the licensing authority relied upon to publish the CIA was supplied by the Police and related to crime figures for the town centre. Upon analysis the crime figures saw a spike in alcohol-related crime after 10pm and this was reflected in the CIA. Although a CIA may relate to premises licensed to carry out any licensable activity, the CIA published in 2021 specifically relates to the sale of alcohol.

4.7 There is no proposal to review the CIA as part of this review of this licensing policy. The evidence required to review the CIA requires a breakdown and review of crime figures to differentiate alcohol-related crime from other crime, and analysis of the hours of offences to identify those relevant to the Night Time Economy. Figures have been requested from the Police to undertake this review prior to the January Licensing Committee.

5.0 Main Policies

5.1 Policy LP1 – Premises Definitions

This policy contains the premises definitions that we use when applying policies LP2 and LP3. Some Licensing Authorities' Statement of Licensing Policies do not contain

premises definitions which allows them more flexibility when determining applications for licensable activities.

It is not proposed to significantly add to or remove the premises definitions, but there is scope to consult on amendments to these definitions. The justification to retaining this policy is to assist applicants, objectors, responsible authorities and any sub-committees.

The Covid-19 pandemic did see an increase in applications or queries relating to remote alcohol sales. Although these would technically fall under the definition of an off licence, it is suggested to include remote sales as their own use. This identifies the activity of selling alcohol by remote sales as a different operation from traditional off licences and convenience stores, and highlights that different factors can be taken into consideration during the application process, for example because the public will not be allowed access.

There has also been an increase of venues which offer activities as entertainment and to attract an adult market allow alcohol to be sold as ancillary to the primary purpose of the venue. While this is currently covered by the definition of other entertainment venues, the definition of these premises should be expanded to include non-licensable activities such as escape rooms, mini-golf, and other such activities. This would support the Town Centre's Strategic Framework, which seeks to diversify the mix of leisure premises. Identifying such premises can allow the council to clarify the expectations of operators.

5.2 Policy LP2 – Location and Operation of Premises

This policy sets out our approach to licensing different types of premises when we have received relevant representations, depending upon whether the premises is located within the town centre, the Cumulative Impact Zone, a leisure or shopping area, or a residential area.

It is not proposed to significantly add to or remove the premises definitions, but there is scope to consult on amendments to these definitions.

Any changes to Policy LP1 with regards to the definitions of premises will need to be reflected within this policy. If remote alcohol sales are to be recognised, then the consultation will need to include provision for comments to be received regarding their recommended hours.

To avoid any confusion, it is suggested to remove the recommended hours for pavement licences from this policy. Pavement licences are administered under separate legislation and a separate policy. The Government have proposed changes to the pavement licensing regime through the Levelling-up and Regeneration Bill.

The justification for retaining LP2 and for setting out recommended hours still remains relevant.

5.3 Policy LP2A – Petrol Filling Stations

This sets out our approach and the legal position with regards to sale of alcohol from petrol filling stations. We have not received any challenges to or complaints about this policy and it is not proposed to amend it at this time, except to amend the reference to the relevant paragraph in the guidance.

5.4 Policy LP2B – Circuses

This policy sets out our approach to circuses and the questions over regulated entertainment at circus events. As we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time, except to clarify that where the exemption is not obvious a decision will need to be made on a case-by-case basis.

5.5 Policy LP3 – Cumulative Impact Policy

This policy applies to the town centre, specifically the High Street and The Parade. The Cumulative Impact Policy may only be adopted alongside a Cumulative Impact Assessment. As mentioned earlier in the report, the review of the CIA does not need to occur until January 2024.

This policy does require amendment in regards to removing the reference to assuming the starting point of certain applications will be to refuse the application. The legislation requires that all applications are assessed on their own merits with no presumption of refusal. This does not prevent applications from being refused in accordance with policy, but the starting point for considering all applications must be to grant the licence with any appropriate conditions or amendments to the application, and only refuse the application if the licensing objectives risk being undermined.

5.6 Policy LP4 – Sensitive Licensing Areas

This policy was initially introduced in 2013, and reviewed in 2021. The sensitive licensing areas are:

- (1) Whippendell Road, between its junction with Cassio Road and Hagden Lane
- (2) Queens Road, between High Street and Loates Lane
- (3) Market Street, between High Street and Merton Road/Cassio Road; and
- (4) St Albans Road, between the A41 and Leavesden Road.
- (5) Town centre, specifically:
 - Albert Road South

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

There have been no specific requests made to review the policy. It is proposed to retain the policy. The number of licensed premises in each area will need to be updated and new Police figures will be requested to confirm that there are still issues within these areas which justify a unique approach.

5.7 Policy LP5 – Planning Permission

This policy maps out the links between the licensing and planning regimes and the approach we will take in certain scenarios.

As we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time.

5.8 Policy LP6 - Prevention of Crime and Disorder Policy LP7 - Public Safety Policy LP8 - Prevention of Public Nuisance Policy LP9 - Protection of Children From Harm

Whilst we will always consider each application on its merits, these policies set out the typical conditions that we will ask for to promote the four licensing objectives.

Our pool of model conditions was reviewed in consultation with the Police and Environmental Health in 2018.

We believe that these policies are sufficient to promote the licensing objectives and have not received any challenges to or complaints about them.

Whilst we do not propose to make significant amendments to them at this time, we will consult on whether there is anything else that they should include. Factors to consider around remote sales of alcohol and entertainment premises should be included within the consultation to reflect earlier comments.

5.9 Policy LP10 – Film Exhibitions

This policy sets out how we will deal with films that need to be certificated by the council's Licensing Officers.

As we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time.

5.10 Policy LP11 - Representations Against Application

This policy sets out how we will deal with any representations that are made about licensing applications.

As we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time.

5.11 Policy LP12 - Complaints Against Licensed Premises

This policy sets out how we will deal with any complaints that are made about licensed premises.

As we have not received any challenges to or complaints about this policy it is not proposed to amend it at this time.

5.12 Policy LP13 - Licence Reviews

This policy sets out how we will deal with any requests to review a licence that are received.

As we have not received any challenges to or complaints about his policy it is not proposed to amend it at this time.

6.0 Consultation

6.1 The licensing authority is under a statutory duty to consult with residents and businesses in its area, representatives of licence-holders and responsible authorities.

6.2 Officers propose consulting with the following bodies.

- Local residents and their representatives through residents' associations to obtain the views of residents
- Premises licence and club premises certificate holders, and their agents, as representatives of licensed businesses and personal licence holders
- Watford Business Improvement District as representatives of businesses within the town centre
- Economic Development team of Watford Borough Council to represent views of businesses throughout the borough
- Hertfordshire Constabulary
- Hertfordshire Fire & Rescue Service

- Hertfordshire Trading Standards
- Hertfordshire Public Health
- Hertfordshire Local Safeguarding Children Board
- Watford Community Safety Partnership
- The Home Office
- Development Management of Watford Borough Council
- Environmental Health of Watford Borough Council

6.3 In addition, it is proposed to place a copy of the draft policy on the council website for comments to be made, either online or by paper. It is suggested that the consultation runs from 20 July 2023 until 31 August 2023, in order that comments can be reported to the Committee at its next meeting on 28 September 2023.

6.4 This approach is in accordance with the Government's consultation principles. These state that the length of consultation should take into account the nature and impact of the proposal, and that consultations which are too short will not give enough time for the consultation to be considered and will reduce the quality of the responses. The proposed changes are not so wide ranging that a lengthy consultation is required, but there is sufficient time for the consultees and any other person to respond to the consultation. The consultation will also be targeted towards interested parties, albeit consultees and the method of consultation are dictated by the legislation.

6.5 Although specific sections have been highlighted for consultation, the consultation will be open to any person to make any comments they wish in respect of the policy.

6.6 Elements of the policy will also be updated to take update references to council policies, sections of the statutory guidance where paragraph numbers have changed, and also names of council departments to accurately reflect the structure of the council. These will be highlighted as minor changes.

7.0 Implications

7.1 Financial

7.2 The Shared Director of Finance comments that there are no financial implications arising directly from this report.

7.3 Legal Issues (Monitoring Officer)

7.4 The Group Head of Democracy and Governance comments that as stated in the report it is a legal requirement to keep the Licensing Policy under review and consult on any changes before they are adopted.

7.5 Equalities, Human Rights and Data Protection

7.6 If a new policy is to be adopted following consultation then a new Equalities Impact Assessment will need to be undertaken.

7.7 Community Safety/Crime and Disorder

7.8 The Statement of Licensing Policy aims to promote the four licensing objectives, one of which is the prevention of crime and disorder. The Police are also one of the statutory consultees.

Appendices

Appendix 1 – Statement of Licensing Policy 2021-2023

Appendix 2 – Draft statement of Licensing Policy 2023-2028

Background papers

Licensing Act 2003

Statement of Licensing Policy 2021-2023

Revised Guidance issued under section 182 of the Licensing Act 2003 (December 2022)

Consultation Principles (2018)