

PART A

Report to: Licensing Committee (Licensing Act 2003)
Date of meeting: 22 October 2013
Report of: Head of Community and Customer Services
Title: Review of Licensing Act 2003 Statement of Licensing Policy

1.0 SUMMARY

1.1 At its meeting in March 2013, the Licensing Committee agreed to consult on some amendments to the Statement of Licensing Policy (SLP).

1.2 A number of changes to the policy were proposed of which the most significant were:

- (1) recognising the introduction of the Live Music Act 2012
- (2) recognising that some forms of entertainment which were previously licensable no longer need to be after June 2013¹
- (3) clarifying our policy on licensing alcohol sales at petrol-filling garages
- (4) acknowledging that we may consider the need for an Early Morning Restriction Order in the town centre at some future date
- (5) clarifying that “café bars” and “other entertainment venues” can be considered exceptions to policy LP3
- (6) impose additional requirements on premises granted licences to sell alcohol within the town centre
- (7) replacing the cumulative impact policy for off-licences in Whippendell Road with Sensitive Licensing Areas in four specific areas of the Borough
- (8) recognising that a cumulative impact policy may be an option for the future
- (9) recognising changes made to the temporary event notice system and the new role for Environmental Health Officers
- (10) enhancements to protect children from harm
- (11) a move to more pro-active licensing inspections
- (12) clarification on the scheme of delegation under the Licensing Act
- (13) acknowledgement of the future role to be played by the Police and Crime Commissioner for Hertfordshire and the Director of Public Health in Hertfordshire.

2.0 RECOMMENDATIONS

2.1 That the Licensing Committee recommends to the Council, acting as the Licensing

¹ See [Licensing Act 2003 \(Description of Entertainments\) \(Amendment\) Regulations 2013](#)

Authority for the Borough of Watford, that it adopts the amended Statement of Licensing Policy set out at appendix 1.

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

3.0 DETAILED PROPOSAL

3.1 The rationale for amending the SLP was set out in the report to the Licensing Committee on 18 March 2013.

3.2 The final proposed version of the new policy is printed at appendix 1. A table describing the amendments is produced at appendix 2.

3.3 Consultation

Our consultation was conducted between 21 March 2013 and 30 September 2013, during which time we consulted:

- (1) by email with more than 150 local community organisations and residents' associations;
- (2) wrote to more than 310 licensed premises;
- (3) wrote to individual premises (commercial and domestic) around the proposed Sensitive Licensing Areas (SLAs);
- (4) councillors for the wards where the SLAs are proposed and
- (5) the statutory responsible authorities.

We placed details on our website and a public advertisement, and issued a press release which was published in the Watford Observer on 25 March 2013.

3.4 No specific responses were received from the responsible authorities. Points of clarification were discussed with the police in particular, who are otherwise content with the policy as it is published.

3.5 Two written responses were received in relation to the policy generally, which are summarised below:

- (1) the Central Town Residents' Association and Neighbourhood Watford Group 57 asked whether a reference to policy LP2 on page 18 of the draft should refer to policy LP3;
- (2) a restaurant asked whether the Council could act on noise from adjoining licensed premises who are disturbing patrons using its pavement café area.

3.6 Thirty responses were received to the consultation on introducing Sensitive Licensing

Areas, and these are spelt out more fully at paragraph 3.14 below.

3.7 Early Morning Restriction Order (EMRO) Policy LP3

The draft policy referred to reviewing crime, disorder and nuisance within the LP3 area in September 2013 as part of the process to consider introducing an EMRO.

Partnership work with the town centre Pubwatch scheme on projects such as Purple Flag, Best Bar None and the Pubwatch action plan has shown positive results with an approximate 8% drop in violent crime within C1A beat (effectively the town centre) between 1 May and 31 July 2013 compared to the same period of 2012. Theft from the person has been reduced from 373 offences to just 68 offences during the same periods, largely due to the introduction of Scan-net. Whilst there may not currently be a pressing need for an EMRO², policy LP3 has been reworded to note that it remains a tool to be used in the future if necessary.

3.8 Tackling violent crime continues to be a strategic priority across Hertfordshire and for Safer Watford, our local community safety partnership. Since 2008 the violent crime and alcohol-related statistics for the town centre have remained unacceptably high. Although the Home Office classification of “violent crime” also includes those crimes not necessarily considered as violent by the public – such as causing harassment, alarm or distress to another without any physical injury resulting – over half of such crimes take place within the LP3 policy area. Much of this takes place between 1 am and 3 am.

3.9 Watford also has unacceptable levels of violent crime compared to other Hertfordshire towns, at 81.6 crimes per 1000 head of population during the 2012-13 financial year. Information from the Accident & Emergency department at Watford General Hospital also shows the majority of alcohol-related presentations arise from town centre locations.

3.10 The Local Authority Alcohol Profiles (published by Public Health England, August 2012) show that Watford compares unfavourably to other English local authorities in terms of alcohol-related violent crime and alcohol-related crime.

3.11 On the basis of these statistics officers recommend that the cumulative impact policy in LP3 should be retained for the present.

3.12 Paragraph 6 of LP3 has been strengthened. When applicants wish to show they should be an exception to policy LP3 (which restricts alcohol sales in the town centre), they may need to demonstrate that they have an effective dispersal management plan in place and an electronic identification entry system in addition to the existing requirements of installing CCTV and having use of a Pubwatch radio.

3.13 The list of measures in the town centre to combat alcohol-related crime has been updated, as well as recognising some of the good work that is currently taking place.

3.14 Sensitive Licensing Area Policy LP4

The proposal in the draft policy LP4 to define three SLAs was on the basis that there was any evidence from local residents, businesses or the statutory authorities to

² See for example the Watford Observer at http://www.watfordobserver.co.uk/news/10671932.Watford_booze_ban_on_ice_as_town_centre_improves_says_chief_inspector/.

justify policies being applied in a much stricter fashion within those areas. A specific consultation exercise has been conducted with residents, businesses and councillors for the proposed areas.

- 3.15 During the consultation period a dossier detailing alcohol-related anti-social behaviour in and around St Albans Road – which was not one of the original areas - was received from one of the safer neighbourhood team police officers.
- 3.16 A further consultation exercise with Members was conducted in relation to St Albans Road between Leavesden Road and the A41, where there are 30 licensed premises (eight restaurants; five late-night take-aways; four pubs; seventeen off-licences and even more in several of the roads directly connecting to St Albans Road).
- 3.17 The police report details about fifty alcohol-related and anti-social behaviour incidents in the area between Leavesden Road and the A41 over a four-month period from 3 April 2013. It points out that there are a large number of licensed premises throughout the 1.5 mile length of one the main thoroughfares in the Borough, which consists of over 400 business and residential premises. Many of the incidents involved street drinking with the implication that they had obtained alcohol from nearby licensed premises.
- 3.18 Although the police report recommends the introduction of a Designated Public Places Order to give police powers to require individuals to stop drinking alcohol on St Albans Road, officers and the Chair of the Licensing Committee have concluded that many of the reported incidents were caused by individuals who are being dealt with using other powers and mechanisms, and a DPPO on its own would likely disperse street drinking to adjoining residential areas.
- 3.19 Thirty responses were received in total and officers believe those responses are sufficient to justify introducing the SLAs. Those responses are shown in a tabulated manner at appendix 3.
- 3.20 Of the thirty responses, 26 respondents supported the introduction of the SLAs, with a number of supporting arguments given which broadly concern the impact of alcohol-licensed premises on low level crime, anti-social behaviour and nuisance. Twenty-eight respondents agreed that the SLAs will help to address those issues, and twenty-four thought that the size of the proposed SLA areas was right. Sixteen respondents accepted that the SLA would be more suitable than the current cumulative impact policy in Whippendell Road, although their written replies – albeit broadly in favour – may not directly correlate with that. Twenty-two respondents are local residents, four are local businesses (some of whom are also residents) and one a local charity, and six Members replied. Approximately half of the respondents live or work in Whippendell Road, half in Market Street and a smaller number in Market Street or elsewhere.
- 3.21 The impact of the SLAs will become apparent where applications are made for alcohol and/or late-night refreshments within those four areas. Officers acting on behalf of the licensing authority will consider whether to make representations in light of the community's concerns even if there are no other representations in order to (a) ensure that appropriate conditions (drawn from the pool of model conditions) are placed on the licence or (b) that applications are considered by a licensing sub-committee.

- 3.22 The Committee should take note that policy LP4 will not automatically lead officers to make representations on every occasion. As an example, an application has just been made to sell alcohol by a café in Whippendell Road. Appropriate conditions had been volunteered by the applicant during negotiations with the licensing authority and the application had not been opposed by ward councillors, and so it was not felt appropriate to make representations on that occasion.
- 3.23 Officers are not aware of any other licensing authority that has a similar policy to LP4. The evidence from the consultation exercise will be used to justify the policy in appeals where the policy is an issue. To ensure the evidence is relevant and up-to-date officers would suggest the consultation is repeated every two years.
- 3.24 None of these proposed changes are retrospective and would not apply to existing licences; they would only be applicable to applications for new licences or when varying existing licences.
- 3.25 As a result of the consultation, the Committee is asked to recommend that the Council – in its capacity as the licensing authority - adopts the revised policy.

4.0 **IMPLICATIONS**

4.1 **Financial**

- 4.1.1 The Director of Finance comments that there are no financial implications associated with this review.

4.2 **Legal Issues** (Monitoring Officer)

- 4.2.1 The Head of Democracy and Governance comments that the SLP is not only important in setting out the licensing authority's approach to the Licensing Act, but it must also be applied by the magistrates' courts on appeal unless they have good reason to depart from it otherwise. The Committee must be satisfied that the SLP is not irrational, beyond the legal powers of the Committee, or so unreasonable that no other reasonable licensing authority would have adopted it.

4.3 **Equalities**

- 4.3.1 An Equalities Impact Assessment has been conducted. As the licensing process is regulated by statute and regulation, any negative effects would have to be addressed by Parliament. However, the council can ensure that:

- (a) licence conditions are not imposed that have a negative impact on an equality group
- (b) information and awareness about the licensing scheme is made available (commensurate with the information provided by the council for other regimes, eg planning permissions)
- (c) steps are put into place to accommodate people from equality groups who might wish to put forward their representations to licensing sub-committees

(and this equally applies to any member of the public who wishes to address a Council or committee meetings

(d) officers follow the published enforcement policy which itself has been the subject of an equalities impact assessment

4.4 **Potential Risks**

| Potential Risk | Likelihood | Impact | Overall score |
|---|-------------------|---------------|----------------------|
| Policy departed from by court on appeal | 1 | 4 | 4 |
| Legal challenge arising from failure to properly adopt the policy | 2 | 3 | 6 |
| Legal challenge from failure to properly consult | 1 | 3 | 3 |
| Policy is unreasonable, irrational, discriminatory etc | 1 | 3 | 3 |

Appendices

- Appendix 1 – Revised statement of licensing policy 2013 – 2018
- Appendix 2 – Table of amendments to policy
- Appendix 3 – Consultation responses

Background Papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Local Government Association Best Practise Framework for the Review of Licensing Policy Statements (October 2012)

File Reference

- Licensing policy review 2013