

# **LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)**

**Agenda Item 7**  
Brighton & Hove City Council

<b>Subject:</b>	<b>Review of Statement of Licensing Policy 2021 – pre-consultation of revised policy</b>		
<b>Date of Meeting:</b>	<b>25 June 2020</b>		
<b>Report of:</b>	<b>Executive Director of Housing, Neighbourhoods &amp; Communities</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jim Whitelegg</b>	<b>Tel: 01273 292438</b>
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<b>Wards Affected:</b>	<b>All</b>		

## **FOR GENERAL RELEASE**

### **1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The Council, as Licensing Authority, has a statutory duty to review and publish its Statement of Licensing Policy (SoLP) every five years. The current policy was adopted on 24 March 2016 by Full Council and revised in March 2019. The policy should be kept under review.
- 1.2 The cumulative impact policy, zone (CIZ) and special stress area (SSA) were introduced in 2008 and expanded in 2011. The SSA was further expanded into central Hove in 2019. A review looking at expanding the CIZ up London Road and Lewes Road was carried out in 2014 but found no evidence to justify the expansion so the special policy retained as existing.
- 1.3 S141 of the Policing and Criminal Act 2017 came into force on 6 April 2018 and gave cumulative impact assessments (CIAs) a statutory basis in the Licensing Act 2003. A policy must take into account any CIAs that an authority has published under 5A of the Act.
- 1.4 The Council, as a licensing authority must carry out a consultation exercise prior to any review of its Licensing Policy (Section 5(3) of the 2003 Act).
- 1.5 On 12 March 2020 the Licensing Committee considered an interim report looking at areas to consider in review the SoLP. This was followed by a Members workshop, via skype, on the 15<sup>th</sup> April 2020 with officers to further explore the themes and areas for consideration.
- 1.6 Members asked officers to submit a report to the following committee in June on reviewing the Council's Statement of Licensing Policy looking at a number of areas details in section 3.

## 2. RECOMMENDATIONS:

To authorise officers to initiate consultation regarding a review of the Statement of Licensing Policy, including the following proposals to consult on (please note, more detail and background on these proposals is contained in section 3 of this report):

- 2.1 Maintain the current cumulative impact policy and zone as explained in the draft CIA to follow.
- 2.2 Expand the Special Stress Area (SSA) to cover Preston Road and Beaconsfield Road (up to Stanford Avenue).
- 2.3 Consider including Marina into “Other areas” of the Matrix to reflect the increased number of residential properties.
- 2.4. To amend the “Café” category of the Matrix by reducing the terminal time for the sale of alcohol from midnight to 10pm within the SSA and “other areas”, in line with the cumulative impact zone.
- 2.5 Shopping parades - Amend note 8 of the Matrix to *“In an area where there are already several existing off-licences or where the premises is situated within a parade with another off licence and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds or restrictions placed on the terminal hour to reflect opening hours of other shops in the parade.”*
- 2.6 Alcohol in shared workspaces - Amend note 10 of the Matrix to clarify that *“non-alcohol led category does not include “alcohol in shared workplaces”. These type of premises are considered unique. It is recommended that sale of alcohol in shared workspaces should have a terminal hour of no later than 10pm.* For further advice and guidance on “alcohol in shared workplaces” please see paragraphs 3.3.5-3.3.7 (see Appendix C).
- 2.7 Shadow Licences – add a new section to revised policy with advice, guidance and possible conditions. Please see section 3.10 in Appendix C.
- 2.8 Alcohol Delivery – amend the Off Licence section 3.5.5-3.5.8 of the revised policy with suggested conditions in Appendix C.
- 2.9 Update out of date/irrelevant data, legislation and text, update night time economy safeguarding initiatives (see section 3.4 of the revised Statement of Licensing Policy contained in Appendix D).

## 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 With the introduction of Cumulative Impact Assessments the licensing authority must review the existing special policy and Cumulative Impact Zone and publish a cumulative impact assessment (CIA) along with the evidence underpinning it for consultation. A copy of the draft CIA is contained in **Appendix A**.

3.2 The Police and the Council's Public Health Intelligence Analyst have provided extensive evidence of alcohol related crime and health data relating to the special policy areas and citywide. Both sets of evidence show clear city centre hot spots all sitting within the cumulative impact zone and supports maintaining these boundaries. The Police and Public Health Intelligence submission with maps and data analysis can be found in Appendix A.

3.3 Proposals for amendment and consultation are as follows:

- (i) Expanding the **Special Stress Area (SSA)** to cover Preston Road and Beaconsfield Road (up to Stanford Avenue) to reflect the number of licensed premises in Preston Road and Beaconsfield Road, north of Preston Circus and the evidence from Public Health framework document. The proposed extension includes commercial parades with residential above north of Preston Circus along these two arterial routes in and out of the city including a significant number of licenced premises. The SSA is defined as an area of concern to be monitored for levels of public nuisance and anti-social behaviour (ASB). Applications in the SSA are expected to have a robust operating schedule with appropriate conditions. Unlike the CIZ there is no presumption of refusal. A map and supporting evidence for the extension of the SSA can be found in **Appendix B**.

The key changes to the **matrix, paragraphs and suggested conditions** within the policy are summarised within **Appendix C** and a copy of the **full revised Policy** is contained **Appendix D**.

- (ii) Consider including **Marina** into "Other areas" of the Matrix to reflect the increased number of residential properties.
- (iii) **Shopping parades** (please see amended note 8 paragraph 3.3.2 in Appendix C) – to recognise the cumulative impact on the local area of more than one off licence in a parade of shops surrounded by residential accommodation it is proposed to strengthen the notes to the matrix. There is an obvious disconnect in where alcohol is sold for off consumption and any subsequent nuisance or crime and disorder. Causality of alcohol sale, consumption, nuisance and impact is difficult to link back to the place where alcohol is purchased and consumed.

The City experiences local problems and local trends such as pre & post-loading, binge drinking and street drinking created by cheap alcohol and fierce, localised price competition, particularly between off-licence stores and supermarkets.

- (iv) "**Alcohol in shared workplace**" - an informative report was considered before the licensing committee in March 2019. A shared workplace or shared workspace can be defined by being a building that has been converted into office space, which is operated overall by one company that rents workspace to many different entrepreneurs and small businesses. Its general offering is of hot-desk working, meeting spaces, single or team desk hire and/or private office space, etc., usually to freelance workers and/or small or medium

businesses who do not want to rent offices of their own. Customers who rent such office spaces are often termed ‘members’ of the applicant companies, however this term is not the same as members of clubs operating under a Club Premises Certificate.

It is recognised that there is a demand for flexible workspace across the UK, particularly in Brighton & Hove, where there is a high proportion of start-ups and one of the UK’s largest homeworker population. Where alcohol is supplied to “members” a premises licence is likely to be required. Whilst there is no evidence to suggest that Local Authorities have encountered issues with these licences, it’s important to acknowledge the potential negative impact alcohol can have on the workplace and to individuals. It will be important to restrict public access to such premises and to ensure that the licensed area on the premises is clearly defined in order to prevent consumption of alcohol throughout a large office premises.

It is proposed to add clarity to the notes of the matrix (see amended note 10 para 3.3.2 in Appendix C) and guidance. And in order to promote the licensing objectives, the Licensing Authority or applicant may consider the following conditions for shared workspaces detailed in Annex A of Appendix C of this committee report.

- (v) **Off Licences** – as well as the existing advice given in paragraph 3.5 of the Policy, we are proposing to add additional paragraphs addressing the concerns around the delivery of alcohol off the premises as well as a number of conditions for the licensing authority to consider when addressing applications that include delivery. These can be found in the Off Licence section 3.5.5-3.5.8 of Appendix C with suggested conditions in Annex A.
  - (vi) **Shadow licences** – the licensing team are seeing more applications for shadow licences as landlords look to protect the premises licence where a tenant goes insolvent or surrenders the licence. As such we have included some clarity and guidance within the policy which can be seen in Appendix C, section 3.10.
  - (vii) **Substantial food** – we considered trying to provide further clarity to what constitutes substantial food but felt it was too difficult to define, and it would be better to have flexibility and deal with each case on its own merits. However, we have added the licensing authority shall judge each case on its own merits but as a general rule, a bowl of crisps, nuts, or olives does not constitute substantial food.
- 3.4 Any changes to policy should be evidenced based and for good reasons grounded in the licensing objectives. A revised copy of the Statement of Licensing Policy 2021 (SoLP) is contained in Appendix C.

3.5 **Consultation** - National Guidance states at 13.4 that before determining its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- The chief officer of police for the area
- The fire and rescue authority for the area
- The local authority's Director of Public Health in England
- Persons/bodies representative of local premises licence holders
- Persons/bodies representative of local club premises certificate holders
- Persons/bodies representative of local personal licence holders; and
- Persons/bodies representative of businesses and residents in its area.

Consultation will be undertaken with these statutory consultees and more generally via the council's on-line consultation portal, Licensing website, Licensing Strategy Group, the city LATs (Local Action Teams), residents associations and community associations, Business Improvement District (BID), Brighton & Hove Economic Partnership, Brilliant Brighton, other Council services including Tourism, Events Office, Seafront Office (including Seafront Trader Association), Trading Standards, Legal and Finance.

#### 4. **FINANCIAL & OTHER IMPLICATIONS:**

##### 4.1 Financial Implications:

There are no financial implications arising from the recommendations made in this report. The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally by government.

Finance Officer Consulted: Michael Bentley

Date: 20/05/20

##### 4.2 Legal Implications:

These are set out in the report. The SoLP should follow the fundamental principles set out in the Licensing Act 2003 and statutory guidance. Following the consultation exercise, the views of all those persons or bodies should be given appropriate weight when determining the policy. The new requirement to publish a Cumulative Impact Assessment and the evidence underpinning it is significant. Revisions made to the policy without evidential basis are likely to be vulnerable to challenge.

Lawyer Consulted: Rebecca Sidell

Date: 22/05/20

##### 4.3 Equalities Implications:

An Equality Impact Assessment will be completed as part of the policy review process to assess if there is any adverse impact on a particular group.

##### 4.4 Sustainability Implications:

Licensed premises throughout the city rely on local licensing policies in ensuring there is clear guidance on the continued operation of local businesses. Maintaining a regularly reviewed policy, which has undergone public consultation, will ensure a consistency of support to licensed premises, members of the public and other stakeholders affected by these activities.

4.5 Crime & Disorder Implications:

CIA proposals are geographically based around evidence of crime and disorder, etc. and should assist in the council's overall aim in reducing current levels. The Special Policy promotes the four licensing objectives: public safety, the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

4.6 Risk and Opportunity Management Implications:

Failure to meet this statutory duty would lead to uncertainties in decision making, loss of business continuity and an inability to meet customer care standards.

4.7 Corporate / Citywide Implications:

The policy promotes the licensing objectives and sets out a general approach to making licensing decisions. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this Special Policy is framed around those objectives.

Proposals for new licensed premises, or for certain variations to existing ones, within a CIA will normally be refused following relevant representations unless it can be demonstrated that there will be no negative cumulative impact.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

**Appendix A** – Draft Cumulative Impact Assessment including police and public health data analysis, maps and commentary regarding special policy

- Police's submission
- Council's Public Health Intelligence Team submission

#### Licensed premises maps

- 1. PH Licensing commentary
- 2. All alcohol licences – citywide
- 3. Both on and off sales – citywide
- 4. Off sale only – citywide
- 5. On sale only – citywide
- 6. CIZ, SSA and all alcohol licences
- 7. CIZ, SSA and both on and off licences
- 8. CIZ, SSA and off-licences
- 9. CIZ, SSA and on-licences
- 10. Supported accommodation, mental health services, substance misuse treatment centres and off-licences (point map)
- 11. Count of off-licences, supported accommodation, mental health services, and substance misuse treatment centres (thematic map)

#### Crime and disorder hotspot maps

- 12. Violence against the person not in a dwelling 2018/19
- 13. Violence against the person not in a dwelling 2018/19 with CIZ and SSA boundary
- 14. Violence against the person not in a dwelling 2016/17 for comparison
- 15. Criminal damage 2018/19
- 16. Criminal damage 2018/19 with CIZ and SSA boundary
- 17. Criminal damage 2016/17 for comparison
- 18. Noise complaints against licensed premises April 2016 – March 2019
- 19. Noise complaints against licensed premises April 2016 – March 2019 with CIZ and SSA boundary

#### Health data maps

- 20. Clients in alcohol treatment by ward 2018/19

#### Other:

- 21. SSA proposed extension (city wide)
- 22. SSA proposed extension (close up)
- 23. CIZ and SSA
- 24. CIZ only

**Appendix B** – Map and supporting evidence for the extension of the SSA

**Appendix C** – Summary of Amended Matrix/notes, paragraphs & conditions

**Appendix D** - Revised copy of the Statement of Licensing Policy 2021, including following amendments:

- Revised Matrix and notes
- Shopping Parades
- Alcohol in Shared Workplaces
- Shadow Licences
- Off licences – deliveries

### **Documents in Members' Rooms**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016 as amended 24th March 2016.

Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, April 2018.

### **Background Documents**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2016 as amended 24th March 2016.