

# LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

## Agenda Item 9

Brighton & Hove City Council

<b>Subject:</b>	<b>Review of Statement of Licensing Policy – Interim report 2018</b>
<b>Date of Meeting:</b>	<b>28 June 2018</b>
<b>Report of:</b>	<b>Executive Director of Neighbourhoods, Communities &amp; Housing</b>
<b>Contact Officer:</b> Name:	<b>Jim Whitelegg/Sarah Cornell Tel: 01273 292438/295801</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 its Statement of Licensing Policy (SoLP) every five years. The current policy was adopted on 24 March 2016 by Full Council. The policy should be kept under review.
- 1.2 The revised statement of licensing policy included minor amendments to the overall structure and layout, removal of out of date and no longer relevant information to reflect changes in legislation and the Matrix table was reviewed under section 3.3 of the SoLP.
- 1.3 On 1 March 2018 the Licensing Committee considered the annual report of the Licensing Authority for 2017. The Committee noted the contents of the report and agreed that officers would continue to monitor the trends of applications and illegal activity to inform future policy.
- 1.4 Members asked officers to submit a report to the following committee in June on reviewing the Council's Statement of Licensing Policy looking specifically at: extending the Special Stress Area and reviewing the Matrix approach particularly in relation to café bars.

#### 2. RECOMMENDATIONS:

- 2.1 To authorise officers to go out to statutory consultation with the proposal to expand the Special Stress Area (SSA) to cover Central Hove, to extend from the west side of Holland Road northwards/ intersection with the North side of Lansdowne Road, going westwards along Eaton Road/Blatchington Road to the junction and then south along Sackville Road down to the seafront (details of area covered in Appendix A)

- 2.2 To authorise officers to go out to statutory consultation on a revised Matrix on one or more of the following proposals.
- Change name from “café/bars” to “café” (notes to Matrix to be amended to “small food led establishment”).
  - Reduced hours for café/bar category in CIZ (Cumulative Impact Zone).
  - No changes

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

#### Expanding the Special Stress Area (SSA) to cover Central Hove

- 3.1 Officers and Police Licensing support extension of SSA to reflect the number of licensed premises in Church Road Hove, the evidence from Public Health framework document and that it would be consistent with the current SSA that acts as a buffer to the CIZ. 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. See Councillor Wealls supporting letter and information in Appendix B.

#### Café Bars

- 3.2 A report showing all café bars applied for in the city since 1<sup>st</sup> April 2015 with details of alcohol timings, wards, and decision made is shown in appendix C.

The Council’s Statement of Licensing Policy (SoLP) (paragraph 3.3.3) states:

**Café Bars** - the licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following conditions that will prevent the premises becoming a public house.

- The sale of intoxicating liquor and other beverages shall be waiter/waitress service for consumption by persons seated at tables.
  - Substantial food shall be available at all times.
- 3.3 The current situation regarding café bars is:
- Annual report shows an increase in café bars granted 2017/18 but a big decrease in pubs/clubs. There are considerably more pubs and restaurants in the City compared to café bars. As of March 2018 there were 323 Pubs, bars & nightclubs, 297 Restaurants and 89 café bars.
  - SoLP look favourably on Café bars 3.3.3

- Cumulative Impact Policy (CIP) is not absolute and recognises the different impact from different types of venues
- The term “café bars” to define this category of premises is misleading. Officers suggest the term “café” is more appropriate as essentially we are not talking about bars but small food led cafes or delis where alcohol is not the primary activity and the venues do not open late. It is also suggested adding notes to the matrix that this category is defined as “small food led establishments”.
- It is suggested that the character and operation of this kind of premises is different from that of a pub. Alcohol is not the primary focus, and thus patrons are not likely to become intoxicated. The hours are limited. There is less potential for negative impact on the four licensing objectives: The prevention of crime & disorder, public safety, the prevention of public nuisance and protection of children from harm.

3.4 To change policy we would need evidence to show these venues are undermining one or more of the four licensing objectives and/or are contributing to negative cumulative impact. New statutory S182 Guidance has been published in April 2018 which refers to the new provisions in the Licensing Act 2003 with regard to Cumulative Impact policies. These provisions are not yet in force but expected in October this year. The guidance and provisions make it clear that there must be reasons and evidence upon which to base such policies and this would include making any revisions to those policies. This reasoning and evidence must be published. Revisions made to the policy without evidential basis are likely to be vulnerable to challenge.

3.5 The matrix approach provides a vision of what the licensing authority would like to see within its area and gives an indication of likelihood of success or otherwise to investors and local businesses making applications. It is a mechanism for the locally accountable licensing authority to shape its local area and address public, social policy issues. It balances the need for protection for local residents against the interests of the local economy, local employment and potential investors. The matrix does not apply to existing premises, just new/variation applications. It is illustrative and each panel must consider each application on merit, including location and type of premises/activities.

3.6 Café bar conditions have been around before the Licensing Act 2003 and were converted over from some licences from the old Magistrates court so they are not a new concept. Since café bars, as a category, were formerly introduced in to the Matrix in 2016 there has been an increase in the number of applications for café bars but a decrease in both restaurant and pub applications. Prior to this there was a lot of confusion around where café bars fell within the Matrix, whether they should be considered a restaurant or a bar. They have become more popular due to the changing nature of our drinking and leisure culture.

#### **4. CONSULTATION**

- 4.1 Consultation will involve the Licensing Strategy Group which includes businesses via City Centre and Hove Business Fora, Police, Tourism, Events Office, Seafront Office (including Seafront Trader Association), Trading Standards, Legal and Finance, residents via residents associations and Community Associations including the North Laine Community Association. . If members were minded to change the statement of licensing policy, officers should undertake the statutory consultation exercise outlined in Section 5 of the Act and Full Council alone can exercise the function of revising the authority's policy.

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

##### 5.1 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: 24.05.18

##### Legal Implications:

- 5.2 These are set out in the report. The SoLP should follow the fundamental principles set out in the Licensing Act 2003 and statutory guidance. New S182 Guidance has been published in April 2018 which refers to the new provisions in the Licensing Act 2003 with regard to Cumulative Impact policies. These provisions are not yet in force but expected in October this year. The guidance and provisions make it clear that there must be evidence upon which to base such policies and this would include making any revisions to those policies. This evidence must be published. Revisions made to the policy without evidential basis are likely to be vulnerable to challenge.

Lawyer Consulted: Rebecca Sidell

Date: 22.5.18

##### Equalities Implications:

- 5.3 A rebuttal presumption against new licensed premises in a CIA may reduce the ability for small businesses to open as off-licences. Affected businesses may often be operated by members of minority ethnic groups.

##### Sustainability Implications:

- 5.4 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.

##### Crime & Disorder Implications:

- 5.5 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.

Risk and Opportunity Management Implications:

- 5.6 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.

Corporate / Citywide Implications:

- 5.7 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** – Map of area to be covered by expansion of Special Stress Area (to follow)

**Appendix B** – Councillor Wealls letter supporting the expansion of the SSA

**Appendix C** – Café bar report (to follow)

### **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.