

**LICENSING
COMMITTEE
(LICENSING ACT
2003 FUNCTIONS)****Agenda Item 18**

Brighton and Hove City Council

Subject: **Review of Statement of Licensing Policy 2021 –
consultation response report 2020****Date of Meeting:** **26 November 2020****Report of:** **Interim Executive Director of Housing,
Neighbourhoods & Communities****Contact Officer:** Name: **Jim Whitelegg** Tel: **01273 292438**E-mail: Jim.whitelegg@brighton-hove.gov.uk**Wards Affected:** All**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 25 June 2020 the Licensing Committee authorised officers to go out to statutory consultation to review the council's Statement of Licensing Policy 2019.

2. RECOMMENDATIONS:

2.1 That Committee agree the revisions to the Statement of Licensing Policy as follows:

- 2.1.1 Maintain the current cumulative impact policy and zone and publish the Cumulative Impact Assessment.
- 2.1.2 Expand the Special Stress Area (SSA) to cover Preston Road and Beaconsfield Road (up to Stanford Avenue).
- 2.1.3 Include Marina into “Other areas” of the Matrix to reflect the increased number of residential properties.
- 2.1.4 To amend the “Café” category of the Matrix by reducing the terminal time to 10pm for the sale of alcohol within the special stress area and “other areas”.
- 2.1.5 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.”*
- 2.1.6 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. For further advice and guidance on “alcohol in shared workplaces” please see paragraph 3.3.5-3.3.7”.*
- 2.1.7 Shadow Licences – add a new shadow licences section 3.10 to revised policy with advice, guidance and possible conditions.
- 2.1.8 Alcohol Delivery – amend the Off Licence section 3.5.5-3.5.8 of the revised policy with suggested conditions.
- 2.2 That the revised Statement of Licensing Policy is referred to Full Council for adoption. See Appendix A for a copy of the revised statement of licensing policy and cumulative impact assessment (CIA).

3. CONSULTATION

- 3.1 Consultation commenced on 20th July 2020 and closed on the 4th October 2020. The consultation document included background information and relevant documents to the specific questions on the areas listed in the recommendations (see section 2.1) as well a copy of the revised document. A copy of the consultation document can be found in Appendix B.

3.2 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.

3.3 Consultation was 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. Consultation Responses

4.1 It should be noted that extensive pre-consultation was carried out with relevant key stakeholders prior to going out to consultation, including Public Health, Police, Environmental Health, Highways, Arts and Tourism, Licensing Strategy Group and licensing committee members.

4.2 A summary of the responses are detailed below. A detailed breakdown of the on-line consultation portal responses, together with the additional responses submitted by email and letter can be found in Appendix C.

4.3 The consultation document contained specific questions relating to the proposed changes together with a question on comments on any aspect of the policy.

4.4 With regard (add 4.2) to comments on the specific questions relating to the areas of recommendation in 2.1, I will summarise the comments but it is important that the consultation responses are considered in their entirety (please see Appendix C).

- Maintain the current cumulative impact policy and zone – majority agree (79%)

- Expand the Special Stress Area (SSA) to cover Preston Road and Beaconsfield Road (up to Stanford Avenue) – majority agree (64%)
- Café – terminal times in “special stress areas” and “other areas” – more of a mixture of comments with the majority suggesting 10pm or 11pm.
- Including Marina into “Other areas” of the Matrix to reflect the increased number of residential properties – majority agree (59%)
- 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.”* – majority agree (65%)
- 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. For further advice and guidance on “alcohol in shared workplaces” please see paragraph 3.3.5-3.3.7”* – majority agree (65%)
- Shadow Licences – add a new shadow licences section 3.10 to revised policy with advice, guidance and possible conditions – majority agree (57%)
- Alcohol Delivery – amend the Off Licence section 3.5.5-3.5.8 of the revised policy with suggested conditions – note general comments
- In addition to the on-line consultation portal we received an email and letter from a community group, local action team and licensing consultant which can also be found in Appendix C.

If members were minded to agree the statement of licensing policy, Full Council alone can exercise the function of revising the authority’s policy.

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: 16/10/2020

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: 16/10/20

4.3 Equalities Implications:

An Equality Impact Assessment was 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 – Revised Statement of Licensing Policy and Cumulative Impact Assessment

Appendix B – Consultation Document

Appendix C – Consultation responses