

REPORT TITLE: REVIEW OF STATEMENT OF LICENSING POLICY UNDER THE LICENSING ACT 2003 – UPDATE FOLLOWING CONSULTATION

6 DECEMBER 2023

REPORT OF CABINET MEMBER: Cllr Jackie Porter, Cabinet Member for Place and Local Plan

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WARD(S): ALL

PURPOSE

At the Licensing and Regulation Committee on 5 September 2023, Members consented that we could Consult on the council’s Statement of Licensing Policy (“the Policy”) under the Licensing Act 2003 and approved the Policy for consultation.

Members are asked to consider the comments received during the consultation period and approve that the final version Policy be recommended to Council for adoption.

RECOMMENDATIONS:

1. The revised Statement of Licensing Policy under the Licensing Act 2003 be recommended to Council for approval and adoption.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 Tackling the Climate Emergency and Creating a Greener District
- 1.2 N/A
- 1.3 Homes for all
- 1.4 N/A
- 1.5 Vibrant Local Economy
- 1.6 The Policy aims to promote a thriving economy for individuals and businesses providing licensable activities, whilst ensuring that they comply with the law.
- 1.7 Living Well
- 1.8 The Policy seeks to balance supporting local businesses and using powers available to officers to ensure that the Winchester district is a pleasant place to live, work and visit.
- 1.9 The Policy highlights working closely with the police and other partners to address anti-social behaviour and improve community safety.
- 1.10 Your Services, Your Voice
- 1.11 The Policy sets out the powers available to officers and any person negatively impacted by the provision of licensable activities and where they consider the licensing objectives are not being met.

2 FINANCIAL IMPLICATIONS

- 2.1 None

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The Licensing Policy must be reviewed at least every five years as required by the Licensing Act 2003.
- 3.2 There are no procurement implications as a direct result of this report.

4 WORKFORCE IMPLICATIONS

- 4.1 None

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None

6 CONSULTATION AND COMMUNICATION

- 6.1 At the Licensing and Regulation Committee on 5 September 2023, Members considered the draft reviewed Policy and made minor amendments to approve the draft Policy for consultation – [LR577 refers](#).
- 6.2 The consultation period was held from 20 September 2023 to 22 October 2023.
- 6.3 The following parties were consulted:

Chief Constable of Hampshire Constabulary	Police and Crime Commissioner for Hampshire
Hampshire Constabulary – Licensing	Hampshire and Isle of Wight Fire and Rescue Service
Child Protection - Hampshire County Council	Service Lead for Public Protection – Winchester City Council
Environmental Protection - Winchester City Council	Service Lead for Built Environment – Winchester City Council
Development Management - Winchester City Council	Corporate Head of Regulatory (Interim) – Winchester City Council
South Downs National Park Authority	All Members – Winchester City Council
All Parish Clerks	Winchester Pub Watch Members
Winchester BID	Tenant and Council Together (TACT)
BIIAB	British Beer and Pub Association

- 6.4 Comments were received from; Cheriton Parish Council, South Downs National Park Authority, Cllr Cramoysan, Itchen Valley Parish Council and Itchen Stoke and Ovington Parish Council.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 None

8 PUBLIC SECTOR EQUALITY DUTY

- 8.1 An Equality Impact Assessment (EqIA) was completed and considered at the [Licensing and Regulation Committee on 5 September 2023](#).

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 Personal data received as part of the consultation process will be stored in line with Council policy and GDPR requirements.
- 9.2 A personal email address was used by David Cook of Itchen Stoke and Ovington Parish Council to provide comments, this has not been included in the report.
- 9.3 A telephone number received on comments by New Alresford Town Council has been redacted at Appendix 2.

10 RISK MANAGEMENT

Risk	Mitigation	Opportunities
Financial Exposure	N/A	
Exposure to challenge	The adoption of the Policy could be challenged by Judicial Review, but as the proposed changes are minor and legal advice has been provided for the process, a challenge is considered unlikely. A formal consultation process has been carried out.	
Innovation	N/A	
Reputation	The Policy aims to strike a balance between obtaining all the benefits provided by licensed premises and events, and ensuring that their impact is properly controlled and balanced against other community interests.	
Achievement of outcome	Where representations are received against applications, these decisions are made by the Licensing Sub-Committee where the Policy and national guidance are considered as part of the decision-making process.	

Property	N/A	
Community Support	All elected Members and Parish Clerks were consulted on the Policy review.	
Timescales	The current Policy will be active until the reviewed Policy has been adopted.	
Project capacity	N/A	
Other	N/A	

11 SUPPORTING INFORMATION:

Introduction

- 11.1 The City Council as the Licensing Authority is required to review and publish its Statement of Licensing Policy under section 5 of the Licensing Act 2003 every five years. During the five year period, the Licensing Authority must keep its policy under review and make such revisions to it, at such times as it considers appropriate.
- 11.2 At the Licensing and Regulation Committee on 5 September 2023, Members considered the draft reviewed Policy and made minor amendments to approve the draft Policy for consultation – [LR577 refers](#).

Consultation / Comments

- 11.3 During the consultation period, comments were received from the following; Cheriton Parish Council, South Downs National Park Authority, Cllr Cramoysan, Itchen Valley Parish Council and Itchen Stoke and Ovington Parish Council. All comments can be found at Appendix 2.

a) Cheriton Parish Council

Cllr David Pain of Cheriton Parish Council has suggested the following amendment to page 3 of the Policy under ‘Other Legislation’ to refer to the duty under Section 62(2) of the Environment Act 2015 which states:
 “In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act (National Parks and Access to the Countryside Act 1949) and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.”

The suggested change is recommended in part and can be found as tracked change in the draft Policy at Appendix 1 on page 3.

b) South Downs National Park Authority

Nathaniel Belderson, Planning Link Officer for the South Downs National Park Authority responded to the consultation in support of the continued inclusion of references to require planning permission and updated link for SDNPA guidance for organisers of large events. They suggested stronger wording at paragraph 1.7 to refer specifically to the duty to have 'regard' to the purposes of the SDNP as stated under Section 11A(2) of the National Parks and Access to the Countryside Act 1949 (as amended by Section 63 of the Environment Act 1995). They requested the inclusion of SDNPA web links to the Tranquillity Study carried out in 2017 and further information on the Dark Night Skies guidance.

The suggested changes are recommended and can be found as tracked changes in the draft Policy on pages 3 and 29 respectively.

c) Cllr Steve Cramoysan

Cllr Cramoysan requested that the Policy is amended at Part 2: Introduction, to clarify what type of premises/events would require a licence.

Following discussion with Cllr Cramoysan, reference to assisting applicants are recommended and can be found as tracked change in the draft Policy on page 6.

d) Itchen Valley Parish Council

Richard Doughty, Clerk to Itchen Valley Parish Council, has suggested that the council publishes redacted licences on-line so that they are available to the public. They have also suggested that paragraph 1.5 of the Policy references Section 62(1) (2) of the Environment Act 1995.

The suggestion to publish licences will be considered as an operational improvement for the future. The suggestion to include reference to the Environment Act 1995 is recommended and can be found as tracked change in the draft Policy on page 3.

e) Itchen Stoke and Ovington Parish Council

David Cook, Chairman of Itchen Stoke and Ovington Parish Council requested an amendment on Page 3 "Other Legislation" to include reference to Section 62(2) of the Environment Act 1995 for the Licensing Authority to have "regard for the purposes of a National Park". They endorse and support SDNPA comment "to have a specific duty to consider the purposes of a National Park rather than a loose "regard"."

The suggestion to include reference to the Environment Act 1995 is recommended and can be found as tracked change in the draft Policy on page 3.

- 11.4 A comment was also received after the consultation period closed from New Alresford Town Council. Richard Doughty, Clerk to New Alresford Town Council has suggested that it should be policy to publish redacted licences on-line, thereby removing the process of a request for each licence.

Similarly to 11.3(d) above, the suggestion to publish licences is an operational consideration which will be considered in future.

- 11.5 Sgt Stuart Jackson, Force Licensing & Alcohol Harm Reduction Sergeant for Hampshire Constabulary confirmed that they had no comments on the review of the Policy.
- 11.6 The following minor amendments to the Policy have been made in response to comments from Cllr Porter:
- a) To explicitly refer to 'spiking' in paragraph A10,
 - b) To replace the word 'plastic' to 'non-glass based alternative containers',
 - c) To amend paragraph 2.21 to refer to the Public Space Protection Order (known as the Alcohol Control Zone).
- 11.7 The Policy has been amended to include the summarised points listed in paragraph 11.6 (as above) and are shown tracked in the revised Policy at Appendix 1.

Summary

- 11.8 The Statement of Licensing Policy has been revised following the amendments by the Licensing and Regulation Committee on 5 September 2023 and recommended comments received during the consultation period. It is presented, with recommended changes, at Appendix 1. Members are asked to refer the Policy for approval and adoption by full Council meeting on 17 January 2024.

12 OTHER OPTIONS CONSIDERED AND REJECTED

- 12.1 Members will wish to consider all comments received and decide whether to make changes to the Policy in light of these.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

[LR577 – Review of Licensing Policy under the Licensing Act 2003 – 5 September 2023](#)

[CIL142 – Review of Licensing Policy under the Licensing Act 2003 – 28 February 2019](#)

[LR517 – Review of Licensing Policy under the Licensing Act 2003 – update following consultation – 21 February 2019](#)

[LR514 – Review of Licensing Policy under the Licensing Act 2003 – 6 December 2018](#)

Other Background Documents:-

[Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 – 16 August 2023](#)

[Section 11A of the National Parks and Access to the Countryside Act 1949](#)

APPENDICES:

Appendix 1 – Amended draft Policy September 2023

Appendix 2 – Comments received