

Report to: Cabinet

Date of Meeting: 7 December 2015

Report Title: Review of Licensing Policy

Report By: Mike Hepworth
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Purpose of Report

To inform Cabinet of the results of the recent consultation carried out for the statutory review of the Council's Licensing Policy relating to the supply of alcohol, provision of regulated entertainment, and late night refreshments. The revised policy needs to be adopted by full Council prior to publication on 6th January 2016.

Recommendation(s)

- 1. Cabinet agree the updated Licensing Policy and recommend it to Full Council for adoption by the 6th January 2016**

Reasons for Recommendations

There is a statutory requirement for local authorities to fully review their licensing policy at least every 5 years. Failure to do so could result in judicial review proceedings against the Authority and call in to doubt local decisions made under the Licensing Act 2003.

Background

1. The Licensing Act 2003 passed all licensing responsibilities to local authorities for the licensing of premises, persons and temporary events in connection with the sale/supply of alcohol, regulated entertainment and late night refreshment.
2. This was implemented by local authorities in February 2005, the responsibilities having been transferred from the Magistrates Court and Police. One of the first duties placed on local authorities by the Act was the need to formulate and consult upon a Licensing Policy.
3. This policy had to be adopted by the Full Council of the Authority and kept under review. Initially the policy had to undergo a full review and consultation every 3 years. However, this has recently been increased by changes in legislation to a 5 year period. The next date for review is due and the revised policy needs to be adopted and published by the 6th January 2016.
4. The policy has undergone two full reviews since the initial adoption, both included consultation with all relevant parties specified in the statutory guidance, as well as some resident and special interest groups, and all Members. On each occasion amendments have been made to reflect changes to the legislation, Government guidance and identified issues in the Borough.
5. The updated draft policy is attached. The amendments mainly arise from changes to the legislation and statutory guidance. Some additional changes have been made as a result of the consultation exercise carried out, to which we received five responses.
6. In addition, data from our partner organisations was requested to inform consideration of the need to retain, remove, or amend the saturation zones referred to within the policy. This is discussed in more detail later in the report.
7. We are also proposing the inclusion of a new matrix approach to considering applications, which aims to promote a diverse range of licensed premises within the borough, whilst safeguarding the rights of local residents. This approach has been used successfully by some other licensing authorities, for example Brighton and Hove City Council. We have taken this emerging practice and adapted it to reflect the needs of Hastings.
8. The Matrix approach recognises that not all types of licensed premises are likely to be able to operate in accordance with the 4 licensing objectives in all types of area within the borough. For example live music venues and night clubs are likely to cause public nuisance if they are located in a predominantly residential area, rather than in a predominantly commercial area. Whereas a well managed restaurant closing at 23.00 hours is likely to have no negative impact, even within a residential area.
9. The matrix steers applicants towards the most appropriate type of area for the licensed venue they hope to operate. This approach should help reduce conflict between local residents and the operators of licensed premises, and promote a

diverse mix of venues in parts of the Borough. It is supported by Sussex Police, as they advise that it has operated very successfully in Brighton and Hove.

10. The new matrix is included within the policy document, and is designed to help inform applicants, the public and other key stakeholders of the Council's aspirations for the operation of licensed premises in different types of area throughout the borough.
11. It is suggested that the Matrix should be considered a live document and reviewed on a regular basis by the Council's Licensing Committee when emerging trends develop. In this way, when supported by evidence from key stakeholders, specified areas may be added and deleted, and suggested closing times and other parameters adapted, to reflect changing environments within the Borough.
12. The Council's Licensing Policy has stood the test of time well, it has not been legally challenged, and this latest version is largely the same with the addition of the new matrix approach.

Feedback from the consultation

13. As discussed above the statutory consultation process resulted in five separate responses, these were from Sussex Police, the Council's Legal Department, the Council's Environmental Health Manager, two Councillors and the Hastings Old Town Residents Association (HOTRA).
14. Sussex Police supplied a breakdown of all crime in the Borough and linked it to the three current saturation zones. Depending upon which crime group is identified the data shows that the three zones account for between 40% and 60% of the whole borough crime. The figures also confirm that the peak time for public place violent crime is 23.00 hours to 04.00 hours Thursday to Sunday, which equates to the peak opening times of the late night venues in these zones.
15. In addition they have supplied data for alcohol related anti-social behaviour across the Borough, this shows an encouraging reduction in such crime over the past 2 years. This data is discussed in greater depth later in the report when looking at the saturation zones.
16. The Chair of the Council's Licensing Committee provided useful feedback on the matrix proposals and they have been amended accordingly.
17. HOTRA made several statements in their response. They are briefly discussed below. They comment on the concentration of licensed premises in the Old Town and say that they have been contacted by licensees in the area about anti-social behaviour arising from the concentration of pubs and clubs in George Street. However, they do not provide specific details, and in fact this is not supported by the recorded crime data provided for the area.
18. They also comment on the way that the Police and Environmental Health respond to complaints and deal with incidents in this area. However, this is not a matter for the Licensing Policy.
19. They request two main changes, which are the expansion of the Old Town saturation zone, and that all premises with outdoor tables and chairs be required to

close that space by 21.00 hours. The areas adjacent to the existing saturation zone in the Old Town have few if any licensed premises, and the crime data for the area does not suggest that the existing zone should be expanded. Table and chairs licences are actually granted under highways legislation not the Licensing Act. All such licences terminate at 23.00 hours, and to seek to terminate those in the Old Town 2 hours earlier would be inconsistent and likely to be vigorously challenged by licensees. As the licences are granted under highways legislation it is not considered appropriate to seek to restrict them through this policy. Indeed each licence application made under the highways legislation will need to be considered on the individual merits of that case.

20. The crime data analysis provided by Sussex Police doesn't indicate that the Old Town has a significant crime and disorder or anti-social behaviour problem, compared with other areas of the town. Levels of recorded crime that could be associated with licensed premises appear to be stable, and are less than in the other 2 areas with saturation zones. However, it should be noted that environmental health continues to receive some complaints of noise and disturbance associated with licensed premises in the Old Town. Therefore, on balance it is thought that the existing saturation zone is working reasonably well, and should remain in place for the time being. Further information is provided below.

Cumulative Impact Policy (Saturation Zones)

21. The policy consultation process in 2008 identified a need for areas of cumulative impact to be adopted within the overall Licensing Policy, to control the cumulative impact on certain parts of the borough arising from the concentration of certain types of licensed premises. Three such areas were formed and have been retained following each review, with minor amendments being made to reflect changes to the character of these areas.
22. Cumulative Impact is not mentioned specifically in the 2003 Act. However, it is discussed at length in the Section 182 guidance under the Act issued by the Home Office. The guidance states "The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing Authority to consider in developing its licensing policy statement. Cumulative impact policies may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on and off the premises, and the provision of late night refreshment. This includes late night fast food outlets which are not licensed to sell alcohol."
23. Our three saturation zones have also been subject to separate reviews at a mid-point between full policy reviews, on each occasion Sussex Police and other interested parties have indicated their support for the Authority to keep them in place.
24. In the past it has been suggested that the saturation zones can be an unreasonable obstruction to businesses wanting to open new licensed premises within them. However, since their introduction in 2008 we have received 19 applications for new premises of different types in these areas, 18 of which have been issued and are trading. In addition, 6 applications have been received to vary premise licences for venues in the saturation zones and 5 were granted.

25. It is true to say that applicants applying for licences in the saturation zones need to submit carefully considered applications, making it clear how they will manage their premises to promote the 4 licensing objectives. We saw a good example of this in recent months, when the Licensing Sub Committee refused an application for a night club in the town centre. Following meetings with the Council and the Police, the applicant submitted a fresh application that was of a much higher standard, addressed the licensing objectives in far greater detail, and therefore didn't attract the same number of formal objections, and was approved.
26. Pre consultation data sought from our partners to indicate the levels of crime and other matters in the existing saturation zone areas has been supplied.
27. A précis of this data is as follows:-

Trading standards - for example in relation to illicit alcohol and labelling offences

Hastings Town Centre. - 3 prosecutions since 2011
 St Leonards - 3 prosecutions since 2012.
 Hastings Old Town - 0 prosecutions.

Environmental protection - in relation to statutory noise nuisance offences

Hastings Town Centre. - 1 premise with notice served, 1 premises on watch list.
 Hastings Old Town. - 1 premise with notice served, 3 premises on watch list.
 Central St Leonards - No current notices.

Sussex Police

28. Two sets of data have been released they are based on Wards not the exact areas of the saturation zones, one is general crime and the second is alcohol related disorder. Both are helpful in relation to considering this policy and are summarised below.
29. The general data shows that for the period July 2012 to June 2015, Castle ward accounted for 25.6% of all recorded crime in the borough, Central St Leonards accounted for 12.3% and Hastings Old Town 5.3%.
30. The data for Public Place Violent Crime (PPVC) shows that Castle Ward accounted for 32.9% of the total recorded in the Borough for the year ending June 2015, Old Hastings accounted for 5.3% and Central St Leonards 12.7%. The peak days of the week being Thursday to Sunday and the peak times 23.00 hours to 04.00 hours.
31. The alcohol related disorder data shows a reduction across the borough between October 2013 and September 2015, Castle ward had a 13.8% reduction in offences, Central St Leonards had a 40.9% reduction and Old Hastings had a 37.8% reduction, but these three areas remained among the highest in the borough in terms of alcohol offences, and as a result it is suggested that the 3 saturation Zones are retained, and continue to be regularly reviewed in the light of the new matrix proposals.
32. As mentioned above in relation to comments from HOTRA, based upon this data and discussions with local officers, although the crime data for the Old Town is low

in comparison to the other areas, we believe that the saturation zone should be retained.

Policy Implications

33. Equalities Impact Assessments carried out during previous reviews of this policy did not identify any scope for discrimination as a result of the policy. From a community cohesiveness perspective, the proposed new matrix approach is a positive development that should help to promote a diversity of licensed premises throughout the borough whilst safeguarding residents.
34. Crime and fear of crime are important considerations for the Council. Increased crime and fear of crime could have catastrophic consequences on the regeneration of the town, with entrepreneurs being put off from investing in Hastings. However, this policy helps to minimise the potential for crime and disorder associated with licensed premises, whilst promoting a vibrant and diverse night time economy, which should be good for regeneration.
35. The environmental impact of licensed premises is clearly a matter that is addressed by this policy, as one of the 4 licensing objectives is the prevention of public nuisance. The policy encourages applicants and licensees to seek guidance from the Licensing Team and Environmental Health in order that they can operate in ways that minimise the potential for nuisance. As a result of this review we have also added reference to the "City of London Code of Good Practice for Licensed Premises", which contains useful practical guidance on how licensees can promote the 4 licensing objectives.
36. The Human Rights Act is a relevant consideration for the Licensing Sub Committee when considering licensing applications, and the addition of the matrix approach to this policy should assist them in balancing the human rights of residents and licensees.
37. Local people's views are another relevant consideration as they have the right to make formal representations against applications if they feel that the application will not promote 1 or more of the 4 licensing objectives. Again it is suggested that the updated draft policy will help the Licensing Sub-Committee to consider such representations objectively, and in a way that balances the rights of all concerned.

Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	Yes
Risk Management	No

Environmental Issues	Yes
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	Yes
Anti-Poverty	No

Additional Information

Appendix One - Draft updated Licensing Policy

Officer to Contact

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