

COUNCIL MEETING – 6TH DECEMBER, 2018

AGENDA ITEM NO. 5 (1)

**PROPOSED ADOPTION OF POST-CONSULTATION
LICENSING POLICY**

A report from the meeting of the Cabinet held on 13th November, 2018

1. BACKGROUND & INTRODUCTION

- 1.1 The Licensing Act 2003 (the Act) regulates the sale and supply of alcohol, the provision of late night refreshment and a wide range of entertainments. Licensable activities are regulated through a personal and premises licence regime administered and enforced by the Council's Licensing team.
- 1.2 As a Licensing Authority under the Act, the Council is obliged to prepare and publish a statement of licensing policy every five years and to keep it under review. Whilst subject to statutory consultation requirements, this sets out the policies and arrangements the Council will apply and consider in exercise of its functions; particularly when making decisions on relevant licence applications and authorisations established under the Act.
- 1.3 The Council's current licensing policy was last reviewed in 2010. Whilst tailored to reflect local circumstances and guidance, this was itself developed from a framework policy prepared by the Hampshire & Isle of Wight Licensing Officers' Group in 2005.
- 1.4 Since this time, a number of legislative changes and changes to associated guidance issued by the Secretary of State have been published. Collectively, these factors have prompted a review of the Council's licensing policy and Cabinet was asked to, and subsequently approved the resulting policy for public consultation at its meeting 24th July (see [report EHH1821](#)). A copy of the proposed policy can be viewed at www.rushmoor.gov.uk/proposedlicensingpolicy.
- 1.5 Notably, and in accordance with Section 5 of the Act, statements of licensing policy can only be approved by Full Council following due consideration of any consultation feedback. Accordingly, this report outlines the consultation comments received and recommends the approval of the revised policy for adoption.
- 1.6 As the Act regulates various business activities and provides different means of redress where these cause problems, the licensing policy has, by association, clear links to the Council's priorities in respect of community leadership, economic development, prosperity and town centre regeneration. Furthermore, as changes to licensing policy may affect all

licensed premises and/or licensable activities throughout the borough, any determination of revised policy is considered a key decision.

2. CONSULTATION & FEEDBACK DETAILS

2.1 Statutory (public) consultation arrangements

2.2 In accordance with the requirements of the Act, the draft policy was subject to public consultation to 19th October. This included consultation with statutory stakeholders and a number (n= 313) of other agencies, trade bodies and individuals who may be affected by the change(s) (e.g. the licensed trade and representatives of residents in the area). The consultation was also published on the Council's website over this period.

2.3 Statutory (public) consultation feedback

2.4 A single comment / representation was submitted in respect of the consultation by the British Beer & Pub Association (BBPA) on 19th October. The representation expresses the BBPA's support for the proposed revision to the licensing policy in respect of removal of the special policy for cumulative impact in previously designated areas of Aldershot. For reference, a full copy of the representation is reproduced at **appendix A**.

2.5 Member Consultation

2.6 By way of Member consultation, the draft policy was put before Members of the Licensing, Audit & General Purposes Committee (LA&GP) for comments at its meeting of 24th September (see [Head of Environmental Health & Housing report EHH 18 24](#)).

2.7 Member consultation feedback

2.8 Pending their approval at its next meeting of 26th November 2018, minutes of the LA&GP Committee meeting are not yet available for ratification. However, whilst subject to some discussion, Members made no substantive comments or suggested amendments on the contents of the proposed policy document.

3. CONSULTATION COMMENTARY

3.1 As an expression of support for the Council's proposed policy approach to cumulative impact, the BBPA's representation is not considered substantive as to warrant any further amendment to the proposed policy at this time. By virtue of paragraph 4.10 (page 20), it is considered that the proposed policy adequately states the Council's position on cumulative impact while providing a means to review this where appropriate. This states -

At the time of writing, no special policy has been requested and/or is considered necessary. However, the Licensing Authority will review this, where a Responsible Authority or other party, submits suitable evidence to

suggest there is a negative effect on the promotion of the licensing objectives due to cumulative impact.

- 3.2 As no other consultation comments or representations have been made or received, it is considered that no other amendment(s) to the proposed policy are similarly necessary at this time.

4. IMPLICATIONS

Legal Implications

- 4.1 By virtue of section 5 of the Act, the Council is obliged to prepare and publish a statement of licensing policy and to keep this under review. This policy must be subject to statutory consultation and for any consultation comments to be duly considered before its approval by Full Council. Any such policy must seek to promote the Act's statutory licensing objectives (see [report EHH1821](#)) and must include a suitable statement on any cumulative impact of licensed premises in the area (as outline above). As a matter of common law, any policy must be also be reasonable and proportionate and should, where appropriate, be justified on the basis of robust evidence.
- 4.2 Whilst there is no offence under the Act, application decisions based on the policy may be subject to challenge where it has not been suitably maintained, is not reasonable or proportionate or is not otherwise based on suitable justification or evidence.
- 4.3 Notably, in the absence of any special policy for cumulative impact, the proposed policy sets out the general considerations that both applicants, interested parties, responsible authorities and the Licensing Authority itself may take into account when considering applications made under the Act. This supports the general principle that the Licensing Authority will consider any matter for its determination objectively and on its own individual merits. Accordingly, when read in conjunction with any guidance offered by the Secretary of State the revised policy (which is subject to public consultation) presents a low risk update.

Financial and Resource Implications

- 4.3 There are no financial implications associated with this report save those of the administrative costs and resources associated with the policy approval process. These can however be absorbed within existing budgets.

Equalities Impact Implications

- 4.4 It is considered that the proposed licensing policy presents no specific impact on those with protected characteristics. The policy seeks to maintain equality of opportunity and recognises that subject to the requirements of the Act, nothing in the policy overrides or undermines the right of any individual or business -

- (a) to apply for one or more of the authorisations under the Act and, where appropriate, to have that application considered on its individual merits;
- (b) to make representations on an application or to seek a review of an authorisation where provision has been made for them to do so; or
- (c) who is aggrieved by the decision of the Licensing Authority to appeal against that decision to the Courts where provision has been made for them to do so.

5. CONCLUSIONS

- 5.1 The Council is obliged to prepare and publish a statement of licensing policy based on a number of licensing objectives every five years. Following various legislative changes, the Council's policy has been reviewed and a revised and updated policy has been subject to public consultation in accordance with the requirements of the Act.
- 5.2 Following consultation, a single representation has been received in support of the proposed policy approach to cumulative impact. This is not considered substantive as to warrant further amendment of the proposed policy.

6. RECOMMENDATION

The Council is recommended to approve the revised Statement of Licensing Policy 2018.

M.L. SHEEHAN
PORTFOLIO HOLDER
FOR OPERATIONAL SERVICES

BACKGROUND DOCUMENTS:

HOME OFFICE (2018), Guidance issued under Section 182 of the Licensing Act 2003. April 2018.

RUSHMOOR BOROUGH COUNCIL (2010), Statement of Licensing Policy.

APPENDIX A

BRITISH BEER & PUB ASSOCIATION (BBPA) CONSULTATION FEEDBACK

Rushmoor Borough Council Consultation – Revised Statement of Licensing Policy – Sept 2018



British Beer & Pub Association Response
October 2018

The British Beer & Pub Association is the UK's leading organisation representing the brewing and pub sector.

Our members account for some 90 per cent of beer brewed in Britain today, and own around 20,000 of the nation's pubs. A full list of our members can be found [here](#).

Our members operate pubs across the UK and, as such, are impacted by national and local licensing issues. We welcome the opportunity to respond to this consultation and our views are set out below.

Introduction

The British Beer & Pub Association is the UK's leading organisation representing the brewing and pub sector. Our members account for 90% of the beer sold in the UK and own around 20,000 of Britain's pubs.

The pub plays a vital role in community cohesion and social life in Britain. They remain one of the few places where communities can come together to socialise. The British pub has been part of people's lives for hundreds of years. First and foremost, they are businesses which serve their local communities and contribute much to the social life of each and every community. The pub sector has enormous potential to generate economic growth and create jobs. It can also play an important part in local regeneration projects and has been at the heart of the regeneration of many of our key towns and cities over the last fifteen years. A major study undertaken by Oxford Economics in 2018 clearly identifies the significant local impact of brewing and pubs. Currently over £1.5 billion is invested in the pub sector per annum. Indeed, pubs are labour-intensive businesses so this investment directly correlates to jobs. Pubs employ 600,000 people across the UK, often providing vital work in small towns and villages. Indeed, 45% of those employed in the sector are aged 16-24 providing a vital route to work and first career-step for many young people.

Across Britain, 30 million people visit Britain's pubs each month, with over 15 million people drinking beer.

BBPA's Support for the Proposed Revision to the Statement of Licensing Policy (SoLP)

We note that one of the three elements of the proposed revision to the Council's SoLP is the removal of the Cumulative Impact Policy (CIP) for some areas of Aldershot.

We are reassured to see the Council advocating the removal of the CIP having considered the evidence of its impact whilst it was active and therefore the need (or otherwise) for it to remain in place. Where there is no evidence that a CIP is required in order to support the Licensing Objectives (or the weight of evidence is insufficient), it is appropriate to remove that CIP.

We therefore support the Council's intention to remove the CIP.

We have no comment on the other two revisions to the SoLP – the removal of the requirement for Neighbourhood Notifications, or the change to the policy regarding Film Classifications.

BBPA contact re this response:

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