

Council

24 March 2016

Agenda Item 106

Brighton & Hove City Council

Subject: Extract from the proceedings of the Licensing Committee (Licensing Act 2003 Functions), held on the 3 March 2016 – Statement of Licensing Policy – Revised Policy

Date of Meeting: 24 March 2016

Report of: Head of Legal & Democratic Services

Contact Officer: Name: Penny Jennings Tel: 01273 291064
e-mail: penny.jennings@brighton-hove.gov.uk

Wards Affected: All

For General Release**Action Required of Council:**

To receive the item referred from the Licensing Committee (Licensing Act 2003 – Functions) for approval:

Recommendation:

That the Statement Licensing Policy Consultation Response (as appended to the report and as amended at the meeting of the Committee) be approved and adopted by the Council as out below:

Removal of reference(s) to the Late Night Levy (LNL); and replacement of the word “Yes” by “**No**” under the column referring to café bars in the matrix set out on page 194 of the circulated papers (paragraph 30.16 of the minutes).

	Cumulative Impact Area	Special Stress Area	Marina	Other Areas
Restaurant	Yes (midnight)	Yes (midnight)	Yes	Yes (midnight)
Café bar	Yes No (11.30pm)	Yes (midnight)	Yes	Yes (midnight)
Late Night Takeaways	No	Yes (midnight)	Yes	Yes (midnight)
Night Club	No	No	Yes	No
Pub	No	Yes (11pm)	Yes	Yes (midnight)
Non-alcohol lead	Yes	Yes	Yes	Yes (favourable)

(e.g. Theatre)	(favourable)	(favourable)		
Off-licence	No	No	Yes	Yes (Up to 11pm but if in densely residential area may be earlier – see note 7 below)
Members Club (club premises certificate)	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes	Yes

A further update report to be provided to the Committee in 12 months or as appropriate in the light of operating experience following implementation of the updated policy.

BRIGHTON & HOVE CITY COUNCIL
LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

3.15PM

THE FRIEND'S MEETING HOUSE, SHIP STREET, BRIGHTON

MINUTES

Present: Councillors Marsh (Chair), Horan (Deputy Chair), Cobb (Opposition Spokesperson), Deane (Group Spokesperson), Allen, Bell, Inkipin-Leissner, Lewry, Moonan, O'Quinn, Page, Simson, C Theobald, Wares and West.

PART ONE

30. Statement of Licensing Policy Consultation Response

- 30.1 The Committee considered a report of the Director of Public Health seeking agreement to the proposed revisions to the Statement of Licensing Policy (SOLP).
- 30.2 It was explained that as a licensing authority the Council was required to carry out a consultation exercise prior to any review of its Licensing Policy under Section 5 (3) of the 2003 Licensing Act. Having considered a report at its meeting on 25 June 2015, the Committee had authorised officers to initiate consultation regarding a review of the Statement of Licensing Policy (SOLP).
- 30.3 The consultation had commenced on 30 September 2015 and had closed on 5 January 2016 and had sought the views of the Licensing Strategy Group which included businesses represented by City Centre and the Hove Business Forum, Police, Tourism, the Events Office, the Seafront Office (including the Seafront Trader Association, Trading Standards, Legal and Finance and representatives of residents and community associations. Views had also been sought via the council's consultation portal and the council's website via its licensing pages. It was noted that the circulated copy of the revised policy included tracked changes in order to enable members to identify what the proposed changes were, these were also referred to in paragraphs 5.8 and 5.9 of the report.
- 30.4 Councillor Cobb asked for examples/clarification in respect of the non-residential areas as referred to in the report excepting Churchill Square and the Racecourse. It was explained that the "mixed use" definition set out in the existing policy had been removed as a result of feedback received, there was no blanket category/

definition, applications would continue be determined by Panel's on their individual merits.

- 30.5 Councillor Simson stated that it was disappointing that responses to the consultation had been relatively few in number. Overall, the proposed changes were welcomed she also had concerns however, regarding how some elements of policy might work in practice, accepting however that the SOLP was always a work in progress which was amended periodically. Further changes could be made in future as/if appropriate in the light of operating experience.
- 30.6 Councillor Simson also referred to the reference to the Late Night Levy (Page 200) of the SOLP, in view of the Committees' earlier decision to defer consultation pro-tem, it was now appropriate for this to be removed. The Committee were in agreement.
- 30.7 Councillor Deane welcomed the proposed changes overall, expressing her support for them, with one notable exception, however. Councillor Deane referred to the strength of feeling and concern expressed by residents in her own ward and elsewhere in the city in relation to the presumption of approval of café bars within the CIA. Residents within these areas were already subject to late night noise and other disturbance and if the matrix remained as currently drafted, it would make it difficult for Panel's to reject such applications in future and could encourage an increase in applications as a means of opening premises supplying alcohol within the CIA.
- 30.8 The Legal Adviser to the Committee expressed her concern that at this stage the committee was considering the consultation responses and giving them appropriate weight. She was not sure that the responses supported this change.
- 30.9 Councillor Deane disagreed.
- 30.10 In answer to questions by Councillor Wares and Councillor Page it was clarified that such establishments could not operate as vertical drinking establishments, orders were taken by and served to customers at their table "substantial" meals needed to be available on the premises. Councillor Wares was of the view that there was a difference between an establishment which sought to operate essentially as a restaurant and one where the main driver for the business could be the sale of alcohol.
- 30.11 Councillor Cobb stated that she did not consider that the matrix needed further amendment as suggested considering that the current wording was acceptable. All applications were considered by Panel's on their individual merits, presumption that a particular type of application could be acceptable did not guarantee an automatic approval.
- 30.12 Councillor Simson concurred in that view, she was not aware that there had been any increase in this type of operation or that one was anticipated, she considered that the existing wording was acceptable, reiterating her earlier comments that changes were recommended as appropriate as a result of on-going review of the policy.

- 30.13 Councillor O'Quinn stated that she was in agreement with and supported the proposed amendment considering that it would give Panels more "teeth" whilst giving the ability to make exceptions in instances where they considered it appropriate. Councillors Moonan and Councillor Inkpin-Leissner concurred in that view.
- 30.14 Councillor Horan stated that the Committee needed to have confidence that changes were made in response to an identified problem, enquiring regarding the timeframe within which the policy would be revisited.
- 30.15 The Public Health Licensing Manager referred to paragraph 3.3.3 where the policy stated that the Local Authority may look favourably on café bars. Reference to "pubs" had been taken out and replaced with a category that the policy had always supported on the basis that they would not promote vertical drinking. The policy and the matrix must be evidence based and should not be a blanket "no" unless there was evidence to show that café bars caused problems to undermine licence objectives.
- 30.16 It was explained there was a requirement for the policy was be reviewed every five years, but that it could be reviewed at any time following implementation. It was confirmed that the policy could be implemented following approval by full council. The Trading Standards Manager, stated that there could be capacity/financial implications if the SOLP were to be reviewed soon after implementation.
- 30.17 Councillor Bell indicated that the revised Policy would need to operate for a sufficient period for any themes to emerge, suggesting that it would be appropriate for the Committee to receive an update report in 12 months or as appropriate in the light of operating experience of the revised SOLP and Members concurred with that approach.
- 30.18 A vote was taken and the 14 Members present agreed unanimously that reference(s) in the document to the Late Night Levy LNL be removed and that a further update report regarding the revised SOLP be brought back to the Committee in 12 months or as appropriate in the light of operating experience.
- 30.19 A further vote was then taken in relation to the amendment proposed by Councillor Deane and seconded by Councillor O'Quinn that the word "yes" should be replaced by "no" under the column referring to café bars located within the Cumulative Impact Area (CIA) in the matrix set out at Page 194 of the circulated papers. On a vote of 8 to 5 with 1 abstention the proposed amendment was agreed.
- 30.20 **RESOLVED** – That the Committee agree the proposed revisions to the Statement of Licensing Policy; including:
- removal of reference(s) to the Late Night Levy (LNL); and

replacement of the word “yes” by “no” under the column referring to café bars located within the Cumulative Impact Area (CIA) in the matrix set out at Page 194 of the circulated papers (paragraph 30.16 above also refers). A further update report to be provided to the Committee in 12 months or as appropriate in the light of operating experience following implementation of the updated policy.

- 3.21 **RESOLVED TO RECOMMEND** – That the revised Statement of Licensing Policy is referred to Full Council for adoption, subject the further amendments agreed by the Committee and set out in Resolution 1 above.

Note: Councillor West was not present during consideration or voting in respect of the above item.