

LICENSING COMMITTEE

Wednesday 18 October 2023

COUNCIL

Monday, 27 November 2023

THE STATEMENT OF LICENSING POLICY

Report of the Head of Legal Services & Data Protection Officer

Recommendation(s)

It is recommended that the Licensing Committee

- (1) The Licensing Committee approves the Statement of Licensing Policy for the period 2024 to 2029 for adoption by Full Council from 1 January 2024.**

It is recommended that Full Council

- (2) Adopt the Statement of Licensing Policy for the period 2024 to 2029 to commence from 1 January 2024.**
-

Summary

Recommend adoption of the Statement of Licensing Policy.

The draft Statement of Licensing Policy for 2024 to 2029 was agreed by the Licensing Committee for consultation for a period of 12 weeks with a view to Full Council adopting once the consultation was concluded.

On Wednesday 18th October 2023, the Licensing Committee approved the Statement of Licensing Policy for adoption by Full Council.

Statutory Powers

Sections 5 and 5A Licensing Act 2003

Strategic Implications

1. The Statement of Licensing Policy works towards supporting the Corporate Plan 2023-26 themes of 'Enabling a healthier Eastleigh' which supports improving socio-economic and health outcomes and reducing inequality and 'Shaping

places' which seeks to create and enhance places that are attractive, vibrant, distinctive and safe, and where residents and business can thrive.

Introduction

2. As a Licencing Authority, Eastleigh Borough Council has a duty to produce a Statement of Licencing Policy in line with the Licencing Act 2003 legislation. The Statement of Licencing Policy is fully reviewed every five years and must be adopted before January 2024 by Full Council. Before adopting the policy the council has a duty to consult on any proposed changes to the policy. This consultation has taken place and the Statement of Licencing policy is now recommended for adoption.
3. Since January 2005 it has been a requirement for each Licencing Authority to have in place a Statement of Licencing Policy. The Policy is an outline of the approach that the Council must adopt in consideration of any application or review. It follows the Statutory Guidance issued under Section 182 of the Licencing Act 2003.
4. To assist in drafting this document, enquiries were made of the Eastleigh Borough Council's Environmental Health, Planning team, Local Area Managers and the Safety and Resilience Manager.
5. Since the last Statement of Policy was adopted, the Statutory Guidance issued under Section 182 of the Licencing Act 2003 has been updated and has been updated since the consultation started with additions relating to counter terrorism, the policy reflects these changes.
6. By way of background, it is the duty of the Council as Licencing Authority to carry out their functions under the Act with a view to promoting four licencing objectives which are: the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
7. In addition, in determining this Policy, the Council must have regard to the Statutory Guidance provided by the Home Office.
8. Whilst the Policy must set out a general approach to the making of licencing decisions, it cannot be ignorant or inconsistent with the provisions of the Act. For example, the Policy must not undermine or exclude the right of an individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
9. The Policy should also make it clear that licencing is about regulating licensable activities on licensed premises, by qualifying clubs, and temporary events, and that conditions attached to various authorisations can only be focussed on matters which are within the control of individual licensees and others granted relevant authorisations. Accordingly, these matters will focus on the premises and places being used for licensable activities and the vicinity of those premises and places. Anti-social behaviour in the vicinity of licensed premises is a broad issue that can be, and is, referred to in the Policy. The Council will encourage, as far as it is possible, that licence holders have

regard to the impact of their business or activity on the neighbourhood and wider community. The Policy also makes it clear that the licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and, therefore, beyond the direct control of the individual, club or business holding the licence or certificate for the organisation concerned.

10. Before a Statement of Licensing Policy can be adopted by the Council the Council must consult with:-
 - a) The chief officer of police for the licensing authority area
 - b) The fire and rescue authority for the area
 - c) The Local Health Board for an area any part of which is in the licensing authority's area
 - d) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority.
 - e) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority.
 - f) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
 - g) such other persons as the licensing authority considers to be representative of businesses and residents in its area.
11. This was undertaken between 12th June 2023 and 4th September 2023, resulting in only one response. This was from the Clerk to Chandlers Ford Parish Council who support the policy but ask for para 5.3 which refers to consulting on licensing matters to be strengthened including notifying town and parish councils of new premises applications whereas currently the wording says notification will be “where appropriate”.

Financial Implications

12. There are no financial implications of this report beyond the costs that are contained within the Council’s existing budgets, in particular those relating to the Council’s agreement with Southampton City Council for the provision of this licensing function.

Risk Assessment

13. Failure to follow the legislative process for adoption leaves the authority vulnerable to legal challenges and prevents it from performing statutory functions. Failing to adopt a statement of licensing policy leaves any licensing decision open to legal challenge.

Equality and Diversity Implications

14. The Equality Act is relevant to the decision and an Equality Impact
15. Assessment (EqIA) has been carried out and attached as an appendix to the report.

Climate Change and Environmental Implications

16. It is considered there will be no impact on climate change or environmental implications associate with this report.

Conclusion

17. Recommend adoption of the Statement of licensing policy.
- 18.

PHIL BATES
LICENSING MANAGER

Date: 15 SEPTEMBER 2023
Contact Officer: Phil Bates / Nicki Moorhouse
Tel No: 023 8083 3523
e-mail: phil.bates@southampton.gov.uk
Appendices Attached: 1 – response from Clerk to Chandlers Ford Parish Council.

LOCAL GOVERNMENT ACT 1972 - SECTION 100D

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

None.