

## LICENSING

<b>DATE OF MEETING:</b>	<b>5 April 2022</b>
<b>TITLE OF REPORT:</b>	<b>Approval for adoption of the Shared Licensing Service Statement of Licensing Policy following consultation</b>
<b>Report of:</b>	<b>Head of Place</b>
<b>Cabinet Portfolio:</b>	<b>Sara Kinnell, Regulatory</b>

### **1 PURPOSE OF REPORT**

- 1.1 This report is to update members of the Licensing Committee of the outcome of the public consultation on the draft Statement of Licensing Policy under the Licensing Act 2003.

### **2 OFFICER RECOMMENDATION**

- 2.1 Licensing Committee is recommended to:
- 2.2 Endorse the Shared Licensing Service Statement of Licensing Policy (set out in Appendix A to this report) to be referred to Full Council for adoption. If adopted, it will be valid for a period of 5 years unless it is determined that an earlier review is necessary.
- 2.3 Recommend to full Council that the Statement of Licensing Policy is adopted
- 2.4 Authorise the Head of Place to make minor alterations and typographical corrections to the Policy prior to its consideration by full Council.

### **3 BACKGROUND**

- 3.1 In its role as the Licensing Authority under the Licensing Act 2003 (The Act) the Council has a duty to prepare and keep under review its Statement of Licensing Policy. The Statement of Licensing Policy outlines the general approach of the Licensing Authority when making licensing decisions under the Act and can be reviewed and revised by the Authority at any time
- 3.2 At part of the Shared Licensing Service with Basingstoke & Deane Borough Council it is proposed to take this opportunity to create a Shared Statement of Licensing Policy.
- 3.3 Equal weight is given to all four licensing objectives and the policy must seek to secure the promotion of those licensing objectives throughout the licensing process.
- 3.4 In November 2021 Licensing Committee considered the draft Shared Statement of Licensing Policy and approved it for a 12-week consultation.

- 3.5 There were only a few amendments in the draft document when compared to the previous version of the Hart District Council policy. This is due to the fact that there have been no significant changes to the legislation or regulations. The key amendment is the incorporation of the two Council's Policies into one shared policy.
- 3.6 All statutory consultees under the Act were sent information on the draft policy and any person who requested copies of the consultation documentation were provided with it.

## **4 MAIN ISSUES**

- 4.1 During the consultation period we received one response from Hampshire Constabulary whose recommendations are included in Appendix B.
- 4.2 The response has been considered and it was felt that no additional changes are required to the draft version of the policy that was presented to the licensing committee in November 2021.

## **5 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 5.1 Not Applicable

## **6 CORPORATE GOVERNANCE CONSIDERATIONS**

### **Relevance to the Corporate Plan and/or The Hart Vision 2040**

- 6.1 This report accords with the Council's Budget and Policy Framework and directly supports the Council Plan priority/priorities of improving economic vitality, increasing skills and employment, getting connected, protecting our environment, creating neighbourhoods where people feel safe and want to live, maintaining a reputation for quality arts and leisure.

### **Legal and Constitutional Issues**

The Council is required to prepare and publish a Statement of Licensing Policy every five years in accordance with Section 5 of the Licensing Act 2003 ('the Act').

### **Financial and Resource Implications**

There are no financial implications arising from this report other than the cost of defending a judicial review should the authority fail to mitigate the risks identified in the section below.

### **Risk Management**

The authority's Shared Licensing Service licensing policy provided the framework on which the Licensing Service is administered under the Licensing Act 2003. This policy is not only important in setting out the licensing authority's approach to the Licensing Act; it will also be considered

and referred to by the Magistrates' Court on appeal. The Magistrates' Court may decide to depart from the policy if they have good reason for doing so.

The Magistrates' Court may also decide that an appealed decision of the authority was not reflective of the policy and that no good reason was given by the authority to depart from the policy when making that decision. In that case the appealed decision may be referred back to the local authority to reconsider in line with its policy.

The Licensing Act is clear that each application must be considered on its individual merit and certain matters cannot be considered when making a decision on an application. Therefore, the policy must be clear in its aims but if the policy provides a rigid or unlawful approach to licensing it will be open to challenge in the High Court by way of a judicial review.

## **7 EQUALITIES**

- 7.1 The draft policy has been scoped to consider the potential impact on the protected characteristics groups included in the Equality Act 2010. It was determined that a full equalities assessment is not necessary as the policy has a generally positive impact on all groups. It has a differentially positive impact on children, due to the guidance included on the 'protection of children from harm'. No negative impacts were identified.

## **8 CLIMATE CHANGE IMPLICATIONS**

- 8.1 There are no direct carbon / environmental impacts arising from the recommendations.

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### **Appendices**

Appendix A – Shared Licensing Service Statement of Licensing Policy

Appendix B – Response to the consultation