

# APPENDIX 4

## 2 BACKGROUND

2.1 When administering licensing matters the council as the Licensing Authorities will have regard to and promote the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003. The four licensing objectives are:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance, and
- Protection of Children from Harm

The Council gives equal weight to each of these objectives.

2.2 The 2003 Act requires Licensing Authorities to publish a 'Statement of Licensing Policy' (the Policy) that sets out the approach the Licensing Authorities will take when administering applications and other processes under the Licensing Act 2003 to ensure the promotion of the licensing objectives.

## 3 SCOPE

3.1 Licensing authorities regulate the Licensing Act 2003 ('the Act') and are responsible for considering a range of licence applications and amendments to licences for a number of activities detailed below. Basingstoke and Deane Borough and Hart District Councils are licensing authorities for the purposes of the Act. This 'Statement of Licensing' ('policy') covers the areas of Basingstoke and Deane Borough Council and Hart District Councils ('the councils'). The Act requires the councils to produce a statement of principles concerning their duties under the Act every five years. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, at qualifying clubs and under temporary event notices. The activities as defined by the Act include:

- Sale and/or supply of alcohol
- The provision of regulated entertainment which includes:
  - the performance of a play
  - an exhibition of a film or an indoor sporting event (subject to some exemptions)
  - boxing or wrestling entertainment
  - a performance of live music (subject to some exemptions) or playing of recorded music (subject to some exemptions)
  - Provision of late night refreshment

3.2 The types of premises likely to be included within the licensing regime include:

- Pubs and night clubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants and other premises serving hot food and drink after 11pm
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres
- Community premises and village halls
- Street vendors serving food after 11pm

- Providers of temporary events involving licensable activities

and any other premises at which licensable activities are to be provided.

3.3 The Policy will apply across a range of applications which include the following:

- New Premises Licences and Club Premises Certificates
- Variations to Premises Licences and Club Premises Certificates
- Provisional Statements for proposed premises yet to be built
- Transfer of Premises Licences
- Disapplication of mandatory condition in respect of alcohol sales at village Halls and community premises
- Variations of licences to change the Designated Premises Supervisor
- Reviews of Premises Licences and Club Premises Certificates
- Personal Licences
- Temporary Events Notices

#### **4 LINKS TO OTHER COUNCIL STRATEGIES AND PROJECTS**

Hart is a small but very strongly performing economy in the northeast corner of Hampshire. It borders Berkshire to the north and Surrey to the south-east. Two of the largest settlements, Fleet and Yateley, lie towards the east of the Areas covered by this policy. The remainder of the areas covered by this policy is largely rural with 16 parishes and a number of lively smaller rural settlements.

The area has good communication links with London, Heathrow and Gatwick Airports and the rest of southern England and is close to the Farnborough and Aldershot conurbation. The M3 motorway and main London to Southampton railway both pass through the Areas covered by this policy. The M4 motorway is some 12 miles to the north of Fleet, and the M25 is some 15 miles to the east. The highly attractive rural character of the Areas covered by this policy and good communication links are key factors that help to make it an attractive area for commercial and residential development.

#### **5 POLICY AIMS**

5.1 This Policy aims to promote the Licensing Authority's vision for the areas covered as a whole and its hopes: *'to encourage in the areas covered by this policy a wide choice of high quality and responsibly managed entertainment and cultural venues which provide a diverse range of licensed activities, community interaction and a variety of places for retail and refreshment; ensuring at all times the safety and amenity of residential communities, business communities and the visiting public'*

5.3 In Hart the largest concentration of the population is in Fleet including Church Crookham, which had a population of 37,760 in 2011 (Office of National Statistics). The other larger settlements are not on the same scale as Fleet with Church Crookham, with populations of 14,829 in Yateley, 10,115 in Blackwater, 8,334 in Hook, 4,999 in Hartley Wintney, and 4,610 in Odiham (including North Warnborough area).

5.5 The Policy aim is to clearly set out how the Licensing Authorities will promote the four licensing objectives when dealing with licensing matters. The four licensing objectives are:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

5.6 The Licensing Authorities will regulate licensable activities at licensed and unlicensed premises in the combined interests of the public and licensed trades and recognises that these activities contribute to the quality of lives of the areas covered by this policy's residents, businesses and visitors and help support the local economy.

5.7 To achieve this aim, the Licensing Authority is committed to partnership working with the responsible authorities, local businesses, licensing trade, residents, those involved in the protection of children and other interested parties towards the promotion of the objectives. The Licensing Authority will ensure that it takes into account the views of these stakeholders and ensure proper integration of local crime prevention, planning, transport, employment, tourism and cultural strategies.

5.8 The Licensing Authorities aims to balance the protection of the amenity of the local population with the expectations and ability of local businesses to operate in an environment that is attractive and sustainable for their business. The Policy aims to minimise the impacts of licensable activities on residents, visitors, stakeholders and the environment.

5.9 This Policy aims to guide applicants, residents and other persons on the general approach that the council will take to licensing applications and other related issues. Although each application will be considered individually on its own merits, this Policy indicates the wider considerations that will be taken into account when determining applications. However, it is not the Council's intention in adopting this Policy to override the right of any person to make an application and have it considered on its merit.

**6.6 Supermarkets and other 'off' licensed premises selling alcohol.** The Licensing Authorities will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises throughout opening times. However, where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and disturbance, such restrictions or amendments will be considered where relevant representations have been made.

6.7 All 'off' licensed premises must comply with the *Licensing Act 2003 Mandatory Conditions Order* in relation to age related sales. The Licensing Authority also expects such premises to implement additional measures to prevent and deter **proxy** sales on behalf of under 18's.

6.8 Licensees should ensure consideration is given to refusing sales of alcohol to customers who can be clearly identified as having an alcohol related health condition and who may be a source of nuisance or annoyance through street drinking.

6.9 The Licensing Authorities expect adequate checks to be made and all

reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption.

6.10 Where self-pay till points are made available in stores selling alcohol, provision must be included for alcohol sales to be identified and approved prior to completion of the purchase.

#### **6.11 Designated Premises Supervisor (DPS) at alcohol licensed premises.**

Whilst this role has a limited definition under the Licensing Act 2003, it is expected that this person nominated on a licence will have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.

6.12 The Licensing Authorities would expect the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours' legislation and absence for sickness and holidays. The Licensing Authorities expect the DPS to provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing.

6.13 The Licensing Authorities expects that a DPS should have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.

## **7 RESPONSIBLE AUTHORITIES AND OTHER PERSONS**

7.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A of this Licensing Statement and are contained on the Councils website.

7.2 When dealing with applications for licences and reviews of premises licenses, the Licensing Authorities are obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of persons including ward councillors to comment both for and against applications for premises licences and club premises certificates and for reviews.

7.3 The Licensing Authorities may only consider representations that are relevant. in that they relate to the promotion of the licensing objectives, or that they raise issues in relation to this Statement of Licensing Policy or Home Office Guidance.

7.6 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.

7.7 The Licensing Authorities will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:

- Who is making the representation, and whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous
- Whether the representation raises a 'relevant' issue
- Whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.

7.8 The above considerations are not exhaustive, and the Licensing Authorities will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.

## **8 LICENSING AUTHORITIES' POLICY APPROACH TO LICENSING IN BASINGSTOKE AND FLEET TOWN CENTRE**

### **Fleet Town Centre**

8.7 Fleet Town Centre is concentrated along (and off) the length of Fleet Road and houses the majority of the late night economy premises and offers a cultural mix of restaurants, bars and pubs with live and recorded music, and a range of menus.

8.8 The Town Centre currently contains several alcohol led premises that trade until 03.30hrs. The Council will carefully consider the impacts of any new or variation applications for late hours for premises within this area that may arise at any time to ensure the character of the locality is retained. However, a presumption will be made to grant hours no later than between 12 midnight and 2 am along Fleet Road.

### **Closing Times**

8.8 The Licensing Authority will expect all applicants for new licences and for variations to existing licences in the Town Centre area to include a detailed operating schedule within the application to ensure that their new business or changes to the operation of their business enhances and complements the existing style and characteristics of the Top of Town and does not create a negative impact.

8.9 Where matters of concern arise from an application which generates representations, the Licensing Authority will, where appropriate control, or restrict trading hours and/or activities and impose appropriate and proportionate licence conditions to adequately mitigate those concerns where evidence supports such control in order to promote the licensing objectives.

8.10 Where noise nuisance arises from customers some distance from licensed premises affecting local residents which is caused by customers leaving the late night premises, the council may use its powers under the Environmental Protection Act 1990 where evidence is obtained of statutory nuisance.

## **11 HUMAN RIGHTS AND EQUAL OPPORTUNITIES**

11.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the

Convention. The Licensing Authority will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.

11.2 The Council will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.

11.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.

11.4 The Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

## **12 COMPLIANCE AND ENFORCEMENT**

12.1 There are a range of other offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.

12.2 The Licensing Authorities have an approved Licensing Enforcement Policy which complies with the Regulatory Compliance Code and is available on the Council's website.

12.3 A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.

12.4 The Licensing Authority has established protocols with the local Police on enforcement issues where necessary. This enables the more efficient deployment of council staff and Police officers who are commonly engaged in enforcing licensing Law and the inspection of licensed premises. Where necessary, inspections will be carried out jointly. The aims of the protocol are to target agreed problem and high risk premises which require greater attention whilst providing a lighter touch in respect of low risk premises which are well run.

## **PART B CONSIDERATION OF APPLICATIONS 14 NEW PREMISES LICENCES**

14.1 This Licensing Authority is aware that in making decisions about applications for licences it will have regard to:

- Its statement of licensing policy made under section 5 of the Licensing Act 2003
- The statutory guidance issued under section 182 of the Licensing Act 2003, and that decisions made are reasonably consistent with the four licensing objectives.

14.2 Details on the application process can be found on the Council's website.

14.3 Where elements of applications are unclear or unspecific, particularly in relation to operating schedules and trading hours, the Licensing Authority will expect the applicants to provide additional clarity on a request from the licensing team.

14.4 Licensing officers will routinely check that the Public Notices at the premises and the Public Notices in newspapers are displayed in accordance with the regulations as part of the validation process.

14.5 Licensing officers will also notify ward councillors to whose ward the application relates, and the parish council for the relevant parish.

14.6 Where there are no representations about an application the licence will be automatically granted after 28 days under the terms and conditions applied for. Licensing officers will interpret the detail of the operating schedule and convert that into licence conditions.

14.7 Where relevant representations are received the application will be referred to the Licensing Sub-committee for determination at hearing, unless all parties agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 22 of this policy will apply.

## **22 HEARINGS**

22.1 Any application that has resulted in the submission of relevant representations from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.

22.2 A sub-committee will consist of 3 suitably trained members of the Licensing Committee. No members will serve on a sub-committee involving an application for a licence within their own ward. The subcommittee will be advised on the law by a member of the Council's Legal Services Team. That legal team member will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.

22.3 This Policy will play a key role in achieving consistency in decision making and will ensure decisions are made in a way which promotes a sustainable leisure economy for the areas covered by this policy.

22.6 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where

it considers it right to do so. In any such case this authority will clearly express and explain its reasons for doing so.

22.8 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.

## **23 LICENCE CONDITIONS**

23.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises and its activities and the impact of those activities. Those conditions will be deemed appropriate and proportionate in order to promote the licensing objectives at that premises.

23.2 This Policy will play a key role in achieving consistency in decision making and will ensure decisions are made in a way which promotes a sustainable leisure economy for the areas covered by this policy.

23.3 Applicants will be expected to include appropriate steps within their operating schedule which will be converted to conditions on a premises licence or club premises certificate. Those steps will be expected to be achievable and relevant to the business in question and will ensure the promotion of each of the four licensing objectives.

23.4 Where applications receive valid representations and are subject to a hearing, the sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.

23.5 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be expected to offer suggestions on how the objectives can be met. This authority will work closely with all parties and the applicant in establishing workable and reasonable conditions for new and variation applications.

23.6 In all cases the Licensing Authority will have regard to the Guidance when considering the implementation of licence conditions. Further information on the Guidance can be found at the Home Office website.

23.7 In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises itself and the areas around the premises which is within the licence holders' control.

23.8 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However, these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.



### **23.9 Conditions to promote the Prevention of Crime and Disorder.**

Under the Act the Licensing Authority has a duty to promote the licensing objectives, and a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the areas covered by this policy.

23.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction of drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage "vertical drinking"
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking
- Prevention of noise nuisance by customers waiting to enter a premises and on leaving

23.15 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidence purposes. Licence holders will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises

### **23.17 Conditions to promote Public Safety.**

The applicant will be expected to show that the physical safety of persons attending the premises will be protected and will offer relevant steps in the operating schedule to promote this.

23.18 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

**23.20 Conditions to promote the Prevention of Public Nuisance.** The applicant will be expected to detail steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises

23.10 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- Proximity of local residents to the premises

- Licensable activities proposed and customer base
- Hours and nature of operation
- Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- Availability of public transport to and from the premises
- Noise from use of the garden/outside space including smoking shelters.
- Delivery and collection times and locations.
- Impact of external security or general lighting on residents.
- Outcomes of discussions with the relevant Responsible Authorities.
- Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- Collection of litter arising from the premises

23.23 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

**23.24 Conditions to promote the Protection of Children from Harm.**

Applicants will be expected to detail steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral, or psychological harm.