

ITEM

ITEM

Licensing Committee
(All Ward Members encouraged to attend)

Wednesday 17th October 2007

DRAFT STATEMENT OF LICENSING POLICY for 2008-11

Report of the Licensing Manager

Statutory Powers: Licensing Act 2003 and The Licensing Act 2003 (Licensing statement period) Order 2004

Financial Implications: There are no direct financial implications to the Council from this report.

Members' wishing to attend the meeting who have 'Prejudicial Interest' or 'Personal Interest' in the sale or supply of alcohol, provision of entertainment or the sale of hot food or drink are asked to contact the Monitoring Officer or the Licensing Office if there could be any doubt about attending.

Purpose

The purpose of this report is to seek Members approval of the proposed triennial 'South Hams Statement of Licensing Policy' for the period 2008-11. The Policy has to be approved by the full Council and in place by 7th January 2008. This is to supersede the current Policy and to assist with the smooth passage of the document all ward members are encouraged to attend this meeting so any issues are finalised before the full council meets on 15th November 2007.

Links to Council Aims and Priorities

A statement of Licensing Policy will have an impact on the following Council priorities:

- CP2 – creating the conditions for the growth and maintenance of quality economic activity;
- CP3 – retain the district's distinctive environment whilst enabling access and sensitive development;
- CP4 – maintaining a clean environment.

RECOMMENDATION

That Licensing Committee RECOMMENDS to Full Council the approval of the Statement of Licensing Policy.

Background

1. The Licensing Act 2003 received Royal Assent in July 2003 but it wasn't until 2005 that District Councils fully took over the responsibility of the licensing requirements from the Magistrates Court and became the new Licensing Authority.
2. In December 2004 this Council fully adopted a three year Licensing Policy which came into force in January 2005. The document has worked well and to date this Licensing Authority has granted or acknowledged:
 - 522 Premises Licences
 - 43 Club Registration Certificates
 - 865 Personal Licences
 - 877 Temporary Event Notices and
 - 61 Gambling machine Permits
3. In the same period the Licensing Committee (or Sub-committees) have held 28 full hearings and adjudicated on 80 further application where all parties had reached agreement beforehand, to make amendments to operating times or licensing conditions.
4. Under Section 5 of the Act, Licensing Authorities are required to publish a licensing policy in respect of each three year period and before determining the policy Licensing Authorities must consult with certain persons or bodies in accordance with Section 5(3) of the said Act. Further, The Licensing Act 2003 (Licensing statement period) Order 2004 (Statutory Instrument 2004 No. 2363) states that the three yearly period shall begin on 7th January 2005, so the next policy should be in place by 7th January 2008.

Review of Licensing Policy

5. Consultation on a draft document took place between 15th May and 24th August 2007, a period of fourteen weeks and a working group of the Licensing Committee met informally on 4th September to consider the responses and make some suggested amendments to the policy. The changes to that of the existing 2005/8 policy are mostly inconsequential but a sentence has been added in paragraph 6.1 to say 'there is no presumption within the legislation for longer opening hours'. This sentence takes account of revised Government guidance issued in June 2007.
6. The original draft policy and the original consultation responses are now included within the background documents and are available upon request. A summary of the consultation responses have been incorporated into a spreadsheet together with the observations and suggested amendments to the draft made by the Licensing Committee working group. The spreadsheet is attached marked **Appendix A**.

7. The suggested amendments have been provisionally incorporated into the revised draft 2008-11 policy which is also attached marked **Appendix B**.
8. At the meeting of the Licensing Committee on 17th October, Members and other persons present will have a final opportunity to make any further amendments before the Licensing Committee recommend the approval of the draft to Council.

9. Risk Assessment

Risk	Mitigation
The 'Statement of Licensing Policy' is not properly adopted by the District Council for the next three years, the Authority could be liable to legal challenge which if successful could entail heavy costs being awarded against the District Council.	To take the Statement of Licensing Policy to the Licensing Committee on 17 th October 2007 with a Recommendation to Council to approve on 15 th November 2007 so if there are any unforeseen difficulties the matter may be adjourned until the meeting of the Council on 20 th December which will enable the Policy to still come into force by the deadline on 7 th January 2008.
Members fail to consider the consultation responses and give proper weight to comments.	Discussions have been held with the Members of the Licensing Committee who have been able to give due weight to the responses.
The Statement of Licensing Policy is not adopted before 7 th January 2008.	It is scheduled to go before full Council on 15 th November to allow an adequate safety margin.
The Statement of Licensing Policy is not equality compliant	An Equality Impact Assessment was completed on 21 st September 2007 and the revised Policy (Appendix A) and was found to be compliant.

Conclusion

10. The Statement of Licensing Policy is an important document which should clearly set out the Council's position with respect to licensing various activities within the Council.

Graham Munson
Licensing Manager

Licensing Committee
 17th October 2007

Background documents

Licensing Act 2003
 Draft Statement of Licensing Policy
 Consultation returns