



Licensing Committee Report

Date	07 July 2021
Classification	For General Release
Title or report	Proposed Revision to the Councils Statement of Licensing Policy – Deliveries of Licensable Products and Shops.
Report of	Director of Innovation and Change and Director of Public Protection and Licensing
Decision maker	Licensing Committee
Wards involved	All
Financial summary	None
Report author and telephone	Mr Kerry Simpkin, Head of Licensing, Place and Investment Policy. Tel: 07583 108491. Email: ksimpkin@westminster.gov.uk

1. Executive Summary

- 1.1 The Councils Statement of Licensing Policy (SLP) under the Licensing Act 2003 (2003 Act) documents how the Council will carry out its duty under the 2003 Act when considering and determining applications for premises licences or club premises certificates. The SLP was last reviewed in 2020 and that review sought to implement the findings of the 2020 Cumulative Impact Assessment findings and set out a new policy framework based.
- 1.2 There has been growing concern about the increase in delivery services that provide licensable products, such as alcohol or late-night refreshment. Residents have raised issues around public nuisance that is caused by these services. To ensure that the Councils approach to determining applications for delivery services is established a new policy will be required for both ancillary delivery services and for delivery centres.
- 1.3 It has also been identified that the current SLP doesn't provide a policy approach to shops who want to provide licensable activities other than the off sales of alcohol. Due to the increase in applications for licensable activities in shops a new policy approach for shops may be required.

- 1.4 It is proposed that the Council revises its SLP to include policies that will address these types of applications. The Council has set out its proposed revisions to the SLP in a consultation paper (attached at Appendix 1). Consultation on these proposals commenced on the 14th June and will end on the 25th July 2021.

2. Response Required

- 2.1 The Licensing Committee views and comments on the proposed revisions to the Council's SLP are sought. The Committee are asked to discuss the contents of this report and provide officers with feedback so that it can be considered along with other responses to this consultation.

3. Background

- 3.1 There has been a significant increase in the offer of food and alcohol deliveries from existing licensed premises to customers in their homes over the past 3 years. Deliveries themselves are not regulated, but the sale of alcohol at any time and the provision of hot food and hot drink between the hours of 11pm and 5am (late night refreshment) is. A business that offers the sale of alcohol or late-night refreshments will require a premises licence under the Licensing Act 2003 (the 2003 Act). The ability to deliver alcohol and late-night refreshment has become a key ancillary service to the operation of some licensed premises during the Covid-19 pandemic.
- 3.2 There has been a growing number of applications for delivery centres where food and drink are stored, picked and then delivered to customers at home or work via either their own delivery personnel or via a third-party delivery service. Alcohol is often offered alongside unregulated items, such as groceries for delivery. There has also been a growing trend across the country of consolidated food preparation and delivery centres which are provided only for the delivery of food and drink to people in their homes. They do not provide a walk-in service for customers. These food preparation and delivery centres often will operate beyond 11pm and in some cases offer the delivery of alcohol alongside the delivery of the food. These delivery centres are linked to their own or a third-party website or phone application that customers can order from.
- 3.3 Residents have reported increased levels of public nuisance around venues that provide deliveries and at the locations where deliveries are being made to customers. Deliveries also often take place in the evening through to the early hours of the morning when residents are more likely to be disturbed by noise. Public nuisance is often related to noise from delivery personnel congregating outside the premises or from their delivery vehicles. Other issues of public nuisance raised with the Council have included littering, obstructing the highway and street urination by delivery personnel.
- 3.4 The sale of alcohol is specifically regulated so that it is illegal to sell alcohol to anyone under the age of 18. Premises must have age verification measures for customers who wish to purchase alcohol within their premises. The same age verification requirement must also be provided for the delivery of alcohol to ensure the customer, who ordered the alcohol for delivery is over the age of 18. This provides an onus on

delivery personnel to ensure that the licensed premises meet their legal and licensing obligations and undertake age verification checks before the alcohol is handed to the customer.

- 3.5 The Council's SLP does not currently include a policy approach for the delivery of alcohol or late-night refreshment. Each application relating to the delivery of licensable activities is considered on its own merits, having regard to the operation of the premises, any concerns that have been raised by residents or responsible authorities and whether the application will promote the licensing objectives.

4. Proposed Revisions

- 4.1 The proposed SLP revisions document at Appendix 1 sets out a possible policy approach that would be used to determine applications for the delivery of alcohol and food from licensed premises. Due to the construction of the SLP the attached proposal also includes a number of minor amendments to the SLP to enable the implementation of the new policies.
- 4.2 There are two types of delivery services that have become more prevalent across the City. The first type is the ancillary delivery offer that is provided by existing licensed premises where deliveries are made either by themselves or via a third party, such as Deliveroo. These delivery services provide alcohol and/or hot food that are stored or prepared on their premises for customers in their home or at work. This delivery service is an ancillary function to the main use of the premises, for example as a restaurant. It is proposed to include a new policy that applies to the ancillary delivery of alcohol and/or food that will be applicable across all licensed premises uses defined within the SLP. This policy will only be relevant in the consideration of the application if the premises provides or intends to provide a delivery service where licensable activities are provided to customers.
- 4.3 This policy will have a general policy approach to grant applications that meet the other policies within the SLP and are within Core Hours. For the purposes of this policy the Core Hours will be the relevant premises use hours, e.g. restaurant hours. Applications that do not meet the other policies within the SLP or are beyond core hours will be considered on their own merits. This will enable the Licensing Authority to consider each case and whether the proposal, including the hours will likely impact on the Licensing Objectives. This policy approach will provide sufficient flexibility, to grant the application as presented, reduce the hours as appropriate, amend or add any terms and conditions as they see fit or refuse the application. At present Officers have not sought a more stringent policy approach to applications beyond Core Hours. It is felt that the proposed approach will enable sufficient flexibility to the Licensing Authority to determine whether to grant applications or not based on the evidence presented. However, if concerns are raised during the consultation process relating to the policy approach for applications beyond Core Hours Officers may look to strengthen this policy.
- 4.4 The second type is the new and developing businesses that provide a dedicated delivery centres for groceries which often includes the alcohol or premises that prepare takeaway food for delivery only. The delivery of alcohol and/or hot food is the

primary use of these premises unlike the delivery services from restaurants or fast-food premises where it is an ancillary function. As referred to above the licensable activities that can be regulated under the 2003 Act are the sale of alcohol at any time and the sale of hot food and hot drink between 11pm and 5am. The majority of applications for this type of delivery business intend to provide alcohol for delivery to customers at home. However, officers are aware of a growing number of business models that are dedicated to the delivery of “takeaway” food that is cooked, prepared, and dispatched from that premises. The delivery of this pre-prepared hot food and hot drink will be the primary function of the premises and these operations do not have a walk-in customer service. It is proposed to add a new policy on the Council’s approach to determining applications where the delivery of alcohol and/or hot food and drink is the primary use of the premises.

- 4.5 The new policies referred to above will explain the Council’s approach to determining applications that include the provision of deliveries. The policy approach is to generally grant these applications if they meet the other policies and criteria within the SLP. However, due to the increasing concerns about the potential impact of public nuisance from delivery centres and at the point of delivery, applications for predominantly residential areas will not have a general policy approach to grant them. Any application within a predominantly residential area will be considered on their own merits. This policy approach will provide responsible authorities and residents when making representations. If an application does receive a representation against it then the Council’s Licensing Sub-Committee is required to determine the application after due consideration of any representations and with regard to the Council’s policy. It was not possible to support a policy approach that had a presumption to refuse applications for delivery centres without a stronger evidence base.
- 4.6 When developing the policy approach for delivery centres it became apparent that the current Off Licence policy OS1 did not fit the premises use policy approach that has been taken within the current SLP. The Off Licence policy was intended to apply to shops, stores and supermarkets. However, retail premises are not directly referred to within the current licensing policy for the consideration of licensable activities, other than alcohol. To support the wider approach of encouraging retail premises to offer a diverse and experiential environment to attract and retain customers it is proposed to remove the Off-licence policy and replace it with a dedicated policy for shops. This new policy will mirror the off-licence policy approach but expand it to include the consideration of other licensable activities that shops may wish to offer, such as music, late night/early morning food or consumption of alcohol on the premises. There will be a general policy approach to grant a licence for shops up to core hours both inside and outside the Cumulative Impact Zone if they meet the other policies within the SLP. This policy approach is consistent with other low risk premises use policies within the SLP
- 4.7 There are a number of other proposed minor amendments to other policies within the SLP. These amendments are limited to enabling the introduction of the three new policies and the removal of the Off-licence policy. These changes include the addition of new Core Hours for Delivery Centres, amending premises use policies to include a consideration of the ancillary delivery of alcohol and/or food policy and amend the

definition of a restaurant to include the ancillary delivery of food. All of the proposed amendments to the existing SLP are set out in the attached proposed revision.

5. Consultation

- 5.1 On the 14th June the Council began its public consultation on the proposed revisions to its SLP. The consultation will run for 6 weeks and end on the 25th July. Officers will review all of the responses that are received. Officers and the Cabinet Member for Business, Licensing and Planning will consider the comments and what amendments to the proposed policy are required.
- 5.2 The final proposed revision to the SLP will be referred by the Cabinet Member for Business, Licensing and Planning for consideration and adoption at the Full Council meeting on the 22nd September. If adopted, the revised policy will come into effect on the 1st October 2021.

6. Legal Implications

- 6.1 There are no legal implications as a result of this report.

7. Financial and Staffing Implications

- 7.1 There are no staffing implications as a result of this report.

Appendices

Appendix 1 – Proposed Revisions to the Statement of Licensing Policy Consultation Document – 14th June 2021.

If you have any queries about this report or wish to inspect any of the background papers, please contact:

Mr Kerry Simpkin, Head of Licensing, Place & Investment Policy
Innovation and Change
Tel: 07583 108491, Email: ksimpkin@westminster.gov.uk

Background Papers

Westminster City Council's Statement of Licensing Policy – January 2021
Westminster City Council's Cumulative Impact Assessment – November 2020
Licensing Act 2003