

In the matter of Wokingham Borough Council, Statement of Licensing Policy (Licensing Act 2003): Consultation on draft policy for 2023 - 2028

And in the matter of the Remenham Parish Council and the Remenham Farm Residents Association

RESPONSE TO CONSULTATION

Statement of Licensing Policy (SLP)

Each local licensing authority must for each five-year period determine and publish its statement of licensing policy before the beginning of the period (LA 2003, s 5(1)).

Before the determination of the policy the licensing authority must engage in consultation including with such persons as the licensing authority considers to be representative of residents in its area (LA 2003, s 5(3)(f)).

In carrying out its functions a licensing authority must have regard to any guidance issued by the Secretary of State – the s 182 Guidance. Chapter 14 of the current guidance provides guidance on the development and publication of a statement of licensing policy. The current guidance was issued in August 2023.

The current WBC Statement of Licensing Policy (2018) is a very short (23 pages) and basic document.

The draft licensing policy 2023- 2028

We congratulate WBC as the draft Statement of Licensing Policy 2023-2028 is a vast improvement on the existing policy. For the most part the draft policy is a good example of a general statement of licensing policy. It sets out the general approach to licensing in a thorough and robust manner.

For example, where an applicant seeks to vary an existing licence – a variation application – the draft policy provides that particular scrutiny will be given to applications for a variation where there has been a proven history of non-compliance at the premises (3.22).

The draft policy highlights the value of a full risk assessment (6.3). While noting that the licensing authority cannot demand a risk assessment it states that it would be in the applicant's interest to provide the fullest possible detail in the operating schedule.

Overall Approach

The Borough and Parish should welcome commercial ventures provided they observe certain principles:

- There should be no direct or indirect cost to the borough council, parish council or community.
- There should be no cumulative impact either throughout the year or on any particular day on the residents.
- There should be a benefit to the community.
- The residents should be able to exercise the peaceful enjoyment of their properties.

Further improvements

Throughout the draft policy there is a clear understanding the nature of operation, type of operation, capacity, location *etc.* will have an impact on the licensing objectives and be essential considerations.

The draft policy is lacking context and granularity. For example, many current policies will set out an overview of the area including both a general profile and a profile of the licensing and entertainment profile of an area. It is self-evident that the profile of a town centre is very different to that of a rural village.

Whilst the draft policy sets out a best practice approach to applications it does not provide any sense of vision or licensing strategy. Thus, new applications and variations will all be considered on a case-by-case basis. For example, there are no framework hours policies which favour (again, as an example) food led venues but not high-volume vertical drinking establishments. There is no cumulative impact assessment and there is consequently no cumulative impact policies (see below).

Remenham

Remenham is a rural parish that has been a site for licensed sporting and social events on a large scale enjoying national prominence. The number and size of these events have increased dramatically in recent years. The village of Remenham has a population of 500 residents which is impacted by a series of events and festivals from early May until late September each year – the most famous of which is the Henley Royal Regatta – in 2021 this was a period of 187 days in effect every summer weekend. In 2022 there were some 138 days of events from June to September, again, every weekend throughout the summer. The scale of the events dwarfs the population of the village; the maximum capacity for the Henley Festival is 25,000 and for Rewind it is 40,000. During the Henley Royal Regatta, the range of events is exacerbated by pop-up and temporary events along the river from small traders to large funfairs. Between September and mid-May, there are several rowing and other river events.

The one-mile stretch between Henley Bridge and Temple Island hosts three major annual events; Henley Royal Regatta “HRR” (since 1839, total attendance of 300,000 in 2019); Henley Festival “HF” (since 1983, total attendance of 25,000 in 2019) and the Rewind Festival “RF” (since 2009, total attendance 40,000 in 2019). In total, these three events deposit the equivalent of the entire population of Coventry or Cardiff on this tiny piece of geography, more than the populations of Newcastle or Southampton.

There are three major open landowners in the area that allow the use of their land for festivals and events. The impact comes from the events themselves, the cumulative impact with other events and established non-seasonal premises, the set up for events and the break down and get out – all of this accessed by a single-track rural track. Within the village and its proximity there are nearly twenty premises licences that operate in conjunction with each other. These are quite apart from the various additional food and entertainment facilities that pop-up in conjunction with the licensed premises.

Location is a crucial factor in the promotion of the licensing objectives. In *Hope & Glory* [2011] EWCA Civ 31 the Court of Appeal, in a useful summary, stated that licensing decisions involve an evaluation of what is to be regarded as reasonably acceptable in the particular location [42]. The s 182 Guidance highlights the importance of location as the basis for a proper risk assessment (see paras 8.41 – 8.45) of proposed licensable activities. The s 182 Guidance gives advice on the cumulative impact of a concentration of licensed premise in an area – there does not

need to be a Cumulative Impact Assessment (“CIA”) for there to be consideration of negative cumulative impact (para 14.42).

Wokingham Borough

As the events are essentially pop-up events, the Borough Council is ultimately responsible for the public realm with only voluntary contributions (if any) from the commercial organisations who benefit. For example, for Henley Royal Regatta, WBC pays for litter picking, public toilets and traffic marshalling. There have been numerous initiatives designed to have these costs borne by the event holders to no avail. The events are mainly held in what are agricultural fields and therefore are free from business rates or council tax and yet there is a considerable burden of surveillance and administration undertaken by the local authority, for which there is no contribution from the event holders, which are commercial undertakings mainly from outside the borough. In these straightened times, when local authority funds are stretched to meet statutory requirements should not commercial organisations bear all the cost direct and indirect of these events? Though such funding considerations are not within the direct scope of the Licensing regime, the indirect consequences and costs however should be considered. The licensing policy should address this

Remenham Parish Council

Remenham Parish Council is of the view that a full and proper local area profile for the village is a key preliminary stage in the preparation of the forthcoming SLP and any consideration of the most appropriate licensing strategies for the village and surrounding areas. The Parish Council and Remenham Farm Residents Association is keen to work with the licensing authority to provide this profile.

Remenham in Berkshire includes the stretch of the Thames downstream from the Henley Bridge which contains the villages of Remenham and Aston. This part of Remenham Parish has long been a venue for licensed sporting and social events. Most of the events take place on Greenfield sites. In addition to attendees, all equipment and infrastructure for these events, even the waste disposal, are transported by road, access being along three single lane roads. The number and size of events have increased dramatically in recent years, with a direct and adverse impact on the local community. And while the size of most events has increased, and the scale of building and taking down operations has also increased, the local

infrastructure (three effectively single-track roads, the river and the Thames Path) which provides access to most events and to the villages, has not.

Given the rural character of Remenham and its very limited infrastructure, every event held compromised local residents' access to and quiet enjoyment of their properties. Major events (**especially in Temple Island Meadows**) and simultaneous or overlapping events, seriously impacted both, to the extent that residents' quiet enjoyment was impacted and/or they were effectively deprived of the normal use of their homes for much of this period.

It is the view of the Parish Council and the Remenham Farm Residents Association that the forthcoming SLP needs to address:

[1] Cumulative Impact within and surrounding the parish, the local area profile will be an invaluable evidential resource in the development of the required Cumulative Impact Assessment. The Parish Council take the view that Remenham has long passed the threshold of unacceptable cumulative impact. (The effect of the special policy is that the Council will refuse applications for a new Premises Licence, of Club Premises Certificate, or variation of an existing licence or certificate, whenever it receives relevant representations, unless an application can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced.) The Parish Council take the view that the Licensing Authority ought to undertake a Cumulative Impact assessment as a matter of urgency – the Parish Council are keen to assist in this endeavour.

[2] Framework Hours and activities. The Parish Council and Residents Association takes the view that the local area requires a special policy in respect of framework hours and activities within the parish and local area.

[3] Environmental Impacts Policy. The Parish Council and Residents Association take the view that the council needs to consider the wider environmental impacts of these large-scale events on a rural area.

[4] Temporary Events Notice Policy (“TENs”). The Parish Council and Residents Association is of the view that TENs are used to add to the existing offerings often used as a way of circumnavigating licensing requirements. The Parish Council and Residents Association take the view that a policy statement setting out the

expectations of the licensing authority in respect of applicants, the Environmental Health team and the Police would be a useful addition to policy.

[5] Dedicated Remenham Parish Safety Advisory Group (“SAG”). The Parish Council and Residents Association considers that the terms and participation of a SAG should be set out in the policy to provide greater transparency and participation to the local community and its representatives.

On the 14th February 2023, Remenham Parish Council (RPC) and the Remenham Farm Residents Association (RFRA) wrote to the Wokingham Borough Council (WBC) Licensing Department with a preliminary submission for the review of the existing Statement of Licensing Policy and a request for a Cumulative Impact Assessment. Up to now no response has been received.

In its preliminary submission the Parish Council and Residents Association expressed the view that Wokingham Borough Council should undertake a full and proper local area profile for the village of Remenham to enable the forthcoming statement of licensing policy to develop the most appropriate licensing strategies for the village and the surrounding areas. The Parish Council and the Residents Association offered to work with Wokingham Council to provide this profile.

In its preliminary submission RPC and RFRA opined that the area that the number of licensed premises and licensed events was now so high that the promotion of the licensing objectives were being undermined – in particular from May to September.

RPC and RFRA suggested to WBC that a Cumulative Impact Assessment should be carried for the area in and around the village.

Cumulative Impact

The draft policy sets out a basic overview of cumulative impact (15.0). At 15.2 the draft policy states that “Guidance issued under S 182 of the Act allows Councils to adopt a special saturation policy ...”. It seems to me that this refers to s 182 Guidance that pre-dates the amendment of the 2003 Act with the adoption of s 5A which makes provision for a cumulative impact assessment.

The s 5A procedure for a cumulative impact assessment is independent of the statement of licensing policy review *but* informs a statement of licensing policy.

Section 5A is not mandatory. A licensing authority may publish a cumulative impact assessment – it is not required to do so.

The aim of the preliminary submission was to encourage the licensing authority to review the evidence base for cumulative impact in Remenham and the surrounding areas to consider whether a cumulative impact assessment should be issued for the area.

A cumulative impact assessment provides the evidential basis for the adoption of cumulative impact policies (*i.e.* special saturation policy, also known as cumulative impact zones, special areas of consideration *etc.*).

Notwithstanding, the foreword by Cllr Shenton highlights the Henley Royal Regatta, the Henley Festival and Rewind Festival, the draft includes no cumulative impact policies.

A key aspect of cumulative impact is that the absence of a Cumulative Impact Assessment does not prevent any responsible authority or other person from making representations on the grounds that the premises will give rise to a negative cumulative impact. In each case it would be incumbent on the person making the representation to provide relevant evidence of cumulative impact (see paragraph 14.42 of the s 182 Guidance). We would have expected to see words to this effect at Ch 15 and in Ch 5 (Determining Applications) of the draft policy. This is in our view a failing of the draft policy.

Conclusion

We await a response from the Council to our previous submission. We welcome and look forward a response to our five suggestions with reasons for their inclusion or exclusion to the draft statement of licensing policy.

[1] Will the Council commission a cumulative impact assessment for Remenham? If not, please provide us with reasons why our concerns to not merit this consideration.

If the Council intends to commission a cumulative impact assessment please provide details on how the local community can engage, support and inform this process.

[2] Will the statement of licensing policy contain an hours policy? If not, please provide reasons why hours policies are not being considered.

[3] Will the statement of licensing policy contain an Environmental Impact Policy? If not, please provide reasons why environmental impacts are not being considered.

[4] Will the statement of licensing policy include clearer guidance on TENs? If not, please provide reasons why such guidance is not being considered.

[5] Will the statement of licensing policy recognise the role of the parish council and residents association in the organisation and participation of SAGs? If not, please provide reasons why such local participation is not being considered.

Remenham Parish Council

Remenham Farm Residents Association