

Body: Licensing Act Committee

Date: 29th April 2008

Subject: Council Licensing Policy Statement - Review of Cumulative Impact Policy - Licensing Act 2003

Report Of: Kareen Plympton, Licensing Manager

Ward(s) All

Purpose

- To consider updated statistical evidence submitted by Sussex Police.
- Decide, in the light of this evidence, whether to maintain the Cumulative Impact Policy as a means to promote the Licensing Objectives.
- To take such steps the Committee considers necessary to promote the Licensing Objectives, particularly the prevention of crime and disorder.

Recommendations Licensing Committee is recommended to:

- a) Consider the updated statistical evidence presented by Sussex Police in respect of the continuation of the current Cumulative Impact Policy.
- b) Agree to maintain the current Cumulative Impact Policy as a means to promote the Licensing Objectives.
- c) Regularly review the Council's Statement of Licensing Policy, to ensure that it accurately reflects the Councils approach, whilst responding to the evolving nature of Eastbourne.

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1.0 Introduction

1.1 From November 2005 Eastbourne Borough Council became the Licensing Authority in respect of all licensable activities governed by the Licensing Act 2003, referred to hereafter as the Act.

1.2 As part of that function, the Council must publish a "Statement of Licensing Policy" which sets out the principles the Licensing Authority will generally apply when considering matters under the Act, its primary aim being to promote the Licensing Objectives of:

- The prevention of crime and disorder;
- Public Safety;
- The prevention of public nuisance;
- The protection of children from harm.

2.0 The Council Licensing Policy Statement

- 2.1 On 25th July 2007, Full Council agreed to include a Cumulative Impact Policy for a specified area of the Borough. This now forms part of the Council's Licensing Policy Statement, which was consulted upon, revised, agreed by the Full Licensing Committee in November 2007, and adopted by Full Council on the 14th January 2008. This forms the basis of the Licensing Authority's general approach to licensing matters in the Eastbourne area.
- 2.2 The Licensing Committee must regularly review the Council's Statement of Licensing Policy, to ensure that it accurately reflects the Council's approach, whilst responding to the evolving nature of Eastbourne.

3.0 The Council Licensing Policy Statement & Cumulative Impact

- 3.1 The cumulative impact of licensed premises in an area, and their impact on the promotion of the licensing objectives is a proper matter for Eastbourne Borough Council to consider. This is particularly relevant where its inclusion in the wider Council Licensing Policy Statement will help to promote the Licensing Objectives.
- 3.2 The effect of adopting a special policy of this kind within the Licensing Policy Statement is to create a "re-buttable presumption" that applications for new premises licences, off licences, club premises certificates or material variations will be refused if they fall within the specified area. This will be considered whenever the Licensing Authority receives relevant representations about the cumulative effect or concentration of premises in an area and the impact such has on the promotion of one or more of the Licensing Objectives.
- 3.3 Such representations can come from Responsible Authorities and/or interested parties, and, following a hearing, should normally lead to refusal where it can be upheld that the matter in question undermines the Cumulative Impact Policy and the promotion of the Licensing Objectives.
- 3.4 It is important to note that adoption of the policy does not prohibit applications in the designated cumulative impact area. It would be for the applicant to demonstrate to the Licensing Authority that the operation of the premises involved will not add to the negative cumulative impact already being experienced in the area and would not undermine the promotion of the Licensing Objectives.

4.0 Review of Cumulative Impact Policy

- 4.1 A copy of the current Licensing Policy Statement and the Cumulative Impact Policy and designated zone, outlined in blue, can be found at www.eastbourne.gov.uk/licensing. Hard copies of such are also held within the Members Room, Town Hall, Eastbourne.
- 4.2 Sussex Police approached the Licensing Team in late October 2007 with a view to extending and revising the Cumulative Impact Zone. This was not incorporated in the review of the Licensing Policy Statement undertaken between September – November 2007, to allow for further consultation with Sussex Police and for the matter to be returned to Full Licensing Committee

prior to wider consultation taking place.

- 4.3 Since October 2007, further meetings have been had with Sussex Police regarding the proposed revision and extension of the Cumulative Impact Zone.
- 4.4 At the time of writing this report, it has been decided that the current Zone already covers the key streets and areas of concern. Previous evidence demonstrates that the cumulative affect of licensed premises in this designated area is having a negative impact on the promotion of the Licensing Objectives.
- 4.5 The Full Licensing Committee is invited to consider the updated evidence submitted by Sussex Police. This will assist the decision making process in establishing whether it is necessary and appropriate to retain the Cumulative Impact Policy in the designated zone.
- 4.6 To facilitate the decision making process, Sussex Police have been invited to attend the Licensing Committee to explain the rationale behind seeking a revision to the current Policy that is in place.
- 4.7 The Full Licensing Committee will also need to consider a range of matters, including:
- The promotion of the Licensing Objectives, particularly the prevention of crime and disorder, the objective on which the Police are basing their case and the associated evidence.
 - The Council's Licensing Policy Statement.
 - Section 182 Guidance within the context of the Licensing Act 2003.
 - Existing Council Strategies, including community safety, tourism, planning, Local Development Framework, regeneration and the wider "Council Vision".

5.0 Overview of Proposals

- 5.1 It is important that the Full Licensing Committee regularly review the Council's Statement of Licensing Policy, to ensure that it accurately reflects the Councils approach, whilst responding to the evolving nature of Eastbourne. This includes the relevance, and evidence base provided in respect of a Cumulative Impact Policy.
- 5.2 A copy of the updated statistical evidence submitted by Sussex Police under the prevention of crime and disorder objective is included at Appendix 1. This will need to be carefully scrutinised as part of the any decision to agree the continuance of the Cumulative Impact Policy and designated zone.

6.0 Future Considerations

- 6.1 In the main body of evidence submitted by Sussex Police at Appendix 1, reference is made to a "buffer area." This is described as follows:
- 6.2 ***Buffer Area:*** *In order to assess levels of Crime and Disorder around the Cumulative Impact Zone, a 500m buffer has been drawn around the zone. This buffer are is shown in the map below and includes: all or parts of:*

Seaside, Pevensey Bay Road, Jevington Gardens, Royal Parade, The Avenue, Firle Road, Compton Street, Leslie Street, Whitley Road, Upper Avenue, St. Anne's Road, Southfields Road, Hardwick Road and Blackwater Road."

- 6.3 At this juncture, the buffer area is not to be included as part of the Cumulative Impact Policy. However, consideration is being given to "Special Stress Areas." (SSA) These are areas which border the Cumulative Impact Zone, and which are deemed to be areas of special concern in terms of the levels of crime, disorder and public nuisance experienced within them.
- 6.5 Where premises are within a SSA , applications for new and varied licences within it will be expected to pay particular attention when drawing up Operating Schedules. Applicants will be expected to take positive steps to ensure that their operation will not add to the problems already experienced in these areas.
- 6.6 A list of potential measures are being considered as matters appropriate for inclusion within a premises Operating Schedule where they are seeking to operate within a SSA include:
- Adoption of a Challenge 21 Policy and acceptance of approved forms of identification
 - Off sales to be in sealed containers for consumption away from the premises
 - Use of polycarbonate drinking receptacles throughout the premises in question
 - A written policy relating to the searching of patrons
 - Keeping of a refusals record for registering refusal to sell alcohol to intoxicated or under age persons.
 - Policies for the dispersal of customers – i.e. noise minimisation, signage to transport services
 - Membership to Nightwatch or other Council approved system
 - Minimum notification to statutory partners relating to the screening of sporting events, adult entertainment, under 18s events.
 - Mechanisms to limit the opportunities for noise, nuisance and litter
- 6.7 The inclusion of SSA's, and their location will be explored by the Licensing Team and the Responsible Authorities as a mechanism to promote the Licensing Objectives and will be presented to the Licensing Committee once these discussions are complete.

7.0 Conclusion

- 7.1 The Full Licensing Committee must consider whether the updated evidence provided by Sussex Police and their submissions and evidence base and whether this evidence provides a sound base on which to support the continuation of the Cumulative Impact Policy and designated zone as a means to the promotion of the Licensing Objectives.

8.0 Recommendations

- a) Consider the updated statistical evidence presented by Sussex Police in respect of the continuation of the current Cumulative Impact Policy.

- b) Agree to maintain the current Cumulative Impact Policy as a means to promote the Licensing Objectives.
- c) Regularly review the Council's Statement of Licensing Policy, to ensure that it accurately reflects the Councils approach, whilst responding to the evolving nature of Eastbourne.

Background Papers:

The Background Papers used in compiling this report were as follows:

1. The Licensing Act 2003
2. Section 182 Guidance, Department of Culture, Sport and Media
3. LACORS Guidance On Cumulative Impact
4. Cabinet Report – Adoption of a Cumulative Impact Policy, October 2006

To inspect or obtain copies of background papers please refer to the contact officer listed above.

Policy Revisions April 2008