

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 15

Brighton & Hove City Council

Subject:	Statement of Licensing Policy Consultation response		
Date of Meeting:	17 November 2011		
Report of:	Head of Planning and Public Protection		
Contact Officer:	Name:	Jean Cranford	Tel: 29-2550
	Email:	jean.cranford@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Council, as a licensing authority must carry out a consultation exercise prior to any review of its Licensing Policy. Consultation was undertaken on a proposal to increase the cumulative impact area and special stress areas and to introduce a “matrix” approach to licensing decision making.

2. RECOMMENDATIONS:

- 2.1 That Committee expand the cumulative impact zone and the special stress area as shown on map in appendix 3.
- 2.2 That Committee implement a “matrix” approach to licensing decisions as shown in appendix 1.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 At Licensing Committee on 10 February 2011, committee called for a report on the review of licensing policy following consultation with Ward Councillors and the Police, reviewing evidence, having regard to resident concerns with a view to possible inclusion of special stress areas in the Cumulative Impact Zone. The merits of a matrix approach to licensing decisions would also be explored. On the 23rd June 2011 the Licensing Committee received a report and authorised officers to initiate consultation regarding a review of the CIZ.
- 3.2 Cumulative impact is not mentioned specifically in the 2003 Act but is detailed in the Section 182 National Guidance. It means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. At 13.25 the Guidance states: In some areas, where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises.

- 3.3 Guidance also currently states that there should be an evidential basis for the decision to include a special policy within the Statement of Licensing Policy (SoLP). For instance, Crime and Disorder Reduction Partnerships may have collated information which demonstrates cumulative impact or Environmental Health Departments may be able to show concentrations of valid complaints relating to noise disturbance. This will change when the Police Reform and Social Responsibility Act 2011 is enacted, guidance is likely to remove any suggestion of a need for an evidential, or a statistical base for cumulative impact. Guidance is likely to make it explicit that cumulative impact policies may be introduced if following consultation, the authority considers it “appropriate”.
- 3.4 National Guidance states at 13.28: the steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are summarised below:–
- Identify concern about crime & disorder or public nuisance
 - Consider whether there is good evidence that crime & disorder or public nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
 - Identify the boundaries of the area where problems are occurring
 - Consult with those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation
 - Include and publish details of special policy in licensing policy statement.
- 3.5 Officers have now carried out the first four bullet points above and if committee are minded to agree the recommendation/s, will produce and publish a revised statement of licensing policy which will be brought back to the Licensing Committee before progressing to Full Council.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 The consultation commenced on 18 July and ran for 12 weeks with a closing date for comments on the proposal of 9 October 2011.
- 4.2 Consultation involved the Licensing Strategy Group which includes businesses via City Centre and Hove Business Fora, Police, Tourism, Events Office, Seafront Office (including Seafront Trader Association), Trading Standards, Legal and Finance, residents via residents associations and Community Associations and using the council’s consultation portal. Consultation was also available on the council’s website via the licensing pages.
- 4.3 Responses to the consultation via the council’s consultation portal can be found at appendix 1. A total of 178 responses were received via the portal.
- 4.4 Responses to the consultation received by letter or email can be found at appendix 2. 12 responses were received by letter or email.
- 4.5 If members were minded to change the statement of licensing policy, Full Council alone can exercise the function of revising the authority’s policy.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally by government. The recommendations in this report would only affect new applications and variations to existing premises licenses, and would not impact on current levels of income from renewals of applications

Finance Officer Consulted: Karen Brookshaw Date: 26/10/11

Legal Implications:

- 5.2 These are set out in the report. The SoLP should follow the fundamental principles set out in the Licensing Act 2003 and statutory guidance. Adoption or revision of a Special Cumulative Impact Policy is a major step and one which must be taken in accordance with proper procedure and legal advice in order to avoid legal challenge. Appropriate weight should be given to the views of those consulted in accordance with the Licensing Act 2003.

Lawyer Consulted: Rebecca Sidell Date: 26/10/11

Equalities Implications:

- 5.3 A rebuttal presumption against new licensed premises in a CIA may reduce the ability for small businesses to open as off-licences. Affected businesses may often be operated by members of minority ethnic groups.

Sustainability Implications:

- 5.4 Licensed premises throughout the city rely on local licensing policies in ensuring there is clear guidance on the continued operation of local businesses. Maintaining a regularly reviewed policy, which has undergone public consultation, will ensure a consistency of support to licensed premises, members of the public and other stakeholders affected by these activities.

Crime & Disorder Implications:

- 5.5 CIA proposals are geographically based around evidence of crime and disorder, etc. and should assist in the council's overall aim in reducing current levels. The Special Policy promotes the four licensing objectives: public safety, the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

Risk and Opportunity Management Implications:

- 5.6 Failure to meet this statutory duty would lead to uncertainties in decision making, loss of business continuity and an inability to meet customer care standards.

Public Health Implications:

- 5.7 Public Health is not a licensing objective. However, the health effects of alcohol are a major concern in Brighton & Hove. It is difficult to control consumption but it is possible to limit supply by using Cumulative Impact and the matrix approach and strictly adhering to policy. With the implementation of the Police Reform and Social Responsibility Act 2011, Primary Care Trusts and Local Health Boards will become responsible authorities, able to make representations.

Corporate / Citywide Implications:

- 5.8 The policy promotes the licensing objectives and sets out a general approach to making licensing decisions. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this Special Policy is framed around those objectives.

Proposals for new licensed premises, or for certain variations to existing ones, within a CIA will normally be refused following relevant representations unless it can be demonstrated that there will be no negative cumulative impact.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Statement of Licensing Policy to remain as it is but with the inclusion of a matrix approach.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Committee called for a report on the review of licensing policy.

SUPPORTING DOCUMENTATION

Appendices:

1. Consultation responses received via the council's consultation portal.
2. Consultation responses received via letter and email.
3. Map of proposed extended CIA and SSA.

Documents in Members' Rooms

NONE.

Background Documents

1. Statement of Licensing Policy.

