

DECISION-MAKER:	LICENSING COMMITTEE		
SUBJECT:	LICENSING ACT 2003 CUMULATIVE IMPACT POLICY		
DATE OF DECISION:	27 th NOVEMBER 2008		
REPORT OF:	ASSISTANT SOLICITOR TO THE COUNCIL		
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STATEMENT OF CONFIDENTIALITY

None

SUMMARY

In response to formal representations received from Hampshire Constabulary including a report identifying three areas of the City, namely London Road/Bedford Place, Above Bar and Bevois Valley Road, and substantive evidence linking crime to the night time economy the City Council as Licensing Authority must consider whether a Cumulative Impact Policy ("CIP") as an addition to the previously adopted overarching Licensing Policy is appropriate and necessary.

The Licensing Committee is requested as a consultee to comment as appropriate on the Draft Cumulative Impact Policy approved by Council for consultation at its' meeting on 17th September, 2008.

RECOMMENDATIONS:

- (i) To consider the evidence submitted by the Police and submit any comments on the Licensing Act 2003 Draft Cumulative Impact Policy as approved by Council for consultation set out in Appendix 2.
- (ii) To note that a further report will be submitted to Council on 21st January, 2009 when the formal consultation process on the Policy has been completed.

REASONS FOR REPORT RECOMMENDATIONS

1. Following receipt of the Police evidence the Licensing Authority must consider that evidence and determine whether a cumulative impact policy is appropriate and necessary.
2. No such policy can be implemented until the statutory consultation procedure is completed.

BACKGROUND**What is Cumulative Impact?**

3. "Cumulative impact" is not mentioned specifically in the Licensing Act 2003 but means in essence the potential impact on the promotion of the licensing objectives due to a significant number of licensed premises concentrated in one particular and defined area. The statutory guidance published by DCMS makes it clear that the

cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement. The relevant part of the statutory guidance dealing with cumulative impact is available in the Members Rooms.

4. 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. For example, concentrations of drinkers can result in queues at late night fast food outlets and for taxis and buses. Even though some city centre ranks are marshalled queuing may in turn be leading to conflict, disorder and anti-social behaviour. While more flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises. These conditions are more likely to occur in the city centre, but may also arise in other urban centres and the suburbs.

CONSULTATION

5. This report was approved by Council for consultation and the draft Cumulative Impact Policy has been made available for inspection, and circulated as appropriate, for a three month consultation period. It was also recommended that, in addition to the statutory consultees, the Licensing Committee and Tackling Alcohol Partnership be consulted specifically upon the draft policy.
6. The Council will undertake extensive consultation in accordance with the Act and Regulations as well as the Council's own consultation requirements by ensuring that the policy is published on the Council's website and made available for inspection at designated Council buildings as well as at specified public libraries.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

7. There is no statutory requirement to adopt a CIP but in light of the evidence submitted by the police it is considered reasonable to explore this option and proceed to consultation.

DETAIL

The Situation in Southampton

8. Following the implementation of the Licensing Act 2003 the Police, in particular, have expressed concerns regarding specific areas of the city and the impact resultant from the nature and combined effect of premises. Discussion has taken place over an extended period ultimately resulting in the formal submission in late June 2008 of a report authored by the police entitled "Proposed Special Policy Areas – Cumulative Impact Policy Southampton City Centre". The report was commissioned in order to assess whether defined areas of Southampton are disproportionately affected by offending linked to the night-time economy.
9. Three areas, namely; Bedford Place/London Road, the Above Bar area and Bevois Valley, have been identified by the Police as areas disproportionately affected by cumulative impact. The report is available in the Members Room and on Southampton Online as are detailed maps showing the parameters of the proposed CIP areas. The key findings and recommendations of the police's report are that:

- The three identified locations all record a level of violent offending that is disproportionately high in terms of the city as a whole and also the main commercial area of Southampton
- The peak times for violence are in keeping with peak times for the night-time economy
- Each of these locations record an above average level of offences flagged as having been influenced by alcohol.
- In terms of offences where a premise is directly involved, all three locations record multiple offences.
- The overall trend with regard to these offences is either steady or upward.
- Both the Above Bar and Bedford Place/London Road areas also record a disproportionately high level of criminal damage.

It is recommended that a Cumulative Impact Policy is pursued in these areas as a tool to control violent crime and alcohol related offending.

Draft Policy

10. In light of the evidence submitted to the Licensing Authority a draft policy has been formulated in accordance with the Act and the statutory guidance by the Solicitor to the Council. A draft of the policy is available in the Members Room and on SOUTHAMPTON online. The policy has also been reviewed and approved by Counsel to ensure it is compatible with national practice and fully complies with the Act's requirements.

Effect of the policy

11. The effect of adopting a special policy of this kind is to create a rebuttable presumption that any applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. It is important to note that the policy can only be applied in those instances where a relevant representation is made in relation to premises within the defined areas. The practical effect of the policy is that the rebuttable presumption will apply (when representations are made) to all new premises licences, club premises licence applications, provisional statements and any variation application which might be considered to add to the cumulative impact. Cumulative impact can still be raised within representations and considered as an issue for premises outside any defined area, however, the policy and rebuttable presumption will not apply.

Procedure for implementation of a Cumulative Impact Policy

12. Section 5 Licensing Act 2003 requires that each licensing authority must in each three year period determine its policy with respect to the exercise of its licensing functions, and publish a statement of that policy (a "licensing statement"). As members are aware the policy was successfully reviewed and freshly adopted prior to the 7th January 2008.

13. The same section of the Act requires each authority during the three year period to keep its policy under review and make such revisions to it, at such times, as it considers appropriate. It should be noted that by making revisions or alterations the three yearly period for review remains unaffected.
14. The statutory guidance is clear that any policy must be based upon evidence. As a result consideration of widening the scope or area of any policy can only be made on a strong evidential basis that can withstand external scrutiny, particularly judicial review.
15. Before implementing any revision or amendment to its policy, the statutory guidance states that a licensing authority must consult:
 - (a) the chief officer of police for the licensing authority's area,
 - (b) the fire and rescue authority for that area,
 - (c) such persons as the licensing authority considers to be representative of holders of existing licences in respect of premises situated in the authority's area,
 - (d) such persons as the licensing authority considers to be representative of clubs registered within the authority's area,
 - (e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
 - (f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.
16. The statutory guidance details the relevant steps to implement a policy of this nature as:
 - Identify concern about crime and disorder or public nuisance
 - Consider whether there is good evidence that crime and disorder or 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

FINANCIAL/RESOURCE IMPLICATIONS

Capital

17. None

Revenue

18. All matters in relation to the consultation, implementation and revision of the policy are budgeted for.

Property

19. None

Other

20. None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

- 21. S.5 Licensing Act 2003
- 22. S.17 Crime and Disorder Act 1998

Other Legal Implications:

- 23. Section 17 of the Crime and Disorder Act 1998 requires local authorities to consider crime and disorder reduction in the exercise of all their duties, activities and decision-making. This means that all policies, strategies and service delivery need to consider the likely impact on crime and disorder. This consideration is paramount in the rationale for adopting a CIP

POLICY FRAMEWORK IMPLICATIONS

- 24. The Cumulative Impact Policy itself will be a policy framework document by way of amendment of the City Council’s Licensing Act 2003 Statement of Licensing Policy.

SUPPORTING DOCUMENTATION

Appendices

1.	Maps identifying the proposed areas
2.	Draft Cumulative Impact Policy
Appendices were deposited in Members Rooms on 9th September 08, as part of the Council agenda for the meeting on 17th September 2008 and are also available online.	

Documents In Members’ Rooms

1.	Excerpt from Licensing Act 2003 statutory guidance
2.	Police Report entitled: “Proposed Special Policy Areas – Cumulative Impact Policy Southampton City Centre”

Background Documents

Title of Background Paper(s) Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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Background documents available for inspection at: Office of the Solicitor to the Council, Civic Centre, Southampton

FORWARD PLAN No:

KEY DECISION? NO

WARDS/COMMUNITIES AFFECTED:	Bargate and Bevois
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