

Body: CABINET

Date: 25 OCTOBER 2006

Subject: Licensing Act – Draft Cumulative Impact Policy Statement
Report Of: Director of Housing, Health & Community Services

Ward(s) All

Purpose Under the terms of the Licensing Act 2003, to consider the development and inclusion of a Cumulative Impact Policy within the Eastbourne Borough Councils Licensing Policy Statement.

Decision Type: Key Decision

Recommendation: Cabinet is recommended to:

- a) Note and endorse progress to date on the development of the Cumulative Impact Policy Statement.
- b) Delegate authority to the Director of Housing, Health & Community Services in conjunction with the Cabinet portfolio holder to finalise and agree the draft Cumulative Impact Policy Statement prior to consultation.

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1.0 Introduction

1.1 Cumulative impact is not mentioned specifically in the Licensing Act 2003, but is covered within the Section 182 Guidance issued in conjunction with the Act, which refers to it as:

"The potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area."

1.2 In relation to the Licensing Objectives contained within the Licensing Act 2003, this may include potential impact on crime and disorder or public nuisance on a town of a large concentration of licensed premises in that part of the local authority area, where the cumulative impact of such a concentration is likely to undermine the promotion of the Licensing Objectives.

2.0 Licensing Policy

2.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for Eastbourne Borough Council to consider in its policy, particularly where its inclusion will help to promote the Licensing Objectives of:

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

2.2 A general reference to Cumulative Impact Policy is already included in the Councils Licensing Statement. However, following consultation and subject to a supporting body of evidence from either an interested party and/or the Responsible Authorities, a decision can be taken whether it is appropriate to subject an area to a Cumulative Impact Policy . Where the Council is satisfied that such a policy is appropriate and necessary in order to promote the Licensing Objectives, an approach in relation to cumulative impact in specific areas must be included in the Licensing Policy Statement.

3.0 Consultees

3.1 In ascertaining whether a Cumulative Impact Policy is appropriate, EBC must consult the statutory authorities and others, listed in section 5(3) of the Act, namely:

- (a) The Chief Officer of Police.
- (b) The Fire Authority for the area.
- (c) Such persons EBC considers to be representative of holders of premises licences and club premises certificates for the area.
- (d) Such persons EBC considers to be representative of Personal Licence holders in the vicinity.
- (e) Other such persons EBC considers to be representative of residents and businesses in the area.

4.0 Outcome of A Cumulative Impact Policy

4.1 The effect of adopting a special policy of this kind is to create a “rebuttable presumption” that applications for new premises licences or club premises certificates or material variations will normally be refused, where relevant representations are received.

4.2 The Cumulative Impact Policy will indicate that the Council is adopting a policy of refusing new licences in a specified area whenever it receives relevant representations about the cumulative impact on the licensing objectives. Such representations can come from Responsible Authorities and/or interested parties, and, following a hearing, should lead to refusal.

4.3 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 that the operation of the premises involved will not add to the cumulative impact already being experienced.

5.0 Duration Of The Policy

5.1 If adopted, special policies will be reviewed regularly to assess whether they are needed any longer or need expanding. Whilst a special policy is in existence, applicants will need to demonstrate why the operation of the

- 5.2 premises would not add to the cumulative impact being experienced. If no representation is received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities, such as the police, or interested parties, can make a written representation maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information that had been before the local authority when it developed its policy.

6.0 Implications Of Not Having A Cumulative Impact Policy

- 6.1 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 6.2 The Council recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.
- 6.3 It therefore also recognises that, were such a policy adopted, it may be able to approve licences that are unlikely to add significantly to the problems arising from saturation and will consider the circumstances of each individual application.

7.0 Context & Evidence

- 7.1 The Council has been presented with evidence from a responsible authority namely Sussex Police, with a view to considering the inclusion of a Cumulative Impact Policy within key areas of the Borough. This approach has been considered at a local level in partnership with the Police and will be subject to extensive consultation.
- 7.2 A copy of the draft Cumulative Impact Policy is included in Appendix A, and sets out the Council's approach to such a Policy. Significant evidence has already been produced by Sussex Police in regard to locations where they submit that the over proliferation of licensed premises is undermining the promotion of the Licensing Objectives.
- 7.3 Furthermore, it is suggested that the above streets are included in a zone which runs from Grand Parade at its junction with Burlington Place, along to Marine Parade at its junction with Bourne Street to Ashford Road, along Ashford Road to Terminus Road, along Terminus Road to Grove Road. Additionally, along Grove Road to South Street, along South Street to Cornfield Terrace and along Cornfield Terrace to Burlington Place. It is further requested that the zone includes the Pier itself.
- 7.4 Several areas of the Policy are still evolving, particularly in relation supporting, up to date statistical information detailing which areas and/or streets should be subject to the Cumulative Impact Policy.

- 7.5 Careful consideration will also need to be had, and appropriate weight given to the evidence produced by Sussex Police, the wider Eastbourne Vision and overall strategies fostering integration, regeneration and investment in the Town.
- 7.6 The document appended to this report must be viewed as a working document. The specific areas requested will be scrutinised as part of the ongoing investigative process and must be supported by a sound evidential base. If the adoption of a Cumulative Impact Policy is considered an appropriate course of action, the matter will be consulted upon as detailed previously, revised following consultation. Once consulted upon, the Cumulative Impact Policy, if adopted, will be placed before Cabinet for review and finally, placed before Full Council as part of the wider Licensing Policy Statement.

8.0 Conclusion

Cabinet is recommended to:

- a) Note, and endorse progress to date on the development of the Cumulative Impact Policy Statement.
- b) Delegate authority to the Director of Housing, Health & Community Services in conjunction with the Cabinet portfolio holder to finalise and agree the draft Cumulative Impact Policy Statement prior to consultation.

Background Papers:

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

1. The Licensing Act 2003
2. Section 182 Guidance, Licensing Act 2003
3. LACORS Guidance On Cumulative Impact

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

Cumulative Impact Policy Oct 06