

AGENDA ITEM NO. 4

LICENSING COMMITTEE

Date 31 JULY 2012

Title **LICENSING ACT 2003 – CUMULATIVE IMPACT**

1. PURPOSE/SUMMARY

To consider an application from Cambridgeshire Constabulary for a Cumulative Impact Assessment for Wisbech Town Centre.

2. KEY ISSUES

- There is no statutory requirement for Cumulative Impact Zones but government guidance issued under Section 182 of the Licensing Act 2003, defines cumulative impact.
- The guidance to Council's on special saturation policies is that they can be introduced as part of the main Licensing Policy.
- Cambridgeshire Constabulary has submitted a request for a Cumulative Impact Assessment for Wisbech Town Centre.

3. RECOMMENDATION

That Members consider the request from Cambridgeshire Constabulary for a Cumulative Impact Assessment for Wisbech Town Centre and decide whether they wish to proceed to the consultation stage of the process at this time.

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| Wards Affected | Medworth |
| Forward Plan Reference No. (if applicable) | Not applicable |
| Portfolio Holders | Councillor Owen, Cabinet member with responsibilities for Licensing |
| Report Originator | Kim Winterton, Licensing Team Leader, tel: 01354 622542, email: kwinterton@fenland.gov.uk |
| Contact Officer | Dan Horn, Head of Housing & Neighbourhood Services, 01354 654321, dhorn@fenland.gov.uk Alan Pain, Corporate Director, 01354 622302, alanpain@fenland.gov.uk |
| Background Papers | The Licensing Act 2003 Section 182 Guidance The Council's Licensing Policy Statement |

1 INTRODUCTION AND BACKGROUND

- 1.1 Cambridgeshire Constabulary has requested a Cumulative Impact Assessment for Wisbech Town Centre. The report document may be viewed at **Appendix A** to this report.
- 1.2 The Police report recommends that consideration should be given to establish a Cumulative Impact Area in Wisbech Town, comprising either:
 - The existing DPPO Zone; or
 - A 0.3 mile radius of the Market Square; or
 - The areas within the town centre with the greatest number of licensed premises – i.e. the area between Nene Quay and Market Square and the Norfolk Street area.
- 1.3 Some Authorities have implemented a Cumulative Impact Policy, where town centres have seen a proliferation of late night venues with the flexible licensing hours brought about by the implementation of the Licensing Act 2003. **Appendix B** is a copy of Cambridgeshire City Cumulative Impact Zone Review for 2010
- 1.4 The end of year monitoring report for Fenland Community Safety Partnership identified that Fenland has the 4th worst (out of 15) rate of violent crime compared to similar local authorities.
- 1.5 There is no reference to saturation policies or to cumulative impact zones in the Licensing Act 2003. However, guidance issued under section 182 of the Licensing Act 2003 defines “Cumulative Impact” as the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The guidance also states 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.
- 1.6 There must be an evidential basis for the decision to include a special policy on cumulative impact, within the statement of licensing policy. This evidence can be obtained from sources such as the Police and Community Safety Partnership, who have information about alcohol-related violent crime and anti-social behaviour that may identify cumulative impact as a local problem. **Appendix C** is a copy of the Fenland Community Safety Partnership Strategic Assessment 2012/13.
- 1.7 After considering the available evidence and following a public consultation, the licensing authority may decide that it is appropriate and necessary to include a special policy within the licensing policy statement. The cumulative impact policy will only affect new applications and variations of premises licences and club premises certificates within the designated area, and will only have effect when relevant representations are received.
- 1.8 The responsibility will lie with the applicant to demonstrate in their application that there will be no negative effect on the licensing objectives, should their application be granted. If no representations are received, then the application will be granted regardless of the cumulative impact policy.
- 1.9 Existing premises licences will continue to trade unaffected by the creation of the cumulative impact zone and the review process remains available should any problems arise at existing licensed premises.

2 PREMISES LICENSED FOR OFF SALES

- 2.1 The guidance suggests that special polices would not normally extend to premises licensed for the off-sale of alcohol, but accepts that a special policy should not be absolute.
- 2.2 A case of appeal at Brighton Magistrates Court against a decision to refuse a premises licence, for off sales by Brighton & Hove Council was dismissed. The application was made at premises within a designated cumulative impact zone, and on this occasion both the licensing panel and the magistrates accepted the evidence presented by the Sussex Police. In light of this decision, if there is a sufficient evidential basis, it is acceptable to have a special policy that applies to off-licensed premises only. **Appendix D** includes samples of Licensing Policy Statements from Councils that have included Off Sales in a Saturation Policy:
- Greenwich Licensing Policy Statement
 - Blackpool Licensing Policy Statement
 - Watford Licensing Policy Statement.

3 OTHER MEASURES AVAILABLE

- 3.1 There are other measures available to control cumulative impact and these are listed in the guidance issued under Section 182 of the Licensing Act 2003, they include;
- Planning controls
 - Partnerships between local business, transport operators and the Council to create a safe and clean town centre
 - CCTV surveillance
 - Designation of alcohol free zones
 - Police enforcement including the issue of fixed penalty notices
 - Prosecution of any personal licence holder or member of staff who sells alcohol to people who are drunk
 - Confiscation of alcohol from adults or children who are drunk
 - Police powers to close premises
 - Review of a premises licence or club premises certificate.

4 ACTION NEEDED TO ESTABLISH A CUMULATIVE IMPACT ZONE

- 4.1 There would need to be evidence from the Police or other responsible body that there was a problem in a certain area, relating to the sale of alcohol. This could be for consumption on or off the premises.
- 4.2 The evidence would have to relate to alcohol related incidents, such as violence, but it could also be linked to other issues, if there is evidence linking the incidents with the premises.

- 4.3 A report would be brought to Committee and then Cabinet, requesting permission to consult over a special policy for a Cumulative Impact Zone. This would have to apply to a specific designated area(s), where there is a problem and could not apply to the whole district.
- 4.4 Consultation would be undertaken with the 3 tiers of Wisbech Members, Chamber of Commerce, Voluntary Crime Scheme Groups, licensed trade and relevant associations, group representatives and members of the public.
- 4.5 If the results of the consultation were favourable and consultees were in agreement with the Policy, a report would then be brought back to Committee and then Cabinet for approval of a Special Policy, amending the Licensing Policy, to create a Cumulative Impact Zone in a designated area of the District.

5 ADDITIONAL INFORMATION

- 5.1 The Council's Licensing Policy Statement is currently being reviewed to include amendments to the Licensing Act 2003 that took place on 25 April 2012 and additional amendments that are scheduled for October 2012.
- 5.2 Risks – There is a risk of free trade being impeded if a cumulative impact zone was created in the future.
- 5.3 Benefits: Cumulative Impact Zones are a means of restricting any increase in numbers of premises selling alcohol, in areas with problems from alcohol related violence and other incidents.

6 EFFECT ON CORPORATE OBJECTIVES

- 6.1 The Statement of Licensing Policy links to the following corporate objectives of the Council:
 - Streets Ahead – by ensuring public safety/protection by the licensing and regulation of certain activities;
 - Open for Business – by providing an efficient and timely Licensing Service that assists the operation of businesses that need a licence.

7 COMMUNITY IMPACT

- 7.1 The Act gives greater freedom to operators and users of premises, which is balanced by greater responsibilities for licensees and tempered by strengthened protection for the community.

8 RECOMMENDATION

- 8.1 That members consider the request from Cambridgeshire Constabulary for a Cumulative Impact Assessment for Wisbech Town Centre and decide whether they wish to proceed to the consultation stage of the process at this time.