
Review of Statement of Licensing Policy

1.0 Matter for consideration

- 1.1 To consider the report on the operation of the cumulative impact policy since its creation in January 2007 and to determine whether any amendments to the policy are required.

2.0 Recommendation(s)

- 2.1 The Committee will be requested to consider the information below and determine whether or not it is necessary to amend the existing policy on cumulative impact by deleting paragraph 3.8.1.

3.0 Information

- 3.1 The Council, as Licensing Authority approved the Statement of Licensing Policy that came into force in January 2005. This policy was amended in January 2007 to create the Town Centre Saturation Area and was again confirmed by Council in January 2008 when the full policy was subjected to review. The exact wording of the policy is attached at Appendix 4a.
- 3.2 The effect of a cumulative impact policy is to create a rebuttable presumption that an application for new premises licences/club premises certificates, provisional statements, or variations to existing licences will be refused. Without such a policy, the presumption is that an application will be granted unless it can be shown that the application will adversely impact on the licensing objectives
- 3.3 The Committee should be aware that despite the adoption of such a policy, if no representations are received, the application must be granted in terms consistent with the operating schedule.
- 3.4 Every application must still be determined on its own merits. It is not possible to have a policy which states that no application in a defined area will be granted. If the Council did create such a policy, the likelihood of Judicial Review would be high and the prospects of success low.
- 3.5 The current policy, at paragraph 3.8.1 provides for an exception to the special policy as follows:

“The licensing authority wishes to encourage family friendly entertainment in the town centre. To promote this, acceptable grounds for an exception to the special policy, even in the light of representations may be that the applicant can

demonstrate that the main activity in the premises is not the consumption of alcohol, and that the premises is aimed at family groups.

The onus is on the applicant to show why an exception should be made”

- 3.6 Since the policy was introduced licensing panels have dealt with two applications relating to premises within the cumulative impact area.
- 3.7 The first related to premises in Queen Street where the application was for a premises licence permitting the sale of alcohol and provision of regulated entertainment until 02.00 hours daily. This application was refused by a licensing panel on 28th January 2008 on the basis that they were not satisfied that the premises would not add to the cumulative impact in the area.
- 3.8 The second application was submitted by JD Wetherspoon PLC for a premises licence in respect of the Pricebusters Building. The postal address of these premises is Bank Hey Street, however the part of the building subject to the application fronts onto the Promenade. This application was for permission to sell alcohol until 00.00 hours Sunday-Wednesday and until 01.00 hours Thursday-Saturday, and provide late night refreshment until 00.30 hours (01.30 hours Thursday-Saturday). A licensing panel granted this application on 28th May 2008 as the panel were satisfied that the granting of this application would not add to cumulative impact. The decision was made on the basis of the exception referred to above.
- 3.9 Concern has been expressed as to the ability to the Council to sustain its policy. The Committee is asked to consider whether the existing cumulative impact policy could be strengthened by removing this stated exception at paragraph 3.5 above or whether it should be retained.
- 3.10 The Licensing Committee at its meeting in July 2008 authorised consultation on adding the word “predominantly” into paragraph 3.8.1. Consultation took place between 10th September 2008 and 5th December 2008. The consultation document is attached at Appendix 4b.
- 3.11 A total of 22 responses were received to the consultation. A summary of the responses can be found at Appendix 4c.
- 3.12 Following a review of these responses, it is recommended that consideration be given to removing paragraph 3.8.1 in its entirety. This proposal is supported by the Police and Primary Care Trust,

4.0 Financial considerations

4.1 None

5.0 Legal considerations

5.1 None

Relevant officer:

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Appendices attached:

Appendix 4a Cumulative Impact Policy
Appendix 4b Consultation Document
Appendix 4c Responses to Consultation

Background papers:

None

Websites and e-mail links for further information:

None

Glossary:

None