

CUMULATIVE IMPACT POLICY

Committee

The Licensing Committee

Officer Contact

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HEADLINE INFORMATION

Purpose of report

To advise Members of the outcome of enquiries regarding the introduction of saturation policies to a parade of shops

Contribution to our plans and strategies

A safer neighbourhood

Financial Cost

Nil

Relevant Policy Overview Committee

Not Applicable

Ward(s) affected

All

RECOMMENDATION

The Licensing Committee is asked to note the contents of this report.

INFORMATION

Reasons for recommendation

On 2 July 2009 the Licensing Committee requested the The Committee requested that Legal officers liaised with the trainer to gain the correct information regarding the introduction of saturation policy in the London Borough of Hillingdon. This report has been prepared following discussion with Poppleston Allen, and consideration of the legislation, Statement of Licensing Policy for the London Borough of Hillingdon.

Alternative options considered / risk management

No alternative decision is available

Supporting Information

Cumulative Impact Policy

Where the number, type and density of licensed premises are unusually high, serious problem of nuisance and disorder have sometimes arisen or have begun to arise outside or some

distance from licensed premises. This has been described as the cumulative impact of the increasing capacity of all premises together.

It is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together is greater in these cases than the usual impact from customers of individual premises.

In these circumstances, a licensing authority may receive representations from a responsible authority or interested party that an area is becoming saturated with certain premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. Such representation would need to be based on evidence.

The presence of multiple licensing premises might be creating exceptional problems of disorder over and above the impact from any individual premises. If this is the case it might lead the licensing authority to consider, the impact of multiple premises on the four licensing objectives in the area and through consultation, if adopting a special policy not to grant licences would be one solution in helping control the problem. Any such "saturation policy" has to be contained within the authority's Local Statement of Licensing Policy.

Steps to be taken to adopt a Special Policy

The Guidance issued by the Department for Culture Media and Sport under section 182 of the Act (paragraphs 13.24 to 13.39) details the steps to be followed in considering whether to adopt a special policy within the statement of licensing policy.

The steps to be followed are:

- 1) Identification of concern about crime and disorder or public nuisance.
- 2) Consideration of 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.
- 3) Identification of the boundaries of the area where problems are occurring.
- 4) Consultation with those specified by the Licensing Act 2003 as part of the general consultation required in respect of the whole of the statement of licensing policy;
- 5) Subject to that consultation, inclusion of a special policy about future premises licences or club premises certificate applications from that area within the statement of licensing policy;
- 6) Publication of the special policy as a revision to the statement of licensing policy required by the Licensing Act.

Due to its nature, the majority of evidence on crime and disorder incidents will be held by the Police or the Crime and Disorder Reduction Partnership.

Effect of Cumulative Impact Policies

The effect of adopting a special policy of this kind would be to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact would 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.

Limitation on Special Policies Relating to Cumulative Impact Policies

However the introduction of a special policy does have its limitations. Para13.33 of the Guidance issued under section 182 of the Licensing Act states:

“It would normally not be justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Special policies will usually address the impact of a concentration of licensed premises selling alcohol for consumption on the premises”.

It should also be noted that the purpose of the adoption of a special policy would be to maintain the current position of the number of licensed premises in an area. Such a policy would not enable the licensing authority to withdraw or cut back licences it has already issued. It does not allow a licensing authority to impose quotas that would prevent an application being considered upon its own merits. Additionally it would not allow the licensing authority to set limits on the hours of licences that it grants following the adoption of a Cumulative Impact Policy.

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The effect of not having a Special Policy

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. The Act allows for such consideration but the individual merits of each application must always be considered

Other Measures to Control Cumulative Impact

Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the control of the licence holder.

The licensing authority has recognised that as well as the licensing function there are a number of mechanisms for addressing issues of unruly behaviour, which occur away from licensed premises. Sections 3 and 5 of the Council’s revised Statement of Licensing Policy, various legislation and Council initiatives cover these areas as follows:

- positive measures to create a safe and clean city environment in partnership with local businesses, transport operators and other departments of the London Borough of Hillingdon.
- powers of the Council to designate parts of the Council as places where alcohol may not be consumed publicly;

- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- police powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance; and
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.
- the Violent Crime Reduction Act 2006 empowers local authorities to designate Alcohol Disorder Zones to tackle alcohol related crime and disorder.

The Council currently addresses a number of crime and disorder issues through the Community Safety Partnership in line with the strategic objectives for crime and disorder reduction.

The London Borough of Hillingdon currently has no Cumulative Impact Policy

At the present time the Council has not adopted a Cumulative Impact Policy.

It must also be noted that the Responsible Authorities including the Metropolitan Police had not during the consultation period for the revised statement of Licensing Policy raised their concerns that there may be a negative cumulative impact on one or more of the licensing objectives in any geographic location within the London Borough of Hillingdon.

The absence of such a 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. The Act allows for such consideration but the individual merits of each application must always be considered.

The Act also enables residents and businesses in the vicinity of the premises ("interested parties") to make relevant representations about any application for new licences or for variations to existing licences. This gives the local community a greater say than ever before in licensing decisions.

In addition, responsible authorities and interested parties have the power to apply for a review by the licensing authority of existing licences, on a ground relating to the promotion of one or more of the licensing objectives. Such a review can result in the modification of the licence, its suspension, or ultimately, revocation.

Financial Implications

Nil

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

None

Consultation Carried Out or Required

The London Borough of Hillingdon carried out a consultation in 2007 on a Revised Statement of Licensing Policy. This consultation included consideration of a Cumulative Impact Policy.

CORPORATE IMPLICATIONS

Legal

The introduction of a Special Policy would require a formal variation to the current Statement of Licensing Policy. This would require approval from full Council following consideration by Cabinet.

In light of the limitation stated in Para13.33 of the Guidance issued under section 182 of the Licensing Act, it is not recommended that Cumulative Impact Policies be applied to a parade of shops specifically for concerns relating to off-licences.

Corporate Property

Not Applicable