

TITLE	Licensing Act 2003 – Policy Review
FOR CONSIDERATION BY	Licensing and Appeals Committee on 7 September 2016
WARD	None Specific
DIRECTOR	Heather Thwaites – Director Environment (Paul Anstey – Joint Service Delivery Manager - West Berkshire and Wokingham Environmental Health and Licensing)

OUTCOME / BENEFITS TO THE COMMUNITY

This report is a first step towards asking the Committee for a decision on whether to include a Cumulative Impact Policy into the main Licensing Act 2003 Policy for the parish of Remenham.

RECOMMENDATION

The Licensing Committee commission an external review of evidence to support the adoption of a Cumulative Impact Policy for the parish of Remenham, subject to agreement from the Executive Member for Resident Services due to the financial implications.

SUMMARY OF REPORT

This report outlines the reasons for Members being requested to consider the addition of a Cumulative Impact Policy to the Licensing Policy for the specific area of Remenham.

1. Background

The Licensing Authority is obliged to have a Licensing Policy in place at all times and the existing Policy was reviewed and found to be suitable for its purpose apart from a few legislative changes in September 2013. The current Policy would be due for a review in 2018. I attach the current policy as Appendix 1.

The original policy was subject to an extensive consultation exercise in 2004, receiving over 700 responses, and has been reviewed every 3 years since, and re-adopted with only legislative amendments.

In the policy review of 2010 the Remenham Parish Council made representation that the draft policy was insufficient for the specific area of Remenham with Councillor Halsall, in his position of Chair of the Remenham Parish Council, outlined the reasons for this opinion. The resolution at the time was that the policy would remain unchanged. I attach the minutes from this meeting as Appendix 2.

2. 2016 Request for a Cumulative Impact Policy

In May 2016 the Licensing service received an email from Mr Dudley, Secretary of the

Remenham Farm Residents Association requesting the consideration of a Cumulative Impact Policy (CIP) relating to future Premises Licence applications on the riverside land in the Parish of Remenham from Henley Bridge to Temple Island.

There are currently 10 premises licenses on this stretch of land, most of which are an 'event' and therefore time specific, for example Rewind Festival 3 days on the weekend before August bank holiday and Henley Festival, 5 days after the Henley Royal Regatta in July. Two are for Rowing Clubs, namely Upper Thames and Remenham which have a full Premises Licence and Club premises respectively, along this stretch.

3. Initial Research into Cumulative Impact Policy (CIP)

3.1 Based on government guidance (issued under section 182) on the Licensing Act 2003:

'Licensing authorities can adopt CIP's where there is evidence that the concentration of licensed premises in an area is negatively impacting on the licensing objectives that underpin the Licensing Act 2003. The effect of adopting a policy is to "create a rebuttable presumption" against the granting of new premises licences'

3.2 Definition

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

The 2003 Act's licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

3.3 Adopting a CIP

After a full public consultation, a licensing authority can include a CIP within the statement of licensing policy that it is required to publish. The effect of adopting a CIP is to "create a rebuttable presumption" that those applications for premises licences which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations unless the applicant can demonstrate that there will be no negative impact on the licensing objectives.

Statements of licensing policy should always allow for each licence application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted.

The Home Office guidance summarises the steps that should be followed in considering whether to adopt a CIP; these include:

- Identifying concern and considering whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm – and, if these problems are occurring, identifying whether they are being caused by the customers of licensed premises.
- Identifying the boundaries of the area where problems are occurring.
- Consulting those specified in section 5(3) of the 2003 Act and, subject to the outcome of the consultation, including details of the CIP in the licensing policy statement.

4. Evidence

There must be an evidential basis for the decision to introduce a CIP. Information that licensing authorities can use to demonstrate the cumulative impact of licensed premises on the promotion of the licensing objectives include:

- Local crime and disorder statistics
- Statistics on local anti-social behaviour offences
- Health-related statistics such as alcohol-related emergency attendances and hospital admissions
- Environmental health complaints, particularly in relation to litter and noise
- Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations
- Residents' questionnaires
- Evidence from local councillors

After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not.

4.1 Remenham Specific Issues

It has been the express concern (over many years) of those living and operating in the Remenham area that the gradual increase in levels of visitors to the area as a result of events (with a variety of histories/traditions/commercial interests) has negatively impacted upon quality of life.

Key to this is the ability of the licensing authority to understand how these concerns translate into 'evidence' that can be effectively used in the consideration of a new CIP attached to the main Licensing Act 2003 policy.

5. Potential Risks Associated with Adopting 'Special' Policies' such as CIP's

When making licensing decisions such policies should never be used as a ground for revoking an existing licence when representations are received about problems with those premises. Licence applications should still be considered individually.

Councils should be wary of 'Quotas' i.e. restricting the number of licences based on just a geographical areas or the capacity of those premises. Guidance states that these quotas should not be imposed as "they have no regard to the individual characteristics of the premises concerned".

There is also an inherent problem with adopting such policies as it would be expected that such policies would be reviewed and may lead to future demands on the service to consider further public consultations.

6. Conclusion

Should the Licensing Committee believe that this issue requires more research and a full draft policy written there will be resource implications.

This is a technically complex piece of work and requires full public consultation. The costs associated with carrying out such a piece of work will require approval from the relevant Executive Member.

There is a genuine concern from residents of Remenham that the growth of events in their parish has deteriorated their quality of life and this has been expressed over a number of years.

7. Recommendation

The Licensing Committee commission an external review of evidence to support the adoption of a Cumulative Impact Policy for the parish of Remenham, subject to agreement from the Executive Member for Resident Services due to the financial implications.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	Estimated at £5k	No – the full amount would need to found from in year revenue budgets.	Revenue
Next Financial Year (Year 2)	Nil	N/A	
Following Financial Year (Year 3)	Nil	N/A	

Other financial information relevant to the Recommendation/Decision

There are financial implications to employ licensing and legal experts to progress the Cumulative Impact Policy.

Cross-Council Implications

There are no implications arising from the recommendations in this report.

List of Background Papers

Existing Licensing Act Policy

S182 Licensing Act Home Office Guidance

<https://www.gov.uk/government/uploads/.../182-Guidance2015.pdf>

Mr Dudley Chairman of Remenham Residents Association – Email to Licensing

Licensing and Appeals Committee Minutes 6 September 2010

Contact Julia O'Brien	Service Licensing
Telephone No 01635 519519	Email julia.obrien@westberks.gov.uk
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