

Agenda Item 17.

TITLE	CUMULATIVE IMPACT POLICY REVIEW
FOR CONSIDERATION BY	Licensing and Appeals Committee 21 November 2017
WARD	Non-specific
DIRECTOR	Josie Wragg, Interim Director of Environment

OUTCOME / BENEFITS TO THE COMMUNITY

This report sets out a summary of the work carried out so far in respect of consideration of a cumulative impact policy, including the current legal position and associated guidance. Should the committee decide to pursue this further as a part of the review of the Council's Statement of Licensing Policy (due to be reviewed and re-published by September 2018), the policy would be a tool to address cumulative impact of licensed premises particularly in the Remenham area.

RECOMMENDATION

Members are asked to consider whether to progress to a formal consultation process in respect of the adoption of a cumulative impact policy for (a) the parish of Remenham and/or (b) any other specific areas within the Borough.

SUMMARY OF REPORT

For a number of years now, concerns have been raised by residents of Remenham in respect of the increase in levels of visitors to the area as a result of events (with a variety of histories/traditions/commercial interests) that they consider has negatively impacted upon their quality of life.

This matter was most recently considered by this Committee in September 2016. At that time, it was resolved that there be an external review of evidence to support to adoption of a cumulative impact policy for Remenham, subject to the agreement of the Executive Member for Resident Services due to the financial implications. The Executive Member authorised the review subject to it being borough-wide. As an initial step, legal advice was obtained from Philip Kolvin QC in respect of the issues surrounding the events held in the Remenham area. Further research by officers into the Licensing Act and cumulative impact has been undertaken, and it is now considered that the policy would need to be site specific.

Key to cumulative impact is the ability of the licensing authority to evidence concerns. Informal consultation to gauge initial views in respect of the impact of events in Remenham, and Henley Royal Regatta has been carried out. The Council is due to review the Statement of Licensing Policy by September 2018 and the committee is asked to resolve whether a cumulative impact policy should be included in this relating to the Remenham area especially given the resource (staff and financial) implications that are associated with this.

Background

Licensing authorities can adopt a cumulative impact policy (CIP) 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, namely the prevention

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

Adoption of a CIP within an area has the effect that there will be a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

A special policy should never be absolute. Each application should be considered on its own merits and 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. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one or more of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

Special policies should never be used as a ground for revoking an existing licence or certificate when representations are received about problems with those premises. A review must relate specifically to individual premises.

Special policies can also not be used to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy and are strictly appropriate for the promotion of the licensing objectives.

Special policies must not impose quotas – based on either the number of premises or the capacity of those premises. Quotas that indirectly have the effect of predetermining the outcome of any application should not be used because they have no regard to the individual characteristics of the premises concerned.

CIPs are due to be put on a statutory footing as a result of section 141 of the Policing and Crime Act 2017 – this is not yet in force but likely to be so by April 2018. The change will be to add section 5A(1) to the Licensing Act as follows: *A licensing authority may publish a document (“a cumulative impact assessment”) stating that the licensing authority considers that the number of [premises licences or club premises certificates] in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority’s duty [to promote the licensing objectives] to grant any further [premises licences or club premises certificates] in respect of premises in that part or those parts.*

The cumulative impact assessment (CIA) must set out the evidence for the authority's opinion as set out in the assessment and may relate to all relevant authorisations **or** only to relevant authorisations of a kind described in the assessment (e.g. only alcohol, or only late night refreshment or only after certain time etc.) There would need to be a consultation, and the CIA would have to be reviewed every 3 years, and if there is a wish for it to continue there would need to be evidence to justify this.

Information which licensing authorities may be able to draw on to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives includes:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- 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;
- evidence obtained through local consultation;
- evidence obtained from a specific study to assess the position.

The absence of a special policy does not prevent any responsible authority or other person making representations on an application for the grant or variation 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.

Given that the key to cumulative impact is the ability of the licensing authority to evidence concerns, informal consultation to gauge initial views in respect of the impact of events in Remenham, and Henley Royal Regatta in particular, has been carried out with the following results:

1. Thames Valley Police Operations: No response received at time of writing report, but hopefully data will be available for review by Committee
2. Thames Valley Police Licensing Officer: In 2015, there was an issue with overcrowding at one of the venues, but this was resolved and alterations made to prevent the same thing happening again. In 2017, other than a few minor skirmishes all of which were dealt with by the onsite security, there has been nothing of such a nature that they would deem any action such as review of any premises licences to be necessary.
3. SCAS/Hospitals: No response received at time of writing report, but hopefully data will be available for review by Committee
4. Highway Authority: Complaints about litter associated with the Regatta are not specifically recorded, but the team who would receive these has indicated that as an average over the last five years they have not received more than 2 complaints per annum. There were two slight personal injury accidents in 2015 and 2016, neither of which were directly attributable to the traffic management used during the event but were linked to the error of the person involved. This information suggests a good safety record during the event.
5. Environmental Health: Two complaints about music noise (both reference Mahiki Henley) were received in 2015. One complaint received about music noise from The Angel on the Bridge in 2016. No complaints at all were received in 2017.
6. Parish Council/Ward Member: Between May and September each year, Remenham is subject to impact and nuisance from a variety of events which run consecutively and in some cases concurrently. The area is rural and two very

narrow country lanes are totally unsuitable for the huge volumes of traffic, including commercial vehicles which service the needs of those attending the events. Whilst Remenham is generally welcoming to events, it is the view of the parish council, ward members and residents that a cumulative impact policy would be appropriate to allow the Licensing Authority the opportunity to take these factors into consideration should any new applications be received for licences in this area.

Analysis of Issues

It is a matter for the Committee to decide if the initial evidence is sufficient that they believe it is appropriate to continue to a full consultation in respect of a cumulative impact policy specifically for Remenham and/or any other specific areas in the Wokingham Borough.

Should the Licensing Committee resolve to progress a cumulative impact policy for the Remenham area, as set out above, more research would need to be undertaken. This will have resource implications for the shared service, due to the full public consultation required and the assessment of any responses received to that consultation. A draft policy would be required to be in place ready for review by the Committee in March 2018 and this would form part of the Council's wider Statement of Licensing Policy. This may require additional resource, including legal advice, to be brought in to assist the process. However, carrying out the consultation is not in itself a concern, as officers believe this can be done as part of the required consultation on the review of Statement of Licensing Policy.

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)	Resource will be required in order to carry out and consider the results of the public consultation	N- approx £5000 may be required for legal advice and £1000 in additional resource to carry out any further work required	R
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

There is no specific resource to develop the policy and resources would need to be redirected from other areas

Cross-Council Implications

Other services within PPP may need to be reduced for funding and resource to be allocated to the work to progress a cumulative licensing policy for Remenham.

List of Background Papers

Statement of Licensing Policy

Secretary of State Guidance to Licensing Act issued under s182

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