



**REMENHAM PARISH  
COUNCIL**



Laura Driscoll  
Licensing Authority  
Wokingham Borough Council  
Civic Offices  
Shute End  
Wokingham  
RG40 1BN

6<sup>th</sup> June 2018

Dear Laura,

**Consultation on the statement of Licensing Policy**

1. We have been asked to review and provide advice on the Statement of Licensing Policy for Wokingham Borough Council (WBC) for the purposes of contributing to the consultation by that WBC prior to its statutory review of its policy.
2. There are particular issues experienced by Remenham Parish in its unique location as the venue for a wide variety of outdoor events, focussed upon river activities, and largely as a result of their proximity with the better-known Henley-on-Thames. These activities have predominantly grown up over the last thirty years, and the Licensing Authority have struggled to update their licensing policy to take into account the impacts of these proliferating events in some parts of the Borough.
3. The current Statement of Licensing Policy is very thin, and less comprehensive than one would expect to see especially when parts of the Borough have urgent, bespoke and specific issues with proliferating events. This is a good opportunity for WBC to review their policy and improve it considerably in a general sense, and to deal with some of the specific problems that Remenham Parish Council have been highlighting. We note that the Council is open to introducing a Cumulative Impact Policy, and it seems to us that this would be an entirely suitable measure for Remenham. We deal with this in more detail below.

4. Residents would like to see a number of other interventions to control the clear impacts to which current licensed events are contributing. These include:

- Restrictions on the grant of new licences, and/or the times at which new licences are permitted, so that events are not more numerous;
- Placing existing events and licences under continuous review and the introduction of new policies and conditions to licences retrospectively;
- Compulsory Safety Advisory Group (SAG) meetings between licensees, parish council, ward councillors and responsible authorities at least annually but more frequent for larger events;
- Attention paid to the control of set up and break down of events, which may not be included within the terms of the premises licence, with a particular emphasis on traffic control;
- Noise monitoring with transparent disclosure of readings and measurements;
- Traffic management coordinated by the licensing authority but paid for by licensees and event holders;
- Event policing paid for by licensees and event holders;
- Event public toilets provided by licensees and event holders;
- Litter collection arranged by licensees and event holders;
- “Collateral damage and costs” paid for by licensees and event holders;
- Events to be held only on the condition that they are of no detriment to residents and only of benefit;
- Limitation on planning authorisations including prohibition of certificates of lawfulness.

Some of these aspirations are possible, and some are not. We will set out suggestions of what the Statement of Licensing Policy could achieve in itself, and what other alternative measures could achieve as well.

5. Limitations imposed upon new grants and variations of licences is certainly an achievable aspiration. This could include restrictions on when events may be held; appropriate phasing or spacing of events, and controls over set up and break-down. Licences can be granted for time limited periods, and it is a matter for the licensing authority to decide when the event can begin, and when it ends. This can be done on the basis of a time limited permanent premises licence (which would not need renewing), or on the basis of grants of temporary licences, which lapse once the event has concluded. The benefits of either approach would need to be considered on a case by case basis. The set up and break down element of the event can be included in the terms of the licence. There is no need to restrict the terms of the licence to the actual licensable activities themselves. It is perfectly common

to include terms and conditions in licences relating to things like deliveries, waste collection and litter picking, which need not necessarily take place at the same time as licensable activities are ongoing. There is case law that confirms that control by licence conditions is not restricted to areas within the licence red line, so for example, a condition could introduce a traffic policy that requires steps to be taken on an area outside the boundaries of the licensed event area. There is also case law that confirms that controls introduced by licence conditions are not restricted to licensable activities themselves. It is perfectly proper for example to introduce controls over drugs searches, smoking areas or talking in a beer garden, none of which are licensable activities.

6. Statements of Licensing Policy should be visionary and aspirational documents, meaning that they should set out a vision and a statement of intent as to the type of licensed economy the licensing authority wishes to see for its area, and the way in which that economy should relate to local businesses and residents. This should be in the nature of a mission statement, setting out the expectation that the licensing authority has for a harmonious relationship. This may be aspirational but it is a good place to start.

7. Many statements of licensing policy set out in much more detail than the WBC policy the mechanics of the licensing system and the procedure that will be followed. This is not strictly necessary, but it can ensure that applicants follow best practice. At least, if the licensing authority does not wish to set these matters out in their own policy, they could sign-post applicants as to where they should look for further relevant information on making applications.

8. There should be a description of the nature of the area that the licensing authority covers. This should appear in the statement of licensing policy generally, but the policy should require applicant to address this particularly in every application. This is dealt with in some detail in the Secretary of State's S182 Guidance ( updated April 2018):

**“Steps to promote the licensing objectives**

8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also

expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:

- the Crime Mapping website;
- Neighbourhood Statistics websites;
- websites or publications by local responsible authorities;
- websites or publications by local voluntary schemes and initiatives; and
- on-line mapping tools.

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.”

9. We do not think that these are matters that the current Wokingham Policy addresses or achieves, and this needs improvement in the next iteration. It is always important for an applicant to recognise the nature of the locality into which they are applying to operate, and to reflect the particular risks and needs of that locality in their operating schedule. The applicant should provide this information and the licensing authority should look for it in an application. This exercise forces applicants to focus upon obvious impacts that already exist from current licences, and the additional effects that their licence may have, rather than being permitted to ignore it.

10. The Council’s statement of licensing policy should set out clearly what their expectations are in relation to events through the summer months. It is for the Council licensing department to monitor how many licences they have granted, and when the licences operate, and to coordinate those with any new applications that come in, for new grants or variation, but a statement of licensing policy could make it plain that the Council expects applicants to do this too, and for the policy to set out the required spacing between events, so that applicants have to try to identify a suitable “slot” for their application rather than simply applying for what they like and having their application considered on its own terms. As with all policies, provision must be made for making exceptions to the requirement, but there is nothing wrong with setting out the baseline expectation.

11. Examples of what the statement of licensing policy should require of an application and an operating schedule include:

- a clear description of the licensed proposal - exactly what it entails, how it will operate and its style
- a clear description of the nature of the locality in which the proposed event is to be situated and the sensitivities and the nature of the particular site itself and its constraints and opportunities
- any specific policies that are identified as being applicable from the s182 Guidance or the statement of licensing policy and how the applicant proposes to address them
- the dates of commencement and termination of the event, including set up and break down and the justification for these and any particular impacts to which they might give rise when considered cumulatively with other events in the area, including traffic impacts
- the times of the event operation and a justification for them – including dispersal policies and last drinking up hours and the wind down / cool down period
- details of accessibility or other special measures for disabled people
- coordination with any local groups, such as Ward Councillors, Parish Council, Residents' Associations, Wildlife groups, Pub watch, Radio Link, any other schemes that apply. If there are no such groups, the licensing authority may wish to consider establishing them. It is less advisable to make membership of such a group a condition on the licence, but a licensee should certainly be required to acknowledge local groups for themselves.

12. These issues might be regarded as the general “landscape” for a licence application in this area. It is then standard for statements of licensing policy to set out clearly the range of specific issues that they expect to see addressed in an individual licence application. An example of how this is often approached would be along the lines of:

“The Licensing Authority will require applicants to detail in their operating schedule the steps/measures proposed to ensure the prevention of / deterrence of ...”

and then to set out those matters. This can be done on a section by section basis, to describe the nature of the impact of concern in more detail, or as a list. Different statements of policy take different approaches, and there is no single correct way of doing it, as long as it is clear.

13. This is of particular importance for a licensing authority such as Wokingham, where the impacts of premises licences are very particular, and bespoke to the nature of the area. It ought to be particularly easy to identify the types of impacts to which those licences give rise.

14. Typical lists will include the deterrence and prevention of:

- Excessive alcohol consumption.
- Crime and disorderly behaviour.

Local Authorities should have local crime prevention strategies, and will usually receive input from the local Crime and Disorder Reduction Partnership. It is appropriate for the statement of licensing policy to make reference to these structures, and seek the compliance of premises licence conditions with those protocols, where suitable.

- Use of glassware and consideration of the use of safer alternatives. Prevention of people wandering around with glassware, bottles or open containers and keeping these controlled within the licensed area, from litter, public safety (broken glass) and prevention of crime ( use as a weapon) point of view.
- Noise break out – from people and music, including noisy dispersal at the end of an evening, or event.
- Addressing public nuisance, including the provision of phone numbers / contact details for the event organiser for local residents to contact in the event of a problem.
- Control of traffic impacts.
- Control and collection of litter.
- Public safety with particular reference to physical safety.

Physical safety does not relate to health per se, but there are numerous potential impacts on public safety from the types of licenses that those instructing are describing. Typical examples would be taking all steps to prevent people from falling into water after consuming alcohol. Those instructing mentioned in one of the documents that I have seen that local traffic impacts could have a detrimental effect on health and safety. The public safety objective in the Licensing Act 2003 relates to matters that arise directly from the licensable activities or from the licensed premises themselves. Impacts resulting from traffic bringing people to those events would be regarded as too remote to be judged as a breach of a licensing objective. Typically, licensees must be able to have direct control over an impact in order for a licensing authority to be able to control it by way of a condition or a step on a licence, and licensees have no control over the way vehicles are driven on the public highway.

- Protection of children.

Applicants should be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and the licensable activities for which a licence is being sought. This should have a particular emphasis on the prevention of underage drinking.

- Prevention of drug use, and policies for the safe retention of drugs seized and passing information to the police.
- Access for emergency services.
- Training.

One of the important controls over the operation of a premises licence is the competence of the staff who are managing it. This can be improved by quality training of those staff, in relation to the types of impacts to which their operation could give rise, and the measures that they ought to take to avoid them. It is important, therefore, to ensure that licences always contain a condition addressing the training that staff will receive. It is usually appropriate for a licensee to offer a set of policies, addressing all the different types of impacts that might be expected from the operation of the licence. Often, there will be too many different points to wish to make a condition out of each of them, and it is usually appropriate for a licensee to offer a condition that the various policies will be adhered to, unless any policy requires amendment, by agreement with the Licensing Authority. This provides control, but also a level of flexibility, if circumstances change and policy needs updating.

- Control on numbers of patrons generally, and perhaps limiting numbers of patrons in particular areas.
- Location of smoking areas and limits on numbers using the area or hours of usage.
- Restrictions on outdoor music, or the introduction of noise limiters, or acoustic baffles or other noise restriction measures. There is much that can be done to reduce noise impacts, although the more sophisticated the noise attenuation, usually the more expensive it is, but that is an issue for the licensee. The more noise impact to which the licensee wishes to give rise, and the more profit they are likely to make from their activities, the more investment they should make in reducing the impact on their neighbours. The licensing authority should be cognisant of this. With the right technology in place, it is possible to cancel out the loudest music within metres of its output, but these can be expensive processes. The licensing authority ought to be aware of the technical possibilities, however, and should rely on their professional Environmental Health officers to keep them informed as to what all the options are. It is not usually appropriate to impose conditions directly requiring high expenditure by

the licensee, but it can be appropriate to require specific mitigation of noise output, even to the extent of imposing noise levels, to be achieved by any method that the licensee wishes to introduce, as long as it achieves the right result.

- Routes for patrons' arrival and dispersal, whether by road vehicle, including public transport, or on foot. The licensee can usefully provide information to proposed patrons as to how to travel to and from the event effectively, and where to park, where to pick up public transport and so on, and this can dovetail with SAG protocols for traffic management and other issues. The Council and the responsible authorities need to provide the leadership and the coordination, particularly with an overview of traffic management, and any knock-on effects for public transport, including taxi provision and protocols with local companies, to avoid disturbance. The licensee needs to provide the information to the responsible authorities in their applications, relating to their particular event, and then disseminate information to their visitors. They too can enter into protocols with taxi providers. Parking provision may be on the event site itself, and will then be the responsibility of the licensee. These people movements will include the movement of staff and organisers beyond the hours of the event itself, which should also be taken into account.
- Queue control, and entry policies. This may include search policies, to prevent offensive weapons, drugs, alcohol and other items being brought into the event.
- Waste disposal, and storage, waste collection hours, bottling out and any noise arising from these activities.
- Deliveries of supplies, and any traffic impacts or noise impacts arising.
- Lighting, particularly external lighting and light pollution.
- Fumes and odours from cooking and other sources.
- Advertising and promotions, including additional litter from flyers and similar.
- Obstruction from facilities on public rights of way. The licensing authority and the applicant should bear in mind that the provision of facilities (including tables, chairs, barriers etc.) on the public highway will require a separate permission in accordance with the Highways Act 1980.
- Entry policies and last entry policies, and deployment of security staff or patrolling staff. These are all matters that can be dealt with in a policy.
- Deployment of security staff, or patrolling staff to maintain an appropriate level of control at premises and at events.

15. All of these factors should be addressed, as appropriate in applications and, as appropriate, built into the premises licences themselves, so that there is an element of accountability and enforceability placed upon the premises licensees, and that they are in breach of conditions if these issues go wrong. It is a good idea for the statement of licensing policy to set out examples of the steps it would expect to see in an application to deal with these impacts

16. This statement of licensing policy should draw much more prominently to attention the issues and impacts facing residents as a result of the grant of premises licences. The licensing authority is in the best position to know what these impacts are. Undoubtedly, those instructing have drawn these impacts clearly to attention on numerous occasions, but in making this consultation response, it would be a good idea to draw up a clear list, once again, of all the impacts that the residents experience as a result of the operation of premises licences at events, and in the area generally. These impacts and concerns should be clearly reflected in the statement of licensing policy to draw to the attention of applicants the types of problems that they should be expressly seeking to avoid in their operating schedules. It may all appear rather obvious, but to have it spelt out in the licensing policy not only ensures that no issue is inadvertently missed, but it calls applicants to account, as the licensing officer and licensing committee can use it as a check list against applications, to ensure that there is a proposal on the operating schedule in place to deal with each different type of impact. Application which are submitted in conflict with policy should be scrutinised with great care, and rejected if they are consequently unacceptable.

17. The licensing policy can also go so far as to suggest the types of steps that the licensing authority would expect to see on the licence to deal with particular types of impacts. Some statements of licensing policy include model conditions, (which is less advisable, as the wording is unlikely to be universally appropriate, and may lead to a lack of flexibility on the part of the applicant and the committee). What is preferable is to include options for steps to deal with certain circumstances, such as dispersal policies, security staff, body worn cameras to deal with disorder; litter picking and sufficient waste disposal provision for litter; restriction on hours, particularly for drinking in outdoor areas, and an overall cap on licensable hours, and so on. These may provide ideas and options for applicants who might not otherwise have thought of them.

18. There is also a wealth of guidance available on the safe running of events, particularly larger outdoor events, and it would be a good idea for the statement of licensing policy to reference this guidance and to provide information about where applicants can find it. Some examples are the Event Safety Guide— a guide to health, safety and welfare at music and similar events (HSE 1999) (The Purple Book) ISBN 0 7176 2453 9; Managing Crowds Safely (HSE 2000) ISBN 07176 1834 7; Steps to Risk

Assessment: Case Studies (HSE 1998) ISBN 07176 15804; ( all by the Health and Safety Executive); Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained via [www.streetartnetwork.org/pages/publications](http://www.streetartnetwork.org/pages/publications), and more.

19. The statement of licensing policy should identify, support the establishment of and require the involvement of Safety Advisory Groups ( SAGs). SAGs are a standard way of monitoring large event and particularly outdoor events, and they will typically be comprised of parish councillors, ward members, officers from the responsible authorities ( Police; Environmental Protection; Fire Authority; Transport and Highways officers, and more), licensees and event holders. The advantage of having a well-established SAG with consistent professional membership is that it can monitor the operation and the future proposals for all the licences and can pick up deficiencies in any operating schedule when compared to other operating schedules, and can highlight and disseminate best practice, that could be built into the various policies that each licensed operator should have adopted. SAGs can liaise with existing licensees – perhaps by way of the imposition of a condition on their licence that they will attend SAG meetings as and when required. SAGs ought also to scrutinise, cumulatively any new licence applications (if the timetables for their meetings allow), and can recommend coordinated conditions with which all the relevant responsible authorities agree.

20. Another common intervention seen for licences which hold ad hoc events is to impose a condition on the licence, requiring the submission of a Risk Assessment, (usually to the Police, the licensing authority as a responsible authority, the parish council and ward members), for the particular event in advance of it happening. This can provide a slightly lighter touch, but still a bespoke control on an event by event basis, even if a permanent premises licence has been granted. This can be an alternative to granting a temporary or time limited licence. The condition could require that the licensee submits a “once for all” event management plan which shall be approved by the licensing authority / Police (or whomever else), and only amended thereafter with written approval, or it could require that the licensee shall submit a risk assessment on a case by case basis for each event that is held. Such assessments can include precisely where different licensable activities take place on site; a limit on people in individual areas if necessary; all the requirements for monitoring, by security staff or other staff, for noise or disorder; facilities for parking or traffic movement, and all other relevant factors. If any element of this more extensive event management plan is not adhered to, that would be a breach of the generic condition, and an offence under s136 of the Licensing Act 2003.

21. Some particular issues appear to be individual to the licences granted in Remenham include factors such as setting up and breaking down the event, days before it starts and after it concludes,

which include the individual small licensees offering their own licensed services. This extends the impact of the event beyond its period for licensable activities, but this does not mean that conditions cannot be imposed on licences to control these factors. Licences do not only control licensable activities alone, and they do not only control the hours at which licensable activities take place. For example, smoking cigarettes, and disposing of waste bottles are not licensable activities, and they may not take place at the same time as licensable activities, but no one would suggest that they are not the proper subjects for control on a licence. It seems to us that this a very fruitful area for additional guidance in the statement licensing policy as to how licensees should approach set up and break down, and over what period. It seems to me that this period could be curtailed in many cases, to reduce the impact on residents. Those instructing have particularly mentioned that there is, in many cases, no traffic control during set up and break down periods, as opposed the relatively well managed traffic during the event itself. There is no reason why this could not be extended, and this expectation for operating schedules could be set out clearly in the statement of licensing policy.

22. It must be borne in mind that licensing steps, imposed by a licensing authority through the medium of a licence must relate strictly to licensable activities and the four licensing objectives. This means that controls can only be imposed upon matters which are within the direct control of the licensee and that can be said to be arising as a direct result of licensable activities. This is not necessarily a black and white issue, and there can be grey areas as to whether an impact is within the control of the licensee or happening as a result of his/her activities or not. But generally speaking, the more remote the impact, in time or distance, from the licensed premises and the licensable activity, the less likely it is that the licensee can be held responsible through the medium of a premises licence. There are proposals to make licensees pay for highway changes or traffic impacts. The licensees are not responsible for all of the highway impacts in Remenham, and all the “commuter rat-running”, even during event season, and it would not be appropriate to try to make them pay for these more remote impacts. Nor is it possible to try to “pool” contributions from licensees, so that each of them pays something towards a global traffic problem. The licensing regime can only deal with specific impacts arising from a specific event. This is something that is better achieved through the planning process, through examination of whether agricultural land whose principle use is for the purposes of holding events should not be subject to business rates and contributions to the general impacts to which they are giving rise, but licensing operates in a different way. It is not usual, and rarely appropriate to impose a condition upon a licence which requires a payment or contribution of money towards any cause, or to implement infrastructure on site or elsewhere, and this is not least because of any disputes about proper calculation of the sum, but also because conditions are intended to be the ongoing daily controls over a premises licence, in force in perpetuity, and more rarely for a one-off

action. Conditions are better phrased by identifying impacts (directly arising from the licence); requiring them to be abated by the applicant and then leaving the means of achieving it to the licensee.

23. In a similar way, it is not appropriate to require licensees to contribute towards general costs to the public purse such as policing. The licensee could only be required to pay for policing that arose as a direct result of their operations, and that would be almost impossible to calculate. It would also turn the Police into a form of security for those premises individually, which compromises their independence, and it is not appropriate.

24. Public toilets could be required on the licence to cater for the specific event authorised by the licence and for their visitors, but not as a public convenience generally, for the same reasons, and the same is true for things such as litter collection. Often, a licensee will collect more litter than their event has given rise to, as a gesture of good will, but they cannot be made to do so, nor to contribute to litter collection generally.

25. Current licences could also be altered to add extra controls over the issues identified above, even though they have already been granted; this is possible in a number of ways. If particular impacts have been identified that current licences do not address, but could, the licensing authority could invite current licensees to submit a minor variation, to voluntarily amend their own licence to add the extra suitable controls that are ( hopefully) set out in the new statement of licensing policy. The “stick” to encourage licensees to go to that trouble would be that the licensing authority, or some other responsible authority - or indeed, the residents themselves – would be likely to bring a licence review to add the changes on to the licence against the licensee’s will, which would be more heavy handed.

26. It would be ideal to see various amendments to the new statement of licensing policy, introducing a range of additional potential controls over licences, and then for the licensing authority to invite existing licensees to address their licences for themselves to bring them in line with the new guidance and policies. There is nothing, however, to stop the licensing authority or any responsible authority or any other person from seeking a review to add new conditions on, if they are thought “appropriate” (that is the test), even though the licensee has not done anything “wrong” as such, nor breached any of their conditions to date. Licensing reviews are not punishments for wrongdoing, they are the mechanism for ensuring that premises licences are always effective to promote the licensing objectives. If the statement of licensing policy and other guidance have improved and added new controls since the licence was granted, then it is entirely appropriate to invite the licensee to improve

their own licence voluntarily, or have the improvements imposed upon them by review if not. This is something that the residents can initiate for themselves in suitable cases, and I would be happy to discuss this further.

#### Cumulative Impact

27. This would be a suitable policy for the licensing authority to introduce. The residents and Parish very much support this. It does, as has been identified, only relate to new premises licences, or variations of existing premises licences, but it does represent a control over proliferation, and it provides an additional ground for the licensing authority to refuse a new event, even though there is nothing objectionable about the event in and of itself, only the fact that it will add to the current saturation of events.

28. The Council does not have an unfettered discretion to grant or refuse licences, but must only do so in accordance with the law. The Council has, indeed, a duty to grant a premises licence if there are no representations against it, and a policy framed in the above terms would not be lawful. This is why a special policy (cumulative impact policy) can be useful, as an additional power for the Council to say “no”, in the right circumstances.

29. As it happens, cumulative impact is always an issue, whether there is a special policy in place or not; (*Luminar Leisure Ltd v Wakefield Magistrates' Court, Brooke Leisure Limited, Classic Properties Limited, Wakefield Metropolitan District Council* [2008] EWHC 1002 (Admin) and the s182 Guidance). This is a good opportunity for the licensing authority to introduce a policy formally into their statement of licensing policy however. This would now be under the terms of the recent Policing and Crime Act 2017 (which I set out in Appendix A to this Advice.)

30. The introduction of the statutory cumulative impact policy in April 2018 was as a result of the Home Office’s Modern Crime Prevention Strategy, published in March 2016, which included a range of measures on preventing alcohol-related crime and disorder, including a commitment to put Cumulative Impact “*on a statutory footing, to strengthen the ability of authorities to control the availability of alcohol and reduce alcohol-related crime and disorder, as well as providing industry with greater clarity about how they can be used*”.

31. Cumulative Impact policies do provide local authorities with greater control, and we believe that Remenham would benefit from the introduction of such a policy. It would not have an impact on current licences, but it does mean that if any current event lapsed, and the licence was surrendered or ended for some reason, it would not be possible simply to get a replacement.

## Other Issues

32. The Licensing policy should set out expectations for their responses to future premises licence applications (or TENs).

33. Reviews of existing premises licenses, as indicated above, are not just appropriate where there has been a breach of the licence or a condition; they concern more generally the failure to promote the licensing objectives. This is something that could be discussed with the responsible authorities as well. It is certainly true that residents fare less well on their own in bringing a review if they do not have the support of at least one responsible authority. It is not impossible, however, as precedent shows.

34. All licenses issued should be readily available to all and published on the WBC website as they used to be. WBC should observe its own transparency code in this regard. The Licensing Authority is WBC notwithstanding it is operated as a joint service.

35. As mentioned previously, in 7.2 of the policy it should be specific as follows: -“The nuisances which the Council will seek to control are, amongst others:-

- Noise and vibration
- Light
- Odour
- Litter
- Anti-social behaviour
- Unreasonable disturbance from customers arriving and leaving premises
- Impact of customer parking
- disturbance caused by vendor/supplier/licensee ‘set up’ and ‘shut down’ activities”

36. The “Decision on whether a complaint is irrelevant, frivolous, vexatious etc.” should in all cases be referred to the full committee; officers should not make that decision. Complainants should have the opportunity to address the committee.

37. All issues in paragraph 12 Licensing decisions should be reported to the full committee and a ward member should be entitled to refer any decision to the committee rather than having it delegated to officers.

Yours sincerely,

John Halsall  
Chairman of Remenham Parish Council  
Ward member for Remenham, Wargrave and Ruscombe



## **Appendix A**

### **Policing and Crime Act 2017**

#### **141 Cumulative impact assessments**

(1)The Licensing Act 2003 is amended as follows.

(2)In section 5 (statement of licensing policy), after subsection (6C) insert—

“(6D)In determining or revising its policy, a licensing authority must have regard to any cumulative impact assessments published by it under section 5A.

(6E)A licensing statement must—

(a)summarise any cumulative impact assessments published by the licensing authority under section 5A, and

(b)explain how the licensing authority has discharged its duty under subsection (6D).”

(3)After section 5 insert—

#### **“5A Cumulative impact assessments**

(1)A licensing authority may publish a document (“a cumulative impact assessment”) stating that the licensing authority considers that the number of relevant authorisations 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 under section 4(1) to grant any further relevant authorisations in respect of premises in that part or those parts.

(2)A cumulative impact assessment must set out the evidence for the authority’s opinion as set out in the assessment in accordance with subsection [\(1\)](#).

(3)For the purposes of this section, “relevant authorisations” means—

(a)premises licences;

(b)club premises certificates.

(4)A cumulative impact assessment may relate to all relevant authorisations or only to relevant authorisations of a kind described in the assessment.

(5) Before publishing a cumulative impact assessment, the licensing authority must consult the persons mentioned in section 5(3).

(6) For the purposes of the consultation, the licensing authority must provide the persons mentioned in section 5(3) with the following information—

(a) the reasons why it is considering publishing a cumulative impact assessment;

(b) a general indication of the part or parts of its area which it is considering describing in the assessment;

(c) whether it considers that the assessment will relate to all relevant authorisations or only to relevant authorisations of a particular kind.

(7) Where a licensing authority publishes a cumulative impact assessment, it must, before the end of each relevant period, consider whether it remains of the opinion stated in the assessment.

(8) Before deciding whether it remains of that opinion, the licensing authority must consult the persons mentioned in section 5(3).

(9) If the licensing authority is no longer of that opinion—

(a) it must publish a statement to that effect, and

(b) the duties in section 5(6D) and (6E) and subsection [\(7\)](#) of this section cease to apply in relation to the assessment.

(10) If the licensing authority remains of that opinion, it must revise the cumulative impact assessment so that it—

(a) includes a statement to that effect, and

(b) sets out the evidence as to why the authority remains of that opinion.

(11) A licensing authority must publish any revision of a cumulative impact assessment.

(12) In subsection (7), “relevant period” means the period of three years beginning with the publication of the cumulative impact assessment or a revision of the cumulative impact assessment.”