

LICENSING APPLICATIONS COMMITTEE MINUTES - 29 SEPTEMBER 2009

Present: Councillor Skeats (Chair);
Councillors Chowdhary, Edwards, Goodall, T Harris, P Jones (for Minute 4), Tickner and Willis.

RESOLVED ITEMS

2. MINUTES

The Minutes of the meetings held on 17 September 2008 and 20 May 2009 were confirmed as correct records and signed by the Chair.

3. EVENING ECONOMY DEVELOPMENT THROUGH ADOPTION OF A CUMULATIVE IMPACT POLICY

The Head of Environment and Consumer Services submitted a report to identify the potential benefits to the Borough, its residents and visitors, offered by the adoption of a Cumulative Impact Policy (CIP) and to allow the Committee to consider currently available evidence in connection with a CIP for the Borough and to decide whether to carry out a consultation in accordance with section 5(3) of the Licensing Act 2003.

The following appendices that had been attached to the report:

Appendix I	Plan showing proposed boundary of cumulative impact area for consultative purposes;
Appendix II A & B	Plan showing incidents of drunk and disorderly 6.00pm to 6.00am and 6.00am to 6.00pm;
Appendix II C & D	Plan showing incidents of criminal damage 6.00pm to 6.00am and 6.00am to 6.00pm;
Appendix II E & F	Plan showing incidents of serious violence 6.00pm to 6.00am and 6.00am to 6.00pm;
Appendix II G & H	Plan showing incidents of violence 6.00pm to 6.00am and 6.00am to 6.00pm;
Appendix III	Plan provided by the Ambulance Service showing assaults to which ambulances had been called.

The report explained that Cumulative Impact was the potential to impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. Cumulative Impact was not mentioned specifically in the Licensing Act 2003 but in chapter 13 of the Secretary of States Guidance information regarding the cumulative impact of a concentration of licensed premises was included.

Cumulative Impact policies were considered appropriate in areas where the number, type and density of premises selling alcohol for consumption on the premises were unusual and serious problems of nuisance and disorder might have been arising or had begun to arise outside or some distance from the licensed premises. While more flexible licensing hours might reduce the impact by allowing a more gradual dispersal of customers from premises, it was possible that the impact on surrounding

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areas of the behaviour of the customers of all premises taken together would be greater in these cases than the impact of individual premises.

The report stated that local authorities might, within their Licensing Policy Statements, adopt a special policy with respect to Cumulative Impact. A policy of this kind would create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that were likely to add to the existing cumulative impact, thereby increasing the levels of crime and disorder currently being experienced, would normally be refused. The ability of a local authority to adopt a CIP had significant positive benefits not found within other legislative powers and could allow statutory authorities to influence the development of the town for the benefit of all.

The report explained that it was important to note that licences for operations that were unable to demonstrate the necessary positive benefit to the town would only be refused following relevant representations, on the basis of cumulative impact, being made by a statutory authority or interested party. If a representation were made a hearing would need to occur in each case in order for the application to be properly considered and determined. If no representations were made then the licence would automatically be granted despite the fact that it might be within a cumulative impact area.

The inclusion of a CIP within a Licensing Policy Statement had to have an evidential basis and the existence of a CIP did not mean that the Council could not choose to depart from the policy if it saw fit to do so, and could give good reasons for doing so, and such a policy could not be used to revoke existing premises licences, even when they impacted negatively in cumulative impact terms, nor could it be used to deal with premises outside any boundary that might be set for a cumulative impact area.

The report set out the steps that had to be followed when considering whether to adopt a special policy within the statement of licensing policy and the people/bodies that had to be consulted in accordance with section 5(3) of the Licensing Act 2003. In assessing the need for a CIP the Department for Culture, Media and Sport guidance, that had been issued under the Licensing Act 2003, had advised that the private sector, local residents and community groups had an equally vital role to play in promoting the licensing objectives in partnership with public bodies. The Secretary of State had strongly recommended that licensing authorities formed licensing liaison groups and forums that would bring together all interested parties on a regular basis to monitor developments and propose possible solutions to any problems that might arise. The Secretary of State had recommended also that licensing authorities should hold 'well publicised' open meetings where local people and businesses could give their views on how well they felt the licensing objectives were being met. Although such groups had not been set up in the Borough there were a number of other forums that could fulfil similar roles such as Neighbourhood Action Groups (NAGs) and Safer Reading Forums.

The report stated that many local authorities across the country had adopted CIPs in order that they could positively shape the future development of their towns and

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cities and the council, in conjunction with other partners, was developing an updated cultural strategy. The adoption of a CIP would add to the tools available to shape and encourage appropriate development within the town centre.

William Donne, Silver Fox Licensing Consultants, was present at the meeting and addressed the Committee regarding his concerns about the adoption of a CIP including the impact it would have on independent and existing businesses. He also questioned the need for such a policy when there had been a reduction in crime and disorder in the town centre and stated that it would dissuade inward investment and applications to vary existing licenses.

Guy Douglas, Reading Business Improvement District (BID), was also present at the meeting and stated that the top priority in the town centre was taking specific steps to deal with alcohol related anti-social behaviour and changing the perception that people had of the town centre in the evening. The BID committee would hold a number of meetings about the adoption of a CIP and would inform the consultation of their findings if the Committee agreed that a consultation should take place.

If the consultation were to go ahead Sergeant Murray, Thames Valley Police, suggested that members of the Committee joined the police in the town centre in the early hours of a Sunday morning to witness at first hand the impact of the late night economy.

The Committee discussed the report and a number of points were raised including the following:

- The Committee discussed the setting of the boundary that a cumulative impact area might have and expressed concern about businesses locating just outside the area in order to avoid the impact of the CIP. However, it was acknowledged that if a large area was set then applications for premises licences outside of the area would be in predominantly residential areas and would therefore be unlikely to be granted;
- The end of the recession might see an increase in investment and the adoption of a CIP would give the Council the ability to influence that investment and develop a town centre with a more varied night time economy that would be more attractive to a wider range of people;
- If the consultation were to go ahead the authority would need to make sure that everyone, especially residents, had a chance to take part;
- The Committee recognised that the issue was not unique to Reading and was of national concern and was often one of perception.

Resolved -

- (1) That the opportunity to positively influence future evening economy/alcohol based entertainment activity in Reading existed through the ability to adopt a cumulative impact policy be noted;

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- (2) That whilst levels of crime and disorder in Reading were falling, the existence of concerns about levels of crime and disorder in the town centre associated with late night alcohol consumption be noted;
- (3) That available evidence detailing crime and disorder in the town centre, associated with late night alcohol consumption, showed that, although falling, crime and disorder remains at unacceptably high levels be noted;
- (4) That the possible boundary of a town centre Cumulative Impact Policy (CIP) in line with the original town centre street drinking restriction area, as detailed at Appendix I attached to the report, be noted;
- (5) That officers consult with the people/bodies specified in section 5(3) of the Licensing Act 2003 and a report be submitted to a future meeting of the Committee.

4. PROPOSAL TO DELEGATE ADDITIONAL POWERS TO THE HEAD OF ENVIRONMENT AND CONSUMER SERVICES FOR THE PROCESSING OF MINOR VARIATIONS OF PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

The Head of Environment and Consumer Services submitted a report that asked the Committee to consider delegating powers to the Head of Environment and Consumer Services for the processing of minor variations to premises licences and club premises certificates. Additional information relating to minor variations was attached to the report at Appendix I.

The report stated that currently premises wishing to vary a premises licence/club premises certificate had to apply for a full variation, other than when they were applying for a transfer of a premises licence/club premises certificate or a change of designated premises supervisor. Delegations permitted officers to determine applications if no relevant representations were received but if a relevant representation was received and not been resolved the application had to go before a Licensing Sub-Committee for determination.

The report explained that on 29 July 2009 the Government had introduced a new simplified variation procedure, to sit alongside the current procedure, that would permit holders of a premises licence or club premises certificates to apply for minor variations of licences using a simplified quicker process. The process had been designed to enable premises licence holders and club certificate holders to make small changes to their licences or certificates quickly and cheaply. Under the new minor variation process, when an application was received, if the authority was of the opinion that the proposals might impact adversely on the licensing objectives, it had to decide which of the statutory bodies, for example the police, needed to be consulted. The statutory bodies would then have 10 working days from the first day after the date that the application had been received in the council offices to respond. Unless the Licensing Section were able to notify the appropriate statutory bodies on the day of receipt of the application, the statutory bodies time for response would be eaten away. It was therefore in the interests of the applicant to

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ensure those statutory authorities that might have an interest in their proposals were well informed in advance of the submission of the application because, if the application was not approved, it was automatically deemed refused.

The report explained that the authority had a further five working days at the end of the 10 day period to make a decision. Should the authority fail to determine the application within that period it would be deemed to be rejected and the application fee of £89 would have to be returned in full.

In addition to the notification of appropriate statutory authorities the applicant would have to place a notice on the premises in public view detailing the minor variation application for 10 working days. Interested parties would then have 10 working days to make a representation.

The report stated that the very tight time scales for determining applications meant that it was important that the authority was able to deal with applications quickly and efficiently. This would necessitate officers being given delegated authority to deal with these minor variations and the Government had therefore recommended that decisions on minor variations should be delegated to licensing officers.

The report set out details of what minor variations could and could not be used for and details of what the authority had to take into account when considering a minor variation. In all cases the overall test was whether the proposed minor variation would impact adversely on any of the four licensing objectives. In the event that an application was made and an objection had been received, that could not be resolved through negotiation, officers would decide whether or not to refuse the application. In the event that an application was refused the applicant would have the opportunity to apply for a full variation that could then be considered by the Licensing Sub-Committee.

The Committee discussed the report and requested that Councillors be informed of applications for minor variations that were determined or refused by the Head of Environment and Consumer Services under delegated authority.

Resolved -

- (1) That the Head of Environment and Consumer Services, be authorised to:
 - (a) Determine applications for minor variations when representations had been received;
 - (b) Refuse applications where it was considered that a full variation was required;
- (2) That Councillors be informed of applications for minor variations that were determined or refused by the Head of Environment and Consumer Services under delegated authority.

(The meeting started at 6.03 pm and closed at 7.10 pm.)