

Cumulative Stress Area Policy

Motion against the introduction of the Policy

Bill Donne

The views contained in this report are my own, and not necessarily the views of other Premise Licence Holders in Reading Town Centre.

I personally believe that the implementation of the Licensing Act 2003 has been successful to date and is encouraged by reports of decreased levels of disorder associated in and around licensed premises. In fact, reported assaults have fallen by some 25% over the past five years.

I welcome this opportunity to provide comments on whether the Licensing Authority should consider adopting a special policy relating to 'cumulative impact' in relation to the area detailed in your letter. My main observations are as follows.

Background

Reading Borough Council have undertaken a consultation process to solicit views about the proposed introduction of a Cumulative Stress Policy within their Statement of Licensing Policy.

This policy, if adopted, introduces the concept of "presumptive rebuttal" which means that any application for the Grant of a new Premise Licence that is considered a vertical drinking establishment that appeals to the 18-25 year would be refused.

The consultation Letter states:

"For example, large venues concentrating on alcohol sales and little else, appealing to very limited age ranges would be unlikely to be granted licences, unless they could demonstrate that their operation would not result in an increase in crime and disorder and nuisance. Whereas, venues appealing to wide age ranges, offering more than simply a place to drink, that can demonstrate they would be safe and well run would be much more likely to be accepted."

Licence Applications-Current Process

The Licensing Act 2003 went live in November 2005. To apply for the Grant of a New Premise Licence the applicant would serve papers on the eight statutory authorities including the police. They would also be required to advertise their application on the external wall of the site and place an advertisement in the Public Notice section of the local newspaper.

The application is then subject to a 28 day consultation period during which the authorities and residents can make representations (objections).

If the police choose to make a representation requiring additional conditions to be placed on the licence to ensure sound management practices are in place to reduce the potential crime

and disorder incidents. Environmental Protection may place conditions on noise, Fire Brigade on fire etc.

If the applicant accepts these conditions then the representations are withdrawn and the licence is granted. The applicant (the businessman) incurs no more costs.

If not, then the matter goes before the Licensing Committee to decide. Substantial professional fees will be incurred by the applicant if he/she is represented. This could be in the region of £500 to £3,500. The Committee may grant the licence, refuse the application, or impose additional conditions.

The Statutory authorities already have significant powers under the LA Act 2003 to impose conditions that they consider necessary to promote the four licensing objectives.

If any parties are unhappy with the outcome they can appeal to the Magistrates Courts.

Cumulative Stress Area

I would query whether effectively extending the cumulative impact area to include the whole of the town centre within the IDR as proposed in this way is the right approach. I would ask whether such a large area is being proposed on the basis that the cumulative impact area may lead to new licences in the other areas which may contribute to a displacement of the problems.

It would appear that there is provision to extend this CIP to include Oxford Road and Wokingham Road which I understand the crime statistics has been under review.

Additional Areas

Under the Report by the Director of Environment:

5.3 Options Considered

5.3.1 There are few other mechanisms available to local authorities to control the establishment of new licensed premises that may contribute to the cumulative impact and crime and disorder levels in a particular area. At this stage it is not felt appropriate to look towards more draconian measures of control, such as alcohol disorder zones, however, a greater degree of control over the development of new licensed premises in an existing problem area would be extremely welcome for the future development of Reading.

5.3.2 If in the future, other areas where unacceptably high levels of crime and disorder associated with late night alcohol consumption are identified, further proposals for additional cumulative impact policy areas may follow

Brighton and Hove adopted a large stress area in the town centre, and have subsequently added two additional stress areas because of DISPLACEMENT.

Indeed if a CIP was introduced then it is foreseeable that Oxford Road, Wokingham Road and possibly Tilehurst could also be declared a 'SPECIAL STRESS AREA' and the CIP would apply.

Could such a situation be created again if the area is extended as proposed, leading to further requests for even larger cumulative impact areas ?

I maintain it was never the intention under the Licensing Act 2003 to have large cumulative impact areas but smaller focussed areas where numbers of licensed premises could effectively be controlled provided representations were upheld.

As the special policy relates specifically to the granting of licences in the area identified, effectively acting as a control on the numbers of licensed premises in that area, I would question the impact on crime levels as, with or without a special policy, applications would still have considered individually on their own merits.

As explained in the Guidance to the Licensing Act, adopting a cumulative impact policy allows for the refusal of new licences by the Licensing Authority whenever it receives relevant representations about the cumulative impact on the licensing objectives, which it concludes after hearing those representations should lead to refusal. In the absence of any representations, an application in the cumulative policy area must still be granted, as you point out in your letter.

Of course, if you have a CIP in place, the Statutory Authorities will make a representation against the application because it is the policy to do so, i.e. presumption of rebuttal. The authorities will do this in order that the matter may come before the Licensing Committee in order to allow the Committee to make the decision. Of course the Police for example, will make a representation and not withdraw it even if conditions are agreed with the applicant, because otherwise the application will not go before the Committee.

Now if the same application is made where a CIP is in place then even if conditions are agreed following a representation then the matter will still go before the Licensing Committee as that is the policy of presumptive rebuttal.

This means that any application for a vertical drinking establishment would have to go before the Committee with the associate legal fees incurred. Again, as there is a presumption of rebuttal, the matter would have to go on appeal to the Magistrates with the risk of the fees being in the region of £15,000 if the applicant lost the appeal.

In fact there are many cases in England and Wales where the Magistrates reversed the Licensing Committees decision and have granted the application.

So the policy is not a particularly effective tool as the larger Companies e.g. Luminar Leisure, JD Wetherspoons and Tesco's simply take the application to appeal.

The argument that the town becomes more attractive to restaurant operators because there is a CIP in place is unfounded. Indeed, in recent times we have seen the opening of LSQ2, Zero Degrees, Las Iguanas and Muse. All quality operations. There is speculation that Jamies Italian Diner and Cafe Rouge are seeking opportunities for sites in the town.

The absence of a CIP has not stunted their interest to open a site in Reading.

Existing Licences

The policy also affects existing Premise Licence holders if they wish to vary their licence to extend the size of their property and increase capacity. This is because it might add additional stress to the area. Indeed it might, but it might not.

As there is a presumption of rebuttal, their application MAY be caught up in this loop and have to go before the Licensing Committee and incur additional costs. They too, may have to appeal to the Magistrates Court.

Government Guidance-Section 182 of the LA 2003

Cumulative Impact – Police Explanation and Evidence

I believe that there has been a fundamental misunderstanding of what a special saturation policy can achieve. The police appear to be seeking a “control zone” in terms of their enforcement of central Reading.

As explained in paragraph 13.27 of the S.182 Guidance to the Licensing Act 2003, adopting a cumulative impact policy allows for the refusal of new licences by the Licensing Authority whenever it receives relevant representations about the cumulative impact on the licensing objectives, which it concludes after hearing those representations should lead to refusal. In the absence of any representations, an application in the cumulative policy area must still be granted.

I am of the view that the cumulative impact policy area proposed covers an unreasonably wide area. Having considered the police evidence, I do not find that it supports the need for such a broad cumulative impact policy area, not least since the documentation states quite clearly that PPVC’ offences are significantly lower than five years ago.

Overall offences have dropped by c.25% in Reading Town Centre. The concentration of premises on Friar Street, Station Road and Gun Street is such that any consideration of a special policy should be confined to this area.

I understand that the Council have considered the possibility of separate cumulative impact areas but have rejected this on the basis that the areas in between the current hotspots are affected.

While this may be true, including these areas in the cumulative impact policy area will have no impact on crime levels, since, as per my comments above, the special policy relates specifically to the granting of licences in the area identified and effectively acts as a control on the numbers of licensed premises in that area.

It is interesting to note, that only one licence premise has been taken to review on the basis of disorder in the past five years, and that review was dropped by the police.

Reading Borough Council is concerned about the reputation of the Town Centre as being perceived as a rough place to be at night. Of course, this is only a perception. The reality is that Reading town centre is a safer place than five years ago.

By introducing a Cumulative Impact Policy the Council would be stating that there is 'Stress' in the area that now requires a special policy to be introduced to control it.

I believe this initiative would further harm the unwarranted reputation of the town centre and not enhance it.

The CIP is only a Stick approach. There is no carrot under this policy to encourage inward investment. It simply adds costs to the applicant's application for professional fees.

The statutory authorities already have the power to impose conditions on the licence under the Act

I would recommend that the Licensing Committee do not vote in favour of the introduction of a CIP. I would urge reconsideration of the need for such a policy in view of the declining crime levels in Reading during the last five years.

In many towns and cities the Licensing Act is having a positive impact on crime levels, which with marked falls. Indeed many councils fail to see any merit in having a cumulative impact policy at all let alone extending it. Even where there is a policy some applicants have successfully argued that in the current economic climate new investment in the town centre is to be welcomed.

It is also not clear what style of operation would be categorised as a vertical drinking establishment, for example would a JD Wetherspoons Pub or a Slug and Lettuce fall into this category?

In the absence of further evidence I remained unconvinced that a cumulative impact policy would assist in any way and I could not support it at this stage. However if more detailed evidence is available I would welcome the opportunity to comment further.