

LICENSING COMMITTEE	AGENDA ITEM No.
19 November 2015	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor North, Cabinet Member for Communities and Environment Capital	
Contact Officer(s):	Terri Martin – Regulatory Officer - Licensing Peter Gell – Head of Regulatory Services Donna Hall – Public Protection Manager	Tel. 01733 453561 Tel. 01733 453419 Tel. 01733 453514

STATEMENT OF LICENSING POLICY - LICENSING ACT 2003

R E C O M M E N D A T I O N S
Members are asked to:
<ol style="list-style-type: none"> 1. Note the contents of the report and responses received to the consultation; 2. Determine if the current Cumulative Impact Area covering ‘Op-Can-Do’ should be retained; 3. Determine if sufficient evidence is available to implement a Cumulative Impact Area in East Ward; and 4. To recommend adoption of the final Statement of Licensing Policy (Appendix F) to Council on 17 December 2015.

1. ORIGIN OF REPORT

1.1 This report is as a result of the consultation carried out (between 6 July and 13 September 2015), on the councils Statement of Licensing Policy as recommended by the Licensing Committee on 18 June 2015 agenda item 7.

2. PURPOSE AND REASON FOR REPORT

2.1 To consider and note the contents of the report including the representations and evidence received following the public consultation of the review of the councils Statement of Licensing Policy.

2.2 The Licensing Committee under its Terms of Reference No. 2.4.1.1, recommends adoption to council on 17 December 2015, for it to consider under its Terms of Reference Part 3 Section 1.1.4 (I).

3. TIMESCALE

Is this a Major Policy?	YES	Date for Council meeting	17 December 2015
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4. BACKGROUND

4.1 Under Section 5 of the Licensing Act 2003 (The Act), it is a requirement for each council to produce adopt and publish a statement of licensing policy. The policy will govern the way decisions are made by the council and how it will administer it’s duties under the Act. Without a policy the council may be subject to Judicial Review for failing in its responsibilities to carry out a statutory duty.

APPENDICES TO THIS REPORT (OTHER THAN APPENDIX F) CAN BE VIEWED AT THE FOLLOWING LINK
<http://democracy.peterborough.gov.uk/ieListDocuments.aspx?CId=142&MId=3528&Ver=4>

4.2 The Act requires that the policy is kept under continual review to incorporate where necessary, any changes to legislation and or guidance as appropriate. In addition to this, the Act specifies that the policy must be reviewed every five years.

4.3 **General background – current licences**

Within Peterborough there are approximately 615 premises licensed under the Licensing Act 2003. Of these 615 there are approximately:

- 97 with a premises licence authorising consumption on the premises
- 183 with a premises licence authorising consumption off the premises
- 199 with a premises licence authorising consumption on and off the premises
- 136 where alcohol is not sold.

5. CONSULTATION

5.1 The most recent reviewed policy expires on 06 January 2016, therefore the policy was reviewed and updated with legislative amendments, and a consultation was carried out between 6 July and 13 September 2015, with those identified under section 5 (3) of the Act. Those being:

- the chief officer of police for the area
- the fire authority for the area
- the Director of Public Health
- representatives of holders of premises licenses
- representatives of holders of club premises certificates
- representatives of holders of personal licences
- representatives of businesses and residents

5.2 For information purposes a list of consultees is attached at **Appendix A**

5.3 The consultation document was also made available on the councils website, main council buildings, central library and was also advertised in the local newspaper on 2 July 2015, and is attached at **Appendix B**.

Responses to the Consultation

5.4 A total of eight responses were received during the consultation, as well as data from Public Health regarding alcohol specific hospital admissions and a Cumulative Impact Assessment Review report from the Communities Intelligence Hub.

5.5 Public Health have submitted data showing alcohol specific hospital admissions statistics for 2013/2014 and 2014/2015. The data shows statistics by practice name and comparison by year and average. This report data is attached at **Appendix C**

5.6 The Communities and Targeted Services Intelligence Hub have provided a Cumulative Impact Assessment review. This report provides an overview of licensed premises in Peterborough, information on the existing cumulative impact area in Op-Can-Do, the number of alcohol licensed premises by ward and an overview of alcohol related incidents and crimes broken down by ward areas. This report is attached at **Appendix D**

5.7 The consultation responses in full can be made available to committee members should they wish to view them. However, a summary of the comments received from the responses to the consultation with officer comments is attached at **Appendix E**

5.8 The policy has been revised with the proposed legislative updates as detailed in the consultation incorporated. Any changes made following responses received, are briefly detailed in the summary sheet and noted on the final revised draft which is attached at **Appendix F**.

5.9 A combined response was received from Dr Robin (Director of Public Health), Wendi Ogle-Welbourn (Director of People and Communities) Kate Parker (Public Health) and Cllr

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- 5.10 Members will note that four of the eight responses request for a cumulative impact policy in the Eastfield area. It is for members to determine if sufficient evidence exists to support this proposal.

Eastfield - Evidence, information and data available for consideration

- 5.11 East ward is approximately the same size as Dogsthorpe, Park, Central and North Wards combined. The ward incorporates Parnwell, Eastfield, Fengate, Flag Fen and Oxney Road Industrial Estate, therefore not as densely populated as the other wards. In the whole of East Ward there are currently 45 licensed premises, 39 of which sell alcohol. (In comparison there are 73 licensed premises in the existing CI area of Op-Can-Do of which 57 are licensed to sell alcohol). The highest concentration of licensed premises in one area is on Eastfield Road, where East Ward joins boundaries with Park and Central Ward, see **Appendix G**.
- 5.12 Within this area (of approximately 900 meters) there are eleven licensed premises, consisting of two on licences, five off licences, two on and off sales, and two where alcohol is not sold. See map at **Appendix H**.
- 5.13 The licensing database shows that there were twelve complaints regarding East Ward from 1/1/10 to 31/12/12, and eight complaints received from 1/1/13 to 19/10/15, an average of 3 per year.
- 5.14 The Public Health data shows that there are three main Doctor practices utilised by the population of East Ward. Of these three practices, one (North Street located in Central Ward) shows a higher than average rate of alcohol specific hospital admissions whilst the other two (Minster and Parnwell) have significantly low admission rates for 2014/2015.
- 5.15 The Cumulative Impact Assessment review document shows East Ward has the second highest number of alcohol licensed premises at 42. (The highest is Central ward with 139 alcohol licensed premises). It is the third highest (317) for alcohol related incidents in 2014 by Ward, but is on the decline over previous years, (overall change minus 42). (The first highest is Central (city centre) at 697 incidents and the second highest is Central North with 364 alcohol related incidents).
- 5.16 East Ward has received eleven new applications between 1/1/12 to 19/10/15. Of these eleven, ten applications were granted as no representations were received, and one was refused at committee (Express Booze Market, Star Road). Of the ten granted, six were new premises licensed (one LNR only, three off sales, one on and off sales, one hotel for on sales), one has now lapsed as the company was dissolved, three were for premises / areas previously licensed.
- 5.17 Eastfield Road has received two applications between 1/1/12 and 19/10/15, both for the same premises, 44 Eastfield Road. The first application was rejected as it was not advertised in accordance with the regulations and the second was withdrawn at committee.
- 5.18 **Safer Peterborough Partnership Comment**
Safer Peterborough Partnership are working within the area of Eastfield Road and are actively enforcing the Designated Public Protection Order (DPPO) that is in place in this area which includes Stanley Recreation Ground. A CI policy is used to control the number and types of licensed premises which are opened and already operating within a distinct area and in this case the number and type of premises in operation selling alcohol in the lower Eastfield Road is not sufficient enough to warrant the introduction or extension of a CI at this current time. The number of licensed premises in this area is unlikely to increase as there are no suitable premises to start operating from and the planning and licensing

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processes in place will be sufficient to control this should anybody make any applications. We are continuing to support community leaders and residents in helping to reduce alcohol related crime and ASB to improve the quality of life for those living, working and visiting this area of the city. A map of the current DPPO in Eastfield area is **attached at Appendix I**

5.19 Officer Comment

The Licensing Act 2003 provides a framework which encourages community involvement in licensing decisions by allowing local residents the opportunity to have their say regarding licensing applications which affect them. Of the eleven applications received in East Ward, ten were granted as no representations were received. It could be inferred that the general community in this area are in support of businesses which provide greater choice and flexibility to residents.

A cumulative impact policy can be adopted if sufficient evidence is available to substantiate that a significant number of licensed premises concentrated in an area (saturation) is having a negative impact on the promotion of the four objectives.

The only area which shows a concentration of licensed premises is Eastfield Road (Town end) having eleven licensed premises in approximately 900 meters.

To ensure that the council's CI policy is sufficiently robust to withstand scrutiny (when subjected to challenge and appeal), it must be evidence based. With the data and statistics available, it is officers opinion that the evidence is not compelling in favour of adopting a CI in East ward or Eastfield Road. Due to the makeup of premises in the locality it is not expected that there will be an increase in density.

Eastfield Road is one of the pedestrian arterial routes out of the city centre, once away from licensed premises, a minority of consumers will behave badly and unlawfully. Other mechanisms (other than the licensing regime), are better placed at addressing these issues, such as; enforcement of the existing DPPO, consider additional restrictions and introduce a PSPO (Public Spaces Protection Order), police enforcement of general law concerning disorder and ASB etc. For further examples please see section 11.16 of the revised statement of licensing policy (Attached at **Appendix F**).

Op-Can-Do Area - Evidence, information and data available for consideration

5.20 The Licensing Authority adopted a CI policy in Op-Can-Do in April 2013. The Act requires the policy to be reviewed regularly to assess whether it is needed any longer. It is for members to determine if sufficient evidence exists to retain the current cumulative impact policy in the area known as Op-Can-Do.

5.21 One consultation response from a residents group (MANERP) has requested that the current policy be retained. They state; *'that the 'Can-Do initiative has been robust but it still hasn't achieved the goals that it and its partners need to achieve. The Millfield and New England area alone has a phenomenal number of outlets selling alcohol (around the seventy plus mark) which has contributed significantly to anti-social behaviour in the area. The CIP will still prevent the proliferation of alcohol outlets in an already oversaturated inner city area of Peterborough.'*

The Public Health data provides evidence of ongoing alcohol related problems in the Lincoln Road area. Lincoln Road surgery has the highest rate of alcohol specific hospital admissions, which has increased by 43.8% between 2013/14 and 2014/15 (increase from 96 to 138).

The CI assessment review acknowledges that the Op-Can-Do area has a poorer quality of life, with multiple indices of deprivation. The area has 57 premises authorised to sell alcohol and another 16 licensed without alcohol, totalling 73 licensed premises in this area. The document shows that the area is still affected by alcohol related incidents and there is a clear relationship between locations of clusters of licensed premises and incident hotspots, but cannot attribute incidents to any particular premises. It notes a reduction in alcohol related incidents overall, however the amount of crime linked to alcohol remains at a level of consistency emanating from the current CI area, with a slightly higher rate of alcohol related violent crime in the area. NICE (National Institute for Health and Clinical Excellence) have concluded that reducing the number of outlets selling alcohol was an effective way to reduce alcohol- related harm.

5.22 Officer Comment

The CI assessment review provides information on applications up to December 2014, since then to date, there have been six applications in the CI area. Of these;

- One was granted by committee with imposed conditions and reduced hours (Rylas 489a Lincoln Road – April 2015)
- Two were granted following mediation with responsible authorities and regulatory officers, resulting in a resubmitted application with reduced hours and strict conditions (Efes 583 Lincoln Road - February 2015 and Shepherds Inn 10a Park Road - August 2015)
- One was rejected as it failed to meet the regulations regarding advertising the application (Tratona 24 Park Road - March 2015)
- One was withdrawn after receiving representations from residents (Take-Away 3 Langford Buildings - October 2015)
- One is yet to be determined (a resubmission for Tratona 24 Park Road)

The current CI policy in the Op-Can-Do area has only been in effect since April 2013. The Op-Can-Do initiative is a 10+ year programme aimed to develop, enable, implement, evidence and measure a transformational, whole-systems approach to improve the quality of life, outcomes and outlook of people living and working in the area. The area is still considered saturated (with 73 licensed premises), which is having a negative impact on the licensing objectives that cannot be attributed to individual premises. Having reviewed the data contained in the public health report and evidence provided in the CI assessment review and responses received during consultation, officers recommend retaining the current cumulative impact policy. This allows for a higher level of scrutiny by way of a committee hearing where representations to applications are made, to ensure premises do not further negatively impact on residents in the area. The result of which has led to ensuring only appropriate licences being granted, with effective conditions attached which promote the licensing objectives.

6. ANTICIPATED OUTCOMES

- 6.1 Recommendation to council to adopt the revised Statement of Licensing Policy as attached at Appendix F when it meets on 17 December 2015

7. REASONS FOR RECOMMENDATIONS

- 7.1 To comply with the statutory requirements regarding amendments to the statement of licensing policy.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 Retain the existing policy which expires January 2016 and be in breach of statutory requirements.

9. IMPLICATIONS**9.1 Corporate Resources**

Legal Services will be required to provide legal representation in the event of any appeals to the Magistrates Court against decisions of the council, prosecutions being instigated or enforcement action being undertaken by the Authority.

9.2 Cross Service Implications

The Licensing Act 2003 is far reaching and affects a number of different departments and as such a close working relationship will continue to be developed to ensure delivery of The Licensing Act 2003.

9.3 Community Implications

The Licensing Act 2003 and the Guidance issued under s.182 have a significant impact on the community both in terms of its protection and the furtherance of the provisions of entertainment and economic growth.

9.4 Resources

The Authority will continue to review the resources necessary to ensure the delivery of this statutory responsibility.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

Licensing Act 2003

Revised Guidance issued under Section 182 – March 2015

LGA Best Practice Framework for the review of Licensing Policy Statements Oct 2012