

LICENSING COMMITTEE	AGENDA ITEM No. 4
18 NOVEMBER 2020	PUBLIC REPORT <u>This report contains an exempt Appendix, not for publication, by virtue of Paragraph 1 and 2 of Schedule 12A of Part 1 of the Local Government Act 1972.</u>

Report of:	Peter Gell – Assistant Director Regulatory Services	
Cabinet Member(s) responsible:	Councillor Walsh, Cabinet member for Communities	
Contact Officer(s):	Terri Martin – Strategic Regulatory Officer – Licensing Gareth Brighton – Licensing and Business Manager Kerry Leishman – Head of Operations Environmental Health and Licensing	Tel. 453561 Tel. 864103 Tel. 453502

LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY AND CUMULATIVE IMPACT – REVIEW, CONSULTATION AND RESPONSES
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RECOMMENDATIONS	
FROM: Kerry Leishman – Head of Operations Environmental Health and Licensing	Deadline date: 09 December 2020
<p>The Licensing Committee is recommended to:</p> <ol style="list-style-type: none"> 1. Modify the current Cumulative Impact Policy (CIP) so that it is only applicable to applications (new and variation) which request 'Off Sales' of alcohol as part of the authorised activities, and revise and republish the Cumulative Impact Assessment (CIA) in line with this decision. 2. To recommend the adoption of the final Statement of Licensing Policy (Appendix X) to Full Council on 9 December 2020 	

1. ORIGIN OF REPORT

1.1 This report is as a result of the consultation carried out between 19 August 2020 to 14 October 2020, on the council's Statement of Licensing Policy, (including the Cumulative Impact Policy (CIP)) and consideration of responses received.

2. PURPOSE AND REASON FOR REPORT

2.1 To consider and note the contents of the report including due consideration of the responses and evidence received following the public consultation.

- 2.2 This report is for the Licensing Committee to consider under its Terms of Reference No. 2.5.2.7, whereby the licensing committee recommend its decision to full council for formal adoption under its Terms of Reference 1.1.4(e).

3 REASONS FOR EXEMPTION

There is an appendix attached to the report, which Members of the Committee will have access to and is NOT FOR PUBLICATION in accordance with paragraph 1 and 2 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contains information relating to an individual and information which is likely to reveal the identity of an individual. The public interest test has been applied to the information contained within the exempt appendix and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it.

4. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	YES	If yes, date for Cabinet meeting	N/A
Date for Full Council meeting	09 December 2020	Date for submission to Government Dept. <i>(Please specify which Government Dept.)</i>	N/A

5. BACKGROUND AND KEY ISSUES

- 5.1 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 its 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.
- 5.2 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, and cumulative impact policies and assessments, every three years.
- 5.3 The current Statement of Licensing Policy expires on 07 January 2021 and the cumulative impact policy and assessment was last reviewed and published in 2018.
- 5.4 **General Background – number of licenses**

Overall Licensed Premises information 2015, 2018 and 2020 (approximate):

Licensed premises type	Number in 2015	Number in 2018	Number in 2020
Alcohol Consumption on	97	83	86
Alcohol Consumption off	183	195	196
Alcohol Consumption on and off	199	194	186
No alcohol sold	136	99	50
Total	615	571	518

Licensed premises within the cumulative impact defined boundary (approximate):

Licensed premises type	Number in 2015	Number in 2018	Number in 2020
Alcohol Consumption on	12	14	18
Alcohol Consumption off	29	35	30
Alcohol Consumption on and off	16	24	19
No alcohol sold	16	27	18
Total	73	100	85

5.5 Summary of relevant applications in the cumulative impact defined boundary between 1 August 2018, (when the policy was last reviewed) to 26 October 2020.

- Noir Bar at 24b Lincoln Road applied for a new premises 'On' licence on 10/9/18, the police mediated with the applicant and appropriate conditions were agreed. As there were no other objections, the licence was granted in October 2018.
- Ponto De Amigos at 40 Russel Street applied for a new premises 'On' licence on 29/8/18, representations were received and the application was refused by the licensing sub-committee at a hearing on 22/11/18.
- International shop at 32 Dogsthorpe Road applied for a new premises 'Off' licence on 17/9/18, representations were received and the application was determined by the Licensing sub-committee at a hearing on 2/11/18. The application was granted with restrictions and the addition of extra conditions.
- Europoli supermarket at 282 Lincoln Road applied for a new premises 'Off' licence on 27/11/18, representations were received and the application was determined by the Licensing sub-committee at a hearing on 19/1/19. The application was granted with restrictions and the addition of extra conditions.
- Little Europe at 2 St Martins Street applied for a new premises 'Off' licence on 7/2/19, representations were received and the application was refused by the licensing sub-committee at a hearing on 4/4/19.
- Shepherds Inn at 10a Park Road applied for a new premises 'On' licence on 14/2/19, as no representations were received, the licence was granted on 18/3/19. (Prior licence lapsed)
- Eastern Delight at 35 Lincoln Road applied for a new premises licence for Late Night Refreshment on 8/5/19, as no representations were received, the licence was granted. (prior licence lapsed)
- Tavan Restaurant at 77 Lincoln road, applied for a new premises 'On and Off' licence on 13/9/19, as no representations were received, the licence was granted. (prior licence lapsed)
- Post Office Sports and Social Club at Bourges Boulevard, applied for a new premises 'On' licence (propriety Club) on 9/12/19, as no representations were received, the licence was granted. (prior CPC surrendered)
- A Tasca at 311-313 Lincoln Road, applied for a new premises 'On and Off' licence on 17/12/19, this application was rejected for failing to comply with the advertising requirements
- A Tasca at 311-313 Lincoln Road, applied for a new premises 'On' licence on 22/1/20, as no representations were received, the licence was granted.
- Arka at 11 Searjeant Street, applied for a new premises 'On' licence on 24/9/20, the application was rejected for failing to comply with the advertising requirements.
- Creations at 2 Burghley Road, applied for a new premises 'On' licence on 21/10/20, the application is subject to consultation until 18/11/20.

6. CONSULTATION

6.1 The Statement of Licensing Policy was reviewed and updated with legislative amendments, (red text indicating changes) and a consultation was carried out between 19 August 2020 to 14 October 2020, with those identified under Section 5(3) of the Act. Those being:

- The chief officer of the police for the area
- The fire and rescue 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

6.2 For information purposes, a list of consultees is attached at **Appendix A**.
For information purposes, the consultation document showing marked up changes in red text, is attached at **Appendix B**.

6.3 The consultation document was also made available on the council's website, notices were displayed at main council buildings and it was advertised in the local newspaper on 27 August 2020. The Public Notice is attached at **Appendix C**.

7. CONSULTATION RESPONSES

7.1 A total of 36 responses including a petition containing nearly 170 signatures were received in relation to the consultation, with most of the responses relating to the Operation Can-Do (Op-Can-Do) cumulative impact policy.

7.2 Four responses were from Responsible Authorities (RA's), nine (including the petition) were from other bodies or persons representing other bodies, and 23 were from individual 'other persons', e.g. residents.

7.3 The responses have been grouped below with pertinent information summarised. All relevant responses in full, are available on the relevant Appendix. It must be noted that some responses contain matters which relate to Gambling which has its own policy (Statement of Licensing Principles). Problems specific to gambling matters, cannot be considered in the determination of the Licensing Act policy. A response table providing officer comment is attached at **Appendix D**.

7.4 Responsible Authorities response summary:

Cambridgeshire Constabulary are in support of the revised Statement of Licensing Policy and continuance of the cumulative impact policy in the Op-Can-Do area. They have also provided an analytical data report, to support the position. The police response and data report are attached at **Appendix E**.

A response from the Safeguarding Children Partnership was received advising they were not the recognised body for such purposes. It has been agreed that the Director of Childrens Services is now the Responsible Authority to advise on matters relating to the protection of children from harm, and the policy has been undated accordingly. Email chain confirming this change is attached at **Appendix F**.

Peterborough City Council Planning Services response to the consultation, provides members of the Licensing Committee with an information update of recent changes to planning permission legislation, which particularly affects licensed premises. The planning services information response is attached at **Appendix G**.

The Director of Public Health responded to the consultation, supporting the continuance of the cumulative impact policy for the Op-Can-Do area. Stating that, it remains an area of deprivation and high alcohol outlet density which is negatively impacting on the objectives and the health and wellbeing of residents. The response is attached at **Appendix H**.

7.5 Responses from bodies or individuals representing bodies / individuals:

Peterborough City Council PES (Prevention and Enforcement Services) response contains statistics on the crime and incident data for the CI area. They support the continuance of the cumulative impact policy and advise that the PSPO (Public Spaces Protection Order) for Millfield, New England, Eastfield and Embankment, expired in August 2020, but is proposed for re-implementation by the end of this year. The response is attached at **Appendix I**.

Broadway Residents Association endorse the Statement of Licensing Policy, but report the problems alcohol abuse has on residents, occurs in areas other than Op-Can-Do. Street drinking and other anti-social behaviour occurs in Broadway, Stanley Recreation Ground etc. Proposes some minor amendments to the policy, and urges the renewal of the Millfield, New England, Eastfield and Embankment PSPO which covers Op-Can-Do and Broadway. The response is attached at **Appendix J**.

Paul Bristow MP for Peterborough is pleased that the cumulative impact policy was adopted in 2013 and supports its continuance. Is concerned that there is a perception that breaches of licensing conditions are not being enforced, residents need to be confident that when issues are reported, they are followed up. The response is attached at **Appendix K**.

The Vice chair of Community First raises concerns and details the problems and associated ASB the number of 'Off' licensed premises in the Op-Can-Do area is causing. The response is attached at **Appendix L**.

MANERP (Millfield And New England Regeneration Partnership) and Community First, who represent residents and businesses in the Op-Can-Do area, support the renewal of the cumulative impact policy for the Op-Can-Do area. They detail how residents and businesses are still being negatively affected by the large concentration of 'Off' licensed premises. The response is attached at **Appendix M**.

Cllr Ansar Ali submitted two responses, one endorsing the comments made by MANERP and Community First and the other supporting and containing a petition containing nearly 170 signatures, which residents had presented to him. Cllr Ali is fully supportive in the residents objections to the increasing number of licensed premises in the Millfield area, and hopes the views of residents and businesses will be heard and acted upon. Both responses are attached at **Appendix N**.

The petition mentioned above has a preface page which states that the petition expresses the dismay at the state of the area due to excessive licensing of 'Off' licenses and Gambling halls. It states that excessive licensing has caused a breach of the objectives and swathes of the community are being destroyed. It states that the cumulative impact policy and other initiatives have not worked. Each petition page has a heading which gives notice to the council to stop the issuance of new licenses and strongly objecting to the licensing policy. The Petition in full is available for members of the Licensing Committee to view but is exempt from publication as detailed in paragraph 2.3 above. The full preface page is attached at **Appendix O**.

The Portman Group welcomed the reference and commendation of the Portman Group Code of Practice in paragraph 14.12 of the draft policy. It suggests the addition of extra wording to clarify the aim of the Code of practice and its operation. The full response is attached at **Appendix P**.

7.6 Responses from 'Other Persons' e.g. residents

Two responses from residents have serious concerns regarding the effectiveness of the policy. They say that over the last decade the area has been neglected and allowed to rot through lack of investment and failing policies. That crime is on the up and this is linked to the concentration of licensed premises. They go on to describe the effects this has on residents and community green spaces. That the area needs better enforcement, not an extended failing policy, but a fresh approach. The full response is attached at **Appendix Q**.

One resident is dismayed at the state of the area and the rampant alcoholism that has emerged. That the numerous 'Off' licences contribute to street drinking, littering, fighting etc. If nothing is done very soon, the area is on the verge of a dangerous crescendo. The full response is attached at **Appendix R**.

One response from a local business operator states that in the last decade the area has changed with 'Off' licenses and mini-marts being the issue, it has a distasteful appeal, with so many licensed premises, you are not more than 200 yards away from the next venue. The area needs a mix of businesses, but is just takeaways and mini-marts and littering of alcohol related containers. He explains the impact the associated problems have on his business. That there is an unspoken ghetto effect and knows he paints a nasty distasteful picture of Millfield, but when councillors and council employees have all gone home, it's what residents and businesses see and are left with. The full response is attached at **Appendix S**.

Four responses simply state ‘I am against the extension of the licensing policies in the Op-Can-Do area.’ These responses are attached at **Appendix T**.

Another three similar responses totally object for the alcohol licence policies to be extended in the area. That there are too many alcohol premises which is not good for the area, and don’t need anymore. One states that they are scared to go to certain places on Lincoln Road and is sure many others feel the same. The number of licenses should be reduced. These responses are attached at **Appendix U**.

One boxing club owner states they try hard to get kids off the streets and into the gym, but it’s getting harder, too many influences from drinking and gambling outlets, having an adverse effect on local quality of life. This response is attached at **Appendix V**.

A further eleven individual responses provide further details of the problems experienced by residents in the Millfield area. Residents state that the availability of alcohol from so many ‘Off’ licensed premises is detrimental to the area and negatively impacts on their everyday life. Some residents state that they are scared to go to certain places, including green spaces, due to the ASB caused by drunk people drinking in the street. That drunks use residents property as a public toilet and alcohol related debris is everywhere. They clearly indicate that they object to the granting of further licenses in the area.

Some suggest enforcement to stop underage sale of alcohol, serving to people who are intoxicated, littering, as a few things that should be better handled. Enforce punishments against licence holders that breach, to make it a safer place for residents.

The eleven responses in full are attached at **Appendix W**.

7.7 **Officer comment.**

Some of the responses stray into areas which are not relevant to the determination of the Licensing Act 2003 Statement of Licensing Policy and cumulative impact policy, as they are Gambling related matters. The Gambling Act 2005 has its own Statement of Licensing Principles policy which is due for revision and consultation in 2021.

- 7.7(a) It is clear from the consultation responses and evidence provided, that the concentration of licensed premises in the cumulative impact area continues to have a negative effect on businesses and residents in the area. It is also clear, from some responses, that there is a perception that the cumulative impact policy provides a wider scope of abilities.
- 7.7(b) For clarification, the cumulative impact policy and assessment allow for greater scrutiny of new and variation applications within the CI boundary, by requiring the applicant to demonstrate that they will not add to the issues identified in the published Cumulative Impact Assessment, but provides no other ‘powers’. It does however, provide a formal basis for those who wish to object to a relevant application within the boundary.
- 7.7(c) The policy cannot be an absolute refusal of all relevant applications received for premises licences within the boundary, each application must be determined on its own merits

Paragraph 14.28 of Section 182 Guidance states:

‘While the evidence underpinning the publication of the CIA should generally be suitable as the basis for a decision to refuse an application or impose conditions, it does not change the fundamental way that decisions are made under the 2003 Act. Each decision in an area subject to a CIA therefore still needs to be made on a case-by-case basis and with a view to what is appropriate for the promotion of the licensing objectives. Importantly, the publication of a CIA would not remove a licensing authority’s discretion to grant applications for new licenses or applications to vary existing licenses, where the authority considers this to be appropriate in the light of the individual circumstances of the case.’

- 7.7(d) Some responses also state that there is no ‘need’ for another licensed premises. Unfortunately, ‘need’ cannot be taken into consideration, this is for market forces to determine. Paragraph 14.19 of Section 182 Guidance states:

‘There can be confusion about the difference between the ‘need’ for premises and the ‘cumulative impact’ of premises on the licensing objectives, for example, on crime and disorder. ‘Need’ concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.’

- 7.7(e) It is Officers recommendation that the current CIP and CIA are modified, so that it is only applicable to licence applications, (new and full variation) for premises licences and Club Premises Certificates (CPC) which request ‘Off’ sales of alcohol, whether or not the application also requests ‘On’ sales of alcohol. The draft policy has been modified to reflect this recommendation, and paragraphs 5.7 and 12.10 have been added to the policy. The reason for this recommendation is detailed in Section 8 below.
- 7.7(f) It is also Officers recommendation that when the CIA has been modified in line with the above, and updated to reflect the current issues and evidence, it is signed off by the Chair of the Licensing Committee and re-published.
- 7.7(g) The revised draft policy showing proposed legislative updates made prior to the consultation in red text and changes made post consultation following responses received, including the recommended modification to the CIP, in blue text. The final draft policy for consideration by the licensing committee is attached at **Appendix X**.
- 7.7(h) Members are reminded that the disqualifying criteria for temporary automatic authorisation of ‘Off’ sales under the Business and Planning Act 2020, relate to:
- Refusal to grant a premises licence with off sales permission
 - Refusal to vary a premises licence to include off sales
 - The premises licence was varied or modified to exclude off sales.
- Within the last three years.
Please see Annex A of the draft policy for further information.

8. REASON FOR THE RECOMMENDATION

- 8.1 When reviewing the CIP, the licensing authority must ensure that it remains relevant to the current problems described geographically and evidentially robustly supported. The evidence obtained in the review and consultation process, indicates that the current problems identified in the boundary are still relevant, but not to all types of applications.
- 8.2 There is no doubt that there are compelling reasons to retain the CIP, the concentration of licensed premises within the current defined boundary, continue to negatively impact on the objectives, the residents and businesses within the boundary. But when assessing the types of activities which are seen to most contribute to the problems experienced and reported, it is those selling alcohol for consumption ‘Off’ the premises that are highlighted.
- 8.3 The data provided by the police (Appendix E) shows that alcohol related crimes within the boundary are on the increase, (160 (8%) in 2017–2018 and 263 (13.7%) in 2019-2020, despite an overall drop in crime.
The data also shows that the crimes and incidents are not occurring at the actual location of the licensed premises. This indicates that the problems are not associated with ‘On’ licensed premises. The report states:
... ‘Alcohol is driving crimes in the Op-Can-Do area, especially within homes, but it is not clear if this is due to local licensed premises (though it would stand to reason that if alcohol is readily available near home, residents are likely to go to local off licenses and bars to get it).’
- 8.4 The response from the Director of Public Health (Appendix H) refers to the considerable body of research examining the relationship between alcohol outlet density (AOD), alcohol related harms and social disorder in areas of deprivation. Op-Can-Do is one of the most deprived areas of Peterborough, with a higher rate of alcohol related hospital admissions in central ward.

- 8.5 The information provided by PES (Appendix I) details the alcohol related incidents reported to the police between May 19 to May 20. Most of the incidents relate to anti-social behaviour of people in the street, either drinking, being rowdy, aggressive, etc.
'That the frequency of cleansing is significantly higher in the CI area, partly due to the amount of alcohol related litter, which also poses a safety risk and degrades the area.'
- 8.6 Most of the responses to the consultation support the intention of the CI and also list a multitude of 'street' related problems, such as street drinking, anti-social behaviour, street toileting, street alcohol related litter as many of the problems experienced. With the proliferation of 'Off' sales premises considered as the 'attractive' cause, for people to gather on the street then behave in an anti-social manner.
- 8.7 Based on the overall evidence, the CIP and CIA should be modified to reflect the current problems identified. Therefore, it should be modified and only be applicable to new and variation applications requesting 'Off' sales of alcohol.

9. ALTERNATIVE OPTIONS CONSIDERED

- 9.1 Retain the existing policy – not relevant to the current problems identified
- 9.2 Alternative modification e.g., boundary - the Op-Can-Do defined boundary is still relevant
- 9.3 Resolve that the CIP and CIA no longer apply and remove any reference from the policy - this option is not supported by evidence obtained during the consultation process

10. IMPLICATIONS

Financial Implications

- 10.1 None foreseen.
- 10.2 In 2018 Peterborough City Council Community Capacity Manager and programme lead for the Can-Do regeneration programme (Cate Harding) confirmed that £7.5m of capital investment for the area had been secured. A statement regarding this secured funding is attached at **Appendix Y**.

Legal Implications

- 10.3 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.

Equalities Implications

- 10.4 None foreseen

11. BACKGROUND DOCUMENTS

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

- 11.1 Licensing Act 2003
Revised Guidance issued under Section 182 – April 2018
LGA Best Practice for the review of Licensing Policy Statements Oct 2012

12. APPENDICES

- 12.1 Appendix A – List of consultees
Appendix B – Full consultation document
Appendix C – ET Public Notice
Appendix D - Response table including officer comment

Appendix E – Cambridgeshire Constabulary response
Appendix F - Response from Safeguarding Children
Appendix G – Response from Planning Services
Appendix H – Response from Public Health
Appendix I – Response from PES (Peterborough Enforcement Services)
Appendix J - Response from Broadway Residents Association
Appendix K –Response from Paul Bristow MP for Peterborough
Appendix L – Response from Vice Chair of Community First
Appendix M – Response from MANERP Millfield And New England Regeneration Partnership
Appendix N - Two responses from Cllr Ali
Appendix O - Petition preface page (the petition containing nearly 170 signatures is exempt from publication, see paragraph 2.3)
Appendix P - Response from Portman Group
Appendix Q – Similar responses from two residents
Appendix R – Response from one resident
Appendix S – Response from local business operator
Appendix T – Four responses from local residents
Appendix U - Three responses from local residents
Appendix V - Response from boxing gym operator
Appendix W - Eleven responses from local residents
Appendix X – Revised draft policy for consideration of the Licensing Committee
Appendix Y – Statement regarding £7.5m secured funding

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