

Cumulative Impact – Briefing Note

March 2016

This briefing note is to provide an update on the current work that is on-going regarding the number of licensed premises in Spalding and the possibility of introducing a cumulative impact policy.

Background

The Licensing Act 2003 regulates activities including the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.

Licensing legislation can be complicated and unfortunately there are understandably many public misconceptions regarding what the licensing authority can do. Under the Licensing Act 2003, South Holland District Council as the licensing authority is required to grant an alcohol licence unless representations are received from interested parties or responsible authorities, namely the police, planning authority, licensing authority, fire authority, trading standards, public health, children's safeguarding board and environmental health (health and safety and pollution control). Where no relevant objections are received, the Council has to grant the licence. The Council ensures that all new premises licence applications are correctly advertised for 28 days in accordance with legal requirements, allowing the public the opportunity to submit a representation within the required timescales if they wish to do so. In order for a representation to be valid and relevant it must demonstrate the impact that granting the licence would have in relation to the licensing objectives which are defined under the 2003 Act:

- the protection of children from harm (e.g. under age sales)
- public safety (e.g. fire safety)
- prevention of crime and disorder (e.g. illegal activities such as selling illegal tobacco products)
- prevention of public nuisance (e.g. noise nuisance)

Where relevant representations are received, a hearing is held to consider the representations and decide what steps may be taken to promote the licensing objectives. The panel has discretion to decide whether to grant the licence with conditions or refuse it.

Unfortunately under current legislation the licensing authority is not able to take into account whether there is a need or demand for such premises when granting a licence. "Need" concerns the commercial demand for another premises and is a matter for the planning authority and for market forces.

Cumulative Impact

It is possible for the Council to introduce a special policy on the "cumulative impact" of a significant number of licensed premises concentrated within a specific area (sometimes known as a cumulative impact zone). There would need to be sufficient evidence that the licensed premises within that area were having a detrimental impact on the licensing objectives (the protection of children from harm, public safety, prevention of crime and disorder, prevention of public nuisance).

The effect of such a policy if introduced would be to create a rebuttable presumption to refuse a new premises licence application within the cumulative impact zone if relevant representations were received. This would however apply to all applications including supermarkets and restaurants. The presumption is rebuttable in that the applicant can put forward arguments which may demonstrate how their application will not add to local problems. If the panel are satisfied that this has been adequately addressed they could decide to grant the licence.

It should be noted that even where a cumulative impact policy exists, it does not prevent new applications and a licensing authority cannot refuse to grant the licence unless it has received a representation from a responsible authority or an interested party. The special policy therefore does not outlaw all new licensed premises within that area, and each should be considered on a case by case basis.

Adoption of a Cumulative Impact Policy

Whilst there is no provision for such a policy under the Licensing Act 2003, statutory guidance does suggest that this can be considered within its licensing policy statement.

In order for the special policy to be adopted there must be an evidential basis of the effect of the number of licensed premises within that area in relation to the licensing objectives. This may include: local crime statistics including type of crime and hotspots; anti-social behaviour incidents; health related statistics such as alcohol related hospital admissions; environmental health complaints; complaints and evidence from residents and councillors.

If the Licensing authority determines that there is sufficient evidence to introduce such a policy, this will be introduced into the authority's Statement of Licensing Policy (last updated March 2016). There is a formal consultation process that must be followed before the new policy could be adopted.

Serious consideration must be given to the nature of the problem, the geographical area to be covered and types of premises as well as any other schemes that could be used as an alternative to the policy that may help to tackle the issues.

Current Position

A review was undertaken in 2013 to decide whether a cumulative impact policy was needed to tackle perceived problems with the off licence trade in Spalding. Evidence was analysed by the police relating to the number of off licences in the area and alcohol related antisocial behaviour incidents from 2008 to 2012. An independent analysis of the evidence was also undertaken by a national licensing law firm. At that time it was concluded that there was insufficient evidence to show a clear link between alcohol related antisocial behaviour and the number of off-licensed premises.

Following on from this a number of other initiatives were introduced with partners to tackle the root cause of problems in the area. These included the Safer Spalding Scheme, Operation Trunk and Street Pastors. A Designated Public Place Order (DPPO) was also introduced in the town centre to tackle the problem of street drinking.

In addition to this work, the team are now working with the Communities team and the police to introduce a Public Space Protection Order (PSPO) within the town centre as an additional means to control anti-social behaviour. The following areas are being considered within the order and will be presented to members for consideration following the consultation process: street begging; assertive or aggressive (commercial or charity) collection or soliciting for money on the street; cycling on the pavement; on street alcohol consumption; driving/using a motor vehicle in an anti-social manner; unsupervised juveniles in the area after 11pm and before 6am; other matters affecting the town centre that are identified during consultation.

In respect of a Cumulative Impact Policy, It was a Conservative manifesto pledge to carry out a fresh review of the situation to determine whether there is a need for a policy in Spalding. As part of that process we have encouraged the public to report incidents to the Police to assist with securing suitable evidence. This is in addition to the ongoing media campaign to encourage the public to report any alcohol related crime to the police and to prevent the sale of illegal tobacco and alcohol in businesses in the area.

The team are now working closely with the local Police Inspector to assist with supplying information relating to alcohol related crime over the last 12 months. This will be analysed in conjunction with other evidence that is being gathered from interested parties including environmental health and public health as well as complaints from members of the public and businesses.

It is proposed that a report will be taken to the Licensing Committee in October to consider whether there is sufficient evidence for the introduction of a cumulative impact policy.