

## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Executive Manager People and Public Protection Manager

**To:** Committee of the Licensing Authority

**(Author:** Donna Hall - Licensing and Business Support Manager)

**Subject:** Cumulative Impact

**Purpose:** To provide an update on the review of Licensed Premises in South Holland and the need for a Cumulative Impact Policy

### **Recommendation:**

- 1) That Committee determine whether officers should proceed with a full cumulative impact review and consultation.

### **1.0 BACKGROUND**

1.1 Cumulative impact is not specifically mentioned in the Licensing Act 2003, but means, in the guidance issued under section 182 of the Act, the potential impact on the promotion of the licensing objectives of a significant number of licensed premises that are concentrated in one area. The four licensing objectives are:

1.2

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

1.3 After consultation, a licensing authority can include a cumulative impact policy (CIP) within the statement of licensing policy. The effect of this is to create a rebuttable presumption that applications for premises licences which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations unless the applicant can demonstrate that there will be no negative impact on the licensing objectives.

1.3 Each application should still be considered properly and on its own merit, and applications that are unlikely to add to the cumulative impact on the licensing objectives should be granted. If no relevant representations are received then the licensing authority must grant the licence regardless of whether a CIP is in place.

1.4 Home Office guidance summarises the following steps that should be followed in considering whether to adopt a CIP:

- Identify **concern** and consider whether there is good **evidence** that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm. If these problems are occurring, identify whether they are being caused by the customers of licensed premises;
- Identify the boundaries of the area where problems are occurring ;
- Consult specified persons as identified in the 2003 Act;

- Subject to the outcome of the consultation include details of the CIP in the licensing policy statement.

1.5 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

1.6 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 the Street Pastors. A Designated Public Place Order (DPPO) was in place 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) to replace the DPPO, and as an additional means to control antisocial behaviour in the town centre.

1.7 The Home Office has recently tabled an amendment to the Policing and Crime Bill proposing to place CIPs on a statutory footing. The aim of this is to add legal certainty and transparency for applicants, licensing authorities and other responsible authorities on how CIPs are developed and operate. The legislation will not require all licensing authorities to consider introducing a CIP. However it will lay out the steps a licensing authority will be required to take before publishing a cumulative impact assessment. Statutory guidance will set out the kinds of evidence licensing authorities may use and the consultation process. For example: why it is considering a cumulative impact assessment; the areas which the assessment relates to; and whether the assessment will relate to all premises licences and club premises or only those of a particular kind.

1.8 There will be a further requirement that the licensing authority carries out a consultation on the CIP at least every 3 years and publishes a statement about whether the licensing authority remains of the opinion set out in the assessment. The aim of this will be to ensure that licensing authorities use robust and up to date evidence to support the implementation and retention of CIPs in their area.

1.9 Enquiries have been made by the licensing team to identify information available that will be relevant to a cumulative impact review. The information below was obtained from SHDC Environmental Protection team in relation to nuisance complaints which were linked by the complainant to licensed premises.

1.10 **Table 1 - Environmental Protection nuisance complaints received for licensed premises Aug 2013 to Sept 2016:**

<b>Time Period</b>	<b>Nature of complaint</b>	<b>Location of licensed premise to which complaint relates</b>
<b>August 2013 to August 2014</b>	Noise from pub Noise from pub Noise from pub (music) Noise from takeaway (building works) Noise from pub (music) Noise from restaurant (music and fighting)	Sutton Bridge Spalding town centre Tydd St Mary Spalding town centre Pinchbeck Sutton Bridge
	<b>TOTAL 6</b>	

<b>August 2014 to August 2015</b>	Noise from event Noise from event Noise from pub (music) Noise from pub (music) Noise from pub (music) Noise from pub (music) Noise from event Noise nuisance (alarm) Noise from pub (music) Noise from event Noise from club premises  <b>TOTAL 11</b>	Gedney Moulton Spalding town centre Spalding town centre Spalding town centre Pinchbeck Long Sutton Whaplode Gedney Dyke Sutton St Edmund Spalding
<b>August 2015 to September 2016</b>	Noise from pub Noise from equipment/takeaway Noise from pub (music) Noise from pub Noise from café Noise from pub Noise from pub (music) Noise from café Noise from pub (music) Noise from pub (music) Noise from pub (music) Noise from pub (equipment) Noise from pub (music)  <b>TOTAL 12</b>	Crowland Outskirts Spalding Spalding town centre Sutton Bridge Spalding town centre Crowland Spalding town centre Spalding town centre Sutton Bridge Sutton Bridge Sutton Bridge Spalding town centre

- 1.11 The data shows an increase in noise nuisance complaints relating to licensed premises in South Holland since 2013 although the numbers remain low. This data relates to complaints made to the council and not every complaint has been substantiated.
- 1.12 Lincolnshire Police and SHDC Communities team have also been asked to contribute to this review. The information below has been received and it is anticipated that any further details or explanation provided since the writing of this report can be given at the meeting. The information relates to the NC27 policing area which is primarily Spalding Town Centre. It is identifiable in orange on the map attached as **Appendix A**.
- 1.13 **Table 2 - Information provided by Communities Team for Alcohol Related Anti Social Behaviour incidents April to July 2014 to 2016:**

	2014				2015				2016			
	Apr	May	Jun	July	Apr	May	Jun	July	Apr	May	Jun	July
Drunken Behaviour	10	13	9	21	12	8	11	7	8	9	7	8
Total	53				38				32			
Street Drinking	5	8	9	7	4	7	2	5	0	4	4	2
Total	29				18				10			

- 1.14 The recorded incidents for drunken behaviour includes drunken behaviour outside pubs and clubs, domestic premises and in the street and do not necessarily equate to street drinking incidents. A maximum of 10 incidents are purported to relate to street drinking. The 10 incidents that were reported to police in April to July 2016 relate to various

locations including Aldi car park, Gore Lane, Swan Street, Victoria car park, Hall Place and the Sheep Market.

- 1.15 A map and further information detailing the number and location of licensed premises in Spalding will be provided at the meeting.

## 2.0 **OPTIONS**

- 2.1 The Committee note the contents of this report and do nothing

- 2.2 The Committee request that further work is carried out and legal opinion is sought in relation to evidence for a CIP

- 2.3 The Committee consider that there is sufficient information at this stage to proceed with a formal review and consultation process

## 3.0 **REASONS FOR RECOMMENDATION**

- 3.1 It is recommended that the Committee consider the information at this stage before deciding whether to proceed with a full review and consultation process. The introduction of a CIP must be based upon evidence that there is a need for a CIP and proper consideration must be given to the extent of the CIP, licensable activities and geographical area to be included.

- 3.2 The number of licensed premises in the area is low and it is notable that several off licences in Spalding have recently had licences revoked by the Panel of the Committee of the Licensing Authority and remain unlicensed.

- 3.3 The information obtained from the police has limited value in relating incidents to specific licensed premises and establishing that the licensing objectives are being undermined by the cumulative impact of licensed premises.

- 3.4 Committee can consider in addition to or instead of a CIP, alternative means to tackle alcohol related harm in the area. The licensing team already work in partnership with the police and other agencies and will continue to identify problem areas and develop strategies to tackle these such as the Safer Spalding Scheme.

## 4.0 **EXPECTED BENEFITS**

- 4.1 The purpose of a CIP if adopted is to enable the Licensing Authority to limit the number or type of licence applications granted in areas where they can demonstrate that the number or density of premises in that area is adversely impacting upon the statutory licensing objectives.

- 4.2 Continuing investment in partnership working can achieve similar outcomes and Lincolnshire Police are very proactive in consulting with new applicants and raising objections if they believe that granting a licence would undermine the licensing objectives.

## 5.0 **IMPLICATIONS**

### 5.1 **Constitution & Legal**

- 5.2.1 Introduction of a special policy under the Licensing Act 2003 would require the Council to go through a consultation process as suggested in the Section 182 Guidance to the Licensing Act 2003.

5.2.2 There are legal implications if the special policy is introduced as any applications within the specified area which receive a relevant representation would be required to go to a panel hearing. There would be a subsequent right of appeal in the Magistrates Court.

### 5.3 **Corporate Priorities**

5.4 The licensing regime is essential in contributing to the corporate priority of developing safer, stronger, healthier and more independent communities whilst protecting the most vulnerable. It is also an important factor in ensuring businesses operate fairly and contributes to the priority of encouraging the local economy to be vibrant with continues growth.

### 5.5 **Crime and Disorder**

5.5.1 Crime and disorder is a licensing objective and the police in Lincolnshire are very strong in encouraging premises to uphold this objective and calling licences into review where the objectives are being undermined.

5.5.2 The Licensing team work closely with the police and other agencies to share intelligence and ensure that licensed premises are operating in accordance with the conditions of their licence and upholding the objectives.

### 5.6 **Equality and Diversity / Human Rights**

5.6.1 In order to implement a CIP a consultation process would need to be undertaken to ensure that anyone who is likely to be affected by the introduction of the CIP has an opportunity to put forward their views.

### 5.7 **Financial**

5.7.1 It is anticipated that the only financial implication relating to the introduction of a CIP would be officer time in preparing the review and the costs associated in carrying out a consultation process. If the Committee wish to obtain further legal advice then there will be an additional cost for this work.

### 5.8 **Staffing**

5.8.1 The introduction of a CIP would have little impact upon staffing resources required although there is a potential for a small increase in the demand for panel hearings.

### 5.9 **Stakeholders / Consultation / Timescales**

5.9.1 Initial consultation has been carried out with Lincolnshire Police, SHDC antisocial behaviour team, and SHDC Environmental protection team. If the Committee wish to progress the introduction of a CIP a full consultation will need to be carried out with statutory consultees including: Lincolnshire Police; Lincolnshire Fire Authority; Director of Public Health; representatives of local licence holders; businesses and residents in the licensing authority area.

5.9.2 There is no legal timescale for a CIP to be introduced, however legislation is anticipated in 2017 that will place CIPs on a statutory footing and introduce further guidance and requirements in relation to consultation and review procedures.

## 6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 Potentially all wards could be affected as the CIP would impact upon any licensable businesses looking to open within the CIP area. It would directly affect any wards where the CIP area was located. There is also the potential for displacement of licensed premises to the area surrounding the CIP zone, however this is a consideration at this stage and there is no supporting evidence.

## 7.0 **ACRONYMS**

7.1 SHDC South Holland District Council  
CIP Cumulative Impact Policy  
ASB Anti Social Behaviour  
DPPO Designated Public Place Order  
PSPO Public Space Protection Order

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Background papers:- None

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### **Lead Contact Officer**

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**Key Decision:** No

**Exempt Decision:** No

**This report refers to a Mandatory Service**

### **Appendices attached to this report:**

Appendix A Map of NC27 policing area (orange) , town centre