

Minutes of a meeting of the **COMMITTEE OF THE LICENSING AUTHORITY** held in the Meeting Room 1, Council Offices, Priory Road, Spalding, on Tuesday, 18 October 2016 at 6.35 pm.

PRESENT

A Harrison (Chairman)  
T A Carter (Vice-Chairman)

G R Aley  
A Casson  
M G Chandler  
G K Dark

J L King  
C J Lawton  
A M Newton  
M J Pullen

E J Sneath  
J Tyrrell

In Attendance: Democratic Services Support Officer, Licensing and Business Support Manager, Assistant Licensing Officer and Communications Officer

Apologies for absence were received from or on behalf of Councillors M D Booth, R Clark and H Drury

8. **CUMULATIVE IMPACT REVIEW WORK**

The Chairman agreed to consider the item 5 of the agenda, regarding Cumulative Impact Review Work, immediately after apologies for absence. This was due to the attendance of Daven Naghen (Maples Solicitors, Spalding) who was present at the meeting to provide any legal advice of matters being considered in relation to Cumulative Impact.

The Licensing and Business Support Manager, Donna presented to the Committee the report of the Executive Manager People and Public Protection, relating to Cumulative Impact Review Work. In addition to the report Donna provided the Committee with maps of the Spalding Town Centre, which indicated Licensing Premises and their locations.

Cumulative impact was relevant where there is a 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 were:

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

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

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

Home Office guidance summarised 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.*

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 that a number of other initiatives were introduced with partners to tackle the root cause of problems in that area. These included; 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 Licensing Team were 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.

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

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There would be a further requirement that the licensing authority carried out a consultation on the CIP at least every 3 years and published a statement about whether the licensing authority remained of the opinion set out in the original assessment. The aim of this was to ensure that licensing authorities used robust and up to date evidence to support the implementation and retention of CIPS in their area.

Enquiries had been made by the licensing team to identify information available that would 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.

**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)  <b>TOTAL 6</b>	Sutton Bridge Spalding town centre Tydd St Mary Spalding town centre Pinchbeck Sutton Bridge
<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	Crowland Outskirts Spalding Spalding town centre Sutton Bridge Spalding town centre Crowland Spalding town centre

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	Noise from pub (music) Noise from café Noise from pub (music) Noise from pub (music) Noise from pub (equipment) Noise from pub (music)	Spalding town centre Sutton Bridge Sutton Bridge Sutton Bridge Spalding town centre
	<b>TOTAL 12</b>	

The data showed an increase in noise nuisance complaints relating to licensed premises in South Holland since 2013, although the numbers remained low. The data related to complaints made to the council, not every complaint had been substantiated.

Lincolnshire Police and SHDC Communities Team had also been asked to contribute to this review. The information related to the NC27 policing area which was primarily Spalding Town Centre.

**Table 2 - Information provided by Communities Team for Alcohol Related Anti Social Behaviour incidents April to July 2014 to 2016:**

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

The recorded incidents for drunken behaviour included drunken behaviour outside pubs and clubs, domestic premises and in the street but did not necessarily equate to street drinking incidents. A maximum of 10 incidents were purported to relate to street drinking. Those 10 incidents that were reported to the Police in April to July 2016 related to various locations including Aldi car park, Gore Lane, Swan Street, Victoria car park, Hall Place and the Sheep Market.

The Committee considered the information and the following points and queries were raised:

- Could a decision not to grant a Licence in a Cumulative Impact Area be appealed against?

The Licensing and Business Support Manager advised that, like with any other application that was refused, an applicant could appeal against a decision to not grant a licence.

- If there are a lot of Licensed Premises in one location surely there would be issues?

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In the case of Spalding, there were no figures to suggest that there was a problem. But also, if incidents were reported it would be very hard to associate any incident with a particular premises.

- The public perceives that there were issues, were those figures shared with the public?

The information gathered was provided by the Police, and was to be included within the minutes of the meeting, which would also be of public record.

- How was the Town Centre defined?

The information provided was based on Police beat areas, which was similar to the DPPO which was in place.

- Had the effect of a CIP in other areas been looked at and what effect had it had?

It was very difficult to compare one area with another, there were so many factors to make it hard to see if what worked in one place would mean it would work in another.

- Could information from Accident and Emergency wards be gathered?

It would be hard to relate any data to particular premises, especially as South Holland did not have any emergency care facilities, the nearest ones were Peterborough and Boston.

Councillor Chandler advised that he had been involved when a Cumulative Impact Policy had been considered in 2013, at that time the figures gathered did not suggest that there was a problem, the Police and the Legal advice did not support implementation.

Councillor Dark noted that although there was no evidence to support the need of a CIP, the public did have a perception that there was a problem and that Spalding would benefit from one. He suggested that further communication to the public on the Licensing Act 2003 was perhaps needed and if incidents occurred encourage the public to report them. The Chairman advised that she had in the past been involved with an article in the local press about the Licensing Act 2003 and Premises in South Holland.

Daven Naghen, Maples Solicitors Spalding advised that to take any decision relating to a CIP members would have to give it careful consideration, and acknowledge any risks or challenges that any Policy may pose. He noted that a policy would only deal with new applications for licences and not those that were already in place. The members of the Committee considered the recommendation but agreed that there was not sufficient evidence to support going forward with a CIP. Instead members considered the options available to them, as indicated within the report:

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- *The Committee note the contents of this report and do nothing;*
- *The Committee request that further work is carried out and legal opinion is sought in relation to evidence for a CIP;*
- *The Committee consider that there is sufficient information at this stage to proceed with a formal review and consultation process.*

Members agreed that none of the options reflected their views and that the following recommendation be proposed:

That officers provide further evidence that may support a CIP and that be reported to Committee along with a list which identified the pros and cons of putting a CIP in place.

Members were all in agreement, with the recommendation and noted that no further work should take place unless there was sufficient evidence and it was important to know exactly what the risks were, if one were in place.

**AGREED:**

That officers provide further evidence that may support a CIP and that be reported to Committee along with a list which identified the pros and cons of putting a CIP in place.

*(Ken McErlain (Communications Officer) and Daven Naghen (Maples Solicitors, Spalding) left the meeting at 8.11pm., after consideration of the above item).*

**9. DECLARATION OF INTERESTS**

There were no declarations of interests.

**10. MINUTES**

That the minutes of the meeting held on 14 July 2016, be agreed as a correct record, subject to several minor typographical errors.

**11. QUARTERLY REPORT FOR THE LICENSING AUTHORITY**

The Licensing Team were responsible for administering the statutory licensing framework, which governed businesses and regulated activities in South Holland.

The Team carried out a wide range of interventions in order to ensure that licences and registrations were issued correctly and in accordance with legal provisions. Officers were also involved in monitoring activity, which included; carrying out inspections, providing advice and carrying out investigations.

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**Quarter 2: 1 July 2016 – 30 September 2016**

The below table provided members with an update on the work undertaken by the Licensing Team in relation to the Committee of the Licensing Authority:

<b>Licence Type</b>	<b>Activity</b>	<b>Number in Q2</b>
<b>Licensing Act 2003</b>		
Premises Licence	Annual Fee Applications	30
	New Applications	3
	Cancel/Surrender	1
	Minor Variations	2
	Vary DPS	9
	Transfer/Vary DPS	3
	Disapply DPS	1
	Transfer Applications	3
	Update conditions	8
	Suspension Applications	16
	Suspension lifted	11
	Review application	1
Club Premises Certificate	Annual Fee Applications	1
Personal Alcohol Licence	New Applications	17
	Change name/address	6
	Lost/Stolen	1
TEN – With Alcohol	TEN Applications	34
Late TEN – With Alcohol	TEN Applications	6
Response time for Temporary Event Notices	Processed within 24 hours	100%
<b>Gambling Act 2005</b>		
Adult Gaming Centre	Premises Licence Applications	1
Betting Premises Licence	Annual Fee Applications	6
Bingo Premises Licence	Annual Fee Application	1
Licensed Premises Gaming Machine Permit	Annual Fee Application	2
Club Machine Permit	Annual Fee Application	1
Club Gaming Permit	Annual Fee Application	1
Notification of Gaming Machines	Cancel/Surrender	1
Small Society Lotteries	Annual Fee Applications	13
	Change of Promoter	2
	New Applications	1
	Returns Received	9

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<b>SHDC Statistics</b>	
Number of licensed premises under Licensing Act 2003	332

<b>Inspection or Intervention</b>	<b>Number in Q2</b>
Licensing Act 2003 premises	7 high risk 2 medium risk 4 low risk
Outcomes	All without prior notice. Minor non-compliances only found
<b>Panel Hearings</b>	<b>Outcome</b>
28 Sept 2016 Review of Premises Licence Super Sam, 24 Commercial Road, Spalding	Adjourned
<b>Appeals Ongoing</b>	<b>Scheduled Appeal Date</b>
None	n/a
<b>Appeals Withdrawn</b>	<b>Outcome</b>
Baltic, 14 – 16 Winsover Road (following revocation of premises licence in Feb 2016)	Appeal withdrawn with effect from 4 August 2016 and agreement to pay costs.
Winsover Off Licence, 43 Winsover Rd, Spalding (following revocation of premises licence in Feb 2016)	Appeal withdrawn with effect from 17 August 2016 and agreement to pay costs.
<b>Other Work</b>	
Freedom of Information Act Requests	1 in relation to Licensing Act 2003
Preparation for Appeals hearings including writing statement, transcribing hearings and liaising with other parties	
Safety Advisory Group and events advice	
House of Lords Select Committee response on review of Licensing Act 2003	
Training Food Officer on Licensing inspections	
Liaison and sharing intelligence with Lincs Police and Trading Standards	
Investigation in relation to sale of alcohol without duty stamp	
Publication and distribution of updated posters on duty stamp campaign	
Assistance with report for Public Space Protection Order	
Cumulative Impact Policy information gathering and meeting with police	
Investigation of complaints in conjunction with Environmental protection team in relation to noise nuisance at licensed premises	
High turnover of Temporary Event Notices due to summer events	
Enforcement in respect of non-payment of annual fees including suspensions	
High Volume of business enquiries in relation to amending premises and licensable activities	
Attendance at Pubwatch meeting	
Ongoing development of website and online applications facility for Licensing Act 2003 applications. Expected to go live in November when payment portal and applications procedures have been fully tested.	



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**AGREED:**

That the report be noted.

12. **PANEL HEARINGS - FEEDBACK AND DISCUSSION OF DATES AND ORGANISATION OF HEARINGS**

The Chairman invited the Committee to consider the current arrangement for determining dates and composition of Panel of the Committee of the Licensing Authority and Licensing Panels.

Currently dates were scheduled into members calendar every 21 days, for them to keep free should a Panel be called. In the Protocol on Good Practice in Licensing for Members and Officers Dealing with Licensing, Panels were to comprise of either the Chairman or Vice Chairman of the Committee and two ordinary members, these Panel members were to be selected by Democratic Services, delegated by the Executive Manager Governance.

The Chairman advised that there had been a few occasions since May 2016, where Panels had to be held outside the pre-scheduled dates, due to the legal timescales involved.

Members had a brief discussion and concluded that in order to establish if the pre-scheduled dates were effective, it was needed to be trialled for longer, until the end of the 2016/17 municipal year.

**AGREED:**

That the pre-scheduled dates remain in place until the end of the 2016/17 municipal year, after which their effectiveness be reviewed.

13. **ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT.**

There were none.

(The meeting ended at 8.25 pm)

(End of minutes)