



St Edmundsbury
BOROUGH COUNCIL

B514

Cabinet 16 March 2011

Recommendations from Licensing and Regulatory Committee: 14 March 2011

Cabinet Member: Cllr Robert Everitt *Chairman of the Committee:*
Cllr Frank Warby

**1. Review of Inclusion of Cumulative Impact Policy in St Edmundsbury
Borough Council Licensing Statement of Policy (Report B501)**

RECOMMENDED:-

That taking into consideration the schedule of responses to the recently concluded public consultation, the Council re-adopts a Cumulative Impact Policy for the Area identified in Appendix A of Report B501 and the Licensing Statement of Policy published on 5 January 2011 be amended accordingly.

The Council cannot legally undertake any functions under the Licensing Act 2003 or determine any applications without an adopted Licensing Statement of Policy which has been consulted on in accordance with the Act.

The Council is required to review its Licensing Statement of Policy every three years. The current Licensing Statement of Policy was approved by full Council on 14 December 2010 (Minute 73 (B)(5) refers) and published on 5 January 2011 and an updated version is attached as Appendix C to Report B501.

In the Spring of 2010, as part of the review of the Licensing Statement of Policy, the Council had reviewed the evidence available for continuing the Cumulative Impact Policy for the historic core of Bury St Edmunds. An extract of the Licensing Statement of Policy relating to 'Cumulative Impact' is attached as Appendix B to Report B501. The review included the outcome of a public call for evidence.

On 12 July 2010 the Licensing and Regulatory Committee resolved that there was insufficient evidence to support this Cumulative Impact Policy continuing in place. Instead, they resolved to undertake a public consultation on the draft Licensing Statement of Policy without the inclusion of the Cumulative Impact Policy and to set up a licensing forum for Bury St Edmunds (and subsequently Haverhill).

Following the close of the formal public consultation on 22 October 2010, the revised Licensing Statement of Policy was referred back to the Committee on 8 November 2010. The public consultation had resulted in a number of responses from residents in the Churchgate area of Bury St Edmunds requesting that the Cumulative Impact Policy (commonly referred to as a Special Area Policy) for the Churchgate area be re-instated. The Committee also considered a petition brought by the Churchgate Residents' Association. On the 8 November 2010 the Committee concluded that having reconsidered the evidence presented at its meeting of 12 July 2010, and taking into account the relevant responses to the public consultation, that a further public consultation be undertaken incorporating the Cumulative Impact Policy.

Government guidance defines 'Cumulative Impact' as '*the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.*' The cumulative impact of licensed premises on the promotion of the Licensing Objectives is therefore a proper matter for the licensing authority to consider in developing its Licensing Statement of Policy. This guidance states that where, after considering the available evidence and consulting prescribed individuals, the Council is satisfied that it is appropriate and necessary to include an approach to cumulative impact within the Licensing Statement of Policy, it could indicate that it would be adopting a Cumulative Impact Policy for a designated area (a Special Area Policy).

The effect of adopting a Special Area Policy of this kind is that:-

- (i) where valid representations are received the application is referred to a hearing; and
- (ii) applications within the defined area which are likely to add to the cumulative problems identified in the area will normally be refused; unless
- (iii) the applicant can demonstrate in their operating schedule that their application will not add to the cumulative problems identified in the special area.

If the Cumulative Impact Policy is to be reinstated, the revised policy will need to be re-adopted by the Full Council before implementation.

In order for a Cumulative Impact Policy to be included within the Licensing Statement of Policy members must be convinced that:-

- (i) there is good evidence that crime and disorder or nuisance is happening and is caused by the customers of licensed premises in the proposed area identified; and
- (ii) it is possible to identify the boundary of an area where the problems are occurring.

Any special policy will need to be reviewed regularly to assess whether it is still needed or should be amended or removed.

A total of 50 submissions were received in response to the consultation in support of the proposed Cumulative Impact Policy. A schedule of the responses and copies of submissions is attached as Appendix E to Report B501. Many of the submissions simply indicated their support for the inclusion of a Cumulative Impact Policy, without indicating the nature of the issues that are being experienced. However, some submissions made by local residents in support of a Cumulative Impact Policy did indicate that some residents are experiencing noise and anti-social behaviour in the defined area.

At the Committee meeting on 14 March 2011, Councillor Farmer, a local Ward Member and Committee Member, tabled two papers. The first of these contained an analysis of responses to a questionnaire circulated by the Churchgate Area Association which indicated that a high percentage of local residents had experienced incidents of crime, anti-social behaviour and vandalism which had been submitted to the Licensing and Regulatory Committee in July 2010. The second document was an extract of Government guidance about the use of powers contained in Section 182 of the Licensing Act 2003 relating to cumulative impact policies. Councillor Farmer stated that in line with the Government guidance the information supplied by the Churchgate Area Association provided a substantial body of evidence to support the reinstatement of the Cumulative Impact Policy and that the boundary of the area to which the Policy would apply had been previously defined.

Officers advised the Committee that while it was recognised that crime, disorder and nuisance were experienced in the defined area, there was no evidence that it was caused by licensed premises in that area, rather, that the problems experienced were caused often late at night as people walked back through this area from late night licensed premises in other parts of the town. In addition, an e-mail from Police Inspector Jane Hertzog was read out, which included that *'there is no direct evidence that the licensed premises within the designated area have increased the levels of crime/anti-social behaviour across the town'*.

2. Sex Entertainment Licences: Regulation of Lap Dancing and other Sexual Entertainment Venues (Report B502)

RECOMMENDED:-

That, subject to the approval of full Council the revised Statement of Licensing Policy for Sex Establishments, attached as Appendix A to Report B502 be adopted and the timescales for administering applications for Sexual Entertainment Venues following the proposed adoption of the additional powers arising as a result of the amendment to Part II of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009 be noted.

The Government had responded to calls for further controls to be introduced specific to lap dancing clubs and similar premises by introducing legislation through the Policing and Crime Act 2009 to reclassify such venues as 'Sex Entertainment Venues' through the amendment of the Local Government (Miscellaneous Provisions) Act 1982.

On 1 March 2011 the Council resolved (Minute 90 (B)(2) refers) to formally adopt the additional powers arising as a result of the amendment to the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009. The powers will take effect on 5 April 2011, the First Appointed Day (FAD), following the necessary publication of notices.

Following the second appointed day (six months after FAD) any applications received for Sexual Entertainment Venues will need to be determined in accordance with the Council's Statement of Licensing Policy for Sex Establishments.

The new legislation empowers local communities and, in particular, will allow for:-

- (i) local people to oppose an application for a Sex Establishment Licence if they have legitimate concerns that a Sex Entertainment Venue would be inappropriate given the character of an area, for example, if the area was primarily a residential area;
- (ii) a local authority to reject a licence application if they believe that to grant a licence for a Sex Entertainment Venue would be inappropriate given the character of a particular area;
- (iii) a local authority to set a limit on the number of Sex Encounter Venues that they think is appropriate for a particular area (it is not proposed that St Edmundsbury Borough Council sets a limit); and
- (iv) a local authority to impose a wider range of conditions on licences than they are currently able to under the Licensing Act 2003.

The Council's draft Statement of Licensing Policy in respect of Sex Establishments is attached as Appendix A to Report B502. The Policy provides the framework for restricting such premises by location on the merits of the application and the representations made. A formal public consultation on the draft policy was undertaken between 29 November 2010 and 18 February 2011. The Schedule of Responses is attached as Appendix B to Report B502.