

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – 26 FEBRUARY 2014

Title of report	SPECIAL POLICY – CUMULATIVE IMPACT ZONE – ASHBY DE LA ZOUC
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Purpose of report	To consult with the Licensing Committee on the special policy within the draft statement of licensing policy
Council Priorities	Business & Jobs Homes & Communities
Implications:	
Financial/Staff	No additional financial or staffing implications
Link to relevant CAT	Business CAT
Risk Management	There is a risk that the Council's Statement of Licensing Policy is challenged. Legal advice has been sought in its preparation to mitigate the risk of challenge
Equalities Impact Assessment	Equality Impact Assessment already undertaken, issues identified have been actioned
Human Rights	Article 1 of Protocol 1 provides that everyone is entitled to the peaceful enjoyment of his possessions except in the public interest and subject to the conditions provided by the law
Transformational Government	This relates to the new ways in which council's are being asked to deliver their services
Comments of Head of Paid Service	Report is satisfactory

Comments of Section 151 Officer	Report is satisfactory
Comments of Deputy Monitoring Officer	Report is satisfactory
Consultees	As required under section 5(3) of the Licensing Act 2003 – Listed at paragraph 2
Background papers	<p>DCMS – Guidance issued under Section 182 of the Licensing Act 2003 – June 2013 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209526/1167-A_Licensing_Act_2003_2_.pdf</p> <p>Equality Act 2010 http://www.legislation.gov.uk/ukpga/2010/15/contents</p> <p>Licensing Act 2003 – Statement of Licensing Policy – Issue 5 Statement of Licensing Policy - Licensing Act 2003 (Issue 5)</p> <p>Licensing Committee 27 November 2013 – Licensing Committee Report</p> <p>Licensing Committee 27 November 2013 – Draft minutes</p>
Recommendations	<p>THAT LICENSING COMMITTEE MAKE A RECOMMENDATION TO COUNCIL REGARDING THE INCLUSION OF THE PREMISES TRADING AS THE SHOULDER OF MUTTON WITHIN THE CUMULATIVE IMPACT ZONE PRIOR TO CONSIDERATION AND ADOPTION BY COUNCIL ON 25 MARCH 2014</p>

1.0 BACKGROUND

- 1.1 Section 5 of the Licensing Act 2003 requires a Licensing Authority to determine and publish a statement of its licensing policy at least once every five years. A statement of Licensing Policy explains how the Licensing Authority will carry out its role under the Licensing Act 2003
- 1.2 The current policy (issue 5) was determined by Council on 26 October 2010 and came into force on 7 January 2011 and shall remain valid until 7 January 2016 unless amendments are necessary before this date.
- 1.3 A report was presented to Licensing Committee on 11 September 2013 providing notification of the review of the policy and explained the reasoning behind the decision to review the current policy only 2 years after it came into force.
- 1.4 A report was presented to Licensing Committee on 27 November 2013 recommending that Licensing Committee consider and comment on the draft statement of licensing policy. The following recommendations were made in the report:

1. That an EMRO or late night levy are not considered appropriate for the promotion of the licensing objectives;
2. That the special policy relating to cumulative impact in Ashby town centre be retained;
3. That the special policy applies to applications for new premises licences or club premises certificates or variations from all types of premises operating between 20:00 and 06:00;
4. That the area (cumulative impact zone) be amended to include the premises trading as the Shoulder of Mutton;
5. That the area (cumulative impact zone) not be amended to include the Plough Inn and the Royal Hotel;
6. That the Council continues to consult and notify in accordance with the legislation and statutory guidance in addition to notifying Parish Councils of applications.

2.0 OUTCOMES OF LICENSING COMMITTEE 27 NOVEMBER

- 2.1 The minutes of Licensing Committee are attached at Appendix 1
- 2.2 Recommendations 1, 2, 3, 5 and 6 were supported by Licensing Committee.
- 2.3 Recommendation 4 was not supported. Members felt that it was premature to include the Shoulder of Mutton at that time based on assumptions. Members requested statistics be released by the police before making a decision. Members agreed that the premises be excluded from the cumulative impact zone subject to further information from the police.

3.0 CONSULTATION RESPONSE FROM LEICESTERSHIRE POLICE

- 3.1 During the consultation period the police queried if the premises trading as the Shoulder of Mutton was within the area covered by the saturation zone within the current statement of licensing policy. Officers confirmed to the police that the Shoulder of Mutton premises falls outside of the current policy.
- 3.2 An initial consultation response was received from Leicestershire police on 4 October 2013. This was considered by Licensing Committee on 27 November. This is attached at Appendix 2. The police made the following comments specifically in relation to the Shoulder of Mutton: "We have considered the area covered by the saturation zone as still relevant. It encompasses all of the relevant premises and areas of disorder. We would ask that the area be increased to include the Shoulder of Mutton public house, on Kilwardby street, junction Derby road and Bath street. The premises is likely to have a major impact on the drinking habits of local people and abuts the zone. To prevent any ambiguity we would ask the boundary be re drawn to include it."

4.0 UPDATE REPORT FROM LEICESTERSHIRE POLICE

- 4.1 Additional information was received from Leicestershire police on 10 January 2014. Officers have worked with the police to agree the wording on the update report detailed below.
- 4.2 The report makes the following comments in relation to supporting the continuation of a special policy in Ashby town centre. This matter was dealt with by Licensing Committee in

November with Committee recommending to Council that the special policy in Ashby town centre be retained.

- 4.2.1 "Non domestic related violet crime in North West Leicestershire has increased 20%, this compares to a force-wide increase of 5.4%. It is not suggested that this rise is solely associated with licensed premises as research has demonstrated part of the increase is lincked with the summer good weather and social gathering at homes, however it has contributed to this significant increase. This has resulted in increased joint license activity to ensure licensees are fully sighted on their duties and responsibilities in relation to the licensing objectives."
- 4.2.2 "Alcohol fuelled violent crime in Ashby since 20th November 2013 to New years day 2014 has gone up, where it has dropped significantly in Coalville 60% down and Whitwick 50% down. Year on year data as follows:"

	20/11/12 to 1/1/13	21/11/13 to 1/1/14
Public Order	0	1
Assault/Harrassment	5	10

"The figures for Ashby are open to interpretation. We could conclude that the presence of the RBV,(Rural Beat Vehicle)acted as a point for reporting and did its job, resulting in more reporting. I saw a willingness of DPS/door staff and members of the public to attend and report incidents readily. So this should be seen as a positive." (Ps531 Mark Watson)

- 4.3 The additional information received from the police on 10 January also makes the following comments in relation to the Shoulder of Mutton:
- 4.3.1 "There are no direct crime reports specifically related to the Shoulder of Mutton premises. This is in part due to the fact that it was closed from September 2010 and did not re-open until mid October 2013."
- 4.3.2 "Since it has been reopened it is a pub that is used to pre-load. Other licensees and observations of police officers are that the opening of the premises has brought a change in drinking habits as customers commencing drinking early at the Shoulder of Mutton and then move onto other premises in Bath Street/Market Street. Further drinking ensues. Thus the Shoulder of Mutton is contributing to the overall increase in violent crime."
- 4.3.3 "It is the Police view that the spirit of the CIZ or any policy is not about a specific premise, it is with regard to a concentration of premises that may have a potential to impact on the promotion of these objectives."
- 4.3.4 "Practically if you look at its location it is a contingent part of Ashby's night time economy. You can see the Shoulder of Mutton from almost the top of Market street. Thus the police maintain that the Shoulder of Mutton is part of the concentration of public houses that make up the town centre of Ashby De La Zouch that collectively are impacting on the promotion of the objectives."
- 4.3.5 "We would also suggest in the interest of fairness and being equitable to other licensees that the Shoulder of Mutton is included."

5.0 REPRESENTATION FROM J.D. WETHERSPOONS

- 5.1 The Shoulder of Mutton public house was not trading during the consultation period. To ensure Committee members have all of the information available to make a decision Officers considered it was appropriate to seek the views of the operators JD Wetherspoons. A letter seeking the views of JD Wetherspoons was emailed to a named contact within the licensing team of JD Wetherspoons on 15 January. This can be found at Appendix 6.
- 5.2 A telephone call was made to the licensing team for the purpose of obtaining assurance that the letter had been received. The licensing team confirmed receipt of the letter. Telephone calls were made to the licensing team of JD Wetherspoons on 5 February and 10 February for the purpose of reminding the company of the opportunity to make a representation and of the deadline. JD Wetherspoons informed Officers that the matter was being considered by the legal team.
- 5.3 The Council did not receive a representation from JD Wetherspoons.

6.0 STATUTORY GUIDANCE – SPECIAL POLICY RELATING TO CUMULATIVE IMPACT

- 6.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement. The relevant section of the statutory guidance relating to adopting a special policy can be found on pages 86 to 89. This can be found at Appendix 3.
- 6.2 The most relevant paragraphs of the statutory guidance in relation to identifying the boundary of the area are detailed below:
 - 6.2.1 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. (paragraph 13.19)
 - 6.2.2 There should be an evidential basis for the decision to include a special policy within the statement of licensing policy. Relevant evidence may include: local crime and disorder statistics; statistics on local anti-social behaviour offences; health-related statistics; environmental health complaints; local residents complaints recorded by the local authority; residents’ questionnaires; evidence from local councillors; and evidence obtained through local consultation. (paragraph 13.23)
 - 6.2.3 In order to identify the areas in which problems are occurring, information about specific incidents can be mapped and, where possible, a time analysis undertaken to identify the key area and times at which there are specific issues. (paragraph 13.26)
 - 6.2.4 Having considered it to be appropriate to introduce a special policy a local authority must identify the boundaries of the area where problems are occurring (this can involve mapping where problems occur and identifying specific streets or localities where such problems arise). (paragraph 13.28)
 - 6.2.5 2 maps are provided at Appendix 4 and 5. The map at Appendix 4 shows the boundaries of the area including the Shoulder of Mutton premises and the junction of Market Street and Bath Street, Kilwardby Street and Derby Road. The map at Appendix 5 shows the boundary of the area to exclude the Shoulder of Mutton premises. By recommending the inclusion of the Shoulder of Mutton public house within the area Licensing Committee will be

recommending that Council consider and adopt the area detailed at Appendix 4. By recommending the Shoulder of Mutton falls outside of the area Licensing Committee will be recommending that Council consider and adopt the area detailed at Appendix 5.

7.0 LEGAL ADVICE

- 7.1 Legal Advice has been sought and members are advised that it is clear when considering whether to adopt a special policy the Licensing Authority must be satisfied that there is an evidential basis which shows that the licensing objectives are being undermined. The legal advice is that it would therefore follow that in order to extend the area of a special policy (or reduce or revoke it) there should also be an evidential base justifying the extension, reduction or revocation. It is accepted that the evidential base used to justify a special policy consists of a broad range of factors from, for example, empirical evidence in the form of crime statistics, to evidence obtained from local consultations and observations. However before the Licensing Authority were to extend the special policy area then it must be satisfied that there is a negative cumulative impact arising from the operation of the premises either in or around the premises or within the defined area of the special policy as a whole such that the licensing objectives are being undermined. If Members are satisfied that there is a negative cumulative impact they must then consider whether it is appropriate to extend the special policy area.
- 7.2 It is a matter for Members to consider the representations made by both the Police and the operators of the premises and attach what weight they think is appropriate to those representations in determining whether or not the area of the special policy should be extended.

8.0 APPROVAL PROCESS

- 8.1 A procedural irregularity by a Licensing Authority in relation to the determination of its Statement of Licensing Policy may be the subject of a challenge by way of judicial review to the Administrative Court.
- 8.2 A draft Statement of Licensing Policy will be taken to Council on 25 March 2014 for final approval and publication.