

**REPORT TO: LICENSING COMMITTEE – 15 APRIL 2005**

**REPORT BY: DEPUTY LICENSING MANAGER**

**REPORT AUTHOR: RICHARD CHALMERS**

**LICENSING ACT 2003 – A SPECIAL POLICY WITHIN THE STATEMENT OF LICENSING POLICY**

**Purpose**

The purpose of this report is to advise the Licensing Committee of a representation from Hampshire Constabulary (the Police) for the adoption of a revision to the Council's Statement of Licensing Policy to combat the cumulative impact of the saturation of licensed premises in the Guildhall and South Parade areas of Portsmouth.

This representation is in accordance with section 5 of the Licensing Act 2003 (the Act) which requires that a licensing authority prepares and publishes a statement of its licensing policy every three years. During this 3 year period, the policy must be kept under review and the licensing authority make such revisions to it at such times as it considers appropriate (for instance, in the light of representations that the licensing objectives are not being met).

**RECOMMENDED (1) that the Licensing Committee approve the draft amendment to the Statement of Licensing Policy and consult with those persons and responsible authorities listed in Section 5 of the Act;**

**(2) the Licensing Committee approve the timetable for the consultation period, the consideration of responses to the consultation process and submission of reports on the special policy to the committee and the Council.**

**Background**

On 21<sup>st</sup> December 2004 the City Council approved and adopted a Statement of Licensing Policy as required under the Act. On 24<sup>th</sup> January 2005 the licensing authority received a police representation that the authority consider "Special Saturation Policies – Guildhall and South Parade Areas". (This representation is attached as Appendix A.)

The Police representation, in short, is that the licensing objectives, in particular the

- Prevention of Crime and Disorder
- Public Safety and
- Prevention of Public Nuisance

cannot be effectively achieved in the Guildhall and South Parade areas of the city unless a special policy is adopted.

There has been a steady and significant increase in violent crime in these areas and growing public concern. A large proportion of this crime is alcohol related. The Police have worked on a number of initiatives to reduce violent crime and disorder including a multi agency approach to solving problems. Despite these initiatives, crime and disorder continues to rise unabated. Likewise public safety is seriously at risk due to the incidence of violence used in a large number of the offences committed in these areas.

It is recommended that this report be read in conjunction with paragraph 6 (Cumulative Impact) and paragraph 7 (Other Mechanisms for Controlling Cumulative Impact) of the City Council's Statement of Licensing Policy and the with Guidance issued by the Secretary of State for Culture, Media and Sport (the Guidance) under section 182 of the Act. (Those parts of the Guidance relating to Cumulative Impact are reproduced at Appendix B.)

Government guidance describes "Cumulative Impact" as "the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in an area". (Guidance para 3.13.)

"Need" for licensing premises is a matter for Planning Committees and the market to consider and is not a matter for a licensing authority to consider in discharging its functions or for its statement of licensing policy. (Guidance para 3.12.)

The Statutory Guidance indicates (para 3.16) that where after considering the available evidence and consulting appropriate individuals and organisations it has a duty to, a licensing authority is satisfied that it is appropriate and necessary to include an approach to cumulative impact in its licensing policy statement, it should indicate in the statement that a policy of refusing new licences will be adopted wherever it receives relevant representations from which it concludes that new applications should be refused. The statement of licensing policy adopted by the council on 21 December 2004 stated that this would be done and this report responds to the subsequent police representation made in January 2005.

The effect of adopting a special policy will be to create a "rebuttable presumption" that new premises or club premises licences will normally be refused unless applicants can demonstrate that the operation of the new premises would not add to the cumulative impact already being experienced (Guidance: para 3.19).

It must be stressed, however, that the adoption of a special policy does **not** relieve responsible authorities or interested parties, of the need to make a relevant representation to the licensing authority on each

occasion a new application is made before it may lawfully consider giving effect to its special policy. (Section 18(c) of the Act.)

The special policy, if adopted, will be regularly reviewed and the absence of any special policy does not prevent responsible authorities or interested parties making representations that the grant of a new licence will give rise to a negative cumulative impact on one or more of the licensing objectives.

The steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are:

- identification of concern about crime and disorder or public nuisance;
- consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
- consultation with those specified in section 5(3) of the Act as part of the general consultation required in respect of the whole statement of licensing policy;
- subject to consultation, inclusion of a special policy about future premises licences or club premises certificate applications within the terms of the Guidance in the statement of licensing policy;
- publication of the special policy as part of the statement of licensing policy as required by the Act.

(Guidance para 3.18.)

Adoption and publication of a special policy would, as was the Council's Statement of Licensing Policy, be a matter for the full council after any recommendations made by Committee.

### **Consultation Process**

To ensure that the consultation process is as effective as possible, the following steps are proposed to be taken with regard to the statutory requirements listed in section 5(3) of the Act.

- Copies of the draft special policy and information regarding making representations will be placed on the Council's website.
- Copies of the draft special policy will be available at the Licensing Office and at the City Help Desk. Copies will also be sent to public libraries.

- A public notice will be published in "The News".
- Each member of the Council will receive a copy of the draft special policy, together with a copy of the Police representations.

### **Timetable for Consultation**

The draft timetable suggested is as follows:

- 15 April 2005: Licensing Committee to consider and approve this report.
- 25 April 2005: Consultation period commences.
- 25 May 2005: Consultation period ends. Consideration of any other representations takes place.
- June 2005: Report to Licensing Committee regarding approval of special policy and referral to Council.
- June/July 2005: Special Policy considered by Council.
- 1 August 2005: Special Policy comes into effect.

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Deputy Licensing Manager  
Licensing Section  
Legal and Democratic Services

RC/EH  
5 April 2005

**DRAFT PROPOSED AMENDMENT TO  
PORTSMOUTH CITY COUNCIL'S  
STATEMENT OF LICENSING POLICY**

**CUMULATIVE IMPACT**

**Para 6.9**

- 6.9.1 Having regard to the evidence currently available, the City Council considers that there are two specific areas of Portsmouth where it is both appropriate and necessary to introduce a special policy in order to promote the licensing objectives. The Licensing Authority, therefore, will normally refuse the grant of new premises licences and new club premises certificates and will normally refuse to approve variations to such licences and certificates.
- 6.9.2 The area where this special policy will have effect are "Guildhall" area and "South Parade" area.

There has been a significant increase in the number and scale of licensed premises in the Guildhall area in recent years. This has resulted in a 34% increase in the number of alcohol related assaults, robberies and public disorder in the period 1 April 2003-31 March 2004 compared to the same period in the previous year. The area is currently designated a "dispersal area" under the Anti-social Behaviour Act 2003, by Hampshire Constabulary, who support this special policy.

Due to the large numbers of night clubs and other licensed premises, the South Parade area, similarly, suffers from a very high rate of alcohol related violent crime and disorder. Despite numerous actions and strategies to control it, it continues to frustrate police efforts. Reported crime in these two areas account, currently, for 54% of all recorded crimes in Portsmouth!

- 6.10. The areas subject to this special policy are as shown in the plans attached to this policy.

The special policy applies to the areas contained within the following:

- 6.10.1
- Isambard Brunel Road from the southern side of the railway line and to the east and then south to the junction with Alec Rose Lane,
  - Alex Rose Lane to the western edge of the Law Courts and to
  - Winston Churchill Avenue then west to the footpath between James Watson Halls of Residence and Saint Michael's Building, University of Portsmouth
  - North to White Swan Road and east to
  - King Henry Street, north to the railway lines, to the west of the Guildhall.
  - East along the railway line to Isambard Brunel Road.

- 6.10.2
- Granada Road from its junction with Clarendon Road to its junction with Saint Helen's Parade, and
  - South Parade including South Parade Pier, to its junction with Eastern Villas Road
  - Eastern Villas Road to its junction with Clarendon Road.
  - Clarendon Road to its junction with Granada Road.