

LICENSING COMMITTEE

Minutes of the meeting held on Tuesday 26 May 2009 at the Town Hall, Royal Leamington Spa, at 4.30 pm.

PRESENT: Councillors Coker, Crowther, De-Lara-Bond, Edwards, Mrs Gallagher, Mrs Goode, Guest, Harris, Heath, Mrs Higgins, Mrs McFarland, Mrs Mellor.

An apology for absence was received from Councillor Hatfield.

1. **DECLARATIONS OF INTERESTS**

There were no declarations of interest.

2. **APPOINTMENT OF CHAIRMAN**

RESOLVED that Councillor Mrs Mellor be appointed Chairman of the Committee for the ensuing municipal year.

3. **APPOINTMENT OF VICE-CHAIRMAN**

RESOLVED that Councillor Mrs Higgins be appointed Vice Chairman of the Committee for the ensuing municipal year.

4. **MINUTES**

The minutes of the meeting of the Committee held on 8 December 2008 were taken as read and signed by the Chairman as a correct record.

5. **RECORD OF PANEL HEARINGS**

The Committee considered the minutes of the meetings of the Licensing Panels held on 4 November 2008 and between 2 December 2008 and 30 March 2009.

Referencing a comment in the minutes, Councillor Crowther asked how many people constituted a public nuisance. The Licensing Services Manager explained that this was originally defined as “the wider public”, but a Magistrates Court had recently suggested that a public nuisance applied to “more than 1 or 2 people”. Until there were stated cases, this was guidance only.

RESOLVED that the records of the Licensing Panels held on 4 November 2008 and between 2 December 2008 and 30 March 2009 be noted.

6. **CONCERNS FROM ENVIRONMENTAL HEALTH OFFICER REGARDING THE ATTACHMENT OF CONDITIONS**

The Licensing Services Manager invited the Council’s Environmental Health Officer to express his concerns to the Committee regarding his recommendations given before and at Licensing Panel Hearings.

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The Committee had a discussion with the Environmental Health Officer about this matter and accepted his concerns. They explained that when he has recommended refusal they may need guidance on conditions if they were minded to grant the application.

The Chairman thanked the Environmental Health Officer and the Committee for the discussion.

7. SUGGESTED AMENDMENTS TO THE LICENSING POLICY REGARDING THE CUMULATIVE IMPACT ZONES

The Committee received a report from the Licensing Services Manager, asking it to recommend the amended Licensing Policy for approval by Council.

Under the Licensing Act 2003 and the Guidance issued under Section 182 of the Act, the Licensing Authority could take into account the existence of a saturation of premises one or more areas. The cumulative impact of new licences in a particular area could lead to the area becoming saturated with premises of a certain type, making it a focal point for large groups of people together, and, thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. This policy places the onus of proof on an applicant to show that the application would not impact on the four licensing objectives.

This authority had maintained a successful cumulative impact policy for two cumulative impact zones in Royal Leamington Spa since the inception of the Licensing Act in November 2005.

To avoid a challenge to the policy, and in the interest of good practice, a review of the policy had taken place. Key stakeholders were consulted including Royal Leamington Spa Town Council, the Police, Environmental Health, Resident Groups, Licensed Premises, the Public and Businesses in the area, to which no negative responses were received.

Figures were supplied to the Council by Crime and Community Safety, Warwickshire Observatory confirming both the necessity for a continued policy and the success of the existing one.

It was noticed that the area highlighted by the figures from Crime and Community Safety, Warwickshire Observatory was one zone which incorporated the two existing cumulative impact zones. Officers felt it appropriate to amalgamate the two existing zones into one zone. This zone also mirrored that Leamington Safer Neighbourhood area.

The current cumulative impact zone area was described in parts 7 and 8 of the existing Licensing Policy which was appended to the report. It was proposed that the existing wordage was simplified for the new zone and was listed as section 7 only of the policy.

The Licensing Services Manager responded to questions from the Committee with regard to the proposed changes, including clarifying that where roads are listed

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both sides of the road are covered by the cumulative impact zone. The Licensing Services Manager also provided guidance to the Committee on when the Cumulative Impact Zone could be used to refuse applications.

RECOMMENDED that Council approves the amendment to Licensing Policy, as set out below, including the amalgamation of the two current cumulative impact zones in Royal Leamington Spa into a single zone.

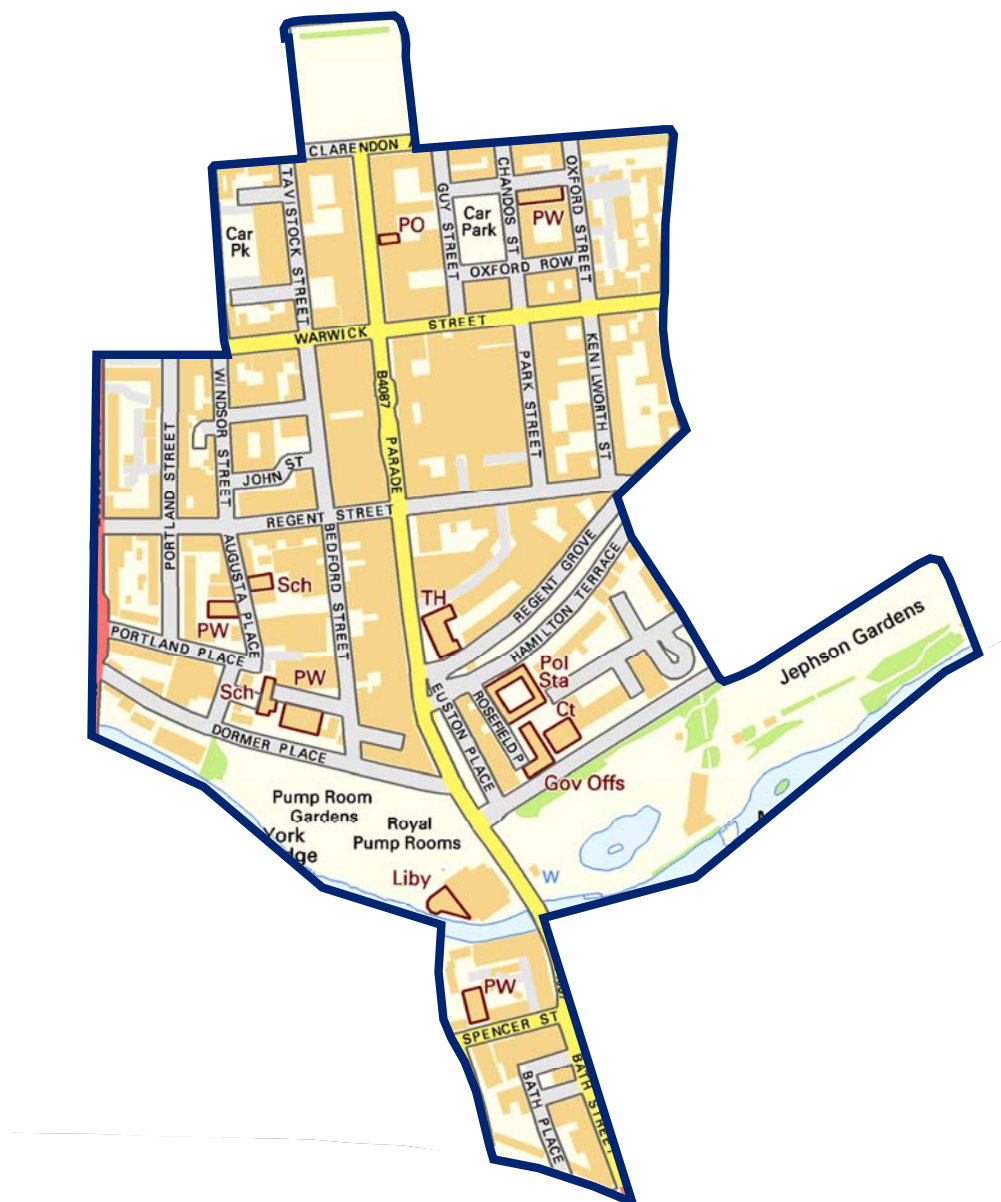
“The Licensing Authority recognises that there is a difference between the cumulative impact of premises and commercial need. The latter is a function of market forces and is not a factor the Council may take into account in the discharge of its licensing function.

The Licensing Authority adopted a special policy regarding cumulative impact in November 2005 at the commencement of the Licensing Act 2003 where it considered that a significant concentration of licensed premises would have an impact on the licensing objectives and granting of further licences in that area would add to this impact. When adopting the special policy reference to the steps outlined in paragraph 13.26 of the Licensing Act Guidance were made.

The Licensing Authority formed two saturation zones, based on information supplied to it in 2005 on crime and disorder and other related matters. The area and its necessity has been ratified by further figures supplied to the Licensing Authority in January 2009 as part of its review of the cumulative impact policy.

The two zones, when joined together, form the same area as the Leamington Safer Neighbourhood area. In the interest of clarity and transparency, the two zones have been amalgamated into one cumulative impact zone. A map of the zone is shown below. Properties on both sides of any road which borders the zone are deemed to be included within the zone.

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It is considered that the cumulative impact of further new licences in this zone may lead to the area becoming further saturated with premises of a certain type, including pubs, clubs, takeaways and off licences, making the area a focal point for large groups of people, thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves.

The special policy regarding cumulative impact is not absolute and where licences are unlikely to add to the cumulative impact on the licensing objectives, or the Licensing Authority does not receive any representations, the licence will be granted.

The special policy regarding cumulative impact will not be used to try and revoke an existing licence or certificate when representations are made about the way the premises are being operated; representations would be considered and

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determined in respect of the four licensing objectives. However, the special policy may be a justification to refuse an application or to vary a licence or certificate.

The Licensing Authority will not operate a quota of any description including any special policy, that would pre-determine an application. Each application will be considered on its individual merits. Proper regard will be given to the contrasting styles and individual characteristics of the premises concerned, and the differing impact they will have on the local community.

The Licensing Authority will consider the individual merits of all applications and where it feels to grant the application would be unlikely to add significantly to the cumulative impact in light of the licensing objectives, the Licensing Authority may grant the application.

If an application for a licence within the cumulative impact zone is made, the Licensing Authority will expect the applicant to demonstrate in their operating schedule, the steps to be taken to prevent problems of nuisance and, public safety and the steps to be taken to promote the reduction of crime and disorder. The onus of proof will be on the applicant to show that the application will not impact on the four licensing objectives.

The Licensing Authority recognises that if no representations are made regarding an application for a licence within the cumulative impact zone, the Licensing Authority must and will grant the licence.

The policy will be subject to review.

(The meeting ended at 5.32 pm)