

LICENSING ACT 2003 COMMITTEE

Monday, 29 September 2008

<u>Present:</u>	Councillor	A Hodson (Chair)	
	Councillors	S Clarke	J Salter
		I Coates	A Taylor
		W J Davies	C Teggins
		C Povall	R Wilkins
		D Roberts	P Williams
<u>Apologies</u>	Councillors	H Smith	W Duffey

1 DECLARATIONS OF INTEREST

Members were asked to consider whether they had any personal or prejudicial interests in connection with any item(s) on the agenda and, if so, to declare them and state what they were.

Members were also reminded that they should also declare, pursuant to paragraph 18 of the Overview and Scrutiny Procedure Rules, whether they were subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping agreement. No declarations were made.

2 MINUTES

Resolved – That the minutes of the meeting held on 16 June, 2008 having been received or approved by the Council, be received.

3 CUMULATIVE IMPACT SPECIAL POLICY

The Director of Regeneration submitted a report outlining the background to requests for the Council to amend the Statement of Licensing Policy to include a Special Policy in respect of Cumulative Impact for an area of Hoylake.

The Director reported that residents of Hoylake had written to the Licensing Authority requesting that a Special Cumulative Impact Policy be introduced in Hoylake. Individual letters had been received from 14 residents and a petition signed by 186 residents has also been submitted with a further letter on behalf of the Residents Forum in Hoylake. They highlighted problems relating to noise nuisance and anti-social behaviour associated with licensed premises in Hoylake, and expressed concerns regarding the cumulative impact of these licensed premises and the effect upon the promotion of the Licensing Objectives. These documents were included in Appendix 1.

Mrs J Hall, a spokesperson for the petitioners, addressed the meeting. She stated that cumulative impact of licensed premises in Hoylake was having a detrimental effect on the quality of life for residents, by reason of noise and general disturbance,

and was therefore affecting the promotion of the licensing objectives. She outlined the concerns of the local community regarding anti-social behaviour from customers of these licensed premises which were expressed both in the individual letters of representation and in the form of a petition signed by residents at local community meetings.

Councillor Hale, ward councillor, indicated his support for the petition. He commented on existing difficulties regarding enforcement and the conclusions in the letter received from the Area Police Commander. In particular, it was noted that whilst there was insufficient evidence to support the introduction of a Cumulative Impact Policy for Hoylake at the present time, the Area Commander had reserved the right to re-consider his position should the position change, emphasising that any increase in the current levels of licensed premises or substantial variations to hours conditions could significantly affect the redeployment of police resources.

The Director explained that the effect of adopting a Special Cumulative Impact Policy was to create a presumption that applications for new Premises Licences or Club Premises Certificates or variations that were likely to add to the cumulative impact of existing premises, would normally be refused following relevant representations, unless the applicant could demonstrate in their operating schedule that granting the application would not give rise to a negative cumulative impact on one or more of the licensing objectives. However, the absence of a special policy did not prevent any responsible authority or interested party making representations on a new application for the grant of variation of a licence on the grounds that the premises would have a negative cumulative impact on one or more of the Licensing Objectives.

In consideration of whether to adopt a special policy relating to cumulative impact Guidance issued under Section 182 of the Licensing Act 2003 set out matters to be considered by the Licensing Authority in relation to crime and disorder or public nuisance.

Following the concerns raised by local residents in respect of public nuisance, views had been sought from each of the 'Responsible Authorities' requesting any evidence that they may have in respect of crime and disorder or nuisance happening and caused by customers of licensed premises in Hoylake or evidence that a risk of cumulative impact was imminent.

Merseyside Fire and Rescue Service, Trading Standards, Environmental Health, and Merseyside Police had stated that there was no evidence to support the introduction of a Cumulative Impact Policy for the area in Hoylake.

The Police Area Commander stated that, based on the current available information, he did not consider there was a clear case made to justify a Special Cumulative Impact Policy in Hoylake at this time (Appendix 4). He did however, reserve the right to re-consider his position should the situation change.

The Director advised the committee that on the basis of the responses received from the Responsible Authorities there was insufficient evidence to support the introduction of a Special Cumulative Impact Policy for Hoylake at this time.

There was a general discussion concerning the current economic climate and the effect on the licensing trade, the recent closure of two bars in the Hoylake area,

enforcement issues and reporting arrangements for incidents of anti-social behaviour.

In response to a question from Councillor Taylor, the Director confirmed that cumulative impact could still be treated a material consideration when members consider any new application or application for the variation of a licence (paragraph 2.6 refers). He also advised that objectors would still need to make representations on individual applications even if the Council decided to adopt a Special Cumulative Impact Policy.

Resolved –

(1) (8:0) That, having considered the evidence and views provided by the Responsible Authorities and residents the Committee does not, at this time, agree to amend the statement of Licensing Policy in respect of Cumulative Impact in Hoylake.

(2) That, in the event that evidence is received from the Responsible Authorities to justify a Special Cumulative Impact Policy in Hoylake, this matter be referred back to this Committee for further consideration.

4 JUDICIAL REVIEW - SAUGHALL HOTEL

The Director of Regeneration submitted a report concerning the outcome of a Judicial Review of a decision made by Wirral Magistrates' Court under the Licensing Act 2003 concerning a Premises Licence for the premises known as The Saughall Hotel, Saughall Massie.

Resolved – That the Committee note the report and recognise the implications of the judgement confirming the basis for Licensing decisions.

5 ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR

The Red Cat Public House, Greasby – Enforcement of Licensing Conditions

The Director of Regeneration reported upon the outcome of a recent prosecution regarding breaches of the licensing conditions which affect public safety at these premises, and had resulted in a substantial fine to the Designated Supervisor of the premises and the award of costs to the Council

Resolved - That the report be noted.