

Licensing Committee

11 October 2018

Present: Councillor G Madden (Chair)
Councillors L Darke, M A Green, Janet Hunter, John Hunter, W Lott, D McMeekan, A Percy, K Osborne and L Spillard.

LQ1/10/18 Apologies for Absence

Apologies for absence were submitted on behalf of Councillors D Drummond, J O'Shea and A Waggott-Fairley

LQ2/10/18 Declarations of Interest and Dispensations

There were no declarations of interest and dispensations reported.

Councillor McMeekan advised the Committee that he held a Personal Licence, although it was not currently being used, and he had a number of friends in the trade in Whitley Bay. He would approach the agenda items with an open mind and base any decisions on the evidence presented in the papers and verbally at the meeting.

LQ3/10/18 Cumulative Impact Assessment

Consideration was given to a report which provided details of the responses received in relation to the consultation which had been carried out on the development of a Cumulative Impact Assessment (CIA).

The Committee was advised that prior to introduction of Section 5A of the Licensing Act 2003 on 6 April 2018 if a local authority wished to introduce a Cumulative Impact Policy for those areas which it considered that granting any new licences would not promote the licensing objectives it had to include the Cumulative Impact Policy in its Statement of Licensing Policy. The Cumulative Impact Policy provided a rebuttable presumption against granting any further premises licences in the area of the Policy.

Since 6 April 2018 it has been a requirement that the issue of Cumulative Impact was dealt with in a separate document known as a Cumulative Impact Assessment and the Statement of Licensing Policy need only summarise the CIA.

Under Section 5A of the Licensing Act 2003 the Authority was required to set out in the CIA the evidence it used to determine that issuing further premises licences or club premises certificates would undermine the licensing objectives. The evidence that the Authority relied upon included advice from the Police in relation to crime and disorder statistics.

The Committee was advised that prior to the publication of a Cumulative Impact Assessment the Authority was required to consult with a number of statutory bodies, including the Chief Officer of Police, the Fire and Rescue Authority and the Local Health Board. In addition representatives of the existing licence holders and other businesses in the area had to be consulted along with members of the public. The consultation exercise took place between 9 July and 31 August 2018 and included the reasons why the Authority considered that a CIA should be published.

It was explained that the Authority had received 102 responses via the on-line survey and a further 26 responses via email. The vast majority of respondents agreed with the two areas in Whitley Bay and Tynemouth being included in a CIA. A number of other areas were suggested but the evidence available did not support their inclusion in the CIA.

A draft Cumulative Impact Assessment was presented for the Committee's consideration. It was suggested that several minor alterations be made to the wording to clarify what happened in the period when the Assessment was in place and the Licensing Policy was being reviewed.

Reference was made to the changes which had occurred in the Whitley Bay area since the introduction of the original Cumulative Impact Policy and clarification sought that the introduction of the CIA covering that area would not lead to a monopoly situation being created. It was explained that even though a CIA was in place each application for a new licence in the Cumulative Impact Area would have to be considered on its own merits. If no-one objected to a particular application then it would have to be granted, even if it was within a CIA.

Resolved that (1) the Cumulative Impact Assessment, as amended, be approved and applied to applications in respect of premises licence applications, including substantive variation applications;
(2) the Cumulative Impact Assessment policy be incorporated into the draft Statement of Licensing Policy; and
(3) the Cumulative Impact Assessment be published

LQ4/10/18 Licensing Sub-committee Procedure – Pre-hearing Disclosure

The Committee was reminded that in 2010 it had resolved that no documentation apart from the agenda and the licensing officer's report would be disclosed to the press and public in advance of a meeting of the Licensing Sub Committee (minute LQ05/10/10 refers).

In June 2018 a review of the position was carried out following a request from the press for sight of the additional documentation in advance of a hearing. Advice was sought from a specialist Counsel on what information could legitimately be disclosed to the press and public in advance of a hearing particularly as the normal disclosure rules relating to the various other committees and sub committees did not apply to the Licensing Committee and its sub committees. Following receipt of the advice from the specialist Counsel the Chair of the Committee was consulted and agreed that, on an interim basis and subject to a report being presented to the next meeting of the Licensing Committee, a redacted version of the appendices should be published on the Authority's website along with the agenda and licensing officer's report.

Members expressed reservations that publication of the information in advance of the hearing could potentially affect whether an applicant was able to receive a fair hearing particularly if the reporting in the press was sensationalist or exaggerated.

Resolved that the disclosure of all documentation referred to in reports prepared by officers for licensing hearings, subject to the appropriate redaction of sensitive information, be approved except in those circumstances when it is not in the public interest to publish some or all of the appendices.