

Licensing Committee

Monday, 20 March 2017

10.00 am at the

Civic Offices, St Nicholas Way, Sutton, SM1 1EA



To all members of the Licensing Committee:-

Chair: Councillor Mary Burstow
Vice-Chair Councillor Jean Crossby
Councillors: David Bartolucci, Samantha Bourne, Margaret Court,
Marlene Heron, Miguel Javelot, Richard Marston, Nali Patel,
Nighat Piracha, Paul Wingfield, Tony Shields, Moira Butt and
Graham Whitham

PLEASE NOTE: Any decision taken at this meeting does not become definitive until 10am on the third working day after the meeting. Any four members of the Council may notify the Chief Executive by then if they require a decision to be reviewed by the appropriate committee at its next meeting. Please contact the Committee Services representative shown on the front page for further information.

Niall Bolger
Chief Executive
Friday, 10 March 2017

Enquiries to: Aimee Wittams-Smith, Senior Business Support Officer (Democratic)
Tel: 020 8770 4171 | Email: aimee.wittams-smith@sutton.gov.uk

Copies available in large print upon request

AGENDA

1. Apologies for Absence

2. Minutes

3 - 6

To approve as a correct record the Minutes of the meeting held on 3 October 2016.

3. Declaration of Interests

4. Changes to the Licensing Act 2003

7 - 12

This report updates the Licensing Committee on changes to the Licensing Act 2003 and associated legislation brought about by the Policing and Crime Act 2017 and the Immigration Act 2016.

5. Update on Review of Special Policy on Cumulative Impact

13 - 18

This report updates Members on the review of the Special Policy on Cumulative Impact, highlighting proposed data sources and evidence gathering processes, together with a timetable for progressing the review.

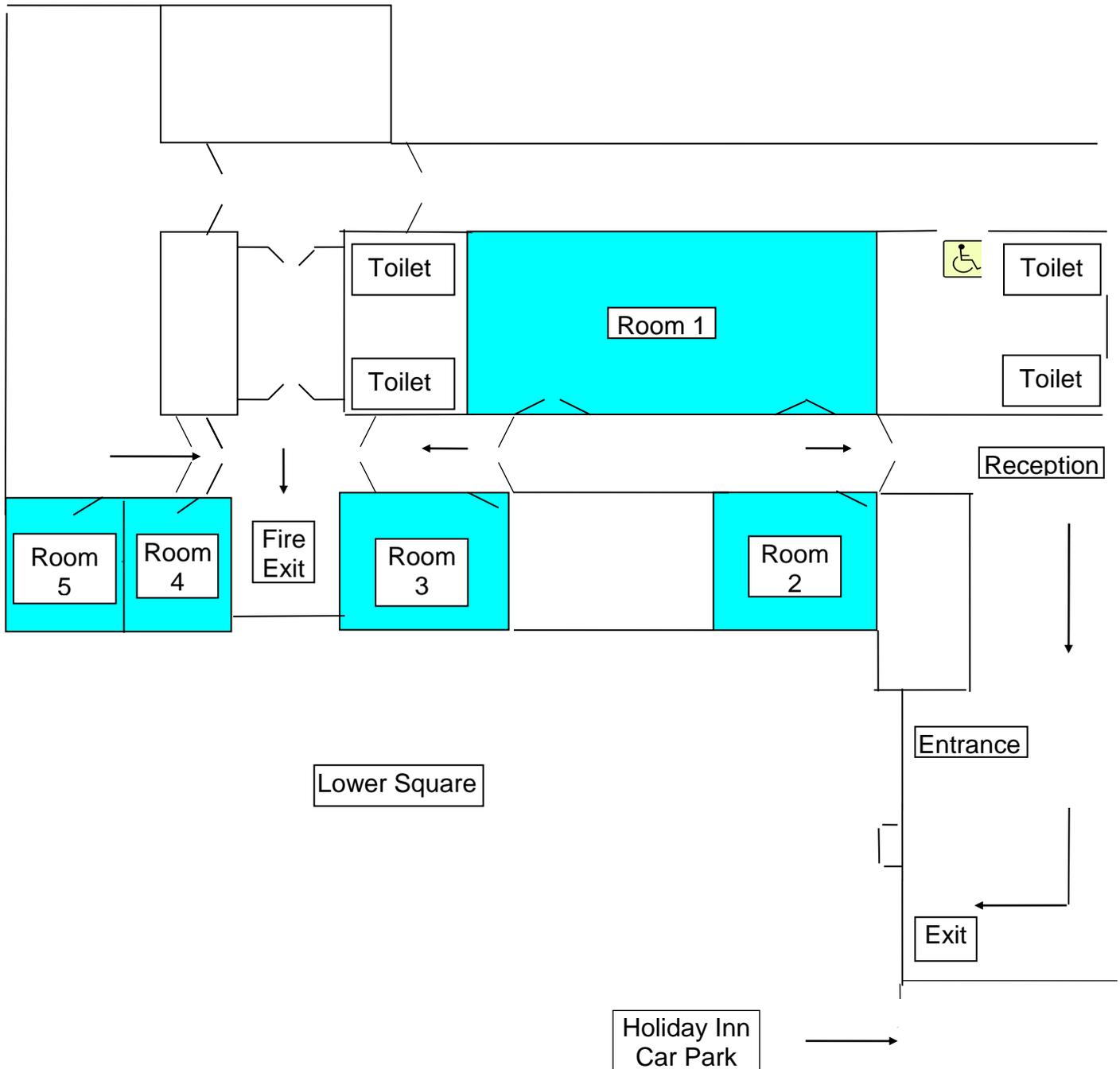
6. Any Urgent Business

At the direction of the Chair, who has approved the reason for the urgency.

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Reminder – Declarations of Interests

Members should consider the following interests and whether they have any they should declare.

Disclosable Pecuniary Interests

Where you have a Disclosable Pecuniary Interest in any business of the Authority at this meeting and you have either declared it beforehand in the Register of Members' Interests or to the Monitoring Officer for entry in the Register you must state at this meeting that you have such an interest and then withdraw from the room or chamber where the meeting is being held whilst that business is considered.

Where you have a Disclosable Pecuniary Interest in any business of the Authority at this meeting and have not previously declared it you must declare the nature of that interest at this meeting and then withdraw from the room or chamber where the meeting is being held whilst that business is considered.

Other Pecuniary and Non-Pecuniary Interests

Where you have any other pecuniary or non-pecuniary interest in any business at this meeting you must declare that interest, but may continue to speak and vote on the matter. However, if the interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest then you should declare the interest and withdraw from the room or chamber where the meeting is being held whilst that business is considered.

Further information on these matters can be found in the Council's Code of Conduct and Constitution. If you are in any doubt as to whether you have an interest you should seek advice **before** the committee meeting from Alexa Coates.

If, during the course of the committee meeting, you consider you may have an interest you should always declare it.

LICENSING COMMITTEE**3 October 2016 at 10.00 am**

MEMBERS: Councillor Mary Burstow (Chair), Councillor Jean Crossby (Vice-Chair) and Councillors Marlene Heron, David Bartolucci, Samantha Bourne, Margaret Court, Richard Marston, Nighat Piracha, Paul Wingfield and Graham Whitham

ABSENT: Councillors Nali Patel, Miguel Javelot, Tony Shields and Moira Butt

1. ORDER OF ITEMS

The Chair wished to discuss some urgent business, as such she brought this item to the top of the agenda following declarations of interest. Items were discussed at the meeting in the order that follows.

2. DECLARATION OF INTERESTS

Councillors Richard Marston, Mary Burstow, Nighat Piracha, Samantha Bourne, Graham Whitham, and Jean Crossby declared interests for the item taken under urgent business, as they were involved in the organisation of community events.

3. ANY URGENT BUSINESS

The committee discussed the matter of licensing fees for markets, in particular the seasonal winter markets. Councillors were concerned that some of the traditional market organisers at community events could not pay the street trading fees, in particular those from the charity sector. David Kingstone, Licensing and Environmental Compliance Team Leader, informed the committee that as a result of recent case law and legislation it was not possible to advantage any one group over another when setting the fees. Nick Cloke confirmed that the current agreed fees were £37 for a single day of trading (per trader), and £1350 for a market of over 41 stalls.

Councillors expressed concerns about events such as the Cheam Charters Fair, which they believed may cease in the face of high fees. Councillors discussed the matter of Local Committees ability to assist community groups with costs via the use of neighbourhood grants. David Kingstone informed the committee that all applicants must be treated equally, however a review of the fees, including possibility of categorising fees was being undertaken.

4. APOLOGIES FOR ABSENCE

There were no apologies received.

5. MINUTES OF THE PREVIOUS MEETING

**Licensing Committee
3 October 2016**

The Minutes of the meeting held on 8 March 2016 were approved as a correct record, and signed by the Chair.

6. INTRODUCING THE REVIEW OF THE CUMULATIVE IMPACT POLICY

David Kingstone presented a report to recommend the introduction of a review of Sutton's Cumulative Impact Policy. Councillor Mary Burstow reminded the committee of the Public Health agenda to discourage binge drinking. Councillor Jean Crossby proposed that the details of the review could be better discussed as part of a working group [post-meeting note: a meeting open to all Councillors will be arranged with Officers in order to outline the desired outcomes of the review]

Councillor Samantha Bourne was concerned that the Police had not been involved in recent licensing matters and wished for them to attend to advise on the policy review. Councillors raised the matter of enforcement by the Police where the current Cumulative Impact Policy resulted in granted licenses subject to a lot of conditions. David Kingstone confirmed that the review would allow Councillors to be more specific about certain aspects of concern. Councillors discussed the desire for more up-market licensed establishments such as craft wine shops and micro-brewery bars, and to avoid exhaustive availability of low-cost alcohol sold for consumption off the premises. This was in line with other policy areas, and the Sutton Town Centre Masterplan. Councillors agreed that it would be beneficial to work with the Planning Committee, as conditions implemented on planning applications would cover concerns linked to licensing.

RESOLVED that the Licensing Committee:

1. Agreed to the review of the current special policy on cumulative impact; and
2. Agreed to form a group for a detailed discussion on the scope of the review.

7. ADOPTING MODEL CONDITIONS FOR ANIMAL WELFARE LICENSED PREMISES

Nick Cloke, Licensing Lead Officer, presented a report which sought for the committee to agree to adopt model licence conditions for cat boarding establishments, dog boarding establishments, dog breeding establishments, and pet vending licensing.

Councillors asked questions about the current licenses held in Sutton, and whether the models would affect private individuals looking after others pets from home. David Kingstone confirmed that these would fall under "home-boarding" and that the models in the report appendices referred to the bigger animal boarding establishments (30-40 animals) however that there is likely to be a model for home-boarding in the future.

RESOLVED that the Licensing Committee agree:

1. To adopt the model licence conditions for cat boarding establishments and agree that licence conditions should be drawn from them as appropriate when granting licences;

2. To adopt the model licence conditions for dog boarding establishments and agree that licence conditions should be drawn from them as appropriate when granting licences
3. To adopt the model licence conditions for dog breeding establishments and agree that licence conditions should be drawn from them as appropriate when granting licences
4. To adopt the model licence conditions for pet vending licences and agree that licence conditions should be drawn from them as appropriate when granting licences

The meeting ended at 11.38am

Chair:

Date:

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Report to:	Licensing Committee	Date:	20 March 2017
Report title:	Changes to the Licensing Act 2003 brought about by the Policing and Crime Act 2017 and the Immigration Act 2016		
Report from:	Mary Morrissey - Strategic Director, Environment, Housing and Regeneration		
Chair of Committee/Lead Member:	Councillor Mary Burstow		
Author(s)/Contact Number(s):	David Kingstone, Licensing & Environmental Compliance Team Leader 020 8770 5162 / 07342 055 767 Nick Cloke, Licensing Lead Officer 020 8770 5622 / 020 8547 5600 ext. 4366		
Corporate Plan Priorities	<ul style="list-style-type: none"> • A Fair Council 		
Open/Exempt:	Open		
Signed:	 Simon Latham, Executive Head	Date:	8 March 2017

1. Introduction

1.1 This report updates the Licensing Committee on changes to the Licensing Act 2003 and associated legislation brought about by the Policing and Crime Act 2017 and the Immigration Act 2016.

2. Recommendations

The Licensing Committee is recommended to:

2.1 Note the updates to the Licensing Act 2003 and associated legislation.

3. Policing and Crime Act 2017

3.1 In March 2016 the Home Office published its 'Modern Crime Prevention Strategy'. This lists 6 key drivers of crime, the last of which is alcohol. To address this, the strategy proposed to:

- give more powers for local authorities and police;
- improve late night levy by making it more flexible for local areas;
- Give the Police and Crime Commissioner's the right to request that local authorities

- consult on introducing a late night levy; and
- Put Cumulative Impact Policies on a statutory footing.

3.2 The proposed changes to the Licensing regime, detailed below, are contained within the Policing and Crime Act 2017, with the aim to improve the effectiveness of the alcohol licensing regime in preventing crime and disorder.

Meaning of “alcohol”

3.3 Section 191 of the 2003 Act defines alcohol as “spirits, wine, beer, cider or any other fermented, distilled or spirituous liquor”. This is amended so as to clarify that powdered alcohol and vaporised alcohol are to be regulated in the same way as liquid alcohol.

Interim steps pending review: representations

3.4 Section 53A of the 2003 Act provides for the police to make an application for a summary review of a premises licence, if the relevant premises are associated with serious crime or serious disorder. The licensing authority must consider the application within 48 hours and impose ‘interim steps’ (temporary conditions) if necessary.

3.5 When a licensing authority considers an application for a summary review, it may take interim steps without first giving the holder of the premises licence an opportunity to make representations. This is because in instances of serious crime and serious disorder it may be necessary to take immediate action in order to protect the public. Section 53B of the 2003 Act allows the licence holder to make representations after the interim steps have been taken, and then requires the licensing authority to hold another hearing to consider those representations within 48 hours. The 2003 Act does not limit the number of times that a premises licence holder may make representations, with the result that the licensing authority must hold a hearing each time that relevant representations are received.

3.6 Section 53B is amended so that after the licensing authority has held a hearing to consider the interim steps, the premises licence holder may only make further representations if there has been a material change in circumstances since that hearing.

Summary reviews of premises licences: review of interim steps

3.7 Following from the above measure, Section 53A requires the review of the premises licence to take place within 28 days of receipt of the application. The review takes the form of a hearing at which the licensing authority will determine what action should be taken on a permanent basis.

3.8 The decision made at the review hearing does not take effect until the expiry of the time limit for appealing (21 days) during which the decision may be appealed by the licensee or the police to a magistrates’ court, or until an appeal is disposed of. There is currently an ambiguity in the 2003 Act about whether the interim steps remain in place after the review hearing, and whether they can be withdrawn or amended by the licensing authority. The

amendments made by this clause will address the ambiguity about what happens to the interim steps between the review hearing and the review decision coming into effect.

- 3.9 Section 53 is amended by inserting a new Section 53D to require the licensing authority, at the review hearing, to review any interim steps that have been taken. The licensing authority must consider whether the interim steps are appropriate for the promotion of the crime prevention objective, consider any relevant representations, and determine whether to withdraw or modify the steps taken. For example, there may have been a change in circumstances or further evidence provided at the hearing which means that the interim steps originally imposed are no longer necessary for the period of time between the review hearing and the review decision coming into effect.
- 3.10 Finally Part 1 of Schedule 5 to the 2003 Act is amended to provide for an appeal to be made by the police or licensee, against the decision regarding the interim steps, taken at the review hearing. This appeal must be heard by a Magistrates Court within 28 days.

Personal licences: licensing authority powers in relation to convictions

- 3.11 Currently a personal licence may be suspended or forfeited by a court on conviction for a relevant offence (that is, one listed in Schedule 4 to the 2003 Act). This amendment gives licensing authorities a similar power. When the licensing authority that has granted a personal licence becomes aware that the licence holder has been convicted of a relevant offence, foreign offence or been required to pay an immigration penalty, the licensing authority may revoke the licence or suspend it for a period of up to six months. The Immigration Act 2016 adds immigration offences to the list in Schedule 4 to the 2003 Act (see below). This is subject to a new process of representation against a proposed decision, and a new provision of appeal.

Licensing Act 2003: guidance

- 3.12 Section 182 of the 2003 Act provides that the Secretary of State must issue guidance to licensing authorities on the discharge of their functions under the Act, and the guidance must be approved by Parliament before it can be issued. The 2016 Act removes the parliamentary procedure and the guidance will now take effect as soon as it is published by the Home Office.

Cumulative Impact Policies

- 3.13 Cumulative impact policies (CIPs) are not referred to in 2003 Act. They are discussed in Home Office guidance (March 2015) issued under section 182 of the Act where “cumulative impact” means “the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area”. Section 5 of the Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. This statement can, following consultation, include a CIP, the aim of which is to limit the growth of licensed premises where the promotion of the licensing objectives is being compromised.

3.14 Section 5 of the 2003 Act is amended by inserting a new Section 5A that allows a licensing authority to publish a cumulative impact assessment if it considers that the number of licensed premises in an area is such that granting further licences would be inconsistent with its duty to promote the licensing objectives. The licensing authority will have to publish the evidence for its opinion and consult the list of persons set out in the 2003 Act. A cumulative impact assessment would not prevent the grant or variation of a licence. A responsible authority or other person would need to make a representation to challenge an application. If no representations were made, the licensing authority would have to grant the licence or variation. The licensing authority must review the evidence supporting a CIP at least every three years.

Late Night Levy

3.15 Local authorities were given the power to introduce a late night levy through the Police Reform and Social Responsibility Act 2011 (the 2011 Act). The levy is a discretionary power enabling licensing authorities to raise a contribution towards policing the late night economy from holders of premises licences or club premises certificates. The levy must cover the whole of the licensing authority's area and the authority can choose the period during which the levy applies every night, between midnight and 6am. The amount of the levy is prescribed nationally and is based on the current licence fee system under the Licensing Act 2003, with holders being placed in bands based on their premises rateable value.

3.16 The net levy revenue must be split between the licensing authority and the relevant police and crime commissioner (PCC). At least 70% of the net revenue must be given to the police. The licensing authority can retain up to 30% to fund the services it provides to manage the night-time economy.

3.17 Section 125 of the 2011 Act is amended to allow licensing authorities to target specific geographical locations with a Late Night Levy (rather than, as now, applying it to the whole of the local authority area). It extends the levy to include late night refreshment outlets. The PCCs will be able to request the licensing authority to propose introducing a levy, and the Act will require licensing authorities to publish information about how funds raised by the levy are spent so that those paying it are clearer about how it is being used.

4. Immigration Act 2016

4.1 The Immigration Act received Royal Assent in May 2016 and proposes to introduce a number of changes, particularly with respect to illegal working on licensed premises. The licensing elements are contained in Schedule 4 of the new Act, which makes changes to the Licensing Act 2003 and the principal points of note include the following.

Premises Licence applications

4.2 The Secretary of State (Home Office) becomes a responsible authority within the definition of the 2003 Act. This will allow the Immigration Service to make representations against the

grant or variation of a premises licence application. An applicant applying for a new premises licence, transfer of an existing licence or service of an interim notice not only has to be over the age of 18, but will also have to hold leave to work in the United Kingdom. In a hearing convened due to the Secretary of State's objection, the Licensing Authority must reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.

- 4.3 Under the current framework, a premises licence will lapse on the death, incapacity or insolvency of a premises licence holder. The premises licence will now also lapse if the licence holder ceases to be entitled to work in the United Kingdom.

Personal licences

- 4.4 An applicant will not be able to apply for a personal licence if he or she is not entitled to live and work in the United Kingdom; an existing personal licence will lapse if an individual ceases to be entitled as such. The list of 'relevant and foreign offences' in relation to personal licences will be expanded to include 'immigration offences and immigration penalties'. The Secretary of State must consider such offences when determining whether the grant of a personal licence would be prejudicial to the prevention of illegal working in licensed premises.

Right of Entry to Licensed Premises

- 4.5 Where a constable or authorised person has reason to believe that offences under the Immigration Act 2014 are being committed, they have a right to enter licensed premises to investigate. An immigration officer is now given the same power of entry.

5. Appendices and Background Documents

Appendix letter	Title
N/A	

Background documents
None

Audit Trail		
Version	Final	Date: 08 March 2017
Consultation with other officers		
Finance	No	N/A
Legal	No	N/A
Equality Impact Assessment required?	No	N/A



Report to:	Licensing Committee	Date:	20 March 2017
Report title:	Update on Review of Special Policy on Cumulative Impact		
Report from:	Mary Morrissey - Strategic Director, Environment, Housing & Regeneration		
Ward/Areas affected:	Borough Wide		
Chair of Committee/Lead Member:	Councillor Mary Burstow		
Author(s)/Contact Number(s):	David Kingstone, Licensing & Environmental Compliance Team Leader, 020 8770 5162 / 0734 2055 767 Nick Cloke, Licensing Lead Officer, 020 8770 5622 / 020 8547 5600 ext. 4366		
Corporate Plan Priorities:	<ul style="list-style-type: none"> • A Fair Council 		
Open/Exempt:	Open		
Signed:	 Simon Latham, Executive Head	Date:	09 March 2017

1. Summary

- 1.1 This report updates members on the review of the Special Policy on Cumulative Impact, highlighting proposed data sources and evidence gathering processes, together with a timetable for progressing the review.

2. Recommendations

The Licensing Committee is recommended to:

- 2.1 Agree the data streams being explored, as listed under Paragraph 3.8, and note the timeline for review of the Special Policy on Cumulative Impact, as per Paragraph 3.11.

3. Background

- 3.1 Cumulative Impact is a term used to mean the cumulative effect that a significant number of licensed premises, concentrated in one area, are having upon one or more of the licensing objectives. Sutton's Licensing Policy currently identifies 8 areas to which a Special Policy on Cumulative Impact applies. These were established in 2014.



- 3.2 At the Licensing Committee meeting in October 2016, Members resolved to review the current special policy on cumulative impact and to form a group for a detailed discussion on the scope of the review.
- 3.3 A number of licensing committee members attended a meeting on 12 January 2017 to discuss the review of cumulative impact and identify desired outcomes.
- 3.4 Four main themes came out of those discussions:
- Current issues
 - Off licence and street drinking related to a 'perceived' problem
 - Anti Social Behaviour in local areas that may be linked to off-licence premises
 - Historic issues of a vertical, late night drinking culture has largely gone
 - Using Cumulative Impact effectively
 - problems are generally late at night - example late night refreshment premises become a draw for people leaving licensed venue
 - anti-social behaviour late at night
 - desire to encourage more food led and 'niche offer' venues
 - Changing demographs
 - High Street Sutton for example, the environment and entertainment offer has changed
 - Some areas are no longer seen to have as much of a problem, example given was Worcester Park (Central Road)
 - Fit for purpose
 - links to Public Health agenda both alcohol and fast food
 - being aware of the new Local Plan and linking to general planning considerations

Legislative change

- 3.5 The concept of Cumulative Impact has not previously been enshrined in legislation, and appeared only in Secretary of State guidance. However with the introduction of the Policing and Crime Act 2017, it was expected that the concept would be given a statutory basis through a change in the Licensing Act 2003.
- 3.6 At the time of the meeting with members, the full impact and implications of this new legislation was unknown, and only recently with the imminent implementation the legislation has it become clear that the changes set out the need for a robust approach to consideration of the need for Special Policies on Cumulative Impact.

Next steps

- 3.7 Officers have started the process of data and evidence gathering to identify areas where licensing objectives are being impacted by licensed premises. The support of a number of

departments and partners are being sought, with the Anti-social Behaviour team taking a leading role in data analysis.

3.8 Data sets that are being explored include:

- Licensed Premises
Data: Where they are and what they are licensed for
Source: Sutton Council records
- Violence against person (VAP)
Data: Distribution of VAP Offences in Sutton
Source: Police data extracted from CRIS and mapped using Cartology software
- Ambulance data – assaults and alcohol related call outs
Data: where an ambulance was required - looking at high demand locations in Sutton and the time when ambulance was required.
Source: LAS data and mapped using cartology software
- Rowdy or Inconsiderate Behaviour
Data: Alcohol related ASB calls to police
Source: DARIS – calls received by Police for Rowdy & Inconsiderate Behaviour
- Relationship between deprivation and alcohol related mortality rates
Data: Rates of alcohol related mortality rates and levels of deprivation
Source: Multiple deprivation for Sutton by Lower Super Output Area (LSOA).
- The prevention of public nuisance
Data: Ward data where public nuisance occurs most frequently
Source: Sutton Central SENSOR Analysis and qualitative data statements from Local Policing Teams
- Environmental Health Noise Complaints
Data: Environmental health noise complaints regarding licensed premises
Source: Sutton Council

3.9 An area of data that is expected to be of particular assistance is the Council's SENSOR report. This is a community safety analysis, which unlike standard fear of crime surveys looks to measure attitude and opinion. The SENSOR methodology focuses on people's experiences and perceptions of crime and disorder problems within their neighbourhoods. This scheme is overseen by the Council's Anti Social Behaviour unit in partnership with the police and Cardiff University, with data captured in April and findings due late-Summer.

3.10 Prior to a period of consultation public, views and opinions will also be sought from:

- Responsible Authorities
- Police Safer Neighbourhood Teams



- Public Helath’s Alcohol Prevention Worker based at St Hellier Hospital
- The Street Pastors organisation

Timescales

- 3.11 The process of data and evidence gathering is expected to take the next 3-4 months, whilst SENSOR data may take 6-months although the University will be asked to prioritise their initial analysis on those areas which might support cumulative impact.
- 3.12 Officers will use the evidence to draw up a draft Special Policy to bring to the September Licensing Committee meeting for approval. The draft policy would then need to be subject to a period of public consultation before being brought back to the Committee in December or January for approval.

4. Issues

- 4.1 Cumulative Impact must be supported by robust evidence. Whilst the process set out in this report is designed to understand where there may be a need for a Special Policy to apply, it must be recognised that there may not be evidence to support such a policy at this time.
- 4.2 Data gathering is a complex and lengthy process, and whilst it is anticipated that we will be in a position to bring the results to Committee in September, an allowance for slippage must be made.

5. Impacts and Implications

Financial

- 5.1 There are no direct financial implications and the costs of conducting the review of Cumulative Impact Policies will be borne through existing budgets.

6. Appendices and Background Documents

Appendix letter	Title
N/A	

Background documents
Sutton Licensing Policy incorporating Special Policy on Cumulative Impact

Audit Trail		
Version	Final	Date: 08 March 2017
Consultation with other officers		
Finance	No	N/A
Legal	No	N/A
Integrated Impact Assessment required?	No	N/A

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