

Report of the Head of Licensing and Registration

Report to **Licensing Committee**

Date: **8th July 2014**

Subject: **Cumulative Impact Policy for Otley**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Otley & Yeadon	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Otley has a busy and vibrant nightlife, with the largest number of licensed premises outside of the city centre. It is also has a low incidence of crime and nuisance compared to other areas of the city.
2. In February Licensing Committee requested that officers undertake further work in researching the supporting evidence and designing a cumulative impact policy for Otley.

Recommendations

3. Members of Licensing Committee to consider if a cumulative impact policy is appropriate for Otley town centre taking into consideration the supporting evidence and the ability to successfully defend a CIP on appeal

1 Purpose of this report

- 1.1 This report requests that Licensing Committee consider if a cumulative impact policy would be appropriate for Otley, in view of the increase in applications and the concern that the current status quo could be affected by just one successful application to vary a licence.

2 Background information

- 2.1 Otley is a market town with a resident population of around 14,000. It lies north west of Leeds. The town centre has a mix of residential accommodation and commercial premises.
- 2.2 Potentially there are 42 premises in the centre of Otley that could be affected by a cumulative impact policy:
- 6 Registered clubs
 - 6 Off licences (including the two supermarkets)
 - 30 On licensed premises
- 2.3 The latest alcohol is sold in Otley, for consumption on the premises, is 2:30am (Rose and Crown, 20 Bondgate). The majority of premises cease selling alcohol at midnight, especially in the very centre of the town (10 premises).
- 2.4 In 2013 the licensing authority received an application to vary the licence for the Red Lion. The variation sought was to extend the hours that alcohol was sold to 4am. This raised concerns amongst the residents of Otley who were concerned that this could lead to an increase in the opening hours of other licensed premises and a subsequent rise in crime and antisocial behaviour.

3.0 Main issues

- 3.1 West Yorkshire Police's view is that, although predominantly Otley is a residential market town, which can properly accommodate licensed premises with appropriate licensed hours, the residential makeup of the town is such that any late night opening could cause a disproportionate effect on crime and disorder, and lead to public nuisance.

Nuisance Statistics

- 3.2 Environmental Health has provided a report of the complaints received (appendix 1). In summary 54 relevant complaints were received between 2011 and 2013. A disproportionate number of complaints were received in 2012 and related to noise and nuisance at 4 premises. This pattern has not been repeated in subsequent years.
- 3.3 Entertainment Licensing have received 10 complaints about 8 premises in the same time period (appendix 2). These complaints ranged from noise nuisance, use of

outside area to operating beyond permitted hours.3.4 A breakdown of the complaints is as follows:

Year	Env Health	Ent Licensing	
2011	1	3	
2012	45	4	4 premises responsible for 21 of the complaints.
2013	8	3	

Crime and Disorder Statistics

- 3.4 West Yorkshire Police have provided a restricted Crime and Incidents report for Otley and Yeadon ward, with specific detail about Otley centre.
- 3.5 Otley and Yeadon Ward has very low levels of crime, disorder and nuisance, despite having the second largest concentration of licensed premises in Leeds. Compared to other areas, such as Headingley, the crime level in Otley centre is low, with 42 incidents of serious violent crime with an alcohol flag over a three year period. This is compared to the 572 incidences of alcohol related assault experienced in Headingley between 2010 and 2012.
- 3.6 The crime report clearly shows there was a problem with one premises. It was responsible for 7 incidents of violent crime most of which are in 2013. That matter was dealt with, without the need for a costly review, through partnership working between the pub company, Ward Members, the Police and Entertainment Licensing.
- 3.7 Overall levels of offending are down each year, by 40% in 2013 when compared to 2011. The crimes which have an alcohol flag have reduced from 25 in 2011, 17 in 2012 and 14 in 2013.

Other measures

- 3.8 There is no evidence to prove that there is nuisance in the residential areas occurring at a time when it can be linked to closing time, and therefore justify putting in place a CIP to refuse applications to extend operating hours.
- 3.9 However this does not mean that operating hours in the area can't be taken into consideration. This is now possible due to a change in the statutory guidance issued by HM Government which now allows licensing authorities to take into consideration opening hours of other businesses in the area.
- 3.10 As a consequence of this change in guidance and the issue highlighted by the Red Lion application, the Licensing Act 2003 Statement of Licensing Policy 2014-2018 introduced the concept of usual opening hours. All subcommittee reports now include an appendix which includes the usual opening hours for the area. Therefore it is now possible for a licensing sub-committee to take the usual opening hours into consideration when considering any application in Otley.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Within the council the matter of a CIP for Otley has been considered by the Otley and Yeadon ward members, as well as the Community Safety Sub Group of 17th September 2013 and the Area Committee at the meeting on 4th November 2013.
- 4.1.2 The introduction of a CIP would necessitate an amendment of the Statement of Licensing Policy. This would require a public consultation but this could be proportionate to the change, and therefore take place in the Otley area.
- 4.1.3 As the imposition of a CIP requires a change to the Statement of Licensing Policy, the revised policy would be recommended to Council by Licensing Committee.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications for equality in the imposition of a cumulative impact policy; however the consultation will be so designed as to take into consideration religious and cultural events.

4.3 Council Policies and City Priorities

- 4.3.1 The licensing regime, in general, contributes to our best council objectives of:
 - Building a child friendly city – improving outcomes for children and families
 - Promoting sustainable and inclusive economic growth – improving the economic wellbeing of local people and businesses
 - Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city

4.4 Resources and Value for Money

- 4.4.1 The consultation and implementation of the CIP has a cost implication. However the increase in enforcement activity that would be required should operators apply for later licences would far exceed the cost of implementing a CIP.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 A cumulative impact policy is a concept described in the Guidance issued under S182 of the Licensing Act 2003, produced by the Home Office. Although a CIP states that the council will refuse licence applications, it can only do so if it appropriate for the promotion of the licensing objectives. Therefore a CIP is supported by statistical evidence provided by the Police and the council which shows a direct link between a cumulative impact of licensed premises and the licensing objectives. This, in itself, ensures the CIP is robust to legal challenge.

4.6 Risk Management

- 4.6.1 A CIP must be supported by evidence which shows the necessity for such a policy. In addition existing businesses will be consulted before an amendment to the Statement of Licensing Policy is made and will be able to make their views known on the proposal.

5 Conclusions

- 5.1 Otley has a vibrant and busy night time economy that, at the moment, has a low level of crime associated with the late night premises. Recent applications have brought into focus the fragility of this situation. The statistics from Environmental Health and Entertainment Licensing regarding complaints, and the crime statistics provided by West Yorkshire Police confirm this, especially the spike in complaints to Environmental Health in 2012.
- 5.2 The decision as to whether these statistics are robust enough to withstand a legal challenge would be for Licensing Committee to make, however there are alternative measures that can be taken, and the situation can be reviewed should there be a repeat of the 2012 nuisance figures.
- 5.3 With any solution, the aim is not to put a blanket ban on new premises but rather to reflect the nature of the town by creating a closing time which reflects local practice and reduces impact on residents of people returning home after a night out.

6 Recommendations

- 6.1 Members of Licensing Committee to consider if a cumulative impact policy is appropriate for Otley town centre taking into consideration the supporting evidence and the ability to successfully defend a CIP on appeal

Background documents¹

None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.