# CONSULTATION RESPONSES ON THE DRAFT STATEMENT OF LICENSING POLICY

## 2007

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1. George Williamson

The Draft Statement of Licensing Policy provides a welcome opportunity for members of the public to make comments and representations on the workings of the policy and its future direction. There has been much publicity about public disorder associated with drunkenness, but behind the publicity is a story of local residents feeling powerless in the face of widespread nuisance and disorder, and who feel unsupported by a police force that cannot assist (not through unwillingness to do so but through being overstretched), and by licensing policies that are unbalanced in favouring the applicants for licences. The consultation gives a chance for the voice of residents to be heard and their concerns to be addressed.

The new Statement of Licensing policy will provide the Authority with a platform that demonstrates that it is progressive and proactive in addressing licensing issues, and can show itself to be an exemplar of good practice. This is of vital interest where a town such as Bath is involved, being of world famous historic importance and one of the country’s main tourist venues. Prague, Amsterdam and Dublin are all developing unwanted reputations as destinations for drunken stag parties. Bath cannot afford to develop a reputation for antisocial drunken behaviour, and if the Policy shows any reluctance to address these issues then the Authority will not be seen to have discharged its functions.

Local residents are not happy with the amount of night time shouting and swearing, with the urination and vomiting in the street, with the broken glass and debris, and with the drug taking and drug dealing that accompany late night drinking. On a Friday night I have phoned the police to report specific offences of drug dealing and drug taking in our street and been told by the police that they are “a bit overstretched at present”, with no action being taken. This is clear evidence of a crime and disorder problem that is not under control. The scale of disorder at night is in startling contrast to the orderliness and decency of the thousands of shoppers and visitors that throng the streets of Bath during the day.

Against that background I would like to make the following suggested changes to the draft Statement.

1. General Tone

As a general comment the draft Statement gives an impression that the Authority is reluctant to address the problems that confront it or to exercise its functions in a robust and constructive fashion. It should show leadership and initiative in tackling licensing policy, but instead there is repeated emphasis on factors that suggest that the Authority should limit its functions. This looks evasive.

For example, paragraph 6.6 refers to the need for the Authority “to avoid duplication with other statutory regimes”, paragraph 9.2 refers to a separation
of the planning and licensing regimes “to avoid duplication and inefficiency”,
and paragraph 19.4 says that “Licensing law is not the primary mechanism for
the general control of nuisance and anti-social behaviour”. Whatever reasons
there may be in support of these paragraphs, they appear to indicate that the
Licensing Authority would like to keep its head down and avoid responsibility
for aspects that are in fact within its control.

Compare how much more constructive the Policy can be if the emphasis is
shifted. Paragraphs 6.6 and 6.7 can be changed to read:

“6.6 Whilst it will avoid unnecessary duplication with other statutory
regimes, the Licensing Authority recognises the contribution that it
can make to achieve a thriving and well managed night time economy.
It also recognises that late night sales of alcohol and late night
entertainment carry an inherent risk of nuisance and anti-social
behaviour, and the Licensing Authority will impose conditions that are
necessary for the promotion of the licensing objectives. In addition to
the use of conditions (which cannot always secure desired objectives)
the Licensing Authority will seek to promote high standards of good
practice and an attractive evening economy, by co-ordinated and
positive effort from all concerned, including the Licensing Authority, the
police, the licensees and the local community.

6.7 Other controls may be available that already place certain statutory
responsibilities on an employer or operator of premises. Nevertheless,
the Licensing Authority is bound by a statutory obligation to do all that it
reasonably can to prevent crime and disorder in its area. The
Licensing Authority intends that it will not only discharge that duty, but it
will be seen to be discharging it. Licensed premises generate a
specific set of social and behavioural problems and it is therefore
appropriate that it should be the Licensing Authority that addresses
them and that it should not rely on other authorities to do so”.

2. Duties relating to Crime and Disorder

The prevention of crime and disorder is one of the four licensing objectives
under the Act. The Licensing Authority is also obliged under section 17 of the
Crime and Disorder Act 1988 to do “all that it reasonably can” to prevent crime
and disorder. This needs to be readily acknowledged by the Policy. Instead
of just giving a cursory mention of section 17, the Policy statement should
engage with the question of how the Licensing Authority will discharge its
statutory obligations and objectives. In this respect the Licensing Authority
must be seen to be robust and proactive. It must not risk being criticised for
being ineffective or supine. A new clause 8.3 should be added as follows:

8.3 Under section 17 of the Crime and Disorder Act 1988 the Licensing
Authority is obliged to do all that it reasonably can to prevent crime and
disorder in its area. The Licensing Authority recognises, firstly, that it is
implicit in section 17 that there is a distinction between crime and disorder
(disorder being possibly less than crime), and secondly, that there is much
that the Licensing Authority can reasonably do to prevent crime and disorder. Unless it does all that it reasonably can to address both crime and disorder, the Licensing Authority will be failing in its statutory duties. Policies are set out below that meet this need.

The policies referred to can be dealt with as follows:

(a) In clause 14.3, delete

“Where appropriate, the Licensing Authority will have regard to:

• local crime prevention strategies;” ...etc

and insert instead

“It will be appropriate for the Licensing Authority to have regard to:

• local crime prevention strategies;
• local disorder prevention strategies;” ...etc

(b) In her Guidance under the Act the Secretary of State for Culture, Media and Sport makes “strong” recommendations that licensing authorities form licensing liaison groups and that there should be well publicised open meetings where local people and businesses can give their views on how well they feel the licensing objectives are being met. It is quite remarkable that in response to a strong recommendation from the Secretary of State, the draft Statement of policy is completely silent. The Statement should specifically refer to the licensing forum and emphasise the role that it can play. There should be a commitment to enhance the role of the forum and for its proceedings being more open and better publicised. Therefore in clause 13, add a new clause as follows:

“13.2 In her Guidance under the Act the Secretary of State for Culture, Media and Sport “strongly” recommends that licensing authorities form licensing liaison groups and forums that bring together all the interested parties on a regular basis to monitor developments and propose possible solutions to any problems that may arise. She also recommends that licensing authorities should hold well publicised open meetings where local people and businesses can give their views on how well they feel the licensing objectives are being met. The Licensing Authority whole heartedly endorses this approach and sees it as a means to promote good practice, to ensure any problems will be addressed and not ignored, and also to enable local people to be informed and empowered rather than sidelined. The Licensing Authority, the licensees and the police cannot respond to local concerns unless local views are heard, and good practice and a well managed evening economy will never be achieved otherwise. Proposals will be implemented immediately:

• to build upon the role and functions of the licensing forum, in particular to give it greater publicity, and also to give greater representation to local residents; and
• to establish a programme of open well publicised meetings.”
3. Administration of Functions

As noted above, the draft statement appears to justify some degree of avoidance of responsibilities on the grounds that other existing law exists imposing other responsibilities. This is a partial reflection of guidance given by the Secretary of State, but it is also the case that the Secretary of State says that licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be necessary. This should be taken into account in the statement of policy. In clause 13, “Local Strategies and Policies”, a new clause 13.3 should be added as follows:

13.3 The Licensing Authority recognises that it is alcohol that fuels certain categories of crime, disorder and nuisance. The Licensing Authority believes that these are problems that should be confronted and not ignored. If drunkards are shouting in the middle of the night they should be asked to quieten down and move on. However, the Licensing Authority recognises that asking a group of drunks to quieten down is an activity that carries risk and anxiety. It should not always have to be local residents that undertake this, nor can the police be expected to devote all the necessary resources to do so. The responsibility for minimising nuisance and anti-social behaviour should lie with those that have helped to generate such behaviour in the first place and who have profited from it, namely the drinks industry and the licensed premises. To that end the Licensing Authority’s policy will be that licensees should participate in a street marshalling scheme so that street patrols at night will try to reduce noise, will remind revellers of their responsibilities, and inform licensees of trouble spots and problems. Many in the drinks industry have, commendably, adopted policies for door keepers at their premises, and this can be extended so that there is control not only on those entering the premises but also on those when they leave. It may be said that there are limitations on what street marshals can achieve, but if the problem of nuisance and anti-social behaviour is not even addressed, then the problems will only be perpetuated. Since there are a number of behavioural problems that are uniquely driven by alcohol, they are clearly the responsibility of the Licensing Authority to address and of not some other authority. The street marshalling scheme will enable the Licensing Authority to be robust and proactive in performing its functions. Insofar as the scheme cannot be implemented through the use of conditions, the Licensing Authority will ask licensees to accept a voluntary commitment to participate. The Licensing Authority will also seek to extend the role and importance of street marshalling schemes, in particular to ensure they cover all areas that are affected by late night drinkers."

Many operators of pubs and clubs make clear public commitments about their social responsibilities and corporate policy. For example, The Laurel Pub Company Limited (owners of the Litten Tree in Bath) has a Social Responsibility Charter, and presumably its contents are intended to be taken seriously and acted upon. The Licensing Authority should seek to ensure that
licensees perform in accordance with their public commitments, and a new clause 13.4 should be added as follows:

“13.4 In performing its functions it will be the policy of the Licensing Authority to have regard to any public statements of responsibility or corporate policy that are issued by applicants and will request such applicants to accept conditions that put into effect such statements where they relate to achieving the licensing objectives of the Act”.

4. Publicity for Applications

Clause 20 states that the Licensing Authority may not impose conditions unless it has received a relevant representation. In towns such as Bath where there are major concentrations of numerous licensed premises it can be difficult for local residents to keep informed of all the applications that are made and they may miss opportunities to make relevant representations. Better procedures should be introduced to inform the local community, and clause 20.1 of the draft Statement should be amended by adding at the end:

“However, the Licensing Authority recognises that local residents may not be aware of all applications that are made or may miss opportunities to make representations. Therefore the Licensing Authority will improve procedures for publicising applications, and in particular, it envisages that publicity and information can be given within the forum of the local liaison groups”.

In summary these changes are designed to ensure
- that the Licensing Authority fully discharges its statutory functions;
- that it is seen to do so;
- that licensees and the drinks industry are given greater responsibility in alleviating the problems that are the outcome of their businesses;
- that licensees and the drinks industry deliver real results on their public statements of social responsibility; and
- that the interests of local people are properly recognised.

OFFICER COMMENTS

General Tone

2nd para. The relationship between Licensing and Planning is specified within the legislation and statutory guidance and cannot be changed

3rd para (6.6) - the Licensing Authority is the decision making/enabling body – not a “contributor”. Paragraph 6.6 should remain as it is. Some relevant parts of the Policy have been removed in the above version. Conditions can only be imposed where an application has attracted relevant representations, a hearing is held to consider those representations and such conditions which are imposed should fulfil the usual tests. As far as all parties are concerned, there are meetings held by PACT etc.
4th para (6.7) See section 21 of the Policy for enforcement and compliance. There is also the review mechanism available to Responsible Authorities and Interested Parties. Paragraph 6.7 above also does not acknowledge the “light touch” approach recommended by the Govt. or the other statutory controls.

**Duties Relating to Crime and Disorder**

2nd para. (8.3) It is not necessary to add this to the Policy. Para 8 of the Policy contains the ref to s.17 and is adequate.

3rd para. (a) the objective in the Act does not separate crime and disorder.

4th para. (13.2) There are multi agency meetings i.e. PACT and to a certain extent the Licensing Forum. The licensing authority acts in a pro-active role in promoting these meetings.

**Administration of Functions**

2nd para (13.3) The street marshalling scheme is run on a voluntary basis at the moment. However, the Police visit premises with a view to ensuring that premises are complying with their conditions etc.

4th para (13.4) If such a statement is contained within the operating schedule then the premises licence holder will be obliged to comply with it. Apart from that, conditions can only be attached following a relevant rep and fulfil the usual tests.

**Publicity for Applications**

2nd para The applications are advertised in a local paper and on the premises as required by law. In addition the licensing authority also informs Ward Members of applications in their Ward as appropriate. This is over and above what is required.

If the licensing authority were to inform residents on a wider basis, it could be seen to be soliciting representations and, therefore could be open to challenge especially from applicants.

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2. **Brian Webber (Cllr)**

Subject: RE: Review of the Council’s Statement of Licensing Policy

1. I am responding to the request for comments on your draft section on CIP. I regret that extreme pressure from other commitments has delayed my reply.
2. The advice of Legal will be crucial.

3. I am still unclear whether the draft, when finalised after internal consultation, will then have to go out for consultation externally. If so, what is your timetable for that?

4. I can see where most of your text has been lifted from the Secretary of State's statutory guidance. (Nb I am working from the 2004 version. I have not seen the latest version, but I guess that any changes since 2004 do not bear on CIP.) However, in a few places I think you have put a slight gloss on the statutory guidance or you have lifted too much of the official text, and thereby made the whole piece unnecessarily wordy.

5. Drafting in committee is never a good idea. I therefore feel that coherence and elegance will best be achieved if Maggie has the final word, so to speak.

6. My comments in order of your text are:

   - Title - delete "Saturation". We must wean ourselves and the public from the colloquial expression by only using the proper term 'Cumulative Impact'
   - Para 1 - I do not think it adds anything to paras 2 and 3. If you feel an introductory paragraph is needed, para 1 as drafted sounds limp. I would substitute "The Authority is concerned to prevent public nuisance, crime and order arising from an undue concentration of licensed premises in a particular area. This is termed the cumulative impact of those premises." However, as I have said I do not think an introductory headline paragraph is needed. Paras 2 and 3 (modelled on paras 3.13 and 3.14 of the guidance) say it all.
   - If you need (I wonder whether you really do) to recite the steps the Authority has taken in accordance with the guidance before reaching its decision to have a CIP (your para 8, modelled on para 3.18 of the guidance), I feel it would be more logical to place it before your para 4.
   - Para 5 - the papers which went to Council on 13 September did not contain the full CSDP report. In my opinion that was regrettable, because it unnecessarily exposed the Council to the charge that the members had only a superficial knowledge of the full meat of the report. I assume the full report was available on the website; so theoretically any interested councillor could have looked it up. I would prefer your final sentence to include some reference to the previous papers that the Council and Licensing Committee had seen, i.e. all the relevant papers on the web. Perhaps a sentence on the lines of "The report considered by the Council on 13 September had been preceded by previous reports to the Council on [ ]. These may be found on the Council's web site."
   - Para 7 - delete. It adds nothing to para 9 et seq and indeed puts a slight gloss on the true effect of the policy.
Para 9 - the text in para 3.19 of the guidance is better ".....unless the applicant can demonstrate that the operation of the premises will not add to the cumulative impact already being experienced."

Para 14 - instead of the final sentence why not bring up the final two sentences of your para 19. It would avoid unnecessary repetition of the same point.

Para 16 - this paragraph seems unduly wordy and in the wrong order. It would be better to start with your second sentence. Then your first sentence (for the sake of clarity underline "existing" and substitute "the premises in question" for "those premises"). And then your third sentence. For the sake of clarity (to avoid confusion with reviews of the CIP) this might read "A review of an existing licence or certificate must relate to problems associated with the premises in question, not to the contribution to cumulative impact which the premises may make." Delete your fourth sentence as superfluous.

Para 17 - I suggest "A cumulative impact policy cannot be used .........certificate unless the variations are ......."

Paras 18 and 19 - is it really necessary to say all or any of this? If the essence of paras 3.26 and 3.27 of the guidance need a mention, why not simply "A cumulative impact policy cannot justify provisions for a quota or a terminal hour or restrictions on trading hours in a particular area. Any application must be judged on its individual merits." The last two sentences of your para 19 I have already suggested would sit better in your para 14.

Para 20 - insert on first line after "unlawfully" the words "once they are away from licensed premises"

Para 22 - rephrase introduction as "The measures which might be included in an application within the cumulative impact area would depend on the nature of the premises and the operation to be carried on." The problem with your list of bullet points is that mostly they are patently unnecessary for a small restaurant, and are obviously geared to be large pub. Listing them may discourage small restaurants from even applying, while perversely implying that a big super pub might well get approved if it does all the things suggested. Either way the list could be misleading. I suggest it would be better to have no list here and make only a brief cross-reference to paras 33.7 and 36.4 of the Council's current Statement of Licensing Policy.

7. Having too long a piece on CIP risks unbalancing the length of the Council's current Statement of Licensing Policy. I therefore urge that you should look critically at opportunities for curtailing the text of the CIP.

8. I hope this is helpful

A few trivial comments on the rest of the draft Statement;

in paragraph 17.4 the Bath Bar Charter Group is still referred to by name, whereas later mentions in the current Statement have been replaced by a general reference to 'Barsafe and other such groups' -
presumably because the Bath Bar Charter Group is somewhat in abeyance at present. Should paragraph 17.4 be changed too?

- in paragraph 26.3 the comma is redundant. Perhaps the whole sentence could be shortened as “The application should include a Club Operating Schedule and a copy of the Club rules.”
- in 6.8, 17.2 and 17.3 (and maybe elsewhere) operating schedules start with a small o and s, whereas in 23.4, 23.8, 37.7 and 38.1 (and maybe elsewhere) they start with capitals. Does it matter?

I still do not understand why the south west corner of the proposed CIP area cuts through the middle of the housing estate, instead of following the natural line of Green Park Road. Do you? Can we not remove this oddity? – Is this the plan that was proposed by the CDSP and consulted upon?

BRIAN

5 October 2007

Subject: RE: Cumulative Impact (Saturation) Policy for Bath

1. The text is crisper and better ordered than in the earlier draft. You have not taken on board all my suggestions (why should you?!), and I will not press them further.

2. However, I think in the title before para 16.4 "considering" [the word in the SofS Guidance] would be better than "identifying In the first and second bullet points of para 16.4 should it be "nuisance or" not "nuisance and"? [unless the SofS Guidance has changed?] I feel the words "subject to that consultation" would be better at the start of your fifth bullet point What is the point of that bullet point? It seems to be trying to encapsulate the fourth and fifth bullet points in para 3.18 of the SofS Guidance. The fourth SofS bullet point seems gobbledygook. The fifth SofS bullet point is also odd. How can publication of the final policy be a step in considering whether to have the policy? It is self evident that the policy, when agreed, must be published

3. You are apparently consulting all councillors on the proposed text. Are you also consulting the bodies in section 5(3) of the Act? I am unclear whether the Act requires you to consult on text as well as principle. If you are consulting with section 5(3) bodies, is the deadline of 5 November reasonable?

BRIAN

18 October 2007
OFFICER COMMENTS

Cllr Webber’s initial remarks relate to a draft policy, where appropriate changes suggested have been incorporated into the proposed CIP and Policy.

3.18 relates to private events which is in the old guidance

All parties in Section 5(3) were consulted.

3. Avon Fire and Rescue

Subject: draft statement of licensing policy

Please find attached Avon fire and Rescues observations.

As described under section 13.6 of the Government “Guidance issued under section 182 of the licensing Act 2003” revised 28 June 2007. This authority offers the following views to be reflected in the “statement if Licensing Policy”

As you will be aware, the sole responsibility for fire safety enforcement sits firmly with the Fire Authority. (Section 25 Regulatory reform (fire Safety) Order). In addition section 43 states that any condition imposed by the licensing authority has no effect in so far as it relates to any matter under the Fire Safety Order.

This Authority would like to see it a mandatory requirement for all applications to include, within the operating schedule the fire risk assessment. In order for the Fire Risk assessment to be suitable and sufficient, it must also include the numbers of persons (staff and customers) that can safely be accommodated on/in the premises. (It must also detail how these numbers are to be controlled).

Referring to the Government Guidance (revised) document, section 10.7 considers conditions necessary for the promotion of the licensing objectives should, emerge initially from the risk Assessment. It would therefore not be unreasonable for the fire risk assessment to form part of the operating schedule and be included in the application.

In our opinion this does not conflict with the `duplication with other statutory provisions` as we are not looking for conditions to be placed upon the license. The purpose of the fire risk assessment being included is, to provide this authority with sufficient information to make a reasoned judgement, as to the effectiveness of the management, to be able to fulfil its obligation under the `Public safety` heading of the operating schedule.
However, this would not preclude us from making representation on any grant or variation, if the premises is incomplete or the works not started. The ensuing condition on the license would not therefore be under The Fire Safety Order but would be part of the application process.

If applicants are unhappy or unwilling to accept the condition, then the correct due process of `provisional statement` should be instigated.

Kind regards

Nigel Jagger
Watch Manager
Service Delivery
Avon Fire and Rescue

OFFICER COMMENTS

The inclusion of the fire risk assessment as a condition would be too prescriptive and is not a mandatory condition under the LA 2003

It is quite clear that the fire risk assessment is a matter under the Order

Capacity is a matter under the Order unless it relates to crime and disorder and/or public nuisance.

The Fire Service ought to make a representation if they consider that the Operating Schedule does not adequately address the public safety objective where the Order does not apply.

If an applicant included a fire risk assessment, it would be automatically attached to the licence in any event, become a condition and result in duplication, which the Guidance recommends should be avoided.

4. Withy King

Draft Statement of Licensing Policy

Thank you for giving me the opportunity to comment on your 2007 draft.

My only comments on an otherwise excellent and balanced document is in the area of public safety and the role of the Fire Officer.
Since 1 October 2006 fire certificates have become obsolete. Under Article 43 of the Regulatory Reform (Fire Safety) Order 2005 conditions imposed by Licensing Authorities ceased to have effect, and Licensing Authorities should not therefore seek to impose fire safety conditions where the Order applies as they are deemed to have no effect. The relevant paragraphs covering this subject in the June 2007 Guidance are 1.16, 2.20, 2.22, 2.23, 2.24 and 2.28. The Guidance does not provide any help on the apparent conflict between the Act which identifies the role of the Fire authority as a responsible authority able to make relevant representations (and see para 8.12 of the Guidance), and the Fire Safety Order which makes it clear that the Licensing Authority may not impose any conditions covered by the Order.

In the circumstances I am having difficulty in understanding the role of the fire officer as a responsible authority under the Licensing Act 2003, particularly as far as relevant representations are concerned. Furthermore, paragraphs 6.7, 23.11, 23.12, 23.13 and 35. of your draft do not reflect the latest Guidance, and in places continues to refer to fire certificates, which are of course no longer available or in force.

As I understand it many fire authorities around the country are indeed withdrawing from involvement in the licensing process as a result of the Fire Safety Order.

I look forward to hearing from you on this issue.

Yours sincerely

Nigel Musgrove
Partner
Withy King

Subject: RE: Cumulative Impact Policy

Many thanks for the draft. I have just two observations:

Para 16.8 - what are "material variations"? These must be defined otherwise I can see great argument on whether the policy will apply. There is no such term in either the Licensing Act 2003 or statutory Guidance. Indeed section 36 (6)(b) states that applications to "vary substantially the premises" are not permitted, so an application for a new Premises Licence would be required. What is the difference between "material" and "substantial"? Is "material" less than "substantial", and if so to what extent? Whilst the legislation does not define "substantial", the proposed terminology is bound to raise legal argument.

Para 16.10 - the word "necessarily" must be deleted. Its presence suggests that the policy may be invoked even though there are no representations. Para 16.14 makes this clear, but para 16.10 must also be clear.

Nigel Musgrove
Partner
Withyking
Sent: 19 October 2007
OFFICER COMMENTS

The Guidance states that safety capacities should only be imposed where necessary for the promotion of public safety/prevention of disorder. If no safe capacity has been imposed through other legislation, an RA may consider it necessary for a new capacity to be attached to a premises licence – but should not be imposed on fire safety grounds. Such a condition would be appropriate where crowd control is important, i.e. at a large capacity venue. References to capacity based on fire safety should therefore be removed.

Means of escape – this is a matter to be dealt with under the Order.

Para 23.13 refers to general risk assessments and does not need to be amended accordingly.

Para 16.8 Material has been removed

Para 16.10 Necessarily has been removed.

5. Vineyards Residents’ Association

Review of the Council's Statement of Licensing Policy

I am responding to the request for comments on the draft Statement of licensing Policy 2007.

Section 16

Our main concern as a residents' association is that the Council should approve and implement a saturation policy (Cumulative Impact Policy) for Bath, so as to place the onus on applicants to demonstrate a requirement for additional licensed premises. We note that this is due to be considered by the Council in September 2007.

Section 9

We suggest inserting at the start of Section 9.3:

“The Licensing Authority will not approve licensing applications which are contrary to previous decisions of the Planning Authority.”
A licence should not be granted in cases where planning permission for the relevant activity has previously been refused. We understand that this has happened under the current policy.

Yours sincerely

Patrick Rotheram
Chairman, Vineyards Residents' Association, Bath

OFFICER COMMENTS

If a premises does not have planning permission, it cannot operate under a Premise Licence, if granted. Licensing and Planning regimes are to be kept separate and this is further supported by the case of Blackwood.

If a premises has a Premises Licence under the Act it still cannot operate without the appropriate planning permission. This is supported by recent case law.

6. Lisa Bartlett (B&NES Planning)

Subject: Review of the Council's Licensing Policy

Thank you for consulting us on the revisions to this policy.

We have looked at the information and have no comments to make.

Regards

Lisa Bartlett
Development manager
Planning and Transportation

OFFICER COMMENTS

No observations.
# 7. Circus Area Residents Association

**B&NES DRAFT STATEMENT OF LICENSING POLICY**  
**COMMENTS FROM THE CIRCUS AREA RESIDENTS ASSOCIATION**

<table>
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<th>CARA amendment (in bold)</th>
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<td>1.3 In partnership with other agencies and interested parties, the Council/Licensing Authority seeks to develop the area with a view to increasing the number of establishments, including coffee shops and bistros, <strong>which are open and available to the public in the evening.</strong></td>
<td>In partnership with other agencies and interested parties, the Council/Licensing Authority seeks to develop the area with a view to diversifying the evening economy, increasing the number of family- and visitor-friendly establishments, including restaurants, coffee shops and bistros, and <strong>reducing the emphasis on simple drinking establishments.</strong></td>
<td>It is widely recognised that the evening economy in Bath city centre is dominated by pubs and clubs. Once the shops shut, there is a dull hour or two until these get into full swing. This reduces the quality of the experience for visitors and families, and encourages antisocial behaviour later in the evening, to the detriment of residents, visitors and the economy in general. Licensing policy has a role to play in helping to rebalance the evening economy towards more socially useful activities.</td>
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<tr>
<td>1.4 It is hoped that realisation of this goal will reduce fear of crime including alcohol related crime and anti-social behaviour and consequently encourage greater use of facilities throughout the district and in the evening by people of all ages.</td>
<td>It is hoped that realisation of this goal will reduce fear of crime including alcohol related crime and anti-social behaviour and consequently encourage greater use of facilities throughout the district and in the evening by people of all ages <strong>and social groups.</strong></td>
<td>The original drafting tacitly concedes that there is a problem of emphasis on facilities suitable for young people. As a major visitor destination, Bath needs to have facilities suitable for all ages, social and ethnic groups.</td>
</tr>
</tbody>
</table>
| 9.2 There will, however, be a clear separation of the Planning and Licensing regimes to avoid duplication and inefficiency. Therefore, any decision made under the Licensing Act will not take into consideration the need for planning permission. **Applications for premises licenses for permanent commercial premises should normally be from businesses with planning consent for the property concerned.** see para 9 The operating hours granted in a premises licence will not be later than those approved in the planning consent. | There will, however, be a clear separation of the Planning and Licensing regimes to avoid duplication and inefficiency. Therefore, any decision made under the Licensing Act will not take into consideration the need for planning permission. **Applications for premises licenses for permanent commercial premises should normally be from businesses with planning consent for the property concerned.** | There is a problem that applicants obtain planning permission for premises to operate until, say 24.00, and then seek a premises licence until 03.00, knowing that the Licensing Act makes it hard for neighbours to object to the latter. The amendment does two things:  
§ Reinstates paragraph 10.4 of the present Licensing Policy, confirming the presumption that planning permission should come first; and  
§ Requires the licensing authority not to permit later hours than those already approved in the planning permission. |
There are a number of wider issues which may need to be given due consideration by the applicant. However, on any application under the Licensing Act the four licensing objectives will remain paramount in the application of this policy.

Reinstates wording in paragraph 15.2 of the current licensing policy.

The B&NES proposal shifts the burden for considering these issues off the licensing authority and on to the applicant. We believe this is a step in the wrong direction.

<table>
<thead>
<tr>
<th>14.2</th>
<th>There are a number of wider issues which may need to be given due consideration when dealing with applications. These may not relate directly to the four licensing objectives, but may impact on them. The four licensing objectives will however remain paramount in the application of this policy.</th>
</tr>
</thead>
</table>

Reinstates wording in paragraph 15.2 of the current licensing policy.

The B&NES proposal shifts the burden for considering these issues off the licensing authority and on to the applicant. We believe this is a step in the wrong direction.

<table>
<thead>
<tr>
<th>14.3</th>
<th>Where appropriate, the Licensing Authority will have regard to:</th>
</tr>
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<tbody>
<tr>
<td>§ local crime prevention strategies;</td>
<td>Where appropriate, the Licensing Authority will have regard to:</td>
</tr>
<tr>
<td>§ needs of the local tourist economy;</td>
<td>§ local crime prevention strategies;</td>
</tr>
<tr>
<td>§ cultural strategy for the area;</td>
<td>§ cultural strategy for the area;</td>
</tr>
<tr>
<td>§ employment situation in the area and the need for new investment and employment where appropriate;</td>
<td>§ employment situation in the area and the need for new investment and employment where appropriate;</td>
</tr>
<tr>
<td>§ planning considerations that might affect licensed premises;</td>
<td>§ planning considerations that might affect licensed premises;</td>
</tr>
<tr>
<td>§ the amenity of residents; the duty on Public Authorities to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.</td>
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</tr>
<tr>
<td>§ the Economic Development Strategy</td>
<td>§ the Economic Development Strategy</td>
</tr>
<tr>
<td>§ the B&amp;NES Vision for Bath</td>
<td>§ the B&amp;NES Vision for Bath</td>
</tr>
</tbody>
</table>

Where appropriate, the Licensing Authority will have regard to:

Residential amenity needs to be considered alongside the other issues cited.

The Council is developing a Vision for Bath to give the city new direction in the interest of businesses, residents and visitors. This will include the aim of a rebalanced evening economy, which is not so heavily dominated by drinking establishments.

<table>
<thead>
<tr>
<th>18.2</th>
<th>The Licensing Authority recognises that fixed closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Longer licensing</th>
</tr>
</thead>
</table>

The Licensing Authority recognises that fixed closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Staggered closing hours for the sale of alcohol may therefore be considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance.

The B&NES proposal, which is unchanged from the present policy, completely fails to understand the problem caused by the present licensing free-for-all. Longer hour’s means the problems happen later than would otherwise have been the case. And they happen when noisy groups roam around in search of somewhere to get
hours regarding the sale of alcohol may therefore be considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance.

| 19.3 to 19.5 | It should be noted that Licensing functions under the Act are only one means of promoting the delivery of the licensing objectives. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless it is a key aspect of such control and will always be part of an holistic approach to the management of the evening and night-time economy in town and city centres. The Licensing Authority will endeavour to work in partnership with others to promote common objectives. |
| 20.6 | In relation to premises that have a maximum capacity of 200 persons, where only un-amplified entertainment takes place between 20.00 hours and 00.00 hours, then conditions will not be attached to a licence in relation to the prevention of public nuisance but public nuisance is just as likely to occur when customers are making their way to or from a premises with a capacity of 200 (which is quite large by Bath... |
nuisance or the protection of children from harm. If, however, it is felt that conditions relating to the objectives of prevention of public nuisance or the protection of children from harm are required following a formal review of the licence, they will be applied.

<table>
<thead>
<tr>
<th>23.15</th>
<th>When addressing the issue of prevention of public nuisance, the applicant should be able to demonstrate that those factors which impact on the likelihood of public nuisance have been considered. These may include:</th>
</tr>
</thead>
<tbody>
<tr>
<td>§ Whether Operating Schedules contain adequate measures to prevent noise, smells and vibration generated from within the premises or outside it causing disturbance to people in the surrounding area.</td>
<td></td>
</tr>
<tr>
<td>§ Whether applicants include measures in the Operating Schedule that make adequate provision to:</td>
<td></td>
</tr>
<tr>
<td>a) restrict the generation of noise and smell;</td>
<td></td>
</tr>
<tr>
<td>b) limit the escape of noise and smell;</td>
<td></td>
</tr>
<tr>
<td>c) minimise and control noise and antisocial behaviour from customers arriving at the premises, outside it and departing from it.</td>
<td></td>
</tr>
<tr>
<td>§ In relation to eating and drinking outside the premises, consideration is given to:</td>
<td></td>
</tr>
<tr>
<td>a) whether the premises are under or near to residential accommodation;</td>
<td></td>
</tr>
<tr>
<td>b) whether the sales consist of open containers or drinking vessels;</td>
<td></td>
</tr>
<tr>
<td>c) whether it is proposed to use toughened or plastic drinking vessels;</td>
<td></td>
</tr>
<tr>
<td>d) the areas proposed for the consumption of food and drink;</td>
<td></td>
</tr>
<tr>
<td>e) the provision of suitable ashtrays and/or bins for people smoking outside premises.</td>
<td></td>
</tr>
<tr>
<td>f) whether there is a need for door supervisors.</td>
<td></td>
</tr>
<tr>
<td>g) the measures proposed for collecting standards) as with very large venues.</td>
<td></td>
</tr>
</tbody>
</table>

It is very difficult for ordinary objectors, including residents, to obtain a form so the ability to impose a condition related to public nuisance in the original licence should not be excluded.

The notes to the Licensing Act 2003 explain that the prevention of public nuisance ‘will not extend to every activity which annoys another person but will cover behaviour which, when balanced against the public interest, is found to be unacceptable.’ With licensed premises in Bath, it is clear that public nuisance includes antisocial behaviour in the streets, the leaving and smashing of glasses and bottles outside licensed premises, and the dropping of cigarette ends outside these premises. Applicants for premises licences should be required to demonstrate that they have taken active steps to minimise the risk of this nuisance being imposed on others.
APPENDIX A

| a) whether the premises are under or near to residential accommodation; |
| b) whether the sales consist of open containers or drinking vessels; |
| c) the areas proposed for the consumption of food and drink; |
| d) whether there is a need for door supervisors. |

33.1 Under Section 17 of the Crime and Disorder Act 1998, the Council/Licensing Authority has a duty to do all that it reasonably can to prevent crime and disorder in the area. The fear of crime created by disorder, including drunkenness, is as damaging to public confidence and the quality of life as crime itself. The Council’s Community Safety Plan aims to reduce crime, disorder, nuisance and the fear of crime, making Bath and North East Somerset a safer place to live, work and visit.

[Until this plan is available, which is expected to be in April 2008, the Council will rely on the existing Community Safety and Drugs Strategy.] The Community Safety and Drugs Strategy will be replaced in April 2008 with the Community Safety plan, which, in effect, takes its strategic drive from the Local Area Agreement (www.communities.gov.uk/laa) and deals with specific actions.

33.2 The Council has introduced measures to assist in this including the provision of community wardens and taxi rank marshals and the installation of CCTV cameras. Joint working with the police is ongoing, and the Council expects this partnership approach to be embraced by the licensing trade. This would include participation in local Radio Link, Barsafe, the street marshal scheme and other initiatives.

Need to make expectations on licence applicants more positive and specific.
participation in local Radio Link, Barsafe and other initiatives.

### 36.1 The Licensing Authority is concerned to protect the amenity of residents and businesses in the vicinity of licensed premises.

Under the Human Rights Act 1998 everyone has the right to respect for his private and family life, his home and his correspondence, and public authorities shall not interfere with this right except in the interests (inter alia) of the protection of the rights and freedoms of others.

Licensing Authority is concerned to protect the amenity of residents and businesses in the vicinity of licensed premises.

Need to explain and emphasise the relevance of the Human Rights Act, which is only mentioned in passing in paragraph 8 and not otherwise explained.

This addition puts is similar to the explanation in paragraph 33.1 of the Crime and Disorder Act.

### 36.4 The Licensing Authority will consider in particular:

- the proximity of noise sensitive residential and commercial premises;
- the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise and smells from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- the steps taken or proposed to be taken by the applicant to prevent disturbance and antisocial behaviour by customers arriving at or leaving the premises;
- the steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable, then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
- whether there is sufficient provision of public transport (including taxis and private hire vehicles) for patrons;
- the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;
- the requirement of any interested party for a quieter Sunday evening and night;
- the use of gardens and other open-air areas;

The issues on public nuisance which the applicant is required to consider in paragraph 23.15 should also be considered by the Licensing Authority.

With licensed premises in Bath, it is clear that public nuisance includes antisocial behaviour in the streets, the leaving and smashing of glasses and bottles outside licensed premises, and the dropping of cigarette ends outside these premises.
inevitable, then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;

§ whether there is sufficient provision of public transport (including taxis and private hire vehicles) for patrons;

§ the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;

§ the requirement of any interested party for a quieter Sunday evening and night;

§ the use of gardens and other open-air areas;

§ the position or proposed position of external lighting, including security lighting that is installed inappropriately;

§ whether it is proposed to use toughened or plastic drinking vessels;

§ the measures proposed for collecting up glasses and bottles from the vicinity of the premises during operating hours and at closing time.

§ the provision of suitable ashtrays and/or bins for people smoking outside their premises.

§ whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity;

§ The steps taken or proposed by the applicant with particular regard to recycling of glasses, bottles and cans from their premises.
<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>36.5</td>
<td>In certain areas the increased concentration of entertainment uses and longer hours may affect local residents. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses. The increased concentration of entertainment uses and longer hours may affect local residents. <strong>who have a right to peaceful enjoyment of their property and the expectation that public nuisance will be prevented in the street outside.</strong> Similarly, commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses. Paragraphs 36.5 and 36.6 appear to be addressed to the entertainment industry (clubs like Moles?) rather than to pubs and bars. Residents are disturbed directly by noise from entertainment venues, as well as by public nuisance from people going to or from them.</td>
</tr>
</tbody>
</table>
| New, after para 39 | **MAKING REPRESENTATIONS**

**Who can make representations?**

Any interested party can make representations about the effect of the Premises Licence/Club Premises Certificate on the promotion of the licensing objectives under the Licensing Act 2003. An interested party means:

(a) a person living in the vicinity of the premises;

(b) a body representing persons who live in that vicinity;

(c) a person involved in a business in that vicinity;

(d) a body representing persons involved in such businesses.

There is no given definition in the Licensing Act of ‘vicinity’ and it is up to the Licensing Authority to decide how it applies in each case, taking into account things like the nature and location of the premises.

Representations made under the Licensing Act must be made public. Anonymous representations will not normally be accepted. An interested party can submit their views through a local organisation such as a Parish Council or Residents Association if they do not wish to disclose their name.

**How should representations be made?**

Interested parties may seek guidance on the licensing procedure from the Licensing Authority, to whom they should send their
representations. A form for this purpose is available from the Licensing Authority.

Representations **must** address one or more of the licensing objectives laid down in the Act:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm;

since these are the considerations that the Licensing Authority has to take into account in reaching its decision. The representation should state how the application would affect one or more of these objectives.

Interested parties should explain succinctly the grounds for their representation, and include any relevant evidence.

**What does the Licensing Authority do with representations?**

The Licensing Authority will examine representations to check whether they are valid, i.e. whether they address one or more of the licensing objectives, and that they are not, in the opinion of the officer charged with this role, frivolous or vexatious.

If valid representations have been made, the Licensing Authority will arrange a hearing, at which they will be considered.

Interested parties may attend and speak at the hearing. They should check the arrangements with the Licensing Authority.

<table>
<thead>
<tr>
<th>40.2 Where an interested party (such as a local resident or residents’ association) has made:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ valid representations about licensed premises, or</td>
</tr>
<tr>
<td>$ a valid application for a licence to be reviewed</td>
</tr>
</tbody>
</table>

the Licensing Authority **encourages** parties to arrange a conciliation meeting to address and clarify the issues of concern where practicable.

Where an interested party (such as a local resident or residents’ association) has made:

- valid representations about licensed premises, or
- a valid application for a licence to be reviewed

the Licensing Authority **will offer** to arrange a conciliation meeting to address and clarify the issues of concern where practicable.

B&NES proposal removes the offer in the current licensing policy to arrange a conciliation meeting.

This should be reinstated, as it can be intimidating for residents to approach licence holders, particularly as it is not obvious who to speak to. The Licensing Authority should be prepared to use its good offices.
<table>
<thead>
<tr>
<th>Section</th>
<th>Text</th>
<th>Text</th>
<th>Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>43.1</td>
<td>‘Relevant representations’ are the following;</td>
<td>Under the Licensing Act, frivolous and vexatious representations can be disregarded. There does not appear to be any basis for excluding repetitious ones.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a. representations about the effect of the Premises Licence/Club Premises Certificate on the promotion of the licensing objectives;</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. representations made by an interested party or a responsible authority, which have not been withdrawn, and, in the case of representations made by an interested party, are not, in the opinion of the officer charged with this role, frivolous or vexatious.</td>
<td></td>
<td></td>
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</tbody>
</table>
Cumulative Impact Policy – comments by Circus Area Residents Association

16.1 The licensing authority wishes to take steps to prevent the occurrence of public nuisance and crime and disorder which may arise from the concentration of licensed premises in a particular area. This collective effect is known as “cumulative impact”.

16.2 Cumulative impact is not mentioned specifically in the 2003 Act but the Guidance to the Act states that cumulative impact is the potential impact, on the promotion of the licensing objectives, of a significant number of licensed premises concentrated in one area. The Guidance further states that the cumulative impact of licensed premises, on the promotion of the licensing objectives, is a proper matter for a licensing authority to consider in developing its statement of licensing policy.

16.3 Where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder can arise in the vicinity of or some distance from those premises. Where a number of licensed premises are grouped together, and particularly where they may be situated near residential areas, the problem can be compounded. The distribution of premises may be such as to warrant special action by the licensing authority to combat exceptional problems of crime and disorder and public nuisance over and above the impact of individual premises.

Steps taken in identifying a cumulative impact policy

16.4 The steps that the licensing authority has taken in considering whether to adopt a cumulative impact policy within the statement of licensing policy are summarised below:-

- Identification of the concern about public nuisance and crime and disorder
- Consideration as to whether there is good evidence that public nuisance and crime and disorder is occurring, and is caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
- Identification of the boundaries of the area where problems are occurring
- Consultation with those specified in section 5(3) of the 2003 Act and, subject to the outcome of the consultation,

  - Inclusion and publication of the details of a cumulative impact policy to be included in the Statement of Licensing Policy

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1 Based on para 13.25 of DCMS guidance issued under s 182 of the Licensing Act 2003. The whole point of the CIP is that it addresses problems that are not directly connected with a single establishment.
2 ‘Late night’ seems to imply after midnight. Problems can occur from mid-evening onwards.
Evidence of cumulative impact

16.5 The Bath and North East Somerset Community Safety and Drugs Partnership (CSDP) has collated information which demonstrates that, in Bath City Centre, “a defined temporal and geographic area experiences a significantly greater degree of alcohol related crime and disorder than the remainder of the authority area” and that Bath City Centre can be defined as experiencing a significant amount of alcohol related crime.

16.6 After considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act, the Council resolved, on 13th September 2007, that the evidence contained within the report was sufficient to justify the preparation of a cumulative impact policy for inclusion in the Council's Statement of Licensing Policy. A copy of the report, together with the Minutes of the meeting, can be seen at any of the Council’s libraries or on the Council’s web site at the following address:-

www.bathnes.gov.uk

16.7 The area identified for the cumulative impact policy is outlined on the map in Appendix A of this document (the Cumulative Impact Policy Area).

The effect of a cumulative impact policy

16.8 The effect of adopting a cumulative impact policy is to create a rebuttable presumption that applications for new premises licences, club premises certificates or material variations will be refused if relevant representations are received. If the application is not to be refused then the applicant will have to demonstrate that the operation of the premises will not add to the cumulative impact already being experienced.

16.9 The licensing authority will expect the applicant to address the issues surrounding cumulative impact in their operating schedule in order to rebut such a presumption. See paragraph 16.18 below for suggested conditions.

16.10 However, this presumption does not necessarily relieve Responsible Authorities or Interested Parties of the need to make a relevant representation before the licensing authority may lawfully consider giving effect to its cumulative impact policy in a particular case.

16.11 After receiving representations in relation to a new application or a variation of a licence or certificate, the licensing authority will consider whether it would be justified in granting a licence or variation in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high

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3 Current draft makes this Appendix A.
4 Current draft makes this paragraph 16.18.
5 Text as drafted appears to refer to implementation of the policy itself. This paragraph is concerned with its application to a particular case.
6 Granting a licence or variation in these circumstances is not a departure from the CIP, it is the application of a particular aspect of the policy.
capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not.

16.12 The licensing authority will consider the individual merits of any application, together with the relevant representations made and, where it considers that, to grant the application would be unlikely to add significantly to the cumulative impact having regard to the licensing objectives, the authority will grant the application.

16.13 **If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would be likely to[^7] undermine the promotion of one of the licensing objectives and that necessary conditions would be likely to be[^8] ineffective in preventing the problems involved.**

16.14 If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.

16.15 Where an application for a review is received by the licensing authority, the cumulative impact policy will not be used as a ground for revoking an existing licence or certificate. The cumulative impact on the promotion of the licensing objectives of a concentration of licenced premises should only give rise to relevant representations where an application for the grant or material variation of a premises licence or certificate is being considered. A review must relate to individual premises and by its nature, cumulative impact is related to the concentration of many licensed premises in one area.

16.16 **The licensing authority will regularly monitor the impact of this cumulative impact policy to assess whether it is no longer needed or needs to be modified or expanded.**

**Suggested additions to operating schedules**

16.17 If an application for a licence is made for a premises within the defined area of the cumulative impact policy the licensing authority will expect the applicant to demonstrate, in their operating schedule, the steps that they will take to prevent problems relating to nuisance and public safety and the steps to be taken to promote the reduction of crime and disorder.

16.18 A range of measures that the licensing authority would wish to be included on a premises licence application within the cumulative impact area would depend on the nature and type of premises within the application and would need to be individual to that premises, examples are:-

- CCTV at the premises to be properly maintained.
- S.I.A. door staff.
- Toughened or plastic glass, no bottles.

[^7]: It will be impossible to prove in advance that a particular licence will undermine the licensing objectives.
[^8]: Similarly, it will be impossible to prove that measures would be ineffective.
[^9]: Removal or expansion seems too narrow a range of options. Modification could well be needed in the light of experience.
APPENDIX A

- Free calls to taxi firms for departing customers at the end of the night.
- Outside areas to be cleared at a reasonable time (time to be stated).
- Signs to be displayed at each exit to encourage patrons to minimise noise and not to congregate in the street at close.
- To contribute to the street marshal scheme.
- To be a member of the local Pub watch.
- No open containers of alcohol to leave the premises.
- To supervise entry and exit of the customers from the premises at busy times.
- Facilities for people to dispose of cigarette ends and provisions for reducing noise from people smoking outside the premises.
- **A limit on the number of customers permitted on the premises at one time.**\(^{10}\)
- **A requirement that the public spaces in the premises should be predominantly seated.**\(^{11}\)

This list is not exhaustive, and is only intended to provide a brief description and guide to applicants.

**Other mechanisms for controlling cumulative impact**

16.19 **B&NES Council, Avon & Somerset Constabulary and other relevant authorities**\(^{12}\) will encourage the use of other mechanisms for controlling problems caused by customers behaving badly and unlawfully once away from licenced premises. For example:-

- Planning controls.
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council.
- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
- Powers of the local authority to designate parts of the Council area as places where alcohol may not be consumed publicly (already in place in Bath).
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
- The confiscation of alcohol from adults and children in designated areas.
- Police powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.
- Other local initiatives that similarly address these problems.

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\(^{10}\) Although this has until now been applied as a fire safety measure, restriction on numbers is a simple and obvious way to forestall problems.

\(^{11}\) To prevent the creation of vertical drinking establishments.

\(^{12}\) It has repeatedly been stated that the licensing and planning controls fall under separate legal regimes. It is not therefore clear how the licensing authority can encourage action elsewhere. It seems better to refer more generally to refer to the authorities concerned. If necessary the list of authorities could be lengthened.
OFFICER COMMENTS

Comments of the Statement of Licensing Policy

Para.
1.3  Overtaken by other amendments
1.4  Amendment to be included as it shows social inclusion
9.2  Planning and licensing are separate regimes therefore the latter point is not lawful to place in the Policy.
14.2  The original wording has been reinstated.
14.3  This is considered elsewhere in the Policy, i.e. para 36
18.2  The Guidance advises that there should be flexible opening hours.
19.3 to 19.5  Nuisance and antisocial behavior on the street is a police responsibility, the licensing authority do not have the same powers or ability to impose criminal sanctions. i.e. powers of arrest, fixed penalty notices etc),

20.6  The provision for this is in the Act, residents and Responsible Authorities can apply for a review at any time. Conditions can only be imposed in the usual way and in fact, Policy says such conditions will be applied following a review.
23.15  but only where this is in the immediate area and in the direct control of the premises licence holder. Paragraphs c) and e) to be included with minor amendments.
33.1  The existing wording will remain until a new plan is adopted.
33.2  This is voluntary and therefore the licensing authority does not have any control over it.
36.1  The existing wording allows for more than just the Human Rights Act and the HR Act should also protect other parties as well as residents
36.4  The bullet points on toughened glass and ashtrays have been included.
36.5  The Policy refers to the HR Act 1998 and the Act also protects other parties outside of the licensees direct influence.
39  The addition of the clauses on making representations are not necessary as there is already information widely available on this in the Act, Guidance and on the Council’s website. The Policy also refers to this at para 43.
40.2  The Licensing Authority should not become involved in brokering deals. The emphasis is on the parties concerned to do this.
43.1  Repetitive representations should remain as this applies to reviews.

Comments on the CIP

Where appropriate and, where the changes do not materially alter the reasoning behind the CIP or significantly alter its emphasis, then the suggested changes have been incorporated.
8. Punch Taverns

Consultation Response of Punch Taverns PLC to the Licensing Act 2003 Statement of Licensing Policy of the Borough of Bath & North East Somerset Council (Cumulative Impact Policy)

Introduction

Punch Taverns PLC is a Pub Operator with a portfolio of 8,500 premises within the United Kingdom. Punch Taverns PLC currently have 36 premises that falls within the Borough of Bath & North East Somerset. To date, the proposed Cumulative Impact area has not been confirmed.

Response to consultation on Cumulative Impact

At present the Policy for Cumulative Impact has not been published.

In the absence of evidence from the police as to the success or otherwise of the adoption of a Cumulative Impact Policy, it is difficult to comment on whether there is a need for such a special policy.

Punch Taverns’ response is based on the assumption that the Cumulative Impact Policy will be implemented.

On the basis that the Cumulative Impact Policy is implemented, Punch Taverns would submit as follows:

1. It is accepted and agreed that there should be a reputable presumption that applications for new Premises Licences or Club Certificates within the special policy area should be refused if relevant representations are received.

2. Material variations should be deemed the exclude the following
2.1. Applications which seek to vary the hours which existing premises within the cumulative impact policy area can undertake licensable activities. In this regard it is submitted that the avoidance of fixed and artificially early closing times assist in preventing rapid binge drinking and the possibility of disorder and disturbance when large numbers of customers are required to leave premises simultaneously.

2.2. The Department of Culture, Media and Sport state in the guidance issued under Section 182 of the Licensing Act 2003 (paragraph 6.6) that “Above all, Licensing Authorities should not fix pre-determined closing times for particular areas”

3. Material variations should be deemed to include the following:

3.1 Applications which seek to increase the licensed area of a premises (be this an increase to the licensed area indoors or outdoors) by say 10% or more (to allow for modest variations to premises due to refurbishments, etc.).

PUNCH TAVERNS  
06 AUGUST 2007

OFFICER COMMENTS

These comments were received before the CIP was published.

Para 2.1 It is assumed that what Punch Taverns mean is that a material variation which seeks to vary the closing time should not be taken to add to the cumulative impact. However, such an application would add to the cumulative impact where a representation was made on the grounds of crime and disorder/nuisance.

Para 3.1 – It is assumed that Punch Taverns mean that this type of variation would add to the cumulative impact.

Note. – The word Material has now been deleted from the Policy.
9 National Trust

Our Ref: JGP/JAK/NT/Statements
Your Ref:

11 September 2007

Bath and North East Somerset Council
Licensing Services
9-10 Bath Street
Bath
Avon BA1 1SN

Dear Sirs,

RE: Statement of Licensing Policy

Thank you for the opportunity to comment on your draft Statement of Licensing Policy. Having looked through the draft, we would like to suggest that some amendments might be appropriate, in the light of the most recent Secretary of State’s Guidance and the experience of the operation of the last Policy.

Please find our observations below, which are made on behalf of the National Trust, who have premises within your Authority’s area.

Position Statement
We suggest that the policy should reflect the reports that have been received by the Licensing Committee on the effect of licensing in the area, the impact on tourism and employment – for example, whether there are now fewer or greater numbers of licensed premises, whether applicants have been deterred from applying, whether there have been new problems from licensable activities. If there has been a negative effect, the way that the Authority work to redress this should be included within the policy. It is our view that the costs of making an application, which include the application fee, advertising, the preparation of plans and technical assistance in preparing the application and negotiating with the responsible authorities, deter the holders of licences from making applications to vary, especially where the change is slight.

The source for copies of the reports to the Licensing Committee should be mentioned in the policy.

We recommend that licensed establishments such as those run by the National Trust should be recognised for their contribution to the local economy, tourism and cultural strategies.

Transition
It is assumed that this section will be deleted from the Policy.

Contd……..
Policies
Paragraph 10.4 should be deleted as it contradicts the previous statements, which make it clear that Planning and Licensing are different regimes. The obtaining of one consent or the other should never be a pre-condition and could be regarded as a duplication of statutory provision. The same is true of paragraph 12.3.

The ‘local strategies and policies’ that will be considered in paragraph 14.1 should be listed within the Statement of Licensing Policy for clarity. As it stands, any local policy or strategy could be considered no matter who had drafted it. Those that are listed in 15.3 are assumed to fall into a different class.

Variations
The policy should make it clear as to when a new licence application is expected as opposed to a variation. It is suggested that the Authority should adopt the approach that increases to the licensed area by up to at least 30% may be dealt with by way of variation, as should applications for at least two new licensable activities unless the additional activities will substantially alter the nature of the premises.

Enforcement
It is suggested that enforcement should also be undertaken in accordance with the guidance provided by the Code of Conduct for Crown Prosecutors.

The policy should explain where a copy of the enforcement protocol between the various enforcement agencies can be obtained. It is suggested that the protocol could be attached as an appendix to the policy.

The policy should make it clear that applications for reviews will only be considered where the circumstances can be shown to have changed substantially since the last licensing decision.

Operating Schedules
23.9 et al appear to require consideration of various factors to be demonstrated in the operating schedule. It is suggested that these paragraphs be reworded to state that these are factors that applicant may wish to consider if they are appropriate.

DPS
The policy seems to suggest that the DPS carries the day-to-day management responsibility for the premises whereas the statutory provisions and guidance have indicated that the DPS is intended to be a point of contact. Any sections referring to management responsibility for the DPS should therefore be removed.

The concept of a joint interview in paragraph 28.2 is welcomed.

Duplication
The policy should make it clear that conditions that are not considered to be necessary or which duplicate statutory provisions will not be incorporated into licences, even if they are offered in operating schedules. The section on public safety appears to suggest that safety matters for performers, which are already adequately dealt with by the Health and Safety at
Work etc Act 1974, should be included in the operating schedule. It is suggested that the general duties imposed on employers should be recognised and list the matters (or examples of them) that the Authority feels are outside of the existing safety legislation.

**Children**
Details of the ‘proof of age’ schemes recognised by the Authority should be included, along with examples of suitable identification.

Details should be given of what might constitute exceptional cases for the film classification condition to be excluded and the role of the Authority in relation to films that have not received a classification (eg an artistic film/broadcast recording/home video).

The policy is not clear on who the Authority feels is competent to advise it on Child Protection matters with a reference to the Police on page 35. Presumably the ACPC and the Police are separate organisations.

**Behaviour away from the premises**
The Policy needs to reflect the current guidance in that issues away from the immediate vicinity of the premises are matters of personal responsibility and dealt with by other legislation than the Licensing Act.

**Nuisance**
The policy should reflect the current law on public nuisance, such as the nature and threshold that must be crossed. It would be useful to explain examples of factors that could be regarded as public nuisances.

The policy should recognise that an “inaudibility” condition goes far beyond the remit of the legislation and the threshold for public nuisance. Instead, conditions should be expressed in terms of sound levels or the extent of disturbance to neighbours. The fact that conditions should be proportionate and necessary for the particular premises should be reflected in each section of the policy that refers to the imposition of conditions.

**Delegations**
Officers should be delegated with the ability to decide on the submission of plans at alternative scales to the normal 1:100. The responsibility for the rejection of applications should solely rest with the Licensing Committee or sub-committee.

The applicant should have the right to request that an application is considered by Committee or Sub-Committee even if no representations are received.

**Public Safety**
Paragraph 35.1 suggests that CCTV will be required, but this is not appropriate or necessary in all premises. By way of example, the National Trust would not expect to be required to provide CCTV in a tea room where only small quantities of alcohol are served.

Contd.........
OFFICER COMMENTS

Firstly, the letter seems to refer to the wrong policy as some references are made to non-existent paragraphs

I comment on each of the paragraph headings below:-

Position Statement

The Policy contains information about how the licensing authority will discharge its statutory functions under the Act, not a review of what has gone before. The licensing authority may already have received information of the impact of the LA 2003 on BANES.
All fees are set by Government as are exemptions and special considerations. Transition – this has been deleted

Policies

Paras 10.4/12.3 – both deleted

The strategies listed in 15.3 (in the original Policy) cover wider issues and have therefore been listed separately from the local strategies.

Variations

Officers already evaluate an application for variation which seeks to increase the licensable area as to whether a new application or variation is suitable. Licensing authorities differ as to when such applications would be required. Putting the controls on that are suggested are arbitrary and do not take account of the consideration of each application on its own merits and that the Council must not fetter its discretion.

Enforcement

No reason is given for adopting the Code for Crown Prosecutors with regard to enforcement. The Enforcement Concordat would have been adopted by the Council in any case.

Para 21 states that the Council uses the Concordat, this information available on the Council’s website?

Reference to Reviews – anyone can apply for a review at any time on the grounds that any of the licensing objectives are not being met/ conditions are not being complied with. The letter states that the policy should state that applications for reviews will only be considered where the circumstances have changed substantially since the last licensing decision. This would be ultra vires as it undermines the ability of any person to apply for a review at any time. It also does not take into account the assessment by the licensing authority of the merits of such an application and it would again be fettering its discretion if it was to restrict itself in such a way. There is no clear definition of what a substantial change in circumstance would amount to in any event.

Operating Schedules

23.9 - lists the matters as examples

Section 28.3 has been added to clarify the situation.

Duplication

Environmental Health and the Health and Safety Executive are a consultee as the Health and Safety at Work Act would be the primary legislation.
Children

Proof of Age Scheme – These are usually proposed by applicants.

Film Classification – each application would have to be on its own merits and the applicant would have to demonstrate why they considered the films they propose to show should be excluded the film classification but it is a mandatory condition in any case.

Behaviour Away from the Premises

Amendments have already been made with regard to this.

Nuisance

The Policy needs to avoid the use of too much legal language.

20.1 deals with conditions and advice is contained in the Guidance

Delegations

Licensing Officers already use discretion over the plans received and this should remain.

The writer also considers that the applicant should have a hearing, where they request one, even if reps have not been made. Why would they wish this – it would be a risk to their application?

Public Safety

This is a matter of interpretation, CCTV is used as an example, but this does not mean that it has to be included.

Committee/Sub Committee decisions

See Good Practice Guide/Code of Conduct for Members/para 8.8 etc in Guidance

Weight attached to evidence – representations will be accorded what weight is appropriate whether the party making the rep is present or not.

Reps made by RAs will not be considered to be frivolous, repetitious or vexatious as the law does not allow this – it only applies to IPs.

Interested Parties – see para 43

Conclusion – as stated before it is unclear what version of the Policy the writer was commenting upon. There are also anomalies made and what the law states.
10. Dunkerton Parish Council

Thank you for the opportunity to comment on the Council’s draft Statement of Licensing Policy 2007. At the Dunkerton Parish Council meeting last week I was authorised to offer the following suggestions.

I have 2 comments I would like to make, in the belief that suitable amendments to the draft would make the final statement a more user-friendly document:

1. The Licensing Objectives. At para 3, the Authority makes it clear that the licensing objectives are of paramount importance at all times. Rightly so. Unfortunately, the document then goes on at length for another 30 paragraphs before any advice and interpretation is offered as to what that means in practice. Leaving it so late to get into the practicalities – for example only turning to the matter after considering (from para 17) the “Administration of Licensing Functions” - underplays significantly the objectives’ purported paramount importance. Better, I suggest, to move the content of paras 33-39 towards the front of the Statement.

2. Drugs Policy. The wording of para 22 is too clumsy, and the flow too disjointed, to explain clearly the Authority’s view of such an important issue. I offer for consideration the following, simpler wording:

“22 Drugs Policy

22.1 The Home Office, in conjunction with the Department for Culture, Media and Sport, has produced a guide called “Safer Clubbing”. It provides comprehensive advice on how to ensure the health and safety of everyone attending dance events in England. Information on “Safer Clubbing” has been reproduced at Annex E of the Guidance issued under Section 182 of the Act. The guide can be viewed in full at www.drugs.gov.uk.

22.2 “Safer Clubbing” is immediately applicable to nightclub owners and dance event promoters. However, the Licensing Authority believes strongly that in seeking to manage drugs misuse by young people it is generally applicable to licensed premises. In pursuance of the licensing objectives, the Licensing Authority’s policy is that the advice in “Safer Clubbing” should be studied and applied as widely as is reasonable.

22.3 Applicants for Premises Licenses or Club Premises should therefore be prepared to show that they have considered the risk of drugs misuse associated with the nature of the events they intend to stage, or events that they might in future stage, and have adopted appropriate “Safer Clubbing” advice in preparing operating schedules.

OFFICER COMMENTS

Point 1. The format of the Policy should remain as it is because the current format sets out the framework within which the Licensing Authority will discharge its functions under the Act.
11.  St.Catherine’s Parish Council

REVIEW OF LICENCING POLICY

I am writing to you on behalf of parishioners of St.Catherine. You will be aware that this piece of legislation and the accompanying regulations and guidance have been a source of irritation for our community. The practical difficulties and frustration we have had to face in dealing with two separate pieces of law and the two corresponding parts of the Council cannot be misunderstood.

I believe the draft policy fails on two specific fronts:

- The policy is clearly written with city centres’ and urban environments in mind and nothing I can see in this current draft alters that situation. I would suggest that particular mention and consideration is given to looking at the impact of licensing policies in rural areas and areas of special protection e.g. AONBs. The concept of “saturation” could be adopted here in similar ways to that proposed for the centre of Bath. The effect of a single licence in a quiet rural area can have very similar effects to a dozen licensed premises in close proximity within a town centre.

- The redraft of section 9 (Relationship with Planning Policy) is unsatisfactory. It appears to place an over-reliance on case law; one specific example makes for bad law and there is very little case law in any case to draw-on. I suggest the current wording may have the effect of encouraging less scrupulous applicants down a path which would place them very clearly outside planning regulations. In fact this has been our own experience. Given the weakness and the powers rather than duties of the Council over enforcement, I do feel strongly that an alternative line should be considered here which more fully reflects the responsibilities of the Council as a corporate entity. For example could it not be considered in terms of process and prior to application that the Licensing Dept are explicit in their expectations that existing or proposed activities are within the planning regime, or that steps are in train to secure this Otherwise the purpose of consultation and liaison seems pointless and is at apparent odds with para 14.3 (Integrating Strategies). I see the words but they seem to have no meaning.

I feel that sections setting out expectations over consultation with the local community (para 17) should be strengthened and the decision making process made more transparent especially with reference “vicinity” and how the views of local residents have been taken into account (para 19.2).

I hope you find these comments helpful and constructive.

Yours Sincerely,

Chair, St.Catherine Parish
OFFICER COMMENTS

Each application must be taken on its own merits.
It would be for Development Control, as a statutory consultee, to comment on an application in an AONB and of course for IPs to make a rep if they so wished.
The principal of cumulative impact is just that; the potential impact, on the promotion of the licensing objectives, of a significant number of licensed premises concentrated in one area and where there is evidence to support a CIP. Therefore a rural area would not be included in a CIP.
The Licensing Authority has a duty to consider enforcement and to do so where it is expedient.
The licensable activities are lawful under the Act and do not need to be ratified by planning – also see policy at 9.1.
If there is no planning permission the premises cannot operate and planning is an entirely different regime.
Para 14.3 states that where appropriate the Licensing Authority will have regard to, amongst other things, “planning considerations that might affect licensed premises” I would imagine this to be relevant where Dev Control make a relevant rep
The applicant is not legally obliged to consult with Responsible Authorities/Interested Parties
It is already public both in terms of the administration of applications and Sub Committee meetings, publication of Minutes etc.
When reps are made by IPs, their views are taken into account and the appropriate weight given to those reps accordingly.
12. British Beer & Pub Association (BBPA)

RE: LICENSING ACT 2003 - REVIEW OF LICENSING POLICY

The British Beer & Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 98% of beer production and around two thirds of the 60,000 pubs in the UK. Many of our members own and run pubs in the Bath and NE Somerset area. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies, which includes security in design, drugs, drinks promotions, noise control and health and safety.

The BBPA believes that the implementation of the Licensing Act 2003 has been successful to date and is encouraged by reports of decreased levels of disorder associated with licensed premises. We welcome this opportunity to provide comments as part of this licensing policy review. This response is also supported by BII, the professional body for the licensed retail sector. Our main observations are as follows.

The BBPA welcomes the Council’s positive approach to the licensing of the sale of alcohol and the provision of public entertainment and in particular its recognition of the cultural and social contribution that the trade has to make, and also its importance as a local employer. The draft policy has also recognised one of the key principles of the Licensing Act 2003, namely that each application must be treated on its own merits.

Operating Schedule

23.9 Acceptance of “proof of age cards” is unnecessary, given the sanctions in law on underage sales, and unenforceable. In any event PASS is an accreditation scheme for proof of age cards and not a card itself. Further information is available from the PASS website. http://www.pass-scheme.org.uk/

Prevention of Crime and Disorder

33.2 As a major supporter of National Pub watch we are very keen that public houses participate in their local Pub watches, but we are opposed to such participation being a condition of the licence. Pub watches and other schemes are voluntary organisations and membership must remain voluntary if they are to be effective. They are also co-operative bodies that must be able to determine their own membership, which would become almost impossible if leaving a Pub watch would result in a breach of condition. We trust that the policy merely seeks to encourage Pub watch membership rather than make it a condition of licences.

33.8 This paragraph could mislead applicants into believing they must comply with the recommendation of the Council. There is no mechanism in the Licensing Act for licensing authorities to expect the DPS to have experience, training or qualifications in addition to the personal licence qualification.
Inspection of Premises

We welcome the risk based approach to enforcement advocated by the policy and would further recommend the recognition of the Hampton principles of inspection and enforcement in this section, which include the following:

- No inspection should take place without a reason
- Regulators should recognise that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection

We trust that you will find these comments helpful and look forward to any response you may have. We would also appreciate being listed as a consultee in any further licensing related consultations.

Further Information

The website contact for National Pub watch is now:  www.nationalpubwatch.org.uk

Yours sincerely,
Dr Martin Rawlings

OFFICER COMMENTS

Operating Schedule

PASS is given as an example of an acceptable scheme and the proof of age cards are recommended by Government.

Prevention of Crime and Disorder

Pub Watch is an expectation in order to reduce the possibility of crime and disorder; it is not being made mandatory.

Inspection of Premises

The Licensing Authority currently follows the Hampton principles of better regulatory practices.
13. Councillor A Furse

Subject: RE: Cumulative Impact (Saturation) Policy for Bath

1. The statement “The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. “ is subjective and should refer to definitions of what cumulative means as without it then how would one know it is being "impacted”.

2. The statement "The licensing authority will regularly monitor the impact of this cumulative impact policy to assess whether it is no longer needed or needs to be expanded." to have any meaning needs a pass/fail criteria, methods of monitoring and duration. You cannot enter into such an assessment without a type of scientific approach.

3. The statement "Identification of the boundaries of the area where problems are occurring " should be clear as to whether this is the promised analysis to the boundary impact areas or not. If not then the document needs to clarify what work or monitoring will take place to i) meet the request of Council, and residents to put boundary monitoring in place. ii) to ensure that the monitoring of the boundaries is identified separately from (2) above, as it is attempting to identify separate problems.

I look forward to your response.

Councillor Andrew Furse
Liberal Democrat,
Kingsmead Ward,

OFFICER COMMENTS

Point 1. There is no mention of cumulative impact in the Act it is only mentioned in the Guidance. It is a subjective matter – hard and fast rules cannot be laid down – each application will be considered on it’s own merits

Point 2. This appears to be advice as to how to monitor the impact which can be decided when the Policy is approved.

Point 3. The boundary of the CIP will be reviewed following the report on the impact of the policy.
14. **South Stoke Parish Council**

**Draft Statement of Licensing Policy**

The Parish Council has considered the Draft Statement on Licensing Policy and has the following comments to make:-

1. The most notable omission from the draft is the complete lack of provision for consultation with the Parish and Town Councils. Whilst this document has gone out to Parish and Town Councils for consultation, we cannot see any references in the document to Parish and Town Councils being consulted on specific applications and renewals. A Parish Council is a representative body elected to represent those within a defined community. When an application for a licence or a renewal of a licence within a specific community comes forward for consideration any Parish or Town Council representing that community, and being representative of opinion in that community, should in our opinion automatically be consulted. Yet when the Packhorse Inn licence came up for renewal recently this Parish Council was *not* consulted. This must be wrong. We feel strongly that it should be enshrined throughout this document that Parish and Town Councils should be consulted on specific applications, revisions, and renewals that affect the communities they represent.

2. This document is a cornucopia of controls, rules and regulations all ostensibly to fulfil the stated objectives. Yet it is plain for anyone to see, by visiting the centre of Bath at 2 am on a weekend morning, that these objectives are already out of control. The chaos and social deprivation that ensues from binge drinking amongst young people is plain to see. Whereas the draft document is comprehensive in most respects we believe that licensing policy should also be about addressing social issues to deal with excess and binge drinking as well as about imposing severe controls on licensees. The irrefutable fact is that it is not the pubs, bars and clubs (the workings of all of which are all well covered in this draft) but the shops that fuel the drinking culture of youth today. Young people start drinking by buying from shops and very little is said in this document about curtailing the sale of alcohol from shop premises. Shop premises and shop keepers are, by and large, not subjected to the same requirements as those placed upon pubs, bars and clubs, and their owners. We would like to see a greater emphasis placed on the control of alcohol from this source. Many States in the USA have a minimum age for purchasing alcohol of 21. It would require a National policy change to replicate that, but it does surprise us to see a minimum age of 18 quoted in order to obtain a ‘Personal Licence’. Should that not be at least 21? The problem is not necessarily that of the 18 year old licensee per se, but the crowd he or she attracts. It all serves to help promote potential under age drinking as an acceptable phenomenon.

3. The Parish Council fully supports the principle of the four stated licensing objectives (para 3.1) laid down in the Licensing Act 2003, but wonders whether this document should encompass a ‘fifth’, specifically for Bath City Centre, to emphasise the importance of the points made in paras 1.2, 1.3, and 1.4 of the introduction. The ‘fifth’ objective might be worded “**Promoting the healthy alternative**” We fully support the proactive, positive promotion and development of European - style coffee shop/bistro type establishments to give social opportunity for the whole community, including youth and young families, as a natural alternative to policy by ‘control’ objectives.

Yours faithfully

MARK DUNNINGHAM
Chairman.
OFFICER COMMENTS

Point 1. There is no requirement in the Act for Parish and Town Councils to be consulted on applications. The Act does not state that they should receive notice of an application (s.18(3)). Furthermore, if the Council sent such notice they could be seen to be canvassing representations which might be challenged by an applicant i.e. by making an appeal. The Act provides for applications to be advertised in a newspaper and on the premises – no further publicity is required. The draft Statement was sent for consultation to a wide range of persons and organisations, some of whom are not statutory consultees.

Point 2. The premises and personal licence holders are obliged to impose what controls are necessary the objectives address these issues to a certain extent it is not within the licensing authority’s remit to control how much alcohol a person drinks. If sales to under aged persons were to take place, it is a matter for Trading Standards and the Police to prosecute.

It is up to shopkeepers to exercise due diligence where under age sales are an issue.

Shops are subject to what controls/conditions are appropriate, relevant and proportionate etc to the individual premises.

The Act states 18 years (s.120(2)(a)) – if we were to impose a limit of 21 years before an application for a personal licence could be made, it would be unlawful.

Shopkeepers/ management of such shops should ensure that personal licence holders are adequately trained.

Point 3. This is not an objective in the Act, but could be encompassed elsewhere.
15. Saltford Parish Council

Subject: Draft Statement of Licensing Policy - comments from Saltford Parish Council

Comments from Saltford Parish Council on Bath & North East Somerset Council’s Draft Statement of Licensing Policy -

Although not specifically mentioned in paragraph 43.2 of the draft policy document, Parish Councils are interested parties under sub-paragraph b of that paragraph. However, the policy appears not to require Parish Councils to be notified or consulted on individual applications. Saltford Parish Council considers that they should be specified as consultees. In the past, we have heard, from members of the public, of applications to vary licenses - too late to give them proper consideration.

Tricia Golinski
Parish Clerk
Saltford Parish Council

OFFICER COMMENTS

There is no requirement in the Act for Parish and Town Councils to be consulted on applications. The Act does not state that they should receive notice of an application (s.18(3)). Furthermore, if the Council sent such notice they could be seen to be canvassing representations which might be challenged by an applicant i.e. by making an appeal. The Act provides for applications to be advertised in a newspaper and on the premises – no further publicity is required. The draft Statement was sent for consultation to a wide range of persons and organisations, some of whom are not statutory consultees, but they could be an Interested Party.

16. Bath Police

Subject: RE: Review of the Council's Statement of Licensing Policy

Andrew,

I only have two minor matters at:-

28.2 A joint interview may be arranged.
33.2 Pub watch to be added.

Martin Purchase
Liquor Licensing Officer Bath Police.
Subject: RE: Cumulative Impact Policy

It is one of the best Cumulative Impact Policies I have looked at, one I think we can work with. I have no suggestions for amendment (This is a response on behalf of Bath Police.)

Martin Purchase
Liquor Licensing Officer Bath Police.

Cumulative Impact Policy

Thank you for sending me a copy of your draft CI Policy.

During the last two years I have had hands on experience, working with CI areas and the policies that cover them, they have been weak at best.

I have read this draft a number of times and I feel that you have comprehensively covered this topic. From a police perspective this is a policy which we can work with, it covers all aspects of the Premises Licence process, especially variations.

You will probably find that the view of the Interested Party may be some what different, as Licensing tends to be very emotive for them but looking at it from an objective position, it’s very good.

I look forward to reading the published Policy Statement.

Derek Fletcher
Licensing Officer
Liquor Licensing Manager (Avon and Somerset Constabulary)

OFFICER COMMENTS

The amendments proposed have been incorporated into the Policy.
17. Abbey Residents Association

Subject: Fwd: Cumulative Impact Policy

I note that the CIP has been written and comments are being invited. I would like to make a point that Cllr Webber highlighted at the September 2007 Council meeting which is that the important report from the Responsible Authorities Group was not included in the papers for that meeting which you refer to in the CIP at 16.6.

The evidence for CI cited by Jon Poole on behalf of the RAG that was presented to the December 2006 Licensing Committee and Full Council in January 2007 as ANNEX B in the reports to those meetings should be the one referred to in the CIP.

Sarah Webb
Secretary
Abbey Residents Association

Additional Comments made on the Cumulative Impact Policy

16.4

Add an additional bullet point

- Inclusion and publication of the details of a cumulative impact policy to be included in the Statement of Licensing Policy

Amend following paragraph

16.7 The area identified for the cumulative impact policy is outlined on the map in Appendix X of this document (the Cumulative Impact Policy Area).

OFFICER COMMENTS

Reference to the January meeting of Council and the report from the Community Safety and Drugs Partnership (CSDP), who were acting on behalf of the RAG group, have been included in the Policy.

The proposed amendments to the CIP have been incorporated into the Policy, where appropriate.
18. **Bath and North East Somerset Primary Care Trust**

I support the council having more influence over the density of alcohol outlets in Bath city centre.

Dr Kieran Morgan, Joint Director of Public Health
Bath and North East Somerset PCT and Council

**OFFICER COMMENTS**

No comment

19. **Peasedown St John Parish Council**

**Subject:** RE: Cumulative Impact Policy

The councilors discussed the Cumulative Impact Policy at the meeting held last night.

They felt that much of the content would have been useful when representations were made against having another licensed premises in Peasedown St John - Tesco Express.

Points were raised at the time regarding the licensing hours and the fact that there are now at least three stores selling alcohol in Bath Road and two public houses, plus the cricket club. These are all in a relatively small area.

There is another public house just out of the village on Dunkerton Hill. The access to alcohol in Peasedown St John increases the anti social behavior within the village.

It was thought to be a good policy and it is to be hoped that in the future it will be a useful tool to curb bad behavior further fuelled by alcohol.

Kind regards

Christine Hartley
Parish Clerk
Peasedown St John Parish Council

**OFFICER COMMENTS**

The CIP does not apply to Peasedown St John.

Representations would need to be made in the usual way.
20. Northampton Street Residents

Thank you for your communication of 22.10.2007. I believe I wrote to you regarding this issue in April, this year. Since then, the Dark Horse public house in this street has shut, reducing the number of licensed premises in the vicinity. It is possible that this tips the balance in considerations regarding the extent of the Cumulative Impact area, which I note, has not been expanded beyond Rivers Street. Other from this I cannot make any addition to comments made previously apart from wishing you success in taking steps to lesson the damage to person and property, which is often occasioned by excessive alcohol and its consequences.

P Malone

Northampton Street Residents.

OFFICER COMMENTS

The CSDP report did not provide sufficient evidence to justify extending the area as far as Northampton Street.