

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Licensing Committee/Environmental Health Portfolio Holder 6<sup>th</sup> September 2004  
**AUTHOR:** Chief Environmental Health Officer

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### LICENSING ACT 2003 - OPEN SPACES

#### Purpose

1. To obtain Members views on what should be included within the draft licensing policy with regard to the licensing of Open Spaces by the local authority.

#### Effect on Corporate Objectives

- 2.

Quality, Accessible Services	Improvement of village entertainment/facilities. Also the Council will have greater controls on environmental issues and the impact they will have on the local area.
Village Life	Licensing of a "premises" will mean that only one licence will be required by the Parish Council or Leisure Services instead of charitable groups etc having to apply for separate licences. This in effect will reduce fees and give opportunity for more varied activities.
Sustainability	The licensing of open spaces should maintain a manageable level of recreation and leisure facilities without exhausting natural resources or damaging the environment.
Partnership	Increased communication with charitable organisations, Parish Councils, Police and Fire Authority's and local businesses.

#### Background

3. The new Licensing Act 2003 is due to come into force on the 7<sup>th</sup> February 2005 and this Council needs to be prepared for a new outlook on licensing, which includes the licensing of open spaces such as Village Greens and Parks. The Licensing of open spaces as "premises" under the new Act would only come into force should an event be held for more than 500 people or held for a duration in excess of 96 hours or have events held in the same place on more than 12 occasions per year. All other scenarios would be subject to a Temporary Event Notice.

#### Considerations

4. The formal guidance issued by the Secretary of State under s.182 of the Licensing Act states that:- To ensure that cultural diversity thrives, Local Authorities should consider establishing a policy of seeking premises licences from the licensing authority for public spaces within the community in their own name. This could include for example, village greens, community halls, art centres and similar public spaces.

5. In relation to the above, Local Authorities Coordinators of Regulatory Service (LACORS) has approached Department of Culture Media and Sport (DCMS) to give further guidance and clarification on the reasons for licensing Open Spaces but no response or explanation has been forthcoming.
6. The subject of Open Spaces was discussed by LACORS Licensing Reform Policy Forum and was met with various concerns, one of the main being "Liability". A letter highlighting Local Authority's concerns on this subject was sent to the DCMS however, no reply has been received.
7. It is recognised that to comply with the Act any application to licence an "open space" would need to be supported by an operating schedule which due to the variety of events that may be held could be difficult to produce. An operating schedule is compulsory under the 2003 Act and any conditions placed upon the premises must be drawn from that operating schedule.
8. The forum therefore considered that Local Authorities should remove any reference to licensing of Open Spaces from their Policies, and let demand be led by the trade rather than prompted in the first instance by Local Councils.
9. The application to licence such spaces would not fall on the Licensing section itself but would most likely originate from Parish Council, Head of Community Services/ Planning Policy Manager or similar which presents the issue of who would be prosecuted should something go wrong? It is open for debate whether the criminal liability would fall on the relevant head of service, although it would be very unlikely that the Council (his or her employer) would prosecute! However the Police are also prosecuting authorities under the Act. This may mean that the users of the premises who actually create the offence may potentially only face liability under breach of contract and any criminal offence will rest with the licence holder of the premises i.e the head of service or Parish Council.
10. In light of a number of events that are held within this Council's District such as the Histon feast, Milton music festival etc, it is felt that to ignore this subject is not an option for this Council and if the licensing of Open Spaces will form part of the Council's Licensing Policy it should be agreed to be included within the draft policy to be consulted on, although the number of annual "premises licence" applications given the criteria in paragraph 3 is likely to be small i.e. less than ten.

### **Options**

11. There are two options:
  - (a) Do not actively encourage landowners to apply for premises licences for Open Spaces and allow the matter to be demand led by the trade. This should be referred to in the Licensing Policy or;
  - (b) Incorporate details to cover the subject of Open Spaces within the Council's current draft Policy and seek other landowners to actively apply for Premises Licences for open spaces.

### **Financial and Staffing Implications**

12. None.

### **Legal Implications**

13. Any legal implications form part of the Licensing Policy and will be addressed by the Legal Section once all relevant information has been gained.

### **Consultations**

14. Open Spaces will be subject to consultation as part of the wider consultation process in developing the draft licensing policy.

### **Conclusions/Summary**

15. The Council at some stage will be required to licence "Open Spaces" where a Temporary Event Notice cannot apply as described in paragraph 3. Although the frequency of such events are expected to be limited, a summary of how the Council intends to deal with these applications within the Policy will guide Officers and applicants alike.

### **Recommendation**

16. It is recommended that the Committee recommend to the Environmental Health Portfolio Holder that a chapter on the licensing of Open Spaces as per Option (a) in paragraph 11 is included in the Draft Licensing Policy and be circulated for consultation.

**Background Papers:** the following background papers were used in the preparation of this report: Local Plan 2004 (part 1) – Recreation & Tourism, Guidance issued under Section 1982 of The Licensing Act 2003.

**Contact Officer:** Myles Bebbington, Licensing Officer  
Tel: (01954) 713132