

# Cumulative Impact Policy Review

**Licensing Committee**

**Date: 30<sup>th</sup> March 2021**

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Author: Kathryn Ashton, Licensing Manager  
Wards: Central Ward and South Central Ward  
Parishes Affected: South Swindon Parish

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## **1. Purpose and Reasons**

- 1.1 Section 5 and 5A of the Licensing Act 2003 provides that each Licensing Authority must determine its Statement of Licensing Policy with respect to the exercise of its licensing functions and publish a statement of that policy for each 5 year period. The current Statement of Licensing Policy includes an identified Cumulative Impact Policy, (CIP) in respect of new 'on' and 'off' licensed premises within the Broadgreen area of Swindon.
- 1.2 A review of this policy is due every three years and must now include a Cumulative Impact Assessment as introduced by the Policing and Crime Act 2017. This policy review was endorsed by the Licensing Committee on 14<sup>th</sup> January 2021 to go out for a six week full consultation with statutory stakeholders.
- 1.3 The outcome of the consultation is now brought before the Licensing Committee for consideration and determination.

## **2. Recommendations**

The Committee is recommended to:

- 2.1 Consider the responses to the consultation and to extend the current Cumulative Impact Policy for a further three years, and commend it to Full Council for adoption and inclusion in the Council's adopted Statement of Licensing Policy.

## **3. Detail**

Background

- 3.1 The Licensing Act, 2003 gives Local Authorities the power to designate areas as Cumulative Impact Zones, where it is considered that the cumulative impact of new licences is leading to the area becoming saturated with premises and undermining one or more of the Licensing Objectives.
- 3.2 The Licensing objectives are:
  - 3.2.1 Prevention of crime and disorder.
  - 3.2.2 Ensuring public safety.
  - 3.2.3 Prevention of public nuisance.

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07881 281883, [kashton@swindon.gov.uk](mailto:kashton@swindon.gov.uk).

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## 3.2.4 Protection of children from harm.

- 3.3 These zones cover defined areas in which the provisions of a CIP would apply. Within these zones stipulations can be made as to the types of licences that would be restricted, the situations in which restriction would occur and exemptions from restriction such as important regenerative opportunities. Similarly, exemptions covering developments that could lift an area and in themselves reduce crime and improve amenity can be made.
- 3.4 The first Cumulative Impact Policy for the Broadgreen area was endorsed by the Licensing Committee in September 2016 and subsequently ratified by Full Council.
- 3.5 The CIP forms part of the Council's Statement of Licensing Policy and if approved would become a material consideration in determining licence applications in the area. It does not equate to a blanket ban on the grant of new licences or variation of existing licences as each application must be considered on its own merits. However, it could be used to refuse applications or variations, where their impact is considered to be harmful, unless the applicant can demonstrate that the licensing objectives will not be undermined.
- 3.3 It has been proven that the CIP has been invaluable in dealing with new and changing licensing applications in the Broadgreen area. Previously there had been a saturation of off licences in this area with increased complaints of crime and disorder. Since the introduction of the CIP, as the number of new premises has fallen and existing premises have reduced, the Licensing Objectives in respect of Prevention of Crime and Disorder and Ensuring Public Safety have not been undermined.
- 3.4 It is a statutory requirement that Cumulative Impact Policies are reviewed at least every three years. They must also now include a Cumulative Impact Assessment as introduced by the Policing and Crime Act 2017 with effect from 6 April 2018. This is shown in Appendix 4.
- 3.5 Although there are no proposals to change or remove the current policy, it is necessary to establish that evidence remains to support the continuation of the CIP. The evidence links the concentration of licensed premises in the Broad Green area of central Swindon to instances of anti-social behaviour and public health issues.

## Consultation

- 3.6 Consultation on the draft CIP took place between 25<sup>th</sup> January 2021 and 8<sup>th</sup> March 2021. Full details were sent to relevant statutory consultees as well as ward councillors, the parish councils and local community groups. In addition to this, a public notice was published in local press and the details of the consultation was posted on the Council's website.

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- 3.7 Four responses were received in total. These are summarised at Appendix 2.
- 3.8 All respondents were in agreement that it was necessary for a Cumulative Impact Policy to remain in place in the Broadgreen area.
- 3.9 Question three detailed the current exemptions found in the CIP and asked if they should remain as are or whether should be expanded or reduced. Two respondents agreed they should remain as currently stated, one person felt the exemptions should be expanded and one stated they should be reduced.
- 3.10 Question four related to hot food takeaway and delivery premises with sales between 11pm and 5am, known as Late Night Refreshment. These types of premises have not been included in the Cumulative Impact restrictions to date. Three respondents agreed that the CIP should be expanded to include such premises, one person did not. There is no evidence supplied within the Cumulative Impact Assessment to support the inclusion of Late Night Refreshment within the CIP.
- 3.11 Question five gave consideration of the area covered by the CIP. One person felt that it should remain the same, the other three wished it to be expanded. There is no evidence supplied within the Cumulative Impact Assessment to support this change in boundary.
- 3.12 It was made clear in the consultation that substantiated evidence would be required in order to make any changes to the CIP and gave the opportunity for this to be sent directly to the Licensing Authority. No such evidence was received during the consultation.
- 3.13 Wiltshire Police have provided evidence to support retaining the CIP both prior to the commencement of the recent consultation on 22<sup>nd</sup> January and further evidence during the consultation period. This is included as Appendix 3.

## Conclusion

- 3.14 In view of the nature of the representations received, and the evidence provided for the community impact assessment, it is proposed that the CIP is adopted without amendment, so as to enable the Council to exert greater control over licensed premises which may have a negative cumulative impact on one or more of the licensing objectives. As such, Committee is requested to commend the policy attached at Appendix 1 to Council for adoption.

## **4. Alternative Options**

- 4.1 The Licensing Committee could choose not to proceed with the extension of the CIP, if it considers that there is no benefit in doing so. The Licensing Act 2003 and the Secretary of State's Guidance is clear that other action can be taken to mitigate certain impacts arising from the concentration of licensed premises,

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which would continue to be available for use alongside the restrictions of the CIP. They would not, however, replace the level of protection afforded by the CIP.

## **5. Implications, Diversity Impact Assessment and Risk Management**

### Financial and Procurement Implications

- 5.1 There are no direct financial or procurement implications arising from this report. If approved, the CIP will be made available on the Council's website.

### Legal and Human Rights Implications

- 5.2 Legal and Human Rights considerations have been taken fully into account in compiling this report. The recommendations of this report are compatible with Convention Rights as they are fully in accord with the requirements of relevant legislation. The Council is required to comply with the statutory provisions referred to in the report, which the adoption of this policy will ensure it does. All other legal and human rights implications have been considered in the preparation of this report.

### All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 Health and crime and disorder are drivers for the CIP and taken into account in its drafting and designation. There are no staffing, sustainability or rural implications arising from this report.

### Diversity Impact Assessment

- 5.4 A Diversity Impact Assessment is available on request.

### Risk Management

- 5.5 An adopted CIP will assist in enabling the Council to refuse applications that would result in a further proliferation of licensed premises in the area, reducing the risk of challenge. The implementation of the policy will reduce health and amenity risks to members of the local community.

## **6. Consultees**

- 6.1 The Corporate Director of Finance and Assets (s151 officer) and Chief Legal Officer (Monitoring Officer) are consulted in respect of all reports.

## **7. Background Papers**

- 7.1 [Licensing Act, 2003](#)

- 7.2 [Revised S182 Guidance issued under the Licensing Act, 2003.](#)

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## 8. Appendices

- 8.1 Appendix 1 - Current Cumulative Impact Policy 2016
- 8.2 Appendix 2 - Responses to Consultation
- 8.3 Appendix 3 - Wiltshire Police evidence
- 8.4 Appendix 4 - Cumulative Impact Assessment
- 8.5 Annexe A – Map of affected Area

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## Cumulative Impact Policy for Broad Green

### Introduction

1. Swindon Borough Council may receive representations from either a responsible authority or other person, both defined within the Licensing Act 2003 that the cumulative impact of new licences is leading to an area becoming saturated with premises making it a focal point for large groups of people to gather, and thereby creating exceptional problems of disorder and nuisance, or otherwise compromising the licensing objectives. In such cases the issue of saturation can be taken into account when considering the individual merits of any application.
2. Swindon Borough Council has received evidence from the Licensing Authority, Wiltshire Police, and Public Health that the saturation of licensed premises is undermining the licensing objectives in the Broad Green area.
3. The area will be referred to throughout the remainder of this Statement as a 'Cumulative Impact Zone', later referred to as CIZ's.
4. After considering this evidence Swindon Borough Council has resolved to adopt a Cumulative Impact Policy for this area, which will be defined as a CIZ.
5. Detailed maps showing the boundary of the area is attached as Annexe A.

### Restrictions in the CIZ

6. The effect of the Cumulative Impact Policy is that Swindon Borough Council will refuse applications for a new premises licence or club premises certificate or a material variation of an existing licence or certificate in the zone whenever it receives relevant representations unless the applicant can demonstrate why the grant or variation involved will not add to the cumulative impact experienced. The

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impact can be expected to be different for premises with different styles and characteristics.

7. Swindon Borough Council recognises that within the CIZ different premises mutually benefit from each others existence attracting large groups of people. This can in turn however increase the possibility of crime and disorder and public nuisance thus impacting on the licensing objectives. For this reason special consideration will be given to all classes of premises within the CIZ.
8. There are, however, exceptions proposed to the policy, where cumulative impact will not apply. These cover in particular restaurants, hotels and licensed transfers, which are not the subject of evidence provided by the Police or Environmental \ Public Health. The list of exceptions is as follows;
  - Restaurants where alcohol sales are not the principal purpose of the business
  - Hotels
  - Applications for a Minor Variation of the premises licence (except where this may increase the occupant capacity of the premises)
  - Applications for a straight premises transfer or DPS variation.

## **Implementation of the CIZ**

9. The adoption of the CIZ does not relieve responsible authorities or other persons of the need to make relevant representation. Before Swindon Borough Council may lawfully consider giving effect to the Cumulative Impact Zone a relevant representation must have been made. If no representations are received, it remains the case that any application must be granted in terms consistent with the operating schedule and any mandatory condition.
10. Responsible authorities and other persons may make written representations, maintaining that it is necessary to refuse an application within the CIZ for the promotion of licensing objectives and in doing so may refer to the evidence considered by Swindon Borough Council in the adoption of the Cumulative Impact Zone.
11. Swindon Borough Council will not use this Policy:
  - As grounds for revoking an existing licence or certificate

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- To refuse applications to vary an existing licence or certificate except where modifications are directly relevant to the Cumulative Impact Zone
12. This Policy does not include provision for terminal hours nor does it impose quotas on the number of licensed premises or the capacity of those premises.
13. Swindon Borough Council will regularly review the Policy to see whether it is still required or should be expanded.

## Other Legislation

14. Swindon Borough Council recognises there are other mechanisms both within and outside the licensing regime for addressing cumulative impact of licensed premises which may include:
- planning control;
  - positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
  - the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
  - powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
  - the confiscation of alcohol from adults and children in designated areas;
  - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
  - prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
  - police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance; and
  - The power of the police, other responsible authorities or other persons to seek a review of a licence or certificate.
  - Raising a contribution to policing the late night economy through the Late Night Levy.
  - Early Morning Alcohol Restriction Orders.

If there are any questions in respect of this Policy, please contact [licensing@swindon.gov.uk](mailto:licensing@swindon.gov.uk) or

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## Appendix 2: Responses to Consultation

### Introduction




**1. Privacy Notice - Please read through the Privacy notice below.**  
[https://www.swindon.gov.uk/directory\\_record/23355/licence\\_consultation\\_privacy\\_notice](https://www.swindon.gov.uk/directory_record/23355/licence_consultation_privacy_notice)

			Response Percent	Response Total
1	I acknowledge the Privacy Notice		100.00%	4
			answered	4

**2. The Licensing Authority of Swindon Borough Council proposes that the Cumulative Impact Policy (CIP) restrictions remain in effect for the Broadgreen area subject to this consultation. Do you agree with this proposal?**

			Response Percent	Response Total
1	Yes		100.00%	4
2	No		0.00%	0
3	Not sure		0.00%	0
			answered	4

**3. In 2016 the Licensing Authority introduced a CIP with local restrictions for the Broadgreen area affecting premises with on/off sales of alcohol. The following types of premises are currently exempt from this:• Restaurants where alcohol is only sold with a meal• Hotels• Applications for a Minor Variation of the premises licence (except where this may increase the occupant capacity of the premises)• Applications for a straight premises transfer or DPS variation.Do you agree with the current exemptions?**

			Response Percent	Response Total
1	Yes		50.00%	2
2	No, I think they should be expanded to include others		25.00%	1
3	No, I think some of them should be removed		25.00%	1
4	Not sure		0.00%	0
			answered	4



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**4. The Licensing Authority can regulate hot food takeaway and delivery premises with sales between 11pm and 5am, known as Late Night Refreshment. This does not have to include the sale of alcohol. These types of premises have not been included in the Cumulative Impact restrictions to date. Do you feel that such premises should be included?**

			Response Percent	Response Total
1	Yes		75.00%	3
2	No		25.00%	1
3	Not sure		0.00%	0
			answered	4

**5. The current cumulative impact restrictions covers the area as shown on the plan below. This boundary was based on detailed evidence from statutory stakeholders when the Cumulative Impact Policy was first introduced. We are seeking your views on the extent of this boundary. Do you feel the boundary as shown is still appropriate?**

			Response Percent	Response Total
1	Yes it should remain the same		25.00%	1
2	No I think the area should be increased		75.00%	3
3	No I think the area should be decreased		0.00%	0
4	Not sure		0.00%	0
			answered	4

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