

Cumulative Impact Policy - Review

Licensing Committee

Date: 14th January 2021

Author: Kathryn Ashton – Licensing Manager

Wards: All

Parishes Affected: All

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).
- 1.2 The draft Cumulative Impact Policy was considered by the Licensing Authority in 2015 in respect of new 'on' and 'off' licensed premises within the Broadgreen area of Swindon. This draft policy was subject to a full consultation with stakeholders, and the CIP was endorsed by the Licensing Committee in 2016 and subsequently ratified by Full Council. The current CIP is attached as Appendix A.
- 1.3 A review of this policy is now due which will include a cumulative impact assessment as introduced by the Policing and Crime Act 2017 with effect from 6 April 2018. This assesses the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. Although there are no proposals to change or remove the current policy, it is necessary to establish if evidence remains that strongly links the concentration of licensed premises in the Broad Green area of central Swindon to instances of anti-social behaviour and public health issues.

2. Recommendations

That Committee:

- 2.1 Authorise the Licensing Manager to arrange for the current CIP attached at Appendix A, to be subject to public consultation for a six week period from 25 January 2021 to 8 March 2021.
- 2.2 Authorise the Licensing Manager in agreement with the Chair of the Licensing Committee to make any minor typographical amendments to the document prior to consultation if required;
- 2.3 Notes the updated evidence provided from Wiltshire Police in support of retaining such policy; and
- 2.4 Authorise the Licensing Manager to report the outcomes of the consultation exercise, and evidence collated as part of the cumulative impact assessment, to the Licensing Committee at the earliest opportunity following the closure of the consultation period.

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager, on 01793 466113 or email: kashton@swindon.gov.uk

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3 Detail

- 3.1 The Licensing Act 2003 imposes a duty on local authorities to keep their Statement of Licensing Policy under review. 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 a Cumulative Impact Policy can be included.
- 3.2 Cumulative Impact Zones are spatial, covering defined areas in which the provisions of the policy would apply. Within those zones stipulations can be made as to the types of licences that would be covered, and exemptions such as important regenerative opportunities, or developments that could lift an area and in themselves reduce crime and improve amenity, can be included. The types of licence covered and exemptions in place would have to be clearly defined in any policy and would be bespoke to the circumstances around each zone.
- 3.3 In determining whether Cumulative Impact Zones are appropriate, the Licensing Authority must take into account sound evidence that these areas already experience anti-social behaviour which has led to denuded amenity and quality of life for those living and visiting them. Other evidence that can be taken into account includes the impact of licensed premises on health and wellbeing and also on environmental health.
- 3.4 The proposal for the introduction of a Cumulative Impact Zone in 2016 came from the Licensing Authority which was supported by robust evidence from Wiltshire Police and Public Health. As part of this review further evidence through the consultation process will be sought from Police and other stakeholders.
- 3.5 The area covers the Broadgreen area of Swindon the map of which is included with the current CIP attached as Appendix A.
- 3.6 The current Cumulative Impact Policy has proved to be extremely effective and has worked well, informing prospective applicants of expectations and being used both by officers and Licensing Panels to determine licence applications. Whilst there have been some licence reviews resulting in a reduction in 'off licensed' premises within the area, there are continuing complaints and intelligence in respect of these uses.
- 3.7 By the inclusion of a CIP within the Statement of Licensing Policy, the presumption in favour of granting new premises licence applications for alcohol sales within the identified area, is changed to a presumption against granting licence applications where relevant representations are received.
- 3.8 The policy does not and will not cover control through any other regulatory means such as Planning and would not necessarily mean that a licence application would be refused, particularly if it is acceptable in all other respects. It

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would, however, provide an additional means of control where the impact of a licence application would be likely to be create demonstrable harm.

- 3.9 Section 5(3) of the Licensing Act 2003 lists those persons as statutory consultees who need to be consulted in respect of this policy and assessment. This extension to the policy will be subject to a six week period of public consultation and will include licence holders, businesses, statutory bodies and community representatives. The results of the consultation will then be brought to a future Committee with an appropriate recommendation.
- 3.10 Should the Cumulative Impact Policy be extended it would be in place for a further 3 years and it would then become a material consideration in the determination of licence applications. It would not equate to a blanket ban on new licences as each application must be considered on its merits, but could be used to refuse applications, (or variations to existing applications) where the impact is considered to be harmful. As such it provides a useful additional tool to control the proliferation of types of licensed premises which are unlikely to improve the amenity or quality of the Broadgreen area where there is already an unacceptable concentration of them.

4. Alternative Options

- 4.1 The Licensing Committee could choose not to agree to a consultation and an updated Cumulative Impact Assessment, if they consider that the evidence presented does not support it, or is insufficiently robust. 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, which would continue to be available for use alongside the restrictions of the CIP. They would not, however, replace the protection afforded by the CIP. This would also mean that the current Cumulative Impact Policy would cease to be included in the Statement of Licensing Policy and this may have an adverse anti-social impact on the Broadgreen area.

5 Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no direct financial implications arising from the report. Any future consultation will be undertaken within approved budgets.

Legal and Human Rights Implications

- 5.2 Legal and Human Rights considerations have been taken fully into account in compiling this report. It is considered that the recommendations of this report are compatible with Convention Rights as they 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 \ regime will ensure it does. All other legal and human rights implications have been considered in the preparation of this report.

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

Diversity Impact Assessment

- 6.1 A DIA has not been undertaken at this stage as no policy has been consulted upon. This report seeks approval to extend the existing policy based on the evidence presented.

7 Consultees

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

8 Background Papers

8.1 Licensing Act 2003

8.2 Revised Section 182 Guidance issued under the Licensing Act 2003

9 Appendices

9.1 Appendix A Current Cumulative Impact Policy

9.2 Appendix B Police initial evidence