

Cumulative Impact Policy

Licensing Committee

Date: 16th March 2015

Author: Kathryn Ashton – Licensing Manager
Wards: All
Locality Affected: All
Parishes Affected: All

1. Purpose and Reasons

- 1.1 To consider the evidence presented at Appendix 1 and Appendix 2 and to determine whether it is sufficiently robust to be used as the basis for sending a proposed Cumulative Impact Policy seeking to control the Cumulative Impact of licensed premises in designated areas out for consultation. The proposed Policy is attached as Appendix 3

2. Recommendations

That Committee:

- 2.1 Note the evidence provided at Appendices 1 and 2, and agrees that it is sufficiently robust to enable a draft Cumulative Impact Policy to be sent out for public consultation with interested bodies including statutory undertakers, licensees and the business community, and
- 2.2 agree the spatial extent of an area to be covered by the draft policy taking into account the evidence at Appendix 1 and any additional evidence and advice given at the Committee, and
- 2.3 approve the draft policy at Appendix 3 as the basis for the consultation, and
- 2.4 agree that the consultation exercise should include focussed questions regarding the principle of the Cumulative Impact Area(s), whether the evidence supports their designation, the extent of the area(s) and the potential limitations that should apply.

3. Detail

- 3.1 The Licensing Act 2003 gives local authorities the power to designate areas as Cumulative Impact Zones, where it is considered that the number of licences is such that the area is becoming saturated with licensed premises, which together are having a cumulative impact on the promotion of the licensing objectives and making it harmful to amenity and quality of life. In Cumulative Impact Zones, the presumption in favour of grant of a licence no longer applies. Instead the presumption is that no further licences would be granted unless the applicant is

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able to prove that their licence will uphold the Licensing Act 2003 four licensing objectives of:

- The prevention of crime and disorder
- Public Safety
- The prevention of nuisance
- The protection of children from harm.

- 3.2 This does not mean, however, that no further licences can be granted. The policy is not applied automatically. It still requires one of the 'responsible authorities' such as the Police or Fire Service, or one or more local residents to lodge representations about an application with the Licensing Authority. Once this happens, the policy comes into effect.
- 3.3 Cumulative Impact Zones are spatial, covering defined areas within which the provisions of the policy would apply. Within those zones stipulations can be made as to the types of licences that would be included, and exemptions to the policy such as important regenerative opportunities, or developments provided that they do not undermine the licensing objectives and could lift an area, reduce crime and improve amenity, can be made. 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.
- 3.4 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 lead 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 the promotion of the licensing objectives, health and wellbeing and also on environmental health.
- 3.5 The key evidence to support Cumulative Impact Zones in Swindon is provided by the Wiltshire Police, and is attached at Appendix 1. Members of Committee will recall that initial evidence was presented at the meeting of 8th January 2015, but that Committee considered, at that time, that it was not sufficiently robust or clear as to be used to support the development of a policy. The evidence provided now links incidents of anti social behaviour to numbers of licensed premises. The areas covered include Broad Green, New and Old Town and Victoria Hill.
- 3.6 Additional evidence has been sought from the Council's public health and environmental health teams. The evidence received is attached as Appendix 2.
- 3.7 The evidence provided can be used to inform a draft Cumulative Impact Zone policy. It is envisaged that the draft policy would

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- establish the spatial extent of any zone, and
 - stipulate the type of licence/s to be limited, and
 - clarify any exemptions.
- 3.8 The policy would 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 would, however, provide an additional means of control where the impact of a licence application would be likely to impact on the licensing objectives.
- 3.9 If Committee considers that the evidence is sufficiently robust to base a policy around, officers would recommend that the draft policy attached at Appendix 3 be used for consultation purposes. If endorsed, the policy, along with targeted questions regarding the principle of the Cumulative Impact Area(s), whether the evidence supports their designation, the extent of the area(s) and the potential limitations that should apply would be subject to a 6 week period of public consultation, particularly aimed at licence holders, businesses, statutory bodies and community representatives. The results of the consultation and any amendments required to the policy will then be brought to a future Committee with an appropriate recommendation.
- 3.10 Once in place the Cumulative Impact Policy would have Full Council endorsement. 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 treated on its merits, but could be used to refuse applications, (or variations to existing applications) where the application (or variation) would have detrimental cumulative impact. As such it provides a useful additional tool to control the proliferation of types of licenced premises which are having a detrimental cumulative impact on the licensing objectives.

4. Alternative Options

- 4.1 The Licensing Committee could choose not to proceed with a Cumulative Impact Policy, if they consider that the evidence presented does not support it, or is insufficiently robust. The Licensing Act 2003 and Secretary State's Guidance is clear that other action can be taken to mitigate the impact of concentrations of licensed premises, which includes:
- 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;

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- 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.

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.

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

Diversity Impact Assessment

- 5.3 A DIA has not been undertaken at this stage . But one has been completed for the Statement of Licensing Policy which covers the impacts that a Cumulative Impact Zone would seek to control.

6. Consultees

- 6.1 The Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

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7. Background Papers

- 7.1 Licensing Act 2003
- 7.2 Revised Section 182 Guidance issued under the Licensing Act 2003

8. Appendices

- 8.1 Appendix 1: Evidence of Wiltshire Police
- 8.2 Appendix 2: Evidence of Environmental and Public Health
- 8.3 Appendix 3: Proposed Draft Cumulative Impact Policy for Consideration

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