

Cumulative Impact Policy for the Broad Green area, Swindon

Licensing Committee

Date: 8th September 2016

Author: Licensing Manager

Wards: Central

Locality Affected: Town Centre

Parishes Affected: None

1. Purpose and Reasons

- 1.1 To seek the agreement of the Licensing Committee to commend to Council that a Cumulative Impact Policy for Broad Green (CIP), is adopted as part of the Council's existing Statement of Licensing Policy .
- 1.2 Evidence 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. By adopting a CIP, the presumption in favour of granting and varying licences and club premises certificates for alcohol sales would be changed to a presumption against, where relevant representations are received.
- 1.3 In pursuance of this, the Licensing Committee endorsed a document for consultation earlier in the year comprising a draft CIP and the zone within which it would apply, known as a Cumulative Impact Zone, or CIZ. Officers have taken responses received during this consultation exercise into account and the CIP for adoption. The expectation is that if it is adopted, the CIP would form part of the Council's adopted Statement of Licensing Policy.
- 1.4 The CIP has strong links to the Council's objectives of helping people help themselves, and to the new health centre currently under construction nearby at Kimmerfields. It also seeks to uphold the four statutory licensing principles, contained in the Licensing Act, 2003 which are:
 - a) the prevention of crime and disorder;
 - b) ensuring public safety;
 - c) the prevention of public nuisance; and
 - d) the protection of children from harm.

2. Recommendations

The Committee is recommended to:

- 2.1 Endorse the Cumulative Impact Policy (CIP), attached at Appendix 1, and commend it to Council for adoption and inclusion in the Council's adopted Statement of Licensing Policy.
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Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager on (01793) 466113, or kashton@swindon.gov.uk.

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3. Detail

Background

- 3.1 The Licensing Act, 2003 gives Local Authorities the power to designate areas as CIZ's, 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 CIZ's are spatial, covering 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.
- 3.3 A CIP for the Broad Green area of Swindon was endorsed for consultation by the Licensing Committee on 13 January 2016. The CIP and its spatial extent were supported by the Borough Council as both Licensing and Environmental Health Authority and also by the Wiltshire Police. A local Ward Councillor attended Committee and spoke in favour of the Policy. The evidence provided from each of these sources enabled a CIZ to be identified, and a CIP to be drafted which established the spatial extent of the zone, stipulated the types of licence to be limited and clarified any exceptions.

Content

- 3.4 The draft Policy places a presumption against the grant of an alcohol licence for new premises within the area defined as the CIZ. Under the CIP, applications submitted in the zone for new premises licence or club premises certificate, or a material variation of an existing licence or certificate, would be refused unless the applicant can demonstrate why the grant or variation involved would not add to the cumulative impact experienced. The impact can be expected to be different for premises with different styles and characteristics. The exceptions are;
 - 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), and
 - Applications for a straight premises transfer or DPS variation.

Consultation

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- 3.5 Consultation on the draft CIP took place between 13 May 2016 and 8 July 2016. Despite letters going out to all affected premises and relevant consultees, just 3 completed responses were received, all of which were supportive. These responses are summarised at Appendix 2

Final Policy for consideration

- 3.6 In view of the nature of the representations received, 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.
- 3.7 If adopted, the CIP will form part of the Council's Statement of Licensing Policy and will become a material consideration in determining licence applications in the area. It would 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.

4. Alternative Options

- 4.1 The Licensing Committee could choose not to proceed with the adoption 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, 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.

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

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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 was prepared for the Council's Statement of Licensing Policy, which the CIP sits beneath. This 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 Board Director, Resources (Section 151 Officer) and Director of Law and Democratic Services (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.

8. Appendices

- 8.1 Appendix 1 – CIP for the Broad Green area, Swindon for adoption
8.2 Appendix 2 – Responses to the Consultation Draft Cumulative Impact Policy

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Appendix 1 -

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September 2016

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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.
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 Annex A of this policy.

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 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 other's 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 where alcohol is served with a meal, hotels and licence transfers, which are not the subject of evidence provided by the Police or Environmental \ Public Health. The list of exceptions is as follows;

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- Restaurants where alcohol is 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

Implementation of the CIP

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 Policy 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 Policy.
11. Swindon Borough Council will not use the Cumulative Impact Policy:
 - As grounds for revoking an existing licence or certificate, or
 - To refuse applications to vary an existing licence or certificate except where modifications are directly relevant to the Cumulative Impact Policy.
12. The Cumulative Impact 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 Cumulative Impact 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;

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- 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;
- 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; and
- Early Morning Alcohol Restriction Orders.

Contact

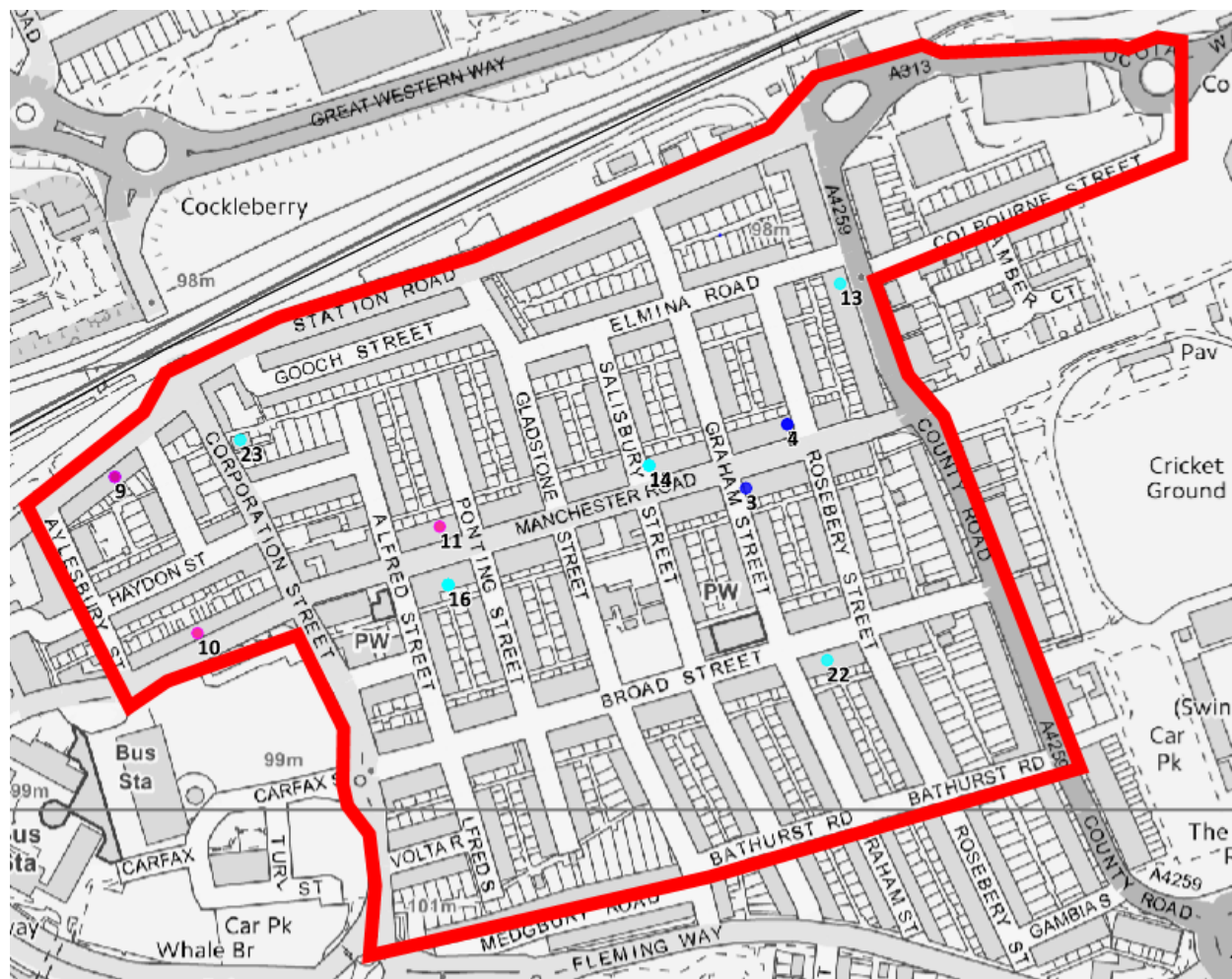
15. If you have any questions or require clarification regarding the Cumulative Impact Policy you should contact Kathryn Ashton, Licensing Manager on (01793) 466113, or by e-mail at the following address licensing@swindon.gov.uk.

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Annex A – Spatial Extent of the Broad Green Cumulative Impact Policy (the CIZ)



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Appendix 2 – Responses to the consultation draft Cumulative Impact Policy

Respondent	Comment	Action
PC Michael Diffin Wiltshire Police	Support for all aspects of the CIP	Noted. No change proposed.
Roslyn Timlin <i>Local resident</i>	<ul style="list-style-type: none">• Support for principle of CIP, but considers that it should include all streets between Fleming Way and the CIZ's southern boundary.• There should be no exemptions.• Concern that it will push activities to the areas just outside the CIZ.	<p>The CIZ has to be based on evidence. The evidence presented indicates a cluster of licensed premises, and anti-social activity in the area, which has defined the zone. SBNC could not include areas where there is no evidence of a problem.</p> <p>Any displacement will be monitored, but is most likely to occur elsewhere in existing premises.</p> <p>Exemptions are required to cover reasonable instances of licence transfer, where additional restrictions would not be supported in law, and for restaurants which contribute to the local economy and where alcohol sales are not the principal purpose of the business.</p> <p>Understand the points made and the reasons behind them, but no change proposed.</p>
Frances Mayes SBC Public Health	Support	Noted. No change proposed.