

LICENSING COMMITTEE – 26 JUNE 2018

Title of paper:	Proposed Cumulative Impact Assessment		
Director:	Andrew Errington Director of Community Protection	Wards affected: ALL	
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Relevant Council Plan Key Theme:			
Strategic Regeneration and Development			
Schools			
Planning and Housing			<input checked="" type="checkbox"/>
Community Services			<input type="checkbox"/>
Energy, Sustainability and Customer			<input type="checkbox"/>
Jobs, Growth and Transport			<input type="checkbox"/>
Adults, Health and Community Sector			<input type="checkbox"/>
Children, Early Intervention and Early Years			<input type="checkbox"/>
Leisure and Culture			<input type="checkbox"/>
Resources and Neighbourhood Regeneration			<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
<p>Historically the Licensing Authority has dealt with issues of cumulative impact through its Licensing Policy. Cumulative Impact has now been put on a statutory footing requiring the publication of a formal Cumulative Impact Assessment. An Assessment has been prepared which proposes the retention of the two Cumulative Impact Zones which are contained in the Council's current Statement of Licensing Policy and this report seeks authority to publicly consult on that Assessment.</p>			
Recommendations:			
1	That the Committee consider the draft Cumulative Impact Assessment at appendix A.		
2	That the Committee approve the draft Cumulative Impact Assessment for release for public consultation.		

1 REASONS FOR RECOMMENDATIONS

- 1.1 Historically the Licensing Authority has dealt with issues of cumulative impact through its Licensing Policy. Cumulative Impact has now been put on a statutory footing and section 5A of the Licensing Act requires the publication of a formal Cumulative Impact Assessment (CIA) which is summarised and reflected in the Authority's Statement of Licensing Policy (the Policy). As the Authority's current Policy is due for review the Statutory Guidance indicates that the Authority's approach to the issue of cumulative impact should be reviewed at the same time. The retention of the existing Saturation Zones have been requested, and evidenced, by both Nottinghamshire Police and the Council's Community Protection Team and it is therefore recommended that the Authority follow the relevant statutory route towards the adoption of a CIA and that the attached draft be released for public consultation.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 The Statutory Guidance issued under section 182 of the Act has always indicated that licensing authorities can deal with issues of Cumulative Impact through their statements of Licensing Policy.
- 2.2 Historically, Nottingham City Council has had concerns about Cumulative Impact within its area since the Licensing Act 2003 (the Act) came into force. This resulted in the declaration of the City Centre Saturation Zone in July 2005 and the Berridge, Arboretum, and Radford Saturation Zone in January 2014. The Authority's various Policies addressed cumulative impact in those areas which related to all premises licensed to sell or supply alcohol for consumption both on and off the premises within the City Centre Saturation Zone and all premises licensed to sell or supply alcohol for consumption off the premises within the Berridge, Arboretum, and Radford Saturation Zone. In both cases the Policy created a rebuttable presumption that applications within these areas would be refused unless it could be shown that the offer would not adversely have an effect on the licensing objectives and/or concerns of the stressors of the area.
- 2.3 Following the introduction of section 5A of the Licensing Act Cumulative Impact has been placed on a statutory footing and, in accordance with the Section 182 Statutory Guidance the Authority's previous approach and policies have been reviewed.
- 2.4 In accordance with the Act, a licensing authority may publish a document which is now named as a Cumulative Impact Assessment (CIA) to help limit the number and/or types of licence applications where cumulative impact is having an adverse effect and undermining the licensing objectives.
- 2.5 Before publishing a CIA a licensing authority must consult with:
- The chief officer of police for the area;
 - The fire and rescue authority for the area;
 - Each local authority's Director of Public Health in England;
 - Persons/bodies representative of local premises licence holders;
 - Persons/bodies representative of local club premises certificate holders;
 - Persons/bodies representative of local personal licence holders;
 - Persons/bodies representative of businesses and residents in its area.
- 2.6 It is proposed that the CIA attached to this report be distributed for consultation for a period of 8 weeks following which the responses will be brought back to this Committee for consideration and final decision as to its future progress. It is proposed that this run alongside the Authority's consultation on its draft Licensing Policy which forms an additional item on this Committee's Agenda. Where a CIA is published it has to be summarised and referenced in the Policy and the Committee will note that this has been done.
- 2.7 If ultimately approved and published approved, the CIA will remain in place for a period of three years following which the document will require reviewing.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 Not creating a Cumulative Impact Assessment -would mean that the Authority took no defined approach to Cumulative Impact in two areas where it has previously been felt appropriate

4 FINANCE COLLEAGUE COMMENTS

- 4.1 The statutory fees levied for the regime are intended to cover the cost of the creation and consultation of a Cumulative Impact Assessment.

5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS

- 5.1 As indicated elsewhere in the body of the report the issue of Cumulative Impact now has a statutory basis. Section 5A of the Act now allows an Authority to publish a CIA “stating that the licensing authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority’s duty under section 4(1) to grant any further relevant authorisations in respect of premises in those parts”.

- 5.2 The statutory Guidance has also been revised and indicates that:

- Cumulative Impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area;
- A CIA may be published to help an authority to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives;
- A CIA must be summarised in the Statement of Licensing Policy;
- The CIA must include a statement saying that the licensing authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority’s duty to promote the licensing objectives;
- The licensing authority must set out the evidential basis for its opinion;
- Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specific area(s) to be covered by the CIA;
- The CIA should also be considered alongside local planning policy and other relevant factors which may assist in mitigating cumulative impact of licensed premises;
- The steps to be followed in considering whether to publish a CIA include:

- Identifying concern about crime and disorder; public safety; public nuisance or protection of children from harm in a particular location.
- Considering whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.
- If there is evidence that such problems are occurring, identifying whether these problems are being caused by the customers of licensed premises, or that cumulative impact is imminent.
- Identifying the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).

5.3 The Guidance also indicates that through the use of CIAs the licensing authority is setting down “a strong statement of intent” about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the area however, while the evidence underpinning a CIA should generally be suitable as the basis for a decision to refuse an application or impose conditions it does not change the fundamental way that decisions are made under the Act.

5.4 A draft CIA has been prepared and this is required to undergo a period of public consultation before it may be published. Under the terms of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the Licensing Act 2003 the consideration and publication of CIAs is a matter which is in the remit of the Licensing Committee. The Committee should therefore consider the issues identified in 5.1 and 5.2 above in determining if it feels it appropriate to release the CIA for consultation

Ann Barrett, Team Leader, Legal Services, 4 June 2018

6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS

6.1 None.

7 EQUALITY IMPACT ASSESSMENT

7.1 The Cumulative Impact Assessment has been prepared to enable fairness to all parties.

8 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

8.1 None

9 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

Licensing Act 2003;
 Section 182 Guidance;
 Policing & Crime Act 2017;
 Nottingham Crime & Drugs Partnership ‘Respect for Nottingham Survey 2017’.