

**Licensing Committee
10 August 2021**

Title of paper:	Proposed Cumulative Impact Assessment	
Director(s)/ Corporate Director(s):	Andrew Errington, Director of Community Protection	Wards affected: All
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Other colleagues who have provided input:	Ann Barrett, Team Leader – Legal Services ann.barrett@nottinghamcity.gov.uk 0115 8764411	
Date of consultation with Portfolio Holder(s) (if relevant)	Not applicable.	
Relevant Council Plan Key Theme:		
Strategic Regeneration and Development		<input checked="" type="checkbox"/>
Leisure and Culture		<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):		
<p>The Licensing Authority published its first Cumulative Impact Assessment on 9 October 2018. Such Assessments remain in force for a period of 3 years from the date of publication and there is a duty placed on the Licensing Authority to review that assessment before 9 October 2021 to consider whether it remains of the opinion stated in the Assessment. Before doing so, it must go through a period of consultation with certain prescribed bodies. This report seeks authorisation to commence the consultation process.</p>		
Recommendation(s):		
1	That the Committee considers the draft Cumulative Impact Assessment.	
2	That the Committee approves the draft Cumulative Impact Assessment for release for public consultation.	

1 Reasons for recommendations

- 1.1 Having published a Cumulative Impact Assessment (CIA) in October 2018, the Council as Licensing Authority is now under a statutory duty to review that CIA and consider whether it still holds the same evidence from Responsible

Authorities and prepare the attached draft CIA, which has been updated to reflect current statistical data and information, but which expresses the same opinion, namely, 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 that part or those parts. The Committee is asked to consider the draft CIA and release it for public consultation in accordance with its statutory duties.

2 Background (including outcomes of consultation)

- 2.1 Historically, the Licensing Authority initially dealt with issues of Cumulative Impact through its Licensing Policy. Cumulative Impact was, however, put on a statutory footing in 2018 in order to make the process more robust and transparent. Where a 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 to grant any further relevant authorisations in respect of premises in that part or those parts of section 5A of the Licensing Act 2003 ('the Act'), this requires the publication of a formal CIA that is summarised and reflected in the Authority's Statement of Licensing Policy ('the Policy'). This Authority first published a CIA on 9 October 2018 and the Authority is now under a duty to review the CIA.
- 2.2. This Authority has had concerns about Cumulative Impact within its area since the Licensing Act 2003 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 that 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 of the time created a rebuttable presumption that applications within these areas would be refused unless it could be shown that the offer would not adversely affect the licensing objectives. This approach was reviewed in 2018 when the new statutory provisions came into force and the guidance about such policies being able to create a rebuttable presumption against the grant of new authorisations was amended and reference to rebuttable presumption removed. This resulted in the publication of the current CIA, which retained both the City Centre and the Berridge, Arboretum, and Radford Saturation Zones and concluded that "the Authority considers that the number of Relevant Authorisations in respect of:
1. premises licensed to sell or supply alcohol for consumption both on and off the premises in the City Centre Saturation Zone; and

2. premises licensed to sell or supply alcohol for consumption off the premises in the Berridge, Arboretum & Radford Saturation Zone

is such that it is likely that it would be inconsistent with the Authority's duty under section 4(1) of the Act to grant any further Relevant Authorisations in respect of premises of the relevant type in those Areas."

Relevant Authorisations are defined by the Act as being new Premises Licences or Club Premises Certificates.

- 2.3. The Licensing Authority is now under a statutory duty to review that CIA and consider whether it still holds the same opinion. Licensing officers have sought evidence from Responsible Authorities and reviewed the Assessment. The retention of the existing Saturation Zones has been requested, and evidenced, by both Nottinghamshire Police and the Council's Community Protection Team. The attached draft CIA therefore expresses the same opinion as the current one, but has been updated to reflect current statistical data and information.
- 2.4. 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; and
 - persons/bodies representative of businesses and residents in its area.
- 2.5. It is proposed that the CIA attached to this report be distributed for consultation for a period of 4 weeks, following which the responses will be brought back to this Committee for consideration and final decision as to its future progress. Where a CIA is published it has to be summarised and referenced in the Statement of Licensing Policy. Once the draft CIA has undergone consultation and been considered so that its final content is agreed, officers will consider the content of the Licensing policy and determine if a formal review and consultation process needs to commence to reflect the new CIA. If a new CIA is adopted in a form substantially as drafted, then that is perhaps unlikely to be necessary.
- 2.6. If ultimately approved and published, the proposed 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 To do nothing: this option was rejected, as to not have a CIA 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 (including implications and value for money/VAT)

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

Advice provided by Susan Turner, Senior Commercial Business Partner, on 29 July 2021.

5 Legal and Procurement colleague comments (including risk management issues, and legal, Crime and Disorder Act and procurement implications)

- 5.1 The statutory requirements relating to the review of the existing CIA are outlined in the main body of the report and are functions of the Licensing Committee (as opposed to Council, which is responsible for the adoption of the statement of Licensing Policy).
- 5.2 The adoption of a CIA is a power, not a duty, and should be based on robust evidence that is required to be set out in the CIA.
- 5.3 The Statutory Guidance 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 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).

5.4 The Guidance gives examples of the types of evidence a Licensing Authority may consider such as:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- statistics on local anti-social behaviour offences;
- health-related statistics such as alcohol-related emergency attendances and hospital admissions;
- environmental health complaints, particularly in relation to litter and noise;
- complaints recorded by the Local Authority, which may include complaints raised by local residents or residents' associations;
- residents' questionnaires;
- evidence from local and parish councillors; and
- evidence obtained through local consultation.

It 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.

- 5.5 The Committee should therefore consider the issues identified in 5.3 and 5.4 above in determining if it feels it appropriate to release the CIA for consultation. Whilst the Act and Guidance pre-date the Covid-19 pandemic, the Committee may feel that the impact the pandemic has had on business and how this has affected cumulative impact is also a relevant consideration.

Advice provided by Ann Barrett, Team Leader – Legal Services, on 29 July 2021.

6 Strategic Assets and Property colleague comments (for decision relating to all property assets and associated infrastructure)

- 6.1 Not applicable.

7 Equality Impact Assessment (EIA)

- 7.1 An EIA is not required because the report does not contain any proposals for a new or changing policy, service or function.

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

- 9.1 Licensing Act 2003
<https://www.legislation.gov.uk/ukpga/2003/17/contents>
- 9.2 Section 182 Guidance
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>
- 9.3 Policing & Crime Act 2017
<https://www.legislation.gov.uk/ukpga/2017/3/contents>