

LICENSING COMMITTEE - 9 OCTOBER 2018

Title of paper:	Cumulative Impact Assessment		
Director:	Andrew Errington	Wards affected: ALL	
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Date of consultation with Portfolio Holder	N/A		
Relevant Council Plan Key Theme:			
Strategic Regeneration and Development			<input checked="" type="checkbox"/>
Schools			<input type="checkbox"/>
Planning and Housing			<input 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 checked="" type="checkbox"/>
Resources and Neighbourhood Regeneration			<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
<p>This report seeks approval to adopt a new Cumulative Impact Assessment for the City. A copy of the proposed Assessment (Appendix 1) and a summary of those responses, the officer assessment of them and amendments made to the draft Assessment (Appendix 2) are attached.</p>			
Recommendation:			
1	That the Committee approve the Cumulative Impact Assessment at Appendix 1 for publication.		

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 has been requested, and evidenced, by both Nottinghamshire Police and the Council's Community Protection Team and a draft Cumulative Impact Assessment was approved by this Committee for consultation on 26 June 2018. The results of the consultation have now been collated and assessed and the CIA updated following consideration of those responses. The CIA at Appendix 1 is now proposed for publication

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 As outlined above and in the report to this Committee of 26 June 2018, the issue of Cumulative Impact has now been put on a statutory footing. Should a Licensing Authority wish to publish a Cumulative Impact Assessment for identified areas where concerns have been raised in relation to crime and disorder, public safety, public nuisance and/or the protection of children from harm, it must first consult on its proposals.
- 2.2 A consultative draft Cumulative Impact Assessment was approved by this Committee on 26 June 2018 and consultation took place between 16 July 2018 and 9 September 2018 with both public and statutory consultees. A summary of consultation responses, the officer assessment of them and amendments made to the draft CIA as a result of them appears at Appendix 2.
- 2.3 During the consultation period additional evidence was received from the Police in relation to the proposed CIA. This information was made publicly available on the City Council's website on 1 August 2018 as part of the consultation documentation and those who had already submitted consultation responses by this stage were notified of the additional evidence to give them the opportunity to comment on it.
- 2.4 There have been some responses from specific premises with individual concerns and their points will be addressed through correspondence as appropriate.
- 2.5 There has been a response from Public Health England (who are a statutory consultee) and whilst it is recognised that Public Health is not a licensing objective, their comments have been seen as relevant to this consultation and have therefore been included within this CIA.
- 2.3 The CIA is substantially in the same form as the consultative draft subject to the amendments outlined in Appendix 2 and some minor points of clarification and grammatical and numerical alterations. A number of consultation responses raised general issues about the effect of such policies being to stifle investment and diversity of offer and leading to the imposition of inappropriate and numerous conditions. The CIA has been amended in paragraphs 1.8 and 1.9 to clarify that it is not the intention of the CIA (or any resultant Policy) to act in that way and also to clarify the responsibilities of both applicants and Responsible Authorities.
- 2.4 If approved and published, the CIA is required to be summarised in the Authority's revised Licensing Policy which will be placed before Council for adoption in November. The CIA will remain in force for a period of three years from publication unless reviewed/replaced sooner.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 Not creating a Cumulative Impact Assessment which would mean that the Authority took no defined approach to Cumulative Impact in two areas previously designated in its' Licensing Policy as Cumulative Impact Zones.

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 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 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 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 publish the CIA .

Ann Barrett, Team Leader, Legal Services 2 - October 2018

6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS

- 6.1 None.

7 EQUALITY IMPACT ASSESSMENT

- 7.1 Has the equality impact of the proposals in this report been assessed?

No



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

- 9.1 Licensing Act 2003
Section 182 Guidance
Policing & Crime Act 2017
Nottingham Crime & Drugs Partnership 'Respect for Nottingham Survey 2017'