

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 9
Brighton & Hove City Council

Subject:	Cumulative Impact Assessment – review of cumulative impact policy (pre-consultation)		
Date of Meeting:	29 June 2023		
Report of:	Executive Director of Housing, Neighbourhoods & Communities		
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Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Council, as Licensing Authority, has a statutory duty to publish its cumulative impact assessment (CIA) every 3 years in order to review its special policy on cumulative impact. The current CIA was published on 4th February 2021. The policy should be kept under review.
- 1.2 The Special Policy on Cumulative Impact and Cumulative Impact Zone (CIZ) and special stress area (SSA) were introduced in 2008 and expanded in 2011. The SSA was further expanded into central Hove in 2019. The previous Cumulative Impact Assessment (CIA) was carried out and consulted on in 2020 and the Licensing Committee (Oct 2020) recommended to Full Council that the CIA be maintained, whilst expanding the SSA to cover the shopping parades north of Preston Circus.
- 1.3 S141 of the Policing and Criminal Act 2017 came into force on 6 April 2018 and gave cumulative impact assessments (CIAs) a statutory basis in the Licensing Act 2003. A policy must take into account any CIAs that an authority has published under 5A of the Act.
- 1.4 The Council, as a licensing authority must carry out a consultation exercise prior to any review of its Cumulative Impact Assessment (Section 5A(8) of the 2003 Act) in order to decide if it remains of the view that the CIA is necessary

2. RECOMMENDATIONS:

To authorise officers to initiate consultation regarding a review of the cumulative impact policy, including the following proposals to consult on (please note, more detail and

background on these proposals is contained in section 3 and the appendices of this report):

- 2.1 To authorise officers to initiate a consultation exercise to include the draft CIA and evidence in support of maintaining it.
- 2.2 Officers to report back to October 2023 committee with the final version of the CIA, following consultation.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Licensing Authority's Cumulative Impact Policy was set up because the Licensing Authority determined that the concentration of licensed premises and the subsequent numbers of people drawn into the city centre is causing exceptional problems of crime and disorder and public nuisance. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. The special policy is not absolute, and this presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact and that there are exception circumstances to depart from the special policy.

With the introduction of Cumulative Impact Assessments the licensing authority must review the existing special policy and Cumulative Impact Zone as set out in the cumulative impact assessment (CIA) along with the evidence underpinning it and consult those bodies set out in the Act (Section 5(3)). A copy of the draft CIA is contained in **Appendix A**.

- 3.2 The Police and the Council's Public Health Intelligence Analyst have provided extensive evidence of alcohol related crime and noise data relating to the special policy areas and citywide. Both sets of evidence show clear city centre hot spots all sitting within the current cumulative impact zone and supports maintaining these boundaries. The Police submission with data analysis and maps can be found in Appendix B. And further licensing and noise complaint maps can be found in Appendix C.

- 3.5 **Consultation** - National Guidance states at 13.4 that before determining its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- The chief officer of police for the area
- The fire and rescue authority for the area
- The 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.

Consultation will be undertaken with these statutory consultees and more generally via the council's on-line consultation portal, Licensing website, Licensing Strategy Group, the city LATs (Local Action Teams), residents associations and community associations, Business Improvement District (BID), Brighton & Hove Economic Partnership, Brilliant Brighton, other Council services including Tourism, Events Office, Seafront Office (including Seafront Trader Association), Trading Standards, Legal and Finance.

4. FINANCIAL & OTHER IMPLICATIONS:

4.1 Financial Implications:

There are no financial implications arising from the recommendations made in this report. The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally by government.

Finance Officer Consulted: Michael Bentley

Date: 07/06/23

4.2 Legal Implications:

These are set out in the report. The SoLP should follow the fundamental principles set out in the Licensing Act 2003 and statutory guidance. Following the consultation exercise, the views of all those persons or bodies should be given appropriate weight when determining the policy. The new requirement to publish a Cumulative Impact Assessment and the evidence underpinning it is significant. Revisions made to the policy without evidential basis are likely to be vulnerable to challenge.

Lawyer Consulted: Rebecca Sidell

Date: 13/06/23

4.3 Equalities Implications:

An Equality Impact Assessment will be completed as part of the policy review process to assess if there is any adverse impact on a particular group.

4.4 Sustainability Implications:

Licensed premises throughout the city rely on local licensing policies in ensuring there is clear guidance on the continued operation of local businesses. Maintaining a regularly reviewed policy, which has undergone public consultation, will ensure a consistency of support to licensed premises, members of the public and other stakeholders affected by these activities.

4.5 Crime & Disorder Implications:

CIA proposals are geographically based around evidence of crime and disorder, etc. and should assist in the council's overall aim in reducing current levels. The Special Policy promotes the four licensing objectives: public safety, the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm.

4.6 Risk and Opportunity Management Implications:

Failure to meet this statutory duty would lead to uncertainties in decision making, loss of business continuity and an inability to meet customer care standards.

4.7 Corporate / Citywide Implications:

The policy promotes the licensing objectives and sets out a general approach to making licensing decisions. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this Special Policy is framed around those objectives.

Proposals for new licensed premises, or for certain variations to existing ones, within a CIA will normally be refused following relevant representations unless it can be demonstrated that there will be no negative cumulative impact.

SUPPORTING DOCUMENTATION

Appendices:

Appendix A – Draft Cumulative Impact Assessment

Appendix B - Sussex police data Summary for Cumulative Impact Assessment 2023

Appendix C - Maps

Licensed premises maps

- CIZ, SSA and all alcohol licences
 - CIZ, SSA and both on and off licences
 - CIZ, SSA and off-licences
 - CIZ, SSA and on-licences
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- Noise complaints against licensed premises April 2021 – March 2023
 - Noise complaints against licensed premises April 2021 – March 2023 with CIZ and SSA boundary

Documents in Members' Rooms

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2021 as amended Feb 2021.

Home Office, Revised Guidance issued under section 182 of the Licensing Act 2003, Dec 2022.

