

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

Agenda Item 18
Brighton & Hove City Council

Subject: Cumulative Impact Assessment 2023 – review of cumulative impact policy (consultation response report 2023)

Date of Meeting: 12 October 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 On the 29 June 2023 the Licensing Committee authorised officers to go out to statutory consultation to review the Cumulative Impact Assessment. The committee must now decide if the CIA is still appropriate having regard to the consultation responses and the evidence submitted.

2. RECOMMENDATIONS:

That Committee agree to:

- 2.1 Maintain the current cumulative impact assessment and zone and publish the Cumulative Impact Assessment, and;
- 2.2 Conduct a further review of the CIA and special policy, including the matrix as part of the wider statutory statement of licensing policy review to be commenced in 2024

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 within the consultation document, together with further licensing and noise complaint maps Appendix B [CIA online survey](#).

4. CONSULTATION

- 4.1 Consultation – commenced on the 13th July 2023 and closed on the 22nd September 2023. The consultation document included background information and relevant documents to the question of maintaining the current cumulative impact zone and supporting documentation including the draft CIA. A copy of the consultation document can be found in **Appendix B**.

4.2 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 was undertaken with these statutory consultees and more generally via the council's on-line consultation portal, newsletters/social media (via Equally & Third Sector Team and the Food Team), 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.

5. CONSULTATION RESPONSES

5.1 A summary of the responses is detailed below. A detailed breakdown of the on-line consultation portal responses, together with the additional responses submitted by email and letter, can be found in **Appendix C**.

5.2 The majority of responses strongly agreed with the proposal to maintain the special policy on cumulative impact and to maintain the current cumulative impact zone as set out in the draft cumulative impact assessment. The majority gave the reason of public safety, that there was too high a concentration of licensed premises and that the policy would reduce anti-social behaviour.

5.3 Although there was overall support for maintaining the cumulative impact zone, there were some emerging themes from those who disagreed with the proposal and the cumulative impact assessment, both within the on-line consultation and in a separately emailed letter. These themes included: the policy stifling or putting off new enterprises, favouring big businesses over smaller businesses, and that regard should be had to differentiating between different zones of the CIZ, e.g. Churchill Square, North Laine, West Street and lower seafront.

5.4 It is recommended that further consideration should be given to these themes as part of a wider statement of licensing policy review due to begin in 2024.

6. FINANCIAL & OTHER IMPLICATIONS:

6.1 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: Monica Brooks

Date: 22/9/23

6.2 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: 02/10/23

6.3 Equalities Implications:

An initial Equality Impact Assessment (EIA) and detailed review of consultation responses and discussion of potential disproportionate impacts has been completed as part of the policy review process to assess if there is any adverse impact on a particular group and intersecting identities. We recognise different risks presented by the size and type of businesses and favourable consideration will be made for those that present a smaller risk, for example, a small restaurant versus a pub or nightclub would be a smaller comparative risk and may be considered for licensing under the Cumulative Impact Zone.

There may be some impacts on new enterprises. However, there is flexibility provided within the process to demonstrate exceptional circumstances where an applicant can demonstrate there will not be a negative impact upon license provision. This is not a blanket 'No' policy and there is scope for consideration.

There may be disproportionate impacts on some community of identities (like Black and Racially Minoritised, some LGBTQIA+ businesses and small business owners and those from socially disadvantaged backgrounds, and those may not be able to articulate or make a case for exceptions comparably to majoritised groups and bigger businesses who understand how to navigate and interact with the system). We need to conduct a deeper data analysis to understand the equality implications and impact in more detail, which is an action resulting from this EIA exercise. A more robust EIA, with appropriate longer-term actions, will continue to be developed in the coming months with deeper data analysis conducted for the impacted areas and population, contributing to considerations when a fuller policy review is conducted next year.

We will also consider the impacts of this policy review process to ensure that we have considered how this may affect the safety of women, girls, and Trans, non-

binary and Intersex people in the public space and night-time economy. We will also consider the impacts of the policy process as we work towards the review of our statement of licensing policy to ensure that we have considered how this may affect the safety of different people based on their protected characteristics and multiple intersecting identities, for example the safety of women, girls, and Trans, non-binary and Intersex people from different backgrounds, faiths, and ethnicities in the public space and night time economy. The statement of licensing policy review development process over 2024 will include consultation with key representative communities and fairness and equity in licensing from both a business owner and business user perspective.

6.4 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.

6.5 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.

6.6 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.

6.7 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 – Consultation Document

Appendix C – Consultation responses

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.