

LICENSING ACT 2003 CALL FOR EVIDENCE RESPONSE

FROM: Cllr Clive Stevens

Dear Licensing - I have been discussing this call for evidence with local community groups and am relaying the following issues:

Whiteladies Road CIA - The CIA objective here is to prevent encroachment on normal sleeping times. This has on the whole worked but there is still a valid night club license until 4am (ex Dormas) currently a 24/7 gym which if it reverted to a night club would cause immense harm and physical and mental ill health to some residents around Cotham Hill, Hampton Park, Imperial Road, Whatley Road and the likes.

BUT there are now so many alcohol outlets, offering effectively the same product and thus competing on price that the Clifton CIA objective (and thus the need to offer something distinctive) would be helpful. Families are being discouraged from living around here due to the nature of the retail offer and the noise from the street even at midnight. That is leading to an unbalanced community.

BUT litter is a problem because there are so many takeaways. Litter and refuse from the venues themselves, there isn't enough street space for all the commercial bins, especially as Planning have allocated Hampton Lane for housing which is where many of the commercial waste bins are currently stored. Pittville Place is normally just appalling with very poor refuse control by the takeaway and restaurant proprietors. Additionally Whiteladies Rd bus stop (South bound) is often occupied by more bins than bus passengers.

Residents are still kept awake until midnight and it depends what you mean by "normal sleeping times" for small children, those doing exams and older people. I think if something opened that was offering something genuinely different then the economic and consumer benefit might outweigh the amenity loss but otherwise simply more of the same should be stopped.

Clifton CIA - A small part is in Clifton Down ward. The main complaint from our residents is large groups of students making a noise late at night as they walk back to Halls all leaving a venue (or venues) on The Triangle all at about the same time. Richmond Hill seems to get the worst of it but other roads also. So residents are regularly woken at 2am, 3am or 4am even. It is beginning to be reported that this also applies to some Airbnb residencies where a "large" group will stay the weekend and similarly make a lot of noise having partied the night away on the Triangle. They then continue the party in the house or flat.

Thank you - Councillor Clive Stevens

LICENSING ACT 2003

CALL FOR EVIDENCE RESPONSE

FROM: Piers Warne on behalf of TLT Solicitors

Dear Officer

Please find below the response of TLT LLP's licensing team to your call for evidence in relation to the cumulative impact assessment.

I should be grateful if you would acknowledge receipt.

Response on behalf of TLT Solicitors

This response to Bristol City Council's call for evidence in relation to the Cumulative Impact Assessment is made on behalf of the licensing team at TLT LLP ('TLT').

TLT are regularly ranked as one of the leading licensing advisers in England and Scotland in both Chambers and Legal 500, the annual independent guides to the legal sector, driven by client feedback.

We advise a broad range of clients, from hotels, bars, clubs and restaurants to major music festivals, concert halls, food halls, pub companies, sports clubs and race course operators. We support one-off events and venues, as well as businesses with property estates that run into the thousands. Our advice is bespoke and designed around our client's business need. Our client portfolio requires us to understand and advise on all aspects of premises licensing, whether it is technical legal advice or business oriented operational guidance.

We advise at every level, from board level strategy to operational matters at individual premises. We lecture on licensing for council officers, councillors and responsible authorities on behalf of the Institute of Licensing, as well as for operators and their advisers and other practitioners at national conferences and events. We write for a number of journals and publications, as well as produce a newsletter for our clients and other interested parties. From initial advice through to advocacy at hearings, our licensing team has significant expertise, with individual partners and other solicitors top-ranked in the national legal guides.

We have experience of working with all of the licensing authorities in England and Wales and are the only truly national practice in the Great Britain, with a large and successful licensing team in Scotland that serves our clients across both jurisdictions. As such, we are ideally placed to respond to this call for evidence.

General comments in relation to Cumulative Impact Policies ('CIP's')

We understand that there are occasions where CIP's provide a valuable tool to local authorities in regulating the night time economy. However, our experience is that they can also be an impediment to businesses and the development of a thriving night time economy. They can often act as a brake to entrepreneurship, adding to the challenges that small business operator's face when looking to enter a new market or look to adapt their offer to suit market trends.

CIP's can have the effect of dissuading operators from even attempting to get a licence. We have seen this first-hand in Bristol, with potential investors in the city choosing not to take a risk on a site where there is a chance that a licence will be refused on policy grounds. As such, CIP's unintentionally penalise operators considering smaller more novel applications (simply because of the prohibitive cost), often resulting in them looking to take their ideas elsewhere and thereby wasting a chance to develop a more rounded and vibrant economy within the CIP. In turn, this can lead to artificially ring-fencing those operators already with licences from the positive effects of competition, reducing their incentive to adapt or improve their offer.

For the same reason, such policies also promote ubiquity as often the only operators willing to take on the risk and outlay of applying for licences in cumulative impact zones are larger established chains with

the financial backing to fight for a licence. Given the plight of the pub market 5-10 years ago and now the casual dining market, in part because their offers failed to change as the market developed around them, the use of CIPs needs careful oversight- especially in large cities and cultural hubs, such as Bristol.

Existing cumulative impact policies need to be scrutinised with an open mind. Stagnation will kill a vibrant area. Put bluntly, CIP's, if left to choke the area they were designed to protect, can do as much damage as good.

If the result of a CIZ is simply to force applicants to accept a business model that was not what they were planning simply to get a licence, then the reality is that those businesses are more likely to fail. Good operators spend a lot of time and money in finessing their concepts and building their businesses plans around specific target markets and operating specific hours. It is very easy to kill that concept by forcing applicants to accept overbearing conditions, or reduced hours to 'beat the policy'.

Existing CIP Areas

A number of the CIP areas ('CIZ's') in Bristol have been in place for a significant period of time. only Bedminster and Southville is a relatively recent addition to the CIP areas. A such, each CIP needs to be considered through the lens of 'what has changed' and 'what has the policy achieved' since its introduction. What might once have been a successful policy may now be holding back development of Bristol.

We are given to understand anecdotally from police and other sources that crime and disorder has, overall, been decreasing for a number of years. This is particularly important when considering the CIZ's that were introduced based on police evidence of crime and disorder, such as the City Centre CIZ. Such data must be updated and properly scrutinized when assessing whether any particular CIP should be retained or not.

Whiteladies Road is an example of an area that has changed dramatically in the time that it has been classified a CIZ. What was once a thriving night spot for bars and clubs has changed beyond recognition. There are relatively few late night offers remaining, with more restaurants and alternative uses for premises. Whilst some people might say that this is a benefit to the area, it has had a knock on effect for other businesses. Clients have commented in the past that the 'death of Whiteladies Road' has been detrimental to the businesses that have stayed. Restaurants, for instance, often require a thriving nightlife to flourish and drive footfall. Customers looking for a night out or to celebrate a special occasion will often look at where they want to end their evening and then choose a restaurant and bar to visit in the vicinity. Whiteladies Road has a number of units that have perpetually opened as restaurants, before closing again from lack of custom. The CIP must at least in part be held responsible for the growth in the number of restaurants in the area whilst at the same time the number of later night venues has shrunk. Venues such as the Everyman Cinema have been a welcome addition to the area, but there is still a feeling expressed that the changes may have gone too far.

There are similar stories in other areas and it will be for the committee to scrutinize each area to ascertain what the policy has achieved (if anything) and whether it is still necessary.

CIP's and other Bristol strategies

Licensing policies, and CIP's in particular work best when they reference, and indeed work with, other council strategic plans and policies. For instance, planning strategies and local cultural strategies often inform applicants for either new licences or variations to licences as to what the council are looking to do in terms of promoting culture, leisure use and night-time economy uses in a particular area.

Reference to specific strategies will also assist new potential businesses to understand and factor in the likely costs of entry into the city if their chosen site is within a CIZ. There is nothing to prevent any CIP's applying to only certain types or styles of premises, or other means being used to give potential operators a better understanding of what the council will and will not take into account in determining applications.

Providing this information and using these policies to inform where CIP's will 'bite' additionally allows applicants to be more proactive when initially looking at sites within the city.

Case Study: The Leeds policy

Leeds recently consulted on its licensing policy and we were pleased to see the proposed removal of CIP's in Woodhouse, Chapel Allerton and Horsforth. This was on the basis of a genuinely open-minded assessment of the areas and the conclusion that the policies were no longer relevant. The decision also made reference to how new premises can help be a change for good in otherwise problematic areas.

The Leeds City Centre CIZ, which the policy retains, is a good example of dynamic use of cumulative impact. It is divided into red, amber and green areas. The council's policy is to refuse all applications in the red areas on the basis that the impact on the licensing objectives are at such a level that the area cannot support any more premises opening or existing premises extending their hours operation no matter how impressive the concept or application is. The council's policy is to only grant applications in the red zone in truly exceptional cases. The amber area is an area which is of concern based upon an analysis of night time economy related issues that are relevant to the licensing objectives, and therefore the council expect applicants to offer additional measures tailored to the problems in that area. All other areas within the City Centre CIZ have been designated green areas where good quality applications will be generally be more acceptable even though the area is a CIP area.

Such a dynamic use of policy demonstrates not only that a careful calculation has been made in ensuring that the CIP's are needed, but also demonstrates that there are differences in what 'cumulative impact' can mean in any given area and that these differences should be recognised in the policy.

Assessing CIP's going forward

If it is determined that there is good empirical and amenity reasons for retention/ creation of a CIP, we believe that an assessment is needed as to exactly what the CIP is designed to catch.

CIP's should be clear in their intention. For instance, if it is deemed that only larger late night or vertical drinking establishments are likely to add to the cumulative impact, then it should be made explicit that small, independent and/ or otherwise innovative applications both for new licences and variations to existing licences will be considered to be outside of the scope of the CIP- even if the application is for an alcohol-led venue. Such applications will still need to demonstrate that they do not undermine the objectives, but we would hope that adding something to this effect into the policy will stimulate and incentivise smaller operators to make applications.

Likewise, if the issue is simply to do with a preponderance of late night refreshment facilities for takeaway leading to queues, noise and disturbance, there is nothing to prevent the policy from stipulating that late night refreshment premises looking only to increase hours for deliveries and not permitting customers to collect food will be deemed outside of the scope of the policy.

Conclusion

The benefits of CIP's must be weighed against the inevitable consequences of stifling growth and restricting new concepts from coming into an area. As such, the longer a CIP area has been in place, the closer the scrutiny must be as to its continued value and worth to the city as a whole. An open mind and willingness to look beyond the 'headlines' is key to ensuring that CIP's are only introduced where they are essential and that in those cases, they only affect those applications that have been identified as likely to add to the problems that led to the implementation of the CIP. As the District Judge in the 'Brewdog' case said: 'a rise in footfall isn't a reason to refuse entry [to a new applicant].'

A joined-up approach with other city development strategies should help to inform where there is a need to push for the development of the night time economy and where this is not a priority.

CIP's should, if needed, mirror as closely as possible the reasons they are being introduced. General prohibitions are negative and off-putting. Focussed and adaptive CIP's give clear guidance to applicants and officers alike and allow for development where it is needed and innovation where it will benefit otherwise downtrodden or tired areas of the City.

For and on behalf of TLT

Piers Warne
Associate
for TLT LLP

LICENSING ACT 2003 CALL FOR EVIDENCE RESPONSE

FROM: Cllr. Anthony Negus

I have no new hard evidence but wish to reaffirm the importance of not relaxing the extent or the rigorous controls in the existing CIAs for the City Centre and Gloucester Road areas. The former is the greater cause of resident's complaints from the Stokes Croft and Cheltenham Road area, and from streets which are a common root from these premises back to homes or vehicles. These complaints range from premises noise at all hours, almost uncontrollable flyposting, increased litter, graffiti and tagging and antisocial behaviour from people leaving the premises impacting on neighbouring streets. This may be noisy and boisterous behaviour, vomiting, urinating, kicking over bins and damaging vehicles.

The impact of additional cars associated with customers of these premises has been heightened by the imposition of the central parking zone (CPZ) as feared because residents in KN RPZ were not allowed to be advised of the impact of the projected increase in hours of the CPZ when they were consulted on the hours for their own. This has created much more pressure on residents parking and has recreated occurrences of people not being able to park within a reasonable distance of their home, quite against the original intentions of this system for which people pay.

There are similar effects from the tail end of the CIA in Gloucester Road though the impact is limited as the number of premises involved is smaller. However any attempt to change the extent of this CIA would create adverse impact.

Anthony

Cllr. Anthony Negus
Cotham ward LibDem councillor
Leader. Bristol City Council Liberal Democrat Group

LICENSING ACT 2003 CALL FOR EVIDENCE RESPONSE

FROM: Emily Wolfe

Hi all

I wish to strongly support Jill's plea for the CIA to be retained.

Local residents need every bit of help that they can get when opposing threats to our health and well-being, especially increases in alcohol availability. The CIA legislation hasn't been as helpful as we initially hoped (partially because people chairing meetings sometimes seem not to understand it, or see fit to ignore it), but it has assisted us in combating some of the many unsuitable licence applications made in our area. It would be an appalling retrograde step to abandon this protection; I entreat you to retain it (and if possible strengthen it).

The health and well-being of residents should surely always be deemed more important than commercial considerations.

Best wishes,
Emily Wolfe

LICENSING ACT 2003 CALL FOR EVIDENCE RESPONSE

FROM: Emily Wolfe & Simon Margetts

Review of CIAs

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We wish to strongly support the retention of the CIA policy.  
If possible, it should be strengthened further in our view.

Local residents need every bit of help that they can get when opposing threats to our health and well-being, especially increases in alcohol availability.

The CIA legislation hasn't been as helpful as we initially hoped (partially because people chairing meetings sometimes seem not to understand it, or see fit to ignore it), but it has assisted us in combating some of the many unsuitable licence applications made in our area. It would be an appalling retrograde step to abandon this protection; we entreat you to retain it (and if possible strengthen it).

The health and well-being of residents should surely always be deemed more important than commercial considerations.

The areas where strengthening is required are as follows.

(1) Better training is needed for those chairing hearings. The 'rebuttable presumption' of deciding against new applications where an adverse impact on residents is to be expected (e.g., giving further alcohol accessibility, or being open after 10pm) seems to be widely ignored. Hearing chairs often seem to think that a given new application adds so little further impact in an area already overrun with licensed premises that it might as well be allowed---but the whole point of the policy is to prevent this incremental creep of adverse impact.

(2) Additional residential development has been allowed in the Whiteladies Rd CIA area, so there are even more people being adversely affected by the noise, ASB, minor crime and littering resulting from the aggregation of licensed and late-opening premises in the area. Further protection is thus required.

(3) Evidence is strengthening all the time of the adverse impacts of disturbance affecting people's sleep (some relating to very serious areas such as cancer and diabetes), so the case for protecting residents' normal sleep hours is even stronger. Further protection is thus required.

(4) It is becoming clear to us that we are adversely affected

by not only our nearby Whiteladies Rd CIA, but also the Clifton CIA, especially the late-opening clubs on/near Queen's Rd. Younger people, especially students, apparently regularly heavily 'pre-load' in their digs in our neighbourhood before heading out very noisily to nightclubs at about 11.30 at night; this causes considerable disturbance at times when schoolchildren and working people are already in bed. They then return, at least equally noisily, in the small hours, which is obviously even more of a problem. It is our view that the impact of the clubs in the area of The Triangle is already appalling, and that the policy needs strengthening to prevent ANY further additional evening/night sale of alcohol or late opening.

(5) There needs to be a commitment in the CIA rules that any existing club that closes or changes licence-holder should NOT automatically be allowed to continue or reopen as a late-night premises. As things stand, this is usually what happens---so we have SOME hope that noise and ASB will not worsen, but NO hope of achieving any lessening of the impact of earlier bad licence grant decisions, particularly ones 'nodded through' soon after the liberalisation of the licensing act. (Ideally we'd like the Council to tackle existing licences, but that is another matter.)

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Finally, we'd like to admit that the major improvement in our area (the closing of Dorma nightclub, which caused us so much stress and misery for many years) was brought about not by the CIA policy but by the economic downturn.

(The EMRO legislation, of which we had such great hopes, turned out to be useless in practice.)

Nonetheless, the CIA policy does at least give residents some basis for hope that levels of noise and disturbance should at least not increase, and this tentative reassurance is a benefit in itself.

Please retain and strengthen the CIA policy.

Best wishes,  
Emily Wolfe and Simon Margetts

## **LICENSING ACT 2003 CALL FOR EVIDENCE RESPONSE**

**FROM: Dr J. M. White**

Thank you for this information.

I would be extremely unhappy - nay even cross - were the CIAs to be removed! I have a very good reason for this as I know just how it's inception helped to improve the area that HPCHCG concentrates on, as the disruption caused by Whiteladies nightclub and the night time overspill of drinking locales (The Strip) created such disruption that those of us living in Cotham Hill and Hampton Pk seriously suffered sleep deprivation - which led to illness.

Interestingly / ironically, Cotham Hill now has more licensed night-time trading than it had in those earlier times, BUT with the possibility of invoking CIA ,we believe, is a most valuable tool in helping to contain any possible disturbances now or in the future!

My health was seriously compromised (as were others) through nightly noise Polution flamed by inebriation, causing lack of sleep

So you will, I hope, appreciate, please, just how valuable a tool the CIA has been in helping to bring this area to order.,

Please support my request to keep it even though I know current local police and maybe even Councillors may wish to dissolve it.

It took ages to get it accepted as a way forward - please keep it!

Yet again it was the HPCHCG that stimulated and urged Cll ? (Surname eludes me as I write) but at the time he combined his work as a Senior Fellow/ Lecturer at UWE with being a LibDem Councillor in our area and was a committed member of HPCHCG - he later gained a PhD and then chose to concentrate on his University career.

Anthony Negus was also a member of HPCHCG (the 2 LibDem Councillors) but he led the campaign to get the CIA agreed by BCC. I seem to recall that at that point Cllr ? became Chair of the Licensing Committee, which, he told us gave him valuable clout in getting the BCC to accept CIA.

I am relying on memory as I write though I could given enough time try to find the Minutes of that time - it must be about 15 or more years ago!

I am also copying in Simon and Emily for very good reason as Emily's health also suffered along with mine.

I have copied this to Licensing as well but I do so hope you and Carla will support my plea to retain CIAs.

Good wishes to all.

Jill

Dr J. M. White

Chair: Hampton Park and Cotham Hill Community Group