

BRISTOL CITY COUNCIL

Licensing Committee

25 January 2024

Report of: Executive Director: Growth & Regeneration

Title: Cumulative Impact Assessment Policy Consultation

Ward: Citywide

Officer Presenting Report: Abigail Holman

Contact Telephone Number: 0117 3574900

RECOMMENDATION

That the Licensing Committee agree to:

(1) The removal of the current Cumulative Impact Assessment, in respect of the city centre of Bristol, attached at Appendix A.

Summary

1. On 8 March 2021 the Licensing Committee approved a new Cumulative Impact Assessment to run from 8 March 2021 to 7 March 2024 which related to the city centre area. As the Cumulative Impact Assessment expires in 2024, a consultation has been undertaken to determine whether to retain the current Cumulative Impact Area, adopt a new Cumulative Impact Area or remove the existing Cumulative Impact Area entirely.

Policy

2. The Licensing Authority must, in respect of each five year period, determine and publish a Statement of Licensing Policy. Before determining such a policy section 5(3) of the Licensing Act 2003 places a statutory duty on the Authority to consult. The Licensing Authority is under a duty to keep its policy under review and make such revisions as it considers appropriate during each five-year period. Section 5(3) applies in relation to any review of an Authority's policy as it applies in relation to the determination of that policy. Where a new policy is made

the Authority must state the date the five year period begins with.

3. The Licensing Act 2003 states a licensing authority may publish a document (a Cumulative Impact Assessment) stating that it considers that the number of premises licences or club premises certificates is at such a level that it would be inconsistent with the promotion of the licensing objectives to grant any further licences or certificates in that area and restrict changes to licensable activities of existing licences. Unlike the Statement of Licensing Policy there is no legal requirement to publish a Cumulative Impact Assessment.
4. A Cumulative Impact Assessment must set out the evidence for the authority's opinion and before publishing the assessment the authority must consult with those affected, including the public, businesses and responsible authorities. If published the assessment must be reviewed every three years. A Cumulative Impact Assessment policy is a separate policy document to the Council's Statement of Licensing Policy.

Background

5. The Licensing Committee formed a working group to undertake a review of the Cumulative Impact Assessment which expires in March 2024. As a result of the work undertaken by the working group a consultation document was drafted to include questions about both the current CIA as well as any other areas people felt may be appropriate for a new CIA.

Consultation

6. A public consultation ran for 12 weeks between 29 June 2023 and 21 September 2023, and sought responses from the public on the existing Cumulative Impact Area, along with the need for Cumulative Impact Area across Bristol.
7. The consultation was advertised on the Council's Consultation Hub. All premises licence holders, Club Premises Certificate holders and personal licence holders were notified of the consultation as were a number of local residents' groups, a variety of charities, legal firms, and local Business Improvement Districts. All of the responsible authorities under the Licensing Act 2003 were also consulted.
8. A total of 191 responses were received to the survey. The majority of respondents (67%) stated that they are in support of retaining the existing CIA, however, when responding to the detailed questions

about issues, the responses were more inconclusive. Questions were asked across a range of issues including some not relating to licensing objectives as both officers and members are aware that issues not related to the Licensing Act can be conflated with those that the licensing committee are able to consider. The responses demonstrated that there are a range of issues, both related and unrelated to the licensing objectives.

9. Two responses were received outside of the survey. One from Avon and Somerset Constabulary in support of the retention of the existing CIA. The other response was from TLT solicitors, a local firm specialising in licensing, in support of the removal of the CIA.
10. The full analysis, and details of the responses are attached at Appendix B.

Proposal

11. The Council is required to have a Statement of Licensing Policy, however a Cumulative Impact Assessment is discretionary. The Council may publish a Cumulative Impact Assessment where there is evidence to show 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.
12. The information supplied as part of the consultation must form part of the decision making of the Licensing Committee, and they must be satisfied that the evidence is provided to retain the current policy.
13. Having reviewed the information provided by the Police, TLT and the other consultation respondents, the working group do not feel that there is adequate evidence to retain the current CIA and recommend that it is not retained.
14. All applications would still go through the statutory process for determination and the responsible authorities can still raise cumulative impact as an issue if it exists in relation to a premises or area. Not retaining the CIA does not change these provisions, but removes the rebuttable presumption created by having a CIA.

Other Options Considered

Do nothing: The policy would expire on 7 March 2024.

Retain the existing CIA: A Cumulative Impact Assessment must be supported by sufficient evidence. It is not considered that the evidence to retain the CIA is sufficient and so this option is not considered viable.

Risk Assessment

The adoption of a Cumulative Impact Assessment is discretionary. If published the policy must set out the evidence to support the authority's opinion that it would be inconsistent with the promotion of the licensing objectives to grant any further relevant authorisations in respect of premises in any given area designated under the policy. It is considered that the evidence supplied from the respondents is not sufficient to justify the retention of a policy in respect of the city centre area of Bristol.

Public Sector Equality Duties

Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following "protected characteristics": age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
- ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant

protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –

- tackle prejudice; and
- promote understanding.

15b. Officers have completed an Equalities Impact Assessment attached as Appendix C.

Legal and Resource Implications

Legal

The proposals set out in the report are lawful and a statutory consultation has been undertaken allowing a 12 weeks' period for those individuals and organisations listed in section 5(3) of the Licensing Act 2003 to obtain relevant material, consider it and put their representations to the Council.

Any decision to retain the existing cumulative impact assessment must be supported by evidence that the number or density of licensed premises in a particular area is having a detrimental effect whereby the licensing objectives are being undermined.

The absence of a CIA does not prevent any person or responsible authority from making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

Lynne Harvey – Specialist Lawyer

Financial

No impact

Personnel

No impact

Appendices:

Appendix A	Current Cumulative Impact Assessment Policy
Appendix B	Summary of consultation responses
Appendix C	Equalities Impact Assessment

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
Background Papers: