

Report to: Licensing Committee

Date: 17th January 2022

Title: Licensing Act 2003 – Cumulative Impact Assessment-
Policy Review

Report of: Director of Service Delivery

Ward(s): All

Purpose of report: 1). To report the findings of the consultation concerning the Eastbourne Borough Council Licensing Act 2003 Cumulative Impact Assessment (CIA)

2). To agree a recommendation to take to Full Council in relation to the CIA to be adopted on a date to be agreed.

Officer recommendation(s): 1)That the Committee considers the consultation responses received.

2) That the Committee considers if changes are to be made to the Policy taking into account the results of the public consultation.

3) That the Committee recommends a decision to Full Council for final approval.

Reasons for recommendations: Statutory requirement to review the Cumulative Impact Assessment part of the Licensing Act Policy every three years.

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1 Introduction

- 1.1 This report is a follow up to the meeting of 27th July 2021 which considered options for changes to the Cumulative Impact Assessment (CIA) in Eastbourne Town Centre and authorised a public consultation on those options.
- 1.2 The Licensing Act 2003 (“the Act”) requires Licensing Authorities to prepare and publish for a five-year period, a Policy for their area which applies when exercising its functions under the Act. Eastbourne Borough Council’s current Licensing Policy runs 2019-2024. The Cumulative Impact Assessment (CIA) sits within the Policy but must be reviewed every three years. This is the only part of the Statement of Licensing Policy being reviewed at this time. The full policy is included at **Appendix 1** with relevant areas highlighted in grey.

1.3 Licensing Act 2003 Section 182 Home Office Guidance states that:

‘once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or if those which are contained in the statement of licensing policy should be amended’.

2 Current Cumulative Impact Assessment

2.1 Members are asked to note the current effect of a CIA on licensed premises in an area, and the impact on the promotion of the licensing objectives. This is particularly relevant where its inclusion in the wider Council Licensing Policy Statement will help to promote the Licensing Objectives.

2.2 The effect of adopting a special policy of this kind within the Licensing Policy Statement is to create a “rebuttable presumption” that applications for new premises licences, club premises certificates or material variations will be refused if they fall within the specified area. This will be considered whenever the Licensing Authority receives relevant representations about the cumulative effect or concentration of premises in an area and the impact on the promotion of one or more of the Licensing Objectives.

2.3 Such representations can come from Responsible Authorities and/or interested parties and, following a hearing, should normally lead to refusal where it can be upheld that the matter in question undermines the CIA and/or the promotion of the Licensing Objectives.

2.4 It is important to note that having a Cumulative Impact Zone does not prohibit applications in the designated cumulative impact area. It would be for the applicant to demonstrate to the Licensing Authority that the operation of the premises involved will not add to the negative cumulative impact already being experienced in the area or would not undermine the promotion of the Licensing Objectives.

3 Changes considered during public consultation.

3.1 A wide-ranging consultation took place over a period of 6 weeks. A press release was issued, and existing licence holders were contacted to make them aware of the proposed changes. Information and an online survey were placed on the Council’s Website.

3.2 Views were sought on five options, one of which was the CIA to be replaced by a set of Licensing Principles that would apply to the whole of Eastbourne Borough rather than the Town Centre. A summary of the consultation responses is included at **Appendix 2.**

4 Key Findings

4.1 The online survey asked three questions in addition to a section for generalised comments. There were 47 responses.

4.2 The consultation proposed five options. The five options and the responses:

a. Keep the current Cumulative Impact Assessment	16	35.56%
b. Change the area covered by the current Cumulative Impact Assessment (map of zone is included as part of the current policy in Appendix 1)	2	4.44%
c. Remove the whole Cumulative Impact Assessment part of the policy at this time with an option to reintroduce if it becomes necessary.	4	8.89%
d. Remove the current Cumulative Impact Assessment part of the policy but replace with a set of principles (set out below 4.3) that the Licensing Authority would expect to be considered on all new or variation applications.	22	48.89%
e. None of the above	1	2.22%

Answered 45
Skipped 2

4.3 One of these (option d) referred to removing the current CIA part of the policy and replacing with a set of principles that the Licensing Authority would expect to be considered on all new or variation applications. The principles proposed:

- I. Premises applying for a new licence or variation to their existing licence will not be authorised to have an outside area open after 11pm.
- II. Premises applying for a new licence or variation to their existing licence will not be authorised for sale of alcohol for consumption 'off the premises only' after 11pm. Premises applying for a new licence or variation to their existing licence will not be authorised for late night refreshment after 1am (on or off premises) save in exceptional circumstances.
- III. Premises applying for a new licence or variation to their existing licence will not be authorised for the sale of alcohol for consumption on the premises or regulated entertainment after 2am.
- IV. Premises applying for a new licence or variation to their existing licence that wish to sell alcohol for consumption on the premises between midnight and 2am will be expected to provide where appropriate the provision of CCTV and SIA door staff in their Operating Schedules.

- V. Premises applying for a new licence or variation to their existing licence that wish to provide regulated entertainment on the premises between midnight and 2am hours will be expected to provide where appropriate the provision of CCTV, SIA door staff and a Noise Management Policy in their Operating Schedules

4.4 One written submission was received during the consultation from Sussex Police. They support the Option (d) in 4.2 above: "*Whilst Sussex Police positively promotes new business and a vibrant nighttime economy, the concentration of premises within such a small area does present issues to the Police. All premises applications and variations are carefully considered by Sussex Police licensing and it is agreed that the proposed principles (option d) would not only encourage new business but would also have a positive impact on Police demand as well as promoting the licensing objectives.*"

5. Options

5.1 Members are asked to decide on options a-d and make a recommendation to Full Council. If the Committee were to approve the option (d), the Licensing Policy would be amended, namely section 8, would be replaced by the set of Licensing Principals and Appendix 2 of the Policy would be removed.

6 Legal Implications

6.1 Section 5A Licensing Act 2003 states that a licensing authority may publish a CIA stating that it considers that the number of relevant authorisations in respect of premises in one or more parts of its area is such that it is likely to be inconsistent with the authority's duty to grant any further relevant authorisations. If it does so it must set out the evidence for that option in the CIA.

6.2. If the Licensing Authority has published a CIA it must be reviewed every three years as per section 5A(12) Licensing Act 2003.

6.3 If the Licensing Authority decides to retain this 'special' policy then it must revise the CIA so that it includes a statement to that effect and set out the evidence as to why it remains of that opinion.

6.4 The Licensing Authority must publish any revision of a CIA.

6.5 The Legal Section considered this Report on 7 January 2021 (IKEN-10727-EBC-MW).

7. Financial Implications

7.1 There are no additional financial implications to this report.

8. Equality Analysis

8.1 There are no equalities implications associated with this report.

9 Risk Management Implications

- 9.1 In accordance with the Council's Risk Management Strategy, consideration has been given to the potential risks associated with the recommendations set out in this report. A failure by the Council to review the CIA part of the Licensing Policy contravenes the Licensing Act 2003.

10 Appendices

- Appendix 1 Current Licensing Policy
- Appendix 2 Analysis of Public consultation

11 Background papers

Licensing Act 2003 Section 182 Home Office Guidance:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf