

# LICENSING COMMITTEE

6th February 2024

## Report of the Head of Regulatory and Community Safety

### Part A

#### REVIEW OF THE SPECIAL POLICY ON CUMULATIVE IMPACT (INCLUDED WITHIN THE LICENSING ACT 2003 POLICY)

##### Purpose of Report

To seek approval for the retention of the Special Policy Cumulative Impact Zone (CIZ – last approved in 2021) included within the Statement of Licensing Policy (last approved in 2022), attached at **Appendix 1**, made in accordance with the Licensing Act 2003, for consultation prior to submission to Full Council for approval.

##### Recommendations

- 1 That the proposed retention of the Special Policy Cumulative Impact Zone (CIZ), included within the Statement of Licensing Policy 2022 - 2027 attached at **Appendix 1**, made under the Licensing Act 2003, be approved for consultation.
- 2 That the continuation of the Special Policy on Cumulative Impact contained within the existing Statement of Licensing Policy be approved.
- 3 That, subject to recommendations 1 and 2 and following the consultation, the Head of Regulatory and Community Safety is given delegated authority to make minor amendments and alterations to the Cumulative Impact Zone within the Statement of Licensing Policy, in consultation with the Chair of the Licensing Committee, and to submit the final version of the Policy to Full Council.

##### Reasons

1. After publishing a Cumulative Zone, the licensing authority, must within three years consider whether it remains of the same opinion. The last Special Policy Cumulative Impact Zone (CIZ) was written in 2021.
2. The Cumulative Impact Zone is required to be reviewed three yearly as required by the 'Cumulative Impact Assessments' introduced in the 2003 Act by the Policing Crime Act 2017, with effect from the 6<sup>th</sup> April 2018. After publishing a Cumulative Impact Zone (CIZ), the licensing authority must within 3 years consider whether it remains of the same opinion as set out in the assessment.
3. To ensure that minor changes can be made to the retention of the Special Policy Cumulative Impact Zone, within the Statement of Licensing Policy, and enable submission to Full Council in an efficient manner if only minor changes are required.

## Policy Justification and Previous Decisions

The current Statement of Licensing Policy was approved in June 2022 by Full Council.

A Special Policy on Cumulative Impact was approved and included within the original Licensing Policy, in 2005. Under the Licensing Act 2003, the Council in its role as a Licensing Authority, may consider introducing saturation policies (known under the guidance to local authorities as 'Cumulative Impact Policies'), if it feels that the number of licensed premises is having an adverse impact on any of the Licensing Objectives (crime and disorder, noise / nuisance, public safety, and harm to children).

There are no proposed changes to the existing 'Cumulative Impact Zone at this time.

## Implementation Timetable including Future Decisions

The 'existing Cumulative Impact Zone' within the existing Statement of Licensing Policy is being submitted to the Licensing Committee, together with the report from Leicestershire Police report, that the existing 'Cumulative Impact Zone' be retained. Once approved, the 'Cumulative Impact Zone' will be circulated to responsible authorities, representatives of the trade, businesses, and residents for their comments. They will be advised that the Cumulative Impact Zone is proposed to be retained, but not amended at this time.

A copy of the existing 'Cumulative Impact Zone' within the Statement of Licensing Policy will be made available on the Council's website together with an explanation that the 'Special Policy on Cumulative Impact' is proposed to be retained, but that no amendments are proposed' and it is to remain the same, subject to consultation.

After publishing a 'Cumulative Impact Zone' the licensing authority must within 3 years, consider whether it remains of the same opinion set out in the assessment. The guidance issued by the Government under Section 182 of the Licensing Act 2003 states that in order to decide whether it remains of this opinion it must again consult with the persons listed in Section 5(3) of the Act, the Chief Officer of Police, the Fire and Rescue Authority, Director of Public Health for the area, representatives of local premises Licence holders, club premises certificate holders, personal Licence holders and businesses and residents in its area.

The Licensing Section will circulate the existing Cumulative Impact Zone to be retained to:

- the Responsible Authorities (including Charnwood Borough Council Licensing, Fire, Health and Safety, Health and Safety Executive, Planning, Police, Pollution, Trading Standards, Public Health, and the Home Secretary)
- Business and residents' e.g., relevant residents groups
- Local Councillors
- British Beer and Pub Association
- Pub Watch
- Solicitors
- Premises Licence Holders

- Premises Licence Holders of premises in the Cumulative Impact Zone (CIZ area)
- Premises Licence Holders of Late-Night Refreshment premises in the CIZ area.
- Club Premises certificate holders

Any comments from the consultation will be considered by the Licensing Section and the Head of Regulatory and Community Safety. If only minor amendments are required because of the responses to the consultation, recommendation 3 seeks delegated authority for the Head of Regulatory and Community Safety to make those changes, in consultation with the Chair of the Licensing Committee, prior to submitting the final Policy to the meeting of Full Council scheduled for 22<sup>nd</sup> April 2024

If significant changes are required to the Cumulative Impact Zone then an additional Licensing Committee will be organised to enable the Committee to consider the consultation responses and changes to the assessment, prior to its submission to Full Council.

### Report Implications

#### *Risk Management*

No specific risks have been identified with the decisions the Committee is being asked to make.

#### *Financial Implications*

There are no financial implications associated with this report, other than those of consultation with licence holders/interested parties which can be accommodated within existing budgets.

Background Papers:                      Government Guidance issued under Section 182 of the Licensing Act 2003  
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

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## Part B

### 1.0 Background

The current Statement of Licensing Policy was last reviewed in 2022. The concept of “Cumulative impact” has been described within the 182 guidance and used by licensing authorities within their statements of licensing policy since the commencement of the 2003 Act. With effect from 6 April 2018, ‘Cumulative impact assessments’ were introduced in the 2003 Act by the Policing and Crime Act 2017. Cumulative impact is the potential impact on the promotion of the licensing objectives of several licensed premises concentrated in one area.

A ‘cumulative impact assessment’ (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas 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.

CIA’s relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.

Section 5A of the 2003 Act sets out what a licensing authority needs to do to publish a CIA and review it, including the requirement to consult with the persons listed in section 5(3) of the 2003 Act.

The 2003 Act does not stipulate how the CIA should be used once published, because the requirements for determining applications for new licence’s or variations are the same in areas with a CIA as they are elsewhere, as set out in sections 18, 35, 72 and 85 of the Act. However, any CIA published by a licensing authority must be summarized in its statement of licensing policy.

Charnwood Borough Councils existing Statement of Licensing Policy at **Appendix 1**, Section 4, page 11, approved by full Council in 2021, included a ‘Special Policy on Cumulative Impact’.

There are no proposed changes to the existing Special Policy on Cumulative Impact Zone at this time, other than it is to be retained.

The 182 Guidance, amended in April 2018, removed the ‘rebuttable presumption’ against grant of a premise in a Cumulative Impact Zone. The December 2023 version of the s182 guidance states at para 14.28, ‘While the evidence underpinning the publication of CIA (Cumulative Impact Assessments) should generally be suitable as the basis for a decision to refuse an application or impose conditions, it does not change the fundamental way that decisions are made under the 2003 Act. Each decision in an area, subject to a CIA, therefore, still needs to be made on a case-by-case basis and with a view to what is appropriate for the promotion of the licensing objectives.’ This shifts the onus of proof onto the applicant to show to the Licensing Authority why their premises will not add to any problems within the Cumulative Impact

Zone. Importantly, the publication of a CIA would not remove a licensing authority's discretion to grant applications for new licences or applications to vary existing licences where the authority considers this to be appropriate in the light of the individual circumstances of each case.

## 2.0 Special Policy on Cumulative Impact

The Council's Statement of Licensing Policy 2022 to present day includes a 'Special Policy on Cumulative Impact' which covers areas of Loughborough town center. Cumulative Impact is defined as the "the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area." (Section 14.20 of the Government 182 Guidance updated December 2023 pg. 117)

2.1 The current Special Policy on Cumulative Impact states the area as below:

- bounded by Sparrow Hill, Church Gate, Steeple Row, Rectory Place, Bridge Street, Broad Street, Ashby Road, Frederick Street, Browns Lane Bedford Square, Southfield Road, Barrow Street Jubilee Way, and Pinfold Gate.
- Including both sides of the streets bounding the area.
- Including Ashby Road to its junction with Storer Road; and Nottingham Road, to the entrance to the Falcon Works.

This area as the Cumulative Impact Zone is shown on the map at **Appendix 2** .

The Cumulative Impact Assessment (CIA) must include a statement saying that the licensing authority considers that the number of premises licences and/or club premises certificates in one or more parts of the area described is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives. As part of the publication a licensing authority must set out the evidential basis for its opinion.

CIA's may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on or off the premises, and the provision of late-night refreshment. This includes late night refreshment providers which are not licensed to sell alcohol. A CIA may relate to all premises licences and club premises certificates in the area described in the assessment or parts thereof, or only to premises of a particular kind described in the assessment. For example, it may be appropriate for the licensing authority to only include off-licences or nightclubs within the scope of its assessment. The licensing authority must make clear, when publishing its CIA, which premises types it applies to. CIAs do not apply to TENs; however, it is open to the police and environmental health authority (as relevant persons) to refer to evidence published within a CIA when objecting to a TEN.

A special policy should be reviewed regularly to assess whether it is needed or if any revisions are required. Prior to the review of the 'Special Policy on Cumulative Impact', the Police and other responsible authorities have been contacted to seek views on the retention of the Special Policy on Cumulative Impact and the area covered by it.

### 3.0 Review of the Special Policy on Cumulative Impact

3.1 There must be an evidential basis for the decision to introduce and maintain a cumulative impact zone. Information that licensing authorities can use to demonstrate the cumulative impacts of the licensed premises, on the promotion of the licensing objectives include:

- local crime and disorder statistics
- statistics on local anti-social behavior offences
- health related statistics such as alcohol related emergency attendances and hospital admissions
- environmental health complaints, particularly in relation to litter and noise
- complaints recorded by the local authority, which may include complaints raised by residents or resident's associations.

3.2 Leicestershire Police has provided a report entitled 'Cumulative Impact Zone Report 2023' which seeks to provide evidence to justify the retention of the existing cumulative impact zone but make no proposed changes. This is attached at **Appendix 3**.

### 3.0 Supplementary Information

3.1 The opinions of Public Health and Environmental Protection have been sought as to whether the Special Policy on the Cumulative Impact Zone should be retained.

3.1.2 Charnwood Borough Council's Environmental Protection Team have confirmed that 'Environmental Protection views the Special Policy on Cumulative Impact as a useful tool in managing noise from licensed Town center premises to minimise public nuisance. For this reason, we are strongly in favor of retaining the Cumulative Impact Zone and have no suggested changes'.

### 4.0 Conclusion

4.1 The Licensing Committee is asked to approve the retention of the 'Special Policy on Cumulative Impact within the current Statement of Licensing Policy, for consultation, prior to formal submission to Council on 22nd April 2024 and that following the consultation the Head of Regulatory and Community Safety be given delegated authority to make minor amendments and alterations to the Statement of Licensing Policy, in consultation with the Chair of the Licensing Committee. Any major objections to the 'Special Policy on Cumulative Impact' will be referred to the Licensing Committee for consideration prior to submission to the Full Council.

## Appendices

Appendix 1 - The current 'Statement of Licensing Policy' approved in 2022, which includes the existing Special Policy on Cumulative Impact Zone approved in 2021.

Appendix 2 - The existing boundary of Charnwood Borough Councils Saturation Zone.

Appendix 3 –Cumulative Impact Zone Report 2023– Submitted by Leicestershire Police