

<b>LICENSING COMMITTEE</b>	<b>AGENDA ITEM No. 4</b>
<b>18 OCTOBER 2018</b>	<b>PUBLIC REPORT</b>

Report of:	Annette Joyce, Service Director	
Cabinet Member(s) responsible:	Councillor Walsh, Cabinet member for Communities	
Contact Officer(s):	Terri Martin - Regulatory Officer - Licensing Kerry Leishman - Licensing and Business Manager Peter Gell - Head of Regulatory Services	Tel. 453561 Tel. 453502 Tel. 453419

## **LICENSING ACT 2003 - CUMULATIVE IMPACT - REVIEW, CONSULTATION AND RESPONSES**

<b>R E C O M M E N D A T I O N S</b>	
<b>FROM:</b> Peter Gell, Head of Regulatory Services	<b>Deadline date:</b> 18 October 2018
<p>Members are asked to:</p> <ol style="list-style-type: none"> <li>1. Note the contents of the report and responses received to the consultation on the Cumulative Impact Policy (CIP).</li> <li>2. Determine the future of the current CIP considering the following options available: <ol style="list-style-type: none"> <li>(i) Retain the status quo</li> <li>(ii) Modify current CIP (ie. types of premises and/or area)</li> <li>(iii) Resolve that the CIP no longer applies</li> </ol> </li> </ol>	

### **1. ORIGIN OF REPORT**

- 1.1 This report is as a result of the consultation carried out between 6 August 2018 to 23 September 2018, on the council's Cumulative Impact Policy (CIP) which forms Section 11 of the council's Statement of Licensing Policy.

### **2. PURPOSE AND REASON FOR REPORT**

- 2.1 To consider and note the contents of the report including due consideration of the responses and evidence received following the public consultation of the councils Cumulative Impact Policy (CIP).
- 2.2 To also note changes in legislation which have the effect of putting Cumulative Impact Assessments (CIA) on a statutory footing under Section 5A of the Licensing Act 2003.
- 2.3 This report is for the Licensing Committee to consider under its Terms of Reference No. 2.5.2.7, whereby the licensing committee recommend it's decision to full council for formal adoption under its terms of reference 1.1.4(e).

### 3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	<b>YES</b>	If yes, date for Cabinet meeting	N/A
Date for Full Council meeting	12 December 2018	Date for submission to Government Dept ( <i>please specify which Government Dept</i> )	N/A

### 4. BACKGROUND AND KEY ISSUES

- 4.1 Under Section 5 of the Licensing Act 2003 (The Act), it is a requirement for each council to produce, adopt and publish a statement of licensing policy. The policy governs the way decisions are made by the council and how it will administer its duties under the Act. The Cumulative Impact policy (CIP) forms Section 11 of the overarching statement of licensing policy.
- 4.2 The CIP was adopted by Full Council on 17 April 2013. It was introduced in the Millfield New England area (known as Can-Do) following a consultation and consideration of evidence submitted, as it was considered that the saturation of licensed premises in this area, was having a negative impact on the licensing objectives.
- 4.3 The statement of licensing policy was subject to review and consultation in 2015. The evidence and responses were re-evaluated and the committee remained of the opinion that the CIP was still required following consideration and evaluation of the evidence and responses received, as it perceived that the saturation of licensed premises was still negatively impacting the licensing objectives.
- 4.4 Cumulative impact was only ever described in section 182 guidance, however, with effect from 6 April 2018, cumulative impact is now incorporated within section 5A of the Licensing Act 2003, following commencement of Section 141 of the Policing and Crime Act 2017 which amended the Licensing Act 2003. This puts Cumulative Impact Assessments (CIA) on a statutory footing and requires authorities to set out the evidence as to why the authority is of the opinion that a CIP is required for those types of premises and that defined boundary area.
- 4.5 Section 5A of the Licensing Act 2003, requires CIPs to be reviewed and re-evaluated every three years, in order to establish if the CIA is still relevant to current problems in the CI area. As the last review was in 2015, the policy was due for review and consultation.

#### Licensed Premises information 2015 and 2018

##### 2015 licensed premises data

- 4.6 In 2015, (the time of the last review) the following data was made available: Peterborough overall had approximately 615 premises licensed under the Licensing Act 2003, of these 615, there were approximately:
- 97 premises licensed for the consumption of alcohol on the premises
  - 183 premises licensed for off sales of alcohol
  - 199 premises licensed for on and off sales of alcohol
  - 136 premises licensed with no alcohol provision

Within the Can-Do area in 2015, there were approximately 73 premises licensed under the Licensing Act 2003, of these 73 there were approximately:

- 12 premises licensed for consumption of alcohol on the premises
- 29 premises licensed for off sales of alcohol
- 16 premises licensed for on and off sales of alcohol
- 16 premises licensed with no alcohol provision

##### 2018 licensed premises data

- 4.7 There are currently approximately 571 premises licensed under the Licensing Act 2003, in Peterborough overall. Of these 571 there are approximately:
- 83 premises licensed for the consumption of alcohol on the premises
  - 195 premises licensed for off sales of alcohol
  - 194 premises licensed for on and off sales of alcohol
  - 99 premises licensed with no alcohol provision

Within the Can-Do area there are currently approximately 100 premises licensed under the Licensing Act 2003, of these 100 there are approximately:

- 14 premises licensed for consumption of alcohol on the premises
- 35 premises licensed for off sales of alcohol
- 24 premises licensed for on and off sales of alcohol
- 27 premises licensed with no alcohol provision

#### **Applications received in the CI area since the last review in 2015**

- 4.8 There have been 17 (seventeen) applications for premises licences in the Can-Do area since the last review in 2015. Of these:
- 14 were granted
  - 1 refused by licensing sub committee
  - 1 granted by licensing sub committee
  - 1 was withdrawn by the applicant

Of those 17 applications:

- 3 were for consumption of alcohol on the premises
- 6 were for off sales of alcohol
- 2 were for on and off sales
- 6 were for licenses with no alcohol provision

## **5. CONSULTATION**

- 5.1 A consultation was carried out between 6 August 2018 to 23 September 2018, with those identified under Section 5(3) of the Act. Those being:
- the chief officer of the police for the area
  - the fire authority for the area
  - the Director of Public Health
  - representatives of holders of premises licences
  - representatives of holders of club premises certificates
  - representatives of holders of personal licenses
  - representatives of businesses and residents

- 5.2 For information purposes a list of consultees is attached at **Appendix A**  
For information purposes the consultation document is attached at **Appendix B**

- 5.3 The consultation document was also made available on the council's website, main council buildings, central library and was also advertised in the local newspaper on 9 August 2018 and is attached at **Appendix C**

#### **Responses to the Consultation**

- 5.4 A total of four responses were received during the consultation period, as well as a Cumulative Impact Assessment Review September 2018 document, produced by a Public Health analyst which contains public health data and also includes some limited data provided by Cambridgeshire Constabulary.

The four responses were from the following:

- Dr Liz Robin Director of Public Health - in support of continuation of the current CIP
- MANERP and Community First, representing businesses and residents in the CIP area - in support of continuation of the current CIP

- Cllr Ferris (and on behalf of Cllr Nawaz, Cllr Joseph, Cllr Jamil, Cllr Iqbal, Cllr Hussain and Cllr Ali) - in support of continuation of the current CIP
- British Beer and Pub Association (BBPA) - expressing concerns about the evidential basis for the CIP and if there is none, objecting to the renewal of the CIP.

5.5 A further four responses were received after the end of the consultation period, but have been included as they are in the public interest.

The three responses were from the following:

- Jawaid Khan Head of Community Resilience and Integration - in support of continuation of the current CIP
- Peterborough Enforcement Services (PES) - in support of continuation of the current CIP
- Cate Harding Capacity Manager and Programme Lead for the CAN Do Regeneration Programme - in support of the continuation of the current CIP
- Cambridgeshire Constabulary - Neutral

5.6 The Peterborough Cumulative Impact Assessment Review September 2018, document produced by a Public Health Analyst containing public health data and limited alcohol related crime and incident data from Cambridgeshire Constabulary, can be found at **Appendix D**

5.7 All of the eight responses have been attached in full and can be found at **Appendix E**

### **Matters for consideration**

5.8 It is for members of the committee to determine if there is sufficient evidence available which is suitably robust to withstand scrutiny and relevant to the current problems in the CIP area, as described in the current CIP.

If members are no longer of the opinion that the CIP is relevant then the authority must publish a statement to that effect.

If members remain of the opinion that the CIP is relevant and have sufficient evidence to withstand robust scrutiny, then it must revise the CIP so that it includes a statement to that effect and set out the evidence (CIA) as to why the authority remains of that opinion.

In both cases, the authority is required to publish its decision and any revision.

5.9 Members attention is drawn to paragraph 14.29 of section 182 guidance which states:

*'As noted above, there must be an evidential basis for the decision to publish a CIA. Local Community Safety Partnerships and responsible authorities, such as the police and the environmental health authority, may hold relevant information which would inform licensing authorities when establishing the evidence base for publishing a CIA. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specific area to be covered by the CIA. Information which licensing authorities may be able to draw on includes;*

- *local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;*
- *statistics on local anti-social behaviour 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 local residents or residents' associations;*
- *residents' questionnaires;*
- *evidence from local and parish councillors; and*
- *evidence obtained through local consultation*

5.10 In respect of Cambridgeshire Constabulary, analytical resources were not available to produce

the detailed statistical alcohol crime and incident data which was previously provided to the committee to assist its determination. Cambridgeshire Constabulary have been part of a CIA working group and have provided limited data available which has been included in the Cumulative Impact Assessment Review September 2018 document. The data is limited due to resources and a change in computer software.

**6. ANTICIPATED OUTCOMES OR IMPACT**

6.1 Members will review the Cumulative Impact Assessment Review document, attached as **Appendix D** and all responses received, attached as **Appendix E** and determine the outcome of the current CIP, and set out its reasons and evidence for that opinion, then make their recommendation to Full Council, when it meets on 12 December 2018.

**7. REASON FOR THE RECOMMENDATION**

7.1 To comply with statutory requirements of the Licensing Act 2003 as amended by the Policing and Crime Act 2017

**8. ALTERNATIVE OPTIONS CONSIDERED**

8.1 Retain the existing policy and be in breach of statutory requirements. Any decisions based on the existing Cumulative impact policy could be easily challenged if the policy is not reviewed.

**9. IMPLICATIONS**

**Financial Implications**

9.1 None foreseen.

In accordance with Cabinet policy, information provided below is the overall financial position for the Licensing budget is shown below, however, as stated above is not directly relevant to the subject of the report:

£'000	2017/18	2018/19	2019/20
Budget	(35)	(38)	(40) (2) additional budget via fees & charges increase
Actual / forecast	(35)	(32)	

**Legal Implications**

9.2 Legal Services will be required to provide legal representation in the event of any appeals to the Magistrates Court against decisions of the council, prosecutions being instigated or enforcement action being undertaken by the authority.

**Equalities Implications**

9.3 None foreseen.

**Community Implications**

9.4 The Licensing Act 2003 and the Guidance issued under s.182 have a significant impact on the community both in terms of its protection and the furtherance of the provisions of entertainment and economic growth.

**10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Licensing Act 2003  
Revised Guidance issued under Section 182 - April 2018

**11. APPENDICES**

- 11.1 Appendix A - List of consultees
- Appendix B - The consultation document
- Appendix C - Public Notice in local newspaper
- Appendix D - Peterborough Cumulative Impact Assessment Review, September 2018
- Appendix E - All of the responses to the CIP consultation in full