

<b>REPORT TO:</b>	<b>LICENSING COMMITTEE 29 NOVEMBER 2022</b>
<b>SUBJECT:</b>	<b>LICENSING ACT 2003 – REVIEW OF LONDON BOROUGH OF CROYDON STATEMENT OF LICENSING POLICY AND CUMULATIVE IMPACT AREAS WITHIN THE LONDON BOROUGH OF CROYDON STATEMENT OF LICENSING POLICY</b>
<b>LEAD OFFICER:</b>	<b>Corporate Director, Sustainable Communities, Regeneration and Economic Recovery Department</b>
<b>CABINET MEMBER:</b>	<b>Cllr. Scott Roche, Cabinet Member for Streets &amp; Environment</b>
<b>WARDS:</b>	<b>ALL</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT: Statutory review of policy document.</b>	
<p><b>FINANCIAL SUMMARY:</b></p> <p>The Licensing Act 2003 became fully operational on 24 November 2005. The local authority has been processing applications with regard to this legislation since 7 February 2005, which was the start of the conversion period under the Act.</p> <p>There are no financial implications associated with this report, save for those set out in the body of the report with regard to decision making by the Licensing Sub-Committee, the substantive licensing committee and full Council.</p> <p>The costs of administering the functions associated with this report will be met from existing resources.</p>	

## **1. RECOMMENDATIONS**

The Committee is asked to:

- 1.1. Consider the outcome of the consultation on the review of Statement of Licensing Policy as summarised in the report and detailed in full at Appendices 3 and 4 and proposed revisions to that Policy as detailed in the report and set out in full at Appendix 8.
- 1.2 Consider the response to the consultation on the 5 potential Cumulative Impact Areas as set out in Appendix 4 and the reasons and evidence base for this (Appendix 1, 2, 3 and 4); and

- 1.3 Agree that, as a result of the response to the consultation and in light of the information within the draft assessment of cumulative impact:
- 1.3.1 The Licensing authority remains of the opinion that the number of relevant authorisations (for the sale of alcohol for consumption off the premises from off-licenses, shops and supermarkets) in respect of premises in cumulative impact areas 1-4 described in the draft cumulative impact assessment at Appendix 7 is such that it is likely that it would be inconsistent with the authority's duty under section 4(1) of the Licensing Act 2003 to grant any further relevant authorisations in respect of premises in cumulative impact areas 1-4;
- 1.3.2 The Licensing authority is of the opinion that the number of relevant authorisations (for the sale of alcohol for consumption off the premises from off-licenses, shops and supermarkets) in respect of premises in cumulative impact area 5 described in the draft cumulative impact assessment at Appendix 7 is such that it is likely that it would be inconsistent with the authority's duty under Section 4(1) of the Licensing Act 2003 to grant any further relevant authorisations in respect of the premises in cumulative impact area 5;
- 1.3.3 That a summary of the draft cumulative impact assessment, which is set out in full at Appendix 7 be incorporated into the revised Statement of Licensing Policy to be recommended to Full Council for approval;
- 1.4 Recommend to Full Council the adoption and publication of the revised Statement of Licensing Policy 2023-2028 at Appendix 8.
- 1.5 Note that if the revised Statement of Licensing Policy is approved by Full Council, officers will make arrangements to ensure that the Statement of Licensing Policy and Cumulative Impact Assessment is published in accordance with statutory requirements. It is proposed that the revised policy and cumulative impact assessment will be operative from no later than February 2023.

## **2. EXECUTIVE SUMMARY**

2.1 The Licensing Act 2003 made local authorities, as licensing authorities, responsible for the administration of licences and certificates for:

- The sale/supply of alcohol
- The provision of regulated entertainment and
- The provision of late night refreshment

There are four licensing objectives which underpin the legislation and these are:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety

- The protection of children from harm

All decisions under the Act must be taken with a view to promoting these licensing objectives.

- 2.2 In addition to processing applications, the Act requires each licensing authority to determine and publish a policy setting out how it will exercise its functions under the Act. The first London Borough of Croydon Licensing Policy was published on 1 December 2004. The Act requires the Council to review and re-publish its policy every 5 years but it may also review it at any time within that 5-year period should it see fit.
- 2.3 The policy was last reviewed in 2017 and re-published in February 2018. The Council has therefore commenced a review of its policy, consulted on the draft proposals and the revised policy needs to be considered by the Licensing Committee and, if satisfied, recommended to Full Council for adoption. The proposed revised Statement of Licensing Policy is at Appendix 8 for members' consideration. Once the policy is approved by Full Council, there are publication requirements which need to be met as detailed in the body of the report below.
- 2.4 This report details the consultation undertaken as part of the review and seeks a recommendation to full Council for adoption of the revised policy.

### **3. DETAIL**

- 3.1 A report was brought to Licensing Committee on 26 September requesting authority to commence consultation on the statutory review of the Statement of Licensing Policy, including consultation on a review of existing cumulative impact areas and a proposed new cumulative impact area which, if adopted, would be set out within the Statement of Licensing Policy. For ease of reference, the report and supporting documentation can be viewed here:  
<https://democracy.croydon.gov.uk/ieListDocuments.aspx?CId=135&MId=3055&Ver=4>.

Statement of Licensing Policy:

- 3.2 In reviewing and adopting a Statement of Licensing Policy, the Licensing Authority and in turn Full Council when it is asked to approve the policy, must have regard to the following fundamental principles:
- All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote. In determining its policy, a licensing authority must have regard to the Statutory Guidance and give appropriate weight to the views of consultees.
  - While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.
  - Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or

certificate where provision has been made for them to do so in the 2003 Act.

- Statements of policy should make clear that:
  - licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act; and
  - conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.
- A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

### Cumulative Impact:

- 3.3 Cumulative impact is the potential impact on the promotion of the licensing objectives (listed at 2.1 above) of a number of licensed premises concentrated in one area which are disproportionate and arise as a result of the concentration of particular types of premises in close proximity. In other words, 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 the Council as Licensing Authority may consider it appropriate to introduce a Cumulative Impact assessment to manage this cumulative impact.
- 3.4 A cumulative impact assessment 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. These areas are called Cumulative Impact Areas (CIAs). CIAs can 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. They do not change existing licenses granted.
- 3.5 Section 5A of the 2003 Act sets out what a licensing authority needs to do in order to publish a Cumulative Impact Assessment and review it, including the requirement to consult with the persons listed in section 5(3) of the 2003 Act (see paragraph 4.1 below for a full list). However, any Cumulative Impact Assessment published by a licensing authority must be summarised in its statement of licensing policy. Under section 5(6D) a licensing authority must also have regard to any Cumulative Impact Assessment it has published when determining or revising its statement of licensing policy. The Council has undertaken a simultaneous review of and consultation on its Statement of Licensing Policy and its Cumulative Impact Assessment which currently details 4 Cumulative Impact Areas (CIAs).

- 3.6 In respect of the existing CIAs, if, having consulted, the licensing authority decides that it remains of the opinion set out in the Assessment, it must revise the Assessment to include a statement to that effect and set out the evidence as to why it remains of that opinion. It is important for any evidence included in the revised CIA to be robust and relevant to the current problems described. The licensing authority must also at this stage publish any other material change to the assessment. For example, if the types of premises or area described in the assessment have changed due to a shift in the nature of the problems being experienced or where there is evidence of the emergence of a new type of problem.
- 3.7 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives; for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel or shop and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

#### Review of Current CIAs:

- 3.8 All four current CIAs relate specifically to off licences, shops and supermarkets that are permitted to sell alcohol for consumption ‘Off’ the premises – Off sales. Any decision to introduce a CIA or retain a CIA must be evidence based and a licensing authority is required to set out evidence of problems that are being caused or exacerbated by the cumulative impact of licensed premises in the area(s) described. That evidence is then used to justify the statement that it is likely that granting further premises licenses in that area (in this case for ‘Off’ sales of alcohol) would be inconsistent with the authority’s duty to promote the licensing objectives.
- 3.9 When Cumulative Impact Assessments were given statutory status on 6 April 2018, there were no transitional or grandfather provisions applying to cumulative impact zones already in existence which had been introduced in line with the then Statutory Guidance. They remained in place as part of the Council’s Statement of Licensing Policy but it was recommended in current guidance that they be reviewed within a maximum of three years following the legislative change or when the licensing policy was next reviewed, whichever was the sooner. The requirement to consider and review any Cumulative Impact Areas in place also forms part of the statutory requirements on the Council. At their meeting on 17 March 2021, the Council’s Licensing Committee considered a report and determined that the four existing Cumulative Impact Areas be retained in the Licensing Policy, pending the statutory review of the Statement of Licensing policy which is the subject of this report.
- 3.10 As part of the review process of the existing CIAs, the Council gathered data relating to alcohol use from Public Health and Violence Reduction Network officers and this is set out in Appendix 1. Cognisant of the fact that there is no Public Health licensing objective in the Licensing Act 2003, the data needs to be assessed in respect of its relevance to the four licensing objectives in the Act. Accordingly, in precis –

- Data shows that there is a strong relationship between alcohol and a range of crimes including violence.
- Graphs illustrate the volume and harm of alcohol related crime in the borough over the last 5 years. Volume has shown a steady increase. Harm figures have fluctuated but as can be seen, 2021/22 gave the highest figures over the last five years for both alcohol volume and harm.
- The data shows that over 60% of alcohol related crime volume committed in the borough in 2021/22 was violence against the person. In relation to alcohol related crime harm in the borough in 2021/22, over half of all committed were sexual offences and around a third was violence.
- Alcohol related crime is closely linked to domestic violence which has also seen higher levels of reported offences in Croydon. Alcohol related crime flagged as domestic has increased year on year over the past five years with 40% of all crimes being domestic in 2021/22.
- That said, the proportion of alcohol related crime harm flagged as domestic committed over the last five years has stayed fairly static at 27%.
- PHE analysis of alcohol sales data has shown a positive association at local authority level between off sales and alcohol specific hospital admissions.

3.11 In respect of cumulative impact area 1 (Along the Brighton Road; South End; High Street, George Street corridor) members will notice that this corridor flows through one of the areas in the borough with the highest density of off licenses per population. It will also be noted that this corridor flows through the area in the borough with the highest rates in 2021/22 for both alcohol related crime volume and harm. In addition, it can be seen that this corridor flows through one of the two areas in the borough with the highest volume of ASB incidents in 2021/22.

3.12 In respect of cumulative impact area 2 (Along the London Road/Streatham High Road corridor) members will note that this corridor flows through areas with high numbers of off licenses per population and also one of the areas in the borough with the highest density of off licenses per population. It will also be noted that this corridor flows through two areas with high rates in 2021/22 for both alcohol related crime volume and harm. In addition, it can be seen that this corridor flows through one of the two areas in the borough with the highest volume of ASB incidents in 2021/22.

3.13 In respect of the cumulative impact area 3 (Along the Brigstock Road and High Street, Thornton Heath corridor) members will note that this corridor abuts two of the areas in the borough with the highest density of off licenses per population. It will also be noted that this corridor flows through areas that in 2021/22 had high levels of both alcohol related crime volume and harm. In addition, it can be seen that this corridor flows through two areas with high volumes of ASB incidents in 2021/22.

3.14 In respect of the cumulative impact area 4 (Along the length of Central Parade, New Addington) members will notice that that this corridor flows through one of the areas in the borough with the highest density of off licenses per population. Members will also note that in 2021/22, this area had lower (though not the lowest in the borough) levels of alcohol related crime volume and harm and anti-social behaviour than the three preceding CIAs.

- 3.15 Members will note that the four current CIAs saw the highest volume of alcohol related offences in 2021/22 in the last five years. This was measured by identifying the number of offences in a 150m area of the CIAs. It is considered that the above referenced problems are being caused or exacerbated by the cumulative impact of licensed premises in the area(s) described which sell alcohol for consumption off the premises. Consultation was therefore undertaken on these four areas being cumulative impact areas in future.
- 3.16 Having regard to the contents of Appendix 1 and to the consultation responses detailed at Appendix 3 and 4 the Licensing Committee, acting as Licensing Authority of the Council, is recommended to determine that it remains of the opinion that the number of relevant authorisations (for 'Off' sales of alcohol by off licences, shops and supermarkets that are permitted to sell alcohol for consumption 'Off' the premises) in respect of premises in cumulative impact areas 1-4 as described in the cumulative impact assessment at Appendix 7 is such that it is likely that it would be inconsistent with the authority's duty under section 4(1) of the Licensing Act 2003 to grant any further relevant authorisations in respect of premises in cumulative impact areas 1-4.

Cumulative Impact Area 5: proposed new area: High Street and Portland Road, South Norwood:

- 3.17 Having regard to Appendix 1, members will notice that in the High Street and Portland Road area of South Norwood, both alcohol related crime volume and alcohol related harm were at their highest in that area in 2021/22 over the previous five-year period, with significant increases in both volume and harm between 2019/20 and 2021/22. Two of the licensing objectives in the Act are the prevention of crime and disorder and the prevention of public nuisance.
- 3.18 Between February 2018 and July 2022, the Licensing Authority received 9 applications for premises which sell alcohol off the premises in this area and this has led to a net increase in the number of premises selling alcohol for consumption off the premises by 2 premises. In this area, there are currently 30 premises which are classified as shops, supermarkets or off licenses and are authorised to sell alcohol off the premises, with 10 being on High Street and 20 on Portland Road.
- 3.19 In light of the increased alcohol related crime volume and alcohol related harm, it was considered that the above referenced problems are potentially being caused or exacerbated by the cumulative impact of licensed premises in the area(s) described which sell alcohol for consumption off the premises. Accordingly, consultation on including the area detailed in paragraph 3.19 below as a future cumulative impact area was suggested so that the Council is able to determine whether or not it is likely that granting further premises licenses in that area (in this case for 'Off' sales of alcohol from off-licenses, shops and supermarkets) would be inconsistent with the authority's duty to promote the licensing objectives under the Act.
- 3.20 A proposal to introduce a new Cumulative impact area (Cumulative Impact Area 5) was therefore consulted on as part of the review. The area identified was High Street, South Norwood from the junctions with Oliver Grove and Station Road to the junction with Lancaster Road and Portland Road from the junction with High

Street to the junction with Spring Lane, Woodside in respect of sales of alcohol off the premises from off licenses, supermarkets and shops on the basis that the current evidence indicates that it experiences high levels of alcohol related crime and alcohol related hospital admissions and the density of shops selling alcohol for consumption off the premises is significantly higher than in other parts of the borough. A map of this proposed area is at Appendix 2 (marked cumulative impact area 5)

3.21 Having regard to the contents of Appendix 1 and to the consultation responses detailed at Appendixes 3 and 4 the Licensing Committee, acting as Licensing Authority of the Council, is recommended to determine that it is of the opinion that the number of relevant authorisations (for 'Off' sales of alcohol by off licences, shops and supermarkets that are permitted to sell alcohol for consumption 'Off' the premises) in respect of premises in cumulative impact area 5 as described in the cumulative impact assessment at Appendix 7 is such that it is likely that it would be inconsistent with the authority's duty under section 4(1) of the Licensing Act 2003 to grant any further relevant authorisations in respect of premises in cumulative impact area 5.

#### Consultation outcome:

3.22 The statutory consultation ran from 4 October 2022 for a period of 6 weeks, closing on 15 November 2022 and further detail relating to Consultation and future publication requirements are set out in Section 4 below.

3.23 Written comments were received during the consultation period and a copy of those comments are attached at Appendix 3. Would committee members please note that in numerical terms, the consultation for the current review drew a greater volume of responses than previous reviews and the responses indicated that a majority of respondents supported the proposals in relation to cumulative impact areas. A schedule of the specific comments made is attached at Appendix 4 to this report showing where it is proposed that the policy is changed, or conversely is not altered, as a result of those comments.

#### Proposed changes to the Statement of Licensing Policy:

3.24 In undertaking the consultation and revisions to the Statement of Licensing Policy and considering the proposals in respect of the Cumulative Impact Areas as detailed in the Cumulative Impact Assessment, the Licensing Authority has had regard to the Licensing Act, secondary regulations, the Home Office Guidance issued to Local Licensing Authorities under s182 of the Act (April 2018 edition) and the outcome of the consultation.

3.25 In light of the outcome of the consultation and having due regard to the equalities impact assessment and the Council's public sector equalities duty, Licensing Committee is recommended to approve the below summarised changes be made to the Statement of Licensing Policy and that the revised Statement of Licensing Policy at Appendix 8 be recommended to Full Council for approval.

3.26 A summary of the recommended changes are as follows:

- Retain the four current [Cumulative Impact Areas](#) as listed in the existing licensing policy



- Introduce a new, fifth Cumulative Impact Area for High Street and Portland Road, South Norwood into the licensing policy
- Remove the two '[special stress areas](#)' – High Street & Portland Road, South Norwood and Lower Addiscombe Road
- Update general details in the policy such as borough population, committee and board names and responsibilities. This includes changes to incorporate the new governance structure of the Council with the election of an Executive Mayor and reflects the aspirations for the borough.
- Additional wording regarding Equalities duties for the Council and operators
- Updates to references to relevant guidance documents

#### 4. CONSULTATION AND PUBLICATION

4.1 Section 5(3) of the Licensing Act 2003 specifies which parties must be consulted with as part of any review of a Statement of Licensing Policy or in respect of cumulative impact area reviews or the introduction of new cumulative impact areas and these are –

- the chief officer of police for the licensing authority's area;
- the fire and rescue authority for that area;
- each Local Health Board for an area any part of which is in the licensing authority's area;
- each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area;
- such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
- such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority;
- such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and,
- such other persons as the licensing authority considers to be representative of businesses and residents in its area.

4.2 In terms of selecting “such other persons” as are referenced in paragraph 4.1 above, the Council also consulted a wide range of community organisations, relevant trade associations, all Croydon ward councillors and the three borough MPs. In addition, all available council communication channels were used to promote the consultation and encourage people to complete the survey.

4.3 The consultation on the review of the Statement of Licensing Policy and cumulative impact assessment (which detailed 4 existing and 1 new proposed cumulative impact area) commenced on 4 October 2022. A copy of the current licensing policy together with information setting out the proposed amendments to the policy was circulated to statutory consultees and a number of interested parties under the definition of “such other persons”. In addition, all available council communication channels were used to promote the consultation and encourage people to complete the survey, including via social media and the Council's website. A list of statutory consultees and interested parties included in the consultation is attached at Appendix 5.

- 4.4 The statutory consultees and interested parties were asked for their comments and views on the proposed amendments to the policy. The Council undertook an online consultation and survey which invited residents and those working in the borough to give their views on the proposals. A copy of all information and documentation included in the consultation can be found at the following link: [Have your say on Croydon's licensing policy | Get Involved Croydon](#) . In addition, consultees were also invited to contact the Council's Licensing Team directly with comments at [licensing@croydon.gov.uk](mailto:licensing@croydon.gov.uk) .
- 4.5 The consultation period was 6 weeks, ending on 15 November 2022. A copy of the consultation documentation can be found at the link at 4.4 above and in addition, a copy of the consultation survey questions is attached at Appendix 6.
- 4.6 Would the committee please note that if the revised Statement of Licensing Policy is approved by Full Council, officers will make arrangements to ensure that the Statement of Licensing Policy and Cumulative Impact Assessment is published in accordance with statutory requirements. It is proposed that the revised policy and cumulative impact assessment will be operative from no later than February 2023.
- 4.7 The timetable leading up to the Licensing Policy being republished is as follows:

DATE	ACTION
15.11.22	Deadline for consultation responses.
29.11.22	Licensing Committee
14.12.22	Full Council
16.12.22	Publication
February.23	Operative Date of new Statement of Licensing Policy

## 5. FINANCIAL CONSIDERATIONS

### 1 Revenue and Capital consequences of report recommendations

There are no direct financial implications associated with this report, subject to the risks at 2 & 3 below. This matter is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

### 2 The Effect of the Decision

Decisions of the Licensing Sub Committee, the substantive licensing committee and full Council may be subject to appeal and/or Judicial Review.

### 3 Risks

An appeal against a decision of the Licensing Sub-Committee or a Judicial Review of the application and/or policy making processes, including a Judicial review in respect of the Statement of Licensing Policy or adoption or retention of cumulative impact areas may present financial risks to the Council with regard to undertaking litigation and any award of costs against it which might arise as a result.

#### **4 Options**

There are no other options available to the Council. The Council is required to review its statement of Licensing Policy in the statutory time frame. In addition, the Council is required to review existing Cumulative Impact Areas to consider whether or not it is of the view that they ought to be retained. The Council has the power to consider the introduction of further cumulative impact areas subject to the necessary evidence.

#### **5 Savings/Future Efficiencies**

None identified

(Approved by: Darrell Jones, Acting Head of Finance Sustainable Communities, Regeneration & Economic Recovery)

### **6. COMMENTS OF THE SOLICITOR TO THE COUNCIL**

- 6.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Legal Services and Monitoring Officer that the Statement of Licensing Policy provides the framework under which the licensing function is administered and the Council's approach under the Licensing Act 2003.
- 6.2 The Licensing Act 2003 requires the determination and publication of a Statement of Licensing Policy for each successive five year period. The current policy expires in 2023. The Council must keep the policy under review during the five year period and make such changes as are considered necessary.
- 6.3 In accordance with the Licensing Act 2003 the Statement of Licensing Policy must be determined by Full Council after consultation has been undertaken with prescribed bodies. These prescribed bodies are detailed in section 4 above.
- 6.4 The Licensing Authority must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 when drafting its policy and in undertaking any reviews of existing cumulative impact areas or seeking to remove or introduce new cumulative impact areas. The latest version of the Statutory Guidance was issued by the Home Office in April 2018.
- 6.5 Section 5A of the 2003 Act sets out what a licensing authority needs to do in order to publish a Cumulative impact Assessment and review it, including the requirement to consult with the persons listed in section 5(3) of the 2003 Act. These are the same parties who are set out in Section 4 above. The 2003 Act does not stipulate how the Cumulative impact assessment should be used once published, because the requirements for determining applications for new licences or variations are the same in areas with a Cumulative impact area (CIA) as they are elsewhere, as set out in sections 18, 35, 72 and 85 of the Act. However, any Cumulative impact assessment published by a licensing authority must be summarised in its statement of licensing policy. Under section 5(6D) a licensing authority must also have regard to any Cumulative impact assessment it has published when determining or revising its statement of licensing policy.

- 6.6 The Cumulative Impact assessment 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.
- 6.7 Cumulative Impact Assessments 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. The assessment 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. The licensing authority must make clear, when publishing its assessment, which premises types it applies to. CIA's do not apply to Temporary Event Notices (TEN's).
- 6.8 While the evidence underpinning the publication of a Cumulative Impact Assessment 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 (Cumulative Impact Area) 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. Importantly, the publication of an assessment 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 the case. 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. Members will also be aware that it is only when an application has drawn relevant representations and been referred to the licensing sub-committee as a result of those representations, that cumulative impact can be considered. Where no relevant representations have been received, the Sub-Committees' ability to consider the matter is not engaged.
- 6.9 After considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act and any others, a licensing authority may be satisfied that it is appropriate to publish a Cumulative Impact Assessment. The steps to be followed in considering whether to publish a assessment are summarised below -
- Identify concern about crime and disorder; public safety; public nuisance or protection of children from harm in a particular location.
  - Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.
  - If there is evidence that such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that cumulative impact is imminent.
  - Identify the boundaries of the area where problems are occurring

- For the purposes of the consultation provide the persons specified in section 5(3) with the following information:
  - the reasons why it is considering publishing an assessment;
  - a general indication of the part or parts of its area which it is considering describing in the assessment;
  - whether it considers that the assessment will relate to all premises licence and club premises certificate applications and variation applications, or only to those of a particular kind described.
- Subject to the outcome of the consultation, include and publish details of the assessment, including the evidence in support of the assessment and the particular kinds of premises the assessment relates to.
- Summarise the licensing authority's opinion in light of the evidence of cumulative impact (or any revision to an existing opinion) in the licensing policy statement and explain within the policy statement how the authority has had regard to any assessments it has published under section 5A. The summary within the licensing policy statement should include, but is not limited to: the nature of the problems identified and the evidence for such problems; the geographical extent of the area covered by the assessment; the types of premises described in the assessment; and the types of applications for which it would likely be inconsistent with the licensing authority's duty to promote the licensing objectives to grant.
- After publishing an assessment the licensing authority must, within three years, consider whether it remains of the opinion set out in the assessment. In order to decide whether it remains of this opinion it must again consult the persons listed in section 5(3). If having consulted with the statutory list of persons the licensing authority decides that it is no longer of the opinion set out in the assessment, it must publish a statement to that effect. The statement must make clear that any reference to the assessment in its licensing policy statement no longer applies. The licensing authority should then remove any reference to the assessment within its licensing policy statement at the earliest opportunity.

6.10 If, having consulted, the licensing authority decides that it remains of the opinion set out in the assessment, it must revise the assessment to include a statement to that effect and set out the evidence as to why it remains of that opinion. It will be important for any evidence included in the revised assessment to be robust and relevant to the current problems described. The licensing authority must also at this stage publish any other material change to the assessment. For example, if the types of premises or area described in the assessment have changed due to a shift in the nature of the problems being experienced or where there is evidence of the emergence of a new type of problem.

Approved by: Sandra Herbert Head of Litigation and Corporate Law on behalf of Stephen Lawrence-Orumwense, Director of Legal Services and Monitoring Officer

## **7. HUMAN RESOURCES IMPACT**

7.1 The workload associated with the review of the Licensing Policy will be undertaken within existing resources.

## **8 EQUALITIES IMPACT**

8.1 The council has an obligation under the Public Sector equality duty, which is to eliminate unlawful discrimination, to advance equality of opportunity and to build better relationships between groups with protected characteristics. All negative impacts associated with this proposal have been identified and mitigated for groups with protected characteristics in the EQIA.

Since sign off in September, the service have enhanced the supporting EQIA with consultation comments which are significantly supportive of the proposals.

Approved by: Gavin Handford (Director of Policy, Programmes and Performance)

## **9 ENVIRONMENTAL IMPACT**

9.1 The provisions of the Licensing Act 2003 include consideration of the environmental impact of licensed premises.

## **10 CRIME AND DISORDER REDUCTION IMPACT**

10.1 Three of the four licensing objectives in the Act relate to the prevention of crime and disorder and public nuisance and the protection of children from harm. The licensing policy is a document that the Council, as licensing authority, should have regard to when deciding licence/certificate applications.

## **11 DATA PROTECTION IMPLICATIONS**

### **11.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

Whilst personal data may be processed as part of the consultation, the information will not be shared any further. A DPIA is mandatory where data processing "is likely to result in a high risk to the rights and freedoms of natural persons". In this instance the information that may be processed has been categorised as low risk and therefore a DPIA is not required.

(Approved by: Steve Iles, Director of Sustainable Communities)

**CONTACT OFFICER:** Michael Goddard, Head of Environmental Health,  
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**BACKGROUND DOCUMENTS:** None

### **APPENDICES:**

Appendix 1: Evidence base regarding cumulative impact for consultation purposes  
Appendix 2: Map of proposed cumulative impact area 5

- Appendix 3: Survey response report
- Appendix 4: Comments to consultation with responses and recommendations regarding policy
- Appendix 5: Consultees list
- Appendix 6: Survey questions
- Appendix 7: Draft Cumulative Impact Assessment: November 2022
- Appendix 8: Revised Statement of Licensing Policy