

Gambling, Licensing & Regulatory Committee 2 March 2022

Report from the Director – Environment, Transport and Planning

Licensing Act 2003 – Statement of Licensing Policy & Cumulative Impact Assessment

Summary

1. In accordance with the requirements of Section 5 of the Licensing Act 2003 (the 2003 Act) this report seeks members support of the formal review of the council's Statement of Licensing Policy. It advises of the consultation undertaken and of the amendments made.
2. In accordance with the requirements of Section 5A of the 2003 Act this report also seeks members support for the implementation of a Cumulative Impact Assessment in relation to part of the city centre. It advises of the consultation undertaken.
3. The report seeks a recommendation to Council that the revised Policy and Cumulative Impact Assessment be adopted.

Recommendations

4. The Committee is asked to:
 - Approve option 1 and recommend to Council that the draft Statement of Licensing Policy and Cumulative Impact Assessment are adopted.

Reason: To reflect the result of the consultation and meet legislative requirements of the Licensing Act 2003.

Background

Statement of Licensing Policy

5. Section 5 of the 2003 Act requires licensing authorities to determine and publish a Statement of Licensing Policy (Policy), at least every five years. City of York Council current Policy was approved by

Council on 21 March 2019 (the Cumulative Impact Assessment must be reviewed at least every three years, hence this report, see below).

6. The Act requires that, before determining its Policy, the licensing authority must consult:
 - a) the chief officer of police
 - b) the fire authority
 - c) persons representative of premises licence and club premises certificate holders
 - d) person representative of personal licence holders
 - e) persons representative of businesses and residents
7. A full review of the policy has taken place, in line with the review of the cumulative impact assessment.
8. The draft revised Policy can be found at Annex 1. A list of the amendments made to the revised Policy can be found at Annex 2.

Cumulative Impact Assessment

9. In accordance with previous provisions within the Section 182 Guidance to Licensing Authorities, the Council has included a Special Policy relating to cumulative impact (known as the cumulative impact zone CIZ) within its Statement of Licensing Policy since 2005, following the receipt of evidence provided by North Yorkshire Police (NYP) and the Council's Public Protection Service (noise), in relation to an area identified within York city centre. This Special Policy has been reviewed on three occasions in accordance with the requirements of the 2003 Act.
10. In April 2018 the Police and Crime Act 2017 introduced a new provision within the 2003 Act, Section 5A. This provision provides that a licensing authority may, in appropriate circumstances, publish a document, a cumulative impact assessment (CIA), stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the Assessment, is such that it is likely that it would be inconsistent with the authority's duty under the 2003 Act to grant any further relevant authorisations in respect of premises in that part or those parts.
11. The CIA must set out the evidence for the authority's opinion, must be consulted upon before it is published and it must be reviewed at least every three years.

12. As required by Section 5A of the 2003 Act the Council has reviewed the area identified within the CIA. NYP have provided statistical data for the area, which includes crime associated with the consumption of alcohol and Public Protection has provided data relating to noise associated with the operation of licensed premises. From this data the Council, in consultation with NYP, has developed its second draft Assessment in relation to an area that has been identified in York city centre.
13. This cumulative impact area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
 - prevention of crime and disorder
 - prevention of public nuisance
14. The CIA relates to applications for the grant and/or variation of premises licences, club premises certificates or the issue of provisional statements.
15. By publishing a CIA the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the CIA when determining or revising the Statement of Licensing Policy. The CIA does not change the fundamental way that a licensing decision is made, as each application will be considered on its own merits. Where no relevant representations are received an application will be granted in terms consistent with the operating schedule.
16. Within the CIA red zones have been identified due to the high concentration of licensed premises, the impact of which have led to a high level of occurrences in relation to crime and disorder related issues. Where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone, the application should be refused.
17. Within the CIA amber zones have been identified, again due to the high concentration of licensed premises, the impact of which has led to a high level of occurrences in relation to crime and disorder related issues. Unless an application relates to a food led operation, as detailed in the Policy, where relevant representations are received,

unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone the application should be refused.

18. Cumulative impact and the CIA are covered in Section 9 of the draft Policy. The draft CIA can be found at Annex 3.
19. The full report received from NPY can be found at Annex 4.

Consultation

20. A 12 week consultation was carried out on the Policy and the CIA between 18 November 2021 and 10 February 2022. The process for the consultation involved direct mailing and use of the council's website.
21. The council consulted over 50 organisations/individuals as part of the consultation process (see Annex 5 for list of consultees) and all licensed premises within the authority area.
22. Three responses were received to the consultation. The responses are attached at Annex 6.
23. Consultation responses have been taken into consideration, and where required, the draft Policy has been amended accordingly.

Options

24. Option 1 – Recommend to Full Council that the draft Policy and Cumulative Impact Assessment are adopted.
25. Option 2 – Recommend to Full Council that the draft Policy and Cumulative Impact Assessment is amended with alternative wording agreed by members.

Analysis

26. The council's first Policy was published in January 2005. The Policy has been fully reviewed and published on a further four occasions, January 2008, January 2011, January 2014 and January 2019.
27. At the request of NYP, the council's Policy has included a special policy on saturation and cumulative impact (CIZ) since April 2005. The boundary for the first CIZ was based on patterns of crime and disorder prior to that date. The first zone included the main drinking areas on the west of the river Blossom Street, Micklegate, George

Hudson Street, Rougier Street and Bridge Street, only including Low Ousegate, Spurriergate and Clifford Street on the east of the river.

28. The CIZ has been reviewed on three occasions at the request of NYP, in July 2010 and March 2014 to increase the CIZ area due to the changes in patterns of crime and disorder, to include areas such as Coney Street, Swinegate, Fossgate and Parliament Street. In July 2016 the Special Policy was reviewed to include applications for material variations.
29. The first CIA was published in January 2019. As a CIA has to be evidence based, the area within the city centre included within the CIA was reduced slightly from that of the former CIZ area. This was due to changes in patterns of crime. The only changes in the proposed CIA relate to the red zone, the larger red zone area has reduced to create four small zones, and the introduction of the four ambers zones.
30. There are currently 1022 premises licences and 45 club premises certificates in force, of which:
 - 319 premises are within the CIA
 - 688 authorise the sale/supply of alcohol on and off the premises
 - 194 authorise the sale/supply of alcohol off the premises (off sales)

Council Priorities

31. The Licensing Act 2003 has 4 objectives:
 - Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
32. The implementation of a Licensing Policy and the promotion of the licensing objectives will support the Council's Plan for a prosperous city for all, where local businesses can thrive and a council that listens to residents.

Implications

33. The implications arising from this report are:
 - **Financial:** There are no direct financial implications associated with this report.

- **Human Resources:** There are no Human Resources implications associated with this report.
- **Equalities:** An equalities impact assessment has been completed. There are no equalities implications associated with this report.
- **Legal:** It is a legal requirement of the Licensing Act 2003 that the Council is required to review and publish a statement of licensing policy every five years. The policy, or any part of it, can be reviewed at any time within that five year period. It is a legal requirement of the 2003 Act that the Council must review the CIA every three years. The CIA can be reviewed at any time within that three year period.
- **Crime and Disorder:** The Policy and the CIA promotes the licensing objective “the prevention of crime and disorder”.
- **Information Technology (IT):** There are no IT implications associated with this report.
- **Other:** There are no other implications associated with this report.

Risk Management

34. There are no known risks associated with this report.

Contact Details

Author:

Lesley Cooke
Licensing Manager
Phone: 551515

Chief Officer Responsible for the report:

James Gilchrist
Director (Environment, Transport and Planning)

**Report
Approved**



Date 21/02/2021

Specialist Officer Implications: None

Wards Affected:

All



Background Papers:

Licensing Act 2003

<https://www.legislation.gov.uk/ukpga/2003/17/contents>

Section 182 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

Statement of Licensing Policy 2019 - 2024

<https://www.york.gov.uk/LicensingPolicy>

Annexes

Annex 1: Draft Statement of Licensing Policy 2022

Annex 2: List of Amendments to the Draft Policy

Annex 3: Draft Cumulative Impact Assessment

Annex 4: North Yorkshire Police CIA Report

Annex 5: List of Consultees

Annex 6: Consultation Responses