

## 6. Cumulative Impact Policy

- 6.1 'Cumulative impact assessments' (CIA) were introduced into the 2003 Act by the Policing and Crime Act 2017, with effect from 6 April 2018. Cumulative impact is the potential impact on the promotion of the licensing objectives by a number of licensed premises concentrated in one area. This should not be confused with the issue of "need" which relates to the commercial demand for licensed premises and cannot be taken into account when determining licensing applications.
- 6.2 There is evidence of an association between the density of outlets licensed to sell alcoholic beverages and the occurrence of alcohol-related crime and social disorder. In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 6.3 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery as well as predatory behaviours preying on the vulnerable. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 6.4 There are around 1000 licenced premises in Southampton. A map showing all of the licenced premises across Southampton can be found on the council website: <https://www.southampton.gov.uk/business-licensing/licensing/map-licensed-premises.aspx>

### STRESS AREAS

- 6.5 In some circumstances an area may have such numbers of licensed premises / activities that it becomes a focal point for large groups of people to congregate and eventually leave. This can create exceptional problems of crime, disorder, noise and other nuisance.
- 6.6 Stricter controls will generally be expected and may be imposed, if appropriate and proportionate, with regard to noise controls in areas which have denser residential accommodation.
- 6.7 The Licensing Authority wishes to support businesses to create a vibrant social economy and need to balance this with its other responsibilities to support the licensing objectives. Each case is determined on its own merits and any application able to demonstrate it will not adversely impact the licensing objectives should have its application granted.
- 6.8 The five CIPs, generally, deal with the following matters:
1. Identifies the areas
  2. The basic operation of the policy
  3. How hearings will deal with applications within stress areas

4. How evidence of Cumulative Impact is dealt with outside of a stress area
5. How hearings will apply the CIP to applications from within or out of a stress area.

### **POLICY CIP 1 - Stress areas**

- 6.9 The Licensing Authority believes that four areas identified in Appendix A are suffering from Cumulative Impact and are designated as the “Bedford Place Stress Area”, the “Above Bar Street Stress Area”, the “Bevois Valley Stress Area” and the Oxford Street area. The Bedford Place and Above Bar Street stress areas remains the same. Bevois Valley is extended to take in Charlotte Place and new area of the Eastern half of Oxford Street is a new Stress Area.
- 6.10 Reason: Evidence indicates that these areas already suffer from cumulative impact and that it is appropriate, proportionate and necessary for special policies to address that issue. In 2022 when looking at NTE offences only, Southampton Central sector has 79% of offences. This increases for certain offence types such as rape and weapons possession (90%) and decreases for public order (63%). Although police data recommends the removal of the Bevois Valley stress area it is identified as a hot spot for incidents of violence against women and girls.
- 6.11 The density of licensed premises in the identified stress areas is higher than other parts of the city and therefore the numbers of licensed premises operating in these areas is taken into account in the application of the CIP policy.

### **POLICY CIP 2 - The basic operation of the policy**

- 6.12 Where representations are received in respect of applications for either new premises or variations to existing premises in the three Stress Areas a rebuttable presumption will apply that such applications shall be refused. This policy applies to applications of the types listed below:
- New premises licences
  - New club premises certificates
  - Provisional statements, including those for material variations to existing premises licences or club premises certificates (i.e. where the modifications are directly relevant to the issue of cumulative impact (e.g. those which significantly increase the capacity of the premises)
  - Substantial variations to existing premises or club premises licences (e.g. length of opening hours or increase in period licensable activities may take place). Whether a variation is “substantial” for the purposes of this policy shall be determined by the Licensing Authority in any instance of doubt
  - This includes applications for sale of alcohol by retail either on, or off or both types of sales and Late Night Refreshment
- 6.13 Reason: To ensure that those applications which will add to the cumulative impact already being experienced are refused
- 6.14 This policy creates a rebuttable presumption that certain types of applications will normally be refused. Because of the short life of activities covered by a Temporary Event Notice these will not be taken into account when considering cumulative impact other than in relation to the crime and disorder objective. However, that does not prevent the reverse – i.e. the consideration of cumulative impact or the fact that a proposed premise for a Temporary Event Notice is within a designated Stress Area when applying the relevant statutory test.

- 6.15 The onus shall be upon applicants to demonstrate through their Operating Schedule and, where appropriate, supporting evidence such as risk assessments, that the operation of the premises will not add to the cumulative impact already being experienced. The standard of proof for the consideration by the Licensing Committee of any application or matter relating to cumulative impact shall be on the balance of probabilities. This policy, however, does not relieve Responsible Authorities or Interested Parties of the need to make representations raising cumulative impact as an issue before such applications are considered in light of the policy. If no representations are received then the application must be granted in terms consistent with the submitted Operating Schedule.
- 6.16 Applications for Provisional Statements may be made where new premises are proposed but have not yet been built or where a substantial variation is proposed to existing premises. Potential licensees may make such an application in order to have a degree of assurance that a licence would be granted before committing themselves to the necessary investment.
- 6.17 Where a Provisional Statement has been issued by the Authority to the effect that an application would be granted and the schedule of works accompanying the application for the Provisional Statement is completed satisfactorily then any subsequent application for a premises licence must be granted and any objection raised at that stage which could have been raised at the Provisional Statement stage must be disregarded (unless there has been a material change in circumstances).
- 6.18 It is important therefore that if there is potential for new or altered premises to contribute to or cause cumulative impact in any given area that the issue is addressed as soon as possible in the licensing process and that Responsible Authorities recognise the continuing requirement to make representations based on cumulative impact if appropriate. For this reason the Provisional Statement procedure is included in **the policy and accordingly the rebuttable presumption will apply when considering applications for provisional statements.**
- 6.19 After publishing a CIA 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) of the Licensing Act 2003. 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 CIA, it must publish a statement to that effect. The statement must make clear that any reference to the CIA in its licensing policy statement no longer applies. The licensing authority should remove any reference to the CIA within its licensing policy statement at the earliest opportunity.
- 6.20 If having consulted the Licensing Authority decides that it remains of the opinion set out in the assessment, it must revise the CIA to include a statement to that effect and set out the evidence as to why it remains of that opinion. The licensing authority must also at this stage publish any other material change to the assessment.
- 6.21 Responsible Authorities and other persons may make representations on specific applications concerning cumulative impact even though those applications are not for premises in designated Stress Areas (and therefore not covered by this policy). In such circumstances the application may be refused (though there will be no presumption that this will be the case) and the Authority may then choose to review this policy statement and consult as to whether the particular area should be formally designated as a Stress Area to which policy CIP2 (or one similar) should apply. To be clear, nothing within this policy shall prevent the consideration of cumulative impact

issues simply because a premise (or proposed premises) is not situated within a designated Stress Area.

## **EXEMPTIONS**

- 6.22 The creation of a “Cultural Quarter” has been fulfilled with a wide variety of activities both within new buildings such as the Sea City Museum and new Arts Complex opposite Guildhall Square, existing buildings, and the improved and expanded Guildhall Square all of which fall within the area of Above Bar partly covered by the above Stress Area as shown edged with a broken line on the attached plan at Appendix B.
- 6.23 The policy is to encourage venues within the Cultural Quarter which promote well run family friendly sit down eating and drinking, complement the City’s cultural offer and may include al fresco dining, subject to appropriate licensing restrictions. These may include theatres, other performing arts venues, galleries and restaurants.
- 6.24 The Licensing Authority will ordinarily treat applications in relation to any licensing use in the Guildhall Square, or within or directly related to any building primarily used for an arts or cultural purpose as an exception to the CIP but each matter will be judged on its merits.

## **POLICY CIP 3 - How hearings will deal with applications within stress areas**

- 6.25 The CIA does not change the fundamental way that licensing decisions are made. It is therefore open to the Licensing Authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that on the balance of probabilities they would not be adding to the cumulative impact. Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the licensing authority decides to grant an application it will need to provide the applicant, the chief officer of police and all parties who made relevant representations with reasons for granting the application and this should include any reasons for departing from their own policy.
- 6.26 Whilst making any decision the Committee shall not ordinarily consider the following as an exception to the policies applying to Stress Areas or as justification for departure from those policies:
- The quality of management of the premises
  - The character or experience of the applicant
  - That the capacity, size, hours or any increase therein applied for, is not substantial
  - That the applicant has a good understanding of how to reduce the potential for crime on the premises

## **POLICY CIP 4 - How evidence of Cumulative Impact is dealt with outside of a stress area**

- 6.27 In cases where Responsible Authorities or other persons seek to establish that an application, other than within a stress area, should be refused on the grounds that it would result in or further contribute to a cumulative impact which would undermine one or more of the Licensing Objectives they shall be expected to:
1. Identify the boundaries of the area from which it is alleged problems are arising
  2. Identify the Licensing Objective(s) which it is alleged will be undermined;
  3. Provide full details and evidence with specific regard to the matters listed in Policy CIP1 to 4 to show the manner and extent to which it is alleged that the

Licensing Objective(s) are being, or are at risk of being, undermined in the area;

4. Provide evidence to show that the undermining of the objective(s) is caused by the patrons of licensed premises in the area.

6.28 Reason: To ensure that representations are neither frivolous nor vexatious and that there is an evidential basis for the Committee to reach a decision.

### **REPRESENTATIONS IN RESPECT OF APPLICATIONS IN STRESS AREAS**

6.29 Where a representation seeks to establish that the grant or variation of a premises licence within an existing designated Stress Areas would undermine one or more of the Licensing Objectives and add to the Cumulative Impact the following paragraph and CIP policy 5 will apply.

6.30 In cases where those making representations seek to establish that an application should be refused on the grounds that it would result in (or further contribute to) a Cumulative Impact, which would undermine one or more of the Licensing Objectives, the person or body making the representation shall be expected to:

6.31 Identify the Licensing Objective(s) which it is alleged will be undermined with specific regard to:

- the nature of the licensed activity to be carried on at the premises; and
- its patrons

### **POLICY CIP 5 - How hearings will apply the CIP to applications from within or out of a stress area**

6.32 In considering applications and representations relating to cumulative impact the Authority may, in addition to the matters listed in policy CIP3 above, have regard to matters that appear to be relevant including (but not limited to):

- The proximity of the proposed premises to others in the area concerned which are licensed or subject to a Provisional Statement for similar activities
- The estimated occupancy figures of existing licensed premises and those subject to a Provisional Statement, in the area concerned and the timings of those activities
- The operational hours of existing licensed premises and those subject to a Provisional Statement, in the area
- The nature of licensed activities in the area and those to be carried on at the proposed premises
- Whether, if the grant of the application would result in or further contribute to a cumulative impact, conditions would be effective in addressing the issue
- The proposed hours of operation of the licensed activities
- Transport provision for the area

6.33 Reason: To ensure that regard is had to all relevant considerations relating to the area.

6.34 The Council will seek to identify mechanisms outside of the licensing regime that are available for addressing the impact of anti-social behaviour and nuisance once patrons leave the vicinity of licensed premises or in respect of the management or operation of licensed premises, and that may lead to the declaration /removal of an area. Regard will be given to the statutory guidance in this respect and the following mechanisms which may be, or have been already, employed:

- Planning controls - positive measures to create a safe and clean city centre environment in partnership with local businesses, transport operators and other

departments of the local authority

- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
- Police enforcement of the normal law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- The confiscation of alcohol from adults and children in designated areas
- Police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- The power of the police, other responsible authorities or other persons to seek a review of the licence or certificate in question
- Early Morning Alcohol Restriction Orders
- Raising a contribution to policing the late night economy through the late night levy
- Any other local initiatives that similarly address these problems

6.35 The fact that particular premises are in a Stress Area cannot be used as a justification for removing an existing licence. If a representation is received that an existing licensed premises / activity is having an impact that undermines the Licensing Objectives, then Responsible Authorities and Interested Parties may request a review of that specific licence. Action may be considered by the Council under other parts of the policy.