

Bath & North East Somerset Council

MEETING:	Licensing Committee	
MEETING DATE:	20 April 2009	AGENDA ITEM NUMBER 9
TITLE:	Review of the Council's Cumulative Impact Policy	
WARD:	ALL	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix A: Copy of Map Showing the Cumulative Impact Area in Bath.		
Appendix B: Extract from the Council's Statement of Licensing Policy in relation to Cumulative Impact		
Appendix C: Comments from Responsible Authorities and Ward Councillors.		

1 THE ISSUE

1.1 The committee is asked to consider the impact of the Cumulative Impact Policy for Bath. At the meeting of the Council in September 2007 it was resolved that the Licensing Committee should examine the effects of the cumulative impact policy after one year of operation and, at that time, to consider whether the cumulative impact policy should be extended to cover other areas within Bath and North East Somerset.

2 RECOMMENDATION

The Licensing Committee is asked to:-

2.1 Note the findings of the report

2.2 Resolve to continue with the existing Cumulative Impact Policy.

3 FINANCIAL IMPLICATIONS

- 3.1 The cost of carrying out the consultation exercise has been met within existing budgets.

4 THE REPORT

- 4.1 Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of licensing policy every three years. Such a policy must be published before a licensing authority carries out any function in respect of individual applications made under the terms of the Act. During the three year period, the policy must be kept under review and a licensing authority may make any revisions to it, as it considers appropriate.
- 4.2 At the meeting of Full Council on the 13th September 2007, it was resolved that the Council's Statement of Licensing Policy should include a cumulative impact policy (CIP). A map showing the outline of the CIP is provided in Appendix A and the section of the proposed policy relating to cumulative impact (section 16 of the Policy) is provided in Appendix B.
- 4.3 At the meeting on the 13th September, Full Council Instructed the Licensing Committee to examine the effects of the cumulative impact policy after one year of operation and, at that time, to consider whether the cumulative impact policy should be extended to cover other areas within Bath and North East Somerset.
- 4.4 At the meeting on the 22nd November 2007, Council adopted the Statement of Licensing Policy, including the section on cumulative impact and the revised policy came into effect in January 2008.
- 4.5 During the period January to December 2008, there were 5 applications for new Premises licences and 10 applications for variations to existing licences within the CIP area. Of these applications none were refused.
- 4.6 Copies of the responses of the Responsible Authorities and the Councillors representing the city centre and surrounding Wards on the impact of the CIP over the 12 month period are provided in Appendix C.

5 RISK MANAGEMENT

- 5.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

6 EQUALITIES

- 6.1 The equality groups will be included within the consultation exercise and the consultation will be carried out in accordance with the equalities requirements for consultations.

7 CONSULTATION

7.1 Ward Councillors; Executive Councillor; Parish Council; Town Council; Other B&NES Services; Service Users; Local Residents; Community Interest Groups; Youth Council; Stakeholders/Partners; Other Public Sector Bodies; Section 151 Finance Officer; Chief Executive; Monitoring Officer

7.2 The consultation will be carried out in accordance with the Council's consultation policy.

8 ISSUES TO CONSIDER IN REACHING THE DECISION

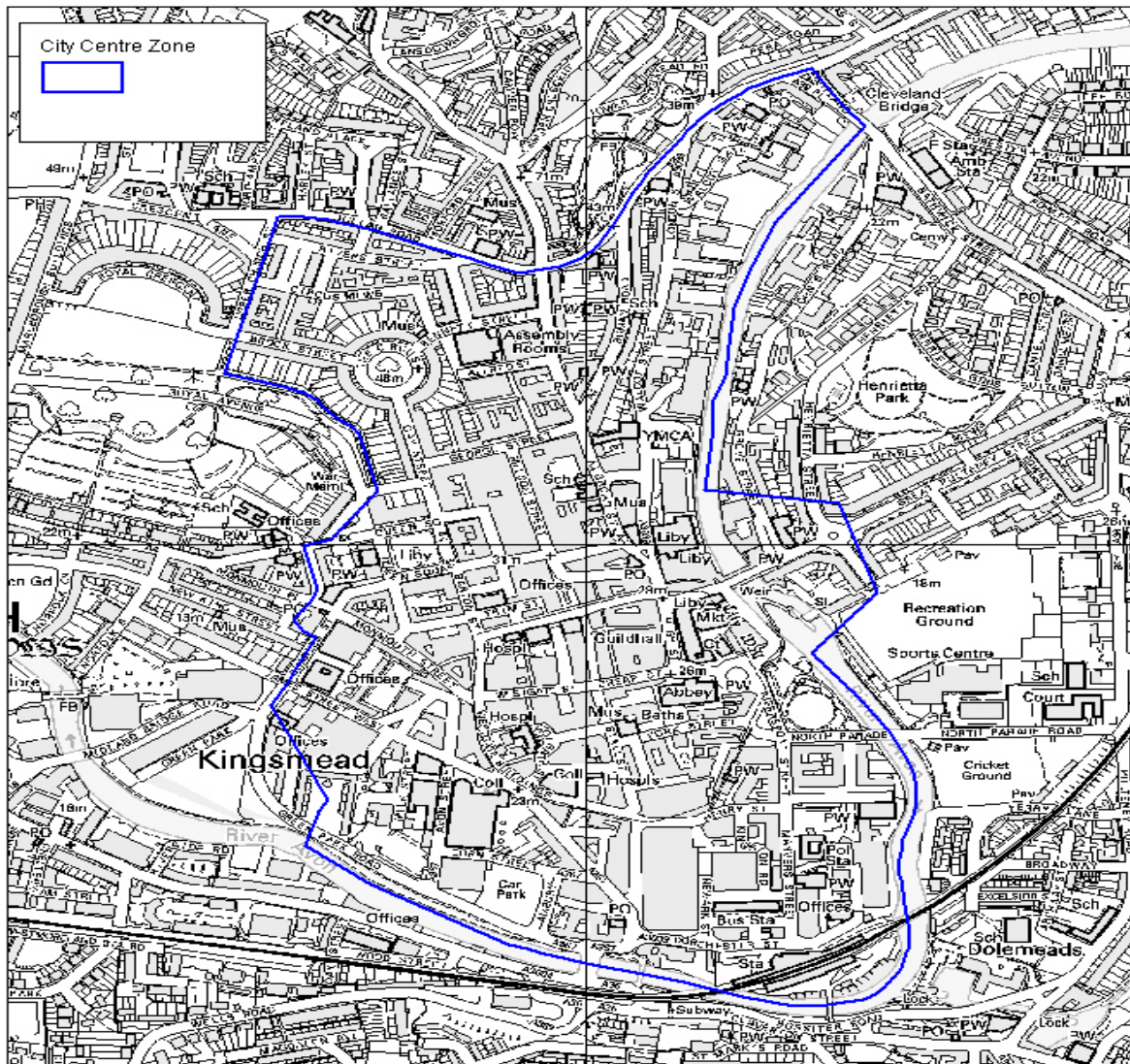
8.1 Social Inclusion; Customer Focus; Sustainability; Property; Young People; Human Rights; Corporate.

9 ADVICE SOUGHT

9.1 The Council's Monitoring Officer (Council Solicitor) and Section 151 Officer (Strategic Director - Support Services) have had the opportunity to input to this report and have cleared it for publication.

Contact person	Andrew Jones, Environmental Monitoring and Licensing Manager. Tel: 01225 477557
Background papers	Guidance issued under section 182 of the Licensing Act 2003 by the DCMS dated 28 June 2007
Please contact the report author if you need to access this report in an alternative format	

Outline of Cumulative Impact Policy for Bath City Centre



1/8 KM



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Extract from Bath and North East Somerset Council's Licensing Policy.

16 Cumulative Impact Policy

- 16.1 Cumulative impact is not mentioned specifically in the 2003 Act but the Guidance to the Act states that cumulative impact is the potential impact, on the promotion of the licensing objectives, of a significant number of licensed premises concentrated in one area. This collective effect is known as "cumulative impact". The Guidance further states that the cumulative impact of licensed premises, on the promotion of the licensing objectives, is a proper matter for a licensing authority to consider in developing its statement of licensing policy.
- 16.3 Where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder can arise in the vicinity of those premises. Where a number of licensed premises are grouped together, and particularly where they may be situated near residential areas, the problem can be compounded. The distribution of late night premises may be such as to warrant special action by the licensing authority to combat exceptional problems of crime and disorder and public nuisance over and above the impact of individual premises.

Steps taken in considering a cumulative impact policy

- 16.4 The steps that this Licensing Authority has taken in considering whether to adopt a cumulative impact policy within the statement of licensing policy are summarised below:-
- Identification of the concern about public nuisance and crime and disorder
 - Consideration as to whether there is good evidence that public nuisance and crime and disorder is occurring, and is caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
 - Identification of the boundaries of the area where problems are occurring
 - Consultation with those specified in section 5(3) of the 2003 Act and, subject to the outcome of the consultation,
 - Inclusion and publication of the details of a cumulative impact policy to be included in the Statement of Licensing Policy

Evidence of cumulative impact

- 16.5 The Bath and North East Somerset Community Safety and Drugs Partnership (CSDP) has collated information which demonstrates that, in Bath City Centre, "a defined temporal and geographic area experiences a significantly greater degree of alcohol related crime and disorder than the remainder of the authority area" and that Bath City Centre can be defined as experiencing a significant amount of alcohol related crime.

- 16.6 At the meeting on the 18th January 2007 Council considered the report from the CSDP. After considering the available evidence Council resolved to consult on the proposed area outlined in Appendix 1 of the CSDP's report. Having consulted with those individuals and organisations listed in section 5(3) of the 2003 Act, the Council resolved, on 13th September 2007, that the evidence contained within the report was sufficient to justify the preparation of a cumulative impact policy for inclusion in the Council's Statement of Licensing Policy. A copy of the reports, together with the Minutes of the meetings, can be seen at any of the Council's libraries or on the Council's web site at the following address:-

www.bathnes.gov.uk

- 16.7 The area identified for the cumulative impact policy is outlined on the map in Appendix A of this document (the Cumulative Impact Policy Area).

The effect of a cumulative impact policy

- 16.8 The effect of adopting a cumulative impact policy is to create a rebuttable presumption that applications for new premises licences, club premises certificates or variations will be refused if relevant representations are received. If the application is not to be refused then the applicant will have to demonstrate that the operation of the premises will not add to the cumulative impact already being experienced.
- 16.9 The licensing authority will expect the applicant to address the issues surrounding cumulative impact in their operating schedule in order to rebut such a presumption. See paragraph 16.17 below for suggested conditions.
- 16.10 However, this presumption does not relieve Responsible Authorities or Interested Parties of the need to make a relevant representation before the licensing authority may lawfully consider giving effect to its cumulative impact policy in a particular case.
- 16.11 After receiving representations in relation to a new application or a variation of a licence or certificate, the licensing authority will consider whether it would be justified in granting a licence or variation in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not.
- 16.12 The licensing authority will consider the individual merits of any application, together with the relevant representations made and, where it considers that, to grant the application would be unlikely to add significantly to the cumulative impact having regard to the licensing objectives, the authority will grant the application.
- 16.13 If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.
- 16.14 If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.

- 16.15 Where an application for a review is received by the licensing authority, the cumulative impact policy will not be used as a ground for revoking an existing licence or certificate. The cumulative impact on the promotion of the licensing objectives of a concentration of licensed premises should only give rise to relevant representations where an application for the grant or material variation of a premises licence or certificate is being considered. A review must relate to individual premises and by its nature, cumulative impact is related to the concentration of many licensed premises in one area.
- 16.16 The licensing authority will regularly monitor the impact of this cumulative impact policy to assess whether it is no longer needed or needs to be modified or expanded.

Suggested additions to operating schedules

- 16.17 If an application for a licence is made for a premises within the defined area of the cumulative impact policy the licensing authority will expect the applicant to demonstrate, in their operating schedule, the steps that they will take to prevent problems relating to nuisance and public safety and the steps to be taken to promote the reduction of crime and disorder.
- 16.18 A range of measures that the licensing authority would wish to be included on a premises licence application within the cumulative impact area would depend on the nature and type of premises within the application and would need to be individual to that premises, examples are:-
- CCTV at the premises to be properly maintained.
 - Security Industry Authority (SIA) door staff.
 - Toughened or plastic glass, no bottles.
 - Free calls to taxi firms for departing customers at the end of the night.
 - Outside areas to be cleared at a reasonable time (time to be stated)
 - Signs to be displayed at each exit to encourage patrons to minimise noise and not to congregate in the street at close
 - To contribute to the street marshal scheme.
 - To be a member of the local Pub watch.
 - No open containers of alcohol to leave the premises.
 - To supervise entry and exit of the customers from the premises at busy times.
 - Facilities for people to dispose of cigarette ends and provisions for reducing noise from people smoking outside the premises.
 - A limit on the number of customers permitted on the premises at one time.
 - A requirement that the public spaces in the premises should be predominately seated.

This list is not exhaustive, and is only intended to provide a brief description and guide to applicants.

Other mechanisms for controlling cumulative impact

16.19 The licensing authority will encourage the use of other mechanisms for controlling problems caused by customers behaving badly and unlawfully once away from licensed premises. For example:-

- Planning controls.
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council.
- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
- Powers of the local authority to designate parts of the Council area as places where alcohol may not be consumed publicly (already in place in Bath).
- Police enforcement of the general law concerning disorder and anti-social 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, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

Comments from Responsible Authorities

Police Licensing Bureau

The cumulative impact policy has had a very marked effect on licensing applications that have been submitted since its introduction. Applicants for grants and variations are well aware that there is a rebuttable presumption that applications will be refused unless they can show there will be no negative cumulative impact on one or more of the licensing objectives. The effect of such a policy gives a realistic approach to the granting of licenses and a departure away from a market orientated strategy. The applicants have encompassed all the measures that are necessary to negative the impact, this has been very evident in submitted applications and the negotiations that take place prior to such an application. The licensing committee has embraced measures that they feel necessary to further the policy aims.

The policy has impacted on the following applications that have been made

Komedia.....Westgate St
 The Olive Branch.....Old King St.
 Second Bridge Nightclub.....Manvers St.
 The Cube.....Pierpont St
 The Weirlounge.....Spring Gardens Rd.
 Adventure Cafe.....George St.
 Revolution.....George St
 Litten Tree.....George St.

this impact can be measures they have put forward or a curbing of licensable activity or restriction of hours....many of which may be difficult to achieve without such a policy. The applicants Solicitors for new grants or variations are always aware of the policy and start their discussions knowing that measures will need to show that the premises has to negative the impact.....this leads to a full and comprehensive operating schedule.

There has also been a number of potential applicants that have not pursued an application following initial enquiry.and discussion of the policy.....this may or may not have been as a direct result .

Martin Purchase
 Liquor Licensing Officer, Bath Police Station.

Primary Care Trust

The North West public health observatory are the lead on alcohol and they compile an annual report with lots of alcohol and health indicators. Below are the data for the National indicator NI 39: hospital admissions for alcohol related harm.

	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08
B&NES						
PCT	590	880	997	1134	1151	
England	925	1022	1144	1290	1384	
South						
West	924	1023	1145	1250	1315	

However, there is a message on the site saying the 2007/08 data have been delayed in being released. They anticipate that the data will be available 'shortly after feb 09' and so depending on when your report is ready you may be able to get the latest data in time. The link is <http://www.nwph.net/alcohol/lape/nationalindicator.htm>.

Community Safety (CCTV)

Andrew, recorded incidents by the CCTV operators last year in the three categories that may be of interest to you are;

Passive Nuisance - classifies as Persons or circumstances of potential threat or alarm to the public or a danger to themselves(i.e) drunk, asleep on bench: beggar sat quietly not bothering the public, or mentally ill or drunk person acting strangely but not bothering the public but could be a possible danger to themselves. Total 13

Active Nuisance - Any form of the above category where the public are being alarmed or distressed or pestered. Any other minor street disturbance not amounting to assault or damage by causing alarm or distress. Total 28

Assault - Any form or threat to or violence against one person by another. Total 14

These it must be stressed are recorded incidents, the operators will have monitored a lot more activity of a minor nature to ensure that it does not escalate.

regards

Richard.

Richard Lewis
Community Safety Officer
Policy and Partnerships

Comments from Ward Councillors

Dear Andrew,

Lansdown Ward has very few pubs or clubs so the impact is only felt when those who have had too much to drink go home in the Ward. I have to say I have had very few complaints about activities in the ward as such. Wall to wall drinking establishments in the city centre are the main culprits together with the government 24 hour drinking laws. I am therefore fully supportive of the CIP. It seems to me that the MPs are now realising the mistake that has been made and the social cost to health and the NHS who have to deal with the patients effected by drink and drugs.

Regards

Cllr David Hawkins
Lansdown

Andrew,

There is no doubt that CIP has helped local councillors to control the growth of drinking establishments in the zone. I do not want the CIP threatened in any way. The city centre still has an anti social behaviour problem, in particular in good weather. I would be betraying the majority wish of the city centre residents if I were to allow any erosion of the CIP.

As regards extension of the zone; I would want to explore the views and general situation in the areas surrounding the city centre before I commented on it's implementation.

Kind regards

Cllr Terry Gazzard

Abbey

Dear Andrew Jones,

The Cumulative Impact Policy was introduced soon after I took office, so I do not have a basis to contrast.

That said, the Cumulative Impact Policy does not seem to have made a any contribution to public life in Bathwick and I would not bother to continue with it. Alcohol related problems in Sydney Gardens do not appear to be related to pubs; rather to off-licenses and supermarkets which are not covered by the CIP.

Yours,

Cllr Nicholas Coombes
Bathwick

Andrew

1. I cannot provide any factual evidence. I am not actually sure what facts could be adduced, apart from the Police statistics. Though these are reported from time to time at the PACT meetings, I do not have them in my memory or files. No doubt, you have asked the Police to contribute to your report.
2. While anti-social behaviour in all its forms is still a chronic feature of the evening economy, in my opinion it is no worse overall than in the past, and my impression from occasional late evening rambles is that it is somewhat less. My impression of the streets seems to be supported by recent PACT meetings. Anti-social behaviour still figures regularly among the topics raised. But it is not raised with the same passion as used to be the case. Attendance at PACT meetings has tended to decline. I sense that many residents feel that the steps that have been taken to improve policing, the street and taxi marshals, the investment in street cleansing, etc are as much as they can realistically expect, and therefore there is no point in demanding more. I sense that residents recognise that extra policing, the street and taxi marshals, the investment in street cleansing, etc have made a difference, but that there are budgetary constraints on how much more can be achieved at the present time.
3. If I am right and the overall tone of the evening economy has improved a little, what has been the contribution of the CIP? It is unlikely the CIP itself has modified the behaviour of customers. It is inconceivable that rowdy youths or girls would curb their rowdiness lest it make it more difficult for new premises to obtain licences. We have always said that the CIP was directed at preventing the situation getting worse.
4. What I think the CIP has done - though it is impossible to prove objectively - is to demonstrate that the Council (reflecting public concern) is in earnest in tackling the scourge of binge drinking and bad behaviour. This declaration of intent in Bath mirrors similar steps by other councils and the undoubted shift in opinion at national level (in Government statements, Parliamentary debates, discussion in the media) against liberalisation and in favour of stricter control. The licensed trade is therefore on the back foot and knows that it must improve its act.
5. Although the CIP may not strictly be a relevant consideration in relation to variation applications before the Licensing Sub-Committee, it is quite often cited by opponents as a reason why the variation should be refused or restricted. Even if the Sub-Committee cannot give the CIP weight in the case in question, I am sure objectors feel it gives strength to their bow.
6. The abolition of the CIP would send the wrong signal to the licensed trade and would be very discouraging to residents.

Cllr Brian Webber
Abbey