

LICENSING ACT COMMITTEE**16 NOVEMBER 2022**

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| REPORT TITLE | CUMULATIVE IMPACT ASSESSMENT REVIEW |
| REPORT OF | HEAD OF LEGAL SERVICES AND DEPUTY MONITORING OFFICER |

REPORT SUMMARY

The purpose of this report is to provide the Committee with consultation feedback on the cumulative impact assessment which is contained within the Council's Statement of Licensing Policy, and to ask the Committee to make a recommendation to Council as to whether there is evidence that it is necessary to continue to include a cumulative impact assessment within the Council's Statement of Licensing Policy.

The Wirral Plan sets out a number of priorities for the council to consider and the contents of this report supports the priority of working for a prosperous, inclusive economy – helping businesses to thrive and creating jobs and opportunities for all.

RECOMMENDATIONS

That the Committee:

1. Determine whether there remains evidence that the number or density of premises selling alcohol, for consumption off the premises, in the area of Birkenhead identified within the current Statement of Licensing Policy attached at Appendix 1 to this report, is having a cumulative impact and leading to problems in the area which are undermining the licensing objectives.
2. Make a recommendation to Council that the Licensing Authority either remains of the opinion that it is necessary to continue to include a cumulative impact assessment within the Council's Statement of Licensing Policy or that it is no longer necessary and that the Statement of Licensing Policy should be amended accordingly.

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 It is a statutory requirement for the Licensing Authority to review any cumulative impact assessment at least every three years. The Committee is asked to make a recommendation to Council as the approval of the Council's Statement of Licensing Policy and any amendments to the policy, including reference to a cumulative impact assessment, are functions of the Council and cannot be delegated to this committee.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 That the Committee makes no recommendation to Council and the matter be reported direct to Council for determination. It is however, considered best practice for this Committee to give appropriate scrutiny to evidence as to whether there should remain in place a cumulative impact assessment within the Council's Statement of Licensing Policy and provide Council with a recommendation based upon their findings.

3.0 BACKGROUND INFORMATION

- 3.1 The Council's Statement of Licensing Policy was first published in January 2005. The policy has since been subject to four reviews and the last full review of the policy was in December 2019.
- 3.2 In January 2017, Merseyside Police requested the Licensing Authority consider adopting a Special Cumulative Impact Policy for an area within Birkenhead. The request was made due to the level of crime and disorder, public nuisance, littering, street drinking, under-age drinking and anti-social behaviour believed to be resulting in part from the number of off-licence premises located in the area. The request was supported by Ward Councillors.
- 3.3 A comprehensive consultation process was undertaken about the possibility of introducing a Special Cumulative Impact Policy for Charing Cross, Grange Road West, Grange Mount, Oxton Road and the boundary of the Town Centre. Upon examining the responses received through the consultation the Licensing Authority was satisfied that there was evidence that the number of premises in Charing Cross, Grange Road West, Grange Mount, Oxton Road and the boundary of the Town Centre licensed under the Licensing Act 2003 for the sale by retail of alcohol for consumption off the premises were cumulatively giving rise to significant problems of public nuisance and crime and disorder.
- 3.4 The Licensing Authority subsequently resolved to introduce a Special Cumulative Impact Policy limited to Charing Cross, Grange Road West, Grange Mount, Oxton Road and the boundary of the Town Centre with effect from 10 July 2017 to apply to Premises licensed for the sale by retail of alcohol for consumption off the premises only.
- 3.5 It is a requirement of the Licensing Act 2003 that any cumulative impact assessment must be reviewed at least every three years. The last cumulative impact assessment was carried out in 2019 when the Statement of Licensing Policy was also being reviewed. It is therefore necessary to review the current circumstances and determine whether there is evidence for the Statement of Licensing Policy to continue to include a cumulative impact assessment.

- 3.6 Statutory consultation has been undertaken regarding whether it remains necessary for the cumulative impact assessment to continue to be included in the Council's Statement of Licensing Policy. In response to the consultation, Merseyside Police have submitted a report which provides details of alcohol related crimes and anti social behaviour in and around the area of Birkenhead to which the cumulative impact assessment applies. The findings of Merseyside Police are attached at Appendix 2 to this report. It is the view of Merseyside Police that street drinking continues to be a major policing issue within the assessment area. Included in the report from Merseyside Police are the results of a survey that was undertaken with businesses in the area. Thirty-Seven local businesses responded to the survey, some of which have provided details of the impact of street drinkers in the area. A table showing the responses to the survey is attached at Appendix 3 to this report.
- 3.7 A Police Officer who is currently responsible for policing Birkenhead Town Centre has submitted a statement within the report. This officer expresses concern that the adverse impact of street drinkers in the area would worsen if the area was no longer subject to a cumulative impact assessment.
- 3.8 In response to the consultation a submission has also been made by a Licensing Consultant. This response is attached at Appendix 4 to this report. This submission expresses concern that the existence of a cumulative impact assessment preserves a 'low status quo' as well as 'poor operating regimes' and serves to deter applications from responsible operators. The Licensing Consultant also expresses concerns in respect of how applications are considered when they are made in an area that is subject to a cumulative impact assessment. It is the view of the Licensing Consultant that the cumulative impact assessment should not remain in place.
- 3.9 Should the Committee recommend to Council that it is of the opinion that there continues to be evidence for the cumulative impact assessment to remain in place, the Licensing Authority is required to revise the cumulative impact assessment to include a statement to that effect and set out the evidence as to why it remains of that opinion. If the Licensing Authority is no longer of the view that the cumulative impact assessment should remain in place it must publish a statement to that effect.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The consultation exercise was undertaken using existing staff resources.

5.0 LEGAL IMPLICATIONS

- 5.1 It is a requirement of Section 5A of the Licensing Act 2003 for Licensing Authorities to review any cumulative impact assessment every three years.
- 5.2 Section 17 of the Crime and Disorder Act 1998 states that ' Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of these functions on, and the need to do all it can to prevent
- (a) Crime and disorder in its area(including anti-social behaviour and other behaviour adversely affecting the local environment);
 - (b) The misuse of drugs, alcohol and other substances in its area and
 - (c) Re offending in its area.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

6.1 There are no such implications arising directly from this report.

7.0 RELEVANT RISKS

7.1 Should the Committee not make a recommendation to Council this could result in the Licensing Authority failing in its' statutory duty to review the cumulative impact assessment within the required three year period.

8.0 ENGAGEMENT/CONSULTATION

8.1 Statutory consultation has been undertaken in respect of the necessity for the Statement of Licensing Policy to continue to include a cumulative impact assessment. Details of consultees are provided at Appendix 5 to this report. Notification of the consultation was also published on the Council's Website. The consultation took place between 18 July 2022 and 16 September 2022.

9.0 EQUALITY IMPLICATIONS

9.1 The potential impact has been reviewed and it is considered that there will be no direct impact of a cumulative impact assessment on any of the protected groups.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 There are no such implications arising directly from this report.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 The Council's Statement of Licensing Policy sets out the principles to be applied to assist in the achievements of the following licensing objectives:

The prevention of crime and disorder
Public Safety
The prevention of public nuisance
The protection of children from harm

A cumulative impact assessment may be published by a Licensing Authority where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact leading to problems which are undermining the licensing objectives.

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APPENDICES

Appendix 1 Statement of Licensing Policy

Appendix 2 Merseyside Police Report

Appendix 3 Table of responses to survey with businesses within the cumulative impact assessment area

Appendix 4 Response from Licensing Consultant

Appendix 5 List of Consultees

BACKGROUND PAPERS

Licensing Act 2003

Statutory Guidance issued under the Licensing Act 2003

TERMS OF REFERENCE

This report is being considered by the Licensing Act Committee in accordance with paragraph 9.2 of its Terms of Reference, which states that the principal role of the Licensing Act Committee is to act as the administrative committee, acting under statutory delegation pursuant to the Licensing Act 2003, and responsible for making decisions as licensing authority under the Licensing Act 2003 and Gambling Act 2005.

SUBJECT HISTORY (last 3 years)

| Council Meeting | Date |
|-------------------------------------|-------------------|
| Licensing Act 2003 Committee | 25/07/2019 |
| | 13/11/2019 |
| Council | 09/12/2019 |