

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

Licensing and Public Protection Committee
16 March 2021

Report Title: **Establishing a Cumulative Impact Assessment**

Submitted by: **Head of Environmental Health**

Portfolios: **Finance & Efficiency**

Ward(s) affected: **Town Ward**

Purpose of the Report

To request that Members determine whether the Council should publish a Cumulative Impact Statement to support the Council's Statement of Licensing Policy.

Recommendation

That

1. Members note the information provided by Staffordshire Police in support of progressing a Cumulative Impact Assessment that was submitted in advance of the recent consultation
2. Members note the information received as part of the recent consultation
3. Members determine whether there is currently an evidential basis to publish a Cumulative Impact Assessment to 'replace' the current Cumulative Impact Policy

Reasons

Cumulative Impact Assessments (CIA) were introduced to the Licensing Act 2003 by the Policing and Crime Act 2017. In general terms and effect they replace Cumulative Impact Policies (CIP) however there is no statutory transition or conversion process. Before adopting a CIA the authority must establish the evidential basis that one is required, and consult upon its scope and extent with the same persons that must be consulted over the Statement of Licensing Policy.

The Committee agreed at the January 2021 meeting to carry out a consultation process to determine whether there is an evidential basis to publish a CIA.

At the October 2020 meeting the Committee determined to extend the existing CIP to 5th April 2021 to allow for the CIA process to take place.

1. **Background**

1.1 The Council has previously resolved to have a CIP that covers an area of Newcastle's town centre and this was incorporated into the authority's Statement of Licensing Policy (SLP), and this has been in place since July 2013.

1.2 In April 2019 the Committee resolved 'that the Cumulative Impact Policy continue in its current form pending transition to a Cumulative Impact Assessment'.

- 1.3 In October 2020 the Committee resolved to extend the existing CIP to 5th April 2021 to allow for the CIA process to take place.
- 1.4 In January 2021 the Committee resolved that a consultation process should be carried out to determine whether there is an evidential basis to publish a CIA.
- 1.5 It is proposed that a CIA is required, to replace the current CIP, and will be a standalone 'live' document capable of being amended when required without an amendment being made to the SLP.
- 1.6 In effect and operation a CIA is similar to a CIP, however to move from one to the other requires the authority to:
- Consult with the same persons it consults regarding reviews and revisions to its SLP;
 - Explain why it is considering adopting a CIA
 - Set out the part or parts of the district to be included in the CIA
 - Set out which type of licences the CIA will apply to
 - Give the evidential basis for the CIA
- 1.7 In considering the evidential basis for a CIA the current Public Health emergency has impacted significantly on both footfall and economic activity within the current CIP area.
- 1.8 Staffordshire Police indicated that they are in support of progressing a CIA to 'replace' the CIP and submitted statistical data to give the evidential basis required.
- 1.9 The data submitted by Staffordshire Police was included and formed part of the consultation document circulated to all relevant parties on 29th January 2021. The consultation process lasted four weeks. A copy of the consultation document is attached as **Appendix A**.
- 1.10 The consultation document set out the Council's explanation as to why a CIA was being considered, a summary of the data from Staffordshire Police, which part of the Borough was being considered and which types of licences and premises the CIA may apply to. The proposal was:
- That the area of the Borough be the same area under the existing CIP.
 - That only licence applications that relate to the sale of alcohol be included in the CIA.

2. Issues

- 2.1 CIAs differ in relation to CIPs in several ways. The provision to create a CIA is within the Licensing Act 2003, whereas the provision for a CIP was only in the Statutory Guidance. The evidential basis for CIAs may include any premises that carry on, or intend to carry on, any licensable activity. That includes the sale of alcohol for both on and off the premises consumption, late night refreshment and regulated entertainment. When creating a CIA the Council may choose to limit the type of premises included, e.g. off-licences and nightclubs, late night takeaways and pubs, or any other mixture of premises type. Whereas CIPs could only relate to the sale of alcohol.

2.2 An evidential basis is required for a decision to publish a CIA. The statutory guidance states:

“Local Community Safety Partnerships and responsible authorities, such as the police and the environmental health authority, may hold relevant information which would inform licensing authorities when establishing the evidence base for publishing a CIA. 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. Information which licensing authorities may be able to draw on includes:

- *local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;*
- *statistics on local anti-social behaviour offences;*
- *health-related statistics such as alcohol-related emergency attendances and hospital admissions;*
- *environmental health complaints, particularly in relation to litter and noise;*
- *complaints recorded by the local authority, which may include complaints raised by local residents or residents’ associations;*
- *residents’ questionnaires;*
- *evidence from local and parish councillors; and*
- *evidence obtained through local consultation. ”*

2.3 As above at paragraph 1.7 Staffordshire Police have provided statistical data as a starting point to consider the publication of a CIA. This data forms the basis of the Council’s consultation as to whether to publish a CIA. The Police have stated that the area covered by the current CIP is appropriate for a CIA. The current CIP area overlaps two distinct Police reporting areas referred to as IB60 and IB61, but does not incorporate all of the two areas. A copy of the town plan which shows the CIP area compared to the IB60 and IB61 areas is attached as **Appendix B**.

2.4 The Police have provided data that cover the below geographic areas:

1. IB60 and IB61 – extracts are attached as **Appendix C**; and
2. The Whole Borough (including IB60 and IB61) - extracts are attached as **Appendix D**;

2.5 In previous years when implementing and reviewing the CIP the Police have provided data that relates solely to the area known as IB60 and IB61. The inclusion of the data for the whole Borough allows for a comparison to be made against the two areas.

2.6 The data contained within Appendices B, C and D, appear to show that levels of crime and Anti-Social Behaviour remain high throughout the Borough but specifically in the areas known as IB60 and IB61 which includes the area under the current Cumulative Impact Policy. Whilst figures have decreased across the Borough generally there has been an increase in the ‘Town Centre’ in relation to incidents around violence, ASB and Public Order and predominantly in the times associated with the night time economy.

2.7 During the consultation period the Council received five responses from:

- The Council’s Environmental Protection Team, attached as **Appendix E**;
- The Council’s Community Safety and Partnerships Team, attached as **Appendix F**;
- Staffordshire Police’s Central Licensing Team, attached as **Appendix G**;
- Neighbourhood Policing Team for the Town Centre, attached as **Appendix H**;
- The British Beer & Pub Association, attached as **Appendix I**.

A summary of each is included below.

- 2.8 Council's Environmental Protection Team's response relates primarily to the current transition of Newcastle Town Centre to have a more mixed use with the level of residential accommodation increasing, and often in close proximity to licensed premises. Also that the Council's strategic vision for the Town Centre envisages redevelopment of key sites for further residential use and it is important to recognise the importance and impact that the number and type of licensed premises will have on this. The response states that:

"The CIP provides an important policy against which licensing applications and regulation can be assessed to secure and deliver a mixed town centre. Residential uses can be made unviable or unattractive by a dominance of licensed premises in one area or which are focused on a particular sector of the licensed trade such as late night hot food takeaways or nightclubs / vertical drinking premises. We already see a conflict of activity in terms of behaviour of patrons and people moving between establishments, ventilation system noise and odour, waste disposal, all of which are relevant to the Licensing objective concerned with the Prevention of Public Nuisance and some of which also which have a degree of overlap with the Licensing Objectives concerned with the Prevention of Crime and Disorder and Public Safety. Such conflicts will only increase as the town centre is repopulated and repurposed."

They suggest that a CIA that is fit for purpose would benefit the Council and local community but that it should include all licensed premises and not just those associated with the sale and supply of alcohol.

- 2.9 The Council's Community Safety and Partnerships Team response states that they believe there is historical and ongoing evidence to support the publication of a CIA that relates to Newcastle Town Centre. They outline the significant number of licensed premises in close proximity and the historic cumulative impact experienced, give an explanation as to the benefits the existing CIP has had and what a CIA would have, and why they believe that a CIA would be beneficial to implement. They support the proposal that if published the CIA should relate to the existing CIP area.
- 2.10 Staffordshire Police's Central Licensing Team's response outlines the benefits of a CIP/CIA being in place when in receipt of application from premises that have had a negative impact on the locality. They note that several local authorities across the country have removed, or are removing their CIP/CIA due to the current national circumstances but contend that having a CIA in place allows for and assists communities by reducing potential increases in violence and disorder.
- 2.11 The Neighbourhood Policing Team's response backs up the original data provided by Staffordshire Police and gives an oversight as to the result that the pandemic has had on the Town Centre in terms of incidents and Policing. They provide data that relates to periods immediately prior to the pandemic and raise concerns in relation to an increase in reported crime between July and October 2020 when national lockdown restrictions were lifted, that are anticipated to return on the path towards 'normality'.
- 2.12 The British Beer & Pub Association's response gives an overview of the size and breadth of their membership and parties they represent. Their view is that given the current climate, and without being able to determine the full effects of the pandemic on the night time economy, there is not sufficient evidence to support the publishing of a CIA and it may present a barrier for new businesses. They also note that several local authorities across the country have removed, or are removing their CIP/CIA due to the current national circumstances.

2.13 As noted in 2.10 and 2.12 above several Local Authorities have recently determined to remove their Cumulative Impact Assessments in light of the pandemic, including Trafford, Hereford, Bristol, Birmingham and Liverpool.

3. Proposal

3.1 Members note the information provided by Staffordshire Police in support of progressing a Cumulative Impact Assessment that was submitted in advance of the recent consultation

3.2 Members note the information received as part of the recent consultation

3.3 Members determine whether there is currently an evidential basis to publish a Cumulative Impact Assessment to 'replace' the current Cumulative Impact Policy

4. Reasons for Proposed Solution

4.1 The CIP which has operated since 2013 has served the Borough well in limiting serious problems of nuisance and disorder arising from the number, type and density of licensed premises in the town centre. While the current public health emergency has impacted upon footfall and economic activity in the town centre, and thereby nuisance behaviour and disorder, the longer term 'return to normal' is likely to require a continuation of cumulative impact controls. Changes to legislation mean that the current CIP must be replaced with a CIA for cumulative impact to continue to be a feature of the consideration of any new licence. The solution proposed recognises that updated evidence set against the recent trading conditions will be required to justify the adoption of a CIA.

5. Options Considered

5.1 To determine that there is an evidential basis to publish a Cumulative Impact Assessment that covers the existing CIP area and includes all applications that relate to the sale and/or supply of alcohol (**RECOMMENDED**).

5.2 To determine that there is an evidential basis to publish a Cumulative Impact Assessment but to cover a different area and/or includes all applications that relate only to sale/supply of alcohol or to include other licensable activities, such as regulated entertainment or late night refreshment, or to categorise it by type of premises rather than licensable activity e.g. it would apply to nightclubs and late night hot food establishments but not pubs and off-licences etc.

5.3 To not publish a Cumulative Impact Assessment as there is not currently evidence to support one.

6. Legal and Statutory Implications

6.1 Guidance issued regarding the introduction of CIAs under Section 5A of the Licensing Act 2003 recommends that existing cumulative impact controls are considered for replacement with a CIA within 3 years of the operative date of the legislation (6th April 2018), or when the Authority's Statement of Licensing Policy is reviewed, whichever is soonest.

6.2 The Statement of Licensing Policy was presented for re-adoption to this committee however the current public health emergency has potentially changed the evidence base for a CIA

and hence a more detailed consideration is required than envisaged in earlier reports to Committee.

6.3 To maintain cumulative impact controls as part of its licensing policy it is necessary to look afresh at the evidence for them and to undertake the consultation process set out in the legislation prior to replacing the current CIP with a CIA.

7. **Equality Impact Assessment**

7.1 Not applicable.

8. **Financial and Resource Implications**

8.1 There are no financial impacts identified arising from this report.

8.2 Licensing resources will be required to produce a Cumulative Impact Assessment document, and circulate and publish accordingly. The CIA would require regular review at least every 3 years. Those resources currently exist and can be deployed on these tasks.

9. **Major Risks**

9.1 There are risks to the control of the number and type of licensed premises in the town centre associated with the Council not replacing its current CIP with a CIA by 6th April 2021.

10. **Sustainability and Climate Change Implications**

10.1 There are no impacts identified arising from this report.

11. **Key Decision Information**

11.1 This is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 The Committee's review of the current CIP controls in April 2018 and 2019 identified the need to continue those controls while a CIA was investigated and adopted if supported by sufficient evidence.

13. **List of Appendices**

- 13.1 Appendix A – Consultation Paper
- 13.2 Appendix B – Plan of CIP and IB60/IB61 area
- 13.3 Appendix C - Data extract for IB60/IB61 area
- 13.4 Appendix D - Data extract for Whole Borough
- 13.5 Appendix E – Environmental Protection Team response
- 13.6 Appendix F – Partnerships Team response
- 13.7 Appendix G – Police Licensing response
- 13.8 Appendix H – NPT response
- 13.9 Appendix I – BBPA response

14. **Background Papers**

14.1 None.