

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF ENVIRONMENTAL AND HOUSING SERVICES	LICENSING COMMITTEE	13 MARCH 2024	7

### CUMULATIVE IMPACT ASSESSMENT REQUEST

#### PUBLIC ITEM

This item is for consideration in the public part of the meeting.

#### RELEVANT LEAD MEMBER

This item is within the remit of Cllr Christopher Dixon, lead member for Social Wellbeing

#### PURPOSE OF THE REPORT

At a meeting of the Licensing Committee on the 25<sup>th</sup> October 2023, the Committee considered a request from a number of Lytham Residents for a Cumulative Impact Policy for an area of Lytham. The Committee resolved to 'instruct officers to commence a consultation process; the results of which to be reported to a future meeting of the Licensing Committee.'

That consultation exercise has now taken place and Members will be provided with the information to assist in determining the request.

#### RECOVERABILITY

This decision is recoverable under section 7 of part 3 of the constitution.

#### RECOMMENDATION

##### The committee is recommended:

- To take no further action regarding the introduction of a Cumulative Impact Policy. Whilst there is a perception of crime, disorder and anti-social behaviour it is not supported by statistics. At this time, the concerns should be addressed by encouraging the reporting of incidents to the relevant authority, providing reassurance to residents and greater dialogue by the Licensing Authority and other agencies to address any concerns.

#### REPORT

- Members will recall that at a meeting of the Licensing Committee on the 25<sup>th</sup> October 2023, a report was considered regarding a request from Mr John Barker on behalf of a number Lytham Residents for a Cumulative Impact Policy (CIP) for an area of Lytham, Lancashire. The area requested was the Henry Street/Queen Street Junction and ending at the Clifton Street/Station Road Junction (The Area) as shown overleaf.



2. [Section 5A of the Licensing Act 2003](#) refers to Cumulative Impact Policies and states at (1) “ A licensing authority may publish a document (“a cumulative impact assessment”) stating that the licensing authority considers that the 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 section 4(1) to grant any further relevant authorisations in respect of premises in that part or those parts.”
3. It is a requirement that when considering such a policy consultation is undertaken with:
  - a) the chief officer of police for the licensing authority's area,
  - b) the Fire and Rescue Authority for that area,
  - c) The Local Health Board for an area any part of which is in the licensing authority's area
  - d) Each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area
  - e) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
  - f) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
  - g) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority
  - h) such other persons as the licensing authority considers to be representative of businesses and residents in its area.
4. When undertaking the consultation, the statutory consultees must be provided with:
  - a) the reasons why it is considering publishing a cumulative impact assessment.
  - b) a general indication of the part or parts of its area which it is considering describing in the assessment.
  - c) whether it considers that the assessment will relate to all relevant authorisations or only to relevant authorisations of a particular kind

5. The [Statutory Guidance](#) issued under S182 of the Licensing Act 2003 provides further information relating to the introduction of a CIP and comments at 14.9 that, "As noted above, there must be an evidential basis for the decision to publish a CIA. 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.
6. The Guidance also helpfully provides the steps to be followed when publishing a CIP:
- Identify concern about crime and disorder; public safety; public nuisance or protection of children from harm in a particular location.
  - Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.
  - If there is evidence that such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that cumulative impact is imminent.
  - Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
  - Consult those specified in section 5(3) of the 2003 Act. As with consultations in respect of the licensing policy statement as a whole, it is for each licensing authority to determine the extent of the consultation it should undertake in respect of a CIA (subject to the statutory requirements).
  - For the purposes of the consultation provide the persons specified in section 5(3) with the following information:
    - the reasons why it is considering publishing a CIA;
    - a general indication of the part or parts of its area which it is considering describing in the assessment;
    - whether it considers that the assessment will relate to all premises licence and club premises certificate applications and variation applications, or only to those of a particular kind described.
  - Subject to the outcome of the consultation, include and publish details of the CIA, including the evidence in support of the assessment and the particular kinds of premises the assessment relates to. Licensing authorities are not restricted to using general terms such as on-trade, off-trade and late-night refreshment providers, and can apply their own descriptions such as vertical-drinking bars and night clubs if appropriate.
  - Summarise the licensing authority's opinion in light of the evidence of cumulative impact (or any revision to an existing opinion) in the licensing policy statement and explain within the policy statement how the authority has had regard to any CIAs it has published under section 5A. The summary within the licensing policy statement should include, but is not limited to: the nature of the problems identified and the evidence for such problems; the geographical extent of the area covered by the assessment; the types of premises described in the assessment; and the types of applications for which it would likely be inconsistent with the licensing authority's duty to promote the licensing objectives to grant.

7. Members should note that a CIP does not displace the rule that in the absence of any relevant representation in relation to an application, a licence is automatically granted. Secondly, that the power is discretionary, and that there is no statutory trigger to require one to be conducted. The existence of a CIA effectively sets up a presumption that new licence applications will be refused (if there is a relevant representation), but an applicant may seek to rebut that presumption at a panel hearing.

8. The consultation with the Authorities listed at point 3 of this report has been undertaken with one response received from PS Cox of Lancashire Constabulary’s Licensing Department which states:

*On behalf of the Police, I am happy that the data in relation to crime and disorder in Lytham town centre doesn’t support a cumulative impact policy at this time. Any new application or variation that comes in is subject to scrutiny from myself and my team, to ensure that the licensing objectives would not be negatively impacted if it were allowed.*

*The data in Lytham is similar to Poulton, where there is a similar sized nighttime economy. Blackpool has far more crime and disorder, to match a far larger number of licensed premises, which supports the need for a cumulative impact zone.*

*While this is clearly subject to constant assessment, I am satisfied that the current system of treating every application on its merits in Lytham is sufficient.*

*This being said, we would clearly support the council if they wished to implement a cumulative impact zone, as we look to build on our already strong relations.*

9. Consultation was also undertaken through the Community Safety Partnership, Pubwatch, operators of those businesses which may be affected by the introduction of such a Policy, Lytham Business Partnership, and residents. Responses were encouraged to be submitted via our website. The consultation exercise took place between 7<sup>th</sup> November 2023 and 14 January 2024. A total of 368 responses were submitted with 63% of residents responding to the survey agreeing with introducing a Cumulative Impact Policy. The data has been analysed by an external provider and their report may be seen at appendix 1.

10. Intelligence Analysts from Lancashire Constabulary have also provided information in relation to alcohol related crime and anti-social behaviour for Fylde as a whole and the FY8 5 postcode. That information may be seen at appendix 2 and shows that in the period 1<sup>st</sup> January 2023 to 31<sup>st</sup> December 2023, there were 73 crime/ASB reports with alcohol placed as marker in FY8 5, compared to 570 across the Borough.

11. The database used by the Environmental Heath team for recording noise nuisance has also been interrogated. For the period 1<sup>st</sup> January 2023 to 31<sup>st</sup> December 2023, there are 37 complaints across the Borough of which 10 relate to licensed premises. From those 10, 3 are located in the “area”. There are also 3 complaints regarding noise from a busker on Lytham Square.

12. The number of licence applications for the “area” between January 2020 and February 2024 has been summarised at appendix 3. It can be seen that in the period there were 17 applications for the grant of a Premises Licence, 3 of which related to Lytham Festival, 1 for an open-air event at Lytham Hall, 3 applications were withdrawn and one premises did not commence trading due to planning issues. There were 14 minor variation applications and two variation applications.

13. The remaining 9 new applications (excluding Lytham Green and Lytham Hall) that were granted in that period are together with the times and regulated entertainment applied for are summarised below:

5 <sup>th</sup> October 2023	Fig and Olive Ground Floor The Old Bakery Green St Lytham St Annes Lytham West Ward	<b>Supply of alcohol</b> Monday to Sunday 10.00 – 23.00	Approved with mediated conditions
22 <sup>nd</sup> August 2022	Divino Clifton Walks Lytham Clifton	<b>Supply of alcohol</b> Monday – Sunday 09.00-22.00	Approved with mediated conditions

19 <sup>th</sup> May 2022	75 Clifton Street Lytham  Clifton Ward	<b>Supply of Alcohol</b> Sunday to Thursday 07.00 – 00.00 Friday and Saturday 07.00 – 01.00 <b>Live music</b> Sunday to Thursday 10.00 – 00.00 Friday and Saturday 10.00 – 01.00 <b>Recorded music</b> Sunday to Thursday 10.00 – 00.00 Friday and Saturday 10.00 – 01.00 <b>Late night refreshment</b> Sunday to Thursday 23.00 – 00.30 Friday and Saturday 23.00 – 01.30	Representations received, to be considered by Licensing Panel on 14 <sup>th</sup> July 2022 Approved subject to additional conditions and reduction in hours
31 <sup>st</sup> January 2022	Apex Cycleworks Bath Road Lytham  Clifton Ward	Supply of Alcohol Monday to Sunday 10.30 – 22.30	Representations received; hearing scheduled for 28 <sup>th</sup> March 2022. Representation withdrawn; application approved.
10 <sup>th</sup> May 2021	Bosco Shambles Dicconson Terrace Lytham  Clifton Ward	Supply of Alcohol Monday – Sunday 09.00 – 23.00  Regulated entertainment <i>Recorded music</i> <i>Friday and Saturday 23.00 – 23.30</i>	Approved
23 <sup>rd</sup> February 2021	Pepes 53 Clifton Street Lytham  Clifton Ward	Supply of Alcohol Monday – Sunday 08.30 – 00.00 Late night refreshment Monday – Sunday 23.00 – 00.00	Approved
23 <sup>rd</sup> September 2020	The Courtyard 2 Queen Street Lytham	Supply of alcohol Monday to Sunday 08.30 – 19.00	Application approved subject to additional conditions.
8 <sup>th</sup> September 2020	Mode Hotel 1 Clifton Square Lytham	Supply of alcohol Monday to Sunday 00.01 – 00.00	Approved

14. From these 9 applications, 2 received representations from members of the public, of which one was subsequently determined by a Licensing Panel. It should be noted that should a Cumulative Impact Policy be introduced, without representations from either a responsible authority or “other person” the application would be granted.
15. It can be seen from these applications that the latest terminal hour granted for the sale of alcohol is midnight.
16. The licensed trade in the area appears to be entering an unusual phase. Two premises which were licensed prior to the introduction of the Licensing Act 2003, albeit with different operators, have now ceased trading with other operators commenting that the price of rent etc is making it difficult to run a viable business. Equally, it is also understood that at least two large retail premises in prime locations in Lytham are ceasing trading in the near future which may prove attractive to any potential licensed operator.
17. Officers do understand that there are real concerns from some residents in Lytham regarding licensed premises, and other matters highlighted during the consultation. Unfortunately, not all these concerns can be remedied through Licensing, but the exercise has been useful to hopefully identify the true feelings within the area so that steps may be taken to address them. Representatives from Lancashire Constabulary or the Council’s Environmental Health Department do not believe that a Policy is necessary at this time, and that any challenges can be dealt with by dealing with the individual premises. The data indicates low levels of crime/ASB linked to

alcohol, but it is acknowledged this may be due to a lack of the formal reporting of incidents. To conclude, when considering the introduction of a Cumulative Impact Policy, Officers are concerned that there is insufficient evidence to support it and that the request should be rejected but the situation monitored.

18. Other legislation and mechanisms of enforcement are available to deal with licensed premises should the need arise. Examples are:

- Statutory nuisance as defined by the Environmental Protection Act 1990.
- Antisocial behaviour powers as defined by the Antisocial behaviour, Crime and Policing Act 2014.
- Increased enforcement of licensing conditions should conditions be in breach.
- To review a premises license, as defined by the Licensing Act 2003.

This is felt to be a proportionate approach which would deal with individual premises.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

IMPLICATIONS	
Finance	There is insufficient resource within the Licensing Team currently to undertake a full consultation exercise and it is likely that financial support would be requested to conduct the exercise.
Legal	As contained within the report.
Community Safety	Current statistics relating to crime and ASB are included in the report.
Human Rights and Equalities	No implications arising directly from the report.
Sustainability and Environmental Impact	No implications arising directly from the report.
Health & Safety and Risk Management	No implications arising directly from the report.

SUMMARY OF PREVIOUS DECISIONS
<p><a href="#">Licensing Committee, 25<sup>th</sup> October 2023</a></p> <p>The committee considered the report and RESOLVED unanimously to instruct officers to commence a consultation process regarding the request for a Cumulative Impact Assessment in the specified area of Lytham, the results of which to be reported to a future meeting of the Licensing Committee.</p>

BACKGROUND PAPERS REVELANT TO THIS ITEM		
Name of document	Date	Where available for inspection
S182 Guidance to the Licensing Act 2003	August 2023	<a href="https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003">https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003</a>

LEAD AUTHOR	CONTACT DETAILS	DATE
Chris Hambly	<a href="mailto:chris.hambly@fylde.gov.uk">chris.hambly@fylde.gov.uk</a> 01253 658422	27 <sup>th</sup> February 2024

Attached documents.

App 1 – Request and Supporting Information

App 2 – Lytham Crime and ASB statistics

App 3 – New/Variation applications in Lytham from 1<sup>st</sup> January 2020.