



Report

Date: 14 September 2023

To: the Chair and Members of the Licensing Committee

Report Title: Licensing Act 2003 – Cumulative Impact Assessment

EXECUTIVE SUMMARY

1. To request that members of the Committee consider the responses received during the consultation of the triennial review of the Cumulative Impact Areas and determine if the evidence supports that the existing areas should remain, be amended or removed.
2. This decision will form the basis of a revised Cumulative Impact Assessment ('the assessment') which is to be published and reviewed every 3 years and includes a statement of the authority's opinion and the evidence in support of that opinion.

EXEMPT REPORT

3. There is no exempt information contained in this report.

RECOMMENDATIONS

4. It is recommended that the members of the Committee consider the evidence received during the consultation and determine if there remains to be a Cumulative Impact of licensed premises in the local authority area.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

5. In 2020 Doncaster Council first published its Cumulative Impact Assessment which includes a statement of the authority's opinion and sets out the evidence as to why the authority is of that opinion. The assessment must be reviewed at least every 3 years and be determined by the Licensing Committee. This is the first review of the authority's assessment.

BACKGROUND



6. There are currently 3 Cumulative Impact areas in Doncaster. Where an application is made to licence premises within these areas and the application is subject to representations then it is the policy of the Council to refuse a licence where it determines that by granting the application it would contribute to the cumulative impact on the area.
7. 'Licensed premises' are any premises authorised by a Premises licence or Club Premises Certificate to carry on any licensable activity, including the sale of alcohol for consumption on and off the premises, and the provision of late night refreshment.
8. A Cumulative Impact policy is not a means of automatic refusal to grant a licence. As with all applications for a new licence or certificate (or a variation to an existing licence or certificate) which receives representations, those within a Cumulative Impact Area will be considered and determined by the Licensing Committee (or sub-committee) on its own merits, taking account of the evidence before it and the potential for impact on the four licensing objectives.
9. The existing Cumulative Impact Assessment is shown at Appendix A.
10. Section 5A of the Licensing Act 2003 requires that the Licensing Authority reviews the existing Cumulative Impact Policy by way of a formal consultation and then determines if they are of the opinion that the Cumulative Impact areas should remain and evidence their decision by publishing a Cumulative Impact Assessment ('the assessment').
11. The process for reviewing the Council's existing Cumulative Impact Assessment ('CIA') is summarised below:
12. On 2 September 2022 a notice of consultation was sent by email to:
 - a. Statutory consultees (responsible authorities)
 - b. Licence holders (2000 individual licence holders, pubwatch members and licensing solicitors)
 - c. Residents representatives (elected members, parish councils)
13. The letter invited everyone to consider the existing CIA and answer a simple questionnaire within a period of 8 weeks. In total, 30 responses were received and the majority of those (70%) indicated that the Cumulative Impact areas should remain unchanged. The questions and responses are shown at Appendix B.
14. Public Health and South Yorkshire Police responsible authorities provided their response to the consultation directly by email.
15. Public Health: The statement which accompanies the supporting evidence submitted by Public Health recommends that the Cumulative Impact policy

should be applied to additional areas of Doncaster. The full response, including licensing authority comparison data, is shown at Appendix C.

16. South Yorkshire Police: The statement which accompanies the supporting evidence submitted by South Yorkshire Police recommends that the existing Cumulative Impact areas should remain unchanged. The full response, including licensing authority comparison data, is shown at Appendix D.

17. This report was originally presented to members in March 2023. At the request of the Chair, amendments to the original report have been made to improve data clarity and to provide members with the opportunity to put questions to the Public Health representative.

OPTIONS CONSIDERED

18. The Licensing Authority is required to consider the evidence received during the consultation and reach its determination.

19. A statement of the Licensing Authority's opinion, along with the evidence considered in reaching that opinion, must be published in the Cumulative Impact Assessment which is reviewed every 3 years.

20. After considering the evidence, the Authority may determine to:

- a. Keep one, two or all of the existing Cumulative Impact Areas without the need for amendment.
- b. Increase an existing Cumulative Impact Area or create a new one based on the evidence and define the location accordingly.
- c. Reduce an existing Cumulative Impact Area and specify which streets are no longer subject to cumulative impact and the reasons why.
- d. Determine that an entire Cumulative Impact Area is no longer required and provide reasons for this opinion.







REASONS FOR RECOMMENDED OPTION



21. Section 5A of the Act requires that the Licensing Authority reviews the existing Cumulative Impact Policy by way of a formal consultation and then determines if they are of the opinion that the Cumulative Impact areas should remain and evidence their decision by publishing a Cumulative Impact Assessment ('the assessment').

IMPACT ON THE COUNCIL'S KEY OUTCOMES

22.

Great 8 Priority	Positive Overall	Mix of Positive & Negative	Trade-offs to consider –	Neutral or No implications
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			Negative overall	
 Tackling Climate Change				✓
Comments:				
 Developing the skills to thrive in life and in work				✓
Comments:				
 Making Doncaster the best place to do business and create good jobs		✓		
Comments: It is recognised that licensed premises are, quite often, businesses, places of employment and potential assets to the community. The Council, via its Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this priority when making licensing decisions.				
 Building opportunities for healthier, happier and longer lives for all	✓			
Comments: The Council, via its Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this priority when making licensing decisions.				
 Creating safer, stronger, greener and cleaner communities where everyone belongs	✓			
Comments: The Council, via its Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this priority when making licensing decisions.				
 Nurturing a child and family-friendly borough	✓			

Comments:				
 Building Transport and digital connections fit for the future				✓
Comments:				
 Promoting the borough and its cultural, sporting, and heritage opportunities				✓
Comments:				
Fair & Inclusive				✓
Comments:				

23. Legal Implications [Officer Initials: MCC | Date: 10.2.23]

There are in force a number of Cumulative Impact areas which must be reviewed every 3 years (section 5A Licensing Act 2003) to determine whether the Authority still remains of the opinion as set out in each assessment. The review must include consulting in accordance with the relevant statute which has been completed.

A lawful consultation requires: (i) that it takes place when the proposals are still at a formative stage; (ii) sufficient reasons are put forward for the proposal to allow for intelligent consideration and response; (iii) adequate time to be given for consideration and response; and (iv) the product of the consultation is required to be taken into account by the decision maker before taking a final decision on the proposals.

The Authority are required to consider the results of the consultation and make its determination. A statement of the Authority's opinion, along with the evidence that was considered, will form the basis of the Cumulative Impact Assessment which will be published. Without the evidential basis the Authority are unlikely to be able to determine the continuation of the Assessment.

If the Authority is no longer of the opinion the reason for the Assessments are sustainable i.e. there is no evidence to support their continuation, it must make a statement to that effect

24. Financial Implications [Officer Initials: RT | Date: 14.02.23]

There are no financial implications associated with this decision.

25. Human Resources Implications [Officer Initials: DK | Date: 14.02.23]

There are no direct HR Imps in relation to this report, but if in future staff are affected or additional specialist resources are required then further consultation will need to take place with HR.

26. Technology Implications [Officer Initials: NR | Date: 10.02.23]

There are no technology implications in relation to this report. Moving forwards, any identified ICT requirements need to be considered by Digital and ICT.

RISKS AND ASSUMPTIONS

27. Failure to review the Cumulative Impact areas and publish the Licensing Authority's determination would create a risk by exposing the Council to a legal and financial liability brought about by the Council's inability to discharge its functions under the Licensing Act 2003.

CONSULTATION

28. The Cumulative Impact areas has been subject to a formal consultation as detailed earlier in this report.

BACKGROUND PAPERS

29. The Licensing Act 2003

30. Home Office Section 182 Guidance

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