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| Meeting: | Licensing and Enforcement Committee | Date: 8 th December 2020 |
| Subject: | Licensing Act 2003 – Cumulative Impact Policy review | |
| Report Of: | Head of Place | |
| Wards Affected: | All | |
| Key Decision: | Yes | Budget/Policy Framework: Yes |
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| Appendices: | Appendix 1 Formal Submission by Gloucestershire Constabulary | |
| | Appendix 2 Cumulative Impact Assessment | |

FOR GENERAL RELEASE

1.0 Purpose of Report

Since the last review of the Statement of Licencing Policy, Government legislation in the form of the Policing and Crime Act 2017 has changed, it now requires a Cumulative Impact Assessment (CIA) to be carried out to support any Cumulative Impact Policy (CIP). Members approved for consultation at the Licensing and Enforcement Committee in September to go out to partners to see if they still wanted the Cumulative Impact Policy within the Statement of Licensing Policy. If the answer was yes, then they would have to produce evidence that there is still a need for one.

2.0 Recommendations

2.1 Licensing and Enforcement Committee is asked to **RESOLVE** that

Officers undertake an 8 week consultation with relevant stakeholders, businesses and members of the public on the Cumulative Impact Assessment.

3.0 Background and Key Issues

Cumulative Impact Policy

3.1 Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Licensing Act 2003.

- 3.2 In April 2018 the Police and Crime Act 2017 introduced a new provision within the Licensing Act 2003, Section 5A. This provision provides that a licensing authority may, in appropriate circumstances publish a CIA, stating that the licensing authority considers that a 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 the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
- 3.3 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 3.4 The Assessment must set out the evidence for the authority's opinion and must be consulted upon before it is published.
- 3.5 By publishing an Assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the Assessment when determining or revising the Statement of Licensing Policy.
- 3.6 The steps to be followed in considering whether to publish a CIA are summarised below:
- 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 you need to provide the persons specified in section 5(3) of the Licensing Act 2003 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.
- 3.7 The Assessment does not change the fundamental way that a licensing decision is made, as each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the Assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of Police and all parties who made a relevant representation.
- 3.8 Where no relevant representations are received an application will be granted in terms consistent with the operating schedule.
- 3.9 An applicant wishing to obtain a new licence or vary a licence for premises, within the cumulative impact area, must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
- 3.10 The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly, with those authorities, or through the Council's Licensing Section.

Cumulative Impact Policy – Gloucester City Centre

- 3.11 This special policy was introduced by the Council following evidence provided by Gloucestershire Constabulary which at that time demonstrated that the area around Eastgate Street was adversely affected by an increase in crime, disorder and antisocial behaviour due to a large number of licensed premises being concentrated within that area.

3.12 In 2016 the special policy of Cumulative Impact was reviewed as part of the Statement of Licensing Policy review, which was undertaken in accordance with the requirements of the Act. At that time Members of the Licensing and Enforcement Committee considered further evidence presented by the Police and made the decision to continue to include the special policy of Cumulative Impact within its Statement of Licensing Policy.

Consultation

3.13 Initial consultation took place on the review of the Council's Statement of Licensing Policy and the current CIP after members of the Licensing and Enforcement Committee at the September meeting approved for an eight week consultation to engage with partners to see if there was still a need for the CIP to still be within the Statement of Licensing Policy.

3.14 The consultation ran from 17th September 2020 until 12th November 2020.

3.15 In response there was only one reply during the consultation from Gloucestershire Constabulary who were in favour of retaining the CIP. They also produced statistics of crime and alcohol incidents within Eastgate Street during the consultation period.

3.16 Further consultation is now required following Gloucestershire Constabulary request to retain the CIP and the completion of the CIA.

3.17 Consultation on the CIA will need to take place with all relevant parties including:

- The Chief Officer of Gloucestershire Constabulary
- Gloucestershire Fire and Rescue Services
- Gloucestershire County Council (Public Health)
- All other responsible authorities identified under the Act
- Relevant Trade Associations
- The general public

3.18 It is proposed that consultation will take place over an eight week period with the consultation being made available on the Council's website.

3.19 Any responses received during the consultation exercise will be reported back to the Licensing and Enforcement Committee at the next meeting in March 2021.

Gloucestershire Constabulary

3.20 Gloucestershire Constabulary have made a formal submission to the Council. In the submission they have produced a statistical analysis of crime and disorder and alcohol related incidents in Eastgate Street which they feel provides suitable evidence which supports the continued inclusion of the Special Policy. A copy of the formal submission by Gloucestershire Constabulary and figures is attached at Appendix 1.

Cumulative Impact Assessment – Gloucester City Centre

3.21 Officers have prepared a Cumulative Impact Assessment that collates an analysis of the statistical data submitted by Gloucestershire Constabulary in relation to crime

and disorder and alcohol related incidents within Eastgate Street. The Cumulative Impact Assessment is attached at Appendix 2.

3.22 Having reviewed all of the data submitted, the Cumulative Impact Assessment makes recommendation as to how Gloucester City Council can proceed in relation to this matter.

4.0 Social Value Considerations

4.1 In areas where Cumulative Impact Policies or Assessments have been introduced there is a possibility that businesses looking to invest may be deterred from doing so, due to perceived additional burdens being placed upon them.

4.2 This is balanced against impact of new and current businesses undertaking licensable activities in a particular area and the social and economic benefits of those businesses.

5.0 Environmental Implications

There are no 'Environmental' implications arising out of the recommendations in this report.

6.0 Alternative Options Considered

No alternative options have been considered

7.0 Reasons for Recommendations

Members having noted the change in legislation affecting the Council's special policy on Cumulative Impact through the Policing and Crime Act 2017 and the request from Gloucestershire Constabulary, is to direct officers to undertake an eight week consultation with relevant stakeholders, businesses and members of the public on the Cumulative Impact Assessment.

8.0 Future Work and Conclusions

8.1 Consultation on the review of the Council's special policy through the CIA will take place with all relevant parties including:

- The Chief Officer of Gloucestershire Constabulary
- Gloucestershire Fire and Rescue Services
- Gloucestershire County Council (Public Health)
- All other responsible authorities identified under the Act
- Relevant Trade Associations
- The general public

8.2 The consultation will also be made available for comment via the Council's website.

8.3 Any responses received during the consultation exercise will be reported back to the Licensing and Enforcement Committee at the next meeting scheduled for March 2021.

9.0 Financial Implications

9.1 The recommendations have no impact on the Council's budgets

(Financial Services have been consulted in the preparation this report.)

10.0 Legal Implications

10.1 Section 17(1) 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 those functions on, and the need to do all that it reasonably can to prevent,

(a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and

(b) the misuse of drugs, alcohol and other substances in its area; and

(c) re-offending in its area.

10.2 Under the new provisions introduced in 2018 within the Licensing Act 2003 under Section 5A, licensing Authorities are required to review existing statement of Licensing Policy, which include special policies of Cumulative Impact.

10.3 If it is decided that there is still a requirement for a special policy of Cumulative Impact within Eastgate Street, the Council must undertake the necessary steps to publish a Cumulative Impact Assessment.

(One Legal have been consulted in the preparation this report.)

11.0 Risk & Opportunity Management Implications

11.1 Failing to review a special policy of Cumulative Impact as part of the Statement of Licensing Policy review would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Licensing Act 2003, as amended by the Police and Crime Act 2017.

12.0 People Impact Assessment (PIA):

12.1 The screen stage considered risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion. A further assessment will conducted to consider any feedback from the consultation.

13.0 Other Corporate Implications

Community Safety

13.1 None

Sustainability

13.2 None

Staffing & Trade Union

13.3 None

Background Documents:

Licensing Act 2003

Guidance issued under S182 of the Licensing Act 2003.