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| Non-Executive Report of the:<br><br><b>Licensing Committee</b>                      | <br><b>TOWER HAMLETS</b> |
| <b>Report of</b> David Tolley<br>Head of Environmental Health and Trading Standards | <b>Classification:</b><br>Unrestricted  |
| <b>Cumulative Impact Assessment Policy 2021 - 2024</b>                              |   |

|                               |  |
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| <b>Originating Officer(s)</b> | Tom Lewis<br>Team Leader of Licensing and Safety |
| <b>Wards affected</b>         | All wards  |

## 1. Executive Summary

- 1.1 The Council as a Licensing Authority must review its Cumulative Impact Policies every 3 years. The Council has two Cumulative Impact Policies or Cumulative Impact Assessments (CIA) as they are now referred to in the legislation and government guidance. The Council's first CIA in Brick Lane has been in place for approximately 7 years and the second one, which is in Bethnal Green has been in place for 3 years.
- 1.2 The Cumulative Impact Assessment forms part of the Council's Statement of Licensing Policy and therefore if CIA's are adopted, then the Statement of Licensing Policy needs to reflect this change.
- 1.3 As part of the review of these Cumulative Impact Assessments a statutory consultation process took place between the 28<sup>th</sup> January and 22<sup>nd</sup> April 2021.
- 1.4 If accepted, the reviewed Cumulative Impact Assessment, which forms part of the Statement of Licensing Policy, will ultimately go to full Council for adoption.

## 2. Recommendations:

The Licensing Committee is recommended to:

- 2.1 Note the recent consultation and the report that will be put to Cabinet.

### **3. REASONS FOR THE DECISIONS**

3.1 This is a noting report to in relation to the Cumulative Impact Assessments consultation under the Licensing Act.

### **4. ALTERNATIVE OPTIONS**

4.1 This is a noting report.

### **5. DETAILS OF THE REPORT**

5.1 The Council's current Cumulative Impact Assessments for Brick Lane and Bethnal Green were adopted by Full Council in September 2018 as part of the Statement of Licensing Policy review.

5.2 Tower Hamlets Council is defined as a Licensing Authority under the Licensing Act 2003. As a Licensing Authority we must review our Cumulative Impact Assessments every 3 years and publish the outcome of that review.

5.3 We must, as a minimum carry out the statutory consultation laid down in the Licensing Act 2003.

5.4 Following consultation, Cabinet must consider the revised Cumulative Impact Assessments (CIAs), which form part of the Statement of Licensing Policy. Full Council must make the final decision on whether to retain the reviewed Cumulative Impact Assessments.

5.5 The CIAs seek to help limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises is having a cumulative impact and leading to problems, which are undermining the licensing objectives of:

- Prevention of crime and disorder,
- Public safety,
- Prevention of public nuisance,
- Protection of children from harm.

5.6 CIAs can relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates.

5.7 CIAs were introduced by the insertion of section 5A into the Licensing Act 2003. CIAs form part of the Statement of Licensing Policy, which each licensing authority is required to review and renew every five years. This statutory requirement is supplemented by statutory guidance issued by the Secretary of State under section 182 of the Licensing Act 2003. The policy produced must comply with this guidance. The current policy is compatible with this advice and guidance.

5.8 The review of the Brick Lane and Bethnal Green CIAs has taken account of the legislative changes that will affect the policy. The Policy also needs to be updated following the consultation.

## Consultation

5.9 All statutory consultees were consulted:

- a) the chief officer of police for the licensing authority's area,
- b) the fire and rescue authority for that area, i.e. the Fire Brigade
- c) The Council's Director of Public Health,
- d) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority, (all licence holders)
- e) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority, (all certificate holders)
- f) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- g) such other persons as the licensing authority considers to be representative of businesses and residents in its area.

As well as the above statutory consultees, and in connection with g) above, the main method of consultation was to direct residents and businesses to complete an online survey which was accessed via the Council's website (Let's Talk - <https://talk.towerhamlets.gov.uk/e1e2licensing>). The consultation text can be found in **Appendix Two**. The consultation ran from 28<sup>th</sup> January to 22<sup>nd</sup> April 2021.

5.10 The full list of consultees is detailed in **Appendix Three**.

5.11 Online consultation received 1500 visits, with 169 downloading the documents, 428 visiting multiple times and a total of 236 taking part in the survey. A Summary of the Online Survey comments can be found in **Appendix Four**. The online response asked two main questions. The tables below outline the responses to these questions as a percentage for each CIA (Brick Lane and Bethnal Green).

| 5.12 | Do you think that the Cumulative Impact Policy should be retained as detailed in the Council's Statement of Licensing Policy? |       |            |     |
|------|---|-------|------------|-----|
|      | Yes   | No    | Don't Know |     |
|      |   |       |            |     |
|      | Brick Lane CIA<br>(total responders = 183)  | 55.2% | 38.8%      | 6%  |
|      | Bethnal Green CIA (total responders = 137)  | 58.8% | 22.6%      | 16% |

| What do you think should happen to the Cumulative Impact Zone? |        |          |           |               |                     |
|--|--------|----------|-----------|---------------|---------------------|
|  | Reduce | Expanded | Abolished | Stay the same | Don't know/not sure |
| Brick Lane CIA (total responders = 184)                        | 8.7%   | 32.6%    | 32.6%     | 23.4%         | 2.7%                |
| Bethnal Green CIA (total responders = 137)                     | 11.7%  | 40.1%    | 17.5%     | 19%           | 11.7%               |

- 5.13 As well as the online responses ten written responses were received. Of these written responses four said the CIAs should be retained, two gave no comment, two wanted both CIAs to be extended to create one larger CIA encompassing the area in between the CIAs and Columbia Road area to the north; and lastly two said that the evidence did not support retaining it thus they should be abolished. These written responses received are summarised in **Appendix Five**.
- 5.14 Considering just the online responses it appears there is slightly more support for retaining the Bethnal Green CIA as detailed in the Statement of Licensing Policy than there is for retaining the Brick Lane CIA. Overall, however, consideration of both the online and written responses indicates that the majority of those responding are in support of retaining both CIAs.
- 5.15 Of the written responses referred to at 5.13, a small majority was in favour of retaining the CIAs in some form. Only two respondents opposed the retention of the CIAs. These were from bodies representing the licensed trade. These two responders (Bishop S.A.R.L. and UK Hospitality, nos.5 and 12 as referenced in Appendix Five) state in the responses that there is insufficient evidence to support retention of the CIAs in Brick Lane and Bethnal Green.
- 5.16 Both state that the evidence does not justify the retention of the CIAs, and refer to the use of data, which in their view is out of date due to it being pre-pandemic. However, UK Hospitality goes further to add that the data from both Environmental Health and Trading Standards and the Police is not sufficient to justify the CIAs when considering Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003. The reason is that some of the raw data in the complaints received by Environmental Health and Trading Standards does not relate wholly to noise or licence complaints, but rather to enquires. Furthermore, they state that the information from the Police used to produce the Hot Spot Maps was crude data, which does not demonstrate cumulative impact.
- 5.17 The UK Hospitality's Submission 2 in Appendix five shows the breakdown of data provided by the Police to produce the Hotspot Maps. They have been split into Violent Crime and Dishonesty. UK Hospitality argues that the Dishonesty crimes equate to half of that used to produce the hotspot maps.

- 5.18 The UK Hospitality's submission was based on the information provided in **Appendix Six** 'Background document Cumulative Impact Consultation Report' which was provided as part of the public consultation. During the consultation, further information was requested by UK Hospitality's solicitors for the raw data behind the hot spot maps and the hours of operations of licensed premises so that the figures could be put into context which resulted their second written submission. This additional information provided on request from UK Hospitality's solicitors is at **appendix Six a-c** . The relevant Police raw data is not exhibited here, as it is third party data, but was agreed to be provided to UK Hospitality's solicitors by the data holder.
- 5.19 The consultation report demonstrates that licences and variations were applied for in both cumulative impact areas, and were indeed granted. In the Brick Lane cumulative impact area between November 2017 and October 2020 – 40 applications for new premises licences or variations were applied for with 3 refusals. In the Bethnal Green cumulative impact area between November 2017 to October 2020 -11 applications for new premises licences or variations were applied for with 3 refusals.
- 5.20 In 2021 (April to September) the Council has received 13 new applications in the Brick Lane cumulative impact area and 1 new application in Bethnal Green.
- 5.21 The provision of the cumulative impact areas has not prevented applications being received by the Council, but it has increased the dialogue between the applicant and Officers to ensure that the impact of the licensed premises on the area is being considered to permit additional conditions being included on the licences to mitigate against the impact on the area. The cumulative impact assessment is clearly an effective tool to mitigate the cumulative effects of licensed premises in the area.
- 5.22 The Secretary of States Guidance under section 182 of the Licensing Act 2003 (paragraph 14.22) does mention that large concentrations of people can cause other crimes such as these (robbery, pickpocketing etc). to occur. Hence saturation of licensed premises causing congregations of people under the influence of alcohol can attract crime of this nature. This can lead to people feeling unsafe in the area as a result. UK Hospitality make further comments about the data, in that the top five premises highlighted as being an issue, four of which are supermarkets and the lack of comparison of crimes in other areas.
- 5.23 In Appendix five most of these comments are not only are in support of the CIAs but mention ASB issues continuing to occur in these define CIA zones. It therefore appears clear from the hot spot maps and comments from the survey alone that there is evidence to support the retention of the CIAs for Brick Lane and Bethnal Green.
- 5.24 The consultation was also raised at the Safer Neighbourhood Board Meeting, where two residents both members of Residents Associations mentioned their support for the CIAs. Furthermore, one asked that it be expanded to create one larger CIA area encompassing the area in between the CIAs and Columbia Road area to the north and that then meets with the London

Borough Hackney's Shoreditch CIA. This expansion was raised by several residents in the Ezra Street and Columbia Road area. Committee is asked to note that the current CIA in Brick Lane was expanded in 2018 to meet with the Hackney's Shoreditch CIA on the north western edge.

### Request for Extension of CIAs

- 5.25 During the Consultation several responses requested an extension of the existing CIAs. These requests were to extend the Bethnal Green CIA to meet the Brick Lane CIA to the west and then extend this larger CIA to include parts of Weavers Ward including Columbia Road. See Map in **Appendix Seven** (which was created by the Association of Residents in Ezra Street Area ARESTA). For ease these are referred to as Weavers and Bethnal Green Extensions.
- 5.26 The review of the CIAs in Brick Lane and Bethnal Green did not include any proposal to extend into the Weavers or Bethnal Green extensions. Therefore, to extend the CIAs as suggested would require another statutory consultation, where the Council would need to consider if there is sufficient evidence that, crime and disorder or nuisance related to the cumulative impact of licensed premises is occurring within the Weavers and/or Bethnal Green extensions. Due to the number of responses requesting such an extension the evidence has been considered below.
- 5.27 The Hotspot Maps A to D in **Appendix Seven** show incidents of crime and antisocial behaviour linked to licensed premises between 2017 and 2020. Incidents in both areas have been increasing, with an uplift in incidents in 2019 and then again in 2020. However, in comparison with the Brick Lane and Bethnal Green review these figures are far lower. Incidents are less than 100/per year, even when considering both extensions together.
- 5.28 The Table below shows the number of licence applications in the Weavers and Bethnal Green extensions.

| Licence Applications (Granted/Refused) |                         |                   |
|--|-------------------------|-------------------|
| Decision                               | Bethnal Green Extension | Weavers Extension |
| <b>November 2017 to October 2018</b>   |                         |                   |
| <b>Total</b>                           | <b>1</b>                | <b>1</b>          |
| <b>November 2018 to October 2019</b>   |                         |                   |
| <b>Total</b>                           | <b>1</b>                | <b>3</b>          |
| <b>November 2019 to October 2020</b>   |                         |                   |
| <b>Total</b>                           | <b>1</b>                | <b>8</b>          |

This table shows that in comparison with Brick Lane CIA and Bethnal Green CIA, fewer licences are being granted in the proposed extension areas. Moreover, the total number of licences in these areas is far fewer than in the current CIAs. See figures below:

- Weavers extension = 27
- Bethnal Green extension = 11
- Brick Lane CIA = 248
- Bethnal Green CIA = 58

Based on the above it does not appear that there is currently a saturation of licensed premises in the area.

5.29 The tables below show the complaints received by the Environmental Health and Trading Standards Service in the Weavers and Bethnal Green extensions between 2017 and 2020.

| Row Labels                     | Nov 2017<br>-Oct 2018 | Nov 2018<br>-Oct 2019 | Nov 2019 -<br>Oct 2020 |
|--------------------------------|-----------------------|-----------------------|------------------------|
| <b>Bethnal Green Extension</b> |                       |                       |                        |
| Licensing<br>Complaints        | 1                     | 3                     | 4                      |
| Noise<br>Complaints            | 1                     | 1                     |                        |
| <b>Weavers Extension</b>       |                       |                       |                        |
| Licensing<br>Complaints        | 16                    | 10                    | 10                     |
| Noise<br>Complaints            | 1                     | 2                     |                        |
| Out of Hours                   | 8                     | 5                     |                        |

5.30 In conclusion it does not appear that the area has a high saturation of licensed premises within these proposed extensions. Weavers Extension has 27 licensed premises and Bethnal Green has 11 licensed premises. This would not be a significant number to suggest it has a saturation of licensed premises. Furthermore, the complaints and incidents, linked to licensed premises, reported to the Police and Environmental Health and Trading Standards are not at a level that would justify the creation of a CIA in these areas, nor extending the CIAs to include these areas.

5.31 It is also worth noting that a CIA in these proposed areas would not control the licensed premises already present. It would only affect new applications either for premises licences or club premises certificates or for variations of existing licences or certificates. Therefore, it may be better to try and work with existing licence holders and residents to try and address concerns. Environmental Health and Trading Standards has already discussed this with Street Markets and Community Safety with a view to reach out to the residents to identify the specific issues

## 6 **EQUALITIES IMPLICATIONS**

- 6.1 An equalities impact assessment has been undertaken (Appendix Eight) and no adverse impacts have been identified.

## **7 OTHER STATUTORY IMPLICATIONS**

- 7.1 Best Value: recent legislation, such as the Localism Act 2010 has encouraged communities and the Local Authority to work in partnership. An informed Statement of Licensing Policy and well managed business will result in a reduction of enforcement and regulatory action, thus reducing costs for these Services.
- 7.2 Risk Management: The Council will be at risk of legal challenge if properly consulted and adopted Cumulative Impact Assessments are not implemented.
- 7.3 Crime Reduction: One of the key licensing objectives is to prevent licensed premises from being a source of crime and disorder. The policy supports and assists with crime and disorder reduction by controlling those who manage premises open to members of the public and imposing conditions on relevant premises licences.
- 7.4 Safeguarding: The Statement of Licensing policy considers of safeguarding children and violence against women and children.

## **8 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 8.1 There are no financial implications emanating from this report which seeks to retain both Cumulative Impact Assessments in Brick Lane and Bethnal Green and to agree the reviewed CIA Policy Statement in light of the consultation

## **9 COMMENTS OF LEGAL SERVICES**

- 9.1 Section 4(1) of the Licensing Act 2003 (“the Act”) requires licensing authorities to carry out their functions under the Act with a view to promoting the four licensing objectives: the prevention of crime and disorder; public safety; the prevention of public nuisance; the protection of children from harm.
- 9.2 Section 5 requires the authority to publish a statement of licensing policy every five years. The current policy came into force on 1<sup>st</sup> November 2018 and will last until 31<sup>st</sup> October 2023.
- 9.3 Section 5A of the Act permits an authority to publish a cumulative impact assessment stating that it considers the number of relevant authorisations (premises licences and club premises certificates) in respect of premises in one or more parts of its area as described in the assessment is such that it is likely that the grant of further relevant authorisations in respect of premises in that part or those parts would be inconsistent with its duty under section 4(1). Section 5A(7) provides that where a licensing authority has published a cumulative impact assessment it must, within three years, consider whether it remains of the opinion stated in the assessment.

- 9.4 Before deciding whether it remains of that opinion, the licensing authority is required to consult with the statutory consultees listed in s.5(3), which includes the chief officer of police for the area, the fire and rescue authority, those who the authority considers to be representative of holders of premises licences, personal licences and club premises certificates issued by the authority, and such other persons as the licensing authority considers to be representative of businesses and residents in its area.
- 9.5 If the authority is no longer of the opinion that the assessment should remain in force, it must publish a statement to that effect. If the authority's opinion is not changed, it must revise the cumulative impact assessment so as to include a statement to that effect and set out the evidence why the authority remains of that opinion. The authority must publish any revision of a cumulative impact assessment.
- 9.6 Paragraphs 14.20 to 14.46 of the Secretary of State's guidance issued under section 182 of the Licensing Act 2003 addresses issues of cumulative impact and the steps to be taken in both adopting an assessment and reviewing an existing assessment. Paragraphs 14.29 to 14.33 set out the need for a robust evidential basis for such an assessment.
- 9.7 With respect to the consultation itself the decision-maker should apply the following principles:
- the consultation should take place when proposals are still at a formative stage;
  - the proposer must give sufficient reasons for any proposal to allow for intelligent consideration and response;
  - adequate time must be given to both consider and respond to the proposal;
  - the product of the consultation must be conscientiously taken into account when the decision is made.
- 9.8 Section 149 of the Equality Act 2010 requires public authorities, when carrying out its functions, to have "due regard" to this duty. This requires the authority to have regard to the need:
- to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010;
  - to advance equality of opportunity between persons sharing a relevant protected characteristic (such as age, race, or disability) and those that do not;
  - to foster good relations between persons sharing a relevant protected characteristic and those that do not.
- 9.9 The decision to renew or not renew one or both CIAs is amenable to judicial review on the grounds that it was made unlawfully, or that it was procedurally improper, or that the decision is irrational in the sense that no reasonable authority could have come to that decision.



**APPENDICES**

- Appendix One: Proposed Changes to the Statement of Licensing Policy
- Appendix Two: Consultation Text
- Appendix Three: List of Consultees
- Appendix Four: Summary of online consultation
- Appendix Five: Written responses to the consultation
- Appendix Six: Background document CIA Consultation Document
- Appendix Six a: Cumulative Impact Assessment complaints
- Appendix Six b: Cumulative impact area premises operating times
- Appendix Six c: Cumulative impact area premises operating times including late night refreshment
- Appendix Seven: Hot Spot Maps of proposed CIA extensions
- Appendix Eight: Equalities Impact Assessment Checklist

*Appendices should not contain electronic watermarks. Excel documents and pictures (.jpg; .tif; .gif etc) should all be converted to .pdf format*

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**Local Government Act, 1972 Section 100D (As amended)  
List of “Background Papers” used in the preparation of this report**

|   |  |
|---|--|
| <b>Brief description of “background papers”</b> | <b>Name and telephone number of holder and address where open to inspection.</b> |
|---|--|

**None**

***Report authors should refer to the section of the report writing guide which relates to Background Papers when completing this section. Please note that any documents listed in this section may be disclosed for public inspection. Report authors must check with Legal Services before listing any document as ‘background papers’.***