

<b>Committee/Meeting:</b> Cabinet	<b>Date:</b> 31 July 2013	<b>Classification:</b> Unrestricted	<b>Report No:</b> CAB 014/134
<b>Report of:</b> Corporate Director: Stephen Halsey		<b>Title:</b> Cumulative Impact Policy – Brick Lane Area	
<b>Originating officer(s)</b> Name and title: David Tolley – Head of Consumer and Business Regulations		<b>Wards Affected: Weavers, Spitalfields and Banglatown, Whitechapel</b>	

<b>Lead Member</b>	Councillor Ohid Ahmed
<b>Community Plan Theme</b>	A Safe and Cohesive Community
<b>Strategic Priority</b>	Focusing on Crime and ASB

## 1. **SUMMARY**

- 1.1 Under the Licensing Act 2003 the Council is required to determine its policy with respect to the exercise of its licensing functions and as part of that policy, the Council can have a special policy whereby it can designate an area within the Borough a “Saturation Zone” if it feels that the number of licensed premises is having an adverse impact on any of the Licensing Objectives (crime and disorder, noise / nuisance, public safety and harm to children).
- 1.2 The licenses that are potentially affected are alcohol ‘on’ sales (pubs and restaurants) and ‘off’ sales of alcohol (off licenses) and late night refreshment licenses, the sale of hot food or drink after 11.00pm (takeaways).
- 1.3. In partnership with the Police, it is proposed that the Council adopt a Cumulative Impact Policy (saturation zone) for the Brick Lane area on the basis of the high levels of crime, anti-social behaviour and alcohol related harm.
- 1.4. On the 5<sup>th</sup> December 2012 Cabinet agreed that the matter should progress to Public Consultation. This report presents the findings of this consultation, the context, evidence and justification for adoption and explains the process required for implementation.

## 2. **DECISIONS REQUIRED**

The Mayor in Cabinet is recommended to:-

- 2.1 Consider the proposed Cumulative Impact Policy and agree that it may go forward to Full Council for adoption.
- 2.2 Note that it is intended to present the Cumulative Impact Policy to Full Council on the 18<sup>th</sup> September 2013.
- 2.3 Agree that when the policy goes before full Council for adoption it will form part of the reviewed Statement of Licensing Policy.
- 2.4 Recommend that Full Council approve the Cumulative Impact Policy for the Brick Lane area.

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

- 3.1 The Council has the power to consider the cumulative impact of licensed premises in any part of the Borough and make special provision for this in its Statement of Licensing Policy.
- 3.2 The draft policy consultation results demonstrated very high levels community support for the introduction of such a policy.

### **4. ALTERNATIVE OPTIONS**

- 4.1 Cabinet could choose not to progress the introduction of a Cumulative Impact Policy. This option would be inconsistent with the achievement of the licensing objectives .i.e. reducing crime and disorder and nuisance.
- 4.2 The adoption of the Cumulative Impact Policy will enable the current licence holders to carry on their business as they currently do. The creation of the zone will require any new licence applicants to demonstrate that they will not have an adverse impact on the area and to successfully address a rebuttal presumption against additional licenses established by the supporting policy.

### **5. BACKGROUND**

- 5.1 The Mayor of Tower Hamlets has identified the fight against crime and anti-social behaviour as a mayoral priority. Tower Hamlets police in their role as a “Responsible Authority” under the Licensing Act 2003 for the Council have for a considerable time expressed their concern at the levels of alcohol related harm, crime, disorder and anti-social behaviour in and around the Brick Lane area.
- 5.2 Under the Licensing Act 2003 the Council in its role as a Licensing Authority may consider introducing saturation policies (known under the guidance to local authorities as “Cumulative Impact Policies”).
- 5.3 These policies can be introduced where there is a combined impact or cumulative effect of licensed premises on one or more of the four Licensing

Objectives, namely crime and disorder, the protection of children from harm, public safety or public nuisance. On the 5<sup>th</sup> December 2012 a report outlining the evidence to support such a policy in the West of the Borough was presented to Cabinet and the Mayor authorised a public consultation on the introduction of such a policy.

- 5.4 There is a requirement to specifically identify the area to be the subject of such a policy and to bring forward sufficient evidence to justify adoption of it. This work was completed and presented to Cabinet as part of the rationale to move to the public consultation stage.
- 5.5 This consultation has taken place and the results show that there is support for a Cumulative Impact Policy in the Brick Lane area. The Council could now introduce a policy that creates a presumptive rebuttal against any new and varied licences being granted.
- 5.6 The proposals do not stop applications being submitted and considered on their merits. Any applicant may be successful if it can be demonstrated to the satisfaction of the Responsible Authorities and Licensing Sub Committee that their business will not add to any of the problems that have been identified.

## **6. PROPOSAL, JUSTIFICATION & TIMETABLE**

- 6.1 There has been an on-going dialogue between the Police and the Council concerning the creation of a Cumulative Impact Policy. Considerable evidence has been established and presented in the "Proposal for Cumulative Impact Policy for Brick Lane" document which is in Appendix One of this report.
- 6.2 The proposal explains in detail:-
- What a Cumulative Impact Zone (CIZ) is
  - The powers the Council has to introduce a CIZ
  - The limitations of a saturation policy
  - The area suggested in and around Brick Lane for the CIZ
  - The Brick Lane demographics
  - The detailed evidence that provides the justification for a CIZ.
  - Details of other saturation policies in the rest of London
  - Conclusions and recommendations
- 6.3 The justification for a saturation policy in Brick Lane can be summarised as:-
- a. There are already over 207 Licensed Premises within this small area.
  - b. The continuing high levels of violent / alcohol related in the Brick Lane Area (2011 Violent Crime 30% of all Alcohol Related Crime)
  - c. It is responsible for 8% of all crime within Tower Hamlets.
  - d. It is responsible for the highest level of complaints about street drinking
  - e. 22% of all police calls to licensed premises are in the Brick Lane Area
  - f. There are clear demonstrable links between violence against the person offences and alcohol related violence in the Brick Lane Area.
  - g. LBTH has the second highest level of ASB in London

- h. The highest rates of ASB in the Borough are in the Brick Lane Area
  - i. ASB is now decreasing in the Borough and Brick Lane Area but it still is at levels that continues to give rise to complaints from local residents
  - j. LBTH has significantly worse alcohol related harm indicators compared with regional and national averages
  - k. There is a steady increase in ambulance call outs in the Brick Lane Area
  - l. The Brick Lane Area has a vibrant and expanding night time economy which has led to a sizeable and steady increase in visitors to the area.
  - m. Considerable tensions have been built up because of the conflicting demands of the night time economy and the local residents.
- 6.4 It is therefore contended that the numbers of licensed premises have reached saturation point and there is a need to stop any further licences being issued or variations resulting in intensification being allowed in the identified area if they demonstrably add to the ASB and social problems being experienced.
- 6.5 The consultation took place between the 21st December 2012 and 22nd March 2013. Licence holders, residents groups, responsible authorities and interested networks/forum were consulted. A public event was held in Toynbee Hall to enable interested parties to discuss the proposed policy. The Council's Licensing Committee were also consulted as to the scope and effect of the proposed policy.
- 6.6 The consultation results summary is at Appendix Two and a map of the proposed zone is at Appendix Three. The total number of responses received was 165. However, not all responses answered all the questions. A total of 81.4% responses showed positive support for a Cumulative Impact Policy.
- 6.7 The key part of the Cumulative Impact Policy is the presumptive rebuttal for licences that involve on and off sales of alcohol and the sale of hot food after 11pm. The following positive responses were received to support the presumptive rebuttal of issuing licences for:
- a) The sale of alcohol for consumption within a premises e.g. restaurants, clubs – 69.9%
  - b) The sale of alcohol for consumption off the premises e.g. off licences and some pubs - 80%.
  - c) The sale of hot food after 11pm e.g. restaurants and take aways – 69.2%
- 6.8 During the consultation period a joint letter of support for the Cumulative Impact Policy was received from the Chief Officer of Tower Hamlets Clinical Commissioning Group, Public Health Director from Barts Health NHS Trust and the Interim Director of Public Health.
- 6.9 A 220 signed petition was also received from SPIRE, a local residents group, in favour of the Council adopting a Cumulative Impact Policy for the Brick Lane Area.

- 6.10 Cllr John Pierce and Cllr M Abdul Mukit provided a joint written response to the consultation supporting the Cumulative Impact Policy but having consulted the Weavers Safer Neighbourhood Team Panel would like to see the saturation zone to include the Boundary Estate and include Boundary Street, Virginia Road, Swanfield Street, Brick Lane and Shackwell Street.
- 6.11 The Licensing Committee were consulted and expressed concerns that the proposed zone might be too large by extending too far into the City fringe. It is important to note however that the licencing Committee would be entirely free to grant licences in the city fringe area if they considered the application would not result in additional problems (see 6.13 below).
- 6.12 The proposed special policy, if agreed, will amend the Statement of Licensing Policy and is outlined at Appendix Four.
- 6.13 The Cumulative Impact Policy would form part of the Council's statement of licensing policy. This would require the Council to revise its existing policy statement. Revisions to the statement of licensing policy are the responsibility of Full Council but the terms of reference of the Licensing Committee permit it to "consider the Council's statement of licensing policy." The role of the Licensing Committee is therefore to provide feedback for consideration having regard to the experience of Members in considering applications in the proposed "saturation area". If the policy is made then Members of the Licensing Committee when sitting on the Licensing Sub-committee will be the decision makers in respect of new or variation applications falling within the cumulative impact area. The effect of adopting a cumulative impact policy is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused. The Licensing Sub-committee will consider whether the rebuttable presumption has been addressed sufficiently well by the applicant to allow a license to be granted.

## **7. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 7.1 There are no specific financial implications emanating from this report. However, the service will need to ensure that the cumulative impact policy can be adopted within existing budgeted resources.

## **8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 8.1 The Council is required by section 5 of the Licensing Act 2003 to determine its policy with respect to the exercise of its licensing functions, and to publish a statement of that policy. The statement of licensing policy operates for a period of three years (in future it will be five years following a change in the law), during which time the Council must keep it under review and make such revisions to the policy as are considered appropriate.

- 8.2 Cumulative impact is not mentioned specifically in the Licensing Act 2003. The Secretary of State has, however, issued guidance under section 182 of the Act, which deals with cumulative impact. The Council must have due regard to the statutory guidance in exercising its licensing functions (Licensing Act 2003, section 4(3)).
- 8.3 According to the statutory guidance, cumulative impact means “the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area”. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Council to consider in developing its licensing policy statement. The statutory guidance gives an indication of types of cumulative impact, which focus on nuisance, disorder and crime in areas where the number, type or density of premises selling alcohol is high or exceptional, resulting in a concentration of large numbers of drinkers.
- 8.4 A saturation policy or cumulative impact policy would form part of the Council’s statement of licensing policy. This would require the Council to revise its existing policy statement. Before revising the policy, the Council is firstly required to consult with persons specified in section 5(3) of the Licensing Act. This report advises as to the consultation and Appendix 2 sets out the results summary.
- 8.5 Revisions to the statement of licensing policy are the responsibility of full council. The statement of licensing policy forms part of the budget and policy framework in Article 4 of the Council’s Constitution and revisions to it should be brought forward in accordance with the Budget and Policy Framework Procedure Rules. This will involve consultation with the Overview and Scrutiny Committee. For reasons described in the report, the Licensing Committee will also have an opportunity to comment on the proposed policy.
- 8.6 The statutory guidance provides that there should be an evidential basis for the decision to include a special policy within the statement of licensing policy. In that regard, local community safety partnerships and responsible authorities, such as the police and the local authority exercising environmental health functions, may hold relevant information which can be used to establish the evidence base for introducing a special policy relating to cumulative impact into their licensing policy statement. Evidence to show cumulative impact of licensed premises on the promotion of the licensing objectives may include:
- 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 councillors; and
- Evidence obtained through local consultation.

8.7 Relevant evidence has been gathered and the material relied upon in preparation of the cumulative impact statement is set out in Appendix 1. Paragraph 4.3 of the report summarises the material considered to justify the making of the policy. The Council may conclude that this material justifies the making of a cumulative impact statement in the terms proposed.

8.8 When preparing revisions to its statement of licensing policy, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. An equality analysis has been conducted which may inform the Council's consideration of the proposed cumulative impact statement.

## **9. ONE TOWER HAMLETS CONSIDERATIONS**

9.1 An equalities impact assessment has been undertaken and no adverse impacts have been identified. (Appendix Five)

## **10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

10.1 There are no adverse impacts identified.

## **11. RISK MANAGEMENT IMPLICATIONS**

11.1 There are no identified risks, current licence holders and their current terms of business are not affected. Any new application, if representations are made, will still be determined by the Licensing Sub – Committee and subjected to the procedures of that Sub-Committee.

## **12. CRIME AND DISORDER REDUCTION IMPLICATIONS**

12.1 The Appendix to the report identifies the current crime and anti-social behaviour statistics. As discussed in the report the adoption of a cumulative impact zone should have a downward pressure on the number of crime and anti-social behaviour incidents and complaints.

## **13. EFFICIENCY STATEMENT**

13.1 The costs of monitoring the cumulative impact zone will be contained within those delivering the current monitoring regime.

## **14. APPENDICES**

Appendix One: Proposal for Cumulative Impact Policy for Brick Lane Area

Appendix Two: Consultation Results Summary

Appendix Three: Proposed Saturation Zone

Appendix Four: Statement of Licensing Policy amendment

Appendix Five: Equality Impact Assessment and Checklist

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**Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**  
**List of “Background Papers” used in the preparation of this report**

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
<b>None</b>	<b>N/A</b>