



DERBY CITY COUNCIL

GENERAL LICENSING COMMITTEE 18 July 2011

Report of the Strategic Director of
Neighbourhoods

ITEM 5

CUMULATIVE IMPACT POLICY CONSULTATION

SUMMARY

- 1.1 The General Licensing Committee received a request from Derbyshire Constabulary to consider implementing a Cumulative Impact Policy for the inner city area of Derby.
- 1.2 On 8 December 2010 the Committee agreed to conduct a full consultation exercise and to set up a cross-party working group to assess and discuss the representations made, and report back to the General Licensing Committee with recommendations.

RECOMMENDATION

- 2.1 To accept the recommendations of the Cross Party Working Group, and approve the introduction of a cumulative impact policy.
- 2.2 To approve amendments to the Council's current Licensing Policy, to reflect the new cumulative impact policy as a supplementary document, if the recommendations of the Cross Party Working Group are approved.
- 2.3 To approve the draft cumulative impact policy, if the recommendations of the Cross Party Working Group are approved.

REASONS FOR RECOMMENDATION

- 3.1 The implementation of a cumulative impact policy needs to be approved by the General Licensing Committee.
- 3.2 The amendments to the Council's Licensing policy need to be approved by the General Licensing Committee.

SUPPORTING INFORMATION

- 4.1 The consultation exercise ended on 1 June 2011, having being run for the previous twelve weeks. 750 letters were sent out to existing premises licence and club certificate holders and their representatives, responsible authorities, and bodies representing interested parties. The consultation was advertised twice in a local newspaper, and for twelve weeks on the Council's website. Twenty three responses were received, thirteen were in favour of implementing a policy and nine were against. One response was neither in favour nor against a policy being implemented.
- 4.2 The Cross Party Working Group met on 28 June 2011. The legal advisor present outlined the scope and the limitations of implementing a cumulative impact policy. In particular, he advised that the guidance issued under section 182 of the Licensing Act 2003 identified that:
- (a) cumulative impact policies should focus on on-licence establishments, and not those providing alcohol for sale for consumption off the premises, so that in effect it could not be applied to all licensed premises;
 - (b) it would be inappropriate to apply a presumption in favour of granting licences to premises seeking to operate beyond a pre-determined/fixed terminal hour;
 - (c) premises may create different cumulative impacts, depending on the nature of their operation. Individual premises must be assessed on merit. Therefore the aspect of the proposal, so far as it related to restaurants, hotels, theatres, traditional pubs, café bars, late night food outlets and bars/clubs/music and dancing venues, would amount to fettering of the committee's discretion if accepted in absolute terms.
- 4.3 The Cross Party Working Group's discussions included, amongst others:
- (a) assessing whether the proposed area for the policy could potentially result in premises just over the boundary gaining 'premium' status, not being subject to the restrictions inherent within the proposal;
 - (b) the possibility of including other potential problem areas, not included in the city centre area proposed by the Police;
 - (c) the need to ensure scope for review of the policy;
 - (d) concerns that certain aspects of the proposal did not adhere to the guidance issued under Section 182 of the Licensing Act 2003.

- 4.4 After assessing the evidence and representations received as part of the proposal, the Cross Party Working Group agreed that the statistical data provided was overwhelming, in particular that:
- (a) the Derby city centre area bounded by the inner ring road represents just 1.2% of the total land area of the city of Derby, yet has within that area 73% of all licensed premises within the city, was overwhelming;
 - (b) the crime statistics provided demonstrated a correlation between the supply and consumption of alcohol, and incidents of crime within the area bounded by the inner ring road;
 - (c) within the proposed cumulative impact zone, the four licensing objectives would be better served by a presumption in favour of refusal of new applications and applications for variations of licences, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of those objectives.
- 4.5 The Cross Party Working Group therefore agreed to recommend to the General Licensing Committee to:
- 1. Implement a cumulative impact policy within the area contained within the inner ring road (identified in beige on the accompanying plan), subject to the exceptions arising from the advice given in paragraph 4.2 of this report;
 - 2. Review the policy to coincide with the planned reviews of the existing Licensing Policy;
 - 3. Agree that future reviews should include scope to identify whether the area of the cumulative impact zone should be retained, expanded or reduced, if appropriate, following receipt of sufficient evidence from the Police. The next Licensing Policy review is due in 18 months time.
- 4.6 If the recommendations of the Cross Party Working Group are approved by Committee, the Licensing Policy will need to be amended to reflect the new cumulative impact policy.

The proposed amendments to section 6 will involve the addition of the following text:

‘6.15 Following an application from Derbyshire Constabulary on 3 November 2010, the Licensing Authority is of the opinion that there is sufficient evidence to demonstrate that the number, density and type of premises within the Derby inner ring road area (identified in beige on the accompanying plan) are such as to create a significant impact on one or more of the four licensing objectives.

- 6.16 In light of this evidence, the Licensing Authority has adopted a cumulative impact policy for the area of the city contained within the Derby inner ring road, to be known as the cumulative impact zone.
- 6.17 The Council will monitor and review the cumulative impact policy on a regular basis, with a time period to coincide with review of the Licensing Policy.
- 6.18 The principles of the policy are outlined in Appendix 3.'
- 4.7 A cumulative impact policy has been drafted in accordance with the Guidance issued under Section 182 of the Licensing Act 2003. A copy is attached at Appendix 2.

OTHER OPTIONS CONSIDERED

- 5.1 None

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Service Director(s)	Olu Idowu Not applicable Not applicable Not applicable
For more information contact: Background papers: List of appendices:	Michael Kay 01332 641940 e-mail michael.kay@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Proposed Cumulative Impact Policy
Other(s)	Not applicable

IMPLICATIONS

Financial

- 1.1 None directly arising.

Legal

- 2.1 As set out in the report.

Personnel

- 3.1 None.

Equalities Impact

- 4.1 The proposed changes will apply equally to all groups within the community and no particular group(s) will be disadvantaged.

Health and Safety

- 5.1 None.

Carbon commitment

- 6.1 None.

Value for money

- 7.1 None.

Corporate objectives and priorities for change

- 8.1 The proposal supports the corporate priorities to ensure the people in Derby will enjoy **good quality services that meet local needs** and **being safe and feeling safe**.

PROPOSED CUMULATIVE IMPACT POLICY

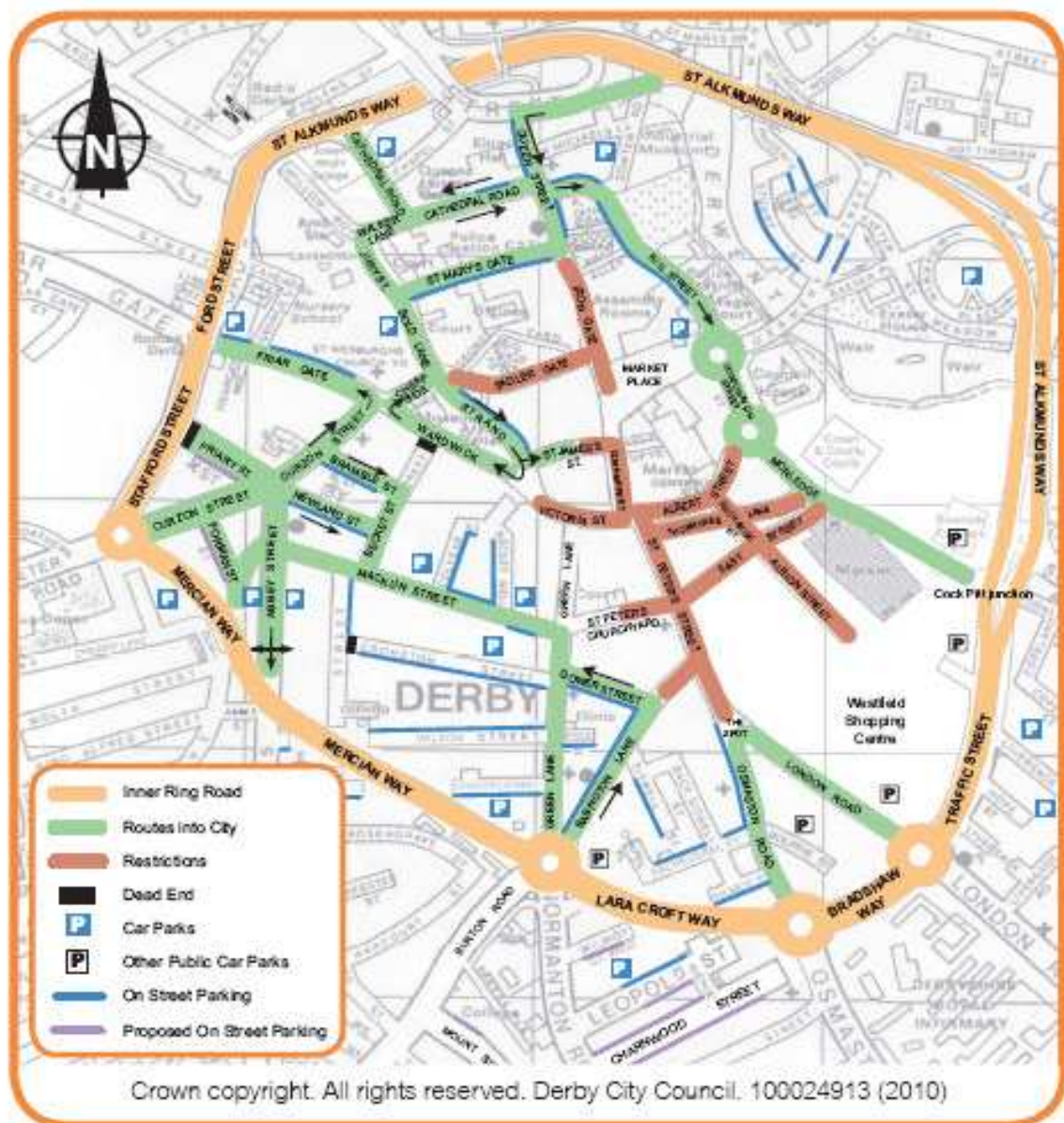
1 BACKGROUND

- 1.1 Derby City Council, as the Licensing Authority, has a duty to comply with its obligations under Section 17 of the Crime and Disorder Act 1998 in respect of crime and disorder and to promote the four licensing objectives of the Licensing Act 2003.

The four licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance, and
- The protection of children from harm.

- 1.2 This cumulative impact policy is written in accordance with the guidance issued under Section 182 of the Licensing Act 2003.
- 1.3 The Licensing Authority is aware of problems that can be created when longer trading hours, large numbers, or the density of premises offering licensable activities are located in close proximity to one another, or where the premises are out of character with the surrounding social infrastructure.
- 1.4 Derbyshire Constabulary provided evidence to support the implementation of a cumulative impact policy within the area edged in beige on the attached plan. The evidence showed a correlation between an increase in alcohol fuelled crime and disorder in the city centre area and the number and density of licensed premises within the identified area.
- 1.5 The statistics showed an increase in crime and disorder offences throughout the evening, peaking around midnight and sustained into the early hours of the morning, until around 4am. Numbers of crimes were higher on Friday and Saturday nights.
- 1.6 The area most significantly affected by the cumulative impact of licensed premises are generally contained within the city centre, which represents 1.2% of the total area of the city of Derby, yet accommodates 73% of all licensed premises within the city.
- 1.7 The Licensing Authority accepts that the grant of new premises licences or club certificates, or the positive variation of existing licences or certificates within this area would undermine the crime prevention objective, and add to the existing cumulative impact of the existing licensed premises.
- 1.8 The Council is adopting a cumulative impact policy for the area contained within the city's inner ring road, shown edged in beige on the attached plan.



2 EFFECTS OF THE POLICY

- 2.1 There will be a presumption to refuse relevant new applications for premises licences or club certificates, or variation applications to existing licences or certificates, unless the applicant can demonstrate that the premises will not add to the existing cumulative impact of licensed premises within the cumulative impact policy zone. The onus therefore falls on applicants to demonstrate this in their operating schedules.
- 2.2 Variation applications covered under this policy would exclude minor variations.
- 2.3 The policy will only be triggered where relevant representations from responsible authorities or interested parties are received in relation to a specific application. If no representations are received, the Licensing Authority must grant the premises licence or club certificate.
- 2.4 The policy cannot be absolute and the Licensing Authority recognises this and will

consider each application on its own merits. Premises with different operating and/or business styles or characteristics may have different cumulative impacts. Applications relating to premises where the evidence demonstrates that a grant would be unlikely to add to the cumulative impact will be granted.

2.5 The policy will not be used to:

- revoke a licence that is being reviewed following representations received about problems with an existing licensed premises,
- adopt quotas or set terminal hours in a particular area.

2.6 Conditions will not be imposed on premises licences or club certificates for premises within the cumulative impact zone by the Licensing Authority, unless relevant representations from a responsible authority or interested party have been received.

3 REVIEW

3.1 The cumulative impact policy will be reviewed on a regular basis, at the same time as the Council's Licensing Policy, currently every three years.

3.2 A review may involve the boundaries of the existing cumulative impact area being revised, subject to available evidence existing at the time to justify the revision. It may also assess whether the policy is still needed.