

Cumulative Impact Assessment (CIA) for Consultation.

Background.

The concept of Cumulative Impact has been described in the Home Office Guidance to the Licensing Act 2003 since the commencement of that Act. Cumulative Impact is defined as the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

In some areas where the number, type or density of licensed premises such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance, crime and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport. These conditions are more likely to arise in city centres.

This should not, however, be confused with ‘need’ which relates more to the commercial demand for a particular type of premises. The issue of ‘need’ is therefore a matter for the market to decide and can, in some circumstances, be a matter for planning consideration; need therefore does not form part of this CIA.

CIA’s were introduced into the Licensing Act 2003, and thus given a statutory footing, by the Policing and Crime Act 2017 with effect from 6 April 2018. A CIA may be published by a licensing authority to help it to 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 in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives.

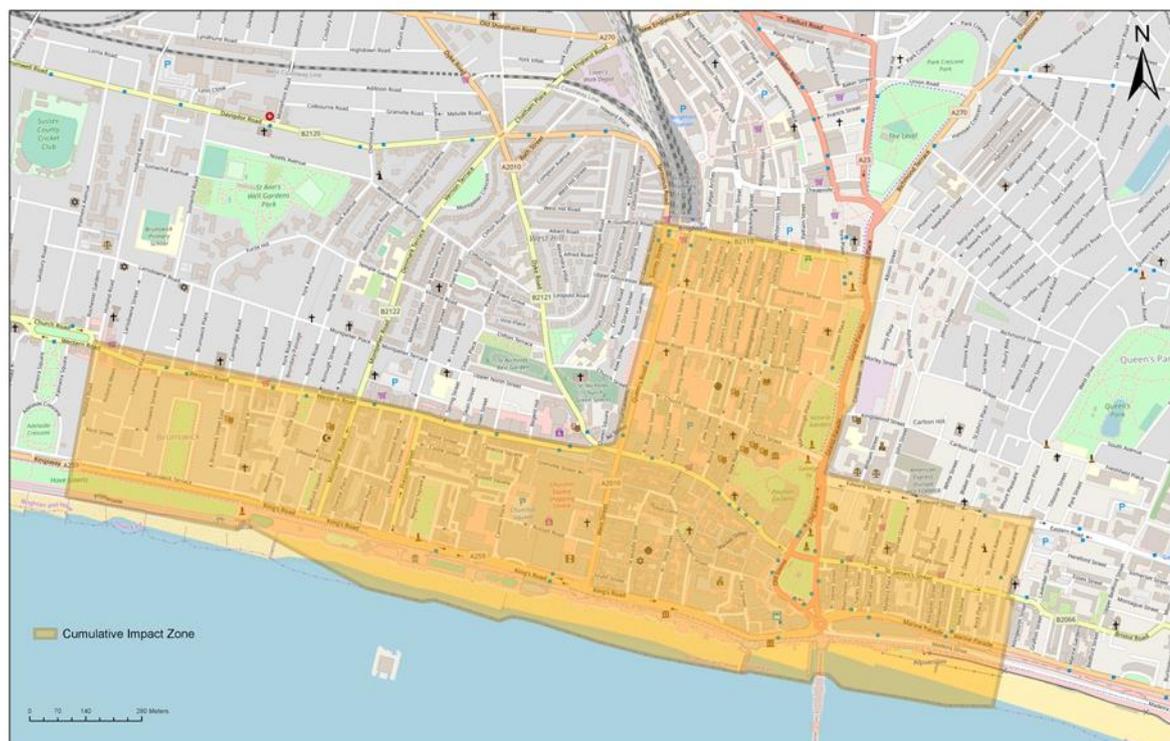
Cumulative impact in Brighton & Hove – Special Policy.

The licensing authority, after careful consideration, determined that the concentration of licensed premises in an area of the city centre was causing problems of crime and disorder and public nuisance, and that therefore an approach to ‘Cumulative Impact’ was necessary as part of its statement of licensing policy. The first Special Policy incorporating a Cumulative Impact Zone (CIZ) and Special Stress Areas (SSA’s) was adopted in March 2008. Since that date, the licensing authority has kept the CIZ and SSA’s under review. On 15 December 2011 Full Council resolved to expand the CIZ and the special stress area, covering 1.5% of the administrative area of Brighton & Hove City Council. On 20th November 2014 Licensing Committee resolved to confirm the current CIZ and SSA as defined in the current Statement of Licensing Policy. On the 29th November 2018 Licensing Committee resolved to expand the SSA into Central Hove.

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This CIA incorporating the special policy will refer to a Cumulative Impact Zone (“the CIZ”) in the Brighton city centre, a detailed plan of which is shown below:

Cumulative Impact Zone, January 2020



Brighton & Hove Public Health Intelligence, 2020
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The Cumulative Impact Zone comprises the area bounded by and including: the north side of Western Road, Brighton from its intersection with the west side of Holland Road to the junction with the west side of Dyke Road at its eastern end; from there, north-east to the junction of the north side of Air Street with the west side of Queens Road and then northward to the north-west corner of Surrey Street junction with Queens Road; thence along the north side of Trafalgar Street eastwards to its junction with York Place and continuing south-east across to Grand Parade, then south to the junction of Edward Street; along the north side of Edward Street to the east side of its junction with Egremont Place and southward along the eastern sides of Upper Rock Gardens and Lower Rock Gardens; southward to the mean water mark and following the mean water line westward to a point due south of the west boundary of Holland Road; northward to that point and along the west side of Holland Road to its northwest boundary and then diagonally across Western Road to its intersection with the west side of Holland Road.

The CIA and special policy.

The Licensing Authority continues to consider that the number of licensed premises in the CIZ is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives.

This CIA and special policy is thus setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the CIZ.

The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact/ will not add to cumulative impact.

This special policy also applies to all new premises licences and club premises certificates, for example pubs, restaurants and take-away establishments. Off licences also come within this policy as they can contribute to problems of street drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.

The presumption of refusal does not relieve responsible authorities or other persons of the need to make a relevant representation. If there are no representations, the licensing authority must grant the application in terms consistent with the operating schedule submitted.

Furthermore, this special policy is not absolute. Upon receipt of a relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in the light of the individual circumstances of the case. If an application is unlikely to add to the cumulative impact of the area, it may be granted. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant, theatre or live music venue (where alcohol is not the primary activity) may be considered exceptional circumstances. The fact that a premises will be/is exceptionally well managed with a well-qualified applicant, or that there are no residential premises nearby, will not be considered exceptional. Applications for premises within the CIZ should give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives.

The Matrix approach: The licensing authority has published within its statement of licensing policy a framework of what types of premises it would like to see in the CIZ and which it believes are less likely to add to problems of cumulative impact in the

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area. Such premises include a restaurant until midnight, a café to 10 pm and favourable consideration to non-alcohol led premises such as theatres.

If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that conditions would be ineffective in preventing the problems involved.

Evidence and support for the CIA, special policy and CIZ

Since it was first introduced in 2008 the Special policy has had widespread support from the responsible authorities – police and licensing authority, from residents and residents associations and from local councillors. Successive reviews of the policy have shown that it remains relevant and necessary. For residents the areas within the CIZ of most concern are the North Laine, St James's Street and the Norfolk Square and Brunswick areas. The North Laine Community Association (NLCA) has consistently put forward evidence at Licensing Panels about the impact that the increase in licensed premises in this area has had on the licensing objectives notably that of prevention of public nuisance and Crime and Disorder. Likewise Kingscliffe Society representing St James' Street residents has consistently made representations as have residents in the Norfolk Square and Brunswick area.

For the purposes of this CIA the police have compiled a report to support the continuation of the current special policy. The report highlights the policing challenges of the night time economy and the work of the special task force 'Operation Marble'.

The public health team at the Council has provided evidence in a series of maps to illustrate the number and types of premises and associated crime and disorder.

Links to both the police and public health's submissions can also be found within Q.1 of the consultation document.