

## Section 7 Cumulative Impact Policy

- 7.1 Cumulative impact means the potential impact on the promotion of the licensing objectives where there are a significant number of licensed premises concentrated in one area.
- 7.2 The licensing policy is not the only means of addressing such problems. Other controls include:
- planning controls
  - CCTV
  - provision of transport facilities including taxi ranks
  - Designated Public Places Orders
  - police powers
  - closure powers
  - positive measures to create safer, cleaner and greener spaces
  - Voluntary or best practice schemes such as Street Wardens, Street Angels or Taxi Marshals
- 7.3 The council encourages the development of a variety of premises providing a range of licensed activities catering for a wide range of users. Any policy adopted from time to time on the cumulative impact of licensed premises imposes restrictions only to the extent that they are justified by the available evidence having regard to the guidance issued by the Secretary of State.

### Applications

- 7.4 A cumulative impact policy creates a rebuttable presumption that applications within the designated cumulative impact area for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.
- 7.5 An applicant wishing to obtain a new or varied licence for premises falling within any of the cumulative impact areas must identify, through the risk assessment process (if used) and operating schedule, the steps that he or she intends to take so that the council and responsible authorities can be satisfied that granting a new licence will not add to the impact already being experienced.
- 7.6 To assist this process applicants are encouraged to submit a full and thoroughly considered application at the earliest opportunity. The onus is on the applicant to demonstrate to the responsible authorities the suitability and detail for their site. The applicant is encouraged to make early contact with the responsible authorities to discuss their plans, and suggested control measures. Applicants should also have particular regard to the guidance issued by the Home Office under section 182 of the Act.
- 7.7 Despite the presumption against grant, responsible authorities and other persons will still need to make a relevant representation before the council may lawfully consider giving effect to its cumulative impact policy. The licensing authority, in its role as a responsible authority and in consultation with the relevant ward members, will make a representation to any application received in a cumulative impact area. This representation will include the latest evidence in relation to that cumulative impact policy area. Any other representations, from responsible authorities and members of the public, which are based on the negative effects of cumulative impact will stand in their own right, but will also support and strengthen the licensing authority representation.

7.8 The council recognises that a cumulative impact policy should not be absolute. The circumstances of each application will be considered properly and application for licences that are unlikely to add to the cumulative impact on the licensing objectives may be granted. After receiving representations in relation to a new application or for a variation of a licence, the licensing authority will consider whether it would be justified in departing from its cumulative impact policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. If the council decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.

### Cumulative Impact Policies

7.9 The council has applied a cumulative impact policy in five areas of the Leeds district:

- the city centre (Area 1)
- Headingley/Hyde Park (Area 2)
- Woodhouse (Area 3)
- Chapel Allerton (Area 4)
- Horsforth (Area 5)

7.10 These areas have been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in these areas continue to adversely affect the promotion of the following licensing objectives:

- prevention of crime and disorder
- the prevention of public nuisance

7.11 A summary of the evidence of the problems being experienced in these areas is included in this policy. A full report may be accessed via the council's website or from Entertainment Licensing.

7.12 The council ~~first~~ consulted on the draft policies as part of ~~the a~~ wider consultation on the council's ~~revised draft~~ licensing policy. The consultation was carried out with:

- the responsible authorities
- licensees and those representing licensees
- local residents and businesses
- those representing local residents and businesses

7.13 In early 2016, the inclusion of the Armley CIP and amendments to the wording of the City Centre CIP to remove ambiguity were subject to directed consultations. Both consultations were open to the public and anyone could respond but particular emphasis was given to ensure those most affected were aware of the consultations.

7.14 The council is also aware that the police have concerns related to the concentration of premises in the localities of Pudsey, ~~Armley~~, Otley and Guiseley. The council, in conjunction with the responsible authorities, will be keeping these areas under review during the life of the policy in case it becomes necessary to instigate formal cumulative impact investigation. Applicants wishing to apply for new licences or variations in these areas should note this paragraph and tailor their operating schedules accordingly.

7.14 The council will keep the cumulative impact areas under an annual review. Applicants should contact Entertainment Licensing to ensure they are in possession of the latest information before making their application.

### Area 1 – City Centre

7.15 Area 1 relates to the city centre. West Yorkshire Police have provided information that the nature of the city centre is such that the problem areas and cumulative impact is directly related to the style of businesses opening in that area and their clientele.

7.16 In addition the close proximity of a number of venues on a street can result in difficulties in identifying individual premises as causing problems which can be dealt with via an action plan or a review process.

7.17 As a consequence the closure or opening of businesses can have a dramatic effect on reported crime and reported incidents in an area. While individual premises are dealt with using the review process, there are areas in Leeds city centre which may temporarily become temporarily saturated as new businesses open or existing businesses change their style of operation.

7.18 In addition the council recognises that a previous problem area can be improved by the introduction of new styles of business types, such as food led premises, and seeks to encourage this.

7.19 This dynamic nature has created difficulties in setting a policy for the city centre that will be relevant for five years until the next formal review of the policy. Therefore the council will adopt an approach of designating areas within the city centre CIP as 'red' or 'amber' based upon an analysis of night time economy related issues that are relevant to the licensing objectives. Areas that are considered highly saturated will be designated as red areas.

7.20 The council will seek to refuse all applications in these **red areas** on the basis that the impact on the licensing objectives are at such a level that the area cannot support any more premises opening or existing premises extending their hours-operation no matter how impressive the concept or application is. The council will only grant applications in the red zone in exceptional cases.

7.21 An **amber area** is an area which is of concern based upon an analysis of night time economy related issues that are relevant to the licensing objectives, and the council will expect applicants to offer additional measures tailored to the problems in that area.

7.22 All other areas within the city centre CIP will be designated **green areas** where good quality applications will be generally be more acceptable even though the area is a CIP area.

7.23 The current map and evidence is available on the council's website and from Entertainment Licensing.

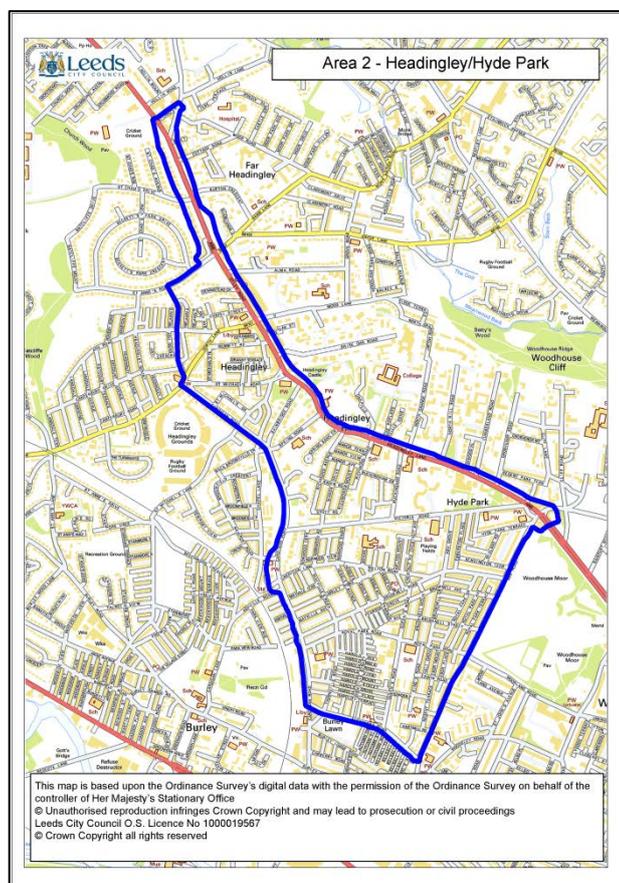
7.24 It is the council's policy, on receipt of relevant representations, to

- refuse new and variation applications in the red area
- to seek additional measures for new and variation applications in the amber area
- To seek good quality applications for application in the green area

7.25 This applies to alcohol led premises such as bars, pubs and nightclubs, and for premises seeking late night refreshment such as takeaways and late opening restaurants.

## Area 2 – Headingley/Hyde Park

7.26 Area 2 relates to the Headingley and Hyde Park districts of Leeds as defined within the blue boundary. It also includes premises on both sides of the boundary roads.



7.27 The Headingley cumulative impact policy was put in place in 2005 and has worked well in ensuring that the adverse effect of an accumulation of licensed premises in Headingley has not increased.

7.28 There have been ongoing problems, both public nuisance and anti-social behaviour in the Hyde Park area which can be attributed to licensed premises. For this reason the geographical area of the CIP was increased in 2011 to include the problem areas.

7.29 There is evidence that the lengthening of the opening hours of premises had an impact on the area. For this reason the scope of the policy was increased to include variation applications.

7.30 There is new evidence that the increase in 24 hour opening off licences has led to an increase in reported nuisance complaints.

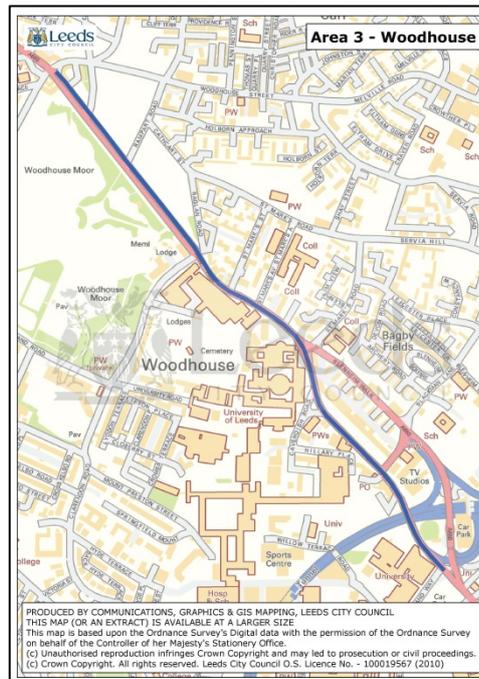
7.31 It is the council's policy, on receipt of relevant representations, to refuse new and variation applications in Area 2 for the following premises:

- Alcohol led premises such as bars, pubs and nightclubs
- Café bars and restaurants
- Premises seeking late night refreshment such as takeaways and late opening restaurants
- Premises seeking to sell alcohol for consumption off the premises after midnight, such as off licences and convenience stores.

7.32 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

### Area 3 – Woodhouse

7.33 Area 3 as defined on the map relates to the arterial road (the A660) linking Area 1 (City Centre) and Area 2 (Headingley District).



7.34 When the council approved its first statement of licensing policy it contained a cumulative impact policy for the area shown in the above appendix. At that time the council had concerns that by adopting policies in respect of areas 1 and 2 that there could be a tendency to displace either the crime and disorder or public nuisance impact into Area 3. The council was also mindful of police representations from West Yorkshire Police that also backed up this concern.

7.35 The most recent evidence and public consultation responses gathered in respect of Area 3 shows that the A660 corridor still experiences a greater proportion of alcohol related crime and antisocial behaviour than the rest of the Hyde Park/Woodhouse area. The police attribute this trend to the high concentration of licensed venues in the area. There are also worrying signs that displacement of problems may be taking place as evidenced by the strong responses received during the consultation process about public nuisance problems and alcohol fuelled anti-social behaviour and criminal damage.

7.36 It appears that the proximity of the Headingley area and its significant concentration of venues coupled with the growing number of premises licensed into the early hours of the morning to the north of the city centre and along the A660 corridor is causing problems related to the licensing objectives. The evidence suggests that there is likely to be movements of inebriated people who may have a tendency to loud and disorderly behaviour late at night, either travelling into the city centre from Headingley, or travelling out of the city centre towards Headingley. The council takes the view

that the existing policy should be retained as follows to ensure that these problems are not allowed to worsen.

7.37 It is the council's policy in respect of Area 3 that, on receipt of relevant representations, necessary conditions will be applied to all premises licences in the area to ensure that the problems experienced in Areas 1 and 2 are not displaced into Area 3.

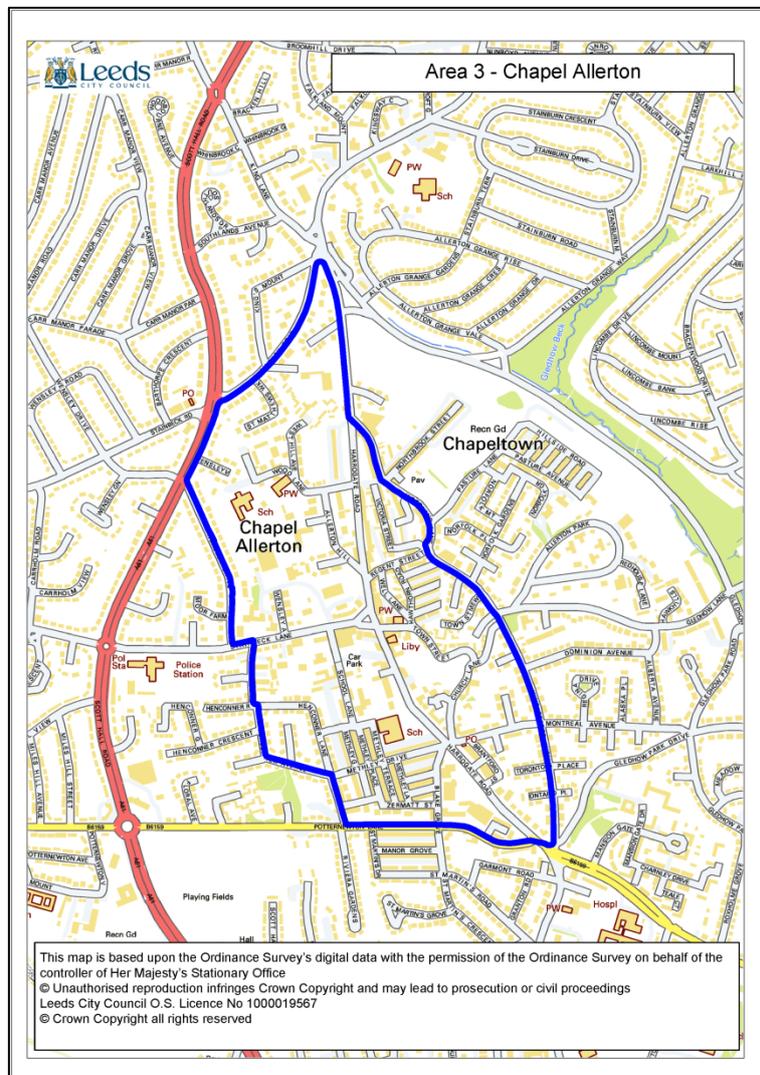
7.38 Such conditions might include (but are not limited to):

- Restriction of hours
- Restriction of capacity

7.39 Or the Authority may refuse to grant the licence or variation sought due to the impact on the licensing objectives.

#### Area 4 – Chapel Allerton

7.40 Area 4 relates to the Chapel Allerton district of Leeds as defined within the blue boundary.



7.41 The Chapel Allerton CIP has performed well since its inclusion in the Statement of Licensing Policy. However, residents of Chapel Allerton have noticed an increase in the amount of takeaway litter. There is also a concern relating to premises applying to vary their licence to increase the licensed area of their premises. In some cases this includes altering conditions to allow the use of the outside area to facilitate smokers following the smoking ban. This has a knock on effect on nuisance issues.

7.42 Since the CIP was introduced in 2005 and extended in 2011 the council has noted there have been very few applications to grant or vary premises licences in this area. This suggests that the CIP is having the desired effect in this area. Therefore the CIP remains unchanged.

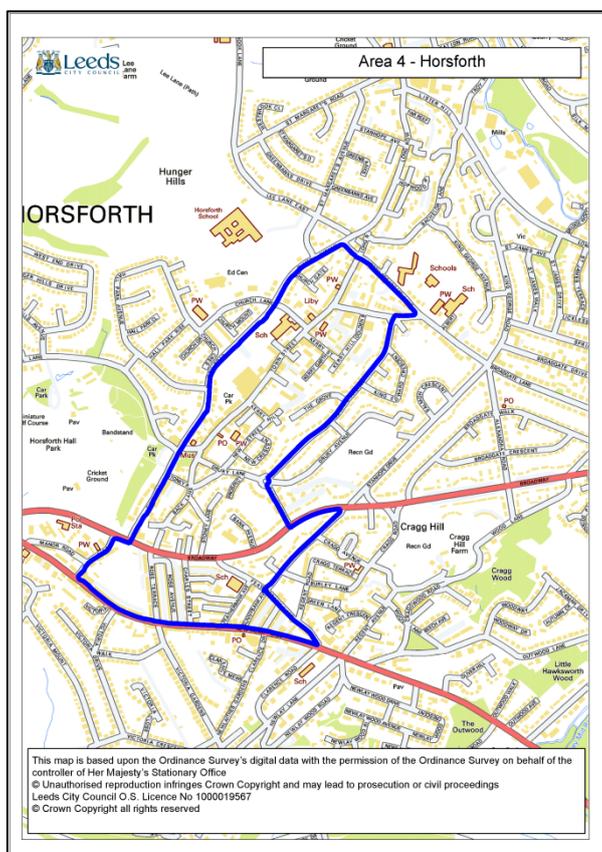
7.43 It is the council's policy, on receipt of relevant representations, to refuse new and variation application in Area 4 for the following premises:

- Alcohol led premises such as bars, pubs and clubs
- Café bars and restaurants
- Premises seeking late night refreshment such as takeaways and late opening restaurants

7.44 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

#### Area 5 - Horsforth

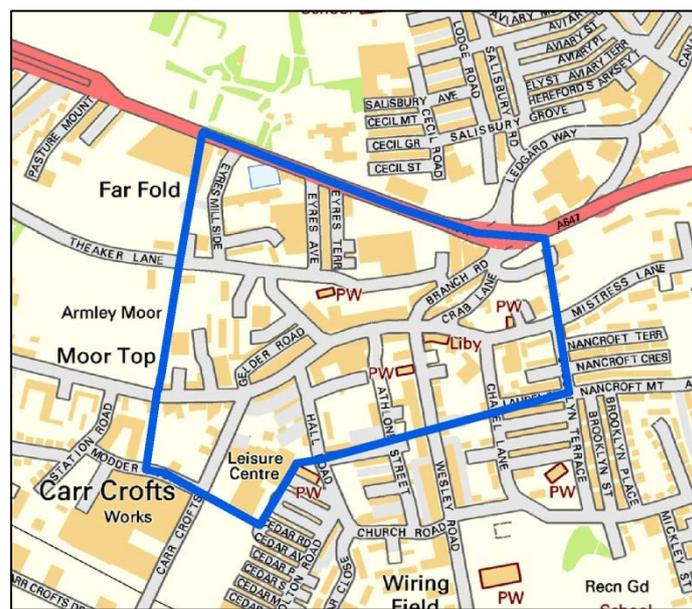
7.45 Area 5 relates to the Horsforth district of Leeds centred on Town Street. It includes all areas inside the blue boundary, but also the premises on the south side of New Road Side.



- 7.46 Since the adoption of the Horsforth CIP the council has recognised that the accumulation of licensed premises along New Road Side has contributed to public nuisance in that area, especially as it encourages the use of a route through residential areas used by people moving from Town Street to New Road Side. As a consequence this area was been included in the cumulative impact area for Horsforth in 2011.
- 7.47 Concern has been expressed by residents about the litter nuisance and public nuisance caused by takeaway premises. The council has received a number of complaints relating to litter and odour nuisance that can be related to takeaway premises.
- 7.48 Since the CIP was introduced in 2007 and extended in 2011 the council has noted there have been very few applications to grant or vary premises licences in this area. This suggests that the CIP is having the desired effect in this area. Therefore the CIP remains unchanged.
- 7.49 It is the council's policy, on receipt of relevant representations, to refuse new and variation applications in Area 5 for the following premises:
- Alcohol led premises such as bars, pubs and clubs
  - Café bars and restaurants
  - Premises seeking late night refreshment such as takeaways and late opening restaurants
- 7.50 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

### Area 6 - Armley

7.51 Area 6 relates to the main shopping areas of Armley, known as Armley Town Street and Branch Road.



7.52 In recent years Armley has been highlighted due to levels of deprivation, poor health outcomes and, more recently, an increase of disorder in the main shopping areas.

7.53 In 2014 the Council recognised this as an area that would benefit from Local Licensing Guidance due to poor health outcomes of people living in LS12. This gives potential businesses extra information about the problems in Armley and encourages new businesses to think about the impact they are having in the area.

7.54 In the last few years residents have reported to the local councillors and MP their concerns about large groups of mostly male street drinkers gathering on Town Street. Residents find this intimidating and have reported feeling that this area is becoming a no-go zone. There is a culture of street drinking which involves two distinct groups.

- Firstly, adult Eastern European males drinking in small groups, generally orderly and compliant and who hand over alcohol when requested as per the DPPO.
- The second group are a more anti-social group of white British males who congregate on Town Street and whilst in drink commit crimes, and generally make a nuisance of themselves to passers-by and shop premises.

7.55 West Yorkshire Police, Leeds Antisocial Behaviour Team and the Council are already working with these two groups to stop the antisocial behaviour and have issued injunctions to stop a number of people from coming back to Town Street.

7.56 The number of off licences in the Armley area has steadily increased over the last ten years. This table show the number of licences issued as at 1<sup>st</sup> January each year.

		2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<u>LS12</u>	<u>On</u>	<u>51</u>	<u>52</u>	<u>50</u>	<u>49</u>	<u>44</u>	<u>41</u>	<u>41</u>	<u>42</u>	<u>38</u>	<u>40</u>	<u>36</u>
<u>Postcode</u>	<u>Off</u>	<u>43</u>	<u>43</u>	<u>43</u>	<u>49</u>	<u>51</u>	<u>54</u>	<u>56</u>	<u>56</u>	<u>57</u>	<u>57</u>	<u>61</u>
<u>Armley</u>	<u>On</u>	<u>30</u>	<u>30</u>	<u>27</u>	<u>27</u>	<u>24</u>	<u>23</u>	<u>25</u>	<u>24</u>	<u>23</u>	<u>24</u>	<u>20</u>
<u>Ward</u>	<u>Off</u>	<u>24</u>	<u>25</u>	<u>30</u>	<u>31</u>	<u>34</u>	<u>37</u>	<u>38</u>	<u>38</u>	<u>37</u>	<u>38</u>	<u>41</u>
<u>CIP</u>	<u>On</u>	<u>8</u>	<u>8</u>	<u>7</u>	<u>7</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>8</u>	<u>6</u>
<u>Area</u>	<u>Off</u>	<u>2</u>	<u>2</u>	<u>5</u>	<u>5</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>9</u>	<u>9</u>	<u>11</u>	<u>12</u>

7.57 In the CIP area, by the end of 2015, there were a total of 12 premises licensed to sell alcohol for consumption off the premises (convenience stores, mini-markets and off licences) and 6 premises licensed to sell alcohol for consumption on the premises (pubs, bars and clubs).

7.58 At the same time licensed premises have increased reports of antisocial behaviour, disorder and domestic violence have also increased in the wider Armley area.

7.59 In areas where there is an excessive accumulation of on-licensed premises, it is easy to provide a direct correlation between those premises and crime and disorder in the area, through an analysis of the operating hours of the premises and the peak times for incidents and calls for service.

7.60 It is harder to provide a direct correlation between the accumulation of off licensed premises and disorder in the same way as people are not drinking on the premises where they purchased the alcohol, and may delay drinking the alcohol until they arrive at home.

7.61 However in this area there is an issue with people drinking on the street and causing disorder and anti-social behaviour issues. West Yorkshire Police have identified that smaller independently owned off licences in the area are selling strong and cheap alcohol popular with street drinkers as they are finding bottles and cans as litter that are only available in certain shops. However as the

shops aren't committing any offences selling these products they would not be subject to enforcement action.

7.62 Common sense would denote that new off licensed premises opening in the area where street drinking and the associated anti-social behaviour is most problematic would add to the problems already being experienced in the area and this view is supported by officers from LASBT and West Yorkshire Police.

7.63 It is the council's policy, on receipt of relevant representations to refuse all applications (new and variation) for premises licences which authorise the sale of alcohol for consumption off the premises in the CIP area.

7.64 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the Armley area.

7.65 Further information and a full report of the evidence used to support this CIP is available from Entertainment Licensing.

### **Rebutting the presumption against grant in a CIP area**

7.51 When considering whether the presumption against grant in a CIP area the council will need to be satisfied that the grant will not impact on the cumulative impact of existing licensed premises in the area. Applicants will often suggest measure which they assert will demonstrate there will be no impact.

7.52 Examples of factors the licensing authority may consider as demonstrating there will be no impact may include, though are not limited to:

- Small premises who intend to operate before midnight.
- Premises which are not alcohol led and only operate during the day time economy
- Instances where the applicant is relocating their business to a new premises but retaining the same style of business.
- Conditions which ensure that the premises will operate in a particular manner such as a minimum number of covers or waiter/waitress service to secure a food led operation.

7.53 Examples of factors the licensing authority will not consider as meeting the standard of rebuttal include:

- That the premises will be well managed and run as all licensed premises should meet this standard
- That the premises will be constructed to a high standard
- That the applicant operates similar premises elsewhere, such as in another licensing authority area, without complaint

7.54 Any relevant representation of support will be taken into consideration by the council when making its determination.

### **Representations on cumulative impact outside cumulative impact areas**

7.55 In cases where either responsible authorities or other persons seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact

in an area not designated as a saturation zone, which would undermine one or more of the licensing objectives, they shall:

- Identify the boundaries of the area from which it is alleged problems are arising
- Identify the licensing objective which it is alleged will be undermined
- Identify the type of licensable activity alleged to be causing the problem (e.g. sale of alcohol, late night refreshment)
- Provide full details and evidence to show the manner and extent to which it is alleged that the licensing objectives are being, or at risk of being, undermined in the area
- Provide evidence to show that the undermining of the objective is caused by the patrons of licensed premises in the area.

7.56 The reason for this is to ensure that objections are neither frivolous nor vexatious and that there is an evidential basis for the licensing subcommittee to reach a decision.