

## Section 7 Cumulative Impact

- 7.1 The concept of “cumulative impact” has been described in the Section 182 guidance issued by the Home Office since the commencement of the Licensing Act 2003. Cumulative impact assessments were introduced at Section 5A in the Licensing Act 2003 by the Policing and Crime Act 2017. Cumulative impact is the potential impact on the promotion of the licensing objectives of several licensed premises concentrated in one area.
- 7.2 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 and disorder may arise outside or some distance from those premises. Such problems generally occur because 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.
- 7.3 Queuing may lead to conflict, disorder, and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic, and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 7.4 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will be greater than the impact of customers of individual premises. These conditions are more likely to arise in town or city centres but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.
- 7.5 Once away from the licensed premises, a minority of customers will behave badly. Other mechanisms for addressing such concerns may be more appropriate than cumulative impact or may work alongside licensing policy. For example:
- Planning control
  - Positive measures to create a safe and clean town or city centre environment in partnership with local businesses, transport operators and other departments of the local authority, including best practise schemes such as PubWatch or BIDs
  - Community Protection Orders
  - The provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleansing and litter patrols
  - Public Spaces Protection Orders
  - Police enforcement of the law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
  - Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale)
  - Late Night Levy
  - Early Morning Restriction Orders
  - Other licensing measures such as fixed closing times, staggered closing times and zoning

## Cumulative Impact Assessments

- 7.6 A cumulative impact assessment (CIA) may be published by a licensing authority to help it limit the number or type 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.
- 7.7 The council first published a cumulative impact assessment under section 5A of the Licensing Act 2003 in November 2018 which relates to new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in specific areas.
- 7.8 In this assessment the council reviewed the evidence for all existing cumulative impact areas (city centre, Headingley and Hyde Park, Woodhouse, Chapel Allerton, Horsforth and Armley). The council also reviewed the evidence for Harehills.
- 7.9 The review of the Cumulative Impact Assessment was due to take place in 2021, but the Coronavirus pandemic had a severe impact on the night-time economy with three total lockdowns closing licensed premises. This had a temporary effect on the crime statistics and a decision was made to delay the review of the cumulative impact areas until the long term impact of the pandemic was known.
- 7.10 The assessment was undertaken in 2022 and included a call for evidence from the responsible authorities and crime statistic reports commissioned from West Yorkshire Police. Residents have been given the opportunity to comment on the proposals through the relevant elected ward councillors and Community Committees during the development of the cumulative impact assessment.
- 7.11 As required by the law, the council has undergone a formal consultation process on the cumulative impact assessments with:
- the responsible authorities
  - licensees and those representing licensees
  - residents and businesses
  - those representing residents and businesses
- 7.12 Responses from these consultations have been reviewed and reports are available from Entertainment Licensing.
- 7.13 The council will review the cumulative impact policy areas at least every three years, as required by the legislation. Some areas may be reviewed more frequently. Cumulative Impact Assessments are available on the council's website. Applicants should contact Entertainment Licensing to ensure they are in possession of the latest information before making their application.

## Cumulative Impact Areas

- 7.14 The cumulative impact assessment has shown that the number or type of licence applications granted in the following areas are having a cumulative impact and this is leading to problems which are undermining the licensing objectives.

### City centre

- 7.15 The council has assessed crime statistics for the area known as the city centre which is located between the A58M motorway and the river Aire and has determined that there is an area that is suffering from the cumulative impact of licensed premises and consequently this is leading to problems which are undermining the licensing objectives.

- 7.16 Specifically and in addition to this, there are two areas of special concern designated as red zones where the impact of the licensed premises is so severe that the council considers that any application for a new licence or the variation of an existing licence should be refused unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this area. Maps showing the exact geographical area included in this area, and specifically the red zones can be found in the cumulative impact assessment.
- 7.17 In this area the nature of the problems is alcohol related violent crime being perpetrated on people visiting and using this area during specific peak hours. More information on the evidence can be found in the cumulative impact assessment.
- 7.18 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation application for any premises licence (on sales, off sales and late night takeaways) that seek to operate during the peak hours described in the cumulative impact assessment for the city centre.

#### Headingley

- 7.19 The council has assessed crime statistics for the area known as Headingley and has determined that there is an area that is suffering from the cumulative impact of licensed premises and consequently this is leading to problems which are undermining the licensing objectives. Specifically the area is located around North Lane and Otley Road. Maps showing the exact geographical area included in this area can be found in the cumulative impact assessment.
- 7.20 Additionally, Headingley suffers from nuisance and crime related to the large number of visitors participating in the 'Otley Run'. This is a largely unorganised pub crawl which starts in Weetwood early afternoon and progresses along Otley Road towards the city centre. This has been an activity undertaken primarily by students however in the last few years it has become more popular with groups of people travelling from outside of Leeds. This influx of people during the weekends and the associated crime, nuisance, and antisocial behaviour, is having a detrimental effect on residents who no longer feel able to use the shops, restaurants, and bars on the Otley Road in Headingley due to large groups of drunk people in fancy dress gathering along the route.
- 7.21 In this area the nature of the problems is alcohol related violent crime and nuisance being perpetrated on people visiting this area during specific peak hours. More information on the evidence can be found in the cumulative impact assessment.
- 7.22 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation application for any premises licence (on sales, off sales and late night takeaways) that seek to operate during the peak hours, described in the cumulative impact assessment for Headingley or to any application that may encourage participation in the Otley Run.

#### Hyde Park

- 7.23 The council has assessed crime statistics for the area known as Hyde Park and has determined that there is an area that is suffering from the cumulative impact of licensed premises and consequently this is leading to problems which are undermining the licensing objectives. Specifically the area is located between Hyde Park Road, Victoria Road, Cardigan Road, and Burley Lodge Road. Maps showing the exact geographical area included in this area can be found in the cumulative impact assessment.
- 7.24 In this area the nature of the problems is alcohol related violent crime and nuisance being suffered by people living in this mainly residential area. More information on the evidence can be found in the cumulative impact assessment.

- 7.25 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation application for any premises licence which seeks off sales and/or late night refreshment to operate during the peak hours described in the cumulative impact assessment for Hyde Park.

### Armley

- 7.26 The council has assessed anti-social behaviour and crime statistics for the area known as Armley and has determined that there is an area that is suffering from the cumulative impact of off-licensed premises and consequently this is leading to problems which are undermining the licensing objectives. Specifically Town Street and Branch Road are the areas affected. Maps showing the exact geographical area included in this area can be found in the cumulative impact assessment.
- 7.27 In this area the nature of the problems is predominantly anti-social behaviour perpetrated by people purchasing alcohol on Town Street and Branch Road and then remaining in the area to drink it. More information on the evidence can be found in the cumulative impact assessment.
- 7.28 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation application for any premises licence which seeks off sales of alcohol at any time.

### Harehills and Burmantofts

- 7.29 The council has assessed crime statistics for the area known as Harehills and has determined that there is an area that is suffering from the cumulative impact of off-licensed premises and consequently this is leading to problems which are undermining the licensing objectives. Specifically the area around Harehills Road and Harehills Lane is particularly suffering from the cumulative impact of too many off licences. Maps showing the exact geographical area included in this area can be found in the cumulative impact assessment.
- 7.30 In this area the nature of the problems is alcohol related violent crime and nuisance being suffered by people living in this mainly residential area. More information on the evidence can be found in the cumulative impact assessment.
- 7.31 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation application for any premises licence which seeks off sales and late night refreshment to operate during the peak hours described in the cumulative impact assessment for Harehills.

### Holbeck

- 7.32 The council has assessed crime statistics, alcohol risk data and licensing statistics for the area known as Holbeck. The evidence of a slow increase of off licensed premises in the cumulative impact area, the output from the alcohol licensing data matrix which shows very high levels of alcohol related crime, disorder and a population of vulnerable adults and children, as well as the conclusions from the Police report, the council considers this to be an area suffering from the cumulative impact of off licensed premises.
- 7.33 The density of convenience stores, newsagents and off licences already selling alcohol in the area is disproportionate to the other retail premises in the area.
- 7.34 It would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation applications for any premises licence which seeks off sales of alcohol at any time.

## Beeston

- 7.35 The council has assessed crime statistics, alcohol risk data and licensing statistics for the area known as Beeston. Comments provided by partners, residents and businesses in the area show that this area is suffering the cumulative impact of off-licensed premises and late night refreshment premises.
- 7.36 In this area the nature of the problems is alcohol related crime and nuisance, specifically anti-social behaviour of people who drink alcohol in the street, whether that be due to alcohol dependency or cultural social drinking. The area experiences litter from take away premises.
- 7.37 The policy in this area is that it would be inconsistent with the council's duty to promote the licensing objectives to grant new and variation applications for any premises licence which seeks off sales or late night refreshment to operate in the area known as Dewsbury Road, but which includes Dewsbury Road, up to Cross Flatts Park, Tempest Road and Beeston Road.

## Other Areas

- 7.38 In previous policies the areas of Woodhouse, Chapel Allerton and Horsforth have been the subject of cumulative impact. At this point, although these areas remain saturated there is less evidence that the number or density of licensed premises in the area is having a cumulative impact leading to problems which are undermining the licensing objectives.
- 7.39 However should there be an application which, if granted, may increase the cumulative impact of premises in the area on the licensing objectives, and for which representations are received, the council may consider cumulative impact when determining the licence application.
- 7.40 The council is also aware that the police have concerns related to the concentration of premises in the localities of Beeston Village, Bramley, Pudsey, 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 a formal cumulative impact assessment. Applicants wishing to apply for new licences or variations in these areas should note this paragraph and tailor their operating schedules accordingly.

## **Applications within a cumulative impact area**

- 7.41 Applications for premises situated within a 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 and so allow the council to depart from its own policy.
- 7.42 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.
- 7.43 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 regard to the guidance issued by the Home Office under section 182 of the Act.
- 7.44 The existence of a cumulative impact assessment for a specific area does not relieve the responsible authorities or any other person of the need to make relevant representations where they consider it appropriate to do so for the promotion of the licensing objectives. Anyone making a representation

may base it on the evidence published in the cumulative impact assessment, or the fact that a cumulative impact assessment has been published for that area. It remains incumbent on all responsible authorities and other people to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing. As with all licensing applications under the Licensing Act 2003, if there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted as part of the application.

- 7.45 The council recognises that a cumulative impact assessment should not be absolute. The circumstances of each application will be considered properly and applications for licences that are unlikely to add to the cumulative impact on the licensing objectives may be granted.
- 7.46 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 policy and cumulative impact assessment 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 appropriate conditions would be ineffective in preventing the problems involved.
- 7.47 When considering an application where the subject premises is in a cumulative impact area, the council will need to be satisfied that the grant of the licence or variation will not impact on the cumulative impact of existing licensed premises in the area and as the burden of proof is on the applicant, they will often suggest measures which they assert will demonstrate there will be no impact. 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 daytime 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.
- 7.48 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
- 7.49 Any relevant representation of support will be taken into consideration by the council when making its determination.

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

- 7.50 In cases where either responsible authorities or other people 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 cumulative impact area, 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.

7.51 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.