

North Tyneside Council

Report to Licensing Committee

Date: 8 December 2022

Report Author:	John Sparkes, Director of Regeneration and Economic Development
Wards affected:	All
Title:	Cumulative Impact Assessment – Park View and Fish Quay

PART 1

1.1 Purpose:

The purpose of this report is to provide Committee with further data collated in respect of the Park View area of Whitley Bay and the North Shields Fish Quay area. The Committee, at its meeting on 31 March 2022, requested that this data be collected and reported back to a future Committee.

1.2 Recommendation

It is recommended that the Committee:

1. Consider the data attached at Appendix 1 and Appendix 2 to this report and determine if formal consultation on a proposed revised Cumulative Impact Assessment (CIA) should be undertaken with those persons listed in section 5(3) of the Licensing Act 2003.

2.0 Background Information

2.1.1 Licensing Act 2003 (“the Act”)

Section 5A of the Act permits a Licensing Authority to publish a “Cumulative Impact Assessment” and states that if: -

“the licensing authority considers that the number of relevant authorisations in respect of premises in one or more of its area described in the assessment is such that it is likely that it would be inconsistent with the duty under section 4(1) [of the Licensing Act 2003 – the duty to promote the licensing objectives] to grant any further relevant authorisations in respect of premises in that part or those parts.”

The concept of cumulative impact is a recognition that the number of licensed premises or clubs concentrated in one area can result in problems such as public nuisance, crime and disorder or anti-social behaviour at or near those licensed premises. Such problems may occur because of large numbers of people being concentrated in a particular area.

Section 5A of the Act requires the CIA to set out the evidence that the Authority has relied upon for arriving at its opinion that issuing further premises licences or club

premises certificates in a particular area, or areas, would undermine the licensing objectives.

On 11 October 2018 this Committee approved the publication of a CIA. The Committee's opinion was that no further licences for alcohol led premises should be granted to such premises in the South Parade area in Whitley Bay and an area around Front Street in Tynemouth. The Committee considered that granting further such licences or variations thereof would fail to promote the licensing objectives.

On 22 November 2018 full Council endorsed that opinion and included in the Statement of Licensing Policy a rebuttable presumption against granting premises licences for alcohol led establishments permitting the consumption of alcohol on such licensed premises such as public houses in the areas of Whitley Bay and Tynemouth mentioned above.

Section 5A of the Act requires that where a Licensing Authority publishes a CIA it must, before the end of the "relevant period", which is 3 years from the publication of the CIA consider whether its opinion remains as stated in the CIA published then.

Accordingly, on 7 October 2021, the Committee considered the consultation responses to the review of the CIA and considered that it remained of the view that granting premises licences and variations of such licences would be contrary to the promotion of the licensing objectives and therefore agreed to a further CIA with no changes to the areas included in the CIA. A copy of the CIA is attached at Appendix 1 to this report.

This Committee recognised that, the consultation responses highlighted that the level of evidence available for the North Shields Fish Quay and Park View in Whitley Bay to support that these new areas be included in the CIA, was insufficient to consider if amendments were needed to the CIA at that time. This Committee requested officers to commence work on the possible inclusion of North Shields Fish Quay and Park View in Whitley Bay in the Cumulative Impact Assessment. This was to include data from the police on crime and disorder in a more "normal" environment hopefully free from any further restrictions imposed on individuals and businesses because of the Covid-19 pandemic and including the Christmas and New Year period.

At the conclusion of such work, a further report was to be brought to the Committee setting out the conclusion of that work, so that a decision could be taken whether to consult on the inclusion of those areas in a revised Cumulative Impact Assessment.

A report was brought to this Committee on 31 March 2022 with updated data however members wished for a longer period of data over the summer months. Officers have now undertaken this work for the Fish Quay and Park View areas. This included gathering data from Northumbria Police, Environmental Health and Licensing for the period from 1 January 2022 to 31 August 2022.

North Shields Fish Quay

For the period stated Northumbria Police have provided data as attached at Appendix 2. They have provided details for violent crime as well as anti-social behaviour. The conclusion states:

'Due to the limited volume of data, analysis in terms of trends, both in terms of daily levels and hourly levels, is not very reliable. However, on viewing the actual details of

the crimes and ASB incidents, it could be argued that neither the Night-time Economy (NTE) nor licenced premises are having an impact on crime and ASB levels.

Crime and ASB incidents in the Fish Quay area account for 0.6% of all recorded crimes and incidents throughout North Shields. Given the small geographic area under review, this is to be expected. However, it does indicate there is no notable issue within the area.

Historical yearly trends for the Fish Quay area show no real trend, which is expected due to the low annual volumes of crime and ASB incidents. Small variations can present themselves as notable changes in graph form and percentage changes. It should be noted, however, that this is not a dense residential area, but being a scenic coastal area, it does draw visitors.'

In that period there were several licensing visits to the area and no concerns were found.

Environmental Health have provided data for this area and advised that there was 1 complaint for excessive noise during this period. This information is included at the report attached at Appendix 3.

Park View, Whitley Bay

For the period stated Northumbria Police have provided data as attached at Appendix 2. They have provided details for violent crime as well as anti-social behaviour. The report shows low level of crimes in that area and very few attributed to the night-time economy, with most associated with shoplifting.

The conclusion states:

'Due to the limited volume of data, analysis in terms of trends, both in terms of daily levels and hourly levels, is not very reliable. However, on viewing the actual details of the crimes and ASB incidents, it could be argued that neither the Night-time Economy (NTE) nor licenced premises are having an impact on crime and ASB levels.

Violence is not a contributing issue in the area in terms of the overall crime levels, with, in essence, shoplifting being the greatest crime generator.

Crime and ASB incidents in the Park View area account for less than 0.3% of all recorded crimes and incidents throughout all of Whitley Bay. Given the small geographic area under review, this is to be expected. However, it does indicate there is no notable issue within the area.

Historical yearly trends for the Park View area show no real trend, which is expected due to the low annual volumes of crime and ASB incidents. Small variations can present themselves as notable changes in graph form and percentage changes.'

As with the Fish Quay, several licensing visits were undertaken in this area. No issues were found during the visits.

Environmental Health have provided data for this area and advised that there were 2 complaints for excessive noise. This information is included at the report attached at Appendix 3. One complaint was received for this period which was for alleged loud amplified music.

It must be stressed that even where a Cumulative Impact Policy exists, there is still a requirement for individuals such as local residents and/or responsible authorities to make representations in relation to a particular application. If no representations are made then the Authority will be obliged, in accordance with the Act, to issue a premises licence or grant any variation, irrespective of whether there is a Cumulative Impact Assessment in force for the area in which the premises is situated. The Cumulative Impact Assessment will therefore only be taken into consideration in circumstances where relevant representations are made.

A Cumulative Impact Assessment can never be absolute and there may be occasions where it is considered appropriate by a Licensing Sub-Committee, hearing an application, to depart from the Assessment. This may be because, for instance, the premises seeking a licence is different in style and characteristics from the other existing licensed premises in the area, to the extent that it is considered that granting a licence will not have a negative impact on the licensing objectives and can therefore rebut the presumption against granting the licence or variation.

It should be pointed out that representations citing cumulative impact as an issue can be raised in connection to licensed premises outside of the Cumulative Impact Area and considered as part of the determination of a licensing Sub-Committee considering an individual application for a premises licence.

3.0 Decision Options

3.1 The options available to Committee are:

Option 1

To consider the evidence provided in connection to the Fish Quay and Park View areas and instruct Officers on the next appropriate steps. The next steps can be to commence consultation on the inclusion of either or both of these area in the CIA. Alternatively, this Committee may feel there is insufficient evidence to consider the inclusion at this time.

4.0 Appendices:

Appendix 1 –Cumulative Impact Assessment
Appendix 2 – Data from Northumbria Police
Appendix 3 – Data from Environmental Health

5.0 Contact Officers:

5.1 Joanne Lee, Head of Public Protection, Tel: 643 6901
Stephanie Graham, Senior Licensing Officer, Tel: 643 6969

6.0 Background Information:

6.1 The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author of the report:

North Tyneside Council Statement of Licensing Policy.
The Licensing Act 2003
Policing and Crime Act 2018

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and Other Resources:

The costs of preparing and applying the Cumulative Impact Assessment and the associated consultation arrangements can be met from the Licensing revenue budget.

2.2 Legal

2.2.1 Legislative Framework

All licensing functions undertaken by the Authority under the Licensing Act 2003 are the responsibility of Council. This is made clear by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

Section 7 of the Licensing Act 2003 states that all matters relating to the discharge of licensing functions are referred to the Authority's Licensing Committee which discharges those functions on behalf of the Authority. This would include the approval of the proposed Cumulative Impact Policy and agreement to have the Cumulative Impact Assessment published.

The Statement of Licensing Policy summarises the contents of the Cumulative Impact Policy and the CIA must be considered when the Policy is reviewed. The approval of the Policy is reserved for full Council.

2.2 Consultation/Community Engagement:

At this time data has been provided by Northumbria Police, Licensing and Environmental Health. Should this Committee feel there is sufficient data to indicate a potential reason for including these areas in the CIA a comprehensive borough wide consultation will be undertaken.

2.4 Human Rights:

There are human rights issues with cumulative impact insofar as such an Assessment will affect existing licence holders wishing to vary their licence in the area in question as well as new applicants seeking a premises licence.

The decisions made by the Licensing Committee/Sub-Committees and officers can have implications under the Human Rights Act 1998. Decisions of the Authority as Licensing Authority could be said to interfere with the property of the licence holder (a licence, or its goodwill, is classed as property) and also impact on the rights of parties to a family and private life. However, these rights are qualified rights and those rights can be interfered with if such interference is permitted in law. Any party who wishes to make representations in relation to a licensing matter has the right to express their views without interference and any person appearing before a Committee/Sub-Committee will be afforded an opportunity to a fair hearing.

There is also an appeal process available to those aggrieved by a decision of a licensing Sub-Committee.

2.5 Equalities and Diversity:

As the licensing authority the Authority ensures that all stakeholders in the licensing process have an equal opportunity to participate.

The Authority will ensure that any decision taken under the Licensing Act 2003 will not discriminate against any person or group in society.

The introduction of this Assessment has the potential to contribute to the achievement of a key aim of our public sector duty under the Equality Act 2010, which is to eliminate unlawful discrimination, victimisation and harassment.

2.6 Risk Management:

There are no significant risk management implications to the Council arising from this report.

2.7 Crime and Disorder:

The prevention of crime and disorder is one of the licensing objectives that may be engaged when dealing with a licensing application. It is a requirement under the Licensing Act 2003 and subordinate Regulations that the Police are forwarded a copy of an application for a licence or certificate so that the Police are able to scrutinise the application and make representations in relation to the application insofar as the prevention of crime and disorder licensing objective is concerned. The Police have been consulted in relation to the proposed Cumulative Impact Assessment and have provided data in relation to this.

2.8 Environment and Sustainability:

There are no sustainability implications arising directly from this report. In terms of environmental implications, one of the licensing objectives is the prevention of public nuisance. Noise created by the number of individuals visiting licensed premises in an area can be said to cause a nuisance to the residents.