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| <b>Committee(s):</b> Ordinary Council  | <b>Date:</b> 2 <sup>nd</sup> November 2022 |
| <b>Subject:</b> Licensing and Night-time Economy   | <b>Wards Affected:</b>                     |
| <b>Report of:</b> Paul Adams   | <b>Public</b>                              |
| <b>Report Author/s:</b><br>Name: Paul Adams – Licensing Manager<br>Telephone:<br>E-mail: paul.adams@brentwood.gov.uk | <b>For Decision</b>                        |

### Summary

Cumulative Impact Assessments (CIAs) were introduced as a tool for licensing authorities to limit the growth of licensed premises in an area.

Cumulative impact occurs when the saturation of licensed premises (on-license alone, off-license alone or both combined) in an area is identified as causing a concern about one or more of the licensing objectives, which is then supported by an evidence base which proves that a policy is required to more effectively manage and control the supply and consumption of alcohol in that area.

This report considers the process that would need to be followed to determine if there is sufficient evidence to support the introduction of a CIA under the Licensing Act 2003.

### Recommendation(s)

**Members are asked to:**

**R1. Agree for officers to work with partners including Essex Police, and the Community Safety Partnership to undertake a review of the Night-time Economy and to consider evidence available to support a Cumulative Impact Assessment (CIA).**

**R2. To report findings to a future Licensing Committee for further consideration.**

### Main Report

#### **1. Introduction and Background**

1.1. Brentwood has for many years had a thriving and popular night-time economy, with a combination of bars, restaurants, night clubs and takeaways, catering for a wide-ranging demographic of customers, both locally from within the

Borough and from out of town. Covid had a significant impact on the industry, with a significant reduction in the number of premises operating during the pandemic because of the restrictions imposed on them, and customers preference to stay away from larger crowds to reduce the risk of infection.

- 1.2. There is an emerging trend in the number of new night-time economy premises that are opening or morphing from food driven establishments to more alcohol/entertainment led in Town Centre. There has also been an increase in the terminal hour that premises operate to using Temporary Event Notifications and variations to licences, with venues looking to continue to 3.00am or later.
- 1.3. With the significant investments that are being made in the regeneration of the town centre, there is a concern that if not controlled, this could undermine the confidence in investment and use of the town.
- 1.4. Most of the premises that are operating during the night-time economy hours, do so under a Premises Licence issued under the Licensing Act 2003 (the Act). There are 4 Licensing Objectives under the Act which are, Prevention of Crime and Disorder, Public Nuisance, Public Safety, and the Protection of Children from Harm. Premises while operating need to ensure that they are meeting all the licensing objectives, and where they do not action can be taken.

## **2. Issue, Options and Analysis of Options**

- 2.1. There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.
- 2.2. Brentwood Council’s Licensing Policy is currently being renewed. The revised policy public consultation has recently closed, and the final revised policy will be presented to the next Ordinary Council meeting for adoption. This policy does not currently include a CIA.
- 2.3. The concept of “Cumulative impact” is described within the statutory guidance and used by licensing authorities within their statements of licensing policy since the commencement of the 2003 Act. ‘CIAs’ were introduced in the 2003 Act by the Policing and Crime Act 2017, with effect from 6 April 2018. Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area.

- 2.4. 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 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.
- 2.5. A Cumulative Impact Assessment (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. A CIA creates a rebuttable presumption that applications for new premises licences, club premises certificates, or variation applications that are likely to add to the existing cumulative impact will normally be refused, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.
- 2.6. Section 5A of the 2003 Act sets out what a licensing authority needs to do in order to publish a CIA and review it, including the requirement to consult with the persons listed in section 5(3) of the 2003 Act. The 2003 Act does not stipulate how the CIA should be used once published, because the requirements for determining applications for new licences or variations are the same in areas with a CIA as they are elsewhere, as set out in sections 18, 35, 72 and 85 of the Act. However, any CIA published by a licensing authority must be summarised in its statement of licensing policy. Under section 5(6D) a 110 | Revised Guidance issued under section 182 of the Licensing Act 2003 licensing authority must also have regard to any CIA it has published when determining or revising its statement of licensing policy.
- 2.7. As noted above, there must be an evidential basis for the decision to publish a CIA. Local Community Safety Partnerships and responsible authorities, such as the police and the environmental health authority, may hold relevant information which would inform licensing authorities when establishing the evidence base for publishing a CIA. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specific area to be covered by the CIA. Information which licensing authorities may be able to draw on includes:
- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;

- statistics on local anti-social behaviour offences;
  - health-related statistics such as alcohol-related emergency attendances and hospital admissions;
  - environmental health complaints, particularly in relation to litter and noise;
  - complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
  - residents' questionnaires;
  - evidence from local and parish councillors; and
  - evidence obtained through local consultation.
- 2.8. The licensing authority may consider this evidence, alongside its own evidence of the impact of licensable activities within its area, and consider in particular the times at which licensable activities are carried on. Information which may inform consideration of these issues includes:
- trends in licence applications, particularly trends in applications by types of premises and terminal hours;
  - changes in terminal hours of premises;
  - premises' capacities at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.
- 2.9. Where existing information is insufficient or not readily available, but the licensing authority believes there are problems in its area resulting from the cumulative impact of licensed premises, it can consider conducting or commissioning a specific study to assess the position. This may involve conducting observations of the night-time economy to assess the extent of incidents relating to the promotion of the licensing objectives, such as incidences of criminal activity and anti-social behaviour, examples of public nuisance, specific issues such as underage drinking and the key times and locations at which these problems are occurring.
- 2.10. Discussion has begun between Brentwood Council as the Licensing Authority and partner agencies to consider if there are community safety concerns in Brentwood Town Centre resulting from the cumulative impact of licensed premises, and is there likely to be sufficient or readily available evidence that may support a CIA.

### **3. Reasons for Recommendation**

- 3.1. To consider the evidence available and establish whether it is sufficient enough to support the introduction of a CIA in Brentwood Town Centre.

#### **4. Consultation**

4.1. There is no requirement to consult at this stage.

#### **5. References to Corporate Plan**

5.1. None

#### **Implications**

##### **Financial Implications**

**Name/Title: Jacqueline Van Mellaerts, Corporate Director (Finance & Resources)**  
**Tel/Email: 01277 312829/[jacqueline.vanmellaerts@brentwood.gov.uk](mailto:jacqueline.vanmellaerts@brentwood.gov.uk)**

Any officers time that is out of hours in order to complete the review, will be reimbursed through overtime. This can be met from within existing budgets within Licensing.

Any further financial impacts should be met from within existing budgets. If a CIA is introduced, then officers will be required to determine if the introduction of this would have any financial implication. This would be presented through a future report.

##### **Legal Implications**

**Name & Title: Steve Summers, Strategic Director & Monitoring Officer**  
**Tel & Email: 01277 312500/[steve.summers@brentwood.gov.uk](mailto:steve.summers@brentwood.gov.uk)**

Any work undertaken by the Council, either by itself or in partnership will be in line with statutory legal guidance

##### **Economic Implications**

**Name/Title: Phil Drane, Director of Place**  
**Tel/Email: 01277 [312610/phil.drane@brentwood.rochford.gov.uk](mailto:phil.drane@brentwood.rochford.gov.uk)**

The night-time economy plays an important role in the economic life of the borough, particularly Brentwood town centre. Many businesses benefit from the demand for evening leisure, although as the report notes this can come with some negative consequences. It will be important for licensed premises to contribute to the local economy in a positive way, offering enjoyable and safe experiences. The council's Economic Development team should be involved in the review of cumulative impacts from licensed premises, alongside those partners listed in the recommendation and other key stakeholders (including local businesses and representatives, like the Brentwood Business Partnership).

##### **Equality and Diversity Implications**

**Name/Title: Kim Anderson, Partnerships, Leisure & Funding Manager**  
**Tel/Email: 01277 [312634/kim.anderson@brentwood.gov.uk](mailto:kim.anderson@brentwood.gov.uk)**

The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- A. Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- B. Advance equality of opportunity between people who share a protected characteristic and those who do not.
- C. Foster good relations between people who share a protected characteristic and those who do not include tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

The proposals in this report will not have a disproportionate adverse impact on any people with a particular characteristic and will provide positive benefits to some of these groups

#### **Health & Wellbeing Implications**

**Name/Title: Jo Cory, Corporate Health & Wellbeing Officer**

**Tel/Email: 01277 312500/jo.cory@brentwood.gov.uk**

The Cumulative Impact Assessment will enable the Council to monitor licensable premises to enable them to contribute positively to the Health and wellbeing of Brentwood.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

#### **Background Papers**

None

#### **Appendices to this report**

None.