

RIBBLE VALLEY BOROUGH COUNCIL

REPORT TO LICENSING COMMITTEE

meeting date: TUESDAY, 29 OCTOBER 2024
title: EXPIRY OF WHALLEY CUMULATIVE IMPACT ASSESSMENT – REVIEW
OF RESPONSES TO RECENT SURVEY
submitted by: CHIEF EXECUTIVE
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1 PURPOSE

1.1 To inform Committee of the results of the Cumulative Impact Assessment Survey.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives - }
 - Corporate Priorities - }
 - Other Considerations - }
- The Council aims to be a well-managed Council and these proposals support that objective.

2 BACKGROUND

2.1 Committee will recall that a report was submitted in June 2024 requesting that Committee review and consider implementation for a further period of the Cumulative Impact Policy in Whalley. Committee resolved to authorise the Head of Legal and Democratic Services to make enquiries of the responsible authorities to assess whether there is sufficient evidence to support a cumulative impact policy for Whalley and the area to which the policy would relate; consult informally with licensees in Whalley, the Parish Council and community groups and to report back with recommendations based on responses received.

2.2 As a result the Council set up a cumulative impact survey both online and in paper format. A link to the survey was published on the Council's website and publicised through press releases, social media and by letters sent to the Parish Council, all licensed premises, ward Councillors and Whalley Chamber of trade on 6 August 2024. A ward member and a parish councillor circulated 800 copies of the survey to what they considered to be the "core area". Further paper copies were distributed to venues with regular footfall at the Library and the Old Grammar School Community Centre. The survey closed on 29 September 2024. The survey related to the area of Whalley and Painter Wood to reflect the ward boundaries. A map showing this area tinted blue accompanied the survey, together with a map showing the central area of the village as did a list of all premises within that area. The maps depicted the location of licensed premises. Copies of these documents are enclosed as Appendix 1.

3 ISSUES

3.1 The Council received 166 responses (84 online and 82 paper copies). Consultation on introduction of the CIA in 2018 generated 194 responses and on renewal in 2021 there were 65 responses. The results of the 2024 responses have been collated into

a report which is enclosed as Appendix 2. Committee should note the contents and in particular the responses to questions 6-11 and decide whether this evidence is sufficient concern about crime and disorder, public safety, public nuisance or protection of children from harm in the Whalley and Painter Wood area to progress to the next stage of the process. The only responsible authority to respond informally at this stage was RVBC Environmental Health.

- 3.2 This survey introduced a new question compared to the surveys in 2018 and 2021, at question 9. This requested whether respondents considered that the CIA should apply to the whole ward, or only to applications within the village centre as shown on the respective maps. 71% of responses to the question agreed that any CIA should only apply to premises in the village centre as shown on map 2. Guidance under s182 of the Licensing Act 2003 recommends mapping of specific incidents to identify the areas in which problems are occurring, including, if possible, analysis of the times of incidents. This information was sought in question 11. There is reference to problems being experienced outside the area on plan 2, such as parking issues and noise and behaviour of passers-by or from premises within the area on map 2, but no evidence of issues relating to premises shown on map 1 but outside the area on map 2. A CIA is a restrictive policy which should be applied proportionately to address the particular concerns, and it is recommended that further formal consultation, if approved, should relate to those premises within the area on map 2.
- 3.3 Committee will note that some consultees mistakenly perceive that renewal of the CIA would result in steps being taken in relation to premises which they identify as being the source of complaint. As was explained in June, a CIA is not retrospective, and is part of a policy for determination of applications where relevant representations have been received. If there are such representations, the requirements of the normally permissive licensing regime are adjusted, so that, rather than responsible authorities or interested parties having to demonstrate how the grant of the application would have an adverse effect on the licensing objectives, where a CIA is in place it is for the applicant to explain how the grant of the licence will not undermine the licensing objectives.
- 3.4 Committee will note that 77% of respondents stated that they had been affected by the cumulative impact of the number of licensed premises in the ward. They expanded upon this in their remarks in response to question 11, and this forms the evidence base upon which officers recommend that formal consultation and collation of an evidence base with responsible authorities should be embarked upon. Whilst these anonymised comments are in the public domain by virtue of publication of this report, Committee's attention is drawn to the fact that these comments (and particularly those in relation to specific premises) have not been given the opportunity of reply or challenge. Whilst debate on this issue in Committee is welcome, members are encouraged not to pass comments which could be construed as potentially disqualifying them from being able to participate in any sub-committee hearing that might be required.
- 3.5 Committee will also note that there is reference to certain premises in the respondents' comments, including the Aviary. These premises have recently been the subject of service of a noise abatement notice. This notice was appealed to the Magistrates' Court. The appeal was resolved by agreement – the notice was withdrawn, and the licence holder by agreement applied for a minor variation adding a new condition on the licence which replicates the requirements of the noise abatement notice. This addresses the problems from the licensable activities at the premises. The condition states:-

“The Premises Licence Holder shall ensure that the music noise level emanating from the premises, between the hours of 21:30 - 09:00, does not at any point exceed:

- 42 dBA (Leq, 1 minute)

- 56 dBZ (Lmax) at 63Hz

- 46 dBZ (Lmax) at 125HZ

measured from a point 2.9m from the side wall of the premises, and at the midpoint of the rear alleyway to Queen Street and Woodfield View.”

Any breach of this condition would constitute a breach of the licence as well as giving rise to possible action under the Environmental Protection Act.

- 3.6 However, the CIA is not premises specific and seeks to address the cumulative impact of premises, which can include behaviour of individuals which has nothing to do with premises which they may have visited or intend to visit. The position remains that, if responsible authorities or interested parties consider there is evidence, they may seek to review the licence (normally after staged processes such as negotiation or mediation). The guidance encourages such enforcement action to be taken by the relevant responsible authority or by interested parties who have gathered evidence, including residents.
- 3.7 Since the introduction of the CIA in 2019, there have been two applications for a new licence and one application for variation where no representations were received, no hearing was required, the CIA was not engaged and the licence was granted like others, provided the application is proper and complete. There have been five applications where representations were made. As these representations have come from interested parties, who may not have experience of the licensing regime and its requirements, in accordance with the guidance, officers have given the benefit of the doubt to those interested parties in determining whether the representation is relevant. To be relevant, s18(6)(a) of the Licensing Act 2003 requires the representation to be about the likely effect of the grant of the premises licence on the promotion of the licensing objectives. As a result of these representations, hearings have been held at which those who have made representations have been able to attend to clarify their views to the sub-committee, and, if appropriate, liaise with the applicant. Due to this process, the sub-committees that have sat have been able to take into account the considerations of applicants and objectors and understand the particular business model which is intended and consider appropriate conditions if the application is granted.
- 3.8 Should Committee decide that it should be progressed then further evidence must be collated to allow the Council to assess whether there is a sound evidential basis to any decision to publish a cumulative impact assessment. This may include:
- 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 complaint raised by the local residents or resident's associations.

3.9 The Council would then 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.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – no implications identified
- Technical, Environmental and Legal – the Council is required to review any Cumulative Impact Assessment at least every three years
- Political – no implications identified
- Reputation – no implications identified
- Equality and Diversity – no implications identified

5 RECOMMENDED THAT COMMITTEE

5.1 Authorise the Head of Legal and Democratic Services to seek and collate the evidence necessary to create an evidence base and to consult formally upon the proposed continuation of the cumulative impact assessment for Whalley and Painter Wood as required by the Licensing Act 2003, in respect of the area covered by map 2.

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