

PLYMOUTH CITY COUNCIL

Subject: Barbican Cumulative Impact Policy
Committee: Cabinet
Date: 10 March 2015
Cabinet Member: Councillor Vincent
CMT Member: Kelechi Nnoaham (Director of Public Health)
Author: Andy Netherton, Service Manager, Public Protection Service
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Ref:
Key Decision: No
Part: I

Purpose of the report:

The Licensing Act 2003 places a duty on the Licensing Authority to publish a statement of licensing policy. The policy forms the basis of decision making when considering applications for the sale of alcohol, provision of entertainment or late night food. The current statement of licensing policy was published and became operative from March 2014.

At the time the policy was adopted Cabinet agreed to undertake a consultation exercise to consider extending the area covered by the current Barbican Cumulative Impact Policy (CIP). This consultation was in response to a recommendation made by Devon and Cornwall Police.

This report contains details of the consultation responses and information regarding the operation and impact of extending the Barbican CIP.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

Growing Plymouth

The policy aims to assist in the delivery of a safer, more vibrant Plymouth. This in turn should attract more visitors to the City and also support an increase in the numbers of citizens of Plymouth who will utilise the social, cultural and sporting offers available. Opportunities for increased levels of employment should follow.

Confident Plymouth

A safe and vibrant leisure economy will allow Plymouth to be positively marketed attractive destination both nationally and internationally.

Caring Plymouth

The policy will allow for effective control of alcohol supply, which will assist in reducing alcohol harm and thereby reduce inequality. Whilst alcohol misuse affects individuals from all sections of society, those from the most disadvantaged communities experience the highest burden of harm.

The late night economy can adversely impact local communities due to noise and antisocial behaviour. The policy seeks to balance the need for economic activity and the protection of local communities.

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land:**

Government has set fees at a level that they believe will achieve full recovery of the administrative, inspection and enforcement costs falling on the Licensing Authority associated with their licensing functions under the Licensing Act 2003. The review of the Licensing Policy is a core part of the licensing function and there are no future financial implications.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

The Licensing Policy has a key role in reducing alcohol related crime and disorder, the fear of crime and the prevention of nuisance or anti-social behaviour. Risk taking behaviour, such as irresponsible alcohol usage can affect individual, their families, local communities and society as a whole. This policy aims to play its part in minimising the negative aspects of alcohol supply and use.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? Yes

Recommendations and Reasons for recommended action:

It is recommended to the City Council that :

The Statement of Licensing Policy is amended to include an extended Barbican Cumulative Impact Area as outlined in the map contained in Appendix 3.

Reason

There is sufficient evidence to support the extension of the cumulative impact policy for Barbican area. On balance the extension of the CIP appears to be appropriate and proportionate. The consultation responses were generally supportive of the changes.

Alternative options considered and rejected:

No change to the Licensing Policy -

The evidence submitted as part of the consultation has established a number of crimes occur within the night time economy within the proposed area associated with the supply or use of alcohol and local communities are affected by late night anti-social behaviour. The majority of consultation responses were supportive of the boundary changes.

Adopt a smaller area -

The majority of the consultation responses contained no specific objections to the largest proposed area (Zone I).

Appendices:

- Appendix 1: Consultation responses
- Appendix 2: Police submission and crime data
- Appendix 3: Map of proposed boundary

Published work / information:

[SI82 Statutory Guidance, issued by the Home Office Regulators Code \(Better Regulation Delivery Office\)](#)

Background papers:

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	
Equalities Impact Assessment	X									

Sign off:

Fin	ODPHF PC1415 003.	Leg	22055/ag/ 30/1/2015	Mon Off	22055 /DVS	HR		Assets		IT		Strat Proc	
Originating SMT Member:													
Has the Cabinet Member(s) agreed the content of the report? Yes													

1.0 Background

- 1.1 The Licensing Act 2003 places a duty on the Licensing Authority to publish a policy with respect to its licensing functions. This policy establishes the licensing restrictions and controls placed on the sale of alcohol, provision of entertainment and the operation of premises for late night refreshment.
- 1.2 Alcohol is an important component of Plymouth's economy, particularly within the city's Evening and Night Time Economy (ENTE). Analysis of the ENTE using 2011 data considered the scale and value of accommodation, restaurants (including unlicensed venues, take away food shops and mobile food outlets) and licensed clubs, pubs and bars. It estimated that Plymouth's overall ENTE supported approximately 6,400 employees and was worth around £93.2 million in terms of Gross Value Added (GVA). Licensed clubs, pubs and bars accounted for 2,000 of those employees and the largest share of the GVA at £28.6 million. Overall the ENTE accounted for 6% of the city's total employment; this compares to the UK average of 5.7%.
- 1.3 The use of alcohol, however, can have a negative impact on individuals, families, local communities and Plymouth as a whole. Whilst it is not possible to fully quantify the impact of alcohol misuse across the city a number of indicators provide evidence of harm. During 2011/12 there were 2,513 recorded crimes attributable to alcohol – and nearly 7,000 hospital admissions. Every year a significant number of children experience poor care and neglect due to parental alcohol misuse. In organisations across the city countless working days are lost due to alcohol affecting productivity and economic progress. There is a strong association between deprivation and an increased burden of harm linked to alcohol misuse. People living in the most deprived areas of the city are nearly twice as likely to be admitted to hospital because of alcohol as those living in the least deprived areas. The cost of alcohol related harm within Plymouth is estimated at £80M per year.
- 1.4 The provision of alcohol is important to the economic vitality of Plymouth's night time and leisure economy, but this has to be carefully balanced against alcohol's negative potential. For most people and in most situations alcohol is used responsibly. Businesses that operate responsibly are to be encouraged, where they will form part of the larger night time and leisure economy. Any legislative controls should be targeted, proportionate, consistent and transparent
- 1.5 In response to the levels of alcohol harm the Strategic Alcohol Plan for Plymouth (2013-2018) was adopted by Cabinet in August 2013. The plan identifies four impact areas, these being:
- Prevent
 - Protect
 - Treat
 - Enforce and Control
- 1.6 When considering applications it is relevant for the Licensing Authority to take into account the location, density of licensed premises and their combined impact. This is achieved through the adoption of a cumulative impact area (CIP)

2.0 Cumulative Impact Policy (CIP)

- 2.1 The current policy includes a special policy in relation to Cumulative Impact. Guidance under s182 of the Licensing Act 2003 describes this as the potential impact, on the promotion of the licensing objectives, of a significant number of licensed premises concentrated in one area.

- 2.2 There must be an evidential basis for the decision to adopt cumulative impact areas.
- 2.3 The steps to be followed in considering whether to adopt a policy within the statement of licensing policy are:
- 1 Identify concern about crime and disorder or public nuisance
 - 2 Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent.
 - 3 Identify the boundaries of the area where problems are occurring
 - 4 Consult with those specified in the Licensing Act 2003 and subject to the outcome of the consultation
 - 5 Include and publish details of a special policy in the licensing policy statement.
- 2.4 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications or variations that are likely to significantly add to the existing cumulative impact will normally be refused, following relevant representations. This is unless the applicant can demonstrate in their operating schedule that there will be no significant negative cumulative impact on one or more of the licensing objectives.
- 2.5 The Police have provided a report which is an evidence based problem profile, identifying those areas affected by violent crime associated with the evening and night-time economy and seeking the extension of the Cumulative Impact Policy within the Statement of Licensing Policy.
- 2.6 The current Licensing Policy already contains the following CIP areas:
- Union Street
 - Mutley Plain
 - North Hill
 - Stoke Village
- 2.7 A Cumulative Impact Policy requires applicants to deliver an increased standard of application and operating practices in order to establish that the Policy should not be applied on that case. It does not prohibit future approval of new applications or variations to existing licenses. In every case the Licensing Committee must still prove the need for conditions or for the refusal of a licence following a representation from either a responsible authority or interested party.

3.0 Consultation Process

- 3.1 For this review the consultation period commenced on the 10th October for 4 weeks

The Licensing Act 2003 states that before determining its policy a Licensing Authority must consult –

- The chief officer of police for the Licensing Authority's area
- The Fire Authority for that area
- Primary Care Trust (now the Office of the Director of Public Health)
- Such persons as the licensing authority considers to be representative of holders of premises licences issued by the authority
- Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by the authority

- Such persons as the licensing authority considers to be representative of holders of personal licences issued by the authority
- Such other persons as the licensing authority considers to be representative of businesses and residents in its area.

3.2 Letters were sent to all premises holding either a 'premises licence' or club premises certificate' advising them of the consultation. A similar letter was sent to the Resident / Community groups and faith groups for which contact details were available. A press release was issued and local media coverage was obtained. In addition the responsible authorities were consulted (Police, Child Protection, Trading Standards, Environmental Health, Public Health, Transport & Planning Service, Maritime & Coastguard Agency).

3.3 All ward Councillors and the Plymouth Waterfront Partnership Board were sent copies of the consultation documentation.

3.4 A total of 6 responses were received as a result of the consultation process.

4.0 Responses

4.1 The written responses are contained in Appendix 1.

4.2 The responses are generally supportive of the proposed extension. The proposed CIP area is seen as a mechanism to control the number and nature of licences issued. Both the Planning Officers and Sutton Harbour Holdings wish to see the CIP promote those businesses that will have a positive impact on both the local economy and local community amenity.

4.3 Any CIP, if inappropriately applied, can be seen as a barrier to inward investment and reduce the drive by competitors for improvements in existing businesses. Within the existing Barbican CIP there have been 15 new applications for premise licences, all of which have been deemed suitable and granted, since 2008.

4.4 Any new business which can operate to the correct quality, with an appropriate business model and be sensitive to the local community is would be encouraged.

5.0 Need for the Cumulative Impact Policy

5.1 The Police submission and crime data is contained in Appendix 2 Although the level of crimes in the ENTE has fallen (24% in the current CIP, 18% in Zone 1, 22% in Zone 2), over 80% of the analysed crimes occurred within the Evening and night time economy.

5.2 The proposed development at Bretonside and Sutton harbour Holdings aspirations are likely to attract an increased interest in late night outlets within both Zones. This increasing density of premises could have a negative impact on crime and disorder or public nuisance and detract from the area being promoted as a safe and vibrant night time area. It is important that any proposed CIP promotes the type of suitable businesses that complement the future economic and community aspirations of the area.

5.3 The Bretonside development was not recommended by the Police to be within the proposed CIP area as the development itself is unlikely to add to crime and disorder issues.

- 5.4 In general the majority of public nuisance issues relate to noise from entertainment held on the premises or noise and anti-social behaviour in the vicinity of premises or transit routes between the evening and night time economy areas and places of residence.
- 5.4 Noise directly attributable to individual premises can be adequately controlled using existing legislation from within the Licensing Act or the Environmental Protection Act. Nuisance not attributable to individual premises is difficult to control using powers available to the Local Authority.
- 5.5 Both proposed areas contain residential areas giving rise to residents' concerns regarding public nuisance and anti-social behaviour. The majority of these incidents go unreported due to their transient nature and the inability of the agencies to have an impact on this problem.
- 5.6 The extension of licensing hours to beyond 2.00 am and increased capacity of venues will obviously impact on the likelihood of public nuisance occurring in residential areas over a prolonged period of time. Officer's discussions with residents and experience during night time visits over the years have highlighted this issue to be a major concern.
- 5.7 The cumulative impact policy provides a suitable mechanism to assess and control the impact that additional licences or amendments to licences may have on residents. The existing policy has successfully been applied to prevent the extension of licensing hours and capacity where cumulative impact has been an issue.

6.0 **Alternatives to a Cumulative Impact Policy**

6.1 The Police and other agencies have worked closely with the trade to successfully introduce measures to reduce crime and disorder and public nuisance associated with the Evening and Night Time Economy (ENTE). An annual action plan is produced.

6.2 Examples of this work includes;

- Support for Pubwatch, Plymouth Licensing Forum and the Best Bar None award scheme
- Support for street pastors
- Investment in CCTV coverage
- Environmental improvements
- Under age sales campaigns
- Alcohol education campaigns
- Introduction of Alcohol Designated Public Places Orders
- Activities to identify, assist and control persistently violent offenders
- Continuation of the Street Safe Treatment Point

This work has contributed to reducing crime linked to the Evening and Night Time Economy (ENTE). A range of alternative strategies will continue to be used and developed through working groups that operate under Safer Plymouth.

7.0 **Regulatory Impact**

7.1 Regulators must have regard to the principles contained in the Regulators Code when undertaking regulatory activities, including the establishment of policies.

7.2 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.

- 7.4 No evidence has been submitted that confirms a disproportionate detrimental economic effect of the policy. Local experience appears to demonstrate that there is not a disproportionate effect. Alternative approaches are in place and will continue to evolve in partnership with the trade.
- 7.5 A Cumulative Impact Policy will only affect businesses in areas where evidence exists of crime and disorder or public nuisance, thereby targeting further regulatory controls to areas of need. The policy is applied equally to all business sizes and would not have a disproportionate effect on small business. It is possible that small businesses may have greater scope to convince the Licensing Committee or the responsible authorities that their operations would not add further negative impact.
- 7.6 In order to allow for greater flexibility in decision making the wording of the policy was amended when last reviewed. The Licensing Committee will now consider whether an application will have significant negative impact on the area, rather than no negative impact.

8.0 Conclusion

- 8.1 The responses received in relation to the extension of the Barbican CIP are welcomed. Where possible and appropriate they have been incorporated into the proposed new policy.
- 8.2 The operation of the Cumulative Impact Policy to date has been undertaken in a proportionate way to balance the need to promote the licensing objectives and the needs of the evening and night time economy.
- 8.3 The level of crime and disorder has reduced since the introduction of the policy in 2008, but our ENTE areas still account for the majority of violent crimes.
- 8.4 The extension of the Barbican cumulative impact area will help to guide future business growth in this area to ensure it is sensitive to the local community environment.

APPENDIX I – CONSULTATION RESPONSES

Licensing Act 2003 – Cumulative Impact Policy (CIP) - The Barbican Representations to the Public Consultation - November 2014			
Number	Respondent	Main points/representations	Officers response
1	Councillor Ricketts Drake Ward Conservative Party	"There is no need to further restrict the night time economy when we want to make Plymouth the Greatest city on earth. This will hurt business, tourism and stop the economic recovery we are seeing in the City"	Comments noted.
2	Capt. T Charlesworth Chief Executive & Harbour Master Cattedown Harbour Commissioners	I favour Option 2, but remain disappointed that the Option has ignored) the Barbican Landing Stage. P.C.C. is responsible for the licencing of the harbour tour craft with regard to the sale of alcohol. The MCA (Maritime and Coastguard Agency) only licence the vessel and crew. ASB (Anti-Social Behaviour) is not part of the MCA regime You will know that the party trips these vessels undertake can be quite 'lively' and there have been cases of passengers 'exiting' the craft before it is safely moored alongside. There are numerous cases of passengers disembarking when heavily influenced by alcohol consumption. These persons populate public realm (the landing stage) owned by PCC whist they move from vessel to shore. The suggested boundary of Option 2 is so close to the BLS (Barbican Landing Stage) it seems obvious to deviate the line to include it. Consultation Response letter supplied.	Comments noted. The Barbican landing stage will be included within any future boundary

3	<p>Adam Williams Planning Officer Strategic Planning and Infrastructure Plymouth City Council</p>	<p>Given our understanding of the policy now, we wouldn't raise any objections, only observations; Our main priority to safeguard in the barbican is its vibrancy and to retain its function as a prime cultural and leisure destination in the city. It would appear licencing will still be granted providing the applicant can display how its operation will not cause further nuisance (for instance in relation to opening times and capacity of people) which would perhaps begin to help the barbican to return to a more casual and family friendly place.</p> <p>On the 'guide to CIP' the only thing I would suggest to change is to perhaps provide guidance as to what would 'prove that they will not add to the existing problems'. Having this information laid out might ease concerns of a legitimate business who would like to open a new premise in the area, so as to avoid stagnation on the barbican.</p> <p>The only thing which I haven't been able to find information for is, if for example the council or other organisation wanted to stage an event (such as festivals) on the barbican would the cumulative impact policy provide a hindrance and make the organisation of events more challenging? Just a thought</p>	<p>Comments noted.</p> <p>Applicants for the grant of alcohol sales are granted where no representations received, regardless of whether the premise is located within a CIP area.</p> <p>Existing guidance information recommends that the applicant discusses their proposals with the appropriate responsible authority in order to overcome potential difficulties.</p> <p>One off events will have specific additional security and safety arrangements which will normally mitigate concerns. The existing CIP has not been a barrier to events across the City</p> <p>Officers will review guidance provided.</p>
4	<p>Sgt M Worthington Licensing Department Devon & Cornwall Police</p>	<p>The police recommend that the existing CIP area be extended to include the larger Zone 1 area which borders Sutton Road, Lockyers Quay and Exeter St</p> <p>Consultation Response letter supplied.</p>	<p>Comments noted.</p>

5	<p>Jon Turner Asset Manager Sutton Harbour Holdings plc</p>	<p>Sutton Harbour Holdings plc support the extension of the zone as we believe it will provide the regulatory tool to clear the type of operator who has no respect for their neighbourhood, residents, business or visitors.</p> <p>SHH through its structured and logical vision for the harbour embraces the policy to minimise alcohol related disorder and public nuisance in this area and welcomes the licensing authority's acknowledgement that a vibrant and active waterfront is a major contributor to the Cities economy.</p> <p>SHH vision for the Harbour area over the next 10 years, based on advice from Peter Brett Associates, could create in the region of £1.8m of additional business rates per annum to Plymouth City Council. The additional revenue could provide the resources necessary to target existing hot spots in the Barbican as well as additional surveillance in Zone 1 and 2.</p> <p>Consultation Response form supplied.</p>	Comments noted
6	<p>Laura Juett Senior Public Health Manager Office of the Director of Public Health Plymouth City Council</p>	<p>This response is provided within the context of Plymouth's Strategic Alcohol Plan 2013 - 2018 Promote Responsibility, Minimise Harm and the city's 4-4-54 Thrive Programme that is concerned with enabling and encouraging positive choices for better health. It also gives regard to the statutory licensing objectives and an approach where the local licensing framework is used proactively to protect health and wellbeing and prevent harm.</p> <p>There is a growing body of evidence indicating that the number of licensed premises in an area has a direct impact on levels of consumption and subsequent harm. Studies have shown clear relationships between density of outlets and levels of violence, traffic accidents and injuries. High outlet density has been directly linked to increased risky drinking and levels of violence.</p>	Contents noted

		<p>In recent years the sale alcohol from off-licenses, including supermarkets, has risen dramatically and now accounts for nearly half of all alcohol sold.</p> <p>Regular drinking above recommended limits and binge drinking are linked to poor health outcomes. They are also linked to crime, violence and anti-social behaviour. Overall levels of alcohol consumption in Plymouth give cause for concern.</p> <p>Between 2002/03 and 2009/10 alcohol attributable hospital admissions increased by 71% in Plymouth. The burden of health harm and hospital admissions is significantly higher in more deprived areas of the city, in particular in the Devonport, Stonehouse and City Centre neighbourhoods.</p> <p>An extension to the current Barbican cumulative impact area would provide an effective mechanism for managing the supply and availability of alcohol in this area.</p> <p>Therefore I would offer support to the proposed extension of the Barbican Cumulative Impact Area. Consultation Response letter supplied.</p>	
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