

	<p style="text-align: center;"><b>REPORT TO CABINET TO BE HELD ON 15 JANUARY 2019</b></p>
	<p><b>Key Decision</b></p> <p><b>Forward Plan Ref No</b></p>
<p><b>Corporate Aims: Meets all Corporate Priorities</b></p>	<p><b>Cabinet Portfolio Holder</b></p>

**REPORT OF: THE DIRECTOR (LD) – 19/003**

**WARDS AFFECTED: ALL**

**SUBJECT: REVIEW OF COUNCIL'S CUMULATIVE IMPACT  
ASSESSMENT 2019 – 2022**

**RECOMMENDATION(S):**

Cabinet are asked to:

- a) Note the analysis of the results of the consultation on the Cumulative Impact Assessment including comments received (attached at **Appendix 1**)
- b) Approve the amended Cumulative Impact Assessment (attached at **Appendix 2**) post consultation; and
- c) Recommend its approval by Council for adoption.

**REASON FOR RECOMMENDATION(S):**

Recent amendments to the Licensing Act 2003 have placed a legal obligation upon Licensing Authorities to review and subsequently consult upon Cumulative Impact Assessments every 3 years. This is to ensure the assessment remains relevant and properly reflects the area to which it applies.

**HIGHLIGHTED RISKS:**

Failing to review the existing Cumulative Impact Policies with a view to the introduction of a Cumulative Impact Assessment will result in an outdated document that does not reflect recent changes to relevant legislation, associated guidance and local circumstances.

## **1. INTRODUCTION**

- 1.1 The Council first adopted a Cumulative Impact Policy (CIP) in respect of Scarborough and Whitby Town Centres in January 2006. Cumulative Impact is the potential negative effect on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The licensing objectives are set out in the Licensing Act 2003 (the Act) and cover four key areas:
- The prevention of crime and disorder
  - Public Safety
  - The prevention of public nuisance
  - The protection of children from harm
- 1.2 The existing CIPs formed part of the previous Statement of Licensing Policy (the Policy) which was in place for the period 2013-2018. However, due to legislative changes it was decided to separate the CIPs from the Policy so that each could be reviewed independently of the other.
- 1.3 Cabinet at its meeting of 11 June 2018 agreed to a public consultation of the revised Cumulative Impact Assessment (CIA) which took place between 15 June and 10 August 2018.
- 1.4 Members are asked to note the comments and responses attached to this report and to approve the draft CIA at **Appendix 2**. This follows the Licensing Committee recommending approval at its meeting of 3 December 2018.

## **2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN**

- 2.1 This report supports all four of the Council's corporate objectives.

## **3. BACKGROUND AND ISSUES**

- 3.1 On 6 April 2018 amendments to the Licensing Act 2003 came into force introducing Cumulative Impact Assessments, effectively placing policies relating to cumulative impact on a statutory footing. These amendments included requirements to review and consult upon CIAs every three years.
- 3.2 On 24 April 2018 the amended Home Office Guidance issued under Section 182 of the Licensing Act 2003 was published. The Guidance confirmed that there were no transitional provisions in relation to existing CIPs, but advised they should be reviewed at the earliest practical opportunity to ensure compliance with the legislation. The guidance went on to state that this review should take place within three years of the commencement of the legislation, or when the Policy is next due for review, whichever is sooner.
- 3.3 Given the new statutory CIA review period is significantly shorter than that of the Policy, the proposed CIA has not been included within the revised Policy

adopted on 5 November 2018 thereby allowing each document to be reviewed independently as necessary.

## 4. CONSULTATION

4.1 The Act sets out the statutory consultees who must be consulted where it is intended to publish a CIA. The consultation period commenced on 15 June and concluded on 10 August 2018 with the following groups:

- North Yorkshire Police
- North Yorkshire Fire Authority
- Representatives of existing licence holders
- Representatives of businesses and residents in the area
- Residents groups
- Community Associations
- Faith Groups
- Neighbouring Licensing Authorities
- Relevant Council Departments
- Responsible Authorities
- Ward Councillors
- Members of the public

4.2 A total of 259 responses were received to the consultation.

## 5. ASSESSMENT

5.1 It is important that the Council takes into account consultees' comments as part of the consultation process. Members will note that:

- 79.9% of consultees **disagreed** with the proposal to dispense with the Whitby Town Centre Cumulative Impact Zone.
- 64.2% of consultees **agreed** with the proposal to retain but slightly reduce the Scarborough Town Centre Cumulative Impact Zone.
- 84.3% of consultees **agreed** with the proposal to not include the Falsgrave area within the Scarborough Town Cumulative Impact Zone (CIZ), but that the area be monitored with further analysis undertaken should the situation change in the future.
- 85.1% of consultees **agreed** with the streets and area to be included within the Scarborough Town Centre Cumulative Impact Zone.

5.2 Officers have carefully considered the comments received particularly the large response to the proposal to rescind the Whitby CIZ. This proposal was put forward based upon the evidence provided by North Yorkshire Police which suggested a picture of steady improvement year on year in terms of reported crime and disorder incidents. There was in addition evidence of longer term improvement, for example when the cumulative impact policy was

first introduced for Whitby in 2006 there were some 200 reported violent incidents, compared to 79 in 2016/17. This represented more than 2.5 times a reduction in such incidents.

5.3 However, it is accepted these figures relate to reported incidents only which is a key concern to come out of the consultation. Additional concerns are summarised as follows:

- A significant under-reporting of offences including anti-social behaviour and violent crime.
- A number of lower level unreported occurrences taking place within the existing area but outside the key hotspots of Baxtergate, Wellington Road and Langbourne Road.
- Existing and excessive public drunkenness both during the night and day time economies.
- That the area is vulnerable to any increase in alcohol related crime and anti-social behaviour.
- That further development of alcohol premises may have a detrimental impact on tourism in the area.

5.4 Naturally it is difficult to quantify these statements, but the overwhelming response is clear, in that consultees felt rescinding the CIZ for Whitby would have a significant and detrimental impact upon the area.

5.5 Although the evidence provided by the Police does not on its own support the retention of the Whitby CIZ, the Revised Guidance issued under the Licensing Act 2003 enables licensing authorities to draw upon a number of information sources when formulating a CIA, including evidence obtained through local consultation.

5.6 However Members should note that there must be a firm evidential basis in support of the decision to publish a CIA, which in respect of Whitby will predominantly comprise of the responses to the consultation. Although the integrity of these responses is not in question, they cannot be considered as robust as the reported statistical evidence provided by the Police and therefore may leave the CIA more open to challenge.

5.7 To mitigate this, and if Cabinet determine to retain the Whitby CIZ, it is suggested that a further in-depth analysis and consultation be undertaken within the next three year period to broaden the evidential basis to support the decision to publish a CIA. This should assist in obtaining a better and more accurate picture of the current impact licensed premises are having upon these areas.

## **6. IMPLICATIONS**

### **Policy**

- 6.1 This report does recommend changes to the existing cumulative impact zones following consultation.

### **Legal**

- 6.2 It is a statutory requirement for the Council to review the CIA every successive three year period.

### **Financial Implications**

- 6.3 The costs involved in undertaking the review have been met from existing budgets.

### **Crime and Disorder**

- 6.4 Under s17 of the Crime and Disorder Act 1998 the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.

## **7. ACTION PLAN**

- 7.1 If Members are minded to approve the revised Cumulative Impact Assessment, the following timetable is suggested:
- (a) A report be submitted to full Council in March 2019 requesting adoption.



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**Director**

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### **Background Papers:**

Current Licensing Policy  
Licensing Act 2003  
Policing and Crime Act 2017  
Home Office Revised guidance issued under section 182 of the Licensing Act 2003

## Risk Matrix

<b>Risk Ref</b>	<b>Date</b>	<b>Risk</b>	<b>Consequences</b>	<b>Mitigation</b>	<b>Current Risk Score</b>	<b>Target Score</b>	<b>Service Unit Manager/ Responsible Officer</b>	<b>Action Plan</b>
1	23/05/2018	Legal challenge or appeal if not revised.	Legal costs against the Council.	Introduction and timely revision of the CIA following public and statutory consultation	B2	A1	Jonathan Bramley	None
2	23/05/2018	No policy in place relating to cumulative impact	The cumulative impact already experienced in an area is further exasperated.	Introduction and timely revision of the CIA following public and statutory consultation	D3	A1	Jonathan Bramley	None

## Glossary of Terms

Risk	An event which may prevent the Council achieving its objectives
Consequences	The outcome if the risk materialised
Mitigation	The processes and procedures that are in place to reduce the risk
Current Risk Score	The likelihood and impact score with the current mitigation measures in place
Corporate Objectives	An assessment of the Corporate Objectives that are affected by the risk identified.
Target Risk Score	The likelihood and impact score that the Council is aiming to achieve
Service Unit Manager	The Service Unit or Officer responsible for managing the risk
Action Plan	The proposed actions to be implemented in order to reduce the risk to the target score

## Risk Scoring

Impact	5	[Hatched]				
	4	[Hatched]	[Hatched]	[Hatched]	[Hatched]	[Hatched]
	3	[Hatched]	[Hatched]	[Hatched]	[Hatched]	[Hatched]
	2	[Hatched]	[Hatched]	[Hatched]	[Hatched]	[Hatched]
	1	[Hatched]	[Hatched]	[Hatched]	[Hatched]	[Hatched]
		A	B	C	D	E
	Likelihood					

### Likelihood:

A = Very Low

B = Not Likely

C = Likely

D = Very Likely

**E = Almost Certain**

### Impact

1 = Low

2 = Minor

3 = Medium

4 = Major

**5 = Disaster**