



Licensing Committee Report

Date	25 November 2020
Classification	For General Release
Title or report	The 2020 Cumulative Impact Assessment - Consultation Responses and Decision to Publish.
Report of	Director of Innovation and Change
Decision maker	Licensing Committee
Wards involved	All
Financial summary	None
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1. Executive Summary

- 1.1 The Licensing Act 2003 (the Act) was amended in 2008 to make it a requirement to undertake a Cumulative Impact Assessment (CIA) if it has areas of the City that we believe are under cumulative stress due to the number and concentration of licensed premises. The licensing authority produced a CIA earlier this year based on data from a wide range of sources over a period of three years (2017-2019) (Appendix 1). The CIA was carried out prior to COVID-19.
- 1.2 The licensing authority carried out consultation to statutory consultees and the wider public between the 12th October and 15th November 2020 on the authority's intention to publish the CIA. The consultation was run in parallel with the consultation on the Councils proposed revisions to its Statement of Licensing Policy under the Act. A total of 166 responses were received to the consultation. There was a mix of responses and the although the questioned posed in the consultation related to the CIA the responses often related to the proposed policies associated with cumulative impact or as a result of the findings from the CIA. A copy of the text associated with the responses is provided at Appendix 2 to this report.
- 1.3 There were no significant issues identified during the consultation exercise that would require the Licensing Authority to amend the 2020 Cumulative Impact Assessment as produced. It is proposed that the CIA should be published on the 1st December 2020. The Act required the licensing authority to undertake a review of the CIA within three years. It is anticipated that due to the impact of COVID-19 and the recovery following the pandemic the licensing authority will potentially need to undertake a review within the next 18 months.

2. Recommendations

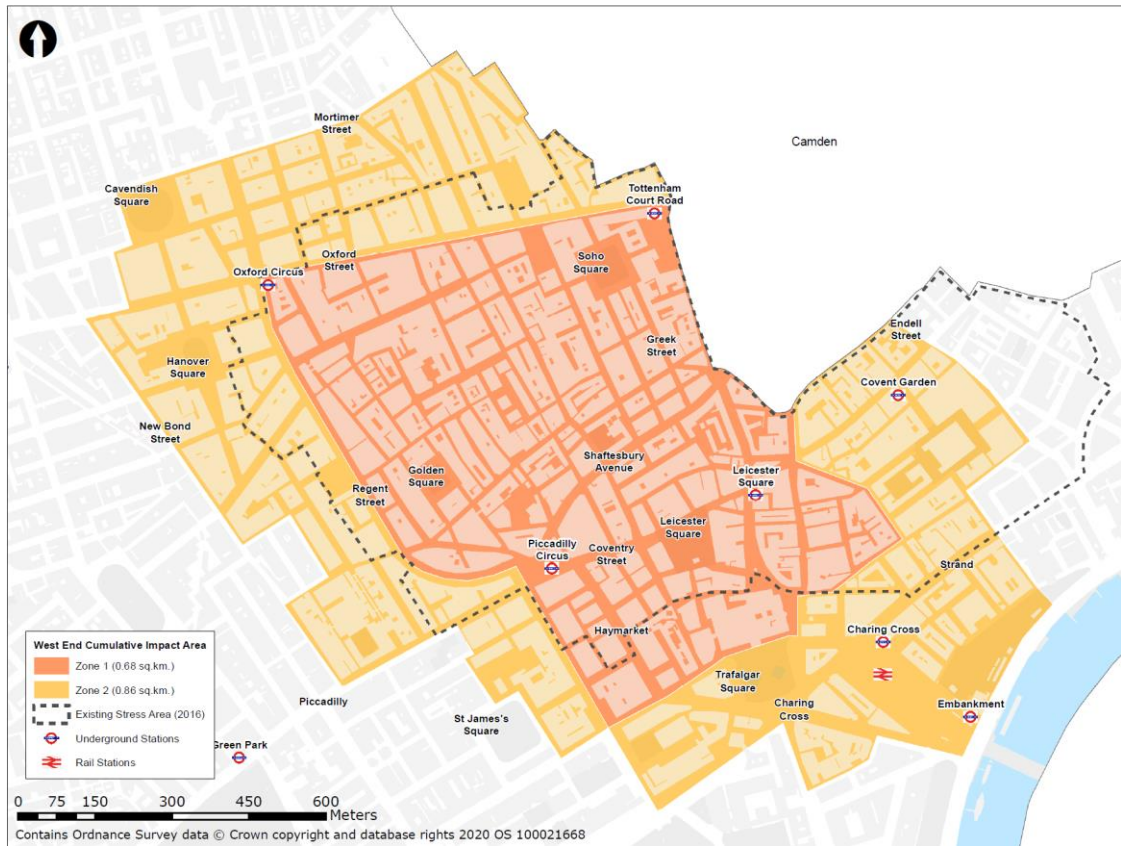
- 2.1 To note the responses to the consultation and agree to publish the 2020 Cumulative Impact Assessment (CIA) in accordance with Section 5A of the Licensing Act 2003 from Tuesday 1st December 2020.

3. Background

- 3.1 Cumulative impact occurs as a result of a large number of licensed premises and their cumulative effect on crime and disorder, nuisance and the demand on local services. The licensing objectives under the Act are likely to be negatively impacted due to that concentration of licensed premises in one area. It is often not that licensed premises on their own are operating in a way that is detrimental to the licensing objectives, but it is the cumulation of the premises and the people attending them that creates the increased problems and demands on services.
- 3.2 In 2018 the Act was amended to include section 5A which introduced a statutory requirement for licensing authorities to produce a CIA if it believes that cumulative impact was occurring in their area. If the licensing authority produced a CIA then it must be consulted upon. Once published the Licensing Authority must have regard to the CIA when revising its Statement of Licensing Policy.
- 3.3 The current and proposed revision of the Councils Statement of Licensing Policy contains a Cumulative Impact Policy, which has a presumption to refuse certain applications within a designated cumulative impact zone. The current cumulative impact zones are located within the West End, Queensway/Bayswater and Edgware Road. However, it is proposed under the new revised policy that both Edgware Road and Queensway/Bayswater zones will no longer be classified as a Cumulative Impact Zone.

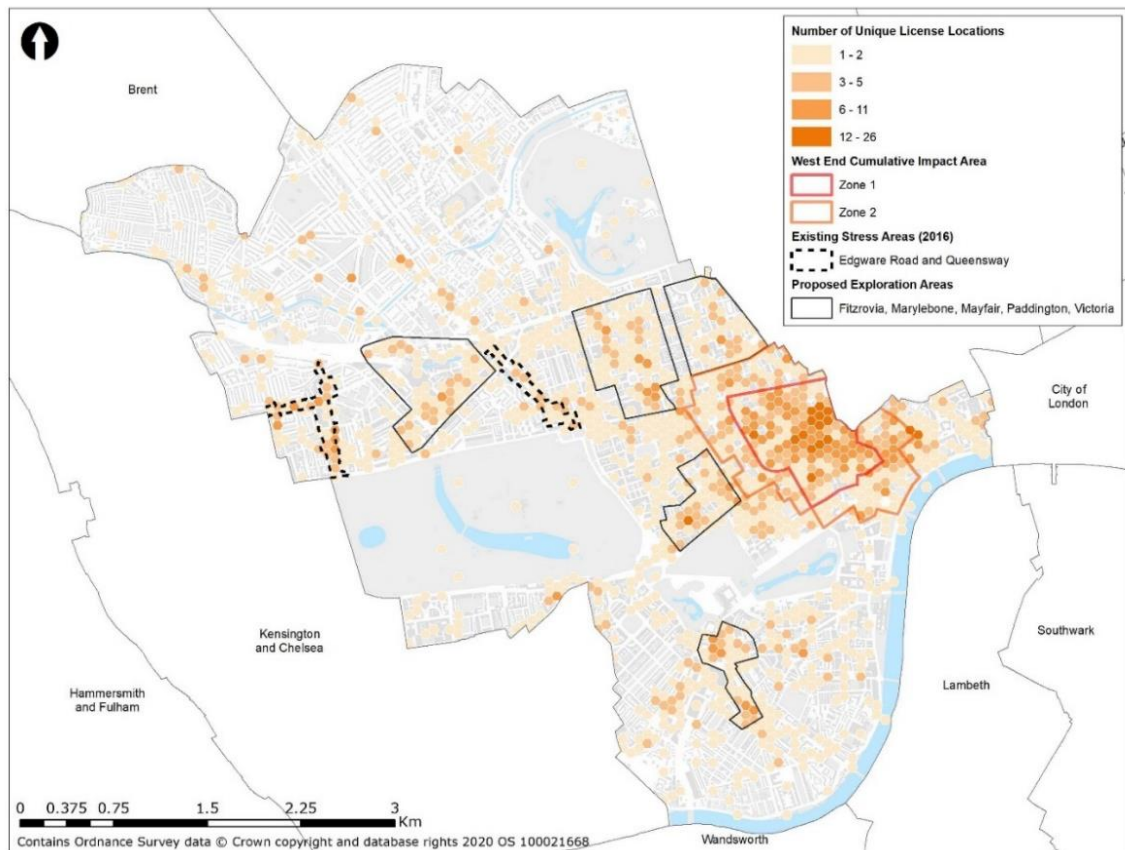
4. Summary of Cumulative Impact Assessment Findings

- 4.1 Westminster's CIA research was conducted in late 2019 to March 2020. The CIA was based on data spanning a period of three years (2017 to 2019). The data came from a variety of sources; including the police, ambulance service, TFL, open source data and Westminster's own records. The CIA findings indicated before the impact of COVID-19 cumulative stress within the West End had increased and the area to which it was occurring had expanded from the current West End cumulative impact area boundary. The effect of cumulative impact was significant in the heart of the West End (Zone 1) where the rates of incidents were nine times above the borough average. The area surrounding Zone 1 (Zone 2) also showed signs of cumulative impact but had a lower incident rate of four times above the borough average.
- 4.2 The area to the East of Covent Garden that is currently within the cumulative impact zone boundary could not be linked to cumulative impact even though there was a clustering of licensed premises in the area. This area is outside Zone 2 as identified on the map below.



4.3 In addition to the West End the CIA research looked closely at areas that were:

- (a) previously classified as a cumulative impact area (Queensway/Bayswater and Edgware Road)
- (b) of concern, as identified via previous studies (Mayfair), or
- (c) had high concentrations of licensed premises within a confined area (Victoria, Paddington, Fitzrovia North and the corridor between Marylebone Road and Oxford Street).



- 4.4 Queensway/Bayswater and Edgware Road were found not to be under cumulative stress. The levels of incidents rates in these areas were higher than the borough average (Queensway/Bayswater 2.9 and Edgware Road 3.9) but the incidents could not be conclusively linked to licensed premises to demonstrate cumulative impact. Incidents in the area specifically related to crime and disorder and public nuisance issues (waste and noise).
- 4.5 Mayfair was also found not to be under cumulative stress, with the level of incident rates 1.6 times above the borough average. However, uniquely to this area a previous study was undertaken in 2016 that was based on observational analysis, which could not be done for this study due to COVID-19. It did demonstrate a continuing elevated level of incidents in the area. The 2016 study identified the area around Berkeley Street, Berkeley Square and Dover Street to demonstrate negative impacts on the licensing objectives. This area is primarily populated with bars, hotels and restaurants.
- 4.6 Victoria, Paddington, Oxford Street/Marylebone Corridor and Fitzrovia were not considered to be under cumulative stress.

Area Name	West End Zone 1	West End Zone 2	West End Stress Area	Queensway & Bayswater	Edgware Road	Victoria	Paddington	Oxford St - Marylebone Corridor	Mayfair	Fitzrovia North
Relative incident Rate	8.84	3.86	7.27	2.9	3.85	1.86	0.99	1.27	1.67	1.02

5. Consultation

- 5.1 Before the Licensing Authority can formally publish its CIA it is required under section 5A(5) of the Act to consult the following:

- 5.1.1 Police,
 - 5.1.2 Fire Authority,
 - 5.1.3 Public Health,
 - 5.1.4 any person who represents personal licence holders,
 - 5.1.5 any persons who represent premises licence or club premises certificate holders,
 - 5.1.6 any persons who represent businesses, and,
 - 5.1.7 any persons who represent residents.
- 5.2 The licensing authority is also in the process of revising its Statement of Licensing Policy in accordance with Section 5 of the Act. The licensing authority also had to carry out consultation on its proposed revisions to its policy, to which the CIA findings were significant. The consultation for both the CIA and revision to the Councils Statement of Licensing Policy would be conducted together as the statutory consultees were the same. On the 12th October 2020 the licensing authority began its consultation on its intention to publish its CIA in accordance with the Act. In addition to contacting those referred to in 5.1.1 to 5.1.7 above the consultation was widely promoted to the general public through social media and dedicated articles in council newsletters. The consultation ran for a period of five weeks and ended on the 15th November 2020.
- 5.3 The licensing authority has received 166 responses to its consultation on both the intention to publish the 2020 Cumulative Impact Assessment and its proposed revisions to the Councils Statement of Licensing Policy. A summary of the responses to the consultation relating to the findings of the CIA were:
- Residents found the findings of the CIA alarming and an accurate representation of the cumulative impact experienced by Westminster's communities.
 - In a detailed account about CI in Victoria, one resident has stated that much of the impact arises from Short Term Letting as opposed to licensed venues, and the CIA is unfairly punishing smaller operators.
 - One resident has pointed to the gradual decline in the number of police officers patrolling areas of cumulative impact areas within the West End. Residents on Berkeley Street particularly welcome the introduction of a Special Consideration Zone.
 - Queensway and Edgware road there are some issues regarding begging, pickpocketing, and harassment, however this is not a licensing issue.
 - Mayfair businesses are concerned about the creation of the new Planning Use Class E and worry that this will exacerbate the decline of retail and the high street and accelerate the growth of licensed premises. Some have said the CIA is evidence that the council has failed to manage the growth of cumulative impact experienced by residents.
 - Business Improvement Districts and landowners have suggested that the lack of observational data is a potential issue as it does not provide an accurate understanding of the nature and origin of nuisance/cumulative impact.
- 5.4 The comments that specifically relate to the CIA document were generally positive. There were also positive responses relating to the wider use of the CIA in the development of policies to reduce the impact on residents within the West End.
- 5.5 However, there were comments on the impact of COVID-19 on the West End and hospitality sector, the complexity and presentation of the data as well as comments on the causality to crime and anti-social behaviour, e.g. begging. There was also concern that observational analysis could not be conducted which in some respondents' views may have changed the results, particularly relating to Queensway/Bayswater and Edgware Road where cumulative impact from licensed premises could not be conclusively identified.

- 5.6 The impact of COVID-19 on the hospitality sector is understood and the Council has been working with businesses and the wider sector to provide support through grants as well as providing road closures to enable outside tables and chairs. The Licensing Authority has also determined some applications seeking temporary relaxations or extensions of hours associated with premises that have been adversely impacted by COVID-19 and the measures to ensure customers are socially distanced. The impact of COVID-19 on the West End and the imposition of a cumulative impact policy was highlighted by some respondents.

“While cumulative impact is an important thing to measure and I would normally support such a policy, it is likely that the net result of the current pandemic when it ends will see fewer entertainment venues, particularly smaller ones, in operation.”

“Basically my concern is, have you factored how businesses have been effected during the pandemic, and the continued survival to them.”

“It is difficult to see how the findings relating to analysis done between 2017 and 2019 pre Covid19 can be relevant going forward without further research to include the effects that Covid 19 have had. These may well be long term effects.”

- 5.7 This was the first CIA that the licensing authority has produced. It has included a large amount of information and does set out the data modelling approaches that have been taken. This document is a key piece of evidence in maintaining the cumulative impact policy and is open to challenge. The level of detail and an explanation on how the data was modelled was felt appropriate. However, this complexity was highlighted by one resident.

“I think the Cumulative Impact Assessment should be delivered in such a way that it is easy for the layperson to understand it. In its current form it does require a significant level of analytical knowledge and understanding, which most Westminster residents are unlikely to have.”

- 5.8 The impact of wider issues associated with anti-social behaviour in and around the areas identified within the CIA were also highlighted by respondents. Whilst the CIA did look at overall issues with crime and anti-social behaviour it had to relate to issues coming from or being directly related to the number of licensed premises in the area. In some places, such as Edgware Road and Queensway/Bayswater the issues could not be conclusively linked to licensed premises, to which the policy would relate. Some residents were concerned about the issues of crime and anti-social behaviour and also that these issues aren't being addressed through our policy.

“Many of the problems identified are linked to the high numbers of vagrants, beggars and rough sleepers in the area (as well as the number of licensed premises)”

“Below the level of outright crime are negative impacts on residents such as begging, harassment, pickpockets that are not reported, etc. The findings that Paddington and Queensway and Edgware Road fall below the CIA thresholds mean the thresholds are set too high. Even the local police have had trouble enforcing orders to reduce ASB in Queensway which has also a lot of neighbouring hostels used by Westminster Council to house young refugees or asylum seekers who are bored and hang out together in large groups in the streets.”

“...very high concentrations of licensed premises on individual streets or blocks of streets, worsening crime hotspots, must continue to be considered all over the borough, not just in the West End. I note the comments about Victoria, although a lot

of this is down to people from short-term lets, hotels and hostels and/or the police's reluctance to deal with the small number of regular individuals repeatedly making people's lives a misery. It is nothing to do with those on a night out or long-term residents, nor the concentration of venues."

6. Publication of the Cumulative Impact Assessment

- 6.1 A number of respondents have raised the impact on the COVID-19 pandemic and that the data that has been collected to produce the CIA was from the period before the first lock down. The concerns that have been raised from both amenity/residents' associations and businesses is that the current situation is very different from before the COVID-19 pandemic occurred.
- 6.2 It is important to note that a great deal of responses did refer to other proposed revisions of the Councils Statement of Licensing Policy in addition to the CIA itself. This was particularly true relating to the proposals for the Cumulative Impact Policy, Cumulative Impact Zone and Special Consideration Zones.
- 6.3 Crown Estates has commissioned Arcola LLP and Dr Philip Hadfield to assess the Licensing Policy consultation and CIA findings relating to their estate. The research specifically looked at the impact of COVID-19 on the evening and night time economy, the future of how cities will respond across the globe to the impacts of the pandemic and the boundaries drawn by the Council in relation to the Cumulative Impact Zones and Special Consideration Zones findings. The findings of their report relate to the proposed boundaries within the proposed revisions of the Licensing Policy for the West End Cumulative Impact Zone. The research has acknowledged the data driven approach that the Licensing Authority took in relation to the production of this document. The caveats to the assessment were set out that the assessment was undertaken on data and observational analysis was not possible at the time due to COVID-19 and the lock down.
- 6.4 The Licensing Authority has stated within the consultation document that due to the impact of COVID-19 it is likely to undertake either a revision of the current CIA or carryout a new CIA well before the end of the three-year statutory deadline under the Act for its review. It is acknowledged that the evening and night-time economy will likely to take some time before it returns to anywhere near what it was before March 2020.
- 6.5 Some of the responses have raised points that the Licensing Authority intends to further consider when it carryout's the next review of its CIA. Of particular note are the comments relating to observational analysis to support the findings from the data, the relationship with incidents and different premises, whether the rates of incidents are significant having regard to how busy a location or street is and whether the size/capacity of the venue has a bearing.
- 6.6 As there have been no fundamental issues identified within the consultation responses It is therefore recommended that this document is published on the Council's website from the 1st December 2020.
- 6.7 The Act requires the CIA to be reviewed every three years. Due to COVID-19 it is likely that the licensing authority will need to undertake a review of the CIA when the City begins to recover from the impact of the virus. It is likely that there will be some significant changes to the City, particularly within the West End as a result of the impact of COVID-19. Whilst no time frame on this review can be confirmed at this stage it is possible that such a review may take place within the next 18 months. However, this will be subject to the recovery and when the City begins to return towards a normal level of visitors.

7. Legal Implications

7.1 The legal implications are as stated in this Report

8. Financial and Staffing Implications

8.1 There are no financial or Staffing implications as a result of this report.

9. Equalities Impact Assessment

9.1 The council, when taking decisions in relation to any of its functions, must comply with its public sector equality duty as set out in Section 149 of the Equality Act 2010 in relation to persons who have protected characteristics.

9.2 Equality and diversity is not a parallel process or something to think about once a year. It is a fundamental part of improving services for everyone. It is nothing to do with ticking boxes or bureaucracy, and everything to do with making Westminster a place where anyone can be happy to live or work. It is central to delivering high quality customer services in the heart of London. We identify and actively address inequality, where evidence shows that it exists.

9.3 This diversity and the changing nature of Westminster's population makes Westminster a culturally and socially rich city, which benefits from the different experiences, perspectives and respect for others that this diversity brings.

9.4 The council's 6 equality objectives are:

- 9.4.1 Minimise loneliness, maximise independence and improve mental and physical wellbeing of older people.
- 9.4.2 Better understand the needs of our diverse communities to improve our approach to tackling discrimination.
- 9.4.3 Communities lead healthy lifestyles through increased participation in sport and physical activity.
- 9.4.4 Promote equality of opportunity across the city by tackling barriers to employment.
- 9.4.5 Create an environment where all children have an equal opportunity to succeed in life.
- 9.4.6 Improve the diversity of our workforce.

9.5 Officers have carried out a Equality Impact Assessment and as a result of that assessment there are no anticipated impacts as a result of publishing the CIA and the Council's ability to meet its duties under the Equality Act.

If you have any queries about this report or wish to inspect any of the background papers, please contact:

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Background Papers

- Licensing Act 2003
- Home Office Revised Guidance issued under Section 182 of the Licensing Act 2003 – April 2018

- Proposals for the revision of Westminster City Council's Statement of Licensing Policy and the intention to publish its Cumulative Impact Assessment. - 12th October 2020
- Draft Cumulative Impact Assessment - October 2020

Appendices

Appendix 1 – Westminster City Councils Cumulative Impact Assessment 2020

Appendix 2 – Consultation responses relating to the Cumulative Impact Assessment