

Item: 8.	Classification: Open	Date: 15 March 2011	Meeting Name: Licensing Committee
Report title:		The Licensing Act 2003 – Consideration of local saturation policies dealing with the “cumulative impact” of licensed premises – Elephant & Castle; Old Kent Road Corridor (North & South); and Walworth Road/East Street areas	
Ward(s) or groups affected:		Cathedral, Chaucer, East Walworth, Newington, Faraday, South Bermondsey, Livesey and Nunhead	
From:		Strategic Director of Environment and Housing	

RECOMMENDATIONS

1. That the committee agrees that on the basis of the partnership analytical report and the report from the environmental protection team, the following areas remain under ongoing monitor:
 - a) The Elephant & Castle;
 - b) The Old Kent Road; and
 - c) The Walworth Road/East Street.
2. That the Elephant & Castle area under monitor be extended northward to run flush with the current Borough and Bankside zone.

BACKGROUND INFORMATION

3. Statutory guidance permits licensing authorities to consider the adverse cumulative impact of licensed premises on a local area and to implement a policy that seeks to restrict the further escalation of licensed premises in that area. This is known as a “special” or “saturation” policy.
4. A saturation policy may be declared where there is an evidential basis showing that the concentration of licensed premises in an area is impacting upon the licensing objectives and the addition of each further additional licence is likely to have a disproportionate impact on crime and disorder, or nuisance, in that area.
5. Essentially, the evidence base needs to:
 - Be factual, quantitative, and proximate;
 - Demonstrate a positive correlation between alcohol/entertainment/late night refreshment premises, and crime and disorder and nuisance issues within the particular areas under consideration; and
 - Examine trends over a period of time.
6. Since the introduction of the Licensing Act 2003 in November 2005, the council’s licensing committee has been monitoring available information sources that might help to gauge the cumulative impact of licensed premises on the Southwark community, particularly in terms of crime and disorder and nuisance. Reports are provided at six-monthly intervals following the release of

the latest relevant statistical information from the partnership analyst and the environmental protection team.

7. On 5 November 2008, council assembly approved the introduction of two saturation policies within the borough, in the Camberwell and Peckham areas.
8. On 4 November 2009, council assembly approved a third saturation area, covering Borough and Bankside and an extension of the boundary of the Peckham saturation area.
9. On 9 March 2010, the licensing committee instructed officers to consult locally on the possible extension of the Borough and Bankside saturation area and to continue to monitor the position in:
 - The Elephant & Castle;
 - The Old Kent Road corridor (considering the northern and southern areas as separate entities); and
 - The Walworth Road/East Street.
10. This report updates the committee on the latest analysis from the partnership analytical team and the environmental protection team, with particular regard paid to those areas under current monitor set out in section 8 above. It also reviews other current 'hotspot' locations.
11. A separate report considers the situations within the three current special policy areas, including the response to the Borough and Bankside consultation.

KEY ISSUES FOR CONSIDERATION

General

Partnership analytical report

12. The latest partnership analytical report was published on 6 January 2011. The analytical report provides statistical information on alcohol related "violence against the person" (VAP), together with information taken from police CAD data (dealing with alcohol related "disorder and rowdiness"). The analytical report covers the period from April – September 2007 through to April – September 2010. The analysis also incorporates information on alcohol related ambulance data for the period December 2009 – May 2010. A copy of the headline analysis is attached at appendix 1 to the separate report on the Borough and Bankside, Camberwell and Peckham areas elsewhere on the agenda. Area specific details are provided within the appendices to this report, referenced at appropriate points.

Violence against the person

13. VAP figures reproduced in the analytical report have attempted to capture incidents that are likely to be related to alcohol, excluding incidents of domestic violence. The category of violence against the person incorporates a number of individual crime types, each differing in their level of severity and the impact on the victim. The crime types include:
 - Assault with injury

- Common assault;
 - Harassment;
 - Offensive weapon;
 - Other violence; Serious wounding; and
 - Murder.
14. Section 1.2 of the partnership analytical report at appendix 1 to the companion report on the existing policy areas sets out how the data was captured and the limitations of the data provided.

Alcohol related CAD data

15. Statistics produced in the analytical report from police CAD data collects information on calls to the police regarding:
- Rowdy/inconsiderate behaviour
 - Licensed premises
 - Street drinking
16. Again, section 1.2 of the partnership analytical report at appendix 1 to the companion report sets out how the data was captured and the limitations of the data provided.

Ambulance data

17. Information contained within the partnership analysis relating to alcohol related assaults reported to the London ambulance service has been extracted from the LASS website.

Analysis of nuisance data provided by the environmental protection team

18. The council's environmental protection team also reported, on 1 February 2011, on the number of nuisance service requests received by the community safety environmental protection team, in connection with licensed premises, up to and including the period June – November 2010. Summary information is included within the area specific analysis appended.

General Southwark overview

19. The general overall analysis of alcohol-related VAP and CAD and calls to the London Ambulance Service is provided at appendix 1 to the companion report. In summary, however, the latest partnership analysis shows that Southwark experienced a significant decrease in alcohol related violent crime between October 2008 and March 2009, but that levels have been rising steadily since. By the end of September 2010, levels have reached a point higher than any since April 2007. This rise is set against a background of falling violent crime overall. The proportion of violent crime influenced by alcohol in the most recent period (April – September 2010) stands at 51.6% of all violent crime.
20. CAD data has followed a consistent pattern over years, with seasonal highs in the summer months. There was a 6.2% increase in CAD between April – September 2010 and the same period in 2009. There was a particular spike in July, which was higher than any point since April 2007. Since July levels have fallen, though they are still at a higher level than at the same time last year.

21. These increases in alcohol related VAP and CAD are generally reflected through much of the area specific analysis. While the analysis anticipates seasonal increases during the April – September summer period the most recent set of figures are high. General factors contributing toward the high figures in the most recent period April – September 2010 will include the summer 2010 world cup and the good weather.
22. With regards to ambulance data, between December 2009 and May 2010, there was a much heavier focus on alcohol related assaults in the north west of the borough (including Elephant and Castle), where figures recorded were far higher than any other area. Beyond this, Camberwell Green, Peckham, Rotherhithe and Livesey became slightly more prominent also.
23. It is interesting to note that while increases are recorded in most areas, the 12 month analysis of alcohol related VAP and both the 6 and 12 month analysis of alcohol related CAD show generally lower percentage increases within saturation policy areas than within the other areas under monitor.

Elephant & Castle

24. For the purposes of the monitoring exercise the Elephant and Castle area has been defined by the following boundary - Starting at the junction of Southwark Bridge Road and Borough Road following the railway line southwards across New Kent Road to Elephant Road into Walworth Road. Then south down Walworth Road to Hampton Street. From Hampton Street/Howell Walk to Newington Butts, Kennington Lane, Brook Drive, Hayles Street, St George's Road, Garden Row, London Road, Thomas Doyle Street and back to the junction of Southwark Bridge Road.. A map of the area is provided as appendix 1 to this report.
25. The area takes in the Elephant & Castle station and surrounds. There are numerous bars, cafes and nightclubs in the area, most notably the Ministry of Sound nightclub in Gaunt Street and the Coronet in the New Kent Road, which are two of the borough's largest capacity venues. The Elephant & Castle is well served by transport facilities with British rail and underground lines located here, plus many bus routes. The Elephant & Castle station is the second busiest train station in Southwark after London Bridge. Many people choose to travel to the Elephant & Castle to socialise in the evening
26. At the time of writing of this report, there are 46 premises licensed under the 2003 Licensing Act for either the sale or supply of alcohol; the provision of regulated entertainment or the provision of late night refreshment trade within the boundary of the area under monitor. This figure includes 19 restaurants/cafes; 11 off-licences/supermarkets/grocers; and 6 public houses. This figure is slightly reduced from last period.

Elephant & Castle analysis

27. Analysis for the Elephant & Castle area is contained within the area specific analysis at appendix 2 to this report.
28. In brief, there has been little change in alcohol related VAP, either in the evening or daytime, Of note, levels of serious wounding in the daytime period have increased (with a reduction in less serious offences) whilst they have

dramatically decreased in the evening period. There is a high prevalence of offending at the weekend, particularly in the evening period. This corresponds with the increased numbers of people attending the area to visit the late night licensed premises.

29. Alcohol related CAD figures have shown a generally decreasing trend. The latest monitor indicates daytime alcohol related CAD was concentrated around the transport hubs and the shopping centre. In the evening this moves more toward the nightclubs and transport hubs.
30. The report from the environmental protection team shows that only three service requests were received in this area in the period June – November 2010.
31. On the basis of these figures it is recommended that the area continues to be subject of ongoing monitoring. However, hot-spot mapping provided in the partnership analysis indicates that the current boundary being used for analysis of the Elephant & Castle area does not cover the entirety of disorder generated locally. It may be prudent, therefore, to extend the boundary of the area northward up to the boundary of the current Borough and Bankside zone.

Elephant & Castle – comments from the Metropolitan Police Service

32. The commissioner of police for the metropolis would support public consultation on a potential saturation zone in this area.

Old Kent Road corridor

33. For the purposes of the monitoring exercise the Old Kent Road corridor has been considered as two distinct areas – north and south.

Old Kent Road (North)

34. For the purpose of monitoring the Old Kent Road Corridor (North) is defined by the following boundary – from the Bricklayers Arms roundabout at the northern end following the road southward, taking in both frontages and extending some 50 metres behind those frontages (loosely bordered by the likes of Congreve Street, Madron Street, Marcia Road) to the junction with Rotherhithe New Road. A map of the area is provided at appendix 3. Once a central late night entertainment location, the area has developed over recent years and now comprises a broader mix of residential and commercial premises, including several large superstores.
35. At the time that this report was prepared there were 38 premises licensed under the Licensing Act 2003 for either the sale or supply of alcohol and/or the provision of regulated entertainment and/or the provision of late night refreshment in the Old Kent Road (North) area. This figure includes 11 supermarkets, off-licences, grocers and convenience stores; 10 restaurants/cafes; 7 take-away premises, and 4 night-clubs.

Old Kent Road (North) analysis

36. Analysis for the Old Kent Road (North) area is provided within the area specific analysis contained within appendix 4 to this report.

37. In brief, analysis shows there was a slight increase in alcohol related VAP both in the daytime and evening periods, with offending generally occurring on Thursdays and at the weekend.
38. Alcohol related CAD has shown more significant increases in the most recent period (April – September 2010). Offences in this period typically related to disturbances in the street.
39. The northern part of the Old Kent Road does not feature significantly under alcohol related calls received by the London Ambulance Service.
40. The report from the environmental protection team shows a very low level of nuisance service requests received from this area in the latest period.

Old Kent Road (South)

41. For the purpose of monitoring the Old Kent Road Corridor (South) is defined by following the Old Kent Road southward starting at Rotherhithe New Road down to the border with Lewisham, taking in both frontages and extending some 50 metres behind those frontages. A map of the area is provided at appendix 3.
42. At the time that this report was prepared there were 19 premises licensed under the Licensing Act 2003 for either the sale or supply of alcohol and/or the provision of regulated entertainment and/or the provision of late night refreshment in the Old Kent Road (North) area. This figure includes 8 restaurants/cafes; and 8 supermarkets/grocers/off-licences/convenience stores.

Old Kent Road (South) analysis

43. Analysis for the Old Kent Road (South) area is provided within the area specific analysis contained within appendix 5 to this report.
44. Overall, there has been very little change in alcohol related VAP figures in the latest period. Figures for alcohol related VAP are generally very low.
45. Alcohol related CAD calls have risen significantly in the latest period, primarily due to increases in the category of rowdy behaviour. Calls have related mainly to incidents on the street, in the early hours of Sunday morning and late night on Wednesday.
46. The southern part of the Old Kent Road does not feature significantly under alcohol related calls received by the London Ambulance Service.
47. The report from the environmental protection team shows a very low level of nuisance service requests received from this area in the latest period.

Old Kent Road Overall

48. Statistics for alcohol related VAP, ambulance calls and nuisance requests are comparatively low across the Old Kent Road area. However, given the recent increases being seen in alcohol related CAD, it is recommended that the area remain under monitor.

Old Kent Road – comments from the Metropolitan Police Service

49. The commissioner of police for the metropolis would support public consultation on a potential saturation policy for both the northern and southern areas of the Old Kent Road corridor.

Walworth Road/East Street

50. For the purpose of this monitor the area is defined by the following boundary – Starting at the junction of the Walworth Road with Browning Street and moving north-eastward following Stead Street into Rodney Road before moving south via Flint Street and Thurlow Street as far as Inville Road. Then crossing to Roland Way, into Poland Street and down to Albany Road. From Albany Road into Walworth Road and moving via John Ruskin Street/Pelier Street/Fielding Street/Penrose Street/Penton Place and Manor Place back to the start. A map of the area is attached as appendix 6.
51. The Walworth area is an extremely busy thoroughfare in Southwark, linking Elephant & Castle with Camberwell. It is serviced by many bus routes and is very accessible from most of South-East London. The area under monitor is quite large and encompasses a large residential population. It includes a great deal of commercial premises, including East Street market, also. The Walworth Road, itself, hosts many bars and eateries.
52. At the time that this report was prepared there were 53 premises licensed under the Licensing Act 2003, for either the sale or supply of alcohol and/or the provision of regulated entertainment and/or the provision of late night refreshment in the Walworth Road/East Street area. This figure includes 18 supermarkets/grocers/off-licences and convenience stores; 13 restaurant/cafes and 12 public houses/bars. The total number of licensed premises has been reducing in recent months. While reductions have been seen across all categories of licensed premises the greatest reduction has been in public houses.

Walworth Road/East Street analysis

53. Analysis for the Walworth Road/East Street area is contained within the area specific analysis contained within appendix 7 to this report.
54. In summary, alcohol related VAP across the Walworth Road/East Street area shows a rising trend. However, while figures for the latest period (April – September 2010) are up on the previous period (October 2009 – March 2010) they are very consistent with the last comparable period (April – September 2009).
55. While statistics for alcohol related CAD are showing a decreasing trend, figures for the latest period (April – September 2010) have shown a significant increase. This increase is attributable to the category of ‘rowdy behaviour’. Peaks are seen around bookmakers and public houses during the daytime and from the street in the evening.
56. The environmental protection team’s analysis of nuisance service requests shows a significant increase in calls received in the latest period (April – September 2010) but this is considered to be likely to improved reporting.

57. Ambulance data indicates that while this area falls outside of the main hotspot area for alcohol related calls (in the north east of the borough) both East Walworth and Faraday wards feature within the top 10 in the borough.
58. On the basis of these mixed figures it is recommended that this area remains under monitor.

Walworth Road/East Street – comments from the Metropolitan Police Service

59. The commissioner of police for the metropolis would support public consultation on a saturation policy for this area.

Moving forward with saturation policies

60. In the event that the committee should decide it wishes to pursue a potential policy within any of the areas under monitor, a new round of public consultation will be required under section 5(5) of the Licensing Act 2003. Consultation will necessarily include:
 - the chief officer of police;
 - the fire authority;
 - representatives of holders of premises licences, club premises certificates and personal licences; and
 - representatives of local businesses and residents.
61. Should the committee decide to go out to public consultation on this matter it is proposed that the consultation should comprise:
 - notices in the local press and on the Southwark licensing web site;
 - direct mail shots to all licence/certificate holders in and around the proposed extended area;
 - direct mail shot to all responsible authorities;
 - direct mail shot to all known local resident and business representative groups;
 - announcements at the local community council; and
 - a public meeting on the issue.
62. The consultation should aim to seek views on whether it is appropriate and necessary to introduce a saturation area; and, if so, the boundary of that area and the classes of premises it should cover.

Hot-spot mapping (general)

63. Hot-spot mapping provided in the partnership analyst report (appendix 1 to companion report on current saturation areas) aligns areas of highest intensity of alcohol related VAP and CAD calls and ambulance pick-ups with current saturation areas/areas under monitor. The mapping establishes that the areas of highest intensity do correspond with areas under current monitor.
64. Members will wish to note, however, that the Shad Thames Residents Association has asked the committee that the Shad Thames area be returned to direct monitoring under the ongoing analysis. Current general hot-spot mapping does not identify Shad Thames as a priority area at present.

The cumulative impact of a concentration of licensed premises

65. The cumulative impact of a concentration of licensed premises is dealt with under sections 13.24 through to 13.39 of the Guidance to the Act produced by the Department of Culture Media and Sport (DCMS) (last revision published December 2009). In order to be able to consider the issues around the introduction of saturation policies fully, it is important to understand the concept of cumulative impact and saturation policies. Members' attention is drawn to the key points of the guidance set out in the supplementary advice from the strategic director of law and governance in this report (section 76 onward).
66. The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant, or variation, of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

Community impact statement

67. This report considers the impact of licensed operations (in terms of VAP/CAD and ambulance calls) within the Elephant & Castle, Old Kent Road corridor and Walworth Road/East Street and asks the committee to consider whether public consultation should be undertaken in any area on the potential introduction of a local saturation policy.
68. Saturation policies have the potential to place a check on identified and escalating concerns relating to crime and disorder, anti-social behaviour and nuisance. In doing so a policy can contribute toward reducing the fear of crime and making Southwark a better place to live, work and visit.
69. While, conversely, saturation policies may also impact on business growth and development of the area concerned, it should be understood that the existence of a policy does not prevent responsible operators from becoming established within the area or from developing existing businesses. Instead operators will have to demonstrate that their business proposals do not further impact on the identified concerns within the locality.
70. The adoption of a special policy creates a rebuttable presumption that applications for new licences and variations that are likely to add to the existing cumulative impact of premises within the area to which the special policy applies, will normally be refused where relevant representations are received.
71. The special policy must stress that this presumption does not relieve responsible authorities and interested parties of the need to make representations in respect of applications for premises within the special policy area(s). It will not be possible to refuse to grant such applications, or seek to impose conditions if no representations are received.
72. If no representations are received in respect of applications within the special policy area, it will remain the case that an application must be granted in the terms that are consistent with the operating schedule submitted.
73. Applicants will be expected to provide information in their operating schedules to address the special policy issues in order to rebut the presumption of refusal. Applicants will need to demonstrate why the operation of their premises will not add to the cumulative impact being experienced.

Resource implications

74. While it is accepted that the existence of a saturation policy does result in every relevant new licence application or variation application being considered in the light of the new policy, it is not considered that this will have any significant impact on resources.

Consultations

75. Details of proposals for public consultations that might arise from consideration of this report are detailed throughout this report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

76. The Council's statement of licensing policy may include saturation policies in respect of particular areas, which address issues relating to the "cumulative impact" of a number of licensed premises in that area.
77. Although the Licensing Act 2003 ("the 2003 Act") does not contain specific statutory provisions relating to the review and revision of saturation policies, the Council must have regard to the general requirements of the 2003 Act and the statutory guidance issued by the Secretary of State under s.182 of the 2003 Act.
78. S.5(4) of the 2003 Act states that the Council must keep its licensing policy under review and make appropriate revisions where necessary.
79. Paragraph 13.31 of the guidance goes further and states that saturation policies should be reviewed regularly to assess whether they are still needed or whether they need to be expanded.
80. If, following a review, the Council considers it appropriate to introduce new saturation policies to its statement of licensing policy then it must follow the statutory procedure contained in s.5 of the 2003 Act.
81. Sections 5(3) and 5(5) of the Act require that before revising the statement of licensing policy to include new saturation policies the licensing authority must first consult with the local Police, fire service and representative bodies of local residents, businesses and premises licence holders. The Council must also publish details of the new saturation policies.
82. Any decision to add a saturation policy to the statement of licensing policy should have an evidential basis which demonstrates that the cumulative impact of licensed premises in an area is having an impact on crime and disorder and/or public nuisance.
83. If the Council wishes to add a new saturation policy within the borough, it must first be satisfied that there is sufficient evidence to show that the cumulative impact of premises in the area is having an impact on local crime and disorder and/or public nuisance.

84. The decision to add a new saturation policy should only be made where, after considering the available evidence and consulting those individuals and organizations listed in Section 5(3) of the Act, the licensing authority is satisfied that it is appropriate and necessary.
85. There are limitations associated with saturation policies. Most important are set out below.
86. It would not normally be justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. The classes of premises to which the saturation policy may apply, includes off-licences, supermarkets, grocers and take-aways in each of the three areas. The Council should be satisfied that the inclusion of such premises is justifiable, having regard to the evidence obtained through the consultation process.
87. A special policy should never be absolute, i.e. cannot have a blanket policy to refuse all applications but rather a rebuttable presumption that they will be refused. Each application will have to be considered on its own merits and should only be refused if after receiving representations, the licensing authority is satisfied that the grant of the application would undermine the promotion of the licensing objectives and, that necessary conditions would be ineffective in preventing the problems involved.
88. Special policies should never be used as a ground for revoking an existing licence or certificate when representations are received about problems with those premises, i.e. by way of a review. A review must relate specifically to individual premises whereas cumulative impact relates to the effect of a concentration of many premises.
89. A special policy cannot be used to justify rejecting applications to vary an existing licence except where the proposed changes are directly relevant to the policy and the refusal is necessary for the promotion of the licensing objectives.
90. Special policies cannot justify and should not include provisions for a terminal hour in a particular area.
91. Special policies must not impose quotas that would restrict the consideration of any application on its individual merits.
92. The guidance states that statements of licensing policy should contain information about the alternative mechanisms available for controlling cumulative impact. The licensing policy should contain details of mechanisms available both within and outside of the licensing regime.
93. The statement of licensing policy must not be inconsistent with the provisions of the 2003 Act and must not override the right/s of any individual as provided for in that Act. Nor must the statement of licensing policy be inconsistent with obligations placed on the Council under any other legislation, including human rights legislation. The Council also has a duty under Section 17 of the Crime and Disorder Act 1998, when carrying out its functions as a licensing authority under the 2003 Act, to do all it reasonably can to prevent crime and disorder within the Borough.

Finance Director (Env/ERT/240111B)

94. There are no financial implications as a result of accepting the proposals set out in the report. Any costs arising from implementing the proposals will be fully contained within the existing budgets of the division.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 Associated secondary regulations DCMS Guidance to the Act Southwark Statement of Licensing Policy Mayors Best Practice Guide for Managing the Late Night Economy Analysis reports	The Health Safety & Licensing Unit, The Chaplin Centre, Thurlow Street, London, SE17 2DG	Name: Mrs Kirtikula Read Phone number: 020 7525 5748

APPENDICES

No.	Title
Appendix 1	Map of the Elephant & Castle area
Appendix 2	Further analysis for the Elephant & Castle
Appendix 3	Map of the Old Kent Road corridor
Appendix 4	Further analysis for the Old Kent Road (North)
Appendix 5	Further analysis for the Old Kent Road (South)
Appendix 6	Map of the Walworth Road/East Street area
Appendix 7	Further analysis for the Walworth Road/East Street area

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment & Housing		
Report Author	Richard Parkins; Health Safety & Licensing Unit Manager		
Version	Final		
Dated	23 February 2011		
Key Decision?	Yes		
CONSULTATION WITH OTHER OFFICERS/DIRECTORATES/CABINET MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director of Communities, Law & Governance	Yes	Yes	
Finance Director	Yes	Yes	
Cabinet Member	Yes	Yes	
Date final report sent to Constitutional/Community Council/Scrutiny Team		4 March 2011	