

Item No: 7.1	Classification: Open	Date: 6 April 2011	Meeting name: Council Assembly
Report title:	Licensing Act 2003 – Extension of the local saturation policy dealing with the “cumulative impact” of licensed premises in Borough and Bankside		
Ward(s) or groups affected:	Cathedrals, Chaucer & Grange		
From:	Strategic Director of Environment and Housing		

RECOMMENDATIONS

1. That council assembly approves the recommendation of the licensing committee that, on the basis of:
 - a) The partnership analytical report;
 - b) The report from the environmental protection team; and
 - c) The response from public consultation

it is appropriate and necessary to extend the western boundary of the current Borough and Bankside saturation area to help deal with the ‘cumulative impact’ of licensed premises within the area.

2. That, the extended boundary of the saturation policy be set as indicated in the map at appendix 2 to this report; and
3. That the classes of premises to be covered by the policy shall remain as stated in paragraph 27 to this report.

BACKGROUND INFORMATION

4. 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.
5. A saturation policy may be declared where there is an evidence base 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.
6. 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.
7. 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.

8. On 5 November 2008, council assembly approved the introduction of two saturation policies within the borough, in the Camberwell and Peckham areas.
9. 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.
10. On 9 March 2010, the licensing committee instructed officers to consult locally on the possible extension of the Borough and Bankside saturation area to include The Cut and Isabella Street. This consultation took place through the summer of 2010.
11. On 15 March 2011, the licensing committee considered the latest statistical analysis, together with responses from the public consultation and agreed to recommend to council assembly that an extension of the Borough and Bankside area is both appropriate and necessary to assist in controlling the cumulative impact of licensed premises on the local community.
12. At the same meeting, the committee agreed to maintain saturation zones in both Camberwell and Peckham. Additionally, the current positions in the Elephant and Castle, Old Kent Road corridor and Walworth areas are to remain under monitor.

KEY ISSUES FOR CONSIDERATION

Partnership analytical report

13. 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 periods from April – September 2007 through to April – September 2010. The analysis also incorporates alcohol related ambulance data for the period December 2009 – May 2010. This report provides summary information. A copy of the headline analysis is attached at appendix 1. Further specific information on the Borough and Bankside area is provided in appendix 3 to this report.

Violence against the person

14. 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
15. Section 1.2 of the partnership analytical report at appendix 1 sets out the methodology used for capturing data and the limitations of the data provided.

Alcohol related CAD data

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

Ambulance data

18. Information contained within the partnership analysis at appendix 1, 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

19. The council's environmental protection team reported, on 1 February 2011, on the number of nuisance service requests received by the community safety environmental enforcement team, in connection with licensed premises, up to and including the period June - November 2010. Summary information is contained within the area specific analysis at appendix 3.

General Southwark overview

20. The general overall analysis of alcohol-related VAP and CAD and calls to the London Ambulance Service is provided at appendix 1. 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.
21. 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.
22. 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.

23. 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 where figures recorded were far higher than any other area.
24. 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.

Borough and Bankside saturation area

25. A map of the current Borough and Bankside saturation area is provided at Appendix 2 to this report. The map shows the boundary of the area is defined as follows - Blackfriars Bridge / Blackfriars Road / St George's Circus / Borough Road / Borough High Street / Long Lane / Crosby Row / Snowsfields / Bermondsey Street then heading directly north to the river frontage and then westward back to Blackfriars Bridge.
26. The current area is densely filled with shops, restaurants and bars. Many hold late licences. The London Bridge British Rail, bus and tube terminal is located within the area as is Guy's Hospital. The station acts as a 'crime attractor' as many people will socialise locally where they have good transport facilities available.
27. The Borough and Bankside saturation policy currently applies to the following classes of premises - night-clubs / public houses & bars / restaurants & cafes / off-licences, supermarkets and grocers.
28. At the time of writing of this report, there are now some 230 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 saturation area. This represents 19% of the total licensed premises in the borough. This figure includes 80 restaurants / cafes; 62 public houses / bars; 31 off-licences / supermarkets / grocers; 10 hotels; 8 theatres; and 4 night-clubs.
29. This represents a 26% rise in the number of licensed premises within the area since the introduction of the saturation policy in November 2009. This reflects the level of business growth and development that is taking place in the area. While increases are noted across most premises types the main increases have been among restaurants and off-licences / supermarkets and similar.

Borough and Bankside – key findings

30. Full analysis for the Borough and Bankside saturation area is contained within the area specific analysis contained within appendix 3.
31. In summary, the most recent period has shown a slight increase in VAP offending in the evening, specifically concerned with serious wounding and assault with injury. Peak times are 0000 – 0300 on Saturdays and throughout the early hours of Sunday. Of primary importance is the increase taking place in the daytime figures, whereby levels have almost doubled compared to the previous period. All crime types increased with no exception. Repeat venues tend to be hostels, low cost supermarkets and the hospital. Peak times occur on Thursdays and Saturdays between 1900 and 2300 hours.

32. CAD calls correlate with the VAP data and show peaks during the evening and early hours of Friday, Saturday and Sunday. In the daytime period, calls are made to events on the street, or in hostels and bookmakers. In the evening, activity switches to public houses and licensed premises. CAD totals reached their highest level within the analysis in the most recent period, April – September 2010, where a 10% increase was demonstrated over the previous comparable period.
33. The environmental protection team's report on nuisance service requests shows that the level in the period June – November 2010 remained constant with the previous comparable period.
34. Ambulance data shows that between December 2009 and May 2010, Cathedral ward had the highest level of alcohol related assaults with 17.4% of the borough's total.

Borough and Bankside – extended area analysis

35. To assist with the committee's consideration of a possible extension of the western boundary of the policy area, the partnership analytical report also provides analysis of the position within the extended footprint. This includes the additional area bordered by Blackfriars Road, Waterloo Road, the Lambeth border and the river frontage (see appendix 2) incorporating The Cut.
36. The increases in both alcohol related VAP and CAD shown within the current Borough and Bankside saturation area are reflected within the extended areas also, Alcohol related CAD, in particular, is shown to have increased at a slightly greater rate (12%) in the extended area, than the current policy area.
37. On the basis of these statistics, it is considered appropriate and necessary to recommend the western extension of the Borough and Bankside saturation area.

Borough and Bankside area extension- results of consultation

38. This recommendation is supported by the response to the public consultation exercise on the proposed extension of the boundary, run within the Borough and Bankside area during the summer 2010.
39. Although the number of individual responses returned was low and limited to local residents and representative groups, strong support for an extension of the policy area was demonstrated in the submissions received. All required groups were consulted.
40. In all, seven individual responses were received from local residents (including representatives of Octavia Hill residents association and Styles House tenants and residents association); together with a joint response on behalf of the three local Cathedrals ward councillors. The response from the vice-chair of the Octavia Hill residents association also forwarded a copy of a petition in support of the extension comprising 43 names, primarily of residents in and around the immediate vicinity of the proposed extension.
41. The submissions are detailed in full in appendix 4 to this report. All submissions are in support of a western extension of the boundary of the current saturation area to the border with Lambeth. Some responses indicated there should be further amendment to the saturation zone without defining the extent.

42. On the classes of premises covered by the special policy one submission infers that convenience stores should be included. These are currently considered to fall within the existing definition of '... off-licences, supermarkets and grocers'.
43. It should also be noted that the joint response from the three ward councillors proposes hotels, theatres and vessels are also included.

Borough and Bankside – extended area analysis – comments from the commissioner of police for the metropolis

44. The commissioner of police for the metropolis supports the extension of the policy area, particularly in the light of recent complaints to the local authority / police regarding too many licensed premises.

The cumulative impact of a concentration of licensed premises

45. 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 Home Office (HO) (last revision published October 2010). 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 (paragraph 54 onward).
46. 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

47. This report considers a proposal to extend the current special saturation policy area within Borough and Bankside, to help control the direct impacts of the leisure and night-time economy on the local community.
48. 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 may also contribute toward reducing the fear of crime and making Southwark a better place to live, work and visit.
49. 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.
50. The existence of a special policy does not automatically mean that applications made within a special policy area will be refused. If no representations are received, it will remain the case that an application must be granted in the terms that are consistent with the operating schedule submitted.
51. 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

52. While it is accepted that the existence of a saturation policy may 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

53. Details of public consultations that have taken place in the preparation of this report are provided in paragraphs 38-43.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

54. 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.
55. 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.
56. S.5(4) of the 2003 Act states that the Council must keep its licensing policy under review and make appropriate revisions where necessary.
57. 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.
58. If, following a review, the Council considers it appropriate to revise the saturation policies contained within the licensing policy then it must follow the statutory procedure contained in s.5 of the 2003 Act.
59. Sections 5(3) and 5(5) of the Act require that before revising any such policy 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 any revisions.
60. Any decision to revise a saturation policy within 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.
61. If the Council wishes to extend any 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.

62. The decision to expand a 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.
63. There are limitations associated with special policies. Most important of these are set out below.
64. 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 inclusion of such types of premises must be justifiable, having regard to the evidence obtained through the consultation process.
65. 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.
66. 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.
67. 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.
68. Special policies cannot justify and should not include provisions for a terminal hour in a particular area.
69. Special policies must not impose quotas that would restrict the consideration of any application on its individual merits.
70. 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/ET/240111)

71. 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 Latest analysis reports	The Health Safety Licensing & Environmental Protection Unit, The Chaplin Centre, Thurlow Street, London, SE17 2DG	Name: Mrs Kirtikula Read Phone number: 020 7525 5748

APPENDICES

No.	Title
Appendix 1	Partnership analysts report dated 6 January 2011
Appendix 2	Map of the Borough and Bankside saturation area
Appendix 3	Further analysis for Borough and Bankside
Appendix 4	Responses to consultation on the potential extension of the Borough and Bankside saturation area

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Housing	
Report Author	Richard Parkins; Health Safety Licensing & Environmental Protection Unit Manager	
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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
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