

<b>Item No.</b> 8.	<b>Classification:</b> Open	<b>Date:</b> 19 April 2012	<b>Meeting name:</b> Licensing Committee
<b>Report title:</b>	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); Walworth Road / East Street & Shad Thames areas		
<b>Ward(s) or groups affected:</b>	Cathedral, Chaucer, East Walworth, Newington, Faraday, South Bermondsey, Livesey, Nunhead & Riverside		
<b>From:</b>	Strategic Director of Environment and Leisure		

## RECOMMENDATION

1. That the committee agrees that on the basis of the partnership analytical report, cumulative impact continues to be monitored in each of the areas at 1.a) – c) below:
  - a) The Elephant & Castle;
  - b) The Old Kent Road; and
  - c) The Walworth Road / East Street.
2. That the committee agrees that future monitoring reports consider revised time periods of 0600 – 1759 and 1800 – 0559; and
3. That the committee notes officers’ intention to bring a further report forward considering new licensing provisions contained within the Police and Social Responsibility Act 2011, relating to management of the night-time economy, following consideration of revised Home Office Guidance, anticipated later in 2012.

## 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 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.
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 has monitored 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 annually, following the release of the latest relevant statistical information, from the partnership analyst and the London ambulance service (LAS).
8. The council currently has three special or saturation policy areas in place. The first two, covering Camberwell and Peckham, came into effect on 5 November 2008. The third, in respect of Borough and Bankside, was established on 4 November 2009. On the same date the Peckham special policy area was extended. The Borough and Bankside policy area was also extended on 6 April 2011.
9. This report updates the committee on the latest analysis of statistics, with particular regard paid to other previously identified 'hotspot' locations. It covers the Elephant & Castle, the Old Kent Road, Walworth Road / East Street and Shad Thames.
10. A separate report has been prepared which updates the committee on the current situation within the three special policy areas.

## **KEY ISSUES FOR CONSIDERATION**

### **General**

#### **Partnership analytical report**

11. The latest partnership analytical report was published on 20 February 2012. The analytical report provides statistical information on:
  - Alcohol related "violence against the person" (VAP);
  - Information taken from police CAD data (dealing with alcohol related "disorder and rowdiness"); and
  - Alcohol related ambulance (LAS) calls.
12. The analytical report provides full year information for 2011. Appendix A to the report considering the situation in Borough and Bankside, Camberwell and Peckham provides headline analysis and an overview across Southwark. Appendix A to this report provides specific detailed information in respect of the four areas under ongoing monitor.
13. This report provides summary information.

### **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 A sets out the methodology used for capturing data and the limitations of the data provided.

#### **Alcohol related CAD data**

16. 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

17. Again, section 1.2 of the partnership analytical report at appendix A to the companion report sets out how the data was captured and the limitations of the data provided.

#### **Ambulance data**

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

#### **Police and Social Responsibility Act 2011**

19. The Police and Social Responsibility Act 2011 included a number of new licensing provisions which are expected to come into effect under the Licensing Act 2003 during the course of 2012-13.

20. Included within these are a number of new powers afforded the licensing authority to assist in dealing with issues of crime and disorder around the late night economy. These include:

- Introducing a late night levy to help cover the cost of policing the late night economy;
- Increasing the flexibility of early morning alcohol restriction orders; and
- Lowering the evidential threshold on licensing authorities.

21. These new provisions are likely to have considerable impact on the approach this authority takes to management of the late night economy. For this reason any further development of saturation policies is recommended to be held off until revised Home Office guidance has been published under section 182 of the 2003 Act. This is anticipated later in 2012.

22. When this revised guidance is published and has been considered, a further report will be put to the committee setting out how the situation regarding the consideration of cumulative impact is affected and how special saturation policies may be utilised alongside new powers afforded the authority.

## **General Southwark overview**

23. The general overall analysis of alcohol-related VAP and CAD and calls to the London Ambulance Service is provided at appendix A to the complementary report on Borough and Bankside, Camberwell and Peckham. The key findings of the general analysis are set out below.
- The total number of VAP offences recorded within Southwark fell in 2011 for the third year running and now stands at a five year low (showing a 29% reduction since the high of 2008);
  - The total number of alcohol related VAP offences recorded in Southwark also fell, showing a 16% reduction from the 2010 high. This now stands at a four year low;
  - Though alcohol related VAP is decreasing it is not falling at the same rate as total VAP. Consequently the proportion of total VAP that is attributable to alcohol related offences is increasing (from 22.1% in 2007 to 30.4% in 2011);
  - Alcohol related VAP taking place in the evening has maintained a fairly steady rate over the past five years but showed a 4.6% decrease in 2011 from 2010;
  - Alcohol related VAP (in the evening) represented 54.3% of all violent crime in the borough in 2011;
  - There was little significant change when considering the proportion of total daytime VAP that is attributable to alcohol related offences, with a reduction of just 0.4%;
  - Alcohol related VAP taking place in the daytime represents 23% of all violent crime in the borough;
  - Levels of disorder CAD calls appear to fluctuate on annual basis with increases seen in one year and then a decrease. In 2011 CAD calls saw a 1.9% increase on calls from 2010;
  - Highest levels of CAD calls were experienced in spring and summer 2011; and
  - LAS call outs in 2011 increased by 16% since 2010.

## **Elephant & Castle**

24. For the purposes of the monitoring exercise the Elephant & 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 on page 5 of appendix A to this report.
25. At the time of writing of this report, there are 40 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 represents 3.2% of the total licensed premises in the borough and includes 13 cafes / restaurants; 6 public house and 6 convenience stores. This figure is slightly reduced from last period.

26. The area takes in the Elephant & Castle station and surrounds. There are numerous bars, cafes and nightclubs in the area, including the Ministry of Sound nightclub in Gaunt Street and the Coronet in the New Kent Road. 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
27. Some other local considerations are:
- The Elephant & Castle continues to be an enduring hotspot for robbery, despite pro-active police operations;
  - Demolition of the Heygate estate and parts of Elephant Road continues, leaving some venues to relocate;
  - The Elephant & Castle is currently subject of a £1.5bn, 55 acre regeneration programme. This will create a pedestrianised town centre, market square, homes, retail space, transport hubs and green spaces. The first phase of the demolition of the neighbouring Heygate estate is under way, including Rodney Road, and it is anticipated that works will be completed by the end of 2015. There are also a number of public realm and private developments taking place at the same time in the area, with the Strata tower recently completed (including the redevelopment of parts of the Newington estate) and plans to redevelop the nearby Pullens estate;
  - A recent services mapping exercise undertaken by the Divisional Business Team showed that Cathedrals and the area to the north of the borough has extremely high levels of students. The number of students in area predicted to rise to 3,500 (just in Cathedrals) by 2020; and
  - Foundation 66, a service offering support for those with alcohol addictions, as well as running a day programme for those completely abstinent from all illicit substances is located within this area.

### **Elephant & Castle – key findings from the partnership analysis**

28. Detailed analysis for the Elephant & Castle area is contained within the area specific analysis at appendix A to this report. The key findings from the partnership analysis are:
- There was no significant change in alcohol related violence at Elephant and Castle in the evening (10% increase; 4 crimes);
  - There was an 8.8% decrease in “daytime” alcohol related violence (13 offences). Proportion of violent crime attributed to alcohol has remained at 27.5% (no significant change). Increase seen in Assault with Injury and Common Assault, with reductions in harassment and serious wounding.
  - The proportion of violence which is alcohol related continues to rise in Elephant and Castle. In 2011, 64.9% of violence taking place in the evening was considered alcohol-related;
  - Almost 70% (68.8%) of evening alcohol related violence offences occur on a Saturday or Sunday;
  - Levels of CAD calls significantly increased in 2011, with 130 more calls than in 2010 (54.6%);
  - An 18.6% increase in alcohol related LAS calls was experienced in Elephant and Castle, when comparing 2011 to 2010; and

- Peak times for alcohol related ambulance call outs are 2200 – 0300 all week, most specifically on Fridays, Saturdays and Sundays.

### **Elephant & Castle – Conclusion**

29. That, given the concern raised by local increases in alcohol related CAD and ambulance pick-ups, the Elephant and Castle area should remain under monitor and, following the report back to the committee on the new licensing provisions, consideration be given to next steps to be taken to address local issues.
30. It is also recommended that the area under monitor should be extended to the north-east (to include the whole of Newington Causeway, to the junction with Borough Road) so as to completely capture evening offending in the area. Note: This would then abut the Borough and Bankside special policy area.

### **Elephant & Castle – Comments from the Commissioner of Police for the Metropolis**

31. The Commissioner of Police for the Metropolis supports this position

### **Old Kent Road corridor**

32. For the purposes of the monitoring exercise the Old Kent Road corridor has been 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 border with Lewisham. A map of the area is provided on page 11 of the analysis at appendix A. 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.
33. At the time that this report was prepared there were 43 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 area. This figure represents 3.4% of total licensed premises in the borough and includes 17 convenience stores (including 5 x 24 hour), 13 cafes / restaurants and 5 public houses. This figure is reduced from the last assessment.
34. Premises licensed to sell alcohol are clustered to the north of the Old Kent Road, around the Dunton Road / East Street junctions and the south, approaching the boundary with Lewisham.

### **Old Kent Road – key findings from the partnership analysis**

35. Detailed analysis for the Old Kent Road area is provided within the area specific analysis contained within appendix A to this report. The key findings of the partnership analysis are:
  - There was a 20.7% decrease in alcohol related violence in the evening in the Old Kent Road. However, proportionally, the amount of offences that are alcohol related has risen;

- In 2011 56.8% of violent offences in the Old Kent Road area in the evening were alcohol related;
- There was also a decrease in alcohol related violence in the daytime (11.9%, 5 offences) though once more the proportion has increased;
- Currently 23.1% of daytime violence is alcohol related, which is higher than any previous annual period;
- There has been a dramatic increase in the amount of disorder calls to this area in the evening period in both 2010 and 2011, (by 19.3%, 57 additional offences, from 2009 to 2010, and by 10.8%, 45 additional offences from 2010 to 2011).
- 5.2% of borough disorder calls in the daytime relate to the Old Kent Road area, this figure remains the same in the evening period;
- The number of alcohol related ambulance calls to the Old Kent Road area has increased by 16.4% (when comparing 2011 to 2010), equating to 26 more call outs;
- Peak times for alcohol related ambulance calls are between 0100 and 0600 on Sundays and throughout the day/night on Saturday. There is a general trend toward calls at the weekend.

#### **Old Kent Road conclusion**

36. That, given the concern raised by local increases in alcohol related CAD and ambulance pick-ups, the Elephant and Castle area should remain under monitor and, following the report back to the committee on the new licensing provisions, consideration be given to next steps to be taken to address local issues.

#### **Old Kent Road – Comments from the Commissioner of Police for the Metropolis**

37. The Commissioner of Police for the Metropolis supports this position

#### **Walworth Road / East Street**

38. 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 provided on page 23 of appendix A to this report.
39. At the time that this report was prepared there were 42 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 represents 3.3% of total licensed premises in the borough and includes 16 convenience stores (including 1 x 24 hour store); 14 public houses; 6 cafe / restaurants; and 5 supermarkets. 18 supermarkets / grocers / off-licences and convenience stores; 13 restaurant / cafes and 12 public houses / bars.
40. 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.

### **Walworth Road / East Street – key findings from the partnership analysis**

41. Detailed analysis for the Walworth Road / East Street area is contained within the area specific analysis contained within appendix A to this report. Some key findings from the partnership analysis are:

- In total, there was an 15.8% increase in alcohol related violent crime in the evening in the Walworth saturation area (2011 compared to 2010);
- The proportion of “evening” alcohol related violence in Walworth fluctuates, in 2011, 64.7% of violence was considered to be alcohol related, increasing from 49.4% in 2010.
- However, there has been a 30.6% decrease (comparing 2011 with 2010) in ‘daytime’ alcohol related violence. Currently, just under a quarter of violent crime in the Walworth saturation area is considered to be alcohol related (23.5%, down from 25.1% in 2010).
- There was a 9% increase in CAD calls in 2011;
- 5.8% of all daytime CAD disorder occurs within the Walworth saturation area bounds, which slightly decreased to 5% in the evening period.
- There was a 13.6% reduction in the amount of alcohol related ambulance calls, when comparing 2011 with 2010. Half of all calls are made at a weekend, with the remainder being fairly evenly spread throughout the week. Peak times are between 1600 - 1800, and 2300 – 0200.

### **Walworth Road / East Street – Conclusion**

42. On the basis of the mixed figures reported in the analysis, which include some continuing areas of concern, it is recommended that this area remains under ongoing monitor.

### **Walworth Road – Comments from the Commissioner of Police for the Metropolis**

43. The Commissioner of Police for the Metropolis supports this position

### **Shad Thames**

44. At the request of the committee, the Shad Thames area has been revisited for the purpose of this monitor. Shad Thames was one of the areas that was considered under early monitors but was removed as very low figures for VAP, CAD and nuisance calls were regularly reported.

45. For the purpose of this monitor the Shad Thames area is defined by the Thames frontage, Tower Bridge Road, Tooley Street and Shad Thames. A map of the area is provided on page 17 of appendix A to this report.

46. At the time that this report was prepared there were 26 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 represents 2%



of total licensed premises in the borough and includes 12 cafe / restaurants and 7 public houses.

47. Formerly the largest warehouse complex in London, the area was regenerated in the 1980s / 1990s and now comprises mixed residential / commercial with numerous cafes, bars and shops, as well as other 'boutique' style businesses.
48. Extensive urban regeneration in recent years has led to an increase in tourist footfall. The completion of the Shard development, as well as other redevelopments taking place within the neighbouring Borough and Bankside saturation area, may continue to increase the footfall as more tourists / workers may choose to live / work / socialise here.

### **Shad Thames – key findings of the partnership analysis**

49. Detailed analysis for the Shad Thames area is contained within the area specific analysis contained within appendix A to this report. Key findings from the partnership analysis are:
  - Overall it remains that there are few incidents recorded within this area;
  - Only two alcohol related violent offences were reported in the 2011 evening period. Both occurred on a Saturday, between 0000 and 0200 hours.
  - In the daytime period, there were four offences reported, both low level violence. There was no correlation between the days/times of the four offences.
  - A considerable decrease in CAD calls was experienced (from 89 in 2010 to 48 in 2011);
  - Just 0.5% of all daytime CAD calls and 0.9% of evening CAD calls are in relation to this area.
  - Five alcohol related ambulance calls in 2011, all made between 2200 and 0200 hours. The calls were spread throughout the week, and thus there is no peak day

### **Shad Thames conclusion**

50. On the basis of these figures it is recommended that Shad Thames does not feature specifically on the next monitoring report.

### **Shad Thames – Comments from the Commissioner of Police for the Metropolis**

51. The Commissioner of Police for the Metropolis supports this position

### **Moving forward with saturation policies**

52. 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
53. 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.
54. 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)**

55. Hot-spot mapping provided in the partnership analyst report (appendix A 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 (except for the recommended adjustment to the Elephant & Castle monitor raised elsewhere in this report).

### **The cumulative impact of a concentration of licensed premises**

56. 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 67 onward).
57. 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**

58. This report considers the impact of licensed operations (in terms of VAP / CAD and ambulance calls) within the Elephant & Castle, Old Kent Road corridor; Walworth Road / East Street and Shad Thames. The report asks the committee to consider whether public consultation should be undertaken in any area on the potential introduction of a local saturation policy.
59. 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.

60. 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.
61. 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.
62. 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.
63. 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.
64. 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**

65. 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**

66. 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**

67. 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.
68. 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.

69. S.5(4) of the 2003 Act states that the Council must keep its licensing policy under review and make appropriate revisions where necessary.
70. 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.
71. 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.
72. 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.
73. 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.
74. 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.
75. 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.
76. There are limitations associated with saturation policies. Most important of these are:-
77. 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.
78. 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.
79. 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.

80. 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.
81. Special policies cannot justify and should not include provisions for a terminal hour in a particular area.
82. Special policies must not impose quotas that would restrict the consideration of any application on its individual merits.
83. 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.
84. 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.

#### Equality Act 2010

85. The council must have due regard to its Public Sector Equality Duty ("PSED") under the Equality Act 2010 ("the 2010 Act"), in particular the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity for those with protected characteristics and foster good relations between those with and without such characteristics. The list of protected characteristics is set out in the 2010 Act.
86. An Equality Impact Assessment ("EQIA") has been carried out in relation to the council's Statement of Licensing Policy, to ensure that the Council's public sector equalities duties are complied with. The EQIA has identified no issues in relation to the PSED. These recommendations do not propose any change to that policy, however an EQIA would need to be carried out if changes were proposed.

#### Decision-making Arrangements

87. Saturation polices form part of the statement of licensing policy.
88. Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, decisions relating to licensing matters cannot be the responsibility of an authority's executive.
89. The 2003 Act provides that whilst the majority of the functions of the licensing authority, are to be taken or carried out by its licensing committee, decisions relating to the statement of licensing policy cannot be delegated in such a way.

The decision on whether to amend the statement of licensing policy must therefore be taken by council assembly.

90. If the licensing committee felt that changes to the licensing policy, such as amending a saturation policy, were appropriate this would need to be referred to council assembly.

**Finance Director (NR/F&R/5/3/12)**

91. This report recommends that the licensing committee agrees that, on the basis of the partnership analytical report, cumulative impact continues to be monitored in identified areas, agrees that future monitoring reports consider revised time periods of 0600 – 1759 and 1800 – 0559; and notes officers' intention to bring a further report forward considering new licensing provisions contained within the Police and Social Responsibility Act 2011.
92. The finance director notes the resource implications contained within the report and that there are no financial implications as a result of accepting the proposals. Officer time to effect the recommendations will be contained within existing budgeted revenue resources.

**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, 160 Tooley Street, London SE1 2QH	Name: Mrs Kirtikula Read Phone number: 020 7525 5748

**APPENDICES**

No.	Title
Appendix A	Area specific partnership analysis of 20 February 2012

## AUDIT TRAIL

<b>Lead Officer</b>	Gill Davies, Strategic Director of Environment and Leisure		
<b>Report Author</b>	Richard Parkins, Health Safety Licensing & Environmental Protection Unit Manager		
<b>Version</b>	Final		
<b>Dated</b>	10 April 2012		
<b>Key Decision?</b>	No		
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>			
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>	
Strategic Director of Communities, Law & Governance	Yes	Yes	
Finance Director	Yes	Yes	
<b>Cabinet Member</b>	Yes	Yes	
<b>Date final report sent to Constitutional Team</b>		10 April 2012	