

Item: 7.	Classification: Open	Date: 4 September 2013	Meeting Name: Licensing Committee
Report title:		The Licensing Act 2003 – Cumulative Impact Policy Areas – Summary of 2012-2013 Application Determinations	
Wards or groups affected:		Cathedral; Chaucer; Grange; Riverside; Camberwell Green; Brunswick Park, South Camberwell, Faraday, Peckham; Livesey; The Lane and Nunhead.	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the committee notes the summary of outcomes in respect of licence applications made in 2012-2013, falling within the council's current cumulative impact policy (CIP) areas.

BACKGROUND INFORMATION

2. Guidance issued by the Home Office under s182 of the Licensing Act 2003, establishes that licensing authorities may introduce special 'saturation policies' where the authority believes there are problems in its area resulting from the cumulative impact of licensed premises.
3. This authority currently has three CIPs in place. These cover:
 - Borough and Bankside (established in November 2009 and extended in April 2011)
 - Camberwell (established in November 2008)
 - Peckham (established in November 2008 and extended in November 2009).
4. Decisions to establish each of the CIPs were taken following consideration of available current information sources and public consultation. The primary source of information throughout has been the annual partnership analysis of alcohol related violence and crime and disorder within Southwark.
5. On 12 June 2013, the committee considered the partnership analysis for 2012. Upon consideration of this report the committee decided to maintain each of the CIPs, with further analysis of the situation within the Peckham area sought (Note: This information is in preparation and will be returned to the committee at it's next meeting in December 2013).
6. The committee also asked for a summary of the outcomes of all applications for new and varied premises licence / club premises certificates made in 2012-2013, falling within the council's CIPs. This report fulfils that request.
7. The committee are asked to note the content of the report.

KEY ISSUES FOR CONSIDERATION

Summary of outcomes

8. The full summary of outcomes of licence applications falling within the council's three current CIPs, received during the course of 2012-2013, is attached at appendix A. A breakdown of outcomes by area follows.

The Borough and Bankside Cumulative Impact Area

9. A map of the current Borough and Bankside special saturation policy area is provided at Appendix B to this report. The boundary of the saturation area is defined as follows - Starting at the Lambeth border by the Thames and following the route southward to the Waterloo Road / St George's Circus / Borough Road / Borough High Street / Long Lane / Crosby Row / Snowsfields / Bermondsey Street then directly north to the river frontage and westward back to the Lambeth border. The policy currently applies to night-clubs / public houses & bars / restaurants & cafes / off-licences, supermarkets and grocers.
10. This is the largest of the 6 areas currently either subject of a saturation policy or under monitor. The area is densely filled with shops, restaurants and bars. Many hold late licences. At the time of the most recent partnership analysis there were some 249 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 within the boundary of the saturation area.
11. During the course of 2012-2013, a total of 37 applications for new premises licences/club premises certificates and variations were received within this area. Of these:
 - 29 applications (78%) were subject of representations
 - 15 of the contested applications (52% of the contested applications) were successfully conciliated and were granted subject to agreements reached, by the Head of Service
 - 1 contested application was rejected by the Head of Service (as it had been made as a variation and was decided to constitute a substantial change requiring a new premises licence application)
 - 1 contested application was granted in error by the Head of Service when a single representation was overlooked (the error was subsequently addressed with the business and individual concerned. The application related to a time-limited licence for an existing relocated business displaced during the Olympic period, which was accepted to offer limited additional cause for concern)
 - 12 of the contested applications (41% of the contested applications) were referred to the licensing sub-committee for determination at a public hearing
 - 9 applications (75% of the 12 applications referred) were granted or part-granted by the sub-committee
 - 2 applications (16.6% of the 12 applications referred) were refused by the sub-committee
 - 1 application (8% of the 12 applications referred) due to be considered by the sub-committee was withdrawn
 - 7 applications (19% of the 37 applications) received no representations and were granted by the Head of Service

- 1 application was withdrawn as it was made within the wrong borough.

The Camberwell Cumulative Impact Area

12. A map of the Camberwell saturation area is provided at appendix C to this report. The boundary of the policy area begins at Camberwell New Road at the junction with Wyndham Road and progresses through Camberwell Road / Bowyer Place / Edmund Street / Benhill Road / Wilson Road / Graces Road / Graces Mews / Camberwell Grove (via alley) / Grove Lane / De Crispigny Park / Denmark Hill following the Lambeth boundary to Coldharbour Lane / Denmark Road / Flodden Road and Camberwell New Road to the start. The classes of premises to which the policy currently applies are night-clubs; public houses and bars; off-licences, grocers, supermarkets, convenience stores and other similar premises.
13. The saturation area is concentrated around the Camberwell Green crossroads. It incorporates numerous public houses, bars and restaurants in a relatively small area. At the time of the most recent partnership analysis, there were 67 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 trading within the Camberwell area.
14. During the course of 2012-2013, a total of 3 applications for new premises licences/club premises certificates and variations were received within this area. Of these:
 - 3 applications (100%) were subject of representations
 - 2 applications (66.6%) were successfully conciliated and were granted subject to agreements reached, by the Head of Service
 - 1 application (33.3%) was referred to the licensing sub-committee for determination at a public hearing and this was granted, with conditions;

Peckham saturation area

15. A map of the Peckham saturation area is provided at appendix D. The boundary of the Peckham saturation area commences on Peckham High Street at the junction with Kelly Avenue and progresses to Gattonby Street / Sumner Road / Jocelyn Street / cross Peckham Hill Street / Goldsmith Road / Meeting House Lane / Consort Road / Heaton Road / Sternhall Lane / McDermott Road / Macted Road / Bellenden Road / Chadwick Road / Lyndhurst Way / Peckham Road to the junction with Talfourd Road and back to Peckham High Street. The classes of premises within the area to which the policy applies are: night-clubs; public houses / bars; off-licences, grocers, supermarkets, convenience stores and other similar premises.
16. The Peckham saturation zone centres around Peckham High Street and Rye Lane and extends over a mixed residential and commercial area, with many public houses, late night eateries and convenience stores. At the time of the most recent partnership analysis there were 57 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 trading within the Peckham saturation area.

17. During the course of 2012-2013, a total of 14 applications for new premises licences/club premises certificates and variations were received within this area. Of these:
- 12 applications (86% of the 14 applications received) were subject of representations
 - 6 applications (50% of the 12 contested applications) were successfully conciliated and were granted subject to agreements reached, by the Head of Service
 - 6 applications (50% of the 12 contested applications) were referred to the licensing sub-committee for determination at a public hearing
 - 6 applications (100% of the applications referred to the sub-committee) were granted or part-granted by the sub-committee, subject to conditions
 - 2 applications (14%) received no representations and were granted by the Head of Service.

Special saturation policies dealing with the cumulative impact of a concentration of licensed premises

18. The cumulative impact of a concentration of licensed premises is dealt with under sections 13.19 through to 13.38 of the Guidance to the Act produced by the Home Office (last revision published October 2012).
19. A CIP may be declared where there is an evidence base showing that a significant concentration of licensed premises in an area is impacting upon the licensing objectives and the addition of each further licence is likely to have a disproportionate impact on crime and disorder, or nuisance.
20. 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.
21. The existence of a local special policy does not affect the right of any person to apply for a licence under the Act nor to have that application considered. However, the introduction of a CIP has the effect of introducing a rebuttable presumption that a licence application should be refused, if a representation is received, either from a responsible body or an 'other person', referring to the existence of the local special policy.
22. The existence of the policy is brought to the attention of all prospective applicants within the boundary of the policy area upon their first contact with the council. They are provided with a copy of the latest local partnership analysis and advised that they should address within their application, how they intend to ensure that their premises, if licensed, will not add to the current local concerns.
23. When a representation is received, the council's conciliation process continues to be offered to the applicant in the normal way. If conciliation is requested and an agreed outcome can be reached to the satisfaction of all parties involved, then the application is granted, subject to the terms of the agreement reached.

If no agreement is concluded then the matter is reported to the sub-committee for determination at a public hearing.

24. If no representation is received then the application remains to be granted, subject to the mandatory licence conditions and other conditions consistent with the applicant's operating schedule.
25. 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

26. 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.
27. 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. However, operators will have to demonstrate that their business proposals do not further impact on the identified concerns within the locality.
28. The existence of a special policy does not automatically mean that applications made within a special policy area will be refused.

Resource implications

29. This report does not contain any new resource implications. Work undertaken in relation to the maintenance of CIPs may be contained within existing resources.

Consultations

30. No public consultations have taken place as part of the preparations of this report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

31. The Licensing Act 2003 ("the 2003 Act") does not contain specific statutory provisions relating to the review and revision of cumulative impact policies and procedures, 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.
32. S.5(4) of the 2003 Act states that the council must keep its licensing policy and therefore, its procedures, under review and make appropriate revisions where necessary. This is reflected in paragraph 13.31 of the guidance.
33. A CIP must 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.

34. Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made. Under paragraph 9.34 of the guidance, in determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives
- The representations (including supporting information) presented by all the parties
- The Guidance
- Its own statement of licensing policy.

35. With the exception to the obligations under the Licensing Act 2003 (Hearings) Regulations 2005 that representations can only be withdrawn up to 24 hours prior to the first day of any hearing (if they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing), an application within one of the council's CIP area can be subject to the conciliation process.

Strategic Director of Finance & Corporate Services (E&L/13/022)

36. The strategic director of finance and corporate services notes this report summarises licence applications made in 2012-13. As stated in paragraph 29 this report does not in itself incur any additional revenue or capital costs.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 Associated secondary regulations Home Office Guidance to the Act Southwark Statement of Licensing Policy Latest partnership analysis reports	The Health Safety Licensing & Environmental Protection Unit, Hub C, Third Floor, 160 Tooley Street. London, SE1 2QH	Name: Mrs Kirty Read Phone number: 020 7525 5748

APPENDICES

No.	Title
Appendix A	Summary of application outcomes 2012-2013
Appendix B	Borough and Bankside cumulative impact policy map
Appendix C	Camberwell cumulative impact policy map
Appendix D	Peckham cumulative impact policy map

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	Richard Parkins; Health Safety Licensing & Environmental Protection Unit Manager	
Version	Final	
Dated	22 August 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance & Corporate Services	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team	22 August 2013	