

Item No. 7.	Classification: Open	Date: 6 November 2017	Meeting Name: Licensing Committee
Report Title		Licensing Act 2003: Partnership analysis of alcohol related violence for Elephant and Castle cumulative impact policy monitoring area	
Ward(s) of group(s) affected		Cathedrals, Chaucer, East Walworth and Newington.	
From		Strategic Director of Environment and Social Regeneration	

RECOMMENDATION

1. That the licensing committee considers the content of the partnership analysis of alcohol related violence and in the Elephant and Castle area of Southwark for 2017 and agrees that on the basis of the analysis, it is appropriate and necessary to continue to keep the area under review.

BACKGROUND INFORMATION

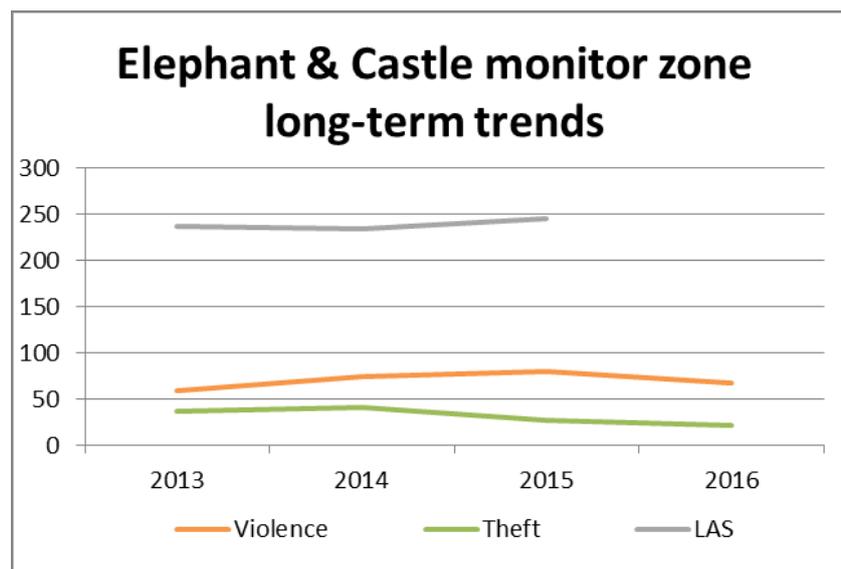
2. Guidance issued under Section 182 of the Licensing Act 2003 by the Home Office, establishes that licensing authorities may introduce special 'saturation policies' where the authority believes there are problems in its area resulting from the cumulative impact of licensed premises.
3. This authority currently has three special saturation policies in place. These cover:
 - Borough and Bankside (established in November 2009. Extended in June 2017)
 - Camberwell (established in November 2008. Extended in June 2017)
 - Peckham (established in November 2008. Extended in June 2017).
4. Decisions to establish each of the special policy area have been 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. This report updates the committee on the most recent analysis, for 2017, paying particular regard to the current situation within the three special policy areas.
6. There are three further areas of the Borough where the cumulative impact of licensed premises is subject to ongoing monitor. The areas under review are:
 - Walworth Road / East Street
 - The Elephant and Castle
 - The Old Kent Road.

7. The areas were considered at the licensing committee meeting on the 20 June 2017 where it was decided, due to a raise in ambulance call outs from 2014 to 2015 to consider further analysis of the Elephant and Castle monitor area.
8. Based upon the analysis, it is recommended that the committee maintains the Elephant and Castle as a monitoring area. However if the committee is minded to impose an additional saturation policy, then the proposal will be subject to public consultation.

KEY ISSUES FOR CONSIDERATION

The cumulative impact policy (CIP) review 2017

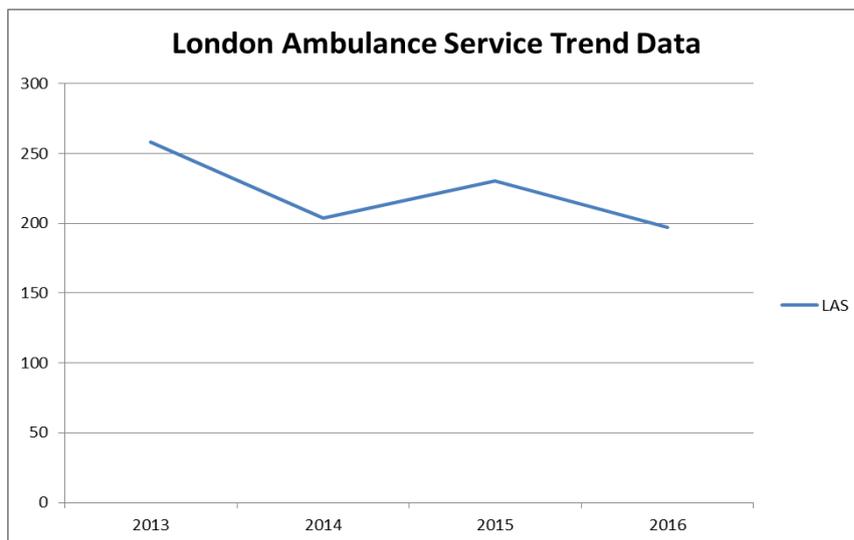
9. The Southwark analysis for the CIP areas and areas under monitor were considered by the full licensing committee meeting on 20 June 2017.
10. The analyst report stated that there was an increase in recorded London Ambulance Service (LAS) call outs in the Elephant and Castle area. This area is under monitor and the committee requested further information with regards to the increase in ambulance call outs.
11. The analytical report for LAS call outs were for calendar years up to 2015 and did not produce a figure for 2016.



12. The full report relating to LAS call outs is in Appendix A.

The Elephant and Castle partnership report

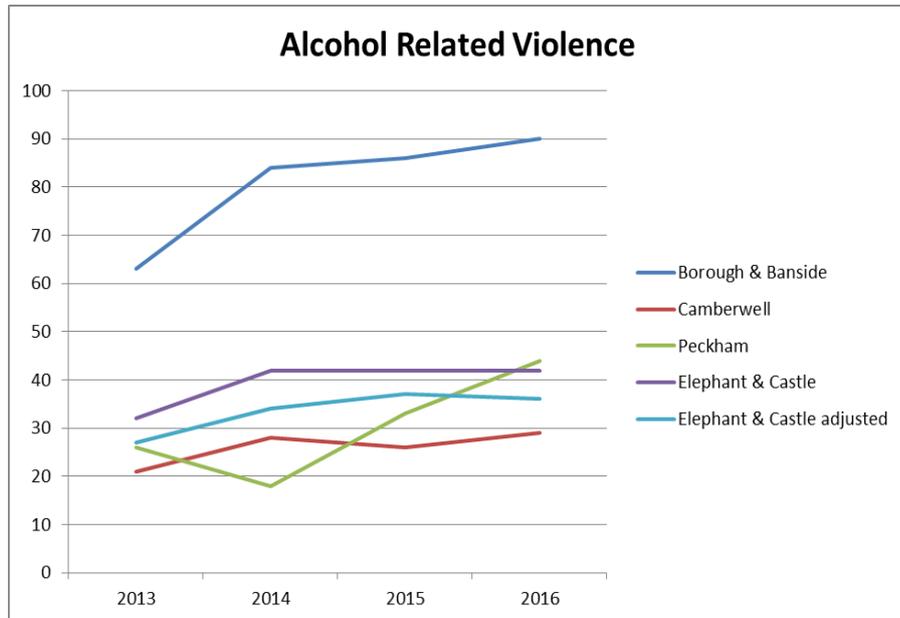
13. The current report has updated the data previously submitted and includes LAS call outs for 2016.
14. The LAS call outs show a reduction for 2016.



15. Despite the fact that The Coronet Theatre (28 Old Kent Road, London SE1 6TJ and Railway Arches 3, 4, 5, and 6 Elephant Road, Elephant Mews, London SE17 1LB) are due to close in January 2018, the contribution to alcohol related violence and alcohol related rowdy behaviour and street drinking from the Coronet is considered when assessing the area for the inclusion as a CIP.
16. The data shows that the Coronet contributes on average 15.2% of the alcohol related crime and 15.5% to alcohol related rowdy behaviour. Therefore there is an expectation that the closure of this premises will result in a lowering these statistics from 2018.
17. The Elephant and Castle is also a busy transport hub being an interchange between buses, underground and mainline railway. Therefore a comparison was undertaken to see if the transport hub made a significant contribution to alcohol related violence where the alcohol source is likely to be away from the Elephant and Castle and the licensed premises within the area.
18. The transport hub makes a minimal contribution to alcohol related violence in the area with an annual average as 3.2%.

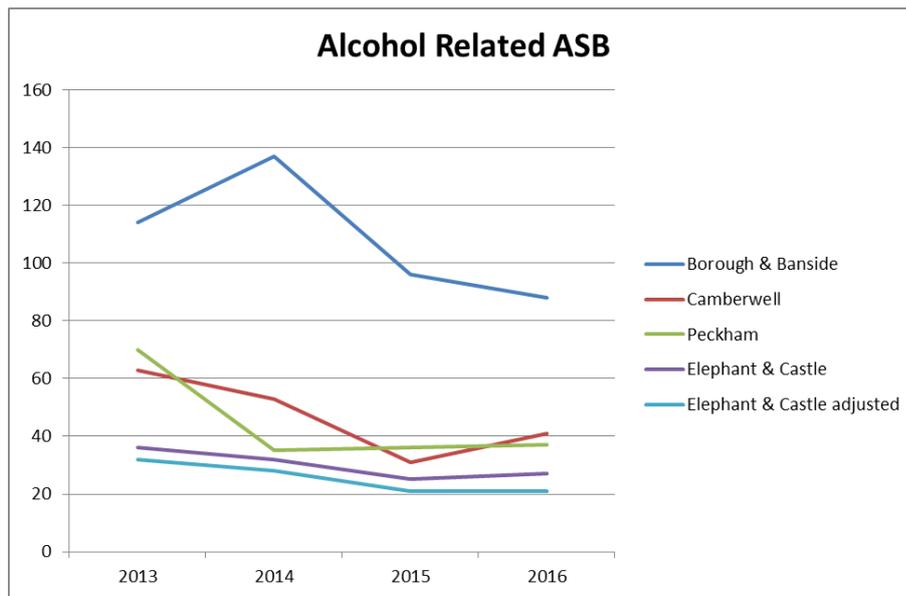
Alcohol related violent crime

19. Alcohol related violence in the Elephant and Castle is lower than Borough and Bankside but higher than that in Peckham and Camberwell CIP areas. The trend graph shows the incidences in 2016 dropping in the Elephant and Castle area below Peckham, while the three CIP areas continue to rise.
20. The graph also shows the Elephant and Castle Alcohol related violent crime line adjusted to remove the Coronet contribution, which shows a significant difference.



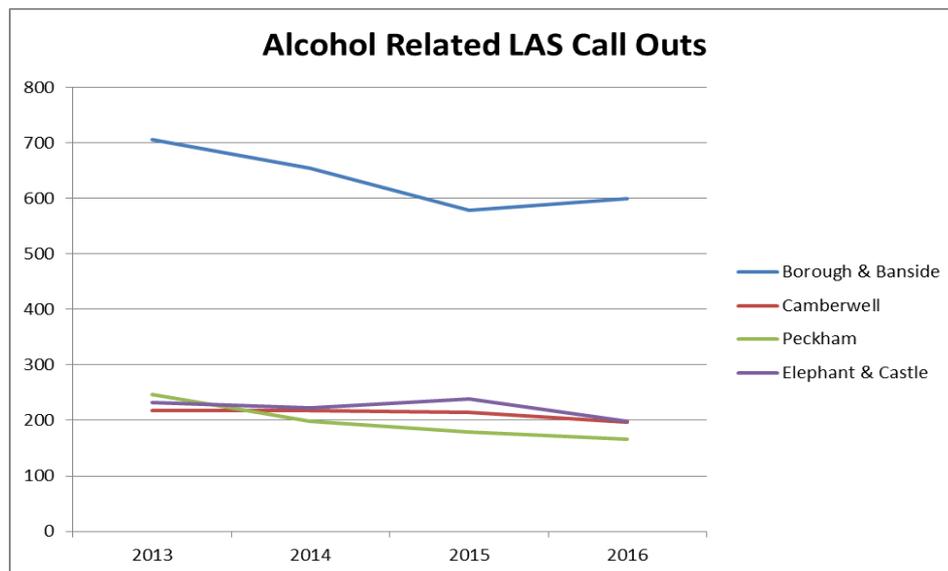
Alcohol related anti-social behaviour

21. The Alcohol related anti-social behaviour in the Elephant and Castle area is lower compared with the other three existing CIP areas.



Alcohol related LAS call outs

22. The alcohol related LAS callouts for the Elephant and Castle area shows a rise in 2015 above both Peckham and Camberwell CIP areas, reducing in 2016 to a similar level to Peckham and remaining above Camberwell.



23. The Elephant and Castle Partnership Analyst Report is in Appendix B.
24. An updated report on the CIP areas analysis is included for reference in Appendix C.

Community impact statement

25. This report considers the extent to which saturation policies continue to be appropriate and necessary within the Borough and Bankside, Camberwell and Peckham areas, in helping to control the direct impacts of the leisure and night-time economy on the local community.
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. 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.
29. 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

30. This report does not contain any new resource implications. Work undertaken in relation to maintenance of saturation areas may be contained within existing resources.

Consultation

31. No public consultations have taken place as part of the preparations of this report. Any decision to amend or remove any of the current saturation areas will initiate public consultation in accordance with section 5(3) of the Licensing Act 2003.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

32. Pursuant to section 5 of the Licensing Act 2003, each licensing authority at least every 5-years must determine its policy in respect to exercise its licensing functions and publish a statement of that policy (a "licensing statement").
33. 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.
34. 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 Section 182 of the 2003 Act.
35. Section 5(4) of the 2003 Act states that the council must keep its licensing policy under review and make appropriate revisions where necessary.
36. Paragraph 14.32 of the Section 182 of the Licensing Act 2003 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.
37. 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 Section 5 of the 2003 Act.
38. 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.
39. 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.

40. 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.
41. 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.
42. There are limitations associated with special policies. Most important of these are:
 - 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 the consumption off the premises. The inclusion of such types of premises must be justifiable, having regard to the evidence obtained through the consultation process.
 - 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.
 - 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.
 - 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.
 - Special policies cannot justify and should not include provisions for a terminal hour in a particular area.
 - Special policies must not impose quotas that would restrict the consideration of any application on its individual merits.
43. 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.
44. Whilst yet to be given a commencement date, section 141 of the Policing and Crime Act 2017 amend the Licensing Act 2003 to include alcohol impact

assessment areas, giving them a new statutory footing. Section 141 of the Act expected to be commenced later in 2017.

45. 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.
46. 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

47. Saturation polices form part of the statement of licensing policy.
48. 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.
49. 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.
50. 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.

Strategic Director of Finance and Governance

51. This report recommends that the licensing committee agrees to maintain the existing saturation policies in the Borough and Bankside, Camberwell and Peckham areas and to continue to monitor the cumulative impact of licensed premises.
52. The strategic Director of Finance and Governance 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 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	Name: Mrs Kirtikula Read Phone number: 020 7525 5748

APPENDICES

No.	Title
Appendix A	Cumulative impact policy (CIP) review 2017
Appendix B	The Elephant and Castle partnership analysis report
Appendix C	Alcohol related violence and disorder for cumulative impact policy areas

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Social Regeneration	
Report Author	David Franklin, Team Leader Licensing	
Version	Final	
Dated	23 October 2017	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team	24 October 2017	