

Item No: 7.	Classification: Open	Date: 9 March 2010	Meeting name: Licensing Committee
Report title:	The Licensing Act 2003 – Consideration of local saturation policies dealing with the “cumulative impact” of licensed premises – Borough and Bankside, Camberwell and Peckham areas		
Ward(s) or groups affected:	Cathedral, Chaucer, Grange, Newington, Faraday, Camberwell Green, Brunswick Park, Peckham, Livesey, South Camberwell, The Lane, Peckham Rye and Nunhead		
From:	Strategic Director of Environment and Housing		

RECOMMENDATION

1. That the committee agrees, that on the basis of the partnership analytical report and the report from the environmental protection team, it is appropriate and necessary to maintain the existing saturation policies in
 - a) Borough and Bankside;
 - b) Camberwell; and
 - c) Peckham.
2. That the committee further agrees, on the basis of the partnership analytical report and the report from the environmental protection team, to monitor for a further period of six months:
 - a) An extension of the western boundary of the Borough and Bankside saturation area to take in The Cut and Isabella Street; and
 - b) An extension of the north-eastern boundary of the Peckham saturation area to take in the entirety of Meeting House Lane.

BACKGROUND INFORMATION

3. Statutory guidance permits licensing authorities to consider the adverse cumulative impact of licensed premises on a local area and to implement a policy that seeks to restrict the further escalation of licensed premises in that area. This is known as a “special” or “saturation” policy.
4. A saturation policy may be declared where there is an evidential basis showing that the concentration of licensed premises in an area is impacting upon the licensing objectives and the addition of each further additional licence is likely to have a disproportionate impact on crime and disorder or nuisance in that area.
5. Essentially, the evidential basis needs to:
 - Be factual, quantitative, and proximate;
 - Demonstrate a positive correlation between alcohol/entertainment/late night refreshment premises, and crime and disorder and nuisance issues within the particular areas under consideration; and
 - Examine trends over a period of time.

6. Since the introduction of the Licensing Act 2003 in November 2005, the council's licensing committee has been monitoring available information sources that might help to gauge the cumulative impact of licensed premises on the Southwark community, particularly in terms of crime and disorder and nuisance. Reports are provided at six-monthly intervals following the release of the latest relevant statistical information from the partnership analyst and the environmental protection team.
7. On 5 November 2008, council assembly approved the introduction of two saturation policies within the borough, in the Camberwell and Peckham areas.
8. On 4 November 2009, council assembly approved a third saturation area, covering Borough and Bankside and an extension of the boundary of the Peckham saturation area. At the same meeting the assembly asked the licensing committee to further consider whether to
 - extend the western boundary of the Borough and Bankside saturation zone, and in doing so look at the possibility of including The Cut and Isabella Street; and
 - extend the boundary of the Peckham area to cover the entirety of Meeting House Lane.
9. This report updates the committee on the latest analysis from the partnership analytical team and the environmental protection team with particular regard to the situations in Borough and Bankside, Camberwell and Peckham. It also considers the matters raised by council assembly on 4 November 2009. A separate report on the agenda considers the position in other current "hotspot areas".

KEY ISSUES FOR CONSIDERATION

General

Partnership analytical report

10. The latest partnership analytical report was published on 16 December 2009. It 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") up to and including the period June – November 2009. The analysis also incorporates information on alcohol related ambulance calls for the period June – October 2009. A copy of the full analysis is attached at appendix 1 to this report.

Violence against the person

11. 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 including murder, grievous bodily harm, actual bodily harm, common assaults, the possession of offensive weapons, harassment and other violent crime. Other crimes broadly included are robbery of the person and sexual offences.

Alcohol related CAD data

12. Statistics reproduced in the analytical report from police CAD data collects information on calls to the police regarding
 - rowdy / inconsiderate behaviour
 - licensed premises
 - street drinking

Analysis of nuisance data provided by the environmental protection team

13. The council's environmental protection team also reported, on 16 February 2010, on the number of nuisance service requests received by the community safety enforcement team, in connection with licensed premises, during the period November 2006 to November 2009. Area specific details are included within the main body of this report and a copy of the full analysis is provided at appendix 2. The report includes detail of the methodology used in capturing the information.

Borough and Bankside saturation area

14. The Borough and Bankside saturation area is defined by the following boundary - Blackfriars Bridge / Blackfriars Road / 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. A map of the area is provided as appendix 3.
15. 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.
16. At the time of writing of this report, 235 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 78 restaurants / cafes; 67 public houses / bars; 23 off-licences / supermarkets / grocers; 8 hotels; 8 theatres; and 3 night-clubs.

Borough and Bankside analysis

17. Analysis for the Borough and Bankside saturation area is contained within the latest partnership analytical report at appendix 1 to this report with further area specific analysis contained within appendix 4.
18. In brief, analysis shows both falling alcohol related VAP and CAD figures with figures for the latest six-month period (Jun – Nov 09) providing some of the lowest reported levels of VAP within the periods under examination. VAP figures for the most recent six-month period are down 29% on the previous comparable period, while figures for the most recent twelve-month period (Dec 08 – Nov 09) show a 15% decrease on the previous year. Figures for alcohol related CAD calls show slight decreases of 1% when comparing the past six-months with the previous comparable period and 0.2% this past year against the previous year. In the most recent six-month period (Jun – Nov 2009), the area accounted for a proportionately low 14.4% of the borough's total evening period VAP.

Borough and Bankside – extended area analysis

19. Following the request from council assembly that the committee considers extending the western boundary of the Borough and Bankside saturation area to take in The Cut and Isabella Street, separate analysis has been carried out on an area also.
20. For the purpose of this further analysis the boundary is extended westward from St George's Circus along Waterloo Road to the Lambeth boundary, northward to the river frontage and eastward to Blackfriars Bridge.
21. The effect of extending the boundary of the area is to provide for a small increase in both VAP and CAD figures. Overall, however, VAP shows similar significant decreases - 29% for the past six months compared with the previous comparable period and 17%

over the past year, while CAD shows a 5% decrease in the past six months but a 1% rise over the last year.

Borough and Bankside – extended area analysis – comments from the environmental protection team

22. An analysis of nuisance service requests within the extended Borough and Bankside area is provided in appendix 2 to this report. Figures show a considerable increase in the number of service complaints received in the most recent period June – November 2009 with 27 complaints received relating to 19 different premises. The previous highest number on record in the periods under monitor was 17 requests between June – November 2007. It is believed that this rise is at least partially attributable to improved recording.

Borough and Bankside – next steps

23. While the recent substantial decreases in alcohol related VAP in the area are welcome, the saturation policy has only recently come into effect and it's impact on cumulative impact can not yet be fully gauged. Furthermore, the falls in VAP are balanced somewhat by the smaller movement in CAD calls. For these reasons it is recommended that the saturation area be maintained at this stage with further monitor prepared in six months time.

24. The committee will also have regard, however, to the request made by council assembly to consider an extension of the western boundary of the policy area. Based on the current analytical information, it is recommended to committee that a further monitoring period of 6 months be undertaken. In the event that the committee should decide to pursue council assembly's suggestion, 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

25. 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 councils; and
- a public meeting on the issue within the local area.

26. The consultation should aim to seek views on whether it is appropriate and necessary to extend the saturation area to control the impacts of licensed premises on the licensing objectives and, if so, to establish the new proposed boundary.

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

27. The commissioner of police for the metropolis supports the maintenance of the saturation policy within the Borough and Bankside area for the present time.

Camberwell saturation area

28. The boundary of the Camberwell saturation area begins at Camberwell New Road at the junction with Wyndham Road and progresses to 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 across Lambeth to Coldharbour Lane / Denmark Road / Flodden Road and Camberwell New Road to the start. A map of the area is provided at appendix 5.
29. 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
30. At the time of writing of this report, there are 75 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. This figure includes 24 restaurant / cafes; 23 off-licences / grocers / supermarkets / convenience stores; 18 public houses / bars; and 6 take-aways. This represents 6.2% of the total licensed premises in Southwark.

Camberwell analysis

31. Analysis for the Camberwell area is contained within the latest partnership analytical report at appendix 1 to this report with further area specific analysis contained within appendix 6.
32. In brief, analysis shows reductions in both VAP and CAD figures with VAP now at it's lowest recorded levels and accounting for (an almost proportional) 6.7% of the borough's total evening period VAP. Figures for the most recent six-month period (Jun – Nov 09) are down 21% on the previous comparable period, while figures for the most recent twelve-month period (Dec 08 – Nov 09) show a 3% decrease on the previous year. Figures for alcohol related CAD calls provide a substantial 28% fall when comparing the past six-months with the previous comparable period and a 10% decrease this past year against last.

Camberwell area – comments from the environmental protection team

33. An analysis of nuisance service requests within the Camberwell area is provided in appendix 2 to this report. Figures show an increase in the number of service complaints received in the most recent period June – November 2009 with 9 complaints relating to 3 different premises. This provides a substantial increase on the previous similar periods (June – November 2007 and 2008 both recorded 4 requests. It is believed, however, that this rise is at least partially attributable to improved recording.

Camberwell – next steps

34. The analysis indicates very encouraging recent decreases in both alcohol related VAP and CAD calls. It is suggested, however, that downward trends should be shown to be continuing across an extended period of time before consideration is given to the removal of the saturation area. It is recommended thereby that the saturation area be maintained at this stage with further monitor prepared in six months time

Camberwell – comments from the commissioner of police for the metropolis

35. The commissioner of police for the metropolis supports the maintenance of the saturation policy within the Camberwell area for the present time.

Peckham saturation area

36. The boundary of the Peckham saturation area is defined as: Commencing on Peckham High Street at the junction with Kelly Avenue progressing to Gatony Street / Sumner

Road / Jocelyn Street / cross Peckham Hill Street / Goldsmith Road / Meeting House Lane / Consort Road / Heaton Road / Sternhall Lane / McDermott Road / Maxted Road / Bellenden Road / Chadwick Road / Lyndhurst Way / Peckham Road to the junction with Talfourd Road and back to start. A map of the area is provided at appendix 7.

37. 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.
38. At the time of writing of this report there are 66 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. This represents 5.4% of the total licensed premises in the borough. This figure includes 21 off-licences / grocers / supermarkets / convenience stores; 16 restaurant / cafes; and 13 public houses / bars.

Peckham analysis

39. Analysis for the Peckham area is contained within the latest partnership analytical report at appendix 1 to this report with further area specific analysis contained within appendix 8.
40. In brief, analysis shows both falling VAP and CAD figures with some of the lowest recorded levels reported for VAP. Peckham VAP now accounts for proportionately slightly high 6.7% total evening period VAP across the borough. Figures for the most recent six-month period (Jun – Nov 09) are down 26% on the previous comparable period, while figures for the most recent twelve-month period (Dec 08 – Nov 09) show a 18% decrease on the previous year. Figures for alcohol related CAD calls are also falling, with a 13% decrease indicated when comparing the past six-months with the previous comparable period and a 7% decrease this past year against the previous.

Peckham – comments from the environmental protection team

41. An analysis of nuisance service requests within the Peckham area is provided in appendix 2 to this report. Figures show that 6 service requests relating to 4 different premises were received in the period June – November 2009. This is high in comparison with similar reporting periods (3 requests in June - November 2008) but is still fairly insignificant.

Peckham – Extended area analysis

42. Following the request from council assembly that the committee considers extending the north-eastern boundary of the Peckham saturation area to take in the whole of Meeting House Lane, separate analysis has been carried out on this extended area also.
43. For the purpose of this further analysis the boundary is extended from Consort Road via Cossall Walk and Asylum Road to take the eastern end of Meeting House Lane and back to meet with the original boundary.
44. The effect of extending the north-eastern boundary of the area is to provide for a small increase in both VAP and CAD figures. Both VAP and CAD continue to be shown to be falling. VAP continues to show decreases - 24% for the past six months compared with the previous comparable period and 14% over the past year, while CAD shows a 12% decrease in the past six months and a 5% decrease over the last year.

Peckham – Next steps

45. Similar to Camberwell, the analysis for Peckham indicates very encouraging recent decreases in both alcohol related VAP and CAD calls. Again it is suggested, however, that downward trends should be shown to be continuing across an extended period of time before consideration is given to the removal of the saturation area. It is recommended thereby that the saturation area be maintained at this stage with further monitor prepared in six months time.
46. The committee will also have regard, however, to the request made by council assembly to consider an extension of the north-eastern boundary of the policy area. Again, based on the current analytical information, it is recommended to committee that a further monitoring period of six months be undertaken in this area also. In the event that the committee should decide to pursue council assembly's suggestion, a new round of public consultation will be required under section 5(5) of the Licensing Act 2003. The advice given in sections 24 to 26 of this report applies.

Peckham – comments from the commissioner of police for the metropolis

47. The commissioner of police for the metropolis supports the maintenance of the saturation policy within the Peckham area for the present time.

The cumulative impact of a concentration of licensed premises

48. 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 (paragraph 56 onward).
49. 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.

Moving toward saturation policies

50. The steps toward a special policy on saturation are set out in the DCMS guidance as follows
 - Identify concern about crime and disorder or public nuisance;
 - Consider whether there is good substantiated and reliable evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises or that the risk of cumulative impact is imminent;
 - Identify the boundaries of the area where problems are occurring;
 - Consult with those in Section 5(3) of the 2003 Act, and subject to the outcome of that consultation; and
 - Include and publish details of the special policy in the licensing policy statement.

Community Impact Statement

51. This report considers the extent to which saturation policies continue to be appropriate and necessary within the Borough and Bankside, Camberwell and Peckham areas, to help control the direct impacts of the leisure and night-time economy on the local community.
52. 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.

53. 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.

Resource implications

54. 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

55. Details of public consultations that will be necessary before any further development of the policy may take place are detailed within this report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

Cumulative Impact and Special/Saturation Policies

56. The Licensing Act 2003 does not, in itself, provide for saturation policies. However, section 4 of the Act provides that in carrying out its functions a licensing authority must have regard to “the guidance” issued by the Secretary of State under section 182 of the Act. The guidance acknowledges that saturation policies are a proper matter to be taken into account when developing a licensing policy.
57. In considering whether a statement of licensing policy should include a saturation policy in respect to an area, the licensing authority should consider the cumulative impact of licensed premises, in the particular area(s) concerned.
58. Cumulative impact is defined in the guidance at paragraph 13.24 as “the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area”.

Consultation

59. Section 5(3) of the Act requires that before formulating 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.

Evidence

60. It is clear from the guidance that any decision to include any saturation policy within the statement of licensing policy should have an evidential basis which demonstrates that the cumulative impact of licensed premises in that area is having an impact on crime and disorder and/or public nuisance.
61. The decision to include 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 to include an approach to cumulative impact in the statement of licensing policy (guidance at paragraph 13.27).

62. Members are asked to consider the most recent analysis and evidence collated following consultations. If members wish to recommend the introduction of any new or extended saturation policy within the borough, members 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.

The effect of adopting a special policy

63. 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.
64. 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.
65. 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.
66. 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.
67. Once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or require expansion.

Limitations

68. 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 (guidance at paragraph 13.33). Members will note that the classes of premises to which the saturation may apply, includes off-licences, supermarkets, grocers and take-aways in each of the three areas. Members should be satisfied that the inclusion of such premises is justifiable, having regard to the evidence obtained through the consultation process.
69. 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.
70. 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.
71. 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.

72. Special policies cannot justify and should not include provisions for a terminal hour in a particular area.
73. Special policies must not impose quotas that would restrict the consideration of any application on its individual merits.
74. 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. (Guidance at paragraph 13.39).
75. Members should note that 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. Members should also note that the council 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.
76. The 2003 Act provides that the functions of the licensing authority, except those relating to the making of the statement of licensing policy, are to be taken or carried out by its licensing committee and that the licensing committee may delegate these functions to sub-committees or to licensing authority officials in appropriate cases. The council has delegated its licensing functions in accordance with the 2003 Act as set out in its constitution (2008/2009) at part 3G.

Finance Director (ENV/SMR/210110)

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

BACKGROUND DOCUMENTS

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

APPENDICES

No.	Title
Appendix 1	Partnership analysts report dated 16 December 2009
Appendix 2	Environmental protection team report of 16 February 2010
Appendix 3	Map of the Borough and Bankside saturation area
Appendix 4	Further analysis for Borough and Bankside

Appendix 5	Map of the Camberwell saturation area
Appendix 6	Further analysis for Camberwell
Appendix 7	Map of the Peckham saturation area
Appendix 8	Further analysis for Peckham

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment & Housing	
Report Author	Richard Parkins; Health Safety & Licensing Unit Manager	
Version	Final	
Dated	26 February 10 2010	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
List other officers here	None	None
Executive Member	Yes	Yes
Date final report sent to Constitutional Team	26 February 2010	