

Item No. 7.1	Classification: Open	Date: November 5 2008	Meeting Name: Council Assembly
Report title:		The Licensing Act 2003 – Consideration of local saturation policies in Camberwell and Peckham	
Ward(s) or groups affected:		Camberwell Green, Brunswick Park, Peckham, The Lane & adjoining wards	
From:		Strategic Director of Environment and Housing	

RECOMMENDATIONS

1. That council assembly approves the recommendation of the licensing committee that a local saturation policy is appropriate and necessary to address the effects of the cumulative impact of licensed premises in the following areas:
 - a) Camberwell; and
 - b) Peckham.
2. That, in the event that the assembly approves the introduction of a local saturation policy in either of the areas set out in paragraph 1 above, the boundaries should be
 - a) as set out in this report (for Camberwell see section 23 and for Peckham see section 37); or
 - b) amended as directed by the assembly.
3. That, in the event that the assembly approves the introduction of a local saturation policy in either of the areas set out in paragraph 1 above, the classes of licensed premises to which the policy shall apply in each area should be
 - a) as set out in section 10 of this report; or
 - b) amended as directed by the assembly.

BACKGROUND INFORMATION

4. Statutory guidance on the Licensing Act 2003, 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 increase of licensed premises in that area. This is known as a saturation policy.
5. 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, particularly in terms of crime and disorder and nuisance, of licensed premises on their locality. Reports are scheduled to be provided at six-monthly intervals following the release of the latest relevant statistical information from the partnership analytical group. These reports consider latest analysis of late night alcohol related violence against the person (VAP); late night disorder and rowdiness associated with licensed premises; and nuisance calls received by the council.
6. Based on analysis of statistical information and submissions from the local community, the committee decided on 21 June 2007 to begin formal public consultation on proposals to

introduce saturation policies in three areas of the borough: Camberwell, Peckham and Shad Thames.

7. Three separate consultation exercises took place between 1 August and 31 October 2007. Responses to that consultation were collated and analysed and reported back to the committee, together with updated statistical analysis, for consideration on 13 May 2008.
8. At the 13 May 2008 meeting, the committee decided to recommend council assembly that it was appropriate and necessary to introduce local saturation policies in Camberwell, Peckham and Shad Thames. The decision was due to be ratified by council assembly on 9 July 2008.
9. However, further analysis released by the partnership analytical group on 2 July 2008 indicated substantial reductions were being achieved in both recorded VAP and disorder / rowdiness, in each of the three areas concerned. As the analysis of VAP and disorder / rowdiness forms an important part of the evidence base for saturation policies, concerns were raised that this latest information weakened the council's position and left any decisions made at that time to implement a policy open to legal challenge. It was therefore decided to withdraw the item from the council assembly agenda and refer the matter back to the committee for full consideration of the new analysis.
10. The matter was returned to the licensing committee for further consideration on 21 October 2008. The report back to the committee included not only the further analysis of 2 July 2008 but additional information as detailed later in this report. The committee was asked to consider whether on the basis of the latest information, it continued to consider it appropriate and necessary to introduce saturation policies in each of the areas and recommend council assembly to approve such policies. The committee considered the available information in full and decided to recommend to council assembly that it was appropriate and necessary to pursue a saturation policy in Camberwell and Peckham but not Shad Thames. Instead the committee directed that the Shad Thames area should be subject of continued monitoring. In reaching this decision the committee decided to recommend that
 - a) The boundary of each area should be as set out in this report (for Camberwell see section 23 and for Peckham see section 37); and
 - b) That, in each area, the policy should apply to the following types of classifications of premises – night clubs; public houses and bars; and premises dealing primarily in off-sales.
11. The matter is put before the assembly for consideration accordingly.
12. For information, the Shad Thames area will be subject of continued monitoring as directed by the committee along with four other areas of the borough, being Borough & Bankside, Elephant & Castle and Herne Hill and the Old Kent Road corridor. Additionally, the assembly will wish to note that on 30 September 2003 the committee decided that formal public consultation on a potential saturation policy in the Old Kent Road corridor be undertaken. Details will be circulated to members outside of this report.

KEY ISSUES FOR CONSIDERATION

Overview of the situation in Southwark

General

13. The latest statistical information on “violence against the person” (VAP) and “disorder and rowdiness” for the period December 2007 – May 2008 was released by the council’s partnership analytical team on 2 July 2008. This was supplemented on 11 August 2008 with information covering an extended time period (see section 14) and on 21 September 2008 with information providing “snapshot” comparisons between the May to July 2007 and 2008 periods. A copy of the full 11 August 2008 analysis is attached as appendix A to this report. Pertinent extracts of the 11 August and 21 September 2008 analysis are included where relevant in the main body of this report.

Violence against the person

14. VAP figures reproduced in the analytical report have attempted to capture incidents that are likely to be related to alcohol, excluding incidents of domestic violence, between the hours of 23.00 and 03.59, and separately between 04.00 and 05.59. Details of incidents taking place during 04.00 and 05.59 period were included in the analysis for the first time, in recognition of the findings of the recent DCMS review of the 2003 Act, that the introduction of the Act may have had the effect of spreading VAP across a broader time band. 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.
15. Table 1 below provides comparative figures for VAP within Southwark generally, for the past six, six-month periods commencing June – November 2005 through to December 2007 – May 2008. The period June – November 2005 was the last six-month period preceding the introduction of the Licensing Act 2003.

VAP Southwark	Jun 05 – Nov 05 (pre 2003 Act)	Dec 05 – May 06 (post 2003 Act)	Jun 06 – Nov 06	Dec 06 – May 07	Jun 07 – Nov 07	Dec 07 – May 08
23.00 – 03.59	640	591	657	542	567	525
04.00 – 05.59	86	101	78	111	101	114
Total VAP 23.00 – 05.59	726	692	735	653	668	639

Table 1

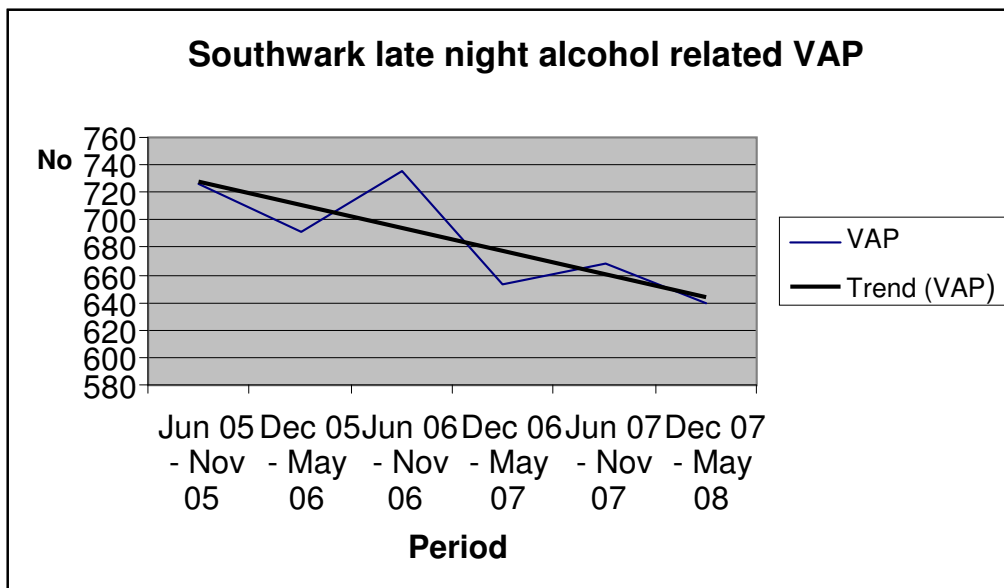


Table 1a

16. VAP figures across Southwark for the extended time period of 23.00 to 05.59 in the most recent six-month period are the lowest recorded to date. They represent an 8% decrease on the first post 2003 Act period (Dec 05 – May 06) and a 2% decrease on the previous comparable 6 month period (Dec 06 – May 07).
17. Total VAP figures for the past 12 month period show a 6% decrease on the previous comparable 12 month period (Jun 06 – May 07).

Disorder / rowdiness

18. The analytical report also provides information across the same six, six-month periods on disorder / rowdiness figures which collects all recorded calls to the police regarding disturbances in licensed premises, disorder or rowdiness between 23.00 and 03.59 and between 04.00 and 05.59. Full comparative figures across Southwark are not available but specific information is given for each of the areas under examination in this report.

Overview of assessment on behalf of Southwark Environmental Protection Team

19. The council's environmental protection team including noise nuisance, has separately reported on complaints received by the team over the same six six-month periods. Full comparative figures for complaints received across Southwark are not available but specific information is given for each of the areas under examination in this report.
20. It should be noted that the complaints detailed are not limited to night time complaints as per the VAP and disorder / rowdiness figures. Additionally, the figures reported relate to nuisance issues associated with licensed premises generally and not noise nuisance from music exclusively. Further detail is given with each area's information

Ambulance service responses

21. Information on ambulance service responses has been reported up until the period Dec 05 – May 06. However, no new figures are yet available beyond this time. As a result these figures have been excluded from this report.

Public consultation

22. As noted, formal public consultation was carried out on the possible introduction of saturation zones in three areas of the borough, being Camberwell, Peckham and Shad Thames. While it should be noted that this consultation was carried out on the back of now outdated information (the latest available analysis at the time related to the Dec 06 – May 07 period), summary information on the consultation is included in this report.

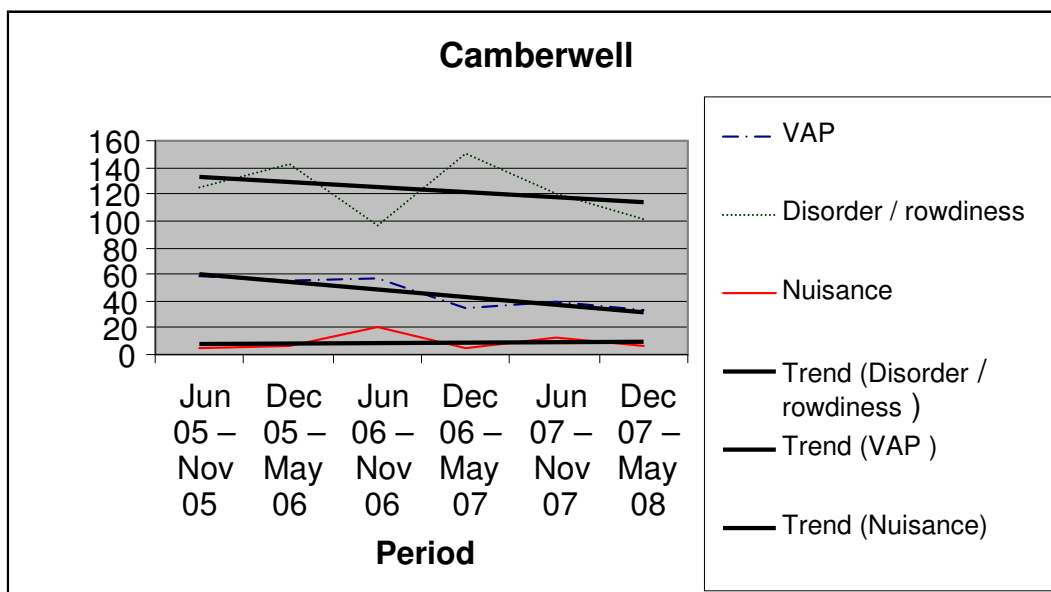
Camberwell

Overview of the situation in Camberwell

23. For the purposes of the consultation exercise the proposed Camberwell saturation area was defined by the following boundary – Starting at Camberwell New Road at the junction with Wyndham Road progressing 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 following the Lambeth boundary to Coldharbour Lane / Denmark Road / Flodden Road and Camberwell New Road to the start. A map of the area is provided at appendix B.
24. At the time that this report was prepared there were 76 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 proposed Camberwell saturation area. This figure includes 22 restaurants / cafes, 20 public houses / wine bars and 12 licensed grocers. It represents 6.5% of total licensed premises in Southwark.
25. For the purposes of the consultation exercise it was proposed that in the event that a saturation policy should be introduced in the Camberwell area it should apply to the following classes of licensed premises: restaurants / cafes; public houses / bars; off-licences / supermarkets / grocers; take-aways and night-clubs.
26. Table 1 below provides comparative figures for Camberwell across the past six, six-month periods commencing June – November 2005 through to December 2007 – May 2008 for
- VAP;
 - Disorder and rowdiness; and
 - Nuisance

Camberwell	Jun 05 – Nov 0 (Pre 2003 Act)	Dec 05 – May 0 (Post 2003 Act)	Jun 06 – Nov 06	Dec 06 – May 07	Jun 07 – Nov 07	Dec 07 – May 08
VAP 23.00 – 05.59	58	55	57	35	39	33
% total VAP in Southwark	8%	7.9%	7.8%	5.4%	5.8%	5.2%
Disorder / rowdiness 23.00 – 05.59	125	143	97	151	120	102
Nuisance	4	6	20	5	12	6

Tables 2 / 2a



Camberwell	May – July 2007	May – July 2008
VAP 23.00 – 05.59	9	16
Disorder / rowdiness 23.00 – 05.59	64	72

Table 2b

27. VAP figures (table 2) for the most recent six-month period show a 40% decrease on the first post 2003 Act period (Dec 05-May 06) and a 6% decrease on the previous comparable six-month period (Dec 06 – May 07). Total VAP figures for the past 12 month period show a 22% decrease on the previous comparable 12 month period (Jun 06 – May 07) being the first year after the introduction of the 2003 Licensing Act. However, VAP figures (table 2b) for the summer comparison May to July 2008 against May to July 2007 show a 77% increase this year.
28. Disorder / rowdiness figures (table 2) for the most recent six-month period show a 29% decrease on the first post 2003 Act period (Dec 05-May 06) and a 33% decrease on the previous comparable six-month period (Dec 06 – May 07). Total disorder / rowdiness figures for the past 12 month period show a 10% decrease on the previous comparable 12 month period (Jun 06 – May 07) being the first year after the introduction of the 2003 Licensing Act. However, disorder / rowdiness figures (table 2b) for the summer comparison May to July 2008 against May to July 2007 show a 12.5% increase this year.
29. Nuisance figures for the most recent six-month period are constant with the first post 2003 Act period (Dec 05-May 06) and represent a 20% increase on the previous comparable six-month period (Dec 06 – May 07). Total nuisance figures for the past 12 month period show a 28% decrease on the previous comparable 12 month period (Jun 06 – May 07) being the first year after the introduction of the 2003 Licensing Act. Note – complaints received in the June – Nov 05 and December 07 – May 08 periods were each made in respect of a single premises. Complaints made in the June – November 06 period were primarily relating to 2 premises (11 complaints).

Consultation responses

Response from planning on the Camberwell proposal

30. Part of the proposed area for saturation in Camberwell is designated in the Southwark Plan (UDP) July 2007 as the Camberwell Neighbourhood Area which seeks to improve the quality and range of services in the area, enhancing the arts, cultural and leisure and retail provision and also seeks to promote active frontages to increase vitality, safety, footfall and create a sense of place.
31. Furthermore, part of the proposed saturation site is designated as a possible site in the Southwark Plan (Site 59P: 272-304 Camberwell Road). The Southwark Plan states that a required use on this site is A class uses which includes shops, restaurants and cafes, drinking establishments and hot food takeaways (The Town and Country Planning (Use Classes) Amendment) (England) Order 2005).
32. The proposed saturation in policy is therefore at odds with both of the Southwark Plan policies stated above and prior to the introduction of the saturation policy, alternative measures should be employed such as those suggested in the Mayor of London's Good Practice Guidance (2007).

Response from Commissioner of Police for the Metropolis on the Camberwell Proposal

33. In comparison to the other two areas, the number of public houses and wine bars in Camberwell is over twice the amount in the other areas. This area also has the highest number of other premises where alcohol is available for purchase and consumption, such as restaurants and supermarkets. All this means that the opportunity to purchase alcohol is greater in this area than in the other two. For these reasons and the fact that the statistical information show that VAP, incidents of disorder and rowdiness and nuisance show decreases for the recent six months, the Commissioner would advise that the situation in the area continues to be monitored. The decreases in these areas of offending are positive and welcomed signs of improvement, but because of the genuine possibility that the trend could be reversed due to the higher opportunity to purchase and consume alcohol mentioned above, the Commissioner of Police advises that the introduction of a saturation policy in the Camberwell area is delayed for a period while further monitoring is carried out.

General consultation responses on the Camberwell proposal

34. The August to October 2007 consultation generated 34 responses on the pro-forma questionnaire provided. Sixteen responses were submitted from individuals who identified that they held either a premises licence; a personal licence; or a club premises certificate under the Licensing Act 2003. Eighteen responses were submitted from individuals who held no licences but either live in or around the area or state that they represent local residents. These included responses from local ward councillors Ian Wingfield and Veronica Ward. Detailed submissions on the Camberwell proposal were submitted by Mr N W Roskill and Jeremy Bennett of the Southwark alliance board. All responses were reported to the committee in full at the 13 May 2008 meeting. The committee also heard submissions from the Camberwell society.
35. Of the sixteen respondents who identified that they held licences under the act, twelve (75%) supported the introduction of a saturation policy in the Camberwell area. Three respondents (18.75%) did not support the introduction of a policy. One respondent was undecided. Of the twelve respondents who supported a policy, all but one agree with the

proposed boundary of the area. The respondent concerned believing that the boundary should be extended. Similarly, only one respondent from this group did not agree with the classes of premises proposed to fall under any policy. No alternative suggestion was made, however.

36. All (100%) of the eighteen respondents who identified that they lived in or around the Camberwell area or represented local residents supported the introduction of a saturation policy in Camberwell. Of these 89% agreed with the boundary proposed under the consultation exercise. One respondent suggested the area could be reduced to concentrate on the Camberwell Green / Coldharbour Lane area. Another suggested it be extended to take in the area around East Dulwich rail station. Five respondents suggested amendments to the classes of premises proposed to be included under any policy. Two respondents proposed the inclusion of private members clubs; while two others suggested that the policy be limited to night clubs and bars; and the fifth suggested that restaurants serving substantial meals and closing before midnight be omitted.

Peckham

Overview of the situation in Peckham

37. For the purposes of the consultation exercise the proposed Peckham saturation area was defined by the following boundary – Commencing at Peckham High Street at the junction with Sumner Road progressing via Jocelyn Street / Peckham Hill Street / Goldsmith Road / Meeting House Lane / Consort Road / Bournemouth Road / Rye Lane / Choumert Road / Bellenden Road North and returning to Peckham High Street at the junction with Sumner Road. A map of the area is provided at appendix C.
38. At the time that this report was prepared there were 44 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 proposed Peckham saturation area. This includes 9 restaurant / cafes, 9 public houses / wine bars and 6 licensed grocers. It represents 3.8% of total licensed premises in Southwark.
39. For the purposes of the consultation exercise it was proposed that in the event that a saturation policy should be introduced in the Peckham area it should apply to the following classes of licensed premises – restaurants / cafes; public houses / bars; off-licences / supermarkets / grocers; take-aways; and night clubs.
40. Table 3 below provides comparative figures for Peckham across the past six, six-month periods commencing June – November 2005 through to December 2007 – May 2008 for
 - a) VAP;
 - b) Disorder and rowdiness; and
 - c) Nuisance

Peckham	Jun 05 – Nov 05 (Pre 2003 Act)	Dec 05 – May 06 (Post 2003 Act)	Jun 06 – Nov 06	Dec 06 – May 07	Jun 07 – Nov 07	Dec 07 – May 08
VAP 23.00 – 05.59	47	26	36	43	53	46
% total VAP in Southwark	6.5%	3.8%	4.9%	6.6%	7.9%	7.2%
Disorder / rowdiness 23.00 – 05.59	59	114	44	108	98	77
Nuisance	0	10	3	0	1	4

Table 3

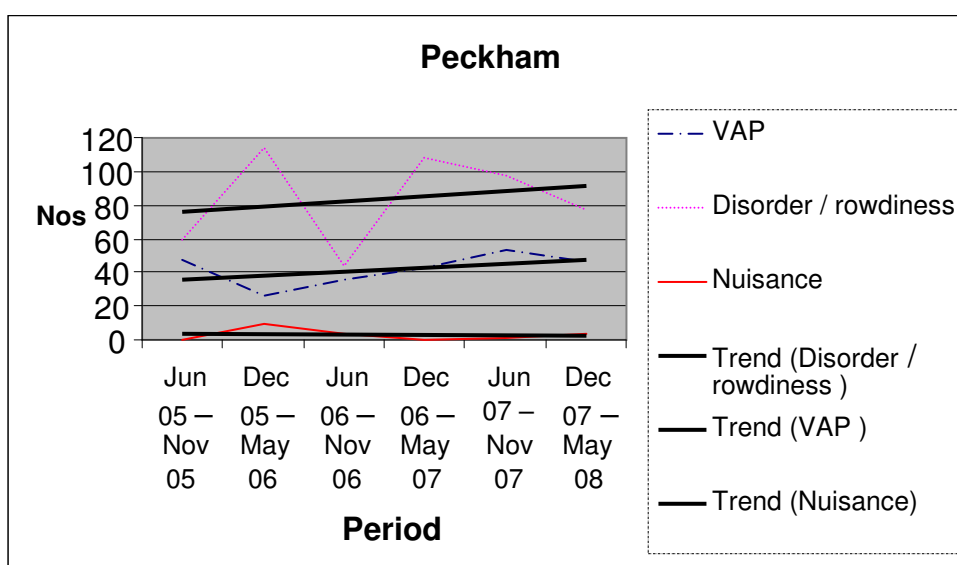


Table 3a / 3b

Peckham	May – July 2007	May – July 2008
VAP 23.00 – 05.59	20	9
Disorder / rowdiness 23.00 – 05.59	44	56

41. VAP figures (table 3) for the most recent six-month period show a 77% increase on the first post 2003 Act period (Dec 05-May 06) and a 7% increase on the previous comparable six-month period (Dec 06 – May 07). Total VAP figures for the past 12 month period show a 25% increase on the previous comparable 12 month period (Jun 06 – May 07) being the first year after the introduction of the 2003 Licensing Act. However, VAP figures (table 3b) for the summer comparison May to July 2008 against May to July 2007 show a 55% decrease this year.
42. Disorder / rowdiness figures (table 3) for the most recent six-month period show a 33% decrease on the first post 2003 Act period (Dec 05-May 06) and a 29% decrease on the previous comparable six-month period (Dec 06 – May 07). Total disorder / rowdiness figures for the past 12 month period show a 15% increase on the previous comparable 12 month period (Jun 06 – May 07) being the first year after the introduction of the 2003 Licensing Act. It should be noted, however, that disorder / rowdiness figures for Jun – Nov 07 were substantially up on both previous comparable periods. Disorder / rowdiness figure (table 3b) for the summer comparison May – July 2008 against May – July 2007 show a 27% increase this year.

43. Nuisance figures for the most recent six-month period show a 60% decrease on the first post 2003 Act period (Dec 05-May 06) but an increase on the previous comparable six-month period (Dec 06 – May 07) when no complaints were received. Total nuisance figures for the past 12 month period show a 33% increase on the previous comparable 12 month period (Jun 06 – May 07) being the first year after the introduction of the 2003 Licensing Act. Note: One third of nuisance complaints received in relation to the Peckham area have been made in respect of premises alarms.

Consultation responses

Response from planning on the Peckham proposal

44. The planning policy team is currently preparing an area action plan for Peckham which will set out the council's plans for the regeneration and development of Peckham over the next 10 to 15 years. The area action plan is still at an early stage and as yet the planning policies for Peckham which will be included in the action plan have not yet been decided. However it is likely that a potential option for the area action plan may be to encourage development of an evening economy in Peckham.
45. At present Peckham town centre experiences limited pedestrian activity in the evenings which is often considered to increase crime and fear of crime. Increasing the footfall and pedestrian activity in quiet areas is a recognised solution to reducing both incidences of crime and fear of crime as it increases surveillance, human activity and interaction (English Partnerships, Urban Design Compendium, 2007).
46. A study carried out in Peckham (Peckham Town Centre Strategy, Peckham Partnership, 2001) referred to the issue of the lack of evening activity, bars and restaurants in Peckham town centre and the need to attract more people into the town centre in the evening. Furthermore the Peckham Spatial Study which was prepared in 2006 by intelligent space partnership states that there is poor natural surveillance in Peckham town centre and that crime 'hotspots' such as Queens Road and Peckham High Street are also areas which experience low pedestrian flows.
47. The evidence presented above suggests that incidences of crime and fear of crime is more likely to affect areas with limited pedestrian activity. In relation to Peckham town centre, the issue of low pedestrian activity is confined to the evening as during the daytime, Peckham experiences high numbers of pedestrian activity (Peckham Spatial Study, 2006).
48. One way to increase pedestrian activity in the evenings is to encourage a night time economy through the establishment of bars, cafes and restaurants. As well as helping to reduce crime and the fear of crime, the establishment of evening activities can help to strengthen and diversify the local economy, improve the image of an area and enhance the vitality and viability of the town centre (Planning Policy Statement 6: Planning for Town Centres, Office of the Deputy Prime Minister, 2005).
49. The introduction of a saturation policy in Peckham would effectively make it more difficult to obtain a licence for a variety of different types of premises including bars, cafes and restaurants. This may discourage potential businesses from locating in Peckham, restricting the development of the night-time economy, reducing market confidence in Peckham and preventing economic development and regeneration.
50. Furthermore one particular street included in the potential saturation zone is Bellenden Road, a successful neighbourhood renewal area in which a thriving 'cafe culture' has

played a significant role in its regeneration. Imposing a saturation policy in such an area where cafes and restaurants have contributed so positively to regeneration is wholly illogical.

51. The mayor of London recently produced best practice guidance entitled “Managing the night time economy” (2007) which states:

“Saturation policies are likely to be more appropriate in addressing concerns in primarily residential areas. When considering adopting such a policy, boroughs should take into account its wider implications. The regeneration benefits that developing the night time economy could bring to an area may be lost. Constraining growth alone therefore does not manage existing impacts. It reduces potential for competition and the benefits it can have for the consumer” (Sections 7.16- 7.19). “

52. Prior to the introduction of the saturation policy, alternative measures should be explored such as those suggested in the Mayor of London’s Good Practice Guidance (2007).

Response from the Commissioner of Police for the Metropolis on the Peckham Proposal

53. Peckham has the highest number of night clubs in comparison to the other two areas, but significantly lower numbers of restaurants and public houses/wine bars. Although the numbers of offences under the three categories that have been used as measures in this report are lower in this area than in Camberwell, the numbers are increasing, in contrast to Camberwell. In light of this the Commissioner of Police would advise that the introduction of a saturation policy in the Peckham area is supported.

General consultation responses on the Peckham proposal

54. The August to October 2007 consultation generated 22 responses on the pro-forma questionnaire provided. Eleven responses were submitted from individuals who identified that they hold either a premises licence; a personal licence; or a club premises certificate under the Licensing Act 2003. Eleven responses were submitted from individuals who hold no licences but live in or around the area. Detailed responses were submitted from the Peckham town centre management group (PTCMG); the Peckham pub-watch; and on behalf of local ward councillors Graham Nardell; Susan Jones; and Mark Glover. Responses were reported in full at the 13 May 2008 meeting. Both the PTCMG and the Peckham pub-watch addressed the committee at that meeting, voicing their opposition.
55. Of the eleven respondents who identified that they hold licences under the Act eight (73%) supported the introduction of a saturation policy in the Peckham area. Three respondents (27%) did not support the introduction of a policy. Of the eight respondents who supported a policy, 100% agree with the boundary of the area and also the classes of premises proposed under the consultation exercise.
56. Of the eleven respondents who identified that they lived in or around the area or represented local residents nine (82%) supported the introduction of a saturation policy in the Peckham area Two respondents (18%) did not support the introduction of a policy. Of the nine respondents who supported a policy, three did not agree with the boundary proposed under the consultation exercise. One respondent called for the inclusion of Peckham Park Road; another for the inclusion of Southampton Way; and a third for the extension of the boundary in Bellenden Road. It should be noted that the extension of the boundary in Bellenden Road was supported in the submission from Councillors Nardell, Jones and Glover.

Saturation proposals - general

57. One general response was received to the public consultation from Punch Taverns PLC. The Company suggested that “material variations” should be excluded from any saturation policy that may be introduced. The response was reported to the 13 May 2008 meeting.

The cumulative impact of a concentration of licensed premises

58. The matter of the cumulative impact of a concentration of licensed premises on the licensing objectives 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 approved June 2007). 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, as set out in the guidance. Member’s attention is drawn to the key points of the guidance set out in the supplementary advice from the strategic director of legal and democratic services in this report (paragraph 70 onward).
59. The steps toward a special policy on saturation as set out in the DCMS guidance are as follows
- a) Identify concern about crime and disorder or public nuisance;
 - b) Consider whether there is good 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;
 - c) Identify the boundaries of the area where problems are occurring;
 - d) Consult with those in Section 5(3) of the 2003 Act, and subject to the outcome of that consultation;
 - e) Include and publish details of the special policy in the licensing policy statement.
60. 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.

Mayor of London’s Best Practice Guide – Managing the Night Time Economy

61. The response from planning references the “Mayor of London’s Best Practice Guide on Managing the Night-Time Economy” (BPG). The guide was published in 2007 and set out to “suggest how public authorities and the private and voluntary sectors can work together to support the development of the night-time economy in appropriate locations and improve the way they manage its impacts”.
62. Sections 7.17 through to 7.23 of the BPG deal specifically with policies to manage cumulative impact. Extracts are repeated below

“7.17 “Special policy” areas within statements of licensing policy are cited as a method of managing cumulative impact.... (As) such “special policies” could thereby constrain development of night time economy uses in a particular area where there is a demonstrable cumulative impact and where they are considered necessary and appropriate. However, they do not resolve the negative cumulative impacts which already

exist and they do not constrain overall growth or demand for night time economy uses in the wider area.

7.18 Whilst considering adopting such a policy, boroughs should take into account its wider implications. For example, applying saturation policies could displace growth of the night time economy to nearby areas, or other neighbourhoods entirely. The potential for cross-boundary impacts in London is particularly acute and overspill of premises outside existing town centres may be a risk. The regeneration benefits that developing the night time economy could bring to an area may be lost. Moreover, the premises in question could be developed for a use not subject to licensing but with its own negative impacts. Constraining growth alone therefore does not manage existing impacts. It reduces potential for competition and the benefits that can have for the consumer. It also reduces incentives for existing operators to invest in improving the quality of their offer by reducing business confidence.

7.19 Policies constraining growth, including special policies in licensing, should be used sensitively, and blanket restrictions on all new licences or development should be avoided unless the cumulative impact on a neighbourhood can be proven to be considerable. They should be based on robust and authoritative evidence and clearly illustrate the relationship between further growth in the night time economy and the issues such policies would seek to address. An evidence base also provides opportunities to consider if there are more appropriate measures to manage the night time economy. Where used, licensing based saturation policies should form part of an integrated package of measures. The integration of planning and licensing policies, while avoiding duplication, is particularly important. Saturation policies must be reviewed regularly to assess whether they are still necessary.

7.20 In special policy areas, applicants operating schedules can address special policy issues. Conditions which can be attached to a premises licence can help to address issues and may be effective in preventing the problems involved. Sample conditions are included in the guidance to the Licensing Act. For example, these might relate to the proposed ratio of seating to standing provision in the premises, the applicant's intention to run discounted drinks promotions, or not; to the provision of food etc.

7.21 In seeking to manage cumulative impacts, consideration should be given to more fine-grained means of managing the range of premises. These can include planning policies in development plan documents (DPD) or supplementary planning guidance to guide the proportion of units or frontages on a street, or the number of adjacent units, in A3 (restaurants and cafes), A4 (drinking establishments) or A4 (hot food takeaways) use classes. This mix of uses also contributes to the wider vitality and viability of town centres. Accommodating night time economy uses which are appropriate in town centres can be promoted in this way while avoiding very local concentrations of numbers of adjacent premises.

7.22 This range of policy mechanisms and selective application of appropriate conditions, will allow local authorities to discourage the kinds of premises that are known to be associated with anti-social behaviour as well as obviating the need for a "blanket ban". Such an approach can encourage types of provision that diversify the night time economy, attracting a wider variety of people out in the evening to engage in activities which do not necessarily entail excessive alcohol consumption. A bespoke approach could address the particular impacts experienced in an area while ensuring that the benefits a diverse night time economy can bring to a centre are not lost. For example, by recognising the difference between certain types of premises and their likely cumulative impact, or clearly identifying issues which applicants can address in their operating schedules, or through adding conditions to licenses or planning permissions.

7.23 Local circumstances, including management measures, will determine whether, within a particular town centre, night time economy activities should be encouraged to develop in a specific zone or be spread more widely. In larger centres the development of a night time economy “quarter” or zone may be more appropriate for management purposes and enable an appropriate mix of uses to be encouraged.”

Next Step – Moving forward with a saturation policy

63. Any decision by the assembly to adopt a saturation policy in either of the areas under consideration will form an amendment to the council’s current statement of licensing policy for 2008 – 2011 approved by council assembly on 2 April 2008. As such the revision will be published and publicised in accordance with the 2003 Licensing Act and regulations and steps will be taken to ensure that all current and future affected licence holders, as well as local residents living within the area(s) affected, understand the decision and the effect of it.

64. In the event that the assembly decides that a saturation policy is appropriate and necessary in either of the areas it is proposed that the section of the Southwark statement of licensing policy dealing with “saturation policies” (page 37 of the policy) be amended as follows:

“Since the introduction of the Licensing Act 2003, the council’s licensing committee has been monitoring the cumulative impact of licensed premises operation across the Southwark community.

On 5 November 2008, council assembly agreed recommendations from the committee that it is appropriate and necessary to introduce a saturation policy dealing with the cumulative impact of licensed premises within the .. (*Camberwell / Peckham as relevant*) .. area(s) of the borough. Detail of the boundary of the area(s) and also the categories of premises to which the policy applies are set out below (*detail to be inserted*).

This decision is taken having had regard to statistical analysis of recent figures for

- a) Alcohol related violence against the person (VAP);
- b) Calls to the police regarding disorder and rowdiness associated with licensed premises;
- c) Complaints received by the council’s environmental protection team regarding nuisance associated with licensed premises;
- d) Responses to local consultation carried out in accordance with section 5(3) of the Licensing Act 2003; and
- e) Submissions made directly to the committee from the local community.

All applicants for new premises licences or for variation of existing premises licences, in respect of premises based within *the / each of the* area(s) must address the saturation concerns within their application and operating schedule.

Full information is available from the licensing team. Applicants are advised to discuss their application and how this may be affected by the policy with the licensing team in the first instance.

The effects of the / each policy will continue to be monitored and the policy will be removed when no longer needed. “

65. The preceding section of the policy already deals with how the policy will work.

COMMUNITY IMPACT STATEMENT

66. This report considers whether saturation policies are necessary within two areas of the borough to help control the direct impacts of the leisure and night time economy on the respective local communities involved.
67. 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 the policy can contribute toward reducing the fear of crime and making Southwark a better place to live, work and visit.
68. Conversely, saturation policies may also impact on business growth and development of the area concerned. While 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, that operator will have to demonstrate that their business proposals do not further impact on the identified concerns. The implications of the introduction of saturation policies are discussed within this report.

RESOURCE IMPLICATIONS

69. While it is accepted that the introduction of a saturation policy in either of the two areas concerned will 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

70. Public consultation on the issue of saturation policies to deal with cumulative impact has been carried out in each of the two areas of the borough where decisions on potential saturation policies are sought. As noted in this report, the consultation ran from 1 August 2007 through to 31 October 2007. The consultation was announced in local media and publicised on the council's web site and at relevant local community councils. Responsible authorities, interested parties, local licensees and known representatives of both licensees and interested parties were written to directly, as were local interest and community groups. The results of the consultation were reported in full to the licensing committee on 13 May 2008 and are summarised within this report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Legal and Democratic Services

Cumulative Impact and Special/Saturation Policies

71. 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.
72. 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.

73. 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

74. 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. This consultation took place between 1 August and 31 October 2007 in both of the areas under consideration.

Evidence

75. It is clear from the guidance that any decision to include 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.
76. 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).
77. Members are asked to consider the evidence collated following consultation in each of the three areas. If members wish to recommend the inclusion of a saturation policy for any of the areas, members must first be satisfied that there is sufficient evidence to show that the cumulative impact of premises in each area is having an impact on crime and disorder and/or public nuisance.

The Effect of Adopting a Special Policy

78. The adoption of a special policy will create 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(s) to which the special policy applies, will normally be refused where relevant representations are received.
79. 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.
80. 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.
81. 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.
82. Once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or require expansion.

Limitations

83. 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, is intended to include premises dealing primarily in off-sales in both areas. Members should be satisfied that the inclusion of such premises is justifiable, having regard to the evidence obtained through the consultation process.
84. 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.
85. 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.
86. 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.
87. Special policies cannot justify and should not include provisions for a terminal hour in a particular area.
88. Special policies must not impose quotas that would restrict the consideration of any application on its individual merits.
89. 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).
90. 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.
91. 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 (2007/2008) at part 3G.

Finance Director

92. The head of community safety and enforcement has confirmed that any costs arising from implementing the proposals, set out in the report, will be fully contained within existing budgets.

BACKGROUND DOCUMENTS

Background papers	Held at	Contact
Licensing Act 2003 Associated secondary regulations DCMS Guidance to the Act Southwark Statement of Licensing Policy Saturation consultation papers Saturation consultation responses Mayors Best Practice Guide for Managing the Late Night Economy	The Health Safety & Licensing Unit, The Chaplin Centre, Thurlow Street, London, SE17 2DG	Mrs Kirtikula Read. Telephone: 020 7525 5748

APPENDICES

Appendix No.	Title of Appendix
A	Partnership analyst team report of 11 August 2008
B	Map of Camberwell proposal
C	Map of Peckham proposal

AUDIT TRAIL

Lead Officer	Jonathon Toy, Head of Community Safety & Enforcement	
Report Author	Richard Parkins; Health Safety & Licensing Unit Manager	
Version	Final	
Dated	October 22 2008	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES		
Officer Title	Comments Sought	Comments included
Strategic Director of Legal and Democratic Services	Yes	Yes
Finance Director	Yes	Yes
Executive Member	Yes	Yes
Date final report sent to Constitutional Team	October 24 2008	