



Cabinet 3 December 2008

Report of the Licensing and Regulatory Committee: Proposed inclusion of Special Area Policy in In St Edmundsbury Borough Council Statement of Licensing Policy (Dec 08/10)

1. On 10 March 2008 the Licensing and Regulatory Committee considered a request from Councillors Farmer and Rout to designate an area of Bury St Edmunds one of 'cumulative impact' under Section 6 of the Council's Statement of Licensing Policy.
2. 'Cumulative impact' is described in the Guidance issued under Section 182 of the Act as:-

"the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area ... is a proper matter for a licensing authority to consider in developing its licensing policy statement."
3. The proposed amendments to the Policy were the subject of a public consultation between 18 July until 10 October 2008. The proposed changes were notified by means of:-
 - (a) the Council's Website; and
 - (b) letters sent to the Responsible Authorities and representatives of the classes prescribed in the Licensing Act 2003.
4. On 10 November 2008 the Committee considered Report Z340, which included the outcome of the consultation. A total of 19 submissions were received in response to this consultation.
5. The Committee then considered the following options available:-

Option 1: Take no action;

Option 2: Set up a Licensing Forum for Bury St Edmunds (and subsequently Haverhill); and

Option 3: Adopt the draft Special Area Policy for the specified area in Bury St Edmunds.

6. The Committee concluded and **RECOMMENDS**:-

That, subject to the approval of full Council, the Special Area Policy, as detailed in Appendix F of Report Z340, applying to that part of Bury St Edmunds as described in Appendix B of Report Z340, be adopted by the Council, and the existing statement of Licensing Policy be updated to include the Special Area Policy.

(Attached to this report for ease of reference are Appendices B and F of Report Z340)

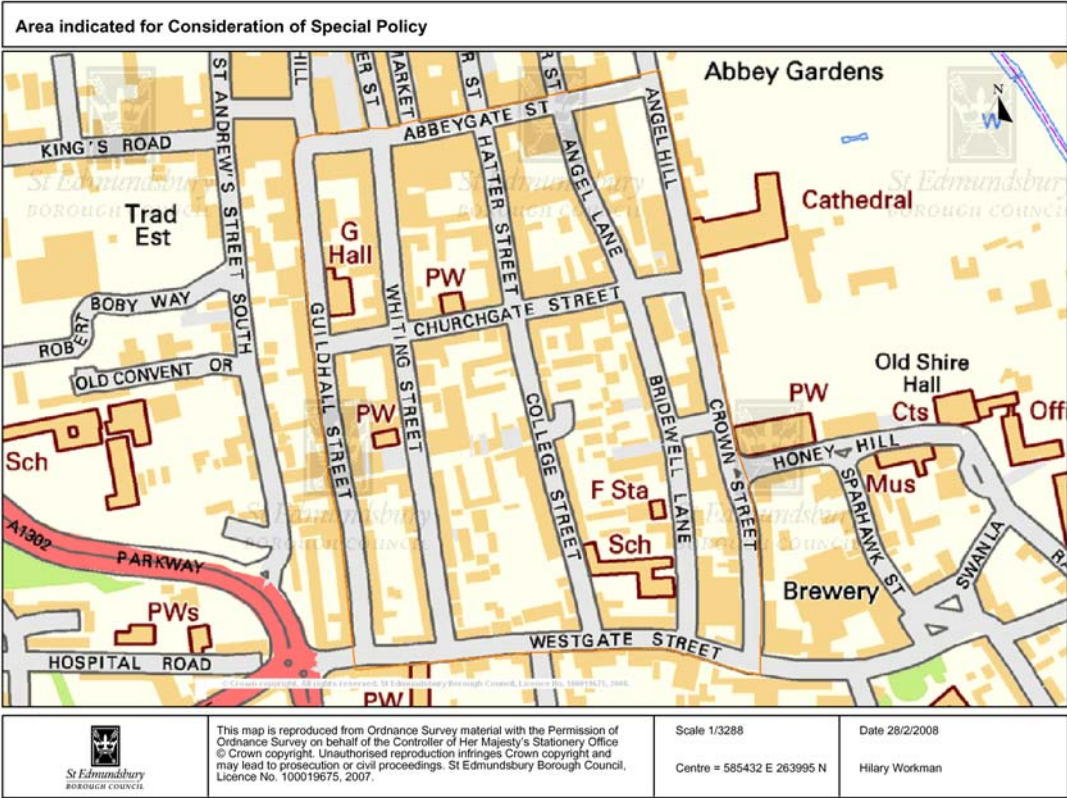
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Area indicated for consideration is outlined in orange.

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Proposed amendment to the Statement of Licensing Policy

6.0 The cumulative impact of a concentration of licensed premises

- 6.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area e.g. the potential impact on:
- crime and disorder;
 - public nuisance;
 - public safety; or
 - protection of children from harm.
- 6.2 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Licensing Authority can take into account. This should not, however, be confused with 'need' which concerns the commercial demand for a particular type of premises e.g., a pub, restaurant or hotel. The issue of 'need' is primarily a matter for the market to decide and does not form part of this licensing policy statement.
- 6.3 The Licensing Authority can only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area is causing a cumulative impact on one or more of the licensing objectives. The Licensing Authority will keep the situation as to whether an area is nearing this point under review.
- 6.4 The Licensing Authority recognises that the cumulative effect of licensed premises may have consequences which include:
- An increase in crime against both property and persons;
 - An increase in noise causing disturbance to residents;
 - Traffic congestion and/or parking difficulties; and
 - An increase in littering and fouling.
- and that enforcement action taken to ensure that conditions are complied with may not resolve all the problems experienced in the vicinity of these premises.
- 6.5 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 detrimental cumulative impact on one or more of the licensing objectives in a particular area.
- 6.6 Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. However, there are other mechanisms, both within and outside the licensing regime, that are available for addressing such issues. For example: Licensing is only one means of addressing the problems identified above. Other mechanisms include:
- Planning controls;
 - Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas;
 - Powers of the Local Authority and Police to designate Alcohol Disorder Zones (ADZ's);
 - Suffolk Constabulary powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise;
 - Prosecution of personal licence holders who sell alcohol to people who are drunk or underage;
 - Powers of the Suffolk Constabulary, responsible authorities or a local resident or business to seek a review of a licence or premises certificate; and
 - Local authority powers under Part 5 of the Anti-Social Behaviour Act 2003.

- positive measures to create a safe and clean environment in partnership with local businesses, transport operators and others
- the provision of CCTV and ample taxi ranks
- confiscation of alcohol from adults and children in designated areas
- police enforcement of the law with regard to disorder and anti-social behaviour, including the issuing of fixed penalty notices
- police powers to close some premises for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise

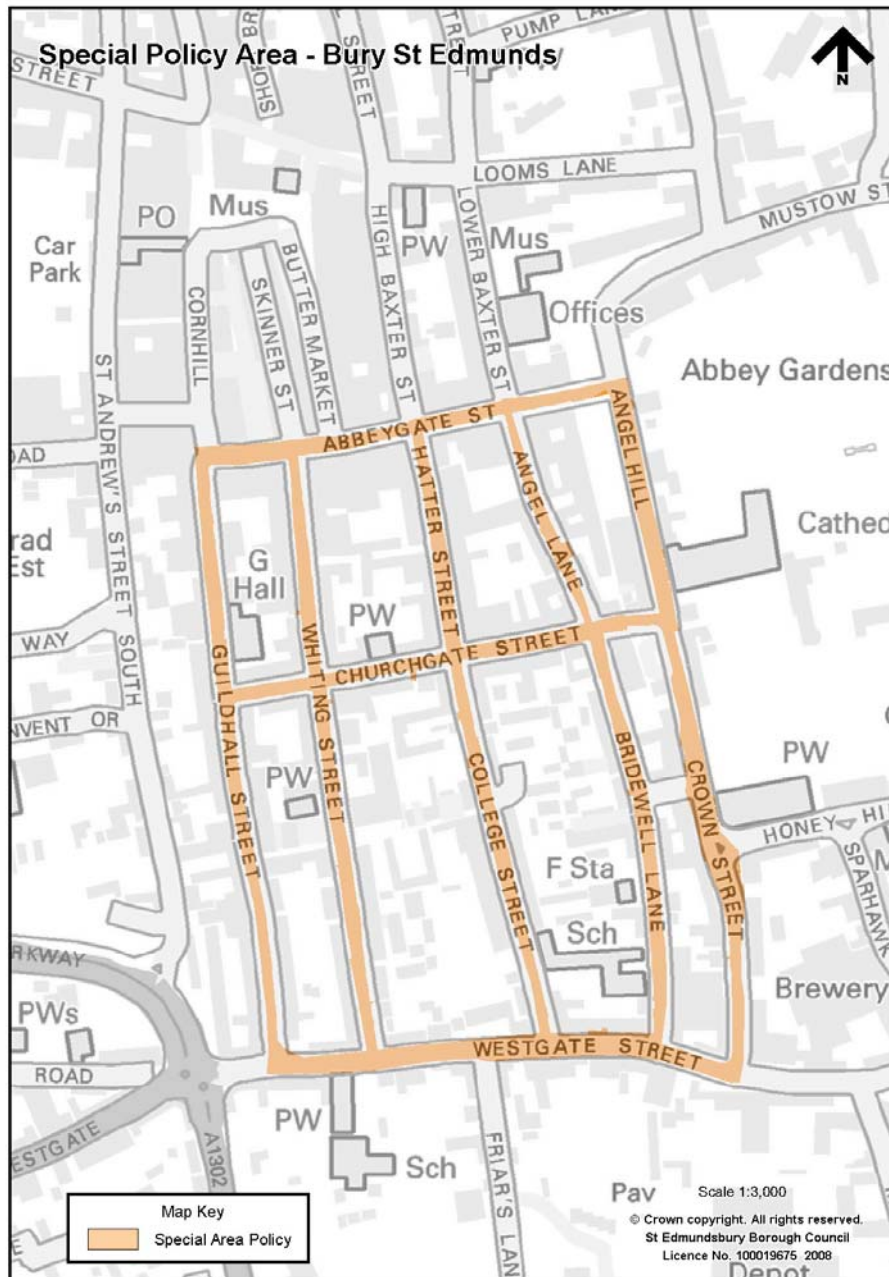
The above can be supplemented by other local initiatives that similarly address these problems, for example, through the Nightsafe and pub watch schemes operating in the Borough and County in line with the strategic objectives for crime and disorder reduction within the Borough.

- 6.7 Where the Licensing Authority is satisfied that, within an area, the number, type and density of premises authorised for licensable activities is causing a serious problem of nuisance and disorder, and there is evidence of a disproportionate detrimental effect on neighbouring businesses and residents it may consider the adoption of a special saturation policy of refusing new premises licences or club certificates, or refusing to vary a premises licence or club certificate where it receives relevant representations about the cumulative impact on the licensing objectives of and application in an area covered by such a policy.
- 6.8 When setting such a policy, the Licensing Authority will have regard to the Guidance issued under Section 182 of the Act, and will follow the consultation, adoption and review procedures applicable to the licensing statement of licensing policy.
- 6.9 The Council will take the following steps when considering whether to adopt a Special Saturation Policy:
- Identification of concern about crime and disorder or public nuisance in a specified area;
 - Consideration of whether it can be demonstrated that serious and chronic crime and disorder and nuisance problems are arising and are caused by the customers of licensed premises, and if so, identifying the area from which the problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent.
 - Subject to consultation in accordance with s.5(3) of the Act, inclusion of a special policy about future premises licence or club premises certificate applications for that specified area in the Statement of Licensing Policy and
 - Publication of the special policy as part of the Statement of Licensing Policy.
- 6.10 The Licensing Authority will review any special saturation policies as part of its general duty to keep this statement of Licensing Policy under review and re-determine and re-publish it at least every three years.
- 6.11 No special policy adopted for a specific area will be absolute, each application will be considered properly on its own merits.
- 6.12 By adopting a special policy, there will be a presumption that:
- Where relevant representations are received, applications and applications for major variations will normally be refused unless;
 1. It can be shown that the operation of the premises involved will not add to the cumulative impact on the licensing objectives already being experienced; and
 2. The onus will be on the applicant to demonstrate in their operating schedule why the special policy should not be applied.

- 6.13 Subject to paragraphs 6.3 and 6.4, special policies will be considered for both the town centre and Station Hill areas of Bury St Edmunds.
- 6.14 Where a special area policy is implemented, the policy may only be engaged in respect of a particular application where a relevant representation has been made by either a Responsible Authority or Interested Party.
- 6.15 The Licensing Authority has received a representation from Ward Members for Abbeygate ward that in the area bounded by Guildhall Street, Westgate Street, Crown Street, Angel Hill and Abbeygate Street (both sides of each street, see inset plan) a high concentration of licensed premises has produced a detrimental impact upon the licensing objectives, specifically, the prevention of crime and disorder and the prevention of public nuisance.
- 6.16 In response to this representation the Licensing Authority has undertaken the following steps in considering whether to adopt a special policy on cumulative effect within this statement of licensing policy:
- Identified concern about crime and disorder or public nuisance
 - Considered whether there is good evidence that crime and disorder are happening and are caused by customers of licensed premises and that the risk of cumulative impact is imminent
 - Identified the boundaries of the areas where problems are occurring
 - Consulted with those specified in section 5(3) of the Licensing Act 2003, on the proposal for a special policy in relation to new applications and variations to existing premises licences and club premises certificates and considered the outcome of the consultation
- 16.17 Having considered the available evidence and undertaken consultation, the Licensing Authority considers that it is appropriate and necessary to control cumulative impact. The Licensing Authority is adopting a special policy relating to cumulative impact to the area set out in paragraph 7 below.

7.0 Special Policy on Cumulative Effect

7.1 The Licensing Authority is adopting a special policy relating to cumulative impact in relation to the areas of the town of Bury St Edmunds indicated on the plan below:



the area is bounded by both sides of Abbeygate Street, Guildhall Street; Westgate Street; Crown Street; Angel Hill; and includes all streets within that area

With effect from

7.2 The evidence for this special policy is set out in Appendix E to report Z96.

7.3 This special policy creates a rebuttable presumption that, where the Licensing Authority's discretion is engaged following relevant representations about the cumulative impact on the licensing objectives, applications within the area set out in paragraph 7.1 for:

- new premises licences; or

- club premises certificates; or
- variations that are likely to add to the existing cumulative impact

will normally be refused, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced.

- 7.4 Applicants will need to address the special policy issues in their operating schedules in order to rebut such a presumption.
- 7.5 Despite the presumption against grant, responsible authorities and interested parties will still need to make a relevant representation before the Licensing Authority may lawfully consider giving effect to its special policy. This means that if no representation is received, the application must be granted (subject to such conditions as are consistent with the operating schedule and any mandatory conditions required by the Licensing Act 2003). Responsible authorities and interested parties can make a written representation referring to information which had been before the Licensing Authority when it developed its statement of licensing policy.
- 7.6 The Licensing Authority recognises that a special policy should never be absolute. The circumstances of each application will be considered properly and applications for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives may be granted.
- 7.7 After receiving representations in relation to a new application or for a variation of a licence or certificate, the licensing authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case.
- 7.8 The impact can be expected to be different for premises with different styles and characteristics. If the Licensing Authority decides that an application should be refused, it will need to show 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.
- 7.9 This special policy will not be used:
- as a ground for revoking an existing licence or certificate when representations are received about problems with those premises
 - to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives
 - to include any provisions for a terminal hour in any particular area which might impose a fixed closing time akin to that under the 'permitted hours' provisions of the Licensing Act 1964
 - to impose quotas - based on either the number of premises or the capacity of those premises - that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas. Quotas have no regard to individual characteristics of the premises concerned. Proper regard will be given to those differences and the differing impact they will have on the promotion of the licensing objectives
- 7.10 This special policy will be reviewed regularly to assess whether it is still needed or should be expanded