

ENVIRONMENT AND COMMUNITY SAFETY OVERVIEW AND SCRUTINY COMMITTEE

Agenda Item 5

Brighton & Hove City Council

Subject:	Night time economy		
Date of Meeting:	22 June 2009		
Report of:	Director of Environment		
Contact Officer:	Name: Tim Nichols	Tel: 292163	
	E-mail: tim.nichols@brighton-hove.gov.uk		
Wards Affected:	All		

FOR GENERAL RELEASE.

1. SUMMARY AND POLICY CONTEXT:

1.1 Council's corporate priorities include fair enforcement of the law and protecting the environment while growing the economy. Environment's directorate objectives include protecting and improving public health and community safety services and environmental health and licensing's service plan aims to deliver an effective and efficient licensing service applying its statement of licensing policy and other licensing policies.

2. RECOMMENDATIONS:

2.1 That this report is noted.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Beacon Status

Attached at appendix A (Members' room) is the final bid the council made successfully for Beacon Status for managing the Night time economy. The bid includes examples of the city's leadership and strategy and details of partnership work including community safety strategy, licensing policy, and tourism strategy. There are also examples of operational work around sharing intelligence, developing policy, applying licensing law to reduce crime and disorder and public nuisance, the management of large and small events and transport measures. Specific examples of successful projects include night-safe which is the radio network operated by the Business Crime Reduction Partnership, Safe Space providing a safe refuge for young people at night and test purchase operations.

3.2 Sussex Police Operation Marble clamped down on public place violent crime by police deployment in city centre hot spots at week ends. Nightsafe barred customers causing problems from participating venues. Soft measures like White

Night allowed residents and visitors to experience museums, art galleries, theatres, cabaret, restaurants and library services throughout the night. This had been enabled using interreg funding with Amiens.

3.3 Statement of Licensing Policy

Attached at appendix B (attached to this report) are a minute from licensing committee on 24th April 2009. This was the committee that reviewed the cumulative impact special policy one year after its inception. It relied on reports from Environmental Health & Sussex Police which are included within the appendix. Licensing committee resolved to maintain the existing cumulative impact policy and keep it under review. The current statement of licensing policy is available in hard copy and on the council's website.

3.4 Although noise complaints throughout the city rose by 3.4% in 2008/9 to 3,396 from the previous year, noise from licensed premises declined by 35% to 309. Over 50% of public place violent crime occurs in the special policy area for cumulative impact and Sussex Police considered the policy and area should remain in place.

3.5 Health Impact Assessment

The Annual Report of the Director of Public Health 2007 was concerned with alcohol misuse. Alcohol related harm indicators such as alcohol related months of life lost, alcohol specific hospital admissions, alcohol related recorded crimes, alcohol related violent offences, alcohol related sexual offences and estimate of binge-drinking put the city in the worst quintile nationally. As part of Choosing Health funds, the Primary Care Trust funded a health impact assessment on flexible licensing hours locally and the initial report is appended (C Members room). The final report is expected to be reported to licensing committee on 26th November 2009.

3.6 The study may be used to inform corporate strategies and policies.

3.7 Licensing Enforcement Policy

Licensing committee have endorsed DCMS and Home Office guidance on dealing with problem premises and approved a licensing enforcement policy for consultation process. A copy of the draft policy is appended (D Members room). Officers intend reporting a recommended final policy to licensing committee on 25th June 2009.

3.8 Government guidance supports enforcement agencies using a first and second intervention approach and possible tough conditions that can be assembled in packages to ensure greater control on alcohol sale, training, alcohol sale banned at certain hours, alcohol displays, reducing shop lifting and other matters like sale to children.

3.9 Reviews

The Department of Culture, Media and Sport consider that the review process represents a key protection for the local community where problems associated with licensing objectives are occurring after a licence has been granted or varied. A summary of the reviews are listed in appendix E Members room. The review process has been used extensively. Licences have been revoked following

disorder or repeated under-age sales. Conditions have been modified or licences restricted where there has been disorder or public nuisance caused by licensed premises and suspensions have been invoked to address repeated underage sales. Various responsible authorities such as Sussex Police and council's Trading Standards and Environmental Health officers have applied for reviews as have residents as interested parties.

3.10 Thirty two reviews have been carried out. Trading standards and Sussex Police have applied to have six store licences reviewed for underage sales resulting in one revocation and three licence suspensions, and two on-licensed premises resulting in licence suspension. Sussex Police used closure powers for disorder on eight occasions, and in one case a public house licence was revoked permanently. Ten reviews requested by environmental health and residents usually resulted in modified conditions and restricted licences.

3.11 Appeals

Appendix G in Members room shows the last statistical return to DCMS. This gives an idea of the size of the licensed trade in Brighton and Hove. Appendix F Members room lists all appeals. This gives some context to how many of the licensing panel's decisions were challenged.

3.12 There are over 1,200 licensed premises. In 2008, 84 applications were made for new licences and 95 for variations. Since November 2005 (transition), 15 appeals have been lodged, three were withdrawn, eight were settled by consent order, four decisions were modified or appeal allowed. No appeal was won.

3.13 Licensing Strategy Group

Licensing Strategy group's constitution is appended (H Members room). It comprises the main responsible authorities, interested parties and stakeholders in licensing. Its primary function is to review and set licensing policy.

3.14 The Licensing strategy group supports licensing objectives, creates partnerships and links with corporate strategies such as tourism, economic development, community safety, local alcohol harm reduction, local development framework, local transport plan and equalities and diversity.

3.15 Transport

Brighton and Hove is the only English city outside London to operate a commercially viable night bus service. In 2004 the first 24 hour service on route N7 was launched late night buses helped to clear crowds from the city centre running every 15 minutes between midnight and 3 a.m. serving both universities and areas in the west of the city. Frequent evening bus service are run for people coming into the city centre, the frequency of the service real time information signs help people feel safer as they have confidence knowing how long their wait is.

3.16 The council as licensing authority has a policy of restricted numbers and managed growth of hackney carriages. An economically attractive tariff runs at night to encourage hackney carriage proprietors to employ their vehicles at night.

4. CONSULTATION

- 4.1 No specific consultation has been carried out to create this report. Work within it such as Beacon Award bid, cumulative impact policy review, the statement of licensing policy, enforcement policy and the working of the licensing strategy group are subject to their own consultations.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 Licence fees are set by the Licensing Act 2003 (Fees) Regulations 2005. The fee levels are set centrally to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime. For the period to May 2010 the Council has been granted a £62,500 Beacon Reward Grant for its work in managing the night time economy.

Finance Officer Consulted: Karen Brookshaw

Date: 07/05/09

Legal Implications:

- 5.2 The licensing objectives are prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm. Section 4 of the 2003 Licensing Act provides that a licensing authority must have regard to Licensing Guidance issued by DCMS. Departure from guidance can give rise to appeal or judicial review and so reasons given for decisions are a key consideration for courts considering the lawfulness and merits of any decisions taken.

Lawyer Consulted: Rebecca Sidell

Date:

Equalities Implications:

- 5.3 The Equalities Impact Assessment for the Statement of Licensing Policy is appended (I Members room).

Sustainability Implications:

- 5.4 Sustainability is not a licensing objective.

Crime & Disorder Implications:

- 5.5 Crime prevention is one of the four licensing objectives.

Risk and Opportunity Management Implications:

- 5.6 The Health Impact Assessment currently commissioned is expected to inform corporate strategies including alcohol harm reduction objectives.

Corporate / Citywide Implications:

- 5.7 The current tourism strategy recognises the importance of the visitor economy. The city's tourism industry must be profitable, be a positive experience for visitors, benefit local people, protect the environment and allow tourism to develop, The current strategy places emphasis on events and attractions and has a close relationship with licensing policy.

SUPPORTING DOCUMENTATION

Appendices:

A – I All appendices are available in Members room. Appendix B – Extract from Licensing Committee minutes and report from 24 April 2009 attached.

Background Documents

1. Licensing committee 24th April 2009, item 41, Cumulative Impact Assessment.

APPENDIX B

Extract from Licensing Committee minutes and report from 24 April 2009

37. CUMULATIVE IMPACT AREA ASSESSMENT

- 41.1 The Committee considered a report of the Assistant Director of Public Safety regarding the Cumulative Impact Area (CIA) Assessment (for a copy see minute book).
- 41.2 The Head of Environmental Health and Licensing summarised the report and stated that the Cumulative Impact policy had been in effect for just over one year and been imposed to help reduce violent crime within the city centre. Both Sussex Police and the Environmental Health and Licensing Team were satisfied that the policy was contributing to the improving picture of violent crime within the city.

It was noted that Residents' Associations living close to the perimeter had requested that the area be extended, but there was currently no evidence to justify this and the Head of Environmental Health and Licensing stated that licensing laws should not be the primary mechanism for controlling crime and disorder. The main purpose of the policy was to allow Members discretion to refuse an application if they felt it was necessary, but it was noted that such policies should not be absolute in their application, and that they should be based on evidence. Due to this, it was required to review the policy regularly and the Head of Environmental Health and Licensing explained that if any part of the policy was to change, a consultation exercise would need to take place on the new proposals. The Head of Environmental Health and Licensing requested that Chief Inspector Mills from Sussex Police be allowed to address the Committee regarding this issue.

- 41.3 Chief Inspector Mills stated that there had been two requests for an extension to the area: in London Road and in the North Laine area. He confirmed that there would need to be an evidential basis for any extensions and they would need to be proportionate, legal and necessary to the area. Chief Inspector Mills stated that Sussex Police were wholeheartedly behind the policy, and felt that the policy had assisted the Police in managing a much safer city.
- 41.4 The Environmental Health Manager, Annie Sparks, stated that the city had seen a 35% drop in noise complaints relating to licensed premises between 2008-09, and felt that the current mechanisms for managing complaints and the option to hold a review hearing were excellent.
- 41.5 Councillor Watkins stated he supported the Cumulative Impact Area, but asked for the boundary of the area to take in the whole of the Brunswick and Adelaide ward, as it currently only covered half of it.

- 41.6 Councillor Simson stated that she would be concerned if the area were pushed out incrementally and asked if there was any evidence to support the extensions. The Head of Environmental Health and Licensing stated that it was natural for residents who lived just outside the boundary to request inclusion in the CIA, but the policy had to be evidence based to be justifiable. He noted that there were other options available for the control of problem premises, including the powers of review, which were open to all communities in the Brighton and Hove area. If the policy was to be changed, or the area moved in any way, it would be subject to a new consultation exercise and the approval of Full Council again.
- 41.6 Councillor Kitcat asked if the CIA applied to off-licensed premises. The Head of Environmental Health and Licensing stated that the policy was based around evidence obtained regarding on-licensed premises, and the government had stated it was not justified to include off-licensed premises in this evidence base. Once initiated, the policy had the affect of including all licensed premises within the area however.
- 41.7 Councillor Janio asked Chief Inspector Mills if Sussex Police would like to see the CIA extended. Chief Inspector Mills stated that the Police were satisfied with the current area, which they felt they had evidence to justify.
- 41.8 Councillor Janio asked if off-licensed premises needed to be included in the policy and the Head of Environmental Health and Licensing replied that the Committee could have taken a different view at the time of approving the policy. Legal challenges to the policy had to be made within the first three months to be valid however.
- 41.9 Councillor Fryer asked what level of incidents would need to occur before Officers considered there was enough evidence to extend the area. The Head of Environmental Health and Licensing stated that there was not a recognised threshold at which an area would automatically be considered for inclusion, but the purpose of the review was to ensure that the policy was adequate, reasonable and justifiable. It was felt that the current policy met these conditions.
- 41.10 Councillor Fryer felt that although there had been a drop overall in noise complaints across the city, there had been a rise in certain areas. She stated that evidence for the CIA could also include noise complaints, and on this basis there were areas that should be included in the policy. The Environmental Health Manager agreed that noise complaints directly relating to licensed premises could be included in the evidential basis for agreeing the area, but general noise in the streets would not qualify for this. She noted that the complaints position would be reviewed regularly.

- 41.11 Councillor West felt that the CIA was a positive development but felt that there was a lack of rigour and detail in the report presented to Committee. He felt that the London Road hotspot differed only slightly in terms of crime rates compared with the CIA, but there were no reasons given as to why this was not being considered for inclusion in the area. He felt that the issue of noise complaints had not been dealt with effectively and no comparative data was offered regarding other CIA policies across the country. He requested that at the next review, a more detailed and comprehensive report be submitted to the Committee and take into consideration areas where the policy might be expanded.
- 41.12 Chief Inspector Mills replied that the statistical volume of premises was not the main driver for including an area in the CIA. The policy was based around the negative impact premises were having in an area, and on the London Road area in particular, the majority of the negative impact was being created by street drinkers who were buying alcohol from various places across the city, and drug dealers. Chief Inspector Mills stated that there were other, more effective ways of dealing with problems such as these, and noted that a survey of residents had been conducted in 2008 regarding licensing issues in the area and only 28 responses had been received. This indicated that there was not a strong feeling among residents that licensed premises were causing a problem in this area.
- 41.13 The Head of Environmental Health and Licensing stated that he had attended recent London Road Local Action Team and Traders Association meetings and felt there was a strong feeling about licensed premises in the area. However, there had been only one new application in this area in the past year, and it was likely that there had in fact been a net reduction in premises, and so it would be difficult to justify a cumulative impact policy for this area. He also noted that licensing policy was not the primary way to deal with crime and disorder in an area. He stated that better geographical information would become available over time to demonstrate trends across the city to help assess the policy, but a way forward for better information sharing and gathering could be to include representatives of Residents' Associations in the Licensing Strategy Group.
- 41.14 Councillor Hyde stated that any expansion to the policy would need to meet robust criteria. She also felt that there was no need to include comparative data in future reports as Brighton & Hove were leading the way in this issue, and it not be relevant to the circumstances.
- 41.15 Councillor Simson proposed an amendment to the recommendation of the report to include the word 'regularly' and this was agreed by Members.

41.16 **RESOLVED** – That the Committee has considered and agrees with the recommendations as follows:

1. To continue to adopt the Cumulative Impact Area (as defined in appendix 1 of the report [for a copy see minute book]) and to continue to adopt the Special Policy (as defined in appendix 2 [for a copy see minute book]) in relation to that Cumulative Impact Area.
2. To review *regularly* the need for a Cumulative Impact Area or Areas and Special Policy within Brighton & Hove.
3. To recommend that the Council continues to include the Special Policy and associated defined Cumulative Impact Area as part of its current Licensing Act 2003: Statement of Licensing Policy.

Prevention of Public Nuisance

The Environmental Protection Team is part of the Environmental Health and Licensing Service and under the provisions of the Licensing Act 2003 is the 'responsible authority' for noise and the prevention of public nuisance. In addition, the Environmental Protection Team has duties under the Environmental Protection Act 1990 to investigate complaints that may be a statutory noise nuisance.

As a 'responsible authority' the Environmental Protection Team inspects all applications for new premises licences and licence variations. Where there are concerns relating to public nuisance a representation is made. Licence reviews have also been requested to prevent public nuisance. Applying licence conditions which mitigate and control noise has been a valuable tool to prevent public nuisance. Table 3 of appendix 6 shows the applications where the Environmental Protection Team requested licence reviews, made representations, and also highlights which ones went to hearing.

Joint Intelligence Meetings are routinely attended by all the Licensing Act 2003 'responsible authorities' and provide a useful forum for exchanging information relating to licensed premises.

The Environmental Protection Team also responds to all domestic and commercial noise complaints in the City. This includes noise from licensed premises. The majority of noise from licensed premises relates to noise from live and amplified music, and noise from people. Noise from people includes noise from people inside the premises, and noise from people using outside areas (inc the Highway adjacent to the premises). The Health Act 2006, and the ban on smoking inside premises, has resulted in more complaints relating to noise from smokers outside.

It has been pleasing to see that from 2007/2008 to 2008/2009 the number of complaints relating to noise from licensed premises across the whole City has dropped from 474 to 309. This shows a 35% reduction. For 2007/2008 33.5% of these complaints were from the cumulative impact area. For 2008/2009 the figure was very similar being 35.2%. The number of noise complaints in the special stress area is again similar for both years. For 2007/2008 13.9% of noise

complaints relating to licensed premises were in the special stress area with 16.8% in 2008/2009.

These figures clearly show that the Cumulative Impact Policy plays a key part preventing public nuisance and I would recommend that it continues as extant policy.

**Annie Sparks,
Environmental Health Manager, Environmental Protection**



APPENDIX 4

Cumulative Impact Review 2009

Public Place Violent Crime

The Cumulative Impact Zone (CIZ) was introduced into Brighton and Hove City Council's Statement of Licensing Policy on 13th March 2008 following a vote by the council members of Brighton & Hove City Council. This was as a result of concerns raised by Sussex Police and partners with regards to problems of crime and disorder, alcohol related crime and public nuisance within the city centre. The process for adopting the CIZ was thorough and detailed, with Sussex Police submitting various documents for in depth consultation by all interested parties, including the public and licensing trade.

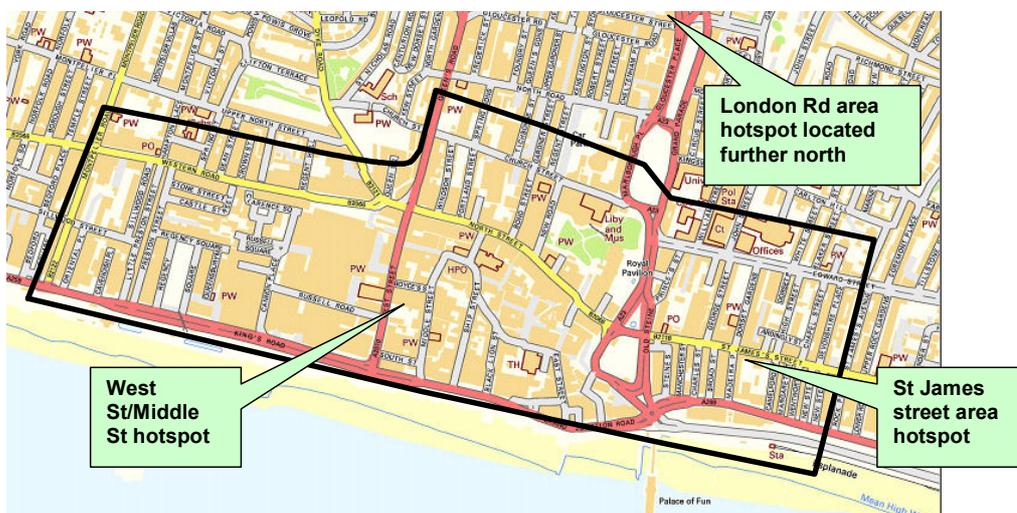
The figures and statistics presented at the time showed that Brighton & Hove suffered from high levels of public place violent crime (PPVC). Also shown was that over half of all PPVC was committed within the city centre area. There was no surprise that this area of the city has a high concentration of licensed premises.

Current hotspot analysis

The attached map shows the current CIZ area. This area has historically shown the highest levels of PPVC in the city. The CIZ area covers the southern parts of the council wards of Regency (Beat 3), St Peters & North

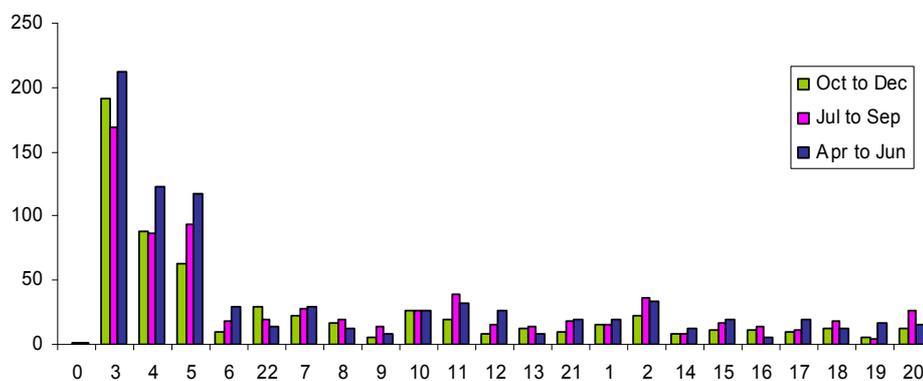
Laine (Beat 4) and Queens Park (Beat 5). The 3 main areas identified are West Street and surround, St James Street and surround and also the southern end of London Road. West Street and St James Street both contain a high concentration of clubs, bars and late night fast food outlets.

The London Road hotspot differs slightly in that this is not such a prime location for licensed premises. Problems here are often related to the night time economy due to the central location and routes home taken by persons attending the city centre. However a large proportion of issues can be attributed to the anti social behaviour of drug users and street drinkers who congregate on the Level and around the York Place area. This area therefore, whilst of concern and worthy of close scrutiny does not at this time merit inclusion in either CIZ or special stress areas.



Police Performance Year 2008/9

Figures compiled for the police performance year to date across the 3 quarters for which figures are currently available show that CIZ accounts for on average 53.4% of all PPVC in the city of Brighton & Hove, with Beat 3 alone (Regency Ward) accounting for an average of 27% of the PPVC in the city.



Total PPVC across the cumulative impact area has shown a reduction throughout the police performance year 2008/9 which can in part be attributed to CIZ along with the ongoing policing and partnership approach to the night time economy. Importantly analysis shows that the actual number of total offences perceived to have been committed under the influence of alcohol, whilst showing a reduction, has actually risen as a proportion of overall PPVC, in the last quarter accounting for 60.1% of all PPVC.

Robbery offences show that 63% of all robbery offences committed within the CIZ area are perceived to have taken place under the influence of alcohol. This is a statistic worthy of mention as with the present 'credit crunch' there is likely to be an increase in acquisitive crime such as robbery and also theft from licensed premises.

Violent Crime Sub Group	Recorded Levels 01 Apr to 30 Jun 2008	Recorded Levels 01 July to 30 Sept 2008	Change Between Q1 and Q2		Recorded Levels 01 Oct to 31 Dec 2008	Change Between Q2 and Q3	
			Actual	%		Actual	%
PP Violence Against The Person	816	715	-101	-12.4%	612	-103	-14.4%
PP Sexual Offences	36	38	+2	+5.6%	21	-17	-44.7%
PP Robbery	65	88	+23	+35.4%	75	-13	-14.8%
Total PP Violent Crime	917	841	-76	-8.3%	708	-133	-15.8%

Beat	Proportion formed of Division's PP Violence Against The Person Apr to Jun 2008	Proportion formed of Division's PP Violence Against The Person Jul to Sep 2008	Proportion formed of Division's PP Violence Against The Person Oct to Dec 2008
Regency Beat 3	26.0%	23.6%	31.2%
St Peters & North Laine Beat 4	15.1%	12.2%	14.3%
Queens Park Beat 5	14.3%	13.1%	10.3%

Cumulative Impact in operation

CIZ is an important tool to address PPVC and associated criminality, but importantly, cannot be seen as a solution in itself. It is a practical and proportionate approach to assist with addressing the problem and ensuring that all possible avenues are explored. Prior to CIZ being adopted the onus was on statutory agencies to justify why conditions should be placed on a new

premises licence within the Licensing Act 2003 framework. With a cumulative impact policy in place then operators of licensed premises need to show how, if a new licence or variation is granted, there will be no undermining of the four licensing objectives or addition to the cumulative impact, namely that there will not be an increase in crime and disorder in the immediate locality as a result. This clearly does not seek to stifle legitimate business or impose any type of restriction on the number of applications. Rather it ensures that operators of licensed premises properly focus on the four key principles of the Licensing Act 2003.

These four key objectives are:

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Brighton & Hove suffers from high levels of PPVC and approximately half of all this criminality takes place within the city centre area. This area has the highest concentration of licensed premises, particularly premises which are high volume vertical drinking establishments. These premises are often open for long periods of time, in some cases all night.

Cumulative impact is seen as a measure which is assisting in reducing PPVC, anti social behaviour, public nuisance and criminal acts fuelled by alcohol.

All applications or variations submitted inside the CIZ are carefully studied. If it is felt that the cumulative impact will be affected then a representation is made. To date several applications have been refused at hearings. A venue refused a licence to sell alcohol is 'Jennifers', an off licence in St James Street with a history of incidents needing police attendance. Not all applications where representations have been made have been refused. 'The Hub', a small bar at the bottom of St James Street was granted an alcohol licence at committee hearing as it was felt that with conditions imposed upon the licence the premises could trade whilst not adding to crime and disorder in the immediate area. Equally some applications have not required a representation to be made at all as on application it is apparent that there will be no addition to the cumulative impact in the area. Each venue is treated on an individual basis and licence conditions for a large bar will probably not be proportionate for a small off licence. Any reasonable conditions are tailored to the specific premises, with the over riding aim of not adding to cumulative impact in the CIZ, whilst working within the framework of the Licensing Act 2003.

CIZ is a crucial part of the licensing approach to Brighton & Hove and taken together with a close working relationship between police and council links in with the Home Office drive to limit and reduce alcohol related crime. There is also the justified expectation from the residents of Brighton & Hove that we will use this to tackle alcohol related disorder, public nuisance and violent crime.

CIZ, rather than having any negative effect upon the licensing trade and night time economy within Brighton & Hove is actually assisting in setting higher standards and actively promoting a higher level of participation from operators of licensed premises in promoting the four key principles of the Licensing Act 2003.

The police view is that CIZ as adopted on the 13th March 2008 should remain in place and the area should remain the same. The two special stress areas, Brunswick and North Laine should also remain unchanged at this time. Analysis does not support either the CIZ or the special stress areas increasing in size, equally it does not support a downsizing of these areas. Figures show that whilst PPVC is showing a reduction over the year to date, the CIZ still accounts for over 50% of all PPVC. The only additional area police are monitoring due to thefts, PPVC and anti social behaviour is the southern end of London Road. It may be in future, based on further analysis and following consultation, that it may be proposed that London Road be put forward to be included as a special stress area.

Cumulative Impact – a summary

In conclusion the police view based upon analysis during the police performance year since CIZ was adopted is that this has had a positive effect and has assisted in reducing overall PPVC and therefore should remain in place and not be increased or decreased in size.

There has been no information received from any of the 3 District Inspectors who head the neighbourhood policing teams to highlight any changes to CIZ which are required. These Inspectors and the teams of police officers and PCSO's they lead work closely within the community.

Hotspot analysis and crime figures show that over 50% of all PPVC across the city takes place within the CIZ.

This area contains the highest concentration of licensed premises in the city and several of the top 10 streets for PPVC in Sussex are within the current CIZ.

Standards of licensed premises within CIZ are improving by greater participation from premises in promoting the licensing objectives. This is closely linked to the partnership approach by police, council, residents and licensed premises in ensuring a safer night time economy.

With the present financial climate and recession, CIZ will assist in improving the city centre area and attracting visitors to the area by providing as safe and enjoyable an experience in licensed premises as possible whilst council, police and the licensed trade work in partnership. Indeed Brighton & Hove has been awarded Beacon Status by the government in March 2009 for managing the night time economy and hailed as a national centre of excellence for managing drinking and licensed premises in the city centre. CIZ was mentioned as an important part of the decision making and judging process.

PS Wauchope CW098 Brighton & Hove Licensing Unit

