

Meeting:	Licensing and General Purposes Committee
Date:	6 March 2006
Subject:	Outline Report on The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001
Responsible Officer:	Gareth Llywelyn-Roberts, Head of Community Safety Services
Contact Officer:	P Sivashankar, Licensing Service Manager, ext 5605
Portfolio Holder:	Councillor Phillip O'Dell
Key Decision:	No
Status:	Public

## **Section 1: Summary**

### **Decision Required**

To approve the proposed action in accordance with the Local Authorities [Alcohol Consumption in Designated Public Places] Regulations 2001 to draw up detailed proposals to designate an alcohol exclusion zone in Harrow Town Centre.

To instruct officers to provide a detailed report to the next L&GP for approval for full consultation.

### **Reason for report**

To inform Members of the procedure to be followed by the Council to designate an Alcohol Exclusion Zone and agree the identified course of action based on the evidence available to support the decision.

## **Benefits**

The Council is obliged to take steps to ensure that the consumption of alcohol in public places is managed sensibly. One of the tools, which can be used is the implementation of an Alcohol Exclusion Zone. This allows the consumption of alcohol in a public place to be prohibited if the Council is satisfied that nuisance, disturbance or disorder affecting members of the public has been associated with the consumption of alcohol.

Implementation of such a zone will create a safer environment for the public to go about their business without being subject to anti-social behaviour, nuisance or disturbance, as well as improving perception to provide a direct and tangible reduction in Fear of Crime through enabling activities to be controlled to reduce the visible presence of public consumption of alcohol in public.

## **Cost of Proposals**

A detailed costing will be provided once the zone is determined and will be reported to the Committee. The matters that are to be considered are listed under para.2.4.2.

## **Risks**

The formation of a Designated Alcohol Exclusion Zone may displace street drinking and other problems associated with the consumption of alcohol in public areas, requiring the Council to undertake new or further extension of such Zones, where evidence is presented to support this process.

The potential lack of Police resources to enforce the Exclusion Zone against competing priorities may render the order void.

The Zoning applied must be based on evidence provided by the Police and Crime Reduction Partnerships. Selecting areas outside the evidentially supported area/s will render the procedure invalid and subject to challenge.

## **Implications if recommendations rejected**

The Metropolitan Police have requested that the Council should adopt this part of the Regulations to assist in reducing alcohol consumption in public places.

If the Alcohol Exclusion Zone is not implemented the ability to address street drinking and other disturbing behaviours associated with the consumption of alcohol in public places will not be available to enforcement agencies.

## **Section 2: Report**

### **2.1 Brief History**

- 2.1.1 The Council is committed to making Harrow a safe, attractive place for everyone who lives, works or visits the Town. This includes encouraging the development of a range of facilities to suit all tastes that as part of their business to sell alcohol.
- 2.1.2 On 1<sup>st</sup> September 2001, sections 12-16 of the Criminal Justice and Police Act 2001 come into force. These provide local authorities with a power to restrict anti-social public drinking in designated public places and they provide the police with the power to enforce this restriction. Also on 1 September the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 come into force. These set out the procedures to be followed by local authorities in designating public places for this purpose. A copy of the relevant section of the Regulations is provided at appendix 1.
- 2.1.3 These new statutory powers will replace the Home Office model byelaw relating to the consumption of intoxicating liquor in designated public places. From 1<sup>st</sup> September 2001 local authorities who wish to place a restriction on public drinking within their area, where this is associated with nuisance or annoyance to members of the public, or disorder, should consider whether to make an order under section 13 of the Act rather than proceeding with a byelaw.
- 2.1.4 Section 12 of the Act provides new police powers to deal with anti-social drinking in areas that have been designated for this purpose by the local authority. The police will have the power to require a person, in such a place, not to drink alcohol in that place where the officer reasonably believes that the person is, has or intends to do so, and to surrender any alcohol or alcohol containers (other than sealed containers) in the person's possession. It will not be an offence to drink alcohol in a designated public place, but failure to comply with an officer's requirements in respect of public drinking or surrender of alcohol, without reasonable excuse, will be an arrestable offence.
- 2.1.5 There is no intention that the provisions of the 2001 Act should lead to a comprehensive ban on drinking in the open air. Accordingly, section 13 allows local authorities to designate areas for this purpose only where they are satisfied that nuisance or annoyance to the public or disorder have been associated with public drinking in that place. Where there have been no such problems, a designation order under section 13 will not be appropriate.
- 2.1.6 It is for the local authority to be satisfied that public nuisance, annoyance or disorder has been associated with public drinking in the area concerned and that a designation order under section 13 is appropriate. The Local Authorities (Alcohol Consumption in Designated Public

Places) Regulations 2001 do not place a requirement on the local authority to conduct a formal assessment, over a given period, of the nature of the problem, as was the case with the byelaws procedure. Whether or not a designation order is appropriate will be a matter for local judgement, based on the circumstances and evidence available.

- 2.1.7 The Council will need to satisfy itself that these powers are not being used disproportionately or in an arbitrary fashion, which could be the case if there is not substantial evidence to support a designation order. Clearly there should be evidence of an existing ongoing problem, with an assessment as to the likelihood that the problem will continue unless these powers are adopted. Against this background, a single, serious incident will be insufficient to justify adoption of the powers.
- 2.1.8 The Regulations require local authorities to consult with the police prior to making a designation order (Regulation 3(1)(a)). This is to seek the views of the police on the nature of the problem and the appropriateness of adopting the section 12 powers to respond to it, in recognition of the fact that it will be the police who will have the responsibility for enforcing the resulting restrictions on public drinking.

Regulation 3 sets out the other bodies who must be consulted before a designation order is made. These are:

- Any parish or community council covering all or part of the public place to be designated. In addition, local authorities should be open to receive representations from parish or community councils in their area, relating to the designation of a public place within the area of the parish or community council;
- The police and neighbouring local authorities, parish or community councils, where a designation order covers an area on the boundaries with that neighbouring authority. This is to allow for consideration to be given to the consequences of the designation order on the neighbouring authority (such as the possible displacement of anti-social public drinking problems) before the designation order is made;
- Licensees within the area and licensees who may be affected by the designation order;
- The owners or occupiers of any land that may be identified in a designation order. There may well be occasions when it is impossible to identify or find the owners of particular land or property, so Regulation 3(2) does not place an absolute requirement on local authorities in this instance. It requires local authorities to take all reasonable steps to consult landowners e.g. through open public advertisement.

- 2.1.9 Regulations 5-9 cover publicity requirements. Regulations 5 and 6 are concerned with advance publicity. By virtue of regulation 4, local authorities will be under a duty to consider any representations received

as a result of this publicity. It is proposed that a Licensing Panel would consider these formally.

- 2.1.10 Regulation 7 concerns publicity once a decision has been made to designate an order under section 13 of the Act. Regulation 8 sets out the requirement to erect signs to ensure that the public (including visitors to the area) are made aware that restrictions on public drinking may apply. As was previously the case under the Home Office byelaws guidance, signs to indicate the effect of a designation order should be clear and unambiguous and not conflict with or obscure traffic signs. They should be placed at the approaches to designated areas and repeated within them, and the local highway authority should be consulted.
- 2.1.11 Regulation 10 makes an amendment to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. The effect of this is that this function will not become a function of the executive under the terms of the Local Government Act 2000 but will be one that remains with the council. In all normal circumstances, the local authority may wish to ensure that decisions relating to designation orders are made by full council or a committee of the council, as opposed to being delegated to an officer of the council. This has already been dealt with through the Council Motion and authority delegated the Licensing and General Purposes Committee.
- 2.1.12 By virtue of section 15 of the 2001 Act, existing public drinking byelaws will cease to have effect once the area is designated in accordance with section 13. The practical effect will be to enable the police to enforce the public drinking restriction through the use of the powers conferred by section 12 of the Act, once the area is designated.
- 2.1.13 Any relevant local authority byelaw which is not replaced by a section 13 designation order will, by virtue of section 15 of the Act, lapse after a period of five years commencing on 1 September 2001.
- 2.1.14 To ensure that the public have full access to information about designation orders made under section 13 of the Act, Regulation 9 requires all local authorities to send a copy of any designation order made to the Secretary of State. These should be sent to Home Office.

## 2.2 Options considered

- 2.2.1 There have been two options identified and considered. The provision of an Exclusion Zone for the entire borough and the provision of a zone for an identified area surrounding and including the Town Centre.
- 2.2.2 Whilst the Council Motion proposed the creation of a Zone to cover the whole of the Borough. In assessing the likely evidence to support this proposal we have considered the evidence available from the Police and Council data in terms of violent against the person, drunkenness and Ambulance data. See Appendix 2. It is clear, and this is confirmed

following discussion with the borough commander, that the evidence does not support the provision of a borough wide Exclusion Zone.

2.2.3 The evidence is however, very clear in identifying that disturbance and disorder, associated with the consumption of alcohol in public areas, is concentrated in the Town Centre, The evidence supports the provision of an Exclusion Zone for a designated area of the Town Centre, and this need is fully supported by the Police. This is in line with Paras; 2.1.5; 2.1.6 and 2.1.7. relating to the evidence on which the decision must be based and the fact that police must be consulted and agree the proposal.

## 2.3 The Proposal

### 2.3.1 It is therefore proposed that:

- Officers draw up detailed proposals and clearly identify the area to be identified as designated zone.
- Consult with Police and other Partners to agree that the proposal is based on the evidence provided.
- Draw up proposals for the public consultation process, posters, newspapers etc.

## 2.3 Consultation

2.3.1 the consultation process is set out in Para 2.1.8.

## 2.4 Financial Implications

2.4.1 It is anticipated that the costs of implementing an Alcohol Exclusion Zone will be met from the existing budget of the relevant Head of Service. However the situation will be monitored as part of the planning process and if significant costs are likely to be incurred the matter will be re-considered and brought to the attention of members when the final decision on the Exclusion Zone is made.

2.4.2 The financial implications arising to the Council identified at present are as follows:

[a] Placement of advertisements in a Local newspaper; as part of the statutory Consultation Process and management of the process itself.

[b] Consultation/mail shot to owner/occupiers of properties in the area concerned and to licensees;

[c] The placement and replacement of street signs to advertise the Alcohol Exclusion Zone;

[d] The costs to the council and/or police for any prosecution and general enforcement costs. Responsibility for enforcement of the powers remains

primarily with the Police but other agencies would be required to assist; [e] any legal costs associated with the review of the Alcohol Exclusion Zone as a result of objections to the process;

Detailed costings need to be calculated and, once available, will be presented in a further report.

## 2.5 Legal Implications

2.5.1 The Regulations set out the procedure to be followed by local authorities in connection with orders designating a public place under section 13 of the Criminal Justice and Police Act 2001. The Regulations set out the consultation requirements before making an order and the publicity requirements before and after making an order. Once an order is made under section 13 in relation to a public place in their area, the police powers under section 12 of the Act (to require a person not to consume intoxicating liquor and to surrender opened containers of such liquor) will be available.

## 2.6 Equalities Impact

2.6.1 As part of the implementation of the zones it will be critical to the work with local agencies to reach, in particular, street drinkers, and offer assistance and referral to support agencies.

2.6.2 There are no other Equal Opportunities implications arising directly from this report.

## 2.7 Section 17 Crime and Disorder Act 1998 Considerations

2.7.1 The provision of an alcohol exclusion zones will have a positive effect on the local environment and with the associated promotion, education and enforcement would help reduce incidents of broken glass, litter as well as the visible negative impact of street drinking and related ASB and fear of crime.

2.7.2 The use of such orders would assist in tackling alcohol related crime and disorder and anti social behaviour as well as providing support for the Licensing Policy through reducing under age drinking, reducing public drunkenness and preventing alcohol related crime.

2.7.3 In this manner it would directly deliver against key corporate priorities and the Priority of Reducing Drug and Alcohol related harm and under the Crime and Disorder Reduction Strategy 2005-8

## **Section 3: Supporting Information/Background Documents**

Background Documents: Regulations.