

Meeting:	Licensing and General Purposes Committee
Date:	23 June 2008
Subject:	Report on The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007, and to extend the existing zone to the whole of the Borough and to withdraw the existing zone
Responsible Officer:	Corporate Director Community and Environment - Andrew Trehern
Portfolio Holder:	Deputy Leader, Environment Services - Councillor Susan Hall
Exempt:	No
Enclosures:	Representations received

Section 1 – Summary and Recommendations

This report sets out the powers available to the Local Authority under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.

Recommendations:

The Committee is requested to approve the proposed action in accordance with the Local Authorities [Alcohol Consumption in Designated Public Places] Regulations 2007 and to recommend to the **Full Council** to extend the existing Alcohol Exclusion Zone to cover the whole of the Borough and on the date of implementation of the new zone to withdraw the current zone.

Reason: (For recommendation)

The provision of a Borough Wide Alcohol Zone was a Manifesto commitment and is a Flagship Action in 2008/9. Since the introduction of our current alcohol exclusion zone, our neighbouring Boroughs have introduced Borough Wide Alcohol Exclusion Zones. This has caused dispersal and displacement into Harrow which is likely to continue. A Borough wide scheme is required to

deter displacement, act as a deterrent and provide the powers to the Police to enforce against alcohol related anti social behaviours where required. The Safer Neighbourhood Teams have requested that we extend the current zone to cover the whole of the Borough to deal with identified problems caused by displacement on our borders.

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 protecting the right of all residents to enjoy and feel safe in public areas and encouraging the development of a range of facilities to suit all tastes by businesses that sell alcohol.
- 2.1.2 On 1st September 2001, sections 12-16 of the Criminal Justice and Police Act 2001 came into force. These provide local authorities with a power to restrict anti-social public drinking in designated public places and provide the police with the power to enforce this restriction. The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 came into force on the same date but this has now been revoked and replaced by the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007. These set out the procedures to be followed by local authorities in designating public places for this purpose.
- 2.1.3 These statutory powers replaced the Home Office Model Byelaw relating to the consumption of intoxicating liquor in designated public places. From 1st 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 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.
- 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 has 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. 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 no 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 sufficient 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 also sets out the other bodies that must be consulted before a designation order is made. These are:

- Premises licence holders, club premises certificate holders or premises users in relation to each premises which the local authority considers may be affected by the designation and which are premises for which premises licenses, club premises certificates, or temporary event notices have been granted and are effective under the Licensing Act 2003
- 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;
- 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.

When consulting any of the parties referred to above, the local authority is also required to describe in writing the effect that the order will have in relation to categories of premises identified in the Regulations.

- 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 and General Purposes Committee would consider these formally. All representations received are attached to this report.
- 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 must 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 Full Council. The Council Motion provided delegated authority to the Licensing and General Purposes Committee to consider the Order, although the final decision rests with Council.
- 2.1.12 By virtue of section 15 of the 2001 Act, existing public drinking byelaws ceased to have effect from September 2001. Designation of in accordance with section 13 will 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 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.
- 2.1.14 On 3rd March 2008, a report was submitted to this Committee to give permission for a 12 week consultation regarding the proposed extension to cover the whole of the Borough.
- 2.1.15 At that meeting members agreed that the Officers can start the public consultation and stipulated that an advertisement must be placed in the "Harrow People" so that the consultation is widely received. An advertisement was placed as requested at a cost of £1500. The consultation was concluded on 9 June 2008. The authority has met the requirements of the Regulations with regard to consultation with the Police and other bodies and regarding advertisements and information to existing licensees prior to the making of a designation order. Of the responses received, 90% were in favour of the proposal. All copies of these responses are appended to this report

2.2 Current situation

2.2.1 On 16 October 2006 the existing zone was introduced to cover the Town Centre, South Harrow and parts of Wealdstone. This zone is enforced by the Police and the Safer Neighbourhood Teams.

2.3 Why a change is needed

2.3.1 Since the introduction of this zone our neighbouring Boroughs have introduced Borough Wide Alcohol Exclusion Zones. This has caused dispersal and displacement into Harrow which is likely to continue. A Borough wide scheme is required to deter displacement, act as a deterrent and provide the powers to the Police to enforce against alcohol related anti social behaviours where required. The Safer Neighbourhood Teams have requested that we extend the current zone to cover the whole of the Borough to deal with identified problems caused by displacement on our borders.

2.4 Implications of the Recommendation

2.4.1 Are set out paras 2.1.8 to 2.1.11

2.5 Equalities impact

2.5.1 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.

2.5.1 The Zone will apply equally to all people regardless of their circumstance and there are no other Equal Opportunities implications arising directly from this report.

2.5 Legal comments

2.6.1 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.

2.6.2 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.

2.6.3 The Council may lawfully make an order under section 13(2) of the Criminal Justice and Police Act 2001 provided that the following preconditions have been met -

1. The place to be designated is a public place within the London Borough of Harrow.
2. The Committee is satisfied that either nuisance or annoyance to members of the public or a section of the public, or disorder, has been associated with the consumption of alcohol in that place.

3. The Council has consulted with the persons set out in paragraph 2.1.8 of this report.
4. The Council has publicised the making of the Order as required by Regulation 5.
5. The Committee has considered all representations as to whether or not the particular public places should be identified in the order.

2.6 Financial Implications

2.7.1 It is anticipated that the costs of implementing an Alcohol Exclusion Zone will be a one off cost of approximately £15k predominately for the provision of appropriate signage, public notices and consultation. This cost has been reported in agreeing the Flagship Action for 2008/9 and designated as being set against the Investment Pot. If this funding stream is not accessed an alternative funding provision will need to be identified.

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

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

[b] 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;

[c] any legal costs associated with the review of the Alcohol Exclusion Zone as a result of objections to the process;

2.7 Risk Management Implications

None

Risk included on Directorate risk register? No

Separate risk register in place? No

Section 3 - Statutory Officer Clearance

Name: ...Sheela Thakar	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date:11.06.2008		
Name: Helen White	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: .11.6.2008		

Section 4 - Contact Details and Background Papers

Contact: P Sivashankar, Service Manager, 020 8736 6237

Background Papers: All representations received during the 12 Week public consultation.

If appropriate, does the report include the following considerations?

1.	Consultation	YES
2.	Corporate Priorities	YES