



Executive
10th April 2006

**Report from the Director of
Policy and Regeneration**

For Action

Wards Affected:
Kilburn, Brondesbury Park,
Queens Park, Mapesbury

Pilot Controlled Drinking Zone – Kilburn High Road Area

Forward Plan Ref: PRU– 05/06-21

1.0 Summary

- 1.1 The Criminal Justice and Police Act 2001 gives local authorities the power to designate public spaces as Controlled Drinking Zones (CDZ) by way of an order, where there is evidence of nuisance, annoyance or disorder caused by the public consumption of alcohol. Regulations require this decision to be taken by Full Council. Within the zones this gives to the local police powers to require people to stop drinking and confiscate and remove alcohol.
- 1.2 The presence of street drinkers in the area around Kilburn High Road and South Kilburn has led to complaints of anti-social behaviour and affected public perceptions of the area. The report proposes that a pilot CDZ be implemented, for a 6 month period, along the Kilburn High Road and within South Kilburn, adjacent to the borough boundaries with Camden and Westminster. The Brent CDZ would complement the CDZs that are being planned or already in place on the Camden and Westminster side of the border.
- 1.3 An evaluation of the pilot will be used to inform consideration of this tool and its suitability in other areas of Brent where the consumption of alcohol in the street or public places causes problems of crime and anti-social behaviour.

2.0 Recommendations

That the Executive note the report and:

- 2.1 In principle, support the implementation of a pilot controlled drinking zone in the area around Kilburn High Road and South Kilburn for an initial period of 6 months.
- 2.2 Agree the area to be designated as a public place as shown in the map (appendix a), subject to any adjustments which may be made following consultation.
- 2.3 Refer this report and recommendations to Full Council for decision.
- 2.4 Request an evaluation of the scheme 6 months from implementation and then consider further options for the implementation of CDZ's elsewhere in Brent.

3.0 Detail

Controlled Drinking Zones, Power and Provision

- 3.1 The Criminal Justice and Police Act 2001, Chapter 2, is concerned with problematic alcohol consumption in public areas. It allows the local authority to designate, by an order, a public place as a "Controlled Drinking Zone" (CDZ), as long as they are satisfied that:

"a) nuisance or annoyance to members of the public or a section of the public, or

b) disorder

has been associated with the consumption of intoxicating liquor in that place."

3.2 The creation of a zone **does not** mean that it becomes an offence to drink alcohol within the area. Once designated the police have the power in public areas within the CDZ to require people not to consume anything which they reasonably believe to be intoxicating liquor, or to confiscate and dispose of items that they believe to be intoxicating liquor. Effectively the powers allow a police officer to require a person to stop drinking and surrender alcohol.

3.3 The legislation was primarily introduced to deal with the problems caused by regular and persistent street drinkers. As well as the anti-social behaviour and distress caused to residents, street drinking also threatens the business community and contributes to a variety of health and environmental hazards such as litter and street fouling. It was not introduced as a means of preventing or controlling street drinking outside licensed premises or in parks or other open spaces. However, the enforcement of the zone is the responsibility of the police who will have and be able to apply discretion when determining when where and how they exercise these powers.

Evidence of the problem

- 3.4 The Kilburn High Road has suffered from 'street drinkers' for a considerable time. At a recent Safer Neighbourhood Team panel meeting local residents identified one particular area of concern around Glengall Road, where they felt unsafe or intimidated by street drinkers. The police Safer Neighbourhood Team were asked to provide further evidence of the problem. In a short survey they were able to find 166 records of incidents related to street drinking problems in the Kilburn ward area from April 2005 to mid March 2006. They believe this is an under-representation of the problem and that further research and time would provide more examples.
- 3.5 A Kilburn High Road Crime Group meets regularly and has membership from both Camden and Brent councils and police as Kilburn High Road forms the boundary between Camden and Brent. A recent meeting of this group considered anti social behaviour problems around the High Road, including street drinking and begging. One suggestion for dealing with the street drinking was that Kilburn High Road became a Controlled Drinking Zone. Alongside this it was suggested that alcohol support projects were consulted around services provided to the street drinkers in the area.
- 3.6 For the last 12 months the London Borough of Camden has piloted a CDZ in Camden Town. Its principal aim was to deal with the street drinking problem in that area. Outside of the meetings about the problems in Kilburn Brent officers were informed that in April Camden Borough will be considering a proposal to make the whole borough of Camden a Controlled Drinking Zone.
- 3.7 The decision by Camden to propose a Borough wide zone has accelerated the implementation of this suggestion on the Brent side in Kilburn. The street drinkers in Kilburn move freely from one side of the road to another. The active implementation of a CDZ in Camden without an equivalent zone and power on the Brent side would result in inconsistent police powers within what is essentially a single area. It is therefore proposed that Brent implements a CDZ in the designated area of Kilburn High Road, so Brent police powers will match those of Camden and ensuring that a joined up approach is taken when dealing with street drinking and associated anti social behaviour. The implementation of the zone would allow police Safer Neighbourhood Team in Kilburn to work in partnership with their colleagues in Camden to enforce the zone and direct drinkers to support services, regardless of which borough they live or drink in.
- 3.8 Officers from the New Deal for Communities in South Kilburn have also requested that the zone includes this area, which borders on Westminster. Westminster Council has already implemented a Controlled Drinking Zone across the whole borough, up to and including the border with Brent in South Kilburn.

- 3.9 In a letter dated 17th March the Chief Executive confirmed that there are regular problems with street drinkers in the area and the estate.
- 3.10 It is proposed that the Brent scheme is piloted for a 6 month period. This will allow us to evaluate its effectiveness. A review of the scheme can then give consideration to the expansion of CDZ to other areas of the Borough that suffer from problematic alcohol consumption in public spaces. This should include consideration of the suitability of the scheme for the area around Wembley stadium.

Support services for people with alcohol problems

- 3.11 Street drinkers, by their behaviour, also cause significant damage to their own health. Chronic problems with alcohol are associated with physical and mental health issues. Brent Council and Brent Primary Care Trust (PCT) currently commission or support a variety of agencies that provide support and assistance to those individuals with alcohol problems who are willing to be assessed and accept services such as detox and rehabilitation. They include a newly commissioned Outreach Service for people with substance misuse problems being delivered by Crime Reduction Initiatives, Brent Alcohol Counselling Service, Brent Community Alcohol Service, Brent Irish Advisory Service and Cricklewood Homeless Concern. Some of these agencies are based in or near to the proposed CDZ. St Mungos also run a hostel in the Kilburn area.
- 3.12 Whilst the police will be concerned with the enforcement of the zone, they will also be asked to signpost those drinkers affected by the zone and who are willing to access support services towards these support services. It was agreed by the Brent Crime Prevention Strategy Group meeting on 21st March that officers from the PCT, the Council and the police will ensure that arrangements are in place to direct street drinkers to appropriate support services.

Consultation and publicity

- 3.13 This proposal has been discussed with Brent police and the Brent Primary Care Trust Drug and Alcohol Action Team through meetings of the Brent Crime and Disorder Reduction Partnership. It was formally agreed at the Crime Prevention Strategy Group meeting on 21st March. The Kilburn High Road crime group discussed the proposals at their meeting on 15th March. As noted above officers from the South Kilburn NDC were consulted about the extension of the zone to South Kilburn. All are in support of the proposals and the boundary lines given in the map of the proposed CDZ area.
- 3.14 The regulations also require that the Borough consults with licensees of licensed premises in the area and with the chief officers of the police and the local authority in areas adjacent to the zone and likely to be affected by it. The Borough is required to take reasonable steps to consult with local people and place a public notice in a local newspaper

seeking representations as to whether or not the proposed area is designated as a Controlled Drinking Zone.

- 3.15 All licensees in the designated area have been written to and a notice and copy of the map was published in the Times Group newspapers in the week commencing 20th March. A letter has been sent to the Chief Executives and Chief Superintendents of Westminster, Camden and Kensington and Chelsea. The views and observations of ward councillors have been sought and all attendees at the Kilburn and Kensal ACF were given a copy of the notice and the map on 15th March. The map and information about the zone was placed on the Brent website on 27th March.
- 3.16 All consultees and members of the public have been given to 7th April to make representations about the proposal to the Head of Community Safety. Feedback from this consultation will then be used to inform the final report going to Full Council on 24th April 2006.
- 3.17 Once agreed the CDZ cannot be acted upon until further publicity and notification has been put in place. Therefore a lead in time for implementation is needed of around 8 weeks to put in place the relevant signage, training and information sharing between the different agencies and to establish the partnership for evaluating the pilot.
- 3.18 The pilot will be evaluated through the collection of information from partner agencies and the public. This will include information from the police, the Council in regard to complaints of anti-social behaviour, the treatment providers and consultation with the public through the Safer Neighbourhood Panels. The evaluation will be co-ordinated through the Kilburn High Road crime group.

4.0 Financial Implications

- 4.1 Resource requirements will be identified as part of the implementation plan. The enforcement of the zone will be implemented by the MPS through its Safer Neighbourhood Team. The consultation and collection of information for the evaluation of the pilot will be met from existing resources held by the MPS and the Council. Additional resources will be required to cover signage and publicity, as appropriate, in the area. These costs will come from the communications budget assigned to the Brent CDRP under the Local Area Agreement.
- 4.2 The enforcement of the zone may lead to an increased demand on voluntary sector support agencies who work with street drinkers and people with alcohol problems. This could lead to a need for increased funding for such services. An assessment of the demand for support services and impact upon them will be part of the evaluation of the pilot.

5.0 Legal Implications

- 5.1 The Council has a duty under section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect on (a) crime and disorder in the borough and (b) the need to do all that it reasonably can do to prevent crime and disorder in the borough.
- 5.2 Home Office guidance states that “there is no intention that the provisions of the 2001 Act should lead to a comprehensive ban on drinking in the open air” and that “the local authority will want to satisfy itself that the...powers are not being used disproportionately or in an arbitrary fashion...” and “clearly there should be evidence of an existing problem with an assessment as to the likelihood that the problem will continue unless the powers are adopted”. In making their decision Members should have regard to this guidance, although it is not binding.
- 5.3 The legislative basis for the power to make this order is set out in the body of this report (paragraph 3.1). It is important that Members make their decision about whether or not to make the order based on evidence of actual nuisance, annoyance or disorder associated with the consumption of alcohol in the relevant area, not on anticipated problems that may or may not arise as a result of a neighbouring borough’s actions.
- 5.4 The making of this type of order is governed by The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001. The regulations state that the order cannot be made by the Council’s Executive. They also prescribe the consultation and publicity that is required as part of the order-making process. After making the order and before it takes effect, the Council must publish in a newspaper that circulates in the relevant area, a notice that identifies the CDZ, setting out the effect of the order and indicating the date on which the order will take effect. The Council must also erect signage within the CDZ to inform members of the public of the effect of the order, and must send a copy of the order to the Secretary of State.
- 5.5 Any data sharing needed to implement the CDZ will of course need to be undertaken in compliance with the Council’s various obligations to protect the privacy of the individuals concerned.
- 5.6 The proposed order will only have effect in public places. It will not apply for example to licensed premises within the CDZ.
- 5.7 If the order is made, anyone within the CDZ who fails (without reasonable excuse) to comply with a police constable’s direction to stop consuming alcohol and/or to surrender the substance, will be committing an offence, punishable either by a £50 fixed penalty notice, or arrest and prosecution for a level 2 fine (max £500). It is also possible for an individual to be made subject to bail conditions stopping him or her from drinking in public. Merely consuming alcohol in public, within the CDZ will not of itself be an offence.

- 5.8 The making of the order is not considered to be an interference with an individual's human rights. If however a court found that there was an interference it could be justified as being proportionate and in-keeping with the protection of the rights of other people affected by the anti-social behaviour the order is designed to prevent. When exercising the powers conferred by the order the police will need to satisfy themselves that any interference with human rights, for example confiscation of alcohol (as a personal possession), can be justified.
- 5.9 The legislation that makes the proposed order possible does not contemplate a pilot period as such. Therefore for it to operate as a temporary arrangement, Council officers will need to obtain the co-operation of the police in order to suspend enforcement of the zone after the 6 month pilot period. It will be necessary for Members to revoke the order to fully remove the powers, in other words to rescind the zone's status.
- 5.10 The Council's Statement of Licensing Policy does not specifically relate to controlled drinking zones as it is concerned primarily with licensed premises. However the principle objectives of the proposed order are in-line with those of the Licensing Policy, namely to prevent crime and disorder, prevent public nuisance and promote public safety. In normal circumstances an applicant who wishes to place tables and chairs on the public highway outside their premises needs to be licensed for that by the Council. If such an application is made from within the CDZ the existence of the order will need to be taken into account.

6.0 Diversity Implications

- 6.1 An Equality Impact Assessment will be completed on the implementation plan for the pilot CDZ. The quality of life of all members of the community is negatively affected by the anti-social behaviour caused by problematic street drinkers. This measure, therefore should improve quality of life for residents and businesses.
- 6.2 However the street drinkers themselves are regarded as a vulnerable group who suffer from health and mental health problems associated with their alcohol abuse. This will be addressed by the referral to relevant support services. Equality monitoring of the take up services by the support services will be requested for the evaluation of the pilot

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 There are no staffing implications to this report or its recommendations.

Background Papers

Contact Officers

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