

Committee: Licensing Committee

Date: 25 October 2012

Agenda item: 5

Wards: All

Subject: Controlled Drinking Zones – Establishing an acceptable trigger point

Lead officer: Annalise Elliott, Head of Safer Merton

Lead member: Councillor David Simpson

Forward Plan reference number: n/a

Contact officer: Annalise Elliott, Head of Safer Merton, annalise.elliott@merton.gov.uk

Recommendations:

- A. That Merton's Licensing Committee in consultation with the police decide upon an acceptable trigger point for the instigation of a Controlled Drinking Zone
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report outlines the powers and processes available to the Council when instigating the process of designation of the LB Merton or parts of the same as a Controlled Drinking Zone (CDZ) or Designated Public Places Order (DPPO) as it is also known. It details the powers of the Criminal Justice and Police Act 2001 as amended under the Licensing Act 2003 that would be used to establish any CDZ.
- 1.2 In 2006 Members agreed to take this process forward in Wimbledon Town Centre and more recently (September 2012) in Mitcham Town Centre. Further CDZ requests have been made to the Safer Merton Partnership, for other areas of the borough.
- 1.3 It was agreed at Full Council that an automatic trigger point is needed to ensure transparency of decision making for potential future CDZ's, so this paper suggests a possible way forward.
- 1.4 The consideration of a pan borough CDZ should also be considered due to the financial implications of individual zones.

2 DETAILS

- 2.1 Relevant powers are contained in Chapter 2, of the Criminal Justice and Police Act 2001 and amended under the Licensing Act 2003. Specifically the following applies within a designated CDZ.
- “The constable (police) may require the person concerned –
- a) Not to consume in that place which is or which the constable reasonably believes to be, alcohol;
 - b) To surrender anything in his possession, which is, or which the constable reasonably believes to be, alcohol or a container for such alcohol.

- c) A constable may dispose of anything surrendered to him under subsection 2 in such a manner, as he considers appropriate”.
- d) it is not an offence to drink alcohol in a CDZ but failure to comply with an officers requirement, in respect of public drinking, or the surrender of alcohol without reasonable excuse is an arrestable offence. * Penalties for this offence include – penalty notice for disorder (PND) £50 or arrest and prosecution for a level 2 fine with a maximum of £500

- 2.2 Effectively the powers allow for the Police to require a person to stop drinking and surrender alcohol in public areas within the CDZ. This is a discretionary power and would not be used in all circumstances.
- 2.3 To date, there are two CDZ's in the borough and whilst the instigation was based on evidence through anecdotal information and community and member complaints, there was no set criteria established for determining whether one area should be selected and another not.
- 2.4 To ensure that the decision making process for where the CDZ's should be situated is transparent, it was proposed and agreed at full council in July that the Licensing Committee in consultation with the Police should decide upon a trigger point and once the trigger point has been reached a report should be submitted for consideration by scrutiny before the General Purposes Committee and then Council.
- 2.5 Safer Merton proposes the trigger points should be evidenced through both crime figures and community complaints. Whilst it is difficult to ascertain the true level of alcohol related crime a suggested figure could be based on alcohol related (CAD) calls to the Police and a number of combined community complaints to the Council (including the Anti-Social Behaviour Team) and the Police.
- 2.6 At the July Council meeting, reference was made to a petition to stop street drinking in Mitcham. The number of signatories could help to inform the trigger level for community complaints.
- 2.7 To assist in the decision for the most appropriate trigger point for alcohol related calls to the Police; the evidence that supported the Mitcham CDZ showed that over a four-month period (April - July) there were 33 alcohol related calls. It is important to consider that the Mitcham area was fairly big and feedback from the community through the consultation suggested that they didn't report to the Police, as they didn't feel that the Police could do anything, hence a possible impact upon the figures. Another important consideration when deciding upon the appropriate crime figure is the time period to be covered. If it is over a three-month period then the issue of seasonality will need to be considered.
- 2.8 Once a trigger point has been reached, Safer Merton suggests that either members or the relevant officer (from either the Council or Police) submit the evidence to the Licensing Committee for their consideration.
- 2.9 Safer Merton also proposes that any CDZ (including those that are already in operation) be reviewed to assess the impact upon the local area. This could be

achieved through an assessment of crime figures and complaints received from the designated areas.

3 ALTERNATIVE OPTIONS

- 3.1. That the borough considers a pan borough CDZ eliminating the need for a trigger point. This would also reduce the financial burden of consulting on individual requests.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. Consultation with the Police will be needed when considering the most appropriate trigger point.
- 4.2. If a pan borough CDZ is considered then the appropriate statutory CDZ consultation will need to be undertaken.

5 TIMETABLE

- 5.1. A timetable will be needed as and when a CDZ is proposed

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. There are no financial issues for this report, however if a zone is to be considered then the cost will be between £20,000 and £30,000 dependant upon the size of the CDZ and the timetable.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1 Legislation governs the minimum process that must be adhered to in order to consider the implementation of a controlled drinking zone.
- 7.2 CDZ's give the Police an additional power, namely that of confiscating alcohol in the street where there are concern's about street drinking, these powers can only be granted by the local authority.
- 7.3 Initially this legislation gave the Police other additional powers however these been superseded by other legislation namely the Violent Crime Reduction Act 2006. Section 27 of this act allow the police to 'give direction to leave' to any individual who is likely to cause crime or disorder that is alcohol related. They can also order this individual to leave the area for up to 48 hours.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1 The power to allow a constable to require a person to stop drinking in public areas and to surrender alcohol is on the face of it an infringement by the state of individual liberty. The Human Rights Act is therefore engaged and any interference with Human Rights will need to be justified by reference to the appropriate statutory justification.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1 There are unlikely to be any crime and disorder implications from the implementation of a trigger point, however there is likely to be an impact on crime and the fear of crime if further zones (or a borough wide zone) are put in place.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1 There is no health and safety implications for the council arising from this report, however, there may be for the Police in the delivery of the CDZ's.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- 11.1 None

12 BACKGROUND PAPERS

- 12.1. None