 Regulatory Committee 21 December 2009		Agenda Item No.
Title	Alcohol Consumption in Public Places	
For further information about this report please contact	Georgina Hunt, Community Safety Officer 01926 456075	
Service Area	Community Safety	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No	
Date and meeting when issue was last considered and relevant minute number	N/A	
Background Papers	Minutes of Regulatory Committee 4 January 2006	

Contrary to the policy framework:	Yes/No
Contrary to the budgetary framework:	Yes/No
Key Decision?	Yes/No
Included within the Forward Plan? (If yes include reference number)	No

Officer/Councillor Approval		
With regard to officer approval all reports <u>must</u> be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
Officer Approval	Date	Name
Relevant Director		Bill Hunt
Chief Executive		Chris Elliot
CMT		Andy Jones
Section 151 Officer		Mike Snow
Legal		Peter Oliver
Finance		Mike Snow
Portfolio Holder(s)		Councillor Kirton
Consultation Undertaken		
Consultation will follow once the Committee has agreed the DPPO. The consultation will be in line with the Home Office Guidance, and will include Warwickshire Police, Parish or Community Councils, Licensees and residents.		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. SUMMARY

- 1.1 The purpose of this report is to bring to Members' attention the current problems of alcohol related crime and disorder in Warwick District and to present the case for making a District Wide Designated Public Places Order (DPPO) to help to reduce alcohol consumption and associated disorder in public places.
- 1.2. The Council has previously published two DPPOs to try and alleviate problems in those areas where there is evidence of alcohol related crime and disorder. There is now evidence of alcohol related crime and disorder outside of these designated areas.
- 1.3 DPPOs give the police the power under Section 12 of the Criminal Justice and Police Act 2001 to require a person not to drink alcohol and to surrender alcohol in their possession in the areas covered by the Order. Members should note that the Police only exercise section 12 powers in relation to "problem" drinking – this means where there is a threat to community safety. The Order should not be misconstrued as a total ban on alcohol consumption in public places.

2. RECOMMENDATION

- (1) A District Wide Designated Public Places Order be made;
- (2) the Order be made in the form set out in appendix 1;
- (3) Officers be authorised to carry out the necessary procedure to bring the Order into effect; and
- (4) if objections to the Order are received, following the public notice, a further report be submitted to the Committee.

3. REASONS FOR THE RECOMMENDATION

- 3.1 It is recognised nationally that alcohol is a major contributory factor to anti-social behaviour, violence and criminal damage. Analysis of alcohol related crime and disorder is detailed within the body of the report.
- 3.2 Alcohol abuse in Warwick District is a major and consistent public concern and the anti-social behaviour that arises from it contributes to the fear of crime.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 No change to the current arrangements

Should the Council decide not to extend the current DPPO arrangements this may result in public dissatisfaction and restrict the powers available to the Police to address alcohol related anti-social behaviour. However, the Council would not incur the financial costs of a new DPPO.

4.2 An Incremental Approach

- 4.2.1 The Council has previously taken an incremental approach to DPPOs, with the two existing Orders covering those areas where there was evidence of alcohol related crime and disorder when they were made in 2002 and 2006. This approach was taken because Home Office guidance requires that there is evidence of alcohol related nuisance or annoyance to the public in the proposed DPPO area. This

evidence should be based on information from the Police and members of the local community who have reported incidents of alcohol related anti-social behaviour or disorder.

Guidance on Designated Public Places Orders is contained in Annex A of Home Office Circular 13/2007. An extract is attached as appendix 4.

4.2.2 Officers have considered the following two options for incremental extension of the current Restricted Drinking Zone:

- (i) to make a DPPO to cover the specific streets where alcohol related crime and disorder has been recorded which do not fall within the current RDZ.
- (ii) to make a DPPO covering the Police Priority Area which incorporates the whole of Brunswick, Clarendon and Willes wards. These are the main wards which show hotspots for alcohol related crime and disorder, and have the highest volume crime in the district.

However, there are significant disadvantages to taking an incremental approach:-

- there may be displacement into areas surrounding the designated area which would adversely affect residents in those parts of the District
- it is confusing for the public
- It is more difficult for the Police to enforce
- each location will require signage
- the consultation process is more complicated
- it is harder to promote
- there is potential for dissatisfaction in the communities which are not covered.

5. BUDGETARY FRAMEWORK

- 5.1 Costs will be incurred for consultation, preparation and implementation of the Order. These costs will be met from within the existing Crime and Disorder budget with Warwickshire Police being responsible for enforcement.
- 5.2 The legal requirement is such that before the Order takes effect a local authority will erect in the place identified such signs as they consider sufficient to draw the attention of members of the public in that place to the effect of the Order. Signs are already in place within the existing DPPO areas. For a district wide order a budget of £9000 would be required for the manufacture and fixing of signs for the approaches to all urban areas and all villages, together with a number in the parks and open spaces.
- 5.3 The cost of monitoring and evaluation of the Order is anticipated to be able to be borne within the existing operational structure and budgets of the South Warwickshire Crime and Disorder Reduction Partnership.

6. POLICY FRAMEWORK

- 6.1 Making Neighbourhoods feel safer is a priority in the Corporate Strategy 2008-2011.
- 6.2 Reducing Anti-Social Behaviour is also a priority of the South Warwickshire Crime and Disorder Reduction Partnership (SWCDRP).

7. BACKGROUND

7.1 Legislative Background

- 7.1.1 Section 13 of the Criminal Justice and Police Act 2001 introduced the power for local authorities to designate public places in which it will become an offence to drink after being requested not to do so by a police officer.
- 7.1.2 In an area covered by a DPPO the powers of a police constable under Section 12 of the Act apply. The Order will mean that if a person continues to drink in public when asked not to do so by a police officer without reasonable excuse they may be arrested and fined up to £500 if convicted. If Police believe someone is consuming alcohol or intends to consume alcohol they can require them to stop and confiscate alcohol from people whether the drinking vessel is unopened or not. The police can also arrest someone failing to surrender alcohol in the area when asked to do so. A DPPO does not make it an offence to drink alcohol in a designated public place. Police will only exercise section 12 powers in relation to “problem” drinking.
- 7.1.3 The exemptions on DPPO's under the Licensing Act 2003 are as follows:
 - a) licensed premises authorising the premises to be used for the sale and supply of alcohol (the exemption applies at all times)
 - b) premises or part of premises that have a premises licence held by Warwick District Council, or where the premises licence is held by another person but the premises are occupied or managed by or on behalf of the Council (the exemption covers the premises during the time of operation of the licence and for 30 minutes after but not at other times)
 - c) premises that have club premises certificates
 - d) premises where a Temporary Event Notice (TEN) for the supply of alcohol is in place (the exemption covers the premises during the time of operation of the TEN and for 30 minutes after but not at other times)
 - e) any place where facilities or activities relating to the sale or consumption of alcohol are for the time being permitted by virtue of permission granted under section 115E of the Highways Act 1980 (a “highways licence”)

7.2 Existing DPPOs

- 7.2.1 The Council's Regulatory Committee has previously made two DPPOs in the District. The first was made in June 2002 and came into effect on the 4 November

2002. The Order covered Leamington Town Centre and repealed the bylaws which designated the area a No Alcohol Zone.

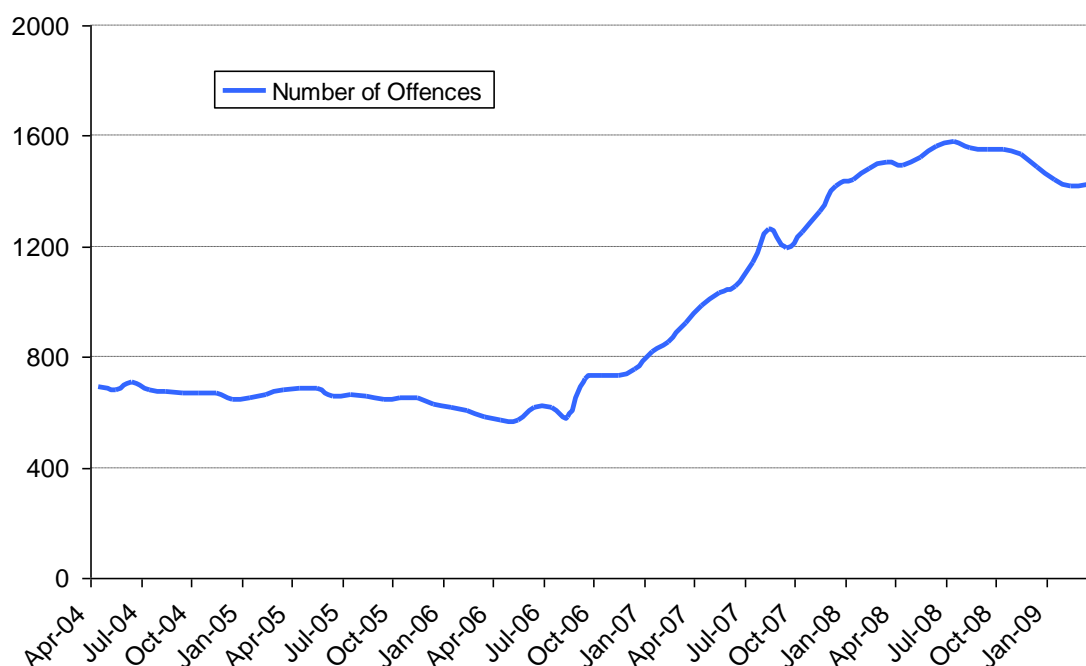
- 7.2.2 The second Order was made on 4 January 2006 when the Committee agreed to an extension of the Restricted Drinking Zone to those areas of the District where there was evidence of alcohol related crime and disorder. The Order came into effect on 1 June 2006 and designated areas of Kenilworth, Warwick, Leamington and Whitnash, together with various pleasure grounds and areas of privately owned land as public places to control the consumption of alcohol.

Copies of the Orders as appendix 2.

7.3 Trends in Alcohol Related Crime and Disorder in Warwick District

- 7.3.1 Over the last 5 years alcohol/drug related crime in Warwick District in has increased. The chart below shows a twelve month rolling trend of Alcohol/Drug related crime from April 2004 and clearly shows an increase in Alcohol/Drug related crime over the last three years in the Warwick district. In April 2004 to March 2005 there were 679 recorded crimes in the Warwick District that were Alcohol/Drugs related, 13 per week. By comparison in the period April 2008 to March 2009 this has increased to 1,421 crimes, 27 per week – an increase of 109%.

Warwick District – Alcohol/Drug Related Crime
Rolling 12 Month Trend Chart April 2004 – March 2009



Source: Warwickshire Police, Crime Information System (CIS)

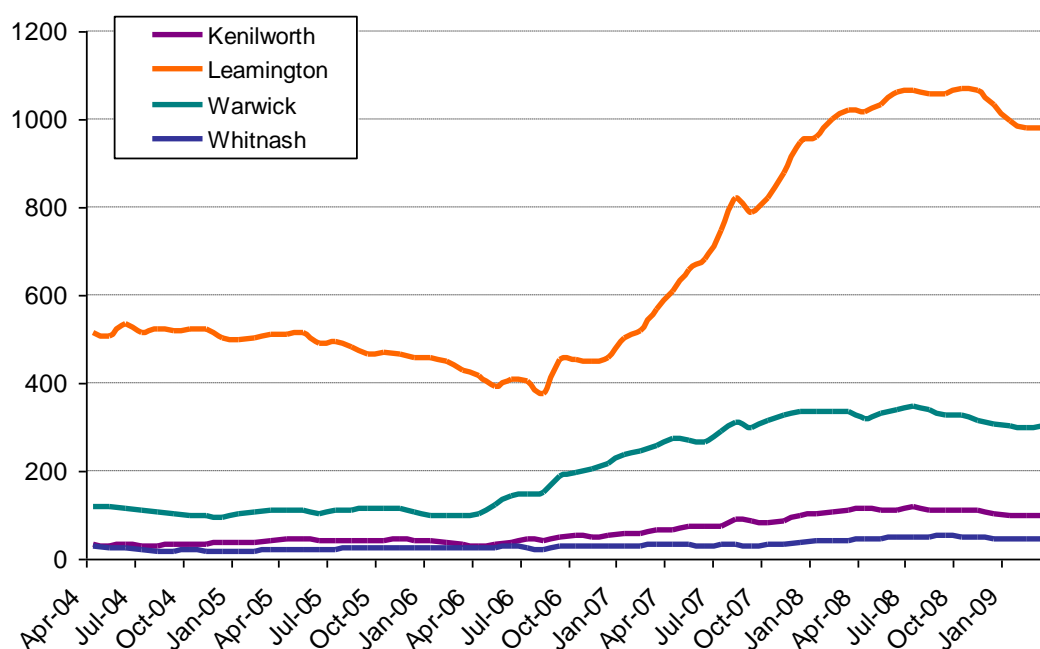
Note: Unfortunately it is not possible to split drugs and alcohol related crimes but previous analysis has shown that drugs accounts for almost 11% of the figures and alcohol accounts for the majority of the crimes.

- 7.3.2 The chart below shows the level of Alcohol/Drug related crime recorded over the last five years in each of the 4 areas of Warwick District. The chart shows that Leamington has the highest level of Alcohol/Drug related crime which is to be expected due to Leamington housing the main town centre. In Leamington there

has been a steep increase in Alcohol/Drug related crime from summer 2006 to December 2008. The chart also shows that Warwick has seen an increase which started in May 2006 and levelled out in December 2008.

- 7.3.3 In Leamington, in the period April 2004 to March 2005 there were 509 recorded crimes that were Alcohol/Drugs related, 10 per week. By comparison in the period April 2008 to March 2009 this has increased to 980 crimes, 19 per week – an increase of 93%. In Warwick, in the period April 2004 to March 2005 there were 110 recorded crimes that were Alcohol/Drugs related, 2 per week. By comparison in the period April 2008 to March 2009 this has increased to 303 crimes, 6 per week – an increase of 175%.

*Warwick District – Alcohol/Drug Related Crime – Split by Area
Rolling 12 Month Trend Chart April 2004 – March 2009*



Source: Warwickshire Police, Crime Information System (CIS)

7.4 Detailed Analysis of Alcohol Related Crime and Disorder in Warwick District

- 7.4.1 For the purposes of this report, detailed analysis has been carried out in relation to three specific alcohol related crimes: street drinking, criminal damage and violence against the person.

Street drinking

- 7.4.2 Compared with the other district and boroughs in Warwickshire, Warwick District reported the highest level of incidents in the 12 month period from October 2008 (although Nuneaton & Bedworth had the highest rate per 1000 population based on 2008 population estimates). For October 2008 to September 2009 **106 Street Drinking incidents** were reported to Police, an average of **9 per month**.

District/Borough	Number of Incidents Oct 2008 - Sept 2009	Rate Per 1000 Population
Warwick	106	0.78

Nuneaton and Bedworth	105	0.86
Stratford	70	0.59
North Warks	47	0.75
Rugby	43	0.47

7.4.3 Clarendon was the second highest problem ward for Street Drinking incidents for the whole of Warwickshire, 6.2% of the county total. (The first highest problem ward was Abbey Ward in Nuneaton & Bedworth - they reported 30 incidents 8% of the total). The largest concentration of street drinking incidents in the district is in the area of Bath Street/Church Walk. This is the main problem area for street drinking in Warwick District and links to reports from the Anti-social behaviour officer of drunks gathering in Bath Street/Priory Terrace. Bath Street, Church Walk and Priory terrace are covered by the 2002 DPPO, but are right on the edge of the current Restricted Drinking Zone are there is evidence of displacement into neighbouring parts of Milverton, Brunswick and Clarendon wards.

7.4.4 In the Willes ward the hotspot links to the above area again at the bottom of the town centre - Bath Street/Victoria Terrace. This area is the only area to highlight a concern with street drinking and is covered by the existing RDZ.

Criminal Damage

7.4.5 For the 12 month period August 2008 to July 2009, 1903 Criminal Damage offences were reported to Police, an average of 159 per month. Of this 1903 there were **132 with a 'Drink/Drug' flag** which is 7% of the total criminal damage committed in the District. It is fair to say that the number of offences linked to drink/drugs is likely to be much higher but it would be unknown to the person that may have found the damage in the morning or after the weekend.

7.4.6 The top wards for criminal damage are Clarendon, Willes and Brunswick. In Clarendon ward the top streets for criminal damage with a drink/drug marker already fall within the RDZ. These are Bedford Street, Tavistock Street, Warwick Street, Russell Street, Hamilton Terrace, Oxford Street and The Parade. In Willes & Brunswick wards there are three much smaller Criminal Damage hotspots, one at Old Town, one around the Eagle Recreation Ground and another in Sydenham (around the east of Gainsborough Drive). The top street for criminal damage with a drink/drug marker is Brunswick Street. These are not currently in the RDZ.

7.4.7 The data suggests that the main areas of concern are to the west of the town at Bedford Street and Tavistock Street with areas of focus to be Old Town, near the Eagle Recreation Ground and Sydenham Drive.

Violence Against the Person

7.4.8 For the 12 month period August 2008 to July 2009 there were 1,447 offences of Violence Against the Person reported to the Police, an average of 121 per month. 48% of these violence against the person offences (689) were given an alcohol/drugs marker.

For those 689 offences of violence against the person offences the top 5 Wards were:

Ward	Number of Offences	Percentage
Clarendon	355	25% (of which 81% were directly linked to the town beat)
Brunswick	189	13%
Warwick West	143	10%
Willes	125	9%
Milverton	113	8%

7.4.9 Clarendon ward is by far the problem area for alcohol/drug related violence against the person offences with the town centre being the area of focus. The main hotspot for violence against the person with a drink/drug marker is around Bedford Street, Tavistock Street and The Parade. This hotspot is within the existing RDZ. The top streets are Bedford Street, The Parade, Hamilton Terrace, Tavistock Street, Warwick Street, Dormer Place and Clarendon Avenue.

7.4.10 In Brunswick ward the main hotspot for violence against the person with a drink/drug marker is around the area that joins to the Old Town at the bottom of Clemens Street. The Top streets are Tachbrook Road (15), Brunswick Street (13) and Bury Road (12). None of these are within the current RDZ.

Note: Hotspot maps are attached as appendix 3.

8. THE CASE FOR A DISTRICT WIDE DPPO

8.1 A district wide DPPO has the major advantage that the Police can use their powers of enforcement wherever alcohol related disorder occurs. It would be far easier to consult upon, promote and for the public to understand and would also avoid problems of displacement and the costs associated with having to more DPPOs in the future.

Implementing a district wide DPPO would:

- provide a uniform approach to the policing of alcohol related anti-social behaviour
- address problems of displacement from Restricted Drinking Zones into other parts of the District
- Help reduce the percentage of people who perceive drunk and rowdy people to be a problem in their area
- Help to raise awareness of sensible drinking

8.2 The Council's Regulatory Committee previously considered a District wide DPPO in 2004. The Committee decided against the Order because the Home Office guidance states that the power was not intended to cover whole areas. According to the guidance, to make a district wide Order the the local authority needs to be satisfied that they can justify their decision by pointing to evidence of alcohol related nuisance in **each and every part** of their district, and must be satisfied that the order is not being used disproportionately.

8.3 The Home Office Guidance on Designated Public Place Orders for Local Authorities in England in and Wales states:

“Borough-wide DPPOs are not specifically prohibited in the legislation; however, we would advise caution, as, in order for the DPPO to be proportionate, you need to ensure that there is evidence of alcohol-related anti-social behaviour in each and every part of the borough. Any local authority considering a borough-wide DPPO will need to satisfy themselves that they can justify their decision by pointing to evidence of alcohol-related nuisance or annoyance in each and every part of their borough”.

- 8.4 Despite this, a number of local authorities have introduced district wide DPPOs since 2004 to address issues around displacement of anti-social behaviour to areas surrounding existing restricted drinking zones and to ease of enforcement by the Police. The Home Office does not keep a record of which of the 753 DPPOS currently in force are district wide orders, but a list of local authorities known to have such an order in place is attached as appendix 5.
- 8.5 Advice has been sought from the Home Office on the use of district wide DPPOs. The current Home Office position is that any district wide Order would be open to legal challenge through a Judicial Review, and that although the number of local authorities have chosen to impose district wide Orders has risen, they could still be subject to legal challenge because they are generally not supported by sufficient evidence of alcohol related ASB, particularly in rural areas.

The Home Office also advised that whilst to date there have been **no judicial reviews** of district wide DPPOs, as the number of local authorities imposing such Orders increases the likelihood of a Judicial Review is also increased.

- 8.6 A Judicial Review could be brought by any person with sufficient interest in the matter, which effectively means, for a district-wide DPPO, any resident of the District. It is likely that the basis for such a challenge would be that the council had not followed the correct statutory procedures – i.e. that there was not sufficient evidence on which any reasonable local authority could be “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 alcohol in that place” as required by s. 13 of the Criminal Justice and Police Act 2001.
- 8.7 If the Court was of the opinion that the challenge was substantiated, it is likely that it would quash the Order and instruct the Council to re-consider making an order for only those areas for which it had the evidence (of nuisance, annoyance or disorder associated with the consumption of alcohol. The court would not itself amend the order. In such circumstances, the Council would almost certainly be ordered to pay the other party’s costs as well as its own.
- 8.8 Judicial Review is a discretionary remedy, and it is therefore likely that if the person seeking to quash the DPPO had not raised the issue at the time of public consultation, he would have to satisfy the court as to the reason why he had not done so.

9. **District wide DPPOs in neighbouring authorities**

9.1 Nuneaton and Bedworth Borough Council

Nuneaton and Bedworth Borough Council was one of the first local authorities in the country to introduce a borough wide DPPO which was approved by Council on 25 April 2007. An evaluation carried out in January 2009 indicates that the Order has been successful in reducing the level of street drinking in the borough, however incidents of anti-social behaviour had increased.

The review found that since the DPPO came into effect in October 2007:

- Street drinking incident levels have fallen by 52.4%
- Violence against the person incident levels have fallen by 13.2%
- Criminal Damage incident levels have fallen by 6.5%
- Anti-social behaviour incident levels have increased by 9%

9.2 Coventry City Council

The Coventry city-wide DPPO was approved by the Licensing Committee in August 2006 and came into force on 1st October 2006. Reviews of the effectiveness of the Order were carried out after 12 months and again after 2 years and found that the Order had had a beneficial effect on the reduction in numbers of alcohol related offending including retail, consumption and associated behaviour. Some key findings of the review are set out below:

- The number of individuals who were victims of alcohol related crime has decreased.
- The number of individuals who were victims of street based or public space alcohol related offences remained constant.
- The DPPO was instrumental in a number of Police operations to tackle under age sales and underage drinking.
- The number of individuals arrested for alcohol related offences dropped.

Alcohol related fixed penalties	Oct 2006- Sept 2007	Oct 2007 – Sept 2008	% change
Drunk and Disorderly	3614	3506	-3%
Sell alcohol to person under 18	154	64	-58%
Drunk in Highway	135	40	-70%
Drinking in a Designated Public Place	45	24	-47%
Total Alcohol Related Fixed Penalties	3968	3642	-8%

9.3 Rugby Borough Council

Rugby Borough Council Executive agreed to a Borough wide order to control alcohol consumption in public places in August 2008. A consultation process has been carried out.

10. THE PROCESS FOR MAKING AN ORDER

Details of the process for making an Order are set out in appendix 6.

In order to extend the area of a DPPO, a new order has to be produced. This is to ensure that the extended area is just and reasonable. The consultation and publicity processes carried out for previous Orders will therefore need to be re-visited for the new area.

Before making an Order the Council is required to carry out consultation with partners and to publish a notice in the local newspaper. The consultation must ensure that all those affected by the designation and possible displacement are appropriately consulted. This would include consultation in bordering areas if the Council were to pursue a district wide Order.

After making the Order the Council must publish a notice in the local newspaper stating the place to which the Order refers, the effect the order will have on that place and the date on which it will come into force, and erect signs in the place identified by the Order, in order to bring to the public's attention the effect of the Order.

11. **CONCLUSION**

Members are asked to consider whether the benefits of publishing a district wide DPPO outweigh the possible risk of a legal challenge.

If Members do not feel that this is the case, the Committee is recommended to agree a further extension of the DPPO area.