

# **LICENSING COMMITTEE**

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12th December 2011

## **REVIEW OF ALVECHURCH DESIGNATED PUBLIC PLACE ORDER**

Relevant Portfolio Holder	Margaret Sherrey – Portfolio Holder for Community Service, Older People, the Young and Vulnerable People
Portfolio Holder Consulted	YES
Relevant Head of Service	Angela Heighway – Head of Community Services
Wards Affected	Alvechurch
Ward Councillor Consulted	YES
Non-Key Decision	

### **1. SUMMARY OF PROPOSALS**

- 1.1 This report details the conclusions of analytical work carried out by the Community Safety Team on police recorded data in relation to alcohol related disorder; this will provide the Licensing Committee with key information to consider the future of the Alvechurch Designated Public Place Order (DPPO) locally known as the Alcohol Free Zone.
- 1.2 This report also contains the results of a stakeholder and public consultation carried out on the proposal that the order should be revoked; this report also provides information on key aspects of DPPO legislation and Home Office guidance for local authorities on DPPOs.
- 1.3 Members are asked to consider the most appropriate course of action in light of the information in this report and make a decision whether to retain the DPPO in Alvechurch, or amend it or revoke it.

### **2. RECOMMENDATIONS**

**The Committee should consider the most appropriate course of action in light of the information contained in this report and RESOLVE that Alvechurch Village Designated Public Place Order be:**

- a. Retained in full; or
- b. Revoked; or
- c. Geographically amended to such area or areas as are determined by Members

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### **3. KEY ISSUES**

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#### **Financial Implications**

- 3.1 In the event that the Licensing Committee resolve that the Alvechurch DPPO be revoked the associated costs will be in relation to a public notice in the local newspaper and removal of current signage; this is estimated to be £800
- 3.2 Should the Licensing Committee resolve that the Alvechurch DPPO remain, the only cost that will be incurred is associated with changing the current signage; this is estimated to be £1,800.
- 3.3 If the Licensing Committee resolve that the Alvechurch DPPO be amended, there will be costs in relation to changing signage and publishing a public notice in the local newspaper; this is estimated to be between £1,000 and £1,800 depending how the order is expanded or condensed.
- 3.4 It is necessary to change signage to comply with Home Office guidance that says signs should not suggest that the consumption of alcohol is a criminal offence. Appendix 1 is an example of the artwork contained in the altered DPPO signage.
- 3.5 There is currently no designated budget within Bromsgrove District Council associated with the implementation, management and revocation of DPPO. The main financial implication associated with DPPO management is the administrative function which is currently absorbed by the Community Safety Team. The costs associated with the implementation, amendments or removal of these orders is associated with the publishing of public notices and street signage. The cost of public notices are also being absorbed by the Community Safety Team and the team has a limited stock of new signage which will assist in reducing the costs associated with changing DPPO signs across the District.

#### **Legal Implications**

- 3.6 Sections 12 to 16 of the Criminal Justice and Police Act 2001 set out the powers of local authorities to create Designated Public Place Orders. Under section 13 a local authority can decide to identify an area as a Designated Public Place. Before making an order the test set out in the legislation that has to be satisfied is as follows:-

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*(2) A local authority may for the purposes of subsection (1) by order identify any public place in their area if 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 alcohol in that place.*

- 3.7 Under section 13(3) of the Criminal Justice and Police Act local authorities have the power to revoke or amend orders previously made.
- 3.8 Where a Designated Public Place Order has been made, the Police and delegated officers have extra powers to tackle alcohol related ASB. Under section 12 of the Act the Police/ delegated officers have the power to request a person to desist from drinking in the area and to require the surrender of any alcohol to them whether in an open or sealed container.
- 3.9 In areas where a Designated Public Place Orders applies it is an offence for an individual not to comply with a reasonable request of a Police or delegated officer who chooses to exercise his/her powers under the Act. The perpetrator may be liable to a fixed penalty fine of £50 or liable to be arrested, and upon prosecution receive a maximum fine of £500.
- 3.10 The Police have powers under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 to seize alcohol or a container for such liquor in the possession of a person under 18 years and dispose of it and require his/her name and address. A constable may arrest without warrant a person who fails to surrender the intoxicating liquor in his/her possession or to provide his/her name and/or address. The power to confiscate alcohol from minors has been delegated to Community Support Officers and the Council's Neighbourhood Wardens. These powers apply to any geographical area whether there is DPPO in place or not.
- 3.11 The Licensing Committee should make their decision to keep, amend or remove the Alvechurch DPPO, with due regard to statutory obligations outlined in Section 17 of the Crime and Disorder Act. This states that without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder, issues adversely affecting the environment, and the harm caused by drugs and alcohol.

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- 3.12 In the terms of this report Section 17 of the Crime and Disorder Act requires the local authority through the Licensing Committee to give consideration to the likely impact of their decision to retain, remove, or amend the Alvechurch DPPO to meet their obligations to do all the authority reasonably can to prevent crime, and disorder in its area.

### **Service / Operational Implications**

- 3.13 In January 2008 Bromsgrove District Council exercised its powers under section 13 of the Criminal Justice and Police Act 2001 and designated Alvechurch Village as a designated public place (see appendix 2). This DPPO is 1 of 22 designated public places that are in existence across the District.
- 3.14 In November 2009 the Home Office produced guidance on Designated Public Place Orders for local authorities in England and Wales. This guide explains the legislative obligations involved which are naturally compulsory and set out examples of good practice to help local authorities get the best out of DPPOs.
- 3.15 Although there is no statutory requirement to undertake a review of DPPOs, the Home Office recommends that they should be evaluated and reviewed as a matter of good practice, ideally at least every two years. The aim of such an evaluation is to establish whether the DPPO has stopped or helped reduce alcohol related ASB /disorder. Once the effectiveness of the order has been established judgments can be made as to whether the DPPO is still required.
- 3.16 On 26<sup>th</sup> July 2010 the Licensing Committee were presented with a report which detailed the results of an evaluation into the effectiveness of all DPPOs within Bromsgrove District. This evaluation highlighted 16 DPPOs and asked the Committee to consider their future as they were initially proving ineffective in dealing with alcohol related ASB or were inappropriately granted. The Licensing Committee authorised officers to review these 16 DPPOs to enable the Committee to consider revocation in line with legislative requirements; Alvechurch DPPO was highlighted for consideration.
- 3.17 The Community Safety Team has carried out a review into the effectiveness of Alvechurch DPPO including an analysis of police recorded data in relation to alcohol related ASB; this report can be found in full in Appendix 2. This report has reviewed data since April 2003 until 31<sup>st</sup> October 2011 to compare the impact of the DPPO when it was granted in January 2008. The conclusions of this analysis are:

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- 3.18 There was a definite increase in alcohol-related ASB after the implementation of the DPPO in Alvechurch compared to the period immediately before, suggesting the area was a hotspot for this type of issue at that time. This suggests that that the DPPO was not an effective deterrent for alcohol ASB.
- 3.19 The relative proportion of ASB in the area that is alcohol related, when compared to the average for the district, further suggests that the area was a definite hotspot in the two financial years after implementation – but that it was not a problem area (compared to district averages) in the years before implementation or from 2010/11 onwards. This further indicates that the DPPO was ineffective, but also suggests that there was not a substantial issue with alcohol ASB before implementation either.
- 3.20 It is important to note that the increases in the years after implementation may well be the product of increased interest in the area as promotion of the new DPPO raises the awareness of residents in the area, and encourages them to report anything they see. The increase therefore may not have been the product of an increase in the actual problem behaviour.
- 3.21 The level of incidents has decreased since November 2009 – however, it would not be fair to attribute this trend to the success of the DPPO as there were a large range of activities undertaken throughout the village during this period to combat ASB, resulting in an overall decrease in all types of ASB.
- 3.22 The level of reported alcohol-related incidents in the area is extremely low – only 3 per month even at the peak between January and November 2009.
- 3.23 Most of the incidents which are reported are youth related and dealt with under alternative legislation.
- 3.24 In fact none of the incidents reported since January 2010 could actually have been prevented by enforcement of the DPPO legislation – either because they involved underage drinking or because they involved drinking indoors rather than out on the street.
- 3.25 At the time of this report being published The Community Safety Team were unable to obtain any statistical information of the numbers of times the DPPO legislation has been used in terms of alcohol confiscations from adult drinkers and fixed penalties that have been issued.

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### **Customer / Equalities and Diversity Implications**

- 3.26 The Community Safety Team has also carried out a stakeholder consultation. Stakeholders include West Mercia Police; Bromsgrove District and Worcestershire County Council elected Members, Alvechurch Parish Council, Alvechurch Village Society and any premises that hold a licence to sell alcohol that is likely to be affected by the order.
- 3.27 Representations have been received from West Mercia Police, Alvechurch Parish Council, and Alvechurch Village Society. Copies of these representations can be seen in Appendix 3. No representations were made by any premises that hold a licence to sell alcohol.
- 3.28 On the 14<sup>th</sup> October 2011, a public notice was placed in Redditch Standard inviting members of the public to make any representations on a proposal that the DPPO be revoked; this marked the start of a 28 day public consultation period. Two representations were made; copies of these representations can be seen in Appendix 4.
- 3.29 In the event that the Licensing Committee decide to alter or revoke this order there will be implications on customers predominantly members of the public who live, work and visit Alvechurch. Police and delegated officers will have additional powers to tackle alcohol related anti-social behaviour. Powers will still remain to tackle underage alcohol misuse and Police Constables will also have a wide range of legislation that can be used to tackle alcohol related nuisance and public order offences.

#### **4. RISK MANAGEMENT**

- 4.1 The main risk associated with removing this order is that the Alvechurch Community perceive Bromsgrove District Council in taking a diluted stance in their efforts to tackle anti-social behaviour and disorder within their community. There is also a risk that potential adult street drinkers could see the removal of the order as an excuse to surface in the community and consume alcohol in public leading to actual and/or perceived nuisance.
- 4.2 The main risk of not removing this order is that Bromsgrove District Council may be accused of not conforming to Home Office Guidance on DPPOs.
- 4.3 There is also a risk of having an order in place to tackle alcohol related disorder without substantial evidence of an alcohol related problem; the order could therefore give the impression that a village has a significant street drinking problem. This could in turn unnecessarily increase the fear amongst some general public for their safety.

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- 4.4 Some member of the public may also feel safer with the order in place; even though there may not be a significant street drinking problem in the village the order will be comforting to some that a drinking restriction is in place.

### **5. APPENDICES**

Appendix 1 – Example of DPPO signage

Appendix 2 – Report: Alcohol Related ASB in Alvechurch DPPO

Appendix 3 – Representation Received by Stakeholders

Appendix 4 – Representations Received from the Community

### **6. BACKGROUND PAPERS**

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

### **7. KEY**

DPPO	Designated Public Place Order
ASB	Anti-social Behaviour

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