

BROMSGROVE DISTRICT DESIGNATED PUBLIC PLACE ORDER UPDATE

Relevant Portfolio Holder	Cllr Kit Taylor – Portfolio Holder for Licensing Cllr Margaret Sherrey – Portfolio Holder for Community Safety
Portfolio Holder Consulted	YES
Relevant Head of Service	Judith Willis – Acting Head of Community Services
Ward(s) Affected	All Wards
Ward Councillor(s) Consulted	None
Key Decision / Non-Key Decision	Non-Key Decision

1. SUMMARY OF PROPOSALS

- 1.1 Bromsgrove District Council has granted 22 Designated Public Place Orders to tackle adult alcohol-related anti-social behaviour. Between 2011 and 2012 the local authority began a review of the orders as recommended by Home Office guidance. However, on 16th April 2012 the review was suspended until July 2013 to allow officers to arrange for a change of signage across the District and to undertake a programme of public awareness raising activities.
- 1.2 In December 2012 the Draft Anti-Social Behaviour Crime and Policing Bill was published. This legislation proposes to replace 19 existing powers to tackle anti-social behaviour with new powers. A new Public Space Protection Order (PSPO) is proposed to replace Designated Public Place Orders (DPPO).
- 1.3 In light of these planned legislative changes it is thought prudent that that any review of DPPOs should be deferred until the Anti-Social Behaviour Crime and Policing Bill receives Royal Assent. This is likely to take place in either May or October 2014. Within the 3 year transitional period from 2014, a comprehensive review of DPPOs should be considered prior to them becoming PSPOs. This will provide the Council with an opportunity to ensure its PSPOs are appropriate, proportionate and are used to their full potential.
- 1.4 In the meantime the current programme of sign replacement will continue in order to change old 'Alcohol Free Zone' signs to compliant Designated Public Place signage and the Community Safety team will continue to publicise the current orders and work with West Mercia Police to promote their usage as an anti-social behaviour tool.

2. RECOMMENDATIONS

- 2.1 That the review of current Designated Public Place Orders in Bromsgrove in Bromsgrove be deferred until the Anti-Social Behaviour Crime and Policing Act obtains Royal Assent.
- 2.2 That officers be requested to provide a further update report to Members of the Licensing Committee to brief them on the new legislation in the Anti-Social Behaviour Crime and Policing Act once the Act has received the Royal Assent.

3. KEY ISSUES

Financial Implications

- 3.1 The Community Safety service does not have an allocated budget for the management of DPPOs and therefore costs are kept to a minimum. Work has been undertaken by the Community Safety Team over the past 12 months to arrange replacement of incorrect DPPO signage. New signage was funded by a Community Safety Partnership grant and the erection of these signs is being carried out by Environmental Services Operatives around their daily duties. A limited amount of Community Safety officer time is and will continue to be spent publicising current orders and working with West Mercia Police to encourage their use.
- 3.2 In the event that current orders are amended or removed, or that new orders are required there will be an additional financial cost towards signage, consultation and publication of any new orders. As there is no current budget set aside for this process, additional funding would need to be allocated or external funding sources identified.
- 3.3 The Anti-Social Behaviour Crime and Policing Bill is likely to receive Royal Assent in 2014 and will create new powers to deal with anti-social behaviour replacing existing powers such as DPPOs (further details are contained in section 3.4 to 3.7 of this report). This will have financial implications for the local authority in order to aid the transition from existing orders to new orders. Whilst the Bill is still in draft the full extent of these financial implications are not yet known.

Legal Implications

- 3.4 A Designated Public Place Order (DPPO) is an additional tool to help deal with adult alcohol related anti-social behaviour. It gives the police the power to confiscate alcohol or require a person to stop drinking in public if they are causing a nuisance. The powers do not prohibit drinking in public places and can only be used where it is associated with negative behaviour.

- 3.5 Whilst there is no statutory requirement to review a DPPO, Home Office guidance recommends orders should be evaluated and reviewed as a matter of good practice. How often a DPPO should be evaluated is a decision for the Council, but the Home Office guidance recommends a review of current orders every two years. The aim of a review is to find out whether the DPPO has helped to reduce alcohol-related anti-social behaviour. If the DPPO is still required it will remain in force – no further legal procedure is required. If the DPPO is deemed no longer necessary or disproportionate it can be revoked or amended.
- 3.6 In December 2012 the Home Office published the draft Anti-Social Behaviour, Crime and Policing Bill. One of the key provisions of the Bill is the introduction of new powers for tackling anti-social behaviour to replace 19 powers that are currently in use. It is proposed that DPPOs will be replaced by Public Space Protection Orders. The following paragraphs are based on detail taken from the Anti-Social Behaviour, Crime and Policing Bill. However, Members should note that the current drafting may be subject to further change before the Bill receives the Royal Assent.
- 3.7 A Public Space Protection Order (PSPO) can be issued by the local authority if it is satisfied that activities taking place in a public area within the district have had a detrimental effect on the quality of life of those in the surrounding area. Alternatively, an order can also be issued if it is likely that activities will take place in a public area that will have a detrimental effect. The test in the Bill is that the effect must be, or be likely to be, of a persistent or continuing nature such as would make the activities unreasonable. In this case the restriction in the notice would be justified.
- 3.8 A PSPO can be made for a maximum period of 3 years, although the term of the order can be extended. The PSPO must be published to ensure that everyone is aware of any restrictions imposed by the order. Breach of the PSPO without reasonable excuse is a criminal offence attracting a maximum punishment of a fine not exceeding level 3 on the standard scale. Alternatively, a fixed penalty notice can be imposed.
- 3.9 The transitional arrangements from DPPOs to PSPOs are set out in Section 68 of the Bill. Any DPPOs in place prior to the commencement of the Act will not be repealed or amended by the Act for a period of 3 years. At the end of the 3 year period any DPPOs still in force will remain in force as if they were provisions of a PSPO.

Service / Operational Implications

- 3.10 Bromsgrove District Council has granted 22 DPPOs to tackle alcohol-related anti-social behaviour. Between 2011 and 2012 the local authority began a review of the orders as recommended by Home Office guidance.

- 3.11 On the 16th April 2012 at the Council's Licensing Committee, the review was suspended until July 2013 to allow officers to arrange for a change of signage around the District and to undertake a programme of public awareness raising activities.
- 3.12 Work to replace the signage has suffered a number of setbacks, most notable being a fault with the signs that had been provided. After much negotiation with the supplier the signs were rectified at no cost to the Council. This work to erect the new signs was put onto the work programme of operatives but their other substantive work has had to be prioritised meaning the new signs did not start to be erected until April 2013. Many areas have been completed but some replacement signs are still outstanding.
- 3.13 Once all of the new signs have been erected the remaining work will commence around the agreed public awareness raising activities that the Community Safety Team agreed to deliver, including designing and distributing public information leaflets, redesigning web site information and working with West Mercia Police to brief officers in how to best utilise DPPO powers.
- 3.14 Also at the Licensing Committee in April 2012, members agreed to suspend any DPPO review until July 2013. However the Draft Anti-Social Behaviour Crime and Policing Bill published in December 2012, will significantly impact on any DPPO review, with new PSPO proposed to replace DPPO.
- 3.15 A PSPO will identify a public place and prohibit specified activities being carried out in the restricted area or require specified activities to be carried by persons behaving in a specified manner in that area, or both. For example, this could include the prohibition of alcohol consumption.
- 3.16 It is an offence for a person without reasonable excuse, carry out an activity that is prohibited by a PSPO or to fail to comply with a requirement to which the person is subject under a PSPO.
- 3.17 A PSPO lasts for a maximum of 3 years but as referred to above can be extended. In considering any extension there must be continuing grounds for the need for the PSPO and consultation with the police and other persons as appropriate.
- 3.18 Any DPPOs in place prior to the commencement of the Act will not be repealed or amended by the Act for a period of 3 years. At the end of the 3 year period any DPPOs still in force will remain in force as if they were provisions of a PSPO.
- 3.19 In light of these legislative changes it is recommended that any review of DPPOs is suspended until the Anti-Social Behaviour Crime and Policing Bill receives Royal Assent which is likely to be in either May or October 2014. Within the 3 year transitional period beginning in 2014, a review of the DPPOs should be considered prior to them becoming PSPOs. This will offer the Council an

opportunity to ensure its PSPOs are appropriate, proportionate and used to their full potential.

Customer / Equalities and Diversity Implications

- 3.20 The Council's first attempt at undertaking a DPPO review in 2011 showed that the DPPOs are very popular amongst communities as they provide a statement to potential trouble makers that alcohol related nuisance and disorder will not be tolerated. A DPPO review provided an opportunity to see whether the orders were still appropriate and proportionate. However the process proved controversial within communities as a review also posed a possibility for an order to be removed although it should be noted any review also included an opportunity to amend an order either by reducing or expanding its coverage.
- 3.21 There is no statutory requirement to review a DPPO but Home Office guidance recommends that a review should take place. As new legislative changes are imminent, it is likely that a suspension of any review would be welcomed by local communities to ensure that there is some continuity of protection. Reviews of PSPOs will take place on a regular basis as they will be a legislative requirement and these are likely to be of significant interest to local communities.

4. RISK MANAGEMENT

- 4.1 Bromsgrove has 22 DPPOs and each DPPO has been in place for some time. In accordance with Home Office Guidance it is considered to be best practice to review DPPOs at least every two years. There is little risk associated with continuing to carry out public awareness raising activities whilst the formal review is suspended. These actions will support the delivery of more effective and comprehensive public/stakeholder consultation as part of any future reviews that the Council undertakes in relation to anti-social behaviour tools and powers.
- 4.2 There will be no impact on levels of crime and disorder as all DPPOs will remain in place to help towards a smooth transition from DPPOs to PSPOs.

5. APPENDICES

None

6. BACKGROUND PAPERS

The Criminal Justice and Police Act 2001
Violent Crime Reduction Act 2006
The Local Authorities (alcohol Consumption in Designated Public Places)
Regulations 2007
Home Office Circular 013/2007
Anti-Social Behaviour Crime and Policing Bill

7. KEY

DPPO – Designated Public Place Order
PSPO – Public Space Protection Order

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