

**BROMSGROVE DISTRICT COUNCIL**

**LICENSING COMMITTEE**

**18TH MAY 2009**

**DESIGNATED PUBLIC PLACES ORDER – PUBLIC PARTICIPATION AT COMMITTEE MEETINGS**

Responsible Portfolio Holder	Councillor Peter Whittaker
Responsible Head of Service	Dave Hammond, Head of Planning & Environment Services

**1. SUMMARY**

1.1 Members are asked to consider a new procedure for determining applications for Designated Public Places Orders.

**2. RECOMMENDATION**

2.1 That the Committee decides whether to introduce public speaking at Licensing Committee on applications for Designated Public Places Orders.

2.2 If the Committee decides to introduce public speaking at Licensing Committee on applications for Designated Public Places Orders it is recommended that:

2.2.1 the police will be requested to attend each meeting of the Licensing Committee at which an application for a DPPO is to be considered;

2.2.2 the person, body or organisation applying for the DPPO will be invited to ask one or more individuals who live or work in the area which the DPPO is proposed to cover and who have been directly affected by alcohol-related nuisance or annoyance to attend the committee meeting, address the Committee and answer any questions the Committee may have;

2.2.3 any parish council which has been consulted as part of the consultation process will be invited to attend the committee meeting, address the Committee to give evidence of alcohol-related nuisance or annoyance and answer any questions the Committee may have;

2.2.4 the holder of any premises licence holder, club premises certificate or Temporary Event Notices (TENs) in the area which may be affected by the designation will be invited to attend the committee meeting and address the Committee on the effect a DPPO may have on the licensed premises or on the TEN and answer any questions the Committee may have;

- 2.2.5 the applicant will be allowed to address the Committee for 10 minutes to explain the application;
  - 2.2.6 10 minutes will be allocated to all individuals who live or work in the area which the DPPO is proposed to cover and who have been directly affected by alcohol-related nuisance or annoyance (or a spokesman on their behalf) who wish to address the Committee – if more than one individual wishes to address the Committee the time must be allocated between them;
  - 2.2.7 10 minutes will be allocated to the police to address the Committee;
  - 2.2.8 10 minutes will be allocated to all parish councils wishing to address the Committee– if more than one wishes to address the Committee the time must be allocated between them;
  - 2.2.9 10 minutes will be allocated to the holders of any premises licences, club certificates or TENs who wish to the address the Committee– if more than one individual wishes to address the Committee the time must be allocated between them;
  - 2.2.10 the Chairman be given a discretion to extend these times with the consent of the Committee;
  - 2.2.11 the Committee will be entitled to ask questions of any person, body or organisation giving evidence, and for the avoidance of doubt, these questions shall not form part of the allocated 10 minutes; and
  - 2.2.12 the Committee delegates authority to the Senior Solicitor in consultation with the Chairman and Vice-Chairman of the Licensing Committee to prepare written guidance and a hearing procedure.
- 2.3 That the Committee should not reconsider an application for a DPPO for the same or substantially the same area as a previous unsuccessful application for at least 12 months from the date of the previous application unless the Committee is satisfied that circumstances have substantially changed since the matter was previously considered.

### **3. BACKGROUND**

- 3.1 From time to time the Licensing Committee is requested to determine an application for a Designated Public Places Order (“DPPO”). The Scheme of Delegation delegates authority to the Head of Planning & Environment Services to designate areas for the purposes of restrictions on alcohol consumption. In practice that delegation is not exercised if it is not supported by the police. Therefore those applications which come before the Licensing Committee are not clear cut. Currently there is no procedure to enable public speaking at Licensing Committee meetings at which a

DPPO is considered and members have asked officers to consider whether this can be introduced in order to enable both police officers, residents or any other consultees to speak at the Committee meeting to give relevant evidence in order to assist the Committee in reaching its decision.

3.2 Guidance was issued by the Home Office in December 2008 on DPPOs and includes the following:

**1. Evidence**

The evidence you will require for a DPPO is that there is an alcohol related nuisance or annoyance to the public in the proposed area/s. You should make an assessment as to the likelihood that the problem will continue unless these powers are adopted. In addition, you must have a belief that the problem could be remedied by the use of these powers. Evidence should be based not just on information you have obtained, but also from the police and members of the local community who have reported incidents of alcohol-related anti-social behaviour or disorder. Evidence of alcohol-related nuisance could for example include litter related to the consumption of alcohol (e.g. bottles and cans) as well as police information and residents' complaints.

3.3 In deciding whether or not to grant a DPPO the Licensing Committee must undertake a 3 step decision making process:

- the Committee must be satisfied that there is evidence that there is an alcohol related nuisance or annoyance to the public;
- the Committee must assess whether the problem will continue unless these powers are adopted; and
- the Committee must believe that the problem could be remedied by the use of these powers.

3.4 Before the matter comes to Committee, officers will have carried out a consultation process in accordance with the relevant legislation and the Guidance. This requires consultation with:

- the police for the area in question;
- the parish council covering all or part of the public place to be designated;
- the neighbouring police and local authorities, parish or community councils in cases where a designation order covers an area on the boundaries with that neighbouring authority;
- any premises licence holder, club premises certificate holder or premises user (as appropriate), in relation to each premises in that place which may be affected by the designation;
- the owners or occupiers of the land proposed to be designated; where residential areas are proposed to be included in the DPPO area, the consultation process should endeavour to consult with residents of those areas.

3.5 It is a statutory requirement that there is evidence of an alcohol related nuisance or annoyance to the public. Evidence can take many forms. The

Committee should seek to base its decision on reliable and ideally first-hand evidence of alcohol related nuisance or annoyance which could include:

- police reports;
- representations from residents affected by alcohol related nuisance or annoyance, which should ideally give specific examples of incidents including times and dates;
- reports from the Council's Environmental Health team.

3.6 It is suggested that in order to assess whether the problem will continue and whether the problem could be remedied by the making of a DPPO the Committee might find it helpful to allow the police, residents and other people who will be directly affected by the making of the DPPO to make representations in a manner similar to the procedure which applies to Licensing Sub-Committee meetings. This would enable the Committee to hear directly from those who have been affected by alcohol-related nuisance or annoyance and from the police who would be responsible for enforcing the DPPO and this would assist the Committee in reaching its decision.

3.7 The following is proposed as a suggestion for consideration by the Committee:

3.7.1 the police will be requested to attend each meeting of the Licensing Committee at which an application for a DPPO is to be considered;

3.7.2 the person, body or organisation applying for the DPPO will be invited to ask one or more individuals who live or work in the area which the DPPO is proposed to cover and who have been directly affected by alcohol-related nuisance or annoyance to attend the Committee meeting, address the Committee and answer any questions the Committee may have;

3.7.3 any parish council which has been consulted as part of the consultation process will be invited to attend the Committee meeting, address the Committee to give evidence of alcohol-related nuisance or annoyance and answer any questions the Committee may have;

3.7.4 the holder of any premises licence holder, club premises certificate or Temporary Event Notices (TENs) in the area which may be affected by the designation will be invited to attend the Committee meeting and address the Committee on the effect a DPPO may have on the licensed premises or on the TEN and answer any questions the Committee may have;

3.7.5 the applicant will be allowed to address the Committee for 10 minutes to explain the application;

3.7.6 10 minutes will be allocated to all individuals who live or work in the area which the DPPO is proposed to cover and who have been

directly affected by alcohol-related nuisance or annoyance (or a spokesman on their behalf) who wish to address the Committee – if more than one individual wishes to address the Committee the time must be allocated between them;

- 3.7.7 10 minutes will be allocated to the police to address the Committee;
  - 3.7.8 10 minutes will be allocated to all parish councils wishing to address the Committee – if more than one wishes to address the Committee the time must be allocated between them;
  - 3.7.9 10 minutes will be allocated to the holders of any premises licences, club certificates or TENs who wish to address the Committee – if more than one individual wishes to address the Committee the time must be allocated between them;
  - 3.7.10 the Chairman be given a discretion to extend these times with the consent of the Committee;
  - 3.7.11 the Committee will be entitled to ask questions of any person, body or organisation giving evidence, and for the avoidance of doubt, these questions shall not form part of the allocated 10 minutes; and
  - 3.7.12 the Committee delegates authority to the Senior Solicitor in consultation with the Chairman and Vice-Chairman of the Licensing Committee to prepare written guidance and a hearing procedure.
- 3.8 Members are requested to consider whether the opportunity to speak at Committee should be publicised within the area to be affected and if so, how that might be undertaken.
- 3.9 If the Committee decides to adopt public speaking on these applications officers will prepare a document setting out details of how the scheme will operate and this will be circulated to those who are likely to attend to address the Committee.
- 4.0 Members are also asked to consider whether a time limit should be set to limit the possibility of repetitious applications for DPPOs. The Licensing Act 2003 provides that in the context of reviews of premises licences, licensing authorities should not consider repetitious applications for reviews of a licence; the Secretary of State recommends that 12 months should elapse before an application from the same individual can be reconsidered except in compelling circumstances or following a closure of the premises. It is suggested that a similar approach could be taken in relation to DPPOs and that at least 12 months should elapse before the Committee reconsiders an application for a DPPO in the same or substantially the same area as one which has been previously refused by the Committee unless the Committee is satisfied that circumstances have substantially changed since the matter was previously considered.

**4. FINANCIAL IMPLICATIONS**

4.1 None

**5. LEGAL IMPLICATIONS**

5.1 The legislation enabling local authorities to make DPPOs is contained in section 13 of the Criminal Justice and Police Act 2001 and section 26 of the Violent Crime Reduction Act 2006. Details of the procedure to be adopted in making DPPOs are contained in The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007

5.2 Guidance was published by the Home Office on 23 December 2008 entitled Guidance on Designated Public Places Orders (DPPOs): for Local Authorities in England and Wales.

**6. COUNCIL OBJECTIVES**

6.1 CO3 – Sense of Community

**7. RISK MANAGEMENT**

There are no risks associated with this report.

**8. CUSTOMER IMPLICATIONS**

8.1 Guidance on any public speaking rights will be distributed to those involved in the consultation process, and the applicant for the DPPO will be given the information on receipt of the application.

**9. EQUALITIES AND DIVERSITY IMPLICATIONS**

9.1 None

**10. VALUE FOR MONEY IMPLICATIONS**

10.1 None

**11. OTHER IMPLICATIONS**

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None

Policy	None
Environmental	None

**12. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	<b>Yes</b>
Chief Executive	<b>No</b>
Executive Director - Partnerships and Projects	<b><u>No</u></b>
Executive Director - Services	<b><u>Yes</u></b>
Assistant Chief Executive	<b><u>No</u></b>
Head of Service	<b><u>Yes</u></b>
Head of Financial Services	<b><u>No</u></b>
Head of Legal, Equalities & Democratic Services	<b><u>Yes</u></b>
Head of Organisational Development & HR	<b><u>No</u></b>
Corporate Procurement Team	<b><u>No</u></b>

**13. WARDS AFFECTED**

All wards

**14. APPENDICES**

None

**15. BACKGROUND PAPERS**

None

**CONTACT OFFICER**

Name: Debbie Warren  
E Mail: d.warren@bromsgrove.gov.uk  
Tel: (01527) 881609