

**BROMSGROVE DISTRICT COUNCIL**

**LICENSING COMMITTEE**

**11TH JANUARY 2010**

**DESIGNATED PUBLIC PLACES ORDER – HUMPHREY AVENUE,  
CHARFORD**

Responsible Portfolio Holder	Cllr. Peter Whittaker
Responsible Head of Service	David Hammond

**1. SUMMARY**

- 1.1 To consider introducing a Designated Public Places Order in Humphrey Avenue, Charford

**2. RECOMMENDATION**

- 2.1 That Members either:

- approve the creation of a Designated Public Places Order, as outlined on the attached plan, subject to any adverse comments received from the public notice being placed in a local newspaper; or
- refuse the request.

**3. BACKGROUND**

- 3.1 The Council has been approached by the Ward Councillor representing the Charford Ward to look at introducing a Designated Public Places Order to prevent, when requested, the consumption of alcohol in the Humphrey Avenue area in an attempt to reduce anti social behaviour and drinking in these public areas. Details of the request are attached at Appendix 'A'.
- 3.2 The Criminal Justice Police Act 2001 allows local authorities to designate areas for this purpose only where they are satisfied that nuisance or annoyance to the public or disorder has been associated with drinking in a public place. Each DPPO must be considered on its own merits, based on any evidence gathered.
- 3.3 These powers are not intended to disrupt peaceful activities, for example families having a picnic in a park with a glass of wine. Police Officers can use their discretion when deciding to request an individual to refrain from drinking regardless of their behaviour. Home Office guidance suggests that it is not appropriate to challenge an individual consuming alcohol where that individual is not causing a problem.

- 3.4 The Regulations governing the creation of such an Order do not place a requirement on the local authority to conduct a formal assessment of the area in question, over a given period, of the nature of the problem. However the local authority will want to satisfy itself that the powers are not being used disproportionately or in an arbitrary fashion in the case of say, one isolated incident. Consequently there should be clear evidence of an existing problem, with an assessment as to the likelihood that the problem will continue unless these powers are adopted and the belief that the problem could be remedied by the introduction of such an Order. The Council would look to the Police to provide this evidence.
- 3.5 In December 2008 the Home Office published Guidance relating to Designated Public Place Orders (DPPOs): For Local Authorities in England and Wales. This sets out guidance for local authorities on the issue of evidence required to justify making a DPPO as follows:
- “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 behavior 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.”
- 3.6 In order to gain this necessary evidence, the Regulations require local authorities to consult with the Police Authority to seek their views on the nature of the problem and the appropriateness of introducing such an Order, as well as recognising that it will be the Police who will have the responsibility for enforcing the restrictions on public drinking in the designated area.
- 3.7 On this occasion, the Police, at present, are not willing to give their support to this particular request for a Designated Public Places Order, as they have insufficient evidence of anti social behaviour caused by alcohol consumption in this area. They feel that they already have sufficient measures in place to keep any anti social behaviour occurring in this area, under control. A copy of their response is attached at Appendix ‘B’. The Police Authority has been invited to attend the meeting.
- 3.8 During the period from 1st May 2008 and 9th November 2009, only 3 out of a total of 56 reported anti social behaviour incidents were linked to the consumption of alcohol in the area identified.

- 3.12 Having obtained information from the PACT meetings for the last 12 months, the proposal to introduce a DPPO was not identified as a priority. However at two PACT meetings held in March and June of this year, anti social behaviour in Humphrey Avenue was raised as a priority. Attached at Appendix 'C' is a resume of the PACT meetings.
- 3.13 The Regulations also require local authorities to consult with the following interested parties:
- The Parish or community Council covering all or part of the public place to be designated;
  - The neighbouring police and local authority 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;
  - Reasonable steps should also be taken to consult the owners or occupiers of the land proposed to be designated.
- 3.14 A public notice has been placed in a local newspaper inviting comments from local residents on the proposed order. To date no responses have been received. The consultation period closes on 4th January 2010.
- 3.15 Comments have been sought from premises licence holders in the area that retail alcohol, namely R and S Superstore, Humphrey Avenue, no response has been received. Members may wish to note that the Premises Licence was transferred over to new owners in August this year and there have been no reported underage sales of alcohol.
- 3.16 A response has been received from Bromsgrove District Housing Trust who own areas of land identified by the proposed Order and are not in support of the application as they feel that a DPPO is not appropriate. A copy of their response is attached at Appendix 'D'. A representative from BDHT has been invited to attend the meeting.
- 3.17 A plan showing the location of the proposed Order is attached at Appendix 'E'.
- 3.18 Should Members decide to approve the proposed Order, it will be necessary to place another public notice in the local press, informing the public of the consequences of the Order, as well as arranging for signage to be erected in the area.
- 3.19 To date no DPPO has been granted without the support of the Police.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The cost of the public notice and other administrative costs will be met from existing budgets held by Planning and Environment Services.

- 4.2 There is no budget available for signage informing the public that an area(s) area is within a Designated Public Places Order. However, if Members agree to introduce the Order in Humphrey Avenue, an approach will be made to the Crime and Disorder Reduction Partnership to fund this scheme in conjunction with the Council's Community Safety Team.

## **5. LEGAL IMPLICATIONS**

- 5.1 Licensing Authorities have power under Section 13 of Criminal Justice and Police Act 2001 to introduce and revoke Designated Public Places Orders in association The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.

- 5.2 There is a requirement under the Criminal Justice and Police Act 2001 – Section 13 (2) that:

“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 intoxicating liquor in that place.”

- 5.3 With reference to Paragraph 4 of the Regulations, it specifies that when a Local Authority is deciding an application for a Designated Public Places Order, it shall consider any representations as to whether or not a particular public place should be identified in an Order.
- 5.4 As previously mentioned, the Police Authority already 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 name and address. Failure to comply with this request is an arrestable offence.

## **6. COUNCIL OBJECTIVES**

- 6.1 This proposal contributes to the Council's objective “Sense of community and well being”.

## **7. RISK MANAGEMENT**

- 7.1 The main risk associated with the detail included in this report are:

- Introduction of a Designated Public Places Order without the support of the Police Authority

- 7.2 This risk is being managed as follows:

Risk register: Planning and Environment Services  
 Key Objective Ref No. 7  
 Key Objective: Effective, efficient and legally compliant Licensing Service

**8. CUSTOMER IMPLICATIONS**

- 8.1 All relevant parties will be notified in writing within 5 working days of the Council's decision.
- 8.2 If Member's decide to adopt this scheme, there is a risk that members of the public may complain to the Council that the Police are not enforcing the terms of the Order, as expected.

**9. EQUALITIES AND DIVERSITY IMPLICATIONS**

- 9.1 There are no equalities and diversity implications.

**10. VALUE FOR MONEY IMPLICATIONS**

- 10.1 If Members are minded to approve the introduction of the Order, it could be conceived that the Council is not providing value for money as the Police are not in support of the proposal and may not be in a position to enforce the restrictions imposed by the Order. The Police already have alternative powers to deal with anti social behaviour and underage drinking of alcohol.

**11. OTHER IMPLICATIONS**

Procurement Issues None
Personnel Implications None
Governance/Performance Management None
Community Safety including Section 17 of Crime and Disorder Act 1998 The creation of the Order would give the Police additional powers to confiscate alcohol from people drinking in public places.
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>No</b>
Executive Director (Services)	<b>No</b>
Assistant Chief Executive	<b>No</b>
Head of Service	<b>Yes</b>
Head of Financial Services	<b>No</b>
Head of Legal, Equalities & Democratic Services	<b>Yes</b>
Head of Organisational Development & HR	<b>No</b>
Corporate Procurement Team	<b>No</b>
Head of Street Scene and Community Services	<b>Yes</b>

### 13. **WARDS AFFECTED**

The proposed Order will be situated in the Hillside ward.

### 14. **APPENDICES**

- Appendix A Request for a Designated Public Places Order
- Appendix B Response from the Police Authority
- Appendix C Resume of Charford PACT meetings
- Appendix D Response from BDHT
- Appendix E Location plan of proposed designated area

### 15. **BACKGROUND PAPERS**

Request received from Cllr. Mrs. C. McDonald  
Response received from West Mercia Police Authority  
PACT priorities  
Response received from BDHT  
Home Office Guidance on Designated Public Places Orders.

### **CONTACT OFFICER**

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