

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

26th JULY 2010

DESIGNATED PUBLIC PLACES ORDER – REVIEW AND EVALUATION

Relevant Portfolio Holder	Cllr. Mike Webb
Relevant Head of Service	Angela Heighway

1. SUMMARY OF PROPOSALS

- 1.1 To consider recommendations from a review conducted by Bromsgrove Community Safety Partnership of existing DPPO within Bromsgrove District, and;
- 1.2 To acknowledge the publication of the Home Office Guidance for local authorities on DPPO and consider recommendations to conform with this guidance; and
- 1.3 To review the process in which requests for new DPPO are processed.

2. RECOMMENDATIONS

- 2.1 That Members approve some or all of the following recommendations:
- a) To authorise officers to review Bromsgrove DPPOs identified in para 4.1 of this report to enable the licensing committee to consider revocation in line with legislative requirements.
 - b) To approve the change of signage to conform with the Home Office guidance for local authorities on DPPOs.
 - c) To approve a biannual evaluation of existing DPPOs to ensure that all active DPPOs in Bromsgrove District continue to be effective, appropriate and proportionate.
 - d) To delegate to the Head of Community Services the authority to decline a DPPO request in the event that:-
 - (i) analytical work does not warrant further consideration by the Licensing Committee; and/or
 - (ii) the order does not have the support of West Mercia Police Authority.

3. BACKGROUND

- 3.1 On 1st September 2001, sections 12-16 of the Criminal Justice and Police Act 2001 came into force, giving local authorities the power to designate

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places where restrictions on the consumption of alcohol in public places apply. These were referred to as Designated Public Place Orders (DPPO).

- 3.2 These powers are not intended to disrupt peaceful activities, for example families having a picnic in a park with a glass of wine. These powers give Police Officers and accredited persons (such as the local authorities Neighbourhood Wardens) the power to require a person in a DPPO not to drink alcohol in that area where an officer reasonably believes that a person has, or intends to do so. In addition an officer has the power to ask that person to surrender the alcohol and any opened or sealed containers in their possession.
- 3.3 These powers are also not intended to deal with any other type of nuisance other than alcohol related disorder committed by persons over the age of 18 years old (adult). A common problem nationally and within Bromsgrove District is alcohol misuse by young people in public places. Powers already exist in the Confiscation of Alcohol (Young Persons) Act 1997 and such offences would be dealt with under this existing legislation and not new powers under the introduction of a DPPO.
- 3.4 Bromsgrove District Council adopted its first DPPO in 2003 in three areas of Stoke Prior. Since this date a total of 22 separate DPPO have been granted in many areas spanning the entire Bromsgrove District including parks and open spaces, high streets, Bromsgrove Town Centre and in some cases entire villages.
- 3.5 The last DPPO in Bromsgrove District was granted on 28th October 2008 in areas of the Beacon Ward. Since this date there have been many requests for new DPPO to be granted of which none have been due to the lack of evidence to support the need for a DPPO and/or the lack of support from stakeholders, primarily West Mercia Police Authority.
- 3.6 Bromsgrove District Council has adopted a process to receive requests for DPPO. This process involves receiving a request via an application form with a map outlining the proposed area. Stakeholders and members of the public through a public notice in the local newspaper are invited to comment on the application. All requests are considered by the licensing committee.
- 3.7 Section 13 (2) of the Criminal and Justice Act 2001 clearly states that a local authority may by order identify any public place in their area if they are satisfied that nuisance or annoyance to members of the public or a section of the public; or disorder; as been associated with the consumption of intoxicating of liquor in that place.

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- 3.8 The process for implementing a DPPO is set out in the Local Authorities (Alcohol Consumption in Designated Places) Regulations 2001 and subsequent amendments in the 2007 regulations. The regulations outline the process local authorities must take when considering whether to grant a DPPO. All requests for a DPPO within Bromsgrove District have been assessed against the criteria set out in these regulations and those which have been granted were implemented in accordance.
- 3.9 In November 2009 the Home Office published their first ever Guidance for local authorities relating to Designated Public Place Orders since the introduction of DPPO in 2001. This sets out guidance for local authorities on several aspects of implementing DPPO which were either not covered or unclear within the Local Authorities (Alcohol Consumption in Designated Places) Regulations 2007. The guidance provides clarity on evidence that should be gathered, consultation and publicity. The guidance also sets out a number of best practice recommendations. See appendix 1 for copy of this guidance publication.
- 3.10 Although there is no statutory requirement to review a DPPO, the Home Office guidance clearly recommends that they should be evaluated and reviewed as a matter of good practice ideally at least every two years. The aim of an evaluation is to find out whether the DPPO has been effective to reduce alcohol related anti-social behaviour and disorder. If not the local authority should consider the revocation of the DPPO.
- 3.11 Following the release of this guidance the Bromsgrove Community Safety Partnership conducted a study on the 22 DPPO in Bromsgrove to assess the effectiveness of the DPPO to establish whether they are still appropriate, necessary and proportionate. This study would also provide Bromsgrove District Council with a detailed assessment to reflect on the need and appropriateness of the current DPPO within Bromsgrove District. This report for the study can be found in appendix 2.
- 3.12 In June 2010 the administration of DPPO was transferred from the Licensing Team to the Community Safety Team. This was because the administration and management of DPPO was not included in the Worcestershire Enhanced Two Tier arrangements. The Community Safety Team volunteered to take interim responsibility for DPPO until a formal arrangement is agreed by the local authority.

4. KEY ISSUES

- 4.1 The study carried out by Bromsgrove District Council clearly shows that 16 of the DPPO have proven to be either ineffective or inappropriate. They are:

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<u>DPPO</u>	<u>Ward/Area</u>	<u>Reason</u>
Hanbury Road Recreation Area	Stoke Prior	Inappropriate
Ryefields Road Recreation Area	Stoke Prior	Inappropriate
Shaw Lane Recreation Area	Stoke Prior	Inappropriate
Church Street	Hagley	Inappropriate
Playing Fields	Hagley	Inappropriate
Railway Station	Hagley	Inappropriate
Sweetpool Nature Reserve	Hagley	Inappropriate
Worcester Road	Hagley	Inappropriate
Alleyway, Belmont – Meadowfield Rd	Rubery	Inappropriate
Callowbrook Open Space	Rubery	Inappropriate
St Chads Park	Rubery	Ineffective
Lingfield Walk	Catshill	Ineffective
Belmont Road	Rubery	Ineffective
Aston Fields Recreation Ground	Charford	Ineffective
New Road, Rubery	Rubery	Ineffective
Alvechurch Village	Alvechurch	Ineffective

- 4.2 The study identified 10 DPPO as inappropriate because when implemented there were no recorded alcohol related issues within the designated place. This raises the issue of whether the District Council when granting these orders had met the requirements of the Criminal and Justice Act which states that a local authority may by order identify any public place in their area if they are satisfied that nuisance or annoyance to members of the public or a section of the public; or disorder has been associated with the consumption of intoxicating liquor in that place.
- 4.3 According the Criminal and Justice Act legislation the local authority must be in possession of evidence to come to a satisfaction that there is a problem of disorder or nuisance associated with alcohol consumption in the proposed area, the DPPO study carried out shows clearly this could not have been achieved through reviewing police recorded data as there had not been any reports of alcohol related disorder in these areas prior to the DPPO being granted.
- 4.4 Therefore it is likely these DPPO were granted on the basis of the stakeholder consultation. The evidence gathered through the consultation

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- process for each DPPO has been reviewed which shows that most stakeholders gave overwhelming support for the implementation of DPPO. However it was clearly evident that there may have been a lack of understanding amongst stakeholders on the purpose of a DPPO as stakeholders supported the implementation of a DPPO predominantly on the basis that it would reduce youth related disorder.
- 4.5 A further 6 DPPO have been proven to be ineffective in reducing adult alcohol related disorder as there have been more reports of alcohol related disorder since the orders were granted than there was prior to the implementation of the order.
- 4.6 These 16 DPPO should be considered for revoking; to revoke these DPPO regulations require a full evidence base and consultation with public and stakeholders similar to the process that was undertaken to implement them. The revoking of each DPPO would need to be assessed on its own merit by the Licensing Committee against the evidence gathered and the results of public and stakeholder consultation. Subject to approval from the Licensing Committee officers would wish to progress this aspect by drawing up a timetable for the 16 DPPO in question to be considered. As part of this process evidence would be gathered and consultation would take place. Following the evidence gathering and consultation the DPPOs would be reported back to Licensing Committee with a recommendation as to whether they should be revoked.
- 4.7 The remaining 6 DPPO have been proven to be effective in reducing adult alcohol related disorder.
- 4.8 The home office guidance on DPPO also gives advice on correct signage to be used within the designated areas. The Local Authorities (Alcohol Consumption in Designated Places) Regulations 2001 and 2007 never gave any guidance on signage; as a result Bromsgrove District Council erected signage with the phrasing "Alcohol Free Zone". Under the Home Office guidance terms such as Alcohol Free Zone are misleading and confusing to members of the public as the purpose of the legislation is not to ban alcohol in public places, but to give police and accredited officers the powers to deal with anti-social drinking.
- 4.9 The use of this misleading signage may raise expectation amongst members of the public that officers will enforce a blanket ban on alcohol which is not the case. This signage also deters members of the public who can drink responsibly such as a member of the public enjoying a glass of wine as part of a picnic at one of Bromsgrove's recreation areas.

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- 4.10 If a DPPO revoking programme was delivered, Bromsgrove Community Safety Partnership would have a sufficient amount of new signage in stock that conforms to Home Office guidance; this could replace the current signage pending the amount of DPPO that remained. This would prevent substantial costs to replace signage. See appendix 3 for example of new DPPO signage.
- 4.11 The Home Office Guidance for DPPO recommends that existing DPPO be evaluated and reviewed at least every two years. The Bromsgrove Community Safety Partnership analyst has conducted the first review as part of the study in relation to this committee report however this exercise was time intensive with 22 DPPO in place to review. If Bromsgrove District Council was to continue this good practice to review DPPO regularly, officer capacity would need to be established to carry out a review for all 22 DPPO.
- 4.12 The current process of receiving requests for DPPO is both costly and time consuming for officers and time consuming for the licensing committee to consider. There are currently no mechanisms in place to filter requests to prevent costs being unnecessarily incurred.
- 4.13 The current process of putting all requests through a full consultation with stakeholders and the public by purchasing space in the local newspaper for public notice is costly and time consuming. Officer time, committee time and financial costs could be prevented if the process could be halted with the lack of evidence and/or the lack of support by the primary enforcers, West Mercia Police.
- 4.14 DPPO requests which have evidence that such an order could be justified and has support of the police authority could then justify a full public consultation and consideration at a licensing committee.

5. FINANCIAL IMPLICATIONS

- 5.1 A programme of revoking a DPPO would incur costs in relation to officer time to deliver the necessary consultation with stakeholders and license premises, and to complete a comprehensive licensing committee report. The duration of this process would vary pending the amount of DPPO that would be considered to be revoked; these costs could be met with in the current capacity of the Community Safety Team.
- 5.2 Under the regulations each DPPO must be considered on its own merit however many elements of the evidence gathering process and consultation could be done collectively for all DPPO which are being

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- considered to be revoked. This would reduce costs in relation to officer time, and the cost of public notices.
- 5.3 The cost of an individual public notice is £300. There would be a total of £600 per DPPO as two public notices are required; one to start the public consultation process and another to announce the DPPO revocation. It is recommended that any revocations of DPPO are considered collectively to reduce the costs in relation to public notices.
- 5.4 There would not be a cost in relation to changing signage of a limited amount of DPPO within the District as Bromsgrove Community Safety Partnership already has a stock of 150 signs which conforms to the Home Office Guidance. However quantity of signage would not be enough to change the current DPPO signage of all current 22 DPPO within the District. It is unclear exactly how many alcohol free zone signs currently exist with the district, but a fair estimation would be approximately 300. Signage costs £20 per unit and therefore if no DPPO were revoked and all 22 required new signage an additional £3000 would be required.

6. LEGAL IMPLICATIONS

- 6.1 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.
- 6.2 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.”
- 6.3 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.

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- 6.4 Under section 13(3) of the Criminal Justice and Police Act 2001, local authorities have the power to revoke a DPPO. However, the same processes of consultation and publicity will need to be observed when any revocation is being considered.
- 6.5 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. A constable may arrest without warrant a person who fails to surrender the intoxicating liquor in his possession or to provide his/her name and/or address.

7. POLICY IMPLICATIONS

None

8. COUNCIL OBJECTIVES

- 8.1 This proposal contributes to the Council's objective "One Community".

9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

- 9.1 There is a risk that Bromsgrove District Council could be accused of not conforming to Home Office Guidance on DPPO.
- 9.2 There is a risk that the enforcement of the current DPPO could be legally challenged as the current designated places are not clearly marked with the correct signage
- 9.3 Under the current process for receiving requests for DPPO the Community Safety Team may not have the capacity to deal with all requests as the responsibility for DPPO has not been formally adopted by the Community Safety Team and is therefore not been included in existing budgets or officer responsibility/capacity.

10. CUSTOMER IMPLICATIONS

- 10.1 The existence of a DPPO within an area that has no previous and/or current alcohol related disorder may give the impression that there are such problems within Bromsgrove's neighbourhoods. This can raise the fear of crime amongst residents. This would have a negative effect against the local authorities' performance against its LAA target for NI 17: Perception of anti-social behaviour.

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10.2 The current signage which utilises the phrasing 'alcohol free zone' gives residents the impression that a blanket ban on alcohol can be enforced which is not the intention of the legislation and therefore this customer expectation can not be met. This may give the impression that the local authority and police are not effectively dealing with crime and disorder. This would have a negative effect against the local authorities performance against its LAA target for NI 21: Dealing with local concerns about anti-social behaviour/crime issues by local council and police.

11. EQUALITIES AND DIVERSITY IMPLICATIONS

None

12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT

12.1 There would be greater value for money if all DPPO that the licensing committee would like to consider for revocation to be consider collectively rather than individually. This would reduce costs in relation to officer time and the cost of public notices.

12.2 Although regulations state that DPPO must be revoked individually in their own merit, it is possible to carry out a single consultation process and publish one public notice to cover all the DPPO rather than one for each DPPO. However to confirm with regulations the licensing committee would be required to consider the evidence and results from consultation on each individual DPPO.

12.3 For example, if all 16 DPPO highlighted in this report were considered for revocation collectively rather than individually it is estimated that not only would vast amount of officer time be saved, it estimated that the cost of publishing public notices would be reduced to £2'000 rather than £9'800.

13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY

None

14. HUMAN RESOURCES IMPLICATIONS

None

15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS

None

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16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998

- 16.1 DPPO in a location with an identified problem gives the Police and accredited person's additional powers to confiscate alcohol from people drinking in public places to effectively deal with adult-alcohol related disorder.
- 16.2 A DPPO in an area which has no previous and/or current identified alcohol related disorder is in danger of raising the fear of crime and the fear of disorder amongst those who live there.
- 16.3 The process of conducting consultation with public and stakeholders, and reviewing evidenced based analysis assists the local authority in fulfilling it's duty to take due regard in its decision to revoke a DPPO or to make a decision to let it remain in place.

17. HEALTH INEQUALITIES IMPLICATIONS

None

18. LESSONS LEARNT

- 18.1 With the publication of the Home Office Guidance on DPPO local authorities and stakeholders can now have better understanding of the interpretation of the legislation. The guidance also offers clarification on the implementation and management of DPPO which will assist the local authority in granting DPPO which are appropriate and proportionate.

19. COMMUNITY AND STAKEHOLDER ENGAGEMENT

- 19.1 Under the regulations there will be a requirement to carry out full public and stakeholder consultation before any decisions are made to revoke any DPPO.
- 19.2 The Bromsgrove Community Safety Partnership has endorsed the content of the DPPO study, and the recommendations within this report.

20. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	YES
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Chief Executive	NO
Executive Director (S151 Officer)	NO
Executive Director – Leisure, Cultural, Environmental and Community Services	YES
Executive Director – Planning & Regeneration, Regulatory and Housing Services	NO
Director of Policy, Performance and Partnerships	NO
Head of Service	YES
Head of Resources	NO
Head of Legal, Equalities & Democratic Services	YES
Corporate Procurement Team	NO

21. WARDS AFFECTED

21.1 All wards within Bromsgrove District are affected by the content of this report either because they have a DPPO currently located within the ward or because the ward may have a requirement to request a DPPO in the future.

22. APPENDICES

Appendix 1 - Home Office Guidance: Designated Public Place Orders (DPPOs)

Appendix 2 - Bromsgrove District Designated Public Place Orders Review – March 2010

Appendix 3 - Example or Art work for new DPPO signage.

23. BACKGROUND PAPERS

Home Office Guidance: Designated Public Place Orders (DPPOs)
Bromsgrove District Designated Public Place Orders Review – March 2010

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