

26 July 2011	ITEM 5
<b>Licensing Committee</b>	
<b>APPLICATION TO IMPLEMENT A DESIGNATED PUBLIC PLACE ORDER FOR THE FLOWERS ESTATE, SOUTH OCKENDON</b>	
Report of: Jim Nicolson, Community Protection Manager	
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> key
<b>Accountable Head of Service:</b> Lucy Magill, Head of Public Protection	
<b>Accountable Director:</b> Bill Newman, Director of Sustainable Communities	
<b>This report is</b> Public	
<b>Purpose of Report:</b> To report on the proposed implementation of a consumption of alcohol Designated Public Place Order (DPPO) to cover the Flowers Estate in Ockendon Ward	

**EXECUTIVE SUMMARY**

This report examines a proposal to implement an Alcohol Consumption Designated Public Place Order (DPPO) to cover the Flowers Estate, South Ockendon. It explores the legal background and available evidence to support such a measure.

**1. RECOMMENDATION:**

**1.1 The Committee agrees: -**

**Not to initiate consultation on the implementation of a Designated Public Place Order to cover the Flowers Estate, South Ockendon.**

**2. INTRODUCTION AND BACKGROUND:**

2.1 Designated Public Place Orders (DPPO) were introduced by S.13 Criminal Justice and Police Act 2001, to respond to any nuisance or annoyance to members of the public, or a section of the public, or disorder, which is associated with the consumption of alcohol in that place.

- 2.2 It should be noted that DPPOs in practice only apply to those aged 18 or over, as legislation already exists to deal with those under that age who are drinking alcohol and engaging in Anti-social Behaviour (ASB). A fuller definition of DPPOs is provided in Appendix A.
- 2.3 As detailed in paragraphs 4.3 - 4.4 below, Home Office guidance emphasises that DPPOs should not be used to impose a blanket ban on open air drinking, but instead should be targeted on specific locations where the link between alcohol consumption in the open and ASB can be clearly demonstrated.
- 2.4 Where a DPPO is in place the police have the power to require anyone whose behaviour is causing a nuisance, annoyance or disorder and who is consuming alcohol in public to cease drinking and/or to surrender any opened or sealed containers holding alcohol. Further to this the Act also creates an offence if the individual fails to comply with either request, which could result in arrest and prosecution.
- 2.5 It is important to remember that a DPPO does not on its own prevent people from drinking alcohol in public, which is why the use of the term “alcohol free zone” is inaccurate. A police officer or PCSO must use their discretion on whether to require that person to stop drinking and/or hand over for disposal whatever it is that they have been drinking, because of their associated behaviour.
- 2.6 The data to support the introduction of a DPPO comes mainly from two sources; the police and the Council. (It needs to be remembered that police record a wide variety of incidents within the ASB category, including fly-tipping, abandoned vehicles etc). The data relating specifically to nuisance and disorder on the Flowers Estate shows the following:

**Police Data**

- For the period 1.4.10 to 31.03.11, a total of 85 ASB incidents on the Flowers Estate were recorded by police.
- Of these incidents only 5 related directly to alcohol-related ASB, of which only one was in the street.

**Council Data**

- During the period 1.4.10 to 31.3.11, Council staff dealt with five recorded incidents of noise nuisance, of which one related to a domestic noise complaint.
- Of the remaining four, three related to parties from separate addresses which would suggest that whilst alcohol may have been a factor there is no evidence to suggest this was drinking in the street and therefore be covered by a DPPO.
- The final report related to unspecified drugs or alcohol abuse where alcohol may have been a factor, although again, there is no evidence to suggest street drinking was involved.

- Staff also dealt with eleven nuisance/disorder reports, of which two related to youth nuisance and four were domestic-related. Of the remaining five, one related to an assault; one relates to hate crime; one to Halloween pranks; one to arson; and the final incident related to a dog. None of these can however be linked to street drinking.

2.7 Based on the available data there appears to be little evidence to show that the nuisance and disorder recorded in the area is fuelled by consumption of alcohol in public areas.

### 3. ISSUES AND/OR OPTIONS:

3.1 As referred to above, for a DPPO to be justified for there must be clear evidence that alcohol-related anti-social behaviour is a major problem. However, as can be seen in the data above the number of recorded incidents for alcohol-related ASB is very low.

3.2 Additionally, once in place, the successful implementation of DPPOs is clearly dependant on the willingness and capacity of local police to actually enforce them, as has been the case with those in place. The capacity of local police to enforce effectively more DPPOs, in the face of competing demands, is therefore a key factor.

3.3 If it was considered that there was a sufficiently major problem to merit the introduction of a DPPO, the Home Office guidance on the procedure to be followed by local authorities is very specific and includes the following:

*“The provisions of the Criminal Justice and Police Act should not lead to a comprehensive ban on drinking in the open air. So it remains that Section 13 of the Act allows local authorities to designate areas for this purpose only where they are satisfied that nuisance or annoyance to the public or disorder have been associated with drinking in that place. It is for the local authority to be satisfied that public nuisance, annoyance or disorder has been associated with drinking in the area concerned and that a designation order under Section 13 is appropriate. Whether or not a designation order is appropriate will be a matter for local judgement, based on the circumstances applying.”*

3.4 The guidance also states:

*“It is the case that where there have been no problems of nuisance or annoyance to the public or disorder having been associated with drinking in that place, then a designation order under Section 13 would not be appropriate.”*

3.5 The guidance gives further details of the requirements to consult widely with police; parish or community councils; and each premises licence holder and club premises certificate holder in the area to be covered, as well as the owners and occupiers of any land, where it is reasonably practicable to identify them.

3.6 It is also required to provide publicity via the local media before an Order is introduced and afterwards. In addition it is necessary to erect sufficient signage on all routes in and out of the area advising of the existence of the Order.

3.7 These measures represent a significant administrative undertaking with potentially significant costs which would need to come from funds yet to be identified.

#### **4. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT**

4.1 If there was such a level of alcohol-related ASB, then the introduction of a DPPO to cover the Flowers Estate could be seen to address directly the thrust of its Priorities regarding a safer, cleaner and greener environment and helping to build pride, respect and responsibility in Thurrock's communities and its residents.

### **5. IMPLICATIONS.**

#### **5.1 Financial**

Implications verified by: **Michael Jones**  
Telephone and email: **01375 652772**  
**mxjones@thurrock.co.uk**

Some financial implications would inevitably arise if it was decided to implement this DPPO. As these costs became known, they would have to be factored into the directorate outturn position

#### **5.2 Legal**

Implications verified by: **Jamie Hollis**  
Telephone and email: **01375 652925**  
**jhollis@thurrock.gov.uk**

Before seeking to designate an area as a DPPO, a local authority should satisfy itself that the powers are not being used disproportionately or in an arbitrary fashion in the case of isolated incidents.

The evidence required for a DPPO should establish that there is an alcohol related nuisance or annoyance to the public in the proposed area/s. There should be an assessment as to the likelihood that the problem will continue unless these powers are utilised, and in addition, there must be a belief that the problem could be remedied by the use of these powers. Evidence should be based not just on information obtained by the Council, but also information from the police and members of the local community who have reported incidents of alcohol-related anti-social behaviour or disorder.

### 5.3 Diversity and Equality

Implications verified by: **Samson DeAlyn**  
Telephone and email: **01375 662472**  
**sdealyn@thurrock.gov.uk**

The implementation of a Designated Public Place Order for the Flowers Estate would impact on those people aged 18 or over who, in a public place, were engaging in anti-social behaviour having consumed alcohol. This would not have any significant equality implications as it would represent the exercise of statutory and legal powers.

### 5.4 Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental

ASB and the fear of ASB has a major impact on people's lives and any measure that may help to alleviate these problems would have a beneficial impact on the Council's responsibilities as defined by S.17 Crime and Disorder Act, 1988. However, as set out in this paper, the effects of introducing a DPPO to cover the Flowers Estate could only expect to be limited.

## 6. CONCLUSION

- 6.1 There are clear guidelines set out by the legislation regarding the levels of nuisance and disorder needed to be present to justify the introduction of a DPPO. Currently, the data in respect of alcohol-related nuisance and disorder on the Flowers Estate would appear not to do so.
- 6.2 It is therefore recommended that the Committee does not support seeking a Borough-wide DPPO.

## BACKGROUND PAPERS USED IN PREPARING THIS REPORT:

- Criminal Justice and Police Act 2001
- Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007
- Guidance on designated public place orders (DPPO's): for local authorities in England and Wales

**APPENDICES TO THIS REPORT:**

Appendix A - Sec 13, Criminal Justice and Police Act 2001

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## APPENDIX A

### **Sec 13, Criminal Justice and Police Act 2001: Designated Public Places**

- (1) A place is a Designated Public Place if it is:
  - (a) a public place in the area of a local authority; and
  - (b) identified in an order made by that authority under subsection (2).
  
- (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) The power conferred by subsection (2) includes power—
  - (a) to identify a place either specifically or by description;
  - (b) to revoke or amend orders previously made.
  
- (4) The Secretary of State shall by regulations prescribe the procedure to be followed in connection with the making of orders under subsection (2).
  
- (5) Regulations under subsection (4) shall, in particular, include provision requiring local authorities to publicise the making and effect of orders under subsection (2).
  
- (6) Regulations under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.