

26 July 2011		ITEM 6
<b>Licensing Committee</b>		
<b>DESIGNATED PUBLIC PLACE ORDER THROUGHOUT THE BOROUGH OF THURROCK</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		
This report is 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 whole Borough of Thurrock		

## EXECUTIVE SUMMARY

This report examines a proposal to implement a Borough-wide Alcohol Consumption Designated Public Place Order (DPPO) which arose from a petition to Council in 2010. 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 Borough-wide Designated Public Place Order at this time.**

### 2. INTRODUCTION AND BACKGROUND

2.1 Designated Public Place Orders (DPPO) were introduced by Section 13 of the 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 paras 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 The data to support the introduction of a DPPO comes mainly from two sources; the police and the Council. Attached at Appendix B is the police data for 2010/11, with the corresponding Council data at Appendix C. (It needs to be remembered that police record a wide variety of incidents within the ASB category, including fly-tipping, abandoned vehicles etc).
- 2.5 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.
- 2.6 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 a person to stop drinking and/or hand over for disposal whatever it is that they have been drinking, because of their associated behaviour.
- 2.7 Despite these limitations, DPPOs have already been used in Thurrock, with four currently in place. These are at:
- Corringham Town Centre & Balstonia Recreation Ground
  - Stanford-le-Hope
  - Aveley Village
  - Grays Town Centre and Grays Park
- 2.8 The first three DPPO’s were introduced prior to 2007 and the most recent, for Grays town centre, came into being in 2009. All four were introduced following requests from local police, supported by their records on the number of alcohol-related nuisance and disorder in each case. DPPOs are not time-limited and can be kept in place as long as thought necessary.

### **3. ISSUES AND/OR OPTIONS:**

- 3.1 As referred to above, for a DPPO to be justified for the whole Borough there must be clear evidence that alcohol-related anti-social behaviour is at a sufficiently high level throughout it, not just in specific locations. Having studied the Police and Council data, whilst there are some comparative

hotspots, there is also a significant number of wards where 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 a Borough-wide DPPO, in the face of competing demands, is therefore a key factor.

3.3 Home Office guidance on the procedure to be followed by local authorities in implementing a DPPO 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 requirement 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.

#### **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 Borough-wide DPPO 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 652472**  
**sdealyn@thurrock.gov.uk**

The implementation of a Designated Public Place Order for the whole Borough 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 Section 17 of the Crime and Disorder Act, 1988. However, as set out in this paper, the effects of introducing a Borough-wide DPPO could only expect to be limited.

**6. CONCLUSION**

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 would appear to fall well short of that standard throughout the whole Borough. On that basis it seems unlikely that the Council would be able to satisfy itself that sufficient nuisance and disorder was taking place and having such an impact on our residents and communities as to justify initiating consultation on a Borough-wide DPPO.

It is therefore recommended that the Committee does not recommend initiating consultation on the implementation of 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**            Definition of DPPOs
- Appendix B**            Total number of Police-recorded ASB Incidents by Wards for period 01/04/2010 - 03/02/2011
- Appendix C**            Total number of Council-recorded ASB Incidents – 2010

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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.

**APPENDIX B**

Total number of Police-recorded ASB Incidents by Wards for period  
01/04/2010 – 31/03/2011

Ward	Other ASB Incidents	Drunk	Grand Total
Aveley Uplands	452	8	460
Belhus	538	9	547
Chadwell St Mary	460	9	469
Chafford & North Stifford	198	2	200
Corringham Fobbing	130	1	131
East Tilbury	298	3	301
Grays Riverside	821	49	870
Grays Thurrock	392	19	411
Lakeside	206	6	212
Little Thurrock Rectory	177	11	188
Little Thurrock Blackshots	218	1	219
Ockendon	582	7	589
Orsett	192	2	194
South Chafford	212	4	216
Stanford Le Hope East			
Corringham Town	421	4	425
Stanford Le Hope West	337	10	347
Stifford Clays	216	3	219
The Homestead	157	0	157
Tilbury Riverside	505	11	516
Tilbury St Chads	298	3	301
West Thurrock & South Stifford	604	17	621
Grand Total	7414	179	7593

**APPENDIX C**      Total number of Council-recorded ASB Incidents  
1.4.11 - 31.03.11

<b>Ward</b>	<b>Total of ASB Incidents</b>
Aveley & Uplands	30
Belhus	303
Chadwell St Mary	78
Chafford & North Stifford	9
Corringham and Fobbing	32
East Tilbury	9
Grays Riverside	177
Grays Thurrock	50
Little Thurrock Blackshots	44
Little Thurrock Rectory	4
Ockendon	44
Orsett	5
South Chafford	3
Stanford East and Corringham Town	45
Stanford West	18
Stifford Clays	5
The Homesteads	2
Tilbury Riverside & Thurrock Park	55
Tilbury St Chads	42
West Thurrock and South Stifford	24
<b>TOTAL</b>	<b>979</b>