

CITY COUNCIL – 28 JANUARY 2013

REPORT OF THE PORTFOLIO HOLDER FOR AREA WORKING, CLEANSING AND COMMUNITY SAFETY

ARBORETUM AND RADFORD AND PARK WARDS DESIGNATED PUBLIC PLACE ORDER

1 SUMMARY

- 1.1 This report outlines the procedure through which the Council will consult on making a Designated Public Place Order (“DPPO”) that covers part of the Radford and Park, and Arboretum Ward areas (herein after referred to as “the Order”).
- 1.2 All appendices referred to in the report have been circulated separately.

2 RECOMMENDATIONS

That Council:

- 2.1 notes the draft Order and map specified at Appendix 1 showing the area proposed to be covered by the Order;
- 2.2 approves the notification and consultation processes required for making an Order as per the procedural summary at Appendix 2 and timetable at Appendix 3;
- 2.3 approves the publication of the draft Order for public consultation, as per the draft notice at Appendix 4.

3 REASONS FOR RECOMMENDATIONS (INCLUDING OUTCOMES OF CONSULTATION)

- 3.1 There is a need to control problems associated with alcohol related nuisance and annoyance to the public in the proposed area. The problems are caused by people drinking alcohol in public, mis-using alcohol and using anti-social behaviour, including public disorder and littering associated with the consumption of alcohol. Evidence shows that these issues impact greatly on the quality of life for the residents, visitors and businesses alike within the proposed area.

- 3.2 The introduction of the Order would provide an additional tool to be used in the enforcement and prevention of alcohol related anti-social behaviour. The Order would give rise to the power of Police Officers and accredited officers to require people to desist from drinking alcohol and to surrender alcohol. An Order would therefore help remedy the problems caused by alcohol related anti-social behaviour, nuisance and disorder in the proposed area. Evidence gathered in the existing DPPO areas shows a reduction in alcohol related nuisance and disorder through use of the associated powers. Unless the powers are adopted in the proposed area there is a high likelihood the problems experienced would continue.
- 3.3 If a DPPO were imposed it would become an offence to fail to comply, without a reasonable excuse, with an officer's request. Penalties for the offence include a Fixed Penalty Notice being issued of £50 or a fine of up to £500 following prosecution.
- 3.4 The City Council, in conjunction with Nottinghamshire Police already utilise various intervention techniques to help prevent alcohol related nuisance and annoyance arising. The powers proposed will assist and strengthen the approach taken by these agencies against those who choose to continue to disrupt the lives of residents and businesses.

4 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 4.1 Dealing with the issue of public alcohol consumption and associated anti-social behaviour is a high priority in the Hyson Green, Arboretum and Radford areas and has recently received extensive coverage in the local press. The Council has considered and utilises other options, including increased street patrols within the area and increased alcohol related operations, to deal with the problems that arise. However these are unlikely, in isolation, to be effective in remedying alcohol related nuisance and disorder. It is recommended that the addition of the proposed Order is needed to assist officers further in curtailing alcohol related anti-social behaviour. In addition to the proposed DPPO, the introduction of an Alcohol Saturation Zone will be considered in the future. Whilst this would assist in controlling the amount of licensed premises opening and selling alcohol in the zone, it would not give rise to a power to request persons to stop consuming alcohol, to seize alcohol and to an associated power of arrest.
- 4.2 Increasing street patrols has helped to monitor the situation in the

proposed area and to act as a deterrent. However, where problems arise in the proposed area, officers do not presently have the ability to request the consumption of alcohol is stopped and to confiscate alcohol. Therefore the options open to officers are restricted and their actions are less effective than they might otherwise be.

- 4.3 The proposal will not affect the existing power of the Police to seize and retain alcohol from young persons under the Confiscation of Alcohol (Young Persons) Act 1997. However, these powers do not limit the consumption of alcohol by adults and are limited to use by the Police. The powers that would arise under the proposal apply to all persons regardless of age and can be utilised by all accredited officers.
- 4.4 Dispersal Orders are used by the Police from time to time; however, when applied they only give rise to the ability to disperse a group of two or more persons in any public place in the relevant locality which has resulted or is likely to result in any member of the public being intimidated, harassed alarmed or distressed. The power does not specifically relate to preventing the consumption of alcohol.
- 4.5 Whilst directions to leave an area, under the Violent Crime Reduction Act 2006, can apply to individuals who may cause alcohol related crime or disorder, the power can only be utilised by the Police and once again, does not extend to the seizure of alcohol.

5 BACKGROUND

- 5.1 Under section 13(2) of the Criminal Justice and Police Act 2001, local authorities can by order designate areas that they are satisfied have experienced alcohol-related disorder or nuisance caused to members of the public or a section of the public, so that there can be restrictions on public drinking. The potential for nuisance is not in itself sufficient grounds for designation; there must be evidence of an existing association. Such orders are called Designated Public Place Orders (DPPOs).
- 5.2 Section 12 of the Criminal Justice and Police Act 2001 provides the Police and accredited officers with the power to deal with alcohol related anti-social behaviour, nuisance and disorder in areas that have been designated by the local authority under section 13 of the Act as a DPPO. Section 12 provides that an officer who reasonably believes a person is or has been consuming, or intends to consume

alcohol in a designated public place, can request that they refrain from doing do and may ask the person/s to surrender any alcohol or alcohol containers (including sealed containers) in their possession. Failure to comply with the officer's request becomes an arrestable offence which can result in a fixed penalty notice or a fine. In order to ensure a proportionate use of the powers it is proposed that individuals who an officer reasonably believes have been consuming, or intend to consume alcohol within the proposed designated area are not approached and asked to refrain from drinking unless:

- a) they are engaged in anti-social behaviour or disorder;
- b) the officer is of a view that there is likely to be anti-social behaviour or disorder; or
- c) complaints had been received from members of the public, businesses and/or Council staff working in the area that they have been engaged in such behaviour.

5.3 On 1 April 2006, Nottingham City Council created a DPPO in Hyson Green. A copy of the Map relating to this DPPO is detailed in Appendix 5.

5.4 Nottingham City Council has approved DPPOs covering the City Centre and the area to the North-West to include the Forest Recreational Ground and an area to the North East as detailed on the map attached at Appendix 6.

5.5 As a matter of good practice there have been regular reviews and evaluations of the current DPPO's .It has been identified that there is an area, not currently covered by the existing DPPO's which experiences alcohol related disorder and nuisance. At present the Police and accredited officers have no powers to request people refrain from drinking alcohol and confiscate it in this area. The evidence gathered suggests anti-social behaviour has been caused by people drinking alcohol irresponsibly in this area, which has impacted negatively upon the peaceable enjoyment of the area by the wider community. Evaluation of the evidence gathered also demonstrates there has been an amount of displacement of anti-social drinking and nuisance from the existing DPPO areas across into parts of the Radford (West) and Park Wards which border the Hyson Green Forest Recreation Ground DPPO areas to the West and North West. Given the evidence of displacement that has taken place so far, there is a risk that wider displacement may occur within the Radford (West) and Park Wards. To take account of this the proposed DPPO area has been widened to include public areas

beyond those experiencing the majority of the immediate problems caused by anti-social drinking. This is an approach consistent with Home Office guidance. The relationship of the proposed area to the existing DPPO areas in the vicinity is shown at Appendix 7.

- 5.6 Any powers arising from an Order are not intended to disrupt peaceful activities, for example families or groups having a picnic and consuming alcohol in the proposed area, but are solely intended for use as a control measure for the consumption of alcohol in public places by those who cause anti-social behaviour as a result of their drinking and associated behaviours.
- 5.7 Section 14 of the Criminal Justice and Police Act 2001 denotes those areas which are **not** public places for the purposes of consuming alcohol in public places (ie consumption of alcohol in these places is allowed subject to regulations by other legislation)

Under section 14(1) A place is not a designated public place or a part of such a place if it is:

- (a) a premises in respect of which a premises licence or club premise certificate authorising the sale or supply of alcohol has effect, within the meaning of the Licensing Act 2003;
- (b) a place within the curtilage of premises within paragraph (a);
- (c) a premises which by virtue of Part 5 of the Licensing Act 2003 may for the time being, be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the last 30 minutes;
- (d) a place where facilities or activities relating to the sale or consumption of alcohol are for the time being permitted by virtue of a permission granted for the execution of works and use of objects in or over a highway.

It is proposed to consult the list of statutory consultees which will include the Police and holders of premises licenses and club premises certificates within the proposed area which may be affected by the making of an Order. It is proposed that reasonable steps are taken to consult with the owners and occupiers of the land within the proposed area, through leafleting or by letter, examples of such consultation letters are shown at Appendix 8. Relevant representations in relation to whether or not a DPPO should be made will be invited. Any representations received at the expiry of the consultation period will be reported back to the Council. A consultation period of 6 weeks is being proposed. If an Order were to be recommended it could not be

made until at least 28 days have passed after publication of a final notice in a local newspaper. The procedures and timetables the Council needs follow are set out at Appendix 2 and 3.

- 5.8 Statements have been provided so far by a number of people. These include Community Protection Officers, Police Community Support Officers, Police Officers, two Police Inspectors covering the proposed area and other sources within the wider community. They all support the making of a DPPO. A copy of the relevant evidence will be available to view and in the Council Chamber immediately before the meeting.

6 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY)

- 6.1 Prior to implementing a DPPO, regulations require the Council to consult with any other primary or secondary authority within the area over which the Order is to apply. Nottingham City Council is the sole Local Authority for the Hyson Green, Arboretum and surrounding area and there are no Parish or Community Councils within or near the proposed designation area. The only remaining mandatory consultees will be the Chief Officer of Police and relevant premises licence and club certificate holders.
- 6.2 The cost of bringing the Order into force includes the consultation process and subsequent erection of signs declaring the status of the area in question.
- 6.3 The Council must also publish a notice describing the proposed order to allow residents the opportunity to make representations. Those representations will be considered and reported upon as appropriate. The cost of leaflets/letters for consultation with the business owners, residents and interested parties in the proposed area will be met by Community Protection.
- 6.4 Prior to implementing an Order, regulations require the Council to publish a Notice in the local newspaper circulated in the area. The notice must:
- (a) identify the land to which the Order will apply;
 - (b) summarise the Order;
 - (c) if the Order refers to a map, identification is required as to where the map can be inspected;
 - (d) give the address to which and the date by which representation must be sent to the Authority.

The notice (see Appendix 4) would be published in the Topper newspaper which circulates in the proposed area. One advert is required as part of the formal Consultation process, we have been given an estimated quote for the cost of this advert as £483.00 per advert.

6.5 An example of the proposed signs which will be used if an Order is made is shown at Appendix 9. It has been designed with language barriers in mind and is pictorial for those who cannot read English or the other languages displayed. The costs for each sign are approximately £29.40 (materials) with fitting of £90. Several signs would be displayed, one at each entry point to the area and additional signs at prominent points where particular issues with anti-social behaviour resulting from alcohol drinkers have been experienced. This overall cost is reduced when more than 50 signs are ordered. The costs could be reduced further still if all DPPO area signage was renewed.

6.6 Financial Benefits would include:

- long term reduced costs for Community Protection and the Police in significantly reducing anti-social behaviour and alcohol related disorder in the area caused by drinking alcohol in public and subsequent behaviour associated with this activity;
- long term reduced costs for Community Protection and the City Council in significantly reducing litter caused by alcohol drinkers discarding their empty bottles and cans within the area.

6.7 If the Order is approved and the required signage erected, there will be no ongoing financial implications. The costs of enforcing the Order will be met within the existing roles of Nottinghamshire Police.

7 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS, CRIME AND DISORDER ACT IMPLICATIONS)

7.1 Paragraph 18 of the Home Office Circular 013/2007 - Guidance for Designated Public Place Orders states that the local authority will want to satisfy itself that these powers are not being used disproportionately or in an arbitrary fashion which could be the case if one, isolated incident led to a designation order. Clearly there should be evidence of an existing problem, with an assessment as to the likelihood that the problem will continue unless these powers are adopted and belief that the problem could be remedied by the use of these powers. Against this background, it is possible that a single,

serious incident might be sufficient to justify adoption of the powers.

- 7.2 The Orders would assist the area by way of reducing and preventing criminal and anti-social acts.
- 7.3 As identified in the main body of the report DPPOs should only be made where the Council is satisfied that to do so would be a necessary and proportionate response to problems caused by the activities of people drinking alcohol in the area defined and the subsequent anti-social behaviour caused by them. If the Order is to be made then the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 procedure must be followed including consultation and the advertisement of proposals. Subject to compliance with and the outcome of those procedures, the eventual making of the Order would be within the Council's powers.
- 7.4 Officers would use any powers derived from the making of a DPPO fairly and proportionately as described above. The use of the power is a discretionary one for individual officers. Any general offences or other anti-social behaviour would be dealt with under existing legislative powers.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 The proposed Order is not intended to restrict those wishing to drink alcohol in a sensible and reasonable manner and therefore would not impact upon such activities. The order does not have an impact on any particular gender, race, disability, religion or belief or sexual orientation. The powers that arise from an Order would only impact those who engage in alcohol related disorder and nuisance. The uses of the powers that arise under the proposed Order are specified in legislation that applies to everyone equally. Enforcement against people acting in an anti social manner within the area of the DPPO will enable other members of the community, including young people, to enjoy the facilities provided without feeling uncomfortable or fearful. Whilst it is believed that interference with individual's private lives would only occur in a proportionate and justifiable manner and within a defined area, any concerns over impact upon equality will be reported back to the Council, should the results of the consultation confirm the need for a DPPO.

9 **LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION**

9.1 Evidence in support of proposed DPPO

10 **PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

10.1 Criminal Justice and Police Act (2001), sections 12-14.

10.2 Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 SI 2007/806.

10.3 Home Office - Guidance on Designated Public Place Orders (DPPO's): For Local Authorities in England and Wales.

**COUNCILLOR ALEX NORRIS
PORTFOLIO HOLDER FOR AREA WORKING, CLEANSING AND
COMMUNITY SAFETY**