

## **CITY COUNCIL – 21 OCTOBER 2013**

### **REPORT OF THE LEADER**

#### **CITYWIDE 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) (“the Order”) to cover those areas within the city boundary which are not currently covered by DPPOs as shown on the Plan appended hereto at Appendix 1 (“the Proposed Area”).

##### **2 RECOMMENDATIONS**

- 2.1 It is recommended that Council:
- 2.2 Notes the draft Order and map specified at appendix 1 showing the proposed area to be covered by the Order.
- 2.3 Approves the notification and consultation processes required for making the Order as per the procedural summary at appendix 2 and timetable at appendix 3
- 2.4 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, misusing alcohol and causing anti-social behaviour, including public disorder and littering associated with the consumption of alcohol. Evidence suggests that these issues impact greatly on the quality of life for the residents, visitors and businesses alike within the Proposed Area.

The introduction of the Order would provide an additional tool to be used in prevention and reduction of alcohol related anti-social

behaviour and crime. The Order would give rise to the power of Police Officers and 'accredited officers' (namely Community Protection Officers) to require people to desist from drinking alcohol and to surrender alcohol where appropriate. The 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 across the whole city, there is a high likelihood the problems experienced will continue and are likely to continue to be pushed from areas covered by a DPPO into neighbouring areas across the City, rather than being cohesively dealt with, which the Order will assist the Council to do.

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.

- 3.2 The City Council, in conjunction with Nottinghamshire Police already utilise various intervention techniques to help prevent alcohol related nuisance and annoyance occurring. 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 for the city and regularly receives extensive coverage in the local press. The Council has considered and utilises other options, including increased street patrols within the city and increased alcohol related operations, to deal with the problems that arise and the introduction of a voluntary restriction on the sale of super strength alcohol. 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 Order, the Alcohol Saturation Zones have been introduced in the city centre and Area 4, which mean that there is a presumption against the granting of new premise licenses in this area. Whilst these assist in controlling

the amount of licensed premises opening and selling alcohol in the zone, they 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 have 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 to stop or confiscate. 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 (namely Community Protection 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 so 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 that 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 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 Nottingham City Council has approved DPPOs covering the City Centre, Sneinton, Forest Fields, Hyson Green and Vernon Park, Basford as detailed on the map attached at Appendix 6.

5.4 As a matter of good practice there have been regular reviews and evaluations of the current DPPOs. The existing DPPOs are wholly regarded as successful but displacement continues to be an issue. It has been identified that areas not currently covered by the existing DPPOs continue to experience disproportionate and unacceptable levels of alcohol related nuisance and/or disorder. At present the Police and accredited officers have no powers to request people to refrain from drinking alcohol or confiscate it in these areas. The evidence gathered to date suggests anti-social behaviour has been caused by people drinking alcohol irresponsibly in these areas, which has impacted negatively upon the peaceable enjoyment of these areas by the wider community.

5.5 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.

- 5.6 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 (i.e. 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 the 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. 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 for a decision to be made as to whether or not to confirm the Order. A consultation period of 10 weeks is being proposed. If the Order is to be confirmed this could not be done until at least 28 days have passed after publication of a final

notice confirming the proposed course of action in a local newspaper.

The procedures and timetables the Council needs to follow are set out at appendix 2 and 3.

5.7

Evidence collated by Community Protection and Police colleague will be reviewed and considered before being made available to view prior to seeking the full Order. A copy of all evidence will be made available in the Council Chamber immediately before the Council meeting currently scheduled for 10 February 2014 (subject to any change in date).

## **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 city of Nottingham and there are no Parish or Community Councils within or near the proposed designation area. We will consult with neighbouring District Councils. The only remaining mandatory consultee 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 the 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 of £483.00 per advert.

6.5 An example of the proposed signs which will be used if the 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. Approximately 100 signs would be displayed at prominent points where particular issues with anti-social behaviour resulting from alcohol drinkers have been experienced. Costs will be negotiated further given the amount required. This will be met within the Community Protection budget for 2013/14.

6.6 Financial Benefits would include:-

- Long term reduced costs for the City Council and the Police in significantly reducing anti-social behaviour and alcohol related disorder in the area caused by drinking alcohol in public and subsequent crime associated with this activity.
- Long term reduced costs for 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 (say for sign replacement from time to time). The costs of enforcing the Order will be met by the existing roles within Community Protection and 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.

Guidance produced by the Home Office 'Guidance on Designated Public Place Orders (DPPOs): For Local Authorities in England and Wales' dated December 2008 confirms at page 8 that borough-wide DPPOs are not specifically prohibited: however caution is advised. It states that in order for the DPPO to be proportionate, you need to ensure that there is evidence of alcohol-related anti-social behaviour in each and every part of the borough.

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 Designated Public Place Orders 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 Proposed Area 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 (EIA)**

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 None

## **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 JON COLLINS  
LEADER OF THE COUNCIL**