



Walsall Council

LICENSING AND SAFETY COMMITTEE

5TH March 2008

REPORT OF ASSISTANT DIRECTOR OF LEGAL & CONSTITUTIONAL SERVICES

ALCOHOL CONSUMPTION IN PUBLIC PLACES DESIGNATED PUBLIC PLACES ORDER – WALSALL METROPOLITAN BOROUGH

1.0 PURPOSE OF REPORT

- 1.1 The Committee is asked to determine, based on the evidence to be presented at Committee, whether it is 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 alcohol across the Borough and if so satisfied that the whole Borough should be identified in an order subject to the requirements of the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.
- 1.2 If the Committee is so satisfied to seek the approval of the Committee to implement the procedure to introduce a Borough wide designated places order and to consult on the making of the Walsall Metropolitan Borough (Alcohol Consumption in Designated Public Places) Order 2008 under Section 13(2) of the Criminal Justice and Police Act 2001 in accordance with the procedures set out in the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.

2.0 RECOMMENDATION

- 2.1 The Licensing and Safety Committee is recommended : -
- 2.2 to determine that the Local Authority is satisfied, based upon the evidence before the Committee, that across the Borough nuisance or annoyance to members of the public or a section of the public; or disorder has been associated with the consumption of alcohol and therefore that the test under 13(2) of the Criminal Justice and Police Act 2001 is satisfied.
- 2.3 to instruct the Assistant Director of Legal and Constitutional Services to implement the procedure to make the Walsall Metropolitan Borough (Alcohol Consumption in Designated Public Places) Order 2008 and to

consult on the making of the Order in accordance with the provisions of the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 in relation to the whole of the Borough.

- 2.4** subject to no adverse representations being received, to authorise the Assistant Director of Legal & Constitutional Services to make the Order, to be known as the Walsall Metropolitan Borough (Alcohol Consumption in Designated Public Places) Order 2008.

3.0 BACKGROUND

- 3.1** Under sections 12 to 16 of the Criminal Justice and Police Act 2001 the Government introduced measures to restrict anti-social drinking in specified places.

- 3.2** These measures have replaced the Byelaws that many authorities, including Walsall, had introduced to restrict the consumption of alcohol in designated public places.

- 3.3** The powers enable the Police to require individuals to stop drinking immediately and the Police may remove alcoholic drinks from problem drinkers in the street. In addition, where individuals do not comply with such request they could be arrested, and upon conviction, fined up to a maximum of £500.

- 3.4** The adoption of the measures contained within the Act is designed to be more straightforward and it is felt by Government that the introduction of primary legislation helps to ensure greater consistency.

- 3.5** It is hoped that the public drinking measures will provide an effective response to the problems associated with the anti-social consumption of alcohol in public places. Not only does this often include under-age consumption of alcohol it can also generate problems of crime, disorder and social nuisance which impacts on the quality of life of citizens and visitors to the Borough.

- 3.6** Before making a Designated Public Places Order the Council must be 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 alcohol in the place proposed to be covered by the Order.

- 3.7** The Committee should be presented with evidence;
- of an existing problem; together
 - with an assessment as to the likelihood that the problem will continue unless these powers are adopted and
 - evidence of a belief that the problem could be remedied by the use of these powers.

- 3.8 Guidance on Designated Public Places Orders is contained in Annex A of Home Office Circular 013/2007. The following is an extract from the Annex.
- 3.9 *“The provisions of the CJPA 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. The Regulations do not place a requirement on the local authority to conduct a formal assessment, over a given period, of the nature of the problem. Whether or not a designation order is appropriate will be a matter for local judgement, based on the circumstances applying.*
- 3.10 *17. 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. However, experience to date on introducing DPPOs has found that introducing an Order can lead to nuisance or annoyance to the public or disorder associated with public drinking being displaced into immediately adjacent areas that have not been designated for this purpose. Therefore, **before** designating an area, local authorities should make an assessment of all the areas to where they reasonably believe that nuisance or disorder will be displaced, ensuring that all those affected by the designation are appropriately consulted. This is to allow for consideration to be given to the consequences of the designation order on the neighbouring authority (such as the possible displacement of anti-social drinking problems). It might therefore be appropriate for a local authority to designate a public area beyond that which is experiencing the immediate problems caused by anti-social drinking if police evidence suggests that the existing problem is likely to be displaced once the DPPO was in place. In which case the designated area could include the area to which the existing problems might be displaced.*
- 3.11 *18. 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.*

3.12 When a Local Authority is satisfied that the criteria under section 13(2) is met and the Local Authority wishes to designate a public area it is required to follow the procedure prescribed by The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.

In summary the procedure to be followed is:-

3.13 Consultation

The Regulations require local authorities to consult with:

- The police prior to making a designation order. This is to seek the views of the police on the nature of the problem and the appropriateness of adopting the section 12 powers to respond to it, recognising that it will be the police who will have the responsibility for enforcing the resulting restrictions on public drinking.
- Any parish or community council in whose area the public place is to be designated.
- Each premises licence holder, club premises certificate holder or other premises user in respect of premises in the public place to be designated which may be affected by the designation.
- Owners or occupiers of any land that may be identified in a designation order.
- When consulting the parties the local authority must describe in writing what effect the DPPO will have in relation to any type of premises in the public place.

The Local Authority will also consult neighbouring areas which may be affected by the order.

3.14 Publicity – before introducing a DPPO

3.15 Before making an order a local authority shall cause to be published in a newspaper circulating in its area a notice relating to the introduction of a DPPO.

The local authority must when publicising details in a newspaper circulating in its area of the proposed DPPO, identify the place that is to be designated. It must set out effect the DPPO will have in relation to any type of premises in the public place. Local authorities are required to invite representations as to whether or not an order should be made.

No order can be made until at least 28 days after the publication of the notice

3.16 Publicity – post decision to make a DPPO

Once a decision has been made to designate an order under section 13 of the 2001 Act a local authority must publicise the details of the area to be designated in the order in a newspaper circulating in its area identifying the place which is to be designated and setting out what effect the DPPO will have at particular times in relation to any type of premises in the public place. The newspaper publicity must say on which date the order would take effect

3.17 Signage

There is a requirement to erect signs to ensure that the public (including visitors to the area) are made aware that restrictions on public drinking may apply. The local authority must therefore erect signage that indicates what effect the DPPO will have in relation to any type of premises in the public place .

3.18 Notification to Secretary of State

To ensure that the public have full access to information about designation orders made under section 13 of the Act and for monitoring arrangements, the Regulations require all local authorities to send a copy of any designation order to the Secretary of State as soon as reasonably practicable after it has been made.

4.0 DRINKING BYELAWS

4.1 Byelaws to restrict public drinking ceased to have an effect from 1st September 2006 by virtue of section 15 of the Criminal Justice and Police Act 2001

4.2 Areas subject to a Designated Public Places Order will not lead to a ban on drinking in the open air. The offence under this legislation is to continue drinking after being required by a police officer not to do so.

The Council has evidence of nuisance and annoyance to the public and of disorder associated with the consumption of alcohol in the Borough. This evidence will be presented on the 5th March 2008.

5.0 EVIDENTIAL REQUIREMENT

5.1 Evidence has been provided from a number of sources including the Police, Safer Walsall Borough Partnership Councillors and Council Officers, LNP's and Neighbourhood Watches.

5.2 It is proposed that the Committee instruct the Assistant Director of Legal and Constitutional Services to execute the procedural steps required to introduce a Borough wide DPPO and in particular to consult on the making of a Borough wide Alcohol Consumption in Designated

Public Places Order to cover the borough and if no adverse representations are received, to make and publicise the Order .

If representations are received the Committee will need to meet to consider them.

6.0 FINANCIAL IMPLICATIONS

The SWBP has secured funding from the Improving Security in Neighbourhoods Programme to meet the costs of the signage, adverts and consultation.

7.0 POLICY IMPLICATIONS

Accords with council policy to protect residents against crime and disorder.

8.0 LEGAL IMPLICATIONS

The Legal Implications are as set out in the body of the report.

9.0 EQUAL OPPORTUNITIES IMPLICATIONS

None.

10. WARDS AFFECTED

All.

11. CONSULTEES

The Regulations require formal consultation as outlined above. Informal consultation has taken place as part of the evidence gathering exercise. The Police, SWBP, RSL, Councillors, LNP's and the public have been approached for their views.

12. CONTACT OFFICER Dominic Patouchas Legal Services Telephone 650423

List of Background Papers

- Criminal Justice and Police Act 2001
- Information from [crimereduction.gov.uk](http://www.crimereduction.gov.uk) website :-

<http://www.crimereduction.homeoffice.gov.uk/alcoholorders/alcoholorders01.htm>

- Home Office Circular 013 / 2007 - The Local Authorities (Alcohol Consumption In Designated Public Places) Regulations 2007
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