

CITY OF PLYMOUTH

Subject: Application for the Designated Public Place Order (DPPO) to Control Drinking in Freedom Fields Park and Tothill Park

Committee: Licensing Committee (Miscellaneous)

Date: 15 March 2011

Cabinet Member: Councillor Mike Leaves

CMT Member: Director for Community Services

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Ref:

Key Decision: No

Part: I

Executive Summary:

On the 21 December 2010 Licensing Committee (Miscellaneous) considered an application submitted by Devon & Cornwall Police, to make a Designated Public Place Order (DPPO) to cover Freedom Fields Park and Tothill Park due to the likely consequence of displacement, to control street drinking. Based on the evidence submitted at that time Members resolved to approve a wider public consultation as prescribed in the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.

This report details the results of that public consultation. Members are asked to consider all the submitted information and decide whether or not to approve the DPPO.

Corporate Plan 2010 – 2013 as amended by the four new priorities for the City and Council:

- Raising Aspiration
 - Value for Communities
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Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

As Members approved to undertake a wider public consultation, officer resources were required to ensure that the consultation has been conducted in accordance with the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.

The Customer Data Integration Project has committed to funding the costs of advertising and purchase of signage if the application was approved. This external grant has been provided by the Department for Communities and Local Government from the National Efficiency and Transformation Capital Fund.

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Recommendations & Reasons for recommended action:

1. Committee consider the results of the public consultation and decide whether or not there is sufficient evidence to show that a nuisance or annoyance or disorder is caused to members of the public or a section of the public in Freedom Fields Park which is associated with the consumption of alcohol.
2. Committee consider the results of the public consultation and decide whether or not there is sufficient evidence to show that a nuisance or annoyance or disorder is caused to members of the public or a section of the public in Tothill Park which is associated with the consumption of alcohol or there is likely to be a displacement of street drinking if an order were granted to cover Freedom Fields Park.

If so satisfied

- a. Agree the creation of a DPPO for Freedom Fields Park for the area shown on the map in **Appendix A** and authorise Officers in the Public Protection Service to take the appropriate steps to create the order to come into effect on 1 April 2011 or as soon as reasonably practicable after that.
 - b. Agree the creation of a DPPO for Tothill Park for the area shown on the map in **Appendix B** (including all walkways leading under the railway embankment) and authorise Officers in the Public Protection Service to take the appropriate steps to create the order to come into effect on 1 April 2011 or as soon as reasonably practicable after that.
 - c. Authorise Officers to place a public notice in the local press as is required under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.
 - d. Authorise Officers to arrange the production and installation of the signs prior to the coming into force of the order (any order is not enforceable until after the signs have been erected).
 - e. A progress report be submitted in 2 years time to outline the effectiveness of the Order in helping to reduce alcohol related anti-social behaviour and disorder.
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Alternative options considered and reasons for recommended action:

If Licensing Committee decide against introducing the DPPO the Police would have to continue using existing powers and would have no preventative powers to control street drinking and no action could be taken until a public order offence had been committed.

If Licensing Committee approve any amendment to the proposed area or extend the include other areas on the grounds of displacement then this course of action would need to be balanced against the fact that these areas would not have been part of a formal public consultation process.

Background papers:

Cabinet Report 24.05.2005, Minute 10 (C7 05/06) – Control of Anti Social Behaviour
City Council Min 14 - 13.6.2005
S13, Criminal Justice & Police Act 2001
S26, Violent Crime Reduction Act 2006
Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007
Home Office Circular 013/2007
Crime & Disorder Reduction Partnership Plan 2008 – 2011
Guidance on Designated Public Places orders (DPPO's) for LA's in England and Wales
Licensing Committee report 21 December 2010 Licensing Committee (Miscellaneous) Min 16 – 21.12.10 Application for the Designated Public Places Order (DPPO) to control street drinking in Freedom Field Park and Tothill Park

Sign off:

Fin	CoSF ED1011 008	Leg	AG/11059/ 1.3.11	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member: Carol Burgoyne											

1.0 BACKGROUND

- 1.1 The Criminal Justice and Police Act 2001 introduced the power for Local Authorities to designate public places in which it becomes an offence for a person to carry on drinking alcohol when they have been requested to stop by a police officer. Powers of confiscation of alcohol (or anything which the officer believes to be alcohol) also apply to such areas.
- 1.2 Before the police can invoke these powers the Council must, under Section 13 of the Criminal Justice and Public Order Act 2001, make an order (Designated Public Place Order (DPPO) that the land is a public place to which the new legislation applies.
- 1.3 An order can only be made if the Local Authority is satisfied that there is nuisance or annoyance to members of the public in a particular area, which is associated with the consumption of alcohol. Local Authorities are required to make an assessment based on the evidence submitted about the level of anti-social drinking and disorder before proceeding.
- 1.4 The Home Office published guidance on DPPO's for LA's in England and Wales in December 2008. It outlines that these powers are not intended to disrupt peaceful activities, for example '...families having a picnic in a park or on the beach with a glass of wine.....' While police officers have discretion to require an individual to refrain from drinking regardless of behaviour, the advice is that it is not appropriate to challenge an individual consuming alcohol where that individual is not causing a problem.
- 1.5 The creation, amendment or revocation of a Designated Public Places Order is not a function that can be dealt with by Cabinet by virtue of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 and was delegated to this Committee by virtue of Council Minute 10 on the 13 June 2005

2.0 THE PROPOSAL

- 2.1 On the 21 December 2010 Licensing Committee (Miscellaneous) considered an application submitted by Devon & Cornwall Police, to make a Designated Public Place Order (DPPO) to cover Freedom Fields Park and Tothill Park due to the likely consequence of displacement, to control street drinking. Based on the evidence submitted at that time, Members resolved to approve a wider public consultation as prescribed in the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.

This report details the results of that public consultation. Members are asked to consider all the submitted information and decide whether or not to approve the DPPO.

- 2.2 The application identified the following main points;

Freedom Fields Park is a heritage park that has been awarded a green flag

There has been a marked increase in anti-social behaviour and disorder associated with 'street drinking' within Freedom Fields Park, throughout 2010. The main problems relate to drunkenness, aggressive behaviour, disorderly behaviour, urination, littering and underage drinking.

The police have contributed proactively to multi-agency problem solving initiatives with Plymouth City Council partners without success to mitigate the anti-social behaviour caused by street drinkers. Currently without a DPPO in place police

officers play 'catch-up' and are unable to formally act until a public order offence arises. A DPPO would allow a more proactive, preventative approach to be taken.

- 2.3 Street drinkers who openly consume alcohol, are characteristically loud, fall asleep, occupy benches, intimidate by numbers and appearance and generally take over defined areas. This makes it difficult for a police officer to address the route causes before circumstances escalate to the point where offences occur and action can be taken. This is a continuing frustration to the persons using the amenity of Freedom Fields Park.
- 2.4 A DPPO would allow officers to remove the alcohol element, which fuels this behaviour and prevent escalation towards criminal behaviour. In addition the introduction of an order will demonstrate to habitual street drinkers that this conduct is no longer tenable.

3.0 THE CONSULTATION METHODOLOGY

- 3.1 The consultation procedure is set out in the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 and officers have had full regard to this prescribed procedure throughout the consultation process.
- 3.2 The consultation was launched on the 6 January 2011 with the publication of a Public Notice in the Evening Herald, see **Appendix C**. To publicise the launch a press notice was released on the same day and as a result a news article appeared in the Evening Herald on the 10 January 2011. The consultation ran for 4 weeks and ended on the 4 February 2011.
- 3.3 An information pack consisting of an introductory letter, information sheet, maps of the proposed areas and customer feedback response form, were sent to local residents, local businesses, ward councillors, statutory consultees, Parks Department, community groups and organisations within the Freedom Fields and Tothill neighbourhoods which amounted to a circulation of over 2000. The information pack is exhibited in the consultation report in **Appendix D**.
- 3.4 All information and documents were also posted on the Licensing web page of the Council's website and were available for collection from First Stop and by post on demand.

4.0 GENERAL POINTS FOR CONSIDERATION

- 4.1 The introduction of a DPPO does not impose a total ban on drinking alcohol in public places but does make it an offence to carry on drinking when asked to stop by a police officer. It is designed to tackle anti-social drinking.
- 4.2 The Police already have powers under the Confiscation of Alcohol (Young Persons) Act 1997 to confiscate alcohol from any person who is under 18 and dispose of that alcohol in an appropriate manner. In addition, from any person where a police officer reasonably suspects that they intend to supply a person under 18.
- 4.3 The Police also have powers under Section 6-8 of the Violent Crime Reduction Act 2006 to apply for a Drinking Banning Order in situations where an individual of at least 16 years of age has engaged in criminal or disorderly conduct while under the influence of alcohol and a court considers that such an order is necessary to protect the public.
- 4.4 Freedom Fields park has the benefit of a premises licence to provide regulated entertainment i.e. performance of a play, exhibition of a film, live and recorded music, performance of dance. This licence does not include the sale and supply of alcohol. Where the organisers of an event or festival were granted a Temporary

Events Notice (TEN) to permit the sale and supply of alcohol within the park, the event would be excluded from the DPPO in which it is located for its duration, together with a period of 30 minutes following the completion of the event.

- 4.5 The application outlines that a consequence of the declaration of the previous DPPO for the City Centre and Stonehouse Neighbourhoods was that street drinkers who did frequent Beaumont Park migrated to Freedom Fields Park. Consequently the effect of granting an order for Freedom Fields Park could also have a similar effect of displacing street drinking to nearby Tothill Park.
- 4.6 Members must be satisfied that the information provided in the application and a result of the public consultation does establish that there is a problem in that area associated with the consumption of alcohol in that place and that this causes a nuisance or annoyance or disturbance to those people.
- 4.7 Funds associated with the costs of advertising the application and if approved, the costs of signage that are required to be displayed publicising the extent of the area has been committed by the Customer Data Integration Project and is estimated at £4,000. This external grant has been provided by the Department for Communities and Local Government from the National Efficiency and Transformation Capital Fund. The resources required to run the consultation process have been absorbed within existing budgets.
- 4.8 Up to this point in time in excess of 700 DPPO's have been implemented in local authorities throughout the country.

5.0 CONSULTATION OUTCOMES

- 5.1 The results of the public consultation can be seen in **Appendix D** of this report and is presented in both qualitative and quantitative terms. The qualitative section seeks to present a representative anecdotal account of respondent's personal experiences concerning Freedom Fields and Tothill parks. The quantitative section sets out the statistical results taken from the feedback response forms that were supplied with the information pack.
- 5.2 The report seeks to present a representative account of the outcome of the public consultation and all responses will be available for scrutiny by Members during the hearing.

6.0 DISPLACEMENT

- 6.1 The question of displacement is an important matter for consideration. It should be noted that it is not possible to create an order that affects the whole City, as that is likely to be considered as disproportionate. Decisions should be taken based on the evidence submitted, as it affects the areas under consideration.
- 6.2 For this particular application, Members considered evidence that displacement from Freedom Fields Park to Tothill Park was likely if an order were granted solely to cover Freedom Fields Park and resolved that Tothill Park should form part of the public consultation.

7.0 CONCLUSIONS

- 7.1 A total of 113 returns were received in response to the public consultation, 79 from persons living in the Freedom Fields neighbourhood and 34 from persons living in the Tothill neighbourhood. The vast majority (97%) were in favour of a DPPO being granted for Freedom Fields Park and also that Tothill Park (89%) should also be designated.

- 7.2 A total of 5 responses were against the proposal for various reasons and these are outlined in details in the public consultation report.
- 7.3 With regard to the Tothill Park area, the tunnel entrance leading to Lucas Terrace was included in the public notice for consultation. During on-goings surveys it has become evident that there is a second tunnel entrance linking the two sections of Bulmer Road. If Members are minded to grant an order to cover Tothill Park, Members are requested to consider a slight amendment to the boundary to include this tunnel.
- 7.4 There is no statutory requirement to review the effectiveness of a DPPO. However it would be a matter of good practice to evaluate its effectiveness in two years time to establish whether its introduction has helped to contribute towards the reduction of alcohol related anti-social behaviour and disorder.

8.0 RECOMMENDATIONS

- 9.1 Committee consider the results of the public consultation and decide whether or not there is sufficient evidence to show that a nuisance or annoyance or disorder is caused to members of the public or a section of the public in Freedom Fields Park which is associated with the consumption of alcohol.
- 9.2 Committee consider the results of the public consultation and decide whether or not there is sufficient evidence to show that a nuisance or annoyance or disorder is caused to members of the public or a section of the public in Tothill Park which is associated with the consumption of alcohol or there is likely to be a displacement of street drinking if an order were granted to cover Freedom Fields Park.

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