

Plymouth City Council

Subject:	Application for the Designated Public Places Order (DPPO) to Control Street Drinking in Marlborough St, Devonport
Committee	Licensing Committee
Date:	29 April 2014
Cabinet Member:	Cllr Vincent
CMT Member:	Carol Burgoyne (Strategic Director for People)
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Ref:	ERS/LIC/DPPO/Marl
Key Decision:	No
Part:	I

Purpose of the report:

Licensing Committee is asked to consider an application submitted by the Devon and Cornwall Police, to make a Designated Public Places Order (DPPO) to cover Marlborough St and the surrounding area within Devonport. This report seeks Committee approval to proceed to the public consultation stage, after which a further report will be prepared for Committee to decide whether there is sufficient evidence to justify the making an order.

Local Authorities were given powers under Section 13 of the Criminal Justice and Police Act 2001 (as amended by Section 26 of the Violent Crime Reduction Act 2006) to designate an area where nuisance, annoyance or disorder, is arising from consuming alcohol in public places.

The prescribed procedure on how to implement a DPPO is set out in the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.

The applicant will attend the Committee hearing to present the application and to answer any questions.

The Brilliant Co-Operative Council Corporate Plan 2013/14 – 2016/17

This report links to the delivery of the City and Council priorities.

In particular:

Growing Plymouth: The order would provide the police with the necessary tools provide a proactive response to street drinking and the effects that it can have on the surrounding neighbourhood in terms of anti-social behaviour and nuisance. This in turn will have positive outcomes of encouraging residents to use public spaces and the surrounding commercial outlets.

Caring Plymouth: The order will allow for the effective control of potential alcohol-related anti-social behaviour or public nuisance related offences before they become a problem and if granted,

would support the 'Strategic Alcohol Plan for Plymouth 2013-2018'.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

If the Committee consider sufficient evidence has been submitted the Council has a duty to undertake a wider public consultation. Resources would be required to run the consultation process and there are also financial implications in relation to advertising of the proposals and if approved the preparation of signs to be placed throughout the designated area.

The applicant has secured funding from a variety of local sources to cover the costs of advertising, public consultation costs, printing costs and purchase of signage (if the application is approved). It is anticipated that these costs will be in the region of £4.5K.

Officer time required to facilitate a consultation process, in conjunction with the applicant would be absorbed within existing budgets.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management:

Members should be aware that Section 17 of the Crime Disorder Act 1998 put 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.

This application is designed to improve community safety by reducing crime and the fear of crime from street drinking

Equality and Diversity

Has an Equality Impact Assessment been undertaken? Yes

Recommendations and Reasons for recommended action:

1. That Committee consider the evidence submitted and decide whether there is sufficient evidence, that nuisance, annoyance or disorder is caused to members of the public or a section of the public, which are associated with the consumption of alcohol in the area outlined in Appendix 2
2. Members determine whether to authorise the Public Protection Service to facilitate the public consultation in the specified area, as prescribed by the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007, and then report back detailing the results of that consultation in order that Committee can consider whether or not to approve the granting of the Designated Public Place Order.

Reason

When an application for the grant of a DPPO is received the Council is under a duty to consider the application. In order to facilitate the grant of a DPPO it is legally necessary to undertake a public consultation.

Alternative options considered and rejected:

To not approve a public consultation would mean that the powers specified within a DPPO could not be applied and existing enforcement options would have to be used to try a manage street drinking in this specified area.

To utilise new powers available under the Anti-Social, Crime and Policing Act 2014 which replaces some of the existing framework for tackling anti-social behaviour and environmental nuisance. A DPPO will be replaced by a Public Spaces Protection Order (PSPO). It is anticipated that the new provision are likely to be effective from October 2014. Any existng DPPO will continue to be in force for a period of 3 years. Any benefit gained in a reduction of consultation costs is outweighed by the delay and the continuation of problems associated with street drinking.

Published work / information:

[The Local Authorities \(Alcohol Consumption in Designated Public Places\) Regulations 2007](#)
[Reform of Anti-Social Behaviour Powers – Draft Guidance Oct 2013](#)
[Statement of Licensing Policy](#)

Background papers:

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7

Sign off:

Fin	CF/PlaceFES D1314013.0 7.04.14	Leg	20025/ag/ 10.4.14	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? No													

1.0 BACKGROUND

- 1.1 The Criminal Justice and Police Act 2001 introduced a provision 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 Places 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 Council is satisfied that there is nuisance and 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 concerning the level of anti-social drinking and disorder before proceeding.

2.0 THE PROPOSAL

- 2.1 The Council have received an application from Devon and Cornwall Police to create a new DPPO, which would encompass Marlborough St and surrounding areas within Devonport to manage the potential consequences of displacement. The application, including statistical and community evidence is contained in Appendix 1. The map of the specified area has been extracted from the application and is marked Appendix 2. Letters of support from local Ward Councillors are included and marked as Appendix 3.

The application has identified the following main points;

- 2.2 There has been an on-going problem concerning anti-social behaviour and disorder associated with 'street drinking' focused on the pedestrian area of Marlborough Street. The main problems relate to drunkenness, aggressive behaviour, disorderly behaviour, urination, and littering.
- 2.3 The police have contributed proactively to numerous multi-agency problem solving initiatives with Plymouth City Council partners including:
 - Salvation Army
 - Plymouth Access to Housing (PATH)
 - Anti-Social Behaviour Team
 - Housing Associations
 - Local Business
 - Community Engagement
 - Police Licensing Team
- 2.4 None of these initiatives have effectively addressed the existing problem of street drinking in this area and how it contributes to nuisance and disturbance, in a proactive and effective way. Currently without a DPPO police officers are playing 'catch-up' and are unable to act until public order offences arise as a consequence. A DPPO would allow a proactive, preventative approach to be taken.
- 2.5 Many of the incidences are not criminal offences. Individuals openly consume alcohol, are characteristically loud at times, fall asleep, occupy benches, intimidate by their numbers and appearance and generally take over defined areas. This makes it difficult for a police officer

to address the root-causes before circumstances escalate to the point where offences occur and action can be taken causing a continuing frustration to residents and passers-by.

- 2.6 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.
- 2.7 The DPPO would also encourage licensees to responsibly retail through the restricted availability of high strength cheap alcohol.

3.0 POINTS FOR CONSIDERATION

- 3.1 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. The order would therefore be used to tackle anti-social drinking.
- 3.2 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.
- 3.3 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.
- 3.4 Existing premises or areas licensed under the provisions of the Licensing Act 2003 are exempted. Also where a Temporary Events Notice (TEN) is granted for a festival or occasion to permit the sale and supply of alcohol, the event would be excluded from the provisions of the DPPO for the duration of the event, together with a period of 30 minutes following the completion of the event.
- 3.5 The Anti-Social, Crime and Policing Act 2014 has just received royal ascent and seeks to streamline and replace some of the existing framework for tackling anti-social behaviour and environmental nuisance. The new powers replace DPPO's with a Public Spaces Protection Order (PSPO) but at the time of writing officers have no information as to an implementation date, although it is anticipated to be October 2014.

The PSPO is a more flexible and less costly method that can be used for dealing with anti-social behaviour in public spaces and can be applied to street drinking, dog fouling, littering, graffiti and similar activities. The Council must be satisfied that a particular activity has a detrimental effect on the quality of life of those in that locality.

It is likely that further statutory guidance will be issued in due course that will outline how a PSPO will be applied.

- 3.6 Following the implementation of PSPO's, existing DPPO's can remain in place for a 3 year period, after which time a review must be carried out, if grounds still remain for retaining the order, then it would then be re-designated as a PSPO. A DPPO must, however, have been formally ratified before the implementation date of the new PSPO procedures.

The Act will extend powers to enforce a DPPO / PSPO to Council Officers and PCSOs.

- 3.7 Funds to cover the costs of advertising, printing costs and purchase of signage (if the application were approved) are estimated at £4.5K and will be funded by a variety of external sources including the police and local community groups.

Officer time required to facilitate the consultation process in conjunction with the

applicant would be absorbed within existing budgets.

- 3.8 The question of displacement is an important matter for consideration. The introduction of a DPPO can have the effect of moving street drinking on to neighbouring areas that are not designated. This effect may justify a larger area being designated than solely the identified hot spot.

4.0 CONCLUSIONS

- 4.1 The Committee must decide whether there are suitable grounds to commence a consultation before the introduction of the new PSPO provisions which may be implemented later this year. Where the Committee consider there are reasonable grounds to proceed with the DPPO application they must be satisfied that the information submitted in the application and any additional information submitted during the hearing, has established that there is an existing problem associated with the consumption of alcohol, which exposes local residents to anti-social behaviour that would warrant initiating a public consultation.
- 4.2 The Committee must also be satisfied that there is sufficient evidence to warrant the extent of the application area as set out in Appendix 2.
- 4.3 If a public consultation is approved, Officers will then facilitate the public consultation with the applicant to comply with the statutory provisions and report back the results for Committee to decide whether or not to approve the application for the grant of a DPPO.

R Carton
Manager – Public Protection Service