

## Plymouth City Council

<b>Subject:</b>	Application for the Designated Public Places Order (DPPO) to Control Street Drinking in Marlborough St, Devonport and the Surrounding Area
<b>Committee</b>	Licensing Committee
<b>Date:</b>	26 August 2014
<b>Cabinet Member:</b>	Cllr Vincent
<b>CMT Member:</b>	Kelechi Nnoaham (Office of the Director of Public Health)
<b>Author:</b>	David Hughes, Senior EHO (Licensing)
<b>Contact details:</b>	Tel: 01752 304271
<b>e-mail:</b>	david.hughes@plymouth.gov.uk
<b>Ref:</b>	ERS/LIC/DPPO/Marl
<b>Key Decision:</b>	No
<b>Part:</b>	I

---

### Purpose of the report:

On the 29 April 2014 Licensing Committee considered an application submitted by Devon and Cornwall Police, for a Designated Public Place Order (DPPO) to cover Marlborough Street, Devonport and the surrounding area, to control street drinking. Based on the evidence submitted at that time, Members resolved to approve a 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.

---

### 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:** Granting the order would provide the police with additional powers to enable a proactive response to controlling 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:** Granting the order will allow preventative controls to be put in place to manage potential alcohol-related anti-social behaviour or public nuisance related offences that arise as a consequence of street drinking 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 can grant the order as submitted or make minor amendments as appropriate.

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 the public consultation has been 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.

The effect of this order is to provide the police with additional preventative powers that will allow alcohol to be confiscated where there is reason to believe that if a person(s) is allowed to continue drinking public order offences would arise. The on-going effect of the order would be to assist in improving community safety by reducing crime and the fear of crime from the consequences of street drinking.

---

**Equality and Diversity**

Has an Equality Impact Assessment been undertaken? Yes

---

**Recommendations & Reasons for recommended action:**

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 Marlborough Street, Devonport and the surrounding area which is associated with the consumption of alcohol.

If so satisfied

- 1 Agree to the authorise a DPPO for Marlborough Street, Devonport and the surrounding area as indicated 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 15 September 2014 or as soon as reasonably practical after this date.
- 2 Authorise Officers to place a public notice in the local press confirming the order as is required under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.
- 3 Authorise Officers to arrange the production and installation of the signage notifying persons of the existence of the DPPO to be in place by the 15 September 2014 or as soon as reasonably practical after this date (an order is not enforceable until after the signs have been erected).

### **Reason**

When an application for the grant of a DPPO is received the Council is under a duty to consider the application following the outcome of a public consultation. There must be sufficient evidence to show that a nuisance or annoyance or disorder is caused to members of the public or a section of the public which is associated with the consumption of alcohol.

---

### **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 the proposed 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 onwards although no formal notification has yet been received. An existng DPPO will continue to be in force for a period of 3 years.

---

### **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](#)

[Licensing Committee – Application for Application for the Designated Public Places Order \(DPPO\) – 29 April 2014](#)

[Plymouth Herald news article – ‘Children in fear of drunks outside school....’ – 7 May 2014](#)

[Plymouth Herald news report ‘School demands street drinkers ban’ – 8 May 2014](#)

[Plymouth Herald news report ‘Council asking for resident opinion....’ – 14 May 2014](#)

[Plymouth Herald news report ‘Residents to have their say....’ – 15 May 2014](#)

**Background papers:**

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

---

**Sign off:**

Fin	ODPHF PD1415 001	Leg	20796/14.8. 14/ag	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes													

## **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 Place Order (DPPO) that the land is a public place to which the new legislation applies.

A 'public place' is defined in the Criminal Justice and Police Act 2001 as 'any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission'

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 received an application from Devon and Cornwall Police to create a new DPPO, which would encompass Marlborough Street, Devonport and the surrounding area. The application was considered by Licensing Committee on the 29 April 2014. Based on the evidence submitted Members resolved to approve that a public consultation be undertaken of the proposed area set out in on the map marked as **Appendix A**.

2.2 This report details the results of the public consultation and Members are asked to consider all the information submitted and decide whether there is sufficient evidence to justify approving the order as specified, or make changes to the boundaries as considered necessary.

2.3 The application identified the following main points;

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.

There are on-going incidences of anti-social behaviour and disorder associated with 'street drinking' in Marlborough Street, Devonport and the surrounding area. The main problems relate to drunkenness, aggressive and disorderly behaviour, urination, littering and begging.

Street drinkers, who openly consume alcohol, are characteristically loud, fall asleep, occupy benches in public places, intimidate by numbers and appearance and generally take over defined areas. This makes it difficult for a police officer to currently address the root causes before circumstances escalate to the point where public order offences occur and action can be taken. This is a continuing frustration to local community using the local shops and the surrounding public parks and amenities.

- 2.4 The granting of a DPPO would allow officers to remove the alcohol element, which fuels this behaviour and thereby 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 A public consultation was launched on the 15 May 2014 with the publication of a Public Notice in the Evening Herald, see **Appendix B**. Several articles have been appeared in the Herald publicising the nature of the problem and these may in viewed using the hyperlinks in the 'Published work / Information' section at the being of this report. The consultation ran for 6 weeks and ended on the 30 June 2014.
- 3.3 An information pack consisting of an introductory letter, a map of the proposed area and customer feedback response form, was sent to local community groups, schools, licensees and ward councillors and posted on the Council's licensing web page.
- 3.4 The proposed area is extensive and contains a significant number of residential property and local businesses so each dwelling received a Public Consultation Information Notice delivered to their door informing them of the public consultation and how to contribute. This task was undertaken by the local police staff and resulted in over 6000 notices being delivered.
- 3.5 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; by post on demand; St Aubyn's Library, Chapel St; Welcome Hall, Fore St and Real Ideas Organisation, Ker St.

### **4.0 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. The order would therefore be used 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 Existing premises or areas licensed under the provisions of the Licensing Act 2003 are exempted. 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.
- 4.5 The Anti-Social, Crime and Policing Act 2014 has received royal ascent and seeks to streamline and replace some of the existing framework for tackling anti-social behaviour and environmental nuisance. There will be new powers to replace DPPO's with a Public Spaces Protection Order (PSPO), but at the time of writing an implementation date has not been published, although it is anticipated to be October 2014. At that time existing DPPO's will 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. Any new DPPO must have been formally ratified before the implementation date of the new PSPO procedures.
- 4.6 The PSPO is intended to be more flexible and less costly method 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 and it is intended that a further report will be presented to Licensing Committee at that time.

## **5.0 DISPLACEMENT**

- 5.1 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.
- 5.2 The applicant has considered displacement as part of the original application. Street drinking is centred on Marlborough St and the immediate area. If the DPPO was limited to this area it is likely that the problem could be displaced to nearby public places such as Devonport Park, Mount Wise Park, Mount Wise Waterfront, Brickfields Triangle and Blockhouse Park.

## **6.0 CONCLUSIONS**

- 6.1 A total of 70 responses were received in response to the public consultation. All, apart from one, were in favour of the DPPO. The findings to the public consultation are set out in **Appendix C**.
- 6.2 The proposed area is large and diverse and encompasses three public parks and various other public amenities that are a resource to the local community and connected by main arterial traffic and pedestrian walkways. The boundary line cannot cover all eventualities and the implementation of the new PSPO provisions could be used if any neighbouring area is unduly affected as a consequence of this order being granted.

6.3

- 6.4 The proposed area is also populated with large sections of large residential housing, industrial development and other private areas such as Brickfields, Cumberland Centre, and Cricket Ground and school grounds. It is not intended that the provisions of this order would apply to any private areas unless it is fully compatible with the legal provisions which apply and with the express permission of the land owner, person or organisation responsible.
- 6.5 The applicant Devon and Cornwall Police have submitted additional documents for consideration that set out in **Appendix D**
- 6.6 The neighbourhood team have submitted additional documents for consideration that set out in **Appendix E**
- 6.7 It is for Members to decide whether the extent of the proposed area is justified having regard to the evidence submitted.

R Carton  
Public Protection Service Manager