

# CHESHIRE EAST COUNCIL

## REPORT TO: Licensing Committee

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**Date of Meeting:** 14<sup>th</sup> January 2014  
**Report of:** Miss Kim Evans – Licensing Team Leader  
**Subject/Title:** Designated Public Place Orders  
**Portfolio Holder:** Cllr Les Gilbert - Communities and Regulatory Services

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### **1.0 Report Summary**

- 1.1 To provide Members of the Committee with information concerning the making of Designated Public Place Orders and to provide information on the areas currently designated as Public Places.

### **2.0 Recommendation**

- 2.1 That Members note the content of the report.

### **3.0 Reasons for Recommendations**

- 3.1 The report is presented following a Notice of Motion that the Council should consider making an Order for Cheshire East.
- 3.2 In accordance with the Council's Constitution the Licensing Committee has delegated authority to make or alter any Orders which designate Public Places.

### **4.0 Wards Affected**

- 4.1 All

### **5.0 Local Ward Members**

- 5.1 All

### **6.0 Policy Implications**

- 6.1 The Council has committed, in its Strategic Plan, to ensuring that the residents of Cheshire East 'live well and for longer'. Similarly, the Cheshire East Health and Wellbeing Strategy has a number key aims linked to alcohol consumption:
- § Reduce the levels of alcohol use/misuse by Children and Young People
  - § Reduce the incidence of alcohol related harm

## **7.0 Financial Implications**

- 7.1 If Members were minded to consider the extension, alteration, or creation of new Orders additional funding to meet all the implementation requirements (including evidence gathering and public notices) would need to be identified. Current budgetary allocations make no provision for additional work in relation to Designated Public Place Orders.
- 7.2 The capacity within the Licensing and Legal Teams is such that additional staffing resources may need to be identified to carry out any further work in relation to Designated Public Place Orders.

## **8.0 Legal Implications**

- 8.1 The Criminal Justice and Police Act 2001 (the Act) provides a Local Authority with the power to make an Order designating an area as a Public Place.
- 8.2 Section 12 of the Act provides that any Police Officer can require, in order to prevent public nuisance and disorder, a person who has recently drunk alcohol or intends to drink alcohol in a Designated Public Place to:
- i. Stop drinking the alcohol (or anything believed to be alcohol)
  - ii. Surrender the drinking vessel, whether sealed or unsealed.
- 8.3 Individuals failing to comply with such a request may be subject to further action. This further action would include one or more of the following options:
- § a penalty notice for disorder of £50.00
  - § arrest and prosecution (with the possibility of a fine not exceeding level two on the standard scale, that currently being £500.00)
  - § imposition of bail conditions stopping the individual from drinking in public
- 8.4 In accordance with statutory responsibilities under section 17 of the Crime and Disorder Act 1998 the Council must take reasonable steps to tackle crime, disorder, substance misuse and anti-social behaviour.
- 8.5 The Council also has a statutory responsibility under the Health and Social Care Act 2012 for the health of the population of Cheshire East and it is noted that it is a priority of the local Health and Wellbeing Board to reduce alcohol related harm.

## **9.0 Risk Management**

- 9.1 Before the making or alteration of any Orders, Members must give full and thorough consideration to any consultation responses or views received from appropriate stakeholders to reduce the risk of any challenge to subsequent decisions.

- 9.2 Members should note that several Orders made by the legacy Authorities have been identified. However, we have not yet been able to establish the process that was undertaken to make the Orders.

## **10.0 Background**

- 10.1 A Designated Public Place Order is not a ban on drinking alcohol in public, but gives discretionary powers to the Police to control anti-social drinking.
- 10.2 Any measures taken to control public drinking can provide a 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 impact on the quality of life of residents and visitors to an area.
- 10.3 However, it is important that the areas considered or already designated as Public Places are carefully considered and reviewed:
- § The character of an area may change over time and areas that may have been designated Public Places may no longer be suitable or appropriate to be designated
  - § Similarly, areas that were previously considered, but not designated may over time benefit from designation if that area is now a focal point for alcohol related issues
  - § Consideration needs to be given to any displacement of anti-social drinking or nuisance that may occur as a result of the making of an Order
  - § Larger areas than supported by the evidence may be considered suitable for designation to avoid any potential for the displacement of problems
  - § It is also important to ensure that the Police have appropriate resources to be able to enforce any Orders
- 10.4 The evidence required to make an Order is that there is an alcohol related nuisance or annoyance to the public in the proposed area/s. An assessment as to the likelihood that the problem will continue unless an Order is made should be undertaken. In addition, the Council must have a belief that the problem could be remedied by the making of an Order and the subsequent use of the powers it would provide.
- 10.5 Any evidence should be based not just on information held by the Council, but also from the Police and Members of the Local Community who may have reported incidents of alcohol-related anti-social behaviour or disorder. Evidence of alcohol-related nuisance could for example include litter related to the consumption of alcohol (eg bottles and cans) as well as Police information and residents' complaints.

- 10.6 Before making or amending an Order, in accordance with The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007, it is necessary to consult the following:
- § Cheshire Constabulary
  - § Any relevant Town or Parish Councils
  - § Any relevant Premises Licence Holders or Club Premises Certificate Holders
  - § Any relevant land owners
- 10.7 Following the consultation process and, before an Order might take effect, a public notice must be published in a local newspaper circulating in the area identifying the proposed area and inviting representations as to whether such an Order should be made or not.
- 10.8 No Order shall be made until at least 28 days after the publication of the above notice.
- 10.9 Following the 28 day period, should no representations be made, a further notice confirming the Order must be published and signage would be erected to ensure that the public (including residents) are made aware that restrictions on public drinking may apply.
- 10.10 If any representations are received, the Committee should carefully consider their content before an Order is made.
- 10.11 It should be noted that the following places are excluded from the provisions of a Designated Public Place Order:
- § Premises authorised to sell alcohol under a Premises Licence
  - § Premises authorised to supply alcohol under a Club Premises Certificate
  - § Any premises benefiting from a Temporary Event Notice authorising the sale of alcohol issued under the Licensing Act 2003 (for the time the Notice applied and for 30 minutes after the sale of alcohol has ended)
  - § Places where the sale or consumption of alcohol is permitted on public highways by virtue of section 115 E of the Highways Act 1980.
- 10.12 Members should note that the Anti-Social Behaviour, Crime and Policing Bill seeks to replace Designated Public Place Orders with Public Spaces Protection Orders. The Bill is currently at the Committee stage in the House of Lords having already progressed through the preliminary stages in the House of Commons. Following the Committee stage both Houses will consider each other's proposed amendments.
- 10.13 Any final draft of the Bill is not likely to receive Royal Assent until spring 2014 at the earliest. It is clear that the Government's intention is to rationalise various Orders under the Bill and provide greater power to Local Authorities to deal with issues in their areas. Public Spaces Protection Orders are arguably

more flexible than DPPOs and can prohibit any type of activity not just the consumption of alcohol, provided that certain conditions are met. In summary, in relation to Public Spaces Protection Orders the Bill currently confirms that:

§ A local authority may make a public spaces protection order if satisfied on reasonable grounds that:

- (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
- (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

And that the effect, or likely effect, of the activities -

- (a) is, or is likely to be, of a persistent or continuing nature,
- (b) is, or is likely to be, such as to make the activities unreasonable, and
- (c) justifies the restrictions imposed by the notice.

§ Any Orders can prohibit specified things being done, require that specific things are done, or both

§ Public spaces protection Orders can last for a period of 3 years and can be extended

§ There would be similar enforcement provisions to DPPOs, including the issuing of fixed penalty notices. Powers of enforcement would include PCSOs and local authority officers in addition to Police Officers.

§ The Council would need to consult the Chief Officer of Police and appropriate community representatives.

§ Places excluded from such Orders are equivalent to those excluded from DPPOs

§ The requirements of publishing of any Orders will be confirmed by Regulations made by the Secretary of State after any Bill is enacted.

§ The power to make new DPPOs would be repealed and any extant DPPOs would in effect become a Public Spaces Protection Orders three years after commencement of the relevant provisions of any Act.

10.14 The former Borough areas made Orders designating Public Places. Copies of the Orders that have been identified are:

- § Crewe and Nantwich 2008 (Appendix A)
- § Knutsford 2007 (Appendix B)
- § Macclesfield 2007 (Appendix C)

10.15 It has also been established that Orders were also made in:

- § Congleton Borough - 2005

- § Disley - 2006
- § Poynton – 2006
- § Wilmslow - 2007
- § Macclesfield - 2008

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report author:

Name: Miss Kim Evans  
Designation: Licensing Team Leader  
Tel No: 0300 123 5015  
Email: [kim.evans@cheshireeast.gov.uk](mailto:kim.evans@cheshireeast.gov.uk)