

## THE EXECUTIVE

9 SEPTEMBER 2008

### REPORT OF THE CORPORATE DIRECTOR OF ADULT & COMMUNITY SERVICES

<b>Title: Proposed Designated Public Places Order for an area around Rainham Road South for the restriction of public drinking of alcohol</b>	<b>For Decision</b>
<p><b>Summary:</b></p> <p>Following concern from residents and Members, this report proposes the designation of an area around Rainham Road South within which there will be an additional restriction on public drinking of alcohol from bottles or cans, as a further measure to tackle instances of anti-social behaviour.</p> <p>In the early months of 2008 Ward Members contacted the Community Safety Team expressing concern about alcohol-related disorder in Rainham Road South. An effective solution is proposed in utilising the power given to the Council under Section 13(2) of the Criminal Justice and Police Act 2001. The Act enables the Council to make an area within Rainham Road South a 'Designated Public Place', sometimes referred to as an 'alcohol control zone'. Following the designation, if a Constable or a Police Community Support Officer has reason to believe a person is consuming alcohol within the zone, s/he can require the person to stop consuming and surrender the alcohol. Failure to comply without reasonable excuse is an offence for which a person can be arrested and carries a £500 maximum fine.</p> <p>Legislation requires that a decision to make a Designation must be carried out by a full Council, which for the purposes of the London Borough of Barking and Dagenham is the Assembly.</p> <p><u>Wards Affected:</u> Village, Eastbrook, Heath</p>	
<p><b>Recommendation(s)</b></p> <p>The Executive is recommended to agree:</p> <ol style="list-style-type: none"><li>1. That the proposed Designated Public Places Order is referred to Assembly for decision</li></ol>	
<p><b>Reason(s)</b></p> <p>Dealing with anti-social behaviour and crime and disorder is a key priority for residents and a Designated Public Places Order in this area will increase our capacity to deal with this issue in these wards.</p>	
<p><b>Implications:</b></p> <p><b>Financial:</b></p> <p>The estimated cost of designating this area as a 'Designated Public Place' is approximately £5,000. This total includes the cost of producing the consultation letters to all premises within the area and delivering them, which has already been undertaken in order to inform this</p>	

report, and the cost of erecting suitable signs at key locations in the zone. The money is available from within existing resources.

There is a small implied recurring cost for the renewal or refresh of signs from time to time, which is not significant within the overall anti-social behaviour programme budgets.

**Legal:**

The legal implications of designating an area as an alcohol control zone are discussed in the body of this report, which has been prepared in consultation with the Council's Legal Service.

**Risk Management:**

If the proposed Designated Public Places Order is not agreed by Assembly the key risk is that without this increased power the partnership will be unable to deal effectively with alcohol related disorder in this location.

Consultation has also been undertaken with over 3,000 addresses in this area and there is overwhelming support for this proposal, so there is a risk that if the Designated Public Places Order is not agreed there will be a loss in public confidence. Equally there is risk that the power will be granted but that policing resources are not released to address the issue. This too will impact on public perception and confidence. The Police SNT support such a proposal as it is a local public set priority and as such will deliver the resources to impact should the Order be agreed.

**Social Inclusion and Diversity:**

The Race Relations (Amendment) Act 2000 places a requirement on local authorities to make an assessment of the impact of new and revised policies in terms of race equality. Existing policies have already been subjected to impact assessments. This Authority has adopted an approach of extending the impact to cover gender, disability, sexuality, faith, age and community cohesion.

A number of equalities issues have been identified with the introduction of this new enforcement option. At the most basic level, all signage is pictorial to ensure that they can be understood by people who do not speak English as their first language or who have literacy or learning difficulties. More importantly, data will be requested of the Metropolitan Police to enable the Council to review the enforcement of the zone and whether it impacts disproportionately on any equalities group. No structural reason can be identified at present that should imply a disproportionate effect on any one group.

**Crime and Disorder:**

Section 17 of the Crime and Disorder Act 1998, as amended by subsequent legislation, places a responsibility on local authorities to consider the implications of any proposals on crime, disorder, anti-social behaviour, drug/alcohol misuse or factors adversely affecting the environment.

Alcohol-related disorder has been identified as an issue in this part of the Borough, and is raised as a consistent concern of local residents. Such disorder has the potential to generate violent crime, but also has an adverse effect on the local environment through the careless disposal of cans, bottles, etc.

**Options Appraisal:**

The strategy meeting with the police held on the 28<sup>th</sup> May 2008 looked at different options

to deal with alcohol related disorder in this location. The options considered were to continue to deal with the issues using existing police powers (confiscation of alcohol of Under 18s) and the introduction of a Designated Public Places Order. In this location those involved in alcohol related disorder are both under and over 18 years of age. Therefore the Designated Public Places Order is the preferred option as this will provide the police with the necessary powers to effectively manage the issues in this area.

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## 1. Introduction and Background

- 1.1 In the early months of 2008 increasing concern was expressed about the anti-social behaviour of a variety of individuals within the Rainham Road South area. Ward Members, residents and users of this area reported problems with groups of people drinking on Rainham Road South and the adjoining side streets and that this was resulting in an increased number of incidents of disorder and violence.
- 1.2 On the 28<sup>th</sup> May 2008 a strategy meeting was held with the Metropolitan Police to look at what measures could be employed to reduce alcohol related disorder in this location. It was agreed that a Designated Public Places Order (or 'alcohol control zone') would be an appropriate response to the issues.
- 1.3 The proposed Designated Public Place is fully described in the draft Notice (Appendix 1) and the map of the proposed area (Appendix 2).

## 2. Current Position

- 2.1 The effect of the Order is to give the Police the power to require a person in a Designated Public Place not to drink alcohol in that place where the Police Officer reasonably believes the person is, has, or intends to, drink alcohol. Further they must surrender up to the Police Officer any other alcohol containers in their possession. Failure to comply with an officer's requirement in respect of public drinking or surrender of alcohol without reasonable excuse is an arrestable offence. A Police Support Officer can also exercise this power.
- 2.2 A person guilty of such an offence would be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale, which is currently £500.
- 2.3 It is not the case that the order creates an offence of drinking in a public place. It is an additional tool for the Police when enforcing order in the area which it covers, such that it is an offence not to dispose of or surrender the alcohol when asked to do so.
- 2.4 A copy of the draft Notice is to be found at Appendix 1 of this report.

### **3. Consultation with the Public**

- 3.1 Consultation letters have been sent to all 3115 premises within the proposed area and a Notice has been placed in the local press. A copy of the consultation letter and press Notice can be found at Appendix 3.
- 3.2 To date 5 objections to this proposal have been received. 2 of these objections had no comments, 1 felt that the Council was getting involved in a police matter, 1 felt that that there was no issue in the area and 1 felt that the issue should be dealt with via Licensing
- 3.3 238 responses strongly welcomed this proposal and a high percentage of the responses thanked the Council for considering this proposal and see it as a positive move to deal with alcohol related disorder in the location. Several responses made the comment that the boundary of the DPPO should be extended to include a specific footpath and this was also a comment made by the police and Ward Members. These comments have been taken into account and the area suggested included.
- 3.4 Consultation on the preparation of this report has been undertaken with the Metropolitan Police Service and has their full support.

### **4. Implications**

- 4.1 The function of Designation of a Public Place under the Act is an activity, which is excluded from the powers of an Executive by the Local Authorities (Function and Responsibilities) Regulations 2000.
- 4.2 This designation must be made by the Council as Assembly. It must resolve to make a specified area a Designated Public Place under the Act for which there is controlled alcohol consumption.
- 4.3 Once a problem has been identified, for which a Designated Public Places Order may be appropriate, the steps to create a Designated Public Place are as follows:-
  - (i) The Council must consult with the Police and Licensees of any licensed premises in the proposed Designated Public Place, or whom they may consider will be affected;
  - (ii) The Council must takes reasonable steps to consult with the owners or occupiers of any land identified which may be affected;
  - (iii) An advertisement carrying a Notice must be placed in a local newspaper, identifying specifically the area that the Order will cover, setting out the effect of the Order and inviting representation with 28 days for representations;
  - (iv) The Order is made by the Assembly;
  - (v) Following the making of the Order by the Assembly a further Notice must be placed in a local newspaper identifying the place, setting out the effect and the date of commencement;
  - (vi) The Council must ensure that there are sufficient signs for the public to draw their attention to the place covered by the Order;
  - (vii) A copy of the Order must be sent to the Secretary of State and Police Commander for the area.

## **5. Consultees**

5.1 The following were consulted in the preparation of this report:

Councillor Val Rush  
Councillor Lee Waker  
Councillor Mick McCarthy  
Mark Tyson, Strategic Group Manager Community Safety  
Katherine Gilcreest, Anti-Social Behaviour Manager  
Paul Feild, Principal Solicitor  
Inspector Ivan Hayes, Metropolitan Police  
Eastbrook and Village Safer Neighbourhood Teams

### **Background Papers Used in the Preparation of the Report:**

- Criminal Justice and Police Act 2001

### **Appendices**

1. Draft Notice
2. Map of proposed area of the DPPO
3. Consultation letter and Notice in the press

## Appendix 1

### NOTICE

#### LONDON BOROUGH OF BARKING AND DAGENHAM DESIGNATION ORDER PURSUANT TO SECTION 13 OF THE CRIMINAL JUSTICE AND POLICE ACT 2001

#### The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001

#### ALCOHOL CONSUMPTION IN DESIGNATED PUBLIC PLACES

The Council of the London Borough of Barking and Dagenham proposes to make an Order pursuant to Section 13 of the Criminal Justice and Police Act 2001 (the "Act") designating public places in Rainham Road South within the boundaries of the London Borough of Barking and Dagenham and more particularly described in the schedule below, for the purposes of Sections 12-16 of the said Act:-

#### SCHEDULE OF DESIGNATED PUBLIC PLACES

Aldborough Road	Dewey Road	Kitchener Road	Sawyers Close
Auriel Avenue	Durham Road	Manor Close	Shafter Road
Beamway	Essex Road	Manor Road	Suffolk Road
Bury Road	Exeter Road	Mayeswood Gardens	Surrey Road
Cadiz Road	Felhurst Crescent	Norfolk Road	Victoria Road
Cambeys Road	Foxlands Road	Norton Road	Wantz Road
Charles Road	Goring Road	Oxlow Lane	Western Avenue
Cranmer Gardens	Gay gardens	Plumtree Close	Winstead Gardens
Crown Street	Honey Close	Rainham Road South	Wyhill Walk
Dagenham Road	Ibscott Close	Reede Road	
Dagmar Road	Kent Road	Roosevelt Way	
		Sandown Avenue	

#### PARKS

Pondfield Park

AND all those other public places within the area shown edged red on the plan annexed thereto (a copy of the plan being available for inspection at the Town Hall Barking).

#### DEFINITION OF PUBLIC PLACE

"Public place" means 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 (Section 16(1) of the said Act.)

## **THE EFFECT OF THE ORDER**

The effect of such an Order is that the Police have the power to require a person, in such public place, not to drink alcohol in that place where the officer reasonably believes the person is, has or intends to do so, and to surrender any alcohol containers in the person's possession. Failure to comply with an officer's requirement in respect of public drinking or surrender of alcohol, without reasonable excuse, is an arrestable offence. A person guilty of such an offence will be liable on summary conviction to a fine not exceeding level 2 on the standard scale (currently £500). (Section 12 of the said Act).

## **Exclusions**

Excluded from the Order will be:-

Any area which is within the cartilage of any licensed premises or registered club;  
Any place where the sale of alcohol has been authorised by virtue of an occasional license or permission;  
Any place where the Council has granted a permit pursuant to Section 115 (E) Highways Act 1980.

Any person wishing to make representations on the proposal should make them in writing to the Strategic Group Manager – Community Safety, 3<sup>rd</sup> Floor Roycraft House, 15 Linton Road, Barking, Essex IG11 8HE.

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Chief Executive