

Item No. 6.2	Classification: Open	Date: June 26 2006 June 28 2006	Meeting Name: Executive Council Assembly
Report title:		Establishment of a Designated Public Place Order (DPPO) in Southwark	
Ward(s) or groups affected:		All	
From:		Assistant Chief Executive	

RECOMMENDATION(S)

Recommendations for the Executive

1. That the Executive considers the results on the consultation for a proposed borough wide alcohol control area (Designated Public Places Order) contained in appendix 1.
2. That the Executive considers making a recommendation to Council Assembly to adopt a Designated Public Places Order (DPPO) as appropriate.

Recommendation for the Council Assembly

3. That subject to recommendation 2 above, Council Assembly considers adopting a Designated Public Places Order (DPPO).

BACKGROUND INFORMATION

4. The Criminal Justice and Police Act 2001 enables the establishment of an alcohol control area otherwise known as a designated public places order (DPPO) in any area of a local authority if it is satisfied that nuisance or annoyance to members of the public or disorder has been associated with the consumption of alcohol in that place. A number of local authorities have used this to establish borough wide DPPO's in order to deal with issues of displacement of nuisance and street drinking.
5. Following consideration of a report entitled " Tackling the impact of alcohol: Southwark's priorities", the Executive meeting of 14 February 2006 agreed that tackling street drinking in the borough was a key priority and resolved to move to consultation on a proposal to establish a borough wide alcohol control area (as per statutory requirements contained within the Criminal Justice and Police Act 2001).

6. The establishment of an alcohol control area (DPPO) throughout Southwark will not prohibit drinking in public places but will give the police and other designated officers the power to confiscate alcohol from anyone who is causing a nuisance in a public place and to prosecute and fine individuals who refuse to stop drinking in public when requested. The power to establish an alcohol control area (DPPO) lies with the Council Assembly.

KEY ISSUES FOR CONSIDERATION

Results of consultation

7. In making a recommendation regarding the establishment of an alcohol control area in Southwark the Executive must first be satisfied that:
 - The consultation complies with the statutory requirements of the Criminal Justice and Police Act 2001.
 - Nuisance or annoyance to members of the public or disorder has been associated with the consumption of alcohol in the place where it is intended to establish an alcohol control area.
8. The consultation was broken into two levels:
 - the formal consultation required by statute with landowners, neighbouring boroughs, police, licencees and by public notice.
 - A consultation with a wide range of groups, agencies, organisations and committees. Six focus groups were held with stakeholders, fifty face-to-face interviews took place and 2,500 questionnaires were distributed throughout the community.
9. A full report on the findings of the consultation is contained in appendix 1.
10. Key consultation findings are:
 - In Southwark there is broad support for an alcohol control area with about three quarters of those consulted supporting the implementation of some form of alcohol control area in the borough.
 - Local services such as the police, the Primary Care Trust, park and openspaces users, wardens and managers, transport staff and users, treatment and social care services support the establishment of an alcohol control area.
 - About three quarters of respondents to the public perception survey reported alcohol related nuisance and disorder in their neighbourhood.
 - A geographical analysis of the consultation data shows that there is a much lower intensity of alcohol related nuisance and disorder in the Dulwich wards.
11. The responses from the two levels of consultation are as follows:

Responses to statutory consultation for a borough wide alcohol control area

Response from	Number of Responses	Support alcohol control area	Against alcohol control area	Comments
Landowners	3	2	0	Dulwich estates declined to comment as they did not think there was an issue in Dulwich
Licensees	48	43	3	Two elected to make no comment
Responses to the public notice	22	17	5	Of those 17, nine were in agreement with a borough wide alcohol control area, 7 for SE5 only and 1 for limited hotspots
Neighbouring Boroughs Lambeth Lewisham Westminster City Croydon Bromley Greenwich Tower Hamlets	3	2	0	Lambeth and Lewisham expressed concerns about displacement. Joint working planned with Lambeth around SE5 issues
MPS Southwark	1			Supported a borough wide to minimise displacement to surrounding areas
Neighbouring Police	0	0	0	No concerns received

12. As part of the wider community consultation approximately 2,500 questionnaires were sent out to various groups, agencies and organisations and were distributed at supermarkets, train stations and

tube stations. Four hundred and ninety (19.6%) responses were returned. Of those responses:

- 73% had witnessed alcohol related disorder in their neighbourhood
- No responses were received from SE19, SE21, SE 24
- Types of disorder witnessed included:

Other	58
Vandalism	115
People vomiting in street	149
People fighting	179
Noise nuisance	218
People congregating and drinking in public places	222
People urinating in street	231

- 357 questioned witnessed 1,172 incidents of disorder
- 84% of responses said that they had seen disorder daily

Enforcement issues

13. Concerns were expressed during the consultation of the capacity of the police to enforce a borough wide alcohol control area. A DPPO can be enforced by designated officers as well as police officers so wardens and park staff could also be empowered to confiscate alcohol. A DPPO can be enforced in all public places (parks and streets). It is planned to concentrate activity in hotspot areas.

Displacement issues

14. In considering the recommendation to Council Assembly of a borough wide DPPO all consultation evidence shows a much lower level of alcohol related nuisance and disorder in the Dulwich wards (Village, College, East Dulwich) than in the rest of the Borough.
15. A number of local authorities have used the DPPO provisions of the Criminal Justice and Police Act 2001 to establish borough wide DPPO's despite varying levels of alcohol related nuisance and disorder in the borough in order to deal with issues of displacement of nuisance and street drinking.
16. Evidence shows that displacement is a common outcome of street drinking interventions, particularly enforcement interventions (Street drinking in Hounslow Report 2006) with street drinkers moving out of alcohol control areas into more residential areas. Street populations are by their very nature mobile and given the financial and time constraints of creating alcohol control areas it is possible that street drinkers could always remain one step ahead of area based initiatives. Displacement has been observed locally around the Camberwell Green area.

17. Home office guidance is equivocal on whether or not displacement matters can be taken into consideration in establishing DPPO's stating that "it is for the local authority to be satisfied that..a designation order is appropriate..... whether or not a designation order is appropriate will be a matter for local judgement based on the circumstances applying." Hazel Blears whilst Minister for Crime Reduction Policing and Community Safety replied in response to a parliamentary question that displacement was a relevant issue for local authorities in considering the designation of DPPO's.
18. Concerns have been expressed by Lambeth about potential displacement of street drinking from the Camberwell area if a DPPO is enacted. Southwark and Lambeth will be working jointly on this issue.
19. Geographically consultation findings show lower levels of evidence of alcohol related disorder and a lack of concern about alcohol disorder in the Dulwich area.
20. The executive may wish to consider the option of agreeing a single alcohol control area for Southwark that leaves out the Dulwich wards (College, Village, East Dulwich) in the south of the borough. However this would leave the Dulwich wards unprotected should displacement take place into that area. This is a risk as the area of the borough with the highest incidence of street drinking (Camberwell) adjoins the Dulwich ward. If this option were to be recommended it would be possible to add the Dulwich wards at a later date if the evaluation of the DPPO showed significant displacement into the Dulwich wards. This would require a new consultation and amendment of the original DPPO.

Policy Implications

21. The establishment of an alcohol control area in Southwark will support the reduction of street drinking, which is one of the key priorities of the report considered by the executive on 14 February 2006.
22. An alcohol control area should reduce street drinking. Consultation evidence and national data shows that alcohol is a driver for crime so reducing street drinking should impact on Public Service Agreement (PSA) targets such as PSA 1 (reducing crime in the borough by 20% by 2007/8) and PSA 2 (reducing fear of crime and anti social behaviour).
23. A reduction in street drinking should also reduce litter, urinating in public and vomiting in public places, which should impact on the council priority of making Southwark cleaner and greener.

Community Impact Statement

24. The following impacts have been identified:

- The lead in period for the order means that the order will not be used to control street drinking until November so will not effect the world cup celebrations.
- The order will disproportionately affect street drinking populations the majority of whom are white British.
- The public perception survey shows that the community is intolerant of alcohol related nuisance and disorder, particularly urinating and vomiting.
- There are potential displacement issues if hotspot DPPO's are established which may affect communities not currently experiencing alcohol related nuisance and disorder. Displacement to neighbouring boroughs is also possible particularly across the Southwark/Lambeth border at Camberwell.
- There may be an impact on the Dulwich area if it is the only area of the borough left unprotected. However, Dulwich could be included at a later date although this would require a further consultation process.

Consultation

25. Please see appendix 1 for a full break down of the consultation undertaken.

Proposed Key Dates

26. Proposed plan:
- Council Executive 26 June 2006.
 - Council Assembly 28 June 2006 .
 - Inform Home Office of decision to proceed, July 2006.
 - Publicity – advertisements placed in local newspapers, with a 28 day minimum period between advertisement being published and the DPPO becoming “live”, end of July 2006.
 - Signposting, October 2006 .
 - Enforcement, November 2006 onwards.

Resource implications

27. The cost of the consultation to date has been met from the drug and alcohol action team, alcohol budget. This has included a contract staff member, printing of materials, design costs, advertisements in the local newspapers and postage for free post envelopes.
28. Ongoing costs will involve design of signage, printing and the display, advertisements in the local newspapers, evaluation and the ongoing monitoring of the alcohol control area. One quote has been obtained for

the signage development and production. This included 500 full colour on foamex signs (plastic board about 3mm thick and is water proof). By doing them on foamex they can be replaced easily as and when needed. Around £10,000 was carried over from last years budget to assist with signage development and printing but there has been no further allocations in current year budgets. Any additional costs will be contained within existing budgets.

29. The implementation of an alcohol control area should be evaluated and monitored throughout the implementation and over the first twelve months. The introduction of an alcohol control area will allow more powers for the police and community wardens to tackle street drinking and alcohol fuelled disorder. This will allow the confiscation of alcohol from anyone who is causing a nuisance in a public place. The introduction of an alcohol control area should ensure that there is a reduction of litter within the local parks.
30. The DPPO can be established and managed within existing partnership resources.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Borough Solicitor

31. Section 17 of the Crime and Disorder Act 1998 confers a general duty on Local Authorities to exercise functions with regard to the likely effect of the exercise of those functions and the need to do all that can be reasonably done to prevent crime and disorder in a particular Local Authority's area.
32. Section 2 of the Local Government Act 2000 empowers a Local Authority to do anything which it considers likely to achieve any one or more of the following:
 - The promotion or improvement of the economic well-being of their area,
 - The promotion or improvement of the social well-being of their area, and
 - The promotion of improvement of the environmental well-being of their area.
33. The powers under Section 2, known as the 'well being' powers are wide-ranging and may be exercised in relation to or for the benefit of the whole or any part of a Local Authority's area or all or any persons resident or present in a Local Authorities area.
34. Every Local Authority is under a duty to prepare a strategy for promoting or improving the economic, social and environmental well being of their

area; a Local Authority is under a duty to have regard to its strategy in determining whether or how to exercise the powers under Section 2 of the Act. Southwark's Community Strategy 2003/06 is in the process of being reviewed to take into account developments since its inception including the development of the new Crime and Disorder Strategy 2005-2008.

35. The exercise of the well-being power is restricted by Section 3 of the Act, which provides that the power under Section 2 does not enable a Local Authority to do anything, which it is unable to do by virtue of any prohibition, restriction or limitation on their powers, which is contained in any enactment. Guidance states that this *'means spelt out explicitly on the face of the legislation. It does not apply to any limits to local authority powers which might be implied from the way in which those powers have been drafted'*.

36. Guidance further provides:

'Other than such explicit restrictions or limitations ... a local authority can use the well-being power in place of other, more specific, permissive powers.'

37. Specific provision is made for combating alcohol related disorder in Sections 12-16 of the Criminal Justice and Police Act 2001. Section 13 of the Act gives Local Authorities power to designate an area as a public place where the authority is satisfied that nuisance, annoyance or disorder is associated with the consumption of intoxicating liquor in that place. This may be done by way of Order.

38. Where a Local Authority, by virtue of Section 13, designates such area, under Section 12, it would become an offence for any person to drink alcohol after being required by a police officer not to do so. The police will also have the power to confiscate and dispose of any alcohol and containers in a person's possession.

39. The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 sets out the procedures for Local Authorities to follow in order to designate a public place. The Regulations set consultation requirements before the making of an Order and publicity requirements before and after the making of an Order. The report refers to the consultation that has taken place.

40. When considering the making of a DPPO, the authority should have regard to the general duty conferred by S17 Crime and Disorder Act 1998 referred to in paragraph 1 above.

41. The specific powers in the Criminal Justice and Police Act 2001 together with the powers conferred by Section 2 of Local Government Act 2000 (summarised above), would appear to enable the council to establish an alcohol control area throughout the borough and enable the police to take appropriate action in respect of alcohol related disorder. This is provided

the necessary supporting evidence is available and the procedural requirements conferred by Regulations are complied with, including considering the outcome of the consultation. The Borough Solicitor is not aware of express prohibition, restriction or limitation contained in any enactment which would prevent the authority exercising its 'well being powers'. However use of the well being powers has come under scrutiny by the courts since its introduction with much of the case-law focussing on limitations to what, on the face of it, is a wide-ranging provision; the establishment of a borough-wide alcohol control area has not yet, to the Borough Solicitor's knowledge, been the subject of judicial scrutiny.

42. It is noted that a number of other Local Authorities have established borough-wide DPPO's and on the available evidence of alcohol related disorder in Southwark taken as a whole.
43. When considering the introduction of a borough-wide control area, the council will also need to consider infringements of Articles under the Human Rights Act 1998 and whether any infringements are proportionate. In other words whether the (borough-wide) range of the proposed controlled area is a proportionate response to the need to combat alcohol-related disorder in the borough.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Safer Southwark Partnership's Draft Alcohol Harm Reduction Framework	Community Safety Alpha House	Cathy Bruce 020 7863 3154
Tackling Alcohol Harm: Southwark's Priorities	Community Safety Alpha House	Cathy Bruce 020 7863 3154

LIST OF APPENDICES

No.	Title
Appendix 1	Results of the consultation for a proposed borough wide alcohol control area (DPPO)

AUDIT TRAIL

Lead Officer	Sarah Naylor, Assistant Chief Executive	
Report Author	Kate Sinar, DAAT Partnership Manager and Cathy Bruce, Alcohol Strategy Coordinator	
Version	Final	
Dated	June 16 2006	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor	Yes	Yes
Finance Director	Yes	No
Executive Member	Yes/No	Yes/No
Date final report sent to Constitutional/Community Council/Scrutiny Team	16/06/06	