

BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter ~~is~~/is not* a Key Decision within the Council's definition and ~~has~~/has not* been included in the relevant Forward Plan.

Report of Executive Director,
Customer and Neighbourhood Services.

Designated Public Place Order (DPPO) for alcohol. Town End & Kingstone area**1 Purpose of Report**

- 1.1 There have been persistent alcohol-related problems in the Town End & Kingstone area. The police want extra powers to tackle the problems. Central Safer Neighbourhood Team has requested that Barnsley MBC makes a Designated Public Place Order (DPPO) for the area. For a DPPO to be made, it must be approved by the General Licensing Regulatory Board ("the Board").
- 1.2 The purpose of this report is to help the Board consider proposals to designate the Town End & Kingstone area as an area in which the consumption of alcohol is prohibited in public.

2 Recommendations

- 2.1 **That the Board authorises the advertisement of proposals to make the order (draft at Appendix 1), designating the Town End & Kingstone area as a place where the consumption of alcohol is prohibited in public.**
- 2.2 **That in the absence of any objection to the proposal, the respective order be made as soon as reasonably practicable after the end of the statutory 28 day consultation period.**
- 2.3 **That the Assistant Director, Community Safety Service, be authorised to commission the production of such signs and their affixation as she considers necessary to comply with the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.**

3 Introduction

- 3.1 The Criminal Justice and Police Act 2001, section 13(1), provides that a council may designate an area if it is satisfied that:
 - 3.1.1 nuisance or annoyance to members of the public or a section of the public; or
 - 3.1.2 disorder;has been associated with the consumption of alcohol in that place.
- 3.2 Since March 2004 the Board has approved the making of 14 orders for a range of locations across the borough.
- 3.3 Two DPPOs, made in December 2008, covered Barnsley town centre and Barnsley Cemetery. The last DPPO, made in December 2009, covered Doncaster Road.

4 Consideration of Alternative Approaches

- 4.1 A DPPO is an additional tool for the police to use in tackling alcohol-related anti-social behaviour. Existing tools (such as arrests for being drunk & disorderly, foot patrols, etc.) will continue to be used.
- 4.2 If the Board does not make the DPPO, it would be for South Yorkshire Police to decide how to continue to police the area.

5 Proposal and Justification

- 5.1 On 11 March 2004 the Council resolved that the exercise of powers pursuant to section 13 of the Criminal Justice and Police Act 2001 and the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 (subsequently re-enacted by the 2007 regulations), be delegated to the Board and that the Board be authorised to delegate to the appropriate officers all steps necessary for, or reasonably incidental to, the exercise of the powers and in particular, to incur expenditure relating to the commissioning, production, affixation and maintenance of such signs as it considers necessary to give effect to a designation order.
- 5.2 The Neighbourhood Safety Unit has received a request from PC 3200 Jane Rees and Mark Miller (Tasking Officer) of Central Safer Neighbourhood Team (SNT) to place a report before the board requesting it to consider designating the area.
- 5.3 There have been problems related to drinking alcohol in public places in the Town End & Kingstone area.
- 5.4 More details are given in the reports of Central SNT.
- 5.5 Once an order is made designating an area under section 13 of the Criminal Justice and Police Act 2001 a police officer will be authorised to require any person who is, has been, or appears to intend to consume an alcoholic drink to surrender anything in his possession which he believes to be an alcoholic drink or is a container of such a drink.
- 5.6 Any person refusing to comply will be liable to a maximum fine of £500. (The last Government had planned to increase the maximum fine to £2,500.)
- 5.7 Before the order takes effect it is necessary to erect in the places which are designated, such signs as are considered sufficient to draw attention of the members of the public in that place to the effect of the order.
- 5.8 Under the statutory scheme the Council is obliged, before making an order, to publish an advertisement in a local newspaper, allowing 28 days for the receipt of representations. The Council is also obliged to consult with the holders of any Premises Licences in respect of premises in or near the proposed designated areas. Any objections to the proposed order will be reported back to the board for further consideration. If no objection is received the order will be made as soon as practicable after the expiry of the statutory 28 day period.
- 5.9 The board may choose to:
 - 5.9.1 publish the order which is set out in the Appendix
 - 5.9.2 amend the order by deleting any of the proposed designated streets or areas; or
 - 5.9.3 publish no order at all.

- 5.10 Having regard to the representations made by South Yorkshire Police and the need to prevent crime and disorder, it is recommended that the board publish their intentions to make the order set out in Appendix 1.
- 6 Delivering Sustainable Community Strategy Ambitions and Local Area Agreement Outcomes
- 6.1 The One Barnsley Sustainable Community Strategy 2008-2020 says: "As Barnsley's night time economy grows, helping the public to safely enjoy alcohol, avoiding adverse effects of its misuse, is a national and local priority." (page 26)
- 6.2 Barnsley's Local Area Agreement 2008-11, relates that:
- 6.2.1 "... alcohol related disorder also continue to represent key risks to the population of the Borough" (page 21)
- 6.2.2 "the main priority area in terms of tackling recorded crime is assault, which is principally alcohol related" (page 45)
- 6.2.3 "Alcohol use, particularly among young people, is a high priority for action due to the adverse impact it has on health and other issues. These include ... anti-social behaviour..." (page 69)
- 6.3 A DPPO would help in achieving these objectives.
- 7 Long Term Sustainability of the Proposal
- 7.1 Most of the necessary cost associated with a DPPO is initial cost (newspaper advertisements, consultation, erecting signage).
- 7.2 A DPPO creates a power that does not have to be exercised, so there is no perpetual burden. The power could be exercised by those police officers who were already in the area.
- 7.3 Central SNT is committed to enforcing the DPPO if it is made.
- 8 Impact on Local People
- 8.1 The procedure for designating an area is prescribed by the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007. In December 2008 the Home Office issued updated guidance.
- 8.2 The regulations and guidance set out specific consultation procedures that must be followed. They are not overridden by the new general Duty to Involve.
- 9 Compatibility with European Convention on Human Rights
- 9.1 Section 6 of the Human Rights Act 1998 requires a public authority to act in accordance with the European Convention on Human Rights.
- 9.2 Home Secretary Jack Straw gave a statement of compatibility regarding the Criminal Justice and Police Bill.
- 9.3 The restrictions in the order are justified as necessary and proportionate to further a legitimate aim, namely the reduction of alcohol-related anti-social behaviour. The area is clearly defined and based on evidence of where alcohol-related nuisance has been occurring, and also seeks to avoid merely displacing the problems to immediately neighbouring areas.

- 10 Promoting Equality and Diversity and Social Inclusion
 - 10.1 South Yorkshire Police ought to exercise the power in a non-discriminatory manner, so as not to adversely affect community relations.
- 11 Reduction of Crime and Disorder
 - 11.1 Section 17 of the Crime and Disorder Act 1998 imposes a duty on a local authority to exercise its functions with due regard to the likely effect on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), and the misuse of drugs, alcohol and other substances in the area.
 - 11.2 Making the order would contribute to reducing alcohol-related crime and disorder (and the misuse of alcohol) in Barnsley. Indeed, that is the entire purpose of the order.
- 12 Conservation of Biodiversity
 - 12.1 Making and enforcing the DPPO would not adversely impact biodiversity. It might incidentally reduce alcohol-related litter.
- 13 Risk Management Issues, including Health and Safety
 - 13.1 Enforcing the law against drunk people (at night and at other times) and is a naturally risky activity, but one that South Yorkshire Police is used to conducting in accordance with good practice for health and safety. Part of the purpose of the DPPO is to enable the police to intervene proactively at an earlier stage and prevent problems, rather than just being called in to deal with incidents.
- 14 Financial Implications
 - 14.1 The initials cost (newspaper advertisements, consultation, erecting signage) will be borne by Central SNT.
- 15 Employee Implications
 - 15.1 The DPPO would be enforced by existing staff.
- 16 Glossary
 - 16.1 DPPO = Designated Public Place Order
 - 16.2 SNT = Safer Neighbourhood Team
- 17 List of Appendices
 - 17.1 Appendix 1: Draft Order – Town End and Kingstone Area, including map.
- 18 Background Papers
 - 18.1 A copy of the following background papers has been placed in the Members' Library. Copies are also available from the contact officer (they can easily be emailed):
 - 18.1.1 Central Safer Neighbourhood Team Report – Alcohol-related Anti-social Behaviour in the Town End and Kingstone Area
 - 18.1.2 Central SNT – Overview of Neighbourhood Nuisance Questionnaires
 - 18.1.3 Photographs of alcohol-related litter in Town End & Kingstone Area

18.1.4 Home Office, *Guidance on Designated Public Place Orders (DPPOs):
For Local Authorities in England and Wales* (December 2008)

18.1.5 Criminal Justice and Police Act 2001, sections 12-16

18.1.6 Local Authorities (Alcohol Consumption in Designated Public Places)
Regulations 2007, SI 2007/806, and Explanatory Note

19 Officer Contact.

For further details, contact:

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23 July 2010

CRIMINAL JUSTICE AND POLICE ACT 2001

Alcohol Consumption in Designated Public Places: Metropolitan Borough of Barnsley (No. 15) (Town End and Kingstone) Order 2010

The Barnsley Metropolitan Borough Council (in this Order called “the Council”) hereby make the following Order under Section 13(2) of the said Act:

1. The land described in the Schedule below and shown on the map attached to this Order, being a public place in the area of the Council which is a public space in which the consumption of alcohol has been associated with disorder, nuisance or annoyance to members of the public or a section of the of the public, is hereby designated for the purposes of Section 13(2) of that Act.
2. This Order may be cited as the Alcohol Consumption in Designated Public Places: Metropolitan Borough of Barnsley (No. 15) (Town End and Kingstone) Order 2010 and shall come into force on [date to be fixed].

SCHEDULE

List of roads/areas etc

1. Agnes Road
2. Allatt Close
3. Bainton Drive
4. Bank Street
5. Beaconsfield Street
6. Becketts Hospital Terrace
7. Bedford Street
8. Beech Grove
9. Bismark Street
10. Blenheim Avenue
11. Blenheim Avenue Garage Site
12. Blenheim Grove
13. Blenheim Road
14. Britannia Close
15. Bruce Avenue
16. Buckley Court
17. Burleigh Court
18. Burleigh Street
19. Caistor Avenue
20. California Crescent
21. California Gardens
22. California Street
23. California Terrace
24. Canada Street
25. Castle Street
26. Castlereagh Street
27. Charles Street
28. Clarendon Street
29. Claycliffe Terrace

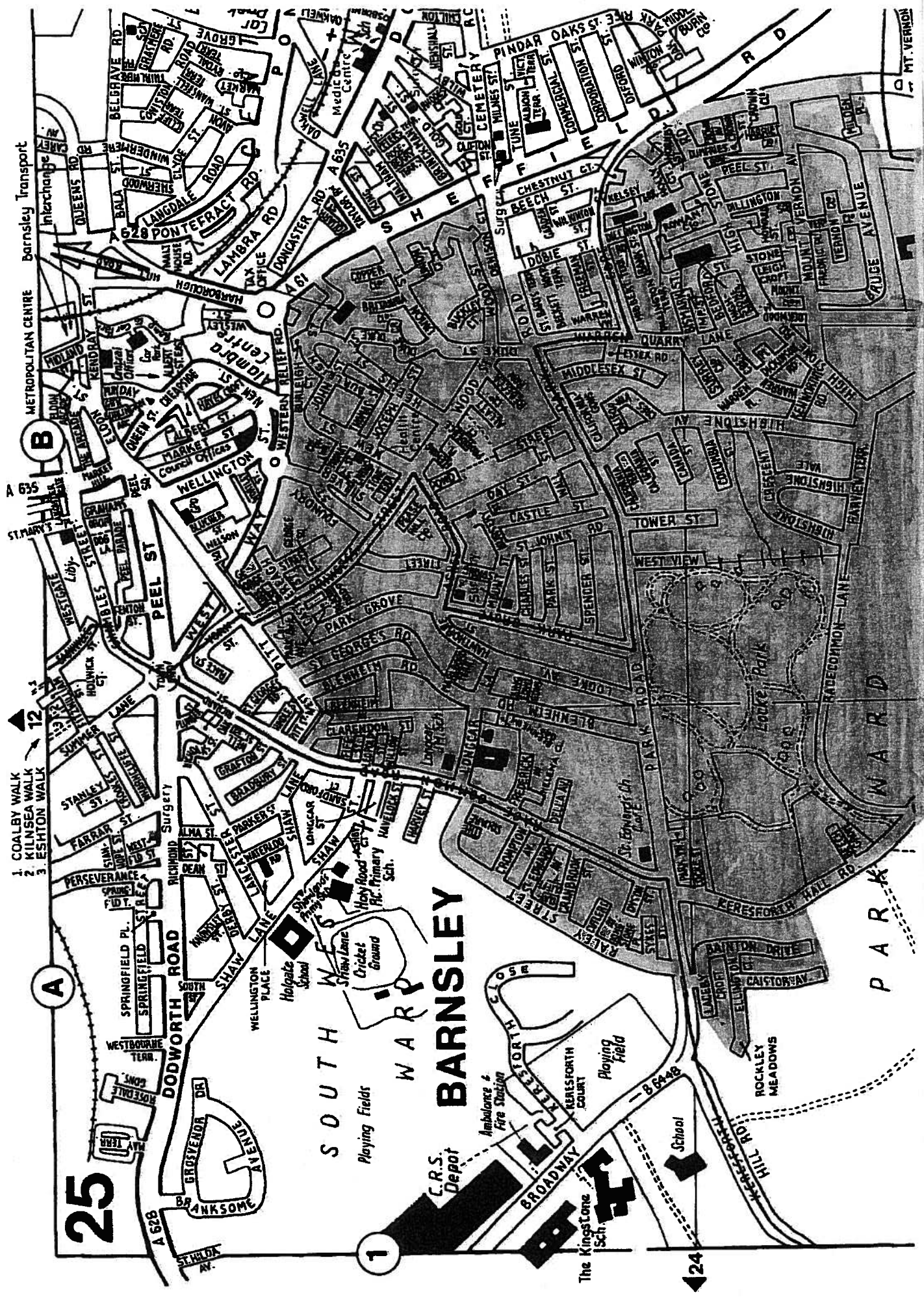
30. Columbia Street
31. Cope Street
32. Copper Close
33. Cranbrook Street
34. Crompton Avenue
35. Crown Avenue
36. Crown Close
37. Crown Street
38. Cutlers Avenue
39. Day Street
40. Della Avenue
41. Dickinson Place
42. Dickinson Road
43. Dillington Road
44. Dillington Square
45. Dillington Terrace
46. Duke Crescent
47. Duke Street
48. Dumfries Row
49. Dyson Street
50. Ellington Court
51. Essex Road
52. Fairview Terrace
53. Fife Street
54. Flemming Place
55. Foundary Street
56. Frederick Avenue
57. Fredric Place
58. Freeman Street
59. George Square
60. George Street
61. Harriet Close
62. Hawthorne Street
63. Heelis Street
64. Helena Close
65. Hibbert Terrace
66. Highstone Avenue
67. Highstone Crescent
68. Highstone Mews
69. Highstone Road
70. Highstone Vale
71. Holly Court
72. Hornby Street
73. Howard Street
74. Imperial Street
75. John Street
76. Joseph Street
77. Kelsey Terrace
78. Kenworthy Road
79. Keresforth Hill Road (from Park Road to Racecommon Lane)
80. King Edward Gardens

81. Kingstone Place
82. Leopold Street
83. Livingstone Terrace
84. Locke Avenue
85. Locke Park
86. Locke Street
87. Lockwood Lane
88. Longcar Centre
89. Longcar Lane
90. Mark Street
91. Mark Street Car Park
92. Marlborough Terrace
93. Middlesex Street
94. Milden Place
95. Milden Place
96. Mount Close
97. Mount Street
98. Mount Vernon Avenue
99. Mount Vernon Road (from Sheffield Road to Milden Place)
100. New Street
101. Nursery Street
102. Park Avenue
103. Park Grove
104. Park Road (from Laceby Croft to Dobie Street)
105. Park Street
106. Park View
107. Peasehill Close
108. Peel Street
109. Pitt Street Garage Site
110. Pond Street
111. Princess Street
112. Providence Court
113. Racecommon Road (from Harvey Street to Park Road)
114. Raley Street
115. Rebecca Row
116. Rockley Meadows
117. Rowan Close
118. Silver Street
119. Spencer Street
120. Spring Street
121. St Barts Terrace
122. St Edwards Church of England
123. St Georges Road
124. St Johns Road
125. St. Edwards Avenue
126. Stoneleigh Croft
127. Surrey Close
128. Sykes Street
129. The Square (off Raley Street)
130. Thomas Street
131. Tower Street

132. Union Court
133. Union Street
134. Vernon Close
135. Wall Street
136. Warren Crescent
137. Warren Place
138. Warren Quarry Lane
139. Warren View
140. West View
141. Willow Street
142. Wood Street
143. Worsbrough Common Primary School

Dated [date to be added]

The Common Seal of the Barnsley Metropolitan Borough Council
was hereunto affixed in the presence of



- 1. COALBY WALK
- 2. KILNSEA WALK
- 3. ESHTON WALK

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B

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1

24

SOUTH WARP
Playing Fields

WARP

BARNSELY

PARK WARD

Barnsley Transport Interchange

Metropolitan Centre

A 635

12

A 628

C.R.S. Depot

Ambulance & Fire Station

The Kingstone Sch

School

ROCKLEY MEADOWS

BAINTON DRIVE

KERESFORTH HALL RD

LOOKE AVENUE

WEST VIEW

TOWER ST

HIGHSTONE

QUARRY LANE

REEL ST

WILLINGTON

CAULICE AVENUE

QUEENS RD

BALA ST

WINDERMERE

SHERRWOOD

LANGDAL ROAD

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Central SNT Report – Alcohol-related Anti-social Behaviour in the Town End and Kingstone Area

Overview of the Problem

Historically, the “town centre drunks” gathered in the centre of Barnsley and nearby green areas, e.g. Sparrow Park off Summer Lane and the grassed bank on Race Street. Over the years their presence brought complaints from other town centre users of drunken behaviour, abusive language and an increase in litter. These groups were unsightly and intimidating to members of the public. On a day-to-day basis, they were “moved on” by police officers if no offences were disclosed, and promptly found somewhere else to loiter until another complaint was forthcoming.

In December 2008, Barnsley Town Centre and selected streets on the outskirts of the town became subject of a Designated Public Place Order (DPPO) under section 12 of the Criminal Justice and Police Act 2001. Hence, at last, officers had the power to confiscate alcohol from people drinking in this specified area, and the group automatically dispersed. The section 12 power was a very useful tool for town centre officers and in particular, the Central Safer Neighbourhood Team who robustly policed their patch with renewed vigour.

It did not take long for these people to realise that they would have to find other locations in which to indulge their drinking habit. To remain in the town centre and risk having their alcohol confiscated on a daily basis was not a viable option for them.

Hence, this group quickly established where the parameters of the section 12 area were and promptly started to gather just outside it. Currently, the preferred area is the garage site at the bottom of Blenheim Ave, (also accessed off Pitt Street West). This appears to be favoured because it is less than 5 minutes walk from their original haunts, they are relatively “tucked away” from police and public view. Most importantly, this location is only 100yds from a source of “cheap white cider” in the form of “Rhythm and Booze” on Racecommon Road!

In summary, the section 12 area has indeed cleared the town’s drunks from the centre of Barnsley. However, it has displaced the problem onto the Town End area and indeed magnified it. Whilst members of the public will tolerate drunks in the shopping areas or whilst walking into the town centre, they are not so tolerant of gatherings at the end of the street where they live if this is persistent.

In response to numerous complaints from residents regarding these issues, the following measures have been employed:

- High visibility patrols and dispersal of the group
- Liasing with “Rhythm and Booze” to discourage them from selling alcohol to this nuisance group.

- Liasing with “Neighbourhood Pride” to get them to keep the area free from discarded bottles and cans.

However, these measures are merely a coping strategy and are not providing a long-term solution to the problem.

Overview of the Area

The Town End and Kingstone area of Barnsley is one of the most densely populated areas within Barnsley Borough with a large proportion of the properties being terraced. Service roads typical of this type of housing form a “rabbit warren” particularly within the town end area of Barnsley. Here, there is a potential for anti-social behaviour associated with alcohol.

Within the area considered suitable for the section 12 order are the following licensed premises:

1. The Marlborough - Dodworth Rd
2. The Cranberry – Dodworth Rd
3. Shaw Inn – Racecommon Rd
4. Longcar Inn – Racecommon Rd
5. The Outpost – Sheffield Rd
6. Kingstone Working Mens Club – Raley St
7. Locke Park Working Mens Club – Park Rd
8. The Silkstone – Park Rd

Except for the Marlborough (which has a small beer garden at the rear) all the other pubs have small seating areas at the front of their premise which are either fenced off or well within the curtilage of the building.

There are also several shops in the area with “Off Licenses”

1. “Rythm and Booze” - Racecommon Rd
2. “Costcutter” – Dodworth Rd
3. “Dawn’s” – Park Rd
4. “Jays” – Agnes Rd
5. “Devlins” - Lancaster St
6. “Dawsons” – Racecommon Rd

Section 12 Application

A section 12 (Criminal Justice and Police Act 2001) order upon the remainder of the Town End and Kingstone area would greatly assist the Police to combat the continuing nuisance and anti-social behaviour in the area, much of which can be directly linked to drinking in the street. The ability for officers to deal positively with those who choose to drink and cause nuisance in a public area would greatly assist our battle with anti social behaviour and go some way towards improving the quality of life of local people.

The application is supported by the Barnsley District Command Team and the Licensing Officer.

The area we would seek to have covered by the order is shown on the attached map. Complaints have not been forthcoming from all streets within the area. However, in view of how the original town centre section 12 order forced the drinkers onto streets immediately adjacent to the targeted area, it would seem logical to extend the section 12 area to cover a self-contained geographical area such as Townend and Kingstone.

As the outer boundary of the suggested section 12 area is a mile from the town centre, the convenience for "drinkers" to meet their associates is removed and I would suggest would naturally lead to smaller groups forming.

Central SNT – Overview of Neighbourhood Nuisance Questionnaires

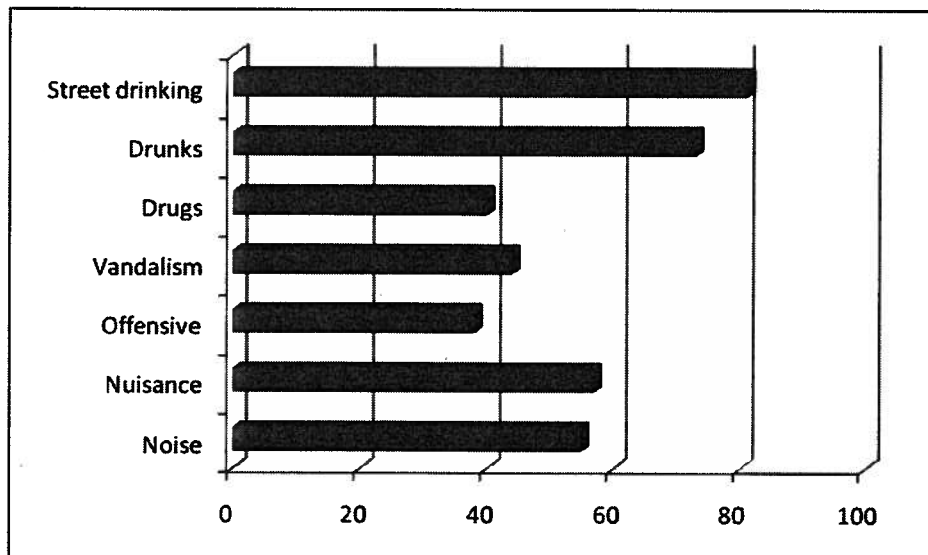
In April/May 2010 the views of the people of Townend were sought in relation to the proposed section 12. This was done by means of approximately 100 questionnaires which were hand delivered to random houses within the area.

Residents were asked whether they were currently experiencing any of the following problems in their immediate area:

- a. Noise
- b. Nuisance behaviour (including youth nuisance)
- c. Offensive behaviour
- d. Vandalism
- e. People dealing or using drugs
- f. People drunk or rowdy
- g. Street Drinking.

An analysis revealed that 80% of those surveyed saw street drinking as a problem in their area and similarly, 73% perceived that the presence of drunk and rowdy people was a problem. Noise and nuisance behaviour, often by-products of drunken people, were the next two biggest problems.

It is interesting to note that drug dealing and using did not appear to bother our residents as much.



The second part of the questionnaire invited persons surveyed to add any further comments they had regarding this subject. The following ten quotes are taken from the questionnaires and nicely summarise how locals feel about street drinkers in particular.

1. "I often see teenage boys and girls hanging round the garages at the bottom of my street. I'm not sure what they are doing...I have an eleven- year-old son who wants to play outside with his friends. I don't let him out much as I don't want him to see them drinking or taking drugs"
2. "...there is always gangs of adults and youths at all times of day. They are extremely noisy, drug taking and drinking alcohol in full view of everyone. Their behaviour often becomes loud and out of hand at times. The area where they meet is unsightly and messy."
3. "The area as a whole is depreciating."
4. "Youths have been known to gather in the dead end alley between St. Georges Rd and Blenheim Rd. I have removed beer cans, bottles, cigarette packets and general rubbish left behind. I have always been too nervous to ask them to move."
5. "It seems to be the same youths...near the garages drinking and being abusive. This is obviously making elderly people nervous. They seem to think they are invincible – they have got to be stopped!... I do not want to be arrested for any kind of assault on these youths, but they are getting on my nerves!"
6. "I do worry for my safety as I live alone with my two year old daughter, and really don't want her growing up in this area unless such matters are addressed."
7. "Street drinking is commonplace and people are regularly hanging around this area with alcohol and acting drunk and rowdy"
8. "These people are a blot on the landscape, lowering the tone and the valuation of the properties in this area."
9. "There are a number of youths that go to Spring St park, especially at the weekend who become very loud and sometimes aggressive. They drink and poke fun and provoke passers-by."
10. "We are trying to sell our house. Prospective buyers are being put off by groups of people, drinking at the bottom of the street. "







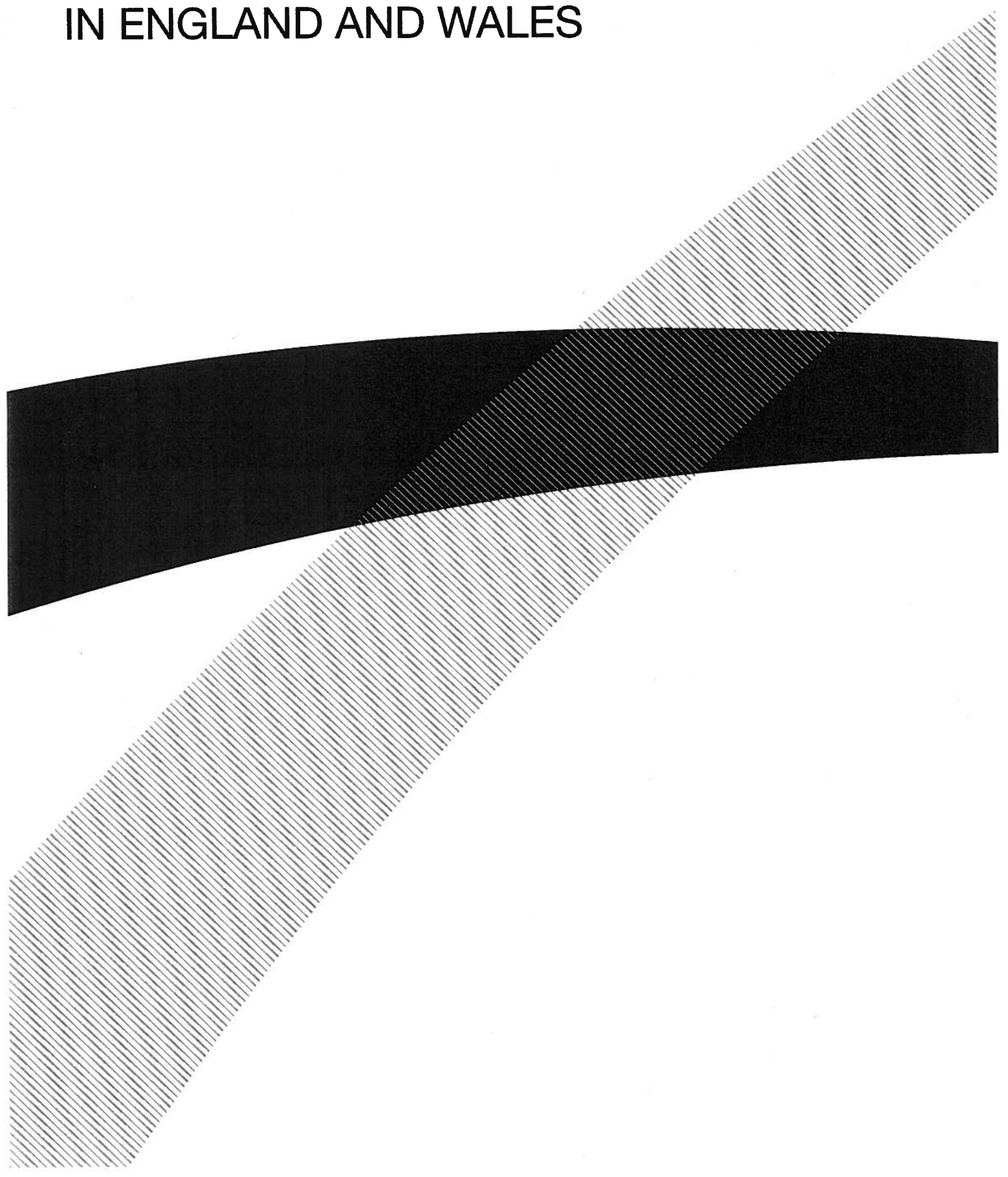




**GUIDANCE ON
DESIGNATED PUBLIC
PLACE ORDERS (DPPOs):
FOR LOCAL AUTHORITIES
IN ENGLAND AND WALES**



Home Office



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Introduction

This guide explains the powers given to local authorities in England and Wales to introduce Designated Public Place Orders (DPPOs). The provisions are contained in section 13 of the Criminal Justice and Police Act 2001 and section 26 of the Violent Crime Reduction Act 2006.

The purpose of this guide is to help you get the best out of DPPOs. If your local area has found its own effective system for using this power, then there is no need to consider making changes. Our aim is to ensure good practice from practitioners. The examples we give are merely suggestions that you may wish to try in your local area, particularly if DPPOs are new to you. We are not looking to replace existing local protocols.

This guidance is therefore not compulsory. It merely sets out examples of good practice which you may wish to follow in your local area. Legislative obligations mentioned here are, naturally, compulsory, and we have highlighted all references for your convenience.

Purpose of the powers

On 1 September 2001, sections 12–16 of the Criminal Justice and Police Act 2001 came into force. DPPO powers enable local authorities to designate places where restrictions on public drinking apply. However, they can only be used in areas that have experienced alcohol-related disorder or nuisance.

These powers are not intended to disrupt peaceful activities, for example families having a picnic in a park or on the beach with a glass of wine. While police officers have the discretion to require an individual to refrain from drinking regardless of behaviour, our advice is that it is not appropriate to challenge an individual consuming alcohol where that individual is not causing a problem. Bodies responsible for introducing and enforcing DPPOs must keep in mind section 13 of the Criminal Justice and Police Act 2001 which makes it clear that this power is to be used explicitly for addressing nuisance or annoyance associated with the consumption of alcohol in a public place.

It is important to note that these powers **do not** make it a criminal offence to consume alcohol within a designated area. An offence is committed if the individual refuses to comply with a constable's request to **refrain from drinking**. Those enforcing these powers must take care that they do not state (either verbally or via signage) that the consumption of alcohol in a designated area, in itself, constitutes a criminal offence.

Byelaws

By virtue of section 15 of the Criminal Justice and Police Act 2001, existing public drinking byelaws cease to have effect once an area is designated in accordance with section 13 of the 2001 Act. Any relevant local authority byelaw which was not replaced by a section 13 Designation Order has therefore lapsed by virtue of section 15 of the 2001 Act. Drinking byelaws that were not replaced by a DPPO ceased to have effect on 31 August 2006.

The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007

Section 13 of the Criminal Justice and Police Act 2001 enabled local authorities to introduce Designated Public Place Orders (DPPO). The 2001 Act also ensured that pubs and clubs that have a premises licence to sell and supply alcohol under the Licensing Act 2003 could not be designated by a DPPO.

The Licensing Act 2003 brought the licensing arrangements for a range of activities under the same regime. So premises licensed for the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshments hold the same, single authorisation. The Licensing Act 2003 Statutory Guidance also encourages local authorities to seek premises licences for public spaces in order to allow local community events such as open-air festivals, concerts and carnivals to take place without the need for each individual event organiser having to apply for a separate licence. This allows these various events to operate within the terms of licence.

An unintended consequence of this was that, where local authorities were granted a premises licence in respect of public spaces in order to hold regulated entertainment (and in some cases allow the sale of alcohol at certain times) these places could not be designated with a DPPO. This conflicted with local authority wishes to promote community events by licensing public spaces, while also intending to make use of DPPOs in tackling anti-social behaviour drinking.

This unintended problem was rectified by section 26 of the Violent Crime Reduction Act 2006, which came into force on 6 April 2007 amending the 2001 Act, to ensure that premises used by local authorities in this way will only be excluded from a DPPO in which they are located at times when alcohol is actually being sold/supplied and for 30 minutes thereafter. The 2006 Act also ensures that a premises for which a Temporary Event Notice (TEN) permits the supply of alcohol will also be excluded from a DPPO in which it is located for 30 minutes following the supply of alcohol, rather than 20 minutes as was previously the case.

Which authority has the power to make a DPPO?

The local authorities with the power to make a designation order under section 13 are:

- in England, unitary authorities and district councils so far as they are not unitary authorities; and
- in Wales, county councils or county borough councils.

In this context unitary authorities are defined as county councils (so far as they are councils for an area for which there are no district councils), district councils (in areas for which there are no county councils), London borough councils, the common council of the City of London (in its capacity as a local authority) and the council of the Isles of Scilly.

Partnership working

As with any decision to introduce a particular power to tackle anti-social behaviour in a local area, it is essential that you work with the relevant agencies within the Crime & Disorder Reduction Partnership (CDRP) – such as the police – from the start of the DPPO process. In particular, this is to ensure that when the order comes into force, the DPPO is monitored and the police have the resources to be able to enforce it.

The DPPO process

1. Evidence

The evidence you will require for a DPPO is that there is an alcohol related nuisance or annoyance to the public in the proposed area/s. You should make an assessment as to the likelihood that the problem will continue unless these powers are adopted. In addition, you must have a belief that the problem could be remedied by the use of these powers. Evidence should be based not just on information you have obtained, but also from the police and members of the local community who 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 (e.g. bottles and cans) as well as police information and residents' complaints.

2. Consultation

Before making an order you should consult with the chief officer of police overseeing the area in question. This is to seek the police's views on the nature of the problem and the appropriateness of adopting the powers. It is also in recognition that it will be the police who will have the responsibility for enforcing the resulting restrictions on public drinking.

You should also consult the following:

- the parish or community council covering all or part of the public place to be designated;
- the neighbouring police and local authorities, parish or community councils in cases where a designation order covers an area on the boundaries with that neighbouring authority. This is in order to assess the consequences of the designation order on the neighbouring authority (such as the possible displacement of anti-social public drinking problems) before the designation order is made; and
- any premises licence holder, club premises certificate holder or premises user (as appropriate), in relation to each premises in that place which may be affected by the designation. These are premises where:
 - (i) a premises licence granted under part 3 of the 2003 Act has effect;
 - (ii) a club premises certificate granted under part 4 of the 2003 Act has effect; or
 - (iii) a temporary event notice has been given so that premises may be used for a permitted temporary activity by virtue of part 5 of the 2003 Act.

You should also take reasonable steps to consult the owners or occupiers of the land proposed to be designated. Where residential areas are proposed to be included in the DPPO area, you should endeavour to consult with residents of those areas. Some councils have notified the local residents by means of a leaflet drop. You may also wish to consider holding residents' meetings. Some have carried out surveys of their residents and businesses to gauge their opinion on the proposal to introduce a DPPO and to identify any experience of alcohol-related anti-social behaviour or disorder. These data can add to the evidence base required before a DPPO is introduced.

When you consult any of the parties above, you should describe in writing the effect the order will have at particular times in relation to each category of premises (set out in section 3 (3) (b) of the 2007 Regulations) listed below:

- Premises in respect of which a premises licence has effect which authorises the premises to be used for the sale or supply of alcohol (section 14(1)(a) of the Criminal Justice and Police Act 2001 (“the 2001 Act”) but where section 14(1)(b) of that Act does not apply). This provision covers licensed premises at all times of the day.
- Premises in respect of which a premises licence has effect which authorises the premises to be used for the sale or supply of alcohol but only at times when it is being used for the sale or supply of alcohol or at times falling within 30 minutes after the end of a period during which it has been so used (section 14(1)(a) of the 2001 Act where section 14(1)(b) of that Act does apply). This provision covers licensed premises during the times of operation of the licence and 30 minutes thereafter – so for example they are not covered at times that they are not licensed to sell or supply alcohol.
- Premises in respect of which a club premises certificate has effect which certifies that the premises may be used by the club for the sale or supply of alcohol (section 14(1)(aa) of the 2001 Act). This provision covers clubs that have club premises certificates.
- A place within the curtilage of licensed premises or club premises (section 14(1)(b) of the 2001 Act). This provision covers any place within the enclosed area of licensed premises or club premises.
- Premises which by virtue of Part 5 of the Licensing Act 2005 may for the time being be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the last 30 minutes (section 14(1)(c) of the 2001 Act). This provision covers any premises for which there is a valid temporary event notice in force and for 30 minutes thereafter.
- A place where facilities or activities relating to the sale or consumption of alcohol are for the time being permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (section 14(1)(e) of the 2001 Act). This covers places in which the council has given permission for alcohol to be sold pursuant to section 115E of the Highways Act 1980.

3. Publicity

Before making an order, you should publish a notice in the local newspaper:

- identifying specifically or by description the place in question; setting out the effect the order will have on that place, particularly as regards certain times in relation to each category specified in section 3 (3) (b) of the 2007 Regulations;
- identifying any premises to which section 14 (1) (b) of the Act applies at the time the notice is published; and
- inviting representations as to whether or not an order should be made.

No order should be made until at least 28 days after the publication of the notice. Some local authorities have published the notice in a council publication that is delivered to all residences and businesses within the local authority boundaries. We believe this is an example of good practice as such a newsletter will most likely cover a larger proportion of the population. However, any publications in newsletters of this sort must be in addition to the notice in a local newspaper as this is a legal requirement.

4. Once an order is made

After making an order and before it takes effect, you should publish a further notice in the same local newspaper:

- identifying the place to which the order refers;
- setting out the effect the order will have on that place, particularly as regards certain times in relation to each category specified in section 3 (3) (b) of the 2007 Regulations;
- identifying any premises to which section 14 (1) (b) of the Act applies at the time the order takes effect; and
- indicating the date on which the order will take effect.

You should send a copy of the DPPO as soon as possible after the order is made to the following address:

Joanne French
Home Office
Alcohol Strategy Unit
4th Floor
Peel Building
2 Marsham Street
London
SW1P 4DF

Telephone number: 020 7035 0066

The Home Office will send you an acknowledgement to confirm receipt of the DPPO order. If you don't receive an acknowledgement within two weeks of sending your paperwork to the Home Office you should contact the Alcohol Strategy Unit to confirm whether or not it has been received.

Timescales

In respect of the length of time allowed for the consultation process, it is for you to decide what constitutes a reasonable consultation period. This might depend on how many premises licence holders and neighbouring local authorities may be affected by the proposed DPPO area. However, our advice is that a period of 4 to 6 weeks gives residents and others a fair opportunity to make representations.

The only statutory requirement in the regulations is that no order can be made until at least 28 days after the notice has been circulated in the local press. There are no other statutory timescales. However, you must consider what, in your view, is both fair and reasonable in terms of timescales for all other aspects of the DPPO process.

Time lapses

If you find that a significant amount of time has elapsed since you first consulted about introducing a DPPO, we would advise you to go back to the initial results of the consultation and review whether there is likely to have been any changes in your local area which might have had an effect on your decision to implement a DPPO.

You will need to:

- look at why the DPPO was not implemented at the time (was it due to resource issues or were there any valid objections?);

- assess whether any circumstances are different now, compared to when the consultation took place;
- revisit the evidence to see if the DPPO is still justified; and
- consider whether any objections are more valid now as compared to when the consultation took place.

Displacement

The creation of designated areas may well lead to anti-social drinking or nuisance being displaced into areas that have not been designated for this purpose. So, prior to designating an area, you should make an assessment of all the areas to where you reasonably believe that the nuisance or disorder could be displaced, ensuring that all those affected by the designation and possible displacement are appropriately consulted. It might be appropriate for you to designate a public area beyond that which is experiencing the immediate problems caused by anti-social drinking if the evidence suggests that the existing problem is likely to be displaced once the DPPO is in place.

Extending a DPPO area

In order to extend the area of a DPPO, a new order has to be produced. This is to ensure that the extended area is just and reasonable. The consultation and publicity processes will need to be re-visited for the new area.

Borough-wide DPPOs

Borough-wide DPPOs are not specifically prohibited in the legislation; however, we would advise caution, as, in order for the DPPO to be proportionate, you need to ensure that there is evidence of alcohol-related anti-social behaviour in each and every part of the borough. Any local authority considering a borough-wide DPPO will need to satisfy themselves that they can justify their decision by pointing to evidence of alcohol-related nuisance or annoyance in each and every part of their borough.

Managing objections

Any objections to a DPPO should be properly considered. Questions that you might wish to consider include:

- does the person/people making an objection have a valid reason?
- does further evidence of alcohol-related anti-social behaviour need to be obtained?

Objections to a DPPO will not necessarily result in its rejection. However, all objections should be thoroughly considered. It would be good practice for you to send a letter to the person objecting, explaining why their objection has been accepted/rejected. In cases where there have been a number of objections on the same or similar points, you may wish to explain more publicly the reasons for continuing with the DPPO. This could be through residents' meetings or an article in a council newsletter.

Evaluating DPPOs

There is no statutory requirement to review a DPPO. However, we would advise that they should be evaluated and reviewed as a matter of good practice. How often a DPPO should be evaluated is a decision for you to make. It would be good practice to review the DPPO at least every two years. The aim of an evaluation is to find out whether the DPPO has stopped/helped to reduce alcohol-related anti-social behaviour/disorder. If it has, is the DPPO still required? Does the area covered by the DPPO need to be reviewed?

The evaluation need not be a lengthy bureaucratic exercise. The policy leads responsible for implementing the DPPO would be advised to review the data on alcohol-related anti-social behaviour before the DPPO was in force, and compare it with more recent data, along with information from the police as to how often the DPPO has been enforced. A judgement can then be made as to the effectiveness of the DPPO in dealing with alcohol-related anti-social behaviour.

As part of the consultation with the police when a DPPO is originally being proposed, it is advisable that local authorities should make their own local agreement with the police about how data will be collected and/or disseminated on how often the DPPO powers are used. This will enable you to have the relevant information available when reviewing the effectiveness of the DPPO.

If it is judged that the DPPO has not proved effective at reducing alcohol-related anti-social behaviour, you will need to identify the reasons behind this before deciding on the next steps. It might be that the problems have been displaced, in which case you may wish to think about extending the area of the DPPO. Alternatively, it might be that the DPPO is not being enforced, in which case you will need to discuss with the police what steps can be taken to address this issue.

Revocation of a DPPO

Under section 13 (3) of the Criminal Justice and Police Act 2001, local authorities have the power to revoke a DPPO. However, the same processes of consultation and publicity will need to be observed when any revocation is being considered. Any local authority which revokes a DPPO must send a notice to the Home Office (at the address above) informing them that a DPPO has been revoked.

Portsmouth – an example of good practice

When Portsmouth Council decided to introduce a DPPO, they agreed a protocol with the police to provide guidance for both the public and the police as to how the DPPO would be enforced. The police and the local authority agreed that individuals with alcohol would not be approached and asked to stop drinking unless 1) they were engaged in anti-social behaviour or disorder; 2) the police were of the view that there was likely to be anti-social behaviour or disorder; or 3) complaints had been received from other members of the public. This approach allowed Portsmouth to target those individuals causing nuisance related to the consumption of alcohol while leaving undisturbed those who were not causing a nuisance.

The guidance from Portsmouth highlighted the importance of not alienating the public by challenging individuals not engaged in anti-social behaviour, and that the use of the power was a discretionary one on behalf of the police, and not a duty to challenge any individual with alcohol. The guidance produced by Portsmouth Council can be found at Annex E and is also available on the Crime Reduction website.

Enforcement

Section 12 of the Criminal Justice and Police Act 2001 provides the police with powers to deal with anti-social drinking in areas that have been designated for this purpose by the relevant local authority under section 13 of the Act. The police (and other accredited persons, under sections 41 and 42 and schedule 5 to the Police Reform Act) have the power to require a person in a DPPO area not to drink alcohol in that area where an officer reasonably believes that the person has, or intends to do so. In addition an officer has the power to ask that person to surrender the alcohol and any opened or sealed containers in their possession.

As Police Community Support Officers (PCSOs) and other accredited persons do not have the power of arrest in these circumstances, a police officer will need to be called if someone fails to comply with the request to refrain from drinking. It is not an offence to drink alcohol in a designated public place, but failure to comply with an officer's requirements in respect of public drinking or the surrender of alcohol without reasonable excuse is an arrestable offence.

Penalties for this offence include:

- penalty Notice for Disorder (PND) £50; or
- arrest and prosecution for a level 2 fine, maximum of £500.

Bail conditions can be used to stop the individual from drinking in the public place pending prosecution for the offence.

Accreditation of PCSOs and others is at the discretion of the Chief Constable of the police force concerned.

Breaches

There is no power to arrest someone who regularly consumes alcohol in a designated public place **unless** they fail to comply with an officer's request to stop when asked under section 12 of the Criminal Justice and Police Act 2001. However, the police can use a whole range of other powers to deal with regular public/street drinkers either by giving them a PND for being drunk or disorderly or by using Acceptable Behaviour Contracts (ABCs) and Anti-Social Behaviour Orders (ASBOs). Directions to Leave under Section 27 of the Violent Crime Reduction Act 2006 could also be used for up to 48 hours if appropriate.

Signs

It is for you to decide on how many signs are required to draw the public's attention to the effect of an order in a particular place. You may also wish to consider any specific local requirements when producing the signs such as having the wording of the sign in other languages. This will obviously be dependent on budgetary constraints.

Signs should not conflict with or obscure traffic signs – you should consult with the local highway authority. They should be placed at the approaches to designated areas and repeated within them.

We suggest avoiding the use of diagonal lines through bottles or glasses on signs as they may suggest some sort of prohibition or ban on alcohol itself. Signs should not suggest that the consumption of alcohol is a criminal offence.

Each sign erected should also indicate the effect the order will have at particular times in relation to each category specified in section 3 (3) (b) of the 2007 Regulations:

- premises falling under section 14 (1) (a) of the 2001 Act (places which are not designated public places) to which section 14 (1) (b) of the 2001 Act does not apply;
- premises falling under section 14 (1) (a) of the 2001 Act to which section 14 (1) (b) of the 2001 Act does apply;
- premises falling under section 14 (1) (aa) of the 2001 Act;
- premises falling under section 14 (1) (b) of the 2001 Act;

- premises falling under section 14 (1) (c) of the 2001 Act; and
- premises falling under section 14 (1) (e) of the 2001 Act.

A model sign can be found at Annex A.

Replacement signs – wording

If you are considering replacing a sign erected under the 2001 regulations, the wording **does not** need to reflect the amendments made in the 2007 Regulations.

Wording of a DPPO

The legal title is a Designated Public Place Order (DPPO). DPPOs are sometimes misleadingly referred to as Alcohol Free Zones, Drinking Control Areas and Drinking/Alcohol Ban Areas. This can be confusing to members of the public as the purpose of the legislation is not to ban alcohol in a public area, but to give police the powers to deal with anti-social drinking. You will need to take this into account when producing signs/literature for your DPPO. An example of good practice is a leaflet produced by Ipswich Borough Council (on the Crime Reduction website and reproduced at Annex F).

Other alcohol powers

There are a number of other powers that are available to deal with alcohol-related issues including the confiscation powers available under the Confiscation of Alcohol (Young Persons) Act 1997, Alcohol Disorder Zones, Directions to Leave and Dispersal Orders.

As there are a large number of powers available, you must consider which is the best suited to address any specific issues in your area. A guidance document is available which lists all of the alcohol powers: *A Practical Guide for Dealing with Alcohol Related Problems; What you need to know*. This document can be downloaded from the Crime Reduction website, or a hard copy is available from the address previously on p.7.

Future legislative changes

On 4 March 2008 the Culture Secretary announced that the maximum fine for breach of a DPPO would be increased to £2,500. No timescale for this has yet been announced.

There will also be further provisions relating to alcohol powers in the forthcoming Policing and Crime Bill. Information on the new provisions will be available on the Crime Reduction website in due course.

FAQs

Q Can local authorities introduce blanket restrictions on alcohol consumption or create Alcohol Free Zones?

A There are no provisions in the Criminal Justice and Police Act 2001 which allow the creation of Alcohol Free Zones or blanket restrictions of drinking in public. Before an area is proposed for designation, you must obtain some evidence that the area has alcohol-related anti-social behaviour or disorder associated with it. Any proposals for a comprehensive ban on public drinking would be considered disproportionate to the intended measures in the 2001 Act.

Q Does a DPPO lead to a universal ban on drinking in the open?

A No. Section 13 of the Criminal Justice and Police Act 2001 allows local authorities to designate public areas for the purposes of section 12 of the Act where they are satisfied that nuisance, annoyance or disorder have been associated with public drinking in that area. A universal ban on drinking in public would be considered disproportionate, and a DPPO should not be introduced for this purpose.

Q Can DPPOs be used for non-alcohol-related anti-social behaviour or disorder?

A No. DPPOs should only be used to tackle alcohol-related anti-social behaviour or disorder. Local agencies should consider using other anti-social tools and powers provided, for example Dispersal Orders, ASBOs and ABCs to tackle non-alcohol-related anti-social behaviour or disorder.

Q Are DPPOs indefinite?

A No. Like section 30 Dispersal Orders they can be reviewed while the order is in place. DPPOs can and should be revoked if they are no longer required.

List of DPPO areas

An alphabetical list of DPPO areas can be found on the Crime Reduction website:
www.crimereduction.homeoffice.gov.uk/alcoholorders/alcoholorders09.htm

Contact details for local authorities in relation to DPPOs

Home Office contacts

Joanne French

Tel: 020 7035 0066

E-mail: Joanne.French@homeoffice.gsi.gov.uk

Emma Lawrence

Tel: 020 7035 4671

E-mail: Emma.Lawrence8@homeoffice.gsi.gov.uk

Legislative provisions

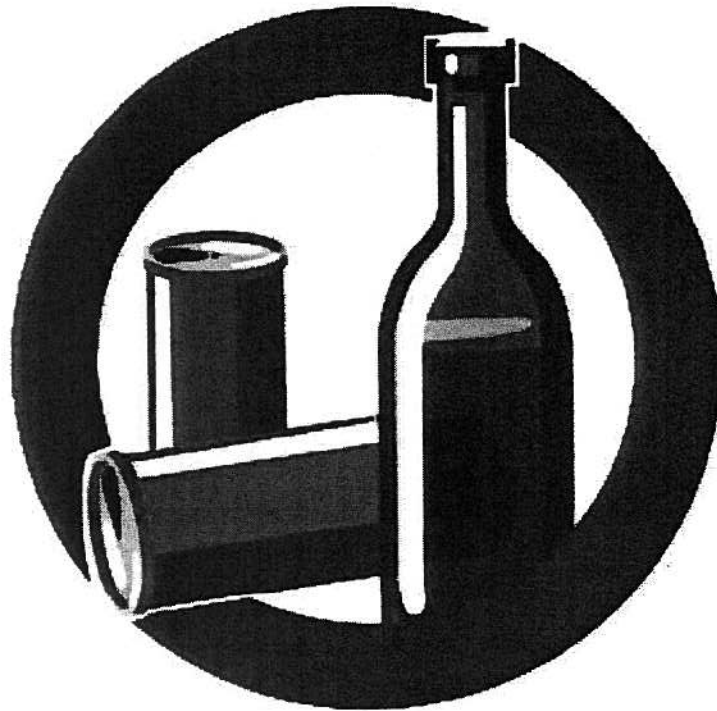
Premises that are not designated as public places – Section 14 of the Criminal Justice and Police Act 2001, as amended by the Violent Crime Reduction Act 2006

- (1) A place is not a designated public place or a part of such a place if it is –
- (a) premises in respect of which a premises licence has effect which authorises the premises to be used for the sale or supply of alcohol;
 - (aa) premises in respect of which a club premises certificate has effect which certifies that the premises may be used by the club for the sale or supply of alcohol;
 - (b) a place within the curtilage of premises within paragraph (a) or (aa);
 - (c) premises which by virtue of Part 5 of the Licensing Act 2003 may for the time being be used for the supply of alcohol which, by virtue of that Part, could have been so used within the last [30] minutes;
 - (e) a place where facilities or activities relating to the sale or consumption of alcohol are for the time being permitted by virtue of permission granted under section 115E of the Highways Act 1980 (c66) (highway related uses).
- (1A) Subsection (1B) applies to premises falling within subsection (1) (a) if –
- (a) the premises is held by a local authority in whose area the premises or part of the premises is situated; or
 - (b) the premises license is held by another person but the premises are occupied by such an authority or are managed by or on behalf of such an authority.
- (1B) Subsection (1) prevents premises to which this subsection applies from being, or being part of a designated place only –
- (a) at times when it is being used for the sale or supply of alcohol; and
 - (b) at times falling within 30 minutes after the end of a period during which it has been so used.
- (1C) “Premises Licence” and “Club Premises Certificate” have the same meaning as in the Licensing Act 2003.

Annex A

Model sign

**This area has been designated under the
Local Authorities (Alcohol Consumption in Designated Public Places)
Regulations 2007**



If you continue to drink alcohol in this area designated under section 13 of the Criminal Justice and Police Act 2001 when asked not to do so by a police officer or any other person designated to carry out this task under sections 41 and 42 of the Police Reform Act 2002, or fail to surrender any alcohol to a police officer in this area, you may be arrested and would be liable on conviction to a

Maximum fine of £500

- Each sign erected should also indicate the effect the order will have at particular times in relation to each category of premises specified in section 3 (3) (b) of the 2007 Regulations – please see Section 2 (Consultation).

Annex B

NOTICE TO PRESS – PROPOSED AREA TO BE IDENTIFIED (PRE MAKING AN ORDER)

Name of Local Authority

Local Authorities (Alcohol Consumption in Designated Public Places)

Regulations 2007

NOTICE IS HEREBY GIVEN THAT **(Name of Local Authority)** in exercise of its powers under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 proposes to make an order identifying the places detailed in the schedule below.

The Order allows a constable and other accredited persons under section 41, section 42 and schedule 5 to the Police Reform Act to require a person, in a designated place, not to drink alcohol in that place if the officer reasonably believes that a person has consumed or intends to do so, and to surrender the alcohol and any opened or sealed containers in the person's possession. Any person who fails without reasonable excuse to comply with a constable's request under this provision may commit an offence and be liable to prosecution.

[need to set out the effect the order will have at particular times in relation to each category of premises specified in regulation 3 (3) (b) – please see DPPO Process Section 2 – Consultation]

If you wish to make representations about the proposed Order you should send them in writing to the undersigned by **(enclose date)**

SCHEDULE

LAND DESIGNATED BY DESCRIPTION

[Insert Details of the place to be identified]

[Insert Name]

[Insert Name and Address of Local Authority]

[Insert Date]

Annex C

NOTICE TO PRESS – AREA IDENTIFIED IN THE ORDER

Name of Local Authority

**Local Authorities (Alcohol Consumption in Designated Public Places)
Regulations 2007**

NOTICE IS HEREBY GIVEN THAT **(Name of Local Authority)** in exercise of its powers under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 has made an order which shall come into effect on the **(insert date)** identifying places detailed in the schedule below as designated public places pursuant to the Criminal Justice and Police Act 2001 (as amended by the Violent Crime Reduction Act 2006).

The Order allows a police officer, police community support officer (where accredited under section 41, section 42 and schedule 5 to the Police Reform Act) and people accredited through a community safety accreditation scheme to control the consumption of alcohol within designated public places. If they believe that someone is consuming alcohol or intends to consume alcohol they can require them to stop or they can confiscate the alcohol.

Any person who fails without reasonable excuse to comply with an officer's request under this provision may commit an offence and may be issued with a penalty notice for disorder or may be liable to prosecution.

[need to set out the effect the order will have at particular times in relation to each category of premises specified in regulation 3 (3) (b) – please see DPPO Process Section 2 – Consultation]

SCHEDULE

LAND DESIGNATED BY DESCRIPTION

[Insert Details of the place which has been identified in the Order]

[Insert Name]

[Insert Name and Address of Local Authority]

[Insert Date]

Annex D

SAMPLE – DESIGNATED PUBLIC PLACES ORDER

[Insert name of Council]

CRIMINAL JUSTICE AND POLICE ACT 2001

ALCOHOL CONSUMPTION IN DESIGNATED PUBLIC PLACES [Insert name and number of Order]

The Council of [Insert name] (in this Order called “the Council”) hereby makes the following Order under Section 13(2) of the above Act:

1. The land described in the Schedule below and or shown on the map attached to this Order, being a public place in the area of the Council which is a public space in which the consumption of alcohol has been associated with disorder, nuisance or annoyance to member of the public or a section of the public, is hereby designated for the purposes of section 13 (2) of the above Act
2. This Order may be cited as Alcohol Consumption in Designated Public Places for the area of.....Order (No....) 2008 and shall come in to force on *(insert date)*

SCHEDULE

List of roads/areas etc

Dated thisday of2008

The Common seal of the Council

was hereunto fixed in the presence of

(seal)

Annex E

EXAMPLE OF GOOD PRACTICE GUIDANCE TO POLICE AND OTHERS ENFORCING THE DPPO

**Hampshire Constabulary
Portsmouth Basic Command Unit
Designated Public Places Order
Enforcement Guidance**

1. About this Guidance

Hampshire Constabulary is committed to working in partnership with Portsmouth City Council in supporting the Safer Portsmouth Partnership to deliver the Crime and Disorder Strategy. Key areas of the strategy are to reduce alcohol-related violent crime, disorder and anti-social behaviour and in doing so create a safer Portsmouth where residents and visitors feel reassured.

This guidance is primarily aimed at all operational police staff and other personnel within Portsmouth City boundary who are, or who may be in the future, authorised to stop members of the public consuming alcohol in public places.

It explains how Portsmouth BCU will approach the enforcement of legislation which governs Alcohol Consumption in Designated Public Places. The whole of Portsmouth City has, from 15 August 2005, been designated.

2. General Principles

Discretion

Discretion will be used in the exercise of the new powers which will be carefully monitored to ensure that they are being used appropriately.

Circumstances likely to warrant the use of these powers are where:

- There is current anti social behaviour or disorder
- There is a high likelihood of anti social behaviour or disorder
- Complaints have been received from members of the public concerning an on going or developing problem which may lead to the above

Anti-social behaviour is defined as any behaviour which causes or is likely to cause harassment, alarm or distress.

Street Drinkers

It has been agreed by partners that 'street drinkers' are informed about the new law by outreach workers. They are also being provided with information on treatment services. Officers should use sound judgement when dealing with individuals who are thought to be alcoholics or who may have mental health issues. They should deal with any person in this category in line with Force policy and base any use of the power on the above criteria.

Legislation

The legislation that governs the consumption of alcohol in public places, is provided by, Section 12 of the Criminal Justice and Police Act 2001 as amended by section 199 and schedule 7 of the Licensing Act 2003. (PNLD Ref H3882 and D9612/3/4)

The order covers all public places within Portsmouth City. **It does not cover private enclosed shopping precincts such as Cascades but does cover Gunwharf. It does not apply to licensed premises including outside drinking areas which form part of a licensed premises.**

Section 12(1) states that if a constable reasonably believes that a person is, or has been, consuming intoxicating liquor in a designated public place or intends to consume intoxicating liquor in such a place.

Section 12(2) The constable **MAY** require the person, not to consume within that place and surrender anything in his possession that the constable reasonably believes to be intoxicating liquor or a container for such liquor.

Section 12(3) A constable may dispose of anything surrendered to him under (2) above in a manner that he considers appropriate. The containers can be either sealed or unsealed, although it is anticipated that it would be rare to seize sealed containers from a compliant person.

Section 12(4) If a person fails to comply with the above requirement, they commit an offence.

Section 12(5) A constable who imposes a requirement under (2) above will inform the person that failure to comply, without reasonable excuse, with the requirement is an offence.

If an individual fails to comply with the request then they can be arrested, it is an arrestable offence.

EXAMPLE OF REQUEST TO STOP DRINKING:

“This is a designated public place in which I have reason to believe that you are/have been drinking intoxicating liquor. I require you to stop drinking and give me the container from which you are/have been drinking and any other containers (sealed or unsealed). I must inform you that failure to comply with my request, without reasonable excuse, is an offence for which you can be arrested.”

IT IS NOT AN OFFENCE TO CONSUME ALCOHOL IN A PUBLIC PLACE UNLESS A PERSON HAS BEEN PROPERLY DIRECTED TO STOP.

Fixed Penalty

Where an offence has been committed it can be dealt with by way of a Penalty Notice for Disorder (PND) with the relevant fine being £50. It is important to remember that this PND can only be issued to offenders 16 years and over, the PND can also be issued on the street.

3. Implementation

Portsmouth City Council has erected signs which promote responsible drinking and inform the public that the area is subject to drinking control. The signs will be clearly visible on the approaches to the City and in areas likely to be most affected by alcohol-related incidents.

As stated above, the object of this order and policy is to prevent crime and disorder and the powers available can be used at the officer's **discretion**. It is **important not to alienate the public**. **For example, it would be inappropriate to challenge individuals consuming alcohol whilst enjoying a quiet picnic on the beach or in one of the city parks.**

This legislation does not affect the placing of tables and chairs outside licensed premises to allow consumption within that seating area, provided that they are properly licensed. Any incidents arising from the consumption of alcohol in these circumstances should be dealt with under the Licensing Act. If non urgent, such matters should be referred to the Licensing Departments of Portsmouth BCU and/or Portsmouth City Council. In urgent cases the advice of the Duty Inspector should be sought.

This order does not affect the power of the Police to seize and retain alcohol from young persons under the Confiscation of Alcohol (young persons) Act 1997.

Disposal of Alcohol

Officers should dispose of alcoholic drinks according to the existing procedures followed in respect of the Confiscation of Alcohol (Young Persons) Act 1997. A compliant adult would normally be asked to pour the alcoholic contents from any open container in their possession. Any debris should be disposed of by placing in the nearest bin. It would be rare to take possession of sealed containers from an adult in these circumstances unless there was a reasonable belief that the person will continue to drink in a public place.

Where a person is non-compliant an officer may find it necessary to seize the alcohol from a person and pour it away. An offence would have been committed in these circumstances and consideration should be given at that point to what penalty measures should be taken. In the event of an arrest being made, where practicable, unopened containers should be retained and shown to the custody officer and then discarded. No receipt will be given but a brief description of what has been seized will be recorded on the C12.

Officers should continue to exercise discretion in the finalising of such a case. Final disposal of the matter could result in no further action/informal warning, PND on the street, arrest with PND or summons/charge disposal. In any case a **C12 stop and account form MUST be completed**. The ASB and seizure of alcohol boxes should be ticked and blue copy forwarded to CSU at KF.

4. Impact of this Guidance

Consultation

Prior to the drinking control order being made, extensive public consultation took place. Portsmouth City Council members, community groups, licensees and trade bodies all supported its introduction.

Equality

The use of these powers by the police in these circumstances has been assessed to have a risk of affecting race or other community relations. This will be under continual review and based upon public feedback and the monitoring of stop and account records.

Monitoring

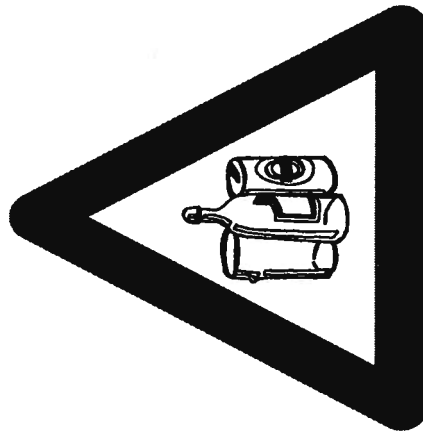
Along with our partners the Constabulary will continue to seek feedback from all sections of the community to ensure that these powers are being used appropriately. Police Officers and PCSOs are required to fill in a C12 stop and account form when exercising this power.

Annex F

Ipswich Borough Council is promoting responsible drinking to people who live, work or visit the town. As part of this campaign, the Council has introduced a Designated Public Places Order which will be effective from 1st December 2007.

Continued heavy drinking or binge drinking can cause problems for an individual's health. Where drinking is associated with criminally or anti-social behaviour, it has an impact on the individual, their family and the whole community.

designated public place



Drink responsibly
or the police could use
their powers to take
away your alcohol
and fine you

What is responsible drinking?

Over 90% of the adult population drink and the majority do so without any problems, the majority of the time. Drinking alcohol is widely associated with socialising, relaxing and pleasure. Drinking within the recommended levels can even provide some health benefits.

The Government's Recommended Sensible Drinking levels are:

- a maximum intake of 2-3 units per day for women and 3-4 for men, with two alcohol-free days after heavy drinking, continued alcohol consumption at the upper level is not advised;
- that intake of up to two units a day can have a moderate protective effect against heart disease for men over 40 and post-menopausal women; and some groups such as pregnant women and those engaging in potentially dangerous activities (such as operating heavy machinery) should drink less or nothing at all.

What is a Designated Public Places Order?

The Criminal Justice and Police Act 2001 introduced the power for local authorities to designate public places in which it will become an offence to drink alcohol after being requested not to do so by a police officer. The police will have the power to require the surrender of alcohol and containers in these circumstances and those who fail to comply will be liable to arrest. The mechanism for such a ban is a 'Designated Public Places Order'.

Why has this been introduced?

The key aims for Ipswich are to:

- provide additional powers to police to deal with persistent street drinking and alcohol related anti-social behaviour;
- reduce disturbances in public places which are alcohol related;
- reduce drunkenness in public places;
- contribute to the range of actions which are being delivered to reduce alcohol misuse;

- reduce the numbers of street drinkers and hotspot areas through combining enforcement with outreach services.

How will this affect me?

This means that from December 2007 a Police Officer or a Police Community Support Officer may ask you to stop drinking in a public place if:

- you are creating disorder or behaving in an anti-social manner (while drinking alcohol or under the influence of alcohol);
- there is a likelihood of anti-social behaviour or disorder (while drinking or under the influence of alcohol);
- complaints have been received from the public concerning an ongoing or developing problem.

This order will not affect you if you are drinking responsibly in a public place

Helpful numbers

National Alcohol Helpline

0800 917 8282

Confidential advice and information on all aspects of alcohol. Calls are free.

Alcoholics Anonymous National Helpline

0845 769 7555

Calls charged at local rate.

NORCAS

01473 259382

Open access drug and alcohol service.

Anti-Social Behaviour

0800 138 6570

Free phone – reporting anti-social behaviour.

Suffolk Domestic Violence & Abuse

24hr Helpline

0800 783 5121

National Domestic Violence Helpline

0808 2000247

4YP

0845 310 8450

Information and support for young people.

Crime Stoppers

0800 555 111

Call anonymously with information about a crime.

Samaritans

0845 790 90 90

Confidential non-judgemental emotional support.



IPSWICH
BOROUGH
COUNCIL

What will happen if I do not stop drinking alcohol?

If you continue to drink when asked not to your alcohol may be confiscated and disposed of by the officer.

What if I surrender my alcohol?

If you surrender your alcohol and do not continue to behave in an anti-social manner there will be no further action.

What will happen if I do not hand over my alcohol?

You may be arrested and convicted to a maximum fine of £500 or issued with a fixed penalty notice.

What will happen if I hand over my alcohol but continue to behave in an anti-social manner?

You may be arrested and convicted of a Public Order offence.

Our aim is to ensure that residents, businesses and visitors are able to enjoy the benefits of the vibrant Ipswich community. This should be without risk or fear of any nuisance or disorder caused by the behaviour of a few people intoxicated by alcohol in public.



Chapter 2
Provisions for Combatting Alcohol-Related Disorder

Alcohol consumption in designated public places

12 Alcohol consumption in designated public places

- (1) Subsection (2) applies if a constable reasonably believes that a person is, or has been, consuming [alcohol] in a designated public place or intends to consume [alcohol] in such a place.
- (2) The constable may require the person concerned--
 - (a) not to consume in that place anything which is, or which the constable reasonably believes to be, [alcohol];
 - (b) to surrender anything in his possession which is, or which the constable reasonably believes to be, [alcohol] or a container for [alcohol] . . .
- (3) A constable may dispose of anything surrendered to him under subsection (2) in such manner as he considers appropriate.
- (4) A person who fails without reasonable excuse to comply with a requirement imposed on him under subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) A constable who imposes a requirement on a person under subsection (2) shall inform the person concerned that failing without reasonable excuse to comply with the requirement is an offence.
- (6) . . .

NOTES

Initial Commencement

To be appointed: see s 138(2).

Appointment

Appointment: 1 September 2001: see SI 2001/2223, art 4(a).

Extent

This section does not extend to Scotland: see s 138(5).

Amendment

Sub-s (1): word "alcohol" in square brackets in both places it occurs substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 119, 121(a).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2).

Sub-s (2): word "alcohol" in square brackets in the first and second places it occurs substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 119, 121(a).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2).

Sub-s (2): word "alcohol" in square brackets in the final place it occurs substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 119, 121(b).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2).

Sub-s (2): in para (b) words omitted repealed by the Licensing Act 2003, ss 155(2), 199, Sch 7.

Date in force: 10 September 2003: see SI 2003/2100, art 2.

Sub-s (6): repealed by the Police Reform Act 2002, s 107(2), Sch 8.

Date in force: 1 October 2002: see SI 2002/2306, art 2(g)(i), (iii)(j).

13 Designated public places

- (1) A place is, subject to section 14, a designated public place if it is--
 - (a) a public place in the area of a local authority; and
 - (b) identified in an order made by that authority under subsection (2).
- (2) A local authority may for the purposes of subsection (1) by order identify any public place in their area if they are satisfied that--
 - (a) nuisance or annoyance to members of the public or a section of the public; or
 - (b) disorder;has been associated with the consumption of [alcohol] in that place.
- (3) The power conferred by subsection (2) includes power--
 - (a) to identify a place either specifically or by description;
 - (b) to revoke or amend orders previously made.
- (4) The Secretary of State shall by regulations prescribe the procedure to be followed in connection with the making of orders under subsection (2).
- (5) Regulations under subsection (4) shall, in particular, include provision requiring local authorities to publicise the making and effect of orders under subsection (2).
- (6) Regulations under subsection (4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

NOTES

Initial Commencement

To be appointed: see s 138(2).

Appointment

Appointment (for the purpose of making regulations or orders): 19 June 2001: see SI 2001/2223, art 2(2)(a).

Appointment (for remaining purposes): 1 September 2001: see SI 2001/2223, art 4(a).

Extent

This section does not extend to Scotland: see s 138(5).

Amendment

Sub-s (2): word “alcohol” in square brackets substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 119, 122.

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2).

Subordinate Legislation

Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007, SI 2007/806 (made under sub-s (4)).

14 Places which are not designated public places

- (1) A place is not a designated public place or a part of such a place if it is--
- [[(a) premises in respect of which a premises licence has effect which authorises the premises to be used for the sale or supply of alcohol;
 - (aa) premises in respect of which a club premises certificate has effect which certifies that the premises may be used by the club for the sale or supply of alcohol;]
 - (b) a place within the curtilage of premises within paragraph (a) [or (aa)];
 - (c) premises which by virtue of Part 5 of the Licensing Act 2003 may for the time being be used for the supply of alcohol or which, by virtue of that Part, could have been so used within the last [30] minutes;]
 - (e) a place where facilities or activities relating to the sale or consumption of [alcohol] are for the time being permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (c 66) (highway related uses).
- [(1A) Subsection (1B) applies to premises falling within subsection (1)(a) if--
- (a) the premises licence is held by a local authority in whose area the premises or part of the premises is situated; or
 - (b) the premises licence is held by another person but the premises are occupied by such an authority or are managed by or on behalf of such an authority.
- (1B) Subsection (1) prevents premises to which this subsection applies from being, or being part of, a designated public place only--
- (a) at times when it is being used for the sale or supply of alcohol; and
 - (b) at times falling within 30 minutes after the end of a period during which it has been so used.
- (1C) In this section “premises licence” and “club premises certificate” have the same meaning as in the Licensing Act 2003.]
- (2) ...

NOTES

Initial Commencement

To be appointed: see s 138(2).

Appointment

Appointment: 1 September 2001: see SI 2001/2223, art 4(a).

Extent

This section does not extend to Scotland: see s 138(5).

Amendment

Sub-s (1): paras (a)-(c) substituted, for paras (a)-(d) as originally enacted, by the Licensing Act 2003, s 198(1), Sch 6, paras 119, 123(1), (2)(a).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2).

Sub-s (1): paras (a), (aa) substituted, for para (a), by the Violent Crime Reduction Act 2006, s 26(1), (2)(a).

Date in force: 6 April 2007: see SI 2007/858, art 2(b).

Sub-s (1): in para (b) words “or (aa)” in square brackets inserted by the Violent Crime Reduction Act 2006, s 26(1), (2)(b).

Date in force: 6 April 2007: see SI 2007/858, art 2(b).

Sub-s (1): in para (c) reference to “30” in square brackets substituted by the Violent Crime Reduction Act 2006, s 26(1), (2)(c).

Date in force: 6 April 2007: see SI 2007/858, art 2(b).

Sub-s (1): in para (e) word “alcohol” in square brackets substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 119, 123(1), (2)(b).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2).

Sub-ss (1A)-(1C): inserted by the Violent Crime Reduction Act 2006, s 26(1), (3).

Date in force: 6 April 2007: see SI 2007/858, art 2(b).

Sub-s (2): repealed by the Licensing Act 2003, ss 198(1), 199, Sch 6, paras 119, 123(1), (3), Sch 7.

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2); for savings see art 4 thereof.

15 Effect of sections 12 to 14 on byelaws

(1) Subsections (2) and (3) apply to any byelaw which--

(a) prohibits, by the creation of an offence, the consumption in a particular public place of [alcohol] (including any liquor of a similar nature which falls within the byelaw); or

(b) makes any incidental, supplementary or consequential provision (whether relating to the seizure or control of containers or otherwise).

- (2) In so far as any byelaw to which this subsection applies would, apart from this subsection, have effect in relation to any designated public place, the byelaw--
 - (a) shall cease to have effect in relation to that place; or
 - (b) where it is made after the order under section 13(2), shall not have effect in relation to that place.
- (3) In so far as any byelaw made by a local authority and to which this subsection applies still has effect at the end of the period of 5 years beginning with the day on which this subsection comes into force, it shall cease to have effect at the end of that period in relation to any public place.

NOTES

Initial Commencement

To be appointed: see s 138(2).

Appointment

Appointment: 1 September 2001: see SI 2001/2223, art 4(a).

Extent

This section does not extend to Scotland: see s 138(5).

Amendment

Sub-s (1): in para (a) word “alcohol” in square brackets substituted by the Licensing Act 2003, s 198(1), Sch 6, paras 119, 124.

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2).

16 Interpretation of sections 12 to 15

- (1) In sections 12 to 15, unless the context otherwise requires--
 - [“alcohol” has the same meaning as in the Licensing Act 2003;]
 - “designated public place” has the meaning given by section 13(1);
 - ...
 - “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[; and
 - “supply of alcohol” has the meaning given by section 14 of the Licensing Act 2003].
- (2) In sections 12 to 15 “local authority” means--
 - (a) in relation to England--
 - (i) a unitary authority;
 - (ii) a district council so far as they are not a unitary authority;
 - (b) in relation to Wales, a county council or a county borough council.
- (3) In subsection (2) “unitary authority” means--

- (a) the council of a county so far as they are the council for an area for which there are no district councils;
- (b) the council of any district comprised in an area for which there is no county council;
- (c) a London borough council;
- (d) the Common Council of the City of London in its capacity as a local authority;
- (e) the Council of the Isles of Scilly.

NOTES

Initial Commencement

To be appointed: see s 138(2).

Appointment

Appointment: 1 September 2001: see SI 2001/2223, art 4(a).

Extent

This section does not extend to Scotland: see s 138(5).

Amendment

Sub-s (1): definition "alcohol" inserted by the Licensing Act 2003, s 198(1), Sch 6, paras 119, 125(a).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2).

Sub-s (1): definition "intoxicating liquor" (omitted) repealed by the Licensing Act 2003, ss 198(1), 199, Sch 6, paras 119, 125(b), Sch 7.

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2); for savings see art 4 thereof.

Sub-s (1): definition "supply of alcohol" and word "; and" immediately preceding it inserted by the Licensing Act 2003, s 198(1), Sch 6, paras 119, 125(c).

Date in force: 24 November 2005: see SI 2005/3056, arts 1(2), 2(2).

STATUTORY INSTRUMENTS

2007 No. 806

POLICE, ENGLAND AND WALES

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Authorities (Alcohol Consumption in Designated
Public Places) Regulations 2007**

<i>Made</i> - - - -	<i>12th March 2007</i>
<i>Laid before Parliament</i>	<i>16th March 2007</i>
<i>Coming into force</i> - -	<i>6th April 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 13(4) of the Criminal Justice and Police Act 2001(a) and sections 13 and 105(2) of the Local Government Act 2000(b).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 and shall come into force on 6th April 2007.

(2) These Regulations extend to England and Wales, except that regulation 10 extends to England only.

Interpretation

2. In these Regulations—

“2001 Act” means the Criminal Justice and Police Act 2001;

“2003 Act” means the Licensing Act 2003(c);

“2001 Regulations” means the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001(d);

“local authority” and “public place” have the same meaning as in section 16 of the 2001 Act (interpretation of provisions relating to designation of public places); and

“order” means an order under section 13(2) of the 2001 Act (designated public places) identifying specifically or by description a public place in the area of a local authority.

Consultation

3.—(1) Before making an order, a local authority shall consult—

(a) 2001 c. 16. The duty in section 13(4) of the 2001 Act is supplemented by section 13(5) of that Act.
(b) 2000 c. 22.
(c) 2003 c. 17.
(d) S.I. 2001/2831; which has been amended by paragraph 2 of Part 2 of the Schedule to S.I. 2005/3048.

- (a) the chief officer of police for the police area in which the public place proposed to be identified in the order is situated;
 - (b) the parish or community council if any in whose area the public place is situated;
 - (c) the chief officer of police, the local authority and any parish or community council for any area near to the public place which it considers may be affected by the designation; and
 - (d) the premises licence holder, the club premises certificate holder or the premises user, as appropriate, in relation to each premises in that place which it considers may be affected by the designation and which are premises in respect of which—
 - (i) a premises licence granted under Part 3 of the 2003 Act (premises licences) has effect;
 - (ii) a club premises certificate granted under Part 4 of the 2003 Act (clubs) has effect; or
 - (iii) a temporary event notice has been given so that the premises may be used for a permitted temporary activity by virtue of Part 5 of the 2003 Act (permitted temporary activities).
- (2) Before making an order, a local authority shall also take reasonable steps to consult the owners or occupiers of any land proposed to be identified.
- (3) When a local authority consults any of the parties in paragraph (1) it shall—
- (a) describe in writing the effect that the order will have at particular times in relation to each category of premises specified in paragraph (b);
 - (b) the categories of premises are—
 - (i) premises falling under section 14(1)(a)(a) of the 2001 Act (places which are not designated public places) to which section 14(1B)(b) of that Act does not apply;
 - (ii) premises falling under section 14(1)(a) of the 2001 Act to which section 14(1B) of that Act does apply;
 - (iii) premises falling under section 14(1)(aa)(c) of the 2001 Act;
 - (iv) premises falling under section 14(1)(b)(d) of the 2001 Act;
 - (v) premises falling under section 14(1)(c)(e) of the 2001 Act; and
 - (vi) premises falling under section 14(1)(e)(f) of the 2001 Act; and
 - (c) identify in writing by postal address or, if there is none, ordnance survey map reference or description any premises within that public place to which section 14(1B) of the 2001 Act applies at the time of consultation.
4. A local authority shall consider any representations as to whether or not a particular public place should be identified in an order whether made as a result of consultation under regulation 3, in response to a notice under regulation 5, or otherwise.

Publicity

5. Before making an order, a local authority shall cause to be published in a newspaper circulating in its area a notice—

- (a) identifying specifically or by description the place proposed to be identified;

(a) Section 14(1)(a) of the 2001 Act was substituted by paragraphs 119 and 123(1) and (2)(a) of Schedule 6 to the 2003 Act and further substituted by section 26(1) and (2)(a) of the Violent Crime Reduction Act 2006 (c. 38).

(b) Section 14(1B) of the 2001 Act was inserted by section 26(1) and (3) of the Violent Crime Reduction Act 2006.

(c) Section 14(1)(aa) of the 2001 Act was inserted by section 26(1) and (2)(a) of the Violent Crime Reduction Act 2006.

(d) Section 14(1)(b) of the 2001 Act was substituted by paragraphs 119 and 123(1) and (2)(a) of Schedule 6 to the 2003 Act and further amended by section 26(1) and (2)(b) of the Violent Crime Reduction Act 2006.

(e) Section 14(1)(c) of the 2001 Act was substituted by paragraphs 119 and 123(1) and (2)(a) of Schedule 6 to the 2003 Act and further amended by section 26(1) and (2)(c) of the Violent Crime Reduction Act 2006.

(f) Section 14(1)(e) of the 2001 Act was amended by paragraphs 119 and 123(1) and (2)(b) of Schedule 6 to the 2003 Act.

- (b) setting out the effect of an order being made in relation to that place, including the effect that order will have at particular times in relation to each category of premises specified in regulation 3(3)(b);
- (c) identifying any premises within that place to which section 14(1B) of the 2001 Act applies at the time the notice is published; and
- (d) inviting representations as to whether or not an order should be made.

6. No order shall be made until at least 28 days after the publication of the notice referred to in regulation 5.

7. After making an order and before it takes effect, a local authority shall cause to be published in a newspaper circulating in its area a notice—

- (a) identifying the place which has been identified in the order;
- (b) setting out the effect of the order in relation to that place, including the effect that order will have at particular times in relation to each category of premises specified in regulation 3(3)(b);
- (c) identifying any premises within that place to which section 14(1B) of the 2001 Act will apply at the time the order takes effect; and
- (d) indicating the date on which the order will take effect.

Signage

8.—(1) Before an order takes effect, a local authority shall cause to be erected in the place identified such signs as it considers sufficient to draw the attention of members of the public in that place to the effect of the order.

(2) Each sign erected pursuant to paragraph (1) shall in particular indicate the effect the order will have at particular times in relation to each category of premises specified in regulation 3(3)(b).

Notification to Secretary of State

9. A copy of any order shall be sent to the Secretary of State as soon as reasonably practicable after it has been made.

Amendment to Local Authorities (Functions and Responsibilities) (England) Regulations 2000

10.—(1) The Local Authorities (Functions and Responsibilities) (England) Regulations 2000(a) shall be amended as follows.

(2) In Schedule 1 (Functions not to be the responsibility of an authority's executive) in Part I (Miscellaneous Functions)—

- (a) for the final entry in Column (1) substitute—

“49. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption”; and

- (b) for the final entry in Column (2) substitute—

“Section 13(2) of the Criminal Justice and Police Act 2001 (c. 16).”

Revocation and saving

11.—(1) Subject to paragraph (2), the following instrument and provision are revoked—

- (a) the 2001 Regulations; and

(a) S.I. 2000/2853. This instrument has been amended but none of the amendments are relevant to these Regulations.

(b) paragraph 2 of Part 2 of the Schedule to the Licensing Act 2003 (Consequential Amendments) Order 2005(a).

(2) The 2001 Regulations shall continue to have effect in relation to any order for which consultation began, in accordance with regulation 3 of those Regulations, prior to 6th April 2007 and nothing in these Regulations shall apply in respect of such an order.

Home Office
12th March 2007

Vernon Coaker
Parliamentary Under-Secretary of State

(a) S.I. 2005/3048.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate with amendments the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 (“the 2001 Regulations”) which are revoked by regulation 11(1)(a) of these Regulations. These Regulations set out the procedure to be followed by local authorities in connection with orders designating a public place under section 13 of the Criminal Justice and Police Act 2001 (“the 2001 Act”). Once an order is made under that section in relation to a public place in their area, the police powers under section 12 of the Act (to require a person not to consume intoxicating liquor and to surrender opened containers of such liquor) will be available.

Regulations 3 and 4 set out the consultation requirements before making an order. Regulations 5 to 7 set out the publicity requirements before and after making an order, regulation 8 sets out the signage requirements and regulation 9 requires a copy of any order to be sent to the Secretary of State as soon as reasonably practicable after it has been made. Regulation 10 repeats an amendment made to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 by the 2001 Regulations to ensure that the making of an order under section 13 of the 2001 Act is not to be responsibility of the executive of a local authority in England. Regulation 11 revokes the 2001 Regulations with the saving that they will continue to apply in respect of orders which have been consulted on prior to 6th April 2007.

Section 14 of the 2001 Act was amended by the Violent Crime Reduction Act 2006 to provide that certain licensed premises within a designated public place which were previously excluded from that place for the purposes of the 2001 Act are only excluded when alcohol is being sold or supplied on those premises and for 30 minutes following any such period. Those premises are ones in respect of which a premises licence is held by a local authority and those in respect of which a premises licence is held by another person but the premises are occupied by such an authority or are managed by or on behalf of such an authority. The amendments made by these Regulations ensure that the consultation and publicity requirements include requirements to indicate the extent and effect of those temporary exclusions. They also require the consultation and publicity requirements to specify the extent to which any other type of premises falling within section 14(1) of the 2001 Act will not form part of the designated public place.

