

AGENDA ITEM: 8

## OVERVIEW AND SCRUTINY BOARD

7<sup>th</sup> DECEMBER 2010

### COMMUNITY SAFETY AND LEISURE SCRUTINY PANEL

#### DESIGNATED PUBLIC PLACE ORDERS

#### PURPOSE OF THE REPORT

- 1 The purpose of this report is to present the Community Safety and Leisure Scrutiny Panel's assessment and proposals on their scrutiny into "Designated Public Place Orders" in relation to the panels agreed Terms of Reference.

#### OVERALL AIM OF THE SCRUTINY INVESTIGATION

- 2 The overall aim of the Scrutiny Investigation was to assess the operation and effectiveness of the Designated Public Place Orders operating in Middlesbrough.

#### TERMS OF REFERENCE OF THE SCRUTINY INVESTIGATION

- 3 The following outlines the Terms of Reference for the Scrutiny examination into Designated Public Place Orders (DPPO's). These were determined following the initial setting the scene and discussion by the panel at their meeting in March 2010
- How do the Police deal with DPPO's
  - How evidence is collated
  - What is the future and the effectiveness of DPPO's

## **BACKGROUND**

- 4 The panel was presented with an overview of the new powers to tackle alcohol related anti-social behaviour. The Criminal Justice and Police Act 2001 (CPJA) gave local authorities the power to designate public areas through the introduction of a DPPO where it was an offence to drink alcohol after being required by a police officer not to do so. The powers, which replaced the old drinking bylaws, were introduced to help the police deal with the problems of anti-social drinking in public spaces.
- 5 The panel was informed that over 90% of the adult population drink and the majority do so without any problems. Drinking alcohol is widely associated with socialising, relaxing and pleasure. Drinking within the recommended levels can even provide some health benefits and the Government has been active in illustrating what the sensible and indeed legal limits for drinking of alcohol are.
- 6 The panel was informed that DPPOs are already in place in areas of Middlesbrough including the town centre, Kader and Ladgate Wards. It was also outlined the actions to secure a DPPO for North Ormesby. Historically the problems with alcohol consumption and anti-social behaviour in the North Ormesby area related primarily to adults and not young people. A culture existed of excess alcohol consumption at all day and all night parties. The main concern for the Police was that on warmer summer nights people would sit outdoors, often in the streets, and drink all night. The Police recognised that a cultural and behavioural change was needed in North Ormesby.
- 7 The Safer Middlesbrough Partnership has continued to promote responsible drinking to people who live, work or visit Middlesbrough. As part of this campaign, Middlesbrough Council, in partnership with Cleveland Police proposed the introduction of a Designated Public Place Order in a part of North Ormesby. This would provide additional powers to Police to deal with persistent street drinking and associated anti-social behaviour with the intention to reduce disturbances in public places.
- 8 In setting the Terms of Reference the panel considered it important to assess the move away from alcohol free zones to the introduction of areas with Designated Public Place Orders.

## FINDINGS

9. **Police** The panel engaged with the Police Inspector for Neighbourhood Policing and also the Police Constable for an area where a DPPO was in operation. The Police advised the panel that they had consulted with residents to make it clear that DPPOs would not create an Alcohol Free Zone. Consultation had also taken place with Community Councils and they had included tackling alcohol related anti-social behaviour as a ward priority in their Community Impact Statement. There had been a huge amount of support from businesses and residents and a petition had been organised with over one thousand signatures collected. Middlesbrough Council and local landlords had also been consulted.
10. Police statistics showed that around one quarter of all anti-social behaviour in North Ormesby was alcohol related. The Police considered that in reality this figure was probably higher and action was being taken to improve their recording methods to ensure a more accurate picture could be presented in future.
11. It was emphasised by the Police that it was a minority of people in North Ormesby who caused a large degree of the upset to residents. In addition to the anti-social behaviour there were additional complaints of litter from discarded cans and broken bottles which created a poor impression of the area.
12. The panel was also informed that other alcohol related issues included groups of adults hanging around shops and off licences and these groups are often intimidating to members of the public and residents where the result is that residents were often worried or frightened to go out during the evening.
13. It was stressed that it was not the Police's intention to stop residents gathering with neighbours and friends to have a drink, provided their conduct and behaviour was not anti social and cause misery to other residents. However, if people's behaviour was unacceptable and there was disorder around their property and anti-social behaviour does occur, the Police wanted the power to stop it and considered the DPPO would give that power.
14. **Trading Standards** One of the many functions undertaken by the Council's Trading Standards team is to prevent the illegal sale of age-restricted products. In doing so a considerable amount of effort is devoted to preventing the sale of drink to under-age customers in order to assist in reducing alcohol fuelled anti-social behaviour (ASB).
15. Middlesbrough Council has worked with young volunteers who, under the control of Officers, attempted to buy alcohol from shops in the town. These operations were carried out in line with a Home Office approved Code of Practice that ensured fairness, and above all, safety of the child. During 2009/2010, 91 premises in Middlesbrough were visited for alcohol inspection.

- 16 In addition to this, the service has tried training sessions for businesses but difficulties have arisen to get shopkeepers to attend as the timing frequently conflicts with other business commitments. Consequently, the panel was informed that Trading Standards place greater emphasis on visits and inspections as these are potentially going to have a greater impact.
- 17 Consequently, it was conveyed that the outcome of regular visits, assistance offered and the responsibility demonstrated by the majority of retailers has resulted in very few sales being detected using conventional test purchasing. Those that did occur were largely due to negligent or inexperienced shop staff. Despite this however, there were still be a number of local retailers who deliberately sold alcohol to children. These sellers had become expert in spotting Trading Standards test purchasers and inevitably refused to sell to the Council's volunteers. Even when methods were refined as far as the Code would allow, making transactions as realistic as possible, the sellers escaped detection by limiting sales to known and trusted regulars. It was also the case that children would come from out of the area where they lived to visit shops where they knew they would be served.
- 18 In these cases, external covert surveillance of the premises is considered the best way to achieve an accurate picture of trading practices and hence any problems dealt with. Using a remote camera or covert vehicle, Trading Standards will observe a shop. If youngsters were seen buying alcohol, Police Officers waiting nearby would be alerted to move in and apprehend them. They would be taken home, a statement taken, and the Trading Standards Officer would interview the seller, licensee or owner, as appropriate. This method had been used to good effect in the past, not only securing prosecutions but also being invaluable in getting licences revoked and providing a permanent solution to the problem.
- 19 The panel also addressed the issue of Mobile Delivery Services as these services had to operate within very strict conditions and had to have CCTV installed in the delivery van. Any person ordering alcohol by telephone has to come out to the van and purchase the goods they had ordered, showing proof of age and identity if appropriate. The panel considered that the uses and control of vans for such use was managed well but recognised that the person purchasing the alcohol may not be purchasing for their own consumption.
- 20 The cost of alcohol was also raised by the panel as a factor of drinking in public places to which examples were given of current cheap deals offered in some supermarkets. A view was expressed that parents buying in large quantities may not notice if their children took a few cans for themselves. The main issue for Trading Standards was the direct supply of alcohol to children by shops. The issue of adults purchasing alcohol for children was specifically an offence for the Police to deal with.
- 21 To be effective in tackling these issues Trading Standards need to use surveillance methods. These are governed by the Regulation of Investigatory Powers Act 2000 (RIPA). The new Government, however proposed that the

use of RIPA by Councils would be banned, unless signed off by a Magistrate and required for stopping serious crime. It was highlighted that this proposal, if implemented, would virtually remove the Council's ability to combat traders who knowingly sold drink to children or adults who they knew were buying on behalf of children (proxy sales).

- 22 Additional issues outside of the Terms of Reference of this Scrutiny, but no less significant is the use of surveillance methods to detect, tackle and prevent sales of contraband and counterfeit cigarettes from houses in the town, which in some areas were servicing up to 65% of smokers. The Governments proposals could also halt successful operations against home storage and sale of fireworks.
- 23 **Neighbourhood Safety Team** The Panel was informed by representative of the Neighbourhood Safety Team how the Safer Middlesbrough Partnership was promoting responsible drinking in Middlesbrough. Also outlining how the DPPO operates and the links with Police Officers, Police Community Support Officers and Street Wardens. The panel was also informed that the restriction on public drinking would not apply to any premises or area covered by a permanent or occasional licence allowing the consumption or sale of alcohol, for example, the premises of licensed public houses or clubs. The aim of the DPPO was to ensure that residents, businesses and visitors were able to enjoy the benefits of a vibrant Middlesbrough without the risk of fear of any nuisance or disorder caused by the behaviour of a few people intoxicated by alcohol.
- 24 **Warden Service** Middlesbrough Street Warden service has traditionally not enforced any DPPO's. This changed with the delegation of powers through the Community Safety Accreditation Scheme where the Chief Constable of Cleveland Police delegated these powers to Street Wardens. Consequently, from April 2009 the enforcement of DPPO's enhanced the powers within the warden service to further reduce anti social behavior within Middlesbrough.
- 25 To assist street wardens in their role the powers they have are basically as follows
- Request the name and address of a person believed to have been acting in an anti social manner within the meaning of section 7 of the Crime and Disorder Act 1998 (Schedule 4, Parts 1 and 5).
  - Power of a police constable under section 12 of the Criminal Justice and police Act 2001 to request a person to stop drinking in a designated public area and to surrender open containers of alcohol and the power to dispose of any surrendered items.

- Power of a police constable under section 1 of the confiscation of alcohol (young persons) Act 1997 (as amended) to confiscate alcohol from young persons, require name and address of young persons in possession of alcohol and dispose of any confiscated items.
- 26 The panel found that while wardens will approach children, take their names and addresses and ask for the alcohol to be handed over, This is generally done without problem. As while this may be considered a success the problem is that the children know they can get more alcohol and it's only a temporary set back.
- 27 **Mayor** The Mayor referred to the Raising Hope Reduction Agenda and how a reduction in crime would enable the Police to release resources to become more pro-active in the area of prevention. While, Crime rates in Middlesbrough were at an all time low the perception of crime was at an all time high. The real fear of crime was not of house burglary or auto theft, it was of anti-social behaviour. People often felt intimidated walking down the street, however much of this was due to perception rather than fact.
- 28 The Mayor emphasised that alcohol misuse was a far bigger problem than drug misuse. He also brought to the panel's attention that there are more support groups and government money available for tackling drug misuse than for alcohol. Alcohol on the streets fuelled anti-social behaviour and assaults which is a major issue for the town. It was acknowledged that the vast majority of Middlesbrough citizens did not drink alcohol in the streets or drop litter and these were the actions of the minority. The emphasis is one of cultural change. To promote a pride in Middlesbrough and a pride in the individual. Such a cultural change would contribute to increasing the attractiveness for people to visit and shop in Middlesbrough without feeling intimidated.
- 29 The Mayor would like to see the idea of an alcohol free zone across the town, but agreed that exceptions would need to be granted for organised public events, such as the Mela, and specific areas outside of public houses. The possibility of a Bye-Law being introduced was discussed, and it was noted that this would be extremely costly and take a long time to implement, as it would require an Act of Parliament.
- 30 The Mayor explained that the DPPO in North Ormesby had been implemented due to problems with adults drinking in the streets and was intended to assist the Police reduce anti-social behaviour in that area. The Police did not wish to interfere with social gatherings such as family barbecues and would only enforce the DPPO where anti-social behaviour occurred or was likely to occur.
- 31 The panel recognised the strengths expressed for an alcohol free zone throughout Middlesbrough and the need to have appropriate enforcement and penalties. This would give a clear message and operationally applications could be made to have a short term exception. The Mayor suggested writing to the Department of Justice and the Prime Minister to inform them of the proposal, as he was emphatic about the need to control alcohol.

- 32 Member engagement with the public.** Members engaged with the public in areas where DPPO's were in operation. The objective was to gain a direct opinion off the public regarding their perception and experiences to date. Panel Members who had spoken to members of the public in areas where a DPPO was in operation reported back to the panel. The feedback they received from the public was that they appreciated that DPPO's were in operation and believed it was a good initiative and happy it was operating in their area.

## **FINDINGS IN RELATION TO THE TERMS OF REFERENCE**

- 33** The Panel addressed the Terms of Reference during their lines of enquiry and an outline of their findings are as follows: -

- **How do the Police deal with DPPO's**

Comment

The Panel found that the Police had ensured residents in DPPO areas had been informed of the function of a DPPO and that it does not form an alcohol free zone.

The panel also found that the actions taken by the Police were not to inhibit the freedom of social drinking with friends and neighbours in public places. The action was essentially responsive, were triggered by an indication that people's behaviour was unacceptable and becoming anti social. Once indication of this was with the Police the appropriate action was taken to remove the alcohol and prevent the situation escalating.

The panel was informed that these powers to respond in public areas to tackle alcohol consumption when anti social behaviour is occurring has now been given to the Street Wardens.

- **How evidence is collated**

Comment

The panel found that generally the occurrence fell into one of two categories. Either residents notified the appropriate service (Police or Warden) and the appropriate officers are deployed to the area where anti social incidents are occurring or alternatively the Police or Wardens encounter people drinking and being anti social during their scheduled patrols. In either situation the process of asking people to stop drinking and move on would be actioned directly.

This can include obtaining names and addresses and the confiscation of the alcohol presently available. This is generally not resisted as it is viewed those concerned know they can get more easily.

- **What is the future and the effectiveness of DPPO's**

## Comment

Upon receiving the information, the panel believed that there are strong grounds for having public areas as Alcohol free zones, with exceptions for public events and areas immediately outside licensed establishments. However, Middlesbrough does not have any alcohol free zones and having a town wide zone would require exploring a range of legal and operational issues. In contrast to that option the present DPPO's have been introduced where there is evidence of alcohol related problems which have led to supporting the introduction of a DPPO in specific areas. The panel recognises that the impact alcohol has in provoking or promoting anti social behaviour is clear and that DPPO's are one step towards tackling such problems.

Regarding the future. The panel appreciates the balance required between having a free environment where people can socialise and consume alcohol and the need to control where such consumption leads to abuse and creation of a nuisance. Consequently, the panel appreciates the benefits a DPPO can have in certain areas.

## CONCLUSION

- 34 The panel was made aware that Section 12 of the Criminal Justice and Police Act gave Police powers to require a person to stop drinking alcohol as well as the power to seize it. If a person failed to comply with a Police Officer's request to stop drinking and anti-social behaviour was likely to occur, they could then be arrested.
- 35 The panel was assured that people would only be approached if they were engaging in anti-social behaviour or any form of disorder, if it was considered they were likely to create problems, or if residents had made complaints. This would allow the police to target those who caused alcohol-related nuisance. In response to this a Penalty Notice for Disorder and a fine of £50 or arrest and prosecution could be issued. Should the Police officer consider the disorder significant then further options such as Acceptable Behaviour Contracts (ABCs) and Anti-Social Behaviour Orders (ASBOs) could be pursued although these are time-consuming and require clear evidence.
- 36 The panel found that the issue of providing alcohol to those underage, the affects of excess alcohol and drinking alcohol in public areas are all connected regarding the issue of enforcement and control. The designation of an area with a DPPO had some clear and positive strengths which can be an effective tool in areas where problems associated with drinking of alcohol occur. However, equally the prevention through tackling retailers who sell alcohol illegally to those underage is a factor where surveillance is an appropriate tool to direct the enforcement agencies.
- 37 The panel did find that there is an understandable confusion between the terms alcohol free zones and designated public place orders. The panel



believes there is a certain clarity in the term “Alcohol Free Zone”, which people cannot reasonably misinterpret. The change to Designated Public Place Orders, brings with it a certain confusion. Although the rules and power invested in the Police within a DPPO area is clear and that the power is exercised once anti social behaviour begins, this is reactive and not preventative. Consequently, this brings forth an area of potential subjectivity as to where the line of Anti Social Behaviour is and the possibility of tensions between police and public occurring. As Middlesbrough does not have any alcohol free zones the introduction of DPPO’s brings with it the benefits of allowing socialising for groups or families to consume alcohol reasonably in public places, yet provides the control should the situation become concerning.

- 38 The issue of alcohol free zones or DPPO areas does provoke substantial debate. In conclusion, the panel does contend that some areas, such as children play areas, should be alcohol free irrespective of whether the area has a history of alcohol related issues or not. Equally DPPO’s are an effective way of providing freedoms yet having the facility to react and enforce should anti social behaviour occur. These issues and the need to prevent the sale of illegal alcohol have led the panel to their conclusions.

## **RECOMMENDATIONS**

39. The panel has addressed the subject of DPPO’s and their introduction in Middlesbrough. The panel appreciates that the effective control of Alcohol in Middlesbrough and the prevention or interception of anti social behaviour requires the input from a number of agencies and services. The introduction of DPPO’s is one step towards that and the following presents the panels core recommendations for the Executives consideration-
- A To look at the evidence across Middlesbrough and to asses if there is grounds to support an application for a town wide Designated Public Place Order which would facilitate the swift response to alcohol related anti social behaviour.
  - B To review the signage across Middlesbrough to ensure it is accurate and the terminology used is easily understood by the public.
  - C The panel supports the alcohol strategy and would encourage six monthly updates on its progress to monitor its effectiveness and impact on alcohol related issues.
  - D The panel considers surveillance to be a vital tool in tackling the illegal sale of alcohol and would request the Executive make representation to government to ensure the regulations within RIPA do not inhibit the councils ability to undertake such actions.
  - E That, in the interim, action is taken to introduce certain exclusions where alcohol is not permitted under any circumstances, irrespective of having to be evidence based from previous abuse. The specific areas

to be determined to include all children's play areas where appropriate signage is displayed.

## **ACKNOWLEDGEMENTS**

40. The Panel is grateful to all those who have presented evidence during the course of our enquiry. We would like to place on record our appreciation for the co-operation we have received from the following: -

E Chicken	Middlesbrough Council (Community Protection)
D Brieley	Middlesbrough Council (Warden Service)
S Carr	Middlesbrough Council (Neighbourhood Safety)
J Wells	Middlesbrough Council (Trading Standards)
B Gill	Police (Inspector)
D Page	Police (Constable)
R Mallon	Mayor

## **BACKGROUND PAPERS**

41. The following background papers were consulted or referenced to during this Scrutiny and in the compilation of this report:

(a) Panel Minutes 21<sup>st</sup> April, 23<sup>rd</sup> June, 4<sup>th</sup> August 2010.

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