

LICENSING BOARD

Venue: Town Hall, Moorgate
Street, Rotherham. S60
2TH

Date: Wednesday, 16 November
2011

Time: 9.30 a.m.

A G E N D A

1. To determine if the following matters are to be considered under the categories suggested in accordance with the Local Government Act 1972.
2. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
3. Minutes of the Board held on 12th October, 2011 (herewith) (Pages 1 - 3)
4. Single Rotherham Designated Public Place Order (report herewith) (Pages 4 - 14)
5. Exclusion of the Press and Public.
The following item is likely to be considered in the absence of the Press and Public as being exempt under the Police Act 1997 and Paragraphs 3 and 7 of Part 1 of Schedule 12A to the Local Government Act 1972 (business affairs and prevention of crime)
6. Applications for the Grant/Renewal/Review of Hackney Carriage/Private Hire Drivers' Licences (reports herewith) (Pages 15 - 35)

LICENSING BOARD
Wednesday, 12th October, 2011

Present:- Councillor Wootton (in the Chair); Councillors Barron, Beck, Buckley, Dodson, Donaldson, Doyle, Falvey, Foden, Goulty, J. Hamilton, N. Hamilton, Havenhand, Jack, McNeely, Nightingale, Read, P. A. Russell, Sangster and Swift.

An apology for absence was received from Councillor Andrews.

Q21. MINUTES

Resolved:- That the minutes of the meeting of the Licensing Board held on 14th September, 2011 be approved as a correct record for signature by the Chairman.

Q22. HOUSE TO HOUSE COLLECTIONS

The Senior Licensing Officer submitted a report concerning the following applications for the grant of licences to carry out house to house collections:-

ORGANISATION	AREA	DATE
Woodlands Cancer Care	Whole of Rotherham Borough	1 st October, 2011 to 30 th September, 2012
Eco Saviour	Whole of Rotherham Borough	1 st November, 2011 to 31 st November, 2012

Resolved:- That the applications be approved.

Q23. PROPRIETORS REQUEST FOR INDIVIDUAL EXEMPTION TO LICENSED VEHICLE CONDITIONS - ADVERTISEMENTS

The Board considered the submitted report indicating a request from a licensed operator for an exemption to Condition 6 of the private hire vehicle conditions of licence to facilitate the advertisement of his company name and phone number and two small logos on the rear boot and side panels of his private hire vehicle.

A copy of the proposed advert and a sample of the material that would be affixed to the rear window were submitted.

Resolved:- That the request to be exempted from Condition 6 of the licensing conditions to facilitate rear boot and side panel advertisements be approved.

Q24. EXCLUSION OF THE PRESS AND PUBLIC

Resolved:- That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the Police Act 1997 and Paragraphs 3 and 7 of Part I of Schedule 12A to the Local Government Act 1972 (business affairs and prevention of crime).

Q25. HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

The Board considered reports by the Director of Housing and Neighbourhood Services relating to the hackney carriage/private hire drivers' licences held by Messrs. A.A., M.N. and M.A.

Messrs. A.A., M.N. and M.A. attended the meeting and were interviewed by the Board.

Resolved:- (1) That Mr. A.A. be issued with a final written warning as to his future conduct.

(2) That the licence held by Mr. M.N. be renewed for a period of three years and he be issued with a warning as to his future conduct.

(3) That the licence held by Mr. M.A. be renewed for a period of one year, but that it be suspended for a period of one month and he be issued with a final written warning as to his future conduct.

(THE CHAIRMAN AUTHORISED CONSIDERATION OF THE FOLLOWING APPLICATION IN ORDER TO PROGRESS THE MATTERS REFERRED TO)**Q26. HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE**

The Board considered a report by the Director of Housing and Neighbourhood Services relating to the hackney carriage/private hire driver's licence held by Mr. S.A.

Mr. S. A. and his representative and Mr. P.M. from the Safeguarding Unit attended the meeting and were interviewed by the Board.

Resolved:- That the licence held by Mr. S.A. be revoked.

Q27. HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCES - APPLICATIONS

The Board considered reports by the Director of Housing and Neighbourhood Services relating to applications for the grant of hackney carriage/private hire drivers' licences from Messrs. M.P.P., R.K. and M.F.

Messrs. M.P.P., R.K. and M.F. attended the meeting and were interviewed by the Board.

Resolved:- (1) That Mr. M.P.P. be granted a licence for a period of three years subject to the satisfactory completion of the Driving Standards Agency test and medical.

(2) That Mr. R.K. be granted a licence for a period of twelve months.

(3) That Mr. M.F. be granted a licence for a period of twelve months subject to the satisfactory completion of the Driving Standards Agency test and medical and he be issued with a warning as to his future conduct

(Councillor Dodson declared a prejudicial interest be known to Mr. M.P.P. and left the room whilst his application was discussed.)

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS
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1.	Meeting:-	Licensing Board
2.	Date:-	16th November 2011
3.	Title:-	Single Rotherham Designated Public Place Order
4.	Directorate:-	Neighbourhood & Adult Services

5. Summary

The purpose of this report is to enable the Licensing Board to determine whether or not to progress the making of a single multi location Designated Public Place Order across the Borough.

In the creation of an order, the Police are provided with additional discretionary powers to stop the consumption of alcoholic drinks. The powers make it an offence for, when requested, someone not to stop drinking and/or surrender their drink. The powers are used to address alcohol related nuisance, annoyance or public disorder.

A map showing the proposed Designated Public Place Order is enclosed in **Appendix 1** to the report.

The proposal has been previously considered in meetings of the Area Assembly Chairs, Overview and Scrutiny Management Board, and the Cabinet Member for Safe and Attractive Neighbourhoods on the 6th October 2011, 21st October 2011 and 31st October 2011 respectively. At all meetings the proposal was supported for progression.

6. Recommendations

It is recommended that the Licensing Board;

- 6.1 notes the request by the Safer Rotherham Partnership's Joint Action Group for the Council to establish a single multi location Designated Public Place Order**
- 6.2 agrees, following confirmation of the area to be designated, to progress the making of the proposed Designated Public Places Order by the carrying out of the consultation as prescribed by the Local Authorities (Alcohol Consumption in Public Places) Regulations 2001**
- 6.3 requests a future report be presented on the representations made during the consultative process to enable, if supported, the Council to establish a single multi location Designated Public Places Order for Rotherham**

7. Proposals and Details

7.1 Background

The Safer Rotherham Partnership's Joint Action Group (JAG), following assessment of how the partnership's services are reducing anti social behaviour, has recognised the need for greater discretionary enforcement powers for the police to combat the nuisance, annoyance and disorder associated with the public drinking of alcohol.

On 4th July 2011, a paper was presented to Cabinet Member for Safe and Attractive Neighbourhoods considering the need for a Borough-wide Designated Public Place Order (DPPO). The report outlined the issues that needed to be considered to fully inform a decision on progression of an order. It was resolved at that meeting:

1. That further discussion takes place with South Yorkshire Police with regard to supporting evidence for a Borough-wide Designated Public Places Order.
2. That further consultation take place with the Joint Action Group of the Safer Rotherham Partnership prior to submission of a revised report.

A revised proposal was subsequently presented to the Joint Action Group (JAG) on 25th August that included greater clarity on the level of alcohol related ASB in the borough and a reduction in the area within the borough where it is proposed that a Designated Public Places Order should be in force. From the evidence presented a Borough-wide DPPO was not supported, however, an extensive single DPPO is recommended.

This report reviews the need for a single DPPO that covers selected urban areas, parks and waterways in the borough. A map showing the proposed Designated Public Place Order is enclosed in Appendix 1 to the report.

The proposal has been considered by the Area Assembly Chairs on the 6th October 2011, Overview and Scrutiny Management Board on the 21st October 2011 and further by the Cabinet Member for Safe and Attractive Neighbourhoods on the 31st October 2011. At all meetings the proposal was supported for progression.

7.2 Legal Position

Section 13 of the Criminal Justice and Police Act 2001 (CJPA) gives the local authority the power to make an order designating any public place within their area if they are satisfied that nuisance, annoyance or disorder has been associated with the consumption of alcohol in that place.

The Council's power to determine and review in line with Government guidance any Designated Public Places Order is delegated to the Licensing Board. There is a regulated process (Local Authorities (Alcohol Consumption in Public Places) Regulations 2001) to be followed in the adoption of a DPPO; this is summarised together with the subsequent enforcement powers at **Appendix 2**.

The result of establishing a DPPO is that, by Section 12 of the Act, it is an offence for a person to continue to consume alcohol in a designated public place upon

being requested not to do so by a constable or by a community support officer. The offence is at the discretion of the constable or CSO.

The designation of a public place does NOT prevent the sale of alcohol at street cafes, nor the sale of alcohol at markets or festivals provided the latter comply with the requirements of the Licensing Act 2003.

The making of the proposed DPPO would require the formal revocation of the two existing DPPOs that cover Wath and Rotherham town centres.

7.3 Requirements for making a DPPO

To make a DPPO the local authority must go through a process of satisfying itself that the order is justified in relation to any particular public place by reference to past problems of alcohol related crime or disorder or antisocial behaviour in that place.

It is clear that alcohol is a contributory factor in anti-social behaviour, criminal damage, nuisance and public place violent crime. It also increases the fear of crime and further deterioration of public areas and acts as a catalyst for an increase in the incidents of alcohol and drug abuse and more serious crimes.

The Home Office guidance states that, in order to include any public place in a DPPO, the Council must be **"satisfied that nuisance or annoyance to members of the public or disorder has been associated with the consumption of alcohol in that place"**.

Recorded alcohol related crime and anti-social behaviour incidents alone in some of the areas cannot in themselves justify the need for a DPPO. The same has been acknowledged in areas where orders are already in place. The experience in these areas is that the public are very strongly in favour of such orders, in that they send out a clear message of the intent of the Police, Council and partners to tackle alcohol related crime and disorder, are less confusing than having a number of individual areas where an order is in force and addresses the issue of displacement of alcohol related ASB from areas where DPPO's are in force to areas where they are not, since the legislation was first introduced there are now many examples across the country where they are in place.

In determining the need for a DPPO a degree of 'professional judgement' is required to balance the pros and cons of a single, multi-location application and Home Office caution in respect of the proportionality of borough wide orders.

7.4 Evidential Position

Consultation with Legal Services has confirmed that from a legal perspective the key issue in reaching the decision for any DPPO is the evidence supplied by the Police and, if due process is followed, and the Police evidence is sufficient then any decision in favour is unlikely to be challenged successfully in the Courts.

Although data recording issues make it difficult to establish a true picture of the influence of alcohol on recorded crime and disorder in the borough, previous analysis, from 2009 data (Temporal Analysis(see reference) identified that, in nearly

a quarter of all currently detected crime, the accused person was classified as under the influence of drink or drugs. Only 8% of Anti-social Behaviour incidents, however, recorded by SYP could be considered to be alcohol related.

The Temporal Analysis highlighted that the role of alcohol in crime and disorder stretches both beyond the Town Centre and beyond night-time economy violence offences. Other key areas feature across the borough for both alcohol-related crime and ASB. These areas include Wath, Swinton, Brinsworth, Maltby, East Dene and Rawmarsh.

The final Place Survey for Rotherham (2008) did identify that 33% of residents perceived drunk or rowdy behaviour as a problem and at that time perceptions of anti-social behaviour as being a very or fairly big problem was reported at 29%. The latest British Crime Survey (BCS) results show this perception level for Rotherham now standing at c. 14%. The BCS survey is now used as the main survey on which the SRP will gauge performance in this area.

Anecdotally residents would suggest that street drinking is a 'youth' problem but evidence suggests that our street drinking population varies from young disorderly drinkers through to older street drinkers who congregate at venues within the borough to drink together. As such it is unlikely that the enforcement of such a zone will adversely impact on any particular age group.

Action to deal with the harmful effects of alcohol, of which a DPPO is only one element, safeguards children. This proposal aims to encourage responsible drinking and reduce disorder, both of which should positively impact on children. The making of the Order should be seen in the context of the Council's wider Licensing Policy where protecting children from harm is a key objective under the Licensing Act.

From the current evidential base, whilst recognising the link between alcohol and ASB & other crimes, it is difficult to prove that it is the actual drinking of alcohol in public places that is the main cause of anti social behaviour compared to home and licensed premises consumption. That being said, however, there are pockets in the Borough where incidents and perceptions of ASB shown to be linked to the drinking of alcohol in public areas where targeted action is, and has been taken eg DPPOs in the Town Centre and Wath. Given the mixed urban and rural make up of the Borough differences in alcohol misuse can be expected.

7.5 Assessment

The Act itself, the regulations governing the making of Orders and the associated Home Office Guidance are all written around the premise that a local authority making a DPPO will identify and include in the Order as designated places, specific localised "trouble spots" within their area.

It is, in practice, never going to be the case that a local authority will have evidence of a history of alcohol related crime/disorder/anti-social behaviour in every single public place included in a single, multi-location order, however such an order would address the problems of alcohol related crime and anti-social behaviour and identified displacement activity. This is part of the considerations of other local authority areas that have adopted local authority wide DPPOs (research listing **Appendix 3**)

Single, multi-location DPPO's are not specifically prohibited by the legislation however the following extract from the Home Office guidance provides advice;

'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 the borough' (Guidance on Designated Public Place Orders for Local Authorities in England and Wales. (Home Office)

As part of the consideration it should be noted that the proportionality of a single, multi-location DPPO could be the subject of a legal challenge by an individual whereby it would be necessary for the Council to provide justification for the order.

As previously stated, recorded alcohol related crime and anti-social behaviour incidents alone cannot in them selves justify the need for such an order. The same has been acknowledged in areas where such orders are already in place. The experience in these areas is that the public are very strongly in favour of such orders, in that they send out a clear message of the intent of the Police, Council and partners to tackle alcohol related crime and disorder and are less confusing than having a number of individual areas where an order is in force.

7.6 Next Steps

A three stage process to the making of an order is proposed to ensure compliance with the regulatory process detailed in the Local Authorities (Alcohol Consumption in Public Places) Regulations 2001. The three stages being;

- (1) Members resolve the recommendation at 6.2 to enable the Head of Housing and Neighbourhood Services to implement the consultative process, including the publication of a notice in a local newspaper inviting representations as to whether or not the order should be made, and the consequence that the two current DPPOs covering Wath and Rotherham Town centres would be revoked.
- (2) Following the consultation a further report (recommendation at 6.2) will be made to the Licensing Board on the representations received and, in the light of those representations, the Licensing Board, as delegated, will determine whether or not to make the order and revoke the existing DPPOs.
- (3) In the event that the Licensing Board makes an order, the Council will procure the production and placement of signs, publicise notice of the fact of the order, and send a copy of the order (and revocation orders) to the Secretary of State (Home Office).

8. Finance

Costs will be incurred for consultation, legal fees and signage and it is estimated that overall costs will be in the region of £10,000. Consideration could be given to these costs being met through the Safer Rotherham Partnership Community Safety

Fund rather than imposing an un budgeted cost onto the revenue budget of the Licensing service.

9. Risks and Uncertainties

A summary of assessment is provided at Appendix 4.

10. Policy and Performance Agenda Implications

Policy/Strategic Position

RMBC Corporate Strategy – Helping to create safe and healthy communities/Improving the environment

- People feel safe where they live
- ASB and crime is reduced
- People enjoy parks, green spaces, sports, leisure and cultural activities
- Clean streets

The 2009/10 Joint Strategic Intelligence Assessment (JSIA) identified Anti-Social Behaviour, Domestic Abuse, Domestic Burglary and Offender Management as priorities for the Safer Rotherham Partnership with Alcohol, Drug Misuse and Vulnerable Victims as 'cross cutting' themes that would benefit from continued partnership attention.

Crime & ASB position

Crime statistics for the Rotherham area for the year 2010/11 reveal that recorded crime figures totalled 17,325 of which 3,979 were criminal damage and 2,775 violent crimes. As in most other places in the country, Rotherham has seen significant reductions in recorded crime and anti-social behaviour in recent years. Indeed over the last 12 months Rotherham has seen considerable reductions in recorded ASB, with only the town centre showing an increase. In terms of comparison with other South Yorkshire districts Rotherham's ASB rate of 88 incidents/1000 population is 2nd only to Sheffield, with Barnsley being the lowest at 80/1000 population. Across the 21 comparator local authority areas Rotherham is ranked 11th in terms of alcohol related recorded crime.

Based on a number of different alcohol indicators, Rotherham's position is showing improvement, as measured by the Yorkshire and Humber Public Health Observatory (YHPHO).

Alcohol Impact in Rotherham

The JSIA indicates that the misuse of alcohol is not confined to a specific demographic or drinking locations, it is a borough-wide issue. Using the Rush Model, Rotherham's adult population can be estimated to have around 7,000 dependent alcohol users, 10,400 drinking at harmful levels and 51,500 drinking above low risk levels. This does not include any misuse of alcohol by young people.

Misuse of alcohol in Rotherham and the costs incurred through it is an area of concern for the wider partnership. The anti social behaviour that arises from it

contributes to the fear of crime, as well as creating areas that are no longer used by the general public. The effect in itself can be a catalyst for further deterioration of an area and for an increasing incidence of serious crime.

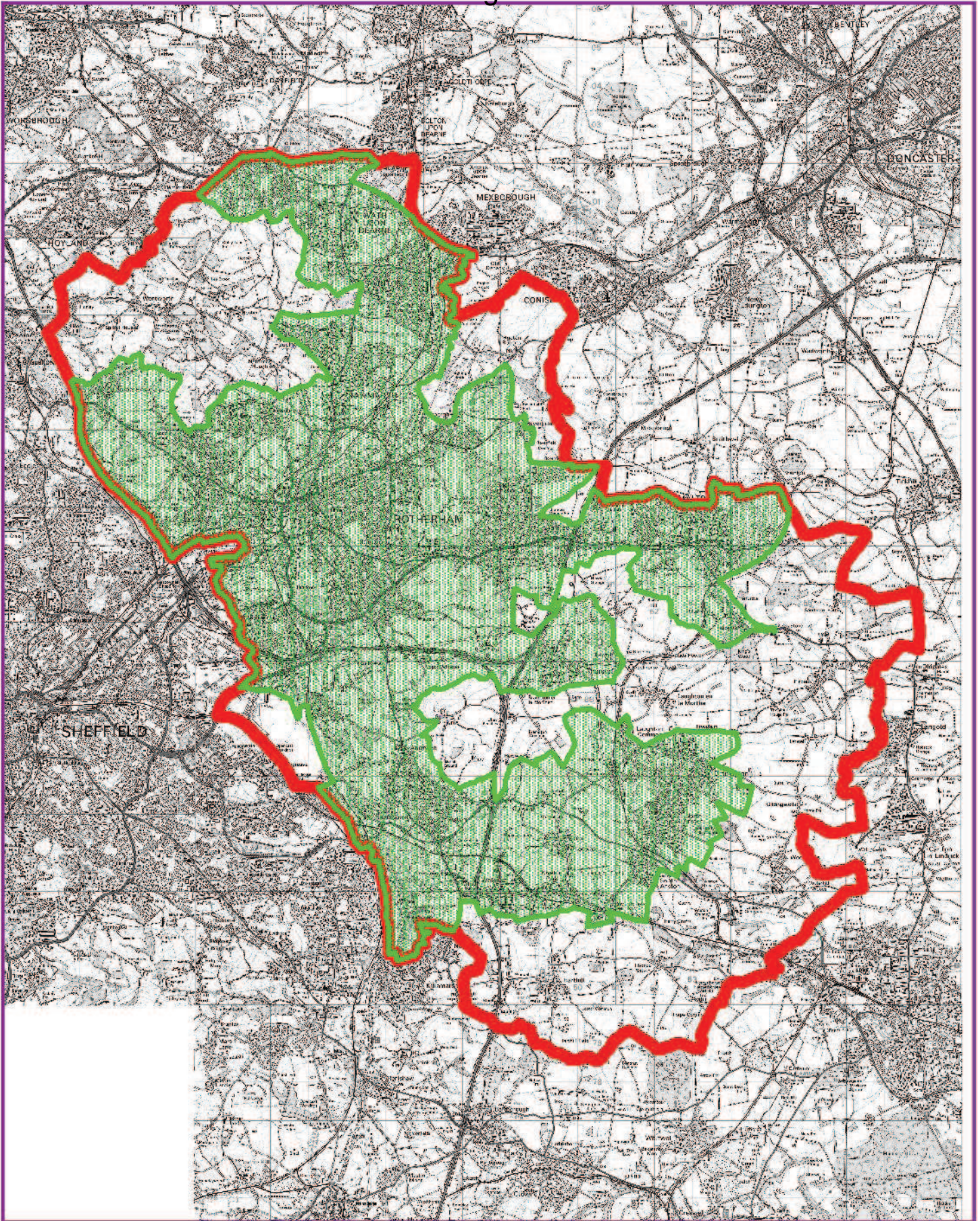
There is clear evidence of the impact that alcohol abuse is having on the quality of life of Rotherham residents and the resultant financial demands it is making on the Police, Primary Care Trust, Fire and Rescue Services and Rotherham Borough Council. There is also evidence of displacement of drinking in public places to areas outside of the area covered by the current Designation Orders. (Town centre drinkers moving just outside the current DPPO boundary into Fitzwilliam Road)

11. Background Papers and Consultation

- Criminal Justice & Police Act 2001
- Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007
- Guidance on Designated Public Place Orders for Local Authorities in England and Wales. (Home Office), November 2009
- Designated Public Place Orders; House of Commons Library SN/HA/4606, December 2009
- Rotherham Borough Alcohol Related Crime & Disorder Temporal Analysis 2009.
- Safer Rotherham Partnership Joint Strategic Intelligence Assessment.
- Local Authority Profiles for England – Profile for Alcohol Related Harm for Rotherham; Yorkshire and Humber Public Health Observatory
www.nwph.net/alcohol/lape

Consultation to implement an order is defined legally within the Local Authorities (Alcohol Consumption in Public Places) Regulations 2001 with associated guidance being provided from the Home Office (2009).

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Rotherham
Metropolitan
Borough Council

Rotherham Designated Public Place Order

22/09/2011

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Civic Building
Walker Place
Rotherham
S65 1UF

DPPO Process & Enforcement

Regulatory Process to Establish a DPPO

Full consultation would need to be undertaken with the public and premises effected by the proposal and the results of this consultation considered prior to making a final decision on the implementation of a single, multi-location DPPO.

The process to be followed is detailed within specific regulations. The prescriptive process including:-

- consultation with;
 - the Police (who support a Borough wide approach) and potential impact of a DPPO on any minority community/group
 - Parish Councils
 - Licensees of any licensed premises in the proposed Designated Public Place
 - the owners or occupiers of any land identified which may be affected;
- advertising via a legal notice in a local newspaper, identifying specifically the area that the Order will cover, setting out the effect of the Order and inviting representation with 28 days;
- consideration of the representations and consultation
- placing a further Notice following the making of the Order in a local newspaper identifying the place, setting out the effect and the date of commencement;
- displacing erecting sufficient signs for the public to draw their attention to the places (eg on lamp posts)
- sending a copy of the Order to the Secretary of State and Police Commander for the area.

Enforcement

Under section 12, if a Police Constable reasonably believes that a person is, or has been, consuming alcohol in a designated public place or intends to do so, the Constable may require such a person:-

- Not to consume alcohol in that place;
- To surrender to the Police Constable any alcohol or container for alcohol in his possession.

Failure by that person, without reasonable excuse, to comply with the Police Constable's requirement is a criminal offence. Penalties for this offence include:

- Penalty Notice for Disorder (PND) £50.00; or
- Arrest and prosecution for a level 2 fine, maximum of £500

Borough/City –Wide Designated Public Place Orders

Blackburn & Darwin Borough Council

Burnley Borough Council

Calderdale Council

Camden

Coventry City Council

Erewash Borough Council

Fareham Borough Council

Harrow

Havant Borough Council

Hammersmith & Fulham

Islington

Lambeth

Lewisham

Newham

Northampton Borough Council

Nuneaton & Bedworth Borough Council

Portsmouth City Council

Rugby Borough Council

Sandwell Borough Council

Southampton City Council

City of Westminster

Wigan

Worthing Borough Council

Assessment/Risk of the Introduction of a Borough-wide DPPO

Pro's	Con's
<p><u>In relation to ASB on which a DPPO is based:</u></p> <ul style="list-style-type: none"> • Provides additional powers to police (key partners in the Safer Rotherham Partnership) to deal with those who persistently drink in public places and alcohol related anti-social behaviour. • Overcomes within Borough displacement of public place drinking • Avoids the need for future individual DPPO applications with associated costs and potential confusion over which areas are covered • Provides a consistent approach • Reducing alcohol related litter • The existence of separate orders could lead to. <p><u>Opportunity for communication</u></p> <ul style="list-style-type: none"> • Give a clear message about the unacceptability of anti-social behaviour, consistent with the priorities of the Safer Rotherham Partnership • Provides a simpler communication message with the public including expectations in terms of enforcement activity. <p><u>Links to other non ASB aspects</u></p> <ul style="list-style-type: none"> • Contribute to the range of actions which are being delivered to reduce alcohol misuse. Including reducing; <ul style="list-style-type: none"> ○ disturbances in public places ○ drunkenness in public places ○ the number of street drinkers ○ violent crime in public places ○ fear of crime • Promote a sensible drinking culture within the Borough • Improving the quality of life for residents and visitors to Rotherham. • Combining tactical actions on enforcement with outreach support services 	<p><u>Legal & Guidance Test</u></p> <ul style="list-style-type: none"> • Lack evidence to satisfy that nuisance or annoyance to members of the public or disorder has been associated with the consumption of alcohol in that place (ie across the Borough) • Home Office guidance recommends a proportionate response • A person prosecuted under the legislation could claim that a Borough wide order was not proportionate. <p><u>Reputation & Communication</u></p> <ul style="list-style-type: none"> • Potential negative perception and reputation of Rotherham via media • There is a risk that the community will perceive the powers as a 'ban' and that this will raise an expectation that public drinking is illegal. This could have a negative impact where this was the expectation and the community did not see a response they deemed relevant. • There is a risk that the powers may be used inappropriately, eg where alcohol is confiscated from those who are not causing, or are unlikely to cause, public disorder and hence lead to dissatisfaction with the police. <p><u>Financial Impact</u></p> <ul style="list-style-type: none"> • The costs of providing signage for individual orders could prove prohibitive

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