



## COUNCIL CABINET MEMBER FOR COMMUNITY SAFETY AND E-GOVERNMENT 16 FEBRUARY 2007

Report of the Community Commission

### Section 30 Orders and Alcohol Free Zones

#### RECOMMENDATIONS

That the Council Cabinet Member be requested to:

- a) approve and action recommendations 1.1 and 1.2 and
- b) endorse and refer recommendation 1.3 to the full Council Cabinet

- 1.1 There should be a city-wide standardisation of the assessment process for Section 30 Areas and Alcohol Free Zones, to overcome residents' differing tolerance levels in different parts of the city.
- 1.2 There should be a city-wide survey to assess residents' views about the effectiveness of Section 30 Area and Alcohol Free Zones and the CSP-agencies be asked to suggest the best means to capture those views.
- 1.3 There is a national need to simplify the procedure to re-instate a Section 30 area; the Council should consider lobbying for a provision to be included in the next available criminal justice bill to enable the Police to automatically re-instate a Section 30 Order if the previous problems recur or equivalent problems arise.

#### SUPPORTING INFORMATION

- 2.1 On 16 October the Commission held a focussed scrutiny meeting on Section 30 Orders and Alcohol Free Zones. The witnesses were Andy Thomas, Stuart Leslie, Chief Inspector Thandi and Sergeant Shaun Skelton. Attached as Appendix 3 are the full notes of the meeting, which will be provide helpful context for readers of this report.

2.2 The powers under Section 30 of the 2003 Act can only be used in areas where members of the public have suffered intimidation, harassment, alarm or distress due to the presence or behaviour of groups, and where anti-social behaviour is a significant and persistent problem, and where the relevant authority has been granted. Section 30 Orders provide the police with these powers:

- a) To disperse groups of two or more persons;
- b) To return young persons under the age of 16 years to their place of residence when they are found in an authorised designated area and unsupervised after 9pm.

It is not a curfew and the power to disperse groups can only be used when anti-social behaviour is being committed. Although designation of an area is a Police decision it requires the consent of the district/unitary council.

2.2 The first recommendation, 1.1, is to respond to the perception that the same level and type of anti-social behaviour will be seen as unacceptable and promote community calls for action in one place but in another place be viewed as endemic, unsolvable and therefore reluctantly to be 'put up' with.

2.3 1.2 Regarding the second recommendation, 1.2, although there has been some Home Office research about the impact of Section 30 Orders and AFZs, it is important to gain an insight into local citizens' perceptions of the role and success of these measures. Undertaking this as a focussed scrutiny exercise rather than as a topic review precluded the Commission itself ascertaining the Derby public's views about the efficacy of these tools.

2.4 Although the procedure on the face of the Act appears straightforward, in fact the hurdles are complex and time consuming. Included at Appendix 3 are extracts from the guidance published by the Association of Chief Police Officers in March 2005. However, this extract from Section 2.4 entitled 'Making the Decision to Authorise' makes clear the efforts involved:

Officers should be objective in making the decision to authorise. Evidence obtained through community meetings, individual complaints and observed incidents must be recorded, collated and used in support of making the decision. It is important to consult widely by including all relevant groups and to consider the potential consequences of authorisation on the legitimate movement and gathering of all persons. Evidential statements from complainants or individuals who have observed the behaviour that resulted in the necessity for the authority should also be obtained in support of the decision. Possible sources include local residents, business owners, shop workers, community workers and victims of crime. Housing agencies, NGOs, social services, education departments and leisure services are also potential sources of information. Force incident logs of complaints, crime reports and incidents within the relevant locality should be collated to support the authorisation.

- 2.5** The third recommendation arises to deal with the situation where an order has expired or been lifted because the problem appeared to be solved. Should the original problem recur, or a new but equivalently bad problem present itself, the procedure has to be fully re-undertaken. There should be a much swifter route to re-instating an order. At its simplest that might simply be evidenced through police calls for service plus the re-consent of the district/unitary council.

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<b>Background papers:</b>	None
<b>List of appendices:</b>	Appendix 1 – Implications Appendix 2 – - Practice Advice on Part 4 of the Anti-Social Behaviour Act 2003 (Police Powers to Disperse Groups) - 2005 - published by the Association of Chief Police Officers - extracts Appendix 3 Proceedings of the meeting held on 16 October 2006

## Appendix 1

### IMPLICATIONS

#### Financial

1. None directly arise. Members did express concern that there was no budget provision to enable the start up of new Alcohol Free Zones.

#### Legal

- 2 The legal processes for the Police in respect of Section 30 Orders and for the Council in respect of Alcohol Free Zones were fully explored at the meeting.

#### Personnel

- 3 None directly arise.

#### Equalities impact

- 4 The first recommendation is to respond to the perception that the same level and type of anti-social behaviour will be seen as unacceptable and promote community calls for action in one place but in another place be viewed as endemic and reluctantly to be 'put up' with.

#### Corporate Priorities

- 5 The recommendations accord with the improving the quality of life in Derby's neighbourhoods.

[Please note the whole of this procedure to initially declare a Section 30 Area applies equally when seeking to re-instate a lapsed order]

### **Practice Advice on Part 4 of the Anti-Social Behaviour Act 2003 (Police Powers to Disperse Groups) - 2005 - Extracts**

(page 6) Anti-social behaviour: This is defined in the Act as: 'behaviour by a person that causes or is likely to cause harassment, alarm or distress to one or more other persons who are not of the same household as the person.'

(The phrase 'not of the same household' prohibits the use of these powers to manage domestic disputes.)

(page 6) The purpose of the legislation: is to prevent people from feeling frightened and discouraged from using public places because they feel threatened by the actions and behaviour of groups of people. The legislation is also intended to protect children and young people from the risks of being unaccompanied on the streets late at night with the attendant risk of older peers encouraging them into criminal activities.

(page 10) An officer of at least the rank of superintendent can make an authorisation where he or she has reasonable grounds to believe that members of the public have been intimidated, harassed, alarmed or distressed as a result of the presence of groups of two or more individuals in a public place in any locality in his or her police area, **and** that anti-social behaviour is a significant and persistent problem in the relevant area.

Before an authority can be given, the agreement of the local authority must be obtained. An authorisation can be made for a period not exceeding six months ... this does not prevent an appropriate officer from granting subsequent authorities, subject to the agreement of the local authority, should such a measure still be required. The need for the authority should also be reviewed on a regular basis to ensure that its use is proportionate to the circumstances at that time.

Officers should be objective in making the decision to authorise. Evidence obtained through community meetings, individual complaints and observed incidents must be recorded, collated and used in support of making the decision. It is important to consult widely by including all relevant groups and to consider the potential consequences of authorisation on the legitimate movement and gathering of all persons. Evidential statements from complainants or individuals who have observed the behaviour that resulted in the necessity for the authority should also be obtained in support of the decision. Possible sources include local residents, business owners, shop workers, community workers and victims of crime. Housing agencies, NGOs, social services, education departments and leisure services are also potential sources of information. Force incident logs of complaints, crime reports and incidents within the relevant locality should be collated to support the authorisation.

There is no requirement for the evidence to provide proof beyond all reasonable doubt. All evidence and information can be used to support the application for an

authorisation. The negative impact of making an order should be considered, eg, by alienating groups or individuals from their communities, especially disadvantaged groups who may be particularly susceptible to this. The impact on people going about their daily activities should also be taken into account. These issues should be balanced against the anticipated benefits of the authorisation to the community.

The information and evidence used to support the grant of an authority should be fully documented and this should be done by completing a Community Impact Assessment. The same process should be used throughout the duration of the authorisation and in determining whether it is appropriate to renew or withdraw it.

**Derby City Council  
Community Commission**

Notes of the meeting held 16 October 2006 in Meeting Room 5, the Council House, Corporation Street, Derby.

Present: Councillors Turner (in the Chair), Webb, Afzal, Chera, Rawson, Redfern, Samra and Troup.

Witnesses: Andy Thomas, Stuart Leslie, Chief Inspector Thandi and Sergeant Shaun Skelton

Apologies for absence: Councillor Lowe.

1. Following introductions, Mr Andy Thomas gave a presentation which was entitled "Tackling Crime and Anti-Social Behaviour" and supported by overhead slides.
2. He said that Section 30 Dispersal Orders and Alcohol Free Zones were two of the powers available to tackle anti-social behaviour and low level crime. Progress in this direction began with the 1998 Crime and Disorder Act, and prior to that Act there had been no legal definition of anti-social behaviour. The Act sets out the definition as "behaviour which causes or is likely to cause alarm, disorder or distress". There is now a raft of some 42 or 43 separate pieces of legislation and resources to tackle anti-social behaviour.
3. The Crime and Disorder Act 1998 was followed by the Anti-Social Behaviour Act 2003 which indicates the way we can apply for Orders. There is now a whole plethora of tools and powers available, and it is not necessary to consider Section 30 Dispersal Orders and Alcohol Free Zones in isolation. The Anti-Social Behaviour Team works with Derby Homes and other sections of the Council, and is functioning strongly in a partnership way. He expressed the view that many authorities go down a very narrow route, while the wider aim was for prevention and enforcement, and Derby had a balanced approach. We have an Anti-Social Behaviour Team which works very closely with the Police, and operates around the Government's "Respect" agenda.
4. The Home Office made Derby an Anti-Social Behaviour Action Area, and a lot of work has been done within existing resources – with little new resource - and with regeneration money.
5. Mr Thomas listed some of the tools and powers available, including
  - Anti-Social Behaviour Orders
  - Prevention/Support services
  - Housing powers (NSPs and injunctions)
  - 'Crack house closures'
  - Individual Support Orders
  - Enviro-crime powers
  - Penalty Notices
  - Parenting Orders

6. There had been 110-120 Anti-Social Behaviour Orders imposed within the city, targeted at the most problematic individuals, with a split of 70 per cent young people to 30 per cent adults. We also have youth provision work which often does not get seen. Its aim is to nip problems in the bud, so successful *prevention* is difficult to measure.
7. There are a whole range of powers available to Derby Homes, which include eviction, together with intervention support powers. Through these we are targeting unacceptable behaviour. Taking the house away from a tenant just moves the problem to another neighbourhood. The way forward is to keep people where they are and change their behaviour, but it is right that Derby Homes has the power to evict. There are powers to close a house that has been used for the supply and distribution of drugs, and we have had three/four crack house closures, which has proved to be effective action. Individual Support Orders are additional to Anti-Social Behaviour Orders.
8. Derby compares badly against other cities in respect of enforcement work against environmental crime, as we have not previously had a focus on that. We have a new strategy, there are powers used by the youth teams in the priority neighbourhoods, and progress is being made in this area.
9. We are working with partners to combat disorder, and are looking at the causes of anti-social behaviour. The main cause of youth crime was considered to be bad parenting. This was now committed by young people whose parents were not very good parents and whose grandparents were not very good parents.
10. In January 2006 the Government launched a Respect Action Plan. It takes the agenda of tackling anti-social behaviour on to a new level, which is narrow and deep, yet has a far wider approach. The Respect Agenda starts to look at causes of anti-social behaviour and is focussing on parenting.
11. We work with the Children and Young People Department, Derby Homes and registered social landlords. Derby's most problematic families were put into short term tenancies with 24 hour surveillance, which Mr Thomas expected to be an effective programme for Derby. Families and children that cause Police the most trouble are the problems of the future and he was hopeful for improvement in this respect
12. Section 30 Dispersal Orders were introduced in 2003 and are a targeted action to remove anti-social behaviour from the streets. It is a Police power to use in an area where there are problems with groups of people. The local authority does not have to *agree* to its implementation but the Police must *consult* with the local authority about the proposal.\* At the end of its term it can be renewed, provided there is evidence that there is still anti-social behaviour. To exercise the powers in a designated area, the Police Constable or P.C.S.O. must have the grounds to believe that allowing groups to congregate has resulted in or could lead to anti-social behaviour. They can be excluded from the area for 24 hours, and to return is an arrestable offence, subject to a £1,000 fine or custodial sentence of up to six months. A person under the age of 16 and not under the control of an adult could be escorted home, and the powers are preventative as well as for enforcement. Mr Thomas expressed the opinion that it is

right that the Police have the power to take home a person under 16 years of age who is out after 9.00 p.m. [\* Post script: in fact Sec 31 (2) states: An authorisation may not be given without the consent of the local authority or each local authority whose area includes the whole or part of the relevant locality].

13. He said there were two Section 30 Dispersal Orders in the city, and the Order covering the city centre had been running for two years. They are a valuable tool with Derby bucking the trend towards anti-social behaviour, and the Police should be applauded on its operation. The other Order is in Spondon and he was told it is also effective. There have previously been Orders in Allestree, Alvaston, Chellaston, Mickleover and Stockbrook.
14. He said that the aim of Alcohol Free Zones was to reduce alcohol related crime and to reduce anti-social drinking in public places, and it is governed by primary legislation. The local authority must assess the level of anti-social drinking and must be satisfied as to the seriousness of the problem. Similarly to Section 30 Dispersal Orders, the local authority must consult relevant parties and receive representations from those affected by the Order. The authority should also publish a notice in the local press giving the intention for the zone and invite representations.
15. Mr Thomas referred to Police powers. If a Police Constable believes that a person is or has been consuming alcohol in a designated area they can require the person not to consume the alcohol and to surrender any alcohol or container and not to comply is an arrestable offence.
16. Councillor Redfern requested that the meeting be given a print out of the overhead slides.
17. A Councillor asked whether Mr Thomas thought we now have more residents and visitors venturing into the city centre as a result of the two years of action, and what had been achieved in changing the environment? Mr Thomas said the Team was trying to make the city centre a safer place and designation of an Alcohol Free Zone was a useful tool to that end. Having the Section 30 Order means we can take steps to disperse people, which certainly on a Friday or Saturday night it is an excellent tool because people are aware that the power is enforceable.
18. Councillor Webb referred to the city centre and the Market Place, which on Saturday and Sunday is taken over by skateboarders, and nothing seems to be done to control this. The War Memorial was set on fire the previous weekend and there had been no Police presence. People do not want to come up to that end of town, and he anticipated that the Council would have a problem with the new shopping centre when it opens. The Market Place is not the centre of anti-social behaviour.
19. Councillor Redfern asked if questions could be put to Mr Thomas.
20. Mr Thandi was asked how many people are subject to Section 30 Dispersal Orders. He said that in terms of Section 30 Dispersal Orders if an Officer has occasion to speak to people he makes a note and feeds the information back. The Police need to know who has been given a warning and if they are found again in the same place the Police need a means to check. There had been 465 warnings given in the city centre



and approximately 12 people have been arrested for failing to adhere by the warning. By this means they had able to disperse problematic people at an early stage.

21. Mr Leslie said that Mr Thomas had given a very useful presentation, and he wanted to bring out some specific points. He said that "Alcohol Free Zone" (AFZ) was a misnomer as there was not a complete ban on drinking, but the public, both drinkers and residents, do in general tend to regard it as a ban.
22. These designated zones have taken over from the former drinking bye laws. This had two main advantages. Firstly not to comply with a Police Officer's request to stop drinking in an AFZ area is now an arrestable offence. Secondly the former bye laws had required Home Office confirmation and it was a long drawn out and laborious process. Now the local authority has to have some basis for a Alcohol Free Zone but it no longer requires Home Office approval.
23. When AFZ legislation was first introduced in Derby Area Panels were asked if there was anywhere in their area they considered needed an AFZ. If they came forward with proposals the Police were asked if it was justified in their judgement. The first AFZ was at North Parade, 2003 and the last was Sinfin and Spondon, last year.
24. He described how the boundaries of each proposed AFZ are drawn up and how we are governed a great extent by the Police's view. We do however also try to consult schools and community bodies to get a complete picture, and advertise the proposed AFZ area in public notices. We also consult licensees in the area. Minor, but not major, amendments can be made after consultation. Once approved by full Council the Order comes into effect about a month later, during which time signs are erected.
25. We have not been able to look and see how effective AFZ's have been once they are in because we have not got the resources. In addition at present we are in a position where we do not have the resources or budget to do designate further AFZ's.
26. The Chair said he was sure Members would want to raise points and suggested each member put a question.
27. A Councillor asked what had happened in areas where Section 30 Dispersal Orders had been lifted with regard to the crime levels, and whether it had had a lasting effect. The Police said that in areas like Allestree it had had a positive benefit and has dealt with the problems, and if it had not been considered desirable to continue it. The Police were not applying for areas to be designated one after another because they could not adequately police them. Areas are chosen very carefully and there is evidence to suggest that where we have used them there has been an improvement, but the long term picture would not be known for several years.
28. Mr Thomas said there is a check form that the Police have to give him with evidence as to why there should be a Section 30 Dispersal Orders Area and stating what powers they have got to enforce it: If they could not enforce the Order he would not sign it. He noted that there are 13 Section 30 Orders in Nottingham, but as shootings were taking place there it seems unlikely that resources could be found to enforce S30 Areas.

29. The Police said that Section 30 Dispersal Orders are a means to disperse groups, but other measures may also be introduced during the life of the order which may have a more long term enforcement.
30. It was asked whether people gather because they have nowhere to go to? Mr Thomas said we do not have a re-active youth programme, and it had been a major problem in Allestree. The Police imposed the Section 30 Dispersal Order, which needed further service provision to support it. For example, it would be desirable to have floating youth workers to call on but Derby has no there were no resources for this.
31. It was asked whether there was evidence that the use of measures to combat anti-social behaviour pushed the problems across the boundary into neighbouring areas? The Police indicated not, and that most anti-social behaviour is carried out by people in the area where they live, adding that young people habitually congregate in certain areas. Councillor Webb refuted this, saying that from his experience with the Allestree Section 30 Dispersal Order it had worked for six months. It was children from Chaddesden and Mackworth who were causing anti-social behaviour and while the Order was in place they had not come into the Allestree area. They had now returned and the local beat bobby had to collect evidence of the need for the re-instatement of the Order because there was no authority to re-impose it. The residents saw this as Police failure to act. The Police said the Section 30 Dispersal Order is a short term fix and we should be looking at longer term solutions to the problem.
32. The view was expressed that where Police see a problem recurring there should be an easier way to have a Section 30 Dispersal Order re-instated than going through the procedure of obtaining evidence again, which would speed up the process.
33. Mr Leslie was asked if the process for designating AFZ's could be speeded up. He replied that there are statutory requirements, and we are obliged to consult with licencees and private land owners and publicise notices, with a minimum of 28 days for people to respond. In addition the results of consultations have to be reported to full Council, which means it cannot be done in less than three months. In addition initial consultations with local councillors, police and community bodies and interested Council departments (eg parks) often took up to three months and though not a statutory requirement these consultations were often very important in identifying with local people the scale and type of problems and where they occur.
34. It was noted that the Team monitors licensed outlets regarding the supply of alcohol to underage drinkers and street drinkers. Councillor Chera referred to children and young people and it was noted that there is a Police power which enables them to take alcohol off under-age drinkers, but also that if they are drunk and disorderly they can be arrested. Alcohol Free Zones are a useful tool for adult offenders, but are not there to prevent sale of alcohol to children.
35. A question was asked as to whether work to combat anti-social behaviour was hindered by availability of funds. Mr Thomas said there was a perception that we can only do new things if we have extra money. However, at Derby we have a relatively small amount of resources but we get good value. We have five "safer and greener" communities, which also work to combat anti-social behaviour. It was felt that

sufficient powers exist, but that more resources are required. A new violent crime law would introduce new further powers.

36. By informing shopkeepers about individual subject to an Anti-Social Behaviour Order, it had led to service being refused and provided evidence of breach of the Order and resulted in a prison sentence. A lot of similar work was being done at a local level.
37. The Police said that when individuals are breaking the law they do respond, but they could be in a place where no action could be taken. People have rights which the Police have to respect. Also If a person complies with a request to stop drinking then they are not committing an offence. Officers however, know who the persistent offenders are and do not ignore offences.
38. Twelve regular street drinkers had been identified under Section 30 Dispersal Order provisions, and of these three had gone, some had been imprisoned, one for breach of an anti-social behaviour order.
39. The Police had asked licences not to sell alcohol before mid day or to sell it to people who were already drunk, and all had agreed with the requests. There had also been dramatic reductions in begging and street drinking in the city centre through police work. Some drinkers had moved into an empty garage but the problem had been resolved by the provision of fencing and cameras. The Police were pursuing problems of anti-social behaviour in Abbey Street and Monk Street, some of which was inappropriate sexual behaviour, violent crime and drug use. Councillor Redfern referred to problems caused by street drinkers urinating in public places, as the service providers needed to know where cleaning was necessary.
40. Further Member concerns were expressed that where Section 30 Dispersal Orders and Alcohol Free Zones were imposed the anti-social behaviour was moved into another area.
41. Councillor Redfern noted that brewers are producing stronger beers at cheaper prices, which were bought by street drinkers, and queried whether anything could be done to stop this, in the way that licensees had acted voluntarily. A licensee had a right to refuse service, but they are in a commercial business.
42. Councillor Samra asked what support is given to a licensee if he is threatened by a person because he will not sell alcohol to them. It was noted that threatening and anti-social behaviour must be reported, in order that it could be pursued with community liaison officers.
43. A Councillor asked about the dispersal of Alcohol Free Zones, as they seem to be given in the same areas, but at the moment they are not being created because of lack of funding.
44. Was there anything that could be done to prevent legally entitled persons from buying alcohol and passing it on to under age drinkers? The Police replied that they would respond if they were aware of this. If a person is under 18 and drinking in a public place it is an offence. When a person is above 18 years of age the situation starts to get grey. A "breath test" for the right to buy alcohol was suggested, and it was noted

that some pubs have piloted it. It was also suggested by a Member that an area could be designated for street drinking, and that “wet centre” accommodation is being provided.

45. Mr Thomas said that he would not take his family into Derby or Nottingham city centres after 8.00 p.m. and that is a choice which is available to the public. However, some binge and street drinking takes place during the day when children are about, and people are about their daily business - although most people who drink to excess tend to do so on Friday and Saturday nights.
46. It was noted that progress had been made in the city centre but not in some of the residential areas, and that 40 per cent of violent crime in Derbyshire is committed in Derby.
47. The Chair asked if some of the statistics could be given to the Overview and Scrutiny Commissions, or to Mr Davison.
48. It was pointed out that Section 30 Orders tend to brand all youngsters as troublemakers and this is unjust and is counter-productive in promoting good relations between young people and the police. The police responded saying that the very young have a high opinion of the police but this changes to regarding them as the enemy when they get older and Section 30 Orders certainly don't help in this regard.
49. Councillor Webb asked again how a Section 30 Dispersal Orders could be quickly brought back if there is a local demand or Police see a need. He repeated that the Market Place is a no go area on Saturday and sometimes on Sunday because of skateboarders, while parks are provided on the out skirts of the city.
50. The Police responded that if there is any criminal offence in the Market Place they will take action, but there is no offence if people just sit lounging around. It does not look nice, but is not anti-social behaviour. Reference was made to the fact that the Market Place is a dead area as there is no market and it is often not used and it was suggested that a Market Place Ranger is required who can be there in the day time and at twilight.
51. The Officers and Police were then thanked for attending and then left the meeting.
52. The Chair said the meeting could make official recommendations.
53. Councillor Redfern said what may be anti-social behaviour in Allestree would not be considered to be anti-social behaviour in Derwent, and said that the Arboretum Ward had different problems as it covers the area leading into town. She also said she would like more information on the situation regarding anti-social behaviour in other cities and in Derby where Alcohol Free Zones are in place.
54. There was a discussion about outline recommendations and there was agreement that the Chair and Vice Chair and Mr Davison would develop the proposals.

**Draft Recommendations:** To be produced by the Chair and Vice Chair in light of the discussion on 16 October.