

Licensing and Safety Committee – 23rd February, 2011

Report of the Director of Corporate Resources

Alcohol Consumption in Public Places – Lower Gornal Area

Purpose of Report

1. To consider the response to the consultation in relation to the proposal to make an Order making Lower Gornal Area designated public places where the consumption of alcohol would be prohibited, other than within the curtilage of licensed premises.

Background

2. On the 21st of October 2010 West Midlands Police submitted a map detailing the proposed Lower Gornal area to be considered in relation to the introduction of a Designated Order. In support, they submitted a report summarising the problems with the excess consumption of alcohol and associated problems in and around the Lower Gornal area, together with a significant number of detailed incident logs.
3. Although the Police already have powers to confiscate alcohol from any person who is or appears to be under the age of 18, the benefit of making an Order under Section 13 of the Criminal Justice and Police Act, is that it provides the Police with the power of arrest which is both an important deterrent and a valuable method of enforcement in dealing with this type of anti-social behaviour.
4. At the Licensing and Safety Committee meeting on the 8th of November 2010 the committee received verbal verification of the logs from the Chairman and Vice Chairman, and considered the police report and map of the proposed area. (A map of the proposed area is attached to this report as appendix 1).
5. The committee resolved that approval be given to the introduction, in principle, of a Designation Order for the Lower Gornal area as shown on the plan attached at Appendix 1 to this report.
6. Following the committee decision consultation has taken place with the licensee of any licensed premises within the proposed designated area and the police. In addition the council has published a notice in the Express and Star setting out the details of the proposal and has delivered to the occupier of every property in the proposed designated area a letter fully explaining the proposal

and inviting any comments or objections. The proposal was also reported to the Dudley North Area Committee at its meeting on the 1st of December 2010 who resolved that the making of a Designated Order for the Lower Gornal area be supported.

7. There have been 150 responses to the public consultation, and only one letter of objection on the grounds that there is no alcohol related problems in the area. The 149 letters of support come from businesses and local residents.
8. Some of the representations asked whether the proposed designated area could be extended as set out below:-
 - To take in Upper Gornal
 - Cricket Meadow Estate
 - Milking Bank Park
 - Jews Lane and Kent Street
9. Under the legislation the council can only include an area if there is sufficient evidence from the police to link the consumption of alcohol with anti social behaviour or disorder.
10. A copy of the draft Designation Order is attached at Appendix 2.

Finance

11. The cost of the consultation and public notices in the Press will be met from existing resources. The costs of street signage will be shared between the police and the Dudley North Area Committee Allocations budget.

Law

12. The Order will be made under Section 13 of the Criminal Justice and Police Act 2001.
13. In order to make an Order designating a public place, the Council must be 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 intoxicating liquor in that place.

The report from the Police provides sufficient evidence to satisfy this requirement for the proposed designated area.

14. When a public place has been designated, a Police Constable has the following powers if the reasonably believe that a person is, or has been, consuming

alcohol within the designated public place or intends to do so:-

(a) the constable may require the person concerned:-

- not to consume anything which the Constable reasonably believes to be alcohol.
- to surrender any alcohol in their possession.

(b) the Constable may dispose of anything surrendered to them in an appropriate way

(c) any person who fails without reasonable excuse to comply with a requirement imposed by a Constable, commits an offence for which they may be prosecuted in the Magistrates' Court

(d) a Constable has the power to arrest any person who commits an offence.

Procedure for making an Order

15. There is a statutory procedure which must be followed if the Council wish to make an Order under this legislation. First, before making an Order, the Council must consult with the Chief Officer of Police and the licensee of any licensed premises within the designated area, or which the Council considers may be affected by the designation. Reasonable steps must be taken to consult the owners or occupiers of any land proposed to be identified. Any representations received as a result of the consultation must be taken into account.

16. Before making an Order, the Council must also publish a notice in a local newspaper:-

(a) identifying specifically, or by description, the place proposed to be identified:

(b) setting out the effect of an Order being made in relation to that place; and

(c) inviting representations as to whether or not an Order should be made.

17. An Order cannot be made until at least 28 days after the publication of a public notice.

18. After making an Order, but before it takes effect, the Council must again publish in a local newspaper 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; and

(c) indicating the date on which the Order will take effect.

19. Before an Order takes effect, the Council must erect within the designated area, such signs as the Council considers sufficient to draw the attention of members of the public in that place to the effect of the Order. A copy of that Order must also be sent to the Secretary of State.

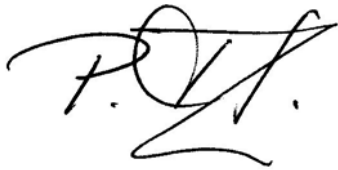
20. The relevant statutory provisions referred to in this report are contained in Sections 12-13 of the Criminal Justice and Police Act 2001 and the Local Authorities (Alcohol Consumption in Designated Places) Regulations 2001.

Equality Impact

21. This report has no direct implications. The making of an order will help the Police to tackle the growing problem of under-age drinking in public places.

Recommendation

22. It is recommended that the Committee consider whether a Designation Order for the area bounded by and including Sandyfields Road, Boundary of Sedgley Golf Club, across Cotwall End Road, Junction of Moden Hill and Vale Street, Holloway Street, Rock Street, Roundhouse Road, Deepdale Lane, Grosvenor Road, Himley Road, Merryfield Road, Coopers Bank Road, Cinder Road, Boundary of the Sewage Works, House Lane, Himley Road, Sandyfields Road should be introduced and authorise the Director of Corporate Resources to undertake the necessary procedure as outlined in paragraphs 15 to 20.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

Correspondence with West Midlands Police.