

Licensing and Safety Committee - 8th December 2008

Report of the Director of Law and Property

Alcohol Consumption In Public Places – Brierley Hill Town Centre

Purpose of Report

1. To consider an Order making Brierley Hill Town Centre a designated public place where the consumption of alcohol would be prohibited other than within the curtilage of licensed premises.

Background

2. A number of Town Centres within the Borough have now been designated under Section 13 of the Criminal Justice and Police Act 2001 as a place where the consumption of alcohol in public (apart from the curtilage of licensed premises) is banned.
3. West Midlands Police have recently approached the Council to request that a similar Order be made in respect of Brierley Hill Town Centre, as indicated on the attached plan (Appendix 1).
4. Attached at Appendix 2 is a report submitted to the Council on the 9th October 2008 from West Midlands Police summarising the problems associated with the consumption of alcohol in and around Brierley Hill Town Centre within the proposed designated area.
5. 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 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.

6. 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 the requirement for the proposed designated area.
7. When a public place has been designated, a Police Constable has the following powers if they 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

8. 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.

9. 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.
10. An Order cannot be made until at least 28 days after the publication of a public notice.
11. 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.
12. 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 the Order must also be sent to the Secretary of State.

Finance

13. The cost of public notices in the Press and signs in the street will be met from existing resources. The cost of signs could come from the capital allocations budget of the Brierley Hill Area Committee.

Law

14. 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

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

Recommendation

16. It is recommended that the Committee consider whether a Designation Order for Brierley Hill Town Centre, as shown in Appendix 1 should be introduced in principle and authorise the Director of Law and Property to undertake the necessary consultations and publish a notice in a local newspaper.

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BACKGROUND PAPERS

1. Nil

