

**Licensing and Safety Committee – 8<sup>th</sup> of November 2010**

**Report of the Director of Corporate Resources**

**Lower Gornal (Alcohol Consumption in Designated Public Place) Order 2010**

**Purpose of Report**

1. To consider an Order making Lower Gornal Area a designated public place where the consumption of alcohol would be prohibited other than the curtilage of licensed premises.

**Background**

2. As Members will be aware, Halesowen Town Centre, Stourbridge Town Centre, Dudley Town Centre, Lye High Street, Mary Stevens Park and Winword Common, Sedgley Town Centre and Brierley Hill Town Centre have been designated under Section 13 of the Criminal Justice and Police Act 2001 as places where the consumption of alcohol in public (apart from the curtilage of licensed premises) is banned.
3. Following concerns expressed by North Dudley Area Committee in relation to the increasing numbers of reported alcohol related incidents in the Lower Gornal Area, West Midlands Police have approached the Council to request that a similar Order be made in respect of The Straits (incorporating Cotwall End Valley), Gornal Wood, Lower Gornal, Ruiton and Coopers Bank (incorporating Hunts Mill Nature Reserve).
4. Attached at Appendix 1 is a report submitted to the Council, on the 21st October 2010, from West Midlands Police summarising the problems with the excess consumption of alcohol and associated problems in and around the Lower Gornal Area. The police have also submitted a significant number of detailed incident logs, in relation to the proposed area, to support this report.
5. In view of the large number of police incident logs and the need for verification, the Chairman and Vice-Chairman have agreed to inspect the logs prior to this meeting. This will enable them to both verify and answer any questions, Members may have, in relation to the logs at the Committee meeting of the 8th November, 2010.

6. 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.
7. 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.

8. 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**

9. 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.
10. Before making an Order, the Council must also publish a notice in the 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.
11. An Order cannot be made until at least 28 days after the publication of a public notice.
12. After making an Order, but before it take 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.
13. 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.
14. The proposed area to be designated is shown on the plan attached at Appendix 2.
15. This application falls within the Council's responsibility for licensing as a direct link to the Council's key corporate priority that safety matters.

### **Finance**

16. 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 North Dudley Area Committee.

### **Law**

17. The relevant statutory provisions referred to in this report as 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**

18. 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**

19. It is recommended that the Committee consider whether a Designation Order for the Lower Gornal Area as shown in Appendix 2, should be introduced in principle, and authorise the Director of Corporate Resources to undertake the necessary consultations and publish a notice in a local newspaper.



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DIRECTOR OF CORPORATE RESOURCES

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## **List of Background Papers**

1. Correspondence with West Midlands Police