



COMMUNITY COUNCIL LIAISON SUB-COMMITTEE – 20TH OCTOBER 2004

SUBJECT: ALCOHOL CONSUMPTION IN DESIGNATED PUBLIC PLACES

REPORT BY: DIRECTOR OF THE ENVIRONMENT

1. PURPOSE OF REPORT

- 1.1 To provide the Sub-Committee with information on existing 'alcohol free zones' within the county borough, and to outline new legislation, which could extend these areas and provide the police with greater powers.

2. SUMMARY

- 2.1 In order to seek to control problematic public drinking, a model byelaw was introduced by the Home Office in 1988. In 1998 the Council adopted the byelaw and designated certain public areas as "alcohol free zones".
- 2.2 Since that time there have been requests from a variety of sources – elected Members, Community Councils, Police Officers, members of the public and traders – to extend the areas covered by the byelaw. In addition, the mechanism for designating 'alcohol free zones' has been changed by new legislation and given greater enforcement powers to the Police.
- 2.3 The report details the provisions both of the current byelaw and the adoptive power available under new legislation. The Council will be shortly considering whether the current byelaw provisions should be replaced by the provisions of the new legislation and if they agree consultation will then take place on designating new public areas as 'alcohol free zones'.

3. LINKS TO STRATEGY

- 3.1 Community safety, the prevention and detection of crime and disorder and the reduction of the fear of crime are key aims of Caerphilly County Borough Council.

As such they play a major contribution to the corporate strategy of:-

Health and Social Care – improvements in the health, safety and well-being of the community.

Living Environment – Improvement to Peoples Environment.

4. THE REPORT

- 4.1 The byelaw prohibiting the consumption of alcoholic liquor in designated places came into force in the county borough on 9th November 1998. Prior to the introduction of the byelaw, extensive consultation took place with Members of the Authority, Community Councils, the licensed trade, traders in general and the public.

- 4.2 As a result of this consultation a list of areas that had been suggested as worthy of being designated under the byelaw was drawn up.
- 4.3 After consultation with the police and, taking into consideration the costs of signing each designated area and the capacity of the Police to enforce the byelaw county borough wide, it was resolved that the byelaw be piloted in selected areas of Abertridwr, Bargoed, Blackwood, Caerphilly and Risca.
- 4.4 Over the intervening years the Police and Officers of the Authority have received representations from a variety of sources asking that the byelaw be extended to cover other areas where it is felt it would be of benefit. The provisions of the byelaw have now been superseded by new legislation, details of which appear later in this report.

5. THE EXISTING BYELAW

- 5.1 The current byelaw prohibits the consumption of alcoholic liquor by any person in designated places within a local authority area, after being requested to stop by a Police Officer. The areas currently designated in the byelaw are listed in Appendix 1.
- 5.2 Any area that is designated under the byelaw must have signs displayed to inform the public that they are in an "alcohol free zone".
- 5.3 Any person failing to stop drinking after a Police Officer requests that he/she does so commits an offence which is punishable by a fine up to level 2 on the standard scale (currently £500). The byelaw does not give the Police Officer powers of arrest or power to confiscate the alcohol. Such power of confiscation does apply to persons under the age of 18 and to others in certain other circumstances under the Confiscation of Alcohol (Young Persons) Act 1997.

6. THE CRIMINAL JUSTICE AND POLICE ACT 2001

- 6.1 New legislation has brought about a change, both in the way areas are designated as alcohol free zones and Police powers. The new provisions also harmonise powers under designated alcohol free zones made under the new legislation and under the Confiscation of Alcohol (Young Persons) Act 1997.
- 6.2 Sections 12 – 16 of the Criminal Justice and Police Act 2001 provide local authorities with an adoptive power to restrict anti-social public drinking in designated public places and also provide the Police with the power to enforce this restriction. The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 came into force on the same date. The Regulations set out the procedures to be followed by local authorities in designating public places for this purpose.
- 6.3 These statutory powers replace the Home Office model byelaw. Thus, in order to designate further alcohol free zones, the authority should proceed with making an order under Section 13 of the Act rather than proceeding with a byelaw.
- 6.4 Section 12 of the Act provides new Police powers to deal with anti-social drinking in areas that have been designated for this purpose under Section 13 of the Act. The Police have the power to require a person, in such an area, not to drink alcohol in that area. The Police also have power to confiscate alcohol or alcohol containers, other than sealed containers, in the person's possession. It is not an offence to drink alcohol in a designated public place, but failure to comply with a Police Officer's request in respect of public drinking or surrender of alcohol without a reasonable excuse is an arrestable offence. These measures go further than the byelaw, which does not carry the powers of arrest or confiscation.

- 6.5 There was no intention that the provision of the 2001 Act should lead to a comprehensive ban on drinking in the open air. Section 13 only allows local authorities to designate areas if they are satisfied that nuisance or annoyance to the public or disorder have been associated with public drinking in that area. The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations do not place a requirement on the local authority to conduct a formal assessment, over a given period, of the nature of the problem, as was the case with the byelaws procedure. Whether or not a designation order is appropriate is a matter for local judgement, based on local circumstances. There should, however, be some evidence of an existing problem, with an assessment of the likelihood that the problem will continue unless the powers are adopted.
- 6.6 The Regulations require the local authority to consult with the police prior to making a designation order. Consultation should also take place with Community Councils covering areas to which the order will apply, licensees within the area, or who may be affected by the designation order, and the owners or occupiers of any land that may be identified in such an order.
- 6.7 Existing public drinking byelaws will cease to have effect once the area is designated in accordance with Section 13 of the new Act. The Home Office would expect local authorities who have adopted the model byelaw to replace this, at a suitable opportunity, with a designation order under Section 13. Any byelaw that is not replaced by a Section 13 designation order will lapse after a period of five years commencing on 1st September 2001.
- 6.8 The Home Office recommend that any decisions relating to designation orders are made by the full Council or a Committee of the Council, rather than being delegated to an Officer of the Council.

7. PROPOSED DESIGNATED AREAS

- 7.1 As required, consultation has taken place with the Police on expanding the current designated areas, recognising that it will be the Police who will have the responsibility for enforcing any resulting restrictions on public drinking.
- 7.2 As a result, the following additional areas have been suggested by the Police for consideration in any new designated public areas:-
- Newbridge town centre
 - Crumlin town centre
 - Trinant town centre
 - Ystrad Mynach town centre, streets and rear lanes
 - Phillipstown – Square leading to Pritchard Terrace and Meadow Terrace
 - Abertysswg – The Green
 - Fochriw – The Grove
 - Deri – access road to the Surgery
 - Rhymney – Phillips Walk and Glan y Nant
- 7.3 Before making any order, the local authority must further consult:-
- The Parish or Community Council in whose are the public place is situated;
 - The Chief Officer of Police, the Local Authority and the Parish or Community Council for any area near to the public place which they consider may be affected by the designation;
 - The licensee of any licensed premises in that place or which they consider may be affected by the designation; and
 - The owners or occupiers of any land proposed to be identified.

- 7.4 Following the above consultation, and prior to making an order, the Council must also publish in local newspapers notices identifying the places and the effects of any orders and inviting representations.
- 7.5 No order shall then be made by the Council until at least 28 days after that publication.
- 7.6 After making an order and before it takes effect the Council shall again publicise the details and date on which any order will take effect.
- 7.7 In addition, the Council would need to erect in the designated places such street signs that will draw the attention of the public to the effect of the order.
- 7.8 The Council are due to discuss whether to seek designated public places by order in the near future.

8. RECOMMENDATION

- 8.1 That the Sub-Committee note the contents of this report.

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Appendices:

Appendix 1 Alcohol Consumption in Designated Public Places