

Report

Report to:	Corporate Resources Committee
Date of Meeting:	1 October 2008
Report by:	Executive Director (Corporate Resources)

Subject:	Byelaws Prohibiting the Consumption of Alcohol in Public Places
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1. Purpose of Report

1.1 The purpose of the report is to:-

- ◆ consider the extension of existing byelaws prohibiting the consumption of alcohol in designated public places within South Lanarkshire
- ◆ consider the introduction of a byelaw that prohibits the possession of an open container of alcohol in a public place
- ◆ consider repealing the relaxation of the byelaws which allow the consumption of alcohol in public places in the town of Lanark on Lanimer Day

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

(1) that, in relation to the byelaws prohibiting the consumption of alcohol in designated public places, the necessary procedures be followed and consultation undertaken to allow the:-

- ◆ extension of existing byelaws prohibiting the consumption of alcohol in designated public places to cover other areas within South Lanarkshire
- ◆ introduction of a byelaw that prohibits the possession of an open container of alcohol in a public place
- ◆ revocation of the relaxation of the byelaws which allow the consumption of alcohol in public places in the town of Lanark on Lanimer Day

3. Background

3.1. In 1996, South Lanarkshire Council made byelaws prohibiting the consumption of alcoholic liquor in public areas in certain settlements. The byelaws cover 33 separate settlements in South Lanarkshire, affecting 90.3% of the population of South Lanarkshire (based on 2001 Census information).

3.2. Strathclyde Police has now asked the Council to consider extending the existing byelaws to include the whole of South Lanarkshire and to make it an offence to possess an open container of alcoholic liquor in public places.

3.3. A separate request has been made by the Lanimer Committee that the Council repeal the current relaxation of the byelaws that allow the drinking of alcohol in public places in the town of Lanark on Lanimer Day.

4. Extension of the Existing Byelaws to New Areas

- 4.1. Strathclyde Police has advised that it would prefer a blanket ban for the whole of South Lanarkshire which prohibits the consumption of alcohol in public places. However, the Scottish Government had previously advised that it is not their policy to approve blanket bans. The Scottish Ministers would be prepared to support bans that cover population areas or other geographical areas, especially if there has been a history of alcohol-related disorder.
- 4.2. The Council contacted the Scottish Ministers to determine the current position. The Scottish Ministers have maintained their position. They are of the view that it is unacceptable to create a general offence of drinking in public. The Scottish Ministers believe that existing police powers, together with the creation of a new byelaw, are sufficient to deal with issues related to antisocial behaviour arising from drinking alcohol in public.
- 4.3. However, the Scottish Ministers would accept new byelaws covering population centres or other areas in South Lanarkshire not previously covered especially where:-
 - ◆ there is a history of disorder; or
 - ◆ there has been or could be displacement from areas covered by the current or new byelaws to other adjoining areas
- 4.4. In either case, the Council must have evidence from Strathclyde Police of either real or potential alcohol related disorder in those areas. It is proposed, therefore, that the extension of the byelaws to cover further areas of South Lanarkshire be explored with Strathclyde Police being asked to provide the necessary supporting information to justify the extension.

5. Introduction of New Byelaw

- 5.1. It is currently a criminal offence to drink alcoholic liquor in public places within the settlements covered by the byelaw. This means that the Police must prove that the person concerned had drunk alcohol in a public place. There is often no direct evidence of this. Sometimes, the Police can only prove the offence by using circumstantial evidence, which can result in enforcement issues.
- 5.2. It has been suggested by the Police that the Council consider making a new byelaw that prohibits the possession of an open container of alcohol in a public place. It is recognised that there may be concerns about criminalising innocent behaviour such as carrying an open bottle of alcohol to and from a party. However, the Police would have discretion in enforcing such a byelaw.
- 5.3. The Scottish Ministers have approved similar byelaws in other areas in Scotland.

6. Revocation of the Relaxation of the Byelaws for Lanimer Day

- 6.1. The Lanimer Committee has requested that the Council repeal the relaxation of the byelaws that allow the drinking of alcohol in public places in the town of Lanark on Lanimer Day. This is on the basis that they are concerned about antisocial behaviour in the streets and at family orientated events.
- 6.2. Strathclyde Police believes that Lanimer Day would be a safer event if the Council repealed the relaxation of the byelaws. They advised that:-

- ◆ on Lanimer Day in 2006, the Police attended 14 incidents of disorder, all involving drunkenness or the possession of alcohol. This included 7 incidents of violence. 19 people were arrested, all of whom had consumed alcohol to such an extent that it appeared to affect their behaviour adversely; and
- ◆ on Lanimer Day in 2007, the Police attended 15 incidents of disorder, all involving drunkenness or the possession of alcohol. This included 2 incidents of violence and 5 incidents of drunkenness to the extent that medical attention was required. 23 people were arrested, 21 of whom had apparently consumed a significant amount of alcohol.

6.3. It is proposed that a public consultation be undertaken on the proposal to revoke the relaxation of the byelaws. This process would involve public advertisement of the proposal with time limits for response, together with consultation with other identifiable interested parties such as the Royal Burgh of Lanark Community Council.

7. The Process

7.1. Consultation

- 7.1.1. In order to avoid confusion when amending the byelaws, it is recommended that the Council should repeal the existing byelaws in full and make a new set of byelaws. Before drafting any new byelaws, the Council is required to consult with the Procurator Fiscal (as the person who would prosecute under the byelaws). Consultation is necessary to ensure that there is support for the new byelaws.
- 7.1.2. Contact has been made with the Fiscals to obtain their views on the proposal. The Procurator Fiscal for Airdrie and Lanark has responded, after discussions with the District Procurator Fiscal at Hamilton, that the extension of the byelaws and the revocation of the dispensation for Lanark on Lanimer Day are matters for the Council to decide. She felt that it would be inappropriate to express a view.
- 7.1.3. In relation to the creation of a new criminal offence, the Procurator Fiscal for Airdrie and Lanark has advised that she has no strong views on the amendment because, since mid September 2007, her office deals with a reduced number of cases involving drinking in public places. Most cases are dealt with by Police fixed penalties and the Procurator Fiscal's office only deals with those cases where the penalty has been refused.
- 7.1.4. On completion of the required consultations and taking into consideration any views expressed during the consultations, a report on the draft byelaws would be submitted to Committee for consideration. If Committee approves the draft byelaws, the Council would then present the draft byelaws to the Scottish Ministers for their formal views on the proposals.
- 7.1.5. Once Scottish Ministers agree the byelaws in principle, they would be put before Committee for formal approval.

7.2. Approval of the New Byelaws

- 7.2.1. Following Committee approval, the new byelaws must be advertised in the local press to give people the chance to object. At least 1 month is allowed for objections. Any person who wants to object to the new byelaws has to write direct to the Scottish Ministers. At the end of the objection period, the Scottish Ministers consider any objections and can:-

- ◆ approve the new byelaws without any changes
- ◆ approve the new byelaws with changes
- ◆ refuse to approve the new byelaws (in which case the existing byelaws would continue)

7.2.2. If they approve them, the Scottish Ministers set a date on which the new byelaws will take effect. This date is usually at least a month after the approval. The Council is notified of the date.

7.2.3. The Council is required to advertise the approval of the new byelaws in the local press and notify the Police and the Procurator Fiscal of the date on which the new byelaws will take effect

7.2.4 The new byelaws would repeal the existing byelaws on the same day.

8. Employee Implications

8.1. None.

9. Financial Implications

9.1 Any costs associated with consultation and promoting the new byelaws will be met from existing budgets.

10. Other Implications

10.1 None.

11. Equality Impact Assessment and Consultation Arrangements

11.1 There are no equality impact assessment issues.

11.2 As detailed in the report, consultation will be undertaken with all relevant parties.

Robert McIlwain

Executive Director (Corporate Resources)

12 September 2008

Link(s) to Council Objectives

- ◆ Improve community safety
- ◆ Safe and healthy communities

Previous References

Minutes of Administration and Licensing Committee of 30 October 1996

List of Background Papers

- ◆ Letter dated 6 November 2007 from Lanark Lanimer Committee
- ◆ Letter dated 1 February 2008 from Strathclyde Police
- ◆ Letter dated 29 August 2008 from the Procurator Fiscal for Airdrie and Lanark

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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