

ALCOHOL CONSUMPTION IN PUBLIC PLACES DESIGNATION OF PUBLIC PLACES IN HEREFORD

**Report By: HEAD OF ENVIRONMENTAL HEALTH AND TRADING
STANDARDS**

Wards Affected

Central

Purpose

- 1.1 To consider a proposal to designate streets, roads and other areas (listed in Appendix 1) as public places within the meaning contained in the Criminal Justice and Police Act 2001 and thereby restricting anti-social public drinking in those areas.

Background

- 2.1 Local authorities have for some time had the power to bring in byelaws to control the consumption of alcohol in streets, roads and other such places within their areas. Herefordshire Council and its predecessor Councils brought such byelaws into effect in parts of the City of Hereford, Ross-on-Wye, Ledbury, Leominster and Bromyard.
- 2.2 Where the byelaw is in force, an offence exists where a person who is consuming intoxicating liquor in a designated place, continues to do so when told to stop doing so by a Police officer. Such powers have brought about a change in town centres in terms of the previously held perceptions of some that loutish, anti-social behaviour prevailed. A 'tool' was therefore available to control such behaviour and reduce the chances of drinking vessels being used in acts of violence.
- 2.3 The byelaw in the City of Hereford was introduced circa 1991 and scheduled a large number of streets and other areas as being encompassed by the powers. The existence of the powers has been regarded as a success.

New Powers

- 3.1 On 1st September 2001 sections 12-16 of the Criminal Justice and Police Act 2001 and the Local Authorities (Alcohol Consumption in Designated Places) Regulations 2001, came into force.
- 3.2 These new statutory powers replace the Home Office model byelaw relating to the consumption of alcohol in designated public places. From 1st September 2006, local authorities that wish to place a restriction on public drinking within their area, where it is associated with nuisance or annoyance to members of the public, or disorder, will have to consider making an order under section 13 of the aforementioned Act rather than proceeding with a byelaw.
- 3.3 The principal improvement of an order over the byelaw gives the Police (also includes Community Support Officers) the power to require a person not to drink alcohol in a designated place where the officer reasonably believes that the person is, has or intends to do so, and to surrender any alcohol or alcohol containers (other than sealed containers) in the person's possession. As before, it is not an offence to drink alcohol in a designated public place, but failure to comply with an officer's

requirements in respect of public drinking or surrender of alcohol, without reasonable excuse, is an arrestable offence.

- 3.4 Unlike the procedure associated with the byelaw, the local authority is not under any obligation to conduct a formal assessment of the nature of any alleged problem(s). However, the local authority has to be satisfied that public nuisance, annoyance or disorder has been associated with public drinking in a proposed area. Where there have been no such problems, a designation order will not be appropriate.
- 3.5 Incidentally, local authorities will need to replace any existing drinking byelaws with designation orders within a five-year period commencing 1st September 2001.

The proposed designated public places

- 4.1 Earlier this year, the local Police made a request to make areas of Hereford City centre designated places under the 2001 Act in order to give the relevant powers to Community Support Officers. In addition, a subsequent request (also from the police) was received to make those areas 'designated places' in order to improve the existing powers available to them. The requests were therefore to replace the powers relating to the current areas with the new powers for those same areas.
- 4.2 Since that initial communications, matters needing clarification have arisen relating to an area/premises in Commercial Road and the Cathedral Close namely with respect to defining whether or not the frontage to the Baptist Church in Commercial Road, and the exact areas adjacent to the Cathedral that were included in the Byelaw and therefore would become designated places. These matters have now been clarified.
- 4.3 In addition, having had the opportunity to look at the extent of the existing areas, statistics for drink-related problems and the proximity of recently created designated places (namely the designated place known as the Castle Green), it is proposed that St Owen Street as far as its junction with Bath Street, be included.
- 4.4 A full listing appears at Appendix 1.

The case for designation and the associated process

- 5.1 Neither the Police nor Herefordshire Council wishes to bring about a comprehensive ban on drinking in the open air – quite the contrary. Problems typically associated with uncontrolled consumption of alcohol relate to the effects that a small number of people have on other members of the public and businesses. This, in some cases, includes occupiers and visitors to residential properties.
- 5.2 Since late 2001, the Council has passed 2 orders relating to 6 designated places (Coningsby Hospital; Graveyard on Commercial Road; Castle Green; Rose Garden on Ledbury Road; Madley Recreation Ground; Madley Church grounds) where it was considered that there were drink-related problems and that the powers available to the Police would assist in controlling such problems. There have been no reports made to Environmental Health and Trading Standards (with the exception of Castle Green) that the problems previously encountered in those areas still persist. The introduction of these powers may therefore be regarded as a success.
- 5.3 The current powers available to the Police within the existing Byelaw area are also regarded as a success and their removal would be resisted strongly by the Police and possibly others as, since 1991, the level of problems associated with the

consumption of alcohol in the city centre of Hereford has been low. However, the current powers do not allow police officers to deal with certain types of incident as easily and effectively as they could. This is particularly the case in areas such as the Cathedral Close.

- 5.4 Following discussions with the Police and receipt of the request to designate places, a notice was placed in the Hereford Journal on 16 June 2004 (see Appendix 2) informing the public of the intention to bring in an order. At the same time, the Police, parish council and certain landowners/occupiers were formally given notice and asked for their comments with a view to assessing opinion on whether these, and any other areas, should be put forward for inclusion in a designation order.
- 5.5 Representations have been received from the Police, Hereford City Council, Maylord Shopping Centre, the Cathedral Administrator and Chapter Clerk, Councillor D Fleet, and Mr L Conod (Managing Director, DNG).
- 5.6 No comments have been received from Tesco Stores Limited nor the Baptist Church on Commercial Road.
- 5.7 Representations fall into two general groups: those supporting the continuation of controls on the consumption of alcohol in public places (including support for the provision of better powers) and those wishing to see a more relaxed approach to the control in situations that are subject to other controls.
- 5.8 The representations of the former group are outlined above but it is worth noting that the Police have stated "... under both the Licensing Act 1964 and the Licensing Act 2003 will look at any applications made in respect of any locations within the designated areas on their own merits." Furthermore the Police also stated "Any application made for a pavement cafe with the ability to sell alcoholic drinks would be looked at sympathetically, and providing there were some control measures in place, such as waitress service or possibly CCTV, or time controls on when it operated it is very unlikely that the West Mercia Constabulary would make any objections. Clearly until such time as an application is made it is not possible to give a definitive answer on the police position, but if the aim is to facilitate a vibrant and attractive city centre it is one the police would support."
- 5.9 The comments of the latter group consist of "encourage and promote the 'Continental Café Culture' that is one of the main principles behind Hereford City Centre rejuvenation and Herefordshire Councils Economic Development aims". Currently this is difficult because the Byelaw prohibits such consumption except in very limited situations where a person has the benefit of an occasional licence or occasional permission. In addition, liquor on-licences cover areas within licensed premises including areas within its curtilage. Streets are not part of such premises and therefore the licence (and control) cannot extend out into the street.
- 5.10 The current limitations of the 1964 Licensing Act will change in November 2005 when the Licensing Act 2003 comes fully into force. The licensing authority will have greater flexibility to grant licences in situations, which are not currently strictly catered for with such areas coming under the control and responsibility of the licensed person(s). Provided that person also has the benefit of a street trading consent (for consent streets) then there is the potential for allowing controlled alcohol consumption in clearly delineated areas within designated places whilst at the same time allowing the police to deal with drink-related problems using these powers for the 'street' and under other powers for licensed premises.

- 5.11 Changes to the licensing regime do not come into full force until next autumn but there is a desire to facilitate 'café society' conditions now and certainly next spring and summer. At the same time there is a need to provide the enhanced powers to the police to assist them in their work now and especially during those parts of the year when outdoor drinking is more likely. From next autumn this Council will have direct control over the sale of liquor from premises including any that utilise parts of the highway. Not only will the licensing authority change but there will also be changes to the legislation that will allow areas currently outside licensed premises to have the benefit of an 'on-licence'. That direct control coupled to control over street trading would mean that the Council could control the development of 'café society' and within areas subject to powers available to the police.
- 5.12 The proposals accord with initiatives already commenced by the Herefordshire Community Safety Partnership with respect to crime and disorder and in particular tackling alcohol-associated problems.

Options

Option One – do nothing

Would result in maintenance of the status quo and not satisfy the police's needs to have more effective powers.

Would, by September 2006, result in no control over consumption of alcohol in public places and result in a probable return to the unsatisfactory situations experienced in the late 1980s and early 1990s.

Would result in the continued conflict between the desire to prevent problems and the desire to create a vibrant city centre.

Option Two – designate all currently regulated areas with minor additions and clarification

Would result in providing the police with a more effective way of dealing with drinking related problems.

Would result in the continued conflict between the desire to prevent problems and the desire to create a vibrant city centre.

Option Three – designate all currently regulated areas with minor additions and clarification plus adopting a flexible approach to street trading

Would result in providing the police with a more effective way of dealing with drinking related problems.

Would facilitate the development of certain street trading activities and integrate with other initiatives etc put forward by this Council and partners.

Financial Implications

- 7.1 Should the recommendation be agreed then a further advertisement must be placed in the local newspaper. In addition, appropriate signage must be purchased and erected in suitable places. Advertisement will cost approximately £400.00. Signs

erected at the principal entrances to each of the areas of land along with some located within the land should result in between 40 and 50 signs being purchased and erected at an estimated, average cost of £15 per sign.

RECOMMENDATION

THAT The Committee makes an Order designating those areas detailed in Appendix 1 as public places for the purposes of section 13 of the Criminal Justice and Police Act 2001, and request the Police (directly and through the Community Safety Partnership) to treat applications for liquor licences in designated areas sympathetically and in keeping with the aim of facilitating a vibrant and attractive city centre.

BACKGROUND PAPERS

- Letter dated 20 January 2004 from West Mercia Constabulary
- Electronic mail from West Mercia Constabulary
- Letters to consultees
- Letters and emails from consultees and others
- Copy of notice placed in Hereford Journal – 16 June 2004
- Hereford City Council Byelaw
- Crime and Disorder Act 1998
- Criminal Justice and Police Act 2001
- The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001

APPENDIX 1

Proposed streets etc within the designated area

All Saints Street	High Town
Aubrey Street	King Street
Berrington Street	Little Berrington Street
Bewell Street	Mansion House Walk
Blue School Street Service Road	Maylord Orchards Service Areas
Booth Hall Passage (25m from junction with St Peter Street)	Maylord Street
Brewers Passage	Offa Street
Bridge Street	Palace Yard
Capuchin Lane	St John Street
Cathedral Close (all areas with the exception of the Cloisters and the Deanary)	St Nicholas Street
Church Street	St Owen Street (to its junction with Bath Street)
Commercial Road	St Peter Street
Commercial Street	St Peter's Square
East Street	Union Passage
Eign Gate	Union Street
Fryzers Court	Victoria Street Subway
Gomond Street	Wall Street
Gwynne Street	West Street
High Street	Widemarsh Street (to its junction with Newtown Road)

APPENDIX 2

**HEREFORDSHIRE COUNCIL
ENVIRONMENTAL HEALTH AND
TRADING STANDARDS**

**CRIMINAL JUSTICE AND POLICE
ACT 2001
THE LOCAL AUTHORITIES
(ALCOHOL CONSUMPTION IN
DESIGNATED PUBLIC PLACES)
REGULATIONS 2001**

The Herefordshire Council, under powers available to it in the Criminal Justice and Police Act 2001, has identified streets, roads, paths and areas of land in the centre of the City of Hereford as 'public places' with the intention of making an order to control the consumption of intoxicating liquor in those areas.

These streets, roads, paths and areas of land are those currently the subject of an 'alcohol' byelaw plus an additional area namely the land surrounding Hereford Cathedral.

The Council is inviting representations as to whether or not an order should be made. Any such representations should be in writing and sent to Mr. P Nicholas, Herefordshire Council, P.O. Box 233, Hereford, HR1 2ZF, to arrive no later than 16th July 2004.

Any person wishing to obtain further details of the proposed streets, road, paths and areas and the effect of the Order may telephone Mr. Nicholas on 01432 261761 during normal office hours.

Any person wishing to view a copy of a plan showing the areas and/or view a copy of the relevant legislation may do so at the Council's Bath Street Offices, Hereford. The Offices are open between 0845 and 1715 Mondays to Thursdays and until 1645 on Fridays.



**HEREFORDSHIRE
COUNCIL**