

Proposed Designated Public Place (alcohol restriction) scheme to cover public land at Cavendish Square and the surrounding area
Licensing Committee **Date: 27 October 2009**

Author: Head of Licensing

Wards Affected: Parks

Purpose

- To consider a recommendation to implement a new Designated Public Place Order, covering land around Cavendish Square, with a proposed implementation date of 1st February 2010.

Recommendation

Licensing Committee is asked : -

- To agree that a new Designated Public Place is created, covering the areas shown on the map in Appendix One.
- To agree that signage is provided in the manner set out in the report.

1. Reasons

- 1.1 The Services to the Community Overview and Scrutiny Commission reviewed the Designated Public Place in the town centre, in November 2004. It found limitations in what such schemes are able deliver but tangible benefits overall. The police have highlighted that Cavendish Square has become a focal point for adult street drinkers who are causing problems there. Their view is that the enhanced powers made available to them by making an Order would be beneficial.

2. Detail

- 2.1 Sections 12-16 of the Police and Criminal Justice Act 2001 enable the declaration of Designated Public Places. This can be done only where the consumption of alcohol on the street and in other public places has been shown to be causing recent problems. Designation cannot be used pre-emptively. Its effect is to give police officers extra powers, in particular, to confiscate and pour away alcohol. It is not a blanket ban on alcohol consumption in public and no new offence of drinking alcohol in public is created. The police can however arrest and prosecute someone who refuses to co-operate when instructed by them to stop drinking. The arrest and prosecution sanction is of little value but confiscation has been shown to be effective and efficient.
- 2.2 There is an unhelpful and incorrect public perception, often promulgated by the media, that designation means an 'alcohol ban'. In reality, designation only addresses alcohol consumption where it is a problem. It does not ban

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picnics or offer a mechanism for opposition to the consumption of alcohol from a principled or religious perspective.

- 2.3 The additional police powers cannot be used to prevent families having some wine with a picnic or to intervene if customers gather outside a pub with their pints of beer, to watch a carnival procession pass. The powers are to remedy anti-social behaviour, often where the drinker has an alcohol dependency.
- 2.4 Designated Public Places are irrelevant when young people are drinking in public. If someone under 18 years of age is consuming alcohol in a public place, the 'extra' police powers are already universally available. The whole of Swindon is effectively a 'designated area' as far as under-aged drinkers are concerned.
- 2.5 The universal powers go further than that. If a group of drinkers anywhere includes people under 18, alcohol can be seized from those over 18 provided there is a reasonable presumption that those under 18 will be able to access the alcohol.
- 2.6 Designated Public Place Orders do not remove the need for effective social, medical and counselling facilities for street drinkers.
- 2.7 The attached letter from the Police (attached as Appendix One) summarises their argument for enforcement powers in the Cavendish Square area.
- 2.8 Designation is permissible for any public place where a local authority is "satisfied that a). nuisance or annoyance to the public or a section of the public or b). disorder have been associated with the consumption of alcohol in that place". [Section 13, Criminal Justice and Police Act 2001.]
- 2.9 The letter from the Police appears to bear out the qualification requirements. The evidence points to adult drinkers creating problems for the community.
- 2.10 Unfortunately, the signage associated with an Order adds to street clutter and tends to stigmatise, rather than reducing feelings of insecurity. No quantity of signage, however large, could ever provide a watertight assurance that 'enough' has been done. This is despite the fact that no signage at all is displayed, where children are subject to arrest using identical powers.
- 2.11 Confiscation is carried out by a Police Officer or a Police Community Support Officer and they will explain their powers when doing so. Signage only underlines the message.
- 2.12 A letter from the Home Office sent at the launch of the legislation in 2001 expressed views on the use and implementation of Designated Public

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Places. The letter was not a Circular and its advice is not binding. Since then, the more substantial Dispersal Order powers have been brought in, without any significant signage requirement.

- 2.13 Inexpensive signage is quickly degraded by vandalism and the weather and starts to look untidy. It is also noticed less. It is proposed that a few, high quality signs only should be made available and that these should convey a positive message of reassurance rather than sounding a note of alarm. Initial purchase costs will be contained, although there will be ongoing maintenance costs.
- 2.14 Implementation of a Designated Public Place would require prior consultation with the holders in that area of licences for the sale of alcohol. Owners or occupiers of land within the proposed designated area also have a right to comment on the proposal. The statutory consultation period is 28 days. A public notice setting out the plan and its effect must be published in a local newspaper at the start of the process and a further public notice must be published after the decision to designate has been made but before the designation comes into effect.
- 2.15 The Police have proposed an area for designation, based on their experience. A copy of that plan is attached as Appendix Two.
- 2.16 It is proposed that if there are no adverse comments on this proposal, the final resolution will be put directly to the next available meeting of full Council. If adverse representations are received, a further meeting of the Licensing Committee would be convened to consider them.
- 2.17 The Licensing Committee has previously said that as the additional powers are a proportionate response to anti-social behaviour, they should either apply universally or local authorities should have the option to apply them to the whole of their borough. This view has been put to government but has been rejected. The government position on this matter is stated in the letter dated 15 January 2008 at Appendix Three.
- 2.18 Community perceptions can create practical problems for the Police. Many people in the community want and expect a 'drinking ban'. There is a mismatch between their expectation and the purpose of the legislation, so the Police are liable to be criticised for not going far enough, when they are in fact acting quite properly.

<p>Risk Management</p> <p><i>Financial and Procurement Implications</i></p> <p>The creation of a new Designated Public Place would have various financial</p>
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consequences. The necessary public consultation entails writing letters or sending e-mails to two public bodies and around six traders. The costs of consultation, advertising and signage can be contained within the cash limited budget for the service area. Community Safety Partnership funds have been identified for the provision of and fixing of signage, within the existing budget.

Legal / Human Rights Implications Provided that police officers exercise their additional powers only in situations where the drinking of alcohol in public is making others feel uncomfortable or where public order is put at risk, the powers available are reasonable and proportionate. If police officers were to interpret the powers as a 'drinking ban' it might be necessary to review the designation.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

The designation of Designated Public Places relates particularly to the LAA outcome of reducing crime and the fear of crime.

Consultees

- It is proposed that active consultation (other than by the public notice in a newspaper) is limited to the statutory consultees.

Background Papers and Appendices

- Services to the Community Overview and Scrutiny Commission: Alcohol Designated Zone Review November 2004.
- Appendix One. Letter from the police concerning the Cavendish Square area.
- Appendix Two. Plan of the proposed designated area.
- Appendix Three. Letter from Vernon Coaker MP Parliamentary Under Secretary of State at the Home Office.