South Ayrshire Council

Report by Head of Policy, Community Planning and Public Affairs to South Ayrshire Council of 10 October 2013

Subject: Prohibiting the Consumption of Alcoholic Liquor in Designated Places – Review of South Ayrshire Byelaws

1. Purpose

1.1 To advise the Council of the outcome of the review of the current South Ayrshire Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2002 and to invite agreement to new byelaws in relation to the consumption of alcohol in designated public places.

2. Recommendation

2.1 Council is invited to:

   (1) approve the new draft byelaws to be known as the ‘South Ayrshire Council (Prohibition of the Consumption of Alcohol in Designated Places) Byelaws 2013’;

   (2) seek confirmation in respect of those byelaws from the Scottish Government;

   (3) approve, once the new byelaws have been confirmed by the Scottish Government, advertisement of the date the new byelaws come into effect;

   (4) revoke the existing byelaws known as the ‘South Ayrshire Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2002’ at 11.59pm on the day prior to the new byelaws coming into effect; and

   (5) approve the work to be undertaken to promote awareness of the new byelaws.

3. Background

3.1 The South Ayrshire byelaws for prohibiting the consumption of alcoholic liquor in designated places came into force in September 2002, and these can be accessed at:


Section 202A of the Local Government (Scotland) Act 1973 provides that a local authority shall, within 10 years from the coming into force of a byelaw, review that byelaw and do so thereafter at intervals of not more than 10 years.

3.2 The existing byelaws make it a criminal offence to drink alcohol and to have an open container of alcohol in certain public places and are used frequently by the Police to address such behaviour. The byelaws apply to certain specified areas and maps are used to clearly show the boundaries around settlements within South Ayrshire where these byelaws apply.
A review of the byelaws commenced in late 2012 involving Strathclyde Police (now Police Scotland), the Procurator Fiscal and representatives from the Council’s Legal and Planning departments.

Police Scotland has confirmed that since the introduction of the byelaws there has been a considerable reduction in the number of street disorder crimes across South Ayrshire. Analysis of figures shows that in 2008 a total of 879 fixed penalty notices were issued for street drinking offences and that this had dropped to 595 by 2012. The number of publicly reported street drinking incidents has also reduced by 55% over the same period.

4. Proposals

4.1 Recommendations from the review group are that South Ayrshire Council should continue with the current wording of the byelaws which state that any person who consumes alcoholic liquor in a designated place or is found to be in possession of an open container containing alcoholic liquor in a designated place shall be guilty of an offence and liable on summary conviction to a fine. Amendments to the wording of the byelaws were required to take cognisance of wording changes in liquor licensing legislation in terms of the Licensing (Scotland) Act 2005. These changes had been inserted in the existing byelaws by way of regulation. The draft revised byelaws are contained in Appendix 1 and the alterations required by legislative changes have been highlighted there.

4.2 The review group also asked the Council’s planning department to redraw the boundaries around the settlements in South Ayrshire where new housing and other developments had either been implemented or are planned. Planning officers have ensured this reflects the current local plan. A set of 33 maps showing these boundaries, within which the byelaws are enforced, can be accessed in the Members’ Library, or at:


4.3 Members are asked to approve the new boundaries within which the byelaws will be enforced and the addition of maps for the Pinmore and Pinwherry communities and subsequent amendment to the schedule contained in the byelaws, which specifies the designated places.

4.4 Paragraph 5 of the byelaws state that ‘the Council shall erect one or more signs at or reasonably adjacent to each designated place for the purpose of giving notice of the effect of these byelaws’. Discussions are ongoing with various departments in the Council in relation to signage. Additionally, media work will be undertaken to promote awareness of the byelaws not least as a reminder that people should not be drinking in public places.

4.5 The existing byelaws will continue in force until such times as the new draft byelaws are confirmed.

4.6 Once the Council has approved the byelaws they are then signed on behalf of the Council by an authorised signatory, but will not come into effect until they are confirmed by the Scottish Government.

4.7 At least one month before the application for confirmation of the byelaws is made a notice is placed in local newspapers informing the public of the intention to apply for confirmation, where a copy of the byelaws can be inspected and how any objections can be made.

4.8 Anybody not agreeing with the byelaws may, within one month after the information has been published, notify in writing his or her objection and the grounds of this to the Scottish Government. Before confirming the byelaws, the Scottish Government shall take into consideration any objections received and may, if they consider it necessary or desirable, hold a local inquiry or cause a local inquiry to be held.
4.9 The Scottish Government may confirm with or without modification or refuse to confirm any byelaws submitted for confirmation and may fix the date on which the byelaws are to come into operation.

4.10 As soon as practicable after receiving the confirmation of the byelaws by the Scottish Government, the Council will give notice in local newspapers informing the public of the date on which the byelaws will come into operation and where a copy of the confirmed byelaws can be inspected.

4.11 Notice of the revocation of the existing byelaws will also be made at that time, with the revocation coming into effect at 11.59 pm on the day prior to the new byelaws coming into effect.

5. Resource Implications

5.1 Financial

Costs will arise in relation to public notices and signage of the new bye laws. These will be accommodated within existing resources.

5.2 Legal

Officers from legal services have been involved throughout the review and the legal requirements in relation to next steps are set out in the report.

5.3 Human Resources

There are no human resource implications immediately arising from the report.

6. Risk

6.1 The review of the byelaws is a statutory requirement so if we don’t implement the findings of the review we are in breach of these requirements.

7. Equalities

7.1 An Equalities Scoping Template has been completed (attached as Appendix 2). A full Equalities Impact Assessment is not required

8. Sustainable Development Implications

8.1 This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

9. Options Appraisal

9.1 An options appraisal has not been undertaken in relation to this paper.

10. Link to Council’s Priorities/ Improvement Programme

10.1 This paper supports the Council’s efforts in relation to Strengthening our Communities.

11. Results of Consultation

(1) Consultation has taken place with Strathclyde Police (now Police Scotland), the Procurator Fiscal and South Ayrshire Council – Legal and Planning departments. The proposed amendments to the byelaws and associated boundary maps have been communicated to community councils in South Ayrshire.
(2) Consultation has taken place with Councillor Rita Miller, Portfolio Holder for Social Services.

Background Papers
South Ayrshire Council Byelaws Prohibiting the Consumption of Alcoholic Liquor in Designated Places 2002


Proposed Boundary Maps (copy also provided in Members' Library)


Person to Contact
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Phone 01292 612134
Email valerie.stewart@south-ayrshire.gov.uk

Date: 2 October 2013
The South Ayrshire Council (hereinafter referred to as the Council) in exercise of the powers conferred on it by Sections 201, 202 and 203 of the Local Government (Scotland) Act 1973, and of all other powers enabling it in that behalf, hereby makes the following byelaws:

**INTERPRETATION AND CITATION**

1. (1) In these byelaws unless the context otherwise requires –

   'alcohol' has the same meaning as in Section 2 of the Licensing (Scotland) Act 2005;

   'designated place' means any place to which the public have access within the areas specified in the Schedule to these byelaws and shown edged in red on the plans annexed and signed as relative hereto;

   'occasional licence' has the same meaning as in Section 56 (1) of the Licensing (Scotland) Act 2005;

   'premises licence' has the same meaning as in Section 17 of the Licensing (Scotland) Act 2005.

(2) These byelaws may be cited as the South Ayrshire Council (Prohibition of the Consumption of Alcohol in Designated Places) Byelaws 2013.

**APPLICATION**

2. These byelaws shall not apply:

   (a) on 31 December, from 6pm until the end of that day; and

   (b) on 1 January, until 6am.

**OFFENCE**

3. (1) Subject to paragraphs (2) and (3) of this byelaw, any person who consumes alcohol in a designated place or is found to be in possession of an open container containing alcohol in a designated place shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

   (2) It shall not be an offence against these byelaws to do anything in any designated place in respect of which a premises licence is in effect.

   (3) It shall not be an offence against these byelaws to do anything in any designated place in respect of which an occasional licence is in operation, during any period when alcohol may be sold there by virtue of that license and for 15 minutes after the expiry of such period.

**PRESUMPTIONS**

4. (1) This byelaw applies for the purposes of any trial for an offence against these byelaws.
(2) Any liquid found in a container shall, subject to the provisions of this byelaw, be presumed to conform to the description of the liquid on the container.

(3) A container which is found to contain:

(a) no liquid; or

(b) insufficient liquid to permit an analysis shall, subject to the provisions of this byelaw, be presumed to have contained at the time of the alleged offence liquid which conformed to the description of the liquid on the container.

(4) A person shall not be entitled to lead evidence for the purpose of rebutting a presumption in paragraphs (2) and (3) above unless, not less than 7 days before the trial, he has given notice to the prosecutor of his intention to do so.

PUBLIC NOTICES OF EFFECT

5. (1) The Council shall erect one or more signs at or reasonably adjacent to each designated place for the purpose of giving notice of the effect of these byelaws.

(2) It shall be no defence in proceedings against a person for an offence under these byelaws that the Council failed to comply with paragraph (1) of this byelaw.
SCHEDULE

Each of the areas specified below is a designated place for the purposes of these byelaws:

1. ALL and WHOLE the town of Ayr, part of South Ayrshire shown within the boundaries edged red on plan 1 annexed and executed as relative hereto.

2. ALL and WHOLE the town of Prestwick, part of South Ayrshire shown within the boundaries edged red on plan 2 annexed and executed as relative hereto.

3. ALL and WHOLE the town of Troon, part of South Ayrshire shown within the boundaries edged red on plan 3 annexed and executed as relative hereto.

4. ALL and WHOLE the town of Girvan, part of South Ayrshire shown within the boundaries edged red on plan 4 annexed and executed as relative hereto.

5. ALL and WHOLE the town of Maybole, part of South Ayrshire shown within the boundaries edged red on plan 5 annexed and executed as relative hereto.

6. ALL and WHOLE the town of Barrhill, part of South Ayrshire shown within the boundaries edged red on plan 6 annexed and executed as relative hereto.

7. ALL and WHOLE the village of Dundonald, part of South Ayrshire shown within the boundaries edged red on plan 7 annexed and executed as relative hereto.

8. ALL and WHOLE the village of Monkton, part of South Ayrshire shown within the boundaries edged red on plan 8 annexed and executed as relative hereto.

9. ALL and WHOLE the village of Tarbolton, part of South Ayrshire shown within the boundaries edged red on plan 9 annexed and executed as relative hereto.

10. ALL and WHOLE the village of St. Quivox, part of South Ayrshire shown within the boundaries edged red on plan 10 annexed and executed as relative hereto.

11. ALL and WHOLE the village of Coylton part of South Ayrshire shown within the boundaries edged red on plan 11 annexed and executed as relative hereto.

12. ALL and WHOLE the village of Annbank, part of South Ayrshire shown within the boundaries edged red on plan 12 annexed and executed as relative hereto.

13. ALL and WHOLE the village of Mossblown, part of South Ayrshire shown within the boundaries edged red on plan 13 annexed and executed as relative hereto.

14. ALL and WHOLE the village of Fisherton, part of South Ayrshire shown within the boundaries edged red on plan 14 annexed and executed as relative hereto.

15. ALL and WHOLE the village of Dunure, part of South Ayrshire within the boundaries edged red on plan 15 annexed and executed as relative hereto.

16. ALL and WHOLE the village of Maidens, part of South Ayrshire within the boundaries edged red on plan 16 annexed and executed as relative hereto.

17. ALL and WHOLE the village of Turnberry, part of South Ayrshire within the boundaries edged red on plan 17 annexed and executed as relative hereto.

18. ALL and WHOLE the village of Crosshill, part of South Ayrshire within the boundaries edged red on plan 18 annexed and executed as relative hereto.
19. ALL and WHOLE the village of Dailly, part of South Ayrshire within the boundaries edged red on plan 19 annexed and executed as relative hereto.

20. ALL and WHOLE the village of Colmonell, part of South Ayrshire within the boundaries edged red on plan 20 annexed and executed as relative hereto.

21. ALL and WHOLE the village of Ballantrae, part of South Ayrshire within the boundaries edged red on plan 21 annexed and executed as relative hereto.

22. ALL and WHOLE the village of Straiton, part of South Ayrshire within the boundaries edged red on plan 22 annexed and executed as relative hereto.

23. ALL and WHOLE the village of Barr, part of South Ayrshire within the boundaries edged red on plan 23 annexed and executed as relative hereto.

24. ALL and WHOLE the village of Minishant, part of South Ayrshire within the boundaries edged red on plan 24 annexed and executed as relative hereto.

25. ALL and WHOLE the village of Lendalfoot, part of South Ayrshire within the boundaries edged red on plan 25 annexed and executed as relative hereto.

26. ALL and WHOLE the village of Craigie, part of South Ayrshire within the boundaries edged red on plan 26 annexed and executed as relative hereto.

27. ALL and WHOLE the village of Symington, part of South Ayrshire within the boundaries edged red on plan 27 annexed and executed as relative hereto.

28. ALL and WHOLE the village of Kirkoswald, part of South Ayrshire within the boundaries edged red on plan 28 annexed and executed as relative hereto.

29. ALL and WHOLE the village of Kirkmichael, part of South Ayrshire within the boundaries edged red on plan 29 annexed and executed as relative hereto.

30. ALL and WHOLE the village of Failford, part of South Ayrshire within the boundaries edged red on plan 30 annexed and executed as relative hereto.

31. ALL and WHOLE the village of Pinwherry, part of South Ayrshire within the boundaries edged red on plan 31 annexed and executed as relative hereto.

32. ALL and WHOLE the village of Pinmore, part of South Ayrshire within the boundaries edged red on plan 32 annexed and executed as relative hereto.

33. ALL and WHOLE the village of Old Dailly, part of South Ayrshire within the boundaries edged red on plan 33 annexed and executed as relative hereto.
EQUALITY IMPACT ASSESSMENT

Prohibiting the Consumption of Alcoholic Liquor in Designated Places – Review of South Ayrshire Byelaws

2013
South Ayrshire Council  Equalities Scoping Template

1. Policy details

| Policy Title: Prohibiting the Consumption of Alcoholic Liquor in Designated Places – Review of South Ayrshire Byelaws | Lead Officer: Valerie Stewart, Community Planning Co-ordinator Claire Neillie, Solicitor |

2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this policy? Please indicate whether these would be positive or negative impacts

<table>
<thead>
<tr>
<th>Community, Groups of People or Themes</th>
<th>Negative Impacts</th>
<th>Positive impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>The whole community of South Ayrshire</td>
<td>Yes, as this is a nationally required Byelaw</td>
<td></td>
</tr>
<tr>
<td>People from different racial groups, ethnic or national origin.</td>
<td>As Above</td>
<td></td>
</tr>
<tr>
<td>Women and/or men (boys and girls)</td>
<td>As Above</td>
<td></td>
</tr>
<tr>
<td>People with disabilities</td>
<td>As Above</td>
<td></td>
</tr>
<tr>
<td>People from particular age groups for example Older people, children and young people</td>
<td>As Above</td>
<td></td>
</tr>
<tr>
<td>Lesbian, gay, bisexual and heterosexual people</td>
<td>As Above</td>
<td></td>
</tr>
<tr>
<td>People who are proposing to undergo, are undergoing or have undergone a process to change sex</td>
<td>As Above</td>
<td></td>
</tr>
<tr>
<td>Pregnant women and new mothers</td>
<td>As Above</td>
<td></td>
</tr>
<tr>
<td>People who are married or in a civil partnership</td>
<td>As Above</td>
<td></td>
</tr>
<tr>
<td>People who share a particular religion or belief</td>
<td>As Above</td>
<td></td>
</tr>
<tr>
<td>Thematic Groups: Health, Human Rights, Rurality and Deprivation.</td>
<td>As Above</td>
<td></td>
</tr>
</tbody>
</table>

3. Do you have evidence or reason to believe that the policy will support the Council to:

<table>
<thead>
<tr>
<th>General Duty and other Equality Themes</th>
<th>Level of Negative and/or Positive Impact (high, medium or low)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eliminate discrimination and harassment faced by particular communities or groups</td>
<td>N/A</td>
</tr>
<tr>
<td>Promote equality of opportunity between particular communities or groups</td>
<td>N/A</td>
</tr>
<tr>
<td>Foster good relations between particular communities or groups</td>
<td>N/A</td>
</tr>
<tr>
<td>Promote positive attitudes towards different communities or groups</td>
<td>N/A</td>
</tr>
<tr>
<td>Increase participation of particular communities or groups in public life</td>
<td>N/A</td>
</tr>
<tr>
<td>Improve the health and wellbeing of particular communities or groups</td>
<td>As Above</td>
</tr>
<tr>
<td>Promote the human rights of particular communities or groups</td>
<td>N/A</td>
</tr>
<tr>
<td>Tackle deprivation faced by particular communities or groups</td>
<td>N/A</td>
</tr>
</tbody>
</table>

4. Summary Assessment

Is a full Equality Impact Assessment required? (A full EIA must be carried out on all high and medium impact policies) YES [ ] NO [x]
Rationale for decision:
These Byelaws are required to follow national policy and to be approved by Scottish Government. The Council has, with relevant partners, reviewed the areas within South Ayrshire which should be designated for enactment of the Byelaws. The designated areas relate to populated areas and do not target any protected characteristics. The Byelaws are part of current Scottish government policy therefore there is no requirement to Equality Impact Assess.

Signed: Claire Monaghan  Head of Service (Policy, Community Planning and Public Affairs)

Date: 17 September 2013  Copy to equalities@south-ayrshire.gov.uk