

WEST DUNBARTONSHIRE COUNCIL

Report by Chief Executive

Council - 28 June 2006

Subject: Proposed Revision of West Dunbartonshire Council's Bye-law for the Prohibition of the Consumption of Alcohol in Designated Public Places And the Management Rules for the Administration of Public Parks And Open Spaces.

1. Purpose

- 1.1** To obtain the Council's approval to take steps to amend the current byelaw prohibiting the consumption of alcohol in designated public places within West Dunbartonshire to cover Balloch Castle Country Park and the surrounding area.
- 1.2** To obtain the Council's approval to revise the current Management Rules for the Administration of Public Parks and Open Spaces.

2. Background

- 2.1** Following a report on the above subject, which was submitted to the Community Safety and Environmental Services Committee on 3 May 2006, it was agreed to continue consideration of the report to the next meeting of the Council in order that further and more detailed information on this matter could be obtained.
- 2.2** The report to the Community Safety and Environmental Services Committee has been incorporated into this report with further information provided as required.

Background to Bye-law

- 2.3** The current Bye-law prohibiting drinking alcohol in public places is the *West Dunbartonshire Council's Prohibition for the Consumption of Alcohol in Designated Public Places Bye-law 1998*. Balloch Castle Country Park and its immediate surrounds are not included in the area covered by the bye-law. At the time when the Bye-law was enacted, the then Scottish Office tended to exempt such areas on the grounds of tourism.

- 2.4** Following complaints of anti social behaviour which have involved the consumption of alcohol within the boundaries of the Park, and after consultation with the Balloch Forum, discussions have taken place on a proposal to extend the area covered by the current Bye-law to include the Park and its immediate surrounds. West Dunbartonshire Council does have a duty to review the bye-laws from time to time and it would appear to be the case that there are now adequate grounds to extend the Bye-law into the Park area with a view to preventing problems associated with alcohol consumption in the Park. The Police have confirmed that from 1 June 2005 to 31 May 2006 there were seventeen reported offences against the Bye-law in and around Balloch. There have been a further thirty reported incidents of drinking in public during the same period. These incidents have in the main taken place along Balloch Road and Old Luss Road. It is believed that youths tend to drink in the exempt Park area and move into built up areas which can result in anti-social behaviour. A copy of the plan showing the proposed amendment (shown hatched on the plan) to the existing Bye-law is attached for reference.

Background to Management Rules

- 2.5** Given the terms of the Civic Government (Scotland) Act 1982 and the Land Reform (Scotland) Act 2003, the Council requires to review its Management Rules for the administration of public parks and open spaces. In particular, the Council requires to take cognisance of the public rights of access to parks and open spaces. This right requires to be read in conjunction with the Scottish Outdoor Access Code which establishes the rights and responsibilities of responsible access to such areas. The Council's existing Management Rules have been reviewed accordingly.
- 2.6** The Management Rules have also been reviewed to address such issues as unauthorised camping within Balloch Castle Country Park. A copy of the proposed Management Rules is attached for reference purposes.

3. Main Issues

- 3.1** Through the passage of time and taking account of changes to legislation and social habits, it is felt that the Management Rules and Bye-law require to be updated. Agencies such as the Park Authority, the Police and Procurator Fiscal have been consulted as appropriate and have raised no in principle objections.
- 3.2** Any proposed changes to the existing Bye-law and the Management Rules require to be put out to public consultation. The amendment to the Bye-law will require approval from the Scottish Ministers.

- 3.3** The legal position with regard to the Bye-law is that it is an offence to 'consume' alcohol within a designated place. There are statutory rebuttable presumptions within the current Bye-law which assist in the prosecution of the offence at Court or by means of a fixed penalty by the Fiscal. The Police and Fiscal have raised no issues as to the enforceability of the Bye-law. The current existing Bye-law does not (apart from a suspension of enforceability on New Year's Eve through to New Year's Day) stipulate time periods when it is in force. It is felt that any time restrictions may fetter the actions of the Police. The Byelaw would not create an offence where an area within the Park is specifically licensed for an event.

4. Personnel Issues

- 4.1** None.

5. Financial Issues

- 5.1** Apart from the costs of issuing Statutory Notices and complying with the relevant consultation process, there are only limited financial issues.

6. Recommendation

- 6.1** The Council is asked:-

- (i) To approve, in principle, the proposed amendment of the Alcohol Prohibition in Designated Public Places Bye-law to include Balloch Castle Country Park and the immediate surrounds.
- (ii) To approve, in principle, the proposed changes to the Management Rules for the Administration of Public Parks and Open Spaces.
- (iii) To agree to the relevant statutory consultation taking place with a further report to be submitted to Council in due course.

Tim Huntingford
Chief Executive

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Background Papers:

1. West Dunbartonshire Council Bye-law for the Prohibition for the Consumption of Alcohol in Designated Public Places 1998.
2. West Dunbartonshire Council Management Rules for the Administration of Public Parks and Open Spaces 2000.

Appendices:-

1. Map showing the Proposed Extension to West Dunbartonshire Council's existing Bye-law for the Prohibition of the Consumption of Alcohol in Designated Public Places.
2. Proposed Amendment to the existing Management Rules for the Administration of Public Parks and Open Spaces.

Wards affected: All.