

CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Refuse & Environment

TO: Licensing Committee

21/7/2014

WARDS: All

VOLUNTARY CODE ON SALES OF HIGH STRENGTH BEERS AND CIDERS

1. INTRODUCTION

- 1.1 This report seeks to address concerns regarding perceived antisocial behaviour by street drinkers as a consequence of the easy availability of low cost, high strength beers and ciders and considers the feasibility of introducing a voluntary code for retailers on sales of such items. This measure was identified in the Council's Annual Statement, as part of its commitment to making Cambridge safer.

2. RECOMMENDATION

- 2.1 Members are asked to request officers to enter into discussions with potential partners, as listed in Section 7f, with a view to developing a voluntary code on the sale of high strength beers, lagers and ciders, for submission to the Executive Councillor for Strategy and Resources, for adoption.

3. BACKGROUND

- 3.1 Antisocial behaviour associated with those who have been drinking heavily is an issue which has caused concern for residents, the police and elected members in recent years and months. This has, mainly, been associated with groups of street drinkers, who have congregated in areas close to off-licensed premises, where the availability of high strength and cheap beers, lagers and ciders has been cited as a principal reason for their presence.
- 3.2 Amongst the behaviours complained about, obstruction of the pavement, creating an intimidating atmosphere for passers-by, of off-licences and their neighbours, intermittent fights and disturbances have all been the subject of complaints to the police.
- 3.3 Reviews of the licences of off-licences where problematic behaviour has taken place were undertaken in respect of two premises – News and More, in Norfolk Street and the Pink Elephant in Milton Road. In each case, additional conditions have been attached to the premises licences, including a ban on ability of the licence holder to sell beers with a strength of more than 5.5 ABV.

- 3.4 There is some concern that the focus of antisocial behaviour by street drinkers will simply move from locations where conditions have been amended to other areas where the same controls do not apply, unless an initiative is taken to forestall this.
- 3.5 In Ipswich, following a period of serious public concern, focussed on street drinkers behaviour in central areas of the town, a campaign of action was initiated by an alliance of public bodies, including the Borough Council, Public Health Suffolk, Suffolk Constabulary, Suffolk County Council, which sought to engage retailers in a voluntary scheme called Reducing the Strength. (Appendix A)
- 3.6 The key principles of the initiative were identified as:
- Reducing the supply of high strength alcohol,
 - Improving enforcement
 - Developing routes out of alcohol dependency
- 3.7 It was recognised, at an early stage of the initiative that simply having retailers ceasing to sell high strength alcohol would not, in itself, achieve the objective of reducing problems. Street drinkers with a high level of alcohol dependency do not simply cease to be addicted where supply is restricted and may become involved in more criminality, in order to acquire funds to purchase alcohol.
- 3.8 The involvement of other agencies, such as outreach workers, treatment agencies and access to rehabilitation, housing and other support, with a robust aftercare programme are seen as essential to achieving routes out of dependency.
- 3.9 A pilot project, seeking to support street drinkers out of dependency on alcohol has begun recently, involving several agencies, including the Council's Community Safety team.
- 3.10 One tool for tackling problems associated with the consumption of alcohol in the street is the use of S27 directions, to move drinkers from a location where problems are occurring

4. LEGISLATIVE PROVISIONS

- 4.1 The sale and supply of alcohol is regulated under the Licensing Act 2003, which requires that a premises licence be in force at premises where alcohol is sold. The premises must also be managed by a person who holds a personal licence, awarded after completing a qualification and a basic disclosure – designated premises supervisor (DPS).
- 4.2 Conditions can be attached to licences, where these are seen as necessary and certain mandatory conditions are applicable to all licences, including a requirement for a DPS to be specified; all sales to be made under the authority of a personal licence holder; no irresponsible alcohol promotions; a scheme for verifying the age of those supplied with alcohol and a ban on sale of alcohol below the permitted price, as introduced recently.

- 4.3 All licences must be considered on their own merits, and accord with the Council's Statement of Licensing Policy, which is reviewed on a regular basis. The City Council's policy was last reviewed in 2012 and falls due for review again in 2017. They must all relate to all four of the Act's Licensing Objectives:
- The prevention of crime and disorder
 - The promotion of public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 4.4 Section 141 of the Licensing Act makes the sale of alcohol to a person who is drunk an offence.
- 4.5 Under the Violent Crime Reduction Act 2006, Section 27 notices can be issued by police to order individuals to leave an area and not return for 48 hours.

5. **OTHER CONSIDERATIONS**

- 5.1 The Ipswich "Reducing the Strength" campaign is supported by a number of national retailers, including East of England Coop, Tesco, Marks & Spencer, Waitrose, Morrisons, Sainsbury, Debenhams, Martin McColl and Aldi and 64% of premises with a licence for off-sales.
- 5.2 Concerns about loss of trade by stores agreeing to a voluntary ban on high strength alcohol appears to have been largely overcome by the improvement in trade resulting from the return of other customers once the street drinkers cease to use premises adopting the ban.
- 5.3 The use of blanket conditions under the Licensing Act is not lawful, as conditions may be added either as a response to representations about a new or varied licence or following a review of an existing licence.
- 5.4 The adoption of a voluntary scheme to encourage retailers to "sign-up" to cease stocking certain alcohol products needs to be considered carefully, so as not to run the risk of breaching competition law. It would be important, for example, not to create a situation in which retailers felt that they had no alternative to signing up, as they would be concerned about risking good relations with the licensing authority or the police.
- 5.5 Representatives of the licensed trade have expressed reservations about the effectiveness and lawfulness of voluntary schemes. Their view is that street drinking can be tackled more effectively by focussing on enforcement of the existing legislation and developing a comprehensive treatment and rehabilitation strategy. (Appendix B)

6. **CONCLUSIONS**

- 6.1 If Members are minded to pursue the introduction of a scheme to tackle street drinking which would include voluntary limitations on the stocking of high strength beers, and ciders by retailers, it is suggested that officers be requested to invite potential partners who would be integral to the successful implementation of such a scheme, to enter into discussions as to how to work

towards developing one, with a view to reporting back progress to a future meeting of the relevant Scrutiny Committee.

- 6.2 In the event of agreeing to change current policy, Members are asked request officers to identify the resources which would be required to implement the changes, both in the short and medium term.

7. **IMPLICATIONS**

(a) **Financial Implications**

None, until a scheme proposed following discussions with potential partners has been proposed for implementation

(b) **Staffing Implications**

None, until a scheme proposed following discussions with potential partners has been proposed for implementation

(c) **Equal Opportunities Implications**

At this stage an Equality Impact Assessment has not been carried out, but it is anticipated that there is potential for a beneficial impact on a range of sections of the community

(d) **Environmental Implications**

Nil

(e) **Procurement**

Nil

(f) **Consultation and communication**

Depending on the option chosen by members, initial discussions would involve Cambridgeshire Safety Partnership, Cambridgeshire Constabulary, Cambridgeshire County Council, NHS, Cambridgeshire Drug and Alcohol Action Team (DAAT), Community safety team, representatives of local retailers, Cambac, City Centre Management and others.

(g) **Community Safety**

Potentially significant positive implications

BACKGROUND PAPERS: None

The author and contact officer for queries on the report is Robert Osbourn on extension 7894.

Report file:

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Appendix A – Information about Ipswich Scheme (Suffolk Constabulary)



3 October 2013

A year has passed since the launch of the 'Reducing the Strength' Campaign in Ipswich and figures and feedback reveal that it is continuing to have a positive effect on the town.

The number of reports of street drinking being made to police in the 12 months since the campaign began have dropped by almost 100 when compared to the same period the year before.*

Analysis of an area in Ipswich that had suffered from anti-social behaviour (ASB) linked to street drinking has seen a 73% reduction in reports of street drinking made to police and a 31% reduction in crime. **

The East of England Co-operative Society has supported the campaign from the outset, with all of its stores in Suffolk signed up from the launch. Police figures and feedback from the business show that both crime and ASB in and around Co-op stores in the town has reduced over the past year.

These figures are alongside a reduction in crime in Ipswich of 17% and a reduction in ASB of 15%.***

Local retailers have also been visited to gauge their opinion on the campaign so far, revealing some extremely positive feedback. Comments from stores included: "Street drinkers no longer come into, and cause problems within stores since signing up to the campaign", "there is less trouble during the day on the streets of Ipswich, particularly in the town centre", and "there are less people drinking and not as many drunk people during the day on the streets of Ipswich."

The campaign has received significant national interest, with enquiries continuing to come in from police forces and councils across the UK who are interested in setting up similar initiatives. Campaigns have been launched in areas such as Hastings, Portsmouth and Nottingham, with many others looking to emulate the effects seen in Ipswich.

The multi-agency campaign was launched on the 25th September 2012 and aims to stop the sale of super strength alcohol from off-licensed premises in Ipswich. The campaign is part of a range of initiatives launched in the area to help individuals and communities being negatively affected by the consumption of these drinks.

Reducing the Strength is voluntary and involves retailers agreeing to remove these products from their stores, and ideally, changing their premises licence to prevent the store from ever selling these items. Super strength alcohol is all beer, lager and cider with an alcohol volume of 6.5% or more that is sold very cheaply.

An event was hosted by the Mayor of Ipswich last night, Wednesday 2nd October, to thank those retailers and partners involved and to update them on the campaign so far.

Partners were presented with an analysis of the campaign to date and were shown a map of Ipswich, highlighting all 138 off-licensed premises in Ipswich. The map also highlighted the 90 stores who have signed up, and those who are yet to come on board.

Police and partners will now continue to work with those businesses who have not joined the initiative, to explain the huge community benefits that result from preventing the sale of these items.

Assistant Chief Constable Tim Newcomb said, "A huge amount of work has gone on since we launched Reducing the Strength a year ago and we are extremely pleased with the effect it has had locally and across the UK.

"The continued drop in reports of street drinking is a clear reflection that our efforts are working, and that this activity, which is anti-social and intimidating to many people, is happening far less often. Not only does this mean our communities are safer, it also suggests that those vulnerable people who engage in street drinking are receiving the services and treatment they require.

"66% of off-licensed premises in the town are now super strength free, which is a fantastic achievement and a reflection of the commitment to community issues shared by many of our local businesses. We still have a long way to go however, and will continue to work with our partners to engage with those retailers who are yet to come on board."

Simon Alders, Public Health Manager said, "This campaign has been an extremely effective way for us to take pro-active, positive measures to improve the health of many vulnerable people in our local communities. Working in partnership with local businesses, we have been able to reduce the availability of this type of alcohol and tailor support services to meet the needs of this vulnerable group. Working in partnership greatly improves our chances of helping those affected by this type of substance misuse and reducing the damage to communities that they are part of."

* From 26/09/11 to 17/09/12 police were contacted 341 times with reports of street drinking in Ipswich. In the same period a year later, this figure reduced to 261, a drop of 23.5%.

** Austin Street was identified as having a significant issue with alcohol-related anti-social behaviour and street drinking by the local Safer Neighbourhood Team. Prior to the start of the campaign, two off-licenses were selling super strength alcohol in the area, the East of England Co-operative Society and 'MRS'. At the launch of 'Reducing the Strength', super strength items were removed from the Co-op, who were campaign partners, and in December 2012, 'MRS' was taken to review following irresponsible trading practices and were no longer permitted to sell super strength items. Figures show that 40 events related to street drinking were recorded in the period September 2011-August 2012 and 11 were recorded in the period September 2012 – August 2013. 70 crimes were recorded during the period September 2011-August 2012 and 48 for the period September 2012-August 2013.

***Figures for the financial year to 30th September 2013, compared with the three year average.

A map of Ipswich showing all off-licenses in the town **is attached**. Those highlighted in red are signed up to the campaign and are 'super strength free', those in blue have not signed up to the campaign.

Appendix B – Letter from Licensed Trade representatives



Chief Executive
Cambridge City Council
The Guildhall
Cambridge
CB2 3QJ

*Just Lally
Simon Rugh*



15th May 2014

Dear Sir or Madam,

Local 'voluntary' bans on higher-strength beers and ciders and Minimum Unit Pricing of alcohol

We are writing in reference to the recent moves by a number of council's seeking to implement local schemes encouraging the removal of higher-strength beer and cider products above as well as some considering the implementation of local Minimum Unit Pricing for alcohol.

As representatives of drinks producers and retailers, many of which are local, family or regional businesses, we would like to make you aware of some of the concerns we and our members have regarding the potential legal implications of policy decisions of this kind.

The proposals in many cases appear to attempt to impose the removal of certain higher-strength products as a generalist blanket condition across licences. Under licensing law, any such conditions should be evidence based and tailored to specific premises, and therefore the creation of a generalised scheme of this kind will exceed existing licensing powers and place retailers in an uncertain legal position should they comply.

While authorities are able to deal with licensees individually on an evidential basis, the Office of Fair Trading (now the Competition and Markets Authority) are clear that if a Local Authority acts to co-ordinate the independent commercial decision-making of businesses through non-mandatory means, such as the co-ordination of economic activity on non-price factors, such as product removal, they run a high risk of contravening competition law, even if this is on a voluntary basis.

Additionally there is a great concern that the Minimum Unit Pricing for alcohol will exceed licensing powers if applied on a mandatory basis, but also breach competition law if attempted on a voluntary basis. We have outlined further detail in the attached document.

It is for this reason that licensees are often not prepared to sign up to or be involved in a local schemes of this kind voluntarily. However, despite concerns about the legality and effectiveness of the withdrawal of products and local Minimum Unit Pricing our members take alcohol related harm, crime and anti-social behaviour very seriously and look to engage with local authorities in partnership to tackle these harms.

In order to ensure that local schemes are effective and sustainable, it is essential that they are legally sound as well as being evidence based and built upon strong partnership working in the local area. We have already written to Police and Crime Commissioners highlighting the existing powers local authorities and police have to target local issues, and are working with a wide range of partners to support the expansion of existing industry schemes aimed at tackling alcohol-related issues within communities.

c/o British Beer & Pub Association, Brewers' Hall, Aldermanbury Square, London, EC2V 7HR

Although independent examination has yet to be carried out in areas that have withdrawn higher-strength products, it appears that a focus on enforcement of existing legislation and development of a comprehensive treatment and rehabilitation strategy have been more effective in tackling street drinking and associated anti-social behaviour than other measures.

Through partnerships with local authorities and other stakeholders, schemes have been developed like Community Alcohol Partnerships, Best Bar None, Purple Flag and Pubwatch which have been very successful in reducing the negative impact of alcohol across a range of areas. Following the announcement by the Home Office of the selection of twenty Local Alcohol Action Areas, the industry will be redoubling efforts to demonstrate the impact of effective partnerships in these areas. There is further information in the attached briefing on some of the measures that are available and have been effective elsewhere.

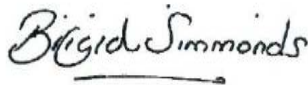
Given the legal issues outlined above with the removal of higher-strength products and local Minimum Unit Pricing, we would urge you as an authority to instead focus on enforcement, treatment and local partnerships which have a proven record of tackling alcohol related harm and can be done in close partnership with the trade.

If you would like any further information or are interested in discussing this in more detail we would be more than happy to meet with you to look at how we and our members can work with you to tackle shared objectives.

Yours sincerely,



James Lowman
Chief Executive
Association of Convenience Stores



Brigid Simmonds OBE
Chief Executive
British Beer & Pub Association



Robert Price
Director
National Association
Of Cider Makers



Miles Beale
Chief Executive
Wine & Spirits Trade Association

c/o British Beer & Pub Association, Brewers' Hall, Aldermanbury Square, London, EC2V 7HR