
NORTH AYRSHIRE COUNCIL

4th June 2024

Cabinet

Title: Firework Control Zones

Purpose: To update Cabinet on the progress made with regard to the new discretionary powers to designate Firework Control Zones and seek Cabinet's approval for the proposed process for handling community requests.

Recommendation: That Cabinet notes the progress made with regard to the new discretionary powers to designate Firework Control Zones and approves the proposed process for handling community requests and receive further update reports as the process is refined.

1. Executive Summary

Local authorities now have discretionary powers to designate areas within their boundaries as Firework Control Zones. Initial work has been undertaken to assess these new powers and how they may be utilised. Cabinet's approval is now sought in respect of the proposed process for handling community requests for Firework Control Zones.

2. Background

- 2.1 Part 4 of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (the "Act") gives local authorities powers to designate Firework Control Zones. This part of the Act came into force on 22 June 2023.
- 2.2 A Firework Control Zone ("FCZ") is a designated area within a local authority's boundary in which it is a criminal offence for a member of the public to ignite a firework. This includes fireworks ignited on private property within an FCZ, such as a garden.
- 2.3 It is also an offence to fire a firework into the boundaries of an FCZ or to knowingly or recklessly throw or cast a lit firework into a zone. A person who commits an offence under the Act in relation to an FCZ is liable, on summary

conviction, to imprisonment for a maximum of 6 months or a fine of up to £5,000, subject to any future changes to the standard scale.

- 2.4 FCZs will not prevent a public firework display by a professional fireworks operator or organised by a community group, sports club or other similar organisation. FCZs will also not prohibit the use of category F1 fireworks. F1 fireworks include, for example, sparklers, indoor fireworks and party poppers.

The process

- 2.5 Local authorities must have regard to any guidance on FCZs issued by the Scottish Ministers under section 33 of the Act when designating, amending or revoking an FCZ.
- 2.6 The Scottish Government published its “Firework Control Zones – Guidance for Local Authorities” on 22 June 2023 (the “Guidance”). The Guidance emphasises the importance of partnership working with Police Scotland, the Scottish Fire and Rescue Service and other key stakeholders when designating, amending or revoking an FCZ. Input from partners will help the Council understand the feasibility of enforcing a potential FCZ, and discussions around enforcement should underpin the consideration of any proposal.
- 2.7 The geographic extent and operational dates of any proposed FCZ must be evidence-based and proportionate, and it is envisaged that the local authority will have regard to Police and Fire reports (among other evidence sources) when considering the designation of an FCZ.
- 2.8 Local authorities are expected to take a proportionate and balanced approach when deciding whether an FCZ is likely to be the best approach to a specific firework issue. The Guidance sets out existing alternative approaches to tackling issues around fireworks which should also be considered, including community engagement and awareness raising, targeted use of police and fire service resources, dispersal zones, retailer compliance checks, educational input at primary and secondary schools, youth intervention visits, restorative justice initiatives and utilising existing multi-agency approaches such as Operation Moonbeam.
- 2.9 Once an FCZ is in place, the local authority must carry out regular reviews of its operation and effectiveness. Reviews should be undertaken in partnership with local police, fire and rescue, community organisations and other local stakeholders. The Guidance suggests local authorities may wish to utilise existing partnerships, such as a community planning partnership, community justice partnership, or community safety partnership, to support any such review.

Work to date

- 2.10 A working group of officers has been established to consider the implementation of these new discretionary powers.
- 2.11 Officers have met with representatives from Police Scotland and Scottish Fire and Rescue Service to seek initial views on whether any FCZs are required in North Ayrshire. The evidence presently available does not appear to indicate a need to consider the proactive designation of an FCZ in North Ayrshire, however this may change in future and shall be kept under review.
- 2.12 Officers have met with representatives from the Scottish Government to discuss the approach being taken to the designation of zones and associated processes. Discussions are ongoing with Police Scotland regarding the framework for information sharing for the purposes of FCZs.
- 2.13 There are ongoing reports being brought to the Police and Fire and Rescue Committee regarding Operation Moonbeam and regular updates provided regarding the planning for bonfire night in North Ayrshire. Reports evidence a proactive engagement with communities in North Ayrshire regarding firework safety and clean-up operations etc. There is already a close working relationship between North Ayrshire Council and Police Scotland and Scottish Fire and Rescue Service.

Community Requests

- 2.14 The Guidance states that, where possible, local authorities should establish a local process to give communities the ability to make the case for the designation of an FCZ through a “community request”. A process therefore requires to be established to facilitate community requests in North Ayrshire and to consider any requests received.
- 2.15 The Guidance is not prescriptive about the format of a community request. Officers intend to develop an application form that will be available on the website to assist communities to provide the relevant information required to support their application. While the form is being developed, communities will have the option of submitting a request via email, and officers will work with groups to ensure that sufficient information and evidence is provided.
- 2.16 Upon receipt of a community request, it is proposed that officers will conduct an initial screening. If the request is valid, officers will seek input from relevant stakeholders on the proposal to assist in the preparation of a Cabinet report. Cabinet would be asked to decide whether to take the community request forward.
- 2.17 Where a decision is made not to take forward a community request, the community must be given the opportunity to request a review of the decision. It is proposed that community groups be given the right to appeal such a decision to the Audit and Scrutiny Committee. If Cabinet is agreeable to this in principle,

then a report will be presented to Council seeking authority for the appeals process to be remitted to the Audit and Scrutiny Committee.

2.18 Where the decision is taken to proceed with consideration of an FCZ proposal, the local authority must develop the proposal and undertake a consultation. It is proposed that this work would be carried out by officers. Thereafter, officers would require to consider and analyse the consultation responses, prepare a consultation report, present to Committee for decision and thereafter publicise the decision of whether or not to designate an FCZ. The decision must be publicised at least 60 days before the FCZ comes into force. The Guidance does not require a mechanism for this decision to be appealed, although there is an obligation to keep any FCZs under review, as outlined at paragraph 2.9 above.

3. Proposals

3.1 That Cabinet approves the proposed process for handling community requests and receive further update reports as the process is refined.

4. Implications / Socio-economic Duty

Financial

4.1 Should any FCZ proposals be progressed during the current financial year, there is funding available from the Scottish Government in respect of consultation and set up costs.

Human Resources

4.2 The proposals outlined above would be met with existing resources.

Legal

4.3 The publication of a decision to designate a FCZ is sufficient to bring it into force. Legal advice will be provided as required on the terms of the legislation and guidance.

Equality / Socio-economic

4.4 None arising from this report, although individual proposals for the designation of FCZs may impact.

Environmental and Sustainability

4.5 None arising from this report, although individual proposals for the designation of FCZs may impact.

Key Priorities

4.6 The proposals outlined in this report support the Council's priority of communities and local democracy.

Community Wealth Building

4.7 None.

5. Consultation

5.1 Any proposal to designate a FCZ will be consulted on.

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