

CANNOCK CHASE COUNCIL
NOTES OF THE
SCRUTINY WORKING GROUP -
REVIEW OF POLICY FOR COMMERCIAL USE OF THE HIGHWAY
TUESDAY 21 AUGUST, 2018 AT 3.00 P.M.
HELD IN THE DATTELN ROOM, CIVIC CENTRE,
BEECROFT ROAD, CANNOCK

Present:

Councillor M. Sutherland (Chairman)
Councillor Mrs. M. Davis
Councillor P. Hewitt

By Invitation:- Councillor Mrs. C. Martin
(Health and Wellbeing Portfolio Leader)

Officers: P. Beckley, Acting Head of
Economic Prosperity

David Prosser-Davies, Food,
Safety and Licensing Manager

1. Apologies for absence

An apology for absence was received from Councillor A. Dudson.

2. Declarations of Interests from Members

Councillors P. Hewitt and M. Sutherland had declared that they were Staffordshire County Councillors at the previous meeting.

3. Notes of Previous Meeting

The notes of the previous meeting were agreed. With regards to page 3 Councillor Mrs. Davis asked whether Staffordshire County Council had been asked when they intended to review their 2007 Policy. The Chairman confirmed that he had spoken to the County Council who had advised they had not set a timescale within which to review their Policy but acknowledged that it would be a good time to do this now.

4. **Review of Policy for Commercial Use of the Highway**

The Chairman asked Members to provide feedback on the site visits they had made of the District in order to assess what was in place in each town and also provide feedback on how traders considered the policy had affected them.

Councillor Mrs. M. Davis advised that she had visited Rugeley on Monday and been to Cannock today and was a regular visitor to Hednesford. The A Boards and tables and chairs in the town centres looked nice and were positioned correctly. Tables and chairs had barriers surrounding them which provided some protection to customers sat at the chairs. With regard to Cannock she considered that, when looking at the advice of the RNIB, there were a number of obstacles which could cause an obstruction to pedestrians in addition to the A Boards and tables and chairs. Additionally she made reference to shops that had a porch area. If the trader had permission from the landlord they could display the A Board in the porch as it was their land and didn't form part of the highway. In Chadsmoor she noted that there were a number of A Boards and these had been tied to bollards which were owned by the Council. However, she acknowledged that Chadsmoor was not yet included in the policy. The Food, Safety and Licensing Manager confirmed that with regards to shops that had porches which were not publicly owned highway land the policy did not apply.

The Chairman asked whether the policy applied to alleyways with shops either side that were thoroughfares. The Officer confirmed that the policy only applied to highway land, not privately owned land even it is was a thoroughfare.

The Acting Head of Economic Development clarified that Cannock Shopping Centre had a ban on the displaying of A Boards. Members sought advice with regard to the flower stall that had tables displaying flowers outside of their stall within the shopping centre. The Officer confirmed that the flower stall occupied a unit owned by St Modwen and would have an agreement with them.

Councillor P. Hewitt then provided feedback of his visits to the town centres. He advised that certain businesses depended upon the A Boards in order to increase custom – shops like Barbers and Cafes particularly. He had spoken to many traders who had commented that without the A Boards their businesses would struggle. However, many traders commented on the cost implications which had a negative affect on their businesses. Most of the traders considered that the use of A Boards and table and chairs needed regulating but expressed concern that the policy was another burden on the smaller, independent retailers, who were already struggling to make a living.

The Chairman asked for confirmation on the parameters for business rates and the Acting Head of Economic Development said that he would obtain details from the Revenues and Benefits service.

The Chairman then provided feedback to the Group on his visit to Rugeley town centre which he had undertaken with Councillor Dudson. He circulated a summary of comments received and a number of photographs showing some examples of A Boards displayed in Rugeley town centre which he agreed to email

to the Acting Head of Economic Development. He commented that there were a number of A Boards outside the Brewery Street arcade and these premises was very busy. He had also spoken to the County Council and been provided with a leaflet entitled "Guidelines for the use of A Boards and Merchandising Displays on the Highways in Staffordshire". This provided good examples of how to display materials in the highway along with useful information. He circulated copies to the Group. He considered that this leaflet should be used in the future to help traders be aware of how best to display A Boards, merchandising displays and tables and chairs. He said takings for small businesses were low and that it might seem other local authorities were doing a lot more to help these businesses. He said it was recognised that the Council did need a policy, but needed one which made sense and could apply across all areas, and that the Council wanted the town centres and shops to do well.

The Health and Wellbeing Portfolio Leader commented that the "good practice" photographs in the leaflet showed exactly what the Council was trying to achieve by introducing the policy. She added that a lot of the A Boards in Rugeley had been removed in recent weeks. The main concern from traders was in connection with Morrison's and the fruit and vegetable store opposite. However, this was privately owned land and was exempt from the policy. She confirmed that the majority of traders agreed with regulating the siting of the A Boards and tables and chairs but were concerned about the cost of the permits.

Councillor Hewitt made the point that it was an offence under the Highways Act to obstruct the highway and questioned whether the policy was necessary. He asked why the permit fees had been introduced when there was a law already in place. He added that traders could be reminded that it was in the Highways Act, 1980 that the highway should not be obstructed and their insurance would be compromised if they didn't comply.

The Health and Wellbeing Portfolio Leader made reference to the petition that had been received from the MP Amanda Milling objecting to the introduction of the policy (this was included at Appendix 7 of the Briefing Note). She commented that the MP would have been contacted when the policy initially went out to consultation and no objection had been received.

The Group discussed the responses received from the consultees, in particular the response from the Traders Associations as it wasn't clear who they were representing. Councillor Hewitt was concerned that, although only 23 responses had been received, some of these were from trade associations which might have been representing many businesses. The Chairman added that a 6% response to a consultation was considered good. He commented that it was only after the policy was introduced that traders started to take notice and make complaints.

The Chairman then asked the Acting Head of Economic Development and the Food, Safety and Licensing Manager to outline the Briefing Note (Item 4.1 – 4.2) and appendices which had been circulated to Members.

The Food, Safety and Licensing Manager referred Members to the benchmarking of other Local Authority Commercial Obstructions Policies (Appendix 1 of the

Briefing Note). He commented that the authorities that have a policy all appear to do things differently. In addition, there was a range of fees and charges applied by the authorities. He confirmed that Councils can only legally cover their costs and not generate an income from the fees charged. The Health and Wellbeing Portfolio Leader asked for clarification regarding the policy adopted by Lichfield District Council which stated “voluntary code for A Boards”. The Officer advised that they had adopted a similar approach to what was outlined in the County Council’s Guidelines leaflet. They request traders to comply with the requirements of the policy and would take action if the requirements were not followed.

With regards to the enforcement aspect of the policy the Chairman outlined the advice received from the County Council in a letter that had been received on 20 August, 2018. This stated that the County Council supported the District Council and, if necessary, would remove any obstructions on the highway if there was a clear risk to the highway; they would not enforce where a trader has not paid or would not pay for a permit. The Officer commented that this was a different response to what had been received when the consultations were undertaken and this would need to be taken into account as part of the review. Councillor Hewitt considered that the advice from the County Council was correct in that they would support the District Council if there was a health and safety issue. They would be supportive if an obstruction was making the highway unsafe but would not assist in instances where traders did not have a permit.

The Acting Head of Economic Development made reference to Appendix 2 of the Briefing Note in relation to the planning issues. He confirmed that A Boards and tables and chairs did require planning permission. A number of authorities asked traders to apply and pay for planning permission whereas Cannock Council had not adopted this approach. The reason for this was lack of resources in relation to planning enforcement – it was not seen as a priority and would stretch the workload of the Enforcement Officer. He then outlined the Economic Development teams view on the policy (Appendix 3) who had highlighted that Cannock Shopping Centre had banned the use of A Boards.

The Chairman then asked the Group to give consideration to the recommendations they wished to make to the Scrutiny Committee. He considered that the County Council’s leaflet entitled “Guidelines for the use of A Boards and Merchandising Displays on the Highways in Staffordshire” should be used to assist traders in the future. Ideally this could be emailed to the traders to cut down on costs. The Acting Head of Economic Development advised that if paper copies needed to be produced (where no email addresses were available) this would have cost implications. The costs of developing a leaflet in house could be explored.

The Chairman also referred to miniature signposts he had seen erected in Ludlow and questioned whether they could be used in certain areas of the town centres rather than the traditional A Boards. The Health and Wellbeing Portfolio Leader suggested that the Local Authority for Ludlow should be contacted to establish whether the sign posts were provided by the Local Authority or by the traders themselves.

Councillors Hewitt and Sutherland commented that consideration should be given to whether to continue charging for the permits. They were of the opinion that a policy was required in order to regulate the siting of the A boards and tables and chairs. However, smaller businesses were having difficulty due to the cost of the permit whereas the larger retailers were able to afford it. The Chairman added that the policy was not fair as it hit the smallest retailers the hardest. Consideration should therefore be given to retaining a policy but considering whether there was a need to charge for a permit. Councillor Mrs. Davis pointed out that if no charge was applied there would be no money to enforce it.

The Chairman suggested that Members should get together outside of the Working Group to discuss the notes of the meeting and begin to formulate recommendations to take to the Scrutiny Committee. The Acting Head of Economic Development advised that he would put together a series of options for the Group to consider. This would include:-

- Whether the policy should be extended beyond the largest town centres and/or District wide;
- Retaining a policy without charging for the permits;
- Developing a Code of Practice with soft enforcement.

Members could then consider these along with the notes of the meeting and prepare their findings and decide what recommendations to take to the Scrutiny Committee. A further meeting of the Working Group would therefore be held on Tuesday 18 September, 2018 at 3.00pm. An additional meeting of the Promoting Prosperity Scrutiny Committee would also need to be arranged for the purpose of considering the recommendations of the Working Group. The Officer from Democratic Services would contact the Chairman of the Scrutiny Committee, Councillor Mrs. M. Davis to agree a suitable date.

The Acting Head of Economic Development advised the Group that the new Head of Economic Prosperity would be taking up his position at the beginning of September. Members requested that the Acting Head of Economic Development continue to be involved in the Working Group meeting and the additional Scrutiny Committee to see the review through.

The Chairman thanked Officers for the information they had prepared for the Working Group.

AGREED:

- (A) That the Acting Head of Economic Development prepare a number of options based on the discussions taken place as outlined above.
- (B) That Members meet outside of the Working Group to consider the options prepared by the Acting Head of Economic Development together with the notes of the meeting and begin to formulate their findings and recommendations.
- (C) That a further meeting of the Working Group be held on Tuesday 18

September, 2018 at 3.00pm to agree their findings and recommendations for consideration by the Scrutiny Committee.

- (D) That an additional meeting of the Promoting Prosperity Scrutiny Committee be arranged in October on a date to be agreed by the Chairman of the Scrutiny Committee with the purpose of considering the findings and recommendations of the Working Group.

Meeting finished at 4.20pm.