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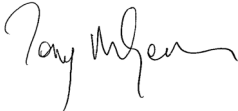
15 October, 2018

Dear Councillor,

**PROMOTING PROSPERITY SCRUTINY COMMITTEE
4:00 PM ON TUESDAY 23 OCTOBER, 2018
ESPERANCE ROOM, CIVIC CENTRE, CANNOCK**

You are invited to attend this meeting for consideration of the matters itemised in the following Agenda.

Yours sincerely,



**T. McGovern,
Managing Director**

To: Councillors:

Davis, Mrs. M.A. (Chairman)
Sutherland, M (Vice-Chairman)

Dudson, A.	Lea, C.I.
Foley, D.	Startin, P.D.
Grice, Mrs. D.	Stretton, Mrs. P.Z.
Hewitt, P.M.	Tait, Ms. L.
Hoare, M.W.A.	Wilkinson, Ms. C.L.
Johnson, T.B.	

A G E N D A

PART 1

1. Apologies

2. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

(i) To declare any personal, pecuniary or disclosable pecuniary interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

(ii) To receive any Party Whip declarations.

3. Minutes

To receive the Minutes of the Promoting Prosperity Scrutiny Committee held on 4 July, 2018 (*Enclosed*).

4. Briefing Note – Working Group to Review the Policy for Commercial Use of the Highway

To consider the Briefing Note of the Head of Economic Prosperity (Enclosure 4.1 – 4.3 plus Appendices)

5. Outcome of Working Group to Review the Policy for Commercial Use of the Highway

To receive a presentation from Councillor M. Sutherland, Chairman of Working Group to review the Policy for the Commercial Use of the Highway.

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
PROMOTING PROSPERITY SCRUTINY COMMITTEE
WEDNESDAY 4 JULY, 2018 AT 4.00 P.M.
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 1

PRESENT: Davis, Mrs. M.A. (Chairman)
Councillors Sutherland, M. (Vice-Chairman)

Dudson, A.	Lea, C.I.
Foley, D.	Stretton, Mrs. P.Z.
Grice, Mrs. D.	Tait, Ms. L.
Hewitt, P.M.	Wilkinson, Ms. C.L.
Hoare, M.W.A.	

1. Apologies

Apologies for absence were received from Councillors T.B. Johnson and P.D. Startin.

2. Declarations of Interests of Members in Contracts and Other Matters and Restrictions on Voting by Members and Party Whip Declarations

No declarations of interests or party whip declarations were received.

3. Minutes

Members were advised that the Annual Reports in relation to the Economic Development and Town Centres Scrutiny Committee and the Housing, Crime and Partnerships Scrutiny Committee, which were due to be considered later in the agenda, would summarise the work undertaken by the Committees during the 2017/18 municipal year.

The Interim Head of Economic Prosperity advised that in relation to the Economic Development and Town Centres Scrutiny Committee minutes Officers were looking at how to implement the SWIFT Travel Scheme and a report would be submitted to Council in due course. In relation to the S106 monies for the Tesco development in Rugeley the £30,000 would be used on improvement works to the physical environment and a report was due to be considered at Cabinet on 12 July seeking approval to spend S106 monies.

The Head of Housing, Partnerships and Interim Property commented that with regard the Housing, Crime and Partnerships Scrutiny Committee minutes the Community Safety element was now under the remit of the Community Scrutiny

Committee which was due to meet on 17 July, 2018.

The Interim Head of Economic Prosperity also updated Members with regard to the Mill Green Designer Village advising that the sale of the land adjacent to the Mill Green Nature Park had been completed and a capital receipt had been received. In response to a question raised by a Member regarding maintenance costs of the proposed new subway the Officer confirmed that the developer (who was the owner of the site) would be responsible for maintenance of the subway.

RESOLVED:

That the minutes of the Economic Development and Town Centres Scrutiny Committee held on 4 April, 2018 and the Housing Crime and Partnerships Scrutiny Committee held on 21 March, 2018 be approved as a correct record.

4. Promoting Prosperity Scrutiny Committee Work Programme 2018/19

Consideration was given to the Joint Report of the Interim Head of Economic Prosperity and the Head of Housing, Partnerships and Interim Property (Item No. 4.1 – 4.5 plus appendices of the Official Minutes of the Council).

The Chairman advised that a proposed Work Programme for 2018/19 was outlined at Appendix 1 and it was suggested that two Scrutiny reviews be undertaken in relation to the two service areas, as follows:-

- Economic Prosperity – Policy for Commercial Use of the Highway
- Housing – Review of Vulnerable Persons Decorating and Grass Cutting Scheme – Eligibility Criteria

She sought Members views on the suggested topics for the reviews. In relation to the Policy for Commercial Use of the Highway Members commented that shop owners in Cannock, Hednesford and Rugeley had expressed concern that they now had to pay to display “A-Boards” on a public highway. However, the policy did not cover other areas in the District such as Brereton.

The Interim Head of Economic Prosperity clarified that Council on 18 October, 2017 approved the adoption of the Policy. He commented that any review undertaken by Members would evaluate the impact of the introduction of the Policy and determine whether the application of the Policy should be retained and, if so, should it be extended beyond the largest town centres and/or District wide.

Members considered that a review of this Policy was high priority as they were receiving several complaints about this issue. It was suggested that the relevant Portfolio Holder should be invited to attend meetings when this matter was discussed.

Members questioned whether additional meetings of the Scrutiny Committee could be held in addition to the three scheduled meetings. It was considered that this review should be undertaken as soon as possible and it would be too late to report back to the next scheduled meeting on 21 November, 2018. Members

were advised that it was possible to arrange additional meetings of the Scrutiny Committee to deal with matters which cannot reasonably be considered at the next scheduled meeting.

It was agreed that the membership of the review would be made up of Councillors A. Dudson, P.M. Hewitt, Mrs. M.A. Davis and M. Sutherland. In addition a further meeting of the Scrutiny Committee would be arranged before 21 November, 2018 in order that the outcome of the review could be reported back as soon as possible.

With regard to the suggestion for the Housing review the Head of Housing, Partnerships and Interim Property clarified that it would be a review of Vulnerable Persons Decorating and Grass Cutting Scheme – Eligibility criteria. She advised that the criteria for joining and leaving the scheme should be reviewed as if a person currently qualified they would remain eligible for life and as there was also a waiting list it could mean that a person did not qualify until another person had passed away.

A Member suggested that another possible review was to look at the Housing waiting list for single persons. The Head of Housing, Partnerships and Interim Property confirmed that the criterion for the waiting list for single persons was already being looked at. She was attending a meeting tomorrow and a Housing Needs Analysis would be prepared so that the matter could be discussed.

Members asked that this information be submitted to the Scrutiny Committee. The Head of Housing, Partnerships and Interim Property confirmed that she could bring this to the Committee; however, it would be a “work in progress” document.

It was agreed that the membership of this review would be made up of Councillors Mrs. P.Z. Stretton, C.I. Lea, Ms. L. Tait and Ms. C.L. Wilkinson. The progress on the outcome of the review would be reported to the Scrutiny Committee on 21 November, 2018.

Members who were sitting on the two reviews would be contacted in due course regarding dates for the first meetings. The Chairman commented that Members of the Scrutiny Committee were welcome to share their views on the reviews by contacting those Members who had been appointed to the reviews.

RESOLVED:

- (A) That the Promoting Prosperity Scrutiny Committee’s Work Programme for 2018/19 be as follows:-

Meeting Date	Item
4 July 2018	• End of Year Outturn for Housing PDP for 2017-18 • End of Year Outturn for Economic Development & Town Centres PDP for 2017-18

	• Annual Report on work of the Housing and Partnerships Scrutiny Committee for 2017-18 • Annual Report on work of the Economic Development & Town Centres Scrutiny Committee for 2017-18 • Determine Review Programme for the two service areas 2018-19
21 November 2018	• Promoting Prosperity PDP Progress Report April to September 2018 • Update on Scrutiny reviews
13 March 2019	• Promoting Prosperity PDP Progress Report October to December 2018 • Update on Scrutiny reviews

(B) That the two reviews undertaken would be as follows:-

- (i) Economic Prosperity - Policy for Commercial Use of the Highway (Councillors A. Dudson, P.M. Hewitt, Mrs. M.A. Davis and M. Sutherland and the relevant Portfolio Holder be invited to attend)
- (ii) Housing - Review of Vulnerable Persons Grass Cutting Scheme – Eligibility Criteria (Councillors Mrs. P.Z. Stretton, C.I. Lea, Ms. L. Tait and Ms. C.L. Wilkinson)

(C) That an additional meeting of the Scrutiny Committee be arranged before 21 November, 2018 so that the outcome of the review of the Policy for Commercial Use of the Highway could be reported.

(D) That information on the criteria for the Housing waiting list for single persons be submitted to a future meeting of the Scrutiny Committee.

5. **Annual Report 2017-18 (Economic Development and Town Centres Scrutiny Committee)**

Consideration was given to the Interim Head of Economic Prosperity (Item No. 5.1 – 5.4 of the Official Minutes of the Council).

The Interim Head of Economic Prosperity outlined the work undertaken by the Economic Development and Town Centres Scrutiny Committee during the 2017/18 municipal year.

He advised that the Committee had set up a Working Group which focused on local transport, in particular, bus services. The Group had made three recommendations and he updated the Committee on the progress of these. The first recommendation was that Cabinet write to Arriva to show support for the inclusion of Rugeley within the “saver zones” area. He commented that Cabinet,

through the Deputy Leader, had wrote to Arriva and a response had been received from the Managing Director of Arriva and he had attended a meeting with Officers. The Managing Director had advised that Arriva was reviewing its fees and charges for Cannock/Stafford/Rugeley and, as part of this review, “saver zones” would be looked at.

He confirmed that the Chairman of the Scrutiny Committee had sent a letter to Staffordshire County Council expressing the Committee’s disappointment on the reduced bus services being provided in the District from April, 2018 in line with the second recommendation. The response from the County Council confirmed the decision that had been made.

With regard to the third recommendation to contact Parish/Town Council’s to ask if they would be willing to make a contribution towards subsidising the Lichfield and Rugeley Village Connect service he advised that the County Council had gone out to tender for this service. As no one was willing to tender for the service it had ceased running.

The Officer added that Arriva were trialling a new mini bus service in Kent which passengers booked via an App. If this trial was successful Arriva may role it out in different areas.

With regard to the trial of the mini bus service in Kent Members considered that even if it was successful in Kent it did not necessarily mean it would work/fail in the Cannock Chase District area. However, it was noted that large buses often carried only a few passengers and the use of mini buses could be useful. It was also noted that the lack of competition for bus services within the District was an issue. The Interim Head of Economic Prosperity advised that the Working Group had discussed these issues as part of their review.

RESOLVED:

That the Economic Development and Town Centres Scrutiny Committee Annual Report 2017/18 be noted and submitted to Council on 25 July, 2018 for information.

6. Annual Report 2017-18 (Housing, Crime and Partnerships Scrutiny Committee)

Consideration was given to the Head of Housing, Partnerships and Interim Property (Item No. 6.1 – 6.4 of the Official Minutes of the Council).

The Head of Housing, Partnerships and Interim Property outlined the work undertaken by the Housing, Crime and Partnerships Scrutiny Committee during the 2017/18 municipal year.

She advised that the Committee had undertaken a review of the Anti Social Behaviour Policy. However, as the implementation of the draft Corporate Anti Social Behaviour Policy would have staffing implications it was agreed that the Managing Director would be consulted on the roll-out of the Policy. This work would fall under the remit of the Wellbeing Scrutiny Committee.

The Locality Policing Review had been removed from the work programme as Members did not have the power to direct the work of the Police.

The Committee also took part in a Re-Thinking Social Housing Workshop which was launched by the Chartered Institute of Housing. The results were expected Summer 2018 and would be circulated to the Scrutiny Committee once they were available.

RESOLVED:

That the Housing, Crime and Partnerships Scrutiny Committee Annual Report 2017/18 be noted and submitted to Council on 25 July, 2018 for information and the results of the Re-Thinking Social Housing Workshop be circulated to the Committee once they were available.

7. End of Year 2017/18 Housing PDP Performance Update

Members considered and noted the latest performance information for the Housing Priority Delivery Plan (Item 7.1 - 7.4 of the Official Minutes of the Council).

The Head of Housing, Partnerships and Interim Property commented that the progress on the key actions was satisfactory overall and she sought any questions from Members.

Members commented on the progress of the Moss Road Estate and considered that the Council should be proud of what had been developed. Additionally comments were made on the excellent job undertaken in respect of the improvement programmes to the Council's housing stock. A Member sought clarification regarding the waiting time for replacing baths with showers. The Head of Housing, Partnerships and Interim Property advised that this was part of the Disabled Facilities Grant and the current waiting time was 18 months. However, there were changes taking place to the way the Grant was administered and a new approach was being developed. It was planned to allocate a sum of money into the HRA to deal with the backlog and improve the 18 month waiting time.

RESOLVED:

That the Housing Priority Delivery Plan 2017/18 be noted.

8. End of Year 2017/18 Economic Development and Town Centres PDP Performance Update

Members considered and noted the latest performance information for the Economic Development and Town Centres Priority Delivery Plan (Item 7.1 - 7.4 of the Official Minutes of the Council).

The Interim Head of Economic Prosperity sought Members comments on the

information provided. A Member asked about Town Centre vacancy rates which was higher than the previous year. The Officer advised that although vacancy rates had risen the rates were still well below the national average of 12%. He commented that there was only one more vacant shop over the three main town centres when compared to this time last year.

RESOLVED:

That the Economic Development and Town Centre Priority Delivery Plan 2017/18 be noted.

The meeting closed at 5:10pm.

CHAIRMAN

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Briefing Note of:	Head of Economic Prosperity
Contact Officer:	Paul Beckley
Telephone No:	4408

PROMOTING PROSPERITY SCRUTINY COMMITTEE**23 OCTOBER 2018****WORKING GROUP TO REVIEW THE POLICY FOR COMMERCIAL USE OF THE HIGHWAY****1 Purpose of Briefing note**

- 1.1 The purpose of this briefing note is to provide Members with details of the work carried out by the Working Group

2 Key Issues

- 2.1 At the meeting of the Committee on 4 July 2018 Members agreed to review the Policy for Commercial Use of the Highway
- 2.2 A separate smaller group of Members was established forming a Working Group to carry out a more in depth investigate of the Policy

3 Detail

- 3.1 The Council approved and adopted The Policy for Commercial Use of the Highway on the 18 October 2017 with the Policy being fully implemented from 1 April 2018
- 3.2 While approving the Policy, Council also authorised the Head of Economic Development to 'carry out a review of the Policy 12 months after initial implementation, with a view to evaluating the impact and determining whether the application of the Policy should be extended beyond the largest town centres and/or District wide.'
- 3.3 At the meeting of the Promoting Prosperity Scrutiny Committee on 4 July 2018 Members discussed the work programme for the coming year and determined that as part of this a review of the Policy for Commercial Use of the Highway should be carried out.
- 3.4 A Working Group of 4 Members was established to carry out the review and to then bring its findings back to a future meeting of the Scrutiny Committee.
- 3.5 At the meeting of the Council on 25 July 2018 a Motion was submitted regarding the Policy and its implementation. Members approved 'That the Motion, as

presented, be referred to the Promoting Prosperity Scrutiny Committee for consideration, due to the Committee having agreed to undertake a review of the Commercial Obstructions on the Highway Policy as part of its 2018/19 work programme.'

- 3.6 The Working Group has meet on 3 occasions. Agendas, papers and minutes are included as appendices to this Briefing Note. In addition Members undertook visits to all 3 town centres and their findings are included in the minutes and in an additional paper from Councillors Dudson and Sutherland.
- 3.6 The views of various interested parties were obtained and these were presented to the Working Group and are included in the appendices. These include groups representing persons with disabilities, Planners, Economic Development and Licensing
- 3.7 A survey of how other Local Authorities deal with the Commercial Use of the Highway was carried out and the results of this are included as Appendix 8
- 3.8 Members considered various options for the future of the Policy and its potential application in the District. There are numerous options but it was decided there are 5 primary options. These are contained together with accompanying notes in Appendix 9

4 Implications (if applicable)

- 4.1 Should the Policy be discontinued, or should it be decided that fees no longer be charged, fees already paid would have to be refunded to all relevant applicants. To date, a total of £4664.00 has been received from approximately 50 applicants (covering A Boards, Pavement Cafes and occasional promotions / gazebos / rides etc.). If this were to be refunded there would be an under recovery of costs for this financial year.

5 Appendices

Appendix 1	Working Group Agenda and Paper 26 July 2018
Appendix 2	Working Group Notes 26 July 2018
Appendix 3	Working Group Agenda and Papers 21 August 2018
Appendix 4	Working Group Notes 21 August 2018
Appendix 5	Working Group Agenda and Papers 18 September 2018
Appendix 6	Working Group Notes 18 September 2018
Appendix 7	Notes of Councillors Dudson and Sutherland's Site Visit to Rugeley
Appendix 8	Survey of Local Authorities
Appendix 9	Options for Commercial Use of the Highway

Background Papers

None

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Agenda - Scrutiny Working Group (Review of Policy for Commercial Use of the Highway)

Time: 4:00pm

Date: Thursday 26 July, 2018

Venue: Datteln Room

1. Appointment of Chairman

2. Apologies

3. Declarations of Interest from Members

To declare any personal, pecuniary or disclosable pecuniary interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

4. Review of Policy for Commercial Use of the Highway

- Briefing Note from Interim Head of Economic Development (Item No. 4.1 – 4.3) plus appendices
- Scrutiny Review Template (Item No. 4.4)

To: Councillors:

Mrs. M. Davis

A. Dudson

P. Hewitt

M. Sutherland

By Invitation: Councillor Mrs. C. Martin – Health and Wellbeing Portfolio Leader

Officers:

P. Beckley Interim Head of Economic Development

D. Prosser-Davis Food, Safety and Licensing Manager

W. Rowe Senior Committee Officer

Date Despatched: 19 July, 2018

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ITEM NO. 4.1

Briefing Note of:	Interim Head of Economic Development
Contact Officer:	Paul Beckley
Telephone No:	4223

Promoting Prosperity Scrutiny Committee**2018****Working Group to Review the Policy for Commercial Use of the Highway****1 Purpose of Briefing note**

- 1.1 The purpose of this briefing note is to provide background details for Members on the Policy for Commercial Use of the Highway and provide an update on the current status of implementation.

2 Key Issues

- 2.1 At the meeting of the Committee on 4 July 2018 Members agreed to review the Policy for Commercial Use of the Highway.
- 2.2 A separate smaller group of Members was established forming a Working Group to carry out the review.

3 Detail

- 3.1 On 18 October 2017 the Council adopted the Policy for Commercial Use of the Highway. The report to Council is attached as Appendix 1 and Minute 48 of the Meeting of The Council is attached as Appendix 2. The Policy is attached as Appendix 3.
- 3.2 In recent years there has been an increased use of the highway for commercial purposes, such as advertising, promotion and street cafes. This includes, for example: the placing of advertising boards (A Boards) and retail displays on pavements; promotional displays by motor vehicle dealers; vehicles and gazebos used to promote sign-up to various businesses such as satellite, energy providers and other services; fairground rides; and tables and chairs placed outside establishments for the benefit of paying customers.
- 3.3 These are unregulated obstructions but they can be regulated through the introduction of a licencing regime. The Policy introduced a mechanism whereby business can apply for, and be granted subject to conditions, permission to legally obstruct the highway. Conditions include the requirement for public liability insurance and construction, size and location of objects. Without this consent such use is not legally permissible.

- 3.4 This Policy stemmed from the 2016-17 Better Jobs & Skills Priority Development Plan work programme. This required a review of this Council's Street Trading Policy including enforcement of Staffordshire County Council's Commercial Obstruction Policy. (Appendix 4)
- 3.5 A draft of The Policy was consulted on for six weeks between 13 February and 26 March 2017. Responses were received from 23 consultees. A list of consultees and responses is contained as part of the report to Council on 18 October 2017 (Appendix 1).
- 3.6 The Council's Licensing and Public Protection Committee were briefed on the Policy on 28 June 2017 and the Committee's views were incorporated into the final Policy.
- 3.7 The Policy was fully implemented on 1 April 2018. Prior to this, traders in the three town centres of Cannock, Hednesford and Rugeley had been notified of the intention to bring in the Policy and its implementation timetable. This was by means of letters hand delivered to town centre businesses in June 2017, November 2017 and January 2018.
- 3.8 As part of the Policy charges were set. These vary according to which licence or permit is required. The Council is not permitted to raise revenue through this process, only to recover reasonable costs. The standard principle the Council always adheres to, when setting charges for licences, is that the person or business that derives benefit from the licence should pay the relevant costs and that the General Fund and Council Tax payers should not subsidise these costs. (Appendix 5)
- 3.9 In setting the charges the Licensing Unit works out approximately how much time the administration and compliance work takes, then calculates how much this time costs the Council. This is then divided by the estimated number of applications to achieve a cost per item. Time for investigation of complaints, advising business and processing applications is contained within the costs.
- 3.10 Since 1 April 2018 a total of 37 applications have been received of which 23 are for A Boards, 10 for trade displays and 4 for pavement cafés. As of July 2018, 26 permits and licences have been issued, 18 for A Boards, 6 for trade displays and 2 for pavement cafés. In addition, 14 applications have been granted for promotional gazebos/displays and fairground rides in Cannock town centre. Officers have noted that a considerable number of businesses (estimated at 60%) have removed their A Boards and that some pavement café furniture has also been removed.
- 3.11 Considerable time and effort has been spent with Officers visiting business premises advising of the Policy and requesting that businesses make a decision on whether to make application for a permit or licence or to remove the illegal obstruction from the highway. There are currently a number of businesses which have done neither and in early August these will be receiving a formal notice requesting they make a decision.
- 3.12 Members will be aware that there has been considerable concern raised by traders, Councillors, residents and the local MP about the implementation of the

Policy and its charging regime. On 18 October 2017 Council resolved to authorise the Head of Economic Development to carry out a review of the Policy 12 months after initial implementation, with a view to evaluating the impact and determining whether the application of the policy should extend beyond the largest town centres and/or District wide.

- 3.13 At the meeting of the Promoting Prosperity scrutiny Committee on 4 July 2018 Members agreed to carry out a review of the Policy as part of their work programme for the coming year. Members considered that a review of the Policy was a high priority as they have received several complaints about this issue.

4 Implications (if applicable)

None

5 Appendices

Appendix 1	Report to Council on 18 October 2017 regarding the Policy for Commercial Use of the Highway
Appendix 2	Council Meeting Minute 48
Appendix 3	Policy for Commercial Use of the Highway
Appendix 4	Staffordshire County Councils Management of Commercial Obstructions Policy
Appendix 5	Fee Structure

Background Papers

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Report of:	Head of Economic Development
Contact Officer:	David Prosser-Davies
Telephone No:	01543 464202
Portfolio Leader:	Health and Wellbeing
Key Decision:	No
Report Track:	Council: 18/10/17

COUNCIL
18 OCTOBER 2017
POLICY FOR COMMERCIAL USE OF THE HIGHWAY

1 Purpose of Report

- 1.1 To seek approval and adoption of a Council Policy for controlling commercial use of the Highway (including Advertising Boards, Pavement Cafés, Promotions and Displays etc.) (“the Policy”).

2 Recommendation

- 2.1 That Council approves and adopts the Policy at Appendix 1 to this report.

- 2.2 That the Head of Economic Development be authorised to:

administer and enforce all aspects of the Policy;

determine the mechanism(s) and timescale(s) for implementation of the Policy (subject to full implementation no later than April 2018) ;

make required amendments to the Policy due to changes in legislation or government guidance and minor variations to the Policy in the interests of operational efficiency / service improvement;

carry out a review of the Policy 12 months after initial implementation, with a view to evaluating the impact and determining whether the application of the Policy should be extended beyond the largest town centres and / or District wide.

3 Key Issues and Reasons for Recommendation

- 3.1 Recent years have seen increased use of the highway for commercial purposes, such as advertising, promotion, retail displays and street cafés. This includes, for example: the placing of advertising boards ('A-Boards') on pavements; displays of retail goods; promotions by motor vehicle dealers; vehicles and

gazebos used to promote sign-up to satellite / cable television and other services; fairground rides; and tables and chairs placed outside establishments for the benefit of paying customers.

- 3.2 The use of the highway in this way could be considered by some to be unsightly, by those with physical disabilities or the visually impaired to be dangerous, or by other traders as unfair, unregulated, and non-rated enhancements to a competitor's business. Such objects also obstruct the highway, and are therefore technically illegal within the terms of the Highways Act 1980.
- 3.3 Whilst acknowledging these issues, it is also recognised that the controlled use of such obstructions can reduce their negative impact, promote safer access, and assist in promoting tourism and business, thereby enhancing the local economy.
- 3.4 Currently within the District's three largest town centres it is estimated that there are:
 - 160 A-Boards;
 - 25 Pavement Cafés (from one to five tables)
 - 25 Miscellaneous use applications (fairground rides, displays, vehicles)
- 3.5 Since town centre management is a District Council function, the County Council, in its role as Local Highways Authority, has created a policy framework which allows District Councils to regulate and control these so-called "commercial obstructions". District Councils are permitted in legislation to recover from businesses their reasonable costs in exercising this function.
- 3.6 Included within the 2016-17 Better Jobs & Skills PDP work programme (supporting attractive and competitive town centres) was a review of the Street Trading Policy to include enforcement of the County Council Commercial Obstruction Policy. The Policy at Appendix 1 stems from this review.
- 3.7 The Policy has been drawn up in consultation with the County Council and a range of interested groups, and explains to the trade, the public, elected members and officers how the Council will carry out this function. A proposed fee structure, to allow full cost recovery, is reproduced as Appendix 2. A list of consultees is given at Appendix 3, with responses, comment and officer appraisal at Appendix 4.

4 Relationship to Corporate Priorities

- 4.1 The Policy contributes to the Council's "Better Jobs and Skills" and "Cleaner and Safer Environments" Priorities in that it has the following objectives:
 - Benefitting the local economy through allowing businesses to make use of the highway for advertising, promotion and sales;
 - Making a positive contribution to the local amenity by adding interest, vitality, colour and life to our town centres;
 - Promoting equality and protecting public safety, particularly amongst those with mobility difficulties or the visually impaired;

- Ensuring operators of children's fairground rides are screened using a Disclosure and Barring Service (DBS) check;
- Ensuring safe, unhindered access for emergency vehicles;
- Implementing risk-based, proportionate controls, ensuring all businesses are treated equitably;
- Ensuring non compliant businesses do not gain unfair competitive advantage.

5 Report Detail

- 5.1 In general, it is against the law to obstruct the highway. Section 115 (E) of the Highways Act 1980, however, permits the Council to introduce a system of licensing so-called "commercial obstruction" of the highway so as to permit obstructions such as A-boards, retail displays, pavement café's and fairground rides etc.
- 5.2 A commercial obstruction can be defined as any obstruction created by placement of an object on the public highway for the purpose of commercial gain. This can be divided into a number of categories:
- A-boards which are used to advertise a business;
 - Pavement cafés with the short or long term placement of furniture for customers of pubs, cafés and restaurants;
 - Ad-hoc furniture such as placement of plants, sale items, and sale rails for the benefit of adjacent businesses;
 - Fairground rides / bouncy castles etc.;
 - Promotion of a business from a static location; normally a gazebo and/or vehicle etc.
- 5.3 Such obstructions can be properly regulated through the introduction of a licensing regime. The Policy introduces a mechanism whereby businesses may apply for, and be granted subject to conditions, permission to legally obstruct the highway. The Policy has been developed having regard to the Staffordshire County Council Commercial Obstructions Policy 2007 (as amended).
- 5.4 Key features of the Policy include:
- No use of the highway without prior consent of the Council;
 - Requisite insurance covering accident or injury from use of the highway;
 - Requirements concerning construction, size and location of A Boards and displays;

- Mechanism to refer non compliance to County Council;
 - DBS check for operators of children's fairground rides;
 - Requirements on seating, layout and boundaries;
 - Proportionate compliance and enforcement.
- 5.5 A draft policy was consulted on for six weeks between 13 February and 26 March 2017. Every effort was made to bring it to the attention of businesses and others with an interest in street cafés and commercial obstruction matters, including the hand delivery of letters to all premises currently using "A-Boards" or having pavement cafés. A link on the Council's website brought it to the attention of the wider public. The consultation document was also sent to the Council's "Your Community, Your Voice" residents group.
- 5.6 Responses were received from 23 consultees:
- 13 small businesses within the town centres;
 - Chase Tenants Residents Association;
 - Hednesford Town Council;
 - Rugeley Traders Association;
 - Traders of Hednesford Town Centre;
 - Two elected members of CCDC;
 - Staffordshire Fire & Rescue Service;
 - CCDC Planning & Economic Development;
 - Staffordshire County Council Regulation & Governance Team;
 - A local resident of Cannock.
- 5.7 The Council's Licensing and Public Protection Committee was briefed on the Policy and outcome of consultation on 28 June 2017. The Committee's views have been incorporated into the final Policy.
- 5.8 The consultation responses, and officer appraisal of the comments received, are attached at Appendix 4.
- 5.9 The most contentious issues arising from the consultation process were: uncertainty over the likely fees (these were not known at the time of consultation); a perceived bureaucratic application process; a suggestion this is simply a revenue generating exercise for the Council; a suggestion that small businesses might be disadvantaged compared to larger operators. All businesses likely to be affected by the Policy have since received details of the proposed fee structure and no adverse comments have been received.

- 5.10 In relation to the application process, every effort will be made to ensure this is as efficient as possible, and ideally will be completed on line, minimising paperwork and offering convenience to potential applicants.
- 5.11 Concern was also raised over the need for clarity that all items placed on the highway, whether for advertising, promotion, sale or display, were covered by the Policy. This is now made clear in the definition of “A-Board” page 6 of the Policy.

6 Implications

6.1 Financial

It is estimated that the annual costs of administering and monitoring compliance with the Policy will be in the region of £15-20,000. These costs will be recovered through an appropriate fee structure as proposed at Appendix 2. The fee structure will be subject to approval by Head of Service as part of the annual review of fees and charges.

6.2 Legal

The Policy ensures the Council discharges its statutory licensing functions effectively and that decisions made by Officers and Members are transparent, proportionate and comply with Human Rights and Equalities legislation.

Consequential changes to the current Scheme of Delegation may be required.

Other legal matters are dealt with elsewhere in the report.

6.3 Human Resources

Resources required for implementation of this Policy will be drawn from within the existing Environmental Health & Licensing teams.

6.4 Section 17 (Crime Prevention)

None.

6.5 Human Rights Act

None.

6.6 Data Protection

None.

6.7 Risk Management

The Policy ensures the Council is able to effectively discharge this function.

6.8 Equality & Diversity

The Policy Document will be made available in large print, Braille and as an audio version, on request.

An Equality Impact Assessment has been carried out for the Policy.

6.9 Best Value

Full recovery of costs for all areas of licensing work is in line with best practice and ensures efficient use of resources.

7 Appendices to the Report

Appendix 1	Policy for Commercial Use of the Highway
Appendix 2	Proposed fee structure
Appendix 3	List of consultees
Appendix 4	Consultation responses and Officer Appraisal

Previous Consideration

None

Background Papers

Full consultation document and responses are available in the Licensing Unit.

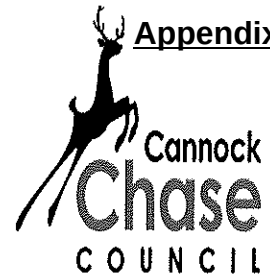
Consultee List

<u>CCDC</u> Kirsteen Miles Katie McBey Robert Lamond Sara Green Steve Partridge Rhiannon Holland Glenn Watson Legal Services Markets Planning Information Manager Parks & Open Spaces Health & Safety Waste & Engineering Environmental Health Partnerships CCDC Elected Members	<u>Staffordshire Police</u> Staffordshire Police – Southern Licensing Tracey Carsley Paul Prenter David Rollo Kevin Lee <u>Staffordshire Fire & Rescue Service</u> <u>Staffordshire County Council Trading Standards Department</u> <u>SCC Highways Authority</u> <u>Markets</u> Sketts & Co Ian Sandford – Sketts & Co Mike Brazier – Brewery Street Arcade
<u>Adjacent Local Authority Licensing Units</u> Lichfield DC South Staffordshire DC Stafford BC Tamworth BC	<u>CCDC Libraries</u> Brereton Library Cannock Library Heath Hayes Library Hednesford Library Norton Canes Library Rugeley Library
<u>Sara Green, Consultation & Engagement Officer – List of Organisations</u> Achieving Goalz and Dreams Action for Blind People Action for Hearing Loss ADSIS Age UK AONB Aquarius Ballroom Asist Avon Business Centre Beth Johnson Foundations Brereton & Ravenhill Parish Council Brereton Carnival Bridgtown Parish Council Brindley Heath Parish Council Bromford CACH Cannock Chase CCG Cannock Chase Chamber of Commerce Cannock Chase Museum Sara Green, Consultation & Engagement	<u>Kate McBey, PR & Marketing Officer – List of Organisations</u> Stafford and Surrounds CCG North Staffordshire NHS Staffordshire CC Communities Against Crimes of Hate (CACH) Cannock Chase CCG Staffordshire Fire Service Staffordshire Police Cannock Chase Chamber of Commerce Support Staffordshire SCYVS VAST Princes Trust DWP South Staffordshire CAB Cannock Children's Centre Care Plus Inspiring Healthy Lifestyles Cannock Shopping Centre Crimestoppers Kate McBey, PR & Marketing Officer – List of

<u>Officer – List of Organisations (cont.)</u>	<u>Organisations (cont.)</u>
Cannock Children's Centre	ADSIS
Cannock Fire Station	Midland Heart
Cannock Foodbank	SWM Probation
Cannock Job Centre	CESS
Cannock Lions	Bromford
Cannock Shopping Centre	Waterloo
Cannock Wood VH	SSOTP
Care Plus	
Carers Association South Staffordshire	<u>Hednesford Town Council</u>
Carers Hub	Laurie Bowman
CESS	Linda Whitehouse
Chain South Staffs	
Chamber of Commerce	<u>Rugeley Town Council</u>
Chase Aqua Rural Enterprise	
Crimestoppers	<u>Cannock Town Centre Traders Association</u>
Cruse	
Cycle-R	<u>Hednesford Traders Association</u>
DWP	
Extra Care Housing	<u>Rugeley Traders Association</u>
Friends of Beaudesert	
Friends of Cannock Chase	<u>Cannock CAB</u>
Friends of Etching Hill	
Friends of Hednesford Park	<u>Cannock & Rugeley Pubwatch</u>
Fusion Credit Union	
Healthwatch	<u>Chase Tenants Federation</u>
Heart of Hednesford Restoration Project	
Heath Hayes & Wimblebury PC	
Inspiring Healthy Lifestyles	<u>Town Centre Street Traders</u>
Lea Hall Club	James Palmer
Learning Disability Cannock	Darrell Robson
Leisure Centre	Mark Smith T/A Mr Sizzle
Lighthouse Support Group	Leon's Holidays
Longford Centre	Bowen's Holidays
MASE Group	Middleton Tours
Midland Heart	Brincars Ltd. T/A Brindley Nissan & Mitsubishi
MS Society Cannock Chase	Martin Shaw – Showmans Guild
North Staffs NHS	OVO Energy
Norton Canes Community Centre	Signature Spaces
Norton Canes Parish Council	Stoneacre Peugeot
Nova Training	Beacon Vision for the Blind
Princes Trust	D2C Direct Consulting – Scottish Power
Progressive Sports	British Army
Rugeley Community Centre/Church	Royal British Legion
Rugeley Foodbank	Staffordshire County Council
Rugeley Lions	Space and People
Rugeley Phoenix Club	Bo-concepts
Salvation Army Cannock	Alzheimer's Association
Salvation Army Rugeley	
SCYVS	

<u>Sara Green, Consultation & Engagement Officer – List of Organisations (cont.)</u> South Staffordshire CAB South Staffordshire Housing Association South Staffordshire Network for Mental Health Special Needs Adventure Playground SSOTP Stafford & Cannock League of Hospital Friends Stafford and Surrounds CCG Staffordshire CC Staffordshire Fire Service Staffordshire Parent Network Staffordshire Police Staffordshire SSAFA Staffordshire Wildlife Trust Starlight Events Sun Parent Partnership Support Staffordshire SWM Probation Talent Match VAST Waterloo Waterloo Housing Association WEA (Rugeley) Community Education West Chadsmoor Family Centre YMCA Your Community, Your Voice	Sara Pritchard Fred Pritchard All Cannock, Hednesford and Rugeley Town Centres Shops – copy hand delivered
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CANNOCK CHASE COUNCIL CONSULTATION RESPONSE

PAVEMENT CAFÉ LICENCE & COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/01

Date received:

Between 13 February 2017 & 23 March 2017

Name and address of respondent

Mr Crayg Ward, Crayg Ward Hair Clinic, 17-19 Walsall Road, Cannock, WS11 0HG
 Mr Dean Edwards, The Engraving Company, 63 Market Place, Cannock, WS11 1BP
 Mr Steve Mason, HS Johnson, 8 Anson Street, Rugeley, WS15 2BB
 Mrs Tammy Woodcock, Pretty on the Inside, 7 Market Street, Rugeley, WS15 2BJ
 Mr Steve Fenemore, Black Fish Collectables, 4 Bow Street, Rugeley, WS15 2BT
 Mr Neil Phillips Crumbs, 1 Bow Street, Rugeley, WS15 2AZ
 Ms Emma Chadbourne, Rugeley Fireplaces, 41 Albion Street, Rugeley, WS15 2BY
 Mr Simon Orme, SOS Barber Shop, 66 Market Street, Hednesford, WS12 1AG
 Mr Clive Marchant, Colin Lee Opticians, 15-17 Market Square, Rugeley, WS15 2BJ
 Mr Alan Miller, The Cutting Edge, 15 Albion Street, Rugeley, WS15 2BY
 Ms Joanna Rigby, Gymophobics, 3 Market Street, Rugeley, WS15 2JH
 Ms Stef Cunningham Kitchen Cupboard, 74 Market Street, Hednesford, WS12 1AG
 Mr Dave Edwards, (no premises address given.)

Comments/observations made by respondent:

Consultation responses were received from several local traders who are broadly unsupportive of the Council's proposal to introduce a commercial obstructions policy. They perceive it as a potential barrier to trade however, many also acknowledge the council's duty to protect the public and ensure their safety.

Thirteen similar responses were received from traders which can generally be arranged into a number of themes. These include:

- A-Boards are useful to the Trade and help promote business in areas of the town centre with less footfall.
- Control of A-Boards might be carried out without the need to over regulate or charge for their regulation.
- The proposal is seen as an unfair tax on businesses as it believed that it will add to the costs of running a business.

- Implementation of the proposed policy may contribute to the demise of small businesses.
- The proposed policy is seen as a revenue raising exercise by the Council.
- Fees are an important feature of the proposal and need to be published.
- There is a suggestion that the policy is counter productive and will not meet its own objectives.
- Council revenue could be better spent on other town centre issues such as:
 - Cheaper parking facilities with concessions;
 - Litter picking and weed control;
 - Tackling town centre drinkers;
 - Gritting pavements in the Winter;
 - Preventing vandalism;
 - Road and direction signs in the town centre provide insufficient information;
 - Repair uneven pavements surfaces.

A number of the respondents also offer some constructive comments:

- Some traders are under contract to display an A-Board outside the premises.
- There is a suggestion that larger business are more able to pay that smaller ones.
- The private land exemption is available to some traders but not all.
- There is a thought that the introduction of the proposed policy may lead to a reduction in the number of A-boards and those which are deployed will require more enforcement
- The proposed application processes is complex, bureaucratic and expensive.
- Many agree that there is a need for those who deploy A-Boards to ensure that they have Public Liability Insurance.

Appraisal of comments by the Authority:

The licensing authority notes the concerns of the local business but would make it clear that our intention is to add interest, vitality, colour and life to the street scene. This will serve to enhance the character of the town centres and support the growth of small businesses through appropriate and consistent approach to commercial obstructions.

The Council wishes to assist in breathing new life into the town centres by complimenting the Council's Area Action Plans for our town centres. The vision is to ensure that our town centres thrive and are a pleasant, safe and secure environment which provides an attractive and safe environment for all to shop eat and visit.

The trade's concerns about the proposal to introduce fees is noted and it is the Council's intention to shortly publish a consultation on our proposed fees.

It should be noted that the Council's Licensing Unit is only permitted to recover its reasonable costs for its administrative and compliance activities and is not entitled to make a profit in doing so. The Council already employs a full time Licensing Enforcement Officer.

The Council is grateful for the constructive nature of some of the responses and will endeavour, where appropriate to reduce the burden of application on the town centre business

Response by the Authority:

The Council has amended the draft policy to streamline the application process and reduce the bureaucratic requirements. The Council will shortly publish its fees, which will be formulated on a cost recovery basis.

Signed:



Agreed:



Date:

13/6/2017

Date:

15/6/17

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CANNOCK CHASE COUNCIL
CONSULTATION RESPONSE

PAVEMENT CAFÉ &
COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/02

Date received:

14 February 2017

Name and address of respondent

Mrs Anne Ames
Chairperson
Chase Tenants & Residents Federation (CTRF)

Comments/observations made by respondent:

On behalf of the CTRF Mrs Ames suggests that licensed A-Boards should be identifiable in some way so that members of the public are able to identify and report unlicensed A-Boards to the Council.

Appraisal of comments by the Authority:

The licensing authority is grateful for the comments of the CTRF.

The CTRF's suggestion is very constructive however, an A-Board identification system of this nature may be resource intensive. The Council already employs a full time Licensing Enforcement Officer who will ensure that A-Boards and other commercial obstruction are appropriately licensed. Those which are not, will be dealt with according to the Council's existing EH Enforcement Policy.

Response by the Authority:

No amendment to the policy is proposed.

Signed:

Agreed:

Date:

13/6/2017

Date:

15/6/17

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CANNOCK CHASE COUNCIL CONSULTATION RESPONSE

PAVEMENT CAFÉ & COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/03

Date received:

17 February 2017

Name and address of respondent

Mrs Kelly Harrison
Staffordshire Fire & Rescue Service (SFRS)
Pire Hill
Stone
Staffs
ST15 0BS

Comments/observations made by respondent:

On behalf of the SFRS, Mrs Harrison is content that document is satisfactory and she makes no further comment. She does however ask a question of a practical matter in respect about how individual applications will be processed.

Appraisal of comments by the Authority:

The licensing authority is grateful for the comments of SFRS and notes their satisfaction with the proposed policy document,.

Response by the Authority:

No amendment to the policy is proposed.

Signed:

S Dineen

Agreed:

[Signature]

Date:

13/6/2017

Date:

15/6/17

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CANNOCK CHASE COUNCIL
CONSULTATION RESPONSE

PAVEMENT CAFÉ &
COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/04

Date received:

19 February 2017

Name and address of respondent

Cllr Alan Dean
CCDC Ward Member for Heath Hayes East & Wimblebury

Comments/observations made by respondent:

Cllr Dean says that he has reviewed the proposed policy document and notes its detail. Cllr Dean thanked the Licensing Unit for its hard work.

Appraisal of comments by the Authority:

The licensing authority is grateful for the support of Cllr Dean and his recognition of the work involved.

Response by the Authority:

No amendment to the policy is proposed.

Signed:

S Dean

Agreed:

[Signature]

Date:

13/6/2017

Date:

15/6/17

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CANNOCK CHASE COUNCIL CONSULTATION RESPONSE

PAVEMENT CAFÉ & COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/05

Date received:

3 March 2017

Name and address of respondent

Mr Glenn Watson
Planning & Economic Development Services Manager
Cannock Chase District Council

Comments/observations made by respondent:

Mr Watson is supportive of the proposed policy document and in particular he is hopeful that the proposed policy will assist the Council in breathing new life into our town centres.

He believes that the document provided clear guidance as to the Council's expectations and comments that A-Boards in particular have been problematic for some years.

Mr Watson also raises questions as to the enforcement of the policy in respect of removal of A-Boards where it is necessary to do so or to prevent conflict or danger.

Appraisal of comments by the Authority:

The licensing authority is grateful for the support of Mr Watson and the Council's Planning & Economic Services Department. We are pleased that the proposed policy may assist in the regeneration of our town centres.

Response by the Authority:

No changes are necessary

Signed:

S. Owen

Agreed:

[Signature]

Date:

13/6/2017

Date:

15/6/17

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CANNOCK CHASE COUNCIL CONSULTATION RESPONSE

PAVEMENT CAFÉ & COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/06

Date received:

12 March 2017

Name and address of respondent

Mrs Angi Cooney
on behalf of the Rugeley Traders Association

Comments/observations made by respondent:

The Rugeley Traders Association acknowledge the need for some control of commercial obstructions but are concerned that the proposed policy amounts to a tax on small town centre traders and will result in prices increases which will have to be passed onto the consumer.

There is also suggestion that commercial obstructions could be dealt with on a more informal basis.

Appraisal of comments by the Authority:

The licensing authority is grateful for the comments of the traders association and recognises the importance of such associations in providing a conduit through which independent traders can express their opinion.

The Council's intention is to add interest, vitality, colour and life to the street scene. This will serve to enhance the character of the town centres and support the growth of small businesses. The Council recognises the need for a consistent approach in administering and ensuring compliance with the proposed policy and notes the concerns of the local business.

The Council wishes to assist in breathing new life into the town centres by complimenting the Council's Area Action Plans for our town centres. The vision is to ensure that our town centres thrive and are a pleasant, safe and secure environment which provides an attractive and safe environment for all to shop eat and visit.

The trade's concerns about the proposal to introduce fees are noted and we will shortly publish a consultation on our proposed fees.

It should be noted that the Council Licensing Unit is only permitted to recover its reasonable costs for its administrative and compliance activities and is not entitled to make a profit in doing so. The Council already employs a full time Licensing Enforcement Officer.

The Council is grateful for the constructive nature of some of the responses and will endeavour, where appropriate to reduce the burden of application on the town centre business.

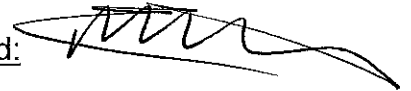
Response by the Authority:

The Council will shortly publish its fees, which will be formulated on a cost recovery basis. No other amendment to the policy is proposed.

Signed:

S. Sweeney

Agreed:



Date:

13/6/2017

Date:

15/6/17



CANNOCK CHASE COUNCIL CONSULTATION RESPONSE

PAVEMENT CAFÉ & COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/07

Date received:

17 March 2017

Name and address of respondent

Mr Colin Perkins
Governance and Improvement Manager
Staffordshire County Council
No.1 Staffordshire Place
Stafford ST16 2DH

Comments/observations made by respondent:

Mr Perkins comments that the council's draft policy is broadly in line with the County Council's own Commercial Obstructions Policy and makes comment on two specific matters within it. He also requests that the district council exhausts its own powers in ensuring compliance with the proposed policy before enforcement matters are escalated to the County Council.

Mr Perkins also wishes to advise the Council that the County Council Commercial Obstructions Policy has been in place since 2007 as is due to be updated within the next 18 months. He says that this may impact on the way that commercial obstructions are managed.

Appraisal of comments by the Authority:

The licensing authority is grateful for the comments of the County Council which are noted. The 2 specify matters mentioned in the consultation response are both relevant and have been addressed

Response by the Authority:

Both matter raised by the County Council will be amended accordingly. The District Council will await consultation on an amended to the County Council's Commercial Obstructions Policy. In the meantime, this Council will issue licences for a maximum of 3 years.

Signed:

S Smeaton

Agreed:

[Signature]

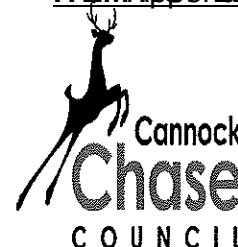
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CANNOCK CHASE COUNCIL CONSULTATION RESPONSE

PAVEMENT CAFÉ & COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/11

Date received:

21 March 2017

Name and address of respondent

Mrs Pauline Haywood
Resident of Cannock

Comments/observations made by respondent:

Mrs Haywood is supportive of the proposed policy document and in particular believes that the Council's forward thinking and pro-activity may help prevent problems occurring in the future. Mrs Haywood thanks the Council for its hard work in producing the proposed policy document.

Appraisal of comments by the Authority:

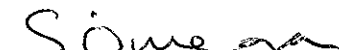
The licensing authority is grateful for the support of local residents like Mrs Haywood and notes her satisfaction with the proposed policy document,.

The Council's intention is to add interest, vitality, colour and life to the street scene. This will serve to enhance the character of the town centres and support the growth of small businesses through appropriate and consistent approach to commercial obstructions.

The Council wishes to assist in breathing new life into the town centres by complimenting the Council's Area Action Plans for our town centres. The vision is to pro actively ensure that our town centres thrive and are a pleasant, safe and secure environment which provides an attractive and safe environment for all to shop eat and visit.

Response by the Authority:

No other amendment to the policy is proposed.

Signed: 

Date: 13/6/2017

Agreed: 

Date 15/6/17

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CANNOCK CHASE COUNCIL CONSULTATION RESPONSE

PAVEMENT CAFÉ & COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/08

Date received:

22 March 2017

Name and address of respondent

Mr Dave Hood
on behalf of the Traders of Hednesford Town Centre

Comments/observations made by respondent:

The Traders of Hednesford Town Centre recognise the benefits that proper regulation of commercial obstructions can bring to a town centre and believe that this creates common ground between the council and town centre traders.

The traders vehemently object however to the introduction of the payment of fees and believe that the complexity of the administrative process within the proposed policy are burdensome are excessive.

Appraisal of comments by the Authority:

The licensing authority is grateful for the comments of the Traders of Hednesford Town Centre and recognises the importance of such associations in providing a conduit through which independent traders can express their opinion.

The Council's intention is to add interest, vitality, colour and life to the street scene. This will serve to enhance the character of the town centres and support the growth of small businesses. The Council recognises the need for a consistent approach in administering and ensuring compliance with the proposed policy and notes the concerns of the local business.

The Council wishes to assist in breathing new life into the town centres by complimenting the Council's Area Action Plans for our town centres. The vision is to ensure that our town centres thrive and are a pleasant, safe and secure environment which provides an attractive and safe environment for all to shop eat and visit.

The trade's concerns about the proposal to introduce fees is noted and we will shortly publish a consultation on our proposed fees.

It should be noted that the Council Licensing Unit is only permitted to recover its reasonable costs for its administrative and compliance activities and is not entitled to make a profit in doing so. The Council already employs a full time Licensing Enforcement Officer.

The Council is grateful for the constructive nature of some of the responses and will endeavour, where appropriate to reduce the burden of application on the town centre business.

Response by the Authority:

The Council has amended the draft policy to streamline the application process and reduce the bureaucratic requirements. The Council will shortly publish its fees, which will be formulated on a cost recovery basis. No other amendment to the policy is proposed.

Signed: 

Date: 13/6/2017

Agreed: 

Date: 15/6/17



CANNOCK CHASE COUNCIL CONSULTATION RESPONSE

PAVEMENT CAFÉ & COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/09

Date received:

26 March 2017

Name and address of respondent

Cllr Paul Woodhead,
CCDC Ward Member for Hednesford South,

Comments/observations made by respondent:

Cllr Woodhead recognises the benefit of the introduction of guidelines in respect of commercial obstructions and that it may be necessary to voice certain expectations. He suggests however, that it may not be necessary to introduce a formal licensing regime for A- Boards.

Cllr Woodhead raises concern about the resources necessary to ensure compliance with the proposed policy and that unless such enforcement of the policy is done effectively, then the Council's reputation may be at risk.

Cllr Woodhead echo's his A-Board comments in respect of the Street Pavement Cafe proposals and recognises that those town centres which have extended pedestrianised areas have their own challenges.

Appraisal of comments by the Authority:

The Council's intention is to add interest, vitality, colour and life to the street scene. This will serve to enhance the character of the town centres and support the growth of small businesses through appropriate and consistent approach to commercial obstructions.

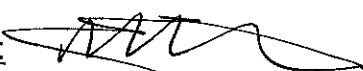
The Council wishes to assist in breathing new life into the town centres by complimenting the Council's Area Action Plans for our town centres. The vision is to ensure that our town centres thrive and are a pleasant, safe and secure environment which provides an attractive and safe environment for all to shop eat and visit.

Cllr Woodhead's concerns about enforcement of the new policy are noted. It should be made clear however, that although the Council already employs a full time Licensing Enforcement Officer, final enforcement responsibility of the commercial obstruction of the Highway, is a matter for Staffordshire County Council's Highways Department.

Response by the Authority:

The Council will shortly publish its fees, which will be formulated on a cost recovery basis. No further amendment to the policy is proposed.

Signed: 

Agreed: 

Date: 13/6/2017

Date: 15/6/17



CANNOCK CHASE COUNCIL CONSULTATION RESPONSE

PAVEMENT CAFÉ LICENCE & COMMERCIAL OBSTRUCTIONS POLICY 2017

Reference number:

COP2017/10

Date received:

31 March 2017

Name and address of respondent

Mr Peter Harrison
on behalf on the Hednesford Town Council

Comments/observations made by respondent:

Mr Harrison first made contact with the Council's Licensing Unit on 24 March 2017 to advise that the town Council would not meet to consider a response until the 28 March 2017 and therefore their response would, by necessity, be sent after the closing date for responses.

On 31 March 2017 the Hednesford Town Council responded to the consultation by acknowledging the aims of the policy but raise some concern about the proposed policy being too restrictive so as to interfere with the character and atmosphere of a market town.

Appraisal of comments by the Authority:

The licensing authority acknowledges the comments of the Hednesford Town Council and would make it clear that our intention is to add interest, vitality, colour and life to the street scene. This will serve to enhance the character of the town centres and support the growth of small businesses through appropriate and consistent approach to commercial obstructions.

The Council wishes to assist in breathing new life into the town centres by complimenting the Council's Area Action Plans for our town centres. The vision is to ensure that our town centres thrive and are a pleasant, safe and secure environment which provides an attractive and safe environment for all to shop eat and visit.

Response by the Authority:

No amendment to the policy is proposed.

Signed: *S Duneau*

Date: *13/6/2017*

Agreed: *[Signature]*

Date: *15/6/17*

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CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE COUNCIL
HELD IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
AT 4:00 P.M., WEDNESDAY, 18 OCTOBER, 2017
PART 1

PRESENT: Councillors:

Dudson, A. (Chairman)	
Witton, P.T. (Vice-Chairman)	
Adamson, G.	Johnson, J.P.
Alcott, G.	Johnson, T.B.
Allen, F.W.C.	Lea, C.I.
Allt, Mrs. A.	Kraujalis, J.T.
Bennett, C.	Martin, Mrs. C.E.
Bowater, J.L.	Mitchell, Mrs. C.
Buttery, M.S.	Molineux, G.N.
Cartwright, Mrs. S.M.	Pearson, A.R.
Cooper, Miss J.	Preece, J.P.T.L.
Crabtree, S.K.	Smith, C.D.
Davis, Mrs. M.A.	Snape, D.J.
Dean, A.	Snape, P.A.
Dudson, Miss M.J.	Stretton, Mrs. P.Z., M.B.E.
Foley, D.	Sutherland, M.
Freeman, Miss M.A.	Sutton, Mrs. H.M.
Grice, Mrs. D.	Tait, Ms. L.
Grocott, M.R.	Todd, Mrs. D.M.
Hardman, W.T.A.	Whitehouse, Miss S.
Hoare, M.W.A.	Woodhead, P.E.

Prior to the commencement of the meeting, the Chairman welcomed Councillors Stuart Crabtree and Ms. Linda Tait, who had been elected to the Hednesford South and Hednesford Green Heath Wards, respectively, at by-elections held in September.

48. Policy for Commercial Use of the Highway

Consideration was given to the Report of the Head of Economic Development (item 10.1 to 10.55 of the Official Minutes of the Council).

Following a wide ranging discussion, Councillor P. Snape moved an amendment to the recommendations, which was seconded, that:

Implementation be deferred for three months to:

- (i) Allow the policy to be rewritten to include the whole district and not just the Cannock, Hednesford and Rugeley town centres.
- (ii) Restructure the charging schedule to a flat fee, rather than unit cost, basis.

The amendment was put to the vote and not carried.

RESOLVED:

That:

- (A) The Policy for Commercial Use of the Highway, as detailed at Appendix 1 to the Report, be approved and adopted.
- (B) The Head of Economic Development be authorised to:
 - (i) Administer and enforce all aspects of the Policy;
 - (ii) Determine the mechanisms and timescales for implementation of the Policy (subject to full implementation being no later than April 2018);
 - (iii) Make required amendments to the Policy due to changes in legislation or government guidance and minor variations to the Policy in the interests of operational efficiency / service improvement;
 - (iv) Carry out a review of the Policy 12 months after initial implementation, with a view to evaluating the impact and determining whether the application of the Policy should be extended beyond the largest town centres and/or District wide.

CHAIRMAN



Cannock Chase District Council

Policy for Commercial Use of the Highway

**(including Advertising Boards, Pavement
Cafés, Promotions & Displays etc.)**

October 2017

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1. Introduction: policy objectives

Cannock Chase District Council (the Council) recognises and supports the needs of local businesses to use the public highway as an opportunity to increase their revenue through providing additional space, increased sales and advertising.

This Policy sets out the processes by which permits, consents and licences can be issued to allow commercial use of the highway. The Policy will be administered, monitored and enforced by the Council's Licensing Unit. If you should require advice or assistance, please email us at Licensingunit@cannockchasedc.gov.uk or by telephone on 01543 462621.

Familiar town centre features such as fairground rides, bouncy castles, advertising boards, pavement cafés and static structures such as gazebos & vehicles can all benefit the local economy and can make a positive contribution to the local amenity by adding interest, vitality, colour and life to the street scene, serving to enhance the character of the area.

In general, it is against the law to obstruct the highway. However, Section 115 (E) of the Highways Act 1980, specifically permits the Council to introduce a system of licensing commercial use of the highway so as to permit "commercial obstructions" such as A-boards, pavement café's and fairground rides etc.

This Policy is intended for use within the recognised town centres of Cannock, Hednesford and Rugeley and sets out the processes to be considered when applying for permission to place features/items on the public highway.

A commercial obstruction can be defined as any obstruction created by placement of an object on the public highway for the purpose of private gain. This can be divided into a number of categories;

- A-boards which are used to advertise a business on the public highway.
- Pavement cafés with the placement of furniture on the public highway short term or long term for the benefit of a business.
- Ad-hoc furniture such as short or long term placement of plants, sale items, and sale rails on the public highway for the benefit of adjacent businesses.
- Fairground rides/bouncy castles etc.
- Promotion of a business from a static location; normally a gazebo and/or vehicle etc.

Such obstructions can be properly regulated by the introduction of a licensing regime. The Council has adopted, and will manage a robust policy which is designed to protect the general street scene and ensure that pedestrians and the general public have safeguards in place which protect their free passage.

This is particularly important for people with impaired vision or mobility difficulties. As a result, the Council requires that no items shall be placed on the highway until the applicant has obtained appropriate permission.

Within Staffordshire, the main responsibilities for ensuring compliance with the Highways Act 1980 rests with the County Council (SCC) as the Highway Authority. They are responsible for ensuring that public access is maintained and that the area is safe. However, some of these responsibilities can be given to the District Council with respect to commercial obstructions.

The owner of any features or items placed on the highway is responsible for obtaining any relevant permissions. They are also responsible for maintaining them in good condition and in the correct position on the highway.

This Policy does not cover commercial obstructions on private land. The status of the land in question should be verified with the Council prior to any application being made.

In applying this Policy, the Council will act in accordance with the standards and guidance set out within it. In particular the Council will:

- work with individuals and businesses to assist them in complying with their legal duties and obligations;
- ensure its staff are appropriately trained and apply the Policy and standards professionally and consistently; and,
- make information about the Policy and the standards widely available to the public and business within the District.

The Council's Licensing Unit will liaise with colleagues in Environmental Health and Planning & Economic Development to ensure a coherent approach to the licensing and enforcement of commercial obstructions. Working together with other agencies, services and groups outside the Council, such as the Police, the Fire Service and the Highways Authority, will mean that common goals and standards can be identified, ensuring pavement cafés, fairground rides/bouncy castles etc., can operate safely and for the benefit of all.

Vehicles are only permitted to stay within the town centre if they form part of the commercial obstruction. Traders should be aware that some town centres are pedestrianised and that vehicle movement must therefore be kept to an absolute minimum.

Every effort should be made to enter and leave the town centres before and after the area becomes busy and generally, vehicle movements for the unloading and loading of goods should not take place between the hours of 09.00hrs and 16.30hrs.

The consultation process

The Draft Commercial Obstructions Policy consultation took place between 13 February and 26 March 2017. It followed the Cabinet Office Guidance on Consultation Principles first published in July 2012 and last updated in January 2016. This document is available at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

The Council consulted with all interested agencies and groups, including with persons who may particularly be affected by the Policy, such as those with sensory impairment, physical or mobility difficulties and users of wheelchairs, mobility scooters and pushchairs.

The finalised policy document is published via the Council's website at: www.cannockchasedc.gov.uk

A fee structure has been formulated which enables the Council to recover the costs of administering and ensuring compliance with this Policy on a cost recovery basis.

Exchange of information and data protection

When an individual or an organisation provides information to the Council, it is held in accordance with the Data Protection Act 1998. Data provided to the Council is used for processing applications, recording permission holders and for regulatory and enforcement purposes.

The Council may share data with other departments and partners of the Council and other agencies where required by the licensing/registration procedure and for regulation /enforcement but data will not otherwise be passed on to any other party.

While certain information may be disclosed under the Freedom of Information Act, some information may be held on a publicly available register, and may be posted onto the Council website; personal data will be protected unless it is also official business data (e.g. a trader whose registered business address is also his home).

The Council has a duty to protect the public funds it administers and to this end, may use the information provided for the prevention and detection of fraud. It may also share information with other bodies responsible for auditing or administering public funds for these purposes, e.g. UK National Fraud Initiative.

The Council holds and uses data in accordance with the Data Protection Act 1998. Stakeholders should be aware that information provided may be used and shared with other departments and agencies in order to assist in the prevention and detection of crime and to protect public funds.

Equality and diversity

Through policies and service delivery, the Council's main aims for ensuring equality and diversity are to:

- Eliminate unlawful discrimination
- Promote equality of opportunity
- Promote good relations between diverse communities

A link to the Council's Equalities and Diversities Policy can be found here:

<http://chaseweb.cannockchasedc.gov.uk/chief-executives-policy-and-performance/equality-and-diversity>

2. Scope of the policy

It is not intended that this Policy should apply to those who are street trading within the Cannock Chase District. A separate policy exists in respect of street trading activity.

<http://www.cannockchasedc.gov.uk/business/licensing-permits/application-forms/licensing>

Each application will be considered on its own merits so that individual circumstances may be taken into account and exception may be made to this policy where appropriate.

This Policy does not apply where commercial obstructions are placed on private land. This includes private shopping developments and any frontage or area within the curtilage of the premises boundary.

This Policy is intended for those who place commercial obstructions on land owned and /or maintained by the Staffordshire County Council Highways Authority. This will generally include most areas of any town centre.

Commercial obstructions which form part of fetes, festivals, carnivals or street markets which are managed by recognised organisations and take place in town centres, will not normally require authorisation from the Council's Licensing Unit. However, organisers should notify the Council's Licensing Unit of the proposed event to ensure that there are no conflicting events or activities scheduled in the same location.

Recognised organisations include the district, town and parish councils as well traders associations and established event organisers.

Registered charities and non profit making organisations may be exempt from paying a commercial obstructions fee. A written request for fee exemption must be provided to the Council on the charity's letter headed paper which must be signed by a responsible person such as a Director or Trustee of the Charity.

3. A-boards

The term A-board shall also be taken to mean any retail or trade display or similar obstruction.

A-boards must not be deployed on the highway without prior permission of the Council. Where permitted, the advertising must relate to the business that holds the Permit and be placed outside the premises concerned.

Where appropriate, the Council will aim to approve all applications for A-boards and permission will be granted in accordance with this Commercial Obstructions Policy as well as Section 115 (E) of the Highways Act 1980; Section 224 of the Town & Country Planning Act 1990; and, the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

The location of the A-board must not hinder passage by the emergency services, or hinder access to, or egress from, the premises concerned or to any adjacent premises; this includes fire evacuation routes. The A-boards must not cause a nuisance or hazard to persons using the highway or any adjacent land or premises. They must not be placed on grass verges, roundabouts, central reservations, pedestrian refuges or other such areas of the highway.

The application process

The applicant must submit a completed application form that includes:

- The appropriate fee
- Evidence that Third Party Public Liability Insurance to the sum of £5,000,000 (five million pounds) is held by the permit holder to indemnify the Council against any and all claims that may arise from the use of the A-board.

Once the application is accepted, the applicant will be required to display a notice on the premises, for a period of not less than 28 consecutive days. This notice must be visible from outside and will give notice of the application and invite the public and other interested parties to make representation about the application should they wish to do so.

Where objections are received, applications may take up to 8 weeks to determine. If granted, permissions will normally be issued for a period of 3 years. Final determination on the matter will be made under officers delegated powers.

General A-board conditions

- Each shop, business or premises, will only be issued with a Permit for one A-board per premises, unless the premises has public access from more than one street, in which case, one A-board per street is acceptable.
- Where multi occupancy premises exist, e.g. shopping arcades / centres or alleyway locations, this Policy provides for one A-board to be located at each public street entrance. Each A-board may be a composite board used to advertise more than one business.
- A-boards must be stable, robust in good repair and fit for purpose. They must be of sound construction and, when extended, must not be more than 1 metre total high (including display items) and no wider than 600mm.
- The 'A' board or display shall not encroach onto the highway by more than 0.7 metres from the façade of the premises;
- A-boards must not rotate or have attachments and must be sufficiently stable so as not to blow over.
- A-boards must be professionally presented and relate to the normal business carried out on the premises. The content of any text or images on any board must not be considered by the Council to be offensive, indecent or defamatory.

- The design of any A-board must include a 100mm high tapping rail positioned at or near ground level, and the construction of both should be solid and in a colour / design which is distinct from the surrounding area, without being too visually dominant, to provide a contrast to assist the visually impaired.
- A minimum of 2 metres clearance, unobstructed by other street furniture or trees, must be maintained between the A-board and the edge of any trafficked carriageway.
- Suitable account must be taken of highway facilities in the immediate vicinity of the proposed A-board, e.g. bus stops, taxi ranks or pedestrian crossings, which will themselves give rise to intermittent footpath obstruction, and must therefore, be taken into account when considering unobstructed clearance.
- The location of the A-board must be within the limits of the frontage of the premises and must be positioned so as to be touching and perpendicular to the frontage of the building.
- Specific hours of operation will be indicated on the Permit, however, generally the Permit will not allow the A-board display to be in position before 09:00hrs or after the premises has ceased trading for the day.
- A-boards should not be used in high winds or where they are being misused by others. They must not be fixed to any street furniture or other parts of the highway.
- The location of the A-board must not obscure visibility for pedestrians or other road users who need to see road signs, pedestrian crossings, junctions, accesses or bends.
- A-boards must be removed at the instruction of the Council for the purpose of:
 - 1) Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by the Staffordshire County Council Highway Authority, the Council or any Statutory Undertaker,
 - 2) Access required by emergency services,
 - 3) Any other reasonable cause.

Notwithstanding adherence to the conditions outlined above and any additional conditions required by the Council, if an A-board or retail / trade display is considered to be causing an obstruction or nuisance to highway users, Staffordshire County Council reserve the right to utilise the provisions of the Highways Act 1980, to remove the items concerned.

The permit holder shall not make, or cause to be made, any claim against the Council in the event of any property associated in any way with the A-board becoming lost or damaged in any way from whatever cause. It is the permit holders responsibility to renew their public liability insurance when necessary.

Non compliance with A-board permit conditions

A-boards must not be deployed other than in accordance with the provisions of a Permit issued by the Council. Where a permit holder is found to be non compliant with their conditions then:

- 1) Licensing officers will work with the permit holder to help resolve any issues and ensure compliance with conditions.
- 2) Where such involvement is unsuccessful then letters will be sent notifying the permit holder of the non compliance issues and providing a timescale by which the issue must be remedied.
- 3) If this formal involvement is unsuccessful then the Council will take whatever action it deems appropriate having regard to the Environmental Health Enforcement Policy. This may include revocation of the A-board Permit and referral to the Staffordshire County Council Highways Authority for further action. Permit fees will not be refunded where A-board permits are revoked

Use of A-boards without permits

- 1) Where an A-board is placed on the highway without permission, the business owner will be asked to remove the A-board with immediate effect.
- 2) Persistent non compliance may result in formal action being taken if it is deemed appropriate to do so having regard to the Environmental Health Department Enforcement Policy. Referral may then be made to the Staffordshire County Council Highways Authority for further action.

A-boards on private property or on land owned by Cannock Chase Council

Freestanding A-boards deployed on private property or those propped against walls or overhanging the highway, will be dealt with through the Council's Planning and Economic Development Department.

Applications for A-boards deployed on Council owned land should be directed to the Council's Property Services Department.

4. Fairground rides/vehicles/promotion stands and gazebos etc

Fairground rides, vehicles, promotion stands and gazebos etc. (including tables and display stands etc, placed outside commercial premises) must not be deployed on the highway without prior permission of the Council and will only be permitted if an adequate, clearly defined pedestrian space is available.

Such items may only occupy a specifically identified area so as to ensure a free and unobstructed route for emergency service vehicles and delivery access.

Consent will be granted in accordance with this Commercial Obstructions Policy as well as Section 115 (E) of the Highways Act 1980; Section 224 of the Town & Country Planning Act 1990; and, the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

The application process

The applicant must submit a completed application form that includes:

- The appropriate fee.
- Evidence that Third Party Public Liability Insurance to the sum of £5,000,000 (five million pounds) is held by the consent holder to indemnify the Council against any and all claims that may arise from the use of the Fairground rides/vehicles/promotions and gazebos etc.
- Appropriate health and safety /public safety certificates. (Electrical/Gas safety/ADIPS etc.).
- DBS police check certificates (where children's fairground rides are licensed).
- An appropriate risk assessment where the need is identified.
- Details of any independent power supply to be used.

The nature of fairground rides/vehicles/promotion stands and gazebo means that consents will normally be issued on a short term ad hoc basis. Most applicants for this type of consent will only be expected to be in the town centres for a single day or for a maximum of one week at a time.

Positioning of the fairground rides/vehicles/promotion stands and gazebos etc

Emergency exit routes from adjacent buildings and the premises should not be obstructed and emergency vehicles must have access along all pavements at all times, even in pedestrianised areas.

The needs of other users of the pavement or town centre must be taken into account, e.g. pedestrians, wheelchair users, trades people, vehicle users, adjacent businesses etc. The location of the obstruction must not hinder access to, or egress from any premises, or to any adjacent premises.

Consideration must always be given to the requirements of the Equality Act 2010 and any associated codes of practice. There is an obligation to regulate features placed on the highway to minimise risk and to ensure that there are no severe hazards particularly for vulnerable people. This includes the visually impaired, those with mobility problems as well as the elderly and the young.

The granting of a consent does not imply an exclusive right to the area. The consent holder should be aware that the Council will need access to the highway for cleaning, repairs and access to equipment. Others, particularly statutory undertakers, may also require access for maintenance and repair of their equipment. The Council reserves the right to suspend the Consent temporarily for any reason if it becomes necessary to do so

General fairground rides/vehicles/promotion stands and gazebos etc. conditions

- Specific hours of operation will be indicated on the Consent, however, generally the consent will not permit the obstruction to be in position before 08:00hrs or after the cessation of the days trading.
- Commercial obstructions such as fairground rides, promotion stands and gazebos, should not be used in high winds or where they are being misused by others. They must not be fixed to any street furniture or other parts of the highway.
- The location of the fairground rides/vehicles/promotion stands and gazebos etc. must not obscure visibility for pedestrians or other road users who need to see road signs, pedestrian crossings, junctions, accesses or bends.
- Generally, no amplified music or sound is permitted. Where music is permitted, this must adhere to any Council guidelines on noise levels.
- Fairground rides/vehicles/promotion stands and gazebos etc. must be removed at the instruction of the Council for the purpose of:
 - 1) Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by the Staffordshire County Council Highway Authority, the Council or any Statutory Undertaker,
 - 2) Access required by emergency services,
 - 3) Any other reasonable cause.

The consent holder will, in the event of a breach of the terms of the consent, reinstate the highway, or street furniture to the satisfaction of the Council or reimburse the Council if, as a result of a breach, it is required to carry out any reinstatement works itself.

Notwithstanding adherence to the conditions outlined above and any additional conditions required by the Council, if an A-board or retail / trade display is considered to be causing an obstruction or nuisance to highway users, Staffordshire County Council reserve the right to utilise the provisions of the Highways Act 1980, to remove the items concerned.

The consent holder shall not make, or cause to be made, any claim against the Council in the event of any property associated in any way with the fairground rides/vehicles/promotion stands or gazebos etc. becoming lost or damaged in any way from whatever cause.

Non compliance with fairground rides/vehicles/ stands and gazebo conditions

Fairground rides/vehicles/promotion stands and gazebos etc. must not be established other than in accordance with the provisions of the consent. Where a consent holder is found to be non compliant with their conditions then:

- 1) Licensing officers will work with the consent holder to help resolve any issues and ensure compliance with conditions.
- 2) Where such involvement is unsuccessful, then letters will be sent notifying the consent holder of the non compliance issues and providing a timescale by which the issue must be remedied.
- 3) If this formal involvement is unsuccessful, then the Council will take whatever action it deems appropriate having regard to the Environmental Health Enforcement Policy. This may include revocation of the fairground rides/vehicles/promotion stands and gazebos etc. Consent and referral to the Staffordshire County Council Highways Authority for further action. Fees will not be refunded where fairground rides/vehicles/promotion stands and gazebos etc consents are revoked.

Use of fairground rides/vehicles/promotion stands and gazebos etc. without consent

- 1) Where fairground rides/vehicles/promotion stands and gazebos etc. are placed on the highway without permission, then the business owner will be asked to remove the obstruction with immediate effect.
- 2) Persistent non compliance may result in formal action being taken if it is deemed appropriate to do so having regard to the Environmental Health Department Enforcement Policy. Referral may then be made to the Staffordshire County Council Highways Authority for further action.

Fairground rides/vehicles/promotion stands or gazebos etc. on private property or on land owned by Cannock Chase Council

Fairground rides/vehicles/promotion stands or gazebo etc. deployed on private property may be dealt with through the Council's Planning & Economic Development Department.

Applications for fairground rides/vehicles/promotion stands or gazebo etc. deployed on Council owned land should be directed to the Council's Property Services Department.

5. Pavement café licences

Pavement cafés are areas of the highway where tables and chairs are placed for the purpose of consuming food and drink outside shops, and alcohol with meals outside premises licensed under the Licensing Act 2003. Cannock Chase District Council supports the provision of pavement cafés in its town centres.

They can make a positive contribution by adding vitality, colour, life and interest to the pavement scene and can help maximise the use of public spaces, aid the local economy and add to the facilities offered to people who live, work and visit the District.

The Council regulates pavement cafés under Section 115(E) of the Highways Act 1980 and has created this Policy to ensure that these features make a positive contribution to the District. The Council has set out a list of key points that applicants must meet.

Pavement café licence operating hours are generally between 09:00hrs and 20:00hrs. All pavement café furniture must be removed by 20.30hrs unless otherwise permitted. For those facilities in close proximity to residential premises, the hours may be restricted to daytime hours up to 18.00hrs. It may be necessary to further restrict operating hours depending upon the location and circumstances under which the pavement café operates.

The application process

Applicants are invited to contact Cannock Chase Council's Licensing Unit in order to establish whether their application would be acceptable in principle.

The Applicant will then be made aware of who they should contact in order to discuss issues relating to noise, food, health and safety, and litter with the Council's Environmental Health Department or the requirements of other Council Departments such as Planning, Revenues and Property Services. Please note that the act of seeking such advice does not guarantee approval.

All applications will be considered in consultation with other agencies. This includes other Council Departments, the Staffordshire County Council Highways Authority and Staffordshire Police.

It may take up to 8 weeks to process an application from its receipt to the issuing of a licence. The submission of an incomplete application, or where an objection is received, may extend the process. If the application is incomplete the application will be returned giving reasons.

Where an application meets the necessary criteria, it will be processed accordingly and a 28 day period of notice will commence.

There is a requirement to display a Pavement Café Notice, which will be placed on or near the premises for a minimum of consecutive 28 days. The said notice must set out the details of the proposed Pavement Café Licence and invites representations from interested parties including the general public as well as the owners of any adjacent premises who may be affected by the proposal.

Where objections are received, applications may take up to 8 weeks to determine. If granted, licenses will be issued for a period of 1 year. Final determination on any objection will be made under officers delegated powers.

The applicant will need to provide:

- A completed application form

- The appropriate fee
- Copies of any necessary planning permissions etc.
- A location plan (approx. 1:1250 scale) showing:
 - the outline of the premises
 - two copies of the site plan and café layout (1:100 or 1:50 scale) showing areas and dimensions where the proposed tables and chairs etc. are to be placed
 - Details of any additional lighting to be used
 - Position of the building line
 - Position of kerb line adjacent to the proposal, or the opposite building line in a pedestrianised street
 - Entrances to the premises near to the area proposed for tables and chairs
 - Any areas considered to be private land
 - Location of trees, lamp posts and other street furniture

Also included with the application should be details of the following:

- Full details, including metric dimensions, materials and colours of the proposed furniture and parasols, accompanied by photographs, illustrations or drawings
- Means of enclosure to be used (dimensions, colours, materials)
- Any additional lighting required (including detailed specifications)
- Full details of any heating appliances to be used
- A copy of the third party public liability insurance certificate
- A Management Plan (where appropriate) detailing how the licensee would deal with any instances of antisocial behaviour

It is the applicant's responsibility to ensure that all the necessary approvals are obtained and where appropriate, the following will be necessary as a minimum:

- Planning permission (where the highway land is to be used as a pavement café on more than 28 days a year).
- A Premises Licence under the Licensing Act 2003, where alcohol is intended to be served.
- Food safety registration with the Environmental Health Department where food is intended to be served.
- Evidence that Third Party Public Liability Insurance to the sum of £5,000,000 (five million pounds) is held by the licence holder to indemnify the Council against any and all claims that may arise from the use of the Pavement Café.

Pavement cafés should not normally extend beyond the limits of the applicant's front and/or side elevations of the premises. The Council will need to be certain that agreement has been reached with any interested frontages affected by the proposal before it can approve the application. This will be part of a formal notification process which the Council will undertake.

The fee must be included with the application and may be refunded if the application is refused. The fee will not normally be refundable should the licence be terminated by the Council or

surrendered by the licence holder. A licence holder may surrender a licence at any time by informing the Council in writing.

Licences are not transferable from premises to premises but may be transferred to new owners/occupiers of the same premises for a small administration fee.

An applicant may apply for a variation of the Pavement Café Licence where the changes to the café are within the current planning permission. Any changes requiring new planning permission would also require a new pavement café application.

A Pavement Café Licence is valid for one year from the date that the application is granted. A licence holder can apply for a simple renewal of the licence where there are no proposed changes to the pavement café or previous breaches of operating conditions; the presumption will be in favour of approval. There is no right of appeal to the courts if the Pavement Café Licence is refused.

Design of the pavement café

An applicant will need to demonstrate that their proposals will make a positive contribution to the street scene and ensure the public's rights to use the highway are not detrimentally affected. Only well designed proposals, which respond to the site and its surroundings (buildings and public realm) and produce a high quality result, will be considered.

Emergency exit routes from adjacent buildings and the premises should not be obstructed by the pavement café and emergency vehicles must have access along all pavements at all times, even in pedestrianised areas. If the emergency services object to the proposal on safety grounds, the application will be refused.

The needs of other users of the pavement or town centre must be taken into account, e.g. pedestrians, wheelchair users, trades people, vehicle users, adjacent businesses etc. The location of the pavement café must not hinder access to, or egress from the premises, or to any adjacent premises, including fire evacuation routes, or cause a nuisance or hazard to persons using the highway or any adjacent land or premises.

Consideration should be given to the level of lighting in the proposed pavement café area. Whilst this may be perfectly adequate during daylight hours on a public highway, it may need supplementing to allow the pavement café to operate safely. Any additional lighting equipment and supply must be specified in the application to enable its impact upon the highway to be considered.

Consideration must be given to the requirements of the Equality Act 2010 and any associated codes of practice. There is an obligation to regulate features placed on the highway to minimise risk and to ensure that there are no severe hazards particularly for vulnerable people. These include the visually impaired, those with mobility problems as well as the elderly and the young.

Size and layout

The size and layout of the proposed pavement café will be dependent upon the characteristics of the site outside of the premises, the space available, the pavement furniture and the type of premises etc. The location of the pavement café will normally be confined within the limits of the front and/or side elevations of the premises concerned.

Granting a licence to operate a pavement café does not imply an exclusive right to the area. The operator of the café should be aware that the Council will need access to the highway for cleaning, repairs and access to equipment. Others, particularly statutory undertakers, may also require access for maintenance and repair of their equipment. The Council reserves the right to suspend the licence temporarily for any reason if it becomes necessary.

Approval will not normally be given for tables and chairs close to points where people queue or congregate, e.g. close to junctions, traffic signals or over tactile paving, bus stops, cash points or where other essential street furniture restricts the pavement width.

Boundaries

The boundary of the pavement café should be defined; this may be by means of a physical barrier. All activities associated with the café must be contained within the agreed boundary, including all tables, chairs, parasols, space heaters, planters, barriers, etc.

The method utilized to enclose the boundary limits of the pavement café is to be sturdy in construction and agreed between the licence holder and the Council. The design should be not less than 800mm high and include a 100mm high tapping rail positioned at or near ground level, and both the barrier and rail should be of a colour / design which is distinct from the surrounding area, without being too visually dominant, to provide a contrast to assist the visually impaired

Furniture

The type and style of the furniture to be used must be agreed between the licence holder the Council and must be high quality robust furniture designed for outdoor use. Tables, chairs, etc. should be manufactured from metal, wood or other high quality materials. Plastic (garden type) furniture will not be accepted. In addition, the tables should be of a height capable of accommodating wheelchair users. The Council reserves the right to reject an application that proposes to use inappropriate furniture.

All tables and chairs and other equipment must be maintained in a clean, tidy and safe condition at all times and should reflect existing structures and features within the street scene. Where relevant, consideration should be given to furniture utilised at adjoining premises to provide an overall enhanced street environment.

Parasols made of wood and canvas are recommended. Their location, materials and colours must be specified as part of the design and they must be positioned so that their extent is contained within the boundary to ensure they do not present a danger to any user of the pavement café or any other users of the highway.

All furniture associated with any pavement café, including parasols, should be securely fastened to ensure that they are not liable to be moved by external forces, such as the effects of the wind.

Limited advertising is permitted on both the enclosure and parasols but is restricted to the name of the premises only. They must not be used to advertise services or products sold. Proposed details should be provided with the application. Adverts must not be too dominant and must be sympathetic to the building and its setting.

Specific permission must be obtained from the Council for the use of outdoor space heaters. Where provided, they must be of a type suitable for use outdoors and placed within the pavement café boundary.

If patio style liquid petroleum gas (LPG) heaters are to be used, they need to be adequately secured upright, be fitted with a flame failure device and be maintained in an good working order.

Licence holder responsibilities

Customers must be offered the choice of purchasing both food and drink at pavement cafés. Alcohol must only be served as ancillary to food prepared on the premises and the licence holder must ensure that the pavement cafe is not used by anyone solely for the drinking of alcohol. Pavement café applications for the sale of alcoholic drinks only, will not normally be considered.

Food must be prepared on the premises in a kitchen that meets both food and health and safety requirements. The licence holder/operator is required to hold an appropriate food hygiene registration and to be trained in food safety.

Where a premises is licensed under the Licensing Act 2003, the pavement café licence holder must comply with the terms and conditions of that Premises Licence.

Premises that are not licensed under the Licensing Act 2003, will not be permitted, under the terms of their Pavement Café Licence, to place tables and chairs on the highway prior to 09:00hrs. They must be removed from the highway by 20:30hrs. It may be necessary to further restrict operating hours depending upon the location and circumstances under which the pavement café operates.

The licensee is responsible for the cleanliness of the pavement café area during operating hours and for the disposal of any associated waste. The area must be kept clean, clear and litter free. Care should be taken to ensure that litter does not stray or get blown further afield.

The Council requires the licensee to take out adequate third party public liability insurance cover for the pavement café of at least £5,000,000 (Five million pounds). The licensee will be required to indemnify the Council against all actions, costs, claims and demands arising from and using the highway under the permission granted.

Space and positioning

A clear footway width of at least 2.0m will be required for the unimpeded use of pedestrians. The needs of other users must also be taken into account, e.g., wheelchairs users, trades people, vehicle (including emergency vehicles) and adjacent businesses.

Where the pavement café is situated immediately adjacent to the premises, a minimum of 2 metres clearance, unobstructed by any other street furniture, trees or supports of any boundary demarcation barrier, must be maintained between the boundary of the pavement café and any other obstruction including the edge of any trafficked carriageway.

Where pedestrian flows are high, the Council may need to make an assessment as to the width of clearance required. It may be necessary to ensure an unobstructed clearance greater than 2m in order to ensure the safety of all highway users.

Where the pavement café is **not** situated immediately in front of, or to the side of a premises, a minimum of 2 metres clearance, unobstructed by any other street furniture, trees or the supports of any boundary demarcation barrier, must be maintained between the building line and the boundary of the pavement café.

The location of any pavement cafe must not obscure visibility for pedestrians or other road users who need to see road signs, pedestrian crossings, junctions, accesses or bends.

The licence holder will, in the event of a breach of the terms of the licence, reinstate the highway, or street furniture to the satisfaction of the Council or reimburse the Council if, as a result of a breach, it is required to carry out any reinstatement works itself.

General pavement café licence conditions

The licensee is responsible for the operation of the pavement café in accordance with the conditions attached to the Pavement Café Licence. General conditions will include:

- 1) A copy of the licence must be kept on the premises at all times and be available for inspection by a police officer or other authorised officer.
- 2) All tables, chairs, etc. must be removed from the highway as required by the operating hours stated on the licence.
- 3) The licensee shall ensure that the pavement café is operated in a safe and efficient manner ensuring that there is no safety risk, nuisance, or detriment to amenity caused to other users of the highway or nearby premises.
- 4) The licensee is responsible for the conduct of patrons/customers within the pavement café area. The café area must be supervised during its hours of operation.

- 5) Pavement cafés must only be used by seated customers. Drinks shall not be served to people standing outside the boundary of the pavement café and customers shall not be permitted to stand and drink within the said area or to take drinks outside of the area.
- 6) Alcoholic drinks must only be served as ancillary to meals prepared on the premises and must not be sold or consumed as a single commodity.
- 7) Food must be prepared on the premises and in an appropriate kitchen area.
- 8) No amplified music or sound is allowed outside the premises. Licensees must adhere to any Council guidelines on noise levels.
- 9) The area occupied by the pavement café must be washed down thoroughly at the end of every day, using a method sufficient to remove food debris and grease, including any staining from food and drink spillages.
- 10) The pavement café and surrounding area must be kept free of litter and rubbish caused by patrons using the pavement café. Arrangements must be made to regularly check for and remove litter and rubbish on pedestrian footways, for a distance of up to 10 metres from the boundary of the pavement café.
- 11) The pavement café must be removed at the instruction of the Council for the purpose of:
 1. Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by, the Staffordshire County Council Highways Authority, the Council or any statutory undertaker,
 2. Access required by emergency services,
 3. Any other reasonable cause.

Granting a licence to operate a pavement café does not imply an exclusive right to the area. The operator of the café should be aware that the Council will need access to the highway for cleaning, repairs and access to equipment. Others, particularly statutory undertakers and emergency services, may also require access for maintenance and repair of their equipment.

The Council reserves the right to suspend the licence temporarily for any reason if it becomes necessary. The Police may have the right to close down any establishment where anti-social behaviour or excessive noise prevails.

The licence holder shall not make, or cause to be made, any claim against the Council in the event of any property associated in any way with the pavement café becoming lost or damaged in any way from whatever cause.

Non compliance with pavement café licence conditions

The pavement café must not be established other than in accordance with the provisions of the licence. Where a licence holder is found to be non compliant with their licence conditions then:

- 1) Licensing officers will work with the licence holder to help resolve any issues and ensure compliance with licence conditions.
- 2) Where such involvement is unsuccessful, then letters will be sent notifying the licence holder of the non compliance issues and providing a timescale by which the issue must be remedied.
- 3) If this formal involvement is unsuccessful then the Council will take whatever action it deems appropriate having regard to the Environmental Health Enforcement Policy. This may include revocation of the Pavement Café Licence and referral to the Staffordshire County Council Highways Authority for further action. Licence fees will not be refunded where pavement café licences are revoked.

Unlicensed pavement cafés

- 1) Where pavement cafés placed on the highway are unlicensed, then the business owner will be asked to remove the obstruction with immediate effect.
- 2) Persistent non compliance may result in formal action if it is deemed appropriate to do so having regard to the Environmental Health Department Enforcement Policy. Referral may then be made to the Staffordshire County Council Highways Authority for further action.

Notwithstanding adherence to the terms issued by the Council prior to the issue of a licence, if a pavement café, in whole or in part, is considered to be causing an obstruction or nuisance to highway users, the Staffordshire County Council Highways Authority reserves the right to utilise the provisions of the Highways Act 1980, to remove the items causing the obstruction or nuisance.

Pavement cafés on private property or on land owned by Cannock Chase Council

Pavement cafés deployed on private property may be dealt with through the Council's Planning & Economic Development Department.

Applications for pavement cafés deployed on Council owned land should be directed to the Council's Property Services Department.

6. Enforcement principles

The Council will work closely with other agencies and aim to promote the policy objectives by targeting known high risk premises following Government guidance around better regulation.

In carrying out its enforcement duties relating to the inspection of premises and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council will have regard to the regulators code and will try to be:

- **Proportionate:**
Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised.
- **Accountable:**
Regulators must be able to justify decisions, and be subject to public scrutiny.
- **Consistent:**
Rules and standards must be joined up and implemented fairly.
- **Transparent:**
Regulators should be open and keep regulations simple and user friendly.
- **Targeted:**
Regulation should be focused on the problem and minimise side effects.

The Council will adopt a risk-based inspection programme in line with Government recommendations around better regulation and the principles of the Regulators Code. The Regulators Code can be found at: <https://www.gov.uk/government/publications/regulators-code>

The Council will endeavour to avoid duplication with other regulatory regimes and will exhaust all of its own enforcement options before referring any matter to the Staffordshire County Council Highways Authority. The Environmental Health Enforcement Policy is available at <http://www.cannockchasedc.gov.uk/residents/environmental-health/environmental-health-enforcement-policy>

Cannock Chase District Council (the Council) recognises and supports the needs of local businesses to use the public highway as an opportunity to increase their revenue through providing additional space, increased sales and advertising.

This Policy sets out the processes by which permits, consents and licences to place commercial obstructions on the public highway will be administered, monitored and enforced by the Council's Licensing Unit. Our contact details are given below:

Licensing Unit,
Civic Centre,
PO Box 28,
Beecroft Road,
Cannock,
Staffs,
WS11 1BG.
Phone: 01543 462621
Fax: 01543 464489 Email: licensingunit@cannockchasedc.gov.uk

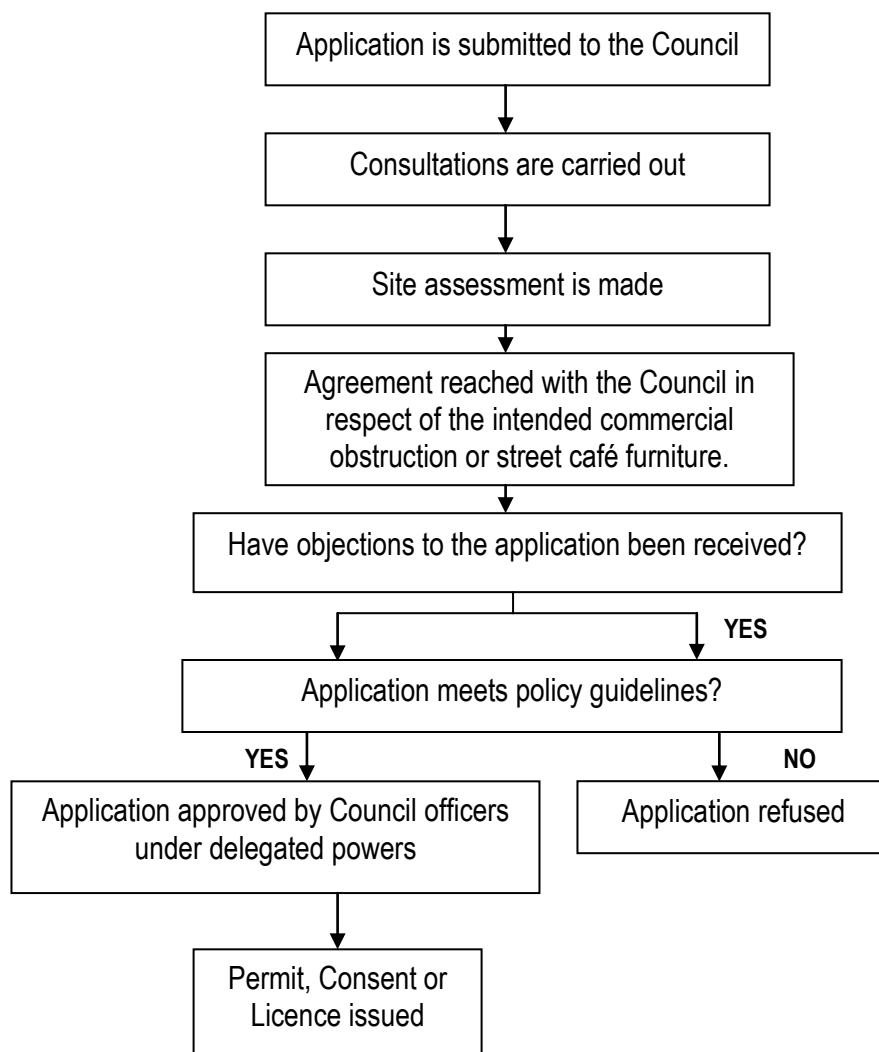
7. Complaints against the service

The Council has a Corporate Complaints Procedure copies of which are available from the Council Offices or on the Council's website www.cannockchasedc.gov.uk.

ANNEX 1

PROCEDURE FOR DETERMINING COMMERCIAL USE OF THE HIGHWAY APPLICATIONS

The application and approval procedure comprises of the following stages:



STAFFORDSHIRE COUNTY COUNCIL

DEVELOPMENT SERVICES DEPARTMENT

MANAGEMENT OF COMMERCIAL OBSTRUCTIONS POLICY

**RICHARD HIGGS
CORPORATE DIRECTOR (DEVELOPMENT SERVICES)
DEVELOPMENT SERVICES DEPARTMENT
RIVERWAY
STAFFORD
ST16 3TJ**

October 2007 (Revision issued January 2008)

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STAFFORDSHIRE COUNTY COUNCIL - MANAGEMENT OF COMMERCIAL OBSTRUCTIONS POLICY

1. INTRODUCTION

General

- 1.1 The widespread encroachment of portable advertising boards ('A' boards), retail / trade displays and Street Cafés onto public highways may be considered by some to be an unsightly nuisance, by the disabled to be a potential danger and by other traders as unfair, non-rated enlargements of a competitor's business. They also constitute an obstruction of the highway which prevent its legitimate use, and are therefore illegal within the terms of the Highways Act 1980.
- 1.1.1 Whilst all of these factors are acknowledged by Staffordshire County Council (SCC), it is also accepted that their controlled use can reduce their negative influence on the street scene, promote safer access for all highway users and disabled groups, assist in promoting tourism and maintaining the vitality of town centres and, by a combination of all of these factors, enhance the economic sustainability of both town, suburban and rural businesses and communities.
- 1.1.2 SCC has, in its role as the Local Highway Authority (LHA), created a Policy entitled, 'Management of Commercial Obstructions Policy', that is designed to operate as a high level framework document, setting out the conditions under which SCC will accept the placement of 'A' boards, retail / trade displays and the establishment of Street Cafés within the boundaries of its highway network, and which Authorities will be responsible for the varying elements of their licensing or consent, conformance inspections and infringement enforcement.
- 1.1.3 A copy of the current Policy, for use by Staffordshire Highways personnel, will be located on H:\Highways\Operational Info\Policy Documents\Operational Policies.
- 1.1.4 Copies of this Policy will also be provided to the following:
- Chief Executives Office – (Legal Services - Development Services)
 - Finance Directorate - (Insurance)
 - Children & Lifelong Learning - Principal Access Officer – (Disability Access)
 - District and Town Councils within Staffordshire
 - Staffordshire Police Authority
 - Staffordshire Fire & Rescue Service
 - Neighbouring Highway Authorities
- 1.1.5 This Policy will also be available on the Highways Portal, which can be accessed by SCC employees via the Intranet and by the public via the Staffordshire Web.

2. SUMMARY

Structure

- 2.1 Chapter 3 contains details of the legislation that is relevant to the management of obstructions placed both on, above and adjacent to the highways within Staffordshire.
- 2.1.1 Chapter 4 outlines the objectives and implementation strategy for the Policy.
- 2.1.2 Chapter 5 sets out the procedures to be followed and areas of responsibility for both the County and the District Council's within Staffordshire, in relation to the development, management and operation of Staffordshire's 'Management of Commercial Obstructions Policy'.
- 2.1.3 Chapter 6 outlines the conditions under which a licence / consent will be given by the local District Council, for the positioning of 'A' boards and retail / trade displays on the public highway network within their district area.
- 2.1.4 Chapter 7 outlines the conditions under which a licence / consent will be given by the local District Council, for the establishment of Street Cafés on the public highway network within their district areas.
- 2.1.5 These Chapters are supported by Appendix 1 that contains copies of standard letters to be used for the management of this Policy.

3. LEGISLATION

General

- 3.1 The following sections summarize the legislation relevant to the control of highway obstructions, and provide general guidance to its application.
- 3.1.1 Practitioners would be advised to ensure that copies of any legislation that is referred to are current, and should contact their Legal Services Section for advice if there is any uncertainty. Additionally, online reference source's, such as LocalawUK, which offers access to Sweet & Maxwell Local Government Library of Encyclopaedias and provides an authoritative, up to date, legal research service in Local Government Law, can provide additional sources of information.

The Highways Act 1980

- 3.2 Section 41 provides that SCC, as the local authority responsible for highways maintainable at the public expense within Staffordshire, has a statutory duty to reasonably maintain the highway so that it is free of dangers to all users who use the highway in the way normally to be expected of them - taking account the traffic reasonably to be expected on the particular highway.
- 3.2.1 Section 58 provides SCC with a defence to successfully counter a legal action for negligence if one arose. SCC must be able to prove, in a court of law, that it has taken "such care as in all the circumstances was reasonably required to secure that the part of the highway to which the action relates was not dangerous for traffic".
- 3.2.2 As a responsible LHA, Staffordshire CC has developed a Policy that outlines what it considers to be acceptable criteria governing the usage and operation of 'A' boards, retail / trade displays and Street Cafés across the highway network for which it is responsible. This has been produced to ensure that the LHA is able to show that it has met the requirements of Section 58, in as much as it has instituted suitable highways management procedures, with regard to these aspects of retail and business trading which can cause a nuisance and / or obstruct the highway, which balance the duty to maintain safe levels of access / passage for highway users, with the amenity value that they bestow on the general population and the benefits they deliver to the urban and rural economies. This will allow the LHA to produce a robust defence if an accident occurs where it is alleged that an obstruction or nuisance on the highway that has been permitted by the local council and the LHA, may have been contributory to the cause of the accident.
- 3.2.3 Section 130 makes it the duty of the LHA to assert and protect the rights of the public to use and enjoy the highways for which it is responsible and, in certain cases, highways for which they are not the Highway Authority, and prevent, as far as possible, its obstruction or any unlawful encroachment.
- 3.2.4 Section 132 makes it an offence to paint, inscribe or affix any picture, letter, sign or other mark on the surface of a highway or on any tree, structure or works on or in the highway. Section 132 also permits the LHA to remove any picture, letter, sign or other mark which has been painted, inscribed or affixed upon the surface of a highway or on any tree, structure or works on or in the highway.

- 3.2.5 Section 137 makes it an offence to obstruct the free passage along a highway.
- 3.2.6 Section 137ZA allows, in certain circumstances, for the courts to order the person convicted under Section 137, to remove the obstruction within a specified period. Failure to do so is a further offence.
- 3.2.7 Section 143 makes it an offence to erect a structure on a highway, a structure including, an 'object of such a nature as to be capable of causing obstruction'. A LHA may serve notice on the person having control or possession of the structure, to remove it within a specified time period, and may, after one month, remove the structure and recover the expenses reasonably incurred by them in so doing.
- 3.2.8 Section 148 makes it an offence, for a person, without lawful authority, to deposit 'any thing whatsoever on a highway to the interruption of any user of the highway'.
- 3.2.9 Section 149 allows the LHA to serve notice requiring the person who deposited it, to remove it forthwith. A magistrates order for its removal, disposal and recovery of expenses can be applied for if it is not removed, alternatively if the LHA consider it constitutes a danger to users of the highway and ought to be removed without delay, they may remove it forthwith, without a magistrates order, and recover their expenses reasonably incurred.
- 3.2.10 Section 152 empowers both the LHA and the Local Authority to serve notice on either the owner or occupier of a building, or both, requiring the removal of projections (including signs etc) from buildings, which have been placed against or in front of the building and obstruct safe and convenient passage along a street, and if the person fails to do so, they are guilty of an offence. 14 days notice is given before the Authorities may remove the obstruction and recover their expenses reasonably incurred.
- 3.2.11 Section 161 makes it an offence for a person to deposit, without lawful excuse, anything whatsoever on a highway in consequence of which a user of the highway is injured or endangered.
- 3.2.12 Section 178 prohibits, without consent, the fixing or placing of overhead beams, rails, pipes, cable or wire or similar apparatus over, along or across a highway.

The Local Government (Miscellaneous Provisions) Act 1982

- 3.3 Part X of this Act applies Schedule 5, which introduces Part V11A into the Highways Act 1980 that contains Sections 115A – 115K. These sections deal with the provision of, and the mechanisms governing the permissions required for, the placement of objects or facilities, which may be considered to provide an amenity, upon certain highways.
- 3.3.1 Section 115E enables a Council, within Staffordshire this will be a District Council, to grant a person permission to allow them to locate an 'A' board, retail / trade display or Street Café within the highway, so long as they can be shown to enhance the amenity of the highway, to provide a service for the benefit of the public or provide a facility for refreshments.
- 3.3.2 Section 115F enables both District Councils and the LHA to require that any

conditions of use that they consider necessary are complied with and to require payment of such reasonable charges as may be determined, to cover the costs that the District Council have incurred with administering any licensing scheme developed under S115E.

- 3.3.3 Section 115H requires that District Councils seeking to grant permissions under S115E, should seek the consent of the LHA before permission is granted, this consent should not be unreasonably withheld (S115J).
- 3.3.4 Consent by the LHA may be accepted as having been granted for a premise, if compliance with the contents of this Policy by the owner / manager of the premises seeking a licence / consent has been confirmed by a District Council.

The Disability Discrimination Act 1995

- 3.4 The main aim of this Act is to improve access for disabled people.
 - 3.4.1 In the context of this Policy, the Act imposes a duty on local authorities to consider the requirements of the disabled community when establishing procedures for the management of items positioned on the highway that may cause an obstruction to highway users, but can also be identified as providing an amenity to the general public.
 - 3.4.2 By taking account of the requirements of the disabled community, local authorities will be able to ensure that, as far as is reasonably practical, continuity of use of these highway obstructions / amenities will be established throughout the County, providing a safer and more equal environment for the disabled community in terms of access to, and use of, the public highway.

Other Relevant Legislation

- 3.5 There are other legislative requirements that may impact upon the ability of a business to legitimately locate 'A' boards, retail / trade displays and Street Cafés within the highway such as the Town and Country Planning Act 1990, the Town and Country Planning (Control of Advertisements) Regulations 2007, the Licensing Act 2003, the Health and Safety at Work etc Act 1974 and the Health Act 2006 which deals with the issues pertaining to smoking in public places.
 - 3.5.1 It is the responsibility of the individual / company seeking a licence or consent under the terms of this Policy, to ensure that they meet the requirements of these, and any other Acts and Regulations that are applicable and, where pertinent, obtain any additional licences, permissions etc. that may be required.

4. STRATEGY

General

- 4.1 The objective of this Policy is to ensure that there is an accepted minimum standard for the establishment and use of 'A' boards, retail / trade displays and Street Cafés throughout Staffordshire, allowing the risks associated with the positioning of these items within the highway, to be assessed and effectively managed, in a broadly consistent fashion, across the County as a whole.
 - 4.1.1 This Policy is designed to provide a high level guidance framework for local Councils, allowing each to include their own requirements, should they so wish, to produce a licensing regime, or other procedure, that they will administer, that is tailored to best suit the diverse needs of the local population and business community within their respective Districts.
 - 4.1.2 Staffordshire CC will not implement this Policy within a District until such time as the District Council has itself created and implemented its own effective licensing regime, or other suitable procedure, to govern the use of these items. In the interim, SCC will continue to operate its unofficial policy of 'non-disapproval' of obstructions placed within the highway, and will only take unilateral action where the obstruction is blatant, highway inspections, or complaints from the public, clearly indicate that a nuisance to highway users is evident, and public safety is unambiguously an issue.
 - 4.1.3 Adherence to, and compliance with this Policy, by all parties, will eliminate the proliferation of poorly sited 'A' boards and ad hoc, retail / trade displays and Street Cafés, ensuring that the potential for what may also be deemed street amenities, to meet criteria that will enhance the street scene, is realised throughout Staffordshire. In combination, this will increase the aesthetic appeal of our towns, villages and country roads, enabling the public to maximize their access to, and use and enjoyment of, the highway and all of its amenities.

Future Developments

- 4.2 It is intended that, during 2008 / 2009, this Policy will be incorporated into a comprehensive Street Scene Policy which will be a contributory factor in enabling SCC to apply a consistent, long term approach to the management of the County's highway assets.

5. PROCEDURE

General

- 5.1 Town centre management is a District Council function that enables them to balance the vitality of their town centres against the potential risks to their town centre users.
- 5.1.1 Whilst this Policy is specifically intended to manage the issue of 'A' boards, retail / trade displays and Street Cafés located upon the highways of Staffordshire, it may be assumed that the terms and conditions of this Policy and any licensing requirements or additional local conditions that a District Council may decide to implement, will apply to all other similar objects placed within the highway that could be considered to be an obstruction, such as:
- free standing parasols, canopies or gazebos;
 - seats or benches;
 - flower pots or planters.
- 5.1.2 There are some items that are located upon the highway which serve as amenities to the highway user and are permitted by other policy or legislation, e.g. street markets established by ancient charter. The licensing or consent provisions of this Policy will not apply in these circumstances, however, they will still be expected to adhere to the Conditions of Use contained within Chapters 6 and 7 of this Policy, any additional conditions that a District Council may require, together with any applicable requirements contained within the Acts and Regulations detailed within Section 3.5 or any other relevant legislation.

Management

- 5.2 The management of the local authority maintained highway network within Staffordshire is undertaken by Staffordshire County Council, Development Services Directorate. Within this Directorate, the Highways Network Management Business Unit contains the Asset Management Section who will be responsible for:
- the development and any periodic review of Staffordshire's 'Management of Commercial Obstructions Policy'.
- 5.2.1 The maintenance of the highway network infrastructure within Staffordshire is undertaken by Area Highway Managers who are responsible for the maintenance of highways within specific geographical areas of Staffordshire.
- 5.2.2 The management of this Policy will be undertaken by the District Councils within Staffordshire who may choose one of two mechanisms for controlling the establishment & usage of 'A' boards, retail / trade displays and Street Cafés that are located on the public highway within their respective boundaries:
- Option 1 – A District Council may either adopt this Policy to develop a licensing procedure, or, utilizing the contents of this Policy to provide an outline of the minimum standards that SCC considers acceptable, develop their own Policy and associated licensing procedure that is specifically designed to meet the needs and the character of their area;

- Option 2 - The Conditions of Use contained within this Policy, together with existing highway, planning, advertisement, licensing and health & safety legislation, may be employed to manage the use of these items, with a targeted, risk based approach being used to monitor any obstruction or nuisance issues that may arise that may require enforcement action to be undertaken.

Operation

- 5.3 Where an 'A' board, retail / trade display or Street Café, is identified by the District Council as being located within a highway, the owner / manager of the premises in question should be contacted by a District Council representative and a copy of the relevant Conditions of Use should be provided. If following an assessment of site specific factors, it seems probable that the Conditions of Use can be met, either a licence application can be provided or consent can be given using the procedures that the District Council has chosen to adopt.
- 5.3.1 If the District Council considers that there may be specific highway safety implications associated with the proposed location, the LHA Area Highways Manager should be consulted to enable the LHA to decide upon the appropriate response to that particular application.
- 5.3.2 When, following an evaluation of site specific factors, it is clear that the Conditions of Use cannot be met, the District Council should provide clear guidance to the owner / manager of the premises in question, informing them that, unfortunately, that particular location is unable to satisfy the requirements that will ensure the safety and rights of access for highway users. Furthermore, it should be explained that, according to the terms of the Highways Act 1980, the placement of their 'A' board, retail / trade display or Street Café is causing an illegal obstruction within the highway that may potentially endanger highway users, and therefore the item(s) must be permanently removed. Further explanation should be provided, outlining that, if the obstructing item(s) are not permanently removed from the highway, the Act also provides for the LHA to remove the obstructing item(s) and recover their costs against the owner.
- 5.3.3 When, following an evaluation of site specific factors, it is clear that the Conditions of Use cannot be met but, in the opinion of the District Council, there is a clear public benefit in permitting the obstruction / amenity with a minimal departure from the standards outlined within this Policy, a risk assessment should be carried out and the LHA Area Highways Manager consulted, to enable the LHA to decide upon the appropriate response to that particular application.
- 5.3.4 Where a licence application (if applicable) has not been received within 14 days, or, it is clear that the Conditions of Use cannot be met and contrary to the advice of the District Council the item(s) are still being placed upon the public highway, then the District Council should issue Standard Letter CBO1: 28 Day Removal Request, to the owner / manager of the premises in question. If the item(s) have not been removed within the specified period, the District Council should forward Standard Letter CBO2: Policy Enforcement Removal Request, together with a copy of CBO1, to the LHA Area Highways Manager requesting that they take enforcement action to remove the unauthorized obstruction to the highway.

5.3.5 The Area Highway Manager shall:

- receive from District Councils, via the CLARENCE Customer Contact Centre, the Standard Letters CBO1 and CBO2, notifying the LHA of an unauthorized highway obstruction, and requesting that enforcement actions are carried out (see Appendix 1).

5.3.6 Upon receipt of the Standard Letters CBO1 and CBO2 from the District Council, the Area Highways Manager will authorize a site investigation of the location to assess:

- the resources required to carry out enforcement action;
- whether the presence of Staffordshire Police is necessary to ensure that the LHA operatives can carry out the enforcement action safely.

5.3.7 The Area Highways Manager will also:

- issue Standard Letter CBO3: 28 Day Removal Notification (if applicable);
- update a register for that Maintenance Area, which will be a record of locations, types and frequency of enforcement requests and actions within the Maintenance Area;
- address the issue of prioritisation of enforcement actions, based upon the number, location and type of actions and available resources, to promote the best use of maintenance budgets;
- manage the programming and implementation of enforcement action;
- organize the transport and storage of seized items;
- dispose of unclaimed items after 28 days;
- maintain a record of all associated costs in order that the LHA can recover their expenses, reasonably incurred, from the owner.

5.3.8 The Area Highways Manager will also receive, directly from the general public or from observations made by Maintenance Area Office staff during the course of their duties, complaints or information relating to suspected infringements of either this Policy, or of any licensing, or alternative arrangements that a District Council has chosen to implement. These reports will be forwarded to the appropriate District Council for their information, assessment and any actions that they deem necessary.

5.3.9 Periodic visual inspections of each of the licensed / consent premises should be undertaken by the District Council to confirm that the conditions of the 'Management of Commercial Obstructions Policy', and any additional conditions required by the District Council, are being adhered too.

6. 'A' BOARDS AND RETAIL / TRADE DISPLAYS**General**

- 6.1 Staffordshire CC will not permit the placement of 'A' boards or of retail / trade goods on adopted highways unless a license has been issued, or consent been given, by the local District Council.
- 6.1.1 A licence for the location of an 'A' board or retail / trade display issued under S115E of the Highways Act 1980, is valid for a maximum of 12 months.
- 6.1.2 District Council's may levy reasonable initial licensing charges and annual renewal administration charges, with these charges being reviewed annually.
- 6.1.3 Displays of retail goods, i.e. newspapers displayed in racks placed immediately in front of, or temporarily affixed to a building, projecting a distance of not more than 125mm from the façade of the premises into the highway, should not be considered as obstructions to the highway, and therefore a licence shall not be required and no enforcement action should be taken.
- 6.1.4 A business that has a licence or consent for the location of an 'A' board outside of its premises, may allow a part of that 'A' board to be used to promote, or direct customers to a separately owned business premises remote from the location of the board. This provision may be useful where the 'remote' business is located on a side street and the licensed / consent premises is located at the junction of that side street and a street carrying higher pedestrian traffic.
- 6.1.5 Hanging signs that project from above the shop frontage may, in some locations, be a realistic, cost effective alternative where these Conditions of Use, or any additional requirements that a District Council may require, prevent the positioning of an 'A' board upon the footway. It is strongly recommended that District Councils bring this option to the attention of business owners if the District Councils consider that this may be an acceptable alternative in any location within their areas.
- 6.1.6 There may upon occasion, be a situation where it is clearly to the public benefit for an item / obstruction to be placed upon the highway, which may not directly benefit the owner / manager of the premises supplying the item, but does incur a financial cost e.g. cigarette end collector / bin. In such circumstances, the District Council may wish to license or give consent for these items to ensure conformity with this Policy, and any of their own conditions or procedural requirements, but may wish to waive, or reduce, any initial licensing charge and any annual renewal administration charge.

Conditions of Use

- 6.2 Staffordshire CC will permit 'A' boards and retail / trade displays to be located on the public highway, subject to the following conditions:
- The location of the 'A' board or display must not hinder passage by the emergency services, or hinder access to, or egress from the premises, or to any adjacent premises, including fire evacuation routes, or cause a nuisance or hazard to persons using the highway or any adjacent land or premises;

- A licence / consent for only one 'A' board per premises will be issued by the District Council, (unless the premises has public access from more than one street, in which case one 'A' board per street is acceptable);
- Where multi occupancy premises exist, e.g. shopping arcades / centres or alleyway locations, this Policy provides for the provision of one 'A' board to be located at each public street entrance, each of which may be a composite board used to advertise more than one business;
- The location of the 'A' board or display must be within the limits of the frontage of the premises;
- The positioning of the 'A' board or display is to be agreed between the premises owner / manager and the District Council;
- 'A' boards and display furniture must be constructed of suitable materials and kept in good repair, with the type and style of the board and display furniture to be used, agreed between the owner / manager of the premises and the District Council, subject to the following conditions:
 - 'A' boards must not be more than 0.6 metres wide;
 - 'A' boards and displays must not be more than 1.0 metres tall (total height including display items);
 - 'A' boards and displays must be sufficiently stable so as not to blow over.
- The design of any display furniture must include a 100mm high tapping rail positioned at or near ground level, and the construction of both should be solid and in a colour / design which is distinct from the surrounding area, without being too visually dominant, to provide a contrast to assist the visually impaired;
- A minimum of 2 metres clearance, unobstructed by other street furniture or trees, must be maintained between the 'A' board or display and the edge of any trafficked carriageway. Where pedestrian flows are high, the District Council will make an assessment as to the width of clearance required, if it is considered that an unobstructed clearance greater than 2m is appropriate to ensure the safety of all highway users;
- Suitable account must be taken of highway facilities in the immediate vicinity of the proposed 'A' board or display, e.g. bus stops, taxi ranks or pedestrian crossings, which will themselves give rise to intermittent footpath obstruction, and must therefore, be taken into account when considering unobstructed clearance;
- The 'A' board or display shall not encroach onto the highway by more than 0.7 metres from the façade of the premises;
- The 'A' board or display furniture must not be fixed to any street furniture or other parts of the highway;

- The location of the 'A' board or display must not obscure the visibility for road users of road signs, or obstruct the view of road users at pedestrian crossing facilities, junctions, accesses or bends;
- The location of the 'A' board or display must not obscure the visibility for pedestrians of vehicular road users;
- Specific hours of operation will be indicated on the licence, however, generally the licence / consent will not permit the 'A' board or display to be in position before 09:00 or after the premises that they are advertising has ceased trading for the day, or when the premises are not open for business, or after 22:00;
- The 'A' board or display must not be erected other than in accordance with the provisions of the licence or terms of consent;
- The owner / manager of the premises is not to make, or cause to be made, any claim against the LHA or District Council in the event of any property of the owner / manager becoming lost or damaged in any way from whatever cause;
- Third Party Public Liability Insurance to the sum of two million pounds must be held by the owner / manager of the premises to indemnify both the LHA and the District Council against any and all claims that may arise from the use of the 'A' board or display;
- The 'A' board or display must be removed at the instruction of the LHA or the District Council for the purpose of:
 1. Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by the LHA, the District Council or any Statutory Undertaker,
 2. Access required by emergency services,
 3. Any other reasonable cause.
- If a licence has been issued, the licence holder must not display the 'A' board or display after the end of the licence period or on any sooner revocation of the licence;

6.2.1 Notwithstanding adherence to the Conditions of Use outlined above and any additional conditions required by the District Council, if an 'A' Board or retail / trade display was considered to be causing an obstruction or nuisance to highway users, Staffordshire CC reserve the right to utilise the provisions of the Highways Act 1980, to remove the items concerned.

7. STREET CAFÉ'S

General

- 7.1 Public houses, wine bars, restaurants, and cafés may wish to site tables and chairs, and other associated facilities, on the highway outside their business premises for the use of their customers. For the purposes of this Policy, these and all similar installations will be referred to as Street Cafés.
- 7.1.1 SCC will not permit the establishment of a Street Café on adopted highways unless a license has been issued, or consent been given, by the District Council.
- 7.1.2 A licence for the location of a Street Café issued under S115E of the Highways Act 1980 is valid for a maximum of 12 months and is totally independent of any licence issued to a business premises under the Licensing Act 2003.
- 7.1.3 District Council may levy reasonable initial licensing charges and annual renewal administration charges, with these charges being reviewed annually.
- 7.1.4 The issuing of a license or granting of consent to individual premises by the District Council, is designed to ensure that adequate space is available for the safe and free movement of all highway users and that consideration is given to the location of the amenity in terms of possible disturbance for local residents and nearby shops and offices and pollution from unwanted noise or smells.

Conditions of Use

- 7.2 Staffordshire CC will permit a Street Café to be established on the public highway, subject to the following conditions:
- The location of the Street Café must not hinder passage by the emergency services, or hinder access to, or egress from the premise, or to any adjacent premises, including fire evacuation routes, or cause a nuisance or hazard to persons using the highway or any adjacent land or premises;
 - The location of the Street Café must be within the limits of the front or side elevations of the premises applying for the licence / consent;
 - The method utilized to enclose the boundary limits of the Street Café is to be solid in construction and agreed between the owner / manager of the premises and the District Council. The design should be not less than 800mm high and include a 100mm high tapping rail positioned at or near ground level, and both the barrier and rail should be of a colour / design which is distinct from the surrounding area, without being too visually dominant, to provide a contrast to assist the visually impaired;
 - Where the Street Café is situated immediately adjacent to the premises, a minimum of 2 metres clearance, unobstructed by any other street furniture, trees or supports of any boundary demarcation barrier, must be maintained between the boundary of the Street Café and any other obstruction including the edge of any trafficked carriageway. Where pedestrian flows are high, the District Council will make an assessment as to the width of clearance

required, if it is considered that an unobstructed clearance greater than 2m is appropriate to ensure the safety of all highway users;

- Where the Street Café is not situated immediately in front of, or to the side of, a premise, a minimum of 2 metres clearance, unobstructed by any other street furniture, trees or the supports of any boundary demarcation barrier, must be maintained between the building line and the boundary of the Street Café. Where pedestrian flows are high, the District Council will make an assessment as to the width of unobstructed clearance required if it is considered that a clearance greater than 2m is appropriate to ensure the safety of all highway users. Additionally, a minimum of 1.5m clearance must be provided between the boundary of the Street Café and the edge of the trafficked carriageway, with the District Council making an assessment, based upon highway geometry and vehicle usage and speeds, as to the width of clearance required if it is considered that a clearance greater than 1.5m is appropriate to ensure the safety of all highway users;
- Whether the site of the Street Café is to be immediately adjacent to a premises, or the site is to be away from the front or side elevations of a premise, suitable consideration must be given to highway facilities in the immediate vicinity e.g. bus stops, taxi ranks or pedestrian crossings, which will themselves give rise to intermittent footpath obstruction and must therefore, be taken into account when considering unobstructed clearance;
- The location of the Street Café must not obscure the visibility for vehicular road users of road signs, or obstruct their view at pedestrian crossing facilities, junctions, accesses or bends etc;
- The location of the Street Café must not obscure the visibility for pedestrians of vehicular road users;
- Excavations or fixtures of any kind, are not permitted to the surface or other infrastructure of the highway without the prior written approval of the LHA;
- Street Cafés are to be used for seated customers only;
- The type and style of the furniture to be used must be agreed between the owner / manager of the premises and the District Council and the furniture must be kept in good repair;
- All furniture associated with any Street Café, including parasols, should be securely fastened to ensure that they are not liable to be moved by external forces, such as the effects of the wind;
- Specific permission must be obtained from the District Council for the use of outdoor space heaters;
- Where a premise is licensed under the Licensing Act 2003 or any modification or re- enactment thereof, the licensee must comply with the terms of that licence so far as they relate to the Street Café, with the specific hours of operation of the Street Café adjudged through the terms of the liquor licence. Premises that are not licensed under the Licensing Act 2003,

will not be permitted, under the terms of their Street Café licence, to place tables and chairs on the highway prior to 09:00 and they must be removed from the highway by 22:00;

- The area occupied by the Street Café must be washed down thoroughly at the end of every day, using a method sufficient to remove food debris and grease, including staining from food and drink spillages;
- The Street Café and surrounding area must be kept free of litter and rubbish caused by patrons using the Street Café, and arrangements made to regularly check for and remove litter and rubbish on pedestrian footways, for a distance of up to 10 metres from the boundary of the Café;
- The Street Café must not be established other than in accordance with the provisions of the licence / consent;
- The owner / manager of the Street Café shall not make, or cause to be made, any claim against the LHA or District Council in the event of any property associated in any way with the Street Café becoming lost or damaged in any way from whatever cause;
- For the period of the licence / consent, the owner / manager of the Street Café must hold Third Party Public Liability Insurance to the sum of two million pounds and indemnify both the LHA and the District Council against any and all claims that may arise from its establishment;
- The Street Café must be removed at the instruction of the LHA or the District Council for the purpose of:
 1. Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by, the LHA, the District Council or any statutory undertaker,
 2. Access required by emergency services,
 3. Any other reasonable cause.
- The Street Café must not be erected and the area must be kept clear, at the end of, or any sooner revocation of, the licence / consent;
- The owner / manager of the Street Café will, in the event of a breach of the terms of the licence / consent, reinstate the highway, or street furniture to the satisfaction of the LHA, or reimburse the LHA if, as a result of a breach, it is required to carry out any reinstatement works itself.
- The LHA reserve the right to remove any Street Café and clear the area of all obstructions if any of the above criterion are contravened;

7.2.1 Notwithstanding adherence to the terms issued by the District Council prior to the issue of a licence / consent, if a Street Café, in whole or in part, was considered to be causing an obstruction or nuisance to highway users, Staffordshire CC reserve the right to utilise the provisions of the Highways Act 1980, to remove the items causing the obstruction or nuisance.

8. Record Keeping

- 8.1 The retention of accurate, contemporary records, by all local authorities involved with the implementation of this Policy, is important to assist in any future cost recovery procedures.
- 8.1.1 In the event of any disputes, third party claims, or other legal proceedings, any and all documentary or electronic records may prove invaluable in enabling Staffordshire County Council to demonstrate that it has acted in a responsible manner and is able to robustly refute any complaint or defend any action.
- 8.1.2 It is important to recognize that all information recorded, even if not primarily intended for highway network safety purposes, may have consequential implications for safety related issues and may therefore be relevant to any potential legal proceedings.
- 8.1.3 Following the introduction of the Freedom of Information Act 2000, it is important to recognize that all records are potentially available for inspection by members of the public.

9. References

Acts of Parliament

Highways Act 1980

Local Government (Miscellaneous Provisions) Act 1982

Town and Country Planning Act 1990

The Disability Discrimination Act 1995

Freedom of Information Act 2000

Licensing Act 2003

Town and Country Planning (Control of Advertisements) Regulations 2007

Health and Safety at Work etc 1974

Health Act 2006

Design Manual for Roads and Bridges

HD 39 (DMRB 7.2.5) Footway Design

Statutory Instruments

The Traffic Signs Regulations and General Directions 2002

Other Reference Sources

Designing for Accessibility – Published by Centre for Accessible Environments
and RIBA Enterprises, 2004

APPENDIX 1

STANDARD LETTERS

- CBO1: Standard Letter - 28 Day Removal Request
- CBO2: Standard Letter – Policy Enforcement Removal Request
- CBO3: Standard Letter – 28 Day Removal Notification

CBO1: STANDARD LETTER: 28 DAY REMOVAL REQUEST

Our Ref

Your Ref

Date

Dear Sir/Madam,

COMMERCIAL OBSTRUCTION ON THE HIGHWAY:

..... **(LOCATION)**

Following complaints received from members of the public / Following routine inspections undertaken within your area
(delete as appropriate)

it has been brought to the attention of your District Council, that there is a
... **(Description of Commercial Obstruction)** which is located on the
public highway, the **(Road Number / Road Name)** and is situated
..... **(Location on the Highway)** that is causing
an obstruction on the highway and may endanger highway users.

The placement of this obstruction constitutes an offence under the terms of the
Highways Act 1980: Section 148.

To maintain the safety of road users and pedestrians, I would be grateful if you would
arrange for the **(Description of Commercial Obstruction)**
to be immediately removed from on the highway, and not replaced.

Should you fail to act upon this request within 28 days, your local council will contact
the Highway Authority, Staffordshire County Council, and request that they undertake
any and all actions necessary to remove the highway obstruction.

You should also be aware that the Highway Authority can, using the provisions
contained within the Highways Act 1980: Section 149, recover from yourself any
expenses that they incur in removing this item from the highway.

If you have any questions about the above matter, you are welcome to contact us on
the telephone number at the head of this letter.

Finally, please may I thank you for your co-operation in this matter.

Yours faithfully

CBO2: STANDARD LETTER: POLICY ENFORCEMENT REMOVAL REQUEST

Our Ref

Your Ref

Date

Dear Sir/Madam,

COMMERCIAL OBSTRUCTION ON THE HIGHWAY:

..... **(LOCATION)**

It has been brought to the attention of this District Council that there is a
..... **(Description of Commercial Obstruction)**
which is located without the consent of this Council, on a public highway, the
..... **(Road Number / Road Name)** and is situated
..... **(Location on the Highway)** which is obstructing
the highway and may endanger highway users.

This Council has issued Standard Letter CBO1, which informed the owner / manager of the premises that the placement of this obstruction constitutes an offence under the terms of the Highways Act 1980: Section 148, and requests that the obstruction be removed within 28 days **(Copy Attached)**.

The owner / manager of the premises was also informed that failure to remove the obstruction within 28 days would result in a request by this Council to the Highway Authority for its removal, and that the costs involved with the removal could be recharged to themselves. This notice period has elapsed and the obstruction is still being located on the highway.

To maintain the safety of road users and pedestrians, I would be grateful if Staffordshire County Council, as the Highway Authority for Staffordshire, would arrange for the obstruction, as described above, to be removed from the highway.

Yours faithfully

CBO3: STANDARD LETTER: 28 DAY REMOVAL NOTIFICATION

Our Ref

Your Ref

Date

Dear Sir/Madam,

COMMERCIAL OBSTRUCTION ON THE HIGHWAY:

..... **(LOCATION)**

I have received notification from **(Name of District Council)** that there is a **(Description of Commercial Obstruction)** which is located, without the consent of your District Council or the Highway Authority, upon the public highway, the **(Road Number / Road Name)** and is situated **(Location on the Highway)**

I have also received from your District Council, a copy of the letter that they sent to you informing you that they consider that the obstruction to the highway may endanger highway users and requesting that, to maintain the safety of road users and pedestrians, the obstruction be removed from the highway within 28 days and not replaced.

Staffordshire County Council, as the Highway Authority for Staffordshire also considers that this obstruction constitutes a danger to highway users.

I must inform you that the placement of this obstruction constitutes an offence under the terms of the Highways Act 1980: Section 148.

To ensure that the safety of all highway users is maintained, i would be grateful if you would arrange for the **(Description of Commercial Obstruction)** to be immediately removed from on the highway, and not replaced.

Should you fail to act upon this notification within 28 days, the Highway Authority will use its powers under the Highways Act 1980: Section 149 (2) and undertake any and all actions necessary to remove the highway obstruction and recharge any expenses that are incurred in doing so against yourself.

If you have any questions about the above matter, you are welcome to contact us on the telephone number at the head of this letter.

Finally, please may I thank you in anticipation of your co-operation in this matter.

Yours faithfully

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Appendix 5

Table showing proposed fee structure for Commercial Obstructions Policy

ITEM	CATEGORY / BANDING	PROPOSED FEE £
3 YEAR A-BOARD PERMIT	SINGLE A BOARD	85.00
1 YEAR PAVEMENT CAFÉ LICENCE	UP TO 2 UNITS*	85.00 PER UNIT
	3-6 UNITS*	250.00
	7-10 UNITS*	500.00
PROMOTIONS, GAZEBOS, RIDES ETC. IN TOWN CENTRES	SINGLE ITEM	25.00 PER DAY
	OVER 4 ITEMS	FEE ON REQUEST

*For Pavement Café Licences, a unit is defined as a table and up to 4 chairs.

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SCRUTINY REVIEW TEMPLATE

REVIEW TITLE
Review of Policy for Commercial Use of the Highway
SCOPE OF THE REVIEW / TERMS OF REFERENCE
To review the Policy with a view to evaluating its impact on business and the town centres To determine whether the policy should extend beyond the largest town centres and/or District wide
REASON FOR SCRUTINY
In approving the report Council on 18 October 2017 determined that a review should be carried out 12 months after initial implementation. There has been considerable concern raised by traders, Councillors, residents and the local MP about the implementation of the policy and the charging regime.
MEMBERSHIP OF THE REVIEW GROUP
Councillors A. Dudson, Mrs. M.A. Davis, P. Hewitt and M. Sutherland
KEY TASKS / REVIEW PLAN
SOURCES OF EVIDENCE
TIMESCALE

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CANNOCK CHASE COUNCIL
NOTES OF THE
SCRUTINY WORKING GROUP -
REVIEW OF POLICY FOR COMMERCIAL USE OF THE HIGHWAY
THURSDAY 26 JULY, 2018 AT 4.00 P.M.
HELD IN THE DATTELN ROOM, CIVIC CENTRE,
BEECROFT ROAD, CANNOCK

Present:

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

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

Officers: P. Beckley, Interim Head of
Economic Prosperity

David Prosser-Davies, Food,
Safety and Licensing Manager

1. Appointment of Chairman

The Group agreed that Councillor M. Sutherland would be Chairman of the Working Group.

2. Declarations of Interests from Members

Councillors A. Dudson, P. Hewitt and M. Sutherland declared that they were Staffordshire County Councillors.

3. Review of Policy for Commercial Use of the Highway

The Chairman advised that the Working Group had been established to review the Policy for the Commercial Use of the Highway. The Group would consider whether the Policy was fit for purpose and if it was not working, consideration should be given to why this was. The Group would also look at what could be added to make it work better or whether to pull it completely.

Councillor Mrs. Davis added that when the Policy had been approved back in

October 2017 it was agreed that it would be reviewed at a later date. However, there was now concern that there may be a few problems arising. She asked for clarification as to why Staffordshire County Council adopted a Policy in 2007 and Cannock Chase did not adopt it until 2017. The Food, Safety and Licensing Manager confirmed that the Policy stems from an action plan in the 2016-17 Better Jobs and Skills PDP to review the Street Trading Policy. The Policy was developed having regard to Staffordshire County Council's Commercial Obstructions Policy 2007. The County Council (as Highway Authority) created a Policy framework to allow District Councils to regulate and control "commercial obstructions". The County Council will not get involved in administration and enforcement unless the District Council have adopted a policy first.

The Interim Head of Economic Prosperity added that during the consultation process the County Council advised that they would be reviewing their 2007 Policy, as part of their Highway Policy Review, in 18 months time. These 18 months have now nearly passed and, as yet, the District Council has not had any feedback on the County's review of their Policy. He questioned whether their review of the Policy would alter the path the District Council took. The Chairman asked why there had been a 10 year gap and why the District Council agreed to implement an old policy that was up for a review. The Food, Safety and Licensing Manager explained that it was the only policy that was available to implement; in order to complete an action that was included in a PDP the Council implemented this Policy.

Councillor Hewitt explained that this Policy has been aggressively challenged across the District. He asked why it had not been implemented in Heath Hayes, Norton Canes etc (only the main three town centres) and questioned whether it was to make money or whether the County Council had asked us to adopt it.

The Food, Safety and Licensing Manager advised that when the Council had debated the Policy in October, Members were asked whether it should be a District wide policy. It had been agreed that it would be implemented in the main three town centres and a review be undertaken within 12 months after initial implementation, with a view to evaluating the impact and to determine whether to extend the policy beyond the largest three town centres and/or District wide. He confirmed that it was not an income generating thing - District Councils could only recover from businesses their reasonable costs in administering the Policy.

Members questioned the health and safety aspect of allowing the obstructions in the highway. Councillor Dudson added that making businesses pay for a licence to allow them to display an 'A Board' or erect tables and chairs did not improve the health and safety aspect. For example the 'A Board' would still be in the way of someone who was blind.

The Interim Head of Economic Prosperity explained that it was illegal to erect obstructions in the Highway and some Council's had banned them all together. The RNIB do not want them at all. However, the District Council had decided to follow the County Council and adopt a Policy which allowed controls to be in place to stipulate that the 'A Boards' should be erected in certain places and be of a specific size. He added that the Policy covered the erection of café tables and

chairs along with gazebos selling electricity etc. in addition to the display of 'A Boards'. The Policy made it clear what the traders could have, where they should be positioned and what size they should be.

Members considered that the enforcement of the Policy would be difficult to manage. They questioned who was responsible for enforcement as there was no revenue to pay for it. The Food, Safety and Licensing Manager confirmed that the County Council enforce the conditions of the Policy. In order to achieve a uniform approach across the County each District Council could adopt the Policy and the County Council undertake to take action where necessary. The Policy states that County Council will take action where a District Council has implemented a scheme. The County are the highways authority and it is a statutory duty on them.

The Chairman asked where the money generated from the implementation of the Policy goes to. The Food, Safety and Licensing Manager confirmed that the money went towards the District Council's costs of administering the scheme. He confirmed that the Policy was a mechanism to allow businesses to use the highway to advertise legally. The Council was not permitted to raise revenue through the process, only to recover reasonable costs.

Councillor Hewitt considered that larger businesses could afford the costs involved to display 'A Boards' and erect tables and chairs, whereas it was another burden on the smaller businesses who were already struggling to make money. He added that town centres only flourished if the businesses were doing well.

The Interim Head of Economic Prosperity suggested that the Group may want to look at what other Local Authorities were doing and whether they had adopted the Policy. The Policy had been about since 2007 in other Districts and the Chairman considered that it would be a good idea to obtain information from these Councils on a like for like comparison.

The Group considered that as the County Council was due to be reviewing their Policy contact should be made with them to establish what the latest position was with regards to the review.

Councillor Dudson asked what was defined as a town centre. There was concern that in some areas the town centre could be on one side of the road whereas the other side of the road did not form part of the town centre. The Interim Head of Economic Prosperity explained that this was defined in the Local Plan and the Policy was based on the main three town centres. Councillor Dudson added that Traders could have hanging advertising boards outside their premises and pay nothing. The Officer clarified that a Trader would need to pay for and obtain planning permission in order to have an advertising board outside their premises. He commented that Tamworth Borough Council made Traders pay for planning permission in order to display an 'A Board' and then they had to pay for a licence as well. However, the District Council had had not pursued this course of action.

Members questioned what would happen if a member of the public was injured after bumping into an 'A Board'. The Food, Safety and Licensing Manager advised that this would be covered by the Traders public liability insurance (if they

had it). However, the Trader would not be covered if the 'A Board' was erected illegally (without a licence). Traders were required to provide proof of their public liability insurance in order to obtain a licence. The Interim Head of Economic Prosperity referred Members to paragraph 3.10 of the Report which outlined the figures for the number of traders who had been granted licenses. Officers would be contacting traders who were either displaying 'A Boards' or erecting tables and chairs without a permit and advising them of the policy and persuading them to apply for a licence.

Councillor Dudson raised the issue of enforcement again and considered that if the County Council was responsible for enforcing the policy they would have to employ an Enforcement Officer to police the policy. He questioned who would be paying for the Enforcement Officer and asked whether the County Council would try to retrieve the costs from the District Council. The Food, Safety and Licensing Manager confirmed that the County Council would pay for an Enforcement Officer. They would recover their fees from the businesses not the District Council. The Group asked that the County be asked to clarify this.

The Chairman then asked the Portfolio Leader, Councillor Mrs. C. Martin if she had anything to add. She commented that the cost of a 3 year permit was £85; that amounted to 54p a week. For tables and chairs it was £85 per year for 2 units and for 7-10 units it was £500. She clarified that there was not one trader in the District that had a large enough frontage to cater for 7-10 units. She considered that the cost of 54p per week for a trader to display an 'A Board' and to allow Officers to control where they were situated was not excessive. It was better to control where they were positioned so that access for emergency vehicles was not impeded. She acknowledged that the health and safety aspect was important but added that common sense should prevail.

Councillor Hewitt asked whether there were any records of injuries in the District as a result of the displaying of an 'A Board'. The Officer confirmed he was not aware of any injuries. Councillor Hewitt added that the District Council did not have a policy prior to 2017 and the 'A Boards' would have been displayed before then and yet there was no record of any injuries even though no policy was in place.

The Chairman commented that Hednesford town centre was not pedestrianised and buggies or wheelchairs may have to go into the road if an 'A Board' was in the way. He therefore considered that control of where they were placed was important.

The Interim Head of Economic Prosperity suggested that Members may wish to visit the town centres to see for themselves what was in place. He asked them to bear in mind that some traders had removed their 'A Boards' or tables and chairs as they did not want to pay for the permit. Therefore there were less of them in place than there were 12 months ago. Members may also wish to ask the traders how the policy had affected them.

The Group agreed that they would visit the town centres and assess what was in place in each and liaise with traders.

The Group noted that it may be useful to contact disability groups, such as the RNIB, shoppers and wheelchair/buggy users to seek information on any particular issues they may have. Councillor Hewitt agreed to pick this up and feed back to the Group.

Councillor Hewitt considered that the public were massively involved in this as if all tables and chairs and advertising boards were removed from a town centre it would look terrible. They added to the vibrancy of the towns and improved the appearance.

The Interim Head of Economic Prosperity asked whether the Group would like to obtain a view of the Economic Development team on the Policy. The Group agreed this was a sensible suggestion.

The Officer also asked Members if they could review the template attached to the agenda at Item 4.4 as this would form the basis of the review and record the key tasks and timescale. The Chairman agreed to look at this once the minutes had been circulated.

The Group agreed that the date for the next meeting would be Tuesday 21 August, 2018 at 3.00pm. However Members of the Group would talk between themselves in the meantime and advise the Interim Head of Economic Prosperity of anything they wished to be included on the agenda.

AGREED:

- (A) That other Local Authorities be contacted to establish what they were doing and whether they had adopted the Policy (like for like comparison).
- (B) That Councillors Sutherland and Hewitt contact County Council to establish the latest position with regards to their review of the 2007 Policy.
- (C) That the County Council be asked to clarify the position with regards to the enforcement of the Policy.
- (D) That Members of the Group undertake a visit of the District to assess what was in place in each town centre and liaise with traders to establish how the policy had affected them.
- (E) That Councillor Hewitt make contact with disability groups, such as the RNIB, shoppers and wheelchair/buggy users to seek information on any particular issues they may have and provide feedback to the Group.
- (F) That the Economic Development team be contacted to seek their views on the Policy.
- (G) That details of how the charges are established will be provided to the Working Group.

- (H) That details of planning permission requirement will be provided to the Working Group.
- (I) That the Chairman would complete the review template once the minutes had been circulated.
- (J) That the next meeting of the Working Group be held on Tuesday 21 August, 2018 at 3.00pm and Members advise the Interim Head of Economic Prosperity of any items for the agenda.

The meeting finished at 5.05pm.



Agenda - Scrutiny Working Group (Review of Policy for Commercial Use of the Highway)

Time: 3:00pm

Date: Tuesday 21 August, 2018

Venue: Datteln Room

1. Apologies

2. Declarations of Interest from Members

To declare any personal, pecuniary or disclosable pecuniary interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

3. Notes of previous meeting

To approve the notes of the meeting held on 26 July, 2018 and agree any actions.

4. Review of Policy for Commercial Use of the Highway

- Briefing Note from Interim Head of Economic Prosperity (Enclosed - Item 4.1-4.2 – appendices to follow)
- To receive any information from Councillors and Officers
- To review the Scrutiny Template (Enclosed - Item 4.3)
- To determine the next stage of the review

To: Councillors:

Mrs. M. Davis

A. Dudson

P. Hewitt

M. Sutherland

By Invitation: Councillor Mrs. C. Martin – Health and Wellbeing Portfolio Leader

Officers:

P. Beckley Interim Head of Economic Development

D. Prosser-Davis Food, Safety and Licensing Manager

W. Rowe Senior Committee Officer

Date Despatched: 15 August, 2018

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ITEM NO. 4.1

Briefing Note of:	Interim Head of Economic Prosperity
Contact Officer:	Paul Beckley
Telephone No:	4223

PROMOTING PROSPERITY SCRUTINY COMMITTEE
WORKING GROUP TO REVIEW THE POLICY FOR COMMERCIAL USE OF THE HIGHWAY
21 AUGUST 2018

1 Purpose of Briefing Note

- 1.1 The purpose of this briefing note is to provide the details requested by Members of the Working Group at the meeting on 26 July 2018 together with additional information.

2 Key Issues

- 2.1 At the meeting of the Working group on 26 July 2018 Members discussed the current Policy for the Commercial Use of the Highway.
- 2.2 Members requested that additional information to be provided by Officers in order for them to be able to adequately review the Policy. This briefing note provides this information together with some additional information which may be useful to Members.

3 Detail

- 3.1 Information provided covers the following areas:
- Benchmarking of other Local Authority Commercial Obstructions Policies
 - Staffordshire County councils approach with regards to enforcement of the Policy (verbal update)
 - Planning Permission requirements for the areas covered in the Policy
 - Views of the Economic Development Team
 - Details of how the charges are established (paper will be circulated at the meeting)
 - Views of Charities and other groups in relation to persons with disabilities

- RNIB Briefing papers regarding street obstructions and A boards
- Views of the Licensing Team on the implantation of the Policy.
- MP letter regarding petition dated 7 August 2018
- Councillor Adamson response to MP letter dated 9 August 2018
- Hednesford Traders Surveys collected by Councillor Woodhead (previously circulated with the Notes of the 26 July 2018 meeting)

3.2 The information collected is contained in the Appendices in Section 5 of the briefing note.

4 Implications (if applicable)

None

5 Appendices

Appendix 1	Other Local Authority Approaches
Appendix 2	Planning Permission Requirements
Appendix 3	Economic Development Team Views
Appendix 4	Views of Charities and Other Groups
Appendix 5	RNIB Briefing Papers
Appendix 6	Licensing Team Views
Appendix 7	MP Letter
Appendix 8	Councillor Adamson Letter

Background Papers

None

Commercial Obstructions Policies for Commercial Use of Highway - Survey of Local Authorities

Local Authority	Policy in Place? Yes / No	£ fee	Planning Permission Req'd? Y/N £fee	£5M public liability Insurance required?	Other comments
Cannock Chase DC	Yes.	A Boards £85 for 3 year permit £85 for 1 table and 4 chairs; £170 for 2 tables and 8 chairs; £250.00 for 3-6 tables (12-24 seats) £500.00 for 7-10 tables (28-40 seats)	No	Yes	Allows flexibility and choice in how many tables and chairs to use; Reduces fees and admin as 3 year permit for A Boards
Tamworth BC	Yes.	Initial fee £25.00 first year; £50 thereafter for A Boards	Yes £95.00 initial fee for A Boards	Yes	
Lichfield DC	Yes voluntary code for A Boards; pavement cafes by planning permission	N/A for A Boards	Yes for pavement cafes. Fee £462 (as of 13.08.18)	Yes for A Boards	
East Staffs BC	No	N/A	N/A	N/A	Left to County Council
South Staffs DC	No	N/A	N/A	N/A	Left to County Council
Stafford BC	No	N/A	N/A	N/A	Left to County Council
Newcastle under Lyme BC	No	N/A	N/A	N/A	Left to County Council
Stoke on Trent City Council	Yes:	£150.00 for 1 table and 4 seats; additional tables / 4 seats £50.00 each ; renewal £150.00	No	Yes	
Walsall MBC	Yes:	£350.00 p.a. for upto 4 tables / 16 seats £400.00 upto 5-10 tables and 17-40 seats £450 for over 10 tables and 41 seats plus	No	Yes	

Local Authority	Policy in Place? Yes / No	£ fee	Planning Permission Req'd? Y/N £fee	£5M public liability Insurance required?	Other comments
Wolverhampton City Council	Yes:	£25 p.a. for A Boards and pavement cafes	Not known	Yes	
Leicester City Council	Yes:	Fee £273.00 initial and £181.00 renewal	Not known	Yes	
Warwickshire County Council	Yes cafes only :	Fee £100 p.a. for pavement cafes	No	Yes	Covers all Districts of Warwickshire
Nottinghamshire County Council	Yes voluntary code for A Boards. Pavement Café Licences issued	£268 for a 5 year licence	No	Yes	Covers all Districts of Nottinghamshire
Bromsgrove DC	Yes for pavement cafes	£200 initial application £55 per annum thereafter	Not known	Yes	
Worcester City Council	Yes for pavement cafes	£230 initial application £57 per annum thereafter	No	Yes	
Birmingham City Council	Yes for pavement cafes	£815 p.a. upto 5 tables More than 5 tables £1195 p.a.	No	£2M	

Commercial Use of the Highway - Planning Issues

There are three categories of commercial obstructions in the policy:

1. A Boards

Planning permission is required for A boards (Class 6 of the Town & Country Planning Control of Advertisements Regulations 2007), unless they are located on the forecourt of the business premises, non illuminated and less than 4.6 sq m area on each forecourt area. Forecourts include the enclosed area, or terrace in front of a business premises and does not include the area of pavement in front of a business premises.

2. Fairground rides/vehicles/promotion stands and gazebos

Class 3 of the Advert Regs gives consent for a wide variety of notices and signs which are usually displaced to publicise a forthcoming event, or to advertise a short-term use of the advertisement site. Class 3 is divided up into 6 categories A, B, C, D, E & F – each with its own provisions for deemed consent. It is therefore advised to check each proposal with the planning department to check whether planning permission would be required for the associated signs and structures.

Specifically, planning permission is not required for temporary notices or signs announcing the visit of a travelling Circus or Fair (Class 3F of the 2007 Regs), provided that they are not displayed more than 14 days before the opening of a circus/fair and must be removed within 7 days after. The local planning authority must be told 14 days beforehand of the sites of the notice. The notice or sign must not exceed 0.6 sqm and:

- Not have any letters or features over 0.75 m in height or 0.3m in any Area of Special Control.
- Have the highest part of the advert at more than 4.6m above ground level, or 3.6m in any Area of Special Control.
- Not be illuminated.

If a Class 3 advert relates to a sale or event, it must not be displayed more than 28 days before the sale or event begins and must be removed within 14 days after it ends.

Gazebos are usually temporary structures if used in association with temporary events would not require planning permission.

3. Pavement cafes

Consent from the Highways Department would be required for any proposal affecting the public highway and pavements.

Planning permission may also be required for change of use of either the premises to A3 (café use) and/or the pavement area from highway to outside café area.

This Note considers any implications in relation to Planning Permission for all three categories.

For each category is planning permission required?

Do any of the following locations for the obstruction affect this?

- *Public highway/pavement*
- Highways consent would be required to ensure the structure causes no detriment to highway and pedestrian safety. Planning permission may also be required to change the use of the pavement.
- *Private land*
- Planning permission required if the advert/structure does not fall within deemed consent of the Advert Regs, or permitted development requirements of the General Permitted Development Order.
- *Other public land/open space*
- Planning permission required if the structure does not fall within deemed consent of the Advert Regs, or permitted development requirements of the General Permitted Development Order

If planning permission is required and not submitted what enforcement powers are available to the Council.

Enforcement action can be taken to remove the offending advertisements/structures under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

If planning permission is required and in the future applications are submitted or there are enforcement requirements are there any resource implications?

Cannock is limited in resources to one enforcement officer for the Council district, so enforcement action is likely to be prioritised and taken for the cases causing the most issues in terms of harm, safety, level of complaints etc.

If planning permission is required what fees are payable?

Adverts directing members of the public to business premises - £132

Adverts displayed on business premises/forecourts/or land within curtilage of business premises - £132.00

All other advertisements £462

Change of use planning application £462

Do signs hung from shops/pubs require planning permission?

Class 5 of the Advert Regs allows deemed consent for hanging signs on shops and pubs, provided they refer to the business activity at the premises and:

- Do not have any letters or symbols above 0.75 m in height, or 0.3m in any Area of Special Control.
- Are not above 4.6m above ground level or 3.6m in any Area of Special Control of Advertisements.
- Do not have its highest part above the level of the bottom of the first floor window in the wall where the advert is
- Not illuminated.
- Additionally if the premises is a shop, an advertisement may be displayed only on an external wall which has a shop window in it.

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ECONOMIC DEVELOPMENT SERVICE (Internal views) – ‘A’ Board Policy (Policy for Commercial Use of Highway)

As at the 16th August 2018

- As per the Councils’ policy an ‘A’ board consent costs £85 over 36 months; £2.36 per month. When you compare this to advertising costs eg in a local paper or magazine then the cost is extremely low. Advertising in the local press for a quarter page advert averages £250 per article.
- A total ban of ‘A’ boards could be put in place but this may have an adverse affect on the businesses in the Town that rely on this sort of ‘passing trade’. If ‘A’ boards are banned the policy would need to be enforced and resourced by the Council properly. (this could be costly).
- There appears to be a lack of detail in the policy that would assist with enforcing the uniformity and standardisation of all ‘A’ boards.
- If no fee was introduced by the Council for the use of ‘A’ Boards then the importance of setting standards of uniformity and curtilage i.e distance from business premises becomes very important. Boards would have to be removed and a fine to retrieve the sign back imposed on a business would need to be applied as breaching the policy/standards. It is important that all ‘A’ boards are in good repair to avoid an ‘unkempt’ feel to Town Centres.
- Health and Safety to members of the public is important especially for accessibility by all members of the community e.g. Disabled people, blind, elderly, wheelchairs and pushchairs. Some ‘A’ boards are randomly placed away from the business premises causing obstructions and problems to manoeuvre around for visitors. Entrances to indoor market areas or shops in courtyard/enclosed areas can also become very difficult , especially in a confined space – this supports the need for a ban in the prime ,core shopping area.
- There should be a direct relationship between the ‘A’ board and the business it is advertising premises. In the case of the indoor market, maybe introduce an external wall mounted sign board that allows every trader to promote their business that is visible to visitors and shoppers when entering the market and does not clutter or make the area difficult to navigate.
- Zoning based on periphery and core areas with fees scaled to match this would be better.
- The income from the ‘A’ boards is not considered to be a massive income generator for the Council. Maybe insufficient to cover enforcement costs, if serious about having the policy must be adequately enforced/ policed – does the Council have the resources to do this ?
- Anecdotaly, some businesses/traders have reported reduced footfall since the ‘A’ board policy has been introduced but the scheme has not been running long enough to be properly evaluated in our opinion and no enquiries have been made on the policy to Economic Development to date for or against its introduction.
- GBSLEP have a Town Centre local framework which advocates the importance of the uninterrupted flow of an area for pedestrians and the strategy advocates decluttering of existing Town Centres i.e. banning such ‘A’ Boards.
- Businesses need to make sure their Third Party Public Liability Insurance is covered up to £5m. This is an additional expense for traders/businesses to have this level of cover. It is unrealistic to expect, particularly small traders/businesses, to have public liability cover of

£5m (Council recently increased their advice to officers to up this to £10m which if applied to this policy would further exacerbate the situation). Anecdotal evidence suggests a premium increase of £200 plus for businesses to increase cover from £2m to £5m.

Overall, charges in the Councils 'A' Board policy are extremely low when compared to other authorities, see below.

Comparisons - Councils who have banned the use of 'A' boards

- Cannock Shopping Centre
- Bradford and Ilkley - A 12 month trial to Ban 'A' boards was held and at the end of 12 months did not see any deterioration in business or indeed any business closing or being shutdown. The Council have now put in force a total ban on all 'A' boards.
- Edinburgh
- York (Complete ban with a prohibition zone)

Councils who do not charge a fee but have a policy permitting 'A' Boards

- Lichfield
- Derby Council (Any 'A' board has to be sensibly placed)
- Bristol
- Worcester
- Monmouthshire – After pressure from Businesses the Council have reversed their decision to ban the 'A' boards (July 2018). These are now permitted with no fees

Councils who charge for 'A' boards under their policy

- Tamworth – Initial fee £95 plus £25 admin fee in the first year then £50 p.a.
- Reading - £60 for the first year, then £50 pa
- Solihull - £181 pa (£100 if paid within the month of May)
- Cheshire £250 then £75 p.a.

The above suggests our policy is very competitive in comparison with others and favourably priced for a single 'A' board consent.

OVERALL SUMMARY

The importance of 'A' boards is largely attributable only to very small businesses/traders unable to pay for large advertising/promotional campaigns.

Arguably the Council policy is more beneficial **to those** businesses in peripheral (out of core area) locations and maybe zoning should be considered with fees commensurate with their location and size.

Social media and other ways to promote a business are arguably readily available now and free of charge. If the policy is deemed cost prohibitive to pay for the necessary consent then businesses do have alternative means of promoting their business.

Economic Development would advocate any prime location business should not be permitted to display 'A' boards (ban entirely from core town centre) whilst smaller, out of view traders, maybe on a zoning scale relevant to the size of their business and location, should be allowed to display boards. Amendments to the policy should be considered especially to control uniformity of permitted boards.'

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Appendix 4**Consultation with Charities and Disability Groups**

A total of 23 groups have been consulted. These are as listed below and the email sent to each organisation is also included. A copy of the Commercial Use of the Highway Policy was also included.

Organisations

Action for blind people Staffordshire
Action on Hearing Loss (Gill Wyatt, local contact)
Assist
Beacon (sight loss)
Birmingham Institute for Deaf
British Deaf Association
Cerebral Palsy Mid Staffs
dDeaflinks
Deafvibe
Disabled Living Foundation
Disability Rights UK
Epilepsy Action (Cannock Coffee and chat)
Epilepsy Society
Freedom Support Ltd
Headway South Staffordshire
Learning Disability Cannock
Mid Staffs Mind
MS group (Cannock)
Phab (Rugeley)
RNIB
Scope
South Staffs Network for Mental Health
Stroke Association

Email

In April 2018 Cannock Chase Council introduced a policy to licence the Commercial Use of the Highway. A copy is attached. It covers:

- A Boards
- Pavement Cafes
- Gazebos, fair rides, advertising stands

Businesses erecting these on the public highway in our town centres are now required to apply for a licence and as part of this the licence stipulates suitable location zones and maximum sizes for the obstructions.

At the time of introduction a commitment was made to undertake a review of the policy. This is now underway. As part of this it would be very useful to gain the views of your organisation.

I would therefore be grateful if you could forward to me any policy documents your organisation has relating to this matter and to let me have your organisations views on how these obstructions can affect persons with disabilities use of shopping areas. If you feel there is no impact then your confirmation of this would also be very useful.

Your assistance in this would be very welcome. A reply by 17 August 2018 would be appreciated.

Responses

Disability Rights UK

Phone call. No specific comments and they do not have a policy as other organisations have these. Specific reference was made to RNIB. (see Appendix 5)

Assist

The following comments are from Mike Tyler, Lead Interpreter for ASSIST and Jayne Rogers, Multi-Sensory Advisor. Their comments are below and if there is anything that is unclear do please let us know and we will ask them to clarify.

Consideration needs to be given to providing this in accessible formats:

“... make information about the Policy and the standards widely available to the public and business within the District.” p.3

Illustrative examples would be helpful:

“Consideration must always be given to the requirements of the Equality Act 2010 and any associated codes of practice. There is an obligation to regulate features placed on the highway to minimise risk and to ensure that there are no severe hazards particularly for vulnerable people. This includes the visually impaired, those with mobility problems as well as the elderly and the young.” p.9, 14

This needs strengthening. Surely it should say “never be given”?

“Approval will not normally be given for tables and chairs close to points where people queue or congregate, e.g. close to junctions, traffic signals or over tactile paving, bus stops, cash points or where other essential street furniture restricts the pavement width.” p.14

NB: p. 15 re. “colour of furniture” - could consideration be given to contrasting colours for visual impaired people or is this superseded by requirements for colour to fit local surroundings?

p.3

Traders should be aware that some town centres are pedestrianised and that vehicle movement must therefore be kept to an "absolute minimum".

It's not clear what this means in practice and for people with sight loss it has a potential impact on safety and in feeling confident about travel. With the use of electric vehicles there is also a safety factor and this should be recognised. Many people with sight loss are unidentifiable – they look physically the same and many do not carry a cane and it possible that in looking towards a car (which they might not have seen) the driver will assume they have seen them/understand hand signals to indicate that they should cross/wait etc.

p.5

Commercial obstructions which form part of fetes, festivals, carnivals or street markets which are managed by recognised organisations and take place in town centres, will not normally require authorisation from the Council's Licensing Unit.

It would help if organisers were to be given information about how to make areas safe/as accessible as possible for people with sight loss.

p.6

The A-boards must not cause a nuisance or hazard to persons using the highway or any adjacent land or premises.

and

The 'A' board or display shall not encroach onto the highway by more than 0.7 metres from the façade of the premises;

And

The location of the A-board must be within the limits of the frontage of the premises and must be positioned so as to be touching and perpendicular to the frontage of the building.

I suggest including the following to reflect the problems that positioning a board incorrectly can cause for someone with sight loss. Perhaps "for people with sight loss it is important that boards be situated as described so that they can mobilise safely"

p.8

Fairground rides/vehicles/promotion stands and gazebos etc ... "

Fairground rides, vehicles, promotion stands and gazebos etc. (including tables and display stands etc. placed outside commercial premises) must not be deployed on the highway without prior permission of the Council and will only be permitted if an adequate, clearly defined* pedestrian space is available.

Such items may only occupy a specifically identified area so as to ensure a free and unobstructed route for emergency service vehicles and delivery access.

It's not obvious what "clearly defined" means. For people with any degree of sight loss, any change in a route is difficult, if not impossible, without sighted support. I would include people with sight loss by stating something like "... will only be permitted if an adequate, clearly defined pedestrian space is available, **taking into account the needs of people with sight loss**".

p.9 The application process

I would include a further point that they recognise the need to ensure that people with sight loss are not disadvantaged by Or words to that effect.

It would be helpful to add in some information about how adherence supports those with sensory loss. It would also be helpful to include some contacts (RNIB for vision loss, Action on Hearing Loss for hearing loss/Deafness) for any queries traders may have which would then make them responsible for informing themselves as to good practice for sensory loss.

p.14 *Design of the pavement café "There is an obligation to regulate features placed on the highway to minimise risk and to ensure that there are no **severe hazards** particularly for vulnerable people"*

this implies that hazards are acceptable as long as they're not severe? For sight loss what might appear a small factor can cause significant problems.

p.15 *Approval will **not normally** be given for tables and chairs close to points where people queue or congregate, e.g. close to junctions, traffic signals or over tactile paving, bus stops, cash points or where other essential street furniture restricts the pavement width.*

I am concerned at the wording and recommend that it should be "will not be given...." Tactile paving exists for people with sight loss and allows them to know what sort it is depending on how far it extends onto the path etc so that they can orientate themselves and know how to position themselves relative to crossings etc. Any of the above examples in the policy will impact on someone with sight loss, pushing them off track so that they miss landmarks needed for orientation at best, into the road in order to get around groups at worst. This is particularly relevant for long cane users who rely on tactile landmarks to know where they are on route. Any of the above examples has the potential to push someone off course with a risk to safety and in getting lost.

p.16 - Boundaries

All activities associated with the café must be contained within the agreed boundary, including all tables, chairs, parasols, space heaters, planters, barriers, etc.

I'm not sure if this means that the full open width of an umbrella/parasol would need to be completely within the boundary? If not, I would recommend that it should be at a height that will not be a risk to someone with sight loss as they won't be able to see it to avoid it.

Appendix 5

Advertising boards (A-boards) – Quick Wins for Local Authorities

How local authorities can work with blind and partially sighted people to build a better future

Based on [RNIB's Quick wins and missed opportunities report](#), June 2012.

Advertising boards or A-boards

A-boards are used by businesses and other organisations to position advertising messages at pavement level. Typically a simple stand-alone board on a heavy 'A' shape frame, they are placed across the pavement and in the way of people, in order to attract their attention.

So what's the problem?

A-boards by their very nature obstruct pedestrians from being able to move in a straight line along the pavement. They present a trip hazard, especially to people who cannot see them and who use mobility aids. Tripping over or colliding with an A-board increases the risk of injury. They may also force people to step into the road in order to pass them, and this places blind and partially sighted people at greater risk from on-coming traffic.

Furthermore, wherever the available space for pedestrians narrows, flow is restricted and this causes congestion around the obstruction. It is harder to use mobility aids in congested areas because the presence of A-boards and people in the way reduces the visibility of white canes.

All pavement clutter has adverse effects on blind and partially sighted people because it makes getting around harder. The more difficult it is to get around, the less freedom and opportunity people have to participate in their local community.

Consequently, RNIB supports a complete ban on the use of A-boards and does not believe they should be placed across pavements in any circumstances. Ensuring all the available space on the pavement is

available for pedestrians to use for walking will benefit everyone, but especially people for whom obstructions are a specific accessibility barrier. The evidence from local authorities who have banned the use of A-boards suggests no adverse economic impact on traders. We believe a complete ban is fairer too because it places all traders on the same footing, regardless of the width of pavement outside their premises.

A-boards and the law

Highways Act 1980

Section 130 (1) of the Highways Act 1980 imposes a duty on the Highways to assert and protect the rights of the public to use and enjoy the highway. This general duty is reinforced by s.130 (3) which states that the highway authority have a duty to prevent, as far as possible, the obstruction of the highway.

Not every obstruction of the highway will be unlawful, some obstructions such as vehicles unloading or erected scaffolding may be considered a reasonable use of the highway.

RNIB believes that obstructions to the highway caused by A-boards are not a reasonable use of the highway.

Equality Act 2010

Under the provisions of the Equality Act 2010, it is unlawful for service providers and those exercising public functions, including highways functions, to discriminate against disabled people. This includes a duty not to indirectly discriminate and to make reasonable adjustments where existing arrangements place a disabled person at a substantial disadvantage.

In RNIB's view a failure by a Highways Authority to exercise its duties under the Highways Act to prevent obstructions to the highway, places blind and partially sighted people at a particular (substantial) disadvantage, and therefore is a breach of the Equality Act.

As the duties under the Highways Act are statutory duties, we consider that it is reasonable and proportionate for a local authority to exercise their duties under the Act.

Quick Wins for Local Authorities

Local authorities should embed accessibility into everything they do; this includes ensuring pavements are not obstructed by A-boards.

Local authorities should:

- Understand the impacts that A-boards have on the navigability of streets by proactively engaging, consulting and gathering feedback from local blind and partially sighted people who use the streets.
- Build partnerships with, listen and involve blind and partially sighted people in addressing the problems that A-boards cause. Councils have local assets such as societies of blind and partially sighted people, who may be very effective 'go to people' for reaching those who live in the local area.
- Recognise their duty under the Highways Act 1980 and the Equality Act 2010 by ensuring a clear policy is in place on the use of A-boards.
- Produce clear guidance for local business to help them act responsibly when using A-boards and raise awareness of this guidance across all target audiences.
- Enforce their policy on A-boards.

Local authority good practice

A number of local authorities have introduced policies that make it an offense to undertake activities that affect the legitimate use of the public highway.

Hull City Council

Hull City Council has a complete ban on the use of A-boards. Offenders are notified with the possibility of either enforcement and / or legal action being taken.

http://www.hullcc.gov.uk/portal/page?_pageid=221,72971&_dad=portal&_schema=PORTAL

East Riding of Yorkshire Council

Recognises its duty under the Highways Act and have a complete ban on advertising boards.

<http://www2.eastriding.gov.uk/environment/roads-street-traffic-and-parking>

For more information contact your local RNIB campaigns team

RNIB have Regional Campaign Officers all over England (and campaigns teams in Wales and Scotland).

Telephone the RNIB Campaigns Team on 020 7391 2123

Email: campaigns@rnib.org.uk

Appendix 5

Who put that there!

The barriers to blind and partially sighted people getting out and about

Advertising boards (A boards)

Advertising boards are in general use across the country. They physically obstruct the pavement and prevent pedestrians from being able to use the entire pavement. They present a trip hazard, especially to people who cannot see them and who use mobility aids.

RNIB research showed that almost half of all blind and partially sighted people had collided with an advertisement board in the last three months [1].

The temporary and mobile nature of these boards means that blind and partially sighted people cannot learn where they are, so struggle to avoid walking into them. We know that collisions with advertising boards often result in injuries such as cuts and grazes. The “homemade” nature of some of the boards and their height make them particularly likely to injure pedestrians.

- Bob’s experience - “I could show you the bottom of my legs. I have fair amount of bruising, cuts, old scars from walking into them. One day, somebody had knocked down a metal a-board and it was lying on the floor with its legs poking into the air. I walked straight into the upturned leg, which was very painful.”

The Law

There is a significant amount of legislation, regulations and guidance which are relevant to blind and partially sighted people’s access to the street environment.

Keeping the streets clear

Under the Highways Act 1980 it is the duty of the highway authority to assert and protect the rights of the public to use and enjoy the highway (the term 'highway' in this instance meaning pavements). They also have a duty to prevent obstruction to the highway (again this means keeping streets clear!).

It is a criminal offence under the Highways Act (and the Town and Police Clauses Act) to wilfully obstruct free passage along the highway and to deposit anything on the highway which causes an interruption to, or obstruction of, the highway.

So streets should be kept clear of obstacles and clutter, enabling people to walk along them without any problems.

Inclusive Mobility

The Department of Transport have published "Inclusive Mobility - A Guide to Best Practice on Access to the Pedestrian and Transport Infrastructure". The aim of this guidance was to provide advice on best practice to assist professionals working in this field and enable them to meet their responsibilities under the Disability Discrimination Act 1995 (DDA) (now the Equality Act - see above). There is much in it for Highways Authorities to note. For example:

"Apart from roadworks and scaffolding, there are many other, sometimes temporary, obstructions that can cause problems for disabled people, particularly those with visual impairments. **A-frame advertisement boards placed outside shops**, ladders, overhanging tree branches, **dustbins, vehicles and bicycles parked on pavements** are all potential hazards.

Wherever feasible, obstructions of this kind **should be kept to a minimum** and should not encroach on the clear space (horizontal and vertical) needed to provide safe passage for pedestrians [**emphasis added**]."

Under the Equality Act Public Sector Equality Duty (PSED), public authorities, including highways authorities are also required to have due regard to the need to eliminate discrimination under the Equality Act and to achieve equality of opportunity between disabled and non disabled people. This means anyone responsible for looking after the street environment has a responsibility to eliminate and tackle problems that

make a highway inaccessible for disabled people. It is simply not an option to leave things as they are.

Planning

Under Town and Country Planning (Control of Advertisements) (England) Regulations, it is an offence to display an outdoor advertisement without the consent of the local planning authority. There are a number of categories of deemed consent but advertisement boards do not appear to fall under any of these. In order for consent to be granted, the advert would also need the explicit consent of the highway authority. Case law states that a board is placed without planning consent is unlikely to be a reasonable use of the highway, ie it will amount to an unlawful obstruction.

What we think should happen

Local authorities should explore the following options, with blind and partially sighted people:

- Local authorities should review their policy in relation to advertising boards and introduce zero tolerance. A postcode lottery approach to policy and decision making by those who have an impact on the design and enforcement of the street environment is having a negative impact on blind and partially sighted people. Local authority staff, residents and businesses would all benefit from more clarity, and policy statements would help inform decision making at a local level. It would also help to address some of the inequality due to local authorities taking differing approaches to some of the most common problems.
- Work with local blind and partially sighted people to monitor and mitigate the impact of any temporary obstructions that appear on the highway.
- Work with local business owners to make them realise how advertising-boards cause real difficulties for blind and partially sighted people and to consider alternative forms of advertising.

Best Practice

The following authorities have zero tolerance on the use of advertisement boards. Offenders are notified with the possibility of either enforcement and / or legal action being taken.

- Hull City Council
- Leeds City Council
- North Lincolnshire Council

For more information contact

Please visit www.rnib.org.uk/onmystreet for access to more information and resources.

RNIB have Regional Campaign Officers all over England (and campaigns teams in Northern Ireland, Scotland and Wales).

Tel: 020 7391 2123

Email: campaigns@rnib.org.uk

Twitter: www.twitter.com/RNIB_campaigns

References

[1] Who put that there! – RNIB Campaign Report, February 2015

[End]

Licensing Team

Commercial use of the Highway

Since the Commercial use of the Highway Policy was approved by Council in October 2017, the Licensing Unit have actively sought to advise the town centre traders of the introduction of the said Policy and to inform them of its requirements as it relates to them. Letters were hand delivered to all town centre premises in all 3 towns in November 2017. We again wrote to all town centre premises in January 2018 and informed them that application forms and other policy information would shortly be available to them online. Once again the letter was hand delivered to all traders in all 3 town centres.

In April 2018, following formal introduction of the Policy officers from the Council's Licensing Unit carried out more targeted compliance visits to town centre premises which were seen to be deploying commercial obstructions without authorisation. It was noted at that point that a number of premises had chosen to remove their A-Boards or pavement cafés rather than make application to the Council.

All visits were recorded on an excel spreadsheet and marked with officers comments about their visits. These visits resulted in a number of applications being made to the Council and further compliance with policy by means of voluntary removal by traders of commercial obstructions.

In more recent weeks, licensing officers have, as agreed, visited both Cannock and Rugeley. The intention was to visit all premises which deploy a pavement café or large trade display without an appropriate permit and encourage them to comply with the requirements of Council Policy.

They are able to do so by either removing the tables and chairs (or other commercial obstruction) from the highway or making application to the Council to permit the lawful deployment of the tables and chairs or trade display on the highway.

During these visits (to Cannock on Wednesday 1st August and Rugeley on Thursday 2 August 2018.), it was apparent that there were quite a lot of people in town centres and they had a nice feel to them. Some of the café's were doing a good business. Others were quieter.

As ever, we were very polite and professional as you would expect of your officers. There was very little hard line refusal to engage with us although there was some. Others were very receptive to our visit/conversation as they were unaware of the rationale behind the policy. Many listened carefully to us explaining how simple it is for many of them to actually comply with the policy.

Although every letter we have previously hand delivered to them invited them to contact us and discuss how the policy will affect them personally, nobody has actually done so. It has fallen to us to be proactive in asking them how they now wish to proceed.

Interestingly, many of those who were somewhat resistant have already ensured some significant compliance with the policy in so far as they have already ensured that any commercial obstruction is already placed adjacent to the exterior wall of their premises and is of reasonable quality.

We have served number of 28 day removal requests on several premises and advised them that this gives them an additional 28 days to make a decision on how they intend to proceed. Nine 28 day removal requests were served in Rugeley; 6 pavement cafes and 3 large trade displays.

Costa has subsequently made application to us for a pavement café licence. Five 28 day removal requests were served in Cannock; 4 pavement cafes and 1 large trade display.

The reaction of the trade has been mixed but generally accepting of the fact that now the policy is part introduced, we are being challenged by those who have complied, to ensure a level playing field for all. This number of applications we receive increases on a weekly basis and this becomes more important as time moves on.

Those that asked, have been advised that the review is taking currently place but that it was always planned to do so. They were also told that we have been asked to carry on in the meantime.

Very many traders were confused and a little distressed because others, including a trade association in Rugeley and the local MP are apparently advising them not to make application.

This is very disappointing and I have advised them that the choice is theirs alone but that we are now asking them to decide on their intended course of action and have 28 days in which to make their decision. Several said that they will make application.

Generally, I think the town centres are looking very pleasing and are safer environments in which people might be encouraged to linger a little longer and have a coffee or a café meal in the sunshine.

We have achieved a great deal of compliance, albeit this has been partially achieved by traders removing obstructions from the highway rather than paying to obtain a permit. This is something we assumed would happen as we prepared the draft policy and fee structure. It has come as no great surprise.

I also have attached of number of “before and after” photos which show the significant compliance I speak of.

Sean O’Meara
Senior Licensing Officer
15 August 2018

Good Recent Compliance





Good Pavement Café



Poor Deployment Pre Compliance Visits





HOUSE OF COMMONS

LONDON SW1A 0AA

Cllr George Adamson
Leader of the Council
Cannock Chase District Council
Civic Centre
Beecroft Road
Cannock
Staffordshire
WS11 1BG

Ref: EW/CW/201808/28
7 August 2018

Dear Cllr Adamson,

Please find enclosed a petition against the A-boards and street furniture charges introduced by Cannock Chase District Council. The petition is made up of over 1,800 signatures collected via an online petition and over 2,500 signatures collected via leaflets.

The petition states that the signatories believe the policy is a direct tax on local small businesses in Cannock Chase and is in danger of further undermining our town centres. These charges are anti-small business and are driving independent businesses away from our town centres at a time when they should be supported.

We call on the Labour-led District Council to abolish these charges.

Yours sincerely,

Amanda Milling MP

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9th August 2018

Amanda Milling MP
11a Market Street
Hednesford
Staffordshire
WS12 1AY

Appendix 8

Dear Amanda

Thank you for your letter and petition opposing the implementation of the Council's policy for Commercial Use of the Highway and requesting that the Labour led Council abolish charges for the use of A Boards and other furniture on the public highway relating to commercial use.

Before I address the petition, it is important that I set out some of the key facts on this issue as they appear to be getting lost in the debate.

1. Consultation

Cannock Chase Council has not suddenly and without consultation or reason introduced this policy. A full public consultation took place from 13th February to 26th March 2017. The policy was sent to over 100 separate organisations and groups including the Chamber of Commerce and all three Traders Associations. Every business in each of the town centres received a hand delivered letter on the proposed policy.

2. Responses to the Consultation

A total of 23 responses to the consultation were received. Concern was raised by 13 traders about the fee levels, as did the response from Rugeley Traders and Hednesford Traders. A local resident wrote in support of the policy and there were also submissions from Staffordshire Fire and Rescue Service and Staffordshire County Council and Chase Tenants and Residents Association on specific issues. The Chamber of Commerce did not make any submission or comment into the public consultation process. All of this consultation was considered by the cross party Licensing and Public Protection Committee on 28th June 2017 and the conclusions of the Committee were incorporated into the policy.

3. Council approval

The policy was considered at the full Council meeting on 18th October 2017. In the debate, the Leader of the Conservative Group proposed an amendment to the recommendations that:

Civic Centre, PO Box 28, Beecroft Road, Cannock, Staffordshire WS11 1BG

tel 01543 462621 | fax 01543 462317 | www.cannockchasedc.gov.uk

Search for 'Cannock Chase Life' @CannockChaseDC

"Implementation be deferred for three months to:

- Allow the policy to be rewritten to include the whole District and not just Cannock, Hednesford and Rugeley town centres.*
- Restructure the charging schedule to a flat fee, rather than unit cost basis."*

The amendment was not supported. I did not support it because the majority of issues relating to highways obstruction occur in the three main town centres and a flat fee would have disadvantaged businesses who only wanted one A Board licence.

The policy was approved and it was also agreed that a review of the policy would be carried out 12 months after initial implementation.

4. Rationale for Policy

There has been increasing use of the public highway for commercial advertising, promotion and street cafes and in some instances; this has got out of hand with multiple obstacles in some parts of our town centres. In particular, these are hazardous and can cause injury and problems to blind and partially sighted people as well as those with certain physical disabilities. It is an offence under the Highways Act 1980 to obstruct free passage along a Highway and Councils have been granted legal powers to deal with this issue. The other key issue is that whilst most businesses seek to be responsible in their use of the public Highway, a small number are not and this also drives the need to regulate this issue. Staffordshire County Council provides the policy framework to allow District Councils to regulate and control commercial obstructions on the Highway and the Council's policy is consistent with the overarching one for Staffordshire. In introducing the policy Council has ensured that businesses are able to benefit from legal use of the Highway whilst also ensuring the safety of other Highway users. The policy ensures A Boards and pavement cafes are properly constructed, including tapping rails on A Boards, allow clearance for pedestrians, are legally placed and covered by appropriate insurance. I attach a briefing note from the Royal National Institute of Blind People (RNIB) that explains in clear detail how this affects groups in the community. The Council has a duty under the Equality Act 2010 to take reasonable steps to enable disabled people to avoid disadvantages caused by physical features.

5. Government Policy

As you will no doubt be aware, the Government published the Inclusive Transport Strategy: achieving equal access for disabled people (Department for Transport, updated 7th August 2018), sponsored by Nusrat Ghani, Parliamentary Under Secretary of State for Transport.

(<https://www.gov.uk/government/publications/inclusive-transport-strategy>)

Amongst many policy commitments, this strategy identifies the responsibilities that all local authorities have to ensure that any pedestrian environment is inclusive and meets the needs of the Equality Act 2010. One of the recurring themes which the Government received from the public consultation on the draft Accessibility Action Plan was the better provision of reliable accessible infrastructure ranging from less cluttered pavements to more Access for All rail infrastructure. As you are aware, the Equality Act requires local authorities to be proactive rather than wait for complaints.

The Council believes that its policy for the Commercial Use of the Highway is entirely consistent with the Government's Inclusive Transport Strategy. If you wish to invite a review of our current policy by the Department of Transport, we would be more than willing to cooperate. If the Council does not regulate the town centres in the way that it does then the rights of certain vulnerable people in the community are ignored.

6. Rationale for charging businesses

District Councils are permitted in legislation to recover from businesses reasonable costs in exercising this function. As you are aware, the Government grant for the District Council disappears entirely in 2019-20 and so all activities of the Council need to be financially self sufficient. In that regard we are no different to any business in the District.

The principle on this and any other licensing matter is that the business that derives benefit from the use of the licence should pay the relevant costs and that Council Tax payers in the District should not subsidise. The fees set allow the Council only to recover its administration and compliance costs and are not geared to generate additional income

The Council has also minimised the charges that it levies so:

- a. A single A Board is £85 for 3 years - this is a cost of 54p per week to promote the business in a lawful way.
- b. A single table and 4 chairs for a café is £85 per annum - this is a cost of £1.64 per week to be able to accommodate an additional 4 customer on publicly owned land in a lawful way.
- c. A single gazebo or ride is £25 per day.

I was surprised to note that the Conservative Deputy Leader of Tamworth Borough Council, Councillor Rob Pritchard has signed the petition to abolish charges in Cannock Chase. Tamworth Borough Council levies charges that are substantially in excess of those applied by this Council. By way of example, an A Board requires planning approval in Tamworth and the costs are as follows:

- £95 one off charge for planning;
- £25 one off admin fee;

- £50 annual charge (ongoing).

Therefore, businesses in Tamworth pay £120 for an A Board in year 1 and £50 per annum there after, so a total over 3 years of £220 compared to a charge in Cannock Chase of just £85 for the same period. Some residents of the District might consider that there is some hypocrisy at play here.

7. Petition

The Council committed to a review of the policy in October 2017 after a 12 month period of implementation. That Review is being undertaken by the Economic Prosperity Scrutiny Committee which is cross party. I will ensure the Committee receive details of your letter, the petition and any other submissions on this matter. The Scrutiny Committee will in due course make recommendations to Cabinet who will consider these. Please be advised that the current policy is in force and will continue to be acted upon by Council Officers in the meantime. I am sure the Scrutiny Committee will be engaging with all relevant stakeholders and listen to all parts of the community in considering whether or not any further policy charges are required in the future.

Finally, as there has been media interest on this issue, I am publishing my letter in the public domain to be considered as part of the public debate on this matter.

Yours sincerely



Councillor George Adamson
Leader of the Council

cc. All Cannock Chase District Councillors

Enc:

- RNIB Briefing: Who put that there! The barriers to blind and partially sighted people getting out and about.
- Tamworth Borough Council - Guidance notes for applicants: A Board Displays.

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 Chads Moor 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 Chads Moor 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.



Agenda - Scrutiny Working Group (Review of Policy for Commercial Use of the Highway)

Time: 3:00pm

Date: Tuesday 18 September, 2018

Venue: Datteln Room

1. Apologies

2. Declarations of Interest from Members

To declare any personal, pecuniary or disclosable pecuniary interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

3. Notes of previous meeting

To approve the notes of the meeting held on 21 August, 2018 and agree any actions.

4. Review of Policy for Commercial Use of the Highway

- Briefing Note of the Head of Economic Prosperity (Item 4.1 – 4.3) Enclosed
- Commercial Use of Highway – List of options (Item 4.4 – 4.7) Food, Safety and Licensing Manager (Enclosed)
- To determine the recommendations to the Promoting Prosperity Scrutiny Committee

To: Councillors:

Mrs. M. Davis

A. Dudson

P. Hewitt

M. Sutherland

By Invitation: Councillor Mrs. C. Martin – Health and Wellbeing Portfolio Leader

Officers:

D. Piper Head of Economic Prosperity

P. Beckley Building Control Manager

D. Prosser-Davis Food, Safety and Licensing Manager

W. Rowe Senior Committee Officer

Date Despatched: 11 September, 2018

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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

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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 as 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.

ITEM NO. 4.1

Briefing Note of:	Head of Economic Prosperity
Contact Officer:	Paul Beckley
Telephone No:	4408

Promoting Prosperity Scrutiny Committee
Working Group to Review the Policy for Commercial Use of the Highway
18 September 2018

1 Purpose of Briefing Note

- 1.1 The purpose of this briefing note is to provide the details requested by Members of the Working Group at the meeting on 21 August 2018 together with additional information.

2 Key Issues

- 2.1 At the meeting of the Working Group on 21 August 2018 Members requested additional information to enable them to be able to complete the review of the Policy. This briefing note provides this information.
- 2.2 Members also requested that a series of options for the Policy be produced which they could consider and then make appropriate recommendation to the Scrutiny Committee.

3 Detail

Options for Commercial Use of the Highway

- 3.1 The Food, Safety and Licensing Manager has produced an options paper. This has been previously circulated to Members and is included as a separate paper on the Agenda

Business Rates

- 3.2 The Local Taxation and Benefits Manager has supplied the following information.
- 3.3 The Council has very little input into the amount payable. The Rateable Value of a property is set by the Valuation Office Agency and the amount payable is given by multiplying this by the 'multiplier' which is set by Government. Different multipliers apply for under or over £50,000 Rateable Value. There are then a variety of reductions available depending on circumstances

- Small Business rate relief is the most common and available where traders have only 1 property
 - Where Rateable Value is up to £12,000 pay nothing
 - For Rateable Value in range £12,000 to £15,000 they get a reduced reduction on a sliding scale, but still pay at the lower multiplier
 - For Rateable Value in range £15,000 to £50,000 payments are based using the lower small business multiplier
 - For Rateable Value of over £50,000 payments are made at a higher multiplier.
- Transitional Relief applies to any property facing a big increase following the general re-valuation in 2017.
- Cannock Chase Council has a Government funded discretionary reduction scheme which will cap the amount increase over the 2 years from 2016-17 to 2018-19 to 16%
- Charities get 80% relief as a matter of course. The Council can top that up via its discretionary scheme, with conditions. (maximum £10,000 relief and no relief if Rateable Value exceeds £100,000)
- The Council has discretionary relief schemes for new businesses starting up, and in particular occupying empty properties in the town centres.

Ludlow Signposts

- 3.4 Information has been received from Ludlow Town Council. They have stated that the fingerpost signs in the town are the responsibility of Shropshire Council and do not advertise individual businesses. The Town Council do not have an A board policy. Any queries regarding A boards are forwarded to Shropshire Council so they can assess whether there are any health and safety issues.
- 3.5 Shropshire Council does have a Pavement Permit Policy which covers pavement cafes and other non-permanent furniture or structures placed on the highway. An application fee is charged for the permit and there is an annual renewal charge. The policy does not cover A boards.

Budget and Licence Fees

- 3.6 A budget revenue stream was not predicted and built into the budget when the Policy was introduced. The simple aim was to recover identified costs. As A Board permits are valid over 3 years, the income from each application is apportioned over 3 financial years, whereas income from all 1 year pavement café licences and occasional gazebo/fairground rides is credited in the year the application is made. The anticipated costs and therefore the anticipated total revenue for this year for all the licences in the policy is £7,973.00.
- 3.7 The total revenue taken to period 5 in this budget year is £2,267.00, comprising the apportioned £822.00 of A Board income, £1095.00 for café licences and £350.00 for fairground rides/gazebos etc.
- 3.8 At present it is difficult to estimate income for 2019/20 since the outturn from 2018/19 will not be known until June 2019 after the 2019/20 budget and fees have been set. Normal practise is to base this on previous years income but as

ITEM NO. 4.3

this is the first year of operation this is far from certain. On present basis we could expect possibly 10% new A Board applications, Pavement Café licence renewals at the same rate and possibly same numbers of fairground ride/gazebos licences. This would give a projected revenue in the region of £5642.00, comprising the apportioned £822.00 for A Boards plus estimated £280.00 from new A Board applications; £3,790.00 from renewed pavement café licences and an estimated £750.00 from fairground rides/gazebos etc.

- 3.9 It should be noted that the Councils costs may vary from year to year, depending on numbers of applications, as illustrated in Table 2 of the Options Paper. If costs are under recovered then in subsequent years fees may have to rise to compensate for this.
- 3.10 Should the County Council not be willing to take enforcement action in the event of non payment of fees, this is likely to undermine all efforts to recover costs.

4 Implications (if applicable)

None

5 Appendices

None

Background Papers

None

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Notes on Options for Commercial Use of the Highway

Summary

The Commercial Use of the Highway policy was introduced to:

- Benefit the local economy by allowing businesses to use the highway for advertising, promotion and sales;
- Add interest, vitality, colour and life to our town centres;
- Promote equality and protect public safety, particularly amongst those with mobility difficulties or the visually impaired;
- Ensure fairground ride operators were DBS checked;
- Ensure safe, unhindered access for emergency services;
- Implement risk-based proportionate controls and treat all businesses equitably;
- Ensure non compliant businesses do not gain unfair competitive advantage.
- In line with the Equality Act 2010, to take reasonable measures to allow disabled people not to be disadvantaged by physical features;

Options A to D in Table 1 below illustrate a number of approaches open to the District Council to control use / obstruction of the Highway. There are of course other possible options, for example, the Council could adopt a pavement café policy only, like Shropshire Council, and exclude A Boards, or could examine whether to require planning permission for A Boards and Pavement Cafés.

A key point is that Staffordshire County Council, as the statutory Highways Authority, decides whether and to what extent to resource enforcement of commercial highways issues and the District has little influence in this.

Where there is no mechanism to enable the District Council to recover its costs, it could be argued that the function should remain with the County, where enforcement of Highways issues is already funded through Council Tax. Any additional funding for local District enforcement could be seen as the public paying twice for the same service.

A further consideration is that, where any licence, permit or consent is currently issued by the District Council and legislation permits the local authority to recover its reasonable costs, then this is the approach that is always adopted. If the Council were to decide to retain some form of licensing or permit system, and not to recover its costs, this would be a significant departure from all other similar licensing regimes (for example, street trading, scrap metal dealers, taxi licensing, pet shops etc.).

Table 2 shows the financial implications for businesses of the differing options, depending on whether these options are adopted for Town Centres only or District wide, and also estimated costs depending on the numbers of applications received.

Table 1 - Commercial Use of the Highway – summary of available options

OPTION	SUMMARY OF KEY FEATURES							
	WHERE POLICY APPLIES	£5M PUBLIC LIABILITY INSURANCE REQUIRED (Note 4)	LIMIT ON ONE PROPERLY CONSTRUCTED A BOARD, WITH TAPPING RAIL, PER BUSINESS. 2M CLEARANCE TO ROAD	PAVEMENT CAFES WITH CLEARLY DEFINED SEATING AREA, SAFE FURNITURE, PARASOLS, HEATERS ETC.	DBS CHECK FOR OPERATIVES OF CHILDRENS' FAIRGROUND RIDES (Note 5)	SANCTION IF NO LICENCE IN PLACE? (e.g if licence not issued due to non payment of fee or no insurance) (Note 6)	SANCTION FOR ITEMS CONSIDERED DANGEROUS (Note 7)	ESTIMATED TOTAL COSTS TO CCDC OVER 3 YEARS 2018-2021 INC (Notes 1 and 8)
A – PRESENT POLICY – FEES COVER ADMINISTRATION & COMPLIANCE COSTS (Note 1)	TOWN CENTRES	YES	YES	YES	YES	NO	YES (CCDC directly involved)	NIL (full cost recovery)
	DISTRICT WIDE	YES	YES	YES	YES	NO	YES (CCDC directly involved)	NIL (full cost recovery)
B -PRESENT POLICY CONDITIONS USED BUT NO FEES AND CCDC ABSORBS COSTS (Note 2)	TOWN CENTRES	YES	YES	YES	YES	NO	YES (CCDC directly involved)	£23,920
	DISTRICT WIDE	YES	YES	YES	YES	NO	YES (CCDC directly involved)	£33,280
C - GIVE BUSINESSES SCC HIGHWAYS GUIDANCE AND ADVICE ONLY (Note 3)	TOWN CENTRES	ADVICE ONLY	ADVICE ONLY	ADVICE ONLY	NO	N/A	YES (CCDC not directly involved)	Use existing budgets
	DISTRICT WIDE	ADVICE ONLY	ADVICE ONLY	ADVICE ONLY	NO	N/A	YES (CCDC not directly involved)	Use existing budgets
D - DO NOTHING – CCDC LEAVES HIGHWAYS ISSUES TO SCC AS STATUTORY HIGHWAY AUTHORITY AND REFERS ALL ENQUIRIES TO SCC	TOWN CENTRES	NO ACTION	NO ACTION	NO ACTION	NO	N/A	YES (CCDC not involved)	NIL
	DISTRICT WIDE	NO ACTION	NO ACTION	NO ACTION	NO	N/A	YES (CCDC not involved)	NIL

Table 1 Notes :

1. The current Policy includes a fee structure to allow the Council to fully recover its costs, in line with the County Council's suggested mechanism for licensing detailed in Option 1 of their Policy (para 5.2.2, page 7, see below). Though charging and cost recovery is clearly envisaged as part of this option (para 6.1.2, page 10, see extract below), the County Council have recently indicated that they would not support the District Council in recovering their costs.
2. This option is similar to Option 2 from the County Policy (para 5.2.2, page 8, see extract below).
3. This option relies on CCDC officers carrying out the advice and guidance whilst undertaking routine work in other areas (for example, food inspection, licensing visits, economic development activity etc.) and assumes use of County Council information leaflets and signposting to SCC website only.
4. Staffordshire County Council requires £5 million public liability insurance, as is common with other local authorities with such policies, for the placement of items on the Highway.
5. Where a fairground ride is permitted within a town centre, the current Policy requires the applicant to undergo a DBS check; without the Policy there would be mechanism to require this check;
6. Sanctions would have to be imposed by the County Council, as the statutory Highway Authority. The County Council have recently indicated they would not be willing to support the District Council in taking action in the event of non compliance with policy conditions, such as failure to pay a fee, or failure to provide public liability insurance. The County Council have stated they will not take enforcement action solely on the basis that a business hasn't obtained a licence / permit.
7. Sanctions would have to be imposed by the County Council, as the statutory Highway Authority. Staffordshire County Council have recently indicated they would become involved in taking action only where an item clearly obstructed and / or posed a danger on the highway and that enforcement action would be based on the risk posed in each given location.
8. Total costs are estimated over a three year period as this is the length of an A Board or display permit. Costs assume that all A Board permits are applied for and that pavement café licences issued are renewed twice during this period. Costs given are for A Boards and Pavement cafes only.

Extracts from County Council Management of Commercial Obstructions Policy (2007 as amended):

"5.2.2 The management of this Policy will be undertaken by the District Councils within Staffordshire who may choose one of two mechanisms for controlling the establishment & usage of 'A' boards, retail / trade displays and Street Cafés that are located on the public highway within their respective boundaries:

Option 1 – A District Council may either adopt this Policy to develop a licensing procedure, or, utilizing the contents of this Policy to provide an outline of the minimum standards that SCC considers acceptable, develop their own Policy and associated licensing procedure that is specifically designed to meet the needs and the character of their area;

Option 2 - The Conditions of Use contained within this Policy, together with existing highway, planning, advertisement, licensing and health & safety legislation, may be employed to manage the use of these items, with a targeted, risk based approach being used to monitor any obstruction or nuisance issues that may arise that may require enforcement action to be undertaken.

6.1.2 District Councils may levy reasonable initial licensing charges and annual renewal administration charges, with these charges being reviewed annually. "

Table 2 - Financial Implications for businesses

OPTION		APPLICATIONS MADE %	NUMBER OF A BOARDS	3 YEAR PERMIT FEE £ (rounded)	NUMBER OF PAVEMENT CAFES	ANNUAL FEE PAYABLE PER UNIT £*
A	TOWN	100	144	85.00	25	85.00
	CENTRES	50	72	100.00	12	100.00
	DISTRICT	100	250	80.00	30	70.00
	WIDE	50	125	90.00	15	175.00
B	TOWN	100	144	No fee	25	No fee
	CENTRES	50	72	No fee	12	No fee
	DISTRICT	100	250	No fee	30	No fee
	WIDE	50	125	No fee	15	No fee
C	No application process					
D	No application process					

*Unit is defined as a table and up to 4 chairs

Table 2 Notes:

- Table 2 shows the costs to businesses arising from options A-D. For each option, application of the Policy both to Town Centres only and District Wide is shown. In addition, an illustrative fee is shown depending on whether applications are made for all obstructions (100%) or whether half are applied for and half are removed and not then subject to an application .
- A fee has been established and set on the basis of total number of applications. For example, if 144 “A Board” applications are made, the cost to each applicant is £85.00, as costs are shared between all applicants. If the number of applications fell by 50% to 72, the fee per applicant would rise to £100.00.
- This is because whilst time spent on administration and compliance would decrease, some elements are unchanged irrespective of the number of applicants (for example, time on policy development, website updating, computer system and software, office costs, support costs, officer and member training etc.).
- Note that, for Option B, where the business pays “No fee” the fee per application would then have to be met by the Council, in line with those for option A .

CANNOCK CHASE COUNCIL
NOTES OF THE
SCRUTINY WORKING GROUP -
REVIEW OF POLICY FOR COMMERCIAL USE OF THE HIGHWAY
TUESDAY 18 SEPTEMBER, 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 A. Dudson
Councillor P. Hewitt

Officers: D. Piper, Head of Economic
Prosperity

P. Beckley, Building Control
Manager

David Prosser-Davies, Food,
Safety and Licensing Manager

1. Apologies for absence

An apology for absence was received from Councillor Mrs. C. Martin, Health and Wellbeing Portfolio Leader.

2. Declarations of Interests from Members

None declared.

3. Notes of Previous Meeting held on 21 August, 2018

The Building Control Manager referred to the first paragraph on page 4 of the minutes which clarified the policy adopted by Lichfield District Council. He advised that the Health and Wellbeing Portfolio Leader had asked that it be noted that she had suggested self regulation by the traders could be any option to put forward to the Scrutiny Committee. The Chairman agreed that this should be included as an amendment to the notes and would be considered as any additional option.

The notes of the previous meeting held on 21 August, 2018 were approved

subject to the amendment as outlined above.

4. Review of Policy for Commercial Use of the Highway - Briefing Note of the Head of Economic Prosperity and List of Options for the Commercial use of the Highway

Consideration was given to the Briefing Note of the Head of Economic Prosperity (item 4.1 - 4.3) and the list of options for the Commercial use of the Highway (Item 4.4 – 4.7) which had been prepared by the Food, Safety and Licensing Manager.

The Building Control Manager advised that four options had been outlined to illustrate a number of approaches that could be taken but he asked the Group to note that there were a number of other possible options that could have been put forward for consideration. The Working Group noted that the additional option for the traders to self regulate, which was suggested by the Health and Wellbeing Portfolio Leader, would also be considered. The Chairman commented that the Group would consider all of the options and decide which of these would be recommended to the Scrutiny Committee on 23 October, 2018.

The Food, Safety and Licensing Manager led Members through options A to D as detailed in Table 1 on Item no. 4.5 of the report and he provided a summary of each. If Members decided to recommend any of these options to the Scrutiny Committee he advised that they would also need to recommend whether the option was adopted for town centres only or District wide.

With regard to Option B which retained the present policy and removed the charges to businesses Members asked how the costs were made up. The Food, Safety and Licensing Manager confirmed that they were an estimated cost which included officer time, training, computers etc. The Chairman sought clarification on the revenue to date and the Building Control Manager referred the Group to Item no. 4.2 (paragraphs 3.6 and 3.7) of the report which detailed this information.

In relation to Option C the Food, Safety and Licensing Manager explained that Officers employed by the Council, such as the Licensing or Planning Enforcement Officers, would pass on the advice and information the County Council had produced to businesses when undertaking their current duties. Any costs incurred would be part of the existing budgets.

Councillor Mrs. Davis sought advice on what would happen should someone be injured as a result of an accident involving an A Board. The Officer advised that this would be referred directly to the County Council Highways department to deal with. Councillor Dudson asked whether there had been any complaints regarding A Boards from users of the town centres prior to the existing policy being adopted. The Officers confirmed that they were not aware of any complaints being received. The Chairman commented that this had been discussed at the previous Working Group meetings and that the implementation of the policy had no direct cause other than the existence of the Staffordshire County Council's policy. The Food, Safety and Licensing Manager advised that the County Council had a framework in place to allow District Council's to implement the policy. The County Council had no strict rules on how a District Council should implement the policy but a

Council could either (i) adopt the policy and develop a licensing procedure or (ii) use the guidelines within the policy to informally manage the process. He confirmed that the County Council would not get involved in administration and enforcement unless the District Council had adopted a policy.

The additional option put forward by the Health and Wellbeing Portfolio Leader for the traders to self regulate was then discussed by the Group. The Group had reservations regarding this option as the Council would not be able to dictate to the traders, only recommend. Additionally it would be giving Traders Associations authority they may not want. There was also some concern that not all traders belonged to Traders Associations and that there were a number of different Traders Associations which might result in inconsistency. The Chairman commented that consideration had been given to this option but the Group did not wish to take it further.

The Chairman then asked whether the chart outlining the policies for the Commercial use of the Highway adopted by other Local Authorities, which was presented at a previous meeting of the Working Group, could be included within the information presented to the Scrutiny Committee on 23 October. Officers agreed this could be included.

The views of Members on the options outlined were then sought. Councillor Dudson proposed that the Group should opt for Option C. Councillor Hewitt agreed but asked whether it was also possible for the Council to ensure that businesses had public liability insurance. The Group discussed this suggestion and the Building Control Manager advised that the County Council had stated they would not take any action when a business had complied with the policy but did not have public liability insurance. The Head of Economic Prosperity commented that it was not the District Council's responsibility to ensure businesses had public liability insurance. Therefore the Group accepted they did not have the duty to ensure businesses had public liability insurance.

Councillor Mrs. Davis sought clarification as to whether the Council would have to refund the fees that had already been paid by the businesses, and if so, this would be an additional expense. The Food, Safety and Licensing Manager confirmed that the anticipated cost so far this year was £7,973 and £2,267 of this was revenue. However, as A Board permits were for 3 years and income was apportioned over 3 financial years he estimated that approximately £4,000 would need to be paid back to businesses in refunds should Option C be agreed. However, he would provide accurate figures when the report was prepared for consideration by the Scrutiny Committee on 23 October.

Councillor Mrs. Davis was not in favour of Option C and added that she considered the Council may look foolish if they overturned the decision. She considered that the tables and chairs outside cafes looked nice and were positioned correctly with barriers surrounding them providing protection to customers. She commented that it was not like this prior to the policy being adopted. She was of the opinion that there had not been enough time to consider the effect of the policy on businesses as the policy had only been in place since April, 2018.

The Chairman commented that there was a general feeling was that the policy was not right and there were valid reasons to make changes.

The Head of Economic Prosperity advised the Group that Table 1 as detailed on Item no. 4.5 of the report which outlined the four options should be made clearer and include the benefits and risks associated with each option. In addition further information on costs and revenue could be included. Therefore this table would be amended prior to it being presented to the Scrutiny Committee.

The Building Control Manager asked the Group to note that the four options outlined for Members consideration could be adjusted or amended. For example, other local authorities had adopted a pavement café policy only and excluded A Boards. The District Council could also take this approach and he asked Members to consider this before making their decision on which option to put forward.

A Member asked for clarification regarding the charging criteria for town centre promotions, such as the van promoting "Sky TV". The Officer confirmed that promoters had to notify the Council they would be coming into the town centre and were charged £25 for the erection of a gazebo but the policy did not cover vans.

Following this the Chairman then asked the Group to indicate which of the options they were in favour of recommending to the Scrutiny Committee. The majority of the Group were in favour of Option C with Councillor Mrs. Davis abstaining from voting. The Group confirmed that this option would apply District wide and not just in town centres.

The Food, Safety and Licensing Manager then circulated a draft presentation for submission to the Scrutiny Committee which he had prepared. It was explained that this outlined the work undertaken by the Group and the options that had been considered. He led Members through this presentation and it was agreed that it would be amended to reflect that Option C was the chosen option of the Working Group and that if this were taken forward businesses would be refunded any fees already paid. It should be made clear that the County Council conditions would remain the same as for the existing policy; however the costs were being removed and there would be no enforcement regarding the positioning of A Boards or tables and chairs.

The Officer would therefore email the presentation to the Working Group and Members should advise Officers of any changes they wished to make. The Chairman would get together with the other Members of the Working Group to agree the presentation prior to it being presented to the Scrutiny Committee. The Chairman would then present the findings of the Group to the Scrutiny Committee on 23 October, 2018.

Members then discussed public liability insurance and the Food, Safety and Licensing Manager stated that he would clarify the law regarding 3rd party insurance for businesses ahead of the Scrutiny Committee meeting.

At this point the Head of Economic Prosperity advised that he had another

meeting to attend and therefore left the meeting at 4.05pm.

The Building Control Manager confirmed that a covering report would be prepared which would include the notes of the three Working Group meetings and the relevant papers that were considered. This would be submitted to the Scrutiny Committee along with the presentation and would also include the recommendation of the Working Group.

The Chairman thanked all officers who had been involved in the Working Group for their input.

AGREED:

The Working Group agreed that Option C be recommended to the Scrutiny Committee on 23 October, 2018 and Officers prepare a report which would include:-

- (i) the presentation including any amendments suggested by Members;
- (ii) table 1 as detailed on Item no. 4.5 of the report which outlined the four options amended to include the benefits and risks associated with each option along with further information clarifying the costs and revenue;
- (iii) clarification that should this option be accepted businesses would be entitled to a refund of the fees already paid and the costs of this be provided;
- (iv) the chart outlining the policies for the Commercial use of the Highway adopted by other Local Authorities which was presented to a previous meeting of the Working Group;
- (v) the notes of the three Working Group meetings together with the relevant papers that were considered.

Meeting finished at 4.10pm.

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Working Group

Rugeley Town Centre **A Boards 2nd Aug 2019**

Alan Dudson and Mike Sutherland.

Site visit to Brewery Street and surrounding streets within centre of town.

Retailers

- Big on Gifts
- Lachmere
- Market Hall
- Blueprint Designs
- Lets Eat

Comments.

A-Board Tax : Street Furniture Tax :

Negative Impact on small Independent businesses / premises in secondary side Streets already struggling to make a living :

Unfair Policy, as its aimed at 3 key Town Centres :

CCDC claim it's to do with Health and Safety issues. (paying a fee does not reduce the risk of any accidents) :

Do we just increase our prices to fund these charges ? we need help not more increases as this will assist in killing off our Town centres as public already paying for parking :

Other Authorities are pulling out all the stops to encourage people to use local Town Centres









Commercial Obstructions Policies for Commercial Use of Highway - Survey of Local Authorities

Local Authority	Policy in Place? Yes / No	£ fee	Planning Permission Req'd? Y/N £fee	£5M public liability Insurance required?	Other comments
Cannock Chase DC	Yes.	A Boards £85 for 3 year permit £85 for 1 table and 4 chairs; £170 for 2 tables and 8 chairs; £250.00 for 3-6 tables (12-24 seats) £500.00 for 7-10 tables (28-40 seats)	No	Yes	Allows flexibility and choice in how many tables and chairs to use; Reduces fees and admin as 3 year permit for A Boards
Tamworth BC	Yes.	Initial fee £25.00 first year; £50 thereafter for A Boards	Yes £95.00 initial fee for A Boards	Yes	
Lichfield DC	Yes voluntary code for A Boards; pavement cafes by planning permission	N/A for A Boards	Yes for pavement cafes. Fee £462 (as of 13.08.18)	Yes for A Boards	
East Staffs BC	No	N/A	N/A	N/A	Left to County Council
South Staffs DC	No	N/A	N/A	N/A	Left to County Council
Stafford BC	No	N/A	N/A	N/A	Left to County Council
Newcastle under Lyme BC	No	N/A	N/A	N/A	Left to County Council
Stoke on Trent City Council	Yes:	£150.00 for 1 table and 4 seats; additional tables / 4 seats £50.00 each ; renewal £150.00	No	Yes	
Walsall MBC	Yes:	£350.00 p.a. for upto 4 tables / 16 seats £400.00 upto 5-10 tables and 17-40 seats £450 for over 10 tables and 41 seats plus	No	Yes	

Local Authority	Policy in Place? Yes / No	£ fee	Planning Permission Req'd? Y/N £fee	£5M public liability Insurance required?	Other comments
Wolverhampton City Council	Yes:	£25 p.a. for A Boards and pavement cafes	Not known	Yes	
Leicester City Council	Yes:	Fee £273.00 initial and £181.00 renewal	Not known	Yes	
Warwickshire County Council	Yes cafes only :	Fee £100 p.a. for pavement cafes	No	Yes	Covers all Districts of Warwickshire
Nottinghamshire County Council	Yes voluntary code for A Boards. Pavement Café Licences issued	£268 for a 5 year licence	No	Yes	Covers all Districts of Nottinghamshire
Bromsgrove DC	Yes for pavement cafes	£200 initial application £55 per annum thereafter	Not known	Yes	
Worcester City Council	Yes for pavement cafes	£230 initial application £57 per annum thereafter	No	Yes	
Birmingham City Council	Yes for pavement cafes	£815 p.a. upto 5 tables More than 5 tables £1195 p.a.	No	£2M	

Notes on Options for Commercial Use of the Highway

Summary

The Commercial Use of the Highway policy was introduced to:

- Benefit the local economy by allowing businesses to use the highway for advertising, promotion and sales;
- Add interest, vitality, colour and life to our town centres;
- Promote equality and protect public safety, particularly amongst those with mobility difficulties or the visually impaired;
- Ensure fairground ride operators were DBS checked;
- Ensure safe, unhindered access for emergency services;
- Implement risk-based proportionate controls and treat all businesses equitably;
- Ensure non compliant businesses do not gain unfair competitive advantage.
- In line with the Equality Act 2010, to take reasonable measures to allow disabled people not to be disadvantaged by physical features;

Options A to E in Table 1 below illustrate a number of approaches open to the District Council to control use / obstruction of the Highway. There are of course other possible options, for example, the Council could adopt a pavement café policy only, like Shropshire Council, and exclude A Boards, or could examine whether to require planning permission for A Boards and Pavement Cafés.

A key point is that Staffordshire County Council, as the statutory Highways Authority, decides whether and to what extent to resource enforcement of commercial highways issues and the District has little influence in this.

Table 1 - Commercial Use of the Highway – summary of available options

OPTION	SUMMARY OF KEY FEATURES							
	WHERE POLICY APPLIES	£5M PUBLIC LIABILITY INSURANCE REQUIRED (Note 4)	LIMIT ON ONE PROPERLY CONSTRUCTED A BOARD, WITH TAPPING RAIL, PER BUSINESS. 2M CLEARANCE TO ROAD	PAVEMENT CAFES WITH CLEARLY DEFINED SEATING AREA, SAFE FURNITURE, PARASOLS, HEATERS ETC.	DBS CHECK FOR OPERATIVES OF CHILDRENS' FAIRGROUND RIDES (Note 5)	SANCTION IF NO LICENCE IN PLACE? (e.g if licence not issued due to non payment of fee or no insurance) (Note 6)	SANCTION FOR ITEMS CONSIDERED DANGEROUS (Note 7)	ESTIMATED TOTAL COSTS TO CCDC OVER 3 YEARS 2018-2021 INC (Notes 1 and 8)
A – PRESENT POLICY – FEES COVER ADMINISTRATION & COMPLIANCE COSTS (Note 1)	TOWN CENTRES	YES	YES	YES	YES	NO	YES (CCDC directly involved)	NIL (full cost recovery)
	DISTRICT WIDE	YES	YES	YES	YES	NO	YES (CCDC directly involved)	NIL (full cost recovery)
B -PRESENT POLICY CONDITIONS USED BUT NO FEES AND CCDC ABSORBS COSTS (Note 2)	TOWN CENTRES	YES	YES	YES	YES	NO	YES (CCDC directly involved)	£23,920
	DISTRICT WIDE	YES	YES	YES	YES	NO	YES (CCDC directly involved)	£33,280
C - GIVE BUSINESSES SCC HIGHWAYS GUIDANCE AND ADVICE ONLY (Note 3)	TOWN CENTRES	ADVICE ONLY	ADVICE ONLY	ADVICE ONLY	NO	N/A	SCC only	Use existing budgets
	DISTRICT WIDE	ADVICE ONLY	ADVICE ONLY	ADVICE ONLY	NO	N/A	SCC only	Use existing budgets
D - CCDC LEAVES HIGHWAYS ISSUES TO SCC AS STATUTORY HIGHWAY AUTHORITY AND REFERS ALL ENQUIRIES TO SCC	TOWN CENTRES	NO ACTION	NO ACTION	NO ACTION	NO	N/A	SCC only	NIL
	DISTRICT WIDE	NO ACTION	NO ACTION	NO ACTION	NO	N/A	SCC only	NIL
E – TRADERS ADOPT SELF ADMINISTERED POLICY / SCHEME	TOWN CENTRES	NO ACTION	NO ACTION	NO ACTION	NO	N/A	SCC only	NIL
	DISTRICT WIDE	NO ACTION	NO ACTION	NO ACTION	NO	N/A	SCC only	NIL

Table 1 Notes :

1. The current Policy includes a fee structure to allow the Council to fully recover its costs, in line with the County Council's suggested mechanism for licensing detailed in Option 1 of their Policy (para 5.2.2, page 7, see below). Cost recovery is clearly envisaged as part of this option (para 6.1.2, page 10, see extract below).
2. This option is similar to Option 2 from the County Policy (para 5.2.2, page 8, see extract below).
3. This option relies on CCDC officers carrying out the advice and guidance whilst undertaking routine work in other areas (for example, food inspection, licensing visits, planning visits and economic development activity etc.) and assumes use of County Council information leaflets and signposting to SCC website only.
4. Staffordshire County Council requires £5 million public liability insurance, as is common with other local authorities with such policies, for the placement of items on the Highway.
5. Where a fairground ride is permitted within a town centre, the current Policy requires the applicant to undergo a DBS check; without the Policy there would be no mechanism to require this check;
6. Sanctions would have to be imposed by the County Council, as the statutory Highway Authority.
7. Total costs are estimated over a three year period as this is the length of an A Board or display permit. Costs assume that all A Board permits are applied for and that pavement café licences issued are renewed twice during this period. Costs given are for A Boards and Pavement cafes only.

Extracts from County Council Management of Commercial Obstructions Policy (2007 as amended):

"5.2.2 The management of this Policy will be undertaken by the District Councils within Staffordshire who may choose one of two mechanisms for controlling the establishment & usage of 'A' boards, retail / trade displays and Street Cafés that are located on the public highway within their respective boundaries:

Option 1 – A District Council may either adopt this Policy to develop a licensing procedure, or, utilizing the contents of this Policy to provide an outline of the minimum standards that SCC considers acceptable, develop their own Policy and associated licensing procedure that is specifically designed to meet the needs and the character of their area;

Option 2 - The Conditions of Use contained within this Policy, together with existing highway, planning, advertisement, licensing and health & safety legislation, may be employed to manage the use of these items, with a targeted, risk based approach being used to monitor any obstruction or nuisance issues that may arise that may require enforcement action to be undertaken.

6.1.2 District Councils may levy reasonable initial licensing charges and annual renewal administration charges, with these charges being reviewed annually."