

By: Mike Austerberry – Executive Director, Environment, Highways & Waste

To: Nick Chard – Cabinet Member for Environment, Highways & Waste

Subject: Policy for the Management of Obstructions and Temporary Items on the Highway

Classification: Unrestricted

Summary:

A report on Policy for the Management of Obstructions and Temporary Items on the Highway was considered by the Policy Overview & Scrutiny Committee at its meeting on 25 May 2010. The decision resulting was to agree to the approval of the Policy for the Management of Obstructions and Temporary items on the Highway

1. Introduction

- 1.1 Advertising boards, commonly referred to as A-boards are currently placed at will and with little regulation across the highways of Kent, often affecting the free and safe passage of highway users, due to thoughtless placement and a lack of maintenance. There is therefore the need for a policy to regulate the use of A-boards through licensing, in order to minimise any obstruction and disruption to the highway users, in the same way as we are doing with Tables and Chairs. *S.130 Highways Act 1980* states the highway authority has a duty to 'assert and protect the rights of the public to the use and enjoyment of any highway' and *S.16 Traffic Management Act 2004* states that it is the duty of the network management duty to 'secure the expeditious movement of traffic' where traffic includes all groups of highway users. These acts together place duties on us to ensure that we consider all aspects that affect traffic flow and this includes footway traffic. S115 of the Highways Act provides that we may authorise and so licence the placing of items including A boards and Tables and Chairs on the highway.
- 1.2 The rights of the public to move freely and safely along the highway apply to all users of the highway, including those with limited mobility and this is key to this policy, to ensure that all users of the highway have equal access to the highway. By licensing the A-boards, as we currently do with Tables and Chairs, safety would improve, not least because there will be fewer hazards for the users to negotiate in their day-to-day journeys.

2. Policy outline and Charging

- 2.1.1 Licensing of A-boards is proposed in a similar way to our existing licensing of Tables and chairs. A-boards and Tables and Chairs will only be permitted on the highway outside the relevant premise if they have a licence and evidence is provided at the time of application of Public Liability insurance. An unobstructed width of 2m of the highway will normally be required for footway users – however, a distance of 1.5m will be permissible where certain circumstances prevent the full 2m from being available. If this distance cannot be achieved, then the item(s) will not be granted a licence and will not be allowed to be placed there. (A-boards will be permitted leaving a 1.3m minimum width, as a ‘point obstruction’). Normally only one A-board will be permitted per property, unless it is on a street corner or occupying multiple units, when no more than two may be permitted.
- 2.2 In the interests of public safety and improving highway aesthetics, the size of an A board is to be between a minimum of 0.8m and a maximum of 1.05m in height and between a minimum of 0.45m and a maximum of 0.7m in width only and must be appropriately weighted to keep it upright and securely in place. All items will be licensed for a specific position/area outside the premise, normally against the building line. Larger Tables and Chairs areas may require barriers to prevent spread outside the licensed area.
- 2.3 Restrictions may be given on the licence regarding times the items may be placed, perhaps relating to pedestrianised hours for the street, or occasions when the items must be removed, for example on Market days when the street is unusually congested.
- 2.4 Licences will be issued for one year at a time at a charge of £65 for an A board, (Tables and Chairs are currently £150); this will include a site visit and assessment and checking public liability insurance as part of this process. Licences will show the required position of the items with any conditions and must be displayed in the shop window.

3. Enforcement Action

- 3.1 All complaints received will be investigated and acted upon to improve levels of compliance with licensing of items on the highway.
- 3.2 Whenever a premise is not complying with the terms of the licence issued, a £47.50 non-compliance charge may be applied, to recover the cost of site visit and investigation.
- 3.3 If there is no licence in place for a premise they will be asked to remove the items and apply. They will be notified in writing that a repeat offence will incur a non-compliance charge (£47.50 to recover the cost of that inspection visit). This warning could also be applied to goods on the highway (currently not licensable).

- 3.4 Further stages will involve formal written warnings and possible removal and disposal of the items, with costs recovered where possible.
- 3.5 All communications between KHS and those placing items will be recorded to form an evidence trail, should prosecution be required at a later date.

4. Conclusion

- 4.1 These proposals bring the control of A boards into line with current work practices, particularly in relation to Tables and chairs which are already licensed, rather than simply having operating guidelines. There are no major differences in approach and we believe the proposals are both relevant and practicable in the control of A boards, to make the highway a safer place. The suggested fees are £65 per single A-board licence, (Tables and Chairs are currently £150 licence). A non-compliance charge of £47.50 will be applied, where a licence requirement or previous warning is not complied with. Licences are renewable on a yearly basis and will remain unchanged until such times as all licensing charges for highway activities are reviewed.
- 4.2 It is recognised that this is likely to result in additional workload for existing personnel and consideration will be given to a self funded part-time post in each of the two Road works offices. This will largely depend upon levels of compliance and will be reviewed by Officers.

5. Views of the Environment, Highways & Waste Policy Overview and Scrutiny Committee (EH&W POSC)

- 5.1. At its meeting on 25 May 2010 the EH&W POSC supported the proposal for recommendation to the Cabinet Member for Environment, Highways and Waste as set out in paragraph 6 below.

6. Recommendations

6.1 The Cabinet Member for Environment, Highways is requested to AGREE:

(a) The approval of the Policy for Obstructions and Temporary Items on the Highway, to allow for licensing A-Boards on the highway as outlined above,

(b) also for charging of annual fees for A-board or Tables and Chairs licence and of a non-compliance charge to cover the cost of an inspection for any items on the highway, where a premise has after warning, failed to comply with what was required of them, whether through licence or formal warning.

Background Documents:

RELEVANT LEGISLATION

- Control of Pollution Act 1974
- Environmental Protection Act 1990
- Highways Act 1980
- Local Government (Miscellaneous Provisions) Act 1982
- Planning (Listed Buildings and Conservation Areas) Act 1990
- The Disability Discrimination Acts 1995 & 2005
- The Licence Act 2003
- The Police and Criminal Justice Act 2001
- Town and Country Planning Act 1990 (as amended)
- Town and Country Planning (Control of Advertisements) Regulations 1992 (as amended)
- Town Police Clauses Act 1847

OTHER DOCUMENTATION

- Manual for Streets (DfT)
- Inclusive Mobility (DfT)

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