

Bath & North East Somerset Council

MEETING:	Cabinet	
MEETING DATE:	9th November 2011	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2257
TITLE:	Footway Obstructions Policy – A Boards	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1: Footway Obstructions Policy – A Boards		
Appendix 2: Legal powers relevant to enforcement of the policy		
Appendix 3: Extract from the minutes of the meeting of the Licensing Committee, Monday, 28th March 2011		
Appendix 4: Draft information/guidance leaflet intended for local business(to follow)		

1. THE ISSUE

The Council is responsible for managing the street scene throughout the whole of the district. Adopting a policy for the control of articles that are placed on footways will ensure that they are attractive, safe and easy to use for all. A number of controls are available to the authority in achieving this and this report makes specific recommendations about the control of A Boards and similar items.

2. RECOMMENDATION

The Cabinet agrees that:

- 2.1 The policy set out at Appendix 1 be adopted
- 2.2 Promotional work be carried out to ensure that businesses are aware of their responsibilities

3. FINANCIAL IMPLICATIONS

- 3.1 The policy can be enforced by Council staff already present on the streets. These include Licensing Officers and Cleansing Enforcement Officers supported by Highways Inspectors. It is not proposed to require that businesses apply for permits for A Boards or similar items and therefore no cost will be incurred by the authority or businesses in that respect. The authority may recover costs of storage or take formal legal action should businesses fail to comply with the policy. It is not envisaged that this will have any significant financial implications for the authority.

4. CORPORATE PRIORITIES

- Building communities where people feel safe and secure
- Improving transport and the public realm

5. THE REPORT

- 5.1 The Council wants the street scene to be both attractive and easy to use for all. This policy seeks to create a street environment which complements premises based trading but is not unduly cluttered, enables expeditious pedestrian movement, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments.

- 5.2 There is a need to set out what is acceptable in order that we can safeguard people with disabilities, including those with visual impairments, and to do this we need to regulate against over-proliferation of obstructions and inappropriate positioning on the footway.

- 5.3 The policy is set out at Appendix 1 to this report.

- 5.4 It is hoped and believed that it will generally be possible to implement this policy without the need for recourse to the legal powers available to the authority. The approach the authority intends to take is set out in Appendix 2 and all actions will fall within the purview of our published enforcement policy. A "lead in" period of 3 months is proposed during which time the focus will be on raising awareness of the guidelines set out in this policy, requesting voluntary compliance and trying to resolve any concerns raised.

- 5.5 A range of powers are nonetheless available to the authority to remove any item from the highway which causes an obstruction (including footways and pedestrian areas). These powers extend to dealing with items placed adjacent to the adopted highway which may present a safety risk. In order to demonstrate that it is acting fairly and reasonably in requiring such removals, it is sensible to adopt a policy which sets out what the authority will and will not allow. This policy covers A Boards and similar advertisements which are placed on the footway. Other obstructions can and will also be regulated where necessary.

- 5.6 The Council's Licensing Committee considered a draft version of Footway Obstruction policy on 28th March and resolved unanimously to recommend to the Cabinet Member for Service Delivery:

(i) to adopt the Policy and Conditions on Footway Obstructions:

(ii) not to establish a permit system for placing A –boards on the highway;

(iii) to review these decisions after one year and after further consultation with the Licensing Committee.

6. RISK MANAGEMENT

The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

7. EQUALITIES

7.1 An Equalities Impact Assessment has been carried out using corporate guidelines.

7.2 The Council promotes equal opportunities for all regardless of age, ethnicity, sex and disability. Obstructions to footways can prevent safe passage especially by elderly and disabled members of society. The policy would help ensure that all potential user groups can safely negotiate footways.

7.3 A draft policy for Footway Obstructions was considered by the Council's Licensing Committee earlier this year. Consultation was carried out with Access B&NES, Equality B&NES and Bath Deaf/Vision Plus. They voiced strong support for regulation in this area in order to support the interests of wheelchair users, people using pushchairs and people with visual impairments. They also suggested that the Council should make it as simple as possible to report a problem so that it could be dealt with quickly.

7.4 Bath People First have been consulted on this proposal and their comments will be made available prior to a decision being made.

8 RATIONALE

8.1 The Council has a duty (under the Traffic Management Act 2004) to keep the highway free of obstruction and protect the safety of highway users to ensure the expedient movement of pedestrians, controlling the placement of articles and removing articles that prevent safe and expedient pedestrian movement. The policy would support the Council in meeting its duties as a Highway Authority.

8.2 Such a policy would enable the control and regulation of articles placed on footways which could detract from the area's heritage and its diverse and attractive street scene.

8.3 The proposed policy would also help businesses promote their goods and services in a welcoming and regulated way that helps maintain economic viability.

9 OTHER OPTIONS CONSIDERED

9.1 Not to adopt a policy – this would mean that the current uncertainty about what is and what is not acceptable would remain open to interpretation by businesses with detrimental impacts on the quality of the public realm and safety and placing Enforcement Officers in an untenable situation.

9.2 To adopt a policy which requires businesses to apply for a permit – this option, operated by a number of other authorities has been consulted upon and considered by the Licensing Committee. Business representatives expressed concern regarding the additional costs this would incur. The committee’s resolution is shown at paragraph 5.6 of this report.

9.3 The authority could require that any business wishing to place an A Board or similar on the footway should have to apply for advertising consent. It is thought that this and the issue of permits (licences) would create a lot of unnecessary work and may represent over-regulation which would make doing business in the area more difficult.

10 CONSULTATION

10.1 Cabinet members; Other B&NES Services; Service Users; Local Residents; Community Interest Groups; Stakeholders/Partners; Section 151 Finance Officer; Chief Executive; Monitoring Officer

10.2 Consultation was carried out in the last year by contacting business and other groups setting out proposals to implement a policy on footway obstructions. The Licensing Committee considered the issue in the light of responses to those proposals. A summary of that consultation exercise is available from the report writer.

11 ISSUES TO CONSIDER IN REACHING THE DECISION

Social Inclusion; Customer Focus; Sustainability; Human Resources; Property; Health & Safety; Other Legal Considerations.

12 ADVICE SOUGHT

The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

Contact person	Matthew Smith, 01225 39 6887
Sponsoring Cabinet Member	Councillor David Dixon
Background papers	PROPOSED FOOTWAYS OBSTRUCTIONS POLICY AND CONDITIONS – report to Licensing Committee 28 th March 2011 Consultation responses to PROPOSED FOOTWAYS OBSTRUCTIONS POLICY AND CONDITIONS report considered by Licensing Committee 28 th March 2011
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