

PROPOSED FOOTWAYS OBSTRUCTIONS POLICY AND CONDITIONS

Minutes of the Meeting of the Licensing Committee, Monday, 28th March 2011

The Environmental and Licensing Manager presented the report. He said that the Committee's comments would be included in a report to the Cabinet Member for Service Delivery, who would take the decision on the proposed policy. The aim of the policy was to ensure that the highway could be used for its primary purpose of facilitating movement in the public realm. It was intended to provide guidance on the siting of items placed on the highway and to introduce a system of permits. It was expected that a permit would cost £100.

Councillor Lees asked whether it was intended to apply the policy throughout the Council's area. The Licensing and Environmental Manager replied that depending on the responses to the consultation, it might be appropriate to limit its application to urban areas. Councillor Lees said that the thought the policy went too far; A-frames were largely concentrated in Bath city centre and he suggested that the application of the policy should be limited to where there were the most problems, in a manner akin to the cumulative impact policy for licensed premises. He suggested it would be inappropriate to charge a village grocer a fee for putting items outside his shop. The Senior Legal Adviser said that shopkeepers were legally entitled to display their wares outside their shops and the policy document provided guidance about what was considered reasonable. Councillor Lees wondered why it was not possible to control highway obstructions with existing policy rather than introducing a new licensing regime. Councillor Chalker suggested that what was needed was common sense rather than more regulation; shopkeepers could be asked to site objects nearer to their shops. Councillor Curran said he did not think a charge of £100 for a permit was excessive and that people in Weston or Keynsham had as much right to unobstructed pavements as people in central Bath. Unrestrained cluttering of the highway could not be allowed. Councillor Lees said that obstruction was more likely to occur where the most people were. Councillor Paradise said that the number of passers-by varied greatly between weekdays and Saturdays. The Chair agreed with Councillor Curran that the same rules should apply everywhere.

Councillor Batt suggested that if permits were introduced they should last for a full year from the date granted and not terminate on 31st March irrespective of the date of grant.

Councillor Chalker asked about the status of parked vehicles carrying advertising boards. He had recently telephoned Cash for Cars about an unlicensed vehicle carrying one of their advertisements and they had agreed to move it. The Environmental and Licensing Manager said that the control of advertising was the responsibility of Planning, not Environmental Services. The Senior Legal Adviser said that owner of a motor-propelled vehicle which was taxed and insured had the right to have it on the highway. However, in recent cases advertisements on parked vehicles had been held to be unlawful. He added that the Council did not have the power to fine anyone who placed an object on the highway without a permit or who failed to comply with the terms of their permit. If the object caused an immediate danger the Council could confiscate it and, if it caused an obstruction, could take the owner to the Magistrates' Court. If a case in the Magistrates' Court was successful, the Council would be able to recover costs.

The Chair noted Councillor Curran's comment that £100 was not a large fee, but felt that applying for a permit was an additional burden that small businesses could well do without it. He agreed that there needed to be controls, but suggested that simple rules, e.g. telling retailers to keep any objects within 1.5 metres of their shops, were preferable to a system of permits. Councillor Lees agreed that if a system of permits would give the Council no more powers than it had already, it would be better to publish a set of guidelines. The Environmental and Licensing Manager said that it would be possible to start off with a voluntary code of practice. However the proposal for a permit system had been intended to move policy forwards. Local Authorities had different approaches to street obstructions; some had a system of permits, others seemed not to be very concerned about obstructions. The Senior Legal Adviser said that the Highways Act did not allow local authorities to recover the costs of enforcement within the permit fees or enable an authority to impose a fine. Councillor Paradise thought that the use of A-frames could be counterproductive as they could deter prospective customers from venturing down cluttered alleyways.

After further discussion it was **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 –frames on the highway;
- (iii) to review these decisions after one year and after further consultation with the Licensing Committee.