



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

PAGE INTENTIONALLY BLANK

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 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 work out approximately how much time the administration and compliance work takes, then calculate 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 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

PAGE INTENTIONALLY BLANK

ITEM NO. 10.1

Appendix 1

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.

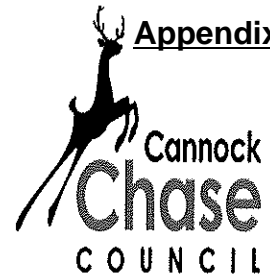
Consultee List

<p><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</p>	<p><u>Staffordshire Police</u> Staffordshire Police – Southern Licensing Tracey Carsley Paul Prenter David Rollo Kevin Lee</p> <hr/> <p><u>Staffordshire Fire & Rescue Service</u></p> <hr/> <p><u>Staffordshire County Council Trading Standards Department</u></p> <hr/> <p><u>SCC Highways Authority</u></p> <hr/> <p><u>Markets</u> Sketts & Co Ian Sandford – Sketts & Co Mike Brazier – Brewery Street Arcade</p>
<p><u>Adjacent Local Authority Licensing Units</u> Lichfield DC South Staffordshire DC Stafford BC Tamworth BC</p>	<p><u>CCDC Libraries</u> Brereton Library Cannock Library Heath Hayes Library Hednesford Library Norton Canes Library Rugeley Library</p>
<p><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</p>	<p><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</p>

<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	

<p><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 Chads Moor Family Centre YMCA Your Community, Your Voice</p>	<p>Sara Pritchard Fred Pritchard</p> <p>All Cannock, Hednesford and Rugeley Town Centres Shops – copy hand delivered</p>
---	---

PAGE INTENTIONALLY BLANK



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, Gymphobics, 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

PAGE INTENTIONALLY BLANK



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:

S Smeaton

Agreed:

[Signature]

Date:

13/6/2017

Date:

15/6/17

PAGE INTENTIONALLY BLANK



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

PAGE INTENTIONALLY BLANK



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: 

Date: 13/6/2017

Agreed: 

Date: 15/6/17

PAGE INTENTIONALLY BLANK



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. Simeon*

Agreed: *[Signature]*

Date: *13/6/2017*

Date: *15/6/17*

PAGE INTENTIONALLY BLANK



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.

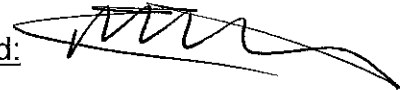
Response by the Authority:

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. Swain

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 J wean

Agreed:

Date:

13/6/2017

Date:

15/6/17

PAGE INTENTIONALLY BLANK



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: *Somena*

Date: 13/6/2017

Agreed: *[Signature]*

Date 15/6/17

PAGE INTENTIONALLY BLANK



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: 

Agreed: 

Date: 13/6/2017

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 Dwean*

Date: 13/6/2017

Agreed: *[Signature]*

Date: 15/6/17

PAGE INTENTIONALLY BLANK

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

Contents

Section		Page
	Contents	1
1	Introduction: policy objectives	2
	The consultation process	3
	Exchange of information and data protection	4
	Equality and diversity	4
2	Scope of the policy	5
3	A-boards	5
	The application process	6
	General A-board permit conditions	6
	Non compliance with A-board permit conditions	8
	Use of A-boards without permits	8
	A-boards on private property or on Council owned land	8
4	Fairground rides/vehicles/promotion stands & gazebos etc.	8
	The application process	9
	Positioning of the fairground rides/vehicles/promotion stands and gazebos etc.	9
	General fairground rides/vehicles/promotion stands and gazebos etc. conditions	10
	Non compliance with fairground rides/vehicles/promotion stands and gazebo conditions	11
	Use of fairground rides/vehicles/promotion stands and gazebos etc without consent.	11
	Fairground rides/vehicles/promotion stands and gazebos etc. on private property or on Council owned land	11
5	Pavement café licences	11
	The application process	12
	Design of the pavement café	14
	Size and layout	15
	Boundaries	15
	Furniture	15
	Licence holder responsibilities	16
	Space and positioning	17
	General pavement café operating conditions	17
	Non compliance with pavement café licence conditions	19
	Unlicensed pavement cafés	19
	Pavement cafés on private property or on Council owned land.	19
6	Enforcement principles	19
7	Complaints against the service	21
Annex 1	Procedure for determining commercial use of the highway applications	21

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

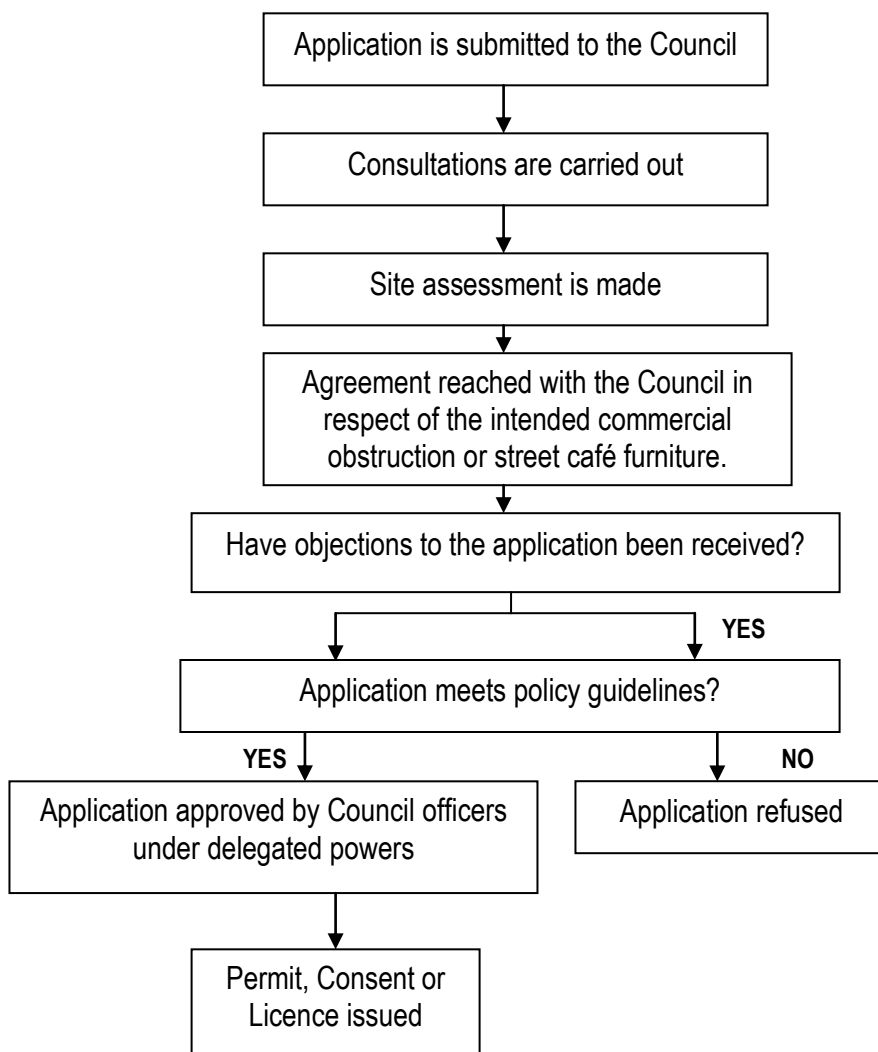
7. Complaints against the service

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)

Contents

Chapter	Page No.
1. Introduction	
1.1 General	1
2. Summary	
2.1 Structure	2
3. Legislation	
3.1 General	3
3.2 Highways Act 1980	3
3.3 Local Government (Miscellaneous Provisions) Act 1982	4
3.4 Disability Discrimination Act 1995	5
3.5 Other Relevant Legislation	5
4. Strategy	
4.1 General	6
4.2 Future Developments	6
5. Procedure	
5.1 General	7
5.2 Management	7
5.3 Operation	8
6. 'A' Boards and Retail Displays	
6.1 General	10
6.2 Conditions of Use	10
7. Street Café's	
7.1 General	13
7.2 Conditions of Use	13
8. Record Keeping	16
9. References	17
Appendix 1	
Standard Letters	

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 LocalLawUK, 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 to.

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

PAGE INTENTIONALLY BLANK

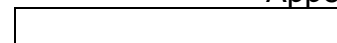
**Appendix 5**

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.

PAGE INTENTIONALLY BLANK



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