

CANNOCK CHASE COUNCIL
NOTES OF THE
SCRUTINY WORKING GROUP -
REVIEW OF POLICY FOR COMMERCIAL USE OF THE HIGHWAY
TUESDAY 18 SEPTEMBER, 2018 AT 3.00 P.M.
HELD IN THE DATTELN ROOM, CIVIC CENTRE,
BEECROFT ROAD, CANNOCK

Present:

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

Officers: D. Piper, Head of Economic
Prosperity

P. Beckley, Building Control
Manager

David Prosser-Davies, Food,
Safety and Licensing Manager

1. Apologies for absence

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

2. Declarations of Interests from Members

None declared.

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

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

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

subject to the amendment as outlined above.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AGREED:

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

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

Meeting finished at 4.10pm.