

REPORT

SUBJECT: Review of Commercial Obstructions in the Highway policy

MEETING: Strong Communities Select Committee

DATE: 28th September 2017

DIVISION/WARDS AFFECTED: Countywide

1. PURPOSE

To provide members with an update on the implementation of the policy 'Management of Commercial Obstructions in The Highway' and to consider whether any amendments to the policy be recommended to Cabinet.

2. RECOMMENDATIONS

- 2.1 That members note the current situation regarding the implementation of the 'Obstructions in the Highway Policy'.
- 2.2 That members consider whether a change to the existing policy might be appropriate and to recommend as such to Cabinet.

3. KEY ISSUES

- 3.1 Following an extensive review by Strong Communities Select Committee in July 2016 Cabinet adopted a new policy for the management of Commercial Obstructions in the Highway. This generic title embraces policies regarding fly posting, placing benches, displaying banners etc. within the public highway and in particular approved the implementation of a new policy to manage items placed in the highway such as A boards, displays, tables and chairs.
- 3.2 In relation to A boards, displays, tables and chairs etc, the policy adopted a strategy of meeting with individual businesses, agreeing what might be placed in the public highway (effectively on footways and public spaces) and issuing a permit to each individual business (that is approved by the highway authority) to place an item/s on the public highway for the benefit of the business.
- 3.3 The implementation of the policy commenced early in this year but the revaluation of business rates by government created significant concern and disquiet within the business community.
- 3.4 Members became aware of the additional financial hardship arising from the new NNDR regime and that this coincided with the continued roll out of the obstructions in the highway policy.

- 3.5 To allow members the opportunity to review the overall impact upon the business community the roll out of the policy was paused. It has remained in abeyance awaiting this report which offers members the opportunity to review the policy and make any recommendations to Cabinet regarding amendments to the policy.
- 3.6 In reviewing the existing policy members may consider the following points of particular relevance:
- 3.6.1 The previous policy (i.e. that prior to the policy adopted in July of last year) adopted a blanket approach to the management of items in the highway. Policing of the policy was ad hoc and often in response to complaints. The new policy sought to work with individual businesses to approve displays where a safe route for pedestrians could be maintained.
- 3.6.2 Although representation at the time suggested to the contrary businesses have no right to place any item in the public highway without the permission of the highway authority. Without such authority the council is at risk for allowing unauthorized objects to be placed in the highway and the individual business may at least be uninsured for any third party claims and at worst subject to prosecution by the highway authority for placing items in the highway without approval.
- 3.6.3 The concept of the policy (i.e. permitting individual businesses) is consistent with those adopted in various other local authorities in the region (appendix 1, part 2, page 7 of the Cabinet report of 6th July 2016), although the charges vary between authorities. Not all local authorities presently use a permit system for managing obstructions in the highway.

4. REASONS

- 4.1 At this time the implementation of the authority's policy has been paused to allow members the opportunity to consider the policy in light of other costs imposed upon businesses, specifically the revaluation of business rates (on average retail businesses has incurred an increase of 11% in Monmouthshire). Nevertheless the existing policy must be confirmed or a new policy adopted to ensure the public highway can be effectively managed.
- 4.2 Implementation of the current policy started in the South of the County and implementation was proceeding to the North of the County. Implementation of the policy in Monmouth coincided with announcements about the review of NNDR. Members had already expressed concern about the potential increased burden of NNDR upon Monmouthshire businesses and the temporary cessation of the policy seemed appropriate. Although no further consultation was undertaken it appeared that the concern expressed by businesses was predominantly about the charge rather than the concept of permitting businesses to display.

5. RESOURCE IMPLICATIONS:

Below is an extract from the Cabinet report on 6th July 2016 which summarises the estimated income accrued from the permit fee.

Table 1	A BOARD	SEATING/DISPLAYS	ADVERTS/BANNERS	'PITCH' one off
MCC PROPOSAL	£50 one off application 288 x 70% x £50 = £10,080	SEATING / SALE RAILS / DISPLAYS. First application will always be £125. The annual renewal will be based on area occupied Use Sqm rates: 0 to 6 = £120 6 to 12 =£240 12 to 18 = £360 Larger areas not permitted	Continue with similar policy whereby only charities are allowed to advertise and are not charged. Funding helped by income	£75 first application £50 subsequent
Yearly rental 70% take up	Based on enforcement	31 x 70% x £240 = £5208	£0	

The income may be considered as two parts:

- (i) A board income is a one off charge of £50 per board. Based upon a 70% take up of the scheme it generates an income of £10,080. The income is only a one off and further income will be negligible as it will only be new applications on an ad hoc basis.
- (ii) Income from seating, sale rails, displays, etc. has two elements, a one off application of £125 followed by a recurring annual charge dependant upon square metres occupied. The one off application has an estimated income of £2,712 (31 sites with 70% take up at £125 per site). The recurring element is estimated at £5,208 and varies according to square metres permitted.

The income contributes to costs associated with administering the scheme which is much more demanding upon staff resources than the previous policy as it requires the drafting of and confirming a formal agreement with individual businesses rather than the blanket approach adopted previously.

There are numerous permutations around how the scheme might be administered if members consider that recommendations should be made to Cabinet to amend the policy in some way (although it acknowledged that members may be content that implementation of the policy recommence as is).

To place the scheme in context the charges levied by other authorities are provided in appendix 1 to the Cabinet report on the 6th July 2016.

Permutations are numerous but if the principle is accepted that an A board simply offers an advertising opportunity but a permit for sale rails, tables and chairs etc. actually increases the sale space for a business by using public open space then a reduced or no charge for A boards might be contemplated whilst a charge for permit for space remains as is or even increased to offset the loss of income from A boards.

For example a revised charge for displays, etc. might be:

0-6 sq m - £150 per annum
6-12 sq m - £300 per annum
12-18 sq m - £450 per annum

Obviously the income estimate depends upon take up but based upon 70% of the existing 31 customers taking up the scheme, using the average charge then income per annum increases from £5,208 to £6,510.

Whilst in the context of the highways budget overall these amounts are relatively small they do contribute to the administrative costs at a time when capacity amongst staff to undertake further works is at a premium.

6. FUTURE GENERATIONS and EQUALITY ASSESSMENT

As provided to Cabinet on 6th July 2016: link below:

<https://democracy.monmouthshire.gov.uk/documents/s5369/6.%20REPORT%20COMMERCIAL%20OBSTRUCTION%20IN%20THE%20HIGHWAY%20CABINET%20july%202016.pdf>

SAFEGUARDING ASSESSMENT:

There are no safeguarding implications associated with the recommendations within this report.

7. **CONSULTEES:** None specifically but the report refers to feedback from businesses.

8. **BACKGROUND PAPERS:** Report to Cabinet on 6th July 2016 titled:

‘Management of Commercial Obstructions in the Highway’

9. **AUTHOR**

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