

SUBJECT: MANAGEMENT OF COMMERCIAL OBSTRUCTIONS ON THE HIGHWAY

MEETING: CABINET

DATE: 6th JULY 2016

DIVISION/WARDS AFFECTED: ALL

1. PURPOSE:

1.1 To seek approval for the adoption of a policy titled 'Provision of a Management of Commercial Obstruction on the Highway'. The Policy will cover various occasions when a business wants to use the Public Highway for reason of benefit to that company. It will bring a consistency to the policy, both within MCC processes and the wider Local Authority community by using a specific licensing and charging mechanism for any organisation seeking to make use of the public highway.

2. RECOMMENDATIONS:

2.1 That Cabinet approves the adoption of the new policy 'Commercial Obstruction on the Highway' having given due consideration to its constituent parts as listed below:

2.2 (3) 'A' Board Policy,

2.3 (4) Flyposter Policy,

2.4 (5) Commercial Provision Policy,

2.5 (7) Community Provision Policy.

To be included in overall Policy, (policy previously approved) :-

2.6 (6) Verge Sponsorship Policy

3. KEY ISSUES:

3.1 Enforcement action taken by Highways Operation's Department forms a significant element of their work. This enforcement, usually against business and people, that are aware of the MCC's current policies / guidance, could be developed into a system that is more readily available, encompassing all private activity on the Public Highway. The policy will more effectively control apparatus in the highway and will recover the cost associated with enforcement.

3.2 Monmouthshire County Council has a statutory obligation to provide 'unhindered access to the Highway', while this Duty needs to be managed it currently uses valuable Council resources to provide the service of approval, of advice and of enforcement. Unfortunately this service is not consistent throughout Monmouthshire. We currently licence and charge scaffold and skip hire

companies for the use of the Highway space, but not other uses such as a business who occupy the highway for commercial purposes. This policy seeks to bring consistency, safety and clarity in this area.

3.3 Commercial obstruction of the Public Highway can be defined as an obstruction created by the placement of an object on the public Highway, for the purpose of private gain, without consent. Commercial obstruction of the Public Highway can be divided into a number of categories –

- a. Flyposting. Installing, usually short time, advertising on Highway Furniture without permission.
- b. 'A' Frames, installing, usually long time, advertising on the Public Highway for adjacent Businesses without permission.
- c. Table and Chairs. Can be seasonal, short term or long term placement of furniture on the Public Highway for the benefit of adjacent Businesses without permission.
- d. Ad-hoc Furniture. Can be seasonal, short term or long term placement of plants, sale items and sale rails on the Public Highway for the benefit of adjacent Businesses without permission.
- e. Static Furniture. Usually a permanent feature such as a memorial bench or memorial tree for the benefit of the community and normally placed with permission.

4. REASONS:

4.1 It is not unreasonable that the beneficiaries of service requests made to MCC should pay for the cost associated with those requests, especially when a failure to comply, with The Highway Act 1980, would normally lead to enforcement action being taken and possible fines and costs being charged.

4.2 An interest by Companies to use the public Highway as a site to benefit their business is evident throughout MCC. This benefit, usually through advertising or by the direct use of the Public Highway as a premise from which to sell goods or to supply a service, needs to be managed. However, this benefit can conflict with MCC's statutory Duty to '.... assert and protect the rights of the public to the use and enjoyment of any highway....', Highway Act 1980 : Section 130, and needs to be managed effectively

4.3 It is the Duty of Monmouthshire County Council to control such activities. The use of licences that are free, the use of licences that have associated nominal fees and licences that have charges that reflect the market value are all used in this policy.

4.4 Feedback was received from Strong Community Select Committee, their concerns have been incorporated within the revised policy.

4.5 Consultations with Business and Access Forums provided useful viewpoints.

4.6 The use of a third party company to provide the marketing, selling and financial controls on these business opportunities will be considered. The option to manage in house and to seek support from NCC in this area is also open to a positive collaboration. However to optimise income to MCC at this stage it is recommended that it is managed in house and performance reviewed in twelve months of implementation, when we may seek external help

5. RESOURCE IMPLICATIONS:

5.1 Staff resources are currently engaged in guidance and enforcement. A shift to guidance and licensing will require additional resources. An additional post has already been approved, within Static Advertising Policy, and this will provide the detailed administrative support and financial control that the scheme demands.

5.2 income generation is not the aim of the policy, clarity and safety are. However, it is anticipated one off fees will be generated to a value of £10,000 and £5,000 annual renewal fees will also be anticipated. These will go towards supplementing the Highway advertising savings (mandate B13) that was set up in teh 16/17 MTFP.

5.3 the annual fees generated will support the costs associated with approval, enforcing and supporting the community and charity applications

5.4 The proposal for fees (table 1) was derived through a small survey of other Authorities approach to this problem.

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	MCC STREET TRADING POLICY DEALS WITH

6. FUTURE GENERATIONS AND EQUALITY ASSESSMENT:

6.1 The significant equality impacts identified in the FGE (Attachment 1) and are summarised below for Cabinet consideration:

6.2 The access for all forum were consulted. The bringing together of policy that reduces and prevents uncontrolled proliferation of obstructions while providing a less cluttered environment was seen as a positive step forward.

6.3 The policy will provide an improving position for access and safety. The management of the unsolicited use of the Public Highway will ensure that the policy achieves an improving situation with regard Commercial Obstructions and will provide benefit to all Citizens

6.4 The actual impacts from this report's recommendations will be reviewed at year 1, and when changes are required, and criteria for monitoring and review will include:

Enquiry numbers, accident / incident numbers, insurance claims, canvassing accessibility groups, canvassing business forums

SAFEGUARDING ASSESSMENT

No risk arise in relation to safeguarding as a result of this report

7. CONSULTEES:

- 7.1 Cabinet Members
- 7.3 Strong Community Committee
- 7.4 Town and Community Council
- 7.5 CAIR

8. BACKGROUND PAPERS:

8.1 SUPPORTING PAPERS

- 1. Commercial obstruction in the highway policy - FGE assessment

2. Management of commercial activity on the public highway policy / report (2 parts)
3. 'A' board policy
4. Flyposter policy
5. Commercial provision policy
6. Community provision policy

9. AUTHOR:

Steve Lane, Operations Manager, County Highways

10. CONTACT DETAILS:

Tel:

01291 431678 / 07885 225972

E-mail:

stevelane@monmouthshire.gov.uk