

Gloucester City Council

Meeting:	Licensing and Enforcement Committee	Date:	26th June 2012
Subject:	Policies for the Licensing of items to be placed on the Highway (Tables and Chairs and Advertising Boards)		
Report Of:	Martin Shields, Director of Services and Neighbourhoods		
Wards Affected:	All		
Key Decision:	Yes	Budget/Policy Framework:	Yes
Contact Officer:	Lisa Jones, Food and Licensing Service Manager		
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Appendices:	A. Draft Policy Document for Licensing Advertising Boards on the Highway		
	B. Draft Policy for Licensing Tables and Chairs on the Highway.		
	C. List of Consultees		
	D. Consultation Responses		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To present to Members the result of the consultation feedback on the draft policy for Licensing Advertising Boards on the Highway and the draft policy for Licensing Tables and Chairs on the Highway, for Members to approve and adopt the final draft versions of each Policy for Licensing Items on the Highway.

2.0 Recommendations

- 2.1 Members of the Licensing and Enforcement Committee are asked to note the consultation feedback on the two policies to place Items on the Highway.
- 2.2 Licensing and Enforcement Committee is asked to **RESOLVE** that the proposed amendments as detailed in paragraphs 4.3, 4.5 and 4.7 are noted and included in the final policy for placing Advertising Boards on a Highway.
- 2.3 Licensing and Enforcement Committee is asked to **RESOLVE** that the proposed amendments as detailed in paragraphs 4.7 and 4.8 are noted and included in the final policy for placing Tables and Chairs on a Highway.

3.0 Background and Key Issues

- 3.1 The Council policy on the placing of advertising signs or tables and chairs on the highway, needs to be updated. The current policy does not include any detailed criteria to regulate such items against effectively. It is also best practice to review it at 3 year intervals.
- 3.2 The placing of these items on the Highway is covered under the Highways Act 1980 Section 115E. There is power in section 115F for the Council to impose conditions attached to the consent.
- 3.3 Following examination of the policies of other Councils, it was submitted that the existing arrangements for licensing and controlling 'A' boards and 'Tables and Chairs' in the City were no longer robust enough to deal with a 21st century City. Therefore the draft Highways Policies for Tables and Chairs and Advertising Boards were brought before the Licensing and Enforcement Committee on 13th March 2012, where Members approved its content (subject to some small amendments) for a period of 6 weeks consultation.
- 3.4 Attached at Appendix A is a copy of the draft policy for Licensing Advertising Boards on the Highway including any amendments detailed below in paragraphs 4.3, 4.5 and 4.7.
- 3.5 Attached at Appendix B is a copy of the draft policy for Licensing Tables and Chairs on the Highway including any amendments detailed below in paragraphs 4.7 and 4.8.

Consultation Progress

- 3.6 The consultation ran from 12th April 2012 until 25th May 2012.
- 3.7 A list of consultees is attached at Appendix C.
- 3.8 In addition the consultation was published on the Council's website, with explanatory notes and feedback forms; a Public Notice was also posted on the Council Building.
- 3.9 In total five formal written responses were made and these are attached at Appendix D, summarised below:-
- 3.10 **D1 Response from Gloucester Tourist Information Centre on Advertising Boards**
This response generally supports the draft policy documents stating that it seems fair. The consultee expressed previous concerns about neighbouring premises using Advertising Boards. This responder also admits that although their new larger board will not meet the size restrictions, they will be ordering a new one that complies.

3.11 D2 Response from J.D Brown Jewellers, St Johns Lane (A'Boards)

This response queries the first Paragraph in Section 5 of the draft policy:

'Signs or Boards should not be displayed either directly adjacent or on close vicinity to the premises (dependant on the site location). Where premises are in a side street advertising boards must not be placed remotely in the main street directing customers to the premises).'

The Consultee requests that this point is reconsidered or a dispensation is granted to allow them to direct customers from Northgate Street into St. John's Lane.

3.12 D3 Response from Sweet Success Tearooms, St Johns Lane (A'Boards)

This response also queries the first Paragraph in Section 5 of the draft policy:

'Signs or Boards should not be displayed either directly adjacent or on close vicinity to the premises (dependant on the site location). Where premises are in a side street advertising boards must not be placed remotely in the main street directing customers to the premises).'

The Consultee requests a dispensation to allow them to direct customers from Northgate Street into St. John's Lane, because it would be more hazardous to place the A' Board in St John's Lane.

3.13 D4 Response from Gloucester City Council Planning Conservation Team (A' Boards and Tables and Chairs)

Two responses were included; one for each policy. Both comments are positive, with advertising boards it is suggested that applicants can also submit a proposed design as well as a photograph or brochure detailing the type of Advertising Board to be used, to help determine any detrimental impact on the historic character of the City. And similarly, with Tables and Chairs applications it is requested that the details of any advertising on means of enclosure, parasols etc. should be submitted at the application stage.

3.14 D5 Response from Gloucestershire Constabulary (Tables and Chairs)

The Constabulary explained that their interest is mainly around preventing crime, disorder and anti-social behaviour in outside drinking areas involving alcohol. Where alcohol is to be consumed the Constabulary seek two conditions:

1. CCTV coverage of the outside area by means of at least one camera operating as part of the premises own CCTV system.
2. The Licensed area MUST be physically defined with barriers where outside drinking areas (for alcohol) fall within a no-drinking zone (Designated Public Place Order).

The Constabulary also noted that they support the policy regarding the use of Tables and Chairs outside ceasing at 23:00hrs.

4.0 Alternative Options Considered

- 4.1 Consultation response D1 is a positive comment, supporting the policy and requires no further action.

- 4.2 Consultation responses D2 and D3 raise the same concerns regarding the first paragraph of Section 5 in the A' Board Policy, photographs have been taken of this area and further consideration has been given by the Planning Team on this matter. The response was:

"We remain concerned that individual advance signing to premises in side streets can lead to a mess... Occupiers in side streets ought to cooperate to share a sign and what is appropriate may vary from location to location. Planning and Conservation Team are more than happy to meet and discuss this with occupiers – this may occasionally be a joint A board, but a direction sign on a post or a joint sign board mounted on the side wall of the corner property are more likely to be the acceptable way forward."

- 4.3 This approach is covered within paragraph 4 of the guidelines on page 4 of Appendix A (A' Board Policy) however, to ensure this option clear to businesses located in small side streets with little space for an A' Board, it is recommend that the following sentence highlighted in grey below is added to this paragraph:

'In some multiple occupied areas such as shopping malls, advertisement boards may not be allowed by the management company. In these circumstances, or where businesses are located in small side streets with little space for an A' board, there may be scope to make a special request to the Council to consider a shared sign on the street furniture (lampposts) by the entrance; this type of request would be based on its own merits in liaison with the County Council Highways and the City Council Planning and Conservation Team.'

This is subject to Member approval.

- 4.4 Further comments were received from regeneration following their investigation of the current situation, which also need consideration:

"While looking at the arrangements in the street I noted that many A Boards are displayed close to the shop frontages while the approach to tables and chairs is that an open strip is kept next to the frontage. I can't recall but does the A board policy require placement beyond the pavement strip or adjacent to the frontage? This could be confusing to the visually impaired. There is a potential problem when a business wants both tables and chairs and an A board. The A boards are often set out beyond the tables and chairs and are quite prominent and untidy. Perhaps where there is a table and chairs licence, any A' board should be required to be incorporated within the layout – or the daily menu/special offers displayed as part of the surrounding advertising. This would be neater."

- 4.5 The wording for the positioning of A' Board's is:

'Signs or Boards should be displayed either directly adjacent or in close vicinity to the premises (dependant on the site location).'

From this condition, it is expected that each application would be considered on its merits, e.g. where the shop has a large pavement they would be expected to apply to position the board directly adjacent to the shop front, however, in pedestrianised areas like the gate streets, the walkway/access route should always be maintained so the A' Boards would be expected to be positioned in the vicinity similar to the table and chairs. Therefore, to ensure this is clear, Members are recommended to approve to following condition to be added (as seen highlighted in grey under condition17 of Appendix A):

'Where the premises also have a licence to place table and chairs on the highway, any A' board must be located within the layout of the tables and chairs.'

This is subject to Member approval.

4.6 Condition 15 in the policy states:

'Any advertisement must relate only to the normal business of the trading establishment'

So this covers the second advertisement suggestion made by the Planning Team. It is therefore considered that no further action is necessary here.

4.7 Consultation responses in D4 from Planning Conservation are very reasonable suggestions and have been highlighted in grey on the final draft policy documents; Appendix A on page 3 and Appendix B on page 3.

This is subject to Member approval.

4.8 Consultation response D5 from Gloucestershire Constabulary refers to two key requirements; The use of CCTV at premises where alcohol is consumed has not been considered under this policy. If Members are minded to agree with the Police's response and consider the need for CCTV to be a reasonable condition, then this requirement can be included in the guidelines and attached as a condition to the licence (see page 6 of Appendix B).

This is subject to Member approval.

4.9 The second requirement requested in relation to the means of enclosure is already covered in the guidelines under Section 5 within the paragraph titled 'Means of Enclosure' where it states:

'The licensed area should be physically defined, during hours of operation. The extent of the area should be identified by ornamental fencing...'

This applies to all licensable tables and Chairs in the Highway and not just those where alcohol is consumed. It is therefore considered that no further action is necessary here.

5.0 Reasons for Recommendations

5.1 It is important for the City to present as attractive a face as possible to residents and visitors alike. This is one of the areas identified as a consequence of the

expanded role of Environmental Health Licensing & Enforcement where work needs to be done to encourage compliance and assure quality.

- 5.2 Within both policy documents, improved guidelines are given on the minimum footways expected to be maintained and the maximum dimensions allowed to ensure no visual or hazardous obstructions. They take into account, the size and positioning of advertising boards, tables and chairs and enclosures etc. and consider the needs of wheelchair users, mobility scooters, double pushchairs and minimum turning circles required by such vehicles. The safety of persons with impaired vision has also been considered where items on the highway may pose a tripping hazard.
- 5.3 These documents are intended to draw a balance between the Traders needs and the safety of highway users, together with a review of the current application procedures used within Gloucester City Council.

6.0 Future Work and Conclusions

- 6.1 Once the policies are approved and adopted, they will take immediate effect from 1st July. All new applicants will need to comply with the guidelines before a licence is granted however, existing licence holders will be written to explaining that these new policies have been adopted and given a reasonable time to comply with the new policies in case it differs significantly to their existing arrangements.
- 6.2 Licensing Enforcement Officers will monitor A' Boards and Tables and Chairs in the City and check compliance with existing licence holders and unlicensed users routinely.
- 6.3 It is intended to review the policy routinely every 3 years. Licence fees will be reviewed on an annual basis, to consider changes in service and uptake of these licences.

7.0 Financial Implications

- 7.1 The fee levels currently set do not cover the work carried out by the service and is therefore losing the Council possible revenue. However, this needs to be set against the promotion of the café culture and support to businesses in the city centre who are trading in difficult economic times.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 Sections 115A to 115K of the Highways Act 1980 are quite complex. They were introduced into the Act by virtue of the Local Government (Miscellaneous

Provisions) Act 1982, the same legislation that introduced Street Trading. This is only a summary and the actual provisions must be referred to.

- 8.2 For tables and chairs in the highway, the specific power is contained in section 115C, the provision of refreshments by the Council that can be granted to other persons under 115E.
- 8.3 For “A” boards in the highway, it is arguable that the powers come under section 115B, the provision of services and amenities by the Council that can be granted to other persons under section 115E.
- 8.4 The permission granted for either “A” boards or tables and chairs to be in the highway are termed “consents” rather than “licences” under the Highways Act 1980 sections 115A to 115K.
- 8.5 Where the Council grant consent and it is not complied with, then the Council may carry out work in default of a statutory notice and if correction is not possible then revocation and removal may be the remedy.
- 8.6 The City Council has express permission to utilise sections 115A to 115K under a Mini Highways Agreement with Gloucestershire County Council.
- 8.7 Where tables and chairs and “A” boards are put in the highway without consent, there are various enforcement powers in the Highways Act 1980.

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

- 9.1 The key risks arising from this relate to decisions taken by the Licensing and Enforcement Committee. Any decisions made which are unreasonable or unlawful could be open to legal challenge resulting in loss of image, reputation and potential financial penalty.

10.0 People Impact Assessment (PIA):

- 10.1 The following matters have been considered during the screening stage, impacts on Disability groups including those with mobility difficulties, partially sighted and blind a positive impact has been identified. Furthermore, wheelchair and mobility scooter users have been considered along with mothers pushing double pushchairs in considering minimum access routes, and Advertising Board maximum dimensions. Again, positive impacts were identified.
- 10.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

11.1 None

Sustainability

11.2 None

Staffing & Trade Union

11.3 None

Background Documents:

Licensing and Enforcement Committee Report 13th March 2012 Reference: **ES21131**