

Cheltenham Borough Council

Licensing Committee – 2 October 2015

Highways Act 1980 Part VIIa Local Government (Miscellaneous Provisions) Act 1982

Application for permission to place an object on the highway – ‘A’ Board

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 Mr Raja Beirouti has made an application to place an A-board on the highway to promote his Photographic store which is located at 210 High Street, Cheltenham, GL50 3HF.
- 1.2 The proposed location of the A-board is on the High Street Adjacent to the frontage of the store shown at **Appendix A**.
- 1.3 It is intended that the A-board be in position:
- | | |
|-----------|---------------|
| Monday | 09:00 – 17:30 |
| Tuesday | 09:00 – 17:30 |
| Wednesday | 09:00 – 17:30 |
| Thursday | 09:00 – 17:30 |
| Friday | 09:00 – 17:30 |
| Saturday | 09:00 – 17:30 |
| Sunday | - Closed |
- 1.4 **An image of the A-board is attached at Appendix B.**
- 1.5 The applicant has submitted a letter in support of his application and this is shown as **Appendix C** and photographs as **Appendix D**
- 1.6 The recommendations have regard to the individual merits of this application and the established policy. The policy seeks to avoid a proliferation of A-boards and objects on the highway whilst having regard to cases where there is a clear commercial need for this form of advertising.
- 1.7 **The Committee is recommended to resolve that:**
- 1.7.1 **The application be approved because Members are satisfied there are sufficient reasons to deviate from the policy in respect of objects placed on the highway; or**
- 1.7.2 **The application be refused because Members are not satisfied that the A-board complies with the Council’s adopted policy in respect of objects placed on the highway.**
- 1.8 **Summary of implications**

1.8.1 Financial

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No right of appeal.

1.8.2 Legal

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2. Background

- 2.1 The current Policy on Measures to Control Street Scene Activities in Cheltenham covering Street Trading, Objects on the Highway and Charitable Collections was approved on 1st April 2013. A copy of the whole policy has previously been circulated to Members and extracts are included in the application pack that was given to the applicant.

3. Policy Principles, Aims and Objectives

- 3.1 The policy outlines the principles the Council will apply when making decisions on applications for objects on the highway consents.

In particular, this part of the policy will aim to promote the following aims and objectives:

- To have a clear & transparent policy governing all decisions relating to objects placed on the highway.
 - To enable the Council to manage all objects placed on the highway in order to provide effective control measures.
 - To ensure that all objects placed on the highway meet the required quality standards, pose no risk to public health, safety & protection and to ensure that these objects do not obstruct the highway.
 - To avoid duplication with other statutory provisions and the Council's commitment to work in partnership with other enforcement agencies.
- 3.2 In setting the policy principles relating to 'A' boards, the Council seeks to strike a balanced approach between promoting the Council's priorities, in particular strengthening the Borough's economy by assisting and promoting local businesses but at the same time ensuring the free passage along footpaths and maintaining the visual street environment by the controlled use of 'A' boards in the streets.
- 3.3 To this end the Council will permit one 'A' board per premises subject to that premises meeting all of the conditions stipulated below. Please note that one 'A' board will be permitted *per premises*, not per business. Premises housing more than one business will therefore, subject to the requirements shown below, be permitted only one 'A' board. In these circumstances the Council will encourage businesses to share the use of the 'A' board.

3.4 Conditions of Consent

The Conditions of Consent are subject to the Revised Outdoor Advertising Protocol below.

- (a) A minimum of 1.8 metres of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary.
- (b) Where there are existing consents in place in the vicinity of the application, there must be a minimum distance of 4 meters (either way) between 'A' boards.
- (c) The size of the 'A' board does not exceed 1100mm (43") in height (inc feet) and 844mm (32") in width.

- (d) The 'A' board is placed directly outside the premises, immediately adjacent to the front of the premises or in the case of premises that do not have a street frontage, immediately adjacent to the entrance to the premises.
- (e) The 'A' board must not contain any visual or written material that could be construed as inappropriate or offensive. *(Any breach of this condition will result in the immediate removal of any such signs.)*
- (f) The 'A' board must not cause an obstruction to access by emergency or service vehicles.
- (g) The 'A' board must not interfere with sight lines for any road users. *(For example 'A' boards placed on street corners, central reservations, roundabouts, pedestrian safety refuges and junctions, or pedestrian crossing facilities.)*
- (h) The 'A' board must be sufficiently weighed down to avoid falling over. *(It will not be sufficient that 'A' board is attached to fixed structures. The applicant must be able to demonstrate that the 'A' board has been sufficiently weighed down and the Council reserves the right to inspect the 'A' board prior to issuing a consent.)*
- (i) The 'A' board must relate to the trade of the premises.
- (j) The 'A' board must be constructed in such a way that it does not have any moving parts *(i.e. rotating or swinging 'A' boards)*.
- (k) The object does not obstruct the safe passage of users of the footway or carriageway in any other way not mentioned above.

3.5 Revised Outdoor Advertising Protocol

No 'A' board will be approved within Conservation Areas except in the following circumstances;, having regard to the position and location of the premises:

- a) where those premises are located at basement or first floor level i.e. the premises has no shop-front at street level,
- b) the premises are situated along a side alleyway and / or on private land which is not a public thoroughfare / right of way.

Nothing in this protocol overrides requirements set out in the Council's policy on the licensing of 'A' boards so where an 'A' board meets the exemptions in the protocol, it will still be subject to the normal policy on the licensing of 'A' boards set out in the policy.

4. Consultation

- 4.1 A consultation was carried out between 8 September 2015 and 22 September 2015.
- 4.2 One objection has been received from the Senior Planning Enforcement Officer:

Further to my discussion with you just now, I write to formally object to this application. I understand that the objection raised today will be taken into account as this is the sixth day since your email below.

The A board is contrary to the adopted policy, and if allowed, will set a precedent for any trading company in the central commercial area to have A boards.

I understand the case for the A board is based on trading needs.

There may be many reasons why businesses are struggling, or fail, but the lack of an unauthorised sign is not considered to be a legitimate one.

The reasons for the present difficulty could include;

- *Poor business management.*
- *Under funded businesses (now apparent in down turn).*
- *Questionable product line / price. Hard times has produced increased competition.*
- *Unattractive premises, fascia and window display (the art of window dressing was a trade in itself).*
- *General down turn in economy.*

The success or failure of a company cannot rely on the presence of an A board.

5 Licensing Comments

- 5.1 The application does not comply with the Policy requirements in that the premises have direct Street Frontage and also the proposed Board exceeds our size requirements. The application also sits in a conservation area.
- 5.2 The reason that the Council's policy only permits A-boards directly outside the premises - and even then only when the premises is disadvantaged due to having no direct street frontage - is to avoid a proliferation of 'directional' A-boards on other streets. Whilst it may be appropriate for the Committee to deviate from their policy, they should only do so if there are clear and justifiable reasons for doing so, bearing in mind that such a decision may be seen as setting a precedence.
- 5.3 This application must be determined on individual merits taking into account the information received and in accordance with the council's current adopted policy in respect of objects placed on the highway.
- 5.4 The Committee must seek to promote its own policy and only deviate where there are sufficient and justifiable reasons for doing so.

Background Papers	Policy on Measures to Control Street Scene Activities in Cheltenham: Street Trading, Objects on the Highway and Charitable Collections.
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