

Cheltenham Borough Council
Cabinet – 6 April 2021
Adoption of Revised Street Scene Policy

Accountable member	Councillor Andrew McKinlay, Cabinet Member for Cyber and Safety
Accountable officer	Mike Redman, Director for Environment
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>The current street scene policy was adopted by Council on 22 February 2013. A review of this policy was undertaken by officers and consultation was undertaken between November 2020 and January 2021.</p> <p>This report is to inform Cabinet of the outcome of this consultation and to seek a resolution to adopt the revised policy following consultation.</p>
Recommendations	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none"> 1. Note the consultation feedback and changes to the draft policy as a consequence, and 2. Adopt the revised policy at Appendix 2.

Financial implications	No financial implications arising from this report. Contact officer: Jon Whitlock, Jon.Whitlock@publicagroup.uk
Legal implications	No direct legal implications arising from this report. Contact officer: vikki.fennell@teWKesbury.gov.uk, 01684 272015
HR implications (including learning and organisational development)	No direct HR implications arising from this report. Contact officer: Clare Jones, clare.jones@publicagroup.uk
Key risks	As identified in Appendix 1.
Corporate and community plan Implications	N/A
Environmental and climate change implications	The draft policy acknowledges the authority's declaration of a climate emergency and outlines a commitment to consider this in this policy and implement measures. The policy provides a brief outline of steps already taken.
Property/Asset Implications	N/A Contact officer: Dominic.Stead@cheltenham.gov.uk

1. Background

- 1.1** The current street scene policy was adopted by Council on 22 February 2013. A review of this policy was undertaken by officers and consultation was undertaken between November 2020 and January 2021.
- 1.2** This report is to inform Cabinet of the outcome of this consultation and to seek a resolution to adopt the revised policy following consultation.

2. Policy on Measures to Control Street Scene Activities in Cheltenham

- 2.1** The policy covers the authority's approach to licensing and regulating objects on the highway and charitable collections.
- 2.2** A copy of the proposed revised policy is attached at **Appendix 2**. For the purpose of this report, tracked changes are indicated on the revised policy. These were removed on the consultation version of the revised policy.

3. Revisions proposed

- 3.1** Aside from minor changes and updates, the more substantial proposed changes to the policy relate to part 2, permission to obstruct the public highway.
- 3.2** The proposed changes are as follows:
 - 3.2.1** Determination of an application – Strengthening the authority's position on applications that do not comply with the policy by making it clear the default position would be a refusal and that the onus is on the applicant to convince the committee otherwise.
 - 3.2.2** Lengthening the period for consultation in response to Member concerns raised and updating the list of consultees.
 - 3.2.3** Formalising the requirement to maintain a minimum of 1.8m unobstructed thoroughfare.
 - 3.2.4** Updates to the authority's approach to enforcement to streamline the approach and reflect the change in the county council delegations to enable this authority to use removal powers under the legislation instead of relying on Magistrates Court Orders.
- 3.3** The majority of issues relating to permission to obstruct the public highway relate to advertising structures such as A-boards. The authority's approach currently is set out in appendix E (Revised Outdoor Advertising Protocol) of the revised policy. In brief, where there is a need for additional forms of advertising (as defined by the policy), the authority will consider permission for an A-board subject to the standard conditions.
- 3.4** Following consultation with the Licensing Committee, it is not proposed that the authority's current approach to licensing of A-boards be changed as part of this review. Members felt the current approach is still the best way to create a level playing field and respond to where there is evidence of need for additional support.

4. Covid Recovery

- 4.1** This policy sets out the authority's long term approach to the regulation of street scene activities as outlined in this report and the policy. In the shorter term future, the authority is acutely aware of the need to support businesses with their recovery from Covid lockdown restrictions. This authority has eased policy restrictions to support businesses such as relaxation of advertising board enforcement and support for schemes to allow more businesses space to use greater areas of the public highway to trade.

- 4.2** In the short term, this authority will implement temporary measures to continue to support recovery. We will consider the need for continued or further easing as the various stages of the roadmap out of lockdown is confirmed by Government.

5. Reasons for recommendations

- 5.1** To ensure the authority's licensing policy in respect of licensing and regulating objects on the highway and charitable collections remains up to date and effective.

6. Alternative options considered

- 6.1** Cabinet can decide not to adopt the draft policy, however considering the reasons for the recommendations, doing so will leave the authority less able to adequately regulate activities covered by the policy.

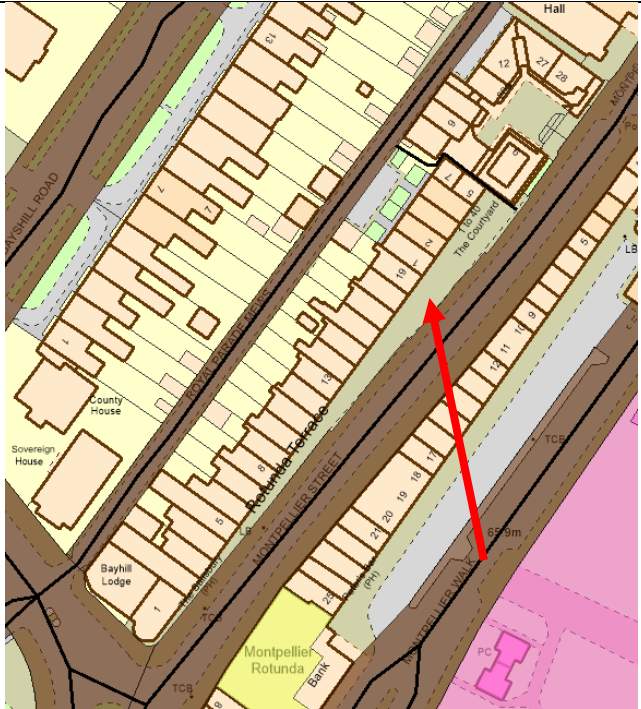
7. How this initiative contributes to the corporate plan

- 7.1** Contributes to the revitalisation and improvement of our vibrant town centre and public spaces.

8. Consultation and feedback

- 8.1** As outlined in the report, consultation was undertaken between November 2020 and January 2021. The Licensing Committee, acting as lead consultee to the Cabinet Member, was the only respondent to the consultation. A copy of the Licensing Committee's response is included at **Appendix 3** of this report.

Comments made	Officer response
One member raised the point of the raised piece of land between Montpellier wine bar and the Courtyard, which was privately owned land and where there had been issues about tables and chairs and signage on this private land and who was responsible for them. He felt this should be regularised.	Officers are clear on the status of the highway as referred to by the Member. As shown on the highways register, the area in question is not adopted (brown shaded area indicated adopted highway). However, it complies nonetheless with the definition of public highway as outlined in the policy. As such, consent is required for obstruction of the highway in question but no fee payable recognising the area in question is privately maintained. This approach is explained in the draft policy at para 3.2 "Public Highway and Private Land"

	 <p>No policy changes proposed.</p>
<p>A member pointed out that there were several references to Cheltenham Borough Council's Local Plan adopted in 2006, however he pointed out that a new one was adopted in 2019. This needed to be altered and to double check that the core commercial area was still the same in the new policy. The Licensing Officer would verify this.</p>	<p>Core Commercial Area as outlined in the "Cheltenham Borough Local Plan" adopted July 2006.</p> <p>Updated to</p> <p>Core Commercial Area as outlined in the "Cheltenham Borough Local Plan" Adopted 20 July 2020.</p>
<p>Concern was also expressed about the interpretation of the default position and presumption of refusal, as many applications came to committee because they did not comply with policy. The Chair pointed out that it was the committee's role to state the reasons for reaching any decision.</p>	<p>The policy scope for advertising boards is deliberately restrictive in light of the requirements under the control of advertising regulations and the fact that the town centre is a designated conservation area. Furthermore, the equalities impact assessment identifies the need for public spaces accessible to everyone. Unnecessary clutter and obstruction impedes people with visual and mobility disabilities.</p> <p>Consequently, the policy requirements generally do not permit the obstruction of the highway for advertising boards but recognise, on a case by case basis, exceptional circumstances might warrant a deviation.</p> <p>This has been the policy position since 2013 and as this reports sets out, Members are of the view that this is still the right approach (para 3.4).</p> <p>No policy changes proposed.</p>
<p>The Chair asked Officers to ensure there</p>	<p>Assessment undertaken. Attached at Appendix</p>

was a robust equalities impact assessment on this and to consider sending the consultation to the likes of the National Institute for the Blind and other disability charities to be able to comment on the policy to ensure accessibility for those who struggle.	4.
The Chair also wished to look at alternative signage provision, whereby businesses in lower footfall areas could purchase a modular sign that could be attached to something, enabling a single piece of street furniture as opposed to several.	This technically falls outside the scope of this policy. Officers will however bring this to the attention of colleagues in planning, public realm design team and GCC.

9. Performance management –monitoring and review

9.1 As outlined in the revised policy.

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Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Revised draft Street Scene Policy 3. Consultation feedback 4. Equalities impact assessment
Background information	<ol style="list-style-type: none"> 1. Street Scene Policy adopted by Council

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If Cabinet does not adopt the proposed changes, it will result in an outdated policy document and regulatory environment for street scene activities in the borough.	Director of Environment	March 2021	2	3	6	Accept	Approve draft policy for consultation		Licensing Team Leader	
	If Cabinet does not adopt the proposed changes, the authority could face legal challenges to its policy adoption and regulation.	Director of Environment	March 2021	2	3	6	Accept	Approve draft policy for consultation		Licensing Team Leader	
Explanatory notes Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical) Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability) Control - Either: Reduce / Accept / Transfer to 3rd party / Close											