

Cheltenham Borough Council

Licensing Committee – 7th February 2024

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 Team Leader Licensing

1. Executive Summary

1.1 Kellands has made an application to place an advertising board at the front of the premise on Rotunda Terrace, Montpellier Street. The proposed advertising board is 115cm in height and 73cm in width. This application should have been determined at officer level, as it is in conflict with Council policy, but due to this policy not being clearly publicised and there being 2 objections against it, it was felt appropriate to bring the matter before committee.

1.2 It is intended that the ‘A’ board be displayed:

Monday	08:30 – 18:00
Tuesday	08:30 – 18:00
Wednesday	08:30 – 18:00
Thursday	08:30 – 18:00
Friday	08:30 – 18:00
Saturday	N/A
Sunday	N/A

1.3 **The Committee are asked to note that there is one clear conflict with the Council’s policy in respect of this application. The premise is inside the conservation area with a shop frontage. Whereas the applicant suggests that the proposed design for an ‘A’ board does not exceed the dimensions stated in the policy. However, the policy does provide height dimensions – including feet – and therefore this design seems in conflict with the policy in this respect also.**

1.4 A picture of the proposed structure is attached at **Appendix A**.

1.5 Width of footpath available is 3m

1.6 A location plan of the proposed location is attached at **Appendix B**.

1.7 **The committee should consider the application and may:-**

1.7.1 **Approve the application because Members believe that exceptional circumstances apply in respect of the size and the location as referenced from the policy; and are satisfied that the location is suitable after considering the objections and policy as far as deemed relevant; or**

1.7.2 **Refuse the application because it does not comply with the provision of the Street Scene policy and/ or due to consideration of the objections received.**

1.8 Summary of implications

Legal

No right of appeal.

Contact officer: One Legal

Email: legalservices@onelegal.org.uk

2. Introduction

2.1 Following the loss of the highway's agency and the associated transfer of responsibility for this aspect of highways enforcement to the borough council.

3. Policy Principles, Aims and Objectives

3.1 All new applications for 'A' boards/display stands are considered by the Licensing Committee.

3.2 Such objects are subject to a maximum width of 844mm (32") and a maximum height of 1100mm (43") (including feet) and must be of a colour, design, finish, and materials which are of a high standard appropriate to the conservation area.

3.3 The Council's policy on the placing of Objects on the Highway in relation to Advertising 'A' Boards states that *In setting the policy principles relating to 'A' boards, the Authority seeks to strike a balanced approach between promoting the Authority'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.*

3.4 Cheltenham Borough Council's Outdoor Advertising Protocol states:-

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 thorough fare / right of way. 3.5 Permission to place an A-board on the highway is subject to the following standard conditions:

Conditions of Consent

- 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 metres (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.*

4. Consultee Comments

4.1 An objection was received from the sight loss council and from a local ward Member. Both referred to the application being against Council Policy:-

Sight Loss Council - This is an objection to an application for an A board. I refer to the council policy The entrance and business are at street level. It is within the central conservation area and does not meet the criteria to allow an A board on the pavement.

Cllr Seacome - There is a shop fronting onto the pavement, so it's not necessary. We turned down the chip shed on the other side of the road for that very reason.

However, the application site is on private highway, and there may be problems with that.

5. Licensing Comments

5.1 The committee must determine the application with a view to promoting the Council's adopted policy.

5.2 This report has been brought to members' attention as prescribed in the scheme of delegation set out in the adopted policy, whereby all applications for A-boards which do not comply with the policy requirements are referred to the Licensing Committee for determination.

5.3 The application does not comply with policy requirements in that the premises has direct street frontage on High Street. The location is in the conservation area.

5.4 The application does not comply with policy requirements in that exceeds the height stated in policy. The A-board is 1150mm in height, policy states the size of an 'A'-board should not exceed 1100mm.

5.5 The application must be determined on individual merits, taking into account the information received and in accordance with the Council's current adopted policy with respect to objects being placed on the highway.

5.6 Whilst the policy and officer recommendation should not fetter the committee's discretion, the committee should only depart from the policy where there are clear and defensible reasons for doing so.

5.7 The applicant has been sent a copy of this report and invited to attend the meeting. She has been advised that she may be represented if she so chooses.

6. Officer recommendation

6.1 The officer recommendation is that this application be refused unless Members feel that clear and cogent exceptional circumstances have been demonstrated by the applicant to justify a departure from policy.

Reason(s): The application does not comply with the adopted policy as detailed in this report.

Background Papers

Service Records

Case Officer

Contact officer: Jason Kirkwood

Email: licensing@cheltenham.gov.uk