

Cheltenham Borough Council

Licensing Committee – 1 November 2013

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 Martin Canning based at Antique and Modern Fireplaces, 41 - 43 Great Norwood Street, Cheltenham, has made an application to place a straight-sided and straight-bottomed ‘A’ board at the junction of Great Norwood Street and Suffolk Road. The proposed ‘A’ board is 100cm (H) x 60cm (W).
- 1.2 It is intended that the ‘A’ board be displayed:
- | | |
|-----------|---------------|
| Monday | 09.00 - 17.00 |
| Tuesday | 09.00 - 17.00 |
| Wednesday | 09.00 - 17.00 |
| Thursday | 09.00 - 17.00 |
| Friday | 09.00 - 17.00 |
| Saturday | 09.00 - 17.00 |
| Sunday | NONE |
- 1.3 An image of the A Board is attached at **Appendix A** and a location map is attached at **Appendix B**.
- 1.4 Width of footpath available is min 2m.
- 1.5 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.
- 1.6 **The Committee is recommended to resolve that:**
- 1.6.1 **The application be approved because Members are satisfied that the complies with the new policy in respect of objects placed on the highway or**
- 1.6.2 **The application be refused because it does not The application be approved because Members are satisfied that the complies with the new 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 This section outlines the policies the council will apply when making decisions on applications for 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 (Appendix I)

Where a licensing application is made to display an 'A' board within a Conservation Area, the Licensing Section shall provide written notification to the Built Environment Enforcement team. The notification should include an explanation for the signage and the location of the premises to which it refers.

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.

Where the premises meet the exceptions in the protocol then the Planning Enforcement and Compliance team will confirm to the Licensing Section that the 'A' board may be licensed.

Where contraventions exist the most appropriate enforcement action will be considered which would normally involve the use of licensing powers or powers contained within the Town and Country Planning (Control of Advertisements) Regulations 2007.

4. Consultee Comments:

4.1 Responsible Authorities

Highways Enforcement Officer – “Gloucestershire Highways try to keep the highway free from unnecessary sign clutter. However we do recognise that for business which are located on a 1st floor or above (ie not at street level) that the use of A boards directly outside their business is helpful to highlight their existence.

This application however is for a ‘street level’ business which is down a different street to that which the sign is requested to be located. There are also a number of other shops down this same street. Our concerns with this application are several:-

- 1) The location requested for the free standing A board is right on the edge of the footway of a busy through road and could therefore be a potential hazard to road users. To set it back from the edge of the kerb would cause an obstruction to pedestrians using the footway, so that is not possible.
- 2) The location is near to a pedestrian dropped kerb crossing.
- 3) If this application was to be approved and other shops down the same street requested a similar need for A boards at the same location then how could that be managed!

To confirm then on this basis Gloucestershire Highways would **object** to this application due to the proposal being a potential highway safety related hazard to both the road users and pedestrians passing by this location.”

Environmental Health Officer – “I raised the following concerns in relation to public safety:

1 - The remaining space where the A board is to be sited, narrower that area of pavement considerably, such a sudden narrowing next to a busy road is not a good thing, although it is suspected that the pavement is not that busy so it may not be a problem. The location of the telephone junction box on Suffolk road, which is not indicated on the plan, but can be seen on the photograph and Google maps (<https://maps.google.co.uk/maps?hl=en&tab=wj>) means prams, wheelchairs and dog walkers may have to do a slight chicane. *Does its location remain a minimum of 1.8 meters? - consent condition (a) in guidance document.*

2 - The board on the plan looks further into Great Norwood Street than either the photo or Google maps indicates. The location of the board at the corner on the photo and Google maps, could cause an unexpected narrowing of the pavement or object occurrence and may cause an individual walking at speed or being distracted to run into the board. *Obstruction to safe passage of footway users, Consent condition (k) in guidance document.*

3 - The A board could be moved onto the Great Norwood Street pavement more, as in the plan, but the dropped crossing area, not on the plan, will require a distance around it to facilitate the approach of prams and wheel chairs to safely crossing the road (highways may know more about this). This crossing area should have been indicated on the plan (as should the lamp post). *Obstruction to safe passage of footway users Consent condition K in guidance document?*

4- The location of a sign near a crossing point (both across Great Norwood Street and Suffolk Road) may prevent a driver from seeing a child, dog or adult about to cross the road or an oncoming vehicle (bicycle or car). *Consent condition (g)*

5- The sign is a considerable distance from the owners who have put it there, therefore they will be unable to rectify problems or movement of the sign, easily should they arise. *This would not meet consent condition (d) in that A boards must be placed directly outside the premise.”*

Planning Enforcement Officer – “I wish to raise an objection to this A board as it falls outside the

street scene policy - appendix I, the Revised Outdoor Advertising Policy.

Further, the A board in question does not comply with standard condition 3, Reg 2 (1) of Schedule 2 to the Town & Country Planning (Control of Advertisements) (England) Regulations 2007, viz:

"Any advertisement displayed shall be maintained in a condition that does not impair the visual amenity of the site."

5 Licensing Comments

- 5.1 The Committee are minded to note that the 'A' board has previously had consent by the licence holder failed to renew the consent. As a result, a new application has been submitted and the Committee must determine the application on its individual merits as a new application.
- 5.2 On individual merits, this application must be determined taking into account the objections received and in accordance with the Council's current adopted policy in respect of objects placed on the highway.
- 5.3 In relation to the policy, Members are to note that the application does not comply with the current adopted policy in a number of ways:
 - 5.3.1 The premises does have a shop-front at street level contrary to the Revised Outdoor Advertising Protocol (3.5 above)
 - 5.3.2 The premises is not situated along a side alleyway and/or on private land which is not a public thorough fare/right of way (3.5 above)
 - 5.3.3 This application is for a directional A board more than 120 meters (394 yards) away from the premises contrary to condition (d) of the standard conditions attached to A boards (3.4 above)
 - 5.3.4 There is less than 1.8 meters of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary. (3.4 above)
- 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.

Report Author

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