

LICENSING COMMITTEE

(Non Licensing Act 2003 Functions)

Agenda Item 32

Brighton & Hove City Council

Subject: *Deputation Received from Council*
Date of Meeting: *24 April 2009*
Report of: *Acting Director of Strategy & Governance*
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Wards Affected: All

1. DEPUTATION RECEIVED FROM FULL COUNCIL

1.1 To receive the following deputation presented at Council on 19 March 2009.

1.2 (a) Deputation concerning the obstruction of pavements

Mr T Chavasse (Spokesperson)

Regulations covering 'A' Boards, Display of Goods & Outdoor Facilities on the Highway.

Introduction.

A' Boards and Displays of Goods on the Highway can be a fashionable way for businesses to promote and display their goods in and around town centres, adding to the colour and atmosphere of some street scenes for residents and visitors alike. Similarly furnishings may add to the streetscene through the provision of Outdoor Facilities for suitably located food and drink establishments. However, unless Licensed they are illegal and always subject to Enforcement process.

Under the Highway Act 1980, *and City Council Policies*, Licences are required for 'A' Boards, the Display of Goods and Outdoor Facilities on the Highway. This is to ensure that they are properly set up, licensed and operated so that commercial benefits to some businesses, and changes to the shopping area, do not cause any problems for other premises or users of the street - or adversely affect the streetscene. Among significant factors in determining Applications are the available safe space alongside the juxtapositions of different licensed areas, and types of Licence, to each other and to street & utilities furniture, tactile paving, dropped kerbs, junctions, pavement edges and to private land The City Council takes seriously the discharge of its duties to all Highway users and its specific duties to those who are disabled. Which take precedence over commercial advantage. Moreover, statutory duties within Conservation Areas and towards Listed Buildings have to be considered alongside controls upon advertising. All of which attention increases safe and pleasant footfall to encourage business for all.

- **The grant of a licence for any of the above does not confer or**

modify any rights or conditions attached to other forms of licence – for example, those governing the consumption of alcohol.

- **In some cases an appropriate health and safety risk assessment may be required.**

Requirements for Applying for a Licence

'A' Boards, Goods, Outdoor Facilities not fully set on private land must be licensed. Articles set on private land may be subject to other regulations, and Planning requirements. They are considered when Applications are made and the private area is excluded in measurement of available pavement space.

There is a presumption that A Boards will only be displayed directly adjacent to the Applicant's premises and that where private forecourts exist they provide sufficient opportunity for such advertisements, without licence fees, provided they conform with all other legislative or *Code of Practice* requirements. Remoter A Boards, usually for premises in side streets and thus often at the nearest corner, create additional hazards and supervision difficulties. Corners are particularly dangerous places and such locations are usually unsuitable. If approved the required evidence of Indemnity may be increased and special conditions may be applied. If additional hazards arise thereafter, including from evident lack of supervision, the Enforcement Procedure for Removals will be reduced to that applicable to gross breach of the conditions of the licence including immediate removal.

The five main areas taken into account, which in effect encourage more safe trade in that street, are :

- The amount of space that will be removed from the public highway and its location in relation to other pavement installations & facilities, including cumulative and obstructive impact upon all users but especially disabled persons, wheelchair users, the elderly and family groups.
- How the proposed 'A' Board, Goods, Outdoor Facilities will appear when set up.
- The effect they may have on local residents, workers, shoppers, visitors and passers by.
- Is a proposed 'A' Board in a Conservation Area or a street where A Boards are prohibited ?
- Evidence, and maintenance, of public liability insurance of £5 million will be required.

Consultation

Upon receipt of an application, (*See link to Form and Fees*) a range of City Council Departments and organisations may be consulted to ensure that the proposal is acceptable to them. They include:

- The Access Officer · Planning and Conservation.(Planning Consent(s) may be required)
- Town Centre Management · Legal Services · Environmental Health · Local Councillors
- Waste Management · The Police · East Sussex Fire and Rescue and Ambulance Services
- Representative Residential and Trading Groups for the location*.

· Representative Groups for Disabled persons. · The Older People's Council

- ★ A public notice giving location details will also be displayed close to the site so that local people can comment. Comments will be considered when determining the Licence.

Licence conditions

Each application is considered on its merits and its suitability to the local environment. When a licence is granted, the licence holder must adhere to conditions set out in this guide, unless different to those on the licence itself, otherwise the City Council will have no choice but to remove any article causing an obstruction and may consider taking away the licence. See *link to Enforcement procedure*.

The Council appreciates that people will want to ensure attractive displays that will encourage potential customers to enjoy their business offer without detriment to other trade, the streetscene or free passage.

The following factors are thus among those to be taken into account when planning the layout:

- Available space · Public Highway Pavement width · Carriageway density of usage and junctions · Pavement densities of use · Existing Council street furniture e.g. benches, planters, & utility Company facilities, & other 'A' Boards, Goods or Street Cafes & Inns nearby
- Type of premises & style proposed · Street character including Conservation Area and Listed Building characteristics · Residential properties: access and nuisances · Certain types of business premises that require minimal disturbance or special access.
- People passing the premises should have at least 2 metres of clear footway between the edge of the carriageway and the 'A' Board or the boundary of the Goods or Outdoor Articles when in use or displayed. Existing street furniture and utilities apparatus shall not be included within the 2 metres free space. In a very busy street, it may be necessary to leave more than 2 metres of footway space for pedestrians. Special consideration is given to Pedestrianised streets.
- The 'A' Board, Display of Goods or Outdoor Facilities should be located immediately outside the front of the applicant's building. Where adjacent land is private only permitted unlicensed facilities are preferred. Such displays will be taken into account when licences for additional A Boards are applied for so that the cumulative effects are taken into consideration. Only in exceptional and temporary circumstances justifying a special advertisement will additional A Boards be permitted outside the forecourt areas that contain conforming unlicensed A Boards.

The display positions of all A Boards on the Applicant's adjacent land are to be shown on the location plan. It will be assumed in consideration of a licence, and a condition of any licence, that an Applicant who declares no such existing boards at the time of the Application will not display additional Boards on adjacent private forecourt land during the validity of a licence.

Licensees will be provided with a sticker, to display in a window and / or on an 'A' Board, to show that they have a licence. If not displayed, the owner may be served with a notice to remove the items.

This is a précis of a six page document which gives reference data.* It provides a firm basis for an urgent consultative review of Brighton & Hove's complained of current practices and consultation methods regarding Pavement Obstructions * Available from ConsultConserve @aol.com

2. RESPONSE FROM COUNCILLOR MRS THEOBALD, CHAIRMAN OF LICENSING COMMITTEE

- 2.1 Councillor Mrs Theobald stated, "Thank you very much for this deputation which contains interesting information on control of placements on the highway. As you may be aware changes are currently being proposed to the licensing system which aims to increase accessibility and introduce additional controls over traders' placements on the highway in line with the Disabled Discrimination Act requirements. These proposals will be placed before a Licensing Committee shortly and the council believes they are a necessary improvement. However, as a result of the consultation on these changes Members and officers are proposing a more lengthy review over the coming year which will look into greater depth at the opinions and options of this subject and will include representations from all interested parties. This review will result in recommendations for future changes to the licensing system."

The Mayor thanked Mr. Chavasse for attending the meeting and speaking on behalf of the deputation. He explained that the concerns had been noted and the deputation would now be referred to the Licensing Committee for consideration. The persons forming the deputation would be invited to attend the meeting and would be informed subsequently of any action to be taken or proposed in relation to the matter set out in the deputation.