



**Brighton & Hove  
City Council**

**Report of the Street Access Issues  
Scrutiny Panel**

**March 2010**

**Street Access Issues**

**Volume Two**

**Panel Members**

**Councillor Sven Rufus (Chair)  
Councillor Jayne Bennett  
Councillor Pat Hawkes  
Councillor Brian Pidgeon  
Councillor David Watkins**

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**APPENDIX 1 – LETTER FROM CLLRS ELGOOD AND WATKINS**

**Agenda Item 96**

**Councillor Paul Elgood**  
**Leader of the Liberal Democrat Group**  
7 Palmeira Court  
32 Palmeira Square  
Hove BN3 2JP

Mr Alex Bailey  
Acting Chief Executive  
Brighton & Hove City Council  
King's House

**Date:** 24 February 2009  
**Our Ref:** PE/DW/an  
**Your Ref:**

Dear Acting Chief Executive

**Access Scrutiny Panel**

Under Procedural Rule 23.3, we would like to request that this letter is considered by the next Overview and Scrutiny Commission meeting on 10 March 2009.

Scrutiny Recommendation 10 of the 2006 Access Scrutiny Panel, recommended:

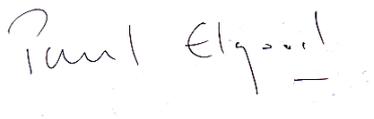
'That in consultation with sensorily-impaired people, officers give priority to achieving as wide, safe and straight access as possible in planning, licensing and enforcing all forms of street/pavement furniture and obstructions for pedestrians.

That there be a presumption in favour of a clear straight pathways in line with Department for Transport guidance on the width of footways, footpaths and pedestrian areas.'

Under OSC's remit on Equalities and Inclusion issues, we would like to request a report as to how this important scrutiny recommendation has been implemented. As you are aware the need for clear and accessible footways is a key issue for residents.

Thank you for your assistance.

Yours sincerely



Councillor Paul Elgood  
cc: Councillor Gill Mitchell



Councillor David Watkins

**APPENDIX 2 – EXTRACT FROM THE PROCEEDINGS OF THE OVERVIEW & SCRUTINY COMMISSION MEETING HELD ON THE 10 MARCH OCTOBER 2009**

**OVERVIEW & SCRUTINY COMMISSION**

**4.00PM 10 MARCH 2009**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Mitchell (Chairman); Bennett, Cobb, Elgood, Pidgeon, Meadows, Older, Randall and Wakefield-Jarrett

**96 LETTERS FROM COUNCILLORS AND NOTICES OF MOTION REFERRED FROM COUNCIL**

- 96.1 Councillor Elgood set out the reasons for his letter requesting a report on how Recommendation 10 of the 2006 Access scrutiny panel is being implemented. The recommendation related to clear pathways for pedestrians.
- 96.2 Residents were increasingly concerned about obstructions on the highway and people with disabilities were finding obstructions such as A Boards hazardous. Western Road, Church Road, St James Street and London Road were particularly affected and although commercial areas needed to thrive there should be a better balance, he said.
- 96.3 Good work had been done in difficult circumstances by officers, the Equalities Forum and the Access Scrutiny Panel but since writing this letter Councillor Elgood was now asking for a scrutiny panel to be established to look again at the matter of highways obstructions and especially the Equalities implications.
- 96.4 A number of Members had similar concerns and mentioned other areas of the City where there seemed to be a need for greater control over A-boards and other pavement obstructions.
- 96.5 The Committee asked for a report back to the next meeting on action taken regarding Recommendation 10 and agreed to set up a Scrutiny Panel, at a time to be decided.
- 96.6 **RESOLVED:**  
(1) that officers be asked to report to the next OSC meeting on the implementation of Recommendation 10 of the 2006 Access scrutiny panel.  
  
(2) that a Scrutiny Panel be established at a time to be decided.

<b>Overview &amp; Scrutiny Commission</b>	<b>Agenda Item 107</b> Brighton & Hove City Council
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**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

<b>Subject:</b>	<b>Access: Traders' objects on the highway</b>		
<b>Date of Meeting:</b>	<b>21 April 2009</b>		
<b>Report of:</b>	<b>Jenny Rowlands, Director of Environment</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Christina Liassides</b>	<b>Tel: 292036</b>
	<b>E-mail:</b>	Christina.liassides@brighton-hove.gov.uk	
<b>Key Decision:</b>	Forward Plan No. n/a		
<b>Wards Affected:</b>	All		

1.1 This report sets out Brighton & Hove City's Highway Enforcement team's progress on Recommendation 10 of the Access Scrutiny Panel of July 2006.

1.2 Recommendation 10 is as follows:  
That in consultation with sensorily-impaired people, officers give priority to achieving as wide, safe and straight access as possible in planning, licensing and enforcing all forms of pavement/street furniture and obstructions for pedestrians.

That there be a presumption in favour of clear straight pathways in line with Department for Transport's guidance on the width of footways, footpaths and pedestrian areas.

**2. RECOMMENDATIONS:**

2.1 To note the proposed changes suggested by officers following Recommendation 10 and a review of the council's duties under the Disability Discrimination Act. The review's aim is to bring the policy on Traders' Objects on the Highway into line with the requirements of the Disability Discrimination Act 1995 and the Department for Transport's Inclusive Mobility Guidance, resulting in improvements to accessibility. The proposals also take into account the economic effect on the city and therefore do not seek a complete ban on all traders' placements on the highway.

2.2 To note that these proposed changes have been made under officer delegated powers but will be presented to Licensing Committee on 24 April 2009 for member consideration. Officers recommendation is that these proposals go ahead in order to better reflect legal and good

practice requirements but that a further review takes place during the coming year in order to examine to a greater extent the wide range of views and submissions on this subject and to inform any future policy for the city.

- 2.3 That any review includes site visits with officers, Members and interested parties to relevant areas of the city.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

#### **Information**

- 3.1 The following information only relates to work by the Highway Enforcement team, within Network Management, Sustainable Transport. This team licences and enforces the placement of traders' objects on the highway – such as A-boards, tables & chairs and shop displays – and also the placement of items associated with building works - such as skips, scaffolds, hoardings and builders' materials.
- 3.2 The licensing of such items is lawful under the Highways Act 1980, and a policy has been in place since pre-unitary East Sussex days. The policy was reviewed in 2001 and a coherent licensing system was established, with set procedures and strict licensing conditions.
- 3.3 The policy was reviewed with no major changes and agreed by Environment Committee in January 2008, until officers could prepare a more detailed review looking at the relevant disability discrimination duties.
- 3.4 The Highway Enforcement team also deal with abandoned vehicles, overgrown vegetation, abandoned bicycles and other objects that require education, enforcement or removal in order to aid accessibility on our highway (See Appendix A).

#### **Background**

- 3.5 Since 2001, the team have been working to the clear, straight accessway principle and to DfT guidelines on the large majority of licensed sites. For example, the team worked with disabled people to establish these accessways in areas such as St James' Street when the licensing system was being rolled out. The team have also had regular communication with DAAG over the years as well as with other communities of interest such as Brunswick & Adelaide resident groups.
- 3.6 Although the principles of working to maintain free pavement widths of 1.2m - 1.3m and of ensuring straight accessways have been adhered to for many years (and already apply to most licensed sites within the city) assessments have in the past been made on a site-by-site basis – with areas, pavement width and licence conditions being based upon local conditions and officer judgement.

- 3.7 However, the proposed changes currently under review mean that we are now setting these existing practices as a non-negotiable, minimum standard for all officer-issued licences.

### **Current proposals**

- 3.8 A new set of licence conditions governing the behaviour of those city-centre shops, cafes, pubs and restaurants placing items on the public highway pavement has been drawn up by officers of the council's Highway Enforcement Team.
- 3.9 The policy review is supported by a team restructure which will allocate specific areas to each Highway Enforcement Officer and improve general enforcement of such licensed placements alongside the other functions of the team (which also reduce obstruction and nuisance on the highway).
- 3.10 The new rules are proposed to be formally implemented in April 2009 (when all highway licences for traders' items undergo their annual renewal or replacement) and, except in special cases (such as where an appeal has been upheld by elected representatives) will apply to all sites within the current Highway Licensing Zones.
- 3.11 This review has been prompted by the concerns of officers, councillors and disabled peoples' groups over the effect an increasing number of traders' items is having on highway users, particularly disabled people
- 3.12 Existing policies and procedures go some way to addressing the issues of concern, but it is felt that a number of changes to existing systems are necessary to both meet the challenges of the present situation and comply with the council's duties under legislation. Following a close re-examination of current disability legislation, officers feel that these changes need to be formally adopted by Brighton & Hove City Council as soon as possible.
- 3.13 The measures below will help improve access and safety for all highway users and better reflect the Department for Transport's Mobility Guidance and Disability Discrimination Act guidelines.
- 3.14 The main changes are as follows:
- That no traders' items should be allowed to reduce the width of a footway to less than 1.3 metres, except in special circumstances (such as in pedestrianised areas or streets closed by Traffic Orders where the whole of the road is kept clear for wheelchair user/pedestrian use).
  - That where a footway is reduced to a width of 1.3 metres (or less) by objects (no matter if these objects are traders' items or fixed street furniture such as lamp posts, bins etc. or any mix thereof) "turning

areas” at least 1.6 metres wide must be maintained at regular intervals (with not more than six metres between each such “turning areas”) for the use of manual wheelchair users and people with guide dogs.

- Restrictions on the size and placing of “remote” advertising boards.
- The need for licensees to have on show (or available on demand) an A4 Data Sheet, with plans or photographs clearly showing what and where they are licensed to place upon the Public Highway.

### **Licensing system practicalities**

- 3.15 Traders’ licences run from 1 April to 31 March each year and therefore in order to ensure that placements are legally licensed in time for the new financial year, officers have been sending out licence renewal forms since January 2009, with licences granted under the new conditions but have drawn traders’ attention to the fact that these conditions will be presented to members at Licensing Committee.
- 3.16 Licences must be renewed on 1 April in order to ensure that objects on the highway are authorised and meet the relevant criteria. (See Appendix B for example of licence. The sections highlighted in yellow are of particular relevance to Recommendation 10 and to other issues such as cleanliness or crime & disorder prevention).
- 3.17 The licensing system only applies to objects on the public highway and Highway Enforcement officers have no jurisdiction over the numerous private forecourts in prime retail areas and other areas of the city.
- 3.18 The new licence conditions will also serve as the template for all sites outside of the Licensing Zones, ensuring a greater level of consistency across the City.

## **4. CONSULTATION**

- 4.1 Since 2001, Members, residents’ groups, access organisations and individuals have had formal or informal input in the development of the present system, as have certain departments of the Council specifically dealing with issues relating to disabled people:
- DAAG
  - National Federation of the Blind
  - British Limbless Ex-Service Men's Association
  - Patients Advisory Forum
  - Royal British legion
  - Federation of the Disabled (aka Brighton & Hove Federation of Disabled People)
  - Older People’s Council
  - Tenant Disability Network

- Shopmobility
- The Disabled Tenants Assoc.
- Eastern Road Partnership
- RNIB
- The St. James Street Community Safety Committee
- Access In Brighton
- The 60+ Group
- The Disabled Motorists Club
- The George Street Users Group
- EBRA
- BARG
- BRNAG
- LARA
- Living Streets
- Moulescoombe LAT
- The North Laine Community Association
- The St. James Street Traders Association
- The Lanes Traders Association
- The North Laine Traders Association
- Hove Business Forum
- Brighton Business Forum
- Sussex Police
- Rottingdean Parish Council

4.2 As part of an Equalities Impact Assessment on the proposed changes, the following groups' views have been taken into account or requested during the consultation process:

- The Federation of Disabled People via the council's Equalities & inclusion team
- All traders with current licences or wishing to apply for a licence from 1 April this year
- Brighton Business Forum
- RNIB
- Brunswick & Adelaide ward councillors and residents' groups
- The Older People's Council
- Rottingdean Parish Council
- North Laine Traders' Association
- BHCC's Planning & Conservation Officers

4.3 Communications from these various groups reveal a range of different views, ranging from a desire to keep 1 metre clear access ways to a preference for a total ban on all traders' placements on the public highway.

## 5. **FINANCIAL & OTHER IMPLICATIONS:**

5.1 Financial Implications:

Revenue: There are no financial implications associated with the review of the policy itself. However, the budget for 2009-10 assumes a level of income based on traders objects on the highway. A boards, tables and chairs and skips and scaffolds are expected to yield £238,550 over the year, which will be used to cover the monitoring costs of the Highway Enforcement Team. It is estimated that a reduction in the number of permissible sites will reduce income by around £4,000.

Capital: There are no capital implications.

Finance Officer Consulted: Karen Brookshaw

Date: 26/03/09

## 5.2 Legal Implications:

The Council, as highway authority, is bound by the duty under section 130 of the Highways Act 1980 to assert and protect the rights of the public to the use and enjoyment of the highway. This duty will include a duty to prevent, as far as possible, the obstruction of highways.

However, Part VIIA of the Highways Act (sections 115A – 115K) allows highway authorities carry out works or place objects on the highway, or permit others to do so, for purposes of enhancing the amenity of the highway and its immediate surroundings, or of providing a service for the benefit of the public or a section of the public. It is under s115E that the Council is empowered to grant licences for the placing of A boards in the highway provided the consent of the relevant frontagers has been obtained.

By virtue of section 21B (1) of the Disability Discrimination Act 1995 (“the DDA”) it is unlawful for a public authority to discriminate against a disabled person in carrying out its functions. For the purposes of s21(B) (1) a public authority discriminates against a disabled person if, for a reason which relates to his or her disability, it treats a person less favourably than it treats or would treat others to whom that reason does not apply and cannot show that the treatment is justified in certain prescribed circumstances.

The licensing of A boards is a Council function under section 21B and a potential claim of discrimination could arise.

Moreover, under section 21(E) of the DDA, where a public authority has a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled persons to receive any benefit that is or may be conferred; or is unreasonably adverse for disabled persons to experience being subjected to any detriment to which a person is or may be subjected – the authority has the duty to take steps as reasonable in all the circumstances of the case to change the policy, practice or procedure so that it no longer has that effect.

Section 49A of the DDA imposes a general duty on the Council as a public body to (inter alia) eliminate discrimination that is unlawful under

the Act and to promote equality of opportunity between disabled persons and other persons.

As noted under paragraph 2.1 of this Report the aim of the review is to bring the policy on traders' objects on the highway into line with, inter alia, the Disability Discrimination Act which, as outlined above places important duties on the Council. It is considered that the recommended changes to the Council's policy on traders' items will allow the Council better to comply with its duties under that Act.

Legal officer consulted: Hilary Woodward

Date: 27/03/2009

### 5.3 Equalities Implications:

Brighton & Hove City Council was one of the first authorities to establish a formal system of control of traders' objects on the public highway. The recommendations are changes to existing highway policy and will better reflect the council's Disability Equality Scheme, DfT mobility guidelines and duties under of the DDA than existing measures. An impact assessment has been carried out and is available on request. The new changes bring the licensing system into line with Disability Discrimination Act requirements, although the comments arising from the Equalities Impact Assessment have led officers to propose a further review, to provide further opportunities for groups and individuals to contribute.

### 5.4 Sustainability Implications:

There are no sustainability implications identified.

### 5.5 Crime & Disorder Implications:

Changes within the licensing conditions require all patrons of pub and café placements to be seated within the licensed area, to avoid crowds of people standing on the pavement. Noise issues and other crime and disorder implications for any individual sites are addressed in partnership with the police, Environmental Health and other relevant agencies.

### 5.6 Risk & Opportunity Management Implications:

The current proposals affect approximately 20% of businesses, some of which may lose their A-boards (particularly where they have used remote A-boards in the past) and some of which may have their licensed areas reduced. Most of the businesses affected will be small, sole traders in parts of the city centre.

This could have economic implications for the city, but it is felt by officers that the needs of mobility and visually impaired people and the council's legal obligations must prevail over these concerns. If further measures are proposed, these would need to be subject to additional risk and opportunity assessment.

#### 5.7 Corporate / Citywide Implications:

The proposals seek to increase the amount of accessible pavement available to pedestrians. This will help with mobility and accessibility around the prime retail areas within the city. If any further measures are proposed, these would need to be subject to additional examination of corporate and citywide implications.

### 6. **EVALUATION OF ANY ALTERNATIVE OPTION(S):**

6.1 This report sets out the progress made by the Highway Enforcement team towards Recommendation 10 of a former Scrutiny Panel on Accessibility. Alternative options include:

- Introduce no changes to the licensing system but this may mean the council's policy does not reflect accessibility requirements.
- Introduce more changes but officer recommendation is that any additional changes should only be introduced after a thorough examination of the relevant duties, risks, legal, equalities and economic factors.

### 7. **REASONS FOR REPORT RECOMMENDATIONS**

7.1 The recommendations sum up progress to date. The reason for recommending that the current proposals go ahead is because these are changes to existing highway policy and will better reflect the council's Disability Equality Scheme, DfT mobility guidelines and duties under of the DDA than existing measures.

### **SUPPORTING DOCUMENTATION**

#### **Appendices:**

Appendix A - Complaints statistics for the Highway Enforcement team 206 – 2009

Appendix B – Example of licence conditions

Appendix C – Illustrations of established accessway corridors enforced by the Highway Enforcement team in prime retail areas

Appendix D – 2007 survey of pavement widths and fixed or traders' obstructions in Western Road

#### **Background Documents**

Access Scrutiny Review July 2006



## Highway Enforcement Reports

	2008/09*	2007/08	2006/07
Traders' placements	120	81	78
Overgrown vegetation	532	395	290
Contractors' placements	221	240	195
Abandoned vehicles	1027	1755	2129
Abandoned bicycles	721	807	546

	2008/09*	2007/08	2006/07
A-boards	53	36	39
Tables & Chairs	34	30	12
Shop displays	33	15	27
<b>Traders Placements:</b>	<b>120</b>	<b>81</b>	<b>78</b>
Skips	41	70	53
Scaffolds and hoardings	87	51	41
Builders materials	93	119	101
<b>Contractors Placements:</b>	<b>221</b>	<b>240</b>	<b>195</b>

\* 2008/09: figures up to February 2009

**Please note that these statistics include problems spotted and logged by officers as well as from members of the public**

## Highway Enforcement Complaints/Reports 2008/2009

Month	Abandoned Vehicles			Other Complaints									Total Licensing Complaints
	Abandoned Vehicles	Abandoned bicycles	Total Abandoned Vehicles	A-boards	Tables and Chairs	Shop displays	Skips	Scaffolds and Hoardings	Materials	Overhanging Vegetation	Cars worked on on highway and other vehicle related	Other	
April	153	110	263	0	0	2	5	3	11	28	1	0	50
May	99	46	145	3	6	5	2	5	9	49	1	8	88
June	110	57	167	6	4	6	5	4	9	178	2	2	216
July	111	40	151	7	12	2	6	7	10	118	2	9	173
August	99	33	132	4	3	4	4	5	10	26	3	2	61
Sept	109	154	263	6	4	1	2	2	11	35	4	2	67
Oct	82	87	169	6	2	3	4	14	15	44	8	7	103
Nov	93	73	166	9	2	7	6	35	6	22	1	3	91
Dec	78	48	126	12	0	2	3	10	9	23	1	4	64
Jan	93	73	166	0	1	1	4	2	3	9	3	2	25
Feb			0										0
March			0										0
<b>Total</b>	<b>1027</b>	<b>721</b>	<b>1748</b>	<b>53</b>	<b>34</b>	<b>33</b>	<b>41</b>	<b>87</b>	<b>93</b>	<b>532</b>	<b>26</b>	<b>39</b>	<b>938</b>

Month	Entered by				Dealt with by							
	RC	AG	AK		KG	DF	HM	CS	RJ	ID	Tot	
April	11	13	26		19	1	10	11	8	1	<b>50</b>	
May	12	16	60		17	14	22	18	16	1	<b>88</b>	
June	4	33	179		16	19	104	42	33	2	<b>216</b>	
July	14	36	123		35	23	1	65	43	6	<b>173</b>	
August	7	13	41		20	10	1	15	11	4	<b>61</b>	
Sept	9	14	44		21	7	0	11	20	8	<b>67</b>	
Oct	6	15	82		24	19	0	24	36	0	<b>103</b>	
Nov	11	7	73		39	25	0	12	13	2	<b>91</b>	
Dec	4	10	50		20	18	10	6	9	1	<b>64</b>	
Jan	4	3	18		9	3	6	5	2	0	<b>25</b>	
<b>Total</b>	<b>82</b>	<b>160</b>	<b>696</b>	<b>0</b>	<b>0</b>	<b>220</b>	<b>139</b>	<b>154</b>	<b>209</b>	<b>191</b>	<b>938</b>	

## HIGHWAY ENFORCEMENT COMPLAINTS/REPORTS 2007-08

Month	Abandoned Vehicles	Other Complaints
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	Abandoned Vehicles	Abandoned bicycles	Total Abandoned Vehicles	A-boards	Tables and Chairs	Shop displays	Skips	Scaffolds and Hoardings	Materials	Overhanging Vegetation	Cars worked on on highway and other vehicle related	Other	Total Licensing Complaints
April	168	107	275	1	2	0	5	3	9	11	4	4	39
May	140	108	248	5	2	4	8	5	7	17	0	4	52
June	173	29	202	2	3	1	5	4	11	53	1	3	83
July	161	70	231	6	4	0	5	5	10	48	0	2	80
August	172	40	212	4	7	2	2	5	11	42	3	2	78
Sept	164	62	226	1	4	2	4	4	17	69	1	4	106
Oct	136	72	208	6	3	1	8	10	16	58	4	8	114
Nov	146	76	222	2	3	1	9	2	9	44	0	6	76
De	85	19	104	3	1	1	4	7	10	12	0	6	44
Jan	146	95	241	2	0	0	8	1	5	12	8	3	39
Feb	148	102	250	2	1	3	9	1	10	12	2	0	40
March	116	27	143	2	0	0	3	4	4	17	1	2	33
<b>Total</b>	<b>1755</b>	<b>807</b>	<b>2562</b>	<b>36</b>	<b>30</b>	<b>15</b>	<b>70</b>	<b>51</b>	<b>119</b>	<b>395</b>	<b>24</b>	<b>44</b>	<b>784</b>

Other Complaints (by Officer)													
	Entered by						Dealt with by						
	AK	RC	MM	AG	ID	DF	KG	DF	HM	CS	RJ	ID	MM
April	29	6	4	0	0	0	21	3	8	3	4	0	0
May	34	14	3	0	1	0	18	11	5	8	6	3	1
June	73	10	0	0	0	0	18	17	35	3	9	1	0
July	71	6	0	2	0	1	23	9	23	8	15	2	0
August	52	4	0	22	0	0	15	17	18	17	11	0	0
Sep	26	11	0	69	0	0	22	9	48	12	15	0	0
Oct	73	13	0	28	0	0	24	18	38	12	17	5	0
Nov	52	8	0	15	0	1	21	8	27	17	2	1	0
Dec	21	7	0	16	0	0	18	11	8	4	12	0	0
Jan	26	9	0	4	0	0	16	3	5	2	12	1	0
Feb	15	17	0	8	0	0	19	5	5	4	6	1	0
March	27	6	0	0	0	0	14	0	1	2	14	2	0
<b>Total</b>	<b>499</b>	<b>111</b>	<b>7</b>	<b>164</b>	<b>1</b>	<b>2</b>	<b>229</b>	<b>111</b>	<b>221</b>	<b>92</b>	<b>123</b>	<b>16</b>	<b>1</b>

## HIGHWAYS ENFORCEMENT COMPLAINTS/REPORTS 2006/07

Month	Abandoned Vehicles		Licensing									Total
	Abandoned Vehicles	Abandoned bicycles	A-boards	Tables and Chairs	Shop displays	Skips	Scaffolds and Hoardings	Materials	Overhanging Vegetation	Cars worked on on highway	Other	
<b>April</b>	177	19	4	1	1	3	2	5	6	3	3	224
<b>May</b>	221	25	2	3	3	5	2	11	23	2	4	301
<b>June</b>	173	30	5	0	5	3	2	6	52	1	5	282
<b>July</b>	206	32	5	2	3	0	1	4	31	0	5	289
<b>August</b>	196	58	4	3	8	5	6	10	37	1	5	333
<b>Sept</b>	202	63	3	0	1	7	4	12	41	2	5	340
<b>Oct</b>	181	60	4	0	3	7	4	9	51	0	3	322
<b>Nov</b>	154	33	1	0	0	5	2	20	20	0	7	242
<b>Dec</b>	124	24	3	0	3	5	4	4	4	0	9	180
<b>Jan</b>	180	57	3	1	0	4	8	6	9	0	4	272
<b>Feb</b>	145	62	2	2	0	3	3	13	8	1	1	240
<b>March</b>	170	83	3	0	0	6	3	1	8	2	1	277
<b>Total</b>	<b>2129</b>	<b>546</b>	<b>39</b>	<b>12</b>	<b>27</b>	<b>53</b>	<b>41</b>	<b>101</b>	<b>290</b>	<b>12</b>	<b>52</b>	<b>3302</b>

Licensing Complaints (does not include AV and ABs)													
	Entered by					Dealt with by							Total
	AK	MM	RC	DF	ID	KG	DF	HM	CS	RJ	ID	MM	
<b>April</b>	20	2	6	0	-	-	12	3	5	4	3	1	24
<b>May</b>	46	3	6	0	-	-	13	9	20	6	2	5	48
<b>June</b>	66	3	10	0	-	-	20	24	13	16	5	1	73
<b>July</b>	32	2	10	7	-	-	16	15	6	6	4	4	43
<b>August</b>	57	10	8	4	-	5	31	10	20	4	4	5	70
<b>Sept</b>	48	4	20	3	-	23	3	19	15	12	3	-	72
<b>Oct</b>	62	2	15	2	-	14	15	10	36	4	2	-	79
<b>Nov</b>	34	7	5	2	7	21	4	11	7	5	7	-	55
<b>Dec</b>	22	7	3	0	0	19	7	2	2	2	0	-	32
<b>Jan</b>	22	5	7	1	0	16	8	8	2	1	1	-	35
<b>Feb</b>	23	0	10	0	0	16	7	2	1	6	1	0	33
<b>March</b>	18	0	6	0	0	12	3	1	5	3	0	0	24
<b>Total</b>	<b>450</b>	<b>45</b>	<b>106</b>	<b>19</b>	<b>7</b>	<b>126</b>	<b>139</b>	<b>114</b>	<b>132</b>	<b>69</b>	<b>32</b>	<b>16</b>	<b>580</b>

**BRIGHTON AND HOVE CITY COUNCIL**  
**Application for permission to place objects upon the**  
**Public Highway (Highways Act 1980)**  
**and The Local Government (Miscellaneous Provisions) Act 1982**

Name of Applicant (in full):

Mr / Ms / Mrs / Miss (*please delete as appropriate*).....  
.....

Name and Address of premises for which the permission is required. (This is the address to which all correspondence will be sent unless otherwise indicated by the applicant.)

.....  
.....

Tel. No..... Correspondence address if different from above.....  
.....

**Please describe and sketch the proposed placement.**

**Please note that due to changes in the licence conditions (see below for licence conditions) the following information is required to enable your application to be completed promptly.**

**Do all A-boards meet new size conditions? (See Item 4.3)**

**Yes  No  N/A**

**Will any items be left out overnight? (See Item 5.2)**

**Yes  No  N/A**

**Will any items be placed more than 5m from your premises? (See item 5.5)**

**Yes  No  N/A**

**Are all display items sold as part of your normal business? (See item 3.13)**

**Yes  No  N/A**

**Will any item reduce the footway width to less than 1.3m? (See item 5.5)**

**Yes  No  N/A**

**Will any free standing heating units be used? (See item 3.5)**

**Yes  No  N/A**

**Please note that payment must accompany this application.**

## **Licence Conditions 2009-2010**

The following conditions will be introduced to apply to all highway licences issued.

### **1. Terms:**

- 1.1 The term “licence” used below refers to any Highway Permission issued by the Highway Enforcement Team.
- 1.2 A “licensee” is deemed to be the body or individual to whom the licence has been issued.
- 1.3 A “licensed area” is that area of public highway covered by the licence.

### **2. Legal Issues:**

- 2.1 This licence is not transferable.
- 2.2 Sub-letting of the highway is forbidden. A frontager who is a licensee may, with the advance written permission of the council, permit a suitable third party (i.e. a party the council would consider to be an appropriate licensee themselves) to display items within a relevant licensed area, but there should be no financial transaction associated with such an arrangement. Any third party must meet and comply with all licence conditions, including the holding of Public Liability Insurance (see below). Responsibility for breaches of licence conditions will lie with the licensee.
- 2.3 The licensee agrees to indemnify the council against any claims in respect of injury, damage or loss arising out of the grant of the licence. Public Liability Insurance cover of at least one million pounds must be carried for the duration of the licence. Evidence for this cover must be produced on demand.
- 2.4 The licence may be suspended or revoked and/or the licensee required to temporarily remove the objects by the council for any legally defensible reason. The licensee shall not be entitled to any compensation for loss of trade or business as a result.
- 2.5 If deemed necessary the council may alter licence conditions at any time.
- 2.6 Where necessary, the council may place time limits to restrict the use of licensed areas to permitted hours. In general, these restrictions will apply to premises with alcohol licences and will not exceed the hours set by the terms of such licences.
- 2.7 Licences are valid for a maximum of 12 months and expire at 24:00 hrs. on the first 31<sup>st</sup> of March following the date of issue. Licences are subject to an annual review. Payment of licence fees is a condition of the licence.

- 2.8 Licences only relate to the placing of objects upon the highway. It is the responsibility of the licensee to obtain all other consents required in connection with the proposed extension of their business onto the highway including, where appropriate, any amendment to their existing liquor licence.
- 2.9 It is a condition of Highway Licences that all consents and permissions and all health & safety, environmental health or other legal provisions or measures required by Brighton & Hove City Council or other legal authorities are obtained and adhered to. Proven failure to comply with legislation and/or the reasonable and legitimate instructions of an authorised officer of the Council, Her Majesty's Health & Safety Executive or the Police may be considered a breach of the conditions governing the licence.

### **3. Licensed Areas:**

- 3.1 The council reserves the right to limit the number of items placed within a licensed area. Factors influencing such limits may include the density of tables/chairs within a licensed area and the ratio between the number of covers within the licensed area and those inside the actual premises.
- 3.2 Patrons within a licensed area must be seated. Vertical drinking shall not be permitted at any time.
- 3.3 Benches or other objects which cannot easily be removed and stored within the licensed premises shall not be permitted unless noted within the original application and agreed in advance and in writing by the council. The council may specify how items left out overnight shall be stored or stacked.
- 3.4 Licensees who significantly alter the nature of their items (e.g. the design of seating/tables/barriers) without prior consultation and a written agreement from the council will be deemed to have breached licence conditions.
- 3.5 No free-standing items issuing heat or with heated elements (such as gas or electric heaters) may be permitted within a licensed area unless the intention to place such items was noted within the original licence application and agreed in advance and in writing by the council. A Risk Assessment for the use of such items must be submitted with the application
- 3.6 The council can insist that licensed areas are surrounded by barrier or fencing. The use and design of all such barriers must be approved in writing by the council.
- 3.7 The licensee shall ensure that all glasses, bottles and other debris from the licensed premises are collected and returned to the licensed premises regularly and at the end of each session.
- 3.8 The council may require the use of plastic containers only within certain licensed areas.

3.9 The licensed area must be kept clean, being washed down as necessary, and free of litter at all times. The licensee is responsible for regularly clearing all debris and litter associated with the licensed premises, whether inside the bounds of the licensed area or not.

3.10 No object may be placed upon the highway outside the licensed area or away from the licensed position at any time. All items must be checked at regular intervals. Areas associated with the consumption of food or drink must be constantly monitored. Items left unattended or found out of sight of the licensed premises may be removed and impounded without warning.

3.11 The cooking of food within a licensed area is prohibited.

3.12 Shop displays made up of rows of irregular items (e.g. pots) should ideally have vertical panels of not less than 0.3m height, at the edges & sides so as to provide a regular and continuous tapping board for the guidance of the blind and partially sighted. If necessary the council can make provision of these a special condition of a licence.

3.13 No goods or food shall be displayed for sale in the highway unless it is evident that such goods are sold as part of the normal business of the licensee. The nature of such displays and the goods for sale must be formally approved by officers and noted within the licence agreement. Where such displays are permitted all sales must take place upon private property. No financial exchanges may take place upon the Public Highway, other than in connection with sitting-out areas.

3.14 Licensees with display or sitting-out areas will be supplied with a Data Sheet showing the extent of the highway licensed to them. This document must be kept on site and be available for inspection on demand at any time by officers of the council or other agencies, elected members and the general public.

#### **4. Advertising boards:**

4.1 No more than two advertising boards may be permitted for every two elevations of a licensed premises and the total surface areas of all advertising boards per said elevations (whether on the highway or on private land or decking or on any combination of the same) may not at any time exceed the limits for such advertising under Planning Regulations (a total area of 4.6 square metres).

4.2 Premises with sitting-out areas may not place advertising boards outside licensed areas unless such placements are separately licensed and conform with all other relevant conditions.

4.3 Licensed advertising boards shall be between 0.75m and 1.2m high and between 0.5m and 1.1m wide only. Larger or smaller boards will not be permitted.

#### **5. General:**

5.1 The licensee must clearly display on site a Display Licence provided by the council. This should be placed in a window, glass door or menu stand of the licensed premises clearly be visible and legible from the highway.

5.2 Anything left upon the highway outside business hours or the hours stated in the licence conditions, or any item found chained or tied to any other object, street furniture or building without prior written permission, may be removed and impounded without further warning.

5.3 The improper parking of vehicles by staff or persons associated with the licensed site (including delivery vehicles) will be considered a breach of the licence. This is of particular importance within those areas where vehicle access is restricted and in streets that are periodically pedestrianised. In certain parts of the city licensees may be required to agree to restrictions on delivery times.

5.4 To promote the work of the Brighton & Hove Drug and Alcohol Action Team and support the operations of the Council's Trading Standards Team, licensed sites involved in the sale of cigarettes or of alcohol for off - premises consumption shall be required to display, at all times, such notices relating to illegal sales to or illegal purchase on behalf of minors as may be supplied by the Highway Enforcement Team.

5.5 Note that the following general rules will be applied to all officer-approved applications/sites within the city:

A) That no licensed traders' items will be permitted to reduce the width of a footway to less than 1.3 metres except where:

1. a formal pedestrian zone has been established in a road by Traffic Order and the whole of the carriageway is kept clear for pedestrian use
2. a road is closed to vehicular traffic by virtue of a temporary Traffic Order and the whole of the carriageway is kept clear for pedestrian use
3. a road is considered to be "shared space" and the whole carriageway is generally available for pedestrian use
4. discretion to allow this has been exercised by Elected Members in Committee or Cabinet, due to special circumstances.

B) That where a footway is reduced to a width of 1.3 metres (or less) by objects (whether these objects be licensable traders' items or fixed street furniture such as lamp posts, bins etc.) "turning circles" for manual wheelchair users and guide dogs must be established at regular intervals. These "turning circles" shall not be less than 1.6m in length and must be maintained at least every 6 metres along the length of a restricted footway.

C) That, except in the case of items within large, waiter-serviced sitting-out areas, no traders' item shall be permitted to be placed more than five metres from the licensed premises or out of sight from a window or door of said premises.

In certain circumstances, officer application of the above criteria may be challenged by means of Formal Appeal to Committee or Cabinet. Such appeals should take place at the licence application stage. Note however that no activities can take place at a site until such a decision is reached.

## **6. Enforcement Procedure (removals):**

The following enforcement procedure shall be applied as standard for all items placed on the Public Highway in breach of the DfT guidelines and the rules and conditions of the Highway Licensing System as detailed above:

- That on the discovery of a breach of the guidelines, rules and conditions, a written warning shall be issued to the relevant business/person, warning and advising them of their need to abide by the prevailing regulations.
- That on the discovery of a second such breach within eight weeks of the first, a second warning notice be served.
- That on the discovery of a third such breach within eight weeks of the second warning a third warning shall be served.

If the recipient of a third warning is a holder of a Highway Licence, then this licence shall be temporarily suspended by virtue of said notice pending consideration of the case by the Senior Highway Enforcement Officer. The period of suspension will be dependent on the seriousness of the breach and the measures taken by the licensee to ensure future compliance with the regulations. Further breaches may result in the rescinding of the licence.

Any unauthorised items found on any site following a third warning or suspension/rescinding of a licence may be removed from the Public Highway and impounded without a further warning being served. Owners of objects so impounded will be given the opportunity to recover their property. Where appropriate a charge may be made by the Council for the costs of removal and storage.

The Council reserves the right to proceed with prosecution under the Highways Act 1980 at any stage of the above procedure in any case involving gross or regular breaches of legislation.

I, being an authorised officer of the applicant, confirm that that I have read, understood and agree to abide by the conditions above and any additional reasonable conditions set by the Authority.

I enclose payment for the licensing approval and issuing processes, being aware that, unless advance payment has been made or the licence charge accompanies this application, no permission will be issued.

Note that the site name or address and the reference number given on the accompanying conditions sheet must be clearly written on the back of any cheque accompanying this application.

Name (block capitals).....

Signed:..... Position (block capitals):.....

**Date**.....

---

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*For Council Office use only – please do not write in the space below*

BRIGHTON AND HOVE CITY COUNCIL acting by their Director of Environment, in pursuance of the above enactments hereby grant permission for the placing of objects, namely, tables, chairs, litter bins, displays and/or a prescribed number of A-Boards on part of the paved Public Highway outside the premises as described above or attached.

**Signed:**..... **Name:**

.....  
**For the Director of Environment,  
Brighton & Hove City Council**

**Date** .....2009

**Special Conditions:**

**Please return to:**

The Senior Highways Enforcement Officer, Brighton and  
Hove City Council, Highway Enforcement,  
Room 500, Hove Town Hall, Norton Road, Hove, BN3  
3BQ

**BRIGHTON AND HOVE CITY COUNCIL.**

**Permissions to place objects on the Public Highway under the  
Highway Act 1980**

**Guidance Notes & Licence Charges:**

**Please read the accompanying conditions.**

- **Tables, chairs or shop displays:**

**Payment Reference EVH031/LG105**

A) Initial applications (i.e. where no previous licence has been held) are subject to a one-off charge to cover the application/approval process.

There are two charge bands:

1. £87.00 for areas of less than 5 sq.m.
2. £287.00 for larger areas.

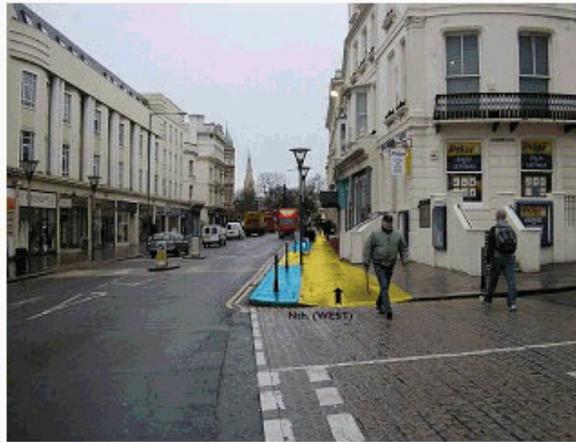
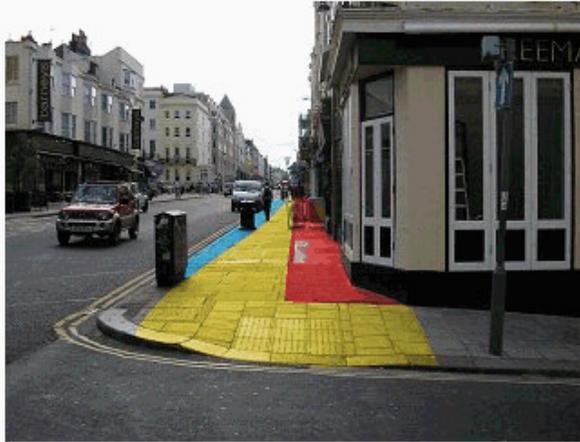
There is an additional annual charge of £17.00 per square metre for each square metre of Highway the licensee wishes to occupy.

B) Licence renewals are based solely upon the area to be taken up, based on £17.00 per square metre, with there being a minimum charge of £47.00 per year.

- **Advertising boards only (up to two boards per site):**

**Payment Reference EVH031/LG132**

1. New Applications: £67.00 for the first year.
2. Renewals £47 per year.



Established, clear corridors highlighted in yellow.

Red areas: private/disputed land.

“Blue Zone” – kerbside strip with existing fixed items where items may be placed.



**Gardner Street: when closed to vehicular traffic.**

**Note that the original pavement is kept clear from any obstructions. Placements are permitted on the closed road and on the build outs (picture 3) that have been added to the original pavement.**



## **Kensington Gardens.**

**Much of Kensington Gardens is private land owned by the relevant shops and businesses. The public highway is kept clear to ensure accessways for pedestrians.**

### **Survey Results:**

*A detailed survey carried out in June 2007 dealt with the most controversial section of Western Road (south side, between Norfolk Square and Lansdowne Place). This followed previous surveys carried out by officers (in some cases in company with Elected Members and representatives of local fora) and subsequent reports.*

- Only nine “A” boards were found upon the Public Highway along this stretch of road, with footways being most reduced by council placed objects (see the Table below).*
- As on previous surveys, thirty five “A” boards were found on private property adjacent to the footway along this same stretch of road. Such boards are not highway obstructions and lie outside the authority of the Highway Enforcement Team.*
- As discovered on previous surveys, the narrowest pavement choke-points were caused by council-placed objects (bins, lamp posts, trees etc.) positioned close to private land.*

*The table below indicates the narrowest choke-points discovered on the last survey which shows that other items apart from “A” boards are reducing pavement widths in Brunswick & Adelaide.*

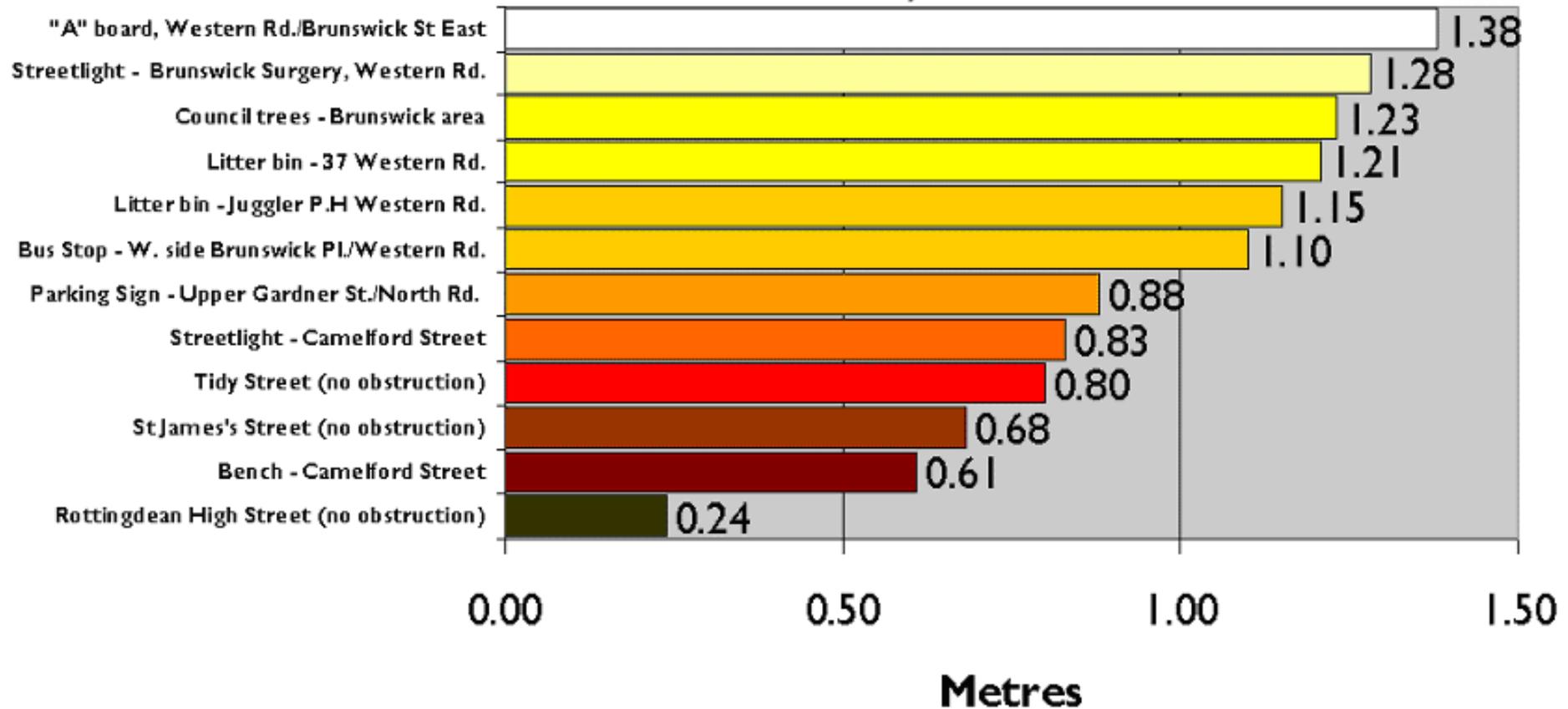
*The “A” board shown on the table was the most obstructive one found at the time of the survey but there was still 1.30m clear pavement between itself and private land adjacent to the footway.*

*For comparison we have also included in the table other narrow footways found elsewhere in the City, including certain naturally narrow footways (i.e. without obstructions).*

*Note that, apart from the 1.38m width left by the “A” board on the Table, all other widths are less than the 1.30m recommended by Department for Transport Guidance on Inclusive Mobility although the majority of objects listed are there to provide a service (lighting, litter bins, etc).*

## Narrow Pavements

This table shows the narrowest points found on footways in Brunswick & Adelaide during the above survey. It also indicates the type of object found narrowing the pavements. Note that apart from the "A" board, all other obstructions in said Ward have been placed by the council. The table also shows, for comparison, certain narrow pavements, with and without obstructions, found at other locations in the City.



## **APPENDIX 4a – PRIVATE PANEL SCOPING MEETING NOTES 24/06/2009**

### **Street Access Issues Scrutiny Panel**

Notes of scoping meeting – 24 June 2009, 2.30 BTH

**Present:** Cllrs Pidgeon, Bennett, Watkins, Hawkes and Rufus.

**Officers:** Christina Liassides, Tom Hook, Mary van Beinum

#### **1. Welcome**

#### **2. Chairman**

Cllr Rufus was elected Chairman.

#### **3. Title of Panel**

Title of the Panel agreed as 'Street Access Issues'.

#### **4. Scoping**

##### **4.1 Terms of reference**

Agreed as drafted:

- to gain an understanding of the issues relating to street accessibility within Brighton & Hove
- to review current Council policy relating to items placed on public walkways
- to seek a balanced range of views as to the impact of current policy and practice
- to develop recommendations for the future development of Council policy on these issues

##### **4.2 Key issues: ways of working**

Panel to keep focussed to enable good use of 3 meetings – could make comments/ observations on matters that are outside the main scope.

Agreed to hold three public meetings and a site visit and then assess the need for any extra meetings.

Staff resources for enforcement. Highways Enforcement Team is short-staffed at present – range of duties – Skips & Scaffolds, A-Boards, Tables and Chairs, overhanging vegetation, abandoned vehicles (but will support the panel as far as possible).

All recommendations and the final report must be evidenced based rather than individual Panel Members' private knowledge and experience.

##### **4.3 Key issues for the Panel**

Recognise a balance between accessibility and needs of businesses in Brighton & Hove's 'outdoors' culture.

What is national policy on street furniture (Legislation is 'blunt' - DfT gives general guidelines - only limited exemptions).

What are the relevant current Council policies; general design principles, road signs, bollards, trees, scaffolding, canvas surrounds. Utilities' policies – eg BT boxes, mobile masts.

Panel Members to be provided with Council policies regarding all items placed on the pavement.

Need to be clear about (different) planning and highways permissions, alcohol and other licensing conditions. Can refuse outdoor tables/chairs where premises are wished for, for use e.g. as café, for the first time.

Enforcement of licensing conditions is challenging, especially for movable items.

Whilst there are specific hotspots, the issues are citywide as well as in the city-centre.

Establishing responsibility for upkeep/placement (landowner; tenant; Council; private) can be difficult.

For the future - DCLG 'Towards Lifetime Neighbourhoods'

What has been the progress against former Access scrutiny panel recommendations? Recommendations from the previous scrutiny report to be circulated to Panel Members.

#### **4.4 Witnesses**

Initially seek written contributors from interest groups and use these to sift witnesses on the basis of the information received. May need to combine or group these, allowing say 5 minutes each.

Note that pressure/interest groups are not necessarily homogeneous - have different views between and amongst themselves.

- planning officers re policy principles; urban land use, change of use, conditions, character studies, cumulative impact
- Culture and Economy - approach taken by similar Cities
- Environmental Health - smoking ban/external crowd control
- Youth Council
- Business groups e.g. North Laine Traders
- Sussex PHAB (physically handicapped)
- RNIB
- Carers Society
- Federation of Disabled People
- Others

#### **4.5 Meeting dates**

Agreed to hold 3 meetings in public initially and then decide whether extra meetings are required:

- Friday 31 July 10.30 – 12.30 HTH
- Thursday 13 August 10.30 – 12.30 HTH
- Site visit August

- September TBC – to discuss evidence heard to date, and emerging themes.

#### **4.6 Site visit**

At places/time to be arranged, informed by the evidence heard in the first two meetings.

Visits to include enforcement officers if possible. Photos will be taken to publicise O&S and to form part of evidence base.

#### **5. Publicity**

TH to meet with Communications Officers to discuss how to handle publicity. Agreed O&S Communications protocol means Chair of the panel will be quoted in releases.

Specific interest groups will be contacted directly.

#### **6. Any other business**

All councillors to be advised of existence of Panel

Advise potential contributors that their information is likely to form part of a publicly available report.

## APPENDIX 4c – PANEL MEETING NOTES 31/07/2009

### BRIGHTON & HOVE CITY COUNCIL

#### OVERVIEW AND SCRUTINY COMMISSION AD-HOC PANEL - STREET ACCESS ISSUES

10.30am 31 JULY 2009

BANQUETING ROOM, HOVE TOWN HALL

#### MINUTES

**Present:** Councillor Rufus (Chairman)

**Also in attendance:** Councillor Bennett, Hawkes, Pidgeon and Watkins

**Other Members present:** Councillors

#### PART ONE

#### 6. PROCEDURAL BUSINESS

##### 1a. Declaration of Substitutes

1.1 No substitutes are permitted on Ad-hoc scrutiny Panels.

##### 1b. Declaration of Interests

1.2 There were none.

##### 1c. Declaration of Party Whip

1.3 There was none.

##### 1d. Exclusion of the Press and Public

1.4 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

1.5 **RESOLVED-** That the press and public not be excluded from the meeting.

#### 7. CHAIRMAN'S COMMUNICATIONS

2.1 Cllr Rufus, Chair of the Scrutiny Panel, welcomed everybody to the meeting. Members of the Panel introduced themselves.

2.2 Cllr Rufus stated that the Panel's remit included anything that affected street access and was not limited to A Boards and other traders' items.

## **8. EVIDENCE GATHERING**

- 3a. Christina Liassides, Head of Network Management (Highways) provided a brief summary of current policy and enforcement practice.
- 3b. The Head of Network Management advised the Panel current Council policy regarding traders items had been agreed at Licensing Committee in April. Papers available through the link below: <http://present.brighton-hove.gov.uk/ieListDocuments.aspx?CId=116&MId=1890&Ver=4>
- 3c. The Committee agreed a policy to license A boards ensuring a minimum pavement width of 1.3 metres and where a footway is reduced to a width of 1.3 meters by objects 'turning areas' for manual wheelchair users and guide dogs must be established at regular intervals.
- 3d. Businesses are limited to one A board per property and must display a certificate to show they have a licence. There is also a map show the agreed positioning of the A Board.
- 3e. Private frontages to business premises are not regulated in the same manner as the public pavement and so A Boards aren't licensed, rather planning consent will be required.

### **8.1 ROYAL NATIONAL INSTITUTE OF BLIND PEOPLE**

#### **Richard Holmes, Regional Campaigns Officer**

- 3.1a Richard Holmes outlined the history of the involvement of the RNIB in street access issues in Brighton.
- 3.1b The RINB has in recent years moved away from nationally instigated campaigns to be more responsive to the needs of its members locally. It was contacted by a resident whose ability to move around the City was being constrained by A boards and other traders items being placed in the street.
- 3.1c The RNIB has visited and monitored the use and position of A boards in the City and written to the Council about the issue on a number of occasions.
- 3.1d The RNIB's position is that there should be a complete ban of A boards through the whole City, as there is in the Churchill Square shopping centre.
- 3.1e A complete ban would encourage those with sight difficulties and other mobility issues to patronise a wider range of locations.
- 3.1f Whilst not against a flexible local approach and allowing A boards in areas where there are wider pavements the RNIB recognises that this might be unfair to traders in areas where there was a ban. This would often favour larger stores on larger streets; a uniform ban would therefore be fairer.
- 3.1g The RNIB is concerned that there appears to be an inability to enforce the current policy and that robust enforcement is required to ensure the policy is adhered to.
- 3.1h Mr Holmes answered a number of questions:

- The RNIB is not aware of the existence of evidence that proves A boards make any difference to levels of trade.
- The optimum pavement gap in government guidance is 2 metres, with 1.5 acceptable in certain circumstances.
- *The Head of Network Management confirmed that the Department for Transport's Inclusive Mobility Guidance recommends an absolute minimum of 1 metre where other obstacles exist, and that this guidance does allow for local considerations to be taken into account, with various measurements analysed within the document..*
- If there are other items placed on the pavement then A boards should be present in the same location.
- Fixed items are less problematic for people with sight difficulties as their positions can be learnt and indeed they can help aid street navigation. That is why the RNIB has been focusing on A boards.
- Wheelie bins, recycling boxes, badly parked bikes, are also a problem as they move frequently.
- Mobility training can therefore cope with fixed items.
- This is an issue nationally but Brighton has specific issues due to the nature of some of its streets.

## **8 .2 BRIGHTON AND HOVE FEDERATION OF DISABLED PEOPLE**

### **Geraldine Des Moulins, Chief Officer**

- 3.2a The Chief Officer advised that panel that the Federation had undertaken a considerable amount of consultation with members over these issues to contribute to the original report to the Council's Licensing Committee.
- 3.2b The Federation is glad that the Council is looking at these issues and taking them seriously. They have been monitoring the situation regarding A boards and would be prepared to work with the Council on the issue as there are concerns over enforcement of current policy.
- 3.2c The Panel were advised that the Federation agreed with much of the previous evidence but as a local organisation recognised the importance of visitors to the City.
- 3.3d The Federations biggest concern is that there are certain areas of the city that have become 'no-go' areas for disabled people. There are a considerable number of barriers to disabled people, so much so that people don't visit the Laines. Disabled people are customers, visitors, residents and they need improved access. The Federation suggested that the city could be zoned and where the streets were particularly narrow boards could be banned.
- 3.3e Disabled People have considerable spending power - £80bn nationally. Locally shop-mobility regularly delivers scooters to hotels showing the importance to the City and to traders of this demographic group.
- 3.3f Panel members were offered the chance to use a scooter for a day and experience the difficulties of navigating round the City. Churchill Square provides a level playing-field and is an example that could be copied.

- 3.3g Wheelchairs are of different shapes and sizes, 1.3 metres isn't wide enough for people to pass other wheelchair users, pedestrians or people with buggies safely. Wheelchair users are often forced next to the road where they feel very unsafe as there is then a danger of them falling off the pavement and into the road.
- 3.3h The Federation wants to see improved coordination across the council to ensure that objects are placed sensitively in relation to each other and that access of 2 metres should be maintained.
- 3.3i The Federation is looking for a constructive and positive outcome from this process with businesses and various groups understanding each others issues and seeking the best solution.
- 3.3j Enforcement is hard to achieve with limited resources but there is a need to ensure straight lines along pavements with no chicanes and with people near the shops and items placed near the kerb. *(The Head of Network Management informed the Panel that due to long term sick leave within the team, resources were currently significantly reduced with sometimes only 2 officers out of 5 available when taking into account holiday leave as well. This had an impact on the amount of enforcement currently carried out within the city).*
- 3.3k The Federation would be happy to work with the Council on enforcement but thinks a more productive route could be through a more creative and innovative approach to signage. Ultimately the streets are currently too cluttered and this needs to be addressed.
- 3.3l The Federation also offered to help raising awareness of the issues with businesses as a large element can be seen as a 'hearts and minds' issue.

## **8 .3 CITY COUNCILLORS**

### **Cllr Juliet McCaffery**

- 3.3a Cllr McCaffery concurred with much of the evidence given by the Mr Holmes, especially on A boards. She stated that a number of streets in Brighton and Hove are now very difficult to navigate due to the amount of clutter – tables and chairs, unloading, traders' goods, A boards, bins, etc. She commented in particular on Sydney Street which is impassable on Saturdays for wheelchairs pushchairs etc due to clothes racks, tables etc in the road. There is no clear pathway through
- 3.3b Cllr McCaffery also felt there was an issue with cycle lanes requiring clear demarcation; it can be quite unclear as to which area is for pedestrians and which for cyclists, in her ward near Preston Manor and the viaduct on Preston road.
- 3.3c Cllr McCaffery also raised the issues of electrical boxes and other utility company objects and the non-collection of waste/recycling. While the streets may be technically the appropriate width, it can be very difficult to wind your way between recycle boxes, wheelie bins, lampposts, electrical boxes and trees etc. Families with two children, one walking beside the pram are on

occasion are forced to walk in the road. For wheelchairs it must be impossible except again resorting to the road on some occasions.

- 3.3d She also drew attention to the problem caused by lack of cycle racks which are then locked to lampposts and other street furniture. These often fall over creating an additional hazard to pedestrians.

### **3.4 John Eyles**

#### **Older People's Council**

- 3.4a Mr Eyles briefly explained the role of the Older People's Council (OPC); he advised it represents all over 60's in the Brighton and Hove area, around 40,000 people.
- 3.4b The OPC agreed with much of the sentiment of what has been said before with regards to the type of obstructions that cause significant difficulty to people using the pavements.
- 3.4c The OPC has had a significant number of representations on this issue, with the main problems relating to A boards, cycle lanes, bins and tables and chairs.
- 3.4d The OPC believes that a minimum of 1.5 metres and turning circles of 2 metres are required to allow improved accessibility. The OPC is content that these policies should not apply to A boards located on private property.
- 3.4e Mr Eyles advised that the actual state of repair of the pavement can also be an issue for older people.
- 3.4f Asked about Twittens Mr Eyles could see the need for some kind of advertising; he suggested heritage type boards displaying a map with the location of a variety of shops could be one solution to the problem.

### **3.5 Tom Chavasse**

- 3.5a Representing a number of different resident associations. The original information provided to Council was on behalf of the following groups:
- Lansdowne Area Residents Association
  - Friends of Brunswick Square and Terrace
  - Friends of Palmeira and Adelaide
  - East Brunswick Residents Association
  - Dudley Mews/Brunswick St. West Residents Association
  - The Hove Civic Society and Brighton Society
  - Montpelier & Clifton Hill, Regency Square and Kingscliffe Society
- 3.5b The delegation to full Council made by the residents' groups was based on a considerable amount of research, monitoring and analysis. They are seeking a constructive way forward. The original deposition can be found here, under agenda item 65: <http://present.brighton-hove.gov.uk/ieListDocuments.aspx?CId=117&MId=323&Ver=4>
- 3.5c Residents associations recognise the need for compromise between different interests but consider that a minimal one size fits all solution, as the 1m, and

now and 1.3metre, local approach, does not exist. Indeed a flexible policy based upon individual street conditions would seem to solve many of the outstanding issues. Comparisons with around 50 other local authorities have highlighted a number of areas of good practice that could usefully be considered by the Council.

- 3.5d Where obstructions were licensed a 2m.unobstructed space appeared to be the norm. Notable examples which included categorising streets and basing license conditions on the category included Durham and Richmond. A city like Brighton with a variety of street types could usefully consider this approach. Windsor & Maidenhead was a good example of a holistic approach across all Council Departments - particularly planning.
- 3.5e Mr Chavasse advised that there was a feeling amongst residents groups that consultation over the new policy before its agreement by the Licensing Committee in April could have been better - hence the delegation. .
- 3.5f *The Head of Network Management advised the Panel that considerable consultation had taken place during the development of the policy mentioned. It was agreed that the Equality Impact Assessment outlining consultation conducted would be distributed to Members of the Panel.*
- 3.5g Mr. Chavasse also advised that residents considered enforcement to have been sporadic, but recognised the pressure officers were under and that things had improved somewhat alongside the latest licensing system.
- 3.5h One of the main issues is where a number of different items of street furniture are placed on the pavement in the same location as that where various licenses are applied for. This can often occur on street corners which makes it additionally dangerous so that parents and those with mobility problems have major problems crossing the road.
- 3.5i To alleviate this issue Mr. Chavasse suggested that where there are fixed items in place licensing of additional obstructions should not be permitted. (Or the fixed items be first removed or modified). It had to be accepted that some shop / café / pub frontages - locations were not suitable for additional obstructions. However the issue of the Twittens presented some challenges as these businesses did not benefit from passing trade and therefore needed to advertise their existence in some manner.

## **9. PANEL AND WITNESS DISCUSSION**

- 4.1 Mr. Damario, a member of the public, presented the panel with a letter outlining the issues he has experienced over a number of years with regard to obstructions on the pavement near his house.
- 4.2 Mr Damario was advised by the Panel Chair that his letter would be used as part of the evidence base for the enquiry but that the Panel could not investigate individual complaints.
- 4.3 There followed a general debate relating to issues on which the Panel had heard evidence during which the following points were made:

- There is an urgent need for more bicycle racks to stop people chaining them to random items on the pavement. Serious consideration should be given to having racks in the road in place of parking spaces.
- Broken pavements also present a serious problem to successful travel in the city.
- There appears to be little evidence that A boards bring additional trade to businesses beyond that involved in an 'arms race' scenario.
- There needs to be greater coordination across the Council when items are being placed on pavements, or roads e.g. communal bins
- There is a need to work with business so they understand the impact of reduced access on pavements

4.4 The Chair of the Panel thanked all the witnesses for giving their time and expertise and for the constructive and positive nature of the session.

4.5 The Panel agreed that utility providers (BT) should be invited to a meeting and that a session should be held in the late afternoon/evening in Brighton.

## 10. ANY OTHER BUSINESS

The meeting concluded at 12.00pm

Signed

Chair

Dated this

day of

**APPENDIX 4c – PANEL MEETING NOTES 13/08/2009**

**BRIGHTON & HOVE CITY COUNCIL**

**OVERVIEW AND SCRUTINY COMMISSION AD-HOC PANEL - STREET ACCESS  
ISSUES**

**10.30am 13 AUGUST 2009**

**BANQUETING SUITE, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Rufus (Chair), Bennett, Hawkes, Pidgeon, Watkins

**Also in attendance:**

**Other Members present:**

**PART ONE**

**11. PROCEDURAL BUSINESS**

6.1 Declarations of Interest - There were none.

6.2 Declarations of Party Whip - There were none.

6.3 Exclusion of Press and Public

In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

**RESOLVED** – That the Press and Public be not excluded from the meeting.

6.4 Substitutions are not permitted on ad hoc scrutiny panels.

**12. MINUTES OF THE PREVIOUS MEETING**

These were agreed as an accurate record, no matters arising.

**13. CHAIR'S COMMUNICATIONS**

The Chairman welcomed everyone to the meeting and advised that whilst he would welcome challenging questions the tone of the meeting should be kept positive and informal.

## **14. EVIDENCE GATHERING**

### **Western and Church Road Traders Association**

Adam Campbell (AC) told members he owned a retail outlet on Western Road and that he was also the Chair of the Western and Church Road Traders Association.

AC informed members that in responding to the on-going public debate on the street access issue he contributed to an article in the Argus recently presenting the traders point of view on A boards and use of the pavement by local businesses.

AC advised the Panel that advertising costs were so high that small traders used A boards as the most cost effective means of increasing footfall.

AC told the Panel that he felt pedestrians were used to A-boards and that they were not as much an issue as some suggested.

In answer to a question on whether AC had any alternative ideas to advertising on A-boards, the Panel were informed permanent bus stop and lamp post adverts were considered to be expensive and that A-boards were removed at the end of each days trading, thus de-cluttering the streets at night.

Additionally advertising boards, including the cost of licensing, totalled £600. AC agreed that if alternative advertising were comparable in price then it would be feasible to consider it.

The Chair explained how at the previous meeting the Chief Officer of the Federation of Disabled People said that they were keen to work with traders on finding cost effective advertising alternatives and asked whether traders would be open to this? AC confirmed that the Traders Association would consider any cost effective alternatives.

In answer to a question on whether the private frontage of the shop was sufficient enough to advertise AC told the Panel the issue was also around Enforcement Officers approaching the trader even though their A-board is placed within their shop frontage.

Mr Campbell advised he felt the ability to advertise and place goods on the pavement in front of his premises had been a major factor in doubling the turnover of his business in a year. However he was unaware of any independent research which had sought to quantify the impact of A boards.

AC confirmed that traders would work with the council on any flexible, common sense ideas, various alternatives which would need to suit different traders and a pragmatic approach would need to be adopted.

AC informed the Panel that the licensing areas were inconsistent, as some areas were licensed and other areas were not.

### **Openreach**

Mike Luck (ML) and Adrian Tollitt (AT) advised that Openreach was part of British Telecommunications (BT) providing services such as installation, repair and maintenance of the actual network. Provision of network is a statutory requirement which requires on occasions BT to place items in locations that are not ideal.

Openreach's operations involved working with local council's on manholes, green boxes (cabinets) and poles. Openreach are also heavily involved with "Broadband Britain" which is providing services high speed internet connections for the whole of the UK.

In answer to question on whether Openreach are aware of access problems that can be created by the siting of their boxes and whether they would consider alternatives locations, the Panel were informed that the provider tends to work from the location of the existing boxes. However where it is shown there are problems they will look to resite boxes, often though options are limited due to the extensive clutter from specific underground cables which tends to reduce the locations that they can work from.

AT confirmed that safety was a key factor and they have in the past moved equipment. Openreach informed the Panel that if there was an opportunity to operate in less busy streets then they would do this, however in some circumstances they are limited with what they can do.

Additionally AT informed the Panel that Openreach already works well with Local Planning Authorities to prevent problems occurring. Members were encouraged by the obvious desire of Openreach to work with the Council to improve the location of utility items on the pavement where possible. It was suggested by Openreach that the Council should produce a list of 'hotspots' where the relocation of items would be advantageous. This would assist Openreach when they are planning work and allow them to consider relocating boxes etc.

### **Brighton and Hove Youth Council**

Rohan Lowe (RL) from the Youth Council introduced himself and informed members that he was partially sighted. He explained he had problems navigating certain areas of the City including the Lanes where there had been situations when he had bumped into street furniture. RL explained how he would sometimes plan different routes, using quieter streets to get to his destination.

Nu McAdan (NM), who has physical disabilities and is a wheelchair user introduced herself to the Panel. NM said how she personally did not find A-boards an issue as she was confident enough to ask people to move them out of the way. NM said that her wheelchair was equipped with big footrests which enabled her to move A-boards out of her way too. Compared to other issues she did not believe A boards were a priority.

In reference to tables and chairs on the pavement, outside of restaurants NM advised the Panel how she would go onto the road in certain situations where there was insufficient wheelchair access.

NM told the Panel how dropped kerbs helped her accessibility and how her experience of visiting Germany, especially Berlin, was a very positive where dropped kerbs appeared to be the norm; making everywhere very accessible to reach.

In answer to a question on gaining access into shops, NM told the Panel how she found the concrete ramps were the strongest, and the wooden ramps were not strong enough to take the weight of a heavy wheelchair, such as hers.

NM advised the Panel that wall and pavement “graffiti” type advertising maybe be a more suitable alternative to A-boards.

NM advised the Panel that cars parked across dropped kerbs caused access issues for her.

*Christina Liassides (Head of Network Management) advised the Panel that recent legislation has given Local Authority powers to enforce when cars are parked on dropped kerbs and report these to Parking Services.*

### **Rottingdean Parish Council**

Councillor Sally Prince from Rottingdean Parish Council advised the Panel that in Rottingdean the main problem regarding street access relates to parking. Increased parking enforcement would be welcomed.

The Parish Council support the traders in utilising A boards as an effective means of advertising. A-boards were within the site lines of pedestrians and were therefore visible and easy to detect.

The Panel heard how cars parked on the pavements caused more access issues.

In answer to a question on whether traders put A-boards out on narrow streets, the Panel were advised that alternative means of advertising were used on some occasions, such as banners.

The Panel agreed for the following Panel members to investigate the following areas and report their findings:

(These locations from picked from correspondence received)

Cllr. Brian Pidgeon

Hanover, Brighton

(Washington Street, Scotland Street, Jersey Street)

St. James’s Street, Brighton

Cllr. Pat Hawkes

Wakefield Road, Brighton

Lewes Road, Brighton

Cllr. Sven Rufus - Brighton

Western Road, Brighton

Little Preston Street, Brighton

Regency Square, Brighton

Cllr. David Watkins

Western Road/Church Road, Hove to Regency Square

Cllr. Jayne Bennett

Church Rd, Hove

George Street, Hove

Blatchington Road, Hove

Goldstone Villas, Hove

Sackville Road, Hove

Cllr. Pat Hawkes

Boundary Road, Portslade

The information is to be collated and sent to scrutiny for the 14 September.

It was agreed that the next public meeting will be held at 5-7pm on the 28 September and the venue is to be arranged.

## **15. PANEL & WITNESS DISCUSSIONS**

Witnesses at the next meeting were confirmed as:

- North Laine Traders Association
- Head of Culture and Economy, BHCC
- Regency Square Association

## **16. ANY OTHER BUSINESS**

The meeting concluded at Time Not Specified

Signed

Chair

Dated this

day of

**APPENDIX 4d – PANEL MEETING NOTES – 29/09/2009**

**BRIGHTON & HOVE CITY COUNCIL**

**OVERVIEW AND SCRUTINY COMMISSION AD-HOC PANEL - STREET ACCESS  
ISSUES**

**5.00pm 28 SEPTEMBER 2009**

**COMMITTEE ROOM 1, BRIGHTON TOWN HALL**

**MINUTES**

**Present:** Councillor Rufus (Chairman)

**Also in attendance:** Councillor Hawkes, Pidgeon and Watkins

**Other Members present:** Councillors

**PART ONE**

**17. PROCEDURAL BUSINESS**

**19a. Declaration of Substitutes**

19.1 Apologies were received from Councillor Jayne Bennett. Substitutions are not permitted on Ad-hoc Scrutiny Panels.

**19b. Declaration of Interests**

19.2 There were none.

**19c. Declaration of Party Whip**

19.3 There were none.

**19d. Exclusion of the Press and Public**

19.4 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

**12.5 RESOLVED-** That the press and public not be excluded from the meeting.

**18. MINUTES OF THE PREVIOUS MEETING**

13.1 These were agreed as an accurate record, no matters arising.

**19. CHAIR'S COMMUNICATIONS**

- 21.1 Concern was raised over the functioning of the hearing loop in the room. It was confirmed that everyone present could hear proceedings and as such the meeting would proceed. Officers would check the precise availability of hearing loops in the room for future reference.

## **20. FEEDBACK FROM SITE VISITS**

- 22.1 Since the last meeting a number of site visits had been undertaken.

### **Cllr Pat Hawkes:**

- 23.2 Lewes Road, Boundary Road.
- Generally a mixed picture
  - Where there are wide pavements there isn't an issue.
  - Lewes Road had sporadic problems with hotspots where traders had items on the pavement. This looks like an enforcement issue.
  - Boundary Rd was mixed, some businesses were clearly in the vibrant area didn't need to attract customers, others in the quieter end obviously needed to advertise.
  - Felt that in most cases there were opportunities to look at alternatives to A boards.
  - Where there is private land in-front of shops improving its visual appearance can have a positive impact on trade.

### **Cllr. Brian Pidgeon:**

- 15.3 Washington Street, Scotland Street, Jersey Street, St. James's Street
- Streets in Hanover had problems with parking
  - Also apparent that on refuse/recycling days there were access concerns due to the narrow pavements. However hard to see how this could be solved.
  - Also an issue with bikes chained to lamp-posts, usually creating a pinch-point with bins etc

### **Cllr. Sven Rufus:**

- 15.4 Western Road, Little Preston Street, Regency Square
- Had visited nearly all of the sites listed with the Head of Scrutiny
  - There are a number of 'known sites' on Western Road where traders are taking up significant space on what appears to be public highway
  - However having visited St. James St with the Senior Highway Enforcement Officer it is clear that often there is a considerable amount of private land in-front of business premises that can be mistaken for public highway.
  - Often A boards are located on private land over which the Council has limited powers.
  - Questioned whether frontage can be blocked off,

### **Cllr. David Watkins:**

- 15.5 Western Road/Church Road, Hove to Regency Square
- LARA members were thanked for undertaking a considerable amount of work in identifying problem areas
  - Residents have been monitoring the issue for a long time
  - Western Rd is one of the main routes through the city, not just a shopping street and problems there
  - This is a 24 hour problem with some hotspots relating to day traders and other to evening/nighttime pubs/clubs/restaurants
  - Whilst this is an important trading area, it is also densely populated and pavement access is required

- There is not currently enough enforcement occurring, this is largely due to resourcing issues
- The smoking ban has also added to the problem with large numbers of people gathering on the pavement
- The panel should consider instant fines for repeat offenders

**Cllr. Jayne Bennett:**

15.6 Church Rd, George Street, Blatchington Road, Goldstone Villas, Sackville Road.

- Cllr Bennett is supply notes of her visits to these areas.

15.7 **Ian Denyer, Senior Highway Enforcement Officer** clarified a number of issues that Members had raised regarding their visits:

- The Council has authority over land it maintains.
- There is a significant amount of land that looks like part of the pavement that is in fact privately owned.
- There is also a significant amount of land where ownership is disputed/unclear.
- Marking areas of the highway where items are licensed for has been considered previously but this can appear unsightly and requires alterations as businesses change. The highways team would back this approach but with reservations.
- Barriers surrounding tables and chairs do have benefits so long as the feet to the barrier are flat on the pavement and on limited obstruction.

**21. EVIDENCE GATHERING - PAULA MURRAY - HEAD OF CULTURE AND ECONOMY (BRIGHTON & HOVE CITY COUNCIL)**

16.1 **Paula Murray, Head of Culture and Economy** at the Council was unable to attend but had submitted a written statement which was read out on her behalf.

*“This issue divides opinion amongst traders, urban designers, policy officers etc*

*Similar to some of your earlier witnesses, we have been unable to locate any solid independent evidence on economic impact of A Boards on the success of businesses.*

*Most businesses, however, will assert that the use of A Boards does have a positive impact on their business and clearly in this difficult time of recession, we want to do all that we can to support our local businesses success.*

*You have some speakers on your agenda today who will be able to talk to this perhaps with some local evidence*

*In the case of small scale independent retailers, there is a case to be made for an A Board advertising what exactly the retailer has on offer – everyone recognises the brand of Boots for example and knows what is in there for sale – but the same cannot always be said for the smaller independent local unique retailers, and their role is crucial for the city’s economy and reputation and we do want customers to know they are there and support them.*

*I think there is also research that shows that restaurant offers (often advertised on A Boards) do play a major role in bringing people in off the street.*

*On the other hand, in terms of business success - there is also an argument to be made for a clear, clean streetscape and its attractiveness to customers as well as the accessibility issues which this panel is set up to investigate.*

*More space for pedestrians on our pavements is desirable and would encourage greater usage and footfall. Our Legibility Strategy: Public Space Public Life advocates some good principles of urban design particularly in terms of decluttering public spaces.*

*However – whilst clutter free is good, you are going to have instances where you absolutely need a bollard or bin or seating for less mobile/older people for example.*

*I think that what would be difficult would be to establish a “one size fits all” piece of guidance to street design. What people should perhaps do is judge each site on its merit. We have a draft new Street Design Guidance manual which advocates assessing the street and how it operates in each individual case.*

*An additional suggestion from colleagues in Environment as to what to do in places where you wanted to preserve ‘café culture’ – would be to work via licensing and request comments from an Access Officer for any licensing application and look at the impact on the street in addition and not just at the application in isolation.*

*I would suggest that the Panel might wish to invite someone from the Environment Directorate to talk to the draft Street Design Guidance manual which is in development and the Public Space: Public Life study if they have not done so already.*

*We will continue to look out for any independent research in this area for the panel as it concludes its enquiry.”*

## **22. EVIDENCE GATHERING - REGENCY SQUARE AREA SOCIETY**

### **Roger Hinton, Regency Square Area Society**

- 17.1 Mr Hinton presented the Panel with some examples of problems with commercial waste being stored on the highway; a number of the problems are long running.
- 17.2 He advised that there are two main issues relating to commercial bins; firstly it is unsightly in a conservation area and it also prevents access to various areas. The Society has had some success in having bins removed, the process is however very long and drawn-out.
- 17.3 He stated that the planning process should ensure that there is sufficient space within the building premises to store waste.

- 17.4 Members questioned Mr Hinton regarding how the Council respond to residents contacting them on these issues, whether he had been informed of Council policy on commercial bin placement and were these consistently applied.
- 17.5 Mr Hinton advised he had been sent the Council's policy regarding the placement of commercial bins and would be happy to share this with members.
- 17.6 It was confirmed that Cityclean has responsibility for the enforcement of commercial bin placement.
- 17.7 Members thanked Mr Hinton for his evidence. (See also additional sheet with photos). There was broad agreement that the City needs an all encompassing policy regarding the use and licensing of street space.

### **23. EVIDENCE GATHERING - NORTH LAINE TRADERS ASSOCIATION**

#### **Sharon Thomas, Donna Rix-Martin and Peter Stocker, North Laine Traders Association (NLTA)**

- 18.1 There was agreement from the Association that access is needed along pavements to promote trade. The Council's current policy of 1.3 metre clear space was supported.
- 18.2 In the North Laines the access problem arises around specific bottlenecks that need to be sorted out. Traders in the North Laines see the need for good access as this allows people to shop and will attract more people to the area.
- 18.3 The will to engage with other groups is there but times are tough and there is anecdotal evidence that having the daily special on a board does lead to increased trade as people order it.
- 18.4 Traders would be happy to look at alternative forms of advertising to A boards. TH to send round to NLTA.
- 18.5 It was pointed out that the North Laines has always had that 'market' feel with goods etc displayed outdoors. Café's have replaced grocers and butchers and the areas tourist appeal is based to a large extend on its 'café culture'.
- 18.6 There was agreement from the witnesses that outside tables and chairs were vital for their survival. It was recognised however that this needed to be managed to promote the area as a whole.
- 18.7 There should not be a one size fits all solution as different streets have very different problems.
- 18.8 It was suggested that the removal of A boards would have a disproportionately negative effect on small traders. When asked whether there was an arms race with regard to A boards if was felt that it would hard to get to a fair situation for traders as some enjoy private frontage and therefore could keep a boards. It was reiterated that traders would welcome a discussion on alternatives, however issues such as cost and practicality would be important.

18.8 NLTA were happy to work with other interested groups to explore these issues as ultimately people need to be able to access the area and their shops.

18.9 It was suggested that the NLTA had a role in educating its members on access issues.

18.10 The NLTA was thanked for providing evidence and engaging in such as positive manner.

#### **24. PANEL & WITNESS DISCUSSIONS**

19.1 There was no further discussions.

#### **25. ANY OTHER BUSINESS**

20. There was no other business.

The meeting concluded at 7.00pm

Signed

Chair

Dated this

day of

## **APPENDIX 4e – PRIVATE PANEL MEETING NOTES – 29/10/2009**

Present: Cllr Rufus (Chair), Cllr Bennett, Cllr Hawks, Cllr Pidgeon, Cllr Watkins, Tom Hook

### **1) Minutes**

Minutes of the previous meetings were re-distributed.

### **2) Local authority comparisons**

Comparative info on other local authorities was presented. This highlighted that there are a number of different approaches being taken nationwide but that a boards have become an issue in many towns and cities.

Further work will be undertaken looking at the approach taken in Westminster.

### **3) Emerging themes**

General discussion on all of the evidence heard to date identified the following points to be taken forward and developed into recommendations:

#### **Main Issues**

- Traders Items – A boards/Tables and Chairs
- Bikes locked to inappropriate items on the pavement – typically lampposts/railings on narrow pavements
- Bins (communal, commercial)
- Parking
- Movable items are the biggest problem for blind/partially sighted – fixed items can aid the navigation of blind people
- Often a combination of objections in a location create a problem

#### **General**

- General reduction in street clutter needed/presumption of free access
- Need for dialogue between different interests – role for Council/traders groups/charities
- Coordination between different parts of the Council re location of items
- Agreement on size of gap required for free passage – 1.3 metres as per licensing policy
- Needs to be a single point contact for all these issues
- Are hotspots across the city, rather than problems everywhere

#### **A Boards**

- Is there evidence that A boards increase trade? – No evidence has been presented to the panel showing that A boards increase trade.
- Is the proliferation of A boards due to an ‘arms race’ situation? – Hard to judge and hard to reverse.
- Are there different categories of retailers:
  - Do larger retailers need A boards – everyone knows what they sell?
  - Do restaurants need A boards to advertise specials?
  - Possibility of requiring a business case for an A board should be explored

- Should businesses with private land be allowed to place items on the highway? General agreement that private cartilage should negate the need to place items on the public highway
- Size and material of a boards needs to be addressed
- Should the position of A boards be marked on the highway? Generally support this, discuss options with officers
- Alternatives types of advertising – distribute and talk to traders re costs etc

### **Tables and Chairs/Displays of Goods**

- Is there more of a rationale for the positioning of tables and chairs on the pavement than for A boards? Should be a holistic approach to all items, although value added by extra capacity is self-evident
- Part of the City's café culture
- Need for partitions? – Examples of good & bad practice
- Marking on pavements?
- Items should be removed overnight

### **Bikes**

- Specific issue of bikes being attached to inappropriate items e.g. lampposts
- Demand for bike storage out-strips the supply of stands
- Solutions:
  - Increase the number of bike stands available
  - One former car parking space can typically accommodate eight parked bikes if stands are installed
  - Removal of bikes – set procedures – can this be speeded up?

### **Bins**

#### Communal bins

- Should not be placed on street corners, pavements – etc
- Shouldn't be on pavements
- Issue of lines of sight and dangers posed

#### Commercial bins

- Planning permissions for change of use need to include storage of waste
- Enforcement of access issues should be under the jurisdiction of one team. Or at least coordinated across teams
- Size and shape of bins is an issue on narrow pavements
- Confirm council policy and how this is implemented, possibility of review?

### **Parking**

- Parking on the pavement
- Issue in specific areas
- Role out of residents parking zones
- Obtain info on council policy and enforcement rules

### **Utility providers**

- Welcome the willingness of Openreach to work with the Council on the siting of utility boxes.
- That the Council produces a list of 'hotspots' where the re-siting of a box would be beneficial.
- Extend this to other utility providers that locate items on the pavement.
- Look at cash-machines location.

### **Council items**

- Street signs/other signage
- General reduction in council clutter
- Not much evidence that this is a problem, but should be considered as part of wider changes

### **Enforcement**

- Resources?
- Link to other types of enforcement – single enforcement regime
- On the spot fines/confiscation
- More assertive
- More holistic approach – total place of the street scene
- Need for byelaws

A decision on further public meetings will be taken once further information as outlined above has been obtained.

It was agreed to complete the review in January.

**LICENSING COMMITTEE**  
**(Non Licensing Act 2003 Functions)**

**Agenda Item 32**

Brighton & Hove City Council

**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 C THEOBALD**

- 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.

## **APPENDIX 6 – SELECTION OF WRITTEN EVIDENCE**

### **RNIB**

#### **'Street access issues' A response from the Royal National Institute of Blind People to the Overview and Scrutiny Commission's enquiry.**

The RNIB warmly welcomes the opportunity to submit evidence to this enquiry. We have been working closely with a blind resident and also with a number of groups who represent residents and disabled people. As a result of this work and a number of visits to Brighton we would wish to make the following observations:

Advertising boards (henceforth known as A boards) cause blind and partially sighted and other disabled people considerable difficulty in being able to access the streets of Brighton and Hove. We are very concerned the decision taken by the Licensing Committee on 24th April has legitimised the reduction in the mobility and independence of blind and partially sighted people.

We believe that a complete ban on A boards is the solution which will work best for our client group and traders. It is important to note here that Churchill Square (privately owned shopping development) has a total ban on A boards. We believe the Council's concerns that removing A boards will harm trade are best addressed by working with groups such as the Brighton Federation of Disabled People and ourselves to seek advertising alternatives.

We were very disappointed that the Licensing Committee took the decision to go with a gap of 1.3m as the Government's guidance (Inclusive Mobility) recommends that this should be a minimum of 1.5m and whenever feasible 2m. Inclusive Mobility also asserts that '.....whenever possible obstructions...should be kept to a minimum and should not encroach on the clear space....needed to provide safe passage for pedestrians..'. It can hardly be claimed that a doubling of A boards between 2001 and 2008 is keeping obstructions to 'a minimum'.

We would also wish to see a much more robust approach taken to enforcement of Council policy. It was disappointing to note that during the evidence session on 24th April the Council's enforcement Officer admitted that only between 7-10 boards were in 'custody'.

## **BRIGHTON AND HOVE FEDERATION OF DISABLED PEOPLE**

The Brighton and Hove Federation of Disabled People (FED) is pleased to have the opportunity to respond to the Overview and Scrutiny Committee. The FED also welcomes the changes that have been made regarding the reduction to one “A” board per premises. However we still feel the changes have not gone far enough to enable disabled people to more safely negotiate the streets of the city.

### **1. Proposed width of 1.3 m**

- a) We have tested out the proposed width of 1.3m and found it be too narrow for people to pass safely. When approached by a disabled person in a powered wheelchair or a mobility scooter, pedestrians or people pushing buggies would be forced into the road, therefore putting them at unnecessary risk.
- b) If the wheelchair user is kerbside because of the narrowness of the proposed width there is significant danger of the wheelchair user being tipped sideways off the kerb into the road.
- c) People move chairs as they sit down, which again forces wheelchair users dangerously near the edge of the kerb. Tables and chairs should be put kerbside so that wheelchairs are not being forced to the very edge of the kerb.
- d) Tables and chairs are consistently placed in the street so that disabled and visually impaired people are not confronted by a chicane.

### **2) Proposed turning space 1.6 m**

- a) The proposal acknowledges that this will only be helpful for people in manual wheelchairs and visually impaired people. Again we have tested this out and people in powered chairs would find it difficult to turn around and those on mobility scooters would find it impossible. This denies access for disabled people using powered mobility equipment and in fact makes parts of the city “no go” areas for them.

### **3) “A” Boards**

- a) “A” boards are a significant danger and inconvenience to disabled, blind and partially sighted people.
- b) To enable blind and partially sighted people to walk safely around the city it is important that hazards such as “A” boards remain in a fixed position. The current haphazard placing of boards increases the danger and everyday unnecessary street obstacles pose a significant risk to residents in the city.

### **Recommendations**

- **That a width of not less than 2m be enforced in the city which is a significant and safer width for disabled people and pedestrians.**
- **That the city is zoned and that all boards are banned in areas where the streets are too narrow.**

- **Where an “A” board or street furniture has been licensed, the placement of the board or furniture is stipulated and marked out on the pavement.**
- **That the council works with local businesses and the planning department to look for more creative ways for businesses to advertise such as banners, hanging signs etc.**
- **That other council departments apply these rules when considering the placing of sign posts, parking meters, seating, bins etc.**
- **That any new regulations are vigorously enforced.**

### **Conclusion**

Disabled people would like to have the same opportunity as non disabled people to enjoy and access goods and services, and we would contend that the present licensing system makes this difficult, and in some instances impossible, and makes the city a no-go area for some disabled people.

What ever the outcome of the overview and scrutiny committee the FED would be interested in continuous dialogue with the Highways Department to improve the current situation.

## **IMPETUS & INTERACT**

When we have talked about street access problems a number of issues come upon a regular basis, these include, in no particular order:

1. Problems with 'A' Boards blocking the pavement making it difficult for those with mobility problems to safely walk about.
2. Chairs and tables from cafés and pubs spread across the pavement causing people to have to walk in the road.
3. Broken and uneven pavements.
4. Slippery pavements, particularly when there are leaves around.

There are a number of areas which cause particular concern for some of our members in relation to safe access they are;

St. James's Street and George St. off of it.

All around the North Laines area, particularly Trafalgar St. Sydney St. and Kensington Gardens

New Road, concern has been expressed by people with visual impairments about the lack of clear separation from the area the cars can use and where only pedestrians can go.

George St. Hove particularly during the period when cars have access. The trees in this area also present some problems with branches at head height on some of them. Branches from overgrown bushes and trees on some of the estates are also a problem.

## **BRIGHTON & HOVE OLDER PEOPLE'S COUNCIL**

The Older People's Council recognises that modern Brighton and Hove has inherited a network of many narrow roads and pavements. This requires a willingness to compromise when reconciling the overlapping interests of pedestrians, traders, road users, and safety requirements. Nevertheless we feel that the starting point regarding pavements must be priority for safe and unhindered pedestrian use of these spaces

We recognise the importance of local businesses for both the traders and their customers. Much of the City's success derives from its thriving businesses, and we do not wish to damage their prospects in any way, especially in challenging economic times. Nevertheless we feel that it should not become the norm that pedestrians are routinely disadvantaged by pavement obstructions. They should not have to negotiate large numbers of smokers and pavement café customers, still less should those with need for special consideration (such as the elderly, the infirm and the disabled) be inconvenienced by advertising boards, shop goods, or excessive pavement furniture. Everyone can benefit by respecting a shared obligation to retain accessible and safe pavements; furthermore shops, cafes, restaurants and pubs will thrive better if safe and easy customer access to their premises is not compromised by obstructions

In addition to the problems raised by obstructions such as shop deliveries, building repair scaffolding, signposts and bicycle racks, a particular challenge for older people and for those with mobility problems or visual impairments is the risk created by pavement cycling, and by unsupervised young children using scooters and skateboards on pavements, particularly near schools

We welcome the Council's recent new licence conditions for more open streets which provide a minimum width of footway of 1.3 m, and 2.0 m turning circles. However, while this appears sufficient for standard wheelchairs, it is barely adequate for normal two-way pedestrian traffic, to say nothing of the particular needs of other pavement-users, such as people with guide dogs, the disabled, parents with children and shopping, older people with walking aids or carers. We respectfully suggest that a minimum width of 1.5 m is a more realistic target figure

Further, we have no objection to licensed advertising boards being placed on shop-front space which is immediately adjacent to a business property and which belongs to that business, but we see no grounds whatever for allowing remote boards of any size to be placed anywhere on the remaining general pavement space

In conclusion, the Older People's Council supports every effort made to improve access and safety for all highway users, and asks for the points we have raised to be given full consideration. We already consult regularly with Councillors about road safety and related matters, and welcome the opportunity to continue these discussions with the City Council through the current Scrutiny Panel

## **BRIGHTON AND HOVE LOW VISION COMMITTEE**

I am writing as the representative of the Brighton and Hove Low Vision Committee with regard to Brighton and Hove Council's 1.3 m 'A' board policy. Whilst we welcome the reduction to one 'A' board per premises, we wholeheartedly support the Federation of Disabled People's campaign, backed by the RNIB for a further ruling of 2m clearance for A boards as well as new rules regarding licensing and stipulated areas.

I am the Action for Blind Eye Clinic Liaison Officer at the Sussex Eye Hospital, and our Low Vision Committee is a panel of professionals and Service Users who have an interest in the field of visual impairment. The subject of outdoor safety for people with sight loss is of utmost importance to us. As I am sure you can imagine, losing one's sight is enough of a challenge emotionally and financially, without the added stress of being unable to travel safely with relative ease in public areas.

People with sight loss commonly lose their confidence with daily activities, and going out independently can become hugely intimidating. I hear stories on a regular basis from my Eye hospital patients who are becoming increasingly housebound through fear of falls and other accidents as a result of unpredictable street furniture, crowded areas, uneven pavings, road crossings, shared spaces, cyclists on pavements etc. Trying to constantly memorise such obstacles and trip hazards can be exhausting, frustrating and frightening. Random 'A' boards which are in different places on a day to day basis therefore cause a significant amount of stress to hundreds of local people with a visual impairment and other disabilities.

Stricter 'A' board and other street furniture measures would mean people with such disabilities could mobilise more confidently and independently around the city in a safer and more convenient way. The long term knock on effect of this is obviously cost effective to society at large in terms of people's improved physical health and emotional wellbeing, staying socially active and retaining their quality of life.

We would therefore ask that the Council agree to the further measures suggested by the Federation of Disabled People and the RNIB, and continue to encourage businesses to consider such issues more in future. Many thanks indeed.

## **WESTERN & CHURCH RD TRADERS ASSOCIATION**

As chair of the Western & Church Rd Traders Association I have had numerous meetings with other retailers and members of the public and can see both sides of the argument. However, as Hove retailer, I know the value that 'A' boards have for my business. As a call to action for potential customers and inexpensive year round advertising they have few equals. To remove them from the Brighton and Hove landscape would damage many retailers to the point of bankruptcy. Something that I am sure Brighton & Hove City Council would want to avoid.

There are a number of other issues surrounding 'A' boards which I would like to bring to the attention of the committee.

1. The Council's refusal to licence remote 'A' boards to the detriment of small traders off main roads.
2. The fact that certain areas are licensed and others not which in essence puts some traders at a financial disadvantage and amounts to discrimination.
3. Uncertainty over surrendered forecourts and the rights of retailers over them.

## **UNIQUE TO BRIGHTON**

Why A boards are vital to small businesses in Brighton and Hove.

As a young mum in Brighton I regularly used a pushchair and now, later in life, several of my family members have serious mobility problems so I am keenly aware that safe pavements are an essential public amenity.

However, from my recent work with the Unique to Brighton Directory I have come to believe that A boards are absolutely indispensable to small businesses in Brighton and Hove and so I am writing to ask that the Scrutiny Panel take the following points into consideration in their forthcoming review.

Businesses owners I have spoken to say that these boards are vital in attracting passing trade and that they are their most worthwhile investment. This is especially important if the business is very small, on a side street, hidden behind roads works, near closed-down shops or on the second floor. These are all common scenarios in this city.



They clearly signal that the business is open and what's available- for example as in the case of daily changes at a florists or on the menus of the city's cafes and restaurants. For many businesses they are the only advertising they can afford and they have been bought under the assumption that they will be useful.

Many are used by the Argus and also signal that a nearby convenience store is open. Some perform a civic role such as the no-cycling board outside the Museum. Others are really artistic and creative, adding to the sense of being in a distinct and vibrant place. Are they really a problem?

Another aspect of this issue is to very carefully consider what might occur if a decision against them were made. If you are moving these items from the pavements then what are the exact criteria? Would it be the same for bicycles, household bins, all street signs and all other pavement furniture?



I believe that a directive from the city council to remove A boards would a nail in the coffin for many of our small businesses. These businesses are an essential part of our unique economy as well as our tourist scene and we should be doing everything in our power to support what they do.

## REGENCY SQUARE AREA SOCIETY

- 1 Regency Square and the streets around it contain business and residential properties. The businesses are mainly hotels, restaurants, bars and shops. More and more businesses are storing their trade waste bins on the public footways. This is unsightly and it can block the footway, forcing passers-by into the street.
- 2 Here are some examples to illustrate the problem:
  - 2.1 When the premises on the corner of Regency Square and Preston Street were converted from a restaurant to a bar, trade waste bins appeared on the pavement (photo 1). The Regency Square Area Society (RSAS) asked Cityclean to take action. It took over two years to get the bins moved. The problem arose because the plans for the bar did not provide for an on-site waste store. These plans were approved by the planning authority, contrary to its own guidelines.
  - 2.2 The footway linking disabled parking bays in Clarence Square with the Churchill Square shopping centre is often blocked by trade waste bins belonging to businesses in Western Road (photo 2). These businesses have off street yards where bins can be kept but often they are left on the footway. Cityclean enforcement officers have been assured that this will not happen, but it does.
  - 2.3 The restaurant on the corner of Kings Road and Queensbury Mews has a large forecourt where a trade waste bin is stored. However, this forecourt is also used for outside seating so the bin is often moved to the narrow footway nearby (photo 4). After numerous requests, including a letter to the Director for Environment, an enforcement officer discussed the problem with the proprietor. It still regularly blocks the footway.
  - 2.4 New problems arise all the time. One of the more recent is on the corner of Preston Street and Stone street (photo 4). Time for another email to Cityclean!
- 3 The storage of trade waste is a cost to businesses; it takes up space and requires time to move when a collection is due. Those businesses which put their bins on the public footway are effectively transferring that cost to the public. Council enforcement officers allow this where it doesn't cause obstruction. Where it does, they attempt to negotiate a solution, but often only after repeated complaints.
- 5 Trade waste bins should not be stored in the street. Enforcement officers should act more quickly and effectively when they are. Businesses that fail to comply with enforcement officers' requests should be fined.



Photo 1: corner of Regency Square and Preston Street October 2006  
(now moved)



Photo 2: between Churchill Square and Clarence Square September 2009



Photo 3: southern end of Queensbury Mews October 2006 (still a problem)



Photo 4: corner of Stone Street and Preston Street  
September 2009

# Brighton traders fear street furniture ban

By Sam Thomson, Business Editor »

New rules over A-boards and street furniture could put small traders out of business. After lobbying from disabled groups, [Brighton and Hove City Council](#) has agreed to ban any item which reduces a pavement to less than 1.3 metres (4.2ft) wide. Traders will also be limited to one A-board, except in exceptional circumstances, under the licensing regulations which have now come into force.

The council admits that this could lead to 20% of all street furniture being removed from outside city shops and businesses. This includes tables and chairs outside cafés and restaurants, leading many business owners to fear lost trade could force them to close.

According to the council, the main areas affected would be Sydney Street, Gloucester Road and Gardner Street in the North Laine, George Street in Kemp Town and East Street in The Lanes. In these areas, most of the existing licences for A-boards and other furniture would be refused under the new rules.

Simon Jones, owner of English's seafood restaurant, in East Street, said: "Most catering operations in the centre of the city rely considerably on their outside tables and chairs in the summer." Although he could just about stay afloat with no tables outside, Mr Jones said he would have to cut staff to survive. He added: "It would make life very, very difficult for us. We would certainly have less employment."

Jim McFruin, manager of the Victory Pub, in Duke Street, puts out seating on the Middle Street side of the pub. He said: "It would be pretty devastating for us if we had to remove them. If it's sunny or even partially sunny then the seats are full all day. "The council has always told us there needs to be space on the pavement so we are very careful about making sure our customers don't move seats or block pedestrians in other ways."

Sharon Thomas is chairwoman of the North Laine Traders Association and owner of the Offbeat café in Sydney Street. She said the new rules could have a "massive" impact on her business, adding: "Although I only have two tables, they contribute a lot to my turnover and can make all the difference on a slow day.

"I have already voluntarily removed a third table because traders here want people to be able to get by easily with a wheelchair or buggy. But there has to be a balance."

Keith Kemp, owner of Canteen, formerly Pokeno Pies, in Gardner Street, said: "It would clearly have a very strong impact as the ability to put out tables and chairs adds great value. "Even when the weather isn't great, they help mark out our shop as a café, which I think is important. Things are difficult at the moment and this could be the proverbial straw that broke the camel's back."

Soozie Campbell, Brighton city centre manager, said: "A-boards serve a useful purpose from the point of view of both the trader and customer. But I can appreciate that if you are blind or partially sighted they can be a challenge so if we can work out some kind of compromise which looks after everyone it would be welcomed."

Ms Campbell warned against the council taking the measures “to the extreme”, however. She added: “One of the things that makes the city special is its alfresco dining. People love it. They eat outside all year round.”

Councillor Carol Theobald, chairwoman of the council’s licensing committee which voted through the new rules on Friday, believes they offer the best balance between the needs of traders and pedestrians.

She said: “We have tried to keep down the minimum distance. The RNIB wanted two metres, which would have virtually wiped out all the A-boards and seating in the city. We understand the concerns of pedestrians and we also have a duty to support our local businesses during difficult economic times.”

Richard Holmes, of the RNIB, said the charity was “extremely disappointed.” He said: “RNIB would like to see A-boards removed from the streets of Brighton and Hove as is the case in a neighbouring authority. We believe the independence, safety and ability of blind and partially sighted people along with other disabled people are hindered greatly by the amount of clutter on the pavements.”

Councillor Theobald said the issue was so controversial it had been referred to the council’s scrutiny committee, which would fully investigate and may ask for changes in the future.

## **APPENDIX 7 – TRADERS’ ITEMS PLACED UPON THE PUBLIC HIGHWAY LICENSING POLICY**

1. That no licensed traders’ items should be permitted to reduce the width of a footway to less than 1.3 meters except where:
  - a) A formal pedestrian zone has been established in a road by Traffic Order and the whole of the carriageway is kept clear for pedestrian use;
  - b) A road is closed to vehicular traffic by virtue of a temporary Traffic Order and the whole of the carriageway is kept clear for pedestrian use;
  - c) A road is considered to be shared space and the whole carriageway is generally available for pedestrian use.
2. That where a footway is reduced to a width of 1.3 meters (or less) by objects (whether these objects be traders’ items of fixed street furniture such as lamp posts, bins etc.) ‘turning areas’ for manual wheelchair users and guide dogs must be established at regular intervals. These turning areas shall not be less than two meters in length and shall be the full width of the footway. Such areas must be maintained at intervals of no more than six meters along the length of any restricted footway.
3. That, except in the case of items within large, waiter-serviced sitting-out areas, no traders’ item shall be permitted to be placed more than 5 meters from the licensed premises. All objects must be within sight from a window or door of said premises or in clear visual range of CCTV camera(s) monitored from within the licensed premises. This provision will mainly affect advertising boards.
4. That where an application is refused by Officers, an applicant may appeal to the Licensing Sub-Committee (the Licensing Panel).
5. That applications for A-Boards shall be restricted to 1 per premises (excluding those situated on private land), but that:
  - a) Special consideration will be given to those premises situated in twittens and alleyways regarding this policy.

## APPENDIX 8 – COMMUNAL CONTAINER SITING GUIDELINES

In assessing locations for the intended expansion of the Communal Containers scheme, the results of the 2004 trial were fed into siting criteria for future placements. From the evaluation survey, users told Cityclean that:

- Most people found the visual impact of the communal containers acceptable, with an even greater number saying that the benefits of the containers outweighed any issues of appearance.
- Concern over loss of parking spaces was pretty evenly distributed.

Taking these factors into account, and our experience of managing the service the planned expansion took incorporated these and the following factors into consideration. Each location *was assessed on an individual basis* with the existing collection vehicle visiting every site to ensure that, in principle, a container could safely be collected. The number of containers sited is intended to provide adequate refuse capacity. As containers are allocated on an area basis, any given container may serve its immediate vicinity rather than just the street in which it is located.

- **Containers need to be sited in safe locations.** Containers need to be safe for members of the public to use and also not present a hazard to either road users or collection vehicles. All locations are appraised by Brighton & Hove City Council's Highways department to ensure that from a road safety aspect, all containers do not present a road safety risk.
- **Containers need to be operationally accessible.** As the collection vehicle can only left containers from its left hand side, locations need to be found that Cityclean can easily collect from on a daily basis to ensure that the service is reliable & efficient. As part of this requirement, the need for the vehicle to reverse should be minimised.
- **Containers should, where possible, limit the loss of parking spaces.** Where there are particular pressures on available parking spaces, containers are sited on yellow lines (with agreement from Highways) to limit the loss of spaces.
- **Containers, where possible, should not be sited directly outside of residents / businesses front doors or windows.** In order to reduce the visual impact, containers are not sited where they will be in the direct sight line of properties. In order to achieve this, locations at the ends of streets are favoured where there are more blank walls and less front entrances & windows.
- **Containers, where possible, are sited not to detract from views, vistas, important architecture etc.** Locations should try and limit the impact on the skyline or with set pieces of architecture.
- **Container locations should be convenient for residents.** Locations are chosen that aim to capture the daily walking patterns of residents to facilitate their depositing of refuse. Where walking distances become excessive, additional containers above the necessary capacity level are sited to reduce

this. Locations should also be found to limit the requirement of residents to cross a road although this is not always possible.

- **Containers may be sited on pavements.** Where it is not operationally possible to site containers directly on the highway, they may be sited on pavements providing they do not reduce the available pavement width to below the legal requirement. After seeking advice from Brighton & Hove's Walking & Cycling Officer at the start of this process back in 2004, the distances used was a recommended minimum width (after the placement of a container) of no less than 1.2m and an absolute minimum width of no less than 1.0m
- **Containers should not be sited over utility covers.** Inspection chambers and other street furniture should remain clear.

### **Equalities Implications:**

A rapid impact assessment was carried out which identified a number of groups who may be affected by the communal bin scheme. The assessment identified that negative impacts of the scheme have been mitigated through reasonable adjustments, either through Cityclean assisted collections or other council services that work with the group being identified as summarised below

- The Federation for Disabled People feel assisted collections are a reasonable adjustment.
- Asylum seekers who may not speak English as their first language are housed in B&B's where there will be someone present to assist in dealing with waste
- Partially sighted/blind residents – The mobility officer feels the 1 meter minimum space on pavement between bin and walking space is a reasonable adjustment
- Temporary housing – Due to the turnover of residents in temporary housing they will need to be informed of refuse collection arrangements. The changes will be communicated to the Temporary Housing Manager to be advertised in each building
- In line with our policy on assisted collections these will be provided where residents suffering from mental health issues are unable to use the communal bin service, as recommended by Mental Health Services.

## APPENDIX 9 – COMMERCIAL WASTE – COUNCIL POLICY

### 1. Areas to which this policy applies:

This policy applies to any container for commercial waste that is placed on a permanent basis on the public highway. It therefore excludes:

- Containers for domestic waste
- Containers for commercial waste that are only placed on the highway for collection, and are removed after collection
- Containers for commercial waste that are on private land, such as private forecourts, and other land that is not classified as public highway.

### 2. Main principle of the policy:

The council will, wherever possible, avoid commercial waste bins being placed on the highway permanently. These measures include:

- Planning conditions for new commercial premises or changes of use that require adequate waste storage arrangements within the curtilage of the building.
- Advice to food premises by Environmental Health to re-enforce that permanent containers on the highway are not an adequate means of storage.
- Where the council is aware that unauthorised items, including bins, are placed on the public highway, enforcement action is taken to ensure their removal.
- Planning to take enforcement action under planning regulations where a breach of the waste storage arrangements is evident.
- City Enforcement team to work with businesses on alternative methods wherever possible.

### 3. Existing containerisation of waste in bins:

Although the principle of this policy is to prevent the permanent placing of containers on the street, some exceptions will remain. These exceptions are for the following:

- Premises where there is no alternative due to the design and historic use of the premises. This is particularly pertinent in food premises where internal storage of waste may give rise to a health hazard.
- Containing food waste in bins can be preferable to leaving bags on the street which are then subject to attacks by seagulls and vermin with the resultant mess spread over the streets.
- Officers should still endeavour, wherever possible, to find alternatives to containerisation as a permanent fixture on the public highway, and should only tolerate such historic use where no such alternative can be found.

Sept 13, 2004P: City Enforcement Policy on Containers for Commercial Waste - Public Highways.doc

## APPENDIX 10 – ALTERNATIVE TYPES OF ADVERTISING

### Cleaning Advertising



Jorvik Viking Centre Clean Advertising Campaign

### Advertising on Bins



Six Sheets – 6 adverts that move round



<b>APPENDIX 11 COMPARATIVE INFORMATION FROM OTHER LOCAL AUTHORITIES</b>	
<b>Criteria</b>	<b>Specific</b>
<b>Durham County Council</b>	
Footways in main shopping areas and busy urban areas	1.0 metre of paved footway adjacent to the trading premises with a minimum of obstruction free footway width of 2.3metres. Where the obstruction free footway width is 2.3metres or less no Display of goods area shall be allowed.
Footways in all Other Areas	Display of Goods area to occupy a maximum width of 1.0 metre of paved footway immediately adjacent to the trading premises, with a minimum obstruction free footway width of 1.8 metres. Where the obstruction free footway width is 1.8 metres or less no Display of Goods area shall be allowed.
Paved Areas with Restricted Vehicular Access	Display of Goods area to occupy a maximum width of 1.0 metre of paved area immediately adjacent to the trading premises, providing that the minimum total width of paved area adjacent to the trading premises is not less than 8.0 metres. Where the total minimum width of paved area adjacent to the trading premises is less than 8.0 metres no Display of Goods area shall be allowed.
Paved Areas with Restricted Vehicular Access and Regulated Markets	1. Display of Goods area to occupy a maximum width of 1.0 metre of paved area immediately adjacent to the trading premises, with a minimum obstruction free paved area width of 4.0 metres to the front of any market stall which may be present. Where a minimum obstruction free paved area width of 4.0 metres cannot be achieved no Display of Goods area shall be allowed.
	2. The displayed goods and any supporting structure shall occupy only that part of the footway or paved area stipulated above and shall be so positioned to cause the minimum restriction to pedestrian movement along the footway or paved area.
	3. Display of goods are to be structurally stable, however, neither the goods being displayed or any supporting structure shall be attached or tied to any bollard or other item of street furniture.
	4. The overall position of any Display of Goods must not be changed on a day-to-day basis, as a constantly changing street scene is unhelpful to older persons and people with physical impairments. It is recommended that the minimum height above the footway, or paved area of any display be 1000 millimetres in order to assist people who suffer from impaired vision.
	5. Every effort must be made to ensure that displays of goods together with any supporting structure shall be of such construction and materials that they are not likely to cause injury to any member of the public who may come into contact with them e.g.. they have rounded edges and no protruding supporting members above or below the base of the display.

'A' Boards	'A' Boards shall not be permitted where the obstruction free footway width is less than that outlined in the above guidelines for Display of Goods or where the positioning or condition of the 'A' Board is considered by the County Council to be causing a hazard to the highway user. Where in contravention of this an 'A' board is placed upon the highway and following a request for it to be removed, it is not removed forthwith, it shall be removed by the County Council or their Agents, and may be recovered by the owner at their own expense. Where the 'A' board is not collected within 21 days the County Council will dispose of it.
<b>London Borough of Richmond</b>	
'A' Boards	<ol style="list-style-type: none"> <li data-bbox="555 440 1975 512">1. No signs, boards, displays, etc. will be permitted on sites where there are private forecourts that could be used to accommodate them.</li> <li data-bbox="555 512 1975 616">2. An unobstructed footway width of 2 metres is essential in all town centres and high streets and desirable in other locations. Where this is not practicable in other locations a minimum width of 1.5 metres must be maintained. The Council reserve the right to consider each on its merits and may vary these dimensions if appropriate.</li> <li data-bbox="555 616 1975 687">3. In areas of high volume pedestrian flows (e.g. near schools or in certain pedestrianised areas) the placing of signs, boards, displays etc. will not be allowed.</li> <li data-bbox="555 687 1975 759">4. Signs, boards, displays etc. must be such that they can easily be detected by the visually impaired and easily negotiated by those with mobility difficulties.</li> <li data-bbox="555 759 1975 858">5. Where at all practicable, the sign, board, display etc. should be sited directly adjacent to the shop frontage (i.e. within 600mm from the shop front) and be sited wholly within this area. Alternatively, it may be sited in line with existing street furniture outside shop frontages depending upon the location.</li> </ol>
	6. Rotating or swinging signs, boards, displays etc. will not be permitted.
	7. Any sign, board, display etc. should be no wider than 600mm and no higher than 900mm above ground level (including any support)
	8. Only one sign, board, display etc. will be permitted per premise.
	9. Where multiple occupancy premises share joint accesses, only one sign, board or display etc. will be allowed per shop frontage.
	10. The Council may require the immediate removal of any sign, board, display etc. if requested by a Police Officer/Police Community Support Officer or with other reasonable cause including the need for access to maintain the highway.
<b>The Royal Borough of Windsor and Maidenhead</b>	
'A' Boards and Display of Goods on the Highway	'A' Boards and Goods not displayed on privately owned land must be licensed by the Royal Borough as the Highway Authority.

	<p>Following the receipt of an application, a range of other Council Departments and organisations are consulted to ensure that the proposal is acceptable to them. A public notice will also be displayed close to the site of the proposed 'A' Board or Display of Goods so that local people can comment if they wish. The results from the consultation exercise will be considered when determining the Licence. As part of the process, applicants should submit evidence that they have public liability insurance of £5 million - an important requirement of the licence application.</p> <p>People walking past 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 displayed. This is to ensure that pedestrians, particularly the visually impaired, are not obstructed.</p> <p>In a very busy street it may be necessary to leave more than 2 metres of footway space for pedestrians. The manner in which the 'A' Board or display of Goods are set out should not prevent or discourage people from using the footway - the route available to them must be straightforward, obvious and unobstructed.</p> <p>The 'A' Board or display of Goods should be located immediately outside the front of the applicant's building so that staff and customers do not have to cross the normal flow of pedestrians.</p> <p>In pedestrian areas these principles will generally apply, although the special nature of these areas means that applications will be considered on an individual basis.</p> <p>A route for emergency vehicles (minimum 3.5 metres) is required.</p>
<b>Nottinghamshire County Council</b>	
Advertising Boards and Display of Goods	<p>All signs, boards, displays must be temporary in their nature, so that they can be easily removed</p> <p>Must not be located within 2 metre, of any other permanent or temporary sign, pillar post, items of street furniture, other display or the edge of the carriageway.</p> <p>An unobstructed footway is desirable, but where this is not practicable a minimum width of 1.2 metres should be maintained. In pedestrian areas a minimum width is increased to 3.5 metres.</p> <p>Must take into account the other reasonable needs of the area e.g. bus stops, pedestrian crossing etc. in relation to their positioning.</p> <p>In areas of high volume pedestrian flow e.g. near schools or in certain pedestrian areas, the placing of advertising boards and display of goods may not be allowed. The decision will be made by the local Highway Manager.</p>
<b>Nottingham City Council</b>	
"A" Boards	Tried to ban but had too much opposition from businesses. Produced guidance on location, sizes and styles.
<b>The City of Edinburgh Council</b>	
"A" Boards, goods for sale and Tables and Chairs	Guidance in place. Did look into banning, but too much opposition.
<b>Rotherham Metropolitan Borough Council</b>	

"A" Boards	1. Where at all practicable, the "A" board should be sited directly adjacent to shop frontages, i.e. within 600mm from the shop frontage, be sited wholly within this area and at least 1.8m of clear footway past the premises should be retained free from all obstructions.
	2. The siting of "A" boards in line with existing street furniture outside shop frontages may also be acceptable depending upon location.
	3. Only one advertisement per normal shop/commercial premises frontage (up to 6m wide) should be proposed.
	4. The advertisement should be at least 1m from the entrance door, be placed within the length of the premises and be a minimum height of 1m and a maximum height of 1.2m.
	5. Where multiple occupancy premises share joint accesses, the principles set out in 1-4 should apply.
<b>City of York Council</b>	
In the process of putting a Policy in place.	
<b>The Royal Borough of Kingston upon Thames</b>	
"A" Boards	Banned in 2006, haven't enforced this until 2009 (due to insufficient resources). Officers have served the 1st notices and will serve the 2nd notices at the end of September. The process is slow, but generally businesses comply prior to removal.
<b>Cambridge City Council</b>	
"A" Boards	The City has a zero tolerance to A boards. There are public outdoor boards that businesses can use.
<b>The Royal Borough of Kensington &amp; Chelsea</b>	
Street Advertising	1. The Council discourages the erection of advert flyers and posters (temporary or other wise) relating to an event on the basis that such signage adversely affect the amenity of the neighbourhood. The Council will only permit you to hang banners from lamp posts only. Contact details are given below if you intend to advertise your event in this way. Please note there is a charge for this facility.
	2. It is an offence to place advertising boards on the footway or road.
	3. It is an offence for the public to fix banners or signs to any street furniture (Railings, traffic lights, bollards etc.)

