

Advertising Boards and Trade Goods on the Highway - Obstructions Policy.

1. Policy Vision

1.1. To maximise the economic potential of the highway for trade and advertising purposes whilst minimising interference with its primary function for the public to pass and repass.

2. Link to other policies

2.1. This policy should be read in conjunction with:

- Highway Obstructions Policy, 2012
- Stockport Metropolitan Borough Council Footways Policy, October 2005 – It should be noted that this policy supersedes paragraph 1.11.3 of the Footway policy.

3. Issues

3.1. The obstruction of highways throughout the borough by trade displays and freestanding advertising boards (A-Boards) has steadily increased over the past few years. The inappropriate placement of A-Boards and other trade displays on footways¹ and verges is now causing a problem to pedestrians, particularly the visually impaired, those with prams or buggies, and wheelchair users, as well as interfering with the maintenance and cleansing of the highway. It is also recognised that ‘dynamic’ advertising (e.g. inflatables) and street clutter (especially at locations such as busy road junctions) can be distracting to drivers.

3.2. It is for this reason that Stockport Council, in consultation with key stakeholders and local businesses, has produced this policy and guidelines to reduce the number of obstructions to the highways and control the impact they have on pedestrian safety and convenience.

3.3. The statutory authority for SMBC to deal with such obstructions (as the relevant “highway authority”) is contained in the following legislation²:

3.3.1. The Highways Act 1980

3.3.1.1. Section 130 of the Highways Act 1980 (hereafter referred to as HA80) places a duty on the highway authority to protect

¹The word “footway” describes the part of the highway that is usually referred to as the pavement – the part of the highway adjacent to the main carriageway which is intended for use by pedestrians. This document also sets out policy for obstructions on pedestrian facilities that are not adjacent to the carriageway, such as public rights of way and pedestrian areas.

² This document does not cover all aspects of the relevant acts and regulations and full copies of these acts or regulations should be looked at for full clarification of the issues involved.

the rights of the public to use and enjoy the highway.

3.3.1.2. Under sections 115A to 115K of HA80 the council has to control the placement of facilities and objects on the highway.

3.3.1.3. Under Section 149(2) of HA80, a highway authority has the power to immediately remove from a highway anything which it reasonably considers constitutes a danger to highway users and ought to be removed without delay. It can also recover the costs of doing so. Under Section 137, a highway authority can prosecute any person who obstructs the free passage of the footway. Section 152 empowers the local highway authority to serve notice on the owner and/or occupier of a building, requiring the removal of any projections (e.g. signs) that obstruct safe and convenient passage along a street. If the person fails to do so, they are guilty of an offence.

3.3.2. Town Police Clauses Act 1847

3.3.2.1. Section 28 of the Town Police Clauses Act 1847 states that it is an offence to place goods for sale on a footway.

3.4. This policy relates specifically to advertising boards and trade goods. It is not designed to be applied to other forms of potential obstructions. This does not cover pavement cafes or adverts/trade goods on private forecourts

3.5. Where freestanding A-boards will not be allowed on the highway other forms of advertising may still be possible. Some of these may need planning approval (Inc. planning consent/advertising consent/ listed building consent) and guidance should be sought from the planning service. Options include:



Externally Mounted Boards.



Internally Mounted Boards



Hanging Signs



Externally Mounted Display Boxes



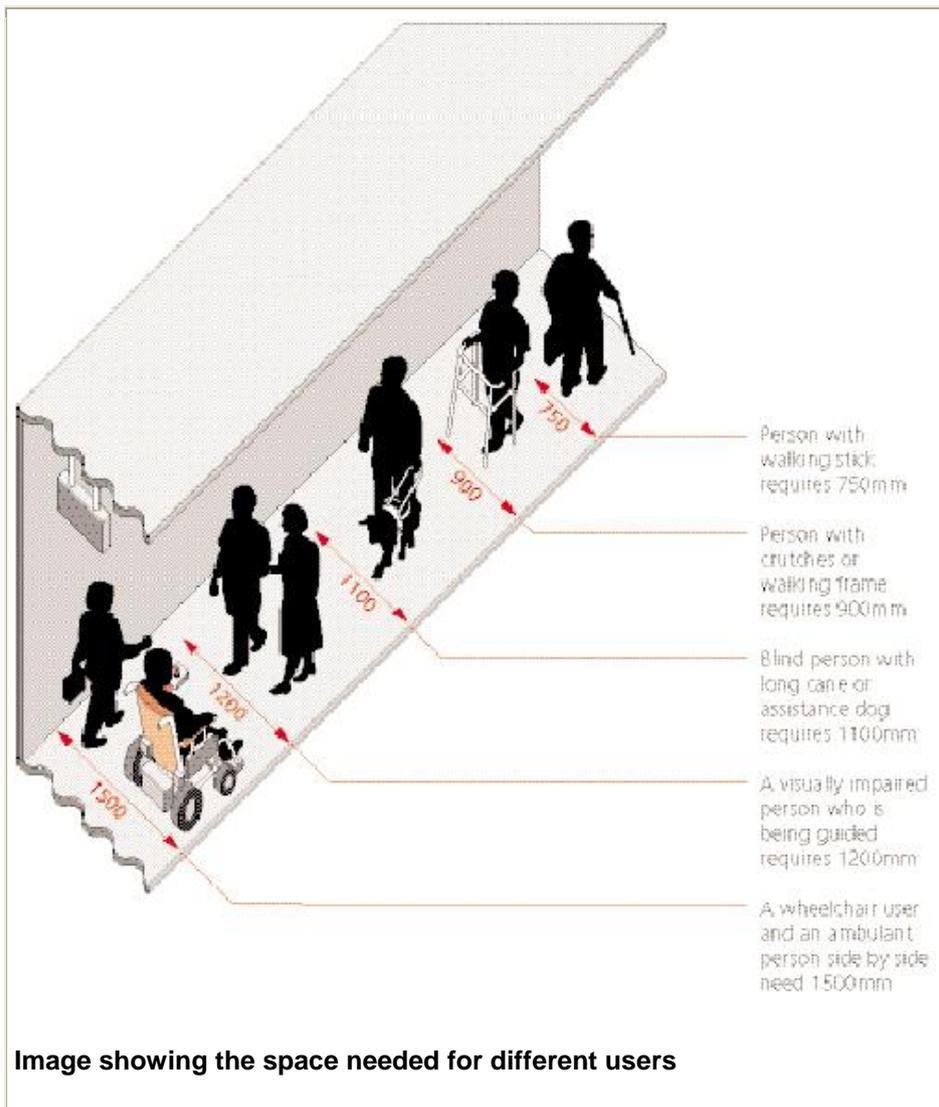
Projecting Cloth Signs

4. Background

4.1. A proposal to remove A-Boards and other unauthorised advertisements from the highway was approved in June 2010 by the Planning and Highways Regulations Committee. This would have replaced the 1992 policy which required that any usage leaving less than 6ft of footway or using more than 3ft of pedestrianised area was to be considered an obstruction. However, following discussions with local businesses, it was agreed that Stockport Council and local businesses would work together to develop an agreed policy and guidance. This would permit A-Boards to be placed on the highway to promote businesses subject to clear guidelines which would comply with relevant legislation and ensure the safety and convenience of the public. In addition to this consideration is now being given to the issue of other trade goods on the highway.

4.2. The Equality Act, 2010 Section 20 (4) requires that where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

4.3. The minimum needs of people in regards to usable footway space are:



4.4. Therefore it is considered that **1.5 metres is the minimum acceptable space** which needs to be left clear on the footway. Where pedestrian numbers are high then more space will be needed.

5. Objectives

- Work with traders to promote their businesses in a way which improves the streetscene.
- Ensure the safe and free movement of pedestrians, with particular regard to people who are visually impaired and people with disabilities.
- Ensure that the powers contained within the HA80, and the Road Traffic Regulation Act 1983, are applied fairly, consistently, and in the public interest.

6. Principles

- In order to achieve this Council will:
- Issue licences outlining clear requirements and restrictions for the placement of Trade Goods on the highway³.
- Only issue licences in situations where it can be ensured that there is enough space available to incorporate the requested Trade Goods while maintaining suitable access along the highway for the public and that they will not cause undue distraction to any passing traffic.
- Ensure that Trade Goods which are not permitted are removed from the highway using the terms identified in the council's highway obstructions policy.
- Issue permits outlining clear requirements and restrictions for the placement of freestanding A-Boards on the highway⁴.
- Only issue permits in situations where it can be ensured that there is enough space available to incorporate the requested A-Board while maintaining suitable access along the highway for the public and that they will not cause undue distraction to any passing traffic.
- Ensure that A-Boards which are not permitted are removed from the highway using the terms identified in the Council's Highway Obstructions Policy.
- Ensure that where the terms and conditions of the permit or licence are not kept that issues are addressed and that in situations where contravention persists that the permit is revoked. A three strikes and you're out approach will be implemented. This will take the form of three written warnings to the business regarding failure to comply within the licence period.
- Deal with permit/licence applications/ renewals within six weeks.
- Take into consideration changes in circumstance that may mean that A-boards or trade goods may be more or less acceptable in a location and act in the public interest. For example: changes in the layout of the highway such as the addition of a lay by for parking may result in the need to remove A-boards as the footway is no longer wide enough for them to be used.

7. Costs

7.1. In order to finance the cost of the licencing procedure, annual licences for trade goods will be charged for. These charges will be listed in the Council's annual list of charges. One type of permit and two types of licence will be issued:

- A 5-year A-board permit. This will be free of charge.
- An initial annual licence for trade goods on the highway.
- A renewal annual licence for trade goods on the highway

7.2. The amendment of a licence to reflect a change in ownership and responsibility for trade goods will also have an administration charge. This is assuming that a change in display type is not undertaken.

³ See Appendix 2 for detailed guidance on the placement of Trade Goods.

⁴ See Appendix 1 for detailed guidance on the placement of A-Boards.

8. Applications

- 8.1. The highway cannot be used to display A-boards or trade goods without a valid permit or licence. Please read guidance carefully to avoid disappointment.
- 8.2. Applying for a permit /licence renewal is the responsibility of the licensee/permit holder. It is recommended that renewals are applied for 6 weeks before the licence/ permit is needed to ensure the replacement licence/ permit is in place.
- 8.3. Licensees /Permit holders are also **responsible for having in place any other permission necessary** in relation to the placement of goods or advertising.
- 8.4. Under the **Town and Country Planning (Control of Advertisements) (England) Regulations 2007** anyone who displays an advertisement, or uses an advertisement site, or knowingly permits someone else to do so, without the consent required for it is acting illegally. It is then immediately open to the planning authority to bring a prosecution in the Magistrates' Court for an offence under section 224 of the Town and Country Planning Act 1990. But, unless an offence is especially flagrant or repeated, the planning authority may not initially consider it necessary to prosecute for an advertisement offence. Instead, they may invite the advertiser to apply for the consent they believe they need, and, if consent is refused, there will be a right of appeal to the Secretary of State.
- 8.5. The continued display of any advertisement after consent has been refused, and any appeal dismissed, may well result in prosecution. The maximum fine on conviction of an offence is presently £2,500, with an additional daily fine of one-tenth of the maximum penalty on conviction of a continuing offence.
- 8.6. It is illegal to display any advertisement (even if it has deemed consent) without first obtaining the permission of the owner of the site, or any other person who is entitled to grant permission which in the case of the highway would be the highway authority.

9. Consultation and Appeals

- 9.1. In order to reduce conflict the Council recommend consulting with neighbouring businesses and homes with regards to the placement of advertising boards and trade goods. If a satisfactory agreement cannot be reached between the parties involved then the Council may refuse to issue or revoke a license/ permit for that activity.
- 9.2. Appeals against decisions for Trade Goods and A boards will be looked at by the relevant committee or council officer in line with the relevant appeals process.

10. Targets

- 10.1. All A-boards and Trade Goods on the highway will have a Council permit/licence.

11. Monitoring

The following will be monitored on an annual basis:

- Number of licences/ permits issued.
- Number of warning letters issued for non-compliance.
- Number of times non-licensed /permitted goods/ A-boards need to be removed.

12. Implementation timescale

- 12.1. All businesses placing A-boards and trade goods on the highway will be given 3 months from the implementation of the policy to apply for a licence/ permit. After this date, non-licensed/ permitted A-boards and trade goods will be treated in line with the policy.

Businesses will be encouraged to apply for their licence/ permit early to allow the council time to process requests. Applicants will have to wait until they have received a licence/ permit in order to put goods or A-boards on the footway once the policy is enforced. All licences received before the policy comes in to effect will commence on the first day on which the policy is enforced for the period of 12 months.

13. Terms used

Footway - that part of the highway over which there is a right of passage for pedestrians

Carriageway - that part of the highway over which there is a right of passage for motor vehicles

Highway -the carriageway, footway and verge over which the public has a right of access and is maintained at the public's expense including public rights of way.

Street Furniture - pieces of equipment, such as streetlights and benches, placed in the street for the benefit of the public

Tactile Paving - textured ground surface found on footways to assist blind and visually-impaired pedestrians

Advertisement - any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the previous provisions of this definition) includes any hoarding or similar structure used, or designed or adapted for use, and anything else principally used, or designed or adapted principally for use, for the display of advertisements.

14. Contacts

Traffic Services (General Advice)

Engineering Services

Floor 1, Fred Perry House, Stockport. SK1 3XE

E: traffic.services@stockport.gov.uk **T:** 0161 474 4872 **F:** 0161 474 4833

Planning Services - Development Management (for planning applications)

T: (0161) 474 3541 or (0161) 474 3569

E: planning.dc@stockport.gov.uk

Web address -

www.stockport.gov.uk/services/environment/planningbuildingplanningpolicy/developmentmanagement

Building Regulations - Building Control (for building regulation applications)

T: (0161) 474 3658 / 3571 or 3575

E: building.bc@stockport.gov.uk

Web address -

www.stockport.gov.uk/services/environment/planningbuildingplanningpolicy/buildingregulation

Conservation Advice

T: (0161) 474 4561 or (0161) 474 2620

E: fiona.albarracin@stockport.gov.uk

Web address – www.stockport.gov.uk/historicareas

Licensing Team(with regards to goods)

Environmental Health and Trading Standards

Stopford House, Piccadilly, Stockport. SK1 3XE

E: licensing@stockport.gov.uk **T:** 0161 474 4311 **F:** 0161 474 4369

Appendix 1 – Controls Regarding the Placement of A-Boards on the Highway - (these controls do not apply on forecourts which are maintained at the cost of the owner or occupier of the business though they would constitute good practice and other controls may apply.)

Size and Style

A-boards must:

- be a maximum size of 1200mm high x 800mm wide x 800mm deep.
- be of quality construction and freestanding. Boards leant against walls etc. will not be acceptable.
- contrast with the background to assist the visually impaired. For example: A black advertising board will contrast on a light background.
- be sympathetic to the local area. In conservation areas the Council's Conservation Officer must give approval of the proposed design and should be contacted by the applicant. Materials that are more likely to be acceptable in conservation areas include timber (usually painted), metals, and painted lettering. Modern materials such as plastic laminates and Perspex are unlikely to be acceptable. More subdued colour schemes are also likely to be preferred.
- have no protruding elements or sharp edges that could cause passers-by to trip or fall, or that could cause other injury or damage
- be stable and not represent a potential danger to any highway users. In particular, the structure must be of sufficient weight or design to prevent it being blown over in the wind. Rotating or swinging signs will not be permitted.

Positioning

A-Boards must:

- be placed at the back of the footway against the outside wall of the business being advertised.
- be left in a consistent position every time they are placed on the footway.
- be placed so as not to obstruct visibility for pedestrians or drivers.
- not reduce the usable width of the footway below 1.5 metres in a low usage area. Not reduce the usable width below 3.5 metres in pedestrianised areas. This is to allow access to emergency vehicles. **In areas with heavier usage more space may be necessary** and the Council may deny a permit on these grounds where necessary. High usage areas include local centres, district centres and the town centre. In rural locations where there is a grass verge and footway widths would prohibit an A-board, the practicalities of an A-board on the grass verge in that location will be considered on a case by case basis.
- not be within 1.8 metres of another A-board, or piece of street furniture which needs access to be used (such as seats, bus stops, bins and cycle parking), or any tactile paving. Where appropriate A boards may be set up **directly next to** certain types of street furniture (such as trees, bollards or streetlights) where this will not conflict with their

usage / benefits to the public at large. **The Council may increase this distance in areas with heavier usage** for example bus stops on major bus routes.

- be removed prior to and during events likely to result in a significant increase in the level of footfall which would make them a potential danger to the public. (e.g. protest marches and similar public events).
- not be placed on shared-use paths, roundabouts, road safety refuges and central reservations. The rulings regarding public rights of way mean that the width of a public right of way as defined on the definitive map cannot have any A-boards placed upon it.

Other requirements

- Chaining or otherwise securing an A-board to street furniture is prohibited.
- A maximum of **one** A-Board per business may be in use.
- Broken and damaged A-Boards must be removed from the highway.
- Permits for A-boards must be displayed clearly in the window of the premises to which the A-board belongs, ideally as near to the position of the A-board as possible, or in the case of 1st story business licences must be displayed prominently at the entrance to the business for inspection by highways inspectors.
- A-boards must be removed when adverse weather conditions may make them a danger to the public e.g. high winds, fog, or snow.
- A-boards may only be displayed during trading and daylight hours, unless approval has been specifically issued otherwise by the Council.
- A-boards must not contain any visual or written material that could be construed as being obscene, racist, sexist, homophobic or insulting.
- Businesses must provide evidence of liability insurance to the value of 5 million pounds to indemnify the Council against all actions, proceedings, costs, claims or demands whatsoever in respect of any injury or damage arising from the siting of the A-Board.
- A-boards must not impede vehicular emergency access
- Where a business has its own private forecourt adjacent to the highway, any A-Board shall be placed wholly within this forecourt and no highway permits for A-boards will be issued for these premises.
- A-boards must be removed on request to allow for maintenance of the highway (including cleansing) or for access to utility apparatus under the highway.

Conditions are non-negotiable, and failure to meet these will result in the removal of the board/loss of permission to display the board on the highway. The Council will apply a 'three strikes and you're out' approach to non-compliance within the licence period after which permits will be revoked and items displayed after this will be dealt with under the Councils Highway Obstructions Policy.

Appendix 2 - Trade goods on the highway

Positioning

Trade goods must:

- must not reduce the usable width of the footway below 1.5 metres in a low usage area and not reduce the usable width below 3.5metres in pedestrianised areas; this is to allow access to emergency vehicles. In areas with heavier usage more space may be necessary and the Council may deny a licence on these grounds if there is in their opinion not enough space. High usage areas include local centres, district centres and the town centre.
- not be within 1.8 metres of a piece of street furniture or any tactile paving outside of the display area. The Council may increase this distance in areas with heavier usage, e.g. near bus stops on major bus routes. Where appropriate, goods may be set up surrounding certain types of street furniture (such as trees, bollards or streetlights) where this will not conflict with its usage or benefit to the public.
- be no wider than a third of the available footway width, up to a maximum of 2 metres.
- not obstruct access into premises or any fire doors etc.
- be placed outside of the premises to which they relate. Extension in front of other properties will not be permitted, even where these premises are not in use.
- be placed at the back of the footway against the outside wall of the business being advertised.
- not cause a visual distraction or obstruct the sight lines of motorists or cyclists, nor block visibility for pedestrians.
- be left in a consistent position every time they are placed on the footway.
- be removed prior to and during events likely to result in a significant increase in the level of footfall which would make them a potential danger to the public. (e.g. protest marches and similar public events)
- No permit will be issued where the highway outside the property is a shared use path.

Display construction

Trade goods must:

- be displayed with a distinct edge to the display which would not be confusing to the visually impaired (for example the provision of a tap rail at the bottom of a stand or table).
- be displayed on tables/stands etc. of quality construction, in a contrasting colour to their surroundings, with no protruding elements or sharp edges that could cause injury or damage to passers-by.
- consist of goods and materials which are not liable to be moved by external forces, such as the effects of the wind or from being lightly knocked.

- not be set out for display more than 30mins before the business is open for trade and must be removed at the end of trading hours.
- not be erected before the pedestrian controls come into effect in time-limited pedestrian zones and must be removed before the area is reopened to traffic.
- be easily removed in the event of an emergency.

Other Requirements

- The type of goods displayed must be the same as the goods sold within the shop.
- No selling or trading will be permitted upon the highway. All transactions must take place within the trading establishment.
- Permits for trade goods must be displayed clearly in the window of the premises of the permit holder.
- Goods must be removed when adverse weather conditions may make them a danger to the public e.g. high winds, fog, or snow.
- Trade good displays must be removed on request to allow for maintenance of the highway (including cleansing) or for access to utility apparatus under the highway.
- Business must provide evidence of liability insurance to the value of 5 million pounds to indemnify the Council against all actions, proceedings, costs, claims or demands whatsoever in respect of any injury or damage arising from the siting of the goods.
- Where a business has its own private forecourt adjacent to the highway, any goods shall be placed wholly within this forecourt and no highway permit for goods will be issued for these premises.
- All goods must be presented in an attractive, professional manner.
- All permit holders must meet relevant food safety standards.

Conditions are non-negotiable, and failure to meet these will result in the removal of the goods/loss of permission to display goods on the highway. The Council will apply a “three strikes and you’re out” approach within the licence period to non-compliance after which permits will be revoked and items displayed after this will be dealt with under the Council’s Highway Obstructions Policy.