
UNAUTHORISED SIGNS AND OBSTRUCTIONS WITHIN THE ROAD BOUNDARY

Report by Chief Officer - Roads

EXECUTIVE COMMITTEE

1 November 2016

1 PURPOSE AND SUMMARY

- 1.1 This report proposes two options to revise the existing policy to allow Officers to deal with unauthorised signs, banners, posters, sandwich boards and other obstructions frequently found in and around towns in the Scottish Borders.**
- 1.2 Scottish Borders Council has statutory duties under the Roads (Scotland) Act 1984 and under the Town and Country Planning (Control of Advertising) (Scotland) Regulations 1984 to ensure that roads remain unobstructed, safe and free from unauthorised signage and a policy was developed and approved by the Executive Committee in 2007. In addition, as property owner, it has common law rights to regulate whether any items can be attached to or deposited on its own property.
- 1.3 However, despite a policy being in place, the Council receives frequent road safety and aesthetic complaints from members of the public concerning signs and banners erected on footways and road sides. The vast majority of these signs and barriers are contrary to the relevant legislation in place and as such a review of the policy and 2 options have been presented in part 4 of this report.
- 1.4 Based on the recommended option, a revised policy could now be developed to better define what items such as advertising banners, trader's goods and sandwich boards may or may not be tolerated, ensuring that the whole community benefits both socially and economically.

2 RECOMMENDATIONS

2.1 I recommend that the Executive Committee:

- (a) Agrees that Option 2 provides the best options for traders, members of the public and those holding events within the Scottish Borders;**
- (b) Approves the adoption of an amended policy as detailed in Appendix 2 in line with Option 2.**

3 REGULATORY CONTEXT BD

- 3.1 Scottish Borders Council has a duty, under the Roads (Scotland) Act 1984 to manage and maintain roads in the area and has a range of powers to enable it to do so. The Act provides that *"nothing may be placed or deposited in the road so as to cause an obstruction except with the written consent of the Roads Authority and subject to any conditions they think fit to attach.*
- 3.2 In addition SBC, as a property owner is able to insist that no item is attached to roadside furniture it owns, or indeed is deposited on areas of land which it owns. In combination therefore, use of these powers can ensure that members of the public are kept safe whilst using roads and that the aesthetics of an area are maintained. This is especially important in an areas like the Scottish Borders, that relies heavily on tourism.
- 3.3 In addition, The Town and Country Planning (Control of Advertising) (Scotland) Regulations 1984, *provides that "No advertisement may be displayed without consent granted either by the planning authority (express consent) or deemed to be granted in accordance with part IV of these regulations."*
- 3.4 It should be noted that the Council does not have the authority to give permission for any traffic signs within the road boundary unless they are prescribed or of a type permitted by the legislation.

Current Situation

- 3.5 In order to ensure that the Council meets its duties, a policy on authorised signs and obstructions was agreed at Executive on 16 October 2007. However, at present the Council receives concerns and complaints from members of the public over:
- PVC banners advertising car boot sales, charity events, local festivals, restaurants, car washes, entertainment events, housing development notices, etc which are placed in areas where they could be viewed as causing a distraction to drivers, for instance on railings close to roundabouts, on the approach to towns and on pedestrian safety barriers.
 - Sandwich-boards proliferate High Streets and are a known hazard to disabled pedestrians.
 - 'Event countdown' signs are placed in verges on the approach to settlements.
 - Posters/signs linked to housing developments .
 - Stock from traders which has been placed outside their premises.
- 3.6 The Council recognises the commercial and economic pressures on local businesses, however, there is a need to balance this with genuine road safety concerns for pedestrians and vehicle users when considering the appropriate locations for advertising and the possibility of fly-posting.
- 3.7 At present there is not a consistent approach to removing unauthorised banners, signs, etc with some areas more active in removal than others.

- 3.8 A company or organisation who wishes to advertise on the road side can apply for formal advertising consent through the planning process.
- 3.9 There are now far more options open to people to advertise events, with Facebook, Twitter and other social media channels available and commonly used by advertisers. There are also a number of websites focused on events in the Borders which offer paid for and free advertising. Event organisers should consider these as appropriate channels to advertise their events.

4 OPTIONS

- 4.1 Appendix 1 contains information on generic definitions of road boundary, Council assets, no banner zones, banner tolerance zones, community event/organisation, commercial event/organisation and tolerance times that can be applied to each settlement.
- 4.2 There are a number of options available to the Council when considering unauthorised signs, banners, posters and sandwich boards.
- 4.3 **Option 1** would be a policy devised to completely ban all unauthorised signs, banners, posters and other obstructions and that these would be removed immediately by the Council. In practice, however, there could be difficulties implementing such a policy which would likely be viewed as unreasonable.
- 4.4 **Option 2** would be a policy where unauthorised signs and obstructions are categorised and depending on their location and type then agreed action would be taken.
- (a) In terms of advertising boards one sandwich board per establishment placed at the back of the footway immediately outside the premises with a width of at least 1.2metres retained for wheelchairs, prams, buggies, etc would also be included in the policy. A trader will be required to ensure their public liability insurance policy covers the placing of a sandwich board on the footway.
 - (b) Traders' goods may be tolerated if they are placed immediately outside the business premises, are placed in a tidy manner at the rear of the footway and a minimum width of 1.2metres of footway is retained for passing pedestrians. A trader will be required to ensure their public liability insurance policy covers the placing of items on the footway.
 - (c) In and around towns certain areas could be categorised as 'no banner zones'; this would include locations such as roundabouts, key junctions, pedestrian guard rails and roads with a national speed limit. Any banner, sign or other type of advert placed in these areas would result in instant removal regardless of advertising a commercial or community event for safety reasons.
 - (d) Banners, signs and adverts associated with a commercial event or organisation will not be tolerated at all. Any banners, signs or adverts that are erected and are of a commercial nature will be removed instantly. These organisations will be advised to apply through the planning process for advertising consent at a cost of £202.

(e) Banners, signs and adverts associated with a community event or organisation may be tolerated in certain circumstances, however, they must not be located in 'no banner zones'. They may only be erected 7 days in advance of the event and must be removed within 48 hours after the event.

(f) In and around towns certain areas could be categorised as 'banner tolerance zones' and depending on the location of an event it is anticipated that these areas will evolve over time. Banner tolerance zones will only apply to community events or organisations and may be tolerated 7 days in advance and 48 hours following the event.

4.5 **Option 3** of continuing to effectively ignore the issue unless complaints are received is not considered an appropriate way forward.

5 CONCLUSION

5.1 It is recommended that Option 2 is adopted and Appendix 2 is the policy guidance for this option.

6 IMPLICATIONS

6.1 Financial

Costs associated with removal of these signs and banners is anticipated to be minimal and would be absorbed by the sections as part of their everyday duties.

6.2 Risk and Mitigations

- (a) There are road safety risks of permitting unauthorised signs and banners at sensitive locations.
- (b) From a commercial perspective local businesses may believe the Council to be insensitive in removing unauthorised signs and banners.
- (c) A thorough communication strategy will be devised to ensure that commercial and community organisers will be clear on what will and will not be tolerated. As well as updating the Council website with the policy the 'eventful' guidance for organisers will also be updated.

6.3 Equalities

- (a) One of the groups who are impacted upon most when considering sandwich boards are visually impaired pedestrians. By insisting all boards are at the rear of the footway with sufficient width this should create a consistent message.
- (b) An Equalities Impact Assessment has been carried out on this proposal and it is anticipated that there are no adverse equality implications.

6.4 Acting Sustainably

No impacts anticipated.

6.5 Carbon Management

No impacts anticipated.

6.6 Rural Proofing

It is anticipated there will be no adverse impact on the rural area from the proposals contained within this report.

6.7 Changes to Scheme of Administration or Scheme of Delegation

No changes required.

7 CONSULTATION

7.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

7.2 Corporate Communications are aware of the report and need for a good joined up information exercise to traders and event organisers.

Approved by

David Girdler
Chief Officer - Roads

Signature

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Background Papers: Unauthorised Signs/Obstructions within the Road Boundary
October 2007

Previous Minute Reference: Executive October 2007

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Philippa Gilhooly can also give information on other language translations as well as providing additional copies.

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Appendix 1

Unauthorised signs and obstructions within the road boundary

Definitions

Road Boundary

Road, footway and any associated verge considered part of the road. This may include land not owned by the Council, but considered part of the road boundary.

Council Assets:

Pedestrian railings, lighting columns, road signs, traffic lights, power lighting pillars, council owned buildings and boundary railings/fences.

No Banner Zones

Areas where banners, signs and advertising will not be tolerated for road safety reasons: national speed limit roads, on or at roundabouts, key junctions, pedestrian guard rails and approach to settlements.

Banner Tolerance Zones

Areas where community events may be advertised, however must be outwith no banner zones. Community event organisers will be required to contact SBC to discuss suitable locations to erect banners. These areas will evolve over time.

Community Event/Organisation

An event aimed at the community which could include charity events, not for profit events and non-commercial events.

Commercial Event/Organisation

An event or organisation set up for commercial gain.

Examples:

Commercial Event/Organisation:

Restaurant, café, shop, wedding fair, commercial craft fair/art exhibitions, record/CD sales, live music, circus/funfair, cycling event, farmers markets, car rally, antiques fair, flea market, rug sales

Community Event/Organisation:

Horticultural, agricultural or flower show, local carnival, coffee morning, local rugby/football game, common ridings/festivals

Miscellaneous not tolerated

Sales, permanent adverts of recurring events, recurring weekly church services, 2nd Saturday of each month, etc.

Toleration Times

7 days before event and 2 days after event

Appendix 2

Policy/Guidance on Unauthorised Signs and Obstructions within the Road Boundary

Purpose of Document

A guide to Scottish Borders Council's policy on the placing of unauthorised signs and obstructions within the road boundary; which includes roundabouts, verges, railings, footways, major thoroughfares etc.

Current Legal Position

Roads (Scotland) Act 1984 nothing may be placed or deposited in the road so as to cause an obstruction except with the written consent of the Roads Authority and subject to any conditions they think fit to attach.

Town and Country Planning (Control of Advertising) (Scotland) Regulations 1984. No advertisement may be displayed without consent granted either by the planning authority (express consent) or deemed to be granted in accordance with part IV of these regulations.

SBC, as a property owner, may control what items are placed in, deposited on, or attached to its property and can assist that no such activity takes place on its land without its permission.

Unauthorised signs

These can be classified as a sign that has not been prescribed as part of the Road Traffic Regulation Act, 1984. In exceptional circumstances Scottish Ministerial approval can be sought to permit non-prescribed signs, but this is a lengthy process and only reserved for formal road signs.

Examples of unauthorised signs: sign/banners advertising commercial businesses, wedding fairs, new housing developments, upcoming musical events, happy birthday banners, car boot sales, car wash signs, event 'countdown' signs, etc.

Advertising Consent

Any company/organisation can apply for advertising consent through the planning process to erect an advertisement. The application fee is £202 and would be checked for approval with existing planning policy before a decision made.

Obstructions

Obstructions can be considered anything that is placed on the public road without the Roads Authority's consent, such as sandwich boards, tables and chairs, trader's goods, painted stones, etc.

Problems Associated with Unauthorised Signs and Obstructions.

These signs can be distracting, obstruct visibility, devalue prescribed road signs and in some instances block roads and footways.

Lighting columns, railings and pedestrian guardrails can be damaged by attaching signs and banners to them and weight loading is particularly important with lighting columns.

Banners close to roundabouts, major junctions and main thoroughfares can cause a distraction and block visibility to pedestrians and other vehicles.

Obstructions can be hazardous to pedestrians, especially those who are visually impaired or with mobility needs.

Removal of Unauthorised Signs and Obstructions

Generally complaints over signs and banners are passed to Neighbourhood Services staff from Roads Network and Planning Enforcement Teams. Any signs or banners that are removed by Scottish Borders Council staff can be collected after 7 days from the local roads depot.

Should any unauthorised sign or obstruction become a contributory factor in an accident then those responsible for them may be liable in damages.

No Banner Zones

Areas where banners, signs and advertising will not be tolerated for road safety reasons, unless formal advertising consent has been granted through the planning process: national speed limits, roundabouts, key junctions, pedestrian guard rails, approaches to settlements. Any banners or advertising would be removed immediately.

Commercial Event/Organisation

Any banners, signs or adverts erected associated with commercial events or organisations will be removed immediately.

Community Event/Organisation

An event aimed at community participation which could include charity event, not for profit event and non-commercial events. These banners and adverts may be in place for 7 days in advance of an event and must be removed within 48 hours. Banners may not be placed in no banner zones.

Sandwich boards/ traders goods

These may be tolerated on the condition of 1 per business and a minimum of 1.2 metres of footway must be left for pedestrians. Any sandwich board/traders goods must be placed at the rear of the footway.

Tables and chairs are dealt with separately by a permit system.