

Uttlesford District Council A-board Approach

March 2014

Scope

This document applies to all advertising boards, signs, banners, flags and material placed on the public highway (referred to in the report as A-boards), without prior permission, which includes footpaths, paved areas, grass verges and landscaped areas and pavements and/or attached to highway property. It does not apply to boards on private property.

Enabling Legislation Relating to A-Boards

The aspects of highway law from the Highways Act 1980 are as follows:

- Section 132 – it is an offence to affix a sign on any ‘structure or works’ on or in a highway and may be removed.
- Section 137 – it is an offence to wilfully obstruct free passage along the highway – this is actionable in a Magistrates Court but there is a considerable evidence requirement to prove an A –board is both an obstruction and that the obstruction is “wilful”. There is significant case law on this.
- Section 143 – the Highway Authority can serve a notice on a person, who sets up an unauthorised structure on the highway, to have it removed within one month. If the structure is not removed then the highway authority may remove it and charge reasonable costs.
- Section 148 – it is an offence to deposit anything whatsoever on the highway to the interruption to any user of the highway.
- Section 149 – if anything is deposited as on the highway so as to cause a nuisance the authority may serve notice requiring its removal. If the notice is not complied with the highway authority may make a complaint to a Magistrates Court for a Removal and Disposal Order. If the structure constitutes a danger to users of the highway and, in the view of the highway authority, ought to be removed without delay, the highway authority can do so and claim the cost from the person involved.

In Uttlesford these powers rest with Essex County Council (ECC) as the Highway Authority and Uttlesford District Council (UDC) does not have delegated powers to enforce.

It is possible to grant permission on the highway under Section 115E of the Highways Act (HA) 1980. As part of this process, ECC would need to require the approval of adjacent premises and additional approval by the Council in its role

as the local planning authority. We have authority to grant such permissions with the highways authority who are consultees when we do so. In practice we exercise this function for tables and chairs on footpaths. ECC do not deal with such applications and it is unlikely therefore that they will consider applications for A-boards.

Planning Matters and A-boards

Advertising materials on the highway normally require advertisement consent under planning legislation. Section 225 of the Town and Country Planning Act 1990 permits the local planning authority to remove or obliterate any placard or poster which is in contravention of regulations and to reclaim any costs so incurred. If the authority knows the address of the person displaying the advert then the authority must first serve a notice on that person requiring its removal within a specified time (minimum 2 days).

Potential Hazard of A-Boards

The placing of A-boards on the highway, particularly when taking into account the width of pavements in the town centres around the district, can create a hazard, particularly to the disabled with mobility impairment, wheelchair users, people using pushchairs or mobility scooters and particularly to those with impaired sight.

The District Council receives a small number of complaints each year from the public regarding A-boards.

The use of A-boards by businesses could make them liable for personal injury and other claims if, for example, a pedestrian tripped and falls and it is deemed to have been caused by an A-board.

Essex County Council Policy on A-boards

Essex County Council has an existing policy for the placement of advertising boards on the public highway – see Appendix One. Although only guidelines, it does introduce a tolerance for A-boards on the highway. The policy also provides sufficient guidance and advice for businesses on matters such as public liability insurance. In addition Saffron Walden introduced the Code of Practice on Access and Mobility which offers advice to avoid obstruction on the highway.

The ECC policy seeks to:

- Ensure there is adequate free and safe passage along the footpaths.

- Stop unlawful use of public highways for placing of street advertising.
- Reduce street clutter/nuisance.
- Improve health and safety for disabled and partially sighted people.
- Ensure those with trolleys, prams and pushchairs can traverse the pavements safely.
- Not to compromise statutory duties under the Highways Act and Disability Discrimination Act.
- Ensure that the powers contained within the legislation to restrict such advertising are applied fairly and consistently, and in the best public interest.
- Have the best interests of pedestrians as paramount, especially the visually impaired or people with disabilities.

One of the attractions of the Districts town is their narrow pavements and the necessary clearance levels outlined within the ECC Policy can not be achieved in many of our towns.

Essex Local Authorities Approach to A-boards

The approach generally of other local authorities within the ECC area can be described as not seeking to ban A-boards but to exercise a degree of control. There is a variance in approach, for example, Chelmsford City Council has gained delegated powers from ECC and is introducing a ban in designated areas within the city centre where there has been a proliferation of A-boards in the last few years. Bury St. Edmunds had introduced a paid licensing regime; however with little take up. Southend Borough Council has considered a voluntary/free licensing approach.

Businesses Use of A-boards

Businesses perceive that A-boards are an important aspect of their marketing plans and inform potential new customers of the existence of their business, remind other customers, enable them to promote “offers” and help direct customers to businesses that are not in the main high street locations and not in the main footfall areas. Businesses are of the opinion that A-boards are an effective method of attracting customers, and the removal of their A-boards would impact on their livelihood.

There are alternatives to the A-board that could deliver the benefits that businesses associate with their use including other permanent signs at appropriate locations around the high street listing what businesses are located

on a particular street (being used in Newmarket), improved maps at key locations such as car parks, promotion of special offers via vouchers, and so on.

The Council recognises and understands the need for businesses to attract customers, especially smaller businesses that are not in high footfall areas and acknowledges that small independent businesses add value to the town and village centres by providing a more diverse range of goods and services and providing an expert and personal service not found in a typical High Street. Moreover, through its Economic Development Strategy 2012-14 the Council has worked with businesses to create Town Teams in both Saffron Walden and Great Dunmow with the aim of attracting more customers into the town and village centres.

Summary

In summary:

- In Uttlesford the powers under the enabling legislation to remove A-boards from the public highway rest with Essex County Council as the Highway Authority
- Uttlesford District Council does not have delegated powers to enforce and is not, therefore, liable for any inaction
- A-boards can become a hazard particularly for certain types of pedestrian
- A-boards are perceived by businesses as an important way of attracting custom
- Generally the approach of local authorities in Essex is not one of banning A-boards but of exercising a degree of control