

ENVIRONMENT CABINET MEMBER MEETING

Agenda Item 28

Brighton & Hove City Council

Subject:	Response to the report of the Overview & Scrutiny Committee Scrutiny Panel on 'Street Access Issues'		
Date of Meeting:	26 July 2010		
Report of:	Director of Environment		
Contact Officer:	Name:	Christina Liassides	Tel: 29-2036
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Key Decision:	Yes	Forward Plan No: ENV17080	
Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Scrutiny review was established following concern over how accessible the city's public highways are. A review and impact assessment of the council's operational policy "Traders' Objects on the Highway" highlighted the issues regarding accessibility on the highway and the council responded to requests for further debate from organisations, individuals and businesses by setting up a Scrutiny Panel to examine the competing needs of different highway users. The scope included:
- Gaining an understanding of the issues relating to street accessibility within Brighton & Hove
 - Reviewing current Council policy relating to items placed on public walkways
 - Seeking a balanced range of views as to the impact of current policy and practice
 - Developing recommendations for the future development of council policy on these issues
- 1.2 The full report (Appendix 2) which describes the scrutiny process and summarises evidence, findings and recommendations has been considered by officers with lead roles in highway placements. The Scrutiny Panel's examination has been welcomed.
- 1.3 This report sets out at Appendix 1 the officer response to all of the recommendations. The scrutiny recommendations cover both highways and licensing functions which are dealt with separately under the Council's constitution. Licensing matters are dealt with by the Licensing Committee and therefore the scrutiny recommendations relating to licensing have been sent to Licensing Committee for decision on 24th June 2010. The recommendations and responses that relate to highways functions are executive functions and are therefore presented in this report for decision by the Cabinet Member for Environment.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member notes the evidence, findings and recommendations of the Overview & Scrutiny Committee and its scrutiny panel in relation to Street Access Issues.
- 2.2 That the Cabinet Member agrees the actions detailed in the officer response to Scrutiny Recommendations 1,7,8,9,10,11,12,14 and 15 (Appendix 1) with particular regard to the timescales and constraints identified.
- 2.3 That the Cabinet Member notes that the responses to Scrutiny's recommendations 1, 2, 3,4,5,6 and 13 (Appendix 1) will be considered by Licensing Committee as they relate to non executive licensing functions.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The council established a Scrutiny Panel following debate raised by a review of the existing operational policy for 'Traders' Objects on the Highway.' The Panel sought to take into account and balance the competing needs of highway users.
- 3.2 In terms of the operational policy, the Panel has set forth recommendations that support the principles and operation of the existing policy but seek to improve the enforcement regime.
- 3.3 The Panel also looked at other placements on the highway, and particularly sought to make recommendations with regard to communal bins and bicycle parking.
- 3.4 Several of the recommendations are in progress following agreement of the revised operational policy for 'Traders' Objects on the Highway' in April 2009 or - for example, with bicycle parking spaces - have already been trialled around the city. Lead officers are broadly in agreement with all the recommendations; however, there are some practical queries that have been raised on certain points.
- 3.5 In terms of the council's constitution any recommendations and approvals regarding the policy on traders' objects must be considered by Licensing Committee because it is a licensing function. .(Recommendations 1,2, 3,4,5,6 & 13)
- 3.6 Any recommendations and approvals regarding other highway placements (e.g. bicycle parking, communal bins) must be considered by Environment Cabinet Member as these are a highway function. (Recommendations 1, 7, 8, 9, 10, 11, 12, 14, 15, 16)

4. CONSULTATION

- 4.1 The Panel issued a general public invitation to submit evidence. Over 40 responses were received. The Scrutiny Panel then held 3 public meetings during 2009. During the sessions, individuals and representatives of various organisations or businesses were invited to give evidence and to respond to questions from panel members.

- 4.2 Lead officers within the relevant council services have been consulted regarding the recommendations. Other agencies have also been consulted where appropriate e.g. the police regarding monitoring and enforcement activities by PCSOs.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There may be financial ramifications associated with implementing some of the measures quoted. The budget for 2010-11 assumes a certain level of income based on traders objects on the highway. A boards, hoardings, tables and chairs and skips and scaffolds are expected to yield £243,320 over the forthcoming year, which will be used to cover the monitoring costs of the Highway Enforcement Team. Any reduction in the level of traders items on the highway, could affect the revenue budget. Similarly, if the council decides to introduce new standard advertising boards a budget will have to be found for this initial expenditure and any ongoing maintenance costs.

Finance Officer Consulted: Karen Brookshaw

Date: 03/06/10

Legal Implications:

- 5.2 Section 130 of the Highways Act 1980 imposes a duty on the Council as highway authority to assert and protect the rights of the public to the use and enjoyment of any highway within its area and so far as possible to prevent the obstruction of the highway. However, the highway authority is empowered to licence the placing of certain objects on the highway, eg. A boards under the provisions of Part VII A of the 1980, although in doing so it must have regard to the provisions, including the Council's duties, of the Disability Discrimination Act 1995.
- 5.3 The Officer Response to the Scrutiny Panel's recommendations set out in Appendix 1 of this Report will assist in ensuring that the Council is in a position to comply with its statutory duties regarding the public's right of access to the highway.

Lawyer Consulted:

Hilary Woodward

Date: 04/06/10

Equalities Implications:

- 5.4 The council seeks to ensure that public highways are used in a manner that maximises the benefit to the most number of users. However in the busiest areas of the city competing interests can come into conflict. It is the council's responsibility to manage these interests and to ensure equality of access particularly for those with mobility issues.

Sustainability Implications:

- 5.5 There are no sustainability issues identified.

Crime & Disorder Implications:

- 5.5 There are no direct crime and disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 The council needs to take into account economic factors for the city whilst ensuring that accessibility is safeguarded. This is an opportunity to ensure clarity of policy and enforcement to the benefit of all users.

Corporate / Citywide Implications:

- 5.7 This report seeks to respond to recommendations in the Scrutiny report that are aimed at balancing the various needs and requirements within the city's public highway.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The full submission of analysis reports and evidence by the scrutiny panel facilitated consideration of options in how to address the issues raised. The recommendations proposed by the panel are the final outcome of the options considered.
- 6.2 Officers have considered all the recommendations and subject to issues raised in the accompanying response feel the options provide a useful way forward with street access issues. The alternative is to not introduce any changes or improvements.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The recommendations for which consideration and approval are sought are as a result of scrutiny. Considerable supporting evidence was provided to inform the process from the start.

SUPPORTING DOCUMENTATION

Appendices:

1. Recommendations
2. Scrutiny Report

Documents In Members' Rooms

None

Background Documents

1. Licensing Committee April 2009
2. OSC Street Access Issues March 2010
3. Volume 2 of the Scrutiny Review into Street Access Issues