

Draft GUIDANCE NOTE

Temporary Signs placed within the highway boundary in Herefordshire

1 INTRODUCTION

Herefordshire Council (the Council) has produced this guidance note to set standards for the placing of temporary advertising and directional signs within county highways which are unlikely to attract enforcement action. The Council wishes to encourage the economic viability of the county but this has to be in a way which is balanced against the highway dangers caused by drivers endeavouring to read unauthorised signs.

In recent years there has been a steady increase in the number of unauthorised signs sited within the highway boundary across much of the county road network. The Council has also been receiving an increasing number of complaints from the public about the clutter caused by these signs, and this is of particular concern in the Areas of Outstanding Natural Beauty. The majority of the unauthorised signs are advertising commercial ventures such as public houses, tea-shops, sales, garden centres and properties for sale, as well as regular events such as car boot sales, and less frequent non-commercial or charitable events, such as school events, community functions, village fêtes and festivals.

Because of the risks associated with the proliferation of unauthorised signs, no permanent commercial advertising signs on county highways will be allowed by the highway service as detailed in Section 4. The primary concern is that unauthorised signs erected within the highway boundary are adversely affecting the safety of highway users, such as in the following ways.

- The signs are frequently sited in locations that obstruct visibility from side road junctions and accesses, and forward visibility “through” bends.
- The signs provide visual distractions that divert drivers’ attention away from the road ahead.
- The signs sited on footways frequently obstruct the safe passage of pedestrians, particularly the visually impaired and disabled.
- The construction of the signs may be a dangerous and potentially lethal object for vehicles to hit should they leave the carriageway.

These risks can be associated with any location; however it is of particular concern when unauthorised signs appear at sites with a known accident history. Should this practice be permitted to continue, there is a real risk of serious incidents occurring on county highways for which the Council may be deemed liable. (County highways do not include the M50, the A49, part of the A40 (from the county boundary with Monmouthshire to the Overross roundabout), and the short length of the A449 (from the Overross roundabout to the M50) which are the responsibility of the Highways Agency.)

2 THE LEGAL BACKGROUND

The Highways Act 1980 specifies offences relating to activities on the highway, imposes duties on the Council and also gives the Council power to enforce its responsibilities.

The main areas relating to advertising and directional signs within the highway are those concerned with the unauthorised painting, inscribing or affixing any picture, letter, sign or other

mark on the surface of a highway, tree, structure or works on or in a highway; the removal of any sign, etc.; and the details of the offences.

All unauthorised traffic signs within the highway boundary are illegal. All authorised traffic signs are specified in traffic regulations, and this includes white on brown tourism signs and temporary signs erected by approved bodies such as the AA and RAC.

The Traffic Signs Manual warns that “An unauthorised sign in the highway is an obstruction. The possible consequences of erecting or permitting the erection of obstructions may be severe and those responsible could lay themselves open to a claim for damages; for example if the obstruction is the cause of accident or of injury in a collision.”

This guidance note aims to minimise the need for exercising such powers by setting acceptable standards.

3 LOCAL EVENT SIGNING

Whilst not giving formal prior written consent for signage, for the benefit of local communities the Council is unlikely to take action on highway grounds with regard to signs advertising and providing directions to local events, such as village fêtes and fairs that are considered to be primarily for the benefit of the local community, providing the following conditions are met.

- The sign does not constitute an obstruction or a hazard to highway users including pedestrians.
- The sign is not erected in any area that constitutes a visibility splay for junctions or accesses, nor shall it obstruct drivers' sight lines at bends.
- The size, detail described, number, and/or positioning of the sign does not unduly distract drivers' attention.
- The sign is not erected at any site that has a significant collision history during the last 10 years as advised by the Council's transportation accident investigation team
- The sign is constructed in such a way that does not represent a danger to vehicles that might collide with it.
- The sign face is manufactured on a suitable lightweight material such as Correx, wood, or ply and not exceed 10mm in thickness.
- The sign face must be no larger than 0.27 sq m, such as 900mm by 300mm, and must be securely attached to a stake no larger than 50mm by 50mm in thickness and firmly placed in the ground. The top of the sign must not exceed 1 metre in height above ground level.
- The sign is not to be affixed to street furniture without obtaining prior written permission of the Council.
- The sign must not be erected more than 14 days in advance of an event, and must be removed no later than 7 days after. Any damage to the highway or apparatus within it caused by the sign's presence must be made good to the satisfaction of the Council, who may seek to recover the costs of remedial works if any damage to the highway is not made good.

In the context of this guidance, sales, special offers, new or refurbished business opening and similar are not considered events and will be regarded as commercial signing as set out in paragraph 4

Depending on the nature and length of the event the Highways Engineer may require an application through and authorised body such as the RAC or AA

4 COMMERCIAL SIGNING

With the exception of temporary event signage and regular local seasonal activities, unauthorised signing (including posters, placards, banners and advertising boards), erected anywhere within the boundary of county highways, that seeks to advertise businesses, services or goods will be discouraged on a countywide basis. The enforcement of this policy will be applied consistently across the county using a common sense approach.

Where subject to the requirements of the Town and Country Planning Act 1990, any sign may only be erected in accordance with the planning permission obtained, which will be enforced by the Council's planning service.

Action is unlikely to be taken on highway grounds to remove signs about regular local seasonal activities.

Street furniture and pavement cafés are subject to the terms and conditions detailed in the 'Highways Amenity Licenses for Pavement Cafés' information pack and guidelines, which is available from the Markets and Fairs office of the Council.

The use of banners to advertise goods and commercial services within the highway boundary or upon any highway structure will not be permitted. The use of these items on private land or premises will be subject to any statutory planning regulations and will be regulated by the Council's planning service.

A separate guidance note is available for commercial business that wish to provide directional sign to their location

6 CASE LAW

There is extensive case law on the placing of signs, advertising boards and the like within the highway. The conditions contained within this guidance note establish when **it is unlikely that action will be taken** by the Council on highway grounds against those who place unauthorised signs in the highway. However, anyone who places items on the highway is potentially liable to any person who suffers personal injury or damage to property caused by that item. Therefore it may be advisable for such persons to consider obtaining public liability indemnity insurance in the event of such claims.

7 PROCESSES TO BE FOLLOWED WHEN THE CONDITIONS FOR THE PLACING OF SIGNS WITHIN THE HIGHWAY ARE NOT MET

This guidance note sets acceptable standards for the placing of signs on county highways. Where the conditions are not met, action may be taken by re-positioning, removing, warning or prosecuting.

As part of routine highway inspections or in responding to complaints, any sign that is deemed unauthorised in accordance with this guidance note and constitutes an immediate danger will be removed from the highway and retained.

For similar signs that are deemed unauthorised in accordance with this guidance note but do not constitute an immediate danger, the owner will be requested to remove them or to reposition them in accordance with the conditions of this guidance note within 48 hours. If the owner cannot be identified or traced, or if the sign is not removed within the stated time period, the Council will arrange for its removal. Where previous warnings have been given, immediate removal of the sign(s) may take place.

Evidence of persistent offenders will be recorded and the relevant legislation will be used to pursue the matter. A breach of the policy can lead to immediate prosecution, but in the majority

of cases an initial written warning will be issued by the Council with subsequent offences subject to prosecution.

Any items removed from the highway will be retained for collection by the owner. The items will be disposed of if they are not collected within a period of one month. The Council may seek to recharge the owners any expenses incurred in removing and storing unauthorised signs.

8 OTHER LICENCES

The Council can legally place items of street furniture such as road signs, trees and seats on county highways. In addition, the Council may issue licences for the erection of scaffolding, for the placing of builders' skips and for the provision of outside catering facilities in accordance with the relevant specific regulations.

9 FURTHER INFORMATION

This guidance note advises whether the placing of temporary event signs on county highways is acceptable to the highways service. It does not extend to other items which may not be covered by the examples described above.

This guidance note does not absolve anyone from any statutory, or non-statutory, risk, with regard to personal injury or damage to property, incurred by depositing anything on the highway. Similarly this guidance note does not override the powers of a police officer or the planning Authority.

This guidance note is without prejudice to the powers to license other amenities on county highways in accordance with the provisions of the Highways Act 1980. It does not confer any right or privilege or permit any breach of statutory requirements, but outlines the Council's normal approach in such matters. It reserves the right to enforce any appropriate statutory requirement where considered necessary.

10 MODIFICATIONS, ALTERATIONS AND AMENDMENTS

The conditions, procedures and requirements specified within this guidance note may be modified, altered or amended at anytime without notice as the Council deems appropriate.

Dated 7th November 2012