

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Highway Operations
Date:	29 July 2021
Title:	Highway Policy Position to Support Business Recovery
Report From:	Director of Economy, Transport and Environment

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Purpose of this Report

1. The purpose of this report is to confirm a new Highways Policy Position to support Business Recovery under which applications to make localised changes affecting the public highway during the recovery phase from the Covid-19 pandemic can be considered and supported or rejected as appropriate.

Recommendations

2. That the Executive Member for Highway Operations approves the Highway Policy Position set out in the report to assist the district and borough councils in facilitating accelerated economic recovery in Hampshire's town centres and high streets.
3. That authority is delegated to the Director of Economy, Transport and Environment, in consultation with the Executive Member for Highway Operations, to prepare a process and procedure, and to make arrangements to enable the implementation of the policy from 1 August 2021.
4. That the policy and arrangements be reviewed and reported back to the Executive Member at an appropriate time.

Executive Summary

5. During the COVID-19 pandemic, the County Council's response included implementing temporary schemes on the public highway to keep people safe, and also supporting a wide range of measures implemented by other agencies to assist with maintaining social distancing within the public realm.
6. As social distancing is ending, it is necessary to ensure that the County Council, as the Highway Authority, fully complies with existing legislation during the recovery phase and the gradual return to normal life.
7. An Executive Member for Highways Operations decision in June this year agreed that the majority of emergency active travel schemes would be removed in alignment with the Government's Roadmap on the 19th July. The remainder will be under consideration as part of a paper to the July 2021 decision day.

8. There are a range of new initiatives proposed to support local businesses during the recovery phase and it is acknowledged that the public realm environment is likely to be very different during this period with more pedestrians, cyclists and traffic using the public highway. This will require a different approach, and a new policy position is required so that due consideration can be given to proposals that are safe, legal, and support the local business community.
9. Applications are expected to primarily come from District, Town and Parish Councils through initiatives like the European Regional Development Welcome Back Fund which is administered by the Ministry of Housing, Communities and Local Government and builds on the Reopening High Street Safely Fund (RHSSF) allocated to councils in 2020. Initiatives are expected to seek approval from the Highway Authority to make temporary changes to the public highway to attract higher footfall, either through the provision of seating and tables, signing, planters or other public realm improvements.
10. In determining these applications, the County Council must apply due diligence and be satisfied that the proposals are safe, legal and supported by the local community, before considering whether to grant permission for their implementation, or support the applicant and not object in its consultation response.

Contextual information

11. Hampshire County Council is the Highway Authority. It cannot, in law, delegate its accountability for decisions that affect the public highway. A clear Policy Position is essential to set out the parameters against which applications are considered.
12. During the Covid-19 pandemic a number of temporary legislative changes were introduced by the government to facilitate the implementation of schemes to encourage social distancing along with other measures to help support local businesses.
13. Over 40 temporary social distancing highway schemes were implemented directly by the County Council, or through licences to the District, Town, and Parish Councils during the pandemic. In the same period, it is estimated that in excess of 100 tables-and-chairs licenses were issued by the District Councils and approximately 20 licences issued by the County Council under s171 of the Highways Act to allow items to be temporarily placed within the public highway.
14. As traffic levels gradually increase back to normal levels and confidence returns to the high street, it is important that the County Council responds accordingly.
15. The Government removed the rules around social distancing from 19th July 2021. The streamlined process for pavement licences under the Business and Planning Act 2020 continues until 30 September 2021 but, currently, no new licences can be issued under this legislation. An extension is anticipated to allow such licences to be issued again with an expiry date of no later than 30th September 2022.
16. The Welcome Back Fund has recently made funding available to District and Borough Councils to assist high streets and retail areas with their recovery. This funding, together with provisions of the Business Planning Act and the expected

extension of the streamlining process for pavement licences are all expected to encourage initiatives from district, borough, and parish/town councils to help accelerate economic recovery in town centres and high streets.

17. The new Policy Position recommended in this report responds to the above developments and is complementary to the previous decision made by the Executive Member for Highway Operations on 17th June 2021 to remove emergency active travel schemes in alignment with the Government's roadmap and to support a limited number of temporary measures to support the hospitality sector.
18. It is expected that businesses that have enjoyed tables-and-chairs outside their premises during social distancing may wish to maintain these arrangements during the extended recovery phase. However, this will not be possible if the area used for tables-and-chairs was previously an integral part of a social distancing scheme that is to be removed, or is no longer supportable due to increased traffic and pedestrian movements.
19. Where a proposal includes a pavement licence for an area that is currently not footway, then early discussion with the County Council is required to determine if a decision under s75 of the Highways Act 1980 to temporarily redesignate the area as footway is appropriate. It is proposed that decisions under s75 will be made by the Director of Economy, Transport, and Environment under delegated powers on a site-by-site basis and with primary consideration given to ensuring the safety of highway users.
20. Where an area of carriageway or on street parking space is converted to footway under s75 of Highways Act 1980, the revised status will remain in place until such time as the redesignation is reversed.
21. The use of s75 of the Highway Act will only be considered to support schemes proposed by Parish, Town, Borough and District Councils. In these instances, a detailed proposal will be required to be submitted to the County Council to demonstrate that full consideration has been given to highway safety and the potential impacts on the wider community.
22. Some applications for initiatives from Parish, Town, Borough or District Councils may also require a licence from the County Council as Highway Authority under s171 of the Highways Act 1980, the suspension of parking bays, and the temporary closure of low trafficked streets (or part thereof) by Experimental Traffic Regulation Orders, where alternative access is available. In these cases, it will be necessary for the promoter to demonstrate to the Highway Authority that there is evidence of support from a significant proportion of directly affected businesses.
23. Where s75 of the Highways Act 1980 is used to convert existing on-street parking spaces to footway, all costs associated with the suspension of parking restrictions, including lost income, will be met by the applicant.
24. When considering these more complex applications, the Director of Economy, Transport, and Environment will consider the wider impact of the proposals and how they will benefit the recovery phase. Applications that are likely to impact

higher trafficked routes in town centres will not be supported for these measures, although secondary low traffic streets may be considered suitable.

Finance

25. There is no opportunity to charge for costs associated with a tables and chairs licence under s115(e), or through the Business and Planning Act (BPA), as the County Council is only a consultee for these.
26. In cases where a licence under Section 171 of the Highways Act 1980 is issued to cover items placed on the public highway, on-street parking is suspended or revoked, a designation is made under Section 75 of the Highways Act 1980, or a Traffic Regulation Order is required, these activities will be carried out on a full cost recovery basis.
27. Where a proposal includes the suspension of on-street pay-and-display parking, the promoting authority, or organisation, will be responsible for making a payment equal to the projected loss of revenue income for the duration of the scheme.

Performance

28. As set out in recommendations, the performance of this new Policy Position will be monitored and reviewed. It will be reported back to the Executive Member at an appropriate time.

Consultation and Equalities

29. Whilst no formal consultation has been carried out regarding the Policy Position there have been significant discussions with Parish, Town, Borough and District Councils regarding their aspirations to maintain or implement initiatives to support local economic recovery.
30. This Policy Position clearly establishes the Highway Authority's requirements and the associated process and procedure will be made available from 1 August 2021.
31. In setting a clear Policy Position, the County Council is ensuring that all applications are dealt with fairly and equally against an inclusion criteria. The implementation of more tables-and-chairs areas should have a positive effect on people with reduced mobility by creating more opportunity to rest. However, care will be taken to ensure that the reallocation of space in this way does not lead to accessibility issues for pedestrians walking past the re-designated areas. A minimum safe width of footway will be maintained at all locations, and the layouts will be sympathetic to the visually impaired and other more vulnerable highway users.
32. Where parking spaces are proposed to be removed to create seating space, the use of existing disabled parking bays will be avoided. Where this is unavoidable, alternative appropriate provision will be provided within the immediate area, subject to the Highway Authority's approval, to avoid adversely affecting visitors who rely on these facilities.

33. Where a decision under s75 Highways Act is required, it will be for the promoting District or Borough Council to demonstrate that appropriate community engagement has taken place to inform a decision by the County Council, as the Highway Authority.

Climate Change Impact Assessments

34. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.
35. The carbon mitigation tool and climate change adaptation tool were not considered applicable as the Policy Position itself does not have any direct Climate Change or carbon mitigation impact.
36. Whilst individual initiatives and permissions may have a limited impact on the way that vehicles move and park in an area, it is unlikely that the scale of any scheme would adversely affect climate change or increase carbon emissions.

Conclusions

37. This new Policy Position and associated process is essential to enable the County Council to effectively discharge its statutory function to manage and maintain the public highway, prioritising safety, but at the same time recognising the importance of supporting the local business community to re-establish itself.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Other Significant Links

Links to previous Member decisions:	
<u>Title</u> Active Travel-Update	<u>Date</u> 17 th June 2021
Direct links to specific legislation or Government Directives	
<u>Title</u> Business Planning Act	<u>Date</u>

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

- 2.1 The implementation of more tables and chairs areas both on the pavement and within existing parking bays and carriageway is expected to have a positive effect on people with reduced mobility by creating more opportunity to rest. However, care will be taken to ensure that the reallocation of space in this way does not lead to clutter and obstruction for pedestrians walking past the areas. A minimum width of pavement will be maintained at all locations, and the layouts will be carefully assessed to ensure they are sympathetic to the visually impaired and other more vulnerable highway users.
- 2.2 Where on-street parking spaces are removed to create seating space, disabled spaces will be unaffected, or alternatively reallocated within the immediate area, to avoid adversely affecting visitors who rely on these facilities.