

BROXTOWE BOROUGH COUNCIL FLY-POSTING POLICY

Introduction

Broxtowe Borough Council (the Council) has as its vision “Broxtowe - a great place where people enjoy living, working and spending leisure time.” Maintaining and improving the physical appearance and condition of the local environment enhances the quality of life of our residents and helps to support this vision. Fly-posting undermines this objective, and can be a blight on an area. The presence of fly-posting can encourage a spiral of decline, which can undermine community cohesion, the related efforts of public agencies, and the reputation of the Council. Furthermore, it is an illegal activity. The Council therefore aims to control fly-posting throughout the Borough through education and, when necessary, enforcement.

The purpose of this document is to set out how the Council will respond to incidents of fly-posting in the Borough. This document should be read in conjunction with the Council's Enforcement Policy.

Scope

The information in this policy applies to all land and property within the Borough, including both public buildings and structures as well as private property, unless the private owner has sanctioned the display and, where necessary, obtained the appropriate advertisement consent or deemed consent under the relevant Advertisement Regulations. Further advice on deemed consent and the relevant Advertising Regulations can be found via the following links:-

http://www.planningportal.gov.uk/uploads/1app/guidance/guidance_note-advertisement_consent.pdf

<https://www.gov.uk/government/publications/outdoor-advertisements-and-signs-a-guide-for-advertisers>

There are other types of unauthorised advertisements (such as hoardings and “A” Boards) which fall outside the normal definition of fly-posting and as such, fall outside the scope of this policy.

Overall aim

To control fly-posting within the Borough.

What is fly-posting?

There is no formal definition of fly-posting. However, in 2000, the then Department of Communities and Local Government stated that it is generally taken to be the “*display of advertising material on buildings and street furniture without the consent of the owner, contrary to the provisions of the Regulations.*”

In practical terms, fly-posting can be divided into three broad types, each with particular characteristics and problems of control:

- (i) Advertises primarily for local events, often photocopies put up in large numbers on a regular basis. These may advertise bands playing in pubs, car-boot sales, etc. They may be attached to lampposts, railings, and street furniture or pasted on buildings.
- (ii) Posters advertising products of large organisations and put up by professional poster companies. These are usually larger, higher quality, colour posters, such as for record releases or national events. These are often pasted on vacant buildings and signal control/telecoms boxes.
- (iii) Posters displayed by pressure groups or political bodies. These are generally ad hoc and sporadic with no clear pattern to their location.

Why fly-post?

Fly-posting can be cost-effective, can have a high impact, and is often regarded as creating and reflecting a particular image for a product. For small local events and businesses, fly-posting on street furniture can provide a cheap and effective way of getting publicity. Fly-posts are often placed in urban areas - on main arterial transport routes, in industrial and business parks, or areas near to town centres - in order to gain maximum publicity.

Fly-posting is also used to target particular markets and give a product a particular image. The slightly risqué nature of fly-posting is regarded by some as a positive feature of this form of advertising when compared with more mainstream/legal advertising media.

The problems of fly-posting

Fly-posting is not only illegal, it is also unfair to those organisations which choose to advertise legitimately. Fly-posting also puts an additional cost on the local authority and other landowners, who then have to remove fly-posts from their street furniture and property.

Fly-posting can have a severe effect on the "Local Environmental Quality" of an area. It can act as an anti-social magnet, which in turn can contribute to a downward spiral of decline.

The legal framework

There are a number of pieces of legislation under which fly-posting can be controlled. The principal methods are contained in Sections 224 and 225 of the Town and Country Planning Act 1990, Section 132 of the Highways Act 1980, and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ("the Regulations"). Brief details of these powers are summarised in Appendix 1.

The Council's position

Fly-posting is illegal and the Council will look to pursue appropriate and proportionate enforcement action in accordance with its enforcement policy.

The Council believes that fly-posting can be unsightly and make our towns, villages and other areas less attractive for residents and visitors alike and can impact negatively on people's perceptions of the area. It can also distract drivers or obscure road signs and be hazardous to members of the public. It can be costly to remove.

The Council believes that there are many legitimate ways for businesses and other organisations to promote their services, activities, etc without the need to resort to illegal fly-posting. It can create a less attractive environment for shoppers and disadvantage those businesses that choose to advertise their business in an appropriate and lawful manner.

Charities and community groups

The Council recognises the difficulties that its policy towards fly-posting will present to charity and community groups. However, there are some exemptions set out in the Regulations which allow charitable organisations to advertise in this way. Class 3(D) permits temporary notices or signs which are intended to advertise:

- any local event being held for charitable purposes, which may be religious, educational, cultural, political, social or recreational, but not for any commercial purpose. This permission would include an advertisement for such events as a church bazaar, a fete for a parent-teacher association, a sponsored marathon in aid of charity, an amateur sports event, but not events organised for commercial purposes.

In such circumstances all such groups, if seeking to display any advert or placard, should, before displaying the same:

- contact the Council to check whether planning consent is required
- comply with the relevant restrictions on size, placement, illumination, timescales, etc as described in the Regulations, which include, but are not limited to, the following:
advertisements for community and charity events should not exceed 0.6 of a square metre; should not be displayed more than 28 days before the event begins, and must be removed within 14 days after it ends.
- have the permission of the owner of the site before placing any signage on it. This includes Nottinghamshire County Council as Highways Authority if the sign is to be placed on highway land, including street furniture such as roadside railings, lampposts, etc. It should be noted that Nottinghamshire County Council will not currently give permission for advertising on their land or street furniture.
- consider alternative ways of advertising that do not involve fly-posting;

- avoid placing any signage at road junctions, on roundabouts, pedestrian crossings (pelican, zebra, etc.) or traffic lights, where they may cause a hazard by distracting the road user;
- avoid obscuring, or hindering the interpretation of, official road, rail, or waterway signs, or otherwise make hazardous the use of these types of transport;
- avoid putting signs up in sensitive locations or where they could possibly cause offence;
- avoid putting up signs with wording or imagery that could be reasonably considered to be offensive to members of the general public;
- avoid putting up an excessive number of signs;
- make sure that the signage is not a hazard to pedestrians, cyclists, etc (for example it should be firmly attached and should not be at a height where a pedestrian could walk into it);
- keep signs clean, tidy and in a safe condition; and
- remove them carefully when required to do so.

If advertisements for charitable events (or those relating to an election or referendum - see below) are placed in inappropriate locations, are of an inappropriate nature, are not of the appropriate size, or are placed outside of the time limits, then the Council will normally contact the organisers, where known, and ask for the posters, banners, etc. to be removed. If the organisers cannot be identified, or immediate removal of the signage is required (for example for health and safety reasons or because they are deemed offensive, or potentially offensive), then the signage will be removed and retained at the Council's offices for 28 days for collection by the organisers. After this time period, the Council will assume that the advertising material is no longer needed and will dispose of it.

If community or charity event organisers repeatedly place advertisements in inappropriate locations, or repeatedly ignore requests to remove inappropriate advertisements, then the Council may choose to take enforcement action to resolve the problem.

Guidance produced for organisers of charity events in respect of erecting advertising posters is reproduced at Appendix 2 and forms part of this policy.

Political parties

The Council recognises that most candidates and parties would want to display campaign material relating to a pending election (or a referendum). Any parties and candidates wishing to do so should take account of the most current guidance from the Electoral Commission.

Guidance from the Commission states that no advertisements should be displayed

without the permission of the owner of the site or anyone else with an interest in the site (ie no fly-posting), should not interfere with or impede traffic or other road users, and should be removed within 14 calendar days after the election.

It is important that the Council remains impartial during elections and referenda. For this reason, the Council will not give candidates and parties permission to display their campaign material on land or buildings owned by the Council. If material is placed in such locations, the Council will normally contact the relevant candidate or party to ask them to remove the material within two working days or, if they cannot be contacted, a Council officer will remove the material and retain it for collection for a period of up to 28 days (after which it will be disposed of). If removal is undertaken by the Council, costs may be re-charged.

Council owned land

The Council recognises that as a landowner, it has the ability and duty to take steps to prevent the illegal advertising of events held at Council venues and on Council owned land. In order to prevent unauthorised advertising, the Council will:

- Make sure that fly-posting is not used to promote Council events or events associated with the Council (This does not include public notices, planning notices and other 'functional advertisements' by public bodies or advertising on formally managed and approved notice boards and hoardings).
- Make sure that anyone hiring Council venues does not fly-post. This will be achieved through education and the use of 'no fly-posting' clauses in hiring contracts.

Fairs and travelling circuses

Class 3(F) of the Regulations permits temporary notices or signs announcing the visit of a travelling circus or fair. These advertisements must not be displayed more than 14 days before the opening of the circus or fair and must be removed within seven days afterwards. The local planning authority must be told 14 days beforehand of the sites of the notice. The notice or sign must not exceed 0.6 of a square metre. The permission of the landowner must also be obtained.

Advertising boards

Shopping areas within Nottinghamshire have much to offer by way of creating an ambience that makes them attractive to shoppers and visitors alike. Nottinghamshire County Council recognises this and wishes to encourage traders to promote their business activities in a way which both enhances the street scene and is sensitive to the needs of its users.

The County Council has produced a guide to strike a reasonable balance between these needs and confirm the conditions where advertising boards or display of goods on the highway will be permitted. The guide is available at:

<https://www.nottinghamshire.gov.uk/media/1857/advertisingboardsgoodhighways.pdf>

The guide is essentially a voluntary "Code of Conduct" but does specify procedures which the County Council may undertake if the conditions are not adhered to.

Enforcement

The Council will adopt a proportionate approach to enforcement in accordance with its Enforcement Policy. This will include the issue of guidance on obtaining permission for advertising, warning letters, taking down fly-posters which have been erected without permission, issue of fixed penalty notices, and ultimately prosecution.

Officers are unable to remove flyposting:

- from heights or where specialist training or equipment is needed
- from surfaces where its removal would cause further damage.

APPENDIX 1

Town and Country Planning Act 1990

Under Section 224 of the Town and Country Planning Act 1990, it is an offence for any person to display an advertisement in contravention of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Any person contravening the legislation is liable on summary conviction to a fine not exceeding Level 4 (currently £2,500) and, in the case of a continuing offence, one tenth of that amount (currently £250) for each day on which the offence continues after conviction.

Under Section 225 of the Town and Country Planning Act 1990, the Council may remove or obliterate any placard or poster which is displayed in its area and which in its opinion is so displayed in contravention of the Regulations. Usually, the Authority will give a minimum of two days written notice of its intention to remove/obliterate the poster and to recover the cost of doing so either to the person who has displayed the placard or poster or to the beneficiary of the illegal advertising. If neither of these persons can be identified or traced, the Authority is not required to give this notice.

Highways Act 1980

Under Section 132 of the Highways Act 1980, it is an offence for any person to paint, or in any way inscribe or affix any picture, letter, or sign on the surface of a highway, any tree, or structure without the consent of the highway authority. If guilty of an offence, the person can be liable to a fine of up to Level 3 (currently £1,000). It should be noted that the enforcing authority for this piece of legislation is Nottinghamshire County Council.

Anti-social Behaviour Act 2003

Section 43 allows the Council to issue fixed penalty notices to anyone who personally affixes or places a fly-poster. The penalty set by the Council is £75.

APPENDIX 2

Guidance for events for charitable purposes

Signs advertising local events for charitable purposes do not require formal planning consent, but there are still some rules that apply:-

The advertisement must:

- Be no larger than 0.6m² (approx.6ft²) in overall size
- Be kept clean, tidy and in a safe condition
- Have the permission of the owner of the site on which it is to be displayed (whether on private land or on the public highway)
- Not obscure or hinder traffic or other official signs
- Be removed if required by Broxtowe Borough Council (the Council)
- The event organiser will be required to take responsibility for removing all advertisements once the event has taken place.

Advertisements must not be put up in sensitive locations where they could possibly cause offence, and must not contain wording or imagery that could reasonably be considered to be offensive to members of the general public.

What is a charitable event?

This means any community or local event that has been organised by groups (such as the scouts or similar youth groups), schools, churches, parish /town councils, voluntary organisations and other **not for profit** organisations or any sale or other event, the proceeds of which will be used for charitable purposes, e.g. jumble sales, quiz nights, sponsored events, auctions, etc.

Displaying signs on any part of the public highway

If you wish to display an advertisement on highways land (e.g. roadside verge, lamppost, signpost, etc), you must first obtain the permission of the Highways Authority which is Nottinghamshire County Council. However, it is the current policy of Nottinghamshire County Council not to give permission for advertising on their structures and land.

It will be for Nottinghamshire County Council to remove any signs on their land advertising a charitable event. Broxtowe Borough Council will only look to take action if the advertisement is not for a charitable event, exceeds the guidance size and time limits, or is considered a health and safety risk. If not removed on request, Broxtowe Borough Council will arrange for removal and may seek to reclaim costs incurred.

How long can an advert be placed for?

If advertisement relates to a sale or event, it must not be displayed more than 28 days before the sale or event begins and must be removed within 14 days after it ends.

Are there any signs that aren't allowed?

Signs announcing births, birthdays, anniversaries, weddings, engagements, valentine's messages, directional signs to parties or other signs of a similar nature are not permitted and may be removed without notice and destroyed.

Advertising on private land

The permission of the landowner must be obtained and the general guidance given in the first section will apply

What style of advertisement is acceptable?

Obviously the sign will need to be sufficiently robust to withstand the elements so that it remains legible and does not dislodge from its fixing and become a safety hazard or create litter.

Consideration will also need to be given to how the advertisement is to be fixed in place e.g. a banner could be tied to railings or fencing (with the owner's permission of course).

The legislation that applies to outdoor advertising is complex and, if in any doubt, you are advised to seek advice from the Planning Enforcement Team on what steps you need to take to ensure that you are acting within the law.

For further information, please contact Planning Enforcement on 0115 917 3486 or e-mail pabc@broxtowe.gov.uk

For Nottinghamshire County Council (the Highways Authority), please contact:

Area Highways Office

VIA East Midlands Ltd

Bilsthorpe Depot

Eakring Road

Bilsthorpe

Nottinghamshire

NG22 8ST

Tel: 0300 500 80 80

E-mail: enquiries@nottscc.gov.uk

Further Information

Illegal advertisements

The Council will look to remove any signs from the public highway that do not have the relevant permissions and which do not comply with the rules set out in this leaflet. In terms of signs for charitable events, it will be for Nottinghamshire County Council to remove these on the basis of not having the landowner's permission. We may also remove any authorised signs if left beyond the time specified in the legislation.

Any signs removed will be held by the Council for a period of 28 days, pending collection by the owner, failing which they will be destroyed. No compensation will be paid in respect of any losses or expenditure incurred by the owner as a result of the removal of their advertisement(s) by the Council. A charge for the removal may be made.

The Council has powers to take action against those responsible for fly-posting, those who benefit from the advertising, and the owner/occupier of the property where the fly-posting occurs.

Enforcement action may be taken against any individual or organisation who flouts the rules and this may result in the issue of a fixed penalty notice or, for more serious offences, a fine not exceeding Level 4 (currently £2,500) if found guilty of an offence.