

## Pilot to trial legal walls in Wiltshire

### 1. Aims

- To explain the process and rationale for considering legal walls on Wiltshire Council land.
- To seek agreement for the underpass in Melksham situated along the A350 at Bath Road to be used as a pilot to trial the process.

### 2. Background

Graffiti is sometimes regarded as an art form by those doing it, but by members of the public it is often seen as a nuisance, frequently associated with anti-social behaviour and gang culture. Tagging is a form of graffiti which often carries the biggest stigma and is seen as anti-social by most communities. It occurs when an artist stamps a signature in a stylised way onto a piece of property – effectively claiming it as their own.

There are various pieces of legislation that a local authority can use to tackle graffiti including the Anti-Social Behaviour Act (ASBA 2003), the Criminal Damage Act 1971 and the Public Order Act 1986.

It is costly to get rid of with recent estimates putting the clean-up costs for graffiti in the UK at more than £1bn.

Street Art projects have been run in various locations across Wiltshire such as in Salisbury or Chippenham. These have been successful, in Salisbury they are normally one-off commissioned art pieces that are often quite expensive and do not have the benefits of a more permanent solution or of allowing a space for ongoing street art.

Legal Graffiti walls have been introduced over the last few years in many places across the UK as a way of cutting down on unwanted graffiti, promoting genuine street art and saving councils money. They are places where artists are free from prosecution if they keep to an agreed code of conduct (See appendix A for an example) and within the designated area.

Approximately 10 years ago, Chippenham Town Council ran an initial 6-month pilot scheme for a legal wall. It proved very successful being enjoyed by most of the community and helping to reduce ASB. Consequently, it has continued ever since.

### 3. Proposed process

Conversations have been held with other councils who are trialling or considering the creation of legal wall. Glasgow seems to be the most advanced currently and have agreed to share any useful information as well as the toolkit they are producing once their current trials are completed.

The proposed stages in the process for handling requests for a legal wall can be summarised as:

- ✓ A request can be made by any group including a parish council, arts group or community group. Evidence would need to be provided that demonstrates that there is currently an issue that this approach may help with.

- ✓ Input would be sought from relevant Wiltshire Council services and any other relevant partners such as Parish Councils and the police.
- ✓ A report would be prepared by the Strategic Engagement and Partnership Manager for the relevant area board's consideration in a similar way as Community Asset Transfers are currently processed.
- ✓ The report would need to include a clear communications plan, how monitoring would take place and how any risks can be mitigated including the possibility of the artists moving to another location (thereby being liable for prosecution).
- ✓ The area board will be asked to make a recommendation along with any comments. These would then be taken to the cabinet member who covers highways, for a final decision.

#### 4. Monitoring considerations

Whilst the applying community group will take on the day-to-day responsibility for the way the wall is used, Wiltshire Council will carry out regular checks and have the power to at any time reverse their decision.

Ongoing maintenance and cleaning of the artwork will be the responsibility of the users. If at any time the artwork is no longer maintained and becomes an eyesore, then Wiltshire Council will simply remove the artwork in a manner it sees fit. In addition, the Council reserves the right to maintain the structure as it sees fit and without maintaining the artwork.

Anyone not adhering to the code of conduct or painting outside of the agreed area is subject to current legislation and are committing a criminal offence.

After a year, all processes will be reviewed in the light of any lessons learned through the trial as well as by other local authorities.

#### 5. Legal considerations (Provided by Legal Services)

Following ongoing conversations with Wiltshire Council's legal services, they have provided the following summary of their position:

*“Legal Services have been asked to provide a view and comment upon what is required legally before Wiltshire Council trial the introduction of a free wall in the County.*

*Free walls are locations in a locality where artists can express themselves, by putting their artwork on public display, on walls in specific locations, without the threat of conviction and without prior consent.*

*Free walls have really taken off as a concept in recent years, in both urban and rural areas across the UK and many councils are running or have run trials, notable areas including Glasgow, Belfast, Plymouth, Oxford and Cheltenham and in many boroughs across London.*

*A free wall is the complete opposite of Graffiti which DEFRA defines as “any informal or illegal marks, drawings or paintings that have been deliberately made by a person or persons on any physical element, comprising the outdoor environment with a view to communicating some message or symbol etc to others”.*

*Street Art by contrast must be artwork that is respectful, unoffensive, in keeping with the area and should not contain anything which is insulting or could cause offence or fear to others including graphically explicit images or text or anything gang related or racially aggravating. Indeed, its purpose should be to improve or beautify an area, attracting compliments rather than complaints.*

*Councils will still be obliged to clean up any unwanted graffiti within 24 hours or days depending on whether it is offensive or non-offensive. They will still be able to take action to remove graffiti from Council owned property themselves or encourage private owners to take action. Any graffiti which appears on a building without the owner's consent is an interference with a property owner's right and a person commits a criminal offence under the Criminal Damage Act 1971. Criminal penalties still apply and those responsible for Graffiti will be liable for civil prosecution for trespass, whether or not the claimant suffers any damage, and civil prosecution notices can be issued with fines on individuals of up to £2,500.*

*Moreover, Highways in Wiltshire Council seem to see no immediate issues and support the new trial as a means of seeing whether it can reduce the huge sums of money and manpower the Council are currently spending on clearing away unsightly and offensive graffiti.*

*Many of these trials have just started or are ongoing, so we are unlikely to be aware of some of the key legal issues that arise out of their implementation for some time and the law often takes years to catch up on issues that will come from their outworking.*

*That said, whilst there does not appear to be any legal reason why Council should not start the trial now, it would be helpful to consult with other council colleagues in other departments internally for their view before proceeding.*

## **6. Highways considerations (provided by Streetscene Area Manager)**

Streetscene are responsible for the removal of graffiti where Wiltshire Council has a statutory duty to do so. This proposed trial site is very well known to the Streetscene service as a site which is regularly tagged with illegal graffiti, often of an offensive nature. Such sites can be very labour intensive and result in resources being diverted from other vital services. Streetscene supports the approach to try and find innovative solutions to minimise the impact of illegal graffiti in Wiltshire whilst hopefully creating art that the community can be proud of. Streetscene are supportive of using the Melksham underpass as the pilot project.

## **7. Links to Arts and Culture Strategy (Provided by Arts and Funding Manager)**

Wiltshire Council's Cultural Strategy places culture and creativity at the heart of Wiltshire's economic and social future and ensure community engagement and ownership. It has been built around five key themes of Economy, Identity, Tourism, Health and Wellbeing and Community. It contains a number of core objectives including:

- Increase engagement in arts and cultural activities by diverse audiences, including those who face engagement barriers
- Enable places to shape their own cultural identity
- Support good physical and mental health and wellbeing and community resilience.

The Arts service supports the proposal of legal walls and it fits perfectly the aims and objects of the Cultural Strategy. The proposal demonstrates how creativity can be used to provide an innovative solution to a wider problem.

## 8. Financial considerations

There are no significant costs or ongoing financial implications for Wiltshire Council if the recommendations of this report are adopted. Instead, the proposal if successful will save money as there will not be a need for graffitied walls to be regularly cleaned. All materials including paint will be provided by the users including that required to remove unwanted tags. No closure of the area around where the artwork is taking place is required.

## 9. Risks

The key risks are:

- *Lack of understanding by the public regarding the use of legal walls.* To mitigate this, a clear communication plan, worked up with communications team will be produced before any agreement is issued. This will include that the code of conduct must be adhered to and that it is still illegal to graffiti in any other place.
- *A rise in graffiti in other locations.* To mitigate against this, not only will good communication be required, but also close monitoring of other locations elsewhere in the town so that if graffiti occurs, appropriate action can be taken.
- *The wall is not kept for art.* To mitigate against this, regular monitoring by Wiltshire Council will be undertaken and appropriate action taken. In the case of the pilot location Melksham Town Council may also consider extending the CCTV coverage to include the underpass. This will be encouraged. In addition, the local artists will monitor the wall and remove any unwanted tags or artwork by painting over it.

## 10. Next Step

The process has been agreed as a sensible way forward and any future requests will need to follow it once the pilot has been running for some time and we are convinced that there is an overall positive outcome.

If it is agreed for the underpass located in Melksham along the A350 on the Bath Road to be used as a trial, communications are primed to begin communicating what will happen. Some additional work will be required to agree the exact area to be designated, to ensure a QR sign to the code of contact is visible and to ensure that all stakeholders are fully aware of what will be taking place. This will include appropriate monitoring of the wall and surrounding areas.

## 11. Recommendations

It is recommended:

1. That the underpass in Melksham situated along the A350 at Bath Road to be put forward as an initial pilot to trial the process
2. That ongoing monitoring takes place within the trial period and appropriate action or changes are taken if required

## **Appendix A – Example Code of Conduct**

**Innovation** - Be creative. Beautiful design does not go unnoticed. Engage in a conversation with the city through creative interactions

**Respect boundaries** - Only specific walls and areas are legal spaces. Do not paint on the surroundings.

**Deliver quality** - Invest some time in your piece of art. The better the quality the longer it will stay up. Positive use of legal sites will encourage others to follow your example.

**Be friendly** - Be friendly to writers, artists and visitors.

**Keep it clean** - Keep Melksham clean and tidy. Take away your rubbish and empty cans.

**No Tagging** - Tagging is a form of graffiti which often carries the biggest stigma and will often be seen as anti-social by most communities. Tagging can be considered offensive to other artists and the wider community.

**Consideration** - Although art is subjective the act of covering quality pieces can be considered disrespectful.

**Respect** - Respect artists when they are at work. Respect visitors when they are viewing your art.

**No offence** - Be considerate to others, don't be abusive or discriminate, and don't use offensive images or messages.

**No politics** – Do not use the wall to promote political messages.