

Executive

25 August 2016

Report of the Director of City and Environmental Services

Portfolio of the Executive Member for Transport and Planning

Advertising Boards (“A” Boards) and Other Equipment on the Public Highway

Summary

1. The purpose of this report is to advise the Executive of work undertaken subsequent to its decision of 28th August last year, which sought:
 - (i) That Officers prepare a Consultation Draft Policy to include a formal licensing arrangement for ‘A’ Boards in accordance with strict criteria, (this being consistent with the earlier Cabinet resolution) and commence a consultation exercise on the Draft Policy over forthcoming months; and
 - (ii) That such consultation to be focused to provide engagement with representatives of the business community, in particular retail groups and the Business Improvement District (BID) and also representatives of those who are blind and partially sighted, those with mobility issues such as charities/groups including the RNIB, Guide Dogs and York specific groups, such as York Blind and Partially Sighted Society (YB&PSS); and
 - (iii) That a further report be brought to the Executive later in the year to present the findings of this consultation and a recommended Final Draft Policy, together with estimated financial implications of implementation and enforcement. At this next stage the Final Draft Policy will have been the subject of a full Equalities Impact Assessment and consultation process, before being recommended to Members for approval.

Recommendations

2. It is recommended that the Executive approves:
3. Option **A**, the implementation of the Draft 'A' Board Policy, relating to the area of city centre, as shown on the appended plan (Appendix A) ; along with,
4. Option **B**, which seeks a 4 month transition period, to allow the policy to become fully communicated and put into practice for 1st January 2017, and
5. Option **D**, trial of Remote 'A' Board (RAB)/Shared 'A' Board (SAB) criteria/approvals, for 12 months.
6. Option **E**, which advises the undertaking of further assessment and consultation with regards to potential policy content for all areas outside of the city centre zone, requiring a further report and recommendations within 12 months, and
7. Option **F** being the undertaking of analysis of the initial city centre policy, with a subsequent report one year post full implementation.

Reason:

To provide adequate control of the many and varied obstructions (particularly for those with impaired mobility for example, blind and/or partially sighted) temporarily located on the public highway. This taking into account of the Council's responsibilities under the Highways Act 1980, the Equality Act 2010 and Town & Country Planning Act 1990.

To mitigate the impact on the visual amenity of the conservation area and setting of the many listed buildings in the city centre.

To contribute further to the removal of street clutter, improve the street scene and public realm.

Background

8. The most recent report is referenced above at 1. This following an earlier Community Safety Overview & Scrutiny Committee 12/01/15, which was considered by Cabinet on 10/02/15.
9. Two options were presented in August last year. The first was – Zero Tolerance, being a ban on the siting of 'A' boards and other materials on the public highway. At that time this was not the recommended option as it was felt that analysis and consultation on a regulated (licensed) approach was worthy of consideration and further reporting.
10. Therefore the work undertaken subsequently (with consultation) was channelled towards the potential for a licensed approach.

11. As the issues cut across planning, highways and equalities considerations/council responsibilities, an initial desk top assessment was produced to set some perspective and engage officers' from across the service areas. This allowed a fuller appreciation of the differing aspects, such as highway obstruction, planning considerations and the council's equality responsibilities.
12. A cross department officer group sought to establish some agreed principles and parameters which would then be communicated through the consultation.
13. The key considerations included:
 - That 'A Boards are in effect an extension to traditional fascia/hanging signs and as such they should be adjacent to the property/business being promoted (so not remote/detached).
 - Placement on the highway creates a safety issue, particularly for people with mobility and visual impairments and with prams/pushchairs.
 - That foot traffic (in the city centre) is substantial, at capacity in many places. And that the city centre street environment is not suited to accommodating additional features.
 - The harmful impact that multiple boards have on the visual amenity of the conservation area and setting of the many listed buildings (over 70% in the shopping streets).
 - The need to reduce street clutter and create a good impression of the city for residents and visitors.
14. Taking that forward, the two primary criteria officers consider to be appropriate in assessing where 'A 'Boards could potentially be managed (and licensed) are:
 - a) the provision of suitable width/space for easy and safe pedestrian movement and
 - b) the impact on visual amenity.

In terms of (a), it was suggested that a clear width of 1.8 metres could be considered as acceptable, as this will allow for the unobstructed movement and passing in opposite directions of most foot traffic, including wheelchair users, blind and partially sighted with canes and guide dogs and people with prams/pushchairs. This width is recognised in national best practice produced by the DfT.
15. It is important to highlight the earlier bullet point at 13 which states that 'A' Boards should be immediately adjacent to the business and that

detachment/separation in streets subject to footstreet hours is not considered to present an opportunity for the 1.8 metre width to be overcome. Using Coney Street as an example, the placements of 'A' Boards say 2 metres away from the face of a building would not be considered reasonable.

16. An audit was then undertaken by officers of most of the streets within the core of the city centre shopping area, with measurements being taken of the pedestrian safe space (immediately adjacent to buildings). In many streets this comprises a traditional footway but in some it is not as defined, e.g. Ousegate/Coney Street. Basing the audit upon an 'A' Board width of circa 700mm (typical A1 size) and seeking a safe space of 1.8 metres, requires an absolute minimum footway/pedestrian width of 2.5 metres. The street audit is attached at Appendix B and demonstrates that the 'width' is a major problem for the vast majority of streets and as such 'A' Boards would not be considered appropriate and licensing thus not recommended.
17. In some streets the safe/clear width is variable, with parts in excess of 2.5 metres but at regular points it is not achievable. In these situations, for the sake of consistency and fairness, it is considered that boards would need to be prohibited along the entire street. An example of this is Coney Street.
18. The assessment also considered the impact upon visual amenity of 'A' board placement on these same streets. Whilst not as many streets 'fail' to the same degree as the width/obstruction criteria, those where the visual aspects could be considered acceptable, would in large fail on the obstruction aspect and as such the results of the exercise overall suggest an overwhelming outcome that 'A' Board licence potential is extremely limited in the city centre.
19. In addition to the above primary considerations, it is suggested that further criteria would be appropriate for any streets which were considered suitable for a licensed approach. This would include:
 - 1 'A' Board per business
 - Located only within property frontage (adjoining/abutting/not detached)
 - Not located on any carriageway/road/street/lane or together part of the public realm, which is available to motor traffic (even during limited hours)
 - Maximum A1 size; Static/rigid only; free standing (removable by hand); align with opening times; licensed during daylight hours; public liability indemnity insurance; not adjacent to any entrance/doorway/emergency

exit/pedestrian crossing/dropped kerbs/taxi ranks/bus stops (Criteria set out in full in Draft Policy Appendix A).

20. On the basis of the above the potential for 'A' Boards, in the city centre would be substantially reduced. As such, officers have considered the potential for a more controlled form of advertising. In some limited circumstances a Remote (RAB) or Shared (SAB) Board could be considered on its merits. The primary intention behind such would be where the sole route to the business is achieved via a narrow lane/passageway/snickleway or similar, i.e. it does not have an obvious frontage to a main thoroughfare. In such circumstances if a single business can demonstrate this, then a RAB may be feasible, subject to satisfying licensing criteria (see 19). An alternate approach (to a free standing/regular board) may be a wall/building mounted board. Such would also require consideration by Planning and potentially an application for advertisement consent under the Town & Country Planning Act (and where applicable listed building consent). A board placed on the highway would be licensable under the Highways Act.
21. A further opportunity which may be feasible and has been considered is a board being termed City Approved (a CAB). These would take the form of an official means of advertising private business, in the city centre but in limited circumstances. It is suggested that the scope of CAB's (including aspects such as design, ownership, procurement, modifications, maintenance, funding etc) will be subject to a separate process to be overseen by CYC, seeking to develop the concept in conjunction with willing partners, such as the Business Improvement District, Make it York, York Retail Forum and York Civic Trust. However the ethos of such would need to be consistent with the need to minimise visual impacts, with size and materials to be carefully considered. There are two examples in the Consultation Document (Appendix C) of city approved schemes.

Consultation

22. All of the above components including additional brief coverage of possible Process (relevant to any licensed boards) and Management/Enforcement aspects were presented in a Consultation Document (Appendix C), issued to a range of stakeholders. As per the earlier Executive resolution this focused upon representatives of both the business/retail sector and also of mobility impaired organisations/charities/groups. This has included Make it York, the Retail Forum, initial representation of the incoming BID. At a national/regional level engagement with the RNIB, Guide Dogs and, Age Concern was sought. Locally York Blind and Partially Sighted Society, York Older

Peoples Assembly and the York Access Group have all participated. In addition, York Civic Trust was engaged, due to their important role in protecting the city's historic environment.

23. It was originally intended to hold a consultation session with these groups in December however due to many commitments, it was agreed that the spring was more feasible. A meeting was held on 18th April, with the Consultation Document providing the basis of the discussion and initial verbal feedback was provided.
24. There was consensus that the officer proposals were to a substantial degree supported. This being by those representing the business community, the mobility/equality groups and the civic trust. Formal feedback was sought in the form of a questionnaire (Appendix D).
25. Whilst there was overall verbal support to the tendered proposals from those representing the business/retail community, the Retail Forum has been unable to subsequently provide written official comments, as they are 'split' over the issue. *"There are some who believe they are an eyesore and others who feel they are an essential tool, to their business"*.
26. The BID was only in its very early days at the time of the consultation and at this point they are unable to provide a confirmed position which is reflective of BID levy payers. It is hoped that council officers will be able to work closely with the BID in both the communication of the policy and importantly to look at what other ideas and measures may be feasible aimed at providing ongoing support to the advertising and marketing of businesses within the BID boundary.
27. Whilst the group of stakeholders were substantially supportive (of the tendered direction), some comments were made consistently including the need to both extend the geography of the initial street coverage and to change some streets which had been initially shown as suitable for 'A' Boards (subject to licence criteria) to also be prohibited.
28. Another clear view was that whilst a 1.8 metre pedestrian width wasn't unreasonable, that it should ideally be increased to 2.0 metres, in recognition to the high footfall levels in the core streets and that this is more accommodating for all users including blind/partially sighted people who are accompanied by a guide.
29. The opinions on FAB's (board placed flat against the building face) were slightly mixed. The option of a City Approved 'CAB' received noticeable support, in principle. However the Executive Director for the BID has expressed some reservations about the benefit to businesses, as in his

opinion they may not necessarily fulfil the same purpose as an 'A' board, which is used to advertise promotions.

30. The additional streets highlighted by the group as appropriate for prohibition, based upon the width, footfall, visual impacts, the range of existing day to day demands and need for consistency were:
 - Duncombe Place
 - Parliament Street
 - Lendal Bridge/Museum Street
 - Ouse Bridge/Low Ousegate
31. Comments were made by the group with regards to the need for a consistency in approach, such that all types and forms of advertising materials should be included within the policy. Some businesses place other things on the public highway such as Mannequins/Menu Lecterns/Planters and Tubs/Shopping Baskets/Tables and Actual Display of Goods.
32. A further comment was made with regards to the promotion of events/tourist/leisure services via 'A' Boards or similar. The numerous tourist 'Tours' are examples of this type of activity.
33. In summary, there is a general consensus in support of the tendered proposals (subsequently confirmed through written feedback), although it was recognised that some business do feel a need to seek to use 'A' Boards, it was acknowledged that the reasons 'why' are unclear, as evidence of their economic value is not forthcoming. Views were expressed of the need to explore what alternatives may exist to support the business community going forward.
34. The RNIB campaigns for a zero tolerance approach from local authorities; however it recommends an approach which whilst aligned to this, would give some flexibility, in having a formal application process. A meeting was held on 28th June with representatives of the organisation, who have indicated an overall acceptance of the direction being tendered by officers. They have asked that further engagement continues with local groups such as YB&PSS, particularly in relation to the monitoring and further reporting in due course. And the ability for the community to be able to report infringements.

Options

35. **Option A - (Recommended)** this being the implementation of the Draft Policy (Appendix A), which proposes the prohibition of 'A' Boards (and all other comparable advertising materials/features placed on the highway)

within the streets shown on the plan. The boundary of the zone is consistent with the Business Improvement District. The policy has been amended to reference a 2m pedestrian width in line with stakeholder comments, as this is considered to represent best practice within an area which has to accommodate high levels of footfall. The streets referred to in 30 above have been included. This presents a consistent position within the core shopping streets and others which again are heavily used, with multiple demands.

36. The policy proposes that a City Approved (CAB) scheme is developed and implemented. At this stage it is envisaged that the council will develop a design code and establish locations within the zone which are considered to meet the criteria. This will require working with the BID, MiY, Retail Forum and the Civic Trust. Consideration will also need to be given to the requirement for advert and potentially listed building consents. Along with the approval of any third parties, such as a land/property owners. There is scope hopefully to provide a co-ordinated application process to streamline the process where different applications are required.
37. Whilst the CAB could be developed to provide an alternative option for signposting businesses where the circumstances are appropriate, it is not intended as a substantial replacement for existing 'A' Boards, nor would they enable promotion of variable special offers.
38. **Option B – (Recommended)** For Option A to be implemented over a 4 month transition period (policy implemented 01/01/2017) to allow full communication with the city centre businesses in particular and for adequate staff resourcing and administrative systems to be put in place. This includes the recommendations for necessary initial resourcing, including the funding highlighted below at paragraph 48 and the ongoing license fee at paragraph 49; and the service and operating fee regime at 50.
39. **Option C – (Not Recommended)** an alternative originally tendered was a board to be placed flat against the building (FAB). Whilst being considered by some stakeholders as a reasonable option (subject to criteria), officers having considered the matter further are very concerned that the placement of multiple boards flat against buildings will generate adverse visual impacts, creating a cluttered streetscape. In addition there is the problem of ensuring they are suitably secure and this could result in them being fixed to buildings. This is an issue in itself with many buildings Listed and as such fixing would require planning consent.

40. **Option D – (Recommended for 12 month trial)** again another option tendered was the Remote (or Shared) RAB/SAB board. As consideration developed, including the stakeholder consultation, coupled with the outcome of the street audits, it is an option which may present issues in terms of viability. It is difficult to envisage many circumstances in which they would be considered appropriate for being licensed but on balance an initial trial is suggested.
41. **Option E (Recommended)** the undertaking of further assessment and consultation with regards to potential policy content for all areas outside of the city centre zone, requiring a further report and recommendations within 12 months
42. **Option F (Recommended)** the undertaking of analysis of the initial city centre policy, with a subsequent report one year post full implementation.
43. **Option G (Not Recommended)** it is reasonable to anticipate that implementing the policy will result in some initial concern and potential criticism from some retailers or bodies representing them. However this must be balanced against the robust and objective assessment and evidence presented, which looks critically at the two fundamental responsibilities placed upon the council (relating to highway obstruction/equalities and visual amenity/street clutter), and demonstrates that a city centre prohibition is reflective and reasoned. The option of not implementing the policy is therefore not recommended. The degree of highway obstruction would undoubtedly increase. Doing so would increase risk on the council in that it could be viewed as not taking due account of its responsibilities and duties. This could give rise to legal action against the council. In addition to the detrimental impact upon the highly regarded public realm, the unique historic townscape and the setting of many listed buildings.
44. **Licensing and Resourcing**

On the basis of the recommended policy being approved, the scope of licence applications for regular 'A' Boards will be limited solely to Micklegate.
45. The potential volume of applications is therefore estimated to be in the region of 20 but possibly greater given the volume and type of businesses present. It is suggested that the day to day resourcing implications of considering and processing applications of this volume (against the policy criteria) is manageable within the Network Management team (Transport Services), post the initial transition period. NM is responsible for all other highway licensing activities.

46. The licensed approach will also necessitate resources to cover 'on street' enforcement. Officers have discussed this with colleagues within CANS (Community Safety Hub), who have Neighbourhood Enforcement Officers, already delivering street based services. For the initial 12 month period it is proposed that these officers cover the enforcement side of licensable 'A' Boards. Officers within the two teams are located adjacent to each other within West Offices, which will enable efficient and collaborative service delivery.
47. However in reference to Option B, it is recommended that some additional temporary resources are procured. This being for the initial period including transition and establishing of new policy and procedures. The scope of work would include items such as the preparation and implementation of a communications and awareness campaign; finalising of policy and license guidance notes; finalising management and enforcement procedures; production of licence templates; initial engagement with businesses in scope for licensed boards; support in development of the CAB.
48. As highlighted in previous reports no budget exists for the introduction of the policy and its operation. Approval is therefore sought from the Executive for an initial £25K funding (Staffing 15; Communications 5; Administration 5) to be allocated from the council's contingency. This will provide for a full time FTE for 7 months (within Network Management), to cover the tasks highlighted, together with the implementation of the necessary communications/awareness work. This funding providing necessary resource to implement the policy to 31/3/17. It is anticipated that additional funding may be sought from 1st April 2017 as part of the 2017/18 budget process. The intended 12 month review report will provide commentary on how the workload unfolds for the teams and financial implications.
49. Over and above the initial introduction costs, it is necessary to ensure that the costs of operating the licensed process does not have an impact upon existing budgets. It is considered appropriate to set a service fee to cover officer time and associated administration (our reasonable costs). As each enquiry and application will require input from officers within NM, in conjunction with dialogue with Planning and possibly Conservation colleagues, a fee of £110.00 is recommended. This being comparable to what other local authorities charge. As with the other aspects further information will be provided in the subsequent review report.
50. Furthermore it is necessary and appropriate to ensure that the costs associated with any enforcement activities, are recovered. In that respect

it is proposed to include charges for the cost of removing an 'A' Board (at £52.00: 1 hour chargeable rate for Neighbourhood Enforcement Officer) and for the storage/collection from CYC premises (£40.00). The legislation to be utilised will be the Highways Act 1980 Section 115 (A-K), which allows an authority to recover its reasonable costs.

51. **Equality Impact Assessment** - the Executive required that the policy be subject to an EIA. The full report is at Appendix E. The proposed policy is considered to have a positive impact on the quality of life indicators for several communities of identity. Including the elderly, carers of older or disabled people, disabled people and those with young children. This is because the policy will significantly reduce the presence of 'A' Boards within the zone, meaning the negative impacts they create in obstructing, hindering, and creating general difficulty for access and mobility, will be mitigated.

Council Plan

52. This item contributes to the following priorities and objectives;
- Everyone who lives in the city can enjoy its unique heritage and range of activities.
 - Visitors, businesses and residents are impressed with the quality of our city.
 - Residents are protected from harm and vulnerable people feel safe.
 - That we always consider the implications of our decisions, including in relation to health, communities and equalities.
 - Use of evidenced based decision making.
 - Engage with communities, listening to their views and taking them into account.

Implications

53.

Legal	The recommended draft policy addresses the council's duties with respect to its Highway, Planning responsibilities.
Financial	Refer to 48 -50. The council contingency stood at £1,340k following the 2015/16 outturn report. If the request of

	£25k allocation from contingency is approved this will reduce the balance available for future use to £1,315k.
Human Resources	Refer to 44 - 50.
Crime and Disorder	There are no crime and disorder implications
Sustainability	There are no sustainability implications
Equalities	<p>In considering this matter the Council must have regard to the public sector equality duty. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:</p> <ul style="list-style-type: none"> a. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. b. Advance equality of opportunity between people who share a protected characteristic and those who do not. c. Foster good relations between people who share a protected characteristic and those who do not. <p>The Act explains that having due regard for advancing equality involves:</p> <ul style="list-style-type: none"> a. Removing or minimising disadvantages suffered by people due to their protected characteristics. b. Taking steps to meet the needs

	<p>of people from protected groups where these are different from the needs of other people.</p> <p>c. Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low</p> <p>The recommendations in this report have been subject to a community impact assessment which is annexed and demonstrates a positive impact from the proposals.</p>
Property	There are no property implications

Risk Management

53. In compliance with the Council's risk management strategy there are no risks associated with the recommendations in this report.

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Neil Ferris, Director of City & Environmental Services

Report Date 28/07/2016
Approved

Wards Affected:

All

For further information please contact the author of the report

- Annex A Draft Policy
- Annex B Street Audit
- Annex C Consultation Document
- Annex D Stakeholder Feedback Form
- Annex E Community Impact Assessment

Glossary of abbreviations used in the report:

BID – Business Improvement District

CAB – City Approved Board

CANS – Community and Neighbourhoods

DfT – Department for Transport

EIA – Equality Impact Assessment

FAB's - board placed flat against the building face

FTE – Full Time Equivalent

MiY – Make it York

NM – Network Management

RAB - Remote 'A' Board

RNIB – The Royal National Institute of Blind People

SAB - Shared 'A' Board

YB&PSS – York Blind & Partially Sighted Society