

Review of the Use of A-boards – Draft Final Report

Summary

1. This report presents the findings from the Task Group review together with draft recommendations for the Committee's endorsement.

Background to Review

2. In March 2013, this Committee were asked to consider whether or not to carry out a scrutiny review on the use of A-boards, with the aim of identifying suitable requirements/ guidelines for that could be implemented across the whole city. It was suggested that as part of a review Members could consider:
 - Whether introducing an A-board licence was a suitable approach, recognising:
 - a. It may have income potential, and may encourage more responsible use, and help monitor the proliferation of A-boards.
 - b. It would require an appropriate level of enforcement which may have a significant impact on staff resources.
 - What appropriate Enforcement measures could be taken by the Council in relevant situations under the Highways Act 1980. It was recognised that to help address the staffing resource issue, Members could consider the approach taken by Brighton & Hove i.e. identifying additional staff resource in monitoring and enforcing the streetscape through improved cross directorate/team working, with officers undertaking multiple enforcement regimes, including the use of civil enforcement officers, city cleaning officers and PCSOs.

- What might be acceptable in respect of A-boards e.g. dimensions, colour, design, rules on illumination and safety considerations etc
3. CYC Highways agreed that a review based on the suggestions above could be beneficial, as in their view their current practise was time consuming, resulted in allegations of victimisation and did not effectively tackle the problems some people had freely and safely using the footway.
 4. The Committee noted the work being undertaken by officers in support of the then Cabinet Member for Transport & Planning's consideration of a zero tolerance zone for the city centre. This included looking at how those businesses that were benefitting from boards due to their location being off the beaten track, might be affected by the introduction of a zero tolerance zone (recognising it might affect their viability). The intention was to identify how best to overcome that problem whilst still ensuring the majority of boards were removed. It was also intended that an approved policy for the city centre would be implemented, however given the Scrutiny Review; it was not considered an appropriate use of resources to advance it until the proposed scrutiny review had been concluded.
 5. However, the Committee agreed they did not want to see one approach for the city centre and another for the rest of the city. Instead, some members of the Committee argued strongly for recommending a total ban on A-boards across the whole city.
 6. Other members of the Committee in recognising that it was necessary to clamp down on those that were dangerous, agreed that the council should acknowledge that the overwhelming majority of A-boards were safe and sensible, vital for local businesses and supportive of York's economy. They therefore did not agree with the suggested recommendation to Cabinet. Instead they argued for the introduction of some sensible guidelines and the provision of appropriate enforcement. The Committee therefore requested some initial information on the implications of both options and the effect they may have on the city and CYC resources.
 7. In April 2013, CYC's Traffic Network Manager provided the requested information (see Annex A) suggesting that whilst a total ban would benefit the appearance of the city and the safety of the partially-sighted, there would likely to be an adverse consequence to the small business community. There would also be resource implications around the ability of the Traffic Network Team to enforce a city wide ban.

8. At the same meeting, the Committee was made aware of a petition on A Boards submitted by Micklegate traders in March 2009 to a meeting of the then Executive Member for City Strategy and Advisory Panel (EMAP), which led to the Executive Member approving the development of intervention guidelines for an enforcement policy for the removal of A-boards and the like from the Public Highway.
9. Noting that the introduction of guidelines had previously been agreed but not acted on, and having agreed that some permanent action was required, the Committee agreed not to proceed with a report recommending that the Cabinet approve a total ban of A-boards. Instead they agreed to undertake a review to identify suitable guidelines for the use of A-boards, taking into account other issues such as alternative ways of advertising and health and safety issues. The Committee also agreed to set up a Task Group to carry out the review on their behalf, made up of the following members:
 - Cllr Helen Douglas (Task Group Chair)
 - Cllr Keith Orrell
 - Cllr Gerard Hodgson

Initial Information Gathered

10. A-boards are used by businesses and other organisations to advertise on the highway, including footway, verge and sometimes in the city centre the carriageway (during pedestrian only periods). They are generally metal, wood or plastic boards in an 'A' shape, and their positioning can regularly present an obstruction and potential hazard to users of the highway, pedestrians in particular.
11. The proliferation of A-boards can make it difficult to negotiate the path, and falling over an A-board can be painful and can adversely affect a person's confidence and mobility. Therefore it is essential for all people including those in wheelchairs or with pushchairs, and the blind and partially sighted to have a clear route along a pavement. Without this, many people will walk into A-boards and injure themselves, or inadvertently walk into the road whilst attempting to avoid an A-board. Sometimes A-boards are at different distances from the kerb on the same street; this increases the possibility of crashing into more than one A-board in a short space of time.

12. Local Authority Responsibilities

Councils have a dual role in the control of A-Boards on the highway, that of the:

- Local Planning Authority who have powers and duties under the Town and Country Planning Act 1990 (as amended) and the
- Highway Authority who under the Highways Act 1980 have powers and duties to protect the rights of the public to the use and enjoyment of the highway, specifically in regard to the use of the highway safely and without obstruction, and responsibility for street scene enforcement.

13. However, an A-Board located on private land contained within the forecourt of a premise requires neither express consent under the planning system nor approval under the Highways Act.

14. A number of other types of advertisement can also be displayed by a shop or other business without needing the Council's Consent i.e. they have 'Deemed Consent', except those on a listed building which require listed building consent. However, there are size and positioning limits on those signs e.g.:

- An unlit 'fascia' sign above the shop window and below any first floor windows.
- An unlit hanging or projecting sign at right angles to the frontage, at least 2.5 metres above the ground (Outside of a conservation area, certain types of illumination to these signs are permitted).
- Signs inside a shop provided they are more than 1 metre back from the window

15. The Government has produced an illustrated booklet which explains the types of advertisement that is allowed without needing consent, entitled 'Outdoor advertisements and signs: a guide for advertisers' – see: <http://www.communities.gov.uk/documents/planningandbuilding/pdf/326679.pdf>

16. Where consent is needed, the following Draft Local Plan policies are used to judge the application :

GP21 – Advertisements - Consent will be granted for signs, hoardings and large advertising panels where their size, design, materials, colouring and any form of illumination does not detract from the visual amenity of the areas in which they are displayed, particularly with regard

to the character of listed buildings or conservation areas, and a) there is not adverse effect on public safety and b) in residential areas on sites clearly visible from roads, the advertisement is in keeping with the scale of surrounding buildings and public areas.

HE8 – Advertisements in Historic Locations - Within conservation areas, or on listed buildings, advertisements will be expected to comply with policy GP21 and consist of: a) a design and scale that respects the character and appearance of the area and b) good quality materials that are sympathetic to the surface to which they are attached. Within conservation areas externally illuminated advertisements that require large light fittings will not be permitted.

GP22 – Banners - Advertisement consent will only be granted for the display of banners on or between buildings, structures or trees where there are of a high quality and are maintained as such, and there would be no adverse effect on highway safety or visual amenity.

17. National Best Practice

Nationally, there is no agreed best practice. The Task Group considered a comparative scrutiny review carried out by **Brighton & Hove** in 2010, undertaken as a result of concern over how accessible their public highways were. They considered whether pavements in the city were too cluttered thereby reducing the ability of residents and visitors to move freely, in particular those with mobility issues. The review took into account and balanced the competing needs of different groups of highway users. They considered evidence from disability advocacy groups, residents associations, business associations and private residents, and carried out site visits to areas identified as hotspots around the city. As a result of their review they introduced a licensing scheme for the use of A-boards – see copy of their scheme at Annex B. There are a number of other Local Highway Authorities that have introduced a licensing scheme.

18. Where a licence is not required some Local Highway Authorities have agreed some voluntary guidelines / requirements for use of A-boards on the public highway - see example of voluntary guidelines in use in **Bristol** at Annex C. In those areas, an organisation that wishes to place an A-board on the highway is responsible for complying with those guidelines.

19. Some Local Highway Authorities allow the use of A-boards and only take action when necessary – see example policy from Essex County Council

at Annex D. Whilst others enforce a total ban – see copy of example policy banning the use of A-boards in Hackney at Annex E.

20. Use of A-Boards in York

City of York Council (CYC) has a long established practise of tolerating A- boards on the highway unless a complaint is made in which case action is taken to get the board removed. CYC's Highways Team confirmed the current approach regularly results in the board owners making complaints about staff because they feel victimised, and this then takes up a significant amount of staff time in dealing with the complaint.

21. Approximately 5 years ago in the city centre, a more thorough approach was taken following a number of more wide ranging complaints. At that time advice was given that only if a board was positioned flat against a property, would be unlikely that any further action would be taken. As a result most of the A-boards in the footstreets area were removed by their owners. By tackling the city centre as a project rather than taking individual action, officer time dealing with the matter was substantially reduced.
22. In addition, City of York Council went through the process of actively de-cluttering the city centre by taking action to remove street signs, bollards and other items of street furniture.
23. However, officers have confirmed that a reduction in resources has resulted in the issue of obstruction by A-boards not being as vigorously acted upon as in the past. As a result, a brief audit undertaken in late 2012 identified approximately 150 boards back on the city centre streets causing obstructions. For example, in 2011 three A-boards were observed in front of an historic building at the Goodramgate / Deangate junction. In the first week of December 2012 this number had increased to eight boards in a line.
24. By early 2013 (at the time this review was commenced), the level of obstruction of the footway was becoming a growing concern, and was seen as a very real problem for those who were blind / partially sighted or needed to use a wheelchair. In particular, a growing number of A-boards in the Clifton Green area were identified, some of which were obstructing the footpaths, and others were tied to trees. The Task Group recognised the same kinds of issues were most likely being duplicated in other local shopping areas.
25. CYC's Arboricultural Manager confirmed that signs are often chained around trees and locked sometimes preventing stem clearing work as

had been the case along Clifton Green. In that particular area the sign also blocked visibility for cars exiting onto the main road.

26. CYC's countryside officer expressed concern around the use of trees for displaying notices, as signs and chain can cause abrasion damage to tree bark and if very tight, prevent tree growth and expansion eventually killing the tree as it grows.

Consultation

27. As work on the scrutiny review got underway, a number of members of the public and a number of local business owners expressed an interest in participating in the review asking that their views be considered. With this in mind and in light of the initial information gathered, the Task Group agreed to hold a consultation event in order to give all interested parties an opportunity to make their views known.
28. A wide range of interested parties were invited to the event held in February 2014, including individual traders, a number of disabled people who had expressed an individual interest in being involved, those who had recently made a complaint to the CYC Highways Team, members of the Council's Equality Advisory Group, and representatives from other relevant organisations e.g.:
 - Royal National Institute of Blind People
 - York Access Group
 - York Older People Assoc (YOPA)
 - Guide Dogs for the Blind Association
 - York Federation of Small Businesses
 - York Retailers Forum
 - York Civic Trust
29. Feedback from the event is shown at Annex F.
30. The Task Group also considered a briefing issued by the National Institute of Blind People (RNIB) on 'What can I do about...Advertising boards (A-boards)', which makes clear that the RNIB supports a complete ban on A-boards.

Analysis of A-board Options

31. Taking the approaches in place elsewhere and taking account of the previous decision made by an Executive Member in 2009 (see

paragraphs 9-10), there are a number of options on the use of A-boards to consider:

- A. Maintain the current arrangements
- B. Introduce voluntary guidelines
- C. Introduce a policy for the use of A-boards with or without a licensing scheme
- D. Introduce a total ban
- E. Introduce a combination of the above

32. Options A & B

To a degree, both these options are in theory self regulating in that if a business is careful with its 'obstruction' a complaint is less likely to be made. Problems in the past have erupted when there has been an over zealous reporting of problems by individuals for reasons more to do with the look of the streetscape rather than an actual serious obstruction. Having said that there are clearly some areas where protecting the street scene should be regarded as a high priority e.g. Stonegate or where pedestrian flows are very high. The risk with both approaches is a gradual increase in number of A-boards over time and in the case of Option B a gradual drift away from the council's guidelines.

However, if the voluntary guidelines were adhered to (Option B) they may help to mitigate the number of complaints received as they would encourage a more uniform approach to the placement of a-boards, which affected parties agreed would make life easier if A-boards were to remain present on the streets of York.

33. Option C

This option has its attractions in that this approach is very strictly regulated and would therefore be much less reliant on personal views of complainants, businesses, officers and Members. This option would require a uniform approach and introduce clear dos and don'ts and would result in an overall reduction in A Boards. It would also mean that the parameters on 'free unobstructed' pavement widths would result in there being some streets where the use of A-boards would not be accepted, unless flat against the building frontage e.g. where the footways are less than 2 metres wide. The introduction of a licensing scheme and the associated cost to businesses may lead to a reduction in the number of A-boards on York streets and help address the issue of multiple A-boards per business.

34. Option D

This option is a very simple and straight forward approach but if applied universally across the whole authority area could not only take up significant officer time but be seen as unnecessary and unhelpful by some, the business sector in particular. The Highways Team would estimate an annual figure of around 150 complaints (some to do with the look of the streetscape rather than an actual serious obstruction), but were unable to provide an exact breakdown of the types of complaints received. Based on that number and the reasons behind some of those complaints, Option D may be deemed a heavy handed approach.

35. Option E

This option recognises the differing circumstances across the York area and could for example designate the city centre for a ban on A-boards whilst maintaining the current toleration approach for the outlying areas where pedestrian flows are significantly lower. Further work would be necessary to set out reasonable boundaries for the different zones.

36. Enforcement of Options

- Options A & B - Option B would require officers to carry out a one off piece of work to draft the voluntary guidelines. Once in place, the neither of these options would require additional staff resources if officers continued only responding to complaints as and when received. Although as noted above reducing staff resources have seen a reduction in the capacity of the Council to respond to such complaints.
To enable either approach to flourish, officers would need to be able to give priority to clear cases of obstruction whilst resisting the more frivolous complaints in the knowledge that this approach is fully supported by elected Members. There would of course continue to be differing views on what a clear case of obstruction is so it is suggested that if voluntary guidelines were to be introduced, reference be made to pictorial examples of acceptable and unacceptable uses of "A" boards rather than using strict arbitrary measurements.
- Options C & D – Both of these options would incur significant officer time if a decision were taken to proactively investigate and enforce breaches of the policy and non licensed A-boards, or enforcing a total ban. Staff resources do not currently exist within the Highways Team to enforce these options in a proactive way; hence a new post would be required, probably in the Grade 5 or 6 range.

In the case of Option C, the cost of this post could potentially be recouped from the income generated by the issue of annual licences. However the introduction of a licensing scheme may deter some businesses from using A-boards thereby limiting the income generated.

The alternative approach would be to consider the approach taken by Brighton & Hove i.e. identifying additional staff resource in monitoring and enforcing the streetscape through improved cross directorate/team working, with officers undertaking multiple enforcement regimes, including the use of civil enforcement officers, licensing officers, city cleaning officers and PCSOs.

Also in the case of Option C, if a decision were taken to only respond when a complaint is received (as currently happens) no additional staff resource would be required. However the Highways Team would not recommend that approach as it would significantly water down the positive impact a policy could have. This approach would also not be acceptable for use with option D as it would result in no change to the current arrangements.

- Option E – This option would be likely to require some enforcement dependent on the combination of options used, which again may lead to the need for additional resources.

Review Conclusions

37. Bearing in mind the level of re-emergence of A-boards in the city centre, the Task Group recognised that much of the benefit of the council's de-cluttering work previously undertaken had since been lost. Furthermore, they recognised the growing number of alternative forms of street furniture being used for advertising purposes e.g. bicycles, flower carts etc. They therefore agreed that any consideration of the options above should apply to all forms of street advertising not just A-boards.
38. The Task Group acknowledged the reasons why a business would choose to use an A-board; inexpensive form of advertising, versatile, increasing footfall etc. However, whilst they heard from a number of businesses on the benefits they bring (see notes from consultation event at Annex F), they were unable to evidence the actual value / income generated by the use of street advertising, to the individual businesses. The Task Group were also encouraged to hear that businesses would adhere to guidelines on the use of A-boards if they were introduced.

39. When implementing policies a Local Authority has a duty (Equality Act 2010) to consider the impact and take reasonable mitigating measures to ensure equality issues are not compromised. So in recognising the perceived benefits for individual businesses, the Task Group also had to balance those against the very genuine and evidenced difficulties that obstructions to the highway create for highway users, particularly the Blind, partially sighted and those with mobility difficulties.
40. The Task Group recognised the difficulty of positioning an A-board in such a way that it works for all. They noted that guide dogs are trained to steer their owners around permanent obstructions and to walk along the outside edge of the pathway, and are therefore more affected by A-boards placed in that position rather than those up against the building line. As that they learn their regular routes and obstructions that are continually re-positioned (as in the case of many A-boards) affect their progress. In comparison, the Task Group noted those who are partially sighted and those who use canes prefer to walk along the building line.
41. They acknowledged the view of the consultees representing those affected groups that whilst a total ban on the use of A-boards would be their preferred option (option D), their alternative preference would be an agreed policy addressing the most appropriate placement of A-boards etc to control and limit their obstructiveness (Option C).
42. Furthermore, the Task Group recognised there are some streets, particularly in the city centre where the width of the footpath and roadway (during pedestrian only hours) would not allow for the use of an A-board regardless of a policy, licensing scheme or voluntary guidelines. The Task Group agreed that implementing a total ban in those streets was the only option. However they agreed the Council should encourage businesses in those streets to use other forms of advertising and were pleased to learn of the Council's forthcoming The Legible York (Wayfinding) Project ¹ which would provide additional advertising opportunities.
43. The issue of resourcing the enforcement of the various options was also considered. The Task Group accepted the Highways Team did not have

¹ A scheme supported by Reinvigorate York, to deliver improved orientation/navigation for residents and visitors in the city. It is aimed at encouraging more people to walk, more of the time. The first phase of implementation will take place in spring 2015, any will include a totally new mapping base of the city centre installed within new street furniture/totems/monoliths and supplemented with finger posts. It will enable a significant volume of other information to be accessible through the use of smart technology e.g. a layer which includes retail, eating and leisure information. The intention being that this will provide much wider opportunities for businesses in the city to promote their offer.

the relevant resources and therefore agreed the approach taken by Brighton & Hove should be investigated as a potential way forward for York i.e. identifying additional staff resource through improved cross directorate/team working, with officers undertaking multiple enforcement regimes, including the use of civil enforcement officers, licensing officers, city cleaning officers and PCSOs.

44. They also acknowledged the risk of liability associated with some of the options but recognised that as all of the options have been introduced by other Highway Authorities across the country it must be possible to manage any such risks effectively. For example, they noted that those Local Authorities with a licensing scheme had written into their policy that the licensee must indemnify the council against any claims in respect of injury, damage or loss arising out of the grant of the licence and stipulated the amount of Public Liability Insurance cover required.
45. Overall, having considered all of the options, the Task Group agreed that the current arrangements were unacceptable i.e. that A-boards are not permitted but they are tolerated until a complaint is made. They agreed this arrangement suited none of the interested parties, that it created confusion and that it left the council open to criticism.

Draft Review Recommendation

46. Having considered all of the information gathered in support of the review and all of the available options, the Task Group agreed that recommending the introduction of some suitable 'guidelines' as per the review remit, would not be the right approach for York. They therefore agreed to recommend **Option E** i.e.:
 - i) The introduction of a policy allowing the use of A-boards under strict criteria.
 - ii) The policy to include a list of streets where the use of A-boards is prohibited at all times due to the limited widths of footways
 - iii) That appropriate resources be identified to ensure the full and proper enforcement of the new policy. This to include consideration of the potential for improved cross directorate/team working outlined in paragraph 44 above.

The Task Group also agreed not to recommend the introduction of a licensing scheme.

Options

47. Having considered all of the information within this report, the Community Safety Overview & Scrutiny Committee may choose to:
 - i. Endorse the Task Group's draft recommendations as shown in paragraph 46 above.
 - ii. Identify alternative recommendations.

Council Plan 2011-15

48. Ensuring the public highway remains free of obstruction and safe for all users (particularly for those with mobility difficulties or who are blind / partially sighted), contributes to the corporate priorities of building safer inclusive communities, and protecting vulnerable people. The use of A-boards also encourages and supports new and existing small businesses to set up and grow, thereby helping to create jobs and grow the economy.

Implications & Risk Management

49. **Financial & HR** – The recommended option would require additional staff resources which may have a cost implication depending on the source of those additional resources. However the introduction of a licensing scheme could potentially mitigate any additional staffing costs.
50. **Equalities** – The use of A-boards does have an adverse impact on the blind and partially sighted, and those with mobility issues and those with small children in pushchairs etc. However an agreed standard approach to their use would go some way to mitigate their impact.
51. **Legal** - All of the options outlined in the report with the exception of Option D could result in complaints of obstruction of the footway by those most affected, which this Council as the local Highway Authority would have to justify to the complainant. However, other Highway Authorities are successfully managing the risk of liability from either allowing or licensing obstructions in the highway. Therefore all of the options are suitable for consideration.

Recommendation

52. The Community Safety Overview & Scrutiny Committee are recommended to endorse the draft recommendations made by the Task Group (as detailed in paragraph 46 above).

Reason: To conclude the work on this review in line with scrutiny procedures and protocols.

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Report Approved **Date** 20 December 2014

Specialist Implications Officer(s) N/A

Wards Affected:

All



For further information please contact the author of the report

Background Papers: N/A

Annexes:

Annex A – Initial Analysis of Pros & Cons of introducing a City Wide Ban on A-Boards

Annexes B-E – Example Policies for Various Options

Annex F – Feedback from Consultation Event held February 2014