

## **Meeting of the Executive Member for City Strategy 8 December 2008 and the Advisory Panel**

Report of the Director of City Strategy

### **PEDESTRIAN ACCESS AND PARKING, BROADWAY SHOPS, FULFORD**

#### **Summary**

1. This report is in response to a petition (Annex 1) submitted by BAGNARA (Broadway Area Good Neighbour and Residents Association), with circa 370 signatures. The petition requests a radical improvement in parking arrangements at Broadway shops, creating safe separate parking and safe passage for pedestrians, wheelchair users and all those with business at the shops.
2. The report outlines the history and status of the area concerned and presents options for consideration. It recommends that the Advisory Panel advises the Executive Member to approve Option A and B.

#### **Background**

3. The petition relates to the area of land fronting the shops on Broadway, as circled on Annex 2. A larger scale drawing is also included at Annex 3. This drawing was produced in connection with a Fishergate Ward Committee scheme undertaken in 2006 and included various measures to improve facilities within the limits of the public highway. Annotated on the drawing is the extent of highway maintained at public expense.
4. In addition, a detailed review of the private forecourt and service road was undertaken in 2006 and presented to the Fishergate Ward Committee. That report is Annex 4. That report highlights that the frontage does not have any positive indication of which portions are for pedestrian use and which are for vehicular use. It also mentions unsatisfactory conditions arising from the absence of defined pedestrian areas, with vehicles parking in a haphazard and uncontrolled manner. Arrangements were considered to be potentially hazardous, however no injury accidents were recorded. The potential for a more systematic layout was investigated. Five options were reviewed with the favoured option put forward being that of parallel parking. This was however not without drawbacks, such as a reduced capacity for car parking and restriction to existing access to some shops. The outline design for this

scheme had a cost estimate of £15,000-£20,000. It was highlighted that no funding was available from council highway budgets. Furthermore, given that the scheme was not within the publicly maintainable highway, if it were to progress then formal agreement from the shop owners would be a fundamental requirement. It is understood that no further action was taken by the Ward Committee or interested parties.

5. In terms of current circumstances, the situation is much the same. The issues of lack of managed parking and the problems this creates for pedestrians or cyclists are still evident. The deteriorating condition of the service road has also been highlighted. In June this year Cllr D'Agorne indicated that contact had been re-established with the Coop, who appeared keen to re-visit options. A meeting was held in July with representatives of the Coop, off licence, post office and hairdressers and Cllr D'Agorne. It was indicated that the Coop may be prepared to contribute money (previously spending £20K circa 2005), with joint preference being for a scheme that included the removal (part or all) of the island which runs between the private access road and Broadway carriageway (the island is public highway) together with adoption by the council of the private areas, possible repositioning of bus stops and forming a one-way system to the service road. Potential for some ward committee funding was also intimated.
6. Officers have provided written advice on how they view the position, and this is as follows. As the forecourt and access road is highway maintainable at private expense, the council (as local highway authority) must be careful in terms of how they can approach the formal request for improvements. In one sense the request appears to be what we would term *a private developer matter* and it is for the initial promoting parties (the shop keepers) to put together a scheme, which could be carried out, within the land concerned. This may require planning or other consents depending on the scale and content of the works.
7. Officers have discussed this matter with legal colleagues. This has confirmed that as highway/transport authority, the council have no legal duty to promote a scheme of upgrading to the forecourt/road area. This may appear blunt however that is the correct position. Furthermore we have no legal right to undertake any such works. There are however provisions available to the highway authority under Section 230 of the Highways Act 1980, where in its opinion repairs are needed to obviate danger to traffic. In such circumstances a Highway Authority can step in and by notice, require the owners of premises fronting the private street/area, to execute, within a limited time, such repairs as may be specified. In the event of failure to execute such works, the authority can carry out the repairs and recover the costs from the frontagers. This council has pursued such action on a handful of occasions. No future responsibility for maintenance is transferred to the council under such procedures. An example of this could be the repair of deep/extensive potholes, which create a serious hazard to pedestrians or other users.
8. The request (petition) and subsequent correspondence from BAGNARA additionally raise the question of the significant re-modelling of the island which is part of the public highway, to create a dedicated parking area. This area was

improved as per the drawing at Annex 3, incorporating improved measures for pedestrians and other ancillary elements.

9. Appended to the petition are extracts from York Press dated 17 June 2005. The article relates to improvements undertaken to shop frontages at Front Street Acomb. The project formed part of a York Pride initiative to create cleaner, safer neighbourhoods by tackling litter, graffiti and the cleanliness of roads and paths. The areas of land concerned were publicly accessible private land. Whilst this project appeared to focus on different issues to those being raised at Broadway, officers have sought advice from the Directorate of Neighbourhood Services. We are informed that this initiative was a pilot project to tackle environmental/criminal issues. It received a one off dedicated budget together with match funding from local businesses.

### **Options**

10. **Option A** – Advise BAGNARA that whilst the concerns raised are fully understood and appreciated, that the council as highway authority has no legal duty or right to promote improvements to areas of privately maintained highway. However the council will offer guidance on low cost and tenable measures aimed at improving arrangements for vulnerable users together with advice on installation and potential reconstruction/repairs to the service road.
11. **Option B** – Approve the undertaking of any subsequently identified urgent works as prescribed within section 230 of the Highways Act 1980.
12. **Option C** – Undertake further assessment into the remodelling of the highway island to provide dedicated parking for the shops together with alteration to the forecourt and service road.

### **Analysis**

13. **Option A** – Making improvements to the forecourt and service road is within the control of the owners of the frontage properties. If the owners work collectively with appropriate guidance from the council it is considered that a cost effective solution is achievable as per the earlier report from 2006. It is felt that the management of car parking could be greatly improved through the installation of perhaps timber posts (or bollards) and/or other means (possibly heavy planters) to the immediate forecourt. It should be possible to define a safe pedestrian zone, whilst balancing this with parking for several vehicles. Such low cost measures should still receive more consideration from those visiting the shops in the car but still encourage people to make the journey on foot or by bike. With regards to the later, some additional and robust cycle stands could also be accommodated within the forecourt. The council could assist with advice on the design of such features and provide the expertise to install. However as highlighted earlier, no highway budget is available for purchase or installation works/costs.
14. Advice on and the undertaking of any maintenance/reconstruction of service road could be provided by the council, again with this being wholly funded from

non-highway authority budgets, and at the request of the appropriate owners and covered by suitable agreement. Option A is recommended

15. **Option B** - As set out in paragraph 7, this option is available to highway authorities where they consider that urgent action is required within a private highway area. This procedure has been followed within York in the past, and whilst it may be considered a measure of last resort, it is ultimately a mechanism that should not be ruled out, as the intention is always to protect highway users. Option B is recommended.
16. **Option C** – This would seek to consider a comprehensive re-design and construction of both the public highway and the private forecourt and service road. From a transport policy perspective this is not considered to be appropriate, as it is essentially seeking (the council) to promote a scheme to improve the parking arrangements for private/commercial business. Admittedly the public would use such parking, however it is not the responsibility of the council to make such improvements, and indeed it could not expend public budgets in seeking to address a private matter. It may be perceived that such a comprehensive scheme would address all the issues and serve to improve space for pedestrians, cyclists, and the mobility impaired. However the circumstances here are quite different to the schemes undertaken by the council through its Transport Capital Programme. These are of course undertaken within areas of publicly maintainable highway, and subject to meeting strict criteria and cost benefit evaluation. Furthermore, with Broadway, such a scheme would require the status of the forecourt and service road to become publicly maintainable highway. This would necessitate the ‘making up’ of the private areas to an adoptable standard, with agreement by all frontagers. It is estimated that such a scheme would cost anywhere between £100,000 and £350,000. For the reasons set out here and earlier in the report, the council cannot legally fund such works, and the whole cost of ‘making up’ would be apportioned to the frontage properties. This option is not recommended.

### **Corporate Priorities**

17. The following priorities (Corporate Strategy (2007 – 2011), could be considered relevant to the report:
  - No 3 “*Increase the use of public and other environmentally friendly modes of transport*”; and
  - No 4 “*Improve the actual and perceived condition and appearance of the city’s streets, housing estates and publicly accessible spaces*”.
18. The *hierarchy of transport users* is firmly embedded within the second Local Transport Plan (LTP2), with pedestrians and cyclists being given priority when considering travel choice. The proactive management of the forecourt and service road at Broadway Shops, would encourage its use by these modes of travel and therefore fits soundly within Council transport policy.

## Implications

- **Financial**

19. Option A - The approval of this option would require some officer time to be dedicated to provided further advice on possible measures/improvements. It is considered that this could be resolved through perhaps a couple of informal meetings. The council would incur no other costs.
20. Option B – In the event that the council as highway authority determined at some point in the future that it were necessary to instigate action under section 230 of the Highways Act 1980, then officer time would be involved in this, however costs related to the undertaking of emergency works would be re-charged to the respective owner.
21. Option C – As set out in Para 16, it is not considered that Transport capital programme budgets could be utilized to remodel the highway island to provide dedicated parking. All cost attributable to ‘making up’ private areas to adoptable standards would be borne by the frontage properties.

- **Legal**

22. Advice has been sought on this matter from Legal Services, and they concur with the comments made.

## Human Resources (HR)

Officer time covered in financial implications.

- **Equalities** – no implications
- **Crime and Disorder** – no implications
- **Information Technology (IT)** – no implications
- **Property Other** – no implications

## Risk Management

23. In compliance with the Council’s Risk Management Strategy, there are no risks associated with the recommendations of this report.

## Recommendations

24. That the Advisory Panel advise the Executive Member to select **Option A & B** and;
  - 1) Advise BAGNARA that whilst the concerns raised are fully understood and appreciated, that the council as highway authority has no legal duty or right to promote improvements to

areas of privately maintained highway. However the council will offer guidance on low cost and tenable measures aimed at improving arrangements for vulnerable users together with advice on installation and potential reconstruction/repairs to the service road.

- 2) Approve the undertaking of any subsequently identified urgent works as prescribed within section 230 of the Highways Act 1980.

**Reason:** To ensure that the council's position is consistent with it's legal obligations under the provisions of highway legislation.

## Contact Details

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**Report Approved**  **Date** 14/11/08

**Report Approved**  **Date**

### Specialist Implications Officer(s)

#### Financial

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#### Legal

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#### Wards Affected:

Fishergate

All

**For further information please contact the author of the report**

### Background Papers:

Fishergate Ward committee report – parking/access options  
Highways Act 1980

### Annexes

Annex 1 – Petition

Annex 2 – Location Plan

Annex 3 – Engineering drawing of scheme completed

Annex 4 - Fishergate Ward report - options