
Economic & City Development Overview & Scrutiny Committee

9th March 2010

Report of the Interim Head of Civic, Legal & Democratic Services

Update Report – Broadway Shops

Summary

1. This report provides Members with an update on the outcome of the facilitated discussion that took place on Wednesday 10th February 2010.

Background

2. In August 2009 Councillors D'Agorne and Taylor, Ward Members for Fishergate, submitted a Councillor Call for Action (CCfA) in relation to maintenance, parking and safety issues at Broadway Shops. A feasibility report in relation to this was subsequently considered by the Economic & City Development Overview & Scrutiny Committee at a meeting on 8th December 2009 and it was resolved:

'That, in the first instance, and in order to offer some support from Scrutiny, Members of the Committee agree to proceed with Option B of the report, and arrange to facilitate a round table discussion between all willing parties with a report back to the Committee in March 2010.'

3. This was arranged for the evening of Wednesday 10th February 2010 and Councillor Kirk agreed to facilitate the discussion.

Update on & Analysis of the Facilitated Discussion

4. The discussion took place at Fulford Social Hall and was attended by the following:
 - Councillor Madeleine Kirk (facilitator)
 - Richard Bogg – Divisional Head – Traffic, Development & Transport (City of York Council representative)
 - Ward Councillors D'Agorne & Taylor
 - Tracy Wallis (Scrutiny Officer) & Jill Pickering (Democracy Officer)
 - Regional Property Manger (Co-operative Group)
 - Representatives of 50/50 Hairdressers
 - Representative from the Greengrocers
 - Representatives from Broadway Post Office

- Representatives of BAGNARA (Broadway Area Good Neighbour & Residents' Association)
 - Councillors Pierce & Hyman (observing)
5. Councillor Kirk welcomed everyone to the meeting and agreed the protocol for speaking as well as gaining a consensus that all wanted to move forward and try and resolve this issue, which had now been going on for approximately 15 years. It was agreed that the retailers would need to work together to achieve a solution.
 6. Richard Bogg, Divisional Head, Traffic, Development & Transport set out the Council's position in terms of the Council, as Highway Authority, having no jurisdiction or ability to spend public money on the unadopted service road directly in front of the parade of shops.
 7. He also introduced a short supplementary paper and some possible low cost, short-term solutions to the problems being experienced which had been prepared in order to assist the discussion. These are attached at Annexes A, B & C to this report. Various photographs illustrating some of the problems being experienced were also on display at the meeting.
 8. The following points were raised and discussed during the course of the meeting:

Land Ownership

9. The land outside the shops, that is the immediate forecourt and access road, is not publicly maintainable highway and therefore, the Council, as Highway Authority cannot legally assist with the cost of repair or alteration.
10. It was mentioned that a similar problem had been experienced in Acomb. Further exploration of this point established that the crux of the problems being experienced there were caused by anti-social behaviour and, therefore, alterations had been funded from the Neighbourhood Services budget.
11. The representative from the Co-op informed the meeting that he did not disagree in principle with any of the options tabled at the meeting (Annex B refers); however there were some outstanding issues that needed addressing before progress could be made, the main one being the establishment of liability for the forecourt. Many of the retailers, including the Co-op had said that the frontages did not appear in their deeds and described the land as 'grey man's land', which wasn't in their ownership. The representative of the Co-op was currently trying to establish liability and agreed to come back to a further meeting with a progress report.
12. In order to assist this process a representative of BAGNARA informed the meeting that the properties had originally been built by a developer called 'Gledhills'. It was suggested that the original conveyances, if they could be located, might shed light on ownership. The City of York Council representative and the Scrutiny Officer agreed to investigate whether there was anyone in the

Council that could help locate these, this would also assist the Co-op in trying to establish liability for the land.

Pedestrian Access & Safety

13. It is evident that some larger delivery vehicles drive onto the pavement to manoeuvre onto the service road and this has resulted in damage within both the highway island and the private frontage.
14. Discussions were had on the possibility of making the whole area pedestrian only, but with vehicular access for the retailers to their driveways. Some of the retailers thought that this would be a possible way forward but others thought that this would have a significant negative impact on trade and would not support this as a viable way forward. There would also be severe parking problems on Broadway itself if people could not park directly outside the parade of shops. This could have a knock on effect on the public highway as well as creating problems for local residents who would experience many more parked vehicles in front of their properties.
15. From the 4 options tabled at the meeting (Annex B refers), Options 2 and 4 were seen to be the most practical in terms of parking and pedestrian access and safety, with planters being used to cordon off a pedestrian walkway. It was acknowledged that Option 2 was probably the better, but would need some amendment to become a viable option. Suggestions were given as to whether a chain fence or bollards would be better than planters but there was ultimately no agreement as to which would be best.
16. Retailers asked for confirmation regarding who would be responsible for damage to any tubs/bollards that may be installed and it was confirmed that it would be the retailers' responsibility to maintain them. A representative of BAGNARA explained that you could buy planters made from old railway sleepers, which were almost impossible to destroy or knock over, and this might be worth investigating as a possibility.
17. It was unanimously agreed that the service road would function more safely if it were one-way. The Council representative confirmed that it could not legally erect signs on private land to indicate that this was a one-way road, neither could it erect the signs on the public highway where it abutted a private road. There was however, nothing to stop the retailers erecting their own advisory signs on the service road or white lining an 'IN' and 'OUT' sign on the service road itself. Further discussion ensued and it was decided, in principle, that this would be a beneficial thing to do; with the entrance at the Post Office end of the service road and the Exit at the Hairdressers end.
18. Many of the retailers felt that parents would be more willing to let their children go to the shops by themselves if there was a defined path they could walk on that was a safe distance away from parked vehicles.
19. There was currently a trolley park and an ATM outside of the Co-op, which caused a pinch point in the pedestrian access in front of the store. The bollards around the ATM were fixed and would need to be retained, but were not

deemed to be too problematic as they could easily be incorporated into any of the options set out at Annex B to this report. The Co-op agreed to look at the possibility of moving the trolley park to the side of the store, or reviewing the need for it as the Ward Councillors questioned how many people used trolleys in this branch of the Co-op.

20. Broken concrete and parking too close to the shop frontages were particularly hazardous for those people with pushchairs and those using mobility scooters and walkers.

Parking

21. It was established that the retailers themselves did not park on the shop frontages but to the side or the rear of the stores.
22. Many of the retailers and BAGNARA felt that the main problem was the traffic island. Many years ago BAGNARA had suggested its removal as a solution to the parking and safety problems being experienced but City of York Council advised that such a scheme would fail to meet consideration as a local safety scheme, when evaluating it against the criteria of the transport capital programme. This is because the request is essentially one to address parking and access issues associated with private businesses. Additionally the cost of such a scheme would as highlighted in previous reports be very expensive, running into many tens of thousands of pounds. There were also services beneath the island and these would have to be relocated/or protected for it to be moved.
23. The possibility of moving the Post Box from the traffic island and locating it nearer to the Post Office was examined. Whilst the Post Office and the other retailers were generally supportive of this it was acknowledged that the Post Box was sometimes the only thing that stopped people driving the length of the traffic island.
24. The possibility of putting a ramp up to the traffic island was discussed. If the kerbs were ramped then it would be possible to park on the traffic island. This was not deemed to be practical by City of York Council and due to legalities it is not something that they could fund?
25. Further to this the possibility of retaining the traffic island but making the service road up to the same height was discussed. Again, this was something that the City of York Council would not be able to fund. There would also be problems with drainage, which could be very costly to correct.
26. It was felt that the echelon parking set out in options 2 and 4 (Annex B refers) would be most suitable for this particular area, especially if parking spaces were marked out with white lines. Many people at the table felt that most motorists would park within white lines should they be marked out.

Servicing & Deliveries to the stores

27. Currently the larger delivery vehicles were causing problems in terms of both pedestrian safety and damage to the service road. Larger vehicles had trouble manoeuvring onto the service road and frequently mounted the pavement causing damage to the kerbs and to the concrete and services beneath. There was a particular problem outside 50/50 Hairdressers where posts were frequently knocked down as the largest delivery vehicles tried to get to the Co-op. They often did not leave a clear route in front of the stores to allow for safe pedestrian access. The Council representative agreed to look at the problems/damage being experienced at this corner and the protection of the services under the traffic island.
28. As there was insufficient 'swing room' for large vehicles the retailers and BAGNARA asked the Council to look at the possibility of reshaping the traffic island at either end to make manoeuvres easier. The Council representative agreed to investigate this.
29. The possibility of allotted time slots for delivering to the shops was discussed. The representatives of the Post Office informed the meeting that this would be very difficult as some of the delivery firms would not agree to this (i.e. bread deliveries). The representative of the Co-op agreed to check best practice and to see whether it was possible to set delivery times to less busy pedestrian times.
30. Discussions were had around whether it was worthwhile putting notices up to encourage people to deliver at particular times of the day. These notices could only be advisory and there were doubts all round as to how effective these would be.
31. The larger vehicles were frequently 7.5 tonne lorries and these were approximately 2.5m wide. All of the options set out at Annex B to this report allowed for 2m between parked cars and the front of the stores, however all the options have flexibility in terms of the widths and location of any street furniture.
32. The Ward Councillors queried whether it would be possible for the delivery lorries to unload elsewhere i.e. the bus stop on Broadway itself, but it was generally felt that this would create significant traffic problems on the main highway. There would also be a need for dropped kerbs so that trolleys and crates could be easily moved. The Council Representative agreed to look into whether this was happening elsewhere in the City.
33. Discussions also ensued on the possibility of moving the bus stop to a straighter section of the road, offset to prevent gridlock, but this was deemed to be too problematic and would be unpopular with local residents.

Funding

34. It was generally agreed that for any of the options set out at Annex B to be successful the road would need to be one way. Ward Councillors indicated that

it may be possible to use Ward Committee funding to paint some white 'IN' & 'OUT' signs on the road, providing these did not affect the movements of traffic accessing 30-40 Broadway.

35. BAGNARA confirmed that it had enough money to fund any of the options and would be happy to do so should any agreement be made.

Other

36. It was generally considered to be too expensive for the retailers to bring the service road up to an adoptable standard and therefore this was not considered to be a plausible option for further discussion.
37. Ward Councillors also suggested that they could request a neighbourhood police presence in the area to encourage proper usage of the service road until this became habit. It was understood that they would not be able to enforce but their presence in the area may help.
38. As a matter of courtesy, it was agreed that residents at 30-40 Broadway should be consulted prior to any works taking place.
39. One retailer expressed the preference for cycle hoops to be on the traffic island rather than the service road or frontage and would prefer to use planters to cordon off a safe passage for pedestrians.

Next steps

40. At this stage no agreement had been reached as to a way forward, although the principle of progressing an amended option 2 (Annex B refers) was popular. In light of this the Chair summarised the key points in the meeting and suggested a further meeting be held in April 2010 to continue discussion and receive clarification on the following points that had been raised:
 - The Council representative to investigate whether bus stops elsewhere in the city were being used for unloading delivery vehicles
 - Co-op to look at best practice in terms of allotted delivery times & the possibility of delivering before the store became busy
 - Ownership of the forecourts needed to be established & the Scrutiny Officer & Council Representative would investigate whether anyone in the Council could assist with this
 - The Co-op representative to investigate moving or abandoning current trolley park
 - The Council representative to look at the possibility/cost of re-shaping the traffic island at either end so larger vehicles can manoeuvre more easily and avoid damaging posts and services
41. All parties concerned agreed to this course of action and to report back with developments to a meeting in April in order to progress this further.

Consultation

42. All retailers in the parade of shops at Broadway and the secretary of BAGNARA have been consulted and kept fully informed of proceedings as they progress. At the present time one of the shop units in Broadway is empty and therefore no representative from this unit was present at the discussion.
43. The appropriate Council Officers and the Ward Councillors have been consulted and kept fully informed as part of the CCfA process.

Options

44. This report is for information only but Members of the Committee are asked to consider whether they would like to receive a further update after the April meeting.

Analysis

45. The discussion, which highlighted the key points, is set out in the paragraphs above. However there are outstanding issues to be addressed before further progress can be made and these are set out in paragraph 40 of this report.

Corporate Strategy 2009/2012

46. The contents of this report are directly linked to the 'Safer City' element of the Corporate Strategy.

Implications

47. **Financial** – There are no financial implications associated with the recommendations within this report; however financial implications could arise from any further meeting that takes place. There may also be financial implications arising from the issues raised in paragraphs 27 to 33 of this report.
48. **Legal** – There are no known legal implications associated with the recommendations within this report; however, there are clearly some legal implications associated with the information in paragraphs 9 to 12 of this report.
49. As the problems being experienced at Broadway Shops have been going on for many years this matter has been brought to the attention of the Council on several occasions. In a report to the meeting of the Executive Member for City Strategy & Advisory Panel on 8th December 2008 it is clear that the Divisional Head (Traffic, Development & Transport) had sought legal advice from the Council's legal department and it had been confirmed that the Council had no legal duty to promote a scheme of upgrading to the forecourt/road area nor did they have a legal right to undertake any such works. This would extend to the ability or otherwise of ward committees to fund any works.
50. There were, 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 work could be the repair of deep/extensive potholes, which create a serious hazard to pedestrians or other users.

51. Further legal issues may occur at the meeting planned for April and these will be addressed appropriately should they arise.
52. **Human Resources** – There are no known Human Resources implications associated with the recommendations within this report.
53. There are no equalities, crime & disorder, information technology or property implications associated with the recommendations within this report.

Risk Management

54. In compliance with the Council's risk management strategy, there are no risks associated with the recommendations within this report. However, maintenance, parking and safety issues in this area have been ongoing for approximately 15 years and there is a risk that these will continue indefinitely should this matter not be addressed satisfactorily through the CCfA process.

Recommendations

55. Members of the Committee are asked to note the content of this report and consider whether they would like a further update after the next meeting in April.

Reason: To address the concerns raised in this CCfA in light of the difficulties pertaining to private land ownership and the Council's legal status in relation to this.

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Report Approved



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Specialist Implications Officer(s) None

Wards Affected: Fishergate Ward

All

For further information please contact the author of the report

Background Papers:

Report to the meeting of the Executive Member for City Strategy & Advisory Panel on 8th December 2008 – Pedestrian Access and Parking, Broadway Shops, Fulford

Annexes

- Annex A** Supplementary Paper
- Annex B** Possible Options
- Annex C** Costings for the 4 Options