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## **Economic & City Development Overview & Scrutiny Committee**

17<sup>th</sup> May 2010

Report of the Head of Civic, Legal & Democratic Services

### **Update Report – Broadway Shops Councillor Call for Action**

#### **Summary**

1. This report provides Members with an update on the outcome of the facilitated discussion that took place on Tuesday 20<sup>th</sup> April 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. In response to this the Economic & City Development Overview & Scrutiny Committee agreed to facilitate round table discussion between all willing parties in an attempt to resolve the problems being experienced.
3. An initial discussion was held on Wednesday 10<sup>th</sup> February 2010, which was facilitated by Councillor Kirk. A report detailing the outcome of this meeting was presented to the Committee at their meeting on 9<sup>th</sup> March 2010. A further facilitated discussion was held on Tuesday 20<sup>th</sup> April 2010 and is detailed below.

#### **Update on & Analysis of the Facilitated Discussion**

4. The second round table discussion took place at St Oswald's CE Primary School, Fulford 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)
  - Owner of 42 Broadway (currently empty)
  - Representative from the Greengrocers
  - Representatives from Broadway Post Office
  - Representatives of BAGNARA (Broadway Area Good Neighbour & Residents' Association)

- Representative of Fulford Parish Council
5. Due to unforeseen circumstances the representatives of 50/50 Hairdressers were unable to attend.
  6. Prior to the meeting all interested parties were sent the following information which formed the basis for discussion at the meeting:
    - Information (including an appropriate plan) on how to undertake a Land Registry search to determine if the title to the shop forecourts and slip road was registered
    - A briefing note prepared by the Divisional Head – Traffic, Development & Transport setting out further details in relation to some of the points raised at the first facilitated discussion on 10<sup>th</sup> February 2010 namely; the possible re-location and/or shared use of the westbound bus stop, possible alterations to the traffic island, signage and Traffic Regulation Orders, re-location of the post box and relocation of the Co-operative's trolley bay (Annex A refers).
    - The Council's property surveyor had also provided some advice for all interested parties as set out below

'If an owner cannot be identified the principle of benefit and burden would be considered. The occupiers of property adjoining the forecourt cannot gain access to their property without crossing the forecourt. If they have an unfettered right of access and right of light over this land, it is of substantial benefit to them. As they enjoy such benefit, the burden of responsibility of maintaining and managing this land will also fall to them. It would be unreasonable for them to gain the benefit without also bearing the responsibility.'

### **Land Ownership**

7. As mentioned at the previous meeting 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. Interested parties were therefore provided with some information to assist them with a Land Registry search should they wish to do so.
8. At an early stage of the meeting it was established that to date no one had wished to undertake such a search, however one person shared a copy of a plan he had obtained from his solicitor showing the boundary of his property. This did not show the 'grey area' or the 'unadopted land' as being in his ownership; others also confirmed that the deeds of their property showed the same.
9. To date the Regional Property Manager from the Co-operative Group was not in a position to confirm whether the Co-operative's solicitors had established anything different from that in the paragraph above.

10. Discussions ensued around the cost of bringing the 'unadopted land' up to adoptable standard and the Divisional Head – Traffic, Development & Transport advised that this could run into tens of thousands of pounds per frontage thus making it an unfeasible solution to address the problems being experienced. It would also need to be widened considerably (maybe eating into the traffic island) to cater for delivery lorries and modern vehicles.

#### **Westbound Bus Stop (re-location and/or shared use)**

11. During the first facilitated discussion the Ward Councillors queried whether it would be possible for delivery vehicles to unload elsewhere i.e. the bus stop on Broadway itself and/or whether it would be possible to relocate the bus stop to a straighter section of the road. The Divisional Head – Traffic, Development & Transport gave these suggestions further consideration and his response is set out at Annex A to this report.
12. On discussion of the information detailed in Annex A it was accepted that it was not possible to pursue a traffic order permitting both bus stopping and loading/deliveries and it would be too impractical and unpopular to move the bus stop further down the road.

#### **Alterations to the island**

13. Annex A to this report also detailed preliminary cost estimates for the shortening of the traffic island. These had been requested; as it was believed vehicles would do less damage to the area if there were enough space to manoeuvre. Further discussion of these costs ensued and the Divisional Head – Traffic, Development & Transport reiterated that the cost of replacing the bollards when they were knocked over was much smaller than undertaking work to shorten the island. However, the local retailers felt that there was a cost to them as the bollard only went some way to protecting parts of the area outside the parade of shops from damage by heavy vehicles. A wider turning circle for delivery vehicles would help prevent much of the slip road from being churned up.
14. The Ward Councillors suggested that they might be able to assist in funding a feasibility study to enable more accurate costings to be established. Annex A had highlighted that there may be additional costs associated with utility protection and or/diversions that may arise and it was agreed that a feasibility study would be worthwhile to establish a more accurate estimate.
15. In an e-mail dated 27th April the Divisional Head – Traffic, Development & Transport indicated that colleagues in Engineering Consultancy had suggested that £1000 would be a reasonable working budget to enable staff to carry out an initial feasibility study that would seek to identify the key issues in modifying the island and develop a more robust cost estimate. It was hoped that the Ward Councillors would be able to seek funding for the feasibility study at a Ward meeting to be held during the week commencing 26<sup>th</sup> April 2010.
16. Once (and if) a feasibility study has been prepared all parties would need to consider whether this would help ease the problems being experienced and

whether it offered value for money. Consideration would also need to be given to whether appropriate funding sources were available to enable the works to be undertaken.

### **Pedestrian Access & Safety**

17. The representatives from BAGNARA were keen not to lose sight of addressing the current pedestrian safety issues that had been raised as part of the CCfA. They felt that there were several issues contained within the CCfA (namely parking, safety and maintenance issues) and as some of these were more complex to address than others then the focus, of this meeting, should be to try and find a way forward to solve the pedestrian safety issues. They circulated further photographs of the area taken on the afternoon of the day of the facilitated discussion that indicated problems were still being experienced in terms of pedestrian safety.

18. At the first facilitated discussion held on 10<sup>th</sup> February 2010 there had been general support for installation of the following to help improve pedestrian safety in the area:

5 tubs @ £140 each	£ 700
3 Sheffield Hoops @ £100 each	£ 300
101m White lining @ £1.42 per metre	<u>£ 144</u>
Total	£1144

19. This would allow for tubs/and or cycle hoops to be strategically placed to prevent vehicles from parking too close to the shop fronts, coupled with a painted white line at least 2 metres from the shop fronts it was hoped that this would produce a safe pedestrian pathway. Some retailers felt that 2m was not wide enough and this should be increased to at least 2.6 metres.

20. It was noted that the total cost might vary dependent on whether retailers chose to have tubs and/or cycle hoops on their forecourts. The Ward Councillors mentioned a scheme that offered cycle stands free to small businesses and the Divisional Head – Traffic, Development & Transport agreed to pass details of interested parties to the relevant officer within the Council. If more retailers preferred to use the free cycle hoops then the cost would be less than that quoted above; alternatively the money saved on cycle hoops could be spent on additional tubs. Several retailers expressed interest in receiving free cycle stands whilst others preferred to opt solely for tubs, feeling that they were more suitable for the outside of their premises.

21. After discussion of paragraphs 17 to 20 above it was agreed that the Divisional Head – Traffic, Development & Transport would contact the relevant officer within Neighbourhood Services to arrange a site visit to 'mark up' where individual retailers would like hoops, cycle stands and white lining. This was felt to be the best way forward in light of the fact that representatives from the hairdressers had been unable to attend and may well have comments they

would like to make. It may also help in appeasing some of the concerns around whether 2m would allow a wide enough pathway. It would also allow for retailers to see a 'mock up' of how the area might look once the tubs, cycle hoops and white lining were in place.

22. The representatives of BAGNARA had offered to fund the items above<sup>1</sup>.

### **Other**

23. Further discussion ensued about various issues outstanding from the first meeting and these are listed below:

- For the time being the marking out of parking bays would not be followed up, as there was not 100% agreement from retailers on this matter and there were concerns around the management of them
- The Co-operative had agreed to move their trolley bay, and charcoal stores, to the side of the building to clear a path for pedestrians which would be clearer once it had been marked with white lines.
- There are ongoing discussions in relation to relocating the post box

### **Next steps**

24. All parties in attendance agreed to the following course of actions:

- i. The Divisional Head – Traffic, Development & Transport would
  - Liaise with an appropriate Council officer, providing details of the works (paragraphs 17 to 20 refer). BAGNARA will then liaise with the Council officer to arrange a site meeting to mark out where the agreed items would be.
  - Contact the relevant Council officer to enquire about the offer of free cycle stands for small businesses
  - Enquire as to the staff costs associated with preparing a feasibility study on alterations to the traffic island (paragraph 15 of this report refers)
- ii. The Ward Councillors to indicate whether the Ward Committee wishes to fund the feasibility study (paragraphs 13 to 16 refer)
- iii. A further meeting to be held in the summer of 2010 to establish whether the white lining, cycle hoops and tubs have improved pedestrian safety outside of Broadway Shops. If the feasibility study regarding the traffic island should go ahead then the outcome of this will also be presented.

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<sup>1</sup> Since the meeting BAGNARA have indicated that the sum of £1000 offered is not set in stone and if the amount spent is above this then they may still be able to fund the works

## **Consultation**

25. 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.
26. The appropriate Council Officers and the Ward Councillors have been consulted and kept fully informed as part of the CCfA process.

## **Options**

27. In agreeing to facilitate discussions in relation to the CCfA the Scrutiny Committee is not required to take any further action at this meeting. 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 next discussion in the summer of 2010.

## **Analysis**

28. The discussion, which highlighted the key points, is set out in the paragraphs above. It is clear from these that some progress has been made towards addressing the pedestrian safety issues. However there are other outstanding issues within this CCfA (parking and maintenance issues and the outcome of any feasibility study on alterations to the traffic island) and it is hoped that these can be addressed at the next discussion scheduled for the summer of 2010.

## **Corporate Strategy 2009/2012**

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

## **Implications**

30. **Financial** – There are no direct financial implications for the Council associated with the recommendations within this report; however financial implications could arise from any further meeting that takes place. To date all works that have been agreed have been funded independently of the Council.
31. **Legal** – There are no known legal implications associated with the recommendations within this report however, the information in paragraphs 32 & 33 below is pertinent in relation to the 'Land Ownership' section of the report.
32. 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 8<sup>th</sup> 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.

33. 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.
34. Further legal issues may occur at the meeting planned for the summer and these will be addressed appropriately should they arise.
35. **Human Resources** – There are no known Human Resources implications directly associated with the recommendations within this report however; there may be staffing implications in terms of preparing a feasibility study into the cost of adapting the traffic island as referred to in paragraph 15 of this report.
36. There are no equalities, crime & disorder, information technology or property implications associated with the recommendations within this report.

## **Risk Management**

37. 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**

38. The next facilitated discussion will take place in the summer of 2010 and will look at whether the improvements made in front of Broadway Shops (paragraphs 17 to 20 refer) have improved pedestrian safety. The outcome of any feasibility study into alterations to the traffic island will also be discussed. In light of these 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 facilitated discussion.

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.

## Contact Details

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Report Approved

Date 5<sup>th</sup> May 2010

## Specialist Implications Officer(s)

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Wards Affected: Fishergate Ward

All

For further information please contact the author of the report

## Background Papers:

None

## Annexes

**Annex A** Briefing Note from the Divisional Head (Traffic, Development & Transport)