

Report to Norwich Highways Agency committee

Item

15 September 2016

9

Report of Head of city development services

Subject 'A' Boards policy

Purpose

To note the contents of the report that was considered by the city council's cabinet, and to note the new 'A' Boards policy.

Recommendation

That the committee supports the adoption of the A board policy, as outlined in the attached cabinet report.

Corporate and service priorities

The report helps to meet the corporate priority to provide a safe, clean and low carbon city and the service plan priority to implement the Local Transport Plan and Norwich Area Transportation Strategy.

Financial implications

None

Ward/s: Multiple Wards

Cabinet member: Councillor Bremner – Environment and sustainable development

Contact Officers

Bruce Bentley, Principal Transportation planner 01603 212245
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Background documents

None

Report to Cabinet
14 September 2016
Report of Director of regeneration and development
Subject 'A' boards policy

Item

13

KEY DECISION

Purpose

To note the results of the consultation on - and consider approval of - the new 'A' boards policy.

Recommendations

To approve the new 'A' boards policy as amended following consultation.

Corporate and service priorities

The report helps to meet the corporate priority a prosperous and vibrant city

Financial implications: None

Ward/s: Multiple

Cabinet member: Councillor Bremner – Environment and sustainable development

Contact officers

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|-----------------|-----------------------------------|--------------|
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Background documents

None

Report

Background

1. The proliferation of 'A' boards across the city has long been a bone of contention among city users with some seeing them as a nuisance and an obstruction particularly to those with mobility problems, which others think they are valuable advertising tools for business and add to the vibrancy of the city. It should be noted that the term 'A' board is being used to describe any advertising feature used by a business outside their premises and so, for example, the national lottery sign that is widely seen across the city would be covered by this policy
2. 'A' boards would usually come under the control of the highway authority which is Norfolk County Council; however in 2013 the county delegated their powers under s143 and s149 of the Highways Act to the local district councils to allow them to manage the issues in their respective areas.
3. In order to try and address these concerns officers considered a number of options for dealing with 'A' boards and developed the following policy framework.
 - a) Each business will only be permitted one 'A' board in order to minimise the obstruction to pedestrians and other highway users.
 - b) All 'A' boards must directly adjoin the premises.
 - c) 'A' boards must not exceed a stated size.
 - d) The council may require the immediate removal of any sign, board, display etc. if required by a police officer/ police community support officer or with other reasonable cause, including the need for access to maintain the highway or if it is deemed an obstruction.
 - e) Businesses that put out 'A' boards must have public liability insurance of a minimum of £5 million.
 - f) The 'A' board must be removed when the business is closed.
 - g) The signs or displays must be robust and self-weighted. The use of sand bags to stabilise signs will not be permitted.
 - h) 'A' boards will not be permitted to be tied, chained or in any way attached to other street furniture (lamp posts, trees etc.).
 - i) The 'A' board must be removed when the property is closed or when street cleansing/street works are being carried out.
 - j) All 'A' boards must be temporary in nature and cannot be fixed into or on the highway and no excavation will be permitted to install or remove the item.
 - k) 'A' boards must not obstruct the sight lines of vehicle drivers.

Consultation responses

4. A public consultation was held on the proposed new 'A' board policy in February and March (closed 18 March 2016). A summary of the 20 consultation responses received from the general public is attached as Appendix 1.
5. The public consultation followed from a programme of active stakeholder engagement with various representative groups – stakeholder groups' responses from Norwich BID, Norwich Society, Norfolk & Norwich Association for the Blind (NNAB) and the royal national institute for the blind (RNIB) and Guide Dogs UK are included as appendix 2a-e .
6. In total 20 responses were received during the consultation from members of the public and 5 stakeholders responded;
7. Of the responses received from stakeholders the overarching view is that they support the policy as it stands. There was a general view that the policy was not exactly what any particular stakeholder wanted in its entirety but that it was a reasonable compromise, although the RNIB did call for a complete ban.
8. One issue that was raised was that of the level of insurance cover with some respondents arguing that a requirement for public liability insurance of £5 million was too high. Whilst the council is sympathetic to the idea that this seems high, it is based on best practice and, following conversations with insurance experts, in awareness that this is the level of cover that is reasonable given the level of claim that a business would potentially be liable for.
9. An issue that was raised by several of the responses was the issue of 'A' boards in relation to the market. It is easy to see how market stalls, especially those located in the centre of the market may feel the need to advertise their businesses. This policy only applies to the highway so market stall holders would still be able to place 'A' boards on market land. There is a row of brass studs in Gentleman's Walk which shows the edge of the highway.
10. An issue with the limit to the size of A boards was mentioned and was emphasised that the limit should be one based on a easily available 'A' boards. This is a sensible suggestion and the limit should be set at 600mm wide and 1200mm high. There is a large selection of A1 poster boards within this size range.

'A' board policy to be adopted

11. Having considered the responses to the consultation it is suggested that minor amendments are made to the policy and therefore the proposed policy for adoption is as follows
 - a) Each business premise will only be permitted one 'A' board per frontage. Businesses that front more than one street will be allowed one 'A' board per frontage
 - b) All 'A' boards must directly adjoin the building.
 - c) 'A' boards must not exceed 600mm wide x 1200mm high.

- d) An adequate width for pedestrians must be available past the 'A' board. In streets where there are low pedestrian flows the absolute minimum is 1.2m, this space will proportionally increase in areas with higher footfall
- e) The council may require the immediate removal of any sign, board, display etc. if it is deemed to be a dangerous obstruction or if it blocks reasonable access to the highway.
- f) Businesses that put out 'A' boards must have public liability insurance of a minimum of £5 million.
- g) The 'A' board must be removed when the business or property is closed.
- h) The signs or displays must be static, robust and self-weighted. Rotating signs or the use of sand bags to stabilise signs will not be permitted.
- i) 'A' boards will not be permitted to be tied, chained or in any way attached to other street furniture (lamp posts, trees etc.).
- j) The 'A' board must be removed when street cleansing/street works are being carried out.
- k) All 'A' boards must be temporary in nature and cannot be fixed into or on the highway and no excavation will be permitted to install or remove the item.
- l) 'A' boards must not obstruct the sight lines of vehicle drivers.

Enforcement

12. The success of any 'A' board policy will be in how it is enforced. It is proposed that there will be a dual enforcement mechanism
 - a) Mobile highways officers will monitor A boards as part of their day to day duties and report any that do not conform to the policy to the street works team
 - b) Complaints about 'A' boards breaching the new regulations will be investigated by the street works team.
13. Businesses that break the new policy will receive a written warning that their 'A' boards are in breach of the regulations and they will be given 2 working days to rectify the problem. If that A board is observed after the 48 hour period it will be removed and stored and the business will be charged. Any signs remaining unclaimed for 28 days will be disposed of.
14. If an A board is deemed to be dangerous the business will be given the opportunity to remove it immediately. If they fail to do so it will be removed at the owner's expense and stored for 28 days as above and then disposed of.

Integrated impact assessment



NORWICH
City Council

Report author to complete

| | |
|-------------------------|-------------------------|
| Committee: | Cabinet |
| Committee date: | |
| Head of service: | Andy Watt |
| Report subject: | 'A' boards consultation |
| Date assessed: | 22/04/2016 |
| Description: | |

| | Impact | | | |
|---|-------------------------------------|-------------------------------------|--------------------------|--|
| Economic (please add an 'x' as appropriate) | Neutral | Positive | Negative | Comments |
| Finance (value for money) | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Other departments and services e.g. office facilities, customer contact | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| ICT services | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Economic development | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Financial inclusion | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Some disabled people find that the proliferation of A boards makes them less able to go into the city and take advantage of shops and services – limiting the number and spread of A boards will make it easier for disabled people to use the city. |
| Social (please add an 'x' as appropriate) | Neutral | Positive | Negative | Comments |
| Safeguarding children and adults | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| <u>S17 crime and disorder act 1998</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Human Rights Act 1998 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Health and well being | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

| | Impact | | | |
|--|-------------------------------------|-------------------------------------|--------------------------|---|
| Equality and diversity (please add an 'x' as appropriate) | Neutral | Positive | Negative | Comments |
| Relations between groups (cohesion) | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| Eliminating discrimination & harassment | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Advancing equality of opportunity | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Tackling the difficulties caused by A boards will enhance opportunities for disabled people to access good and services. |
| Environmental (please add an 'x' as appropriate) | Neutral | Positive | Negative | Comments |
| Transportation | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Natural and built environment | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | The spread and number of A boards is seen by many as something that decreases the visual aesthetic of the city and that by enacting this policy we will improve the built environment |
| Waste minimisation & resource use | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Pollution | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Sustainable procurement | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| Energy and climate change | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |
| (Please add an 'x' as appropriate) | Neutral | Positive | Negative | Comments |

| | Impact | | | |
|------------------------|--------------------------|-------------------------------------|--------------------------|--|
| Risk management | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Regulating A boards should decrease the risk of serious accident resulting from somebody, for example, tripping over one – the insurance requirement will also protect businesses should they be sued. |

Recommendations from impact assessment

Positive

The proposal will make life dramatically easier for a range of groups – including the disabled, elderly and buggy users as well as other pedestrians.

Negative

Some businesses believe that A boards are a vital source of advertising and that their businesses will suffer if these are limited. There is very little evidence supporting or negating this idea.

Neutral

Issues

None

| Ref | Summary | Officer comments |
|-----|---|---|
| 1 | Generally supportive of the proposal but made one suggestion; 'A' boards should be specifically banned from being placed on cycle lanes. | The requirement that 'A' boards should adjoin the business will mean that 'A' boards will not be left in cycle lanes. |
| 2 | Supports the policy | Support noted |
| 3 | Supports the policy but is disappointed this has not been done before | Support noted |
| 4 | Supports the policy but would like to make one addition; thinks 'A' boards should only be permitted where a business is not located directly on the street. | Support noted. The suggestion would likely be difficult to enforce and would generate significant hostility from local businesses. |
| 5 | <p>Believes that some 'A' boards can be intrusive, obstructive, some of them don't seem to have any relation to anything nearby.</p> <p>Argues they can make the city look very tatty - and even worse are the shocking yellow signs all over Norwich and beyond advertising a Flea Market or something that seem to pop up overnight and then stay there for weeks after the event has finished. Believes that this makes the place look very tatty and down at heel. Norwich is such a beautiful city - we should keep it that way.</p> | Supports doing something to limit 'A' boards – makes the specific point that many of them seem to refer to shops that are not nearby. |

| Ref | Summary | Officer comments |
|-----|--|---|
| 6 | Considers that the proposal will have an adverse impact on their business as it is down a small side alley. Also considers that 'A' boards on Gentleman's Walk that their shop put out do not cause an obstruction. | This business is a successful one and it seems unlikely that this success is down to the existence of an 'A' board. Furthermore, businesses choose premises down alleyways/ Also, preventing the spread of 'a' boards over the city and away from businesses to which they are advertising was one of the key aims. |
| 7 | Respondent said that tackling 'A' boards is a waste of time. | |
| 8 | Is keen to see the number of 'A' boards reduced - ideally banned completely but accepts that this is unlikely. Had some questions about whether the council received income from 'A' boards and whether the law around A boards had changed Also emphasised the importance of enforcement. | The council does not receive any revenue from 'A' boards. There has been no change in law where 'A' boards were previously not permitted but now are. |
| 9 | Business owner who argues that as his business is mobile it should be exempt from the restrictions. | This would be difficult to enforce and would lead to a situation where some businesses were able to put A boards wherever they want. |

| Ref | Summary | Officer comments |
|-----|---|---|
| 10 | <p>Believes 'A' boards are ugly, unsightly and unnecessary. Respondent made the point that one of the reasons for the increase in 'A' board number is that once one shop gets one the others do and that this continues.</p> <p>Suggested that businesses should be given special dispensation for 50 days a year to have an 'A' board (for special offers etc.) and the rest of the time would not be allowed one.</p> <p>Respondent did say that regardless of whether their suggestion was added to the policy that they were pleased the council is doing something about 'A' boards.</p> | <p>Agree with the respondent that competition for advertising between shops is one of the factors that drive up the number – the proposed limit of one per businesses will prevent this.</p> <p>Regarding the idea of banning them and then giving permits for a specified number of days – the likelihood is that this would be a huge and costly administrative burden on the council. Furthermore, it is possible that if we did this businesses might all put 'A' boards out at certain times of the year (e.g. January sales) creating a massive and sudden increase at certain times of the year.</p> |
| 11 | <p>Objects to the proposal as 'A' boards are part of the shopping experience and that doing something about it is pandering to a few people.</p> | <p>'A' boards do present a genuine obstacle for many people and the council is proposing an approach that balances the needs of multiple groups. We are not banning 'A' boards completely.</p> |

| Ref | Summary | Officer comments |
|-----|--|--|
| 12 | <p>Explains that they adhere to the entire policy with the exception of the number of boards explaining that they normally have three Boards abutting their building and believes they OPEN should receive an exemption on the following grounds:</p> <ol style="list-style-type: none"> 1. With a Grade II Listing we are unable to attach signs to the building explaining what we do 2. Unlike retailers, OPEN does not have a shop window so we need hanging frames to inform passers-by of what happens within OPEN 3. We rely on those hanging frames for the sustainability of the OPEN Youth Trust charity 4. We are effectively three organisations in one – a music and event venue, conference and meeting rooms and a youth charity - therefore we should be entitled to three boards 5. We are at Bank Plain, with a fairly light footfall compared to London Street | <p>The policy will likely be unsuccessful if individual businesses/ charities are offered exemptions Several of these criteria could be applied to many other organisations or businesses in the city and they would then all likely feel they should be allowed an exemption.</p> |

| Ref | Summary | Officer comments |
|-----|---|---|
| 13 | <p>Detailed objections to the policy including several legal points.</p> <p>Respondent does not feel that there is any need for 'A' boards and that the council should implement a licensing system and only issue licenses where <i>"it is in the public interest to be authorised to place the structure on the highway"</i>.</p> <p>The respondent also believes the council's proposed policy is illegal and may lead to an increase in the number of 'A' boards.</p> | <p>Licensing is not the preferred solution for a number of reasons – the cost of setting up and administering a system of licensing 'A' boards would likely be relatively high.</p> <p>Enforcement of a licensing system would also be unnecessarily complex.</p> <p>Coming up with a policy that was a compromise between various stakeholders was one of the important parts of this project – compliance is likely to be higher where every interested party feels they have at least been given a say.</p> <p>This policy was designed to be one that reduced the number of 'A' boards, improve accessibility by preventing the spread of 'a' boards and also allow businesses to retain the ability to advertise. There is no evidence that limiting businesses to one each is likely to increase the number of 'A' boards – if a business does not have an 'A' board now they are unlikely to choose to have one after the policy is implemented.</p> |
| 14 | <p>Believes A boards to be a 'menace' also mentions doing something about banners on railings.</p> | <p>The policy will reduce the number of A boards considerably – banners are not part of this project.</p> |

| Ref | Summary | Officer comments |
|-----|---|---|
| 15 | Explains that as the partner of a wheelchair user he feels that we should not allow A board use on flat pavements in roads that are otherwise cobbled. Appreciates that the boards cannot be on the cobbles as delivery vans etc use them but for wheelchair users it is very difficult to move on the cobbles. | Whilst the council does understand this point it is not really feasible to provide exemptions like this as there is a risk that this would be seen as unfairly advantaging some shops over others. It is worth pointing out that if a an officer deems a specific 'A' board to be an obstruction (or the council receives and verifies a complaint about a specific A board) then a board can be removed. |
| 16 | Generally supportive of the proposal although is concerned that the policy does not mention bikes used for advertising. | A reasonable point but as this policy does apply to advertising structures on the highway there is some flexibility in its enforcement. From a legal perspective bikes are a little more complicated but it is possible that the council could remove them (often they are tied to things such as street furniture which isn't allowed regardless so can still be removed). |
| 17 | Is pleased that 'A' boards will have to adjoin buildings but is disappointed the policy does not go further. | The policy aims to balance the needs to shopkeepers and highway users and is aimed at creating a workable compromise – any further would have involved banning 'A' boards which would be strongly opposed by business owners. |
| 18 | Would like to see the council do something about charity fundraisers working on streets. | This issue is separate from 'A' boards. |

| Ref | Summary | Officer comments |
|-----|--|---|
| 19 | <p>Generally supportive but with certain amendments – public liability insurance requirement should be dropped from £5 million to £2 million, opposes the requirement to adjoin to buildings (especially at the market), the maximum size requirement should be based on easily available ‘A’ boards</p> <p>Also supports tackling pavement parking.</p> | <p>The intention is to use available ‘A’ board sizes as the maximum.</p> <p>The requirement to adjoin to the premises is key to preventing the spread of ‘A’ boards – however, the point about this affecting the market is noted.</p> <p>The figure of £5 million was selected for a number of reasons; best practice from other authorities, standard Norwich city council practice, and to ensure that businesses are covered against more claims.</p> |
| 20 | <p>Thinks there should be a requirement to enable sufficient space for a wheelchair</p> | <p>Minimum pavement width was considered but it was decided that allowing a more flexible approach – where the council could remove a board if it was an obstruction covered this issue whilst still allowing an element of flexibility as well as meaning that officers did not have to measure pavement widths.</p> |
| 21 | <p>Feels A boards should be banned – feels that they don’t serve any real advertising purpose</p> | <p>Whilst banning A boards would be possible the aim has been to create a solution that brings people together.</p> |

| Ref | Summary | Officer comments |
|-----|--|--|
| 22 | Doesn't feel adjoin is adequately defined or that the policy does anything to prevent 'A' boards being placed away from shops. Thinks it is strange that the policy says that the view of drivers should not be blocked but doesn't say anything about obstructing pedestrians. Doesn't understand how council officers will enforce the system given they have allowed the proliferation of 'A' boards. | By saying that 'A' boards must adjoin to the premises the council has made it against the rules to place 'A' boards away from shops – they must adjoin to the building. Preventing the blocking of line of sight of drivers is a safety precaution predominantly applied at junctions. One of the primary aims of the policy has been to limit obstruction to pedestrians. As the council does not currently have a coherent policy on 'A' boards it has been hard for officers to know what to look for – this policy addresses that. |
| 23 | Suggested that shops share an 'A' board – one board between two shops | This would obviously reduce the number more than a limit of one per shops. However, it is highly unlikely that this would be useful for shops as neighbouring shops often have different requirements. |
| 24 | Respondent was disappointed that we are not proposing banning 'A' boards completely. | The aim of this policy is to come to a workable compromise – a complete ban was considered unworkable and undesirable. |
| 25 | Generally supportive with exceptions - £5 million public liability is too high; 'A' boards should not be placed on pedestrian footpaths; consideration should be made for partially sighted persons. | The figure of £5 million was selected for a number of reasons; best practice from other authorities, standard Norwich city council practice, and to ensure that businesses are covered against more claims. |
| 26 | Generally supportive but believes shops that are more than one premises (e.g. their shop which is two premises) should be allowed more than one | This idea would add confusion and undermine the policy. A shop that takes up two shops still only seems as one shop and, therefore, the one 'A' board limit would still apply. |

| Ref | Summary | Officer comments |
|-----|---|--|
| 27 | Supports limiting A boards but favours a complete ban. | The aim of this policy is to come to a workable compromise – a complete ban was considered unworkable and undesirable. |
| 28 | Believes one ‘A’ board per business is fine. Mentions issues with A boards at Earlham House | Support noted |

Jonathan,

Please find response, also sent to transport email.

1. Each business will only be permitted one A-board in order to minimise the obstruction to pedestrians and other highway users.
 - We believe that this should be altered to reflect the wide term “business”. For example Windsor Bishop is technically 1 business, but pays 2 business rates and 2 BID levies and is classed as 2 separate hereditaments. Does this get 1 A-Board or 2?
 - How does this reflect a larger business with multiple entry points – M&S, John Lewis, Jarrolds? These are technically only 1 business and therefore only 1 A-Board, but have multiple entrances on multiple different streets?
2. All A-boards must directly adjoin the premises.
 - Agreed, as per national legislation
3. A-boards must not exceed a stated size.
 - Agreed, as per national legislation. Though this will need to be clarified and communicated. For this consultation it would be wise to state this from the outset, therefore allowing all interested parties to support/object based on full information. The statement does not provide clarity or transparency; especially if you later state that the stated size is 1 foot square.
4. The council may require the immediate removal of any sign, board, display etc. if required by a police officer/ police community support officer or with other reasonable cause, including the need for access to maintain the highway or if it is deemed an obstruction.
 - I think that there needs to be a common sense approach to this stating removal within a reasonable time frame. Eg if the business owner is on their own and will therefore have to close the business or leave it unattended to comply with this request. A more logical approach would be at the end of trading, unless it is of a clear and present danger to others.
 - We believe there should be some specification set as to what is an “obstruction”, not just that a PCSO decides it is an obstruction, what training or guidance do they have to make that subjective or judgement decision. Need to provide clarity so that there is confidence in the methodology and therefore no perceived prejudice or inconsistency of application.
5. Businesses that put out A-boards must have public liability insurance of a minimum of £5 million.
 - Agreed, this would provide security for injury
6. The A-board must be removed when the business is closed.
 - Agreed, this should be for actively trading businesses
7. The signs or displays must be robust and self-weighted. The use of sand bags to stabilise signs will not be permitted.
 - Agreed, this will provide assurance that damage or injury should not occur. Though there may be extreme weather conditions that may still knock over appropriately weighted boards and a business should not be held accountable as failing to meet your guidance in these circumstances.

8. A-boards will not be permitted to be tied/chained or in anyway attached to other street furniture (lamp posts, trees etc.).
 - Agreed, this does not look appropriate and has a negative impact on the street scene.
9. The A-board must be removed when the property is closed or when street cleansing/street works are being carried out.
 - When closed should be removed, but do not see how a business can be made to bring in/out as per street cleaning. How will this be communicated to the business community to make them aware of every cleaning schedule for every street or changes to schedule. This is impracticable and unreasonable for a business to close or be left unmanned while a sign is moved or stored. A single business may not have a space to store on site while the cleaning is completed. Feel this is impractical and difficult to enforce.
10. All A-boards must be temporary in nature and cannot be fixed into or on the highway and no excavation will be permitted to install or remove the item.
 - Agree, these must be temporary or they are not a-board and would need planning consent.
11. A-boards must not obstruct the sight lines of vehicle drivers.
 - Relevance of this stipulation? Do not see what scenario that this is ensuring does not occur? If they are limited by size, then this would ensure no sight hazard. Clarity needs to be provided on this.

Enforcement

Enforcement of the new rules on A-boards will be a dual enforcement mechanism:

1. Highways officers will monitor A-boards as part of their current duties monitoring the highway.
2. Reactive – we will respond to complaints about A-boards breaching the new regulations. Shops that break the new policy will receive a written warning that their A-boards are in breach of the regulations and on a second occasion the sign will be taken away and the business will be charged – if the business does not want the sign back, we will dispose of it.
 - How will this process be moderated to ensure that there is transparency and effectiveness? If there is only one written notice, how will this be ensured it is received, as post is not the most effective means of communication (lost mail?). A scenario where a letter is sent and never received and then the first interaction would be the business having it's a-board removed and charged. I feel this is not appropriate and will lead to confusion and resentment. There should be a more considered approach, either a call or email as well as a letter to notify the business or that the post is sent signed for?

Stefan Gurney

Executive Director

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Response to Proposed 'A' Board regulations.

1. Allowing 'A' Boards at all is in contradiction of the Council's own *Streetscape Design Manual* of 2006 and the Highways Act 1980, section 137 which says it is an offence to "in any way wilfully obstruct the free passage along the highways"; this should be acknowledged.

The proposed allowance is being made across the city making no distinction between central areas of congestion, heavy footfall and very narrow pavements and, say, Ber Street or St Stephen's – or indeed outer areas. One-size-fits-all does not seem appropriate; why not 2 zones: (1) the City Centre: e.g. the Lanes, Exchange Street, London Street and Gentleman's Walk areas (2) all other areas?

2. That 'A' Boards need to 'directly adjoin' the premises needs to be very specifically defined since they can easily be knocked about, moved or blown in high winds. However, in our view it is these 'A' Boards close to the premises which are the least justifiable in that you are already close to the shop when you see them so that, unless they advertise a special offer or event, they are redundant.

Recommendations and guidelines should be made to encourage first floor hanging signs which are decorative and attractive (see Elm Hill and pubs for examples) – this could be a special Norwich feature. A totem pole (or similar) signage needs to be installed at the Swan Lane junction with London Street and the Market Plan needs to be made obvious.

3. 'A' Boards must not exceed a stated size. The measurements must be included in the consultation and we suggest a standard or a selection of standard designs.

4. Enforcement. How will transgressions be communicated to the owner? Monitoring - PCSOs were cited but how often do they patrol? Could City Hosts be involved? Which City departments will be responsible for administration, fines and removals?

5. How will businesses be checked for annual public liability insurance? (We believe that insurance for public liability off the owner's premises may not be included in standard policies.) And will their sign be removed if they do not comply?

6. OK

7. OK

General remarks

There are no proposals for the content and style of the 'A' Boards and no mention of aesthetics which are so important – and were recognized as important in the City's *Streetscape Design Manual*. Not so long ago the City was bidding to be a city of culture. We recommend a review after 12 months and if it isn't working that a ban be imposed. *End.*

VM

March 16 2016

Contact: admin@thenorwichsociety.org.uk



Patron: Her Majesty the Queen

CEO: Mr M.C. Talbot
Registered Charity No. 207060

The Norfolk and Norwich Association for the Blind

Please support the local Charity for Blind and Partially Sighted People in Norfolk
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Date

A-Boards Policy Consultation

The Norfolk & Norwich Association for the Blind, (NNAB) met with Jonny Hughes, Transportation Planner, on 10 September 2015 regarding A-Boards. We are aware that an official A-boards policy has now been drafted and is being consulted upon. The NNAB wish to submit this response to the draft policy.

Key to Abbreviations used in the report:

VIPs = Visually Impaired Person(s)

NNAB = The Norfolk & Norwich Association for the Blind

Introduction

A-boards, as with any temporary and unexpected obstruction on the highway, can cause difficulties for the visually impaired and as representatives of one of the disabled groups most affected by the issue we have considered the matter in some depth.

The NNAB is not in favour of a complete ban and consider that regulation is the way forward. We consider that a ban would have a detrimental effect on the life of the City and that the visually impaired would suffer from this as much as any other section of society.

We believe a third way compromise is possible providing certain details on positioning and the style of boards is addressed within the policy. We have read the Consultation Document and note the procedural issues raised but here we are considering how A-Boards effect the visually impaired using the city.

In an ideal world A-Boards would be:

1. In a predictable & consistent place.
2. Of a consistent shape.
3. A consistent colour.
4. Of consistent materials.

In a Predictable & Consistent Place

Not all A-Boards cause a problem with their positioning. A consistently placed A-Board very quickly becomes a navigation point for VIPs and this fact can be used to advantage in many situations.

We are aware of the outcome of discussions with Jonny Hughes and Guide Dogs. We further reviewed our thoughts on the positioning of the A-boards and we are satisfied that enforcing business owners to position their A-boards directly onto their premises would be the best compromise for the visually impaired and would hopefully work for the majority. However, we would also ask that the policy expands slightly further on this and request that it is also positioned in same place each time it is put out as much as possible.

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14/15 Willimet House, Victoria Arcade, Row 70, Regent Street, Great Yarmouth, Norfolk. NR10 1RR T: 01493 745 973



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We are also happy to endorse that the policy states that businesses are only permitted one A-Board.

Consistent Shape, Colour and Material

Standardising the shape, colour and materials will assist those with some residual sight and for those that use a mobility cane to be able to easily recognise and identify A-Boards.

We would like all A-boards to:

- Have solid base that is 'closed'.
- Be a minimum height of 1 metre.
- Framed in a defined colour range and, vitally, have good colour contrast.

It might be possible to offer some colour variations to businesses to allow for differentiation between them. There would obviously be content flexibility for each business to individualise their A-board but we would request that very specific guidelines are given within the policy which must be adhered to.

Educating Business Owners

When launching the policy city wide we would also suggest that the Council consider a way of educating the business owners as to why this new policy is being enforced and why positioning, shape, colour and material are so important to pedestrians with a sight loss.

Conclusion

A-Boards are an important part of the life of businesses and the city and we do not consider that they represent an insurmountable difficulty. The draft policy goes some way to cover a middle ground between the needs of the visually impaired and the needs of local businesses. However, for us to fully support the policy it is important that guidelines on style and design of the A-boards be expanded upon. We are happy to provide consultation in any design process.

We would like to thank the Council for finally tackling the issue of A-boards, which has for a many years been a known problem for the visually impaired of Norwich, and that we are all working together towards a solution.

Yours sincerely

Edward Bates

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Submission to Norwich City Council: A-board policy consultation March 2016

Submission made by Emily Papaleo, RNIB Regional Campaigns Officer, East of England.

Royal National Institute of Blind People (RNIB) is the largest organisation of blind and partially sighted people in the UK and the UK's leading charity providing information, advice and support to almost two million people with sight loss. RNIB (Royal National Institute of Blind People) is a membership organisation with over 24,000 members throughout the UK and 80 per cent of our Trustees and Assembly members are blind or partially sighted.

There are an estimated 32,110 people living with sight loss in Norfolk. Of this total, 3,970 are living with severe sight loss (blindness). By 2020 the number of people living with sight loss in Norfolk is projected to have increased to 39,840; and the number of people with severe sight loss will have increased to 5,040.ⁱ

RNIB is privileged to have officers based in each of the England regions, who are in the unique position to work with blind and partially sighted people locally, to challenge a range of issues; from street obstacles and social care, to transport and support at the time of diagnosis.

RNIB is pleased to have the opportunity to respond to this consultation.

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A-board policy consultation

RNIB welcomes Norwich City Council addressing the proliferation of Advertising boards or A-boards in Norwich. A-boards physically obstruct the pavement, block routes and present trip and collision hazards, particularly for people who cannot see them. The temporary and mobile nature of these boards generally makes the street look untidy and makes pedestrian areas difficult to use and potentially dangerous. A-boards often restrict the space available to people with mobility needs to negotiate an area, and create places that disabled people avoid.

We also welcome the Council clarifying the powers it will exercise in removing all signs, boards, displays etc that provide an obstruction to the highway.

RNIB is, however, concerned that Norwich City Council is proposing to allow businesses to continue to use A-boards, albeit restricted to one per business. While this will be an improvement on the current free for all, it will still result in a significant number of A-boards on every street, and will not remove the problem people with sight loss have navigating the city centre.

We urge the Council to go further than the proposed policy and ban A-boards altogether. They are an illegal obstruction of the highway and dangerous to visually impaired and other pedestrians. We encourage the Council to look at other Councils that have banned A-boards, and to work with businesses to develop alternative forms of advertising, in order to keep the streets of Norwich clear.

The difficulties A-boards cause

It is essential for many people including blind and partially sighted people to have a clear route along a pavement. The proliferation of A-boards can make it difficult for blind and partially sighted people to negotiate the path. This can result in people walking into A-boards and injuring themselves, or inadvertently walking into the road whilst attempting to avoid an A-board.

Swinging or rotating A-boards are particularly hazardous when windy, while A-frame boards or those without a firm base can easily be missed by someone using a cane, creating both trip and collision hazards. A-boards which are not weighted fall over easily, creating an additional hazard.

Research by RNIB showed 95% of blind and partially sighted people had collided with an obstacle in their local neighbourhood, with A boards one of the most common obstacles (49%)ⁱ. Nearly a third of people who responded had been injured. One said “I could show you the bottom of my legs. I have a fair amount of bruising, cut, and old scars from walking into advertising boards.” Some even said they were so intimidated by the risks outside they ended up staying at home and becoming isolated.

Falling over an A-board can be painful, and can adversely affect a person's confidence and mobility. RNIB campaigns for a complete ban on the use of A-boards as we consider that this is the only realistic way to prevent the proliferation of A-boards enabling blind and partially sighted people to walk along their local streets without fear of injury.

Other cities, such as Chelmsford and Hull, have a zero tolerance policy on A-boards without reporting a negative impact on businesses. Indeed, Chelmsford is currently looking at extending the ban. We encourage the Council to look at what other Councils are doing and to work with businesses to find alternative forms of advertising, such as using overhead signs on shop walls, to ensure the city centre works for everyone who uses it.

The law in relation to the use of A-boards

We have briefly set out the legal provisions below.

The Highways Act 1980

The Highways Act places certain obligations on highways authorities to prevent obstruction to the highway in particular:-

- Section 130(3) states that it is the duty of a council who is a highway authority to prevent, as far as possible, the stopping up or obstruction of the highway

Much of the case law around obstruction focuses on whether the obstruction in question was a reasonable use of the highway, however, case law has determined that a permanent obstruction (i.e. one that is not **purely** temporary in nature) to the highway is never a reasonable use of the highway. 'De minimus' obstructions are not considered to be obstructions and some obstructions may be considered reasonable.

In RNIB's view it is highly likely that the majority of A-boards placed on the highway would be considered unlawful obstructions for the following reasons:-

- The obstruction caused by the A-board is not purely temporary in nature
- There is no element of necessity in its deployment (as with, say, scaffolding),

- The obstruction caused would not be considered 'de minimus' (as their 'footprint' is not insubstantial) and
- They are nothing to do with the use of a highway as a means of transit (rather they are there to attract customers to the premises).

If an A-board constitutes an obstruction, the Council has a duty to remove it.

Advertisement Control

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 regulate the placement of outdoor advertisements. The regulations set out a number of categories of deemed consent but these categories will not generally apply to A-board advertising. Any advert not benefitting from deemed consent will require the express consent of the relevant local planning authority provided via an application for planning permission. Displaying an A-board without consent is a criminal offence and prosecution can result in a fine of up to £2,500. If an A-board is placed on the highway without consent then it will not be considered a reasonable use of the highway and will therefore constitute an obstruction in breach of the Highways Act (Westminster City Council v. Moran 1999 77 P & CR 294).

The Equality Act

Under the provisions of the Equality Act 2010 it is unlawful for a public authority to discriminate in the exercise of its public functions. This includes highways functions.

Section 19 of the Act makes it unlawful to indirectly discriminate against disabled people. Indirect discrimination may occur when a service provider applies an apparently neutral provision, criterion or practice which puts disabled people at a particular disadvantage.

Section 20 (3) requires that where a provision criterion or practice puts a disabled person at a substantial disadvantage in comparison to a person who is not disabled, an Authority must take such steps as is reasonable to avoid the disadvantage

Section 20(4) requires that where a physical feature puts a disabled person at a substantial disadvantage in comparison to a person who is not disabled, an Authority is required to take such steps as is reasonable to have to take to avoid the disadvantage.

Local Authorities, and highways and planning authorities in particular, are also subject to the Public Sector Equality Duty (PSED) and are required to have "due regard" to equality outcomes in everything they do. Councils are required to ensure that they eliminate discrimination, advance equality of opportunity and foster good relations between, amongst others, disabled and non-disabled people.

A Highways Authority that has a policy of allowing the use of A-boards and/or a practice of not taking action against those which obstruct the pavement may be considered to be indirectly discriminating against blind and partially sighted people.

A Planning Authority which has a practice of not taking action against A-boards placed without consent may be considered to be indirectly discriminating against blind and partially sighted people.

The duty to change practices, policies and procedure is likely to extend to changing policies which unreasonably prevent advertising on walls forcing advertising onto the streets in the form of A-boards which disadvantages blind and partially sighted people.

A-boards are likely to constitute physical features under the Equality Act and so the Highways Authority will need to take action to ensure that these boards do not place blind and partially sighted people at a substantial disadvantage.

Similarly Authorities which have a policy of allowing A-board obstructions etc will need to impact assess these arrangements to ensure that they meet the requirements of the PSED. It is likely that this will require local authorities to specifically consult with blind and partially sighted people. Where negative impacts are identified, the local authority will need to consider changes to the policies/practices in order to eliminate discrimination and better promote equality of opportunity and good relations between disabled people and non-disabled people (including traders). Simply stating that having an agreed standard approach to use the use of A-boards "would go some way" to mitigating their impact is unlikely to be sufficient.

Summary of the legal position

In summary, it is clearly unlawful to place an A-board on the street without explicit advertisement consent from the local planning authority.

If an A-board is placed without the necessary advertising consent it is unlawful and would therefore be considered to be an unreasonable obstruction to the pavement requiring the highways authority to take action.

Whilst a planning authority has the power to grant advertisement consent to an A-board, in deciding whether to grant permission they will need to give consideration to safety issues which arise for vulnerable pedestrians.

In addition advertisers would need to obtain the consent of the local highways authority as 'owners' of the land on which the A-board is placed as part of the application process. In determining whether to grant consent, the highways authority will need to consider whether any obstruction caused is 'de minimus'. If it was not considered 'de minimus' the highways authority would then need to consider whether the obstruction was reasonable in any event. They will also need to consider their duties under the Equality Act and in relation to the PSED.

A local authority which fails to take action against unlawful advertisements or obstructions to the pavements leaves itself open to Judicial Review action to enforce the requirements of the Highways Act and/or the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and /or the Public Sector Equality Duty. They will also leave themselves open to a County Court action for breach of the Equality Act. Where a person is injured following a collision with an A-board the Council is also potentially liable for any personal injury claim.

The policies of other local authorities

RNIB considers that the approach of Councils who have no policy (effectively allowing A-boards without any restriction), have informal guidelines or operate a licensing regime is unlawful and increasingly places these Councils at serious risk of litigation.

Surrey County Council have adopted an informal approach and they are currently facing legal action from a blind man who fell over an A-board injuring himself. The legal action is brought on the basis of breach of the Equality Act (in particular a failure to enforce the requirements of the guidelines) and a personal injury claim.

If a Council adopts a similar (guidelines) approach to that adopted by Surrey County Council and a blind or partially sighted resident is injured

falling over an A-board it is likely that the Council will face similar action. While Norwich City Council is proposing that businesses with A-boards must have public liability insurance of a minimum of £5 million, if a business complies with the Council's A-board policy it is likely that the Council will be liable should someone get injured.

Hull City Council has a zero tolerance policy towards A-boards, as does Chelmsford City Council.

Possible way forward

RNIB campaigns for a zero tolerance approach to A-boards. However, we have also suggested a compromise position which we think will address the needs of blind and partially sighted people and other vulnerable pedestrians and the needs of small business who believe they are likely to be adversely affected by a complete ban. Crucially, we consider that the proposal outlined below is also within the law.

Councils could adopt a general policy of zero tolerance of A-boards. However, the policy should make clear that in exceptional circumstances a trader may still make an application to the local planning authority for advertisement consent (as the law requires) for an A-board where they can demonstrate that their business would suffer a significant detriment by not having an A-board.

The application would need to demonstrate to the satisfaction of the highways team (as owners of the land) that the placement of the board would not constitute an (unreasonable) obstruction and would not place vulnerable pedestrians at risk. They would also need to demonstrate that they have explored alternative forms of advertising but that these are not feasible. In determining the application for advertisement consent the planning authority should consult blind and partially sighted people in accordance with section 175A of the Highways Act.

As part of the duty to make reasonable adjustments, the planning team would also need to give serious consideration to any alternative forms of advertising suggested and the Council's policy would make clear that alternative forms of advertising would be considered.

We believe the above approach would serve to limit the number of A-boards on the streets to those small businesses who could demonstrate that it was imperative for their business to have one and there was no other way of meeting their advertising needs. In Norwich this might include the stall holders of the covered market, though we would

encourage the Council to work with them to find an alternative way to advertise. This approach would also ensure that both the Council and blind and partially sighted people are aware of the locations of approved A-boards. This should make any enforcement easier and assist blind and partially sighted people in navigating the streets.

Conclusion

While RNIB welcomes Norwich City Council addressing the current proliferation of A-boards in the city, we urge the Council to go further than the proposed policy and ban them altogether. They are an illegal obstruction of the highway and dangerous to visually impaired and other pedestrians. We encourage the Council to look at other Councils that have banned A-boards, and to work with businesses to develop alternative forms of advertising, in order to keep the streets of Norwich clear.

ⁱ RNIB Sight Loss Data Tool, <http://www.rnib.org.uk/knowledge-and-research-hub-key-information-and-statistics/sight-loss-data-tool>

ⁱⁱ RNIB, *"Who put that there!" – The barriers to blind and partially sighted people getting out and about* (2015)

Response from Guide Dogs for the blind

Comments I would make are:

You have outlined a good policy and thank you for doing this. It is excellent that you have put a restriction of one A-Board, and size however, you do not outline the size? Have you got a size?

It would be excellent if at all possible there could be something in the policy regarding "good use of colour contrast". One of the problem with people who are partially sighted, is that they may be able to outline an object if they have good colour contrast.

The other point which maybe worth noting for addition or thought would be to have a minimum pavement size for an A-Board to be placed. This would then restrict any A-Boards being placed on a narrow pavement which restricts the pavement even more.

Once again many thanks

Kind Regards

Helen Sismore

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