



To: Scrutiny Board (Environment and Neighbourhoods)

Date: 11th April 2011

Subject: Trial of Pavement Advertising in Leeds City Centre

Electoral Wards Affected:

City & Hunslet

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 PURPOSE OF REPORT

1.1 At the Scrutiny Board meeting on February 14th 2011 the Board requested a more detailed joint report, to include Legal Services input, setting out the views of all the relevant Council Directorates on the trial of controlled clean advertising on designated areas of pavement in the City Centre. Scrutiny Board requested information on how the trial was developed and the process of running the trial.

2.0 INTRODUCTION

2.1 Contact from Curb Media Ltd

In October 2009 the Council was contacted by Curb Media about the possibility of pavement advertising and officers from City Centre Management met with Curb to discuss how they might work with the Council. It was suggested that the Council could designate specific areas for clean pavement advertising as a way to control the media. The Council's position was that we would not tolerate such advertising unless it was clearly controlled and proved not to be detrimental to the City. Officers therefore considered that a trial of pavement advertising might be appropriate, in order to evaluate the media before determining whether to enter into any long term arrangements.

2.2 Definitions

The trial relates to the practice of using water to mark out an advert with a stencil on a section of pavement. This is sometimes referred to as clean advertising. The advert fades away naturally in 2-6 weeks dependant upon pedestrian flow and weather conditions.

Clean Pavement Advertising is also known as Natural Media. This covers various forms of advertising of a temporary nature, for example sand sculpture, moss art and snow tagging. In the same way that clean pavement advertising washes an advertising message into the pavement which fades as pedestrians walk on it, snow

tagging displays advertising messages in snow, which disappears with the snow. The map in *Appendix A* shows the specific location where the 12 month trial of controlled clean advertising is taking place in the City Centre..

2.2 Precedent - fly posting scheme

In the early 1990s the City Centre suffered from extensive illegal fly posting. Officers from City Centre Management and the Environmental Action Team developed a solution to this problem by creating the fly posting scheme where the Council agreed to work with a single operator to control fly posting. Fly posting drums are provided for authorised advertising and the operator removes illegal fly posting from around the city. This system has been very successful in virtually eradicating fly posting and delivered a measurably cleaner city, to the extent that Leeds is in the top core cities for its management of fly posting. It was considered that a similar approach for pavement advertising on a trial basis might remove or reduce unauthorised advertising of this nature in the city centre. The trial represents an opportunity to see if a similar approach of authorisation will assist in controlling a problem without causing detriment to the city.

3.0 DEVELOPMENT OF PAVEMENT ADVERTISING

3.1 Workshop March 2010

A workshop was set up by City Centre Management with representatives invited from Highways, Planning, the Streetscene team, Environment and Neighbourhoods and Asset Management. Curb Media Ltd was invited to present at the workshop about pavement advertising and other forms of new media. There was general support for a trial to learn more about this media but the team recognised that this would need further advice from officers in planning, highways and other Directorates.

3.2 Demonstration March 2010

Curb arranged a demonstration immediately following the meeting to show how the pavement advertising image is created – by washing the paving stone gently with recycled water. A stencil creates the advertising message which immediately begins to fade as pedestrians walk over the advertising image. The temporary image can last 2-6 weeks, depending on the prevailing weather conditions and the pavement location.

Officers from the Street Cleansing team attended the March 2010 demonstration and approved the cleansing method as not damaging the pavement surface. They advised Curb on suitable locations and agreed that the newly paved City Centre pedestrian area would be excluded.

3.3 Planning advice

Planning advised that due to the temporary nature of pavement advertising during the trial, Planning consent was not required at this stage. However in the event that the trial proves successful and the Council wishes to proceed with clean advertising, it is likely that recurring advertising campaigns would be subject to planning permission. Therefore planning permission would be sought where needed.

3.4 Highways and Road Safety

Advice was sought relating to road safety issues and also the management of pavement advertising application and liability issues. Method statements and copies of public liability insurance were obtained from Curb to ensure the Council was indemnified.

3.5 Procurement

A web search showed that there were no other major operators in this market so the Council's procurement team was consulted about the proposed trial. They advised this could proceed, provided the Chief Asset Management Officer was prepared to waive CPR 12.1 as the agreement is of an Intermediate Value and that the decision to grant a 12 month trial could be dealt with through a Delegated Decision Notice. The Delegated Decision Notice was therefore signed by the Acting Chief Asset Management Officer on the basis that this proposal was a trial for a 12 month period.

3.6 Control of unauthorised advertising

The proposed trial was discussed with the manager for the South Environmental Action Team in November 2010. Unauthorised advertising in the City Centre is usually reported by the City Centre Liaison Officers to the Environmental Action Team. Therefore to enable officers to easily identify Curb campaigns, it was agreed to include the line "Natural Media for Leeds by Curb" in pavement campaigns. It was agreed that immediate action should be taken against any unauthorised campaigns with Enforcement Officers contacting perpetrators by phone, asking them to remove the advertising. If they do not take action immediately the Council will remove the advertising within 3 working days, and any costs will be met out of income from the trial.

Curb arranged a further presentation to the City Centre Liaison Officers at their November meeting, which was also attended by officers from the South Environmental Action Team. The presentation helped them understand the terms of the trial and how to identify approved advertising. Officer communication procedures were agreed at this meeting.

3.7 Chief Officer Approval

The trial was given support by the Acting Chief Asset Management Officer in October subject to Executive Member consultation and Member briefings. The Delegated Decision Notice was signed on 24th November, where the Acting Chief Asset Management Officer approved the '*waiver of contracts procedure rule 12.1 - Intermediate Value Procurement*' to enable this short trial to proceed. Information about the trial had been sent to Senior Officers, Ward Members and Central Plans Panel on November 22nd and 23rd 2010.

4.0 MEMBER CONSULTATION

4.1 The project team finalised detailed proposals for the trial for discussion with the Executive Member for Development and Regeneration. The Executive Member supported the 12 month trial.

4.2 The City Centre Ward Members and Central Plans Panel Members were emailed details of the proposed trial on 23rd November 2010 seeking comments and feedback on the proposal. *Appendix B* provides details of Members informed by a briefing note.

5.0 TRIAL COMMENCED JANUARY 1ST 2011

5.1 The trial commenced on January 1st 2011, for 12 months, to be evaluated as follows:-

- the market will be assessed in terms of advertising demand, including monitoring the levels of pavement use for advertising and the impact on the overall street scene;
- public opinion of natural media will be requested through information on the council web site where the public can register their comments;
- Curb will research the effectiveness of this media and film public reactions to assess public perceptions of the media;
- a register will be kept to monitor all instances of unauthorised pavement advertising in the City Centre. The Environmental Action Team will record any unauthorised campaigns in other areas;
- the level of revenue generated from pavement advertising;
- feedback from the trial will be used to decide whether this is something the City wants to develop further. Should a decision be made to continue the 12 month trial this would be subject to formal tender following the appropriate approvals.

6.0 CURRENT POSITION

6.1 Curb is responsible for all advertising sales and forwarding proposals for advertising campaigns for approval to the Advertising Initiative Manager and City Centre Management. They provide monthly financial reports to indicate income generated and Council income share.

6.2 The project team, comprising officers from City Development and Environment and Neighbourhoods, are kept informed of progress.

6.3 City Centre liaison officers monitor the area to identify any unauthorised pavement advertising. Curb and Council officers are monitoring the trial as per the evaluation criteria above to ensure a full trial report can be produced.

6.4 Leeds is the first city to try and formalise working arrangements with the new media operators and so far, since the trial commenced there have been no instances of unauthorised advertising in the City Centre.

6.5 The officers involved in the project have not received any complaints from the general public.

7.0 TOPICS RAISED AT SCRUTINY BOARD

7.1 Control of Advertising under the trial

Curb will abide by the Council Advertising Content Guidance. This is provided as *Appendix C* for information. In addition, they have been made aware of sensitivities in the City Centre area and the need for advertising to be positive and promote the city.

The Heads of Terms agreement gives the Council the power of veto on all campaigns and officers are sent details of campaigns in advance for approval. These are now also being submitted to the Executive Member for Development and Regeneration for comment prior to the commencement of any new advertising.

7.2 Enforcement Powers

It was suggested that the Council's enforcement position, as outlined in the Graffiti Strategy, could be compromised by agreeing the City Centre trial. Legal advice has been obtained that the policy should be amended to reflect the existence of the trial in order to ensure we can continue to effectively enforce against similar adverts outside the ambit of the controlled trial.

7.3 Consultation with Members

Due to the fact that this was a new media, it was necessary to carry out detailed exploration of how it worked. It was only following this research, when a detailed trial proposal had been prepared, that officers were ready to brief Members and seek Members views on the trial. Member consultation was then undertaken as outlined in paragraph 4.0.

7.4 Use of Delegated Powers

Members of Scrutiny Board asked whether this was appropriate use of officer delegated powers. Advice has been obtained that the agreement to the trial was within the remit and extent of the authority delegated to the Acting Chief Asset Management Officer under the provisions of the Council's constitution and only executed after consultation with the Executive Member for Development and Regeneration.

7.5 Ability to terminate the agreement

Heads of Terms were agreed which give guidance on the operation of the trial. The Heads of Terms do not allow for a suspension of the trial. They do allow for the agreement to be terminated if the Council feels that it is detrimental to the City.

7.6 Control of advertising messages

The Heads of Terms agreement already provides the Council with the power of veto over all advertising content. The present arrangement is that Curb email a copy of the proposed campaign with details of timing and locations to officers in City Centre Management and Asset Management. This process has been extended to include the Executive Member for Development and Regeneration.

7.7 Ability to control pavement advertising in other areas

Legal advice has been obtained and indicated that this should not be compromised provided the current Enforcement Policy is amended on a temporary basis. The policy as currently written makes no reference to the trial and advice has been received that, if the trial continues, the policy should be amended to reflect the existence of the trial. This will thus avoid any complications in pursuing enforcement action outside the tightly permitted application of clean advertisements pavement area covered by the trial.

The approved use of this technique in identified pedestrian locations, does mean that the message, content, imagery and scale can be controlled. This also recognises that these new forms of media are constantly changing and a proactive control such as this may help prevent undue reactive work in the future. With such controls in place, it is believed that the courts will accept that any marks outside of this controlled environment are still illegal.

8.0 RESOURCE IMPLICATIONS

- 8.1 Income – based on initial projections, the 12 month trial period may earn the Council £20,000.
- 8.2 Any costs incurred by streetscene in removing unauthorised clean pavement advertising will be paid for from the advertising revenue (see paragraph 3.6).

9.0 LINK TO CORPORATE PRIORITIES

- 9.1 The trial provides the Council with free campaigns to promote council events and it has been used to promote the International Film Festival and Ice Rink.
- 9.2 The trial will provide the opportunity to evaluate clean pavement advertising whilst generating an income.

10.0 EQUALITY

- 10.1 Advertising is controlled nationally by the Advertising Standards Authority who ensure advertising is legal, decent, honest and truthful. The Heads of Terms agreement requires Curb to abide by these rules. In addition council officers and the Executive Member for Development and Regeneration view all campaigns in advance and have the power of veto if the campaign is deemed inappropriate.

11.0 RISK ASSESSMENT

- 11.1 A proliferation of pavement advertising or other forms of new media outside of the approved areas seems unlikely. Since the Curb trial began the Advertising Initiative Manager has had several meetings with other operators, who are all now keen to work with the Council, and they are aware that unauthorised activity will be enforced immediately.
- 11.2 If the trial were not to be undertaken, this type of advertising would continue to be successfully removed but at the cleansing/enforcement cost to the authority.

12.0 OPTIONS

12.1 A - Suspension of the trial

There is no provision in the Heads of terms for suspension of the trial. This is outlined in paragraph 7.5

B – Termination the trial

Executive Board or the Acting Director of City Development in consultation with the Executive Member for Development and Regeneration, may, under delegation of authority to the Acting Asset Management Officer, only seek to terminate the trial if the trial is shown to be detrimental to the City, as outlined in 7.5. The determination of whether this media is detrimental to the City can be made on completion of the trial and after a full evaluation has been carried out as outlined in paragraph 5.0.

- 12.2 It is proposed that the 12 month trial continues to enable this media to be fully evaluated. If the trial is successful planning and highways consent will be sought and a contract will be drawn up to ensure the Council's objectives are fully met.

13.0 RECOMMENDATION

Scrutiny Board are recommended to note:

- (i) the contents of the report;
- (ii) the intention to continue with the trial to completion. On completion of the trial a report which takes into account comments from Scrutiny Board will be produced and submitted to Executive Board, following discussion with Executive Member for Development and Regeneration and Ward Members on the outcome of the trial.

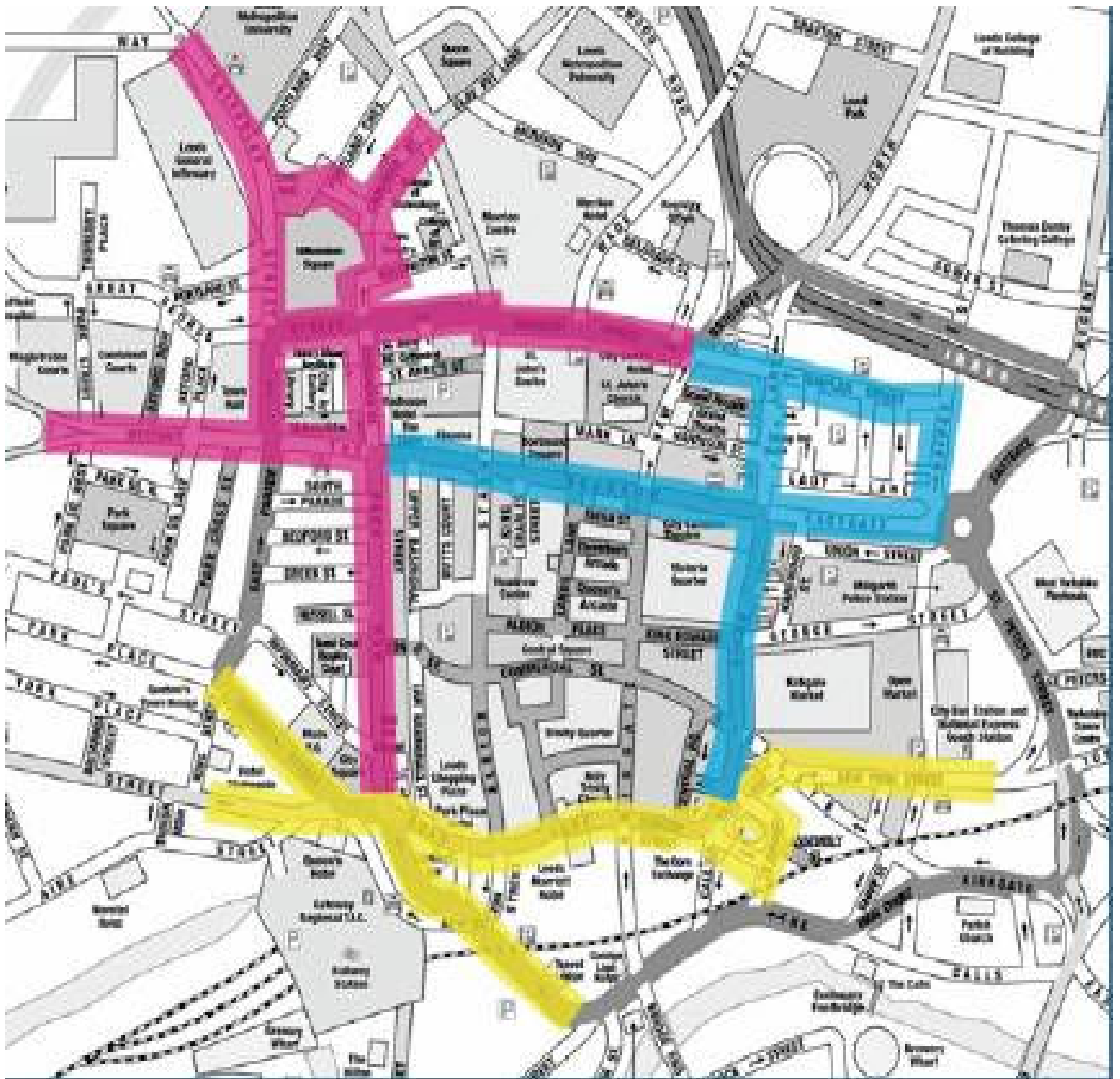
14.0 APPENDICES

Appendix 1 - Map of Designated areas in the City Centre for the controlled trial of clean advertising. The colours represent different charging schemes operated by CURB in within the trial area.

Appendix 2 - List of Members consulted by a Briefing note (Ward Members and City Centre Plans Panel

Appendix 3 - Advertising Content Guidance Notes.

APPENDIX A



**** Colours identify the pricing scheme for clean advertising by CURB**