
Meeting of the Executive Members for City Strategy and the Advisory Panel

6 June 2007

Report of the Director of City Strategy

PUBLIC RIGHTS OF WAY - PETITION SEEKING CONDITIONAL CLOSURE OF TWO SNICKETS LEADING FROM CARRFIELD INTO CHANTRY CLOSE AND CARRFIELD INTO FOXTON, WOODTHORPE.

Summary

1. This report advises the Advisory Panel of the receipt of a petition signed by 87 residents living in the Woodthorpe area, requesting that two snickets leading from Carrfield into Chantry Close and Carrfield into Foxton, be closed at night because of problems with criminal activity and anti-social behaviour.
2. The report recommends that the Advisory Panel advises the Executive Member to approve **Option A** and leave the snickets open to public use, as the criteria for closure has not been met.

Background

3. The first snicket mentioned in the petition is situated between Carrfield and Chantry Close and is an adopted highway under the control of City of York Council; it is therefore a public right of way (see plan Annex 1, Point A to B).
4. The second snicket is situated close to the first one and lies between Carrfield and Foxton. It is also an adopted highway under the control of City of York Council and is therefore a public right of way (see plan Annex 1, Point C to D).
5. These are two out of four snickets in the area providing short cuts for pedestrians and cyclists, between and within the Ryecroft Avenue and Ashbourne Way area of Woodthorpe and the Foxwood Estate with its associated sports facilities and their use is therefore in keeping with the Council's policy to reduce car usage.
6. Following an earlier request in May 2006 from residents to close the snicket between Carrfield and Chantry Close, a crime analysis report was commissioned from the police to cover the periods from 1 May 2005 to 30 April 2006. The results of the police search showed that between these dates, there had been no reported crime occurring within the study area of Carrfield, Chantry Close and Ryecroft Avenue (see map in Annex 2); a report was

therefore not required. At that time, similar statistics relating to recorded anti social behaviour were not available.

7. Due to the lack of evidence of any crime occurring within the study area, the criteria for closing the snicket had not been met and the request for closure was denied.

The Petition

8. The petition, a copy of which is attached to this report in Annex 4, was presented to the Council by Cllr Ann Reid on 12 April 2007. It has been signed by the occupants of 87 dwellings in an area covering Chantry Close, Carrfield and Foxton, asking for both of the snickets mentioned to be closed off during the hours of darkness.

The statement for the closure request reads: -

“For a number of years Chantry Close and Carrfield has suffered from anti-social behaviour and acts of vandalism and the snicket between the 2 streets has been used as a getaway route. The undersigned residents ask the City of York Council to take advantage of the change in the law and use the new powers available to close the snicket at night and restrict the use of this route during the hours of darkness when the majority of problems occur.”

9. Although this petition has signatures from 87 dwellings out of a possible total of 105, it could be argued that at least 24 of those dwellings in Carrfield are not being affected by either of these snickets, as they are not on a direct route with either of them; but could be affected by another alley leading to the Foxwood estate (see Annex 1).

Crime Analysis - Petition, April 2007

10. The police have provided a crime analysis report for the (new) study area incorporating Carrfield, Chantry Close and Foxton; a total of 75 dwellings, for the 12 months from 1 April 2006 to 31 March 2007 (see Annex 3). This report shows that between these dates 7 crimes were reported, 2 of which were for the same address in Chantry Close, which is not alongside the snicket but some 50 metres away and 2 anti social behaviour incidents, one of which was concern by a family about an elderly relative having a laser pen shone into her living room by a group of youths.

Relevant Law

11. Section 2 of the Clean Neighbourhoods and Environment Act 2005 inserts a new section into the Highways Act 1980, namely S129 and refers to ‘Gating Orders’. These regulations came into force on 1 April 2006.
12. Gating Orders allow the restriction of public rights of way in a similar way to closures using Alleygating legislation. The same criteria has to be met

regarding crime and anti-social behaviour, but affected public rights of way do not have to be in a designated high crime area.

13. Unlike Alleygating legislation brought in by the Countryside and Rights of Way Act 2000, which permanently extinguishes the highway, Gating Orders allow permanent, temporary, or conditional restrictions of public rights of way, such as at night, but the route remains a public highway. A problem with Conditional Gating Orders is the management of locking the gates at night and then opening them the next morning. This is fully covered in the Council's Gating Order Policy, which came into effect on 26 March 2007.
14. Notwithstanding the above, legislation states that crime and/or anti social behaviour must be high level and persistent, although what these levels should be is not defined in the Act.
15. The recently approved Gating Order Policy, states that the levels of crime and anti social behaviour should be examined on a case-by-case basis. It is contended that the levels of crime and anti social behaviour, can be surmised from the number of reports in relation to the number of properties affected. In this case it could be argued that the reported levels (7 crimes & 2 anti social behaviour) is neither high or (over 12 months) persistent in this case, when taking into account the number of properties affected by the snickets.
16. Members should be aware that if the decision to make an Order is approved, there is the possibility that the decision could be challenged in the High Court because of the lack of evidence of persistent crime or anti social behaviour. Members would therefore need to be prepared to defend any decision made.

Alternative Pedestrian Routes

17. As with any closure of a public right of way, reasonably convenient alternatives must be considered. There are two alternative pedestrian routes available:
 1. Chantry Close, Ryecroft Avenue and Carrfield.
 2. Chantry Close, Ryecroft Avenue, Ashbourne Way and Foxton.
18. Also, from Ryecroft Avenue, there are two routes available onto the Foxwood Estate using either Carrfield or Ashbourne Way. All of these routes could be argued as being reasonably convenient alternatives.
19. Should a decision be made for granting Conditional Gating Orders, the snickets would remain open during the day, therefore the alternative routes would not have to be used. However at night, during closure times, the public would have to make use of either of these alternative routes.

Consultation

20. As this report is to advise Members of the case being put forward by the petitioners, no consultation has taken place. Should Members feel that the request for conditional closure should be progressed, then a further report

would need to be prepared in line with the Council's Gating Order Policy, whereby both internal and external consultation would be carried out, along with a breakdown of all costs.

Options

21. Option A. Do nothing and leave both snickets open to public use.
22. Option B. Progress the request to make conditional restrictions for both snickets by means of Conditional Gating Orders under S129 of the Highways Act 1980.

Analysis

23. Option A - Do nothing and leave both snickets open to public use. As the criteria relating to high levels of persistent crime and/or anti social behaviour have not been met, this option is recommended. However, as the inclusion of anti social behaviour as a factor is a relatively recent criteria, this recommendation could be reviewed in 6 months, dependent on updated police information.
24. Option B - Consider restricting use of both snickets by means of Conditional Gating Orders. The times of opening and closing these gates would at least need to coincide with school hours and the management of this would need to be in line with the conditions set out in the City of York Council Gating Order Policy and Procedure Document. However, crime/anti social behaviour reports averaging one and a half every two months would not appear to satisfy the criteria laid out in legislation relating to high levels of persistent crime or anti social behaviour. This option is not recommended.

Corporate Priorities

25. The recommended option ties in with the council's Corporate Aim No1: *Take Pride in the City, by improving quality and sustainability, creating a clean and safe environment.*
26. The *hierarchy of transport users* is firmly embedded within the second Local Transport Plan (LTP2), with pedestrians and cyclists being given priority when considering travel choice. The retention of the snicket for public use during daylight hours fits soundly within Council transport policy. The encouragement of travel by sustainable modes also corresponds with other 'wider quality of life objectives' as contained in the Community Strategy, such as those relating to health and also ties in with Objective 1.3 to: *Make getting around York easier, more reliable and less damaging to the environment.*
27. Option B would tie in with the council's Information Statement No4 "*Reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.*"
28. This aim relates to improving the quality of life for York residents, by implementing a range of key objectives designed to reduce crime and the fear

of crime and also tackle persistent nuisance behaviour, which can make life intolerable to some people. However, despite fully supporting this aim, officer recommendation remains that the snickets should stay open.

Implications

- **Financial**

29. Should the Advisory Panel decide on conditional closures, funding would need to be sought to implement the recommended proposal and manage the opening and closing of the gates. This would normally come from the ward committee budget, but would need to be addressed in any subsequent closure report, as there is no specific Alleygating budget to cover it.

- **Human Resources (HR)**

30. There are no HR implications.

- **Equalities**

31. There are no Equalities implications.

- **Legal**

32. If Members feel that the relevant legal orders should be made, any decision to restrict the use of these snickets with the lack of high levels of persistent crime and anti social behaviour reports, would be open to legal challenge in the High Court, the cost of which would have to be met by City of York Council. It is arguable that any such decision could be justified.
33. In addition to the above, there are legal implications should a conditional closure be recommended; in that the opening and closing of the gates would need to be managed 7 days a week, 52 weeks of the year, including public holidays, for the life of the Order. Should this gate management fail, the council could be in breach of the Order and liable to prosecution for unlawful obstruction. It is open to any individual to initialise a prosecution for obstruction so the council would be vulnerable to such action for the life of the Order.

- **Crime and Disorder**

34. Other than that discussed, there are no other crime and disorder implications.

- **Information Technology (IT)**

35. There are no IT implications.

- **Property**

36. There are no property implications.

- **Other**

37. There are no other implications.

Risk Management

38. In compliance with the Council's Risk Management Strategy. There are no risks associated with the recommendations of this report.

Recommendations

39. It is recommended that the Advisory Panel advise the Executive Member to recommend **Option A**, and resolve to:

1. Refuse the petitioners' request for conditional closures;
2. Leave the snickets open for public use; and
3. Review the crime and anti social behaviour statistics in 6 months, with a view to reconsidering the petitioners' request.

Reason

The reason for making this decision, is that at the present time, the level of crime and anti social behaviour occurring in the study area does not meet the criteria of the legislation, as set out in paragraphs 16 and 17 of this report, which allows the conditional closure of alleys found to be facilitating the commission of persistent criminal activity and/or anti-social behaviour.

Contact Details

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Report Approved **Date** 24/05/07

Wards Affected:

All

Dringhouses and Woodthorpe Ward

For further information please contact the author of the report

Background Papers:

1. Highways Act 1980
2. Crime and Disorder Act 1998
3. Countryside and Rights of Way Act 2000
4. Clean neighbourhoods and Environment Act 2005
5. The Highways Act 1980 (Gating Orders) (England) Regulations 2006
6. City of York Council Gating Order Policy

Annexes

1. Plan of snicket showing location of petitioners in relation to the snicket.
2. Crime study area map from North Yorkshire Police 1/5/05 to 30/4/06.
3. Crime analysis from North Yorkshire Police 1/1/06 to 30/3/07.
4. Residents' Petition
5. Photographs provided by petitioners, of alleged damage.