

Decision Session
Executive Member for Planning & Transport

12 November 2015

Report of the Acting Director of City and Environmental Services

Public Rights of Way – Proposal to restrict public rights over the alleyways between Barbican Road/Willis Street, Willis Street/Gordon Street and Gordon Street/Wolsley Street, Fishergate Ward, using Public Spaces Protection Order legislation

Summary

1. The above Public Spaces Protection Orders (PSPOs) have been requested by Safer York Partnership (SYP). This report provides details of the public consultations which have been carried out and the subsequent results. Delegated Authority exists for the Director of City and Environmental to seal (make operative) Public Spaces Protection Orders, however as formal representations and objections have been received, the Executive Member is asked to make the decision as to whether or not to seal these draft PSPOs.

Background

2. The Anti-social Behaviour, Crime and Policing Act 2014, gives local authorities the power to make a PSPO in order to tackle those activities which are having a detrimental effect on the quality of life of those in the locality, and which are likely to be both unreasonable and persistent. For this particular proposal these activities include fly tipping and substance misuse.
3. Statistics provided by SYP (Annex 4) show that in the 12 months between January 2014 and December 2014, for the 164 properties affected/adjacent to all three alleyways, there were 6 recorded incidents of crime and anti-social behaviour. Annex 4 shows a breakdown of incidents for each alleyway affected.
4. Pre Order (informal) consultation was carried out for these schemes in February 2015. The results were presented at the Officer in

Consultation on 17 March 2015 where authorisation was given to proceed to statutory consultation.

5. As a result of the statutory consultation, four formal objections and three formal representations were received. These are discussed in detail in the Consultation and Analysis sections of this report.
6. The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to implement crime reduction strategies in an effort to reduce overall crime in their administrative area. This Order will support that obligation.
7. Once an Order is made it can be reviewed and either varied or revoked (s61). Annex 5 summarises the requirements of the legislation on the use and life of a Public Spaces Protection Order.
8. With due regard to the Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010, the Council has identified that there is one positive and six negative impacts of this gating scheme which involve mobility and access issues (Annex 3 - Community Impact Assessment). Some of the negative impacts can be mitigated by design and installation options. As Public Spaces Protection Orders must be reviewed every three years, or on demand, any change in local circumstance may be accommodated at this time. It may be considered that the positive impact of additional security to residents, increasing peace of mind and providing a safe area to the rear of properties justifies the negative impacts.

Consultation

9. In total, 164 properties are affected by this proposed scheme. The statutory consultation took place in August 2015, and the results are detailed below;

Barbican/Willis: 2 objections and 1 representation received
Willis/Gordon: 1 objection and 2 representations received
Gordon/Wolsley: 1 objection received
10. Due to the high density of student and/or rented properties in these streets, and the fact that the consultation took place over the summer months, the statutory consultation period was extended from 4 weeks to 6 weeks. The Students Union at the University of York helped to disseminate information to students. Where possible, letters were also copied to rental agencies for properties

on these streets in order to be passed onto landlords/ owners. Notices were also displayed on site.

11. Informal consultations for these schemes was carried out in February 2015, are also attached (Annex 2).
12. Fishergate Councillors have been consulted and the following response has been received from Cllr D'Agorne;
"I think the main concern is about the refuse collection arrangements (black bag area). I don't believe that closing these alleyways will significantly affect day to day enjoyment of the area by local residents but I am aware that at least one resident has very detailed objections which have to be carefully weighed against the benefits seen by other residents who support the scheme".

Options

13. Option 1: Seal and make operative the draft Public Spaces Protection Order.
14. Option 2: Do not seal the draft Public Spaces Protection Order.

Analysis

15. Option 1
If the draft Public Spaces Protection Orders are sealed, the alleyways will be gated at all times. Only those residents living in properties which are adjacent to or adjoining the restricted routes will be given a Personal Identification Number (PIN) with which to access the gates, along with emergency services and utilities that may need to access their apparatus.
16. The Order will then be reviewed after 3 years or before if necessary, by conducting a full consultation with residents. Depending on the outcome, the gates could either remain in situ; the conditions by which they remain in situ could be changed; or, they could be removed altogether.

In response to the representations and objections received (Annex 6):

17. **Barbican Road/Willis Street:** A representation in support of gating was received by a resident on Barbican Road in the hope that it will prevent instances of ASB activities, such as drug taking, within the alleyway. Development of two new properties near Location B mean that the gate position would need to be altered and set back

further into the alleyway, by approximately 2 metres, so as not to restrict principle access to the new properties. This would mean that the back gate of No 4 Heslington Road would be outside the gated area. No response was received from this property, to the consultations.

18. An objection from a resident on Wellington Street questions whether making a PSPO will tackle the majority of ASB in that location, as most of the fly tipping and noise nuisance takes place either within properties or back yards. Gating the alleyway would not prevent this however it may make it easier for Environment Enforcement to identify those who are fly-tipping.
19. The location of Gate A is adjacent to a property on Wellington Street and, as previous experience in Micklegate has shown, the noise associated with alleygates (mainly when closing), can lead to gates being left open and potentially aggravating situations between residents. This gate could be moved a further 5 metres (approx) into the alleyway, which would counteract the noise issue, but would mean that the back gates of No 4 Willis Street and No 61 Wellington Street would be left outside of the gated area. No response was received from these properties, to the consultations.
20. An objection from a resident on Gordon Street (as a “potentially affected person”) objected to all 3 schemes. In this instance they question the existence of crime and ASB within the alleyway, the restriction of the narrow alleyway between gate locations B & C, and also any potential waste collection changes. This resident has also objected to the consultation process and associated documentation. In light of the comments about the documentation, and on the advice of Legal Services, the wording of the PSPO has been altered, though still remains in Draft form (Annex 7). With regards to the comments concerning the consultation process, Legal Services have advised that the statutory consultation has complied with the current legislation, which was, indeed, extended from 4 weeks to 6 weeks to take account of the summer holidays.
21. The Ramblers have not objected to the proposal, however in their representations they have stated that they would prefer that the portion of the alleyway between locations B & C is left unrestricted to allow for easy access to Barbican Road. Residents who responded to the informal consultation preferred that this would be gated.

22. **Willis Street/Gordon Street:** A resident of Wellington Street whilst not in objection to alley gating in principle, has raised concerns about noise from the gates and has requested that particular attention be paid to this. The gate at location A is directly adjacent to their property, and the issues regarding noise, already raised above, also apply here. The gate could be moved further into the alleyway by approximately 5m; however this would mean that the back gate of No 3 Willis Street would be outside the gated area. No response was received from this property, to either consultation.
23. A resident of Willis Street has written in support of the scheme, in the hope that it will reduce the instances of ASB in the area.
24. The objection from the resident on Gordon Street as already noted above (see Barbican Road/Willis Street), also applies to this location.
25. **Gordon Street/Wolsley Street:** Again, one objection came from the Gordon Street resident, which is as detailed above (see Barbican Road/Willis Street).
26. A Rights of Way Officer attended the Neighbourhood Forum meeting in February to present details of the schemes to residents and Ward Councillors. At this same meeting, North Yorkshire Police commented on the low crime within Fishergate Ward.
27. If gates are installed, vehicular access for both cars and cycles will be maintained.
28. A Community Impact Assessment has been carried out (Annex 3) and the summary is at paragraph 2. After consultation with residents the Council is not aware of any resident, at this point in time, who may have difficulties in accessing the gates because of a protected characteristic under the Equality Act 2010 (e.g. due to age or disability). However, the gates will present an extra obstacle to those who access the alleyway using a vehicle, as they will be required to get in and out of their vehicles to open and then close the gates.
29. If gates are installed, waste collection will have to change to front of property (central collection points are not feasible). Anyone who has physical difficulty presenting their bagged waste to the pavement may opt to register for an assisted collection. Properties

on Barbican Road, Wellington Street and Heslington Road already present their waste at the front of property, so no changes would be necessary for these streets. However, changes would be required for Willis, Gordon and Wolsley Streets. All 3 alleyways would require some, if not all properties, to change to front of property collection. The results of the informal consultation carried out by PROW in February 2015 showed that the majority of respondents agreed to potential waste collection changes, though they did request clarification on what those changes would entail.

30. Waste Services have undertaken a separate consultation on the changes that would be necessary should alleygates be installed (Annex 8). Of the 26 properties that responded, 14 were happy with the potential change to front door collections, and 12 were not happy with potential changes. Of those who were not happy, most were concerned with waste issues such as stockpiling of rubbish in back yards and rubbish being left out at all times. Several were unhappy with the proposal to present waste at the front of properties. It should be noted that though the majority of respondents said they were happy to have their waste collections changed, it is a small majority. As noted elsewhere in this report, Cllr D'Agorne has expressed concerns about changes to waste collections.
31. Previous alley gating proposals have been overshadowed by the need to change waste collections. This would not be the case if rubbish continued to be collected from alleyways after gates have been installed.
Waste Services have confirmed that they would not be considering changing waste collections at these locations, were it not for the alley gating proposal.
32. Option 2
This option would leave the alleyways open for use by the public and the incidents of crime and ASB are therefore likely to continue at previous levels. Notwithstanding this, gating these alleyways may be revisited in the future.

Council Plan

33. The Plan is built around 3 key priorities:

- **A Prosperous City For All**

- **A Focus On Frontline Services**

These schemes support the following aims;

Residents are protected from harm, with a low risk of crime.

All children and adults are listened to, and their opinions considered

Ensure neighbourhoods remain clean and safe environments.

Keep our city and villages clean.

- **A Council That Listens To Residents**

This report supports the following aims:

Use evidence-based decision making.

Always consider the impact of our decisions, including in relation to health, communities and equalities.

Engage with our communities, listening to their views and taking them into account.

Implications

34.

- **Financial**

Capital funding has been secured for the scheme through the Council and SYP. To supply and fit one double (vehicular) gate with locks is approximately £2,000 and one single gate with lock, is approximately £800. The total cost of gates for these three alleyways would therefore cost approximately £12,800 (6 double and 1 single gate). Repairs to alley gate locks are undertaken by an outside company, Lockfix, at a cost of £50 per hour. The gates would be maintained through the existing Rights of Way maintenance budget.

- **Human Resources (HR)**

To be delivered using existing staffing resources.

- **Equalities**

Implications are included in Annex 3 and summarised at paragraph 8 in the main body of the report.

- **Legal**

Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 enables the Council to make a Public Spaces Protection Order restricting access to an alleyway which is a public highway where the Council is satisfied that (a) activities carried on in a public

place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect, and that these activities are, or are likely to be, persistent and unreasonable in nature, and justify the restrictions imposed by the notice. Before making such an Order the Council must also consider the likely effect of the Order on adjoining and adjacent occupiers of premises and other persons in the locality. Where the highway constitutes a through route the Council must consider the availability of a reasonably convenient alternative route. For this scheme, the alternative routes are clearly defined on the Order Plans.

- **Crime and Disorder**

This report is based on tackling crime and anti-social behaviour issues as set out in the main body of the report and Annexes.

- **Information Technology (IT)**

There are no IT implications

- **Property**

There are no Property implications

- **Other**

Should alleygates be installed in these locations, waste collection arrangements would have to be changed to front of property. Waste Services have carried out a separate consultation on the potential changes and this is discussed in the Analysis section. The results of both consultations need to be taken into consideration.

Risk Management

35. The implementation of a Public Spaces Protection Order is a power of the authority, not a duty. There are no rights of appeal should a decision not to progress with the Order be made. However, Crime and ASB levels local to the area are likely to continue should the Order not be pursued.

A person may apply to the High Court for the purpose of questioning the validity of a Public Spaces Protection Order if they believe that the Council had no power to make it, or any requirement under this Part was not complied with in relation to it.

Recommendations

36. Members are asked to consider:

- 1) Either making the PSPOs operative, or to abandon the schemes.

Reason: Though the majority of respondents are in favour of the Alleygating scheme, the results of the waste collection consultation have shown that changing collections could be problematic.

Contact Details

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Report
Approved



Date *27 October*
2015

Specialist Implications Officer(s)

Wards Affected: Fishergate Ward

All

For further information please contact the author of the report

Background Papers:

- Anti-social Behaviour, Crime and Policing Act 2014
- Crime and Disorder Act 1998
- Equalities Act 2010
- Officer Decision – Public Rights of Way – Proposal to restrict public rights over alleyways between Barbican Road/Willis Street, Willis Street/Gordon Street and Gordon Street/Wolsley Street, (Fishergate Ward), using Public Spaces Protection Orders legislation.

Annexes

Annex 1: Fishergate Streets, Draft Public Spaces Protection Orders (old version) and Plans

Annex 2: Informal consultation responses

Annex 3: Community Impact Assessment

Annex 4: Crime and Anti-Social Behaviour Statistics

Annex 5: Legislation

Annex 6: Formal consultation responses including representations and objections

Annex 7: New version draft PSPO

Annex 8: Waste consultation responses