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## Meeting of the Executive Members for City 27 January 2009 Strategy and the Advisory Panel

Report of the Director of City Strategy

### **PUBLIC RIGHTS OF WAY – Proposal to Restrict Public Rights Over Alleyways in Guildhall and the Dringhouses and Woodthorpe Wards, York**

#### **PART 1 – GUILDHALL WARD (The Groves)**

##### **Summary**

1. This report (Part 1) considers the gating of 9 alleyways in Guildhall Ward in order to help prevent crime and anti-social behaviour associated with these alleys (Annex 1 – Location Plans).
2. This report (Part 1) recommends that the Advisory Panel advise the Executive Member to approve **Option C** and authorise the making of 8 Gating Orders, which will then allow the installation of lockable alley gates.

##### **Background**

3. This is the Council's second scheme to restrict public access over rear alleyways using Section 129A of the Highways Act 1980 (as amended) by the Clean Neighbourhoods and Environment Act 2005 (CNE). This legislation allows local authorities to make Gating Orders to reduce and prevent crime and anti-social behaviour in affected alleys. For an alleyway to be considered for a Gating Order, it must be demonstrated that it meets all of the following legislative requirements:
  - a) Premises adjoining or adjacent to the highway are affected by crime or anti-social behaviour;
  - b) The existence of the highway is facilitating the persistent commission of criminal offences or anti-social behaviour; and
  - c) It is in all circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour. This means that the following has to be considered:
    - (i) The likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway;

- (ii) The likely effect of making the order on other persons in the locality; and
- (iii) In a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.

Table 1 (Annex 2) summarises how each alleyway meets the requirements of the legislation.

4. Home Office Guidance 2006 suggests that the Council should give consideration as to whether there are alternative interventions that may be more appropriate to combat crime and anti-social behaviour before considering the use of a Gating Order. Paragraph 8 (below) gives details of the measures that have already been put in place.
5. Although a Gating Order restricts public use over an alleyway, its highway status is retained, thus making it possible to revoke or review the need for the Order. Home Office Guidance 2006 recommends that this review is carried out on an annual basis.
6. A Gating Order allows the Council to make an Order even if there are objections to it, as long as it is satisfied that the Order meets all the requirements of the legislation (as discussed previously).
7. The implementation of Alleygating in other parts of the city has shown a significant reduction in crime and anti-social behaviour since gates were installed. These results have been encouraging and show that Alleygating can significantly reduce crime in an area and improve the quality of life for those residents living alongside problem alleys.
8. The 9 alleyways in the Guildhall Ward subject to this report have been identified by the Police and Safer York Partnership Crime Analyst as routes which are facilitating crime and anti-social behaviour (Table 2 (Annex 3) – Summary of Crime and ASB Reports. Full details of Crime Reports (Annex 4) available in Members' Library). Annex 4 also includes crime and anti-social behaviour statistics for The Groves area of Guildhall Ward as a whole. Gating these alleys will help to reduce the number of escape routes available to criminals. Alternative crime prevention measures which have been implemented or are ongoing in this area include: patrolling, offender based operations, targeting student premises with information, media campaigns about locking premises, the "Sheducation" project, quality discounted bike locks, work with Age Concern on better internal security, CYC housing burglar alarm programme, as well as advice given to business premises.

## **Consultation**

9. Statutory consultation was carried out in accordance with S129A of the Highways Act 1980 and included:
  - All affected residents and businesses.

- All statutory consultees including The Ramblers' Association, Open Spaces Society etc.
  - All statutory undertakers and utility providers, such as gas, electric and telephone companies.
  - All emergency services, including the North Yorkshire Police Authority.
10. Copies of the Notices were advertised in the Press and on each alley affected.
  11. Councillors for Guildhall Ward were consulted. Their comments, verbatim, are:
  12. Cllr Janet Looker - *"I am pleased that we have finally rounded off Claremont Terrace and Portland Street.....I think there is very little now in Guildhall that we can safely alleygate. Very good news."*
  13. No formal objections have been received regarding the proposed Gating Orders in Guildhall.

### **Options**

14. Option A : Approve all 9 of the proposed Gating Orders. This option is not recommended.
15. Option B : Do not approve any of the 9 proposed Gating Orders. This option is not recommended.
16. Option C : Authorise the making of Gating Orders to restrict public use of all alleys excluding Stanley Mews. This option is recommended.

### **Analysis**

17. Option A : Authorise the making of Gating Orders to restrict public rights over all 9 alleyways. This would enable lockable gates to be fitted to the entrances of the alleys, only allowing access to owners / occupiers of properties adjacent to or adjoining the alleyway. This will help reduce crime and anti-social behaviour and would improve the quality of life for residents living alongside or adjacent to these alleys.
18. Notwithstanding the above, there would be additional costs and risks associated with this option which are discussed further in Option C, paragraph 20.
19. Option B : Do nothing and let public rights remain over all 9 alleyways. This would mean that crime and anti-social behaviour is likely to continue at its present level, or even escalate, which could diminish the effects of other crime prevention measures being considered. It could also have an impact on the quality of life for residents living alongside or adjacent to these alleys.

20. Option C : Authorise the making of Gating Orders to restrict public rights over 8 of the alleys that are the subject of this report, but exclude Stanley Mews (Annex 1, plan 9) and leave the alley open for public use. This is because, although no objections have been received, on further investigation it has become clear that gating this alley will cost significantly more than first thought and additional funding would have to be secured. The alley is very narrow (approximately 88cm) at one end and extra fencing would be required in order to maintain this width by installing a gate outside of the alleyway itself. This is also necessary to avoid underground utilities and to secure sections of the boundary wall on an adjoining property. Additionally, although not formally made, comments have been received regarding the requirements of the Disability Discrimination Act 2005 and the reduced access that gating this already narrow alley would cause. Also, the installation of a gate may hinder access to the back of one of the properties.

### **Corporate Priorities**

21. Options A and C tie in with the Council's Corporate Strategy, Priority Statement No5 *"Reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York."*
22. 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.
23. Although the preferred option has no bearing on vehicle usage, it may appear to conflict with the Council's policy to improve sustainable methods of transport, such as walking and cycling. However as the recommended restrictions relate to back alleys not commonly used as through routes by walkers and cyclists and the alternative routes are only a minor inconvenience, it is felt that the interests of residents outweigh those of any users of these routes.

### **Implications**

#### **Financial**

24. Funding for the supply and installation of the gates for the Guildhall scheme has been obtained from a combination of Ward Committee budgets and target hardening and burglary reduction match funding by the Safer York Partnership. Legal costs (advertising) of £4000 have already been paid. Supply and fit of a single gate with lock is approximately £700 and where a double gate is needed the cost is in the region of £1000. Additional security fencing is estimated to cost £1000 for this scheme. Therefore, should Option C be approved, the total cost will be approximately £13,200. Other financial implications relate to officer time and administration costs as well as ongoing maintenance of the gates and locks should they be installed. Since there are no separately identified budgets for maintaining gates and locks any future maintenance requirements will have to be funded from limited Public Rights of Way budgets. The Authority is responsible for the maintenance of the gates.

## **Human Resources (HR)**

25. There are no human resources implications.

## **Equalities**

26. Gating presents a challenge in terms of fairness and inclusion. For example older and younger people, disabled people and people with young families are likely to find gating to be both an obstruction to their mobility as well as a solution to antisocial behaviour that may target them and affect them adversely.
27. Special consideration should be given to those people with disability who perhaps presently use the routes as shortcuts / access to their properties and would find any alternative route / access to their property inconvenient. Alternative routes should be free from obstructions and suitably paved. During the installation of the gates consideration should be given to the height of the locks and the ease at which they can be opened and closed. (paragraph 13 – Home Office Guidance relating to the making of Gating Orders 2006).

## **Legal**

28. Any person may apply to the High Court for the purpose of questioning the validity of a Gating Order on the ground that-
- (i) the Council had no power to make it; or
  - (ii) any requirement under the legislation was not complied with in relation to it.
29. The Council, as Highway Authority, has the power to make a Gating Order under Section 129A of the Highways Act 1980 (as amended), the alleyway in question being a “relevant highway” by virtue of the Act. Members, however, should be aware that any decision made must be defensible at High Court, should the Order be challenged.

## **Crime and Disorder**

30. Other than that discussed in the main body of the report, there are no other crime and disorder implications

## **Information Technology (IT)**

31. There are no Information Technology implications.

## **Property**

32. There are no property implications.

## **Other**

### **Transport Planning Unit – Safer Routes to School**

33. Accessibility and road safety are two of the government's key priorities for transport policy and many of the policies in the Local Transport Plan have been adopted to improve these. The stopping-up of existing routes which currently act as short-cuts will reduce accessibility levels for users and potential diversion routes may be less safe for some users such as young children if they involve walking longer distances along busier roads, this has the potential to act as a disincentive for them to walk or cycle to school.
34. The health implications of the order should be considered as Gating Orders could potentially encourage the use of cars if the alternatives are too long or lack pedestrianised sections. This should be balanced against health impacts facing pedestrians from the ongoing crime or ASB in the alleyway. (paragraph 12 – Home Office Guidance relating to the making of Gating Orders 2006).

### **Neighbourhood Services**

35. Waste collection on all streets affected by these proposals is either front door collection or from a central collection point.
  - Amber Street – this lane is served by bins which present at a central collection point. If gates are introduced, it is likely that collection will continue to be via bins, as Refuse Services policy is to reduce the number of properties served by sacks. From past experience, owners served by gated lanes are unlikely to open the gates and return their bins to their back yards after collection, resulting in obstruction.
  - Stanley Mews – Properties 1-9 Warwick Street are served by bins, with a central collection point at the junction of the back lane to Stanley Mews and Warwick Street. As above, if the walk-in is gated, these properties are likely to leave their bins at the central collection point, rather than opening the gates and returning their bins to their back yards.
36. Refuse presentation enforcement is a time consuming and difficult area of law. Preventing residents from leaving bins permanently on the highway, particularly in terraced areas is almost impossible, due to frequent changes in tenancy, and identifying bin ownership at central collection points.
37. If Members agree to the gating of these locations, it is likely to result in obstruction of the highway by waste bins, which will be almost unenforceable and lead to complaints, including complaints from those living in the gated lanes as they will be reluctant to return bins to their properties due to the gate obstruction.
38. It is proposed to mitigate this problem by posting notices on the gates to inform residents that they should remain free from obstruction.

39. The proposed Gating Orders may affect future recycling collection trials in Guildhall. If this is the case collection points will be considered for each street on an individual basis.

### **Risk Management**

40. In compliance with the Councils Risk Management Strategy, there are no risks associated with Option B but there is a low risk (Financial – see paragraph 24) associated with Options A and C.

### **Recommendations**

41. It is recommended that the Advisory Panel advise the Executive Member to accept **Option C**, and authorise the Director of City Strategy to instruct the Head of Civic, Democratic and Legal Services to make Gating Orders for the 8 alleys (excluding Stanley Mews), detailed in Annex 1 of the report, in accordance with S129A of the Highways Act 1980, as amended.

### **Reason**

42. In order that public rights to those alleyways which meet the requirements of S129A HA1980 be restricted so that crime and anti-social behaviour associated with those alleyways can be reduced.

### **Contact Details**

**Author:**

Emily Machin  
Assistant Public Rights of Way  
Officer  
Network Management (City  
Development and Transport)  
Tel: (01904) 551338

**Chief Officer Responsible for the report:**

Damon Copperthwaite  
Assistant Director  
(City Development and Transport)

**Report  
Approved**



**Date**

13.01.09

**Wards Affected:**

All

Guildhall

**For further information please contact the author of the report.**

**Background Papers:**

Highways Act 1980  
Crime and Disorder Act 1998  
Countryside and Rights of Way Act 2000  
Clean Neighbourhoods and Environment Act 2005 & the Home Office Guidance relating to the making of Gating Orders 2006

The Highways Act 1980 (Gating Orders) (England) Regulations 2006 (SI 2006 No 537)

City of York Council Gating Order Policy Document

A step-by-step guide to gating problem alleys: Section 2 of the Clean Neighbourhoods and Environment Act 2005 (Home Office – October 2008)

**Annexes:**

- 1) Description and Location Plans of Alleys
- 2) Summary of Legislative Requirements for Proposed Gating Orders
- 3) Summary of Crime and Anti-Social Behaviour Statistics for each Alleyway
- 4) Crime and Anti-Social Behaviour Reports (available in Members' Library or on request from the Democracy Officer listed at the foot of the agenda)