

**Notice of a public meeting of  
Corporate and Scrutiny Management Committee (Calling In)**

- To:** Councillors Wiseman (Chair), Barnes, Horton, King, McIlveen, Potter, Runciman (Vice-Chair), Steward and Warters
- Date:** Monday, 17 December 2012
- Time:** 5.00 pm
- Venue:** Guildhall, York

**AGENDA**

**1. Declarations of Interest**

At this point, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

**2. Public Participation**

It is at this point in the meeting that members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Friday 14 December 2012**. Members of the public can speak on agenda items or matters within the remit of the committee.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

- 3. Minutes** (Pages 3 - 8)  
To approve and sign the minutes of the last CSMC (Calling In) meeting held on 19 November 2012.
- 4. Called In Item: City Footstreets Review - Part Two**  
(Pages 9 - 40)  
To consider the decisions made by the Cabinet Member for Transport, Planning and Sustainability at his Decision Session on 19 November 2012 in relation to the above item, which has been called in by Cllrs Ayre, Aspden and Jeffries in accordance with the Council's Constitution. A cover report is attached setting out the reasons for the call-in and the remit and powers of the Corporate and Scrutiny Management Committee (Calling-In) in relation to the call-in, together with the original report and the decisions of the Cabinet Member.
- 5. Called In Item - Tethered Horses - Proposed Policy Framework** (Pages 41 - 56)  
To consider the decisions made by Cabinet on 4 December 2012 in relation to the above item, which has been called in by Cllrs Brooks, Watt and Warters in accordance with the Council's Constitution. A cover report is attached setting out the reasons for the call-in and the remit and powers of the Corporate and Scrutiny Management Committee (Calling-In) in relation to the call-in, together with the original report and the decisions of the Cabinet.
- 6. Urgent Business**  
Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

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For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting.

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

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### **Holding the Cabinet to Account**

The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business following a Cabinet meeting or publication of a Cabinet Member decision. A specially convened Corporate and Scrutiny Management Committee (CSMC) will then make its recommendations to the next scheduled Cabinet meeting, where a final decision on the 'called-in' business will be made.

### **Scrutiny Committees**

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

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MEETING	CORPORATE AND SCRUTINY MANAGEMENT COMMITTEE (CALLING IN)
DATE	19 NOVEMBER 2012
PRESENT	COUNCILLORS WISEMAN (CHAIR), BURTON, FRASER (SUBSTITUTE), KING, MCILVEEN, RUNCIMAN (VICE-CHAIR), STEWART, WARTERS AND WATSON
APOLOGIES	COUNCILLORS BARNES, HORTON AND POTTER
IN ATTENDANCE	COUNCILLORS ALEXANDER, BARTON. CRISP, DOUGHTY, GILLIES, GUNNELL, HEALEY, TAYLOR.

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#### 9. **DECLARATIONS OF INTEREST**

Members were invited to declare at this point in the meeting any personal, prejudicial or disclosable pecuniary interests they might have in the business on the agenda.

Councillor Warters declared a personal interest non prejudicial in respect of the Called In Item: Community Stadium Update as he had worked for the Chairman of York City Knights.

#### 10. **EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That the press and public be excluded from the meeting during consideration of Annexes 2 and 3 to agenda item 6.

#### 11. **PUBLIC PARTICIPATION**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

**12. MINUTES**

RESOLVED: That the minutes of the last meeting of the Corporate and Scrutiny Management Committee (Calling In) held on 15 October 2012 be approved and signed by the Chair as a correct record.

**13. CALLED-IN ITEM: FUTURE CREDIT UNION ARRANGEMENTS IN YORK - SUPPORTING THE NORTH YORKSHIRE AND YORK CREDIT UNION**

Members received a report which asked them to consider the decision made by Cabinet on 6 November 2012 in relation to the future of a Credit Union in York. The report to the meeting informed Cabinet of the work undertaken to establish a level of support from the City of York Council to secure an ongoing Credit Union presence in York and North Yorkshire.

Details of Cabinet's decision were attached as Annex A to the report, with the original report to Cabinet attached as Annex B. The decision had been called in by Cllrs Barton, Doughty and Healey on the following grounds:

- *No indication has been given of what measures are in place to ensure Credit Union applicants in York benefit from the Council's new grant of £50k, bearing in mind the loss of previous loan contributions to the former York Credit Union (YCU).*
- *No information has been given on what monitoring arrangements the Council had in place since granting the loan to YCU in 2008, nor has it been clarified what monitoring arrangements will be implemented now in relation to the grant allocated to developing a South Yorkshire Credit Union.*

Members were asked to decide whether to confirm the decision (Option a) or to refer it back to Cabinet for re-consideration (Option b) as set out in the report.



Councillor Healey addressed the meeting on behalf of the Calling-In members expressing concerns at the grant of £50k being made to South Yorkshire Credit Union (SYCU) to establish a presence in York without a Service Level Agreement or a guarantee of the money being paid back if they were to withdraw their service from York. He also suggested that the SYCU provide a performance monitoring report to a City of York Council Committee every 6 months.

The Cabinet Member for Corporate Services responded to the points raised, outlining the context of the Credit Union in York. She advised that there is a need for a Credit Union in the City and that it is important to residents and would enable financial inclusion. In respect of the £50k, it was confirmed that this money is for the Credit Union to set up a base in York and it would be a one off payment. The role of the Council would be to monitor the service.

The Leader of the Council addressed the meeting confirming that the £50k is a grant for the SYCU to establish a presence in York and is not to be used for lending. The Council is working with SYCU to keep the costs down. He also advised that the Council would appoint an observing officer to monitor the Credit Union in York.

Members went on to comment on the points raised and questioned the Cabinet Member and Council Leader on a range of related issues upon which they responded. These issues related broadly to the role of the observing officer. Members of the Committee felt that the observing officer should have a participatory role rather than just oversee the Credit Union.

Officers then clarified a number of points raised and confirmed that in terms of the £50k grant, the Council needed to enter into discussions with the SYCU to identify if they could be located within the new Council offices and reduce the level of grant accordingly. In relation to the monitoring of the Credit Union, officers would expect to receive information as a matter of course, the main issue being how the information would feed up to a member committee. It is anticipated that the observing officer would be a finance employee, to be confirmed.

Members agreed that the calling in be rejected but requested that the 'observing officer' be a participatory role and requested a written recommendation be drawn up to reflect their wishes.

RESOLVED: That Option (a) identified in the report be approved and that the decision of Cabinet be confirmed.

That written clarification of the role of observing officer be provided to members.

REASON: In accordance with the requirements of the Council's constitution.

**14. CALLED-IN ITEM: COMMUNITY STADIUM UPDATE**

Members received a report which asked them to consider the decisions made by Cabinet on 6<sup>th</sup> November 2012 in relation to the Community Stadium project. The report to the meeting provided an update on this project, including the procurement timetable and risk register, the Business Plan, new Project Management/Governance arrangements together with new interim arrangements for the current Waterworld contract.

Details of Cabinet's decision were attached at Annex A to the report, with the original report to Cabinet attached at Annex B. The decision had been called in by Cllrs Gillies, Warters and Taylor on the following grounds:

- (1) The key amendments to the business case approved by Cabinet are not specifically itemised, including the total capital costs, so that the revisions agreed to are not particularly obvious and transparent;*
- (2) There needs to be a greater appreciation of when the risk identified in the report is deemed to be an unacceptable risk. For example, on the one hand the capital overspend is given a medium rating, whereas the risk associated with the S106 contribution from the retail development is rated high;*
- (3) The potential impact of the new interim contractual arrangements for the Leisure Complex upon the future financial stability and sustainability of the project does not appear to have been addressed.*

Members were asked whether to confirm the decision (Option a) or to refer it back to Cabinet for re-consideration (Option b) as set out in the report.

Councillor Gillies addressed the meeting on behalf of the Calling-In members expressing concern at the business plan delivery and procurement. He felt that it was unacceptable that project costs had risen with an apparent increase of over 60% and without explanation. In relation to risks 4, 7 and 10 highlighted in the Cabinet report, he felt that these could be mitigated by delaying the project until the Section 106 money is available.

Councillor Taylor also addressed the meeting on behalf of the Calling-In Members to highlight paragraph 24 of the Cabinet report attached at Annex B to request that reconsideration be given to retaining leisure facilities under Council control.

The Cabinet Member for Leisure responded to the points raised, advising that it made long term financial sense to keep Greenwich Leisure Ltd (GLL) in place. The project cost table contained in the Cabinet report showed no impact on the £19.2m cost and it is possible that the business case detail would change as the project progressed. Risks were usual with all major development projects and officers would monitor the situation.

Members went on to discuss the points raised and other issues in some detail. These issues related to the operation of the Community Stadium and the arrangements with GLL, in particular the future of Waterworld.

In response, Officers confirmed that any potential operator would bid to take it on for 18 years and be expected to have a design and operating plan in place. Constitutional advice was also given in relation to the consideration of exempt information at Annex 2 to the report. It was noted that further consideration would be given to the current constitutional position on this matter outside this meeting.

RESOLVED: That Option (a) identified in the report be approved and that the decision of Cabinet be confirmed.

REASON: In accordance with the requirements of the Council's Constitution.

Councillor Wiseman, Chair  
[The meeting started at 5.00 pm and finished at 7.15 pm].



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**Corporate and Scrutiny Management  
Committee (Calling – In)**

**17 December 2012**

Report of the Assistant Director, Governance and ICT

**Called-in Item: City Centre Footstreets Review – Part Two**

**Times of Operation, Davygate to Church Street Route, and the  
Nessgate/Spurriergate Junction.**

**Summary**

1. This report sets out the reasons for the call-in of the decisions made at the Decision Session for the Cabinet Member for Transport, Planning and Sustainability on 19 November 2012 in relation to the times of operation of the Davygate to Church Street route and the Nessgate/Spurriergate junction. This cover report sets out the powers and role of the Corporate and Scrutiny Management Committee in relation to dealing with the call-in.

**Background**

2. The Decision Sheet issued after the Decision Session is attached as Annex A to this report. This sets out the decisions taken by the Cabinet Member on the called-in item. The original report on the called-in item is attached as Annex B to this report.
3. The Cabinet Member's decision, specifically the second decision:  
*(ii) That Option 6b, to partially close off the route to all vehicles but allow access to St Sampson's Square via Church Street by green permit holders be agreed.*

has been called in by Cllrs Ayre, Aspden and Jeffries for review by the Corporate and Scrutiny Management Committee (CSMC) (Calling-In), in accordance with the constitutional requirements for call-in. The reasons given for the call-in are on the following grounds:

*“This proposal will see parking for disabled drivers cut by around a 1/3 and will effectively rule certain parts of the city out of reach for some residents. Given this, we would like to call-in the decision for the following reasons:*

- *The lack of evidence of consultation with affected groups (badge/permit holders). The report admits that "The responses to the questionnaire (Annex A) on this issue demonstrate strong support for reviewing access and parking (Q1). However, it does also need to be said that of those responding to the questionnaire very few are holders of either Blue badges or Green permits (Q4), hence the views expressed are predominately from those with no or little difficulty with their own mobility.*
- *The lack of an EIA (Equality Impact Assessment) or CIA (Community Impact Assessment).*
- *The misleading claim that there are no equalities implications to this decision.*
- *The policy did not go through the EAG (Equality Advisory Group) or face similar levels of scrutiny.”*

### **Consultation**

4. In accordance with the requirements of the Constitution, the calling-in Members have been invited to attend and/or speak at the Call-In meeting, as appropriate.

### **Options**

5. The following options are available to CSMC (Calling-In) Members in relation to dealing with this call-in, in accordance with the constitutional and legal requirements under the Local Government Act 2000:
  - a. To decide that there are no grounds to make specific recommendations to the Cabinet Member in respect of the report. If this option is chosen, the original decisions taken on the item by the Cabinet Member on 19 November 2012 will be confirmed and will take effect from the date of the CSMC (Calling-In) meeting; or
  - b. To make specific recommendations to the Cabinet Member on the report, in light of the reasons given for the call-in. If this

option is chosen, the matter will be reconsidered by the Cabinet at a meeting of Cabinet (Calling-In) on 18 December 2012.

### **Analysis**

6. Members need to consider the reasons for call-in and the report to Cabinet and form a view on whether there is a basis to make specific recommendations to Cabinet in respect of the report.

### **Council Plan**

7. There are no direct implications for this call-in in relation to the delivery of the Council Plan and its priorities for 2011-15.

### **Implications**

8. There are no known Financial, HR, Legal, Property, Equalities, or Crime and Disorder implications in relation to the following in terms of dealing with the specific matter before Members; namely, to determine and handle the call-in.

### **Risk Management**

9. There are no risk management implications associated with the call in of this matter.

### **Recommendations:**

10. Members are asked to consider the call-in and reasons for it and decide whether they wish to confirm the decisions made by the Cabinet Member for Transport Planning and Sustainability or refer the matter back for reconsideration and make specific recommendations on the report to the Cabinet Member.

**Reason:** To enable the called-in matter to be dealt with efficiently and in accordance with the requirements of the Council's Constitution.

### **Contact details:**

**Author:**

Dawn Steel  
Head of Civic &  
Democratic Services

**Chief Officer Responsible for the report:**

Andrew Docherty  
Assistant Director, Governance and ICT

**Report  
Approved**



**Date**

10 Dec 2012

**Specialist Implications Officer(s)** None

**Wards Affected: Guildhall**

**All**



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

### **Annexes**

Annex A – Extract from the Decision Sheet from the Cabinet Member Decision Session on the called-item.

Annex B – Report to the Cabinet Member Decision Session for Transport Planning and Sustainability on 19 November 2012.

### **Background Papers**

None



**DECISION SESSION - CABINET MEMBER FOR TRANSPORT,  
PLANNING & SUSTAINABILITY****MONDAY, 19 NOVEMBER 2012****DECISIONS *Extract***

Set out below is a summary of the decisions taken at the Decision Session - Cabinet Member for Transport, Planning & Sustainability held on Monday, 19 November 2012. The wording used does not necessarily reflect the actual wording that will appear in the minutes.

Members are reminded that, should they wish to call in a decision, notice must be given to Democracy Support Group no later than 4.pm on the second working day after this meeting.

If you have any queries about any matters referred to in this decision sheet please contact Judith Betts (01904) 551078.

**13. CITY CENTRE FOOTSTREETS REVIEW -  
PART TWO.**

- RESOLVED: (i) That Option 3, to extend and standardise the hours of operation to 10.30 am-5pm Monday-Sunday be agreed.
- (ii) That Option 6b, to partially close off the route to all vehicles but allow access to St Sampson's Square via Church Street by green permit holders be agreed.
- (iii) That Option 11 to carry out further detailed investigation into reducing the ability to use the city centre as a through route via the Spurriergate/Nessgate Junction be agreed.

REASON: To contribute to the Corporate Strategies of Thriving City, Inclusive City and City of Culture.

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**Decision Session – Cabinet Member for** 19 November 2012  
**Transport, Planning and Sustainability**

Report of the Director of City and Environmental Services

**CITY CENTRE FOOTSTREETS REVIEW - PART TWO**  
**TIMES OF OPERATION, DAVYGATE TO CHURCH STREET ROUTE,**  
**AND THE NESSGATE/SPURRIERGATE JUNCTION**

**Summary**

1. The purpose of this report is to consider the options for:
  - Standardising and extending the hours of operation, and
  - Controlling vehicle use of the Davygate, St Sampson's Square and Church Street route during footstreet hours,
  - Further limiting the access in to the central area via the Nessgate / Spurriergate junction
2. It is important to note that these three issues can be considered in isolation and do not prejudice the other matters currently under investigation.

**Recommendations**

3. It is recommended that the Cabinet Member approves the following:
  - That an Experimental Traffic Regulation Order be introduced to extend and standardise the hours of operation for the footstreets to 10.30am to 5pm 7 days a week (except Stonegate which already has longer hours of operation).

**Reason:**

To help determine the overall level of benefits that standardising and extending the hours of operation would have on the city centre activities.

- That an Experimental Traffic Regulation Order be introduced prohibiting all vehicles from using Davygate during the footstreet hours of operation.

- That an Experimental Traffic Regulation Order be introduced amending the existing one way operation around St Sampson's Square.

Reason:

To determine the impact of implementing a restriction on through traffic movements in the heart of the footstreets area during its operating hours and to facilitate improved traffic flow around the square from the Church Street direction for green badge holders and other exemptions.

- That initial consultation is carried out regarding an outline concept of closing Spurriergate at its junction with Nessgate to all motor vehicles from the end of the footstreet hours of operation to 7am the following day (i.e. 10.30am to 7am the following day).

Reason:

To determine the impact of restricting access through the footstreets in the evenings, limiting the overnight access to properties on the southern approach to the city centre to just the Parliament Street / High Ousegate junction.

### **Background**

4. Earlier reports on the review of the footstreets identified 5 key areas of interest to tackle:
  - 1) Standardising the hours of operation,
  - 2) Extending the hours of operation,
  - 3) Vehicle access through the area by those with reduced personal mobility,
  - 4) Expanding the area to include Fossgate and
  - 5) Cycling in the footstreets.

This report focuses on the first of these 3 key issues and seeks to resolve the concerns surrounding use of the central area by increased numbers of vehicles (particularly through traffic and night time use), whilst still maintaining the ability to cater for essential services. Strengthening and extending the core hours of operation will facilitate improving the pedestrian experience in the footstreets area, lengthening the duration of stay / activity in the afternoon / early evening and strengthen the ability of the night time economy to expand.

5. Follow up reports on the footstreet review will aim to resolve issues around extending the boundary of the footstreets and cycling.
6. The public highway is for movement and there is no statutory duty requiring the Highway Authority to provide parking either on or off highway for any vehicle user. However the Equality Act 2010 introduced a public sector Equality Duty requiring public bodies to play their part in making society fairer by tackling discrimination and providing equality of opportunity for all. Hence, a Highway Authority should consider how different people are likely to be affected by new scheme proposals and due regard should be given to the effect they might have on those protected by this Duty and put forward for consideration, where practical, measures aimed at mitigating some of the consequences of implementing widespread access restrictions.

### **Questionnaire**

7. During the summer a questionnaire was issued to all the properties in and around the footstreets area and to organisations representing different groups. Some of the questionnaires outcomes will form the basis of a report to a subsequent meeting. However key elements of the questionnaire dealt specifically with vehicle access during the footstreet hours and hours of operation.
8. The feedback from the returned questionnaires relating to the focus of this report (access, parking and hours of operation) is in Annex A and is discussed in the following sections.
9. In addition to the straight forward agree / disagree type of questions there was opportunity for other comments and observations to be made. Again these have been stripped out for this report and are shown in précis form in Annex B.

### **Extended and Standard Hours of Operation**

10. With regards to the issue of extending and / or standardising the hours of operation both of these received support of 50% and 52% respectively (Q1 and Q2). However the extent of how far the hours of operation should be extended is less certain. The percentages given in Q2 Annex A on this matter are neither individual nor cumulative because some respondents agreed or disagreed with all options whilst others indicated a single preference. If the figures in the “don’t support” column are taken as the guide then it appears that approximately half the respondents do not support any of the suggested end hours of 4.30pm to 7pm put forward, even though 4.30pm is currently the end time on Saturdays. Hence it is reasonable to assume that they either are in favour of keeping the

existing end of footstreet hours or they would like them relaxing. Bearing this in mind and the percentages in support or have no opinion there would appear to be a fairly significant level, though clearly not a majority, of support for extending the hours of operation.

11. The question therefore for standardising the hours of operation are which of the three time periods currently in use should be settled on. The Sunday hours of Noon to 4pm would be a significant step backwards if used throughout the week, likewise the Monday to Friday hours of 11am to 4pm would compromise the current arrangements for Saturdays where pedestrians are accommodated 10.30am to 4.30pm. But clearly the Saturday hours if used throughout the week would be an extension, albeit a quite modest half hour at either end of the day, to the hours if selected as the standard hours of operation.
12. A bolder move, which does still have a good degree of support including some members of the Retail Forum, would be to extend the end of footstreet hours to 5pm. Whilst there may be a degree of resistance initially to the change it would perhaps also allow a greater degree of flexibility to try out revised ways of working. If this finish time were to be adopted it would be advisable to introduce it as an experiment at first rather than a permanent change because of the degree of reticence to change indicated in the questionnaire results.

### **Options - Extended and Standard Hours of Operation**

13. **Option 1** - take no action.  
This option does not tackle any aspect of simplifying the regulations or enhancing the pedestrian experience of the central area and is not therefore the recommended option.
14. **Option 2** - extend and standardise the hours of operation to 10.30am – 4.30pm Monday to Sunday.  
This achieves standardising the hours of operation and extends the duration of the footstreets marginally. Whilst this option has merit it does little to open up possibilities for further enhancement for the footstreets, hence is not the recommended option.
15. **Option 3** - extend and standardise the hours of operation to 10.30am – 5pm Monday to Sunday.  
This is the recommended option for the reasons outlined above in paragraph 12. It is also recommended to delegate authority to officers to extend, on a trial basis, activities that take place in the

highway such as pavement cafes to further enhance the special nature of the footstreets area.

### **Davygate, St Sampson's Square and Church Street Route**

16. One of the issues under consideration in the footstreets review is the operation of the existing green permit scheme that allows those with the greatest mobility difficulty to enter and park along a route through the pedestrian zone during the footstreet hours.
17. The responses to the questionnaire (Annex A) on this issue demonstrate strong support for reviewing access and parking (Q1). However, it does also need to be said that of those responding to the questionnaire very few are holders of either Blue badges or Green permits (Q4), hence the views expressed are predominately from those with no or little difficulty with their own mobility. The responses to Q5 disappointingly do not show any strong preference for any of the options put forward in terms of permitting parking provision for Blue badge and Green permit holders.
18. People who have been issued a blue badge have an exemption nationally that allows the holder to park on a yellow line for up to 3 hours provided they don't cause an actual obstruction and / or there isn't a loading ban in place. The original footstreet arrangements provided two access arrangements for blue badge holders a) the Blake Street, St Helen's Square, Lendal loop and b) the Goodramgate, King's Square, Colliergate loop. To aid those people with such a severe mobility problem that they could not cover the distance from the two blue badge areas to the furthest parts of the footstreets zone the City of York developed its own permit scheme - the green permit - as a compromise to the original concept to try to overcome that difficulty. Those issued with a green permit are exempt from the access restriction and are allowed to enter Davygate, St. Sampson's Square and Church Street; then park up using the blue badge regulations for up to 3 hours. There are currently around 1500 green permits in circulation. Abuse of the existing access restriction along Davygate, St Sampson's Square and Church Street by vehicles (including Blue Badge holders) without a green permit can only be enforced by the Police.
19. A plan of the route in question is shown in Annex C along with an indication of the potential number of vehicles that could be parked (around 57 spaces in total) during the footstreet hours. Whilst access is allowed into the area from both directions it should be noted that because Davygate is a one way street there is only scope for drivers seeking (either illegally or by mistake) a city centre through route to do so from the Davygate direction. It is however

also acknowledged that some drivers do mistakenly travel the wrong way down Davygate from Church Street.

20. Bearing in mind the number of potential parking spaces, the higher number of green permits now issued and the difficulties around effective enforcement this route through the pedestrian zone has seriously compromised the original ethos of a vehicle free environment to a much greater extent than was envisaged. In addition, there has been a growth in the number and size of events taking place in the central area that has required greater use of the highway area to accommodate not only the activities but also the people attending which has led to greater conflict between pedestrians and vehicles.
21. The existing One Way and No Entry arrangements in place on the ground around St Sampson's Square are shown on the plan in Annex D However, the Traffic Regulation Order states the Davygate No Entry marked **Y** on the plan should be at the Feasegate junction. It is understood that this amendment was carried out quite a few years ago to resolve an ongoing maintenance problem without going through the correct legal procedure. Whilst this hasn't resulted in any legal challenges it has not resolved, rather just relocated from **X** to **Y**, the problem of drivers from the Church Street direction ending up at a point they are unable to proceed from and have little space to turn around in. It can be supposed that this situation may be contributing to some of the instances of drivers proceeding in the wrong direction in Davygate.

### **Surveys**

22. In order to gain a picture of parked vehicle use a number of visits were made at varying times of the day and day of week to record a snap shot of the parking taking place. The results of these ad hoc surveys are shown in Annex E and indicate that a high proportion of the vehicles parked do not have a green permit. Although these surveys are not detailed and may not be entirely representative of what takes place throughout the year they do indicate that the number of vehicles parked with a green permit tends to be a minority (in some cases none of the cars parked were displaying a green permit) of the total number of cars parked along the route.
23. Additional observations were carried out in September during a period when the route around St Sampson's Square was closed that confirmed anecdotal perceptions from similar previous road closures that more on street parking than usual took place on: Duncombe Place, Lendal, College Street and Colliergate.



24. It should be noted however that this was also a time when the river was in high flood which did have an effect on traffic in the city therefore these observations can only really be seen as an indication rather than a quantified prediction. But it is fair to assume with a reasonable degree of confidence that by restricting further the number of spaces where cars could be parked on the route through the footstreets these vehicles will transfer to the next nearest parking opportunities.

### **Options - Davygate, St Sampson's Square and Church Street Route**

25. The following options are put forward for consideration together with an outline of the likely implications on the operation of the footstreets and on those currently able to make legitimate use of the parking opportunity in Davygate, St Sampson's Square and Church Street.

26. **Option 4** - removal of the green permit scheme, but open up legitimate access along the route for all Blue badge holders.

This option simplifies the ongoing operation (and to a degree replicates the current situation) but would in time lead to an increase in traffic using the pedestrian zone and is not therefore the recommended option.

27. **Option 5** - close off the route completely for all vehicles during footstreet hours in the same manner as Parliament Street and Coney Street.

This achieves the greatest level of enhancement to the vehicle free environment in the footstreets, but doesn't take into account the needs of those with more severe mobility difficulties. However parking for Blue badge holders would still be in place on the outskirts of this route in Blake Street and Colliergate areas. For these reasons this is not the recommended option.

28. **Option 6a** - partially close off the route to all vehicles but allow access to St Sampson's Square via Church Street by Blue badge holders. In addition, because there is likely to be a greater demand for space from this direction it may become desirable to install a removable bollard at the Swinegate junction to prevent use of this area for parking.

This achieves a simplification of the administration of the of central area, cuts out the through traffic route, reduces traffic flows in Davygate but legitimises Blue Badge access right into Church Street and St Sampson's Square. Around 2/3 of the existing parking potential would be retained for use by disabled drivers. This tackles

the issues of concern, reduces confusion and an administrative burden that the authority is not obliged to provide.

29. **Option 6b** - partially close off the route to all vehicles but allow access to St Sampson's Sq via Church Street by green permit holders.

This is basically the same as option 6a, but the City Council would still have to administer a permit scheme for those considered to have the greatest level of mobility difficulties.

Both option 6a and 6b have merit but the recommended option is 6b as this limits the number of vehicles legally allowed in the area and if successful gives the greatest benefit to those with the greatest mobility impairment as originally intended.

30. **Option 7** - take no action and leave the current regulations in place.  
 31. This is not the recommended option because it does not address any of the issues raised.

#### **Options - St Sampson's Square One way Arrangements**

32. **Option 8** - take no action.

This option does not tackle the issue of vehicles entering the area being faced with having to make a 3 point turn in an area heavily used by pedestrians and is not therefore the recommended option.

33. **Option 9** - revise the one way flow to enable drivers to enter and leave the area easily (see Annex F).

This option tackles highway safety concerns and is the recommended option.

#### **Spurriergate / Nessgate Junction**

34. Although not a pedestrian zone at night, use of the central area by motor vehicles is considered to raise the level of conflict between the often large groups of pedestrians enjoying the city night life and drivers who are dropping off / picking up passengers or merely using the city centre as a through route. Limiting the ability to access properties for more than a few hours at a time can lead to a Public Enquiry, hence, it is important to maintain the ability to service and access premises within the city centre area but this does not mean that all routes have to be open for use.
35. There are 5 entry points to the central area (Blake Street, High Petergate, Goodramgate, High Ousegate and Spurriergate) and 3 exit points (Lendal, Colliergate and Parliament Street). Due to the one way systems in place there are many properties that would be prevented from being accessed or additional travel in the central

area if any these streets were more heavily restricted with the exception of the Spurriergate / Nessgate junction.

36. Following on from the consultation carried out in the central area a concept of further reducing the ability to use the city centre as a through route was raised which has merit and further investigation is considered desirable. As noted above the Nessgate / Spurriergate junction could be more heavily restricted in terms of access without it preventing access to properties, rather the access would have to be via another junction – Parliament St / High Ousegate being the most likely. Whilst there are apparent benefits to closing this route for additional hours in that it effectively cuts out the Ouse Bridge to Colliergate route as an option this proposal has not been put out to wider consideration.

### **Options- Spurriergate / Nessgate Junction**

37. **Option 10** - take no action.

This option does not tackle any aspect of the issue of vehicles using the central area as a through route.

38. **Option 11** - carry out further investigation.

This option has the potential to help create a better environment for the city centre in the evening without preventing access to properties and is therefore the recommended option.

### **Consultation**

39. Any changes to the current traffic management in the city centre will have to go through a formal Traffic Regulation Order process. There are two routes available:

Firstly, the permanent Traffic Regulation Order. This is the usual option and is put forward where there is a high degree of certainty as to the outcome in terms of managing traffic, the expectations of the travelling public and those living / working in the area. The minimum legal requirement for a permanent TRO proposal is they have to be advertised in the local press, giving 3 weeks to make a formal representation (York's current practise is to exceed to legal minimum requirements). Any objections made would be reported back to a council meeting for a decision on whether to proceed as planned or not.

Secondly, the Experimental Traffic Regulation Order (for 18 months maximum). This option is often used where there is a desire to try out regulations where there is a degree of uncertainty as to the outcome and where some changes may be considered desirable within a short time of the scheme being implemented in order to

resolve problems. Experimental orders are implemented without going through the objection period first, but any objections made during the first 6 months would have to be considered in much the same manner as for a permanent order and changes can be made to the scheme. At the end of the 18 month period the experimental order would either have to be made permanent or it would be removed and the previous restrictions would be reinstated.

40. There are also organisations that have to be formally advised of TRO proposals. Again, City of York Council current practise is to circulate information more widely than is required by law and it is considered in this case that all reasonable efforts should be made to ensure details are made available to groups in York with an active interest in the footstreets area.
41. Bearing in mind the nature of the proposals put forward in this report it is suggested that the experimental TRO route be used. This gives the authority the most flexibility and higher degree of certainty as to the longer term effect. It also allows users the opportunity to experience the proposed changes and, if problems are realised, construct a better informed representation during the experimental period.

### **Corporate Strategy**

42. Considering this matter contributes to the corporate strategies of Thriving City, Inclusive City and City of Culture.

### **Implications**

43.
  - **Financial** - There are no financial implications.
  - **Human Resources** - There are no HR implications.
  - **Equalities** - There are no equalities implications at present.
  - **Legal** - There are no legal implications.
  - **Crime and Disorder** - There are no crime and disorder implications.
  - **Sustainability** - There are no sustainability implications.
  - **Property** - There are no property implications.

## Risk Management

44. In compliance with the Council's risk management strategy there are no risks associated with the recommendations in this report.

### Contact Details:

#### Author

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Tel No. (01904) 551368

#### Chief Officer Responsible for the Report

Richard Wood  
Assistant Director  
(Strategic Planning and Transport)

**Report**



**Approved**

**Date** 19 November  
2012

**Wards Affected: Guildhall**

**All**

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

- Annex A Questionnaire information
- Annex B Questionnaire comments and observations précis
- Annex C Plan of route
- Annex D St Sampson's Square one way and no entry arrangements
- Annex E Green permit / Blue badge ad hoc parking survey
- Annex F St Sampson's Square revised one way system

## Annex A

## Questionnaire Information

## • Q1

	Support	Don't support	No opinion
Extending the footstreets hours	90 (50%)	77 (43%)	12 (7%)
Reviewing parking for people with accessibility issues	124 (69%)	22 (12%)	31 (17%)
Reviewing access into the footstreets area for those with mobility issues	116 (64%)	27 (15%)	31 (17%)

## • Q2a

	Support	Don't support	No opinion
Standardising hours of operation 7 days a week	94 (52%)	53 (29%)	20 (11%)
A 10.30am start to the footstreets	100 (56%)	57 (32%)	17 (9%)
A 4.30pm end to the footstreets	50 (28%)	82 (46%)	24 (13%)
A 5pm end to the footstreets	42 (23%)	94 (52%)	20 (11%)
A 6pm end to the footstreets	42 (23%)	91 (51%)	23 (13%)
A 7pm end to the footstreets	29 (16%)	101 (56%)	24 (13%)

- Q4

	Yes	No
Do you currently have a disabled persons blue badge?	5 (3%)	171 (95%)
Do you currently have one of the green permits issued by CYC?	4 (2%)	170 (95%)
Have you used the shop mobility scheme	3 (2%)	165 (92%)

- Q5

	Support	Don't support	No opinion
Keep parking and access arrangements in the footstreets as now	63 (35%)	52 (29%)	56 (31%)
Restrict all blue badge and green permit parking to the outer edge of the footstreets	49 (27%)	60 (33%)	54 (30%)
Relocate the green permit holders away from Davygate, St Sampson's Square and Church St	36 (20%)	60 (33%)	65 (36%)
Remove all green permit and blue badge parking from the footstreets	48 (27%)	66 (37%)	53 (29%)

- Q6

	Agree	Don't agree	No opinion
Are there too many vehicles in the footstreets?	75 (42%)	62 (34%)	39 (22%)

## Annex B

**Extract of Footstreets Questionnaire Additional Comments Précis  
in relation to Hours of Operation, Access and Disabled Parking**

**Q1 Are there any general observations you would like to make  
about the operation of the footstreets?**

**Loading related comments**

- That space is available outside footstreet hours for loading.
- Deliveries are very difficult. The hours are manageable now.
- Measures to assist deliveries to the Shambles area
- Has to have deliveries every morning
- Access to businesses is needed
- There should be access for deliveries and parking during business hours
- Review access hours separately for vehicles over 7.5t
- Better control of delivery vehicles
- Footstreet hours are workable 10 to 4 only for deliveries to stores
- Delivery access is vital do not reduce this time slot
- Streets are regularly blocked by articulated vehicles
- Pedestrianisation will only work if access is fairly applied for deliveries
- Thought needs to be given to deliveries for local business
- Limit the weight/size of vehicles allowed in the city centre
- Deliveries and pedestrians don't mix
- Get the access restrictions wrong will cause difficulty or closure for some businesses
- Retailers selling large items require access before and after the restrictions come into force. Any extension would severely affect business
- Extending the footstreet hours is wrong - how will shops get deliveries
- Only deliveries should be allowed to take place before the footstreet hours disabled should be banned at this time.
- Existing hours are fine
- Already works well no need to extend the hours
- Extend the hours to 6pm
- Deliveries are already a problem and extending the times will make life more difficult
- Would not bring children into the city centre after the footstreet hours
- 11 to 4 works well and need the time for deliveries
- Businesses need morning deliveries
- More focus on assisting businesses to receive goods during the day
- The hours are restrictive enough, any further restrictions would have detrimental effect on our business



**Blue Badge holder related comments**

- Should be a total ban on traffic
- Abuse of blue badge
- Not a footstreet if disabled drivers are parked
- Disabled passengers should be dropped off and the car parked elsewhere
- Through traffic makes knowing where is a footstreet difficult
- Increase designated parking for disabled in car parks
- Disabled parking only allowed in wide streets
- Too many people ignore the hours of operation
- Not obvious when the restrictions are lifted
- Parking in the centre should be available for the disabled
- Delivery vehicles parking and cyclists on the footway is dangerous for pedestrians
- Disabled parking is abused and needs tougher control
- Too many disabled drivers in the centre
- Can only disabled York drivers be allowed to park in town
- If a street is closed to traffic it should be closed to everyone
- Disabled drivers should have the same restrictions
- Would like whole area to be traffic free
- Blue badges should only be allowed to park in certain areas
- Spoilt because traffic is allowed in keep all traffic out
- Access must be retained for those with mobility issues otherwise they become excluded.
- Too many cars for the number of people in busy streets
- Not a footstreet if disabled drivers are allowed in and if they can why can't cyclists
- Disabled parking preferably on perimeter of zone
- Unlimited parking by blue badge holders clutters up the streets
- Disabled badges abused

**Other comments**

- The regulations aren't clear
- Footstreets are a good idea but there are too many and they are for too long a time
- Standard time of operation would help
- All the Bars should be closed to traffic after 11am

**Q2 Are there any comments or suggestions you'd like to make regarding the hours the footstreets operate or deliveries?**

**Comments relating to deliveries**

- Needs to be equitable use of space and time for deliveries.
  - The current arrangements work very well
  - Same number of deliveries in a shorter time will cause chaos and increase danger to pedestrians
  - A lot of deliveries in Coney Street up to 11am and its sometimes hard to park
  - Need deliveries on a morning. Delivery times are already very tight
  - Keep access to the Whip ma whop ma gate loading bay
  - Better regulation of deliveries
  - Don't make it difficult to receive deliveries, retail staff already work long unsocial hours
  - Deliveries need to be allowed on a Sunday
  - Reducing access for deliveries would be very detrimental to business
  - Deliveries before 11am is fine
  - Providing the times are known suppliers will be able to cope but need somewhere close by to deliver goods.
  - As long as deliveries can get access anytime I have no issues
  - Large expense for a business to employ staff to take deliveries out of shop hours
  - Require access to business off street parking bay to make deliveries through the day
  - Most deliveries can be made within the existing hours
  - Only get deliveries up to 9am
  - Normally get deliveries by 9am
  - Early deliveries may be possible but streets are narrow
  - Already difficult for deliveries before and after the footstreet hours
  - Should be no loading during footstreet hours
  - Keep to 11am otherwise couriers will be too early
  - Too many deliveries take place after 4pm to the detriment of the environment and evening economies
  - Always a rush to finish deliveries before 11am
  - Essential for businesses to receive deliveries
  - All deliveries to be finished by 11am
- Comments relating to hours of operation**
- Footstreet hours need to be as long as possible.
  - Stricter control of vehicles in pedestrian hours.
  - Reduce the footstreet hours in the Shambles 11am to 3pm
  - Some streets should be closed 24/7
  - The 11am cut off is more than adequate

- They are adequate as they are at the moment
  - The in rush of vehicles after 4pm causes problems for pedestrians
  - Keep as is
  - The streets should be pedestrianised until 6pm
  - Extending footstreet hours will cause congestion and increase business costs
  - Access needed before 10.30am but after that traffic free streets would help business
  - Present hours work well for business
  - The hours are restrictive enough, any further restrictions would have detrimental effect on our business
- Blue Badge holder related comments**
- Not a footstreet if disabled drivers park there.

**Q4 Further off street parking improvements for blue badge holders are being planned. In your view, which other council managed car parks are in greatest need of more dedicated blue badge parking provision?**

- None are in need of more dedicated parking
- Abuse of blue badges should be investigated.
- Unaware of Blue / Green permits
- Too many disabled privileges and they are abused
- There is no parking anywhere near St Helen's Square.
- Existing system is often abused
- More disabled spaces in Monk Bar car park
- Make spaces round St Sampson's Square easy to get out of and into the shops
- Car parks are too far away
- Shambles car park
- A space is needed in Whip ma whop ma gate
- There is adequate disabled parking
- Foss Bank and Castle car parks
- The disabled bays in Foss Bank are nearly always unused
- Acomb car park
- Duncombe Place and Blake Street
- Do not increase disabled parking
- Increase use of park and ride + mobility scheme
- Blue badge holders shouldn't be allowed to park in Fossgate
- Parking should be banned at the top of Fossgate
- More car parks should have provision so less drivers need to park in the pedestrian area

- Good idea
- Should be encouraged to use the car parks
- Increased spaces in car parks won't help all blue badge holders
- Library and Art Gallery
- More bays on street
- Drastic reduction in green permits needed
- The car parks are quite some distance from the shops for people with poor mobility
- Lord Mayor's Walk
- Nunnery Lane car park
- Monk Bar car park
- Blue badges out of the city walls in a car park

**Q4 If you have limited mobility and don't currently use the shop mobility scheme please could you outline your reasons why you don't use this facility?**

- Have my own scooter
- Would you put a mental patient on a scooter round York
- Didn't know it existed
- Blind / partial sighted blue badge holders can't use the shop mobility scheme
- Has own wheelchair
- Inconvenient to access Piccadilly from North side of City
- Not suitable for those attending evening functions

**Q4 In terms of access to and around the city centre what do you consider to be a good example of design and / or facility that improves your ability to use the footstreets?**

- Traffic restrictions
- No cars parked in the footstreets
- Okay as it is
- Likes footstreets because they make it easier and safer for pedestrians
- The loading bay at Whip-ma-whop-ma-gate is very useful
- No traffic
- Having consistent hours of operation
- The removal of all vehicles after 11am
- Remove all parking in the footstreets
- Standardise the hours
- The footstreets should remain as pedestrian only
- Pedestrianisation like Coney Street with no cars

**Q4 Please outline any problems or areas of particular difficulty regarding access to, from and within the footstreets.**

**Delivery related comments**

- Delivery vehicles in the city centre after the start of the pedestrian zone
- Hard for drivers to know the times of operation

**Parking related comments**

- Cars parked in Castlegate
- Stop all parking in Davygate
- Footstreets should have no vehicles in them
- No longer able to park close to favoured destinations to shop due to disability and the restrictions in place.
- Accesses being blocked by blue badge holder parking
- Problems arise from use of the area by blue badge holders
- Limited disabled parking and considerable distance from one side of the to the other

**Q5 Are there any other comments / suggestions you would like to make regarding access for people with accessibility issues in the footstreets area?**

- Priority must be given to the seriously immobile.
- Misuse of permit should result in it being withdrawn.
- All parking should be removed from the footstreets
- Remove all green badges
- The city centre is not all about people with accessibility issues
- More control of disabled parking needed
- Disabled people would become prisoners in their homes if they could not travel and park at their destination
- Happy with the current arrangements in Church Street
- Disabled views are very important to ensure all options are considered
- Keep cars out but have more scooters available
- Disabled cars left parked for hours on end
- Do not change anything
- Disabled parking needs to be provided but blocking footstreets is unacceptable
- Make special marked areas for disabled drivers
- Should not allow drivers into the pedestrian area
- York is not disabled friendly due to historic nature there should be free wheelchairs available for use
- If future disabled parking arrangements are ignored then all disabled parking privileges should be removed
- There should be disabled parking spaces in all areas
- Too much use of blue badge in cars

- Restricting access to the city centre for disabled would be unfair and schemes should be inclusive and welcoming
- Any vehicle in a pedestrian area is a potential hazard
- Leave current arrangements and provide more disabled parking bays
- Do not lessen current provision of access, it is restricted enough already
- Remove the distinction between blue and green badge holders
- Reduce the number of green permits
- If disabled prevented from parking they would be unable to use the streets and there would be an increase in the number of scooters which is a risk to partially sighted

**Q6 Vehicle exemptions - Are there any other comments / suggestions you would like to make regarding exemptions?**

- Vehicle movements need to be outside the footstreet hours
- Only emergency vehicles should have access
- Business owners should be allowed to unload for 5 minutes at any time
- Make the centre entirely car free, lorries for deliveries only early morning
- Stop the disabled parking – find a different solution
- Too many vehicles in the streets
- Disabled should be allowed to park if they have walking difficulties
- Need FedEx to be able to collect consignments daily
- Can't be a footstreet if vehicles are allowed in
- Apply restrictions more tightly to security vehicles

**Q8 If you have concerns regarding pedestrian safety in the footstreets please outline them below**

**Hours of operation comments**

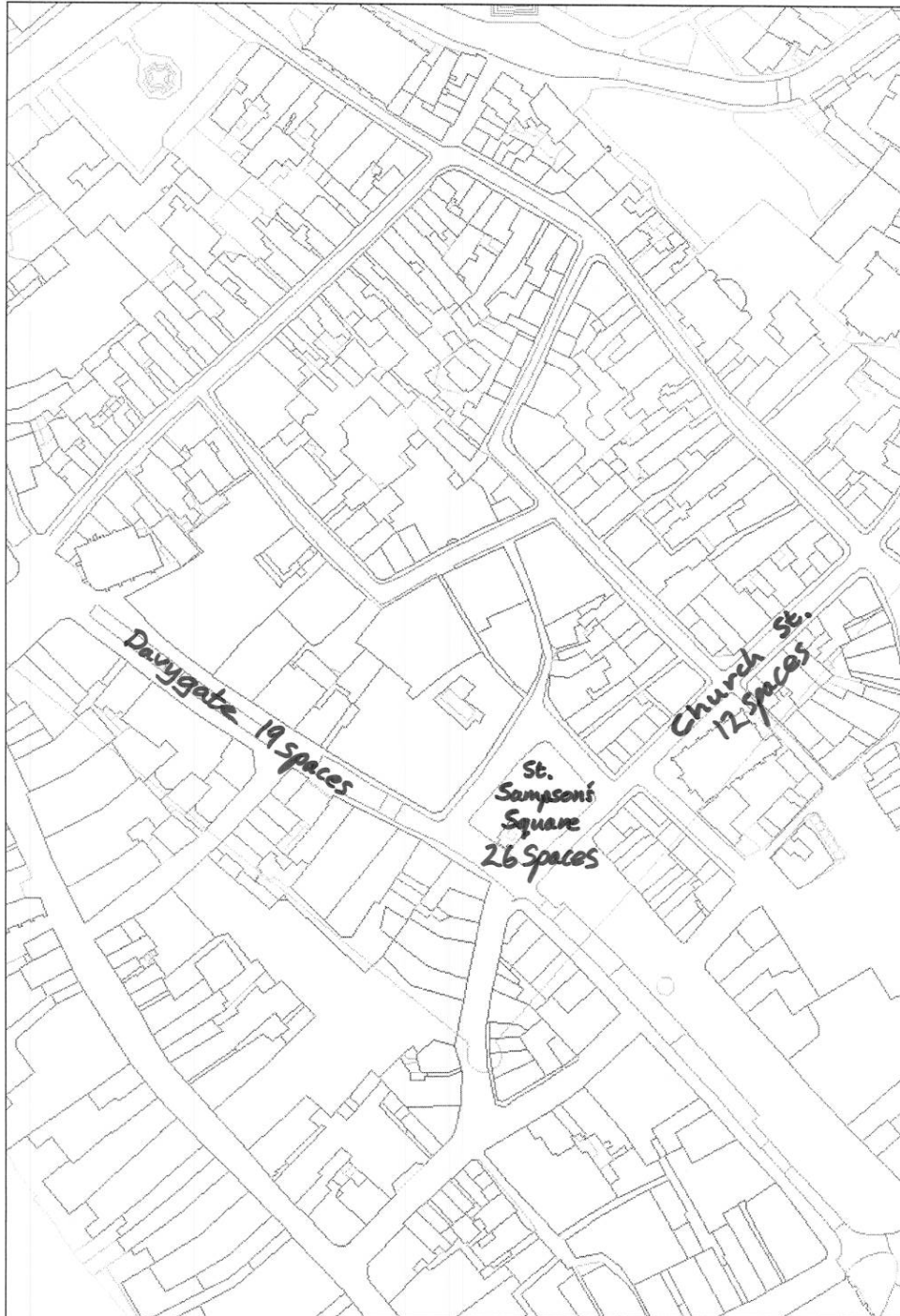
- Vehicle movement outside the restricted times
- Dangerous for pedestrians on fine days after 4pm – extend to 5.30pm
- Delivery vehicles in Coney Street before 11am can be a hazard
- Many believe that footstreets are 24/7 which increases risk
- Pedestrian safety is a problem after 4pm
- The varying hours cause confusion

**Vehicles using the area during the footstreet hours comments**

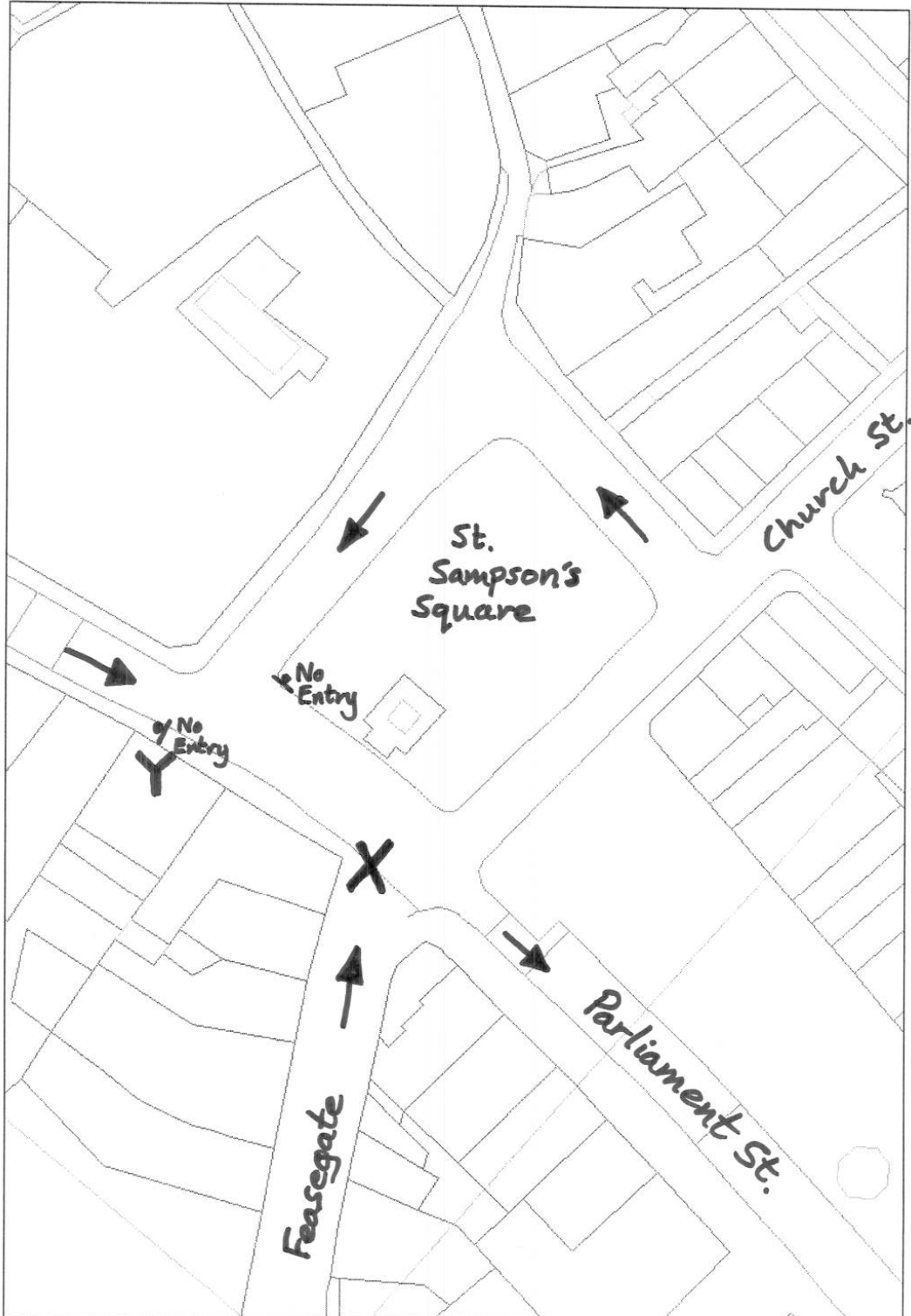
- Pedestrians should be able to use the streets safe from all vehicles.
- Too many vehicles allowed in the area
- Disabled drivers speeding in King's Square
- The streets are never fully pedestrianised - false sense of security
- Too many vehicles in the streets after pedestrian hours

Annex C

**Plan of Davygate, St Sampson's Square, Church St Route  
Plus Indication of the Potential Number of Parking Spaces**



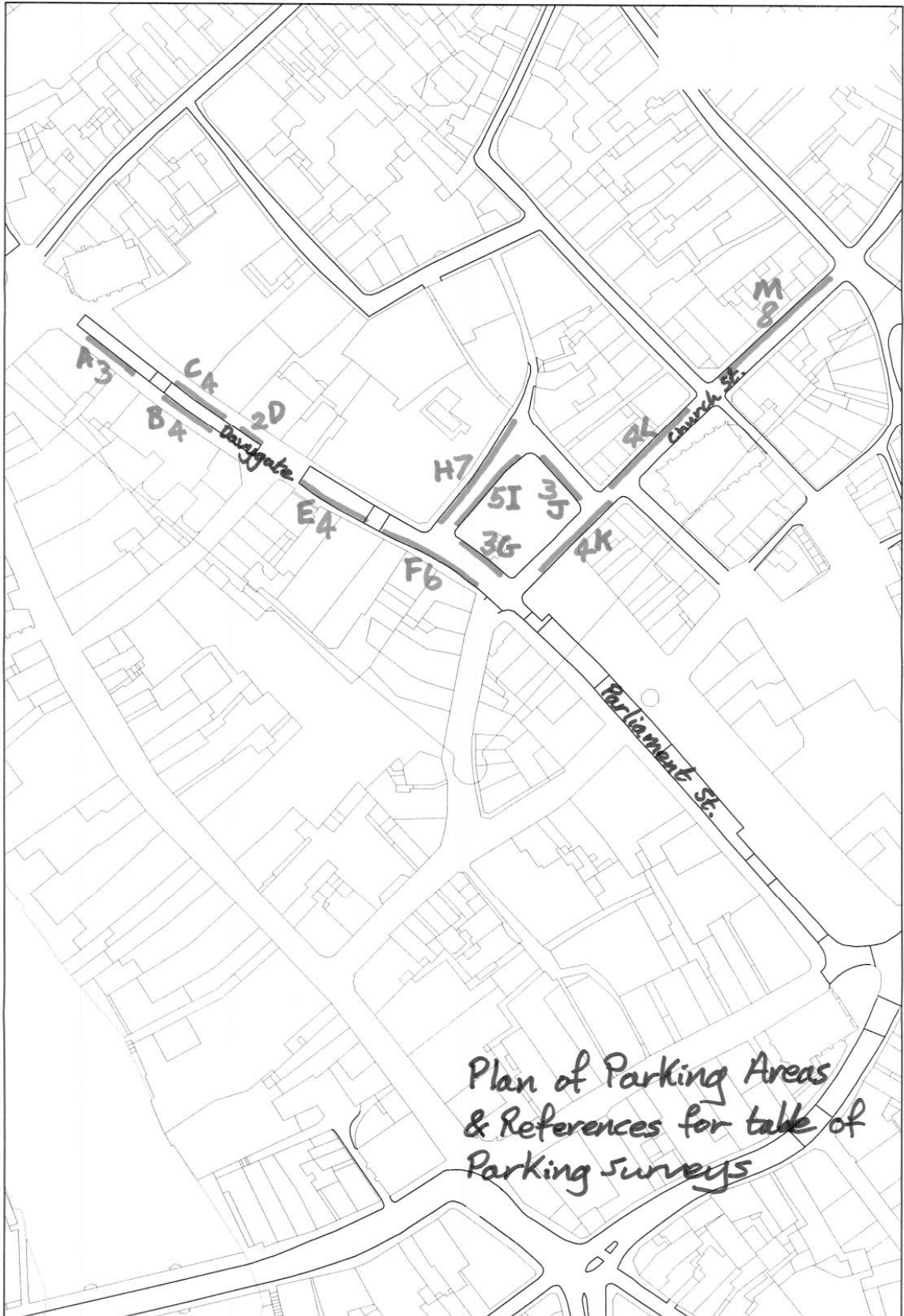
**Annex D**  
**St Sampson's Square One Way and No Entry Arrangements**





Annex E

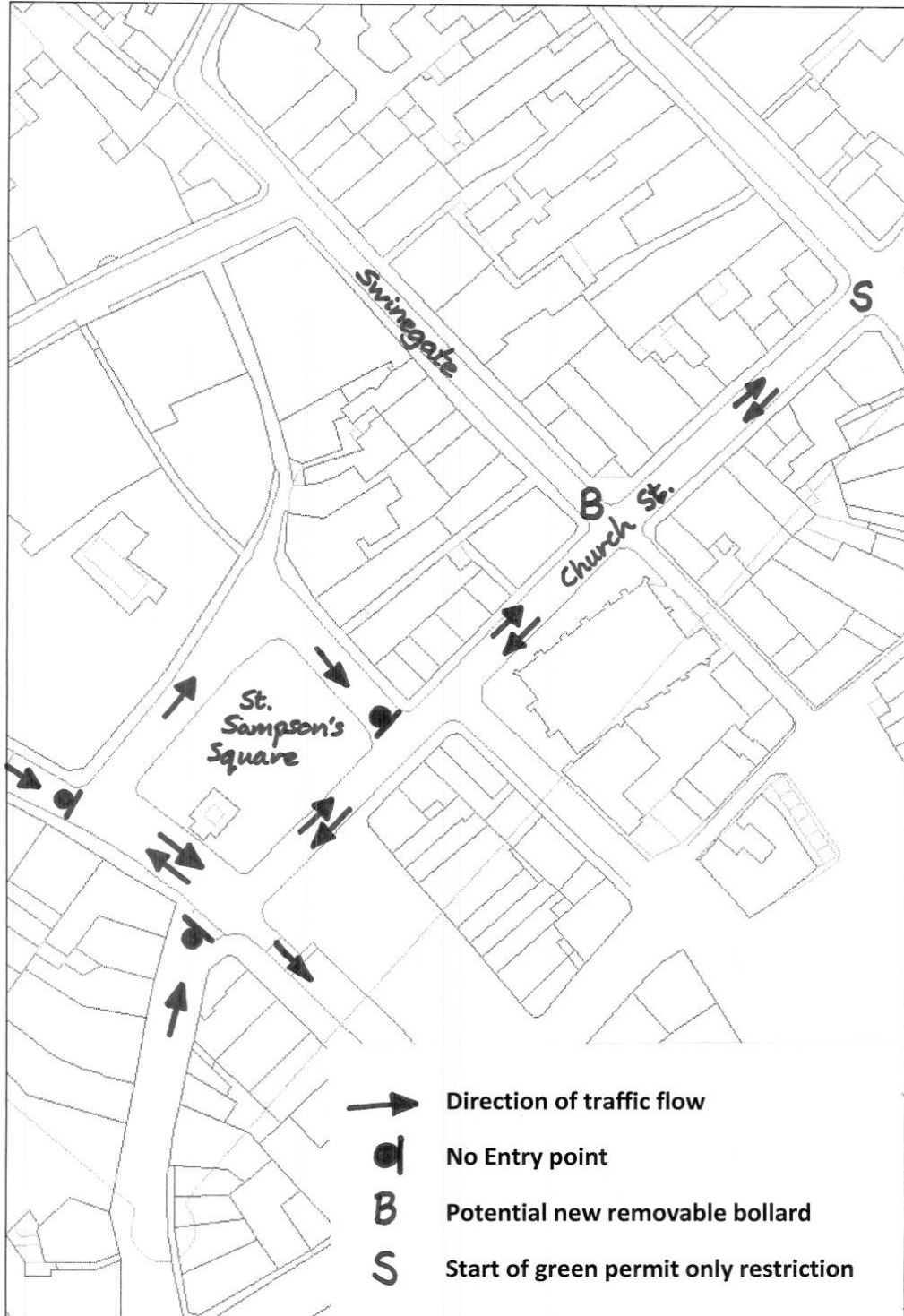
Green Permit / Blue Badge ad hoc Parking Survey



		21/8 - 1.20pm		6/9 - noon		6/9 - 2.45pm		6/9 - 4.30pm		8/9 - 1.50pm	
		Green	Total	Green	Total	Green	Total	Green	Total	Green	Total
Davygate	A		1				1		2		
	B		1	1	1		2				
	C		1	1	1		1		1		
	D				1						
	E		1	1	2						
St. Sampson's Sq	F	1	6	2	2	2	4	1	3	1	2
	G	1	2	2	2						
	H	1	4	2	5	3	5		5		3
	I	1	1	1	3	1	5		4		
	J		2			1	2		2		
	K										
	L	2	2	1	1						
Church Street											
Total		6	21	9	18	7	20	1	18	1	5

		9/9 - 11.30am		9/9 - 1pm		Total	
		Green	Total	Green	Total	Green	Total
Davygate	A				1		1
	B		3		2		2
	C						
	D			1	2		2
	E						
St. Sampson's Sq	F			1	3		3
	G			1	1		1
	H		1	3	5		5
	I						
	J						
Church Street	K						
	L						
	M						
	Total	0	4	6	14		14

### St Sampson's Square Revised One Way System



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**Corporate and Scrutiny Management  
Committee (Calling – In)**

**17 December 2012**

Report of the Assistant Director, Governance and ICT

**Called-in Item: Tethered Horses – Proposed Policy Framework**

**Summary**

1. This report sets out the reasons for the call-in of the decisions made at Cabinet on 4 December 2012 in relation to proposals for a proposed policy framework relating to tethered horses. The report to the meeting outlined proposals for the development of a joint protocol setting out how these issues could be managed by the Council and partner organisations within the legal framework and resources available.

This cover report sets out the powers and role of the Corporate and Scrutiny Management Committee in relation to dealing with the call-in.

**Background**

2. The Decision Sheet issued after the Cabinet meeting is attached as Annex A to this report. This sets out the decisions taken by Cabinet on the called-in item. The original report to the Cabinet on the called-in item is attached as Annex B to this report.
3. The Cabinet's decision has been called in by Cllrs Brooks, Watt and Warters for review by the Corporate and Scrutiny Management Committee (CSMC) (Calling-In), in accordance with the constitutional requirements for call-in. The following are the reasons given for the call-in:
  1. *The option approved by cabinet fails to initiate an EFFECTIVE course of action with the URGENCY needed to deal with the current real danger to motorists, cyclists and pedestrians posed by horses illegally tethered on verges i.e. the public highway.*

2. *The key risks associated with the cabinet report are stated as financial and reputation. There needs to be a greater consideration of the risk of public safety.*
3. *The report fails to inform whether or not the consideration of CYC purchasing land specifically for grazing horses will be a facility that can be accessed by all York residents who have or may wish to own horses. Given the equalities implications this analysis needs to be addressed.*
4. *The report fails to consider the potential animal health issues associated with tethered horses of uncertain vaccination history tethered adjacent to landowners stock.*

### **Consultation**

4. In accordance with the requirements of the Constitution, the calling-in Members have been invited to attend and/or speak at the Call-In meeting, as appropriate.

### **Options**

5. The following options are available to CSMC (Calling-In) Members in relation to dealing with this call-in, in accordance with the constitutional and legal requirements under the Local Government Act 2000:
  - a. To decide that there are no grounds to make specific recommendations to Cabinet in respect of the report. If this option is chosen, the original decisions taken on the item by the Cabinet on 4 December 2012 will be confirmed and will take effect from the date of the CSMC (Calling-In) meeting; or
  - b. To make specific recommendations to Cabinet on the report, in light of the reasons given for the call-in. If this option is chosen, the matter will be reconsidered by Cabinet at a meeting of Cabinet (Calling-In) to be held on 18 December 2012.

### **Analysis**

6. Members need to consider the reasons for call-in and the report to Cabinet and form a view on whether there is a basis to make specific recommendations to Cabinet in respect of the report.

## Council Plan

7. There are no direct implications for this call-in in relation to the delivery of the Council Plan and its priorities for 2011-15.

### Implications

8. There are no known Financial, HR, Legal, Property, Equalities, or Crime and Disorder implications in relation to the following in terms of dealing with the specific matter before Members; namely, to determine and handle the call-in.

### Risk Management

9. There are no risk management implications associated with the call in of this matter.

### Recommendations:

10. Members are asked to consider the call-in and reasons for it and decide whether they wish to confirm the decisions made by Cabinet or refer the matter back for reconsideration and make specific recommendations on the report to Cabinet.

**Reason:** To enable the called-in matter to be dealt with efficiently and in accordance with the requirements of the Council's Constitution.

### Contact details:

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Democratic Services  
01904 551030

**Chief Officer Responsible for the report:**

Andrew Docherty  
Assistant Director, Governance and ICT

**Report  
Approved**



**Date**

10 December 2012

**Specialist Implications Officer(s)** None

**Wards Affected:**

**All**



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

**Annexes**

Annex A – Extract from the Decision Sheet from the Cabinet meeting on the called-item.

Annex B – Report to the Cabinet on 4 December 2012.

**Background Papers**

None



**CABINET****TUESDAY, 4 DECEMBER 2012****DECISIONS *Extract***

Set out below is a summary of the decisions taken at the Cabinet meeting held on Tuesday, 4 December 2012. The wording used does not necessarily reflect the actual wording that will appear in the minutes.

Members are reminded that, should they wish to call in a decision, notice must be given to Democracy Support Group no later than 4.00pm on Thursday 6 December 2012.

If you have any queries about any matters referred to in this decision sheet please contact Jill Pickering (01904) 552061.

**12. TETHERED HORSES - PROPOSED POLICY  
FRAMEWORK**

RESOLVED: That Cabinet agree to:

- i) The proposals set out at Para 21 of the report and agree that a joint protocol be established and brought back to the Cabinet Member for approval in February 2013.
- ii) Consider the costs associated with the proposal as part of the 2013/14 budget setting process.

REASON: To ensure that the council has a robust, yet balanced approach to dealing with tethered horses.

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**Cabinet****4 December 2012**

Report of the Cabinet Member – Crime &amp; Community Safety

**Tethered Horses – Proposed Policy Framework****Summary**

1. This report aims to raise awareness of the problems associated with horses being deliberately tethered on land without the landowner's permission, often on council land and in particular public highways and to propose the development of a joint protocol which sets out how these issues can be managed by the Council and partner organisations within the legal framework and resources available.

**Background**

2. Over recent months there has been an increasing number of complaints and incidents relating to horses tethered on council land, in particular highways and footpaths. York is not alone in this and similar situations have also been found across the country, particularly in West and South Yorkshire areas, the West Midlands and County Durham. The practice of leaving horses to graze on land without permission of the landowner is becoming increasingly problematic to local authorities and private landowners. This is commonly (although not exclusively) associated with the Gypsy and Traveller Community, which have a long tradition of horse ownership and trading.
3. Anecdotal evidence suggests there has been an increase in the number of horses tethered on the highways, this may be as a result of a reduction of land previously used for grazing due to development. The numbers may also have been exacerbated by greater regulation introduced with the Horse Passport Regulations in 2009.
4. Horse-related problems can generally be divided into the following categories:
  - Loose or stray horses which pose a risk to danger to the public or highway users.
  - Unlawful grazing on public or private land (fly-grazing).
  - Welfare concerns.

- Nuisance or damage caused by horses on private land.
5. These concerns may arise individually, but often they are in combination and require a multi-agency approach to deal with them effectively. The joint protocol will seek to provide a framework for effective communication and partnership working to ensure a joined-up approach to both preventing problems arising in the first instance and being able to respond to reported incidents as and when they arise. Not all of the above problems are always an issue, however any protocol should cover all the issues to prevent action in one category simply moving the problem to another. For any protocol to be effective it has to be supported by all key stakeholders and be clear about what it is trying to achieve. It also has to be reasonable and proportionate.
  6. Horses have for many years been tethered on 'Common Land' and could, in some instances, be considered part of the cultural heritage of an area. In some cases the legal title of land may specifically mention grazing of livestock. However, where a horse is tethered in such a way that it is cruel to the horse or as a result of where it is tethered it creates a danger, this can not be tolerated.

### **The Legislative Framework**

7. There are a number of powers available to deal with horse related issues. The two most applicable legal powers available for dealing with loose or straying horses are:
  - The Animals Act 1971 (Section 7) - This Act allows the owner or occupier of land to detain horses (livestock) which stray onto their land and to claim expenses for damage done by the livestock to the land and the costs of keeping the livestock until such time as the horses are restored to the owner, or sold at a market or auction (after detaining the horses for no less than 14 days). The land occupier becomes responsible for the reasonable care of the horses while being detained. Although horses may have been put on land deliberately rather than "straying" onto it, this is the principle tool used for removing horse which are on public or private land without permission.
  - The Highways Act 1980 (Section 155) - This Act makes it an offence for horses to stray or lay on, or at the side of a highway. This does not apply to highways which cross common land, waste or unenclosed ground. The Police have powers to remove horses straying on the highway and either to return them to the horse owner or to remove them. A person found guilty of an offence can be is liable for paying the expenses

incurred in removing and detaining the horses. This is the principal tool used to remove horses straying on a highway.

8. There are a number other legal powers which might also be appropriate for dealing with horse related issues:
- The Animal Welfare Act 2006 - This Act creates an offence if a person with responsibility for an animal causes it suffering or fails to ensure its welfare. Allowing a horse to stray and potentially suffering harm and failing to secure adequate welfare, is likely to an offence under the Act. The key difficulty here is, if the horse isn't chipped or passported is identifying who the owner of the horse is so that enforcement action can be taken. The power is one of prosecution and potential additional powers to deprive or disqualify a convicted person from keeping animals. These powers are therefore useful as a deterrent and for potential longer term solutions for persistent offenders, but they do not offer relief to urgent situations. Although the local authority has powers to enforce the Animal Welfare Act, it is common practice for this to be carried out by the RSPCA.

One common query in relation to horse welfare is the practice of tethering horses. On the one hand this practice prevents a horse from straying and potentially causing harm to itself or others, but on the other hand a tether does restrict the freedom of the horse and poorly designed or fitted tethers may lead to injury or harm. The British Horse Federation Code of Practice recommends that tethers are not used as a long-term method of managing an animal, but may be useful as a short-term means of control.

- The Town & Police Clauses Act 1847 (Sections 21 – 29) - A similar power to that contained in the Highways Act, which provides powers to the Police to seize and impound horses that are "found at large in any street" and provides the power to recover reasonable expenses incurred in keeping the horses.
- The Environmental Protection Act 1990 – Part III - The provisions in this Act provide powers to the local authority to investigate and deal with statutory nuisance, which includes "any animal kept in such a place or manner as to be prejudicial to health or a nuisance". The powers are primarily used by Environmental Health Officers and allow the service of legal notice (an Abatement Notice) on the person responsible for the

**ANNEX B**

nuisance requiring it to be abated, with the prospect of prosecution for failing to comply. This provision might be best used if horses, by virtue of the way they are being kept, cause nuisance to local residents.

- Horse Passport Regulations 2009 - These regulations require horses to have an identification document (passport) and micro-chip which are issued by and registered with an authorised Passport Issuing Organisation. The only exception to this is if the horse already had a passport prior to the regulations coming into force in 2009. Foals must be passported and micro-chipped by the 31st of December in the year of birth or within six months of being born, whichever is the later. The passport system aims to prevent horse meat, which may have been treated with veterinary medicine, from entering the human food chain, and helps prevent the sale of stolen horses. Local Authority inspectors have powers to require passport information and can prosecute people who do not comply. Although, in theory, this should be a useful tool for identifying horses that have strayed, or left in fields it is often the case that these horses are not micro-chipped and so identifying the owner is extremely difficult. One consequence of the legislation is that if a horse is seized and pounded it cannot be subsequently sold unless it has a passport and is micro-chipped, which places an additional cost onto the Council.

**Proposed Interventions**

9. Provision of land for grazing - The Council owns a number of areas of land across the authority, which if it chose to, could be licensed out to individuals allowing them to use the land, for example to graze horses. The Council has discretion whether or not to issue a licence, to set appropriate charges and to apply any conditions on the use of the land. Licenses usually last for a set period. In addition to the provision of existing land, consideration should be given to the purchase land, subject to availability of finance, where horses can be grazed.
10. As part of the early discussions, potential was raised with the National Farmers Union with regards to the options for local land owners to provide land for grazing. A key element of the discussion was the separation of the management and ownership of the land and the ability for any land to be returned to the land owner if requested.
11. It will be critical that core standards are put in place which have to be adhered to. It is suggested that before any licence is issued

**ANNEX B**

checks should be made to ensure the applicant is not disqualified from keeping animals, or has any convictions for animal cruelty or welfare offences. As a minimum requirement, it is proposed that the following conditions should be applied to any licence:

- All horses must have a passport and be micro-chipped;
- The requirements of DEFRA's Code of Practice for the Welfare of Horses, Ponies, Donkeys and their Hybrids must be followed;
- Horses should be kept so as not to cause a nuisance or danger to others;
- The lessee should have adequate public liability insurance and indemnify the Council against any loss or damage resulting from keeping the horse on the land;
- Any waste arising from the keeping of horses must be properly disposed of;
- Any damage to the land, including fencing etc, must be repaired at the lessee's cost;
- The horse owner, or their representative, must provide contact details in case of an emergency (full-time 24hr contact, including cover when on holiday etc).

12. Work with horse owners to reduce the overall numbers – There is a long tradition of horse ownership within the travelling community, which is embedded within the cultural of the community. The majority are responsible owners who legitimately graze their horses and ensure they are well cared for. However, there are also less responsible horse owners who tether their horses on land without permission from the land-owner in an attempt to avoid grazing charges or food costs.
13. Currently, where horses are identified Support Workers liaise with travellers for them to be moved, however, this is often only moving the problem from place to place. There are a number of potential options that could be considered, a key part of the Support Workers discussion with travellers who have illegally tethered horses should be not only the encouragement of utilising the grazing land made available as set out above, but where it is felt to be the most appropriate course of action, to work with the Animal Health team to, where possible, re-home the horses as part of a pre arranged re-homing agreement.
14. Horse welfare concerns – Where a report is received which raises concerns with regards to the welfare of a horse, be it tethered or not, this should be verified by the animal health team, where these

concerns are confirmed, they will then be referred to the RSCPA for investigation and any subsequent action.

15. Seizure of illegally tethered horses – There are a number of circumstances where the council may feel that the most appropriate course of action is to seizure of the horse. The legal framework which allows action in these cases is as set out earlier in this report.
16. One approach that the council could take is a zero tolerance approach and the seizure of all horses tethered and grazing unlawfully on council land. There is no legal requirement on the council to provide grazing land. However, it is felt that a zero tolerance approach could be counter productive, and unnecessarily expensive to the council tax payer.
17. It is felt that a more balanced approach would be appropriate where the provision of grazing land and an approach to re-homing horses is the most appropriate approach to take. However it is acknowledged that there may be occasions where it is felt that the location of a tethered horse constitutes a danger to either the horse itself or others (including road users). This should be assessed via a risk assessment. Where it is felt that there is a health and safety risk to either the horse or others, the relevant powers set out previously should be used and the horse seized.
18. It is clear that where a decision is made to seize a horse, there will be costs associated which will need to be met by the council, at least initially. Discussions with other agencies that have such policies in place identify that the cost are in the region of £1000+ per horse. The legislation allows for the council to recover its costs from the owner of the horse before it is returned, however, it should be acknowledged that in a large number of instances where horses are seized, it will be unlikely that we will be able to identify the owner as often the horses are not chipped or passported. In some instances owners may come forward, where this is the case, a condition of return should be that the horses are chipped and passported before return, the cost, along with all the costs associated with the seizure and subsequent stabling of the horse, to be paid before the horse is returned.
19. Where the owner is not traced or doesn't come forward, the horse should be sold to recover as much of the costs as possible, however it should be noted that in most cases it is very unlikely that the majority of the costs will be recovered. Budget provision will therefore need to be considered as part of the 2013/14 budget discussions to enable such an approach to be taken.



## Consultation

20. In developing these proposals consultation has taken place with the Police, NYCC and the NFU. Further consultation will be undertaken with land owners, partner agencies and the travelling community as part of the development of the detailed joint protocol.

## Options

21. Option 1 – To agree the proposals set out in the paper:

- That the council develop a joint protocol with the Police, RSPCA and landowners and travellers setting out responsibilities of all parties and detailing a course of action to be taken in the following circumstances:
  - Where a horse is tethered on a highway verge;
  - Where a horse is grazing illegally on CYC land;
  - Where a horse is grazing illegally on private land;
  - Where a horse is found loose on a public highway.
- The council consider its land assets to identify areas of land that it feels would be suitable for letting as grazing land.
- The council works with private land owners and the NFU the potential for land owners to provide land for grazing.
- The councils Animal Health Service work with the RSPCA and horse welfare charities to develop micro chipping and re-homing service.
- The council review its licence and tenancy agreements and insert a clause that prevents the tethering of horses on council land unless there is an agreement in place as part of the provision of land for grazing.
- The council enter into a procurement process to appoint a contractor to manage the seizure and, where necessary, the sale of any horses.

22. Option 2 – To agree some but not all of the proposals set out in option 1.

23. Option 3 - To not agree the proposals and retain the status quo.

## Analysis

24. The majority of the analysis is set out within the body of the report, however:

**ANNEX B**

- Option 1 would enable the council to ensure that an appropriate course of action is taken to ensure the safety and welfare of tethered animals as well as ensuring that a balanced approach to the problem is taken thereby reducing the financial and reputational risk to the authority. In developing the joint protocol it will be important that there is full consultation with all stakeholders so that full buy in to the proposals and everyone understands the roles and responsibilities of their organisation.
- Option 2 would enable the council to meet its statutory responsibilities, but could result in challenge from individual sections of the community that the council were not doing all it could to address the issue.
- Option 3 would mean that the council would continue to take a reactive approach to the issue.

**Council Plan**

25. The proposals set out in the report support the Council Plan, in particular the themes, Build Strong Communities, Protect the Environment & Protect Vulnerable People.

**Implications**

26. The implications arising from this report are:
27. **Financial** – If the recommended option is agreed there are likely to be significant costs to the authority. The majority of these costs are related to the seizure and subsequent sale of the horses if they are not claimed. It is expected that once any policy is approved there will be a high level of reporting from the local communities. The proposal does not suggest a blanket approach where all grazing horses are removed. Where the owners do not remove the horses the council will incur the costs.
28. **Equalities** – The proposals will disproportionately impact upon the Gypsy & Traveller community, as part of the development of the joint protocol a full Equalities / Community of Interest impact assessment will be carried out.
29. **Legal** - The legal implications are set out in the body of the report.
30. **Crime & Disorder** – Adoption of the proposed recommendations will have a positive impact on crime & disorder and ensure that a clear protocol is in place which clearly sets out the responsibilities of all stakeholders,
31. **Information Technology** – There are no IT implications arising from this report.

32. **Property** – If the council decides to make land available for grazing, this will impact on the council asset portfolio.
33. **Other** - Adoption of the proposals will ensure that the council has a robust approach to the welfare of tethered horses.

### **Risk Management**

34. The key risks associated with this report are financial & reputational. Adoption of the proposals will place a financial implication on the council and discussions with other local authorities who have gone down this line have shown that in the majority of cases the costs associated with seizure of horses is not recovered. However adoption of the proposals will have a positive reputational impact on the council, as we will be responding to clear concerns set out by the public, whilst ensuring a balanced approach to enforcement.

### **Recommendations**

35. Cabinet is recommended to:

- Agree the proposals set out at Para 21 and agree that a joint protocol be established and brought back to the Cabinet Member for approval in February 2013.
- Consider the costs associated with the proposal as part of the 2013/14 budget setting process.

Reason: To ensure that the council has a robust, yet balanced approach to dealing with tethered horses.

### **Contact Details**

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	<b>Report Approved</b>	√	<b>Date</b> 22 November 2012
<b>Wards Affected:</b> All			
<i>For further information please contact the authors of the report</i>			

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