

**Decision Session - Executive Member for
Transport and Planning**

3 March 2016

Report of the Director of City and Environmental Services

**Public Rights of Way – Proposal to restrict public rights over the
alleyway between Brunswick Street/South Bank Avenue,
Micklegate Ward, using Public Spaces Protection Order legislation**

Summary

1. The above Public Spaces Protection Order (PSPO) has been requested by Safer York Partnership (SYP). This report provides details of the public consultations which have been carried out and the subsequent results. Delegated authority exists for the Director of City and Environmental Services to seal (make operative) the PSPO, however as formal objections have been received, the Executive Member is asked to make the decision as to whether or not to seal this draft PSPO (Annex 1). It is recommended that this scheme is not progressed.

Recommendation

2. The Executive Member is asked to:

Not make the PSPO and abandon the scheme.

Reason: The nature of the objections received would suggest that this scheme would not be appropriate for this area. Previous consultations for this alleyway have found that residents are not in favour of Alleygating, and the results of this consultation reflect this. The complicated layout of this alleyway and the waste collection changes that would be required, lead officers to recommend that this scheme would not be appropriate.

Background

3. The Anti-social Behaviour, Crime and Policing Act 2014, gives local authorities the power to make a PSPO in order to tackle those activities which are having a detrimental effect on the quality of life of those in the locality, and which are likely to be both unreasonable and persistent. For these particular proposals the activities include dog fouling and fly tipping.
4. Statistics provided by the Council's Business Intelligence Unit (Annex 2), show that in the 12 months between November 2013 and November 2014, for the 59 properties affected/adjacent to both alleyways, there were 14 recorded incidents of crime and 15 reported incidents of anti-social behaviour. Annex 2 shows a breakdown of these incidents.
5. Pre-order (informal) consultation was carried out for this scheme in February 2015. The results were presented at the Officer in Consultation meeting on 17 March 2015 where authorisation was given to proceed to statutory consultation.
6. As a result of the statutory consultation, a total of 3 formal objections were received. These are discussed in detail in the Consultation and Analysis sections of this report.
7. The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to implement crime reduction strategies in an effort to reduce overall crime in their administrative area. This Order, if made operative, will support that obligation.
8. Once a PSPO is made it is required to be reviewed and can be either varied or revoked (s61). Annex 3 summarises the requirements of the legislation on the use and life of a Public Spaces Protection Order.
9. With due regard to the Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010, the Council has identified that there is one positive and six negative impacts of this gating scheme which involve mobility and access issues (Annex 4 - Community Impact Assessment). Some of the negative impacts can be mitigated by design and installation options. As PSPOs must be reviewed every three years, or on demand, any change in local circumstance may be accommodated at this time.

It may be considered that the positive impact of additional security to residents, increasing peace of mind and providing a safe area to the rear of properties justifies the negative impacts.

Consultation

10. In total, 59 properties are affected by this proposal. After a delay of some months, the statutory consultation took place in November 2015 and 3 objections were received. The delay was due to comments received during the informal consultation stage, which requested that the location of Gate B be changed. In order to accommodate this, two low walls would need to be raised requiring the owners consent. It took some months to make contact with the householders concerned, and as only one gave consent for the changes, it was necessary to revert back to the original plan.
11. The informal consultation responses are attached (Annex 6).
12. Micklegate Councillors and Group Spokespersons have been consulted, no responses have been received.

Options

13. Option 1: Seal and make operative the draft Public Spaces Protection Order.

Option 2: Do not seal the draft Public Spaces Protection Order.

Analysis

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

In response to the formal representations and objections received (Annex 5):

Of the three objections received, all three objected to the changes to waste collections which would be implemented should gates be installed. One resident objected specifically to the gates, citing an earlier consultation which took place in 2007 and which found that residents were NOT in favour of gates being installed.

16. If gates are installed, vehicular access for both cars and cycles will be maintained.
17. A Community Impact Assessment has been carried out (Annex 4) and the summary is at paragraph 8 above. After consultation with residents the Council is not aware of any resident, at this point in time, who may have difficulties in accessing the gates because of a protected characteristic under the Equality Act 2010 (e.g. due to age or disability). However, the gates will present an extra obstacle to those who access the alleyway using a vehicle, as they will be required to get in and out of their vehicles to open and then close the gates.
18. If gates are installed, waste collection will have to change to front of property (central collection points are not feasible). Anyone who has physical difficulty presenting their bagged waste to the pavement may opt to register for an assisted collection. Of the 3 objections received for this scheme, 3 specifically objected to changes in waste collection. There is a further complication with this particular scheme in that the full extent of the alleyway cannot be gated due to a principle access to a property being situated within the alleyway. Should gates be installed however, ALL properties adjacent to the alleyway will be subject to waste collection changes. This means that some properties, even though they would not have the advantage of being covered by the gates, will still be required to present their waste to front of property.
19. Waste Services have confirmed that they would not be considering changing waste collections at these locations, were it not for the alleygating proposal.

20. Option 2

This option would leave the alleyways open for use by the public and the incidents of crime and ASB are therefore likely to continue at previous levels. Notwithstanding this, gating these alleyways may be revisited in the future.

Council Plan (2015/19)

21. The Council Plan is built around 3 key priorities. The Alley-gating process meets the following Council priorities:

- A Prosperous City For All
- A Focus On Frontline Services
 - These schemes support the following aims;
 - Residents are protected from harm, with a low risk of crime.All children and adults are listened to, and their opinions considered
 - Ensure neighbourhoods remain clean and safe environments.
 - Keep our city and villages clean.
- A Council That Listens To Residents
 - This report supports the following aims:
 - Use evidence-based decision making.
 - Always consider the impact of our decisions, including in relation to health, communities and equalities.
 - Engage with our communities, listening to their views and taking them into account.

Implications

21.

- **Financial**

Capital funding has been secured for the scheme through the Council and SYP. To supply and fit one double (vehicular) gate with locks is approximately £2,000. The total cost of gates for these two alleyways would therefore cost approximately £4,000 (2 double gates). Repairs to alley gate locks are undertaken by an outside company at a cost of £50 per hour. There is no specific budget with which to maintain alley gates.

The gates would therefore continue to be maintained through the existing Rights of Way (ROW) maintenance budget.

- **Human Resources (HR)**
 To be delivered using existing staffing resources. The post of Alleygating Officer will be cut at the end of March due to a restructure within Transport Services.
- **Equalities**
 Implications are included in Annex 3 and summarised at paragraph 8 in the main body of the report.
- **Legal**
 Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 enables the Council to make a Public Spaces Protection Order restricting access to an alleyway which is a public highway where the Council is satisfied that (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect, and that these activities are, or are likely to be, persistent and unreasonable in nature, and justify the restrictions imposed by the notice. Before making such an Order the Council must also consider the likely effect of the Order on adjoining and adjacent occupiers of premises and other persons in the locality. Where the highway constitutes a through route the Council must consider the availability of a reasonably convenient alternative route. For this scheme, the alternative routes are clearly defined on the Order Plans.
- **Crime and Disorder**
 This report is based on tackling crime and anti-social behaviour issues as set out in the main body of the report and Annexes.
- **Information Technology (IT)**
 There are no IT implications
- **Property**
 There are no Property implications
- **Other**
 Should alley gates be installed in these locations, Waste Services have indicated that waste collection arrangements would have to be changed to front of property collection.

Risk Management

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

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

Contact Details

Author:

Claire Robinson
Rights of Way Officer
Transport Services
01904 554158

Chief Officer Responsible for the report:
Neil Ferris
Acting Director, City & Environmental Services

Report Approved **Date** 09.02.16

Wards Affected: Micklegate Ward

All

For further information please contact the author of the report

Background Papers:

- Anti-social Behaviour, Crime and Policing Act 2014
<http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted/data.htm>
- Crime and Disorder Act 1998
<http://www.legislation.gov.uk/ukpga/1998/37/contents>
- Equalities Act 2010
<http://www.legislation.gov.uk/ukpga/2010/15/contents>

- Officer Decision –: Public Rights of Way – Proposal to restrict public rights over alleyways between Brunswick Street/South Bank Avenue, (Micklegate Ward), using Public Spaces Protection Orders legislation.
<http://modgov.york.gov.uk/ieDecisionDetails.aspx?ID=4339>

Annexes

Annex 1: Draft Public Spaces Protection Order and Plan

Annex 2: Crime and Anti-Social Behaviour Statistics

Annex 3: Legislation

Annex 4: Community Impact Assessment

Annex 5: Formal consultation responses including representations and objections

Annex 6: Informal consultation responses