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

2 June 2008

Report of the Director of City Strategy

PUBLIC RIGHTS OF WAY – REVIEW OF REQUEST TO RESTRICT PUBLIC PEDESTRIAN RIGHTS OVER AN ALLEYWAY LEADING FROM MAYFIELD GROVE TO ST HELEN’S ROAD, DRINGHOUSES.

Summary

1. This report follows up a request made by the Advisory Panel in January 2007 (Annex 1), to identify a practical option for implementing a Conditional Gating Order (CGO) on the alleyway leading from Mayfield Grove to St Helen’s Road, Dringhouses (Annex 2), once the Council’s Gating Order Policy had been adopted. The Council’s Gating Order Policy was adopted in March 2007. The request to gate this alleyway originally came about through the receipt of a petition in September 2006.
2. This report seeks approval in principle, to a CGO being made in order to restrict public access along the above alley at certain times of day, subject to a further report, giving details of how this will be implemented, being approved at a later date.

Background

3. The petition to gate the alley in question was considered by the Executive Member and the Advisory Panel in January 2007. The following Officer’s recommendations were agreed:
 - i. Note the petitioner’s request for closure; and
 - ii. Leave the alley open for public use at all times.
4. The reason for this recommendation was that, although the request met the criteria of the legislation for a CGO (see below abc), a suitable method for the management of the opening and closing of the gates in accordance with the conditions of the Order was not possible at the time.
 - (a) premises adjoining or adjacent to the alley were affected by crime or anti social behaviour (ASB);

- (b) the alley facilitated the persistent commission of criminal offences or ASB;
 - (c) it is in all circumstances expedient to make the Order for the purposes of reducing crime or antisocial behaviour; ie the alley does not serve as a principle access to any adjacent dwelling or business; and the alternative route, although a lot longer, would not inconvenience a large number of users as the proposed gates would be open during the times of day when it is most in use;
5. In light of this, the Advisory Panel advised the Executive Member to:
- iii. approve that the alley be left open for public use at the present time, pending adoption of the new Gating Order Policy and;
 - iv. request that the report be referred back to Officers with a view to a practical option for closing the alley, after nightfall, being developed.

Consultation

6. Ward Members have been consulted. Their comments (verbatim) are as follows:

Cllr A Reid: When the petition was first considered the Council did not have the powers to implement CGO and asked that the request be reconsidered in due course. It was recognised that there was a case for closure on crime/anti social behaviour grounds but that the snicket was well used during the day and a CGO could be the best solution once we had the powers.

Cllr T Holvey: No comments received

Cllr S Sunderland: No comments received

Options

7. There are 2 options available for consideration

Option A: Do not approve, in principle, a Conditional Gating Order being made to restrict public access along the alleyway in question.

Option B: Approve, in principle, to a Conditional Gating Order being made to restrict public access along the alleyway in question

Analysis

8. Option A: If the Executive Member is minded not to approve, in principle, the making of a CGO to restrict access to the alleyway, any recorded persistent high crime or anti-social behaviour will continue to occur.
9. This option is not recommended.

10. Option B: If the Executive Member is minded to approve in principle a CGO being made it is likely that, subject to the approval of a gate management procedure, any recorded crime and antisocial behaviour would most likely to be reduced.
11. A CGO would not be able to be made until approval on how to implement the required gate management system has been approved.
12. This option is recommended.
13. In the event that this option is approved officers will seek to secure a workable solution that is affordable for opening and closing of the gates.

Corporate Priorities

14. The above option links with the Council's Corporate Strategy (2007 – 2011) Priority for Improvement Statement:

No 3 "Improve the actual and perceived condition and appearance of the city's streets, housing estates and publicly accessible spaces".

15. The second Local Transport Plan (LTP2). The hierarchy of transport users is firmly embedded within this plan, with pedestrians and cyclists being at the top of our priority when considering travel choice. It is evident from the preceding comments that the retention of the link for public use during daylight hours, fits soundly within council transport policy. The encouragement of travel by sustainable modes also corresponds with other 'wider quality of life objectives' as contained in the Community Strategy, such as those relating to health. However, The gating of the alley would have the potential to encourage increased trips by private car, which does not accord with Objective 1.3 to: *Make getting around York easier, more reliable and less damaging to the environment.*

Implications

Financial

16. Should the Executive Member authorise Officer's to progress with a CGO to gate the above alley, funding would have to be put into place to pay for the required legal orders, physical works and gate closure management as detailed in the Council's Gating Order Policy.

Legal

17. Legal Services have been consulted and advise that in addition to any relevant legal orders being made, there are certain legal implications for the Council should a conditional closure be recommended. Should this gate management

solution fail, the Council could be in breach of the Order and liable to prosecution for unlawful obstruction. It is open to any individual to initialise a prosecution for obstruction so the Council would be vulnerable to such action for the life of the Order.

Human Resources (HR)

18. There are no HR implications.

Equalities

19. There are no equalities implications.

Crime and Disorder

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

Information Technology (IT)

Property

Other

21. There are no implications for the above.

Risk Management

22. In compliance with the Council's risk management strategy, there are no risks associated with the recommendations of this report.

Recommendations

23. It is recommended that the Advisory Panel advise the Executive Member to approve **Option B** and:
24. Approve, in principle, a Conditional Gating Order being made to restrict public access along the alleyway in question, subject to a further report to the Advisory Panel that identifies a workable and affordable solution for opening and closing of the gates.

Reason

To aid the prevention of crime and ASB in the area.

Contact Details

Author:

Alison Newbould
Public Rights of Way Officer
Public Rights of Way Unit
9, St Leonard's Place
YORK
YO1 7ET
Tel: 551338

Chief Officer Responsible for the report:

Damon Copperthwaite
Assistant Director
City Development and Transport

Report Approved

Date 19/05/2008

Specialist Implications Officers:

Financial

Patrick Looker (Finance Manager) 01904 551633

Legal

Martin Blythe (Senior Assistant Solicitor) 01904 551044

Wards Affected:

All

Dringhouses and Woodthorpe Ward

For further information please contact the author of the report

Background Papers:

Highways Act 1980
Countryside and Rights of Way Act 2000
Clean Neighbourhoods and Environment Act 2005
City of York Council Gating Order Policy

Annexes

Annex 1 – Original Mayfield Grove report
Annex 2 – Location Plan - Mayfield Grove/St Helen's Road Alleyway