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**Decision Session -  
Executive Member for City Strategy**

**1 September 2009**

Report of the Director of City Strategy

**PUBLIC RIGHTS OF WAY – the future of the current gating order on the snicket between Carrfield and Chantry Close, Dringhouses and Woodthorpe Ward**

**Summary**

1. This report considers the future of the current gating order on the snicket between Carrfield and Chantry Close, Dringhouses and Woodthorpe Ward (see legal order and plan – Annex 1) taking into account the current levels of crime and anti-social behaviour (ASB) and the views of residents living on both streets.

**Recommendation**

2. It is recommended that the Executive Member accept **Option A** and resolve to:

Authorise the Director of City Strategy to instruct the Head of Civic, Democratic and Legal Services to formally review the order with the purpose of revoking the gating order which exists on the snicket between Carrfield and Chantry Close, Dringhouses and Woodthorpe Ward, in accordance with s129F(3) of the Highways Act 1980.

**Reason**

3. Because the restriction imposed by the order is no longer expedient in all the circumstances for the purpose of reducing crime or ASB (see Annex 4 – Legislative Requirements) and because of residents' concerns, which are detailed in the report.

**Background**

4. The decision to make a Gating Order on this snicket was made at the meeting of the Executive Member for City Strategy (EMAP) on 27 January 2009 for the purposes of reducing crime and ASB in the area. The order allows a gate to be installed to prevent public use between the hours of 20:00 and 06:30 everyday. Those living in properties adjacent to the snicket and who are

directly affected by the location of the gate on their boundaries (No's 29 and 31 Carrfield) have the Personal Identification Number (PIN) for access. Additionally anyone living on either Carrfield or Chantry Close who have mobility problems and for whom the alternative route would prove inconvenient, may apply for the PIN code.

5. The gate has a magnetic locking system which is operated by an electronic timer run off the electricity supply from a streetlamp. A self-closing arm is attached and during the hours of closure the gate can be opened using a PIN code on the electronic keypad.
6. When the order was confirmed residents of Chantry Close raised concerns, as they did not realise they would not have access during the hours of closure.
7. The gate was physically installed on 9 April but was removed approximately 2 weeks later for safekeeping after a number of incidents of vandalism were reported, and before it was made operational. The self-closing arm was broken off twice and a group of young people were found swinging on it on two occasions, trying to break it and causing damage to the adjacent fence.
8. On 13 May a petition was received from residents of Chantry Close expressing their views on the gating order. The vast majority (27 out of 28 petitioners) said they were against the closure, especially since they would not have access.

## **Consultation**

9. On 1 June a letter and consultation form was sent to all residents of Carrfield and Chantry Close in order to canvas the views on the future of the gating order from everyone who was consulted previously. Residents were given 4 weeks within which to reply and were offered the following 3 options to choose from:

### **1 – Revoke the order**

I / We **do not agree** to the gating order and wish it to be revoked so that the snicket can remain open for public use at all times. This option would mean that the gate would not be installed, the existing gate posts etc removed and the cycle barriers replaced.

### **2 – Install the gate as intended**

I / We **agree** to the gating order and understand that the snicket will be closed between 20:00hrs and 06:30 hours everyday. This option would mean that the gate would be re-hung and the electronic lock will become operational. As is required by legislation the residents of No's 29 and 31 Carrfield would receive the PIN code to operate the gate during hours of closure. Those who have mobility problems will be issued with the PIN code on application if they can demonstrate that they either hold a 'Blue Badge' or are eligible for a 'Blue

Badge'. The PIN code will not be issued to anyone other than those mentioned above.

### **3 – Vary the order by amending the times of closure**

I / We **agree** to the gating order but request that the hours of closure be altered. This option will mean that the gate will be re-hung and the electronic lock will become operational, but the hours of closure will be changed to take into consideration residents' requirements, as much as possible. The decision to close the snicket between the original times ie 20:00hrs and 06:30hrs, was made to take into account the times of reported incidents of crime and ASB for the 12 months prior to the Order being made. If the hours of closure were to be changed to a later time in the evening and the pattern of crime and ASB were to continue unchanged, it is likely that the restriction will have little or no effect.

10. Residents were also given the opportunity to add their own comments regarding the matter (see paragraphs 14, 15 and Annex 2).
11. Ward Members and Group Spokesperson(s) have been consulted. Their comments, verbatim, are:

#### **Ward Councillors**

12. Cllr A Reid: *"I find it difficult to make comment without knowing the response from residents. The whole issue of the gate has become polarised, with some residents supporting it and others opposing. The Ward Councillors would not wish to make any comments at this stage but reserve our position until the report for the EMDS is available and we are able to see residents views of the latest consultation".*

Cllr T Holvey: As above

Cllr S Sunderland: As above

#### **Group Spokesperson(s)**

13. Cllr Stephen Galloway: *"I have no comments to make on this specific proposal at the present time. My view remains that we should make the code to any gate available to anyone who wishes to have it on directly affected streets. Alternatively, we can make it available to anyone who makes a financial contribution to the provision and/or maintenance of the gate".*

Cllr Ruth Potter: No comments received

Cllr Ian Gillies: No comments received

Cllr Andy D'Agorne: No comments received

14. A total number of 77 properties were canvassed and 48 replies were received. Table 1 below details the results:

**Table 1:**

|  | <b>Chantry Close<br/>(34 properties)</b> | <b>Carrfield<br/>(43 properties)</b> | <b>Total</b> |
|--|--|--------------------------------------|--------------|
| <b>1-Revoke</b> (do not agree)                           | 15                                       | 7                                    | <b>22</b>    |
| <b>2-Install</b> (agree)                                 | 7  | 15                                   | <b>22</b>    |
| <b>3-Vary</b> (agree but want change to time of closure) | 1  | 1                                    | <b>2</b>     |
| <b>No opinion / does not apply</b>                       | 1  | 1                                    | <b>2</b>     |
| <b>Total no. replies</b>                                 | 24                                       | 24                                   | 48           |

15. Annex 2 details all comments made by residents. There are two main points of view, for the gating order and against. To summarise residents' comments:

*In support of the Gating Order*

- a) residents *"have experienced problems, particularly at night"*
- b) the gate should be locked for shorter hours in the summer and longer during the winter months
- c) a *"house on the snicket is repeatedly subject to attack"*

*In opposition to the Gating Order*

- d) the gate could attract trouble, not prevent it
- e) crime and ASB in Chantry Close has recently been low
- f) the residents of Chantry Close do not want a gate if they are not given access during hours of closure
- g) few residents of Carrfield use the snicket – why should they have a say whether a gate is installed or not?
- h) the alternative route is too long and inconvenient

A few residents on both sides of the argument commented that the snicket between No's 22 and 24 Carrfield should be gated instead because the people who cause trouble come through from Foxwood.

16. Annex 2 also gives relevant details of the petition received from residents of Chantry Close. It is worth noting that in some instances the results of the consultation are inconsistent with the opinions expressed in the petition.
17. Additionally, the views of residents expressed in paragraph 15(e) are supported by comments received from North Yorkshire Police on 22 July that there is *"no justification at this time"* on crime and disorder grounds for a gate to be installed on this snicket.

*“Approx 2 years ago there was a high number of burglaries in the area and the suspects were from Foxwood hence the alleygate application. There was also minimal ASB on Chantry Close-both these issues have now ceased.”* (Sgt S. Bestington (Westfield, Woodthorpe and Dringhouses Safer Neighbourhoods Policing Team)).

The most recent crime reports are available in Annex 3. These support the assertion that levels of crime and ASB in this area are currently low, particularly in relation to the previously agreed times of operation as detailed in paragraph 4.

## **Options**

18. Option A: Revoke the order by formally reviewing the gating order which exists on the snicket between Carrfield and Chantry Close, Dringhouses and Woodthorpe Ward, in accordance with s129F(3) of the Highways Act 1980. This option is recommended.
19. Option B: Uphold the current gating order, re-install the gate and make it operational ie connect to the electricity supply. This option is not recommended.
20. Option C: Vary the times of closure on the order by formally reviewing the gating order which exists on the snicket between Carrfield and Chantry Close, Dringhouses and Woodthorpe Ward, in accordance with s129F(2) of the Highways Act 1980. This option is not recommended.

## **Analysis**

21. Option A: This option would allow the current gating order to be formally reviewed with a view to revoking it. In order to do this, all residents and statutory consultees will be consulted on the proposed revocation. The proposal will be advertised in the local Press, on the Council’s website, and notices posted on site giving 28 days within which representations can be made. The results will be presented in a report which will be taken to the Executive Member for City Strategy for a decision to be made. Should the order be revoked, the gateposts currently installed will be removed and the cycle barriers reinstalled in their original position on the snicket. Should the order not be revoked the gate would be re-fitted and Option B would prevail.
22. Given the views expressed by North Yorkshire Police (paragraph 17), it is necessary to formally review the gating order. Gating orders are for the sole purpose of reducing levels of crime and ASB. If there is no need to restrict access for these purposes the order should be revoked. In order to do this the council must be satisfied that the restriction imposed by the order is no longer expedient in all circumstances for the purpose of reducing crime or ASB (s129F(3) – see Annex 4 paragraph 5).

23. Of important consideration is the fact that when the gate was installed for a brief period in April it became clear that it attracted nuisance behaviour (see paragraph 7) rather than discouraging it.
24. In addition to the above, although the result of the recent canvass of opinion as to the future of the gating order is an even split for and against, it could be argued that the opinion of residents who are most affected by the order should carry more weight. The majority of Chantry Close residents who responded to the consultation do not want the gate (15 out of 24) because they will not have access during the hours of closure and the alternative route is inconvenient. It could be argued therefore that the continuation of the current gating order is not expedient in all circumstances.
25. Option B: This option will mean that once the gate is installed and operational it will be locked between 20:00hrs and 06:30hrs. Access will be given to properties adjacent to or adjoining the restricted route (No's 29 and 31 Carrfield) and anyone, on application, living on either Carrfield or Chantry Close who are eligible under the Blue Badge scheme (as detailed in paragraph 4).
26. The existence of a reasonably convenient alternative route was considered at the EMAP (City Strategy) on 27 January. The decision made was that for those with good mobility it was reasonable and convenient. The results of the recent canvas of residents clearly demonstrates that to the residents of Chantry Close, who are most affected by the order, the alternative route is not reasonable or convenient. The majority of Chantry Close residents who responded to the consultation do not agree to this option (15 out of 24).
27. Additionally, given the comments made by North Yorkshire Police and some residents, and taking into account the crime reports (Annex 3) a gating order is not needed on this particular snicket at this time. For these reasons it is necessary to formally review the order (see Annex 4).
28. Option C: This option would again allow the current gating order to be reviewed. The same process as set out in paragraph 21 will be followed, with the proposed new time of closure detailed on the proposed order.
29. Only two residents voted for this option (one saying it should be open longer during the summer and another giving no comment as to preferred times), although one other resident commented saying the hours of closure should be extended during the winter months. It is not clear from these responses what hours of closure would be preferred.
30. Given the pattern of crime and ASB reported over the last 12 months (see Annex 3), to lock the gate later than 20:00 and open it before 06:30 would prove ineffective. In effect the gating order would serve no purpose.

## **Corporate Priorities**

31. As the evidence in paragraph 7 suggests, the existence of the gate may actually attract ASB. Options B and C would therefore go against the Council's Corporate Strategy, Priority Statement No 2 to make York a Safer City.
32. Option A ties in with the Council's Corporate Strategy, Priority Statement No2 to make York a Sustainable City by encouraging the use of sustainable methods of transport such as walking as cycling.

## **Implications**

### **Financial**

33. Funding implications for Options B and C relate to installation costs as well as ongoing maintenance of the gate and lock should it be re-installed. Ongoing maintenance is anticipated to cost in the region of £150 per year (minimum) for this gate. It is estimated that the cost of electricity per annum will be in the region of £50 per year. Option C would also require the Gating Order to be re-advertised at a cost of approximately £800.
34. Funding implications for Option A relate to the cost of re-advertising the Gating Order again, approximately £800, along with the cost of removal of the gate posts and reinstatement of the cycle barriers.
35. The cost of either option can be managed within the Public Rights of Way budget.

### **Human Resources (HR)**

36. To be delivered using existing staffing resources.

### **Equalities**

37. There are no equalities implications to this report.

### **Legal**

38. Gating Order legislation gives the council powers to restrict public access to a relevant highway in order to help reduce crime and ASB associated with it. Once an order is made it can be reviewed and either varied or revoked (s129F(2) or (3)). Annex 4 gives details of the requirements of this legislation along with details of Home Office Guidance on the use and life of a Gating Order.

### **Crime and Disorder**

39. Other than that discussed in the main body of the report and Annex 3, there are no other crime and disorder implications.

### **Information Technology (IT)**

40. There are no Information Technology implications.

## Other

### Transport Planning Unit

41. The health and sustainable transport implications of the order should be considered as Gating Orders could potentially encourage the use of cars if the alternatives are too long or lack pedestrianised sections. This should be balanced against health impacts facing pedestrians from the ongoing crime or ASB in the alleyway.

## Risk Management

42. In compliance with the council's Risk Management Strategy, the main risks that have been identified should Options B and C be approved are that which could lead to non-compliance with legislation (Legal and Regulatory – see paragraph 24 and 28 and Annex 4). All options are subject to internal budgetary pressure (Financial – see paragraph 33 and 34).

## Contact Details

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Report  
Approved

Date

17 August 2009

### Wards Affected:

Dringhouses and Woodthorpe Ward

All

For further information please contact the author of the report.

### Background Papers:

Highways Act 1980

Crime and Disorder Act 1998

Countryside and Rights of Way Act 2000

Clean Neighbourhoods and Environment Act 2005 & the Home Office Guidance relating to the making of Gating Orders 2006

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

City of York Council Gating Order Policy Document

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

### Annexes:

- 1) Legal order and plan
- 2) Resident's Comments (from council consultation)
- 3) Crime and Anti-Social Behaviour Statistics
- 4) Summary of Legislative Requirements and Home Office Guidance for Gating Orders