

Decision Session
Executive Member for Transport & Planning

23 July 2015

Report of the Director of City and Environmental Services

Public Rights of Way – Proposal to restrict public rights over the alleyway between Stanley Street and Warwick Street (Stanley Mews), Guildhall Ward, using Public Spaces Protection Order legislation

Summary

1. This Public Spaces Protection Order (PSPO) has been requested by local residents, North Yorkshire Police, Safer York Partnership (SYP) and Councillors in order to reduce the detrimental effect that the persistent crime and anti-social behaviour (ASB) currently associated with this alleyway, is having on the quality of life of those in the locality. An informal consultation was carried out in December 2014, followed by a statutory consultation in June 2015. As representations have been received, a decision is requested as to whether or not to seal and make operative the draft PSPO under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014, to restrict access along this alleyway.

Recommendation

2. The Executive Member is asked to consider:

Option 1: Sealing and making operative the draft Public Spaces Protection Order ([Annex 1](#)).

Reasons:

3. a) 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 will support that obligation.
- b) Two formal representations concerning the draft Order have been received, however following a site meeting with residents and Guildhall Councillors it is considered that the concerns raised from the representations have been addressed.

c) 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 3 - Community Impact Assessment). Some of the negative impacts can be mitigated by design and installation options. Public Spaces Protection Orders must also be reviewed every three years, or on demand, which can accommodate any change in local circumstances. 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.

Background

4. Delegated Authority exists for the Director of City and Environmental to seal Public Spaces Protection Orders, however as formal representations have been received following the statutory consultation a decision is requested from the Executive Member for Transport & Planning.
5. Informal consultations for this gating scheme were carried out in December 2014 (Annex 2).
6. Waste collection arrangements for this street have changed from rear to front of property since the informal consultation was carried out. Therefore, should alleygates be installed, waste collection will not be affected.
7. Statistics provided by SYP (Annex 4) show that in the 12 months between November 2013 and November 2014, for the 36 properties affected/adjacent to this alleyway, there were no recorded incidents of crime and anti-social behaviour. However, this may be a result of residents reporting incidents directly to the Council's Community Enforcement Team (CET). Statistics from the CET show that in the period 18/12/2014 – 19/01/2015, there were four incidents of ASB which could be considered a high number of incidents for only 36 properties. For the period of November 2012 to October 2013, there were 2 reported incidents of crime and 2 incidents of ASB.
8. The Council, as highway authority has powers available to it, under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014, to make a Public Spaces Protection Order. Once an Order is made it can be reviewed and either varied or revoked (s61). Annex 5 summarises the requirements of this legislation along with details of the Home Office Guidance on the use and life of a Public Spaces Protection Order.

9. In making a decision to make such an Order, the decision maker must have regard to the Public Sector Equality Duty (PSED) referred to in paragraph 2(c) of this report. This requires the decision maker to have due regard to the need to eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not and; and foster good relations between people who share a protected characteristic and those who do not. The protected characteristics include age, disability, pregnancy and maternity and race.
10. Guildhall Councillors are in full support of this scheme.

Consultation

11. There are 36 properties affected by this proposal. The results from the informal consultation are attached (Annex 2). No objections were received.
12. The results from the formal consultation are also attached (Annex 6). No objections were received, however two representations were made by residents and these are shown in Annex 6.

Options

13. Option 1: Seal the draft Gating Order
Option 2: Do not seal the draft Gating 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 route will be given a Personal Identification Number (PIN) with which to access the gates, along with emergency services and utilities that 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, the gates could either remain in situ; the conditions by which they remain in situ could be changed; or, they could be removed altogether.
16. *In response to the representations raised:*

It is not possible to install alleygates at the Warwick Street end of the alley as this would be in contravention of the legislation which states that “a *public spaces protection order may not restrict the public right of way over a highway that is the only or principal means of access to a dwelling*”. In this case, Nos 1 & 2 Stanley Mews both have their principal means of access within the alleyway.

At a recent site meeting with residents and Councillors, the positioning of the alley gate at the back of Nos 1 & 2 Stanley Mews was agreed, so as not to hinder access to the alleyway with cycles. The provision of extra railings was also agreed.

17. There have been two site meetings with officers, residents and Councillors to discuss the proposed position of the gates, to ensure that, if gates are installed, vehicle access for both cars and cycles is maintained.
18. A Community Impact Assessment has been carried out (Annex 3) and the summary is at paragraph 3.c. 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.
19. The change of refuse collection from rear to front of property has already been implemented. Anyone who has physical difficulty presenting their bagged waste to the pavement may opt to register for an assisted collection.
20. Option 2
This option would leave the alleyway open for use by the public and the incidents of crime and ASB are therefore likely to continue at previous levels. Notwithstanding this, gating this alleyway may be revisited in the future.

Council Plan 2011 - 2015

21. The gating of the alleyway would support the Council Plan priority to ‘*Build Stronger Communities*’.

“Safer inclusive communities –

To tackle crime and increase community safety, we will raise the community profile of the Safer York Partnership and establish an

annual crime summit. We will also work with the Safer York Partnership to engage residents in tackling antisocial behaviour in our neighbourhoods”.

Implications

22. The following implications have been considered:

- (a) **Financial** - Capital funding has been secured for the scheme through the Council and SYP. To supply and fit two double (vehicle) gates with locks and one single gate with lock, is approximately £2,500. The quote for additional railings has yet to be received. The authority is responsible for the maintenance of gates installed using Public Spaces Protection Orders.
- (b) **Human Resources (HR)** – To be delivered using existing staffing resources.
- (c) **Equalities** – The implications are summarised at paragraph 3.c and referred to in the main body of the report.
- (d) **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.
- (e) **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.
- (f) **Information Technology (IT)** – None.
- (g) **Property** – There are no property implications.

- (h) **Communities and Neighbourhoods (Waste Services)** – Other than those discussed in the main body of the report, there are no other Communities and Neighbourhoods implications.

Risk Management

23. 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 ASB levels local to the area are likely to continue should the Order not be pursued.
24. 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

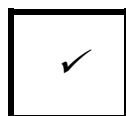
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**Report
Approved**



Date 10th July 2015

Specialist Implications Officer(s)

Wards Affected: Guildhall Ward

For further information please contact the author of the report

Background Papers

- Anti-social Behaviour, Crime and Policing Act 2014
- Crime and Disorder Act 1998
- Countryside and Rights of Way Act 2000
- Clean Neighbourhoods and Environment Act 2005 & Home Office Guidance relating to the making of Gating Orders 2006
- 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)
- Equalities Act 2010
- Officer Decision – : Public Rights of Way – Proposal to restrict public rights over alleyway between Stanley Street and Warwick Street

(Stanley Mews), Guildhall Ward, using Public Spaces Protection Orders legislation

Annexes

Annex 1: Stanley Mews Draft Public Spaces Protection Order and Plan

Annex 2: Informal consultation responses

Annex 3: Community Impact Assessment

Annex 4: Crime and Anti-Social Behaviour Statistics

Annex 5: Legislation

Annex 6: Formal consultation responses including representations