
Decision Session - Cabinet Member for Transport 29 May 2014

Report of the Director of City and Environmental Services

Public Rights of Way – Proposal to restrict public rights over five alleyways in Micklegate Ward, York using Gating Order legislation

Recommendations

1. The Cabinet Member is asked to consider:
 - a) Sealing and making operative the draft Gating Orders for Millfield Road / Thorpe Street, Thorpe Street / Russell Street, Russell Street / Scott Street, Scott Street / Nunmill Street; and
 - b) Making a draft Gating Order for the alleyway between Nunmill Street / Bishopthorpe Road.

Reasons:

2.
 - a) In respect of recommendation (a), although a number of residents have made formal objections to the draft Gating Orders, when all representations are taken into consideration (see Annexes), residents and bodies who support the scheme are in the majority.
 - b) In respect of recommendation (b) it is considered that the requirements of the legislation to make a draft Gating Order have been met.
 - c) With regards to both schemes, 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. These proposed 'Alley-gating' schemes will support that obligation.

Summary

3. These Gating Orders have been requested by local residents, North Yorkshire Police, Safer York Partnership (SYP) and Councillors in order to help prevent crime and anti-social

behaviour (ASB) associated with the back lanes. All five alleyways run parallel to each other. Formal consultation has been completed with regard to the proposal to make Gating Orders on the first four alleyways. Two informal consultations have been undertaken on the fifth alleyway. The following decisions are requested:

- a) A decision as to whether or not to seal and make operative the draft Gating Orders under section 129A of the Highways Act 1980, to restrict access along the four alleyways:

Millfield Road / Thorpe Street,
Thorpe Street / Russell Street,
Russell Street / Scott Street,
Scott Street / Nunmill Street
and

- b) A decision as to whether or not to make a draft Gating Order regarding the alleyway between Nunmill Street and Bishopthorpe Road.

Background

4. Delegated Authority exists for officers in consultation with the Cabinet Member for Transport to seal Gating Orders, however due to the significant public interest in these Gating Orders the Cabinet Member has determined to take the decision in respect of these schemes:

Four alleyways (Millfield Road, Thorpe Street, Russell Street, Scott Street and Nunmill Street)

5. At the Officer in Consultation (OIC) meeting held on 4 December 2013, a decision was made to proceed to statutory consultation to make draft Gating Orders for the four alleyways between Millfield Road, Thorpe Street, Russell Street, Scott Street and Nunmill Street. To this end draft Gating Orders were advertised and statutory consultation took place from 17 January to 18 February 2014 (Annex 1a).
6. One letter of support was received and a number of objections were made (Annex 2). Many of these objections were made by way of a petition raised against all four Draft Gating Orders (Annex 3).
7. In order to consider the content of the petition and after receiving a request from residents to hold a public meeting, Councillors for the Micklegate Ward held a meeting for affected residents on 24 March (Annex 4 - Minutes). Residents from Nunmill Street / Bishopthorpe Road were also invited to attend.

8. The meeting prompted some residents to submit further comments expressing support or objection; some for the first time (Annex 5 and Annex 12).

Nunmill Street / Bishopthorpe Road

9. Informal consultations for the above proposed gating scheme have been carried out (Annex 7 and 13).
10. Overall, if all the alleys in question are gated, then waste will be collected from the front of properties. The policy of Waste Services is not to enter gated alleyways so that the security of gates is maintained at the highest level possible, as the more people who have access to the codes, the less secure the gates.
11. Statistics provided by SYP (Annex 6) show relatively high levels of crime and ASB for these streets and as a group of five alleyways, they rank the highest on the SYP alley-gating priority list.
12. Notwithstanding the above, the alley between Nunmill Street / Bishopthorpe Road, has not been subject to any recorded incidents of crime or ASB between August 2012 / 2013. However it has previously suffered from a relatively high number of burglaries in particular (Annex 6) and a petition requesting alley gates was raised by residents early in 2012. It was not possible to take the scheme forward at the time as funding was not available.
13. Despite the above, at the OIC meeting held on 26 September 2013, SYP advised against taking these schemes forward due to the divisive nature of the consultation responses.
14. The Council, as highway authority has powers available to it, under section 129A of the Highways Act 1980, to make a Gating Order. Once an Order is made it can be reviewed and either varied or revoked (s129F(2) or (3)). Annex 8 summarises the requirements of this legislation along with details of Home Office Guidance on the use and life of a Gating Order.
15. All political party spokespersons and affected Ward Members have been consulted. No comments were received at this stage of consultation.

Four alleyways (Millfield Road, Thorpe Street, Russell Street, Scott Street and Nunmill Street Consultation

16. Four alleyways (Millfield Road, Thorpe Street, Russell Street, Scott Street and Nunmill Street - Statutory consultation (total number of properties = 343)

A total of 35 objections were received: 32 of which were made via the petition (Annex 3) submitted during the statutory consultation period, which objected to all four schemes being implemented. Notwithstanding the objections received to all 4 schemes via the petition, additional street specific objections were received from properties located on all affected streets (Annex 2 – Statutory Consultation responses and Annex 11 – Map - Formal Objectors / Supporter).

17. The main issues from the petition and street specific objections are summarised below:

- i. Objection to the proposed change in refuse collection from rear of property to the front
- ii. If refuse is collected from the front of properties, the streets are likely to become more untidy and unsightly
- iii. Installing gates will make the area feel like a “gated community”
- iv. The alleyways provide a safer route around the area than using the busy Scarcroft Road
- v. Installing gates will restrict freedom of movement of residents
- vi. There is not enough crime/ASB to warrant gating
- vii. Alley gates would instil a fear of crime
- viii. The problem of ASB should be tackled at source. Installing gates does not stop the behaviour as it will simply move elsewhere
- ix. Alley gates will reduce the feeling of community in the streets concerned
- x. Alley gates will create unwanted noise and disturbance for those living next to them
- xi. The alleyways are integral to the community and part of its historic character
- xii. The alleyways were built as service roads and they should continue to be used for that purpose

- xiii. Gating will achieve nothing as some of the issues (graffiti, litter etc.) are caused by residents
18. Some residents, who added their name to the petition, also submitted separate objections. One letter of support was received during the statutory consultation.
19. Additional points were raised by residents at, and also after, the public meeting (Annex 4 and 5).
20. The council is obliged to consider any representations made. Regulation 5 of the Gating Order Regulations states:
“5. A council shall consider any representations as to whether or not the proposed gating order should be made whether in response to a notice under regulation 3 or otherwise.”

The results of the informal consultation should therefore be taken into consideration. Annexes 9 and 10 detail the responses received. The following table gives a summary of the results:

	Gating proposal	
	Yes	No
Millfield Road / Thorpe Street 41 replies received (89 properties)	35	6
Thorpe Street / Russell Street 49 replies received (86 properties)	35	14
Russell Street / Scott Street 43 replies received* (89 properties)	33	10
Scott Street / Nunmill Street 42 replies received* (79 properties)	34	8

***See Annex 9 – some residents submitted comments but did not indicate Yes or No to the gating proposal.**

Options

21. Option 1: Seal all four draft Gating Orders.
- Option 2: Do not seal any of the four draft Gating Orders.
- Option 3: Seal one or more of the draft Gating Orders
- Option 4: Consult on a north/south gating scheme on the three alleyways between Thorpe, Russell, Scott and Nunmill Street

Option 5: Defer the scheme for 6 months to try other ASB/crime reduction strategies

Analysis

22. Option 1

If all four draft Gating Orders are sealed, all four alleys will be gated. 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 emergency services and utilities that may need to access their apparatus.

Refuse collection would be required to change from the rear, to front of property. Recycling will continue to be collected from the front of all properties. Waste services offer additional assistance to customers who are not physically able to present it at the pavement. Residents will be signposted to these services.

The Orders may then be reviewed after 1 year by conducting a full consultation with residents. If opposition is still strong one, some, or all Gating Orders may be varied or revoked.

23. 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 their current level. Notwithstanding this, gating these alleyways may be revisited in the future.

24. Option 3

For those draft Gating Orders that are sealed, gates will be installed and public access restricted. Again, as with Option 1 above, only those residents living in properties which are adjacent to or adjoining the restricted routes will be given a PIN with which to access the gates, along with emergency services and utilities that may need to access their apparatus. Refuse collection would be required to change from the rear to front of property. Recycling will continue to be collected from the front of all properties. Assisted collection of waste would be an option available to residents who would struggle with presenting their waste at front of property.

Again there is also the option of reviewing any restrictions made after 1 year and, depending on community response, the Gating Orders may be varied or revoked.

Those draft Gating Orders that are not sealed would leave the alleyways open for use by the public and the incidents of crime and ASB are therefore likely to continue at their current level. There is also the perception that any ASB or crime that is associated with those alleyways to be gated, would be displaced to those that are not.

Safer York Partnership has advised; *“informal studies undertaken by the Safer York Partnership after previous gating schemes suggest that there has been no displacement of crime, in terms of reported crimes to North Yorkshire Police. It is accepted, however, that some national academic reports that have looked at gating schemes in other large cities suggest that gating (and many other crime reduction tactics) can cause a displacement of crime depending on the type of individual who is committing the crime”*.

25. Option 4

This option has not been consulted on and is a suggestion raised by residents, which could see the restriction of the main north/south sections of the alleyways in question, but retain an east/west through-route between the affected streets. This may or may not receive stronger support from residents. However, this proposal would leave those properties adjacent to the alleyway entrances unprotected. Looking at the results from both the informal and the formal consultation (Annex 10 & Annex 11), of the 12 properties which are included in the present scheme (at the entrances to the alleyways between Thorpe Street, Russell Street, Scott Street and Nunmill Street) who would be directly affected by the proposal to gate only the north/south sections of alleyway, 7 have expressed support for the scheme whilst 3 are against it. The majority of these properties may therefore feel unfairly excluded from the scheme should this option be pursued.

26. Option 5

Other options may be explored but current funding may be lost.

Nunmill Street / Bishopthorpe Road Consultation

Nunmill Street / Bishopthorpe Road - Informal consultations
(total number of properties = 68)

27. Two informal consultations were carried out. Overall, 23 residents were in support of the scheme and 10 residents objected (Annex 7 and 13).

28. Reasons for not wanting gates are similar to those given by residents objecting to the original four Draft Gating Orders (see points 17. i to xiii).

Options

29. Option 1: Authorise a draft Gating Order to be advertised and statutory consultation to begin.
30. Option 2: Do not authorise the draft Gating Order to be advertised.

Analysis

31. Option 1

This option would allow a Draft Gating Order to be advertised and statutory consultation to be carried out.

If formal objections are received, a further report will be prepared for decision at OIC to consider the objections and whether the Gating Order should be sealed. If no objections are received, the Gating Order can be sealed and the procurement process for the gates can begin.

Should the alleyways be closed, the alternative route as shown on the plan in Annex 1b is considered to be convenient.

Only those residents living in properties which are adjacent to or adjoining the restricted route will be given the PIN with which to access the gates, along with emergency services and utilities that may need to access their apparatus.

32. 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 their current level. There is the perception that should the gating of the other four alleyways go ahead, this would displace the crime and ASB that is currently associated with those alleyways to the Nunmill/ Bishopthorpe Road alleyway.

Safer York Partnership have advised *“large schemes within the city, Clifton, Groves or Leeman Road have not shown a displacement of crime but it is accepted that these studies have only looked at crime and not the fear of crime, and that residents without a gate may “fear” being a victim of crime more than a resident who has a gate.*

It is felt that the benefits of gates will be greater if the whole of the community has, and accepts the introduction of gates. As

crime and ASB in this area is in the majority “opportunistic”, it may have the ability to displace but this could or could not be proven until gates are introduced. Safer York feels the introduction of gates is the best long-term method of crime reduction within this area”.

Council Plan 2011 - 2015

33. The gating of the alleyways 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

34. The following implications have been considered:

- (a) **Financial** - Capital funding has been secured for the scheme through the Council and SYP.

Procurement and installation of gates on the four alleyways:

To supply and fit a double (vehicle) gate with lock is approximately £1,175. The estimated cost of this scheme (alleyways between Millfield Road, Thorpe Street, Russell Street, Scott Street and Nunmill Street, should all the alleys be gated (11 x double gates), is in the region of £12,925.

Statutory consultation (for Nunmill Street / Bishopthorpe Road alleyway:

The Advertisement of a draft Gating Order is approximately £1,000. After statutory consultation has been carried out, and if authorisation to seal the draft Gating Orders is given, the process of procurement and installation of the gates begins. The cost of each gate will be as above. Total cost for this scheme will be in the region of £3350.

The authority is responsible for the maintenance of gates installed using Gating Orders.

(b) **Human Resources (HR)** – To be delivered using existing staffing resources.

(c) **Equalities** – One positive and six negative impacts have been identified involving mobility and access issues. One of the negative issues is seen as critical (design of locks / handles etc). This is mitigated by design / installation and alternative access options. Alleygates are reviewed regularly and/or on demand which accommodates any change in circumstances.

The positive impact of additional security to residents, increasing peace of mind and providing a safe area to the rear of their properties justifies the negative impacts. See Annex 14 - Community Impact Assessment.

(d) **Legal** – Section 129A of the Highways Act 1980 enables the Council to make a Gating Order restricting access to an alleyway which is a public highway where the Council is satisfied that adjoining or adjacent premises are affected by both anti social behaviour and/or crime and that the existence of the highway is facilitating the persistent commission of criminal offences or anti social behaviour. Before making such an Order the Council must also consider the likely effect of the Order on adjoining and adjacent owners 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.

Gating Order legislation will be replaced this autumn by Public Spaces Protection Orders when the regulations for the Anti Social Behaviour, Crime and Policing Act 2014 (2014 Act) are published. Any Draft Gating Orders that have not been sealed before this time will have to go through the consultation process again as the legislative requirements of the 2014 Act are different.

(e) **Crime and Disorder** – This report is based on tackling crime and disorder 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 that discussed in the main body of the report, there are no other Communities and Neighbourhoods implications.

Risk Management

35. The implementation of a Gating Order is a power of the authority, not a duty. There are no rights of appeal should a decision not to progress with a Gating Order be made. However, Crime and ASB levels local to the area are likely to continue should a Gating Order not be pursued.

A person may apply to the High Court for the purpose of questioning the validity of a Gating 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.

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Report **Date** 20/5/14
Approved

Specialist Implications Officer(s)

Wards Affected: Micklegate Ward

For further information please contact the author of the report

Background Papers

- Highways Act 1980 (as amended), section 129
- 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
- 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)
- Equalities 2010
- Officer Decision – 26 September 2013: Public Rights of Way – Proposal to restrict public rights over five alleyways in Micklegate Ward, York using Gating Order legislation
- Officer Decision – 4 December 2013: Public Rights of Way – Proposal to restrict public rights over five alleyways in Micklegate Ward, York using Gating Order legislation – Update to previous OIC Report (26th September 2013)
- Officer Decision – 13 February 2014: Public Rights of Way – Proposal to restrict public rights over the alleyway between Nunmill Street and Bishopthorpe Road, Micklegate Ward, York using Gating Order legislation – Update to previous OIC Report (4th December 2013)

Annexes

Annex 1a: Draft Gating Orders and Plans

Annex 1b: Nunmill Street / Bishopthorpe Road Plan

Annex 2: Statutory Consultation responses

Annex 3: Petition

Annex 4: Minutes from Public Meeting

Annex 5: Public Meeting - Comments

Annex 6: Crime Statistics – Micklegate Alleys

Annex 7: 1st & 2nd Informal Consultation for Nunmill Street / Bishopthorpe Road: Residents comments

Annex 8: Summary of Legislative Requirements and Home Office Guidance for Gating Orders

Annex 9: Informal Consultation Responses (Millfield Road to Nunmill Street)

Annex 14: Community Impact Assessment

Exempt Information

Annex 10: Map - Informal consultation results – 4 alleyways between Millfield Road and Nunmill Street

Annex 11: Map – Formal Objectors / Supporters (4 alleyways)

Annex 12: Map – Views received due to public meeting

Annex 13: Map – Informal consultation results – Nunmill Street / Bishopthorpe Road