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## Meeting of the Executive Member for City Strategy and Advisory Panel

29 October 2007

Report of the Director of City Strategy

### **PUBLIC RIGHTS OF WAY - PROPOSAL TO RESTRICT PUBLIC PEDESTRIAN RIGHTS OVER TWO SNICKETS LEADING FROM CARRFIELD INTO CHANTRY CLOSE AND CARRFIELD INTO FOXTON, WOODTHORPE.**

#### **Summary**

1. This report presents a proposal to restrict public pedestrian rights along the two snickets leading from Carrfield into Chantry Close and Carrfield into Foxton, using new legislation under Section 129A of the Highways Act 1980, as amended by the Clean Neighbourhoods and Environment Act 2005.
2. The report recommends that the Advisory Panel advise the Executive Member to approve **Option B**, to authorise the making of two Gating Orders to restrict public pedestrian rights over these two snickets and allow the fitting of gates, which would be accessible to residents only.

#### **Background**

3. The Clean Neighbourhoods and Environment Act 2005 (CNE) brought in new legislation under the Highways Act 1980 (HA), by inserting Section 129 (HA) and allowing local authorities to make Gating Orders to reduce and prevent crime and anti social behaviour. A full explanation can be found in the City of York Council Gating Order Policy Document.
4. This legislation allows local authorities to make Gating Orders to restrict public use along public highways (usually rear alleys) in order to reduce crime and anti social behaviour. However their highway status is retained, which makes it easy to revoke or review the need for the Order to remain in place.
5. A Gating Order is made in much the same way as existing Alleygating legislation brought in by the Countryside and Rights of Way Act 2000 (CROW), except that the council may still make an Order even if there are objections, as long as it is satisfied that the making of the Order is in the interests of local residents. It does not have to be referred to the Secretary of State for determination as under the CROW Act.

6. The first snicket is situated between Carrfield and Chantry Close and is an adopted highway under the control of City of York Council; it is therefore a public right of way (see Annex 1, Point A).
7. The second snicket is situated close to the first one and lies between Carrfield and Foxton. It is also an adopted highway under the control of City of York Council and is therefore a public right of way (see Annex 1, Points B to C).
8. On 6 June 2007, a report was presented to the Executive Member for City Strategy and The Advisory Panel, following receipt of a petition from 85 residents affected by crime and anti social behaviour either in or from these two snickets. The petition called for the alleyway to be closed at night. The report provided both police statistics and photographic evidence of crime and anti social behaviour committed in these three streets.
9. The recommendation of the Panel was to advise the Executive Member to progress with the making of Conditional Gating Orders (to restrict access at certain times of day) for both snickets, subject to Ward Committee funding and the agreement of the Community Ranger.
10. Enquiries were made regarding the funding of the scheme and although funding is available for the initial closure process, year on year funding for the management of the gates could not guaranteed. In addition to this, the Community Ranger could not guarantee the daily opening and closing of the gates in accordance with the times stated in any Conditional Gating Order. As this would be a statutory requirement, failure to carry it out could leave the Council liable to legal action. It is for this reason that there is an additional recommendation included within this report.
11. Taking into consideration the above information the Panel has the choice of either progressing with Conditional Gating Orders as per the 6 June Panel's recommendations and ensuring that year on year funding for the gate management is provided, or progressing with 24 hour Gating Orders, which would not require daily management and for which funding is already available. As there is no advantage for members of the public to use either of these two snickets, as they are not short cuts to anywhere, it is proposed to have them restricted at all times, but allow the residents of the three affected streets to have access by giving them the PIN codes to operate the gates.

## **Consultation**

12. External consultation has been carried out in accordance with Home Office guidelines on the making of Gating Orders under S129A of the Highways Act 1980 and included:
  - All affected residents.
  - All statutory consultees set out in the Parliamentary Rights of Way Review Committee's Code of Good Practice for consultation on proposed changes to rights of way, including The Ramblers' Association, Open Spaces Society etc.

- All statutory undertakers and utility providers, such as gas, electric and telephone companies.
  - All emergency services, including the North Yorkshire Police Authority.
13. Notices have also been advertised on the Council website, in the local newspaper and at each snicket.
  14. There has been 1 objection to these Gating Orders. This is from a Mr Houghton of Carrfield. The objection is based upon concerns that a 24hr closure is not necessary and a conditional closure would be the better solution

## **Options**

15. Option A. Do nothing and leave both snickets open to public use. This is not recommended.
16. Option B. Restrict public pedestrian rights over both snickets by means of Gating Orders under S129A of the Highways Act 1980. This option is recommended.

## **Analysis**

17. Option A - Do nothing and leave both snickets open to public use. This would not alleviate the problems faced by residents affected by these two snickets and would do nothing to improve their quality of life. This is not recommended.
18. Option B - Restrict public pedestrian rights over both snickets by means of Gating Orders under S129A of the Highways Act 1980. This would allow the snickets to be closed and would deter criminal and anti social behaviour thereby improving residents' quality of life. This option is recommended.

## **Corporate Priorities**

19. Option B ties in with the council's Corporate Strategy, Priority Statement No4 *"Reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York."*
20. This aim relates to improving the quality of life for York residents, by implementing a range of key objectives designed to reduce crime and the fear of crime and also tackle persistent nuisance behaviour, which can make life intolerable to some people.

## **Implications**

- **Financial**
21. Funding for this scheme has been obtained from the Ward Committee budget and match funding from the Safer York Partnership target hardening funds.

The only other financial implications relate to officer time and administration costs.

- **Legal**

22. Other than the relevant legal orders being made, there are no other legal implications.

- **Crime and Disorder**

23. There are already a number of gated alleys in the City, which have all shown a reduction in crime and anti social behaviour in those streets. There is also less opportunity for fly tipping and graffiti in those alleys and it is felt that crime and anti social behaviour will fall significantly in these two snickets; thereby allowing the Council to achieve one of its duties under the Crime and Disorder Act. The implications of allowing this scheme are therefore very favourable.

24. There are no implications affecting the following.

- **Human Resources (HR)**
- **Equalities**
- **Information Technology (IT)**
- **Property**
- **Other**

## **Risk Management**

25. In compliance with the Councils Risk Management Strategy. There are no risks associated with the recommendations of this report.

## **Recommendations**

26. It is recommended that the Advisory Panel advise the Executive Member to recommend **Option B**, and resolve to:
1. Note any outstanding objections; and
  2. Monitor the operation of the arrangements for a 12 month period and to report back to the Advisory Panel should it be felt necessary for changes to be made to those arrangements; and
  3. Authorise the Director of City Strategy to instruct the Head of Civic, Democratic and Legal Services to make a Gating Order for each snicket in accordance with S129A of the Highways Act 1980, as amended.

## **Reason**

The reason for making this decision is that it meets the criteria of the legislation, as set out in paragraphs 3, 4 and 5 where restriction of public rights over these two routes would be to the benefit of the local community and that there are reasonably convenient alternative routes available.

## Contact Details

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Report Approved  Date 19/10/07

### Specialist Implications Officer(s)

Financial :

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### Wards Affected:

All

Dringhouses and Woodthorpe Ward

For further information please contact the author of the report

### Background Papers:

1. Highways Act 1980
2. Crime and Disorder Act 1998
3. Clean neighbourhoods and Environment Act 2005
4. The Highways Act 1980 (Gating Orders) (England) Regulations 2006
5. City of York Council Gating Order Policy
6. EMAP report dated 6 June 2007 entitled: Public Rights Of Way - Petition Seeking Conditional Closure Of Two Snickets Leading From Carrfield Into Chantry Close And Carrfield Into Foxtan, Woodthorpe.

### Annexes

1. Map of snickets proposed for closure