
Decision Session
Executive Member for City Strategy

3 November 2009

Report of the Director of City Strategy

PUBLIC RIGHTS OF WAY – Petition requesting that public rights be restricted along the length of the snicket leading from Old Moor Lane to Moor Lane, Dringhouses Ward, York using a Gating Order

Summary

1. This report is in response to the receipt of a petition (see Annex 1) signed by 10 residents of Old Moor Lane, York. This petition requests the closure of the footpath leading from Old Moor Lane to Moor Lane railway bridge (see Annex 2 – Location Map), because of recent incidences of crime and antisocial behaviour.

Recommendation

2. It is recommended that the Executive Member approves **Option A** and resolves to leave the snicket open to public use.

Reason

3. The criteria for a Gating Order, which would allow for the restriction of public access along it, has not been met. At the present time, the level of recorded crime and antisocial behaviour associated with this snicket is not high enough to justify a Gating Order. Additionally, there is no evidence on site that the snicket is facilitating crime and antisocial behaviour, and it is debatable that the alternative route is reasonable (approximately 400m - see Annex 2). N.B. Only those residents with properties which are adjoining or adjacent to the snicket would be eligible for the Personal Identification code to access the gate.

Background

4. The snicket referred to in the petition runs from Old Moor Lane to Moor Lane railway bridge, and provides a short cut for pedestrians, predominantly those living in Old Moor Lane and Aldersyde.
5. In early 2009 a residents' petition was received (see Annex 1) requesting either closure of the footpath or conditional closure using

the new electronic gate mechanism. A summary of its contents is outlined below:

“The Council is probably aware of recent press coverage of vandalism in the areas of Moor Lane and Old Moor Lane. Some of these include: Eggs, stones and bricks thrown at windows, houses and cars. Drinking and drug taking in the alleyway leading to noise nuisance and littering of cans, bottles and needles. Stealing from residents gardens, and damage to property. Graffiti.

When police are called, there is either a long delay in response, or no response at all. Many residents feel threatened and the community as whole feels dispirited. We believe that it is youths from other areas and perhaps the college causing the trouble, rather than those living in Moor Lane and Old Moor Lane.

We would like the alleyway either closed for good, or at worst for it to be electronically gated at night when these activities are increased”.

6. Two sets of statistics have been produced by Safer York Partnership covering the period from 01/10/2008 to 30/09/2009 (Annex 3). In one, which includes Aldersyde, a residential street which is not immediately adjacent to the snicket in question, a total of 8 incidents of anti social behaviour (ASB) and 6 crimes were reported. In the other, which concentrates on properties which are directly affected by the snicket, only 1 incident of ASB and 2 crimes were reported in the 12 month study period.
7. A site visit carried out by the Police Architectural Liaison Officer and his subsequent report (Annex 4 which includes crime and ASB reports which are less recent than those in Annex 3), noted that the footpath was well used by pedestrians. It was also noted that there was a total absence of graffiti, despite limited natural surveillance opportunities, indicating that either constant use by pedestrians was acting as a deterrent, or that residents are continually painting over such graffiti. (Photographs taken in September 2009 are included in Annex 6 and show the present condition of the snicket).
8. His report concluded that pursuing a Gating Order for the footpath could prove problematic in terms of lack of evidence of crime, costs and legal issues, and therefore he does not support closure of the footpath at this time.

Consultation

9. This report is to advise the Executive Member of the receipt of the petition and as yet no consultation has taken place. Should it be determined to progress the request for closure, then a further report would need to be prepared in line with the Council’s Gating Order Policy, to allow both internal and external consultation to be carried out, along with a breakdown of all costs.

10. Ward Members and Group Spokesperson(s) have been consulted. Their comments, verbatim, are:

Ward Councillors

11. Cllr A Reid: *“I respond on behalf of myself and Cllrs Sunderland and Holvey. This request came directly from residents who suffer considerable anti social behaviour from the footpath that runs behind their properties. It appears to me that there would be very little use made of this path at night by local residents and the alternative route via Moor Lane and Tadcaster Rd is very direct and, I suspect, safer at night. Adequate, clear consultation with residents is essential which takes into account comments made by residents on previous consultation process. We are happy that this request proceeds to the next stage.”*

Cllr T Holvey: As above

Cllr S Sunderland: As above

Group Spokesperson(s)

12. Cllr Stephen Galloway: No comments received

Cllr Ruth Potter: *“No comments at this stage,”*

Cllr Ian Gillies: No comments received

Cllr Andy D’Agorne: No comments received

Options

13. Option A. Do nothing and not progress the request to make a Gating Order to restrict public access along the footpath. This option is recommended.
14. Option B. Progress the request to make a Gating Order under S129 of the Highways Act of 1980 to restrict public use of the footpath. This option is not recommended.

Analysis

15. Option A. This option would leave the footpath open for use by the public. The statistics for crime and ASB suggest that the incidences of both do not meet the criteria for a Gating Order. Additionally, the request is not supported by the police at this time. Should the Council determine to continue without the support of the police, legislation requires that it holds and funds the cost of a public inquiry.
16. Option B. This option would gate the footpath and therefore restrict use by the public.

17. Should the footpath be gated, the alternative route from one end of the snicket to the other is along Old Moor Lane, Tadcaster Road and Moor Lane and is a distance of approximately 400m. It could be argued that this is not a reasonably convenient alternative route, taking into consideration the comments received from the North Yorkshire Police Architectural Liaison Officer (Annex 4) and the relatively low level of incidents recorded on the snicket.
18. Due to the lack of evidence of persistent crime or ASB in the immediate area of the snicket, should this proposal be progressed, there is a possibility that the decision could be challenged in the High Court because the criteria of the legislation has not been met.

Corporate Priorities

19. Option A ties in with the council's policy to improve sustainable methods of transport, such as walking and cycling.
20. Option B ties in with the council's Corporate Strategy, Priority Statement No5 to make York "a safer city with low crime rates and high opinions of the city's safety record."
21. 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

22. Should the Executive Member decide to approve the progression of a Gating Order, funding would need to be secured before the formal consultation process can begin. This would normally come from the Ward Committee budget and would need to be addressed in any subsequent closure report.

Human Resources (HR)

23. To be delivered using existing staffing resources.

Equalities

24. There are no equalities implications to this report.

Legal

25. 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 5 gives details of the requirements of this legislation along with details of Home Office Guidance on the use and life of a Gating Order.

26. As detailed in paragraph 18 any decision made by the Executive member to restrict the use of this snicket would be open to legal challenge in the High Court, the cost of which would have to be met by the Council. For this reason, taking into consideration the lack of recorded crime and ASB in the immediate area of the snicket, the Executive Member must be completely satisfied that the case for a Gating Order is met, before making a decision.

Crime and Disorder

27. Other than that discussed in the main body of the report and Annexes 3 and 4, there are no other crime and disorder implications.

Information Technology (IT)

28. There are no Information Technology implications.

Risk Management

29. In compliance with the council's Risk Management Strategy, the main risks that have been identified should Option B be approved are that which could lead to non-compliance with legislation (Legal and Regulatory – see paragraph 25 and 26 and Annex 5).

Contact Details

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**Report
Approved**



Date

22 October 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) Petition
 - 2) Location Map
 - 3) Most recent Crime and Anti-Social Behaviour Statistics
 - 4) Report from Jim Shanks, Police Architectural Liaison Officer
 - 5) Summary of Legislative Requirements and Home Office Guidance for Gating Orders
 - 6) Photographs taken of the snicket in September 2009