

<b>Meeting:</b>	Executive Member Decision Session for Economy & Transport
<b>Meeting date:</b>	12th March 2024
<b>Report of:</b>	James Gilchrist, Director of Transport, Environment and Planning
<b>Portfolio of:</b>	Cllr Pete Kilbane, Executive Member for Economy & Transport

## **Decision Report: Access Control Barrier Review**

### **Subject of Report**

1. This report summarises the findings of the Access Control Barrier Review which was undertaken in 2023 by Transport Initiatives on behalf of the Council. For clarification, the type of barriers included in the review are those which specifically affect the routes of pedestrians, wheelers, wheelchair-users and cyclists but not those which are related to motor vehicle access or parking.
2. The report requests adoption of the policies recommended by that review as council policy going forwards. This will then enable barriers to be removed, or altered to standardised designs which are compliant with current guidance, which will in turn make the active travel network more accessible. Officers will then be able to disseminate the policy as guidance to internal council departments and external agencies or developers who may also be considering the removal, redesign or introduction of barriers.
3. The final part of the review puts forward a proposal for prioritisation of the hundreds of non-compliant barriers across the City of York area in order that they can be dealt with in a phased manner, a stakeholder advisory panel is proposed to be set up to undertake that prioritisation.

## Benefits and Challenges

4. There are both benefits and challenges to reviewing access control barriers, these will need to be weighed against each other when considering the recommendations of this report.

### Benefits

5. Adoption of this new policy will help the Council discharge its Public Sector Equality Duty by giving equal access to all groups with legitimate access rights.
6. It will help to encourage potential switch of modes from motorised vehicles to mobility aides and non motorised modes by giving more travel options to people who currently face restrictions.
7. It will standardise the design of barrier which users will encounter and thus enable better route planning for pedestrians, wheelchair-users, wheelers and cyclists.

### Challenges

8. There will be a cost to the council to remove or redesign existing barriers. Of the 900+ barriers identified during the audit over 60% were found to be non-compliant with current guidance. A significant budget will therefore be required over the upcoming years in order to tackle all the non-compliant barrier sites. A decision will also need to be taken as to whether there is sufficient staff resource in-house to undertake the design and construction works or whether this needs to be sub-contracted.
9. Removal or redesign of barriers may be challenged by residents who requested the barriers in the first instance and, potentially agencies who installed the barriers on the residents' behalf such as landowners whose land the path may cross. The new policy may be challenged by some elected members and departments who have used barriers as a tool to tackle issues previously.
10. To professionally evaluate the positive or negative impact of the policy the Council will be working in partnership with academics from the University of Westminster as part of a research project to monitor the impact of changes to barriers.

## Risks

11. There is a risk that if the Council do not adopt a new policy on the use and design of access control barriers it will leave the Council open to legal challenge by any individual or group who claim they have been discriminated against. Any legal action will potentially have serious financial and reputational consequences to the Council.

## **Policy Basis for Decision**

### Council Plan (2023-27) One City for All

12. The new Council Plan has four Core Commitments to which the recommendations of this report can provide a positive contribution.
  - **Equalities and Human Rights** – The context of the review is to apply the public sector equalities duty of the council on those barriers which are in place, many of which predate the duty (2010) .
  - **Affordability** - Making active travel a realistic travel option to many people, especially for shorter journeys, will be much more cost-effective for those residents than the motorised alternatives.
  - **Climate** - Enabling more people to switch from motorised to non-motorised travel will help in achieving our aim in reducing Carbon Emissions and improving Air Quality.
  - **Health** - Physical activity improves both health and wellbeing. A city-wide scheme of addressing barriers to active travel will help enable more people to switch to active travel and thus contribute towards the goal of improving health.
13. The Council Plan also has seven priorities with the recommendations of this report contributing to four:
  - **Health and well-being** – active travel helps both physical and mental well-being.

- **Economy and good employment** – being able to use active travel to access work helps employers achieve some of the aims and objectives in their business travel plans.
- **Transport** – the recommendations of this report will increase accessibility to the most sustainable modes of transport.
- **Sustainability** – active travel generates the smallest carbon footprint and helps remove motorised trips from the transport network.

### Climate Change Strategy 2022-32

14. Objective 3.2 of the Climate Change Strategy specifically relates to increasing the take-up of active travel. Removal of barriers to active travel will make choosing these modes easier.

### Health & Wellbeing Strategy

15. There are six big ambitions set as part of the Health & Wellbeing Strategy with the recommendations of this report contributing to five:
- **Become a health-generating city** – active travel is the healthiest form of travel;
  - **Make good health more equal across the city** – active travel is a great leveller in terms of affordability and availability;
  - **Prevent now to avoid later harm** – active travel will help to improve the health of the local population to help prolong life and to reduce the strain on health services;
  - **Start good health and wellbeing young** - getting more people active from a younger age will help engender good travel habits which can hopefully be sustained throughout life;
  - **Work to make York a mentally healthy city** – active travel is proven to help mental wellbeing.

### York Economic Strategy

16. One of the themes of the York Economic Strategy is “A Greener Economy”. Under this theme there is an objective to “*increase*

*cycling and active travel to work where appropriate as modes of commuting*". Encouraging the uptake of active travel will not only benefit employers by having a healthier workforce but will also remove motorised trips off the road network thus reducing congestion for essential business travel.

### Draft Local Transport Strategy

17. The recommendations of this report contribute to several of the Policy Focus Areas within the Draft Local Transport Strategy;
- **Shape a city that is accessible to everyone** – removal or relaxation of barriers will make a significant contribution to this;
  - **Improve walking, wheelchair access, wheeling and cycling** –the recommendations of this report directly promote these forms of transport to the benefit of all residents;
  - **Shape healthy places** – access barriers impede users of active travel and thus detract from the transport network. Opening up the networks for active travellers will create much healthier places by making it easier for residents to build exercise in to their daily routines;
  - **Manage York's transport networks for Movement and Place** – currently many parts of the transport network are not available to all and removal of barriers on the network will free up active travel movements;
  - **Reduce car dependency** – removal of barriers will help make active travel a realistic alternative to car travel;
  - **Effective maintenance and enforcement and management of roadworks** – removal of barriers will reduce the maintenance liability in terms of having less highway assets to look after.

### **Financial Strategy Implications**

18. There will be a cost associated with removal or relaxation of non-compliant barriers both in terms of staff resource and infrastructure costs. To date £200K of CRAM funding has been allocated to this project, £100K in 2021/22 and a further £100K in 2022/23. Of that £200K funding £102K has been spent thus far to fund the network

audit and the consultants' review and to tackle some of the most urgent sites. This funding was rolled forward leaving £98K in the 2023/24 budget, this was topped up with a further £50K from the LTP grant to give a total 2023/24 budget of £148K.

19. A subsequent CRAM bid was submitted for additional funding of £200K per annum for the next five years to extend the roll-out of barrier removal and redesign and to tackle a large number of non-compliant sites.
20. It is impossible to estimate the potential costs which the council may incur if barrier removal / redesign does not take place and individuals (or organisations representing them) make legal challenges against the council for non-compliance with the Equality Act 2010.

## **Recommendation and Reasons**

21. The Executive Member is recommended to:
  - a) Approve the formal adoption of the policies recommended in the Access Control Barrier Review report (which forms Annex A) and to delegate authority to the Director of Transport, Environment & Planning to carry out any activities needed to facilitate the adoption and to review the impact of implementation of the policies.
  - b) Approve the establishment of a stakeholder advisory panel comprising representatives of a wide range of potential users to use the audit data to prioritise the list of non-compliant sites, monitor the progress of barrier removal / alteration and ensure the policy is disseminated appropriately.
  - c) Delegate authority to the Director of Transport, Environment & Planning to enact a programme of barrier removal or redesign in consultation with the stakeholder advisory panel.

Reasons : Once the policies are adopted the Council will then be able to roll out a planned, prioritised programme of works to address existing barriers (plus any additional ones which were missed in the initial audit). This will help the Council comply with its Public Sector Equality Duty under the Equality Act 2010. The

policy will also ensure that all council departments follow the same criteria for introduction of access control measures and their subsequent design. The adopted policy should then be disseminated more widely to other agencies and developers to ensure that they also consider amendments to their own barriers and that no new non-compliant barriers are installed going forwards.

## **Background**

22. For many years Council departments, and other agencies, have introduced various designs of access control barrier as a tool to tackle specific issues such as road safety concerns, anti-social behaviour and to control vehicle and animal access.
23. Whilst these measures may have been deemed to be appropriate at the time, in many instances this has been at a cost to some sectors of society who have, as a result, been prevented from accessing routes or amenities or have had to follow longer diversionary routes instead. Many of the groups who have been negatively impacted by these measures have protected characteristics under the Equality Act 2010.
24. The Council have a legal requirement as part of their Public Sector Equality Duty under the Equality Act 2010 to:
  - Put an end to unlawful behaviour that is banned by the Equality Act 2010, including discrimination, harassment and victimisation;
  - Advance equal opportunities between people who have a protected characteristic and those who do not;
  - Foster good relations between people who have a protected characteristic and those who do not.
25. As a first stage in the process to ensure the Council is complying with its' Public Sector Equality Duty in relation to access control barriers, officers commissioned an audit of existing access control measures which are currently in use across the entire council area. Alongside that audit, officers also commissioned consultants, Transport Initiatives, to undertake a wider review of the use and

design of access control barriers. This review comprised several distinct stages:

- An appraisal of existing legislation, policies and guidance related to such measures;
- A round-table discussion with stakeholder groups about the issues related to barriers in order to come up with policies on the use and design of barriers based on the general consensus view of the group;
- Using the same stakeholder group, to devise a draft prioritisation methodology to enable the non-compliant barriers to be addressed in a priority order.

26. The policies recommended in the review are stated in detail in Chapter 6 of the consultants' report, which is attached as Annex A. In brief they provide advice on compliance with current legislation and design guidance and suggest a means by which the non-compliant sites identified in the city-wide audit can be prioritised and addressed.
27. The Council has agreed to participate in a research project being undertaken by academics from the University of Westminster to monitor the impact on path users and nearby residents of removal or redesign of barriers to make them compliant with guidance. This research will help officers gauge the success of the project and guide future work.
28. Some non-compliant barrier sites have already been tackled where action was deemed to be so urgent that it justified early intervention.

## **Consultation Analysis**

29. Two stakeholder meetings took place as part of the review. A wide range of groups were invited to take part in the meetings, including:
  - City and Parish Councillors
  - North Yorkshire Police
  - Disabled Groups
  - Cycling and walking groups



- Community Groups
  - Relevant Council officers
  - Relevant NGOs
30. The first meeting, held on the 7<sup>th</sup> February 2023, was attended by 20 stakeholders and introduced the attendees to the purpose of the review, the legislative and design framework that the review had to work within, reasons why barriers had been installed, access issues created by barriers, the scope of the audit. The group then assessed several sites identified in the audit in terms of compliance with guidance and then debated solutions in order to develop a consensus view on how non-compliant sites should be addressed in different scenarios.
31. The second meeting, held on the 14<sup>th</sup> March 2023, was attended by 15 stakeholders and started with a brief recap of the outcome of the first meeting for those who were new attendees. It then went on to discuss how the Council might triage the list of sites into four distinct categories:
- To be removed;
  - To be removed or replaced but more data / information on locality / circumstances required;
  - To be replaced/redesigned;
  - To be retained.
32. For the above first three categories the group discussed factors which could be used to sort the sites into a priority order including:
- Location on active travel networks / relationship to other barriers
  - Path usage
  - Level of complaints about the barrier
  - Is it a safety hazard?
  - Has there been an Equality Act challenge?
33. The outputs from the two stakeholder meetings were then used by the consultants to draw up the policies in the review report (Annex A).

34. No further consultation has been undertaken on the consultants' report since it was finalised.

## **Options Analysis and Evidential Basis**

35. There are 3 options available to the Executive Member:
  - Option A** - Formally adopt the recommendations of the Access Control Barrier Review report;
  - Option B** - Make changes to the recommendations of the report;
  - Option C** - Reject the recommendations.
36. There are several advantages of Option A, the main one is that it will help the Council comply with its Public Sector Equality Duty under the Equality Act (2010). It also contributes towards many objectives in the Council Plan and the 10-year strategies adopted in 2022. It is in line with many of the policies put forward in the draft Local Transport Strategy and it acknowledges the consensus view expressed by the range of stakeholders who attended the meetings.
37. The disadvantages of Option A are the costs associated with the barrier amendments and potential challenge from elected members, officers or residents who were responsible for the barriers being implemented in the first instance.
38. The advantages of Option B are mostly in terms of flexibility where changes can be made to some, or all of the recommendations to better fit with specific viewpoints of elected members, officers or residents.
39. The disadvantages of Option B are mostly in terms of watering down the original aims of the project or not fully achieving the equality aims.
40. The advantages of Option C are that it maintains the status quo and will not have the financial impact which is associated with the works to remove or amend the barriers.
41. The main disadvantages of Option C are that it does not comply with the council's Public Sector Equality Duty and leaves the Council open to legal challenge in relation to any barrier sites which are not deemed to be compliant with current guidance or the

Equality Act. Furthermore, this option will not be in line with many of the policies in the new Council Plan, the 10-year Strategies and the emerging Local Transport Strategy.

## **Organisational Impact and Implications**

### **Financial**

42. For the recommended Option A there is £98k budget allocated to Access Barrier Review programme for the current year. Additional £1m budget covering 5 years have been approved. This is going to be a rolling programme. The barriers will be removed/adapted according to the prioritisation recommended in the report.
43. Non recommended options B or C potentially lead to legal challenge and subsequent unbudgeted revenue costs.

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

44. Work has not yet been undertaken to establish whether there is sufficient resource internally to undertake the works associated with this project. Should a decision be made to keep the work in-house, rather than contract it out, any additional posts required would be created, evaluated and recruited to in accordance with the councils procedures.

### **Legal**

45. The Council has a Public Sector Equality Duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions. Retaining barriers in their current form leaves the Council open to legal challenge and will potentially have both financial and reputational implications.

### **Procurement**

46. Any proposed works or services which are undertaken by external providers on the Council's behalf will need to be commissioned via a compliant procurement route under the Council's Contract

Procedure Rules and where applicable, the Public Contract Regulations 2015.

## **Health and Wellbeing**

47. The Director of Public Health notes that the relationship between transport and health and wellbeing are well evidenced and:
- The availability of Active Travel options plays a key role in improving access to health services, particularly for vulnerable groups.
  - That travel choices can affect physical health in relation to reduction of body weight and traffic accidents, air pollution.
  - The mode of transport affects physical and mental health, and wellbeing, evidence shows that Active Travel is instrumental in improving these.
  - Active Travel can facilitate social interactions and promote social inclusion.

## **Environment and Climate action**

48. Encouraging residents and visitors to use Active Travel is a key component in tackling climate change and improving environmental conditions through shifting from motorised modes. Many short journeys can potentially be undertaken by active means both for utility and leisure purposes. In order to achieve net-zero status the city must reduce vehicular travel and increase active travel. Removal of barriers to active travel will therefore have a positive impact. The Environmental Protection team support measures that improve active travel whilst not forcing vehicles to unnecessarily idle or significantly increase journey lengths that thereby increase emissions, especially in residential and other sensitive areas.

## **Affordability**

49. For the majority of residents, active travel is the most affordable form of travel. There are some exceptions i.e. those who need specially-adapted equipment which may be more expensive to purchase and maintain, or people for whom active travel is not a realistic option as a result of a physical or mental impairment or

due to being disabled by their local environment and a lack of suitable facilities.

50. When compared to motorised travel, there is much more certainty in terms of ongoing costs as fuel prices don't come into consideration and there are no insurance and Vehicle Excise Duty costs to add on. Maintenance costs also tend to be much lower.

## **Equalities and Human Rights**

51. This project was initiated to help the Council comply with its' Public Sector Equality Duty under Section 149 of the Equality Act (2010). Creating equal access to the walking, wheelchair-use, wheeling and cycling networks by removing or relaxing barriers which currently exist is the primary aim of the project. Several groups with protected characteristics have been either prevented from accessing parts of York or have been sent on diversionary routes to get to the same end-point due to the presence of barriers. This project therefore has very positive implications for equalities and human rights.
52. An Equality Impact Assessment has been undertaken on this project and forms Annex B.

## **Data Protection and Privacy**

53. As there is no new personal data, special categories of personal data or criminal offence data being processed for this report, there is no requirement to complete a DPIA. This is evidenced by completion of DPIA screening questions - reference AD-03646.

## **Communications**

54. Communication support may be needed to address any disruption and changes for local people, businesses and users as a result of removing or replacing.
55. Ward Councillors, local police and immediate neighbouring properties will be notified of any changes proposed.

## **Economy**

55. One of the key themes of the York Economic Strategy 2022-2032 is "A Greener Economy", which include an objective to "*increase cycling and active travel to work where appropriate as modes of commuting*". A compliant, inclusive and accessible active travel

network is vital to support a strong and sustainable local economy both from a healthy workforce point of view and to support a reduction in car journeys to free up space on the road network for business-related vehicle movements where appropriate.

## Property

56. Some of the non-compliant access control barriers will inevitably be on land owned or controlled by the Council. Property Services will be included in consultations in these cases.

## Risks and Mitigations

57. There are risks associated with all the options related to this report. These are listed below with their relevant mitigations.

Option	Risk	Mitigation
Option A	Road safety risk	Undertake safety audits on designs and make necessary changes
	Anti-social behaviour increase	Work with local police to address issues
	Animal access	Ensure design is stock-proof (cattle grids etc)
	Budgetary risk	Prioritise sites and deliver in a phased manner over several years
	Staff resource risk	Ensure sufficient staff resource is available or sub-contract work
Option B	Similar risks to Option A	Use same mitigations
	Legal challenge under Equality Act	Try to ensure compliance with Public Sector Equality Duty
Option C	Legal challenge under Equality Act	Difficult to mitigate against
	Reduced levels of active travel	Promote alternative routes

## Wards Impacted

58. All Wards will be impacted by the adoption of the policies which are recommended within this report.

## Contact details

For further information please contact the authors of this Decision Report.

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## Background papers

None

## Annexes

Annex A - York Access Control Barrier Review, Transport Initiatives LLP  
(August 2023)

Annex B – Equality Impact Assessment