
Community Safety Overview & Scrutiny Committee 1 December 2009

Report of the Head of Civic, Democratic & Legal Services

Feasibility Report on Possible Review of the Council's Policy on Alleygating

Summary

1. This report presents the Council's current policy on Alleygating for Members' information, and asks Members to consider whether they wish to carry out a review of that policy.

Background

2. Government regulations came into force on 1 April 2006 giving Local Authorities powers to erect gates on public highways to combat crime and anti social behaviour. The effect of the new legislation gave Councils the power to gate certain types of route where it was satisfied that levels of crime and disorder justified such action. An order may be made to restrict the route at all times or for certain times or periods as may be appropriate to the circumstances, but can exclude designated persons, bodies or organisations from the restrictions, e.g. residents who have a private right of access, utility companies, emergency services etc.
3. Access for occupiers of premises adjoining or adjacent to the route cannot be restricted, nor can a gating order be made if it forms the only or principal means of access to dwellings. If it forms the only or principal access to premises used for recreational or business purposes, it cannot restrict access during the times of day when those premises are normally used. The power does not permanently extinguish rights of way, making it possible to subsequently alter or revoke the restrictions and reinstate the public right of way. This effectively means that the land cannot be converted for any other purpose and must still be maintained by the Local Authority.
4. Since the enactment of the legislation, City of York Council in partnership with North Yorkshire Police, Safer York Partnership and local ward committees, have carried out a number of 'alleygating' schemes across the city. Where a scheme has been initiated there has been a marked reduction in crime and anti-social behaviour previously linked with the now gated alleys.
5. The Council has adopted a policy for dealing with the implementation of alley gating on public highways throughout the city. The policy document sets out the

process for the implementation of an alley gating scheme, and it is currently being reviewed by officers within public rights of way team.

6. At the last meeting of this Committee in September 2009, Members considered a suggestion to carry out a review on alleygating. Members requested that the Council's current policy be provided for Members consideration in order to inform the decision on whether to carry out the review.

Consultation

7. Officers from the public rights of way team have provided information on the ongoing work to update the Council's policy, and the Assistant Director of City Development & Transport will be in attendance at this meeting to answer any questions arising.

Options

8. Having considered the information in this report and its associated annex, Members may choose whether or not to carry out a review of the council policy on alleygating.
9. If a decision is made to move forward with a review, Members may choose to commence the review immediately to feed into the ongoing work to update the policy or, wait until that work has been completed in order to review whether the suggested revisions to the policy are robust.

Analysis

10. The legislation that gives the Council powers to gate rights of way for crime and anti-social behaviour reasons, is now three years old. In that time, the council has carried out two large Gating Order schemes and has a third on the way. The work of identifying areas of the city suitable for a gating order scheme lies with the Safer York Partnership. They provide the crime statistics to evidence the need for a scheme and the necessary budget to carry out a gating order. The public rights of way team who are part of City Strategy, are responsible for seeking the Order and installing the gates, which are then maintained by Neighbourhood Services.
11. Officers now feel the policy needs reviewing to reflect lessons learnt when putting the legislation into practice. In addition, clarity is required within the council in regard to roles and responsibilities, specifically in relation to staffing and budget for the gates i.e. from inception through to installation, and then management and maintenance for the life of a Gating scheme.
12. It is expected that the first draft of the revised policy will be completed by the end of November 2009. It will then be presented to the Corporate Management Team for their consideration, before it goes to the Executive for approval.

Corporate Strategy

13. The proposal to carry out a review of the Council's policy on alleygating is in line with the Council's corporate priority to make York a safer city with low crime rates

and high opinions of the city's safety record.

Implications

14. There are no known financial, HR, equalities, ITT, property or other implications associated with the recommendation in this report.
15. **Crime & Disorder** – Without a robust Alleygating policy in place, the Council's ability to decrease the current level of crime and anti-social behaviour in areas with rear alleyways, where burglars can currently gain unlawful entry to the rear of houses, is limited.
16. **Legal** - One of the main crimes committed in this country and one which has the most impact on its victims, is domestic burglary. All local authorities have a duty under Sections 6 and 17 of the Crime & Disorder Act 1998, to implement crime reduction strategies in an effort to reduce overall crime in their administrative area.

Risk Management

17. The Council has a statutory duty to protect all public highways, whether registered on the Definitive Map and Statement and/or the List of Streets Maintainable at Public Expense, or otherwise, and failure to undertake this duty could result in the Council acting unlawfully. The Council must therefore exercise caution before embarking upon any proposals that may adversely effect or interfere with the rights of the public to pass and re-pass along any public highway, or potential public highway. The Council also has a duty, along with the police and other 'responsible authorities', to reduce and prevent crime within their administrative area. This may mean that these two duties conflict with, or contradict each other and therefore the risk associated with this conflict or contradiction, must be minimised.

Recommendations

18. Having considered the Council's current policy on alleygating attached at Annex A, and the information provided in this report and at this meeting, Members are recommended:
 - a. Not to carry out a review of the policy at this stage
 - b. To seek to be included in the consultation process for the revised policy
 - c. To reconsider 6 months after implementation of the revised policy, whether a scrutiny review of its impact is required

Reason: To assist officers with developing a robust policy on alleygating

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Report Approved



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Specialist Implications Officers

Legal – Alison Lowton

Wards Affected:

All



For further information please contact the author of the report

Background Papers: None

Annexes

Annex A – City of York Council's Current Alleygating Policy