

CHESHIRE WEST AND CHESTER

REPORT TO EXECUTIVE MEMBER

Date of report: 26 January 2011
Report of: Community Safety Officer
Executive Member: for Community & Environment Councillor Lynn Riley

The proposed gating of alleyways from Thurston Road towards Green Lane, Chester.

PART 8A HIGHWAYS ACT 1980

This is not a Key Decision

1.0 What is the report about?

- 1.1 A proposal to make an Order under Part 8A of the Highways Act 1980 to gate public footpath, from Thurston Road towards Green Lane, Chester.

2.0 What Decision is required by the Portfolio Holder?

- 2.1 Whether or not the proposed Order should be made.

3.0 How does the Decision contribute to the Council's Corporate Priorities?

- 3.1 The proposed Order is designed to achieve a reduction in crime, disorder and antisocial behaviour (ASB) through the use of situational crime prevention tool. As such it contributes to the Safer and Stronger Communities imperative to ensure that communities are safe and secure with a reduced fear of crime. It also contributes to the Environmental Sustainability imperative by helping to build clean, attractive, and healthy environments for our people to live and work in.

4.0 Report Details

Legislative Background and Decision Criteria

- 4.1 Part 8A of the Highways Act 1980 and associated regulations enable councils to make Gating Orders permitting gates to be erected across public highways to restrict how they are used. Before a council can make a Gating Order it must be satisfied that:-

- 4.1.1 premises adjoining or adjacent to a public highway are affected by crime or ASB;

- 4.1.2 the existence of the public highway is facilitating the persistent commission of criminal offences or ASB; and
 - 4.1.3 it is, in the circumstances, expedient to make the Order for the purposes of reducing crime or ASB taking into account the likely effect of the Order on occupiers of premises adjoining or adjacent to the highway, other persons in the locality and the public using the route, and the availability of a reasonably convenient alternative route.
- 4.2 In addition, an Order can not be made so as to:-
 - 4.2.1 restrict the right of way over a highway for occupiers of premises adjoining or adjacent to the highway;
 - 4.2.2 restrict the right of way over a highway which is the only or principal means of access to any dwelling;
 - 4.2.3 in the case of business or recreational premises, restrict the public right of way over a highway which is the only or principal means of access during periods when the premises are normally used for that purpose.
- 4.3 The decision whether to make an Order is effectively an exercise in balancing the right of the public to make legitimate use of the highway concerned against the impact that crime or ASB facilitated by the highway is having on the local community.
- 4.4 Consideration should be given as to whether there are any viable alternatives to a Gating Order which may address the problems experienced. Consideration should also be given to whether any person or class of person should be excluded from the effect of a Gating Order and whether the Gating Order should be implemented on a 24 hours a day 7 days a week basis (24/7) or perhaps just take effect at certain times or on certain days.
- 4.5 Gating Orders must be reviewed by the Council from time to time to ensure that they are still necessary and appropriate. Gating Orders can be varied or removed to respond to changes in the circumstances which led to an Order being made in the first place.

The Proposal

- 4.6 The proposal is to gate approximately 12 metres of footpath in between the roads set out in paragraph 1.1 above and shown on the attached plan.
- 4.7 This proposal has been brought forward as evidence suggests that there continues to be reported of incidents of crime and ASB in the area surrounding the proposed gating site. It is believed that such behaviours are aided by the sections of footpaths in question because as provides a convenient means of access to the surrounding areas by those who indulge in such reported behaviour.

- 4.8 Cheshire Police report indicates that from June 2009 to October 2009, 10 crimes were reported and within the same comparative year of 2010, another 10 incidents of crime were reported. From May 2009 to October 2009, 9 incidents of ASB were reported, within the same comparative months in 2010, a further 9 incidents of ASB were reported within the area surrounding the potential gating area. The vast majority of incidents related to rowdy loutish noisy drunken behaviour along the alley way in question.
- 4.9 Reported incidents illustrate that the instigation of an action plan in October 2010, which utilised a multi agency approach from Cheshire Police, Chester West and Chester Councils Community Safety Team, Community Safety Wardens to be unsuccessful. As evidence suggests that there continues to be on going reports of crime and ASB by residents who live in close proximity of the intended Gating Order area.
- 4.10 It is considered that the Order should take effect on a 24/7 basis because the likely effect of the Gating Order on occupiers of premises adjoining or adjacent to the highway and on other persons in the locality particularly having regard to the availability of a reasonably convenient alternative route render the resources required for a managed opening and closing arrangement disproportionate.
- 4.11 Keys to access the alley gates will be provided to occupiers of premises adjoining or adjacent to and to those with mobility issues on a strictly regulated basis where a demonstrable need exists.

The Evidence

- 4.12 A detailed evidence file will be produced to the Executive Members in support of the proposal. Whilst the evidence file is confidential in accordance with the provisions of the Data Protection Act 1998 its contents can be summarised as follows:-
- 4.12.1 A combined analysis of crimes and incidents of ASB within 100 metres of Thurston Road towards Green Lane alley-way reported to Cheshire Police for the periods May to October 2009 and the comparative period of time in 2010 shows that 38 incidents had occurred.

Consultations

- 4.13 Informal consultations in relation to this proposal have been undertaken with:-
- 4.13.1 Community Safety Partnership (Safer Stronger Partnership) consisting of the following statutory members: Cheshire Police; Cheshire Fire and Rescue Service; Cheshire Probation Service; Cheshire Police Authority and Cheshire West and Chester Borough Council.
- 4.13.2 Local Residents
Halket Close

Thurston Road
Stanley Park Drive
Boundary Lane
Capeland Close
Shannon Close

4.13.3 The Community Safety Team who consulted:

Local Government:

Cllr Arthur Harada
Cllr Razia Daniels
Cllr Richard Short
Cllr Lynn Riley

Emergency Services:

Cheshire Police HQ
Cheshire Fire and Rescue Service HQ
Primary Care Trust

4.13.4 The Highway Authority

4.13.5 Chester Outer Port Neighbourhood Policing Sergeant Anton Sullivan.

4.13.6 The Executive Member for Culture and Regeneration Councillor Richard Short and Executive Member for Prosperity Herbert Manley.

4.13.7 The Executive Member for Community & Environment Councillor Lynn Riley.

4.13.8 Of the 130 door to door consultation completed by Community Safety Wardens. 114 responses were regarding the proposed Gating Order for Thurston Road towards Green Lane. Consultation results advised that of 114 respondents advised that 59 (52%) were in favour of the Gating Order and 26 (22.5%) were against and 45 (25.5%) advised that they have no preference about the installation of a Gating Order.

4.14 Objections to the proposal were based on a dislike of the proposed appearance of alley gates. However if the application for the Gating Order is agreed, residents will be consulted regarding the colour of the alley gates. The majority of residents who held no preference advised that they did not use the alley way.

4.15 Support for the Gating Order has been received from 59 local residents, the CSP, the Emergency Services, local Councillors. The Highways and Public Rights of Way Service have not objected to the making of the Order.

5.0 Conclusion

5.1 It is considered that the legal requirements for making a Gating Order as summarised in paragraphs 4.1 and 4.2 above have been satisfied.

- 5.2 Careful consideration has been given to the effect of the Order on occupiers of premises adjoining or adjacent to the highway and to other persons in the locality including the public making legitimate use of the route. Having regard to the availability of a reasonably convenient alternative route it is considered in all the circumstances expedient that the proposed order be made.

6.0 Recommendation

6.1 That:-

- 6.1.1 Officers be authorised to give formal notice of the Council's intention to make an Order pursuant to Section 129A of the Highways Act 1980 in the form of the attached draft Order; and,
- 6.1.2 upon expiry of the statutory notice period and in the absence of any objections received during the statutory notice period (other than objections the nature and substance of which have already been considered during the informal consultation exercise undertaken) Officers be authorised to make the said gating order and erect barriers pursuant to the same; and,
- 6.1.3 the effect of the Gating Order and ambient crime and disorder and ASB issues be kept under review

7.0 What will it cost?

- 7.1 The estimated costs of promoting a Gating Order and procuring and installing the alley gating proposed are estimated to cost in the region of £2,082.00 this cost will be met by funding streams identified within the local ward members budgets.

8.0 Legal Considerations

- 8.1 The legal considerations are dealt with in the body of this report. In addition, the decision to make an order can be challenged in the High Court on the basis that a procedural requirement has not been complied with or that the Council had no authority to make the Order.

9.0 What risks are there and how can they be reduced?

- 9.1 The risks have been addressed in the body of this report.

10.0 What is the impact of the decision on equality and diversity issues?

- 10.1 The proposed Gating Order has no adverse impact on matters of equality of diversity.

11.0 Are there any other options?

11.1 The availability of alternative options has been addressed in the body of this report.

For further information:

Officer: Jane Makin

Tel No: 01244 973464

Email: jane.makin@cheshirewestandchester.gov.uk

Background Documents:

Interim Making Places Safer Policy document

Confidential Evidence File