

# CHESHIRE WEST AND CHESTER

## REPORT TO EXECUTIVE MEMBER

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**Date of report:** Thursday 30 September 2010  
**Report of:** Community Safety Manager  
**Executive Member:** for Community & Environment Councillor Lynn Riley

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### **The proposed gating of alleyways behind Victoria Road, Highfield Road, Ashfield Road and Woodfield Road in Ellesmere Port**

#### **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 footpaths, between Victoria Road and Enfield Road, Highfield Road and Ashfield Road and Woodfield Road in Ellesmere Port.

##### **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 570 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 exists a disproportionate amount of reported incidents of crime and ASB in the area surrounding the proposed gating site. It is believed that such behaviours are facilitated by the sections of footpaths in question because it provides a

convenient or concealed means of access and egress for those who indulge in the reported behaviour.

- 4.8 It is considered that there are no other means of effectively dealing with the crime, disorder and ASB can effectively occur within the intended alley gating area. As an action plan meeting was instigated in December 2009, in aiming encourage effective alternative means of preventing crime, disorder and ASB. This action plan aimed to utilise a multi agency approach working with Ellesmere Port Housing staff, landlords, Community Safety Team, Street Scene, Police and CCTV management. This action plan has been unsuccessful as reflected in reports of 67 incidents ASB, Crime and Disorder within the consultation area, 36 of these incidents being directly aided by the presence of the alley-ways.
- 4.9 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.
- 4.10 Keys to access the alley gates will be provided to occupiers of premises adjoining or adjacent to the highway upon request to ensure that their necessary access is not restricted by the Gating Order. Keys to gated areas would also be granted to those residents who have mobility issues, on a case by case basis. The only or principal means of access to any dwelling, business or recreational premises is unaffected by the proposed Gating Order.

#### *The Evidence*

- 4.11 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:-
- 4.11.1 A combined analysis of crimes and incidents of ASB within 100 metres of Victoria Road, Highfield Road, Woodfield Road and Ashfield Road alley-ways reported to Cheshire Police for the periods August 2009 – July 2010 August 2010 in total 67 reports were received, 36 (53.5%) of which were directly facilitated by the alley remaining open.

#### *Consultations*

- 4.12 Informal consultations in relation to this proposal have been undertaken with:-
- 4.12.1 Community Safety Partnership (Safe 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.

#### 4.12.2 Local Residents

Victoria Road,  
Highfield Road,  
Ashfield Road,  
Downfield Road,  
Princes Road.

#### 4.12.3 The Community Safety Team who consulted:

##### Local Government:

Cllr Justin Madders  
Cllr Derek Bateman  
Cllr Lynn Clare  
Cllr Lynn Riley

##### Emergency Services:

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

#### 4.12.4 The Highway Authority

#### 4.12.5 Ellesmere Port Neighbourhood Policing Inspector Peter Case.

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

#### 4.12.7 The Executive Member for Community & Environment Councillor Lynn Riley.

#### 4.12.8 From 135 consultation forms supported by door to door Police consultations returned 122 (89.6%) were in favour of the Gating Order and 13 (10.4%) were against.

4.13 Objections to the proposal were based on a dislike of the appearance of alley gates and a desire to see the gates left open at set times throughout the day. It is considered that a scheme requiring the gates to be opened and closed at certain times would incur costs disproportionate to the inconvenience that may be caused by a 24/7 closure. It is also considered that concerns over the appearance of the gates do not outweigh the associated benefits of reducing crime and disorder.

4.14 Support for the Gating Order has been received from the local residents, the CDRP, 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 £23000. This cost will be met by funding streams identified within the Community Safety Team Budget.

## 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:***

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***Background Documents:***

*Interim Making Places Safer Policy document*

*Confidential Evidence File*