

Officer Decision Notice

The following decision has been taken under Part F2 Paragraph 5.1(d) as set out in the Council's Constitution.

Decision maker/s:	Vanessa Griffiths, Head of Regulatory Services
Decision taken On:	27 th May 2014
Decision in the matter of:	Proposed Gating Order adjacent to 61 Woodfield Road, Ellesmere Port
Decision details including budget:	Proceed with the installation of alley-gates at the above location in accordance with the proposal. 61 Woodfield Road occupies a corner position in Woodfield Road, Ellesmere Port, and is bordered on one side by an alley way. Primarily as a result of this corner position, the resident suffers a disproportionate amount of ASB (mainly groups drinking and urinating and one incident of a shopping trolley being set alight).

The Budget for the cost of installation has been confirmed by David Tai, Senior Manager, Ellesmere Port Locality team. £2331+VAT is the total cost of installation and will be met from the Town Centre Improvements budget.

Background:

PART 8A HIGHWAYS ACT 1980

1. What is the ODN about?

- 1.1. A proposal to make an Order under Part 8A of the Highways Act 1980 to gate a public highway adjacent to 61 Woodfield Road Ellesmere Port.

2. What Decision is required by the Delegate Head of Service?

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

3. 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 a situational crime prevention tool. 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. 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 cannot 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.

5. The Proposal & Evidence

5.1. The proposal is to gate approximately 12 metres of footpath adjacent to the residential property set out in paragraph 1.1 above and shown on the attached plan.

5.2. 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. The main alleyway will remain un-gated for use by businesses on Whitby Road for rear access

5.3. This proposal has been brought forward as there are reported incidents of crime and ASB in the area surrounding the proposed gating site. It is recognised that the incidents of ASB that occur in the alley-way predominantly affect one property, 61 Woodfield Road. There is evidence of urination against the side wall of the property and empty beer containers are often discarded there. The alley-way is well lit but provides good cover for those engaging in ASB as it is not detectable on the town centre CCTV cameras.

5.4. Cheshire Police reports indicate that from January 2012 to June 2013 there were 257 incidents of crime and disorder reported within the 50m buffer zone around the alley-way. Seventy-seven of these relate to nuisance and personal ASB. Twenty-three incidents of crime and disorder have been reported from Woodfield Road from July 2012 to June 2013. Five of these incidents are reported as ASB, and two of those relate to males drinking in the alleyway that runs to the rear of Woodfield Road.

5.5. Other methods of intervention have been considered (e.g. additional patrols), but it is recognised that they would almost certainly provide only a short term solution to the issues as it is unlikely that the level of resources required could be maintained.

5.6. ASB Diaries were issued to residents in order to obtain additional information to inform the decision. Sixteen diaries were issued; of these three were successfully collected, nine were not collected following several attempts and two of the diaries were not completed – in these two cases the residents reported that there were no issues to record. Of the three diaries that were collected only one of them was completed and it contained 22 incidents recorded between 10/10/13 and 30/10/13. Details of the recorded incidents are contained in the full evidence file. From this evidence it would appear that the resident at 61 Woodfield Road is in fact particularly and disproportionately affected by the on-going ASB.

5.7. A detailed evidence file exists to support 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:-

5.8. It is clear from the evidence and the proposal that one property, 61 Woodfield Road appears to be disproportionately affected by the ASB when compared to the other nearby properties. Although the ASB seems to be less of an issue for other residents the quality of life of the residents of 61 Woodfield Road is being affected to the point that the ASB is negatively affecting the residents' quality of life and gating the

alley-way would resolve the issues and improve the quality of life for the residents that dwelling.

6. Consultations

6.1. Informal consultations in relation to this proposal have been undertaken with:-

- Community Safety Manager, Jane Makin, Ellesmere Port Locality Team, Cheshire Police, and local Councillors Justin Madders and Lynn Clare.
- Local Residents: Woodfield Road, Victoria Road, Ashfield Road, Whitby Road
- Emergency Services: Cheshire Police, and Cheshire Fire and Rescue Service HQ
- The Highway Authority

6.1.1. Of the 72 door to door consultations completed by Community Safety Wardens, 43 responses were received, 11 properties were vacant, 18 were unavailable after three visits. Of the 43 responses received 37 (83.8%) are in favour of the gating order, 6 (16.2%) have no preference, and no residents have objected.

6.1.2. The report from Cheshire Police Crime Prevention Officer advised that the gates will not provide a full resolution to the problem of adults congregating to the rear of Woodfield Road and that there is some risk of displacement of the ASB. However, on balance, the Neighbourhood Policing Inspector for Ellesmere Port supports the installation of the gates on the basis that the residents of 61 Woodfield Road are disproportionately affected by the ASB - that appears linked to that *specific* location - and that monitoring of the area should continue after the installation of the gates in order to identify and deal with any potential displacement, should it materialise.

6.2. If the displaced ASB is higher than anticipated, then further measures would need to be considered for the remainder of the alley-way. Removal of the gates could also be considered and implemented, if necessary, alongside alternative measures to ensure quality of life was maintained for the residents of 61 Woodfield Road.

6.2.1. Council-owned CCTV would be cost-prohibitive and it is the view of both the local authority and the Police that the installation of a camera would be a disproportionate response.

6.3. Following publication of the 'draft notice' in the local press, two residents made contact. One resident requested a copy of the plan, which was forwarded and no further comment was received. Another resident asked how much the proposed gates are costing and whilst this resident welcomed gating orders in the area questioned why the proposed gates are not closing off the larger alleyway running behind Woodfield Road. The reasons for this have been highlighted in this report and contact has been made with the resident to explain.

7. Conclusion

7.1. It is considered that the legal requirements for making a Gating Order as summarised in section 6 above have been satisfied.

7.2. 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. It is important to balance the needs of the community and the effects the proposed order may have on them against the effect on quality of life for residents affected by the continued ASB. If the proposed order goes ahead it would not inconvenience members of the public who legitimately use the alley-way as access to the main alley-way at the rear of Woodfield Road can be gained by taking a few extra steps to the end of Woodfield Road and onto Victoria Road, or to the end of the main alley-way and onto Victoria Road if coming from the opposite direction.

8. Recommendation

8.1.1. 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,

8.1.2. 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,

8.1.3.the effect of the Gating Order and ambient crime and disorder and ASB issues be kept under review

9. What will it cost?

9.1. The cost of installation of the proposed gates is £2331+VAT and this will be met from the Town Centre Improvements Budget.

10. Legal Considerations

10.1 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 have not been complied with or that the Council had no authority to make the Order.

11. What risks are there and how can they be reduced?

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

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

12.1. The proposed Gating Order has no impact on matters of equality of diversity.

13. Are there any other options?

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

14. Background Documents:

Interim Making Places Safer Policy document
Confidential Evidence File

Approved UC Griffiths (Service Owner)*

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