

**ARBORETUM, DUNKIRK AND LENTON, RADFORD AND PARK AREA COMMITTEE**  
**18 SEPTEMBER 2013**

<b>Title of paper:</b>	<b>REQUEST TO GATE A FOOTPATH AT HOLLAND STREET, RADFORD</b>	
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<b>Other colleagues who have provided input:</b>	Legal Services – Planning, Environment and Leisure Team (ref: KB)	
<b>Relevant Council Plan Strategic Priority:</b>		
World Class Nottingham		
Work in Nottingham		
Safer Nottingham		X
Neighbourhood Nottingham		X
Family Nottingham		X
Healthy Nottingham		X
Leading Nottingham		X
<b>Summary of issues (including benefits to customers/service users):</b>		
<p>This report provides Area Committee with information to enable it to consider whether to authorise the making of a gating order to restrict public access along a footpath running between Holland Street and Hyson Street to reduce crime and anti-social behaviour.</p> <p>The introduction of a gating order in appropriate circumstances will help reduce crime, disorder and anti-social behaviour and therefore help Nottingham City Council (“the Council”) deliver its priorities for a Safer, Neighbourhood, Family, Healthy Nottingham.</p>		
<b>Recommendation(s):</b>		
<b>1</b>	It is recommended that Area Committee note the statutory tests set out at paragraphs 5.1.1 and 5.1.2 and agrees that the information in support of the Gating Order included at paragraphs 2 to 6 satisfies these tests and authorise the making of a full-time gating order.	

## **1 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 1.1 The Clean Neighbourhoods and Environment Act 2005 introduced a new provision into the Highways Act 1980 which allows highway authorities, with effect from 1 April 2006, to make a "Gating Order". Unlike previous legislation for the closure of highways such an order would not remove highway status but (as with a traffic regulation order) would simply restrict the public from being able to use the highway at all times. The restriction may be full or part-time, thereby allowing, for example, the physical closure of a right of way outside daylight hours only. The legislation permits the installation of physical barriers to enforce the restriction. The legal criteria for the making of a Gating Order (set out at paragraphs 5.1.1 and 5.1.2 to this report) are less stringent than for special extinguishment orders.
- 1.2 At its meeting on the 20 June 2006, the Council's Executive Board considered a report of the Acting Lead Services Director of City Development on the new gating order legislation. Executive Board authorised the performance of various functions and responsibilities associated with gating orders and approved the allocation of Council resources for the carrying out of those functions and responsibilities. Additionally, the Executive Board resolved that each Area Committee authorise no more than one Gating Order during each financial year. A copy of the report to the Executive Board is attached at Appendix 7 to this report.
- 1.3 At its meeting on the 18 March 2008, the Executive Board considered a request from the Council's Regeneration, Infrastructure and Sustainability Standing Panel for a more flexible approach to the use of gating orders. In response, the Executive Board resolved that a more flexible approach should be introduced on a trial basis, whereby Area Committees, in response to demand, would be able to apply for more than one Gating Order in a municipal year, if needed.
- 1.4 Since the introduction of the new powers in 2006 the Council has received two separate requests for a Gating Order for the footpath running between Holland Street and Hyson Street, one request in 2009 and one in 2012. The results of the consultation and other actions carried out in respect of these requests are included under paragraphs 2.1 to 2.3.3 below (Application and Supporting Information).

## **2 REASONS FOR RECOMMENDATIONS**

### **APPLICATION AND SUPPORTING INFORMATION**

- 2.1 During 2009 local residents approached the Council with a request ("the 2009 request") for a Gating Order. The Council was requested to gate a footpath running between Holland Street and Hyson Street due to problems of crime and anti-social behaviour (ASB) occurring either on the footpath itself, or resulting from its use. The footpath is shown between points (A) and (B) on the plan at Appendix 1. To establish whether or not the footpath was involved in these incidents a number of actions were carried out. These actions were identical to those carried out for the current request received in 2012 set out under paragraphs 2.3.1 to 2.3.3 below ("the 2012 request"). The information in support of the 2009 request was largely related to street drinking and litter along Holland Street itself and it was not clear what role the footpath played in these incidents. Additionally, no. 12 Holland Street, which is the only premises directly adjoining the footpath, was vacant at this time so it was not possible to determine whether or not the "adjoining or adjacent" test under Section 129A of the Highways Act 1980 was met, as set out under Paragraph 5.1.1

(a) of this report. Based on the available supporting information, the 2009 request was not progressed. The information in support of the 2009 request is covered by the report of the Nottinghamshire Police Architectural Liaison Officer (ALO) at Appendix 5. The ALO report has been updated for the 2012 request.

- 2.2 During December 2012, following an increase in incidents on and around the footpath, the Safer Neighbourhood Police team approached the Council with a further request for a Gating Order for the same footpath as the 2009 request.
- 2.3 To collate the necessary crime and ASB incident data and any other information which is relevant to the statutory tests set out at Paragraph 5.1.1 (a) (b) and (c) below, the following actions have been carried out:-
  - 2.3.1 During February 2013, a consultation letter and incident log sheets were delivered by the Safer Neighbourhood Police team to 9 premises nearest to the footpath seeking information as to crime or ASB associated with the footpath and how it affected those premises. As can be seen from Appendix 1, on one side of the footpath there is one dwelling directly adjacent to the footpath, on the other side a private car park belonging to Westbridge International Group Ltd ("Westbridge") which is directly opposite the footpath. The letter asked that all incidents are reported to the Police and/or the Council's ASB hotline. In response, 2 sets of completed log sheets were received which are summarised in a schedule at Appendix 2. Additionally, correspondence supporting the proposed Gating Order was received from Westbridge located opposite the footpath, although no specific incidents had been logged. This information is also summarised at Appendix 2. Over a number of years, residents have also raised their concerns and the problems associated with the footpath with Local Councillors during their surgeries and walk-about sessions in the local community.
  - 2.3.2 Information was sought and obtained from Nottinghamshire Police. The local Police Community Support Officer (PCSO) provided a statement and schedule of incident data and these documents are annexed at Appendix 3. Information was provided by the Police ASB Victim Support team which is annexed at Appendix 4. Further information was provided by the Nottinghamshire Police ALO and Crime Reduction Manager (CRM) whose report is annexed at Appendix 5 (this report covers both the 2009 and 2012 requests).
  - 2.3.3 Information was requested from the Crime and Drugs Partnership (CDP). The CDP collate and record crime and ASB incident data reported to the Police and the Council's ASB Team. The CDP facilitate weekly meetings for the Hot Spot Tasking Group which is a partnership between the Council, Police, Probation Service, Nottingham City Homes, local NHS Trusts and the Fire and Rescue Service. Geographical areas of crime and ASB are mapped and resources allocated to deal with the hot spots. The information provided by the CDP is attached at Appendix 6.

## **ANALYSIS**

- 2.4 The following provides an assessment of the above supporting information against the statutory criteria set out at Paragraph 5.1.1 sections (a), (b) and (c) below.
  - 2.4.1 Appendix 2 (summary of residents' Incident Log Sheets): this information records 39 incidents of crime and / or ASB between March 2013 and July 2013, the majority of which are directly related to the footpath. These are mainly alcohol related incidents, noise, arguing, fighting and general nuisance in the local community. Other incidents include

attempted arson, drug dealing and taking and using the footpath as a drinking area and open air toilet. The incidents occur both during the day and the evening. With respect to the legal criteria set out at (a) and (b) in paragraph 5.1.1 below, which the Council must be satisfied are met before a Gating Order is made, this information demonstrates that premises adjoining or adjacent to the highway are affected by crime or ASB and the existence of the highway is facilitating the persistent commission of criminal offences or ASB. Although Westbridge have not recorded any specific incidents, their information refers to issues of street drinking, drugs, broken glass, intimidation, and general rowdy and inconsiderate behaviour.

- 2.4.2 Appendix 3 (Nottinghamshire Police): the PCSO's statement provides a summary of the main issues occurring in the locality and how the use of the footpath is involved. It also states that the Gating Order will disrupt these activities and help create a safer neighbourhood. The schedule of data records 64 incidents of crime and/or ASB between February 2012 and July 2013 and 31 of these incidents refer specifically to the footpath. The incidents which do not refer to the footpath are mainly street drinking on Holland Street and not the footpath. From on-site observations, the PCSO believes that the footpath provides an ideal environment for these types of incidents, and it is most likely that at some point of the day or night the footpath, as well as Holland Street itself, is used for this type of activity. This data is consistent with the information from the adjacent premises and demonstrates that premises adjoining or adjacent to the highway are affected by crime or ASB and the existence of the highway is facilitating the persistent commission of criminal offences or ASB, and this may occur at any time of the day or night.
- 2.4.3 Appendix 4 (Nottinghamshire Police ASB Victim Support Team): the information received from the adjacent premises and the PCSO is supported by the information received from the Police ASB Victim Support team. This information refers to street drinkers using the footpath, drug paraphernalia being thrown into the adjacent garden and a general feeling of intimidation and overall frustration at the situation. This demonstrates that premises adjoining or adjacent to the highway are affected by crime and ASB.
- 2.4.4 Appendix 5 (Nottinghamshire Police ALO/CRM report): the report covers two periods; the first period is August 2008 to June 2009 and is in response to the 2009 request for a Gating Order set out at Paragraph 2.1 above. This report includes 46 incidents between 2008 and 2009 including street drinking, violence and rowdy and inconsiderate behaviour. At this time these incidents could not be directly attributed to the footpath. The ALO has updated the report and covers the second period of July 2012 to July 2013. This period includes 18 incidents involving street drinking on both the footpath and Holland Street with resultant fighting, disorder and criminal damage. This information is consistent with the residents' Incident Log Sheets, the PCSO's statement and schedule of data and the information from the Police ASB Victim Support Team. This demonstrates that premises adjoining or adjacent to the highway are affected by crime or ASB and the existence of the highway is facilitating the persistent commission of criminal offences or ASB.
- 2.4.5 Appendix 6 (CDP): this information covers the period April 2012 to July 2013 and records 12 reported incidents in the area and 10 of these make specific reference to people drinking on Holland Street and the footpath. The persons reporting the incidents state this 'happens every night when the weather is good'; that offenders are 'usually there most nights'; that it 'happens most days, different people drinking in the street, shouting, and causing general disturbance' This information is consistent with the Incident Log Sheets, the PCSO's statement and schedule of data, the ASB Victim Support Team's summary

and the ALO/CRM report. This information demonstrates that premises adjoining or adjacent to the highway are affected by crime or ASB and the existence of the highway is facilitating the persistent commission of criminal offences or ASB.

## **CONCLUSIONS**

- 2.5 The analysis shows that over the period 2008 to 2013 there have been 177 incidents logged by residents and/or reported to the Police which involve either the footpath and/or Holland Street. This shows that the incidents occurring along the footpath or resulting from its use are persistent. 130 of these incidents have occurred between February 2012 and July 2013 with the majority being street drinking, fighting, drug dealing and taking, ASB and general disorder. It appears that the footpath provides an ideal environment to carry out these types of offences and if the incidents take place on Holland Street then the footpath will also be used and vice versa. From the information received from the Police and the CDP the number of incidents occurring is likely to be higher because not all incidents are reported. Based on the available evidence it is the report authors' view that premises adjoining or adjacent to the footpath are affected by crime and ASB and the existence of the footpath is facilitating the persistent commission of criminal offences and ASB and that these incidents may occur at anytime of the day or night. It is also the report authors' view that the statutory criteria set out at paragraph 5.1.1 and 5.1.2 is met and that a full-time Gating Order would be the most appropriate in this location.
- 2.6 It will be noted that the footpath constitutes a through route. Accordingly, Area Committee must, when deciding whether or not it is expedient to make a gating order, consider the availability of a reasonably convenient alternative route (please see paragraph 5.1.2 below). Using the footpath the distance between point (A) and point (B) on Appendix 1 is 25 metres. The alternative route, which is shown by the dotted line on the plan at Appendix 1, is 128 metres length. Use of the alternative route would therefore add 103 metres to a person's journey (i.e.  $128\text{m} - 25\text{m} = 103\text{m}$ ). It is the reports authors' view that the alternative route is reasonably convenient. Committee may also wish to note that the Nottinghamshire Police CRM report at Appendix 5 states that "this [alternative] route appears a safer option, as it is better lit and with good natural surveillance, and is only a short distance further".

## **3 OTHER OPTIONS CONSIDERED IN MAKING THE RECOMMENDATIONS**

- 3.1 The Council could decide not to use the new Gating Order provisions and continue to rely on other legislation for highway closures details of which are set out below at paragraph 3.2 to this report.
- 3.2 The Council could rely purely on the pre-existing power to permanently close a highway under section 118B of the Highways Act 1980, which enables the Council to make an order (known as a "special extinguishment order") where high levels of crime are affecting adjacent and adjoining properties and the highway is facilitating the persistent commission of crime. However, the disadvantages of using this legislation are as follows:
- 3.2.1 The Secretary of State must approve an application for designated area status before the Council can exercise the power to make a special extinguishment order. This is a lengthy and time-consuming process and those residents most directly affected by the crime will continue to suffer in the meantime. The Gating Order provisions involve no such pre-application stage.

- 3.2.2 The Council cannot make a special extinguishment order based solely on ASB which is not criminal. By contrast, the gating provisions allow for either criminal or ASB or a mix of both to supply the legal basis for an order).
- 3.2.3 Only an “all or nothing” solution, whereby a highway is closed permanently, is available if a special extinguishment order is made. This contrasts with the more flexible Gating Order provisions, under which an order restricting public access for only part of the time (during the hours of darkness, for example) may be made, and which may subsequently be varied or revoked. Consequently, local opposition to closure may be less likely.
- 3.2.4 A single objection by a resident is sufficient to deny the Council the ability to confirm a special extinguishment order, and will automatically trigger the need for a public inquiry if the Council wishes to see the order confirmed. By contrast, in the case of a Gating Order, should a statutory consultee such as the Police or the local NHS Trust object, a public inquiry must be held if the Council wishes to see the order confirmed. However, should an objection be received from any other person, the Council has a discretion as to whether a public inquiry should be held before making the Gating Order.

#### **4 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY)**

- 4.1 Gating Orders appear to provide a more workable option than the available pre-existing legislation and reflect value for money in terms of the City Council’s use of available resources. There are no other lawful means of seeking closure of a highway to prevent crime or ASB, the only other legal grounds for closure being that the highway is unnecessary for public use, or that closure of the highway is necessary to enable development to be carried out.
- 4.2 The financial implications of making and implementing gating orders generally are set out in a table attached as an appendix to the report to the Council’s Executive Board meeting on 20 June 2006. In this case, the total cost to Area Committee to implement the Gating Order is £4,000. This includes the cost of advertising the order, erecting security gates and keys and officer’s fees. This will be funded by the Area Capital Fund.
- 4.3 Should objections be received and a Public Inquiry be held, Area Committee would additionally be responsible for meeting the fees charged by the Planning Inspectorate for the provision of an inspector to conduct the inquiry. These fees are currently £630 per day. It is unlikely that such an inquiry would exceed two days. Should this be necessary, it would be funded through the Councillors Ward Allocation.

#### **5 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)**

##### **5.1 LEGAL IMPLICATIONS**

- 5.1.1 The evidence (or a summary thereof) supporting the request for a Gating Order is attached at Appendices 2, 3, 4, 5 and 6. To comply with section 129A(3) Highways Act 1980 the City Council must be satisfied, before making a Gating Order, that:-
- (a) premises adjoining or adjacent to the highway are affected by crime or ASB;
  - (b) the existence of the highway is facilitating the persistent commission of criminal offences or ASB; and

- (c) it is in all the circumstances expedient to make the order for the purposes of reducing crime or ASB.

5.1.2 The circumstances referred to in paragraph 5.1 (c) above include:-

- (a) the likely effect of a Gating Order on occupiers of premises adjoining or adjacent to the highway,
- (b) the likely effect of making the order on other persons in the locality;
- (c) in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.

5.1.3 ASB is defined in the legislation as behaviour by a person which causes or likely to cause harassment, alarm or distress to person(s) not of the same household as himself.

5.1.4 Once the Council has decided to make a Gating Order, it must publish in a local newspaper and on its website a notice giving details of the proposed order and identifying alternative routes which would be available if the proposed order were to be made. The published notice must invite representations on the proposed order within a period specified (no less than 28 days). In addition, the Council must erect notices on or adjacent to the footpath for no less than 28 days. The Council must send a copy of the notice to a number of statutory consultees, including all the occupiers of premises adjoining or adjacent to the footpath, the Police, the Fire and Rescue Service, the local NHS Trust, the Nottingham Local Access Forum, statutory undertakers / providers of gas, electricity, water and telecommunications services in the area of the footpath.

5.1.5 In the case of an order to which no objections are received, the Council can proceed to make the order and publicise it in accordance with statutory requirements.

5.1.6 Should any objections be received to the proposed order, the matter will be brought back to Area Committee confirming the nature of the objection(s) and the options available to the Council. Authorisation will be sought from Area Committee as to how it wishes to proceed. Area Committee will be aware from the report of the Lead Services Director of City Development to its meeting on 19 October 2006 that if objections are received from the Police, the Fire and Rescue Service or the local NHS Trust, that the Council cannot proceed to make the order. In such a case, the Council has the choice either of not proceeding with its proposed order, or of arranging a public inquiry to resolve the opposed order. No order can be made until a public inquiry has been held and concluded in a case involving one of the above objectors. If objections are received from persons other than those specified above, the Council has discretion as to whether to arrange to hold a Public Inquiry or not. If it decides not to do so, it may proceed to make the order and publicise it in accordance with statutory requirements.

5.1.7 At the Public Inquiry, the Council will be required to provide the evidence on which it decided that a proposed order should be made i.e. the basis on which it was satisfied that the statutory tests set out in paragraphs 5.1.1 and 5.1.2 were met. Further, it will be required to demonstrate by the production of evidence that those tests are still met at the date of the inquiry. Because of pressure of work on the part of the Planning Inspectorate, the date of the public inquiry is likely to be many months after the original decision to make the proposed order was taken.

5.1.8 Where objections have been received, Area Committee may authorise a revision of the terms of the proposed order to address the concerns of the objectors (e.g. by amending a

proposed full-time order to an order restricting public access solely during the night). Such a proposed revised order would need to be publicised in the same way as the original order. However, the result may be that previously lodged objections would not be repeated and a public inquiry could be avoided.

5.1.9 A person wishing to challenge the validity of a Gating Order may do so by application to the High Court within six weeks of the order having been made. The possible grounds of challenge are either that the Council had no power to make the order, or that a requirement under the gating order legislation has not been complied with.

## 5.2 CRIME AND DISORDER ACT IMPLICATIONS

5.2.1 Under Section 17 of the Crime and Disorder Act 1998 the Council has a duty to take account of community safety in all areas of its work. The Crime and Drugs Partnership Plan 2001/12 – 2013/14 acknowledges that, once an area is allowed to decline physically and socially, community tolerance and cohesion will reduce and a community's natural ability to regulate crime and ASB will decline. In such an environment crime can flourish. Thus, proactive interventions to tackle ASB (environmental issues, vandalism etc) will help create cohesive communities more resilient to crime and reduce crime in the long term.

5.2.2 The introduction of a Gating Order in appropriate cases will provide the Council with an additional tool to complement other corporate initiatives for reducing crime, disorder and ASB in the community.

## 6 EQUALITY IMPACT ASSESSMENT

6.1 Has the equality impact been assessed?

Not needed (report does not contain proposals or financial decisions)

No

Yes – Equality Impact Assessment attached (Appendix 8)

6.2 The introduction of a Gating Order in appropriate circumstances will help reduce crime, disorder and ASB in the local community and therefore the use of these powers will improve the quality of life for vulnerable and disadvantaged groups within the community. The Equality Act 2010 places a duty on the Council to ensure all potential impacts on, inter alia, disabled citizens have been fully considered and actions are proportionate to the problems. In this case this includes the availability and suitability of an alternative route in the event that the footpath is gated. Details of the alternative route are provided at paragraph 2.6 above.

## 7 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

7.1 Highways Act 1980 (as amended)

7.2 Crime and Disorder Act 1998

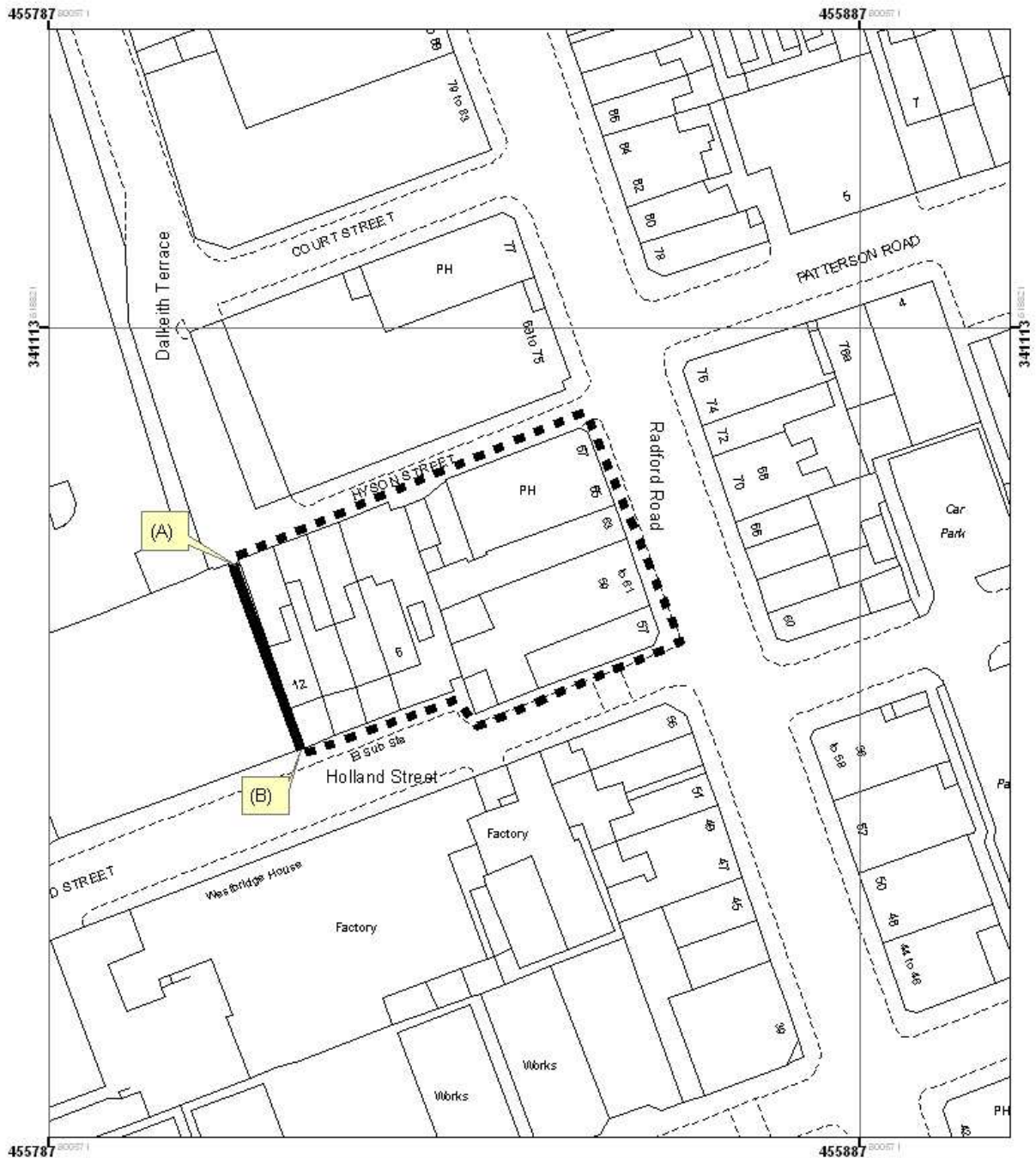
7.3 Clean Neighbourhoods and Environment Act 2005

7.4 The Highways Act 1980 (Gating Orders) (England) Regulations 2006





- 7.5 The Crime and Drugs Partnership Plan 20011/12 – 2013/14
- 7.6 Report to Executive Board meeting on 20 June 2006 headed “Gating Orders”
- 7.7 Minute No. 23 of Executive Board meeting on 20 June 2006
- 7.8 Report of the Lead Services Director of City Development to Area Committee meeting on 19 October 2006
- 7.9 Minute No. 156 of Executive Board meeting on 18 March 2008

# APPENDIX 1: FOOTPATH BETWEEN HOLLAND STREET AND HYSON STREET AND THE ALTERNATIVE ROUTE



## Gating Order Request: Holland Street, Radford

<p><b>Legend</b></p> <p>— (A) - (B) footpath subject of gating order</p> <p>- - - alternative route</p>	<p>Map as issued for March 2012</p> <p>Map as issued for March 2012</p>	<p>N</p> 	 <p>Nottingham City Council</p> <p>Development</p> <p>Scale 1:625</p>
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## APPENDIX 2

### SUMMARY OF EXTRACTS OF DETAILS FROM INCIDENT LOGS FROM PREMISES ADJOINING AND ADJACENT TO THE FOOTPATH

<u>Log no.</u>	<u>Location of Premises</u>	<u>Details of incidents of crime and ASB including dates and times (where indicated)</u>	<u>Part played by footpath in crime or ASB (where indicated)</u>	<u>Was the incident reported to the Police?</u>	<u>Other comments</u>
1	Holland Street	02.03.13 (14.15): ASB	Stood in footpath	Yes	There were about 3 young men aged about 18 drinking alcohol next to my house at the end of the footpath.
		08.03.13 (17.50): ASB	Stood in footpath	Yes	People congregating and drinking alcohol within the footpath.
		31.03.13 (14.09) ASB	Stood in footpath	Yes	Stood outside my house drinking alcohol.
		20.04.13 (14.00) ASB	Stood in footpath	No	People stood at the beginning of the footpath drinking alcohol. By the time I had called the police they had walked off.
		21.04.13 (08.00) ASB	Stood in footpath	Yes	Group of people standing in front of my garden drinking

		21.04.13 (20.50) ASB	Stood in footpath	No	alcohol making a lot of noise. People congregating, drinking and making a lot of noise.
		22.04.13 (12.30) ASB	Stood in footpath	No	Person drinking alcohol although not within the footpath.
		22.04.13 (13.22) ASB	Not indicated	Yes	People congregating, drinking and making noise at the end of the footpath.
		23.04.13 (20.19) ASB	Not indicated	No	People stood outside no 6 Holland Street, drinking and making noise.
		24.04.13 (13.00) ASB	Stood in footpath	No	A man was drinking alcohol as he usually does almost everyday.
		24.04.13 (23.52) ASB	Not indicated	No	Four people were drinking and being noisy behind my wall on the footpath and woke me up.
		25.04.13 (13.31) ASB	Stood in footpath	No	A group of 7 people drinking in front of my garden.
		28.04.13 (20.55) ASB	Not indicated	No	Men congregating and drinking just behind my wall. They need

		02.05.13 (12.30) ASB	Stood in footpath	No	to be warned severely that the footpath is not a free pub. Men standing along Holland Street drinking. They stand next to no. 6 so they are not seen by the CCTV no. 143.
		02.05.13 (16.00) ASB	Stood at the entrance	Police contacted me	I was informed by the police that someone was drinking in the footpath and they threw their drink can into my garden. The person was given a fine.
		02.05.13 (17.01) ASB	Stood in footpath	No	Two men drinking at the entrance to the footpath.
		03.05.13 (10.22) ASB	Stood in footpath	No	Two men drinking within the footpath.
		26.05.13 (13.30) ASB	Stood in footpath	No	Two men drinking within the footpath.
		27.05.13 (19.45) ASB	Not indicated	No	There were a group of 5 – this time my 7 year old daughter witnessed them fighting in front of our garden while they were drunk.
		05.06.13 (18.18 and 19.18)	Not indicated	No	A group of 6 stood outside my

	ASB				front garden drinking.
	05.06.13 (19.45) ASB	Stood in footpath	Yes		The same group of 5 men that I had reported earlier were drinking when two of them started fighting.
	06.06.13 (20.49) ASB	Stood in footpath	Yes		4 people drinking within the footpath – disgusting behaviour.
	06.06.13 (10.48) ASB	Stood at the entrance	No		One person drinking within the footpath.
	06.06.13 (10.59) ASB	Stood at the entrance	No		Person drinking alcohol while standing at the entrance to the footpath.
	07.06.13 (21.30) ASB	Stood at the entrance	No		3 men drinking at the entrance to the footpath.
	15.06.13 (19.30) ASB	Stood at the entrance	No		2 men drinking at the entrance to the footpath.
	20.06.13 (15.30) ASB	Stood at the entrance	No		Drinking at the entrance to the footpath.
	21.06.13 (08.49) ASB	Stood at the entrance	Yes		Drinking at the entrance to the footpath.

		21.06.13 (09.48) ASB	Stood at the entrance	No	I could see them drinking from my front room window.
		21.06.13 (19.20) ASB	Stood in footpath	No	Persons drinking at the entrance to the footpath. They were that drunk that they didn't even leave the area when approached by a PCSO.
		21.06.13 (20.00) ASB	Stood in footpath	No	Eventually they left the area and then returned and started drinking and making a noise again.
		22.06.13 (19.35) ASB	Stood within footpath	No	Today, I was so agitated when I heard people drinking in the footpath just behind my house. I have had enough now.
		27.06.13 (20.00) ASB	Not indicated	No	About 6 – 8 people were drinking and then 2 of them started fighting. Just as I was phoning the police they stopped fighting and went separate ways.
		28.06.13 (19.00) ASB	Stood at the entrance	No	Person drinking outside my house then threw the empty container into my garden.

		29.06.13 (19.02) ASB	Stood at the entrance	No	Person drinking at the entrance – I am sick and tired of these people.
		09.06.13 (19.45) ASB	Not indicated	No	4 persons drinking alcohol – such people are making this community feel unsafe.
		30.06.13 (09.00) Attempted arson	Stood in footpath	No	I woke at 08.00 and noticed someone trying to set fire to my wheelie bin – the bin was left open and there was a beer can left next to it.
		01.07.13 (18.45) ASB	Not indicated	No	3 persons drinking within the footpath beside my front garden. One of them opened my gate and put a beer can in it. I have now moved the bin round the back.
		02.07.13 (19.45) ASB	Not indicated	No	Same persons were then drinking on Holland Street – they stood in front of no.6.  Honestly, the issue is so depressing and annoying.  These people who drink alcohol within the footpath



					<p>make this place unsafe, dirty and also not accessible for others who may wish to use the footpath. I have seen so many people not use the footpath and use the roads instead. This is so unfair.</p> <p>When these people are drinking next to my house they make me feel nervous, especially at night time. I am terrified of who may be standing outside.</p>
<b>2</b>	Holland Street	No specific details provided	Not indicated		<p>Every day, seven days a week, morning afternoon and night time. Footpath side of car park and no. 12 Holland Street is being used for drugs, drinking and as a toilet, leaving litter everyday, the no drinking signs are ignored.</p>
<b>3</b>	Holland Street	No specific details provided	Not indicated		<p>We fully support the recommendation being put forward for a gated entry. Much of the time the footpath is used as a "salon toilet" no matter what time of the day or night. As previously mentioned</p>

					<p>(2010) the filth on the street and footpath as well as cans and bottles being thrown into our car park has not changed, in fact we have encountered used needles as well as other rubbish. If anything things have got worse, even on the street itself. Our staff have to tread carefully because of the amount of broken glass.</p> <p>I know there is a problem with street drinking in the area. I've frequently seen drinkers wandering up and down the road, cans in hand, even as I arrive at work in the morning. It doesn't help to create a safe and secure environment, particularly when it's a couple arguing loudly.</p> <p>It isn't easy to log the incidents because we no longer have staff upstairs (directly over looking the footpath). Consequently, we are unable to see the "goings on" in Holland Street which I</p>
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					personally find a relief, the less I know about the outside world of NG7 5DS the better.
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### **APPENDIX 3**

#### **NOTTINGHAMSHIRE POLICE: POLICE COMMUNITY SUPPORT OFFICER**

I am Police Community Support Officer Lucy Oram stationed at Radford Road Police Station. I am the PCSO for the Forest Arboretum Beat in Nottingham City and have been in this position for nearly 6 years. As part of my role I look at helping our partners deliver long term problem solving strategies.

Holland Street has an alleyway that links to Hyson Street and is hotspot for ASB, drinking and in some cases drug paraphernalia has been reported by residents. On one side of the alley is a private dwelling with a private car park on the other side belonging to Westbridge International, which is the business premises directly opposite the alley.

This alleyway is within the Designated Public Place Order (DPPO) which enables police officers to confiscate alcohol being consumed in this area. The alleyway is a magnet to street drinkers because it provides cover from CCTV and patrolling officers. Street drinkers that have been challenged by colleagues have said this is why they go there; they are hidden from onlookers.

The street drinkers are an ongoing daily nuisance to the adjoining property and other local residents who wish to use the alley. They congregate in the alleyway being noisy, fighting, leaving cans, bottles and other related litter, and even human faeces. The alleyway has an unpleasant smell which I believe is urine and is very overpowering every time you walk through the alleyway. Local residents have commented that they feel too intimidated by the drinkers congregating in the alleyway so they do not feel safe using it and would sooner walk around.

The car park and the adjacent house have cans thrown into their property, which is extremely dangerous. These discarded bottles and cans could seriously injure the occupiers of the house including their young children. A real concern is for one of the young children to come across a broken bottle or a discarded needle or similar dangerous object in their garden.

Although we do encourage local residents to report all incidents to the police, from talking to residents and local businesses I believe that not all incidents are reported which means that the true figure is most likely a lot higher.

Although a gating order will not solve all the ongoing problems it will certainly help move them from the alleyway into the open - making it easier to police. In particular, the gating order will improve the quality of life for the resident living adjacent to the footpath who has to live with constant issues, 24 hours a day, 7 days week. More generally, it will help improve the area for local residents and businesses alike, making the local community feel safer in their neighbourhood.

**NOTTINGHAMSHIRE POLICE INCIDENT DATA: FEBRUARY 2012 TO JULY 2013**

<b>Date of Incident</b>	<b>Time of Incident</b>	<b>incident</b>	<b>How was the path involved in the incident</b>
11/07/2013	No specific time – over night	Suspicious incident	Male repeatedly asking person for phone.
07/07/2013	17.40hrs	ASB	Persons drinking in the alleyway.
19/07/2013	15.01hrs	ASB	Persons drinking in the alleyway.
15/07/2013	11.00hrs	ASB	Officers confiscated alcohol from persons drinking in the alleyway
13/07/2013	19.45hrs	ASB	Officers confiscated alcohol from persons drinking in the alleyway
10/07/2013	21.30hrs	ASB	Persons drinking in the alleyway
02/07/2013	17.22hrs	ASB	Officers confiscated alcohol from persons drinking in the alleyway
01/07/2013	10.55hrs	ASB	Officers confiscated alcohol from persons drinking in the alleyway
30/06/2013		ASB	4 Persons drinking in alleyway, noisy
26/06/2013	20.38hrs	ASB	Reports of constant drinking in the alleyway
26/06/2013	20.48hrs	ASB	Officers confiscated alcohol from person drinking in the alleyway
24/06/2013	16.00hrs	ASB	Officers confiscated alcohol from person drinking in the alleyway

24/06/2013	18.18hrs	ASB	Group of 6 persons in alleyway drinking and throwing rubbish
21/06/2013	15.49hrs	ASB	Group in alleyway drinking alcohol
20/06/2013	19.11hrs	ASB	Officers confiscated alcohol from person drinking in the alleyway
20/06/2013	15.49hrs	ASB	6 persons drinking near to alleyway entrance. Happens most nights between 1700-2100hours.
15/06/2013	08.30hrs	Theft from motor vehicle	Occurred on Holland Street
05/06/2013	08.50hrs	Fire/suspicious	House adjoining alleyway
05/06/2013	18.18hrs	ASB	4-5 persons on Holland Street drinking alcohol
31/05/2013	7.01hrs	Theft from motor vehicle	Occurred on Holland Street
30/05/2013	17.31hrs	Theft from a motor vehicle	Occurred on Holland Street
27/05/2013	20.50hrs	Theft from motor vehicle	Occurred on Holland Street
13/05/2013	21.58hrs	Suspicious incident	Occurred on Holland Street
02/05/2013	20.44hrs	asb	Reports of persons drinking on Holland Street
24/04/2013	14.38hrs	Suspicious incident	Alleyway used as escape route for persons being followed
24/04/2013	13.12hrs	ASB	Reports of persons drinking on Holland Street

24/04/2013	15.49hrs	Theft from motor vehicle	Occurred on Hyson Street
23/04/2013	22.21hrs	ASB	Reports of persons drinking on Holland Street
23/04/2013	11.17hrs	Criminal Damage	Occurred on Holland Street
21/04/2013	19.14hrs	ASB	Reports of persons drinking on Holland Street
20/04/2013	19.52hrs	Drink & disorderly	Occurred on Hyson Street
07/04/2013	20.55hrs	Police Activity	Male possible in drink injured on Hyson Street
31/03/2013	13.06hrs	Robbery	Alleyway used by offenders
29/03/2013	12.30hrs	Robbery	Alleyway used as escape route
27/03/2013	19.34hrs	Susp	Reports of males fighting who had been drinking at top of the alleyway
27/03/2013	11.34hrs	Violence against	Alleyway used as escape route
08/03/2013	20.50hrs	Theft from motor vehicle	Alleyway used as escape route
03/03/2013	20.44hrs	ASB	Reports of drinking in the alleyway and on Holland Street
24/02/2013	15.49hrs	ASB	Reports of 4 persons drinking in the alleyway – persons unable to get pass
12/01/2013	15.09hrs	susp	Male stood in alleyway and followed persons.

08/01/2013	18.23hrs	ASB	3 confiscations on Holland Street
08/01/2013	18.09hrs	ASB	2 confiscations on Holland Street
08/01/2013	21.30hrs	ASB	Reports of drunken male on Holland Street
24/11/2012	10.55hrs	ASB	2 confiscations on Holland Street
05/11/2012	19.11hrs	ASB	Confiscation in alleyway
31/10/2012	16.20hrs	ASB	2 confiscations on Holland Street
24/09/2012	14.10hrs	ASB	Confiscation on Holland Street
11/09/2012	13.15hrs	ASB	Confiscation in alleyway
11/09/2012	20.15hrs	ASB	2 confiscations in alleyway
13/08/2012	15.06hrs	ASB	Confiscation on Holland Street
11/08/2012	11.00hrs	ASB	2 confiscations entrance to alleyway
30/07/2012	16.30hrs	ASB	2 confiscations on Holland Street
24/07/2012	11.45hrs	ASB	2 confiscations on Holland Street



11/07/2012	13.40hrs	ASB	Confiscation on Holland Street
05/07/2012	18.30hrs	ASB	Confiscation in alleyway
05/07/2012	14.50hrs	ASB	2 confiscations on Holland Street
03/07/2012	17.10hrs	ASB	confiscations on Holland street
18/06/2012	19.54hrs	ASB	Confiscation on Holland Street
11/06/2012	19.50hrs	ASB	3 confiscations on Holland Street
18/05/2012	19.40hrs	ASB	Reports of drug dealing in alleyway
05/05/2012	18.40hrs	ASB	Confiscation on Holland Street
19/04/2012	18.30hrs	ASB	Confiscation on Holland street
22/02/2012	17.50hrs	ASB	2 confiscation on Holland street
16/02/2012	19.40hrs	ASB	3 confiscations on Holland Street

## **APPENDIX 4**

### **NOTTINGHAMSHIRE POLICE ASB VICTIM SUPPORT**

I'm currently working with a resident of Holland Street in relation to ASB caused by street drinkers using the alley next to the property. I have visited the resident a few times and they explained at length the impact these activities are having on the quality of life of them and their children. The resident informs me there are groups of intoxicated people outside the property on a daily basis; the family frequently have to deal with littering, shouting and arguments, urinating and drug use. Items have been thrown into the garden, narrowly missing the two small children, and they have also found used needles in the garden. The whole family feel intimidated by these people, and it is having a significant impact on them.

I fully support the application for a Gating Order, and I hope that you will be able to help the residents of this specific property, and also the surrounding area, in their search for a solution, so that they can start to feel safer and more independent in their surroundings.

## APPENDIX 5

### NOTTINGHAMSHIRE POLICE ARCHITECTURAL LIAISON OFFICER / CRIME REDUCTION MANAGER'S REPORT: JULY 2009 (INCLUDING UPDATE AUGUST 2013)

#### Holland Street – Footpath

I have today [July 2009] visited the above footpath, accompanied by the Crime Reduction Manager for the City Centre; we have also examined the current reported crime and disorder data with regards to the potential gating order of this footpath.

#### Environmental

The footpath which is a narrow alleyway (possibly originally an alleyway between houses, some of which have been demolished in order to create a car park), which leads from Holland Street to Hyson Street, Hyson Green, Nottingham.



View from Holland Street towards  
Hyson Street



View from Hyson Street towards  
Holland Street

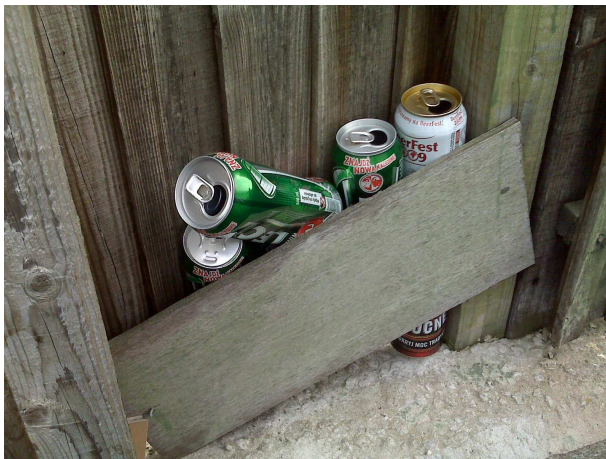
The footpath has much evidence of being misused with the culmination of many empty alcoholic beer cans, cigarette butts, graffiti, and signs of the adjacent house wall being used as an open-air toilet.

The majority of the beer cans and cigarette butts appear at either end of the footpath, on the Holland Street elevation the beer cans have been thrown over the fence into the adjoining car park.

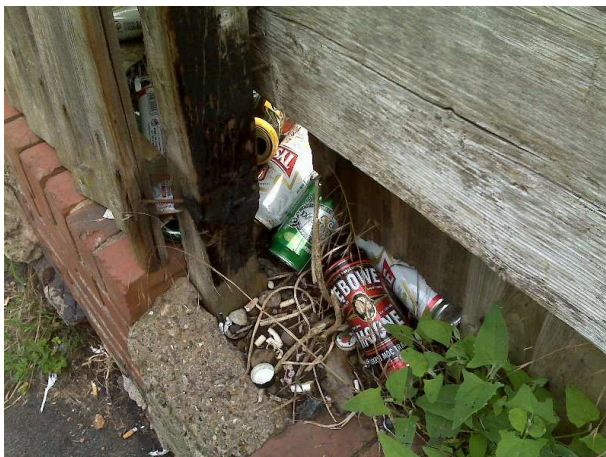


Holland Street – inside car parking area

Towards the Hyson Street elevation the beers cans etc have been both thrown into the car park and on the ground, as well as being inserted into gaps in the fence.



Hyson Street elevation



The footpath also suffers from vandalism, with criminal damage to the fence on both sides of the footpath and with graffiti.



Graffiti on wall of adjacent house

The local residents have found it necessary to try to protect their property with the use of barbed wire, nails and even razor wire in an attempt to prevent unlawful access. This is obviously a safety concern for users, but the residents have elected to protect themselves from crime and disorder in this fashion, due to their growing concerns.

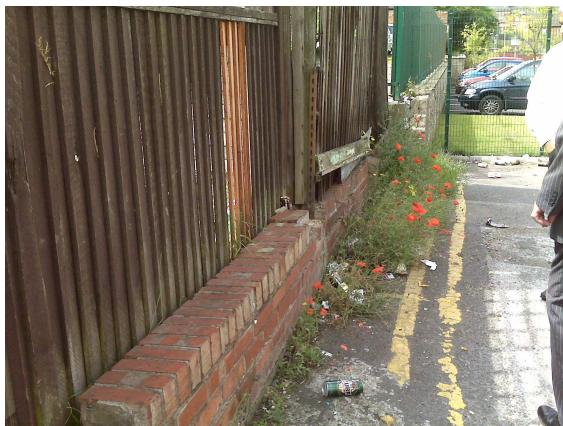


During our site visit we were approached by a local businessman who informed us, of his opinion, of the particular problems associated with this footpath.

It would appear that a group of hardened drinkers regularly frequent this footpath, and especially the Hyson Street elevation in order to drink heavily. We are aware from local Police Officers that a group of hardened drinkers, mostly men older from 30's to middle age, regularly drink alcohol, most of the day, in various parts of the Hyson Green area, despite an "On Street Drinking Ban". It would appear that this footpath area is one of their regular haunts.

The local businessman also informed us that these persons regularly abuse local people, including the female dental nurses from the adjacent dental practice. The abuse is obviously unwanted and varies from sexual innuendo to racial comments. Damage to motor vehicles parked to the rear of businesses on Hyson Street is also evident, although very little if any is actually reported to the Police.

Towards the Hyson Street elevation the fence to the nearby homes is positioned above or behind a low wall, which allows the wall to be used as a seat, this area is also used by this group.



Hyson Street Elevation

### Crime and Disorder

During the previous 12 months there have been 19 reported crimes on Holland Street, but none of which can be directly attributed to the footpath. Only one crime occurred in the near vicinity, which was a theft from motor vehicle on the adjacent car park, but it is unknown if the group of persons identified above, were involved.

There were no crimes reported on Hyson Street in the same 12 month period.

With regards to disorder, again in the same 12 month period, Holland Street residents reported 46 incidents to the Police, of these 15 incidents related to rowdy or inconsiderate behaviour, violence against person or street drinking.

A number of these incidents can be related to a group of persons drinking in the street.

On Hyson Street in the same 12 month period, 6 incidents were reported, 3 of which were incidents relating to rowdy or inconsiderate behaviour or violence against the person, it is not clear if the group of drinkers were involved in these incidents.

### Conclusion

It would appear that this footpath is being regularly misused by this group with local people unwilling or afraid to use this footpath when these persons congregate, which can be most of the day, but especially from late afternoon to late night.

The group of people do not appear to be the cause of large amounts of reported crime in the locale, but appear to be responsible for some of the disorder in the area, and they appear wholly responsible for the large amounts of discarded drinks cans and other rubbish.

There may be other underlying issues here, that people maybe afraid to report incidents caused by there these persons due to fear of reprisals, the evidence of protection to the fencing with razor wire etc, may indicate a much deeper problem than appears with crime and disorder statistics.

A gating order may assist in reducing the crime and disorder at this location, but dependent upon this time of locking (usually overnight), this may not be the correct solution to this problem.

If a gating order was to be achieved for this footpath, then a semi permanent locking should be achieved, with access for residents only by use of a key from the local housing office or we should consider a footpath closure order.

Simply obtaining a gating order and then only locking it at night will achieve very little here.

The footpath gives access to Hyson Street, a short street with the rear of homes and businesses. It also gives access to the Mary Potter Health Centre, but an alternative route to/from Mary Potter would be along Radford Road via Court Street.

This route appears a safer option, as it is better lit and with good natural surveillance, and is only a short distance further.

If a gating order is to be effective, in addition to the correct times of opening, it is also important to make modifications to the fence/wall to the homes on the Hyson Street elevation, otherwise the problem will just move a few yards and the wall will continue to be used as a seating area.

In our opinion this footpath does cause a great deal of nuisance and disorder to local residents and businesses. The group of persons may not be causing crime in this vicinity, but it is highly likely that they will be responsible for some of the crimes in the local vicinity, including shop theft, robbery and theft, in order to fund their lifestyle.

We would support a gating or closure order for this footpath to relieve the problems affecting local residents and business, however we are not naïve to the continuing effect of this group into other hidden away areas of the local community.

### **UPDATED REPORT AUGUST 2013**

I revisited the above footpath on 9<sup>th</sup> August 2013 to examine the current condition of the footpath. In general terms, at the date of my latest visit, there were no real differences from my original report in July 2009, with the overall misuse of the alleyway, evidence of drinks cans, graffiti and damage to fencing of no 12 were still evident.

On checking the Police reported crime in the past 12 months there have been 18 reported incidents involving persons in drink, both on the footpath and on Holland Street. The majority of the incidents refer to Polish or Eastern European persons involved in drinking on the footpath or Holland Street, resultant fighting breaking out and criminal damage being caused.

Of the 18 reported crimes/incidents, 7 of these were to No 12 Holland Street (the home immediately adjacent to the footpath), these included 6 ASB of persons in drink causing noise and nuisance on the footpath and one incident of Arson to the wheelie bin stored in the front garden.

The remainder of incidents were reported by other residents on Holland Street, 8 reported incidents of drinking on the footpath or street, 2 incidents of drunken persons fighting and 1 incident of a male urinating in the street.

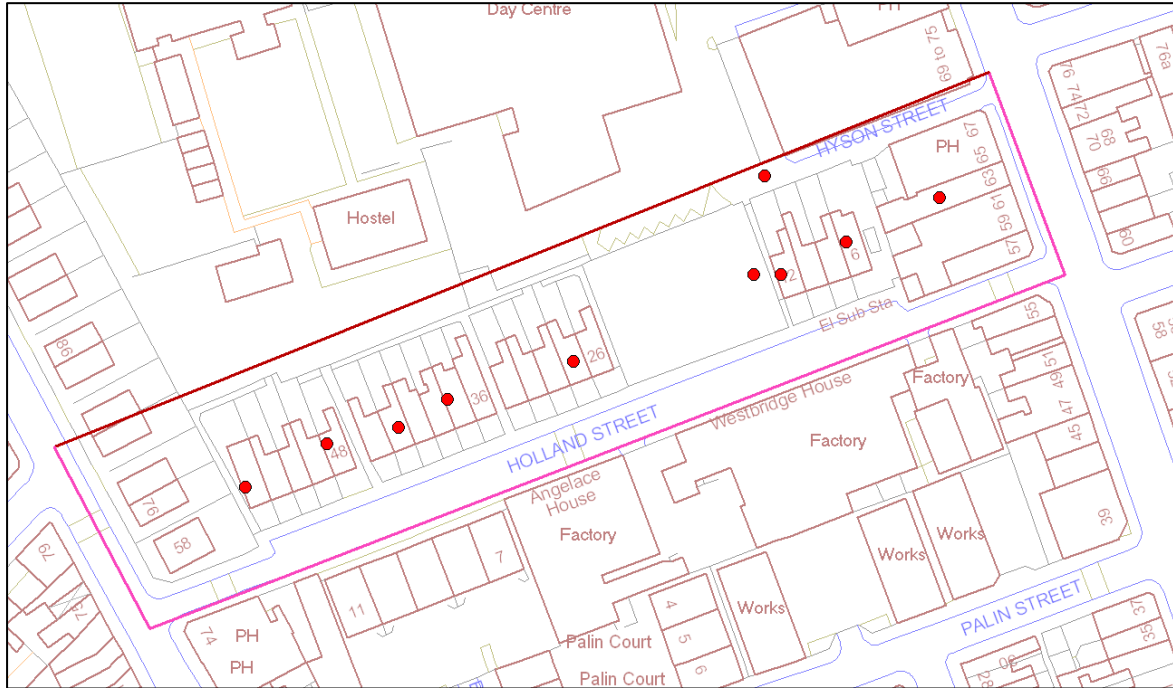


## **APPENDIX 6**

### **NOTTINGHAM CRIME AND DRUGS PARTNERSHIP**

#### **Crimes and offences occurring in the proposed Gating Order area Holland Street, Radford**

Both crimes and ASB incidents were looked at over a 15-month period (1 April 2012 to 31 July 2013) on the Forest Rec & Arboretum beat (CCFG). A polygon was drawn in the mapping system Prophecy to show the offences occurring within the proposed gating order area (shown below).



Over the 15-month period, there were a total of 18 crime and ASB incidents (6 of former; 12 of latter).

The crime types are detailed in the table below:

Initial Offence Category Desc	Total
ASB NUISANCE	9
ASB ENVIRONMENTAL	3
THEFT FROM VEHICLE	2
BURGLARY DWELLING	1
CRIMINAL DAMAGE TO A VEHICLE	1
THEFT OR UNLAWFUL TAKING OF MAIL	1
THEFT OTHER	1
Grand Total	18

A closer look was taken at the offences/incidents to see if there were any connections with the footpath.

#### **ASB nuisance and ASB environmental related to the footpath**

There were 9 ASB nuisance and 3 ASB environmental incidents reported in the 15-month period.

Of these 12 incidents, 10 relate to reports of people drinking in Holland Street and the footpath. The reports originate from more than one complainant.

The majority of the ASB incidents reported took place in March, April and June 2013. However, callers state, for example, that this 'happens every night when the weather is good'; and that offenders are 'usually there most nights'; and that it 'happens most days, different people drinking in the street, shouting, and causing general disturbance' – so it may well be that there are more incidents than reported.

One ASB nuisance relates to street drinkers on Hyson Street (June 2013), where the footpath leads from Holland Street. There was no information clearly stating that they were on the footpath at any time during the incident; but they would have been nearby.

## APPENDIX 7

### REPORT TO THE CITY COUNCILS EXECUTIVE BOARD

#### EXECUTIVE BOARD 20 JUNE 2006

<b>Title of paper:</b>	Gating Orders	<b>Key decision</b> YES
<b>Chief Officer(s)</b>	Adrian Jones, Acting Lead Services Director Telephone Number: 9155312 Email: adrian.jones@nottinghamcity.gov.uk	
<b>Contact officer(s)</b>	Stewart Thompson Services Manager Traffic and Safety Telephone Number: 9156055 Email: stewart.thompson@nottinghamcity.gov.uk	
<b>Summary issues raised:</b> <ul style="list-style-type: none"><li>- New legislation enabling the City Council to make orders to gate public highways to reduce crime or antisocial behaviour which provides the Council with an additional tool to fulfil its statutory responsibility to reduce crime and disorder within its area.</li></ul>		
<b><u>Recommendations:</u></b>	<b><u>Summary of Implications:</u></b>	
For the authorisation of officers to carry out tasks associated with gating orders; and For the authorisation of funding for necessary work/expenditure in connection with gating orders; and To impose a maximum number of gating orders which each Area Committee will authorise per financial year.	Significant staff and financial resource issues and statutory legal obligations as detailed in the report.	
<b>Impact on corporate objectives:</b>	<b>Benefits to customers/service users:</b>	
Customers: by reducing crime or antisocial behaviour Nottingham will be a safer place for residents and visitors alike Social Inclusion: by making Nottingham City safer residents and visitors will feel more inclined to feel part of the local community Sustainability: reducing crime and antisocial behaviour will reduce enviro-crime making the Nottingham more environmentally sustainable	By reducing crime and antisocial behaviour and the fear of crime and antisocial behaviour the proposals will benefit all customers and service users	

**REPORT OF ACTING LEAD SERVICES DIRECTOR OF CITY DEVELOPMENT**

**GATING ORDERS**

**1 KEY DECISION**

This matter is the subject of a Key Decision because it is significant in terms of its effects on communities living or working in an area consisting of two or more wards in the City.

**2 RECOMMENDATIONS**

IT IS RECOMMENDED that:

- i) the performance of functions and responsibilities associated with the exercise of gating order powers as detailed in the Appendix to this report be approved;
- ii) the allocation of City Council resources as detailed in the Appendix to this report for the carrying out of those functions and responsibilities be approved;
- iii) No more than one gating order is authorised by each Area Committee per financial year.

**3 REASONS**

To enable the Council to avail itself of new powers to deal with crime and antisocial behaviour and to provide the Council with an additional tool to help fulfil its statutory responsibility to reduce crime and disorder within its area.

**4 BACKGROUND**

Until relatively recently, it was possible to close a public right of way only on grounds of development or lack of necessity. Concerns had been expressed that some rights of way were facilitating the commission of crime. In response to this, the Countryside and Rights of Way Act 2000 contained a power to enable highway authorities to close permanently a minor right of way for the purposes of crime reduction. This provision has been found by local authorities to be time-consuming, expensive and difficult to use.

**5. PROPOSALS**

- 5.1 The Clean Neighbourhoods and Environment Act 2005 introduced a new power for highway authorities to make gating orders for the purpose of reducing crime or antisocial behaviour. Unlike previous legislation for the closure of highways, a gating order does not remove highway status but (as with a traffic regulation order) simply restricts the public from being able to use the highway at all times. The restriction may be full or part-time, thereby allowing, for example, the physical closure of rights of way outside daylight hours. The legislation permits the installation of physical barriers to enforce the restriction.

- 5.2 To comply with the legislation, the Council would, before making a gating order, have to be satisfied that properties adjacent to the highway were affected by crime or antisocial behaviour and that the existence of the highway was facilitating the commission of crime or antisocial behaviour. The Council would be required to give notice to the public, the Police, the Fire and Rescue Service, the local NHS trust, statutory undertakers, and other consultees before an order is made. Objections may be made to the order within a set time period, and the legislation provides a framework for the holding of public inquiries in certain cases where objections have been received.
- 5.3 Under the Council's Constitution, the appropriate bodies for determining individual applications for gating orders are the Area Committees, who have the power "to approve minor .... closures under highways and road traffic legislation, of a local nature ...". The role of Area Committees will be to decide, on the basis of information and evidence which officers have received and assessed in each case whether a gating order should be authorised. If recommendation no. iii is approved the Area Committee may have to choose one particular application which is to be authorised for the making of a gating order for that financial year from amongst a number. To assist an Area Committee in undertaking this process it is proposed that the report to the Area Committee on the individual application for a gating order will contain any relevant information and/or data provided by the "Joint Tasking" process which is already operating within the City to tackle crime, disorder and antisocial behaviour hot spots.
- 5.4 Joint Tasking is a partnership between the Council, Crime Disorder Reduction Partnership, Police, Probation Services, Nottingham City Homes, local NHS Trusts and the Fire and Rescue Services. Representatives of each of these bodies attend regular meetings at which geographical areas of crime, disorder and antisocial behaviour are identified and incident data is considered. Resources are then allocated, with priority being given to tackle identified hotspots.
- 5.5 If objections are received to the proposed order, a further report will be taken to the relevant Area Committee to request authorisation as to how the Area Committee wishes to proceed.
- 5.6 If the actions detailed in the recommendations to this report are approved, it is proposed, prior to Area Committees being required to consider individual applications, that each Area Committee should receive a briefing report. This briefing report will expand on the new legislation and the role of the Area Committee in implementing the changes.
- 5.7 It is anticipated that a gating order request may, if it results in an order being made, generate the following tasks:
- I. considering and investigating the application (including assessing and collecting data)
  - II. liaising with Joint Tasking, Members, residents, the Police and other Council departments regarding evidence to support any order
  - III. making an application for planning permission to erect gates in certain cases
  - IV. reporting to Area Committee regarding the application for an order
  - V. publicising proposed order and preparing order
  - VI. considering any objections received and liaising with objectors
  - VII. reporting back to Area Committee if objections received

- VIII. in appropriate cases, preparing for and attending public inquiry
- IX. carrying out further publication requirements after order made
- X. arranging installation of and repairs and maintenance to fencing and gates
- XI. arranging cutting and distribution of keys and arranging supply of duplicate keys (if applicable)
- XII. locking and unlocking gates periodically (if order requires it)

5.8 These tasks and suggested personnel to perform them are contained in the table which is in the Appendix to this report.

## **6.0 TIMESCALE FOR IMPLEMENTATION OF PROPOSALS**

6.1 The powers to make gating orders came into effect on 1 April 2006. It is intended that applications for individual gating orders should be processed as soon as the recommendations numbered i and ii in this report have been approved by Members. (This contrasts with the delays inherent in the making of orders under the pre-existing legislation; Members are referred to paragraph 7.2 below and to the first bullet point under that paragraph).

## **7 OTHER OPTION**

7.1 The Council could decide not to use the new gating order provisions and continue to rely on other legislation for highway closures details of which are set out at paragraph 7.2 to this report. However, under section 17 of the 1998 Crime and Disorder Act the Council has a duty to take account of community safety in all areas of its work, and under the *Safe For Nottingham: Nottingham City Crime, Drugs and Anti-Social Behaviour Strategy 2005 – 2008* all policies, plans, activities and budgets need to be considered from the standpoint of their potential contribution to the reduction of crime and disorder. The availability of gating orders for use in appropriate cases will complement other corporate initiatives for reducing crime and disorder and antisocial behaviour in the community.

7.2 The Council could decline to use the new gating order provisions and rely instead purely on the pre-existing power permanently to close a highway under section 118B of the Highways Act 1980, which enables the Council to make an order (known as a “special extinguishment order”) where high levels of crime are affecting adjacent and adjoining properties and the highway is facilitating the persistent commission of crime. However, the disadvantages of using this legislation are as follows:

- The Secretary of State must approve an application for designated area status before the Council can exercise the power to make a special extinguishment order. This is a lengthy and time-consuming process and those residents most directly affected by the crime will continue to suffer in the meantime. (The gating order provisions involve no such pre-application stage).
- The Council cannot make a special extinguishment order based solely on antisocial behaviour which is not criminal. (By contrast, the gating provisions allow for either criminal or antisocial behaviour or a mix of both to supply the legal basis for an order)
- Only an “all or nothing” solution, whereby a highway is closed permanently, is available if a special extinguishment order is made. (This contrasts with the more flexible gating order provisions, under which an order restricting public access for only part of the time (during the hours of darkness, for example)

may be made, and which may subsequently be varied or revoked. Consequently, local opposition to closure may be less likely).

- A single objection by a resident is sufficient to deny the council the ability to confirm a special extinguishment order, and will automatically trigger the need for a public inquiry if the Council wishes to see the order confirmed. (By contrast, in the case of a gating order, should a statutory consultee such as the Police or the local NHS Trust object, a public inquiry must be held if the Council wishes to see the order confirmed. However, should an objection be received from any other person, the Council has a discretion as to whether a public inquiry should be held before making the gating order).

7.3 Gating orders appear to provide a more workable option than the available pre-existing legislation and reflect Best Value in terms of the City Council's use of available resources. There are no other lawful means of seeking closure of a highway to prevent crime or antisocial behaviour, the only other legal grounds for closure being that the highway is unnecessary for public use, or that closure of the highway is necessary to enable development to be carried out.

## **8 FINANCIAL IMPLICATIONS**

8.1 There may be a high demand for gating orders, and meeting that demand may have a significant financial impact on the City Council.

8.2 It is anticipated that the financial implications of gating orders will be a combination of officer time and expenditure on other items. The Appendix to this report contains approximate costings and estimates of officer time in connection with each task per order. A range of costs is given in connection with some tasks where variation is expected.

8.3 From current information available, it is anticipated that if the process of making gating orders is entirely demand-led, that the total number of applications to be considered by Area Committees each year is likely to be ten or less. However, with a view to ensuring the fair allocation of existing resources across the City, with priority being able to be given to a finite number of cases at any one time, it is proposed that each Area Committee be limited to authorising the making of one gating order per financial year.

8.4 If no limit is set, the adequacy of available resources (particularly in relation to tasks being carried out within existing revenue budgets) may need to be reviewed at a future date, if it transpires that the volume of work associated with gating order applications is greater than anticipated, and that staff are not able to deal with the applications within an acceptable timescale.

## **9 EQUAL OPPORTUNITIES IMPLICATIONS**

The reduction of crime and/or antisocial behaviour by the introduction of a gating order will ensure all customers are less likely to suffer crime or antisocial behaviour when accessing local amenities and going about their day to day business.

## **10 List of background papers other than published works or those disclosing confidential or exempt information**

NONE

## **11 Published documents referred to in compiling this report**

Local Transport Plan 2006/7 – 2010/11  
Highways Act 1980 as amended  
Countryside and Rights of Way Act 2000  
Clean Neighbourhoods and Environment Act 2005  
The Highways Act 1980 (Gating Orders) (England) Regulations 2006 (Statutory Instrument 2006 No. 537)  
Guidance Relating to the Making of Gating Orders published by the Home Office, March 2006  
Crime and Disorder Act 1998  
Safe For Nottingham: Nottingham City Crime, Drugs and Anti-Social Behaviour Strategy 2005 – 2008

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15 May 2006



## APPENDIX

<b><u>Task</u></b>	<b><u>Suggested Officer/Team(s)/Body to Perform Task</u></b>	<b><u>Approximate Cost of Task Per Order</u></b>	<b><u>Budget Source and Department Responsible</u></b>
I. Considering and investigating application(including assessing and collecting data)	Rights of Way Officer – Traffic Management – City Development Planning and Environment Team – Legal Services – Corporate Services	Will vary according to quality and quantity of information provided. Likely to be between £385 and £600 based on between 11 and 175 hours of officer time	To be contained within existing revenue budgets allocated to City Development (Traffic and Safety Service Area) and Corporate Services (Legal Services)
II. Liaising with Joint Tasking, Members, residents, the Police and other Council departments regarding evidence to support order	Rights of Way Officer – Traffic Management – City Development Planning and Environment Team – Legal Services – Corporate Services	Will vary according to particular application but likely to be between £275 and £ 495 based on between 7 and 13 hours of officer time	To be contained within existing revenue budgets allocated to City Development (traffic and Safety Service Area) and Corporate Services (Legal Services)
III. Applying for any necessary planning permission to erect gates	Relevant Area Committee	Planning application fee of £135 plus cost of officer time (estimated 5 hours) of £165	Relevant Area Committee to make planning application and pay fee.
IV. Reporting to Area Committee regarding application for order	Rights of Way Officer – Traffic Management – City Development; Planning and Environment Team – Legal Services – Corporate Services	Estimated as between £154 and £188 based on between 4 and 5 hours of officer time	To be contained within existing revenue budgets allocated to City Development (Traffic and Safety Service Area) and Corporate Services (Legal Services )
V. Publicising proposed order and preparing order	Rights of Way Officer – Traffic Management – City Development	Estimated as between £165 and £198 based on between 5 and 6 hours of officer time plus £700 being fees for advertising	The work is to be carried out by the Traffic Management Section (City Development) within its existing revenue budget. The cost of advertising is to be met by the relevant Area Committee

VI. Considering objections and liaising with objectors	Rights of Way Officer – Traffic Management – City Development; Planning and Environment Team – Legal Services – Corporate Services	Estimated as between £220 and £308 based on between 6 and 8 hours of officer time	To be contained within existing revenue budgets allocated to City Development (Traffic and Safety Service Area) and Corporate Services (Legal Services).
VII. Reporting back to Area Committee	Rights of Way Officer – Traffic Management – City Development; Planning and Environment Team – Legal Services – Corporate Services	Estimated as between £154 and £243 based on between 4 and 5 hours of officer time	To be contained within existing revenue budgets allocated to City Development (Traffic and Safety Service Area) and Corporate Services (Legal Services).
VIII. Preparing for and attending public inquiry	Rights of Way Officer – Traffic Management – City Development; Planning and Environment Team – Legal Services – Corporate Services	Will vary according to particular circumstances of case but estimated at between £883 and £1760 based on between 20 and 40 hours of officer time	To be contained within existing revenue budgets allocated to City Development (Traffic and Safety Service Area) and Corporate Services (Legal Services).
IX. Carrying out further publication requirements after order made	Rights of Way Officer – Traffic Management – City Development	Estimated at £66 based on 2 hours of officer time	The work is to be carried out by the Traffic Management Team (City Development) within existing revenue budgets. The cost of advertising is to be met by the relevant Area Committee
X. Arranging installation of fencing and gates	Rights of Way Officer Traffic Management Team – City Development	Estimated at £99 based on 3 hours of officer time plus cost of gates and fencing at between £2000 and £3000	The work is to be carried out by the Traffic Management Team (City Development) and contained within existing revenue budgets. The cost of gates and fencing is to be met by the relevant Area Committee

<p>XI. Carrying out repairs and maintenance to fencing and gates</p>	<p>Highways Maintenance – City Development</p>	<p>Will vary from case to case but estimated at between £66 and £99 based on between 2 and 3 hours of officer time plus materials</p>	<p>To be contained within existing revenue budgets allocated to City Development (Highways Maintenance Section )</p>
<p>XII. Arranging cutting and distribution of keys and arranging supply of duplicate keys (if applicable)</p>	<p>Traffic Management Team – City Development</p>	<p>Estimated at between £ 33 and £66 based on between 2 and 3 hours of officer time plus £10 per security key</p>	<p>The work is to be carried out by the Traffic Management Team (City Development) within existing revenue budgets. The cost of the keys is to be met by the relevant Area Committee</p>
<p>XIII. Locking and unlocking gates periodically (if order requires it)</p>	<p>Neighbourhood Services – task to be performed by Community Protection Officers (Wardens)</p>	<p>Estimated at £5000 per order per year including vehicle use for task to be carried out by Neighbourhood Services</p> <p>A request for an estimate from an external security firm has indicated that they would charge £11 per day on the basis of two visits. This would equate to a yearly cost of £4015 per order</p>	<p>To be contained within existing revenue budgets allocated to Neighbourhood Services</p>

## Appendix 8

### Equality Impact Assessment Form

#### **Name and brief description of proposal / policy / service being assessed**

The City Council has received a request from the Safer Neighbourhood Police Team for a Gating Order to restrict public access along a footpath running between Holland Street and Hyson Street, Arboretum to deal with crime, disorder and/or anti-social behaviour occurring either on the footpath itself or resulting from its use.

Under Section 17 of the Crime and Disorder Act 1998 the City Council has a duty to take account of community safety in all areas of its work. The introduction of a Gating Order in appropriate cases provides the City Council with an additional tool to complement other initiatives for reducing crime, disorder and anti-social behaviour in the community.

The Holland Street Gating Order will help reduce problems of street drinking, resultant street fighting, litter, drug dealing and taking and general disorder which will help reduce crime, disorder and anti-social behaviour in the local area.

#### **Information used to analyse the effects on equality**

The Holland Street footpath is 25 metres in length. In the event that the footpath is gated, the alternative route using Holland Street and Hyson Street is 128 metres in length. Use of the alternative route would therefore add 103 metres to a person's journey (i.e. 128m – 25m = 103m). The extra distance may present difficulties for some citizens as indicated below.

#### The alternative route

In the event that the footpath is gated and public access is restricted along the footpath, it is not possible to provide a shorter alternative route than the one proposed along the pavements of Holland Street and Hyson Street.

Currently, the abuse of the footpath by the perpetrators of the crime, disorder and anti-social behaviour means that the footpath is not used by local residents, who prefer to use the pavements of Holland Street and Hyson Street.

	<b>Could particularly benefit (X)</b>	<b>May adversely impact (X)</b>	How different groups could be affected: Summary of impacts	Details of actions to reduce negative or increase positive impact (or why action not possible)
People from different ethnic groups	<input type="checkbox"/>	<input type="checkbox"/>		
Men, women (including maternity/pregnancy impact), transgender people	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Women who are pregnant and/or are travelling with young children may find it difficult to travel the extra distance of 103 metres between Holland Street and	This group will benefit positively through a reduction of crime, disorder and anti-social behaviour in the local


Disabled people or carers	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Hyson Street.	area.
			Disabled citizens and/or their carers may find it difficult to travel the extra distance of 103 metres between Holland Street and Hyson Street. There is also the possibility that the crime, disorder and anti-social behaviour may be displaced to another area which may affect this group.	There will be an adverse impact on disabled people and/or their carers. However, through the reduction of crime, disorder and anti-social behaviour in the local area this group may also particularly benefit.
People from different faith groups	<input type="checkbox"/>	<input type="checkbox"/>		The Disability Advisory Group and the Nottingham Local Access Forum will be consulted on the proposed Order. As part of the statutory consultation for the Gating Order, a map showing the alternative route will be placed at either end of the gated footpath along with a copy of the proposed Order.
Lesbian, gay or bisexual people	<input type="checkbox"/>	<input type="checkbox"/>		
Older or younger people	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Older and younger people will benefit from a reduction of crime, disorder and anti-social behaviour in the local are brought about by the introduction of the Gating Order. There is also the possibility that the crime, disorder and anti-social behaviour may be displaced to another area which may affect this group.	Through the reduction of crime, disorder and anti-social behaviour in the local area there will be a positive impact on older and younger people.
Other (e.g. marriage/civil partnership, looked after children, cohesion/good relations, vulnerable children/adults)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Vulnerable citizens will benefit from a reduction of crime, disorder and anti-social behaviour in the local area brought about by the introduction of the Gating Order. There is also the possibility that the crime, disorder and anti-social behaviour may be displaced to another area which may affect this group.	Through the reduction of crime, disorder and anti-social behaviour in the local area there will be a positive impact on vulnerable children and adults.

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**Outcome(s) of equality impact assessment:**

No major change needed  Adjust the policy  Adverse impact but continue  Stop and remove the policy/proposal

**Arrangements for future monitoring of equality impact of this proposal / policy / service:** 12 months from the introduction of the Gating Order, local residents will be asked to complete a survey which will help determine whether the Order has helped reduce the occurrence of crime, disorder and anti-social behaviour in the local area. This survey will also highlight any displacement of the crime, disorder and anti-social behaviour to other areas.

Approved by (manager signature): Ian Nash   
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Date sent to equality team for publishing: **06.09.13**