



REPORT TO CABINET MEMBER FOR ENVIRONMENT

Draft to EPPM

13th November 2007

Decision to be made: 4 December 2007

Decision to be implemented:

agenda item number

3.1

PROPOSED GATING ORDERS - MANSFIELD WOODHOUSE, CARLTON and COTGRAVE.

Decision Recommended

- 1 That approval be given to consult, advertise and introduce, subject to the consideration of any objections received, gating orders on various paths in the vicinity of the Manor Complex, Mansfield Woodhouse, a path adjacent to Foxhill Road in Carlton and a path adjacent to the Wildlife Conservation Area in Cotgrave.

Delegated Authority

- 2 Scheme of Delegation E3. All powers relating to the planning, management and maintenance of highways and rights of way, and the development of integrated transport and road safety which are not delegated to the Planning Committee including;-(in consultation with the Member of Finance and Property) the disposal of land acquired (but no longer needed for) highway purposes.

Policy/Budget Framework

- 3 The Clean Neighbourhoods and Environment Act 2005 gives the County Council the power to make gating orders which have the effect of restricting the use of the highway (rather than stopping up or diverting the highway) in order to overcome problems of anti-social behaviour and crime. At its meeting on the 8th November 2006, Cabinet resolved to trial the draft policy and procedures for introducing gating orders on a small number of sites to be approved by the Cabinet Member for Environment in consultation with the Cabinet Member for Community Safety and Partnerships. Since then, there have been applications from most of the Crime and Disorder Reduction Partnerships for gating orders in their District. An allocation of £20,000 has been made from the Routine Maintenance Revenue Budget to contribute towards the cost of introducing gating orders at the trial locations.

Background

- 4 Since the enactment of the Regulations relating to gating orders under the Clean Neighbourhoods and Environment Act 2005, all the Crime and Disorder Reduction Partnerships have been working on applications for gating orders in their areas. There is a need for these applications to be prioritised once they have met the necessary criteria laid down in the agreed policy and procedures. In order to satisfy Cabinet's desire for a trial of these procedures it is felt appropriate to choose a range of applications that are well advanced for the following areas;-

i) Various link footpaths in the vicinity of the Manor Complex, Mansfield Woodhouse as shown on plans 1 and 2. This is an example of a complex network of footpaths that all suffer from anti-social behaviour and crime and the justification for gating orders in this area is shown in Appendix 1. The proposed Gating Orders are supported by Councillor Joyce Bosnjak.

ii) A link footpath from Foxhill Road to Pitch Close, Carlton as shown on plan 3. The justification for this gating order is shown in Appendix 2. The proposal is supported by Councillor Darrell Pulk.

iii) A link footpath from Owthorpe Road to Woulds Field, Cotgrave as shown on plan 4. The justification for this gating order, adjacent to the Wildlife Conservation Area is shown in Appendix 3. This proposal is supported by Councillor Richard Butler.

Consultation

- 5 For each application, the Crime and Disorder Reduction Partnership has carried out consultation with the Local Member and with other organisations affected. The next stage would be to formally consult and publish notices for each of the proposed locations for gates in accordance with Section 129C of the Highways Act 1980. Any objections received would then be considered under delegated powers by the Strategic/Service Director to determine whether a public inquiry should be held.

Statutory and Policy Implications

- 6 This report has been compiled after consideration of implications in respect of Finance, Equal Opportunities, Personnel, Crime and Disorder and those using the service. Where such implications are material, they have been brought out in the text of the report. Attention is, however, drawn to specifics as follows:

Crime and Disorder Implications

- 7 The proposed trial sites all relate to gates which would be closed 24 hours a day, 7 days a week and as such this is expected to have a significant effect on the levels of crime and anti-social behaviour taking place in these areas.

Equal Opportunities Implications

- 8 The gating orders should have a significant effect on the fear of crime in these areas particularly amongst vulnerable young people and adults. However, this must be balanced against the fact that gating off the footpaths may reduce accessibility for pedestrians, especially those that are mobility impaired or parents with pushchairs.

Human Rights Act Implications

- 9 Legal Services have advised that the Convention rights under the Human Rights Act 1998 should be considered when taking such decisions. The following Convention rights are relevant to this decision:

Article 1 of the First Protocol of the Convention provides that "everyone has the right to respect for his private and family life and his home." The implementation of a gating order could interfere with these rights for nearby residents, but the Council may interfere with such rights in accordance with the law as contained in Transportation and Highways Acts, and, where it is necessary in a democratic society, in the interest of, amongst other things, public safety.

Article 2 of the Human Rights Convention is an unqualified right to life and to positive protection of that right by public authorities.

- 10 The County Council has therefore a primary duty to protect life and a secondary duty not to interfere with Article 1 or 8 rights, except in certain circumstances. The benefit of less anti-social behaviour and crime may be considered to outweigh any intrusion there may be to Article 1 or 8 rights.

Proportionality

- 11 The decision maker needs to consider whether the benefits of implementing a gating order outweighs any adverse effect on the human rights of nearby residents. The provision of measures to reduce anti social behaviour and crime is necessary in a democratic society and statutory powers exist to make such provision. The decision maker must weigh any competing interest and decide which are more appropriate taking all of the above into account.

Bob Hart
Service Director, (Highways)

Financial Comments of the Strategic Director, Resources

As noted in the report there is a £20,000 provision in the 2007/08 budget for gating orders. All costs associated with these proposals will need to be contained within this budget. [KRP 1.11.07]

Legal Services Comments

This decision falls within the delegation to the Cabinet Member for Environment [SSR 5.11.07]

Background Papers Available for inspection

Application from Mansfield Partnership Against Crime (MPAC) for gating orders in the vicinity of Manor Complex, Mansfield Woodhouse.

Application from Gedling Crime and Disorder Reduction Partnership for a gating order on the path between Foxhill Road and Pitch Close, Carlton.

Application from Rushcliffe Crime and Disorder Reduction Partnership for a gating order on the footpath from Owthorpe Road to Woulds Field, Cotgrave.

Electoral Divisions and Members Affected

North Mansfield

Joyce Bosnjak
Parry Tsimbirdis

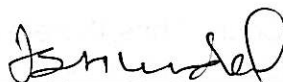
Carlton West

Jim Creamer
Darrell Pulk


Cotgrave

Richard Butler

The report contains all professional advice relevant to the decision:

Strategic/Service Director (Communities)	
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Decision Agreed:

Cabinet Member for Environment	
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APPENDIX 1

Mansfield Partnership Against Crime (MPAC) Gating Order Application

Manor Complex area, Mansfield Woodhouse

Before making a Gating Order the Council must be satisfied that the three statutory criteria set out in Section 129A (3) of the Highways Act 1980 and listed below are met:

- (a) the premises adjoining or adjacent to the highway are affected by crime or anti-social behaviour;*
- (b) the existence of the highway is facilitating the persistent commission of criminal offences or anti-social behaviour; and*
- (c) it is in all the circumstances expedient to make the order for the purpose of reducing crime or anti-social behaviour*


7 lengths of footpath are involved, approximately 770m long in total in two neighbouring localities as shown on the attached plans. 3 lengths are to the rear of Worcester Avenue and Hereford Avenue, whilst the other 4 are in a starburst pattern in the Sandgate Road area. They are all adopted and situated in the residential area surrounding the Manor Complex in Mansfield Woodhouse.

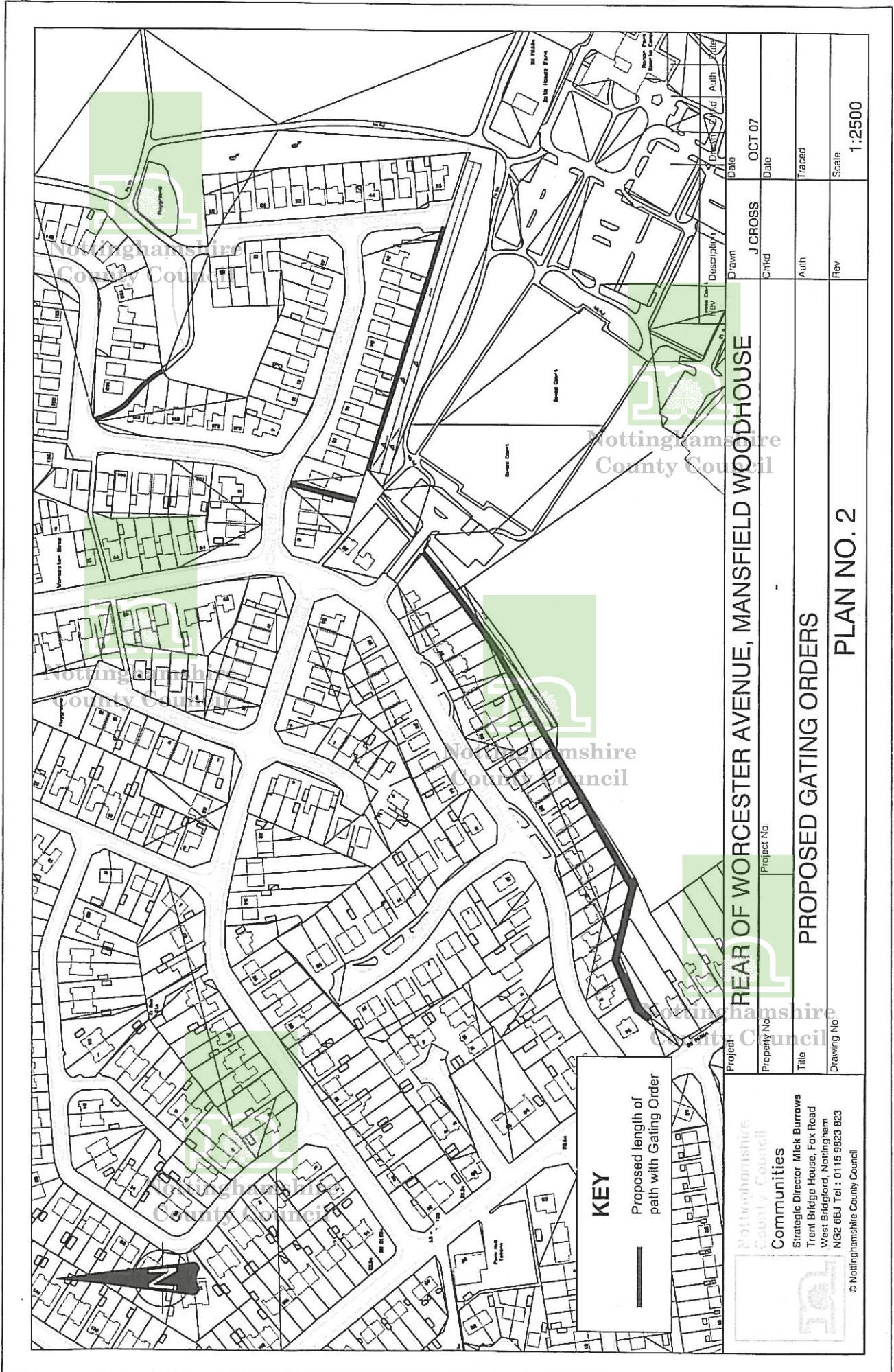
1. The view of the Local Area Commander and Kevin Quinn the MPAC Coordinator, is that these footpaths should be either closed or restricted, due to crime and disorder issues. MPAC point out that this is their only Gating Order submission at this point in time, having judged it to be of the highest priority.
2. A comprehensive file of evidence has been provided including crime pattern analyses, previous operational orders, Section 60 Orders, resident statements, letters and photographs.
Criminal damage and anti-social behaviour problems include fences and concrete slats regularly kicked in, graffiti and routine taking and selling of drugs.
3. All of the properties bordering the footpaths have highway at the front of their dwellings, with most having no formal access to the footpaths proposed for gating. There are no businesses affected.
4. Alternative routes are available via nearby adopted estate roads. The diversion along Worcester Ave/Hereford Ave would be minimal, but in the Sandgate area the diversion could take up to 5mins on foot or 2mins cycling.
5. There is some "legitimate" use of the paths, particularly during daytime on through routes in the Sandgate area, although data is not available on numbers. Some of these users may object to the proposed orders.

6. Alternative methods of reducing crime/ASB have been implemented including:- an active Neighbourhood Watch, close liason with the County Council youth service to develop a youth club, increased police and warden patrols, action by individual residents. However, police action to apprehend offenders is hampered severely by the ability of offenders to escape via the network of paths. Whilst much of the crime and disorder occurs during evenings, there is a significant element outside these times. For this reason, plus the cost and practicalities of locking/unlocking gates daily, it is felt that a 24hour restriction 7 days a week is necessary.
7. The cost of providing all the 21 gates required is estimated at £15,000 (subject to further detailed design and tendering). MPAC are prepared to contribute £2,000 towards this cost so there is a further budget requirement of £13,000. It is proposed that keys be held by Mansfield District Council and emergency services as necessary, whilst maintenance would continue to be carried out by MDC as our Manage and Operate Partner. If it was not possible to fund the whole of the scheme at once, MPAC feel that the Sandgate area would have to take priority
8. MPAC point out that the local community, including the police, PCSO's and Neighbourhood Watch will monitor the impact of the gates. They will provide an impact assessment 6 months after they have been installed and will be part of the review process after one year.
9. The gating order submission is supported by County Councillor Joyce Bosnjak.




KEY
 ——— Proposed length of path with Gating Order

 <p>Nottinghamshire County Council Communities Strategic Director Mick Burrows Trent Bridge House, Fox Road West Bridgford, Nottingham NG2 6BJ Tel : 0115 9823 823</p>	<p>Project</p> <p>MANOR SCHOOL, M.W. SURROUNDING AREA</p>		<p>Drawn J CROSS</p>	<p>Date OCT 07</p>
	<p>Property No.</p>	<p>Project No.</p>	<p>Auth</p>	<p>Traced</p>
<p>Title</p> <p>PROPOSED GATING ORDERS</p>			<p>Scale</p> <p>1:2500</p>	
<p>© Nottinghamshire County Council</p>		<p>Drawing No.</p> <p>PLAN NO. 1</p>	<p>Rev</p>	



KEY
 Proposed length of path with Gating Order


Nottinghamshire County Council
Communities
 Strategic Director Mick Burrows
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 West Bridgford, Nottingham
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Project	REAR OF WORCESTER AVENUE, MANSFIELD WOODHOUSE
Property No	
Title	PROPOSED GATING ORDERS
Drawing No	PLAN NO. 2
Drawn	J CROSS
Checked	
Auth	
Rev	
Date	OCT 07
Date	
Traced	
Scale	1:2500