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**Alley Gating Scheme on Public Highways**

**Cardiff Council Policy & Strategy 2020**

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**Purpose of Report**

1. This report provides the Committee with background information to enable Members to carry out pre-decision scrutiny of the Alley Gating Scheme on Public Highways, Cardiff Council Policy & Strategy 2020 prior to its consideration by the Cabinet at its meeting on the 19<sup>th</sup> March 2020.
2. A copy of the draft Cabinet Report is attached at **Appendix 1**, which in turn contains the policy document, 'Alley Gating on Public Highways' (**Appendix A**) and Statutory Screening Tool Guidance (**Appendix B**).

**Background**

3. Alley gating involves the installation of lockable gates to the ends of alleyways (also known as 'lanes' or 'gulleys'). The purpose of alley gating is to prevent the access to problem alleyways or highways by unauthorised people, reducing the opportunity to commit crime or behave in an anti-social way. Alley gating schemes can complement other efforts to reduce and prevent crime or antisocial behaviour.

## **Context: Legislative powers**

4. In the past, the closure of alleyways which were public highways or public rights of way could be implemented in one of several ways:
  - By applying to the Magistrates Court to permanently extinguish the public rights over the highway, under Section 116 of the Highways Act 1980
  - By 'stopping up' a highway through Section 247 and 257 of The Town and Country Planning Act 1990 to allow development to take place
  - By making a Road Traffic Regulation Order.
5. The use of these powers was found to be slow and unwieldy at times, so in July 2008, it was decided that a request should be made to the Executive to approve an Alley Gating Policy and Strategy to implement gating orders under Section 129A of the Highways Act 1980.
6. The Clean Neighbourhoods and Environment Act 2005 inserted powers into the Highways Act, under Section 129A, introducing 'gating orders', which could be applied in areas where there are problems of crime or anti-social behaviour. The Highways Act 1980 (Gating Orders) (Wales) Regulations 2007 came into force in February 2007.
7. In 2008, Cardiff Council implemented an Alley Gating policy. Since then, over 180 lanes have been gated, benefitting approximately 7,500 properties and helping to limit opportunities for crime, anti-social behaviour and environmental issues such as fly tipping. The initiative helps to support the police and other Council services such as Street Cleansing to direct resources to other areas of need.
8. In 2014, the tools available for Local Authorities to consider alley gating changed, following the introduction of new legislation. Gating Orders (previously under the Highways Act) were replaced with the introduction of Public Spaces Protection Orders (PSPOs) under the Anti-Social Behaviour, Crime & Policing Act (the Crime & ASB Act).

## Issues

9. The 2008 Alley Gating Policy is seen to be outdated, as such a new Alley Gating Policy is being put forward that continues to reflect the existing legislative requirements and current operational considerations and procedures that are involved in the delivery of gating schemes.

10. The Cabinet Report attached at **Appendix 1** gives an overview of the main changes to the new policy which include:

- Legislative changes- the use of Public Spaces Protection Orders (PSPOs) under the Anti-Social Behaviour, Crime & Policing Act.
- Clarification of current processes used to manage the demand for alley gating.
- Clarification of scheme parameters.
- Clarification of the current gating procedure used to implement each gating scheme
- Clarification of how the policy meets with the Council's current statutory requirements (via the Statutory Screening Tool, **Appendix B**)

11. The Alley Gating on Public Highways policy document attached as **Appendix A** aims to;

- set out Cardiff's purpose and vision as a social housing landlord;
- set out its objectives and standards for the service;
- plan how the service aims to achieve the objectives and standards set out (the strategies);
- plan resource and financial requirements;
- provide a framework for monitoring and evaluating the progress of the housing 'business';
- communicate Cardiff's plans to its tenants, members, the Welsh Government, other key stakeholders, partners and the wider community.

12. Members are required to reflect on the content of the Alley Gating on Public Highways policy document attached as **Appendix A**, and can refer to the following sections for details. Please note that the page numbers listed below ***refer to the pages of the combined Appendix document.***

<b>Section of Alley Gating on Public Highways – Cardiff Council Policy Document</b>	<b>Page(s) in Appendix</b>
<b>Introduction</b> <i>(including summary, review of policy, forward, policy statement)</i>	6-15
<b>Strategy for Implementing Alley Gating Schemes in Cardiff</b> <i>(including Identification &amp; Prioritisation for Alley Gating)</i>	16-19
<b>Consultation</b> <i>(Workforce development, High Rise Refurbishment Project, Homes Fit for Heroes)</i>	20
<b>Installation &amp; Maintenance of Gates</b> <i>(including review of existing alley gating PSPOs and Resources)</i>	21 -22
<b>Cardiff Council Alley Gating Procedure</b> <i>(including programme delivery)</i>	23-25

## Way Forward

13. At this meeting, the following witnesses will be in attendance:

- (i) Councillor Lynda Thorne, Cabinet Member, Housing & Communities
- (ii) Sarah McGill, Corporate Director for People and Communities
- (iii) Jane Thomas, Assistant Director Housing & Communities
- (iv) Rebecca Hooper, Operational Manager, Neighbourhood Regeneration

14. Pre-decision scrutiny aims to inform the Cabinet's decisions by making evidence based recommendations. Scrutiny Members are advised to:

- i) look at the information provided in the report to Cabinet to see if this is sufficient to enable the Cabinet to make an informed decision;
- ii) check the financial implications section of the Cabinet report to be aware of the advice given;
- iii) check the legal implications section of the Cabinet report to be aware of the advice given;
- iv) check the recommendations to Cabinet to see if these are appropriate.

15. Members will then be able to decide what comments, observations or recommendations they wish to pass on to the Cabinet for their consideration prior to making their decisions.

### **Legal Implications**

16. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

### **Financial Implications**

17. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

## **RECOMMENDATIONS**

It is recommended that the Committee:

- i. Consider the proposed draft report and policy document attached and decide whether it wishes to relay any comments or observations to the Cabinet at its meeting on the 19 March 2020; and
- ii. Decide the way forward with regard to any further scrutiny of this issue.

**DAVINA FIORE**

**Director of Governance and Legal Services**

**27 Feb 2020**