

# CHESHIRE EAST COUNCIL

## Cabinet Member for Environmental Services

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**Date of Meeting:** 3 August 2009  
**Report of:** Head of Environmental Services  
**Subject/Title:** Alleygating Scheme – Crewe South

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### **1.0 Report Summary**

- 1.1 The Safer Communities Partnership has requested a further amendment to the Lunt Avenue/Ruskin Road/Smallman Road/Tynedale Avenue, Crewe Gating Scheme in the Crewe South Ward.
- 1.2 Approval of a further amendment is requested

### **2.0 Recommendations**

That

- (1) authority be granted to advertise the amended proposal to make a gating order under section 129A of the Highways Act 1980 and if no objections are received, the gating order be made, for the alleyways contained by Gates 332,375,335,336,331,334 and 330 indicated on the attached plan; and
- (2) authority be granted to erect gate 333 in respect of the unadopted passageway adjacent to Tyndale Avenue as indicated on the attached plan.

### **3.0 Reasons for Recommendations**

- 3.1 To enable the gating to alleyways at Lunt Avenue, Ruskin Road, Smallman Road and Tynedale Avenue to proceed

### **4.0 Wards Affected**

- 4.1 Crewe South

### **5.0 Local Ward Members**

- 5.1 Cllr David Canon  
Cllr Dorothy Flude  
Cllr Betty Howell

## **6.0 Policy Implications**

6.1 None

## **7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

7.1 None

## **8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

8.1 None

## **9.0 Legal Implications (Authorised by the Borough Solicitor)**

9.1 Section 129A of the Highways Act 1980 allows the council to erect, or allow the erection of, a physical barrier to restrict public access to a highway over which the public would normally have a right of passage. A 'gating order' can be made provided the council is satisfied that the premises adjoining the highway are affected by crime or anti-social behaviour, that the highway is facilitating the persistent levels of crime and/or anti-social behaviour and in all the circumstances it is expedient to make the order. The test of expediency is a balance of the interests of those affected by the behaviour complained of and the interests of the travelling public.

9.2 Under Section 129C the council must undertake a consultation exercise before making the order, including erecting site notices and publishing notices on its website and in a local newspaper. The notice must invite written representations within a period of not less than 28 days. The council is obliged to consider any representations that it receives before making the order and it may choose to cause a public inquiry to be held to consider any opposed order. It must cause a public inquiry to be held where objections to an order are sustained by the police, fire brigade, NHS, or other council through whose area the highway passes. Public inquiries are to be presided over and determined by an inspector appointed by the council.

9.3 The order itself must contain specific details and copies must be erected adjacent to the affected highway. The council must keep a register open for inspection containing copies of all notices of proposal for the making, variation, or revocation of orders and copies of all gating orders made. The council must also publish gating orders on its website and supply copies of the same to anyone who requests a copy and pays a reasonable charge.

- 9.4 A person may challenge the validity of a gating order (within 6 weeks of the date on which it was made) in the High Court on certain specified grounds, being that the council had no power to make it or any requirement under the Act was not complied with in relation to it (and which substantially prejudices the interests of the applicant). On an application under this section the Court may suspend, quash (in full or part) or allow the gating order to stand.
- 9.5 The council relies upon permitted development rights for the erection of the gates.

## **10.0 Risk Management**

- 10.1 Under section 129B of the Highways Act 1980 a gating order may not be made so as to restrict the public right of way over a highway which is the only or principal means of access to any dwelling. Without this amendment the gating cannot proceed

## **11.0 Background and Options**

- 11.1 At its meeting held on 27<sup>th</sup> October 2008, the LJC granted authority for a Gating Order to be made, subject to there being no objections, at Lunt Avenue/Ruskin Road/Smallman Road/Tynedale Avenue, Crewe (gates 329, 330, 331, 333, 334, 335, 336).
- 11.2 Following further investigation it was found that there are dwellings taking primary access to the alleyway to the rear of the properties 1-37 Lunt Avenue. Under section 129B of the Highways Act 1980 a gating order may not be made so as to restrict the public right of way over a highway which is the only or principal means of access to any dwelling.
- 11.3 Further proposals were submitted to the LJC on 26<sup>th</sup> January 2009, which agreed to advertise an amended proposal.
- 11.4 However, following further investigation and consultation the Safer Communities Partnership (SCP) have submitted a further amendment to the scheme in order to include the passageways to the rear of the properties 15-37 Lunt Avenue (gates 332 and 375). It is also intended to install a gate along the unadopted passageway alongside 56 and 58 Tynedale Avenue (gate 333). This unadopted passageway will not form part of the gating order. The written consent of the adjacent property owners will be obtained to the erection of the gate. Plan attached.
- 11.5 The property 10 Smallman Road is currently in the process of being converted to a flat taking primary access from the passageway to the rear. Under the provisions of the Highways Act 1980 a gating order cannot therefore be made in relation to the passageway to the rear of the property or the passageway which runs alongside it (gates 329 and 330).

11.6 It is proposed not to install gate 329 and to relocate gate 330 to the rear boundary between 10/12 Smallman Road.

## **12.0 Overview of Year One and Term One Issues**

12.1 None

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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