

Subject: Farman Street (Gating) Order 2011
Date of Meeting: 5 July 2011
Report of: Strategic Director, Place
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Key Decision: No
Wards Affected: Brunswick & Adelaide

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 The report is to consider objections and representations received to the proposed Farman Street Gating Order and to seek approval for the Order to be made following completion of a Management Agreement between the council and the Farman Street Resident's Association. The power to make Gating Orders is contained within Highways Act 1980 as amended by the Clean Neighbourhoods and Environment Act 2005 (see **appendix D** for further information). A Gating Order imposes restrictions on a highway which enable a council to place gates across the highway on the grounds of reducing criminal or antisocial behaviour. Gates can be locked or unlocked and can operate at variable hours depending upon the specific circumstances to be addressed. Aside from the restrictions within the Order, the underlying highway status is not affected and an Order may be amended or revoked by a council at any time. The proposed Farman Street (Gating) Order 2011 recommends a gate at the junction of Farman Street and Western Road to be locked to restrict access from Western Road to Farman Street only, between the hours of 9pm and 8am and the report 'Farman Street – Background & Basis for a Gating Order' (**Appendix A**) sets out in full the reasons and justifications for this proposal.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member for Transport and Public Realm agrees to the making of the Farman Street (Gating Order) 2011 (see Appendix B) subject to and from the date of completion of a Management Agreement between the council and the Farman Street Resident's Association as referred to in paragraph 3.3 below.
- 2.2 That authority is delegated to the Strategic Director Place to enter into the Management Agreement and to advertise the Gating Order in accordance with the relevant Regulations.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 For several years, residents and businesses within Farman Street, Cross Street and Western Road have raised a number of concerns with the police and the city council regarding anti-social and criminal behaviour taking place in Farman Street. This includes street fouling, street drinking, drug use and dealing, attempted burglary, night noise and criminal damage. A detailed residents' log is included within the report in **Appendix A**.
- 3.2 In 2008 a draft proposal for gating at the junction of Farman Street with Western Road was developed, but because of planning issues concerning the adjoining 5/6 Western Road, this proposal was withdrawn. Following a decision by the Planning Inspectorate to enforce physical alterations to the layout of Farman Street, and the completion of the development of 5/6 Western Rd on the corner of Farman Street, residents reported that the crime and antisocial behaviour concerns had not been alleviated and renewed their request for a Gating Order. The current proposal, based on a single gate at the northern end of Farman Street, seeks to address these concerns and reduce the impact of crime and antisocial behaviour in Farman Street.
- 3.3 Funding for the remaining elements of this scheme is being provided by residents and businesses on and adjoining Farman Street. Before an order granted may be implemented the resident group will be required to enter into a Management Agreement with the council detailing their contribution toward the remaining elements, including: the need to obtain planning permission for the gates; design, purchase and installation of the gates; signage; ongoing management and maintenance. The council will not be providing further direct financial support to the scheme, but council officers will provide assistance to the resident group to develop this work. This will include ongoing capacity and community support from the Environment Improvement Team/Community Safety Partnership - particularly around developing the resident agreement; and advice and support from Development Control for the group regarding the design of the gate from a development control/conservation perspective. The scope and limits of this support will be detailed in the Management Agreement. It is accepted that without the Agreement, this scheme will not go ahead, and that the council has limited resources to direct to this initiative.
- 3.4 Each enquiry for granting of a Gating Order is viewed on its own merits and designed within the specific context of the physical location, type and incidence of crime and antisocial behaviour. It is developed in close dialogue with the resident and/or business community, as well as Sussex Police, other council departments and partners, and statutory consultants identified within the Clean Neighbourhoods and Environment Act 2005. Because a Gating Order is a site specific intervention, specific aspects of financing and management/operation of any gating intervention are likely to vary widely, and no model developed should be viewed as a precedent for future approaches.
- 3.5 At present there is one gating project in Brighton and Hove, and there is not currently significant demand for further gating interventions in the city. All gating requests must first meet the stringent requirements of the Clean Neighbourhoods and Environment Act before they can be considered for further action, and can then

only be progressed if resources can be identified to support them. It is not felt that the funding arrangement developed for this proposal will have any impact on the response to future requests or should be seen as setting a precedent in any way.

4. CONSULTATION

- 4.1 The statutory consultation for this Order ran from **09.09.10 to 08.10.10**. A draft Order was placed at the site, published in the Argus and on the council website seeking responses from the public, and a copy was posted to all residents in Farman Street and to other interested bodies as identified in the Act. This report details submissions received during this period and the response to those submissions.

Consultees raising no objection

- 4.2 As stated in paragraph 4. above the Act identifies a range of bodies which must be contacted in respect of a proposed Gating Order, including the Chief Officer of Police, Fire and Rescue Authority and NHS Trust in respect of which a public inquiry must be held if objections to the proposed gating order are raised. For this proposal, the following consultees were contacted and did not object:

- Sussex Police
- East Sussex Fire & Rescue Service
- Sussex Ambulance Service
- NTL Telewest
- Virgin Media
- BT Openreach
- EDF Energy
- Atkins Global
- Ward councillors
- BHCC City Planning
- BHCC City Clean
- BHCC Highways
- Scotia Gas Networks
- All residents and businesses on and adjoining Farman Street.

Objections received

- 4.3 The following summary considers only those points raised which are relevant to the statutory criteria for objection, namely whether or not a gating order should be made. Having considered these points it is felt that the statutory requirements of the Clean Neighbourhoods and Environment Act 2005 have been met and that in this situation a Gating Order is justified under these powers. A full summary of all comments is included as **Appendix C**.

Note - The Local Access Forum had been given advance knowledge of this proposal and have confirmed that they wish to oppose the proposal. Rather than providing a detailed report they have requested that the report which they submitted to the last proposal in 2007 be resubmitted for this proposal. These comments have also been included in **Appendix C**

Submission	Submitted by	Response
All streets in the City experience similar levels of crime to Farman Street	LAF	Incidents of crime and antisocial behaviour are not uniformly spread across the City, and it is widely acknowledged that different places or types of space are subject to differing pressures. Crime and antisocial behaviour 'hotspots' have a range of causes and contributory factors, and the background report outlines the particular issues in relation to Farman Street which make it more permissive of crime and antisocial behaviour and of the disproportionate impact of these activities on residents and legitimate users of the highway at this point.
Incidence/evidence of crime and antisocial behaviour taking place in Farman Street is not sufficient to justify a Gating Order	LAF, OSS, RA	The requirements of the Clean Neighbourhoods & Environment Act are that a council must be 'satisfied that the area surrounding the relevant highway suffers from crime or anti-social behaviour and (Gating) would act as a useful crime/anti-social behaviour reduction measure.' The overwhelming view of those who live on Farman Street, as well as those who police Farman Street is that the location experiences disproportionate levels of crime and antisocial behaviour, particularly at night. This is supported by the resident's log which under the terms of the Act can fulfil the requirements for demonstrating the existence of crime and ASB facilitated by the presence of the right of way.
The proposed alternative routes of Waterloo Street or Little Western Street are not suitable for those with buggies.	LAF only included this point	It has not been stated on what basis objectors feel that the proposed alternatives are unsuitable for those with buggies. Considering that this intervention proposes one gate with restrictions only at night time, it is felt that very few people are likely to be significantly inconvenienced, and that the alternative routes – which are more open and overlooked, are likely to provide a safer through route in any event.
Alternatives to gating have not been fully explored	LAF and one individual submission included this point	The background report considers the range of options available to enforcement agencies in their response, and concludes that a Gating Order would provide a useful and beneficial intervention. The proposed Order is not instead of standard policing measures, but it is an intervention aimed at supporting positive policing of the area to reduce the impact of crime and ASB. The Order (if granted) will be regularly reviewed and may be revoked or amended at any time as necessary.

<p>enhanced policing would be a more preferable and effective response than the provision of a Gating Order</p>	<p>LAF</p>	<p>The background report states: Policing – <i>Sussex Police will respond to all calls, but their response will vary according to their workload at the time. The local Neighbourhood Specialist Policing Team carry out regular patrols around the area, and will target known ‘hotspots’. If justified by the situation, the Police will deliver targeted operations and high visibility policing in certain areas and locations. Due to the random nature of offences however, it is unlikely that focused high visibility operations will have a lasting impact, as problems will resume once the police have left the area. Limited Police resources make it unlikely that they would be able to sustain long term high visibility policing at this location.</i></p> <p>It is felt that, because of the reasons given above, an intervention in Farman Street based solely on direct policing would not be sufficient. It must be noted also that a gating order is not instead of but as well as standard policing activities.</p>
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5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 This project is being delivered in partnership with the local resident community. The council has so far borne the cost of developing this proposal and delivering the statutory consultation process. The Council will not be providing any further financing for this project – although officer time will be made available to support the residents group, by the Partnership Community Safety Team and by Development Control/Conservation Team. The remaining costs (approx. 5k), including further statutory consents and the purchase, installation and management of gates will be borne by the resident community in or adjacent to Farman Street. The council will enter into an agreement with the resident group to cover the further stages of this proposal, including the long term management of the gate. The detailed design of the gate will be subject to planning/conservation area consent and the resident group will work with conservation and planning officers in the usual way to secure this further consent.
- 5.2 Any additional officer time dedicated to this project will be agreed with service heads and will form a part of the resident agreement which will be approved by the Strategic Director – Place.

Finance Officer Consulted:

Louise Hoten

Date: 21/06/11

Legal Implications:

- 5.3 The relevant legislation is contained in S129A of the Highways Act 1980, which was inserted by section 2 of the Clean Neighbourhood and Environment Act 2005, and the Highways Act 1980 (Gating Orders) (England) Regulations 2006. Section 129A provides that before making an Order the highway authority must be satisfied that:-

Crime & Disorder Implications:

- 5.10 The provision of night time gating at Farman Street will directly combat incidences of criminal and antisocial behaviour

Risk & Opportunity Management Implications:

- 5.11 The following risks have been evaluated and being monitored as part of the overall project management:
- 5.12 Potential displacement of criminal/asb activity into surrounding streets.
- 5.13 Potential inconvenience of residents and/or legitimate daytime users.
- 5.14 These aspects will be monitored throughout and considered at the annual review of the scheme

Corporate / Citywide Implications:

- 5.15 The Council is committed to developing a safer city. Tackling crime and antisocial behaviour is central to this.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Alternative options have been considered for this location and a summary of this aspect is within the report in Appendix B

7. REASONS FOR REPORT RECOMMENDATIONS:

- 7.1 This proposal responds to resident and police concerns regarding reduction of street crime/asb in Farman Street and will help to resolve longstanding concerns and issues at this location

SUPPORTING DOCUMENTATION

Appendices:

- 1. Appendix A – ‘Farman Street – Background and Basis for a Gating Order
- 2. Appendix B – Farman Street (Gating) Order 2010 – Draft Order

Documents in Members’ Rooms

- 1. Detailed consultation summary
- 2. Clean Neighbourhoods and Environment Act Guidance

Background Documents

None

