

PLANNING & HIGHWAYS COMMITTEE

THURSDAY 18TH JANUARY 2018

UPDATE:

10/17/1271 Underpass on Laburnum Road

Additional comments have been received from the Bastwell Ward Councillors Parvaiz Akhtar and Shaukat Hussain on the 16th January. Below are the queries raised with the responses to each issue for the members to consider. The issues raised by the ward councillors are emphasised in italics and blue font.

“Further to queries raised by Bastwell councillors in relation to the main planning report we have been asked for clarification on the following points:

Development plan in course of preparation

In 3.2.3 of the main report it says local councillors have been involved in discussion with the police and community safety team. This is not true. We have not been consulted nor our views been taken into account.

- There are two consultations involved in the installation of an ‘alleygate’. The Community Safety Team is responsible for the consultation with residents for the order to close the highway. Development Management is responsible for the consultation in relation to the means by which the highway access will be restricted i.e. the gate, which is subject to a formal planning application.
- Section 75 of the Anti-Social Behaviour Crime and Policing Act 2014, provides that all gating orders made before the commencement date (20th October 2014) remain in force for a period of 3 years, i.e until 20th October 2017. At the end of the 3 year period they become Public Space Protection Orders (PSPO’s). Within any proposed PSPO’s it is now proposed to revoke and replace Gating Orders. A report was presented to and approved to the Executive Member for Localities & Prevention at the SPT Meeting on the 2nd October 2017, which deals with “Public Open Space Protection Orders in relation to the installation of Alleygates.”
- In line with the council’s gating policy all addresses to which the order or conditions of the order applies need to be consulted. 246 residential addresses were written to between March and October 2017 notifying them a Public Space Protection Order was being considered for this area i.e. those addresses within the area that the Order or Conditions of the Order applies. (see attached plan which identifies the properties consulted). 160 responses were received in support which included 40 written submissions and two petitions. A further petition was submitted to Development Management objecting to the proposed condition applying to the gate separately.
- All councillors within the Little Harwood Ward were notified and confirmed their support for the order to close the highway – All residential addresses affected by the order to close the highway are in the Little Harwood Ward. The

police have been fully consulted having provided the evidence to support the closure of the highway. The formal planning application itself was supported by the police officer within the Community Safety Team.

- As a further note, once the planning approval, refusal or conditions are confirmed notices are issued under the ASB Police & Crime Act 2014 and placed in the area alongside a further notice listed on the council's website. This confirms the conditions of the Order to be adhered to, the area they apply to, the date from which it will apply and the potential consequence of a breach of that Order. The conditions in relation to the gate need to match the planning conditions for the gate as was the case between 2014 to present.
- With regards to the current formal planning application, the application site i.e. the position of the gate, is located within the Bastwell Ward. As such, only the Bastwell Ward Councillors were consulted on the planning application on the 27th October 2017. As a result of the consultation, a Ward Member Referral request was received from Councillors Akhtar and Hussain on the 9th November 2017 for the following reasons: "highly controversial issue; retrospective planning application." This request was considered by the Chair & Vice-Chair of the Planning & Highways Committee on the 16th November 2017, who recommended that the application be presented to the Committee to allow for a detailed assessment of the concerns and objections raised.

Views of consultees

To our knowledge we are not aware of any consultation having taken place with any of the residents from Whalley New Road.

- The Community Safety Team confirm that a shop owner from Whalley New Road, previously concerned about the impact the gate could have on trade to his shop was consulted directly and as evidence was lead petitioner against the gates closure on one of the petitions submitted.
- There are 34 properties on Whalley New Road (see attached location plan) that may benefit from the wider conditions that we have recommended form part of the Public Space Protection Order, but are not affected by the condition relating to the gate. They are therefore shown on the map but have not been consulted on the gates closure.
- As context a 'Gating Order' was previously applied for separately under the Neighbourhoods and Clean Air Act 2005. This has now changed and form's one of the conditions that can be applied for within a Public Space Protection Order under the ASB Police and Crime Act 2014. The benefit is that the authority can include multiple conditions in an area in one order to mitigate different types of behaviour occurring. Previously this would have required several different orders under differing legislation to achieve the same outcome.
- Once agreement is reached by the Planning & Highways Committee residents affected by the other conditions will be consulted alongside ward councillors within the wards affected ie. Bastwell and Little Harwood.

Access/Traffic/Accessibility 6.2.2

Not enough emphasis has been put on the concern expressed by the highways and their objection to the gating of this location. The route is seen as a vital link to the wider community. It is also discriminatory against vulnerable, disabled people, women with little children.

It is considered that these issues and concerns have been addressed in paragraphs 3.5.2 to 3.5.4, and 3.5.9 in the main report.

Economic impact and general economic conditions

Adverse effect on inward investment in an area which is one of the most thriving economy in the borough. Many shops have invested thousands of pounds on their businesses and have seen a drop in turnover which could result in job losses. The new housing estate was acting as an incentive for these and possible new businesses.

It is considered that this issue is addressed in paragraph 3.5.14 of the main report. The closure of the underpass at Laburnum Road does not cut off access to the commercial properties on Whalley New Road or the surrounding area. The alternative routes referred to in paragraph 3.5.9 of the main report, are well-lit, safe and provide good access to the Whalley New Road area. In fact, the access from Willow Street offers a safer route for all pedestrians by virtue of the wider pavement on the eastern side of Whalley New Road, together with the existing pelican crossing.

Health and Safety

We have had reports of children climbing over the spiked gate and been seen on the railway track trying to overcome the closure of the gate. This is now putting children lives at risk.

- The bridge is owned by Network Rail who has undertaken security improvements along the railway line in this area over a number of years to prevent access both before and subsequent to the gate's installation. No complaints or concerns have been submitted by Network Rail, local residents or the Constabulary in this regard over the last 3 years.
- Network Rail as the land owner is also consulted on the order and the planning application and has not raised this as a concern. The area is also covered by CCTV with no concerns raised by the CCTV manager or operators between its installations in March 2017 to present.

Planning history/related decisions

10/14/0614

Temporary consent for two years was granted on the 29th May 2015, for this consent Bastwell councillors were used for the consultation.

In terms of the consultation process for the planning application in 2014, the same process was adhered to for the current planning application, in accordance with the

Town & Country Planning (Development Management Procedure) England Order 2015. In accordance with Article 15, local planning authorities are only obliged to formally consult individual properties where they physically abut the application site. In this case, No.248 Whalley New Road, abuts the application and were formally consulted by letter. In addition, site notices were posted (one on Laburnum Road, and one on Whalley New Road).

You will be setting precedent

In future wherever there is anti-social behaviour in Blackburn With Darwen we would be expected to put up gates.

Each request and formal planning application will be considered on its own merits.

We would also draw your attention to the last paragraph on Material Consideration, which says however 'Committee is legally obliged to consider all material matters in determining a planning application and this means that some decisions will not follow published policy when it considers this is outweighed by some factors and can be justified in the circumstances of the particular case. Similarly, in making a decision where there are competing priorities and policies the Committee must exercise its judgement in determining the balance of considerations.'

We believe these are compelling factors which the committee needs to take into account before making a final decision. The closure of the gate is at odds with the intended spirit of the published policy of guidance.

Councillor Shaukat Hussain

Councillor Parwaiz Akhtar

With regards to the formal assessment of the planning application, Members are advised that all the issues and concerns raised in the main report and the update report have been fully addressed.

Gavin Prescott

Development Manager

16th January 2018