

Statement of Policy for the use of Barriers on Rights of Way

June 2020



Consultation Draft

Let's Keep
Nottingham
MOVING



Nottingham
City Council

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PREFACE

This Statement of Policy sets out Nottingham City Council's ('the Council') position on the use of safety barriers or other objects or structures on the local rights of way network within the Council's area.

This Statement of Policy includes the Policies to which the Council will have regard when undertaking its duties under the Highways Act 1980 and the Countryside and Rights of Way Act 2000.

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1 INTRODUCTION

1.1 The Council is the Highway Authority for the purposes of the Highways Act 1980.

1.1.1 For the purpose of this Statement of Policy, the definition of the local rights of way network includes footpaths, cycleways, bridleways, riverside walkways, greenways, restricted byways, byways open to all traffic and any other path, track or way that the public have used “as of right¹” for at least twenty years regardless of whether or not they are recorded in the Definitive Map and Statement, the Council’s legal register of all known public rights of way within its area.

1.1.2 Footways (pavements) at the side of roads which are used by cyclists are not the subject of this Statement of Policy. Staggered “chicane” barriers may be installed on footways in order to reduce the speed of cyclists when entering areas used by pedestrians, for example shared-use footways. Likewise, staggered barriers may be installed at the ends of footpaths in order to stop young children running out onto a footway used by cyclists and/or onto the road. In these situations, the primary function of the barrier is to reduce any potential conflict between cyclists and pedestrians and / or other road users, as opposed to deterring motorcycles and other unauthorised vehicles.

1.1.3 In Nottingham, as in many other major cities, the local rights of way network suffers abuse from unauthorised mechanically propelled vehicles (mainly off-road motorcycles, quad bikes and mini-motos) which disrupt the community and cause safety concerns., Safety barriers or other objects or structures have been installed at a number of known “hot spots” in an attempt to address this problem.

1.1.4 The challenge for the Council is to identify a solution that will deter unauthorised mechanically propelled vehicles whilst maintaining adequate and safe access for legitimate users. Whilst the safety barriers or other objects or structures have been reasonably successful in deterring unauthorised users, they also compromise, and in some cases actually deter, users of mobility aids, pedal

¹ “As of right” means the use by the public must be without force, secrecy or permission

cycles, tricycles and recumbent hand cranked recliner cycles, people who are of above average size and users of double buggy prams and push chairs. Horse riders are the most vulnerable users of the local rights of way network, and serious injury may occur to the rider and / or horse in the event that a horse is spooked by an approaching motorcycle or quad bike. Where barriers have been used on bridleways, a horse stile has been provided at the side of the barrier for equestrian access. The horse stiles have however caused access problems for some equestrians and have resulted in some riders choosing not to use their preferred route.

- 1.1.5 It is necessary to strike a balance between ensuring, for example, that disabled and more vulnerable users have equal access to the rights of way network whilst at the same time ensuring their safety is not compromised. Balancing the competing interests of different user groups therefore requires very careful consideration and the Council has been mindful of this in its approach to tackling the problem of unauthorised users.

2 PURPOSE OF THIS STATEMENT OF POLICY

- 2.1 This Statement of Policy is intended to provide a consistent approach for dealing with and deterring the use of unauthorised mechanically propelled vehicles on the local rights of way network. It forms the basis of a consistent evidence based approach which considers, fully, the circumstances when a safety barrier or other object or structure is or is not the most appropriate action. It highlights the other measures that should be tried and tested and who should be consulted before a safety barrier or other object or structure is authorised and installed. Finally, if the decision is to install a safety barrier or other object or structure, this Policy will help the Council determine the most appropriate type to use for a particular problem and location.

- 2.1.2 The purpose of this policy is to:

- provide a clear basis for determining requests for safety barriers or other objects or structures

- show that decisions are evidence based and take into account, amongst other factors, intelligence provided by the Crime and Drugs Partnership²
- provide a means of ensuring consultation with potentially affected parties is carried out and any responses are taken into account in decision making
- provide a framework for determining what other measures must be tried, tested and shown to have failed before installation of a barrier or other structure is considered
- ensure that the least restrictive option is used first
- help decide which is the most appropriate design of safety barriers or other objects or structures for a particular problem and location

2.1.3 Through this Statement of Policy the Council will establish an evidence based approach to the use of safety barriers or other objects or structures that is based on principles of fairness, reasonableness and proportionality. This will be achieved by:

- Carrying out a site based assessment of the problem;
- Using intelligence from the Council's Community Protection Service, Crime and Drugs Partnership and Nottinghamshire Police;
- Establishing and building upon best practice;
- Engaging local citizens and relevant user groups before making a decision whether or not to install a safety barrier or other object or structure;
- Reviewing the effectiveness of the safety barriers or other objects or structures;
- Reviewing the effectiveness and relevance of this Statement of Policy as appropriate

² The Crime and Drugs Partnership facilitate meetings with representatives of the Council, the Police, the Probation Service, Nottingham City Homes, local NHS Trusts and the Fire and Rescue Service. The meetings discuss geographical "hot spots" of crime and anti-social behaviour on the basis of incident data on a regular basis.

3 CONSULTATION IN THE PREPARATION OF THIS POLICY

3.1 A consultation event was held in October 2007 which resulted in the first version of this Policy. Different users including walkers, cyclists, users of pushchairs, less able/mobility aid users, the Nottinghamshire Disabled People's Movement³ and the Nottingham Local Access Forum⁴ were invited and asked to try three different safety barriers and then share their experiences by completing a questionnaire. Although this event was 13 years ago, the style and design of barriers available to the Council are largely the same, as are the problems experienced by users when faced with safety barriers or other objects or structures on the local rights of way network. Subsequent versions and updates of this policy have been subject to consultation with similar groups.

4 EQUALITY AND DIVERSITY

4.1.1 The diversity of Nottingham's communities is a huge asset and one of the City's great strengths. Delivery of this Policy will be in accordance with the Council's Equality and Diversity Policy, "Nottingham City Council Values Diversity" (<http://intranet.nottinghamcity.gov.uk/media/1217/hr-equality-and-diversity-policy.doc>). This Policy has been prepared with the benefit of an Equality Impact Assessment and will be subject to on-going monitoring and user / citizen / stakeholder consultation within the framework of its objectives. Relevant matters that come to light during the monitoring and consultation may result in changes to service delivery and, where necessary, may result in changes to this Policy.

4.1.2 All Council documents are available in alternative formats via the Equality and Community Relations team.

5 OFFICERS INVOLVED IN THE PREPARATION OF THIS POLICY

5.1 The preparation of this Policy has involved the following:

³The Nottinghamshire Disabled People's Movement is made up of representatives from various national disability organisations and independent individuals and advise on disability access issues.

⁴The Nottingham Local Access Forum was formed in 2003 and advises the Highway Authority and other agencies on strategic access and recreation issues.

- Adult Sensory Team
- Community Protection
- Equality and Community Relations Team
- Legal Services, Solicitor for the Council
- Nottinghamshire Police
- Parks and Open Spaces
- Planning Strategy and Building Control
- Traffic and Safety
- Transport Strategy

6 **POLICY LISTING**

6.1 **POLICY: BP1**

6.1.2 **The Council shall, as far as possible, use the ‘least restrictive option’ in terms of impact on users of the local rights of way network. It will also review both the civil and criminal enforcement tools available and the likelihood of these being successful in solving the problem as part of the evidence based decision making process. These may be assessed as follows**

6.1.3 **Criminal prosecutions under road traffic legislation (including warning notices issued by the Police), Community Protection Notices (issued by the Council), other action by the Police Authority and / or other partner agencies including education / publicity campaigns:** These options are the least restrictive in terms of the degree of access to the local rights of way network. These measures are aimed at addressing the behaviour of the individuals responsible for the unauthorised use of mechanically propelled vehicles hence promoting the public’s right to safe and quiet enjoyment of the local rights of way network without compromising their level of access. However criminal and civil enforcement powers can carry serious consequences and such powers need to be used in a proportionate manner.

- 6.1.4 **Single bollard or multiples thereof set at a distance of not less than 1.0 metre⁵ (1000 mm) between the inside edge of each bollard (Inclusive Mobility: Department for Transport 2002 and amendments).**
- 6.1.5 **Staggered barriers set to a minimum of not less than 1.2 metres (1.5 metres preferred if on-site physical constraints permit) between each barrier and adjacent walls, boundary structures etc (Inclusive Mobility: Department for Transport 2002 and amendments).** Consideration shall be given for how the installation of this type of barrier and spacing may impact on cycles with trailers, recumbent hand cranked recliner cycles and tandem cycles.
- 6.1.6 **Motorcycle inhibitor barrier (“A Frame”) which is designed and installed specifically to deter motorcycles and quad bikes.** This option is the most restrictive in terms of the degree of access that would result from their installation. The layout design and fitting adjustments for this type of barrier, shall amongst other user access considerations, assess the impact on users of tricycles and recumbent hand cranked recliner cycles and tandem cycles.
- 6.1.7 If the decision is to install a barrier on a bridleway, and a horse cannot get through the barrier, a horse stile must be provided at the side of the barrier. **The design of the stile must be, as far as practically possible, given the environmental constraints in a particular location, in accordance with the British Horse Society, Advice on Vehicle Barriers and the British Standard BS 5709:2018. Stiles may deter some riders from using a particular route.**
- 6.1.8 **Traffic Regulation Orders under Section 92(1) of the Road Traffic Regulation Act 1984 to restrict unauthorised mechanically propelled vehicles using the local rights of way network.** The TRO may authorise such safety barriers or other objects or structures as the Council may consider appropriate for enforcing the restrictions. A TRO may also be introduced without safety barriers or other objects or structures.

⁵The prescribed measurement is subject to amendment by subsequent legalisation and / or guidance

6.2 POLICY: BP2

6.2.1 The Council shall first consider all other available options to address the problems arising from the unauthorised use of mechanically propelled vehicles before it decides upon the use of safety barriers or other objects or structures. There are a number of legislative powers that may help to resolve such problems which are listed under Appendix A below.

6.3 POLICY: BP3

6.3.1 The Council will have regard to the access and safety needs of all users to seek to ensure that any safety barriers or other objects or structures installed do not compromise the health and safety of network users. The Council recognises the importance of striking a balance between competing interests of access on the one hand, and safety of users on the other hand with regard to all sections of the community. Circumstances may arise where disabled persons may feel that their access is being restricted in favour of others. The Council will have regard to the needs of disabled persons, in accordance with Section 175A of the Highways Act 1980, when making decisions to place safety barriers or other objects or structures which may impede their mobility. The Council will also be mindful of its duties under the Equality Act 2010 to avoid discrimination and to make reasonable adjustments, if considered appropriate in all the circumstances. The duties under the Equality Act 2010 will be exercised in conjunction with the Council's duties to ensure the safety of users (whether disabled or not) as required by Section 62(3)(a) and Section 66(3) of the Highways Act 1980.

6.4 POLICY: BP4

6.4.1 The Council will follow the procedure set out in Appendix C when considering a request for a safety barrier or other object or structure. This sets out. All requests shall be subject to the same 'Check List' assessment before a decision is made on whether or not to install a safety barrier or other object or structure. The 'Check List' is attached to this Statement of Policy as Appendix D. Should the decision be to install a safety barrier or other object or structure, it must be monitored over a period of at least 12 months with recorded evidence to

determine whether the safety barrier or other object or structure has helped to reduce the problem. It is important that local residents should formally report their concerns to the Police and/or the Councils Anti-Social Behaviour hotline as this will assist them, in conjunction with the Council's Community Protection Service, to make a full and proper assessment possibly leading to the location becoming designated as a "hot spot" requiring appropriate measures to reduce crime and anti-social behaviour.

6.5 POLICY: BP5

6.5.1 All potentially affected parties shall be consulted and their views taken into account before a decision is taken on whether or not to install a safety barrier or other object or structure.

6.6 POLICY: BP6

6.6.1 The request for authorisation must include:

- (1) Details of the problems and evidence in support of the safety barrier or other object or structure; and**
- (2) Details of any other measures to resolve the problems that have been tried, tested and have failed; and**
- (3) A clear description of the type of safety barrier or other object or structure to be authorised and installed; including clear indication that consideration has been given for its potential impact on users such mobility scooters, prams, double buggies, pedal cycles with trailers, recumbent (hand cranked recliner cycles) and tandem cycles; and**
- (4) A plan showing the location of the proposed safety barrier or other object or structure.**

6.7 POLICY: BP7

6.7.1 An authorised safety barrier or other object or structure shall have the appropriate safety features and will include any or all of the following;

- (1) Visibility strips**
- (2) Tactile treatments; and**

(3) Any other safety features that are deemed appropriate for a particular location

7 MONITORING AND REVIEW

- 7.1 This Policy will be subject to continuous review and updated where appropriate in order to take account of changes in highway, access and / or disability legislation and design standards, and any lessons learnt when implementing the Policy.

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APPENDIX A

A1. DUTY OF THE HIGHWAY AUTHORITY

Section 130(1) of the Highways Act 1980 places a statutory duty on the Highway Authority to:-

- A1.1. Assert and protect the rights of the public to the use and enjoyment of any highway for which they are the Highway Authority; and
- A1.2. Prevent as far as possible the stopping up or obstruction of those highways

A2. HIGHWAY AUTHORITY POWERS

The Highways Act 1980 Act provides the Highway Authority with a number of discretionary powers, including

- A2.1. Section 62 <https://www.legislation.gov.uk/ukpga/1980/66/section/62>.
- A2.2. Section 66(3) <https://www.legislation.gov.uk/ukpga/1980/66/section/66>.
- A2.3. Section 115B <https://www.legislation.gov.uk/ukpga/1980/66/section/115B>.

A3. POLICE AND LOCAL AUTHORITY POWERS

Depending on the specific circumstances and offence, these powers are applicable

- A3.1. Section 1 Criminal Damage Act 1971
- A3.2. Section 33, 34(1) and 163 Road Traffic Act 1988
- A3.3. Road Traffic Act 1991 (extends the scope of the offences under Sections 1 - 3 of the Road Traffic Act 1988)
- A3.4. Section 79 and 81 Environmental Protection Act 1990
- A3.5. Section 59 and 60 Police Reform Act 2002
- A3.6. Section 1, 22, 43 and 59 Anti-Social Behaviour, Crime and Policing Act 2014
- A3.7. Section 22, 43 and 59 Anti-Social Behaviour, Crime and Policing Act 2014

The definition of mechanically propelled vehicles excludes vehicles used by disabled persons. <https://www.gov.uk/mobility-scooters-and-powered-wheelchairs-rules>.

A4. OTHER COUNCIL PLANS AND POLICIES

This Statement of Policy will help meet the objectives of the following Council Plans and Policies.

- A4.1. The Council Plan 2019 - 2023 <http://intranet.nottinghamcity.gov.uk/news/council-plan-2019-2023/>.
- A4.2. The Nottingham City Land and Planning Policies Development Plan, January 2020 <https://www.nottinghamcity.gov.uk/information-for-business/planning-and-building-control/planning-policy/the-local-plan-and-planning-policy/>.
- A4.3. Local Transport Implementation Plan 2019 to 2022 <http://www.nottinghamcity.gov.uk/information-for-residents/transport-parking-andstreets/transport-strategies-funding-bids-and-current-consultations/>.
- A4.4. Nottingham Cycle City Strategy and Action Plan 2016/17 to 2020/21 <http://www.nottinghamcity.gov.uk/information-for-residents/transport-parking-and-streets/transport-strategies-funding-bids-and-current-consultations/>.
- A4.5. Nottingham City Cycling Design Guide January 2018 <http://www.nottinghamcity.gov.uk/information-for-residents/transport-parking-and-streets/transport-strategies-funding-bids-and-current-consultations/>.
- A4.6. Rights of Way Improvement Plan (ROWIP2) 2015 <http://www.nottinghamcity.gov.uk/information-for-residents/transport-parking-andstreets/transport-strategies-funding-bids-and-current-consultations/>

APPENDIX B

LOCAL AND NATIONAL GUIDANCE USED IN THE PREPARATION OF THIS STATEMENT OF POLICY

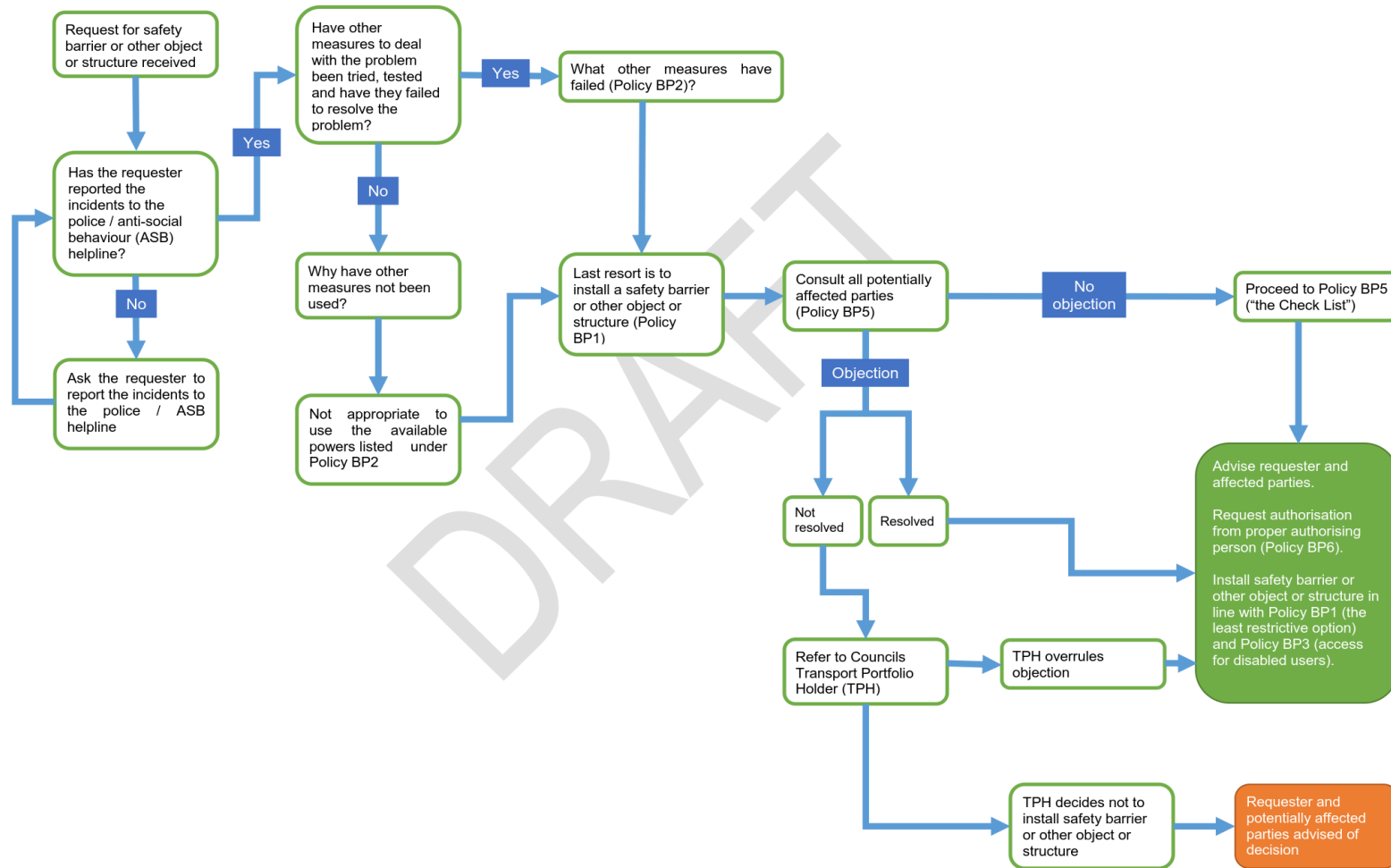
- B1. Nottingham Cycle City Design Guide, January 2018
<https://www.nottinghaminsight.org.uk/d/aA6KjR8>
- B2. London Cycling Design Standards. Chapter 4 Cycle Lane and Tracks [including off-highway] Transport for London, September 2016.
<http://content.tfl.gov.uk/lcds-chapter4-cyclelanesandtracks.pdf>
- B3. BS 5709:2018, British Standard for Gaps, Gates and Stiles, February 2018 BS.
<https://www.thenbs.com/PublicationIndex/documents/details?Pub=BSI&DocID=320915>
- B4. British Horse Society, Advice on Vehicle Barriers, revised April 2016
http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=2ahUKEwilsYr1tarkAhWrShUIHTJBBqEQFjACegQIABAC&url=http%3A%2F%2Fwww.bhs.org.uk%2F~%2Fmedia%2Fbhs%2Ffiles%2Fpdf-documents%2Faccess-leaflets%2Fvehicle-barriers.ashx%3Ffla%3Den&usg=AOvVaw2N8BV_2NDy_VWwEL2VyPDQ
- B5. Regulating the use of motor vehicles on public rights of way and off road. A Guide for Local Authorities, Police and Community Safety Partnerships Department for Environment Food and Rural Affairs December 2005.
<https://webarchive.nationalarchives.gov.uk/20130123220907/http://archive.defra.gov.uk/rural/documents/countryside/crow/regulating-motorvehicles.pdf>
- B6. Department for Environment Food and Rural Affairs tackling noise nuisance issues <https://www.gov.uk/guidance/noise-nuisances-how-councils-deal-with-complaints>
- B7. Authorising Structures (gaps, gates and stiles) on rights of way. Good practice guidance for Local Authorities on compliance with the Equality Act 2010. Department for Environment, Food and Rural Affairs. Version 1, October 2010.
<https://mk0ossociety9jn92eye.kinstacdn.com/wp-content/uploads/2011/06/understandingdefrastructures3e20120702.pdf>

- B8. Cycling England Design Portfolio. B.08 Access and Speed Controls.
<https://www.dft.gov.uk/cyclingengland/>
- B9. Inclusive Mobility. A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure. Department for Transport 2002 (and amendments).
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/3695/inclusive-mobility.pdf
- B10. Authorising Structures (Gaps, Gates & Stiles) on Rights of Way – Good Practice Guidance for Local Authorities on Compliance with the Equality Act 2010 (Department for Environment Food and Rural Affairs October 2010).
<http://www.pittecroft.org.uk/structureguidance.pdf>

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APPENDIX C

FLOW DIAGRAM: PROCESS WHEN CONSIDERING REQUEST FOR A SAFETY BARRIER, OR OTHER OBJECT OR STRUCTURE



APPENDIX D

Who / why / what	Who / what	Tick <input type="checkbox"/>	Further information
Who requested the safety barrier or other object or structure?	Police / Council's Community Protection Service Local residents / community group Local Councillors / Neighbourhoods and Community Engagement Teams User group(s) (please specify) Other (please specify below)		
Why is the safety barrier or other object or structure needed?	Public safety (incident not already occurred) Public safety (incident already occurred – provide details) Anti-social behaviour Crime Other (please specify)		
Who has been consulted?	Police / Council's Community Protection Service Local residents / community group		

	<p>Local Councillors / Neighbourhoods and Community Engagement Teams</p> <p>User groups(s) (please specify)</p> <p>Other (please specify)</p>		
<p>What other measures to deal with the problem have been tried, tested and have failed?</p>	<p>Legal enforcement by Council (e.g. Notices)</p> <p>Legal enforcement by Police / Council's Community Protection Service (e.g. Fixed Penalty Notice)</p> <p>Publicity vehicle crushing campaign</p>		
<p>If the decision is to install a safety barrier or other object or structure, what is the most appropriate type / design?</p>	<p>A Frame</p> <p>K barrier</p> <p>Chicane / (staggered 2 or 3 barriers)</p> <p>Bollard (multiple of)</p> <p>Other (please specify)</p>		
<p>Monitoring: once installed, it is necessary to carryout monitoring of the safety barrier or other object or structure to establish its effectiveness</p>	<p>Consultation with:</p> <p>the Police / Council's Community Protection Service</p> <p>Local residents / community group</p> <p>Local Councillors / Neighbourhoods and Community Engagement Teams</p>		

Include the results of the monitoring on a separate sheet and attach it to this Form	User groups(s) (please specify) Other (please specify)		
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ASSESSMENT AND CHECK LIST COMPLETED BY:

NAME.....POSITION.....

SIGNED.....DATE.....

ON BEHALF OF NOTTINGHAM CITY COUNCIL, TRAFFIC AND SAFETY

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