

# Officer Decision Notice

The following decision has been taken under Part F2 Paragraph 5.1(d) as set out in the Council's Constitution.

<b>Decision maker/s:</b>	Helen Brackenbury, Director of Integrated Early Support
<b>Decision taken On:</b>	24 <sup>th</sup> January 2017
<b>Decision in the matter of:</b>	Variation of Public Space Protection Order number 2 of 2015 made 24 <sup>th</sup> November 2015 (the PSPO) currently restricting the right of way by the installation of gates and any necessary fencing at Holly Road, Kingsley Road and Cambridge Road Ellesmere Port to include further gates at Holly Road, Cambridge Road, and Cromwell Road, Ellesmere Port as set out in the attached draft Order.
<b>Decision details including budget:</b>	<p>To authorise officers to carry out all necessary procedures to vary the PSPO and install additional alley-gates at the above locations. The gates will secure the alley ways to the rear of properties fronting Holly Road and Cambridge Road, and adjacent properties on Cromwell Road and Wellington Close Ellesmere Port which have been subject to levels of Crime and Disorder that meet the threshold for a PSPO for gating. This was requested by the Ellesmere Port Locality Team following consultation with local residents.</p> <p>The Gates will be funded by Members Budgets and a Purchase Order will be raised by the Ellesmere Port Locality Team. Funding of £6,617+VAT has been confirmed by Alison Armstrong to include installation and three year repair and maintenance costs.</p>

## Background:

### The Anti-Social Behaviour, Crime and Policing Act 2014 ss 59-75

#### 1. What is the ODN about?

A proposal to vary the PSPO in accordance with the requirements of the Anti-Social Behaviour, Crime and Policing Act 2014 (The Act) to restrict the right of way over a public highway by the installation of additional gates. The additional gates will further secure the alley ways to the rear of properties fronting Holly Road and Cambridge Road, and adjacent properties on Cromwell Road and Wellington Close Ellesmere Port

#### 2. What Decision is required by the Delegate Head of Service?

2.1. Whether or not the PSPO should be varied.

#### 3. How does the Decision contribute to the Council's Corporate Priorities?

3.1. The proposed variation to the PSPO is designed to achieve a further reduction in crime, disorder and antisocial behaviour (ASB) through the use of situational crime prevention tool. As such it contributes to the Community Safety Strategy and Key Outcome Plan for Cleanest, Safest and Most Sustainable Neighbourhoods in the Country to ensure that communities are safe and secure with a reduced fear of crime

#### 4. Legislative Background and Decision Criteria

The Act and associated regulations empower local authorities to make a Public Space Protection Order prohibiting or requiring the public to refrain from/do certain activities. which includes restriction of access to a public right of way – replacing the provision for making 'gating orders' under Part 8A of the Highways Act 1980.

Before a council can make a Public Space Protection Order two conditions must be met:-

- a. The first condition is that activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or;
- b. It is likely that activities will be carried on in a public place within that area and that they will have such an effect;

The second condition is that the effect, or likely effect, of the activities;

- a. Is, or is likely to be, of a persistent or continuing nature,
- b. Is, or is likely to be, such as to make the activities unreasonable, and
- c. Justifies the restrictions imposed by the notice

The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order

- a. To prevent the detrimental effect of the activities referred to in 4.2.1 from continuing, occurring or recurring, or
- b. To reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence

It should be noted that it is a criminal offence if a person fails to comply with the Public Space Protection Order, the Act also allows for a Fixed Penalty Notice to be issued for breach of the Order. Reference must be made in the PSPO to the fact that it is a criminal offence for failure to comply with the Order.

## 1. The Proposal & Evidence

Variation of the PSPO made on 24<sup>th</sup> November 2015 to include additional gates at Holly Road and Cambridge Road, and adjacent properties on Cromwell Road and Wellington Close Ellesmere Port which have been subject to levels of Crime and Disorder that meet the threshold for a PSPO for gating.

- 1.1. A request to install alley gates at this location was put forward by the previous ward councillors for Ellesmere Port Town ward (Cllr Lynn Clare and Cllr Justin Madders) in response to community concerns. These were reiterated at local Neighbourhood Action Group meetings. Since the May 2015 elections, the request for alley gates has continued to be pursued by the new ward councillors for Ellesmere Port Town ward (Cllr Lynn Clare and Cllr Jessica Crook).
- 1.2. Community consultation conducted by the Ellesmere Port Localities Team and Community Safety Wardens has re-confirmed local support (61% of residents consulted want the gates, 11% have no preference, and 27% do not want the gates) during consultation with residents issues with the alley ways were identified in relation to their disrepair, and crime and disorder. From April 2015 to 31<sup>st</sup> March 2016 there were 23 incidents of Crime and Disorder reported to the police. Regular Ward walks identify when the alley-way requires cleansing but this does not reduce the incidents of Crime and disorder. Although there has been regular patrolling of the alley-ways by the Local Policing Unit and the ASB Unit in order to reduce the incidents, this cannot continue indefinitely due to demands on those resources. It is therefore considered that additional gating is the most viable option, which residents also support. The reported incidents include:
  - Drug Dealing
  - Suspicious Persons / Activity
  - Anti-Social Behaviour
- 1.3. It is considered that the varied PSPO should continue to take effect on a 24/7 basis because the likely effect on occupiers of premises adjoining or adjacent to the highway and on other persons in the locality particularly having regard to the availability of a reasonably convenient alternative route render the resources required for a managed opening and closing arrangement disproportionate.
- 1.4. A detailed evidence file has been produced in support of the proposal. Whilst the evidence file is confidential in accordance with the provisions of the Data Protection Act 1998 its contents can be summarised as follows:-
- 1.5. It is clear from the evidence and the proposal that there are high numbers of incidents of crime and disorder

reported to Cheshire Police over the twelve month period. These are proportionately high when comparing to other alley-ways in the local area.

## **2. Consultations**

2.1. Consultations in relation to this proposal have been undertaken with:-

- CWaC Senior Manager for Community Safety, Michelle Nicholson, CWaC Ellesmere Port Locality Team, Cheshire Police,
- Regulatory Services
- Local Residents
- The ASB Unit who consulted:
- Emergency Services: Cheshire Police, and Cheshire Fire and Rescue Service HQ
- The Highway Authority

2.1.1. Of the 31 door to door consultations completed by Community Safety Wardens, in total 18 residents engaged in the consultation, however despite several attempts to engage them, the remaining residents did not engage and documents were therefore posted through their doors for them to review. Of those that engaged 61% want the gates, 11% have no preference, and 27% object to the installation of gates.

2.2. A Draft Notice (minimum 28 day) detailing the intention to install alley-gates and inviting further comment will be erected at the location of the gates, on the website, and letters will be hand delivered to the residents that were consulted informing them of the council's intention to install gates.

## **3. Conclusion**

3.1. It is considered that the legal requirements for varying the PSPO as summarised above have been satisfied. Careful consideration has been given to the effect of the PSPO on occupiers of premises adjoining or adjacent to the highway and to other persons in the locality including the public making legitimate use of the route. Having regard to the availability of a reasonably convenient alternative route it is considered in all the circumstances expedient that the variation be made. It is important to balance the needs of the community and the effects the proposed variation may have on them against the effect on quality of life for residents affected by the continued crime and disorder. If the proposed variation goes ahead it would not inconvenience members of the public who legitimately use the alley-way as alternative routes are available via Holly Road to and from Cambridge Road and Cromwell Road, Ellesmere Port.

## **4. Recommendation**

Officers be authorised to give formal notice of the Council's intention to vary the PSPO in accordance with the requirements of the Act in the form of the attached draft Order; and,

4.1.1. Upon expiry of the statutory notice period (24<sup>th</sup> February 2017) and in the absence of any objections received during the statutory notice Officers be authorised to make the said variation and erect barriers pursuant to the same; and,

4.1.2. The effect of the varied PSPO and ambient crime and disorder and ASB issues be kept under review.

## **5. What will it cost?**

5.1. The cost of installation of the proposed gates is £6617++VAT. Alison Armstrong, Senior Manager, Ellesmere Port has confirmed that the cost of installation and three year Maintenance costs will be met from Members Budgets.

## **6. Legal Considerations**

6.1. The conditions which must be met before a PSPO or variation to an existing PSPO may be made are dealt with in paragraph 4 of this report.

6.2. S.61 (1)(a) of the Act provides for the variation of a PSPO to increase or reduce the restricted area; S.61(2) provides that a local authority may make a variation under subsection (1)(a) that results in the order applying to an area to which it did not previously apply if the two requisite conditions are met as regards activities in that area.

6.3.

The variation of a PSPO can be challenged in the High Court on the basis that a procedural requirement has

not been complied with or that the Council had no authority to make the variation to the PSPO provided that application is made to the Court within 6 weeks of the variation being made.

**7. What risks are there and how can they be reduced?**

7.1. The risks have been addressed in the body of this report.

**8. What is the impact of the decision on equality and diversity issues?**

8.1. The proposed variation to the PSPO has no adverse impact on matters of equality of diversity.

**9. Are there any other options?**

9.1. The availability of alternative options has been addressed in the body of this report.

**10. For further information:**


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**11. Background Documents:**

Confidential Evidence File



Approved ..... Director of Integrated Early Support

Approved  ..... Director of Places Operations

Approved  ..... Director of Governance/Monitoring Officer

Date: .....

Contact Officer: .....

Tel: .....

Contact Legal Officer: .....

Tel: .....