

Officer Decision Notice

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

Decision maker/s: Helen Brackenbury, Head of Integrated Early Support
Decision taken On: 1st October 2017
Decision in the matter of: Transfer of Gating Orders made using Part 8A of the Highways Act 1980 to PSPO for the maximum of 3 years in accordance with the ASB Crime & Policing Act 2014

Decision details including budget: Based on the reduced ASB since installation of the original alley gate(s) and public consultation carried out between July and September 2017 that the following Gating Orders made in using Part 8A of the Highways Act 1980 each transfer for the maximum of 3 years from 1st October 2017 and are reviewed again before expiry on 30th September 2020

TITLE	LOCATION	DATE
Westminster Road	Chester	2008
Hazel Road	Chester	2011
Thurston Road	Chester	2011
Crossley Avenue	Ellesmere Port	2010
Romiley Road	Ellesmere Port	2010
Woodfield Road	Ellesmere Port	2014
Alexandra Street	Ellesmere Port	2012
Beechfield Road	Ellesmere Port	2012
Victoria Road	Ellesmere Port	2010
Livingstone Road	Ellesmere Port	2011
Pinewood Grove	Winsford	2010

A proposal is currently being considered in relation to setting aside an annual budget for maintenance and repair of all alley-gates. Until that proposal is confirmed costs, any urgent repairs and replacement key costs will be met from existing service budgets.

Background:

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

1. What is the ODN about?

In October 2014 the Anti-social Behaviour Crime & Policing Act 2014 (the Act) introduced new powers relevant to tackling Anti-Social Behaviour. In addition the Act makes changes to existing legislation and the council is required to review existing orders that were made under previous legislation and replace them with Public Spaces Protection Orders (PSPOs) Failing which they will automatically expire in October.

In accordance with the Act Gating Orders made using Part 8A of the Highways Act 1980 automatically transfer to PSPOs in October 2017. However those PSPOs will then expire immediately as they are regarded as having existed as PSPOs since October 2014. Therefore each Gating Order has been reviewed and public consultation carried out between July and September 2017.

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

Whether or not the existing Gating Orders should transfer to three year PSPOs or be allowed to expire.

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

The Council Plan for 2016 – 2020 is called 'helping the borough thrive' and sets out 10 priorities to guide all council actions, it reflects what residents said are most important to them and fully aligns with the priorities shared with other partner organisations.

Clean, Green, Safe and Sustainable Neighbourhoods can provide communities with a strong sense of civic pride and wellbeing. Environments that are pleasant, feel safe and can be widely enjoyed at a local level, support community cohesion and can be a trigger for local control/influence of services.

Transfer of the existing Orders to PSPOs and extension of those orders as PSPOs will directly contribute to Clean, Green, Safe and Sustainable Neighbourhoods and therefore positively contribute to the Council's Plan

4. Legislative Background and Decision Criteria

The ASB Crime & Policing Act 2014 repeals parts of certain legislation which empowered the Council to make the orders regulating the behaviour of the public as set out in paragraph 4 above. However Section 75 of the Act provides that orders made under the repealed legislation may remain in force until 20 October 2017 whereupon they either lapse or remain in force as if the provisions of the order(s) are the provisions of a PSPO. As such they are regarded as having been in force for 3 years at that date and are therefore subject to review, prior to expiry, to consider whether it is appropriate to extend the order(s) for a further period of no more than three years.

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 provides, as an alternative to prosecution , for a Fixed Penalty Notice to be issued for breach of the Order.

5. The Proposal & Evidence

5.1. The table below shows each of the Gating orders that are affected by the change in legislation on 20th October 2017..

5.2. It can be seen from the table below that since the installation of each gating order that crime and ASB has reduced indicating that the objectives for gating the alley-ways have been met. In addition the table shows the public consultation information and support for the proposals on transfer to PSPOs to be extended for a further 3 years.

TITLE	LOCATION	DATE	Analysis	Proposal to Transfer To PSPO for 3 years
Westminster Road	Chester	2008	We no longer have a record of the ASB levels prior to installation of the alley gate because records are only kept for 7 years. In 2016 there were 56 incidents of ASB reported in the Westminster road area compared with 100 in 2013.	19 Addresses Consulted YES: 84% NO: 0% UNSURE 0%: NO RESPONSE: 16% Key Requests: 2
Hazel Road	Chester	2011	Prior to installation of the gate in 2010 there were approximately 48 incidents of ASB reported from August 2009 – July 2010. In 2016 there were 14 incidents of ASB reported.	63 Addresses Consulted YES: 70% NO: 5% UNSURE: 5% NO RESPONSE: 20% Key Requests: 16
Thurston Road	Chester	2011	Prior to the alley gate being installed in 2011 there were approximately 38 incidents of ASB reported over a twelve month period (May-Oct 2009 and May – Oct 2010). In 2016 there were 14 incidents of ASB reported.	189 Addresses Consulted. YES: 64% NO: 5% UNSURE: 5% NO RESPONSE: 26% Key Requests: 25
Crossley Avenue	Ellesmere	2010	Prior to the alley gate being installed in 2010 there were approximately 53 incidents of Crime and ASB reported over an 18 month period. In 2016 there were approximately 19 incidents reported.	44 Addresses Consulted YES: 79.5% NO:0% UNSURE: 0% NO RESPONSE: 20.5% Key Requests: 15
Romiley Road	Ellesmere	2010	Prior to the alley gate being installed in 2010 there were approximately 72 incidents of Crime and ASB reported. In 2016 there were approximately 30 incidents reported.	56 Addresses Consulted YES: 71% NO: 7% UNSURE: 5% NO RESPONSE: 17% Key Requests: 2
Woodfield Road	Ellesmere	2014	Prior to the alley gate being installed, in 2013 there were approximately 257 incidents of Crime and ASB reported. In 2016 there were approximately 47 incidents reported.	15 Addresses Consulted YES: 40% NO: 0% UNSURE: 6% NO RESPONSE: 54% Key Requests: 1
Alexandra Street	Ellesmere	2012	Prior to the alley gate being installed, in 2011 there were	25 Addresses Consulted YES: 60%

			approximately 24 incidents of Crime and ASB reported. In 2016 there were approximately 4 incidents reported.	NO: 0% UNSURE: 0% NO RESPONSE: 40% Key Requests: 3
Beechfield Road	Ellesmere	2012	In 2011 there were approximately 376 incidents of Crime and ASB reported in the area covered by this gate and Victoria Road gate. However following the installation of the Beechfield Road gate in 2012 reports dropped and in 2016 there were approximately 262 incidents reported in the area covering both gates and in 2017 there have been 86 reports to date.	93 Addresses Consulted YES: 61% NO: 3.5% UNSURE: 3.5% NO RESPONSE: 32% Key Requests: 21
Victoria Road	Ellesmere	2010	In 2011 there were approximately 376 incidents of Crime and ASB reported in the area covered by this gate and Beechfield Road gate. However following the installation of Beechfield Road gate in 2012 reports dropped and in 2016 there were approximately 262 incidents reported in the area covering both gates and in 2017 there have been 86 reports to date.	<ul style="list-style-type: none"> • 181 Addresses Consulted • YES: 63% • NO: 0% • UNSURE: 2% • NO RESPONSE: 35% • Key Requests: 34
Livingstone Road	Ellesmere	2011	Prior to the alley gate being installed, in 2009 there were approximately 71 incidents of Crime and ASB reported. There has been an approximate average of 60 reports per year since and 15 to date in 2017.	88 Addresses Consulted YES: 64% NO: 2% UNSURE: 2% NO RESPONSE: 32% Key Requests: 28
Pinewood Grove	Winsford	2010	Prior to the alley gate being installed in 2010 there were approximately 139 incidents reported between 2006 and 2009. In 2016 there were 14 incidents of ASB reported.	50 Addresses Consulted YES: 82% NO: 8% UNSURE: 0% NO RESPONSE: 10% Key Requests: 4

5.3. 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 are summarised above.

5.4. During the consultations residents were asked whether they would like a key to the alley-gate and this has also been shown in the table above. Providing additional keys will allow more residents to use the alley-way.

6. Consultations

6.1. Community Safety Wardens carried out door to door consultations and did three visits per address for each gating order. The visits were varied to include daytime, evenings and weekends to ensure that we were able to consult with as many residents as possible. After the third attempt the questionnaire was left at the property and return later to the Community Safety Wardens. However there are a number of non-responses for each order as shown in the table above.

7. Conclusion

7.1. It is considered that the objectives of the original Gating Orders have been met as demonstrated by the reduction in crime and ASB in the table above. In addition there continues to be public support for the alley gates and additional keys have been offered and taken up by many resident. Transferring the Gating Orders to PSPO's would ensure that crime and ASB perpetrated by the alley-way can continue to be effectively managed and the three year review ensures that the effectiveness can continue to be monitored.

8. Recommendation

8.1.1. That the existing gating orders set out in the above table, on transfer to PSPOs on 20 October 2017, continue for a further three years in consideration of the consultation undertaken. ,

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

9. What will it cost?

9.1. There is no additional cost to transfer the gating order to PSPO's. However there are costs associated with the additional key requests that will be met from existing budgets. A proposal for annual maintenance and repair of the gates is currently being considered, however at present it will continue to be met from existing budgets.

10. Legal Considerations

10.1. 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.

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

11.1. The risk would be to allow the gating orders to expire and not replace them with an order to manage crime and ASB perpetrated by the alley way. There is overall public support to transfer the gating orders to PSPOs.

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

12.1. Transferring the Gating Orders to PSPOs has no adverse impact on matters of equality of diversity.

13. Are there any other options?

13.1. The Gating Orders could be allowed to expire but this would mean that crime and ASB perpetrated by the alley ways are not effectively managed and would go against the overall support for the orders to continue as demonstrated by the public consultation and residents directly affected.

14. For further information:

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15. Background Documents:

Confidential Evidence File

Approved  (Service Owner)*

Approved (Head of Legal & Democratic Services)*

Date:

Contact Officer:.....

Tel:

Contact Legal Officer:.....

Tel: