

**Environment and Communities
Committee**

28 September 2023

**Extension and variation of Public Space
Protection Order for Alley Gating**

Report of: Peter Skates, Acting Executive Director - Place

Report Reference No: EC/08/23-24

Ward(s) Affected: ALL

Purpose of Report

- 1 The purpose of this report is to seek committee approval to extend and vary the Public Space Protection Order (PSPO) made in October 2020, relating to Alley Gating.
- 2 The extended use of this Order will allow a consistent and manageable approach in tackling irresponsible and anti-social behaviour whilst protecting our residents from being victims of crime.

Executive Summary

- 3 Under the Anti-Social Behaviour, Crime and Policing Act 2014, the Council can make a PSPO to control certain activities in a specified area if those activities are likely to have a detrimental effect on the quality of life of people in that area. This can include many forms of anti social behaviour and measures to deter criminal activity.
- 4 The existing Order is contained at Appendix A, but the schedule does not cover all of the known alley gates which have at some point in the past been installed in areas within the Cheshire East borough.
- 5 A requirement of the Act is for the Council to review all of its existing PSPO's within a three year period from them being made. This is achieved through a consultation process, the outcomes of which will

determine whether to extend, vary or discharge or simply to allow to lapse, the specific Order in question.

- 6 A summary of the consultation undertaken is contained at paragraph 14 to 18, with a full report included at Appendix C.
- 7 The current PSPO for Alley Gating came into force on the 1st November 2020 and will expire at midnight on 31st October 2023, unless extended.
- 8 There is a need to extend and vary the existing Order to ensure that it covers all alley gates which have historically been installed in various locations across the borough. The draft extension and variation Order and associated schedule of all known alley gate locations is contained at Appendix B.

RECOMMENDATIONS

The Environment and Communities Committee is recommended to:

1. Note the result of the consultation in relation to extending the current Public Space Protection Order related to Alley Gating;
2. Approve an extension for a further three years the Public Space Protection Order (PSPO), relating to Alley Gating and;
3. Approve a variation to the same PSPO to ensure that it covers all alley gates which are currently in place across the borough, as included in the appended schedule attached to the draft Order.

Background

- 9 The current PSPO for Alley Gates came into force on the 20th October 2020 and will expire at midnight on 19th October 2023, unless extended.
- 10 The current Order is contained at Appendix A, which covers a limited number of alley gates, as shown in the appended schedule.
- 11 The proposed extension also includes a variation to the existing Order. This is to ensure that it captures all alley gates which have been installed historically. It is unclear as to why all alley gates were not captured under the existing Order but the variation simply corrects this position, ensuring that the gated areas are suitably covered from an enforcement perspective.

- 12 A copy of the draft extension Order is included at Appendix B respectively, which includes the schedule of all of the known alley gated areas which it is now intended to cover.
- 13 An extension provided to the current PSPO's would not affect the amounts charged in relation to fines. Breach of any of the prohibitions would be dealt with by means of a Fixed Penalty Notice of £100 in line with the fine levels for a breach of a PSPO in Cheshire East.

Consultation and Engagement

- 14 The consultation relating to the potential Order extension and variation ran for 6 weeks between Wednesday 26th July and 9am on Wednesday 6th September 2023.
- 15 The consultation was promoted via media releases, site signage and by emails issued to Cheshire East Members, all Town and Parish councils and Members of Parliament.
- 16 The consultation was delivered via the Council's online platform and attracted nil formal survey responses.
- 17 A single ward councillor provided an emailed response which indicated that they were in support of the extension and variation of the Order.
- 18 A full report relating to the consultation outcomes is included at Appendix C.

Reasons for Recommendations

- 19 As noted at paragraph 3 above, by virtue of the provisions of the Anti-social Behaviour Police and Crime Act 2014, (S 75) within 3 years of the commencement of the PSPO (that is by 20th October 2023) all existing PSPO's have to be renewed within the 3 year lifetime, in accordance with s.60 of the Act. A PSPO cannot have effect for more than 3 years, unless extended under s.60 (2).
- 20 Section 60 of the Act permits a local authority to extend and vary a PSPO where it is satisfied on reasonable grounds that doing so is necessary to prevent an occurrence or recurrence of the activities identified in the Order. Any extension must be agreed before the expiry of the previous Order

Other Options Considered

- 21 Table 1 sets out the alternative options to those presented in the recommendations of this report.

Option	Impact	Risk
Do nothing – do not extend / allow the existing Order to lapse – no replacement	The existing PSPO is no longer valid and enforcement action can't be taken, 'restricted areas' would have the restriction removed (the gates).	Increase in anti-social behaviour with no recourse to control. Increase in complaints and correspondence as a result leading to additional draw on limited staff resource.
Do Something – extend but do not vary the Order	Significantly reduced / lack of enforcement capabilities for alley gated areas which do not fall under the PSPO	As 'Do Nothing'
Do Something - do not vary the existing Order – new Order to cover all alley gates	The existing PSPO is no longer valid and enforcement action can't be taken. New Order needs to be put in place, significant resource consideration drawing staff resource away from day-to-day enforcement activities	As 'Do Nothing' but on a temporary basis under a

Table 1: Summary of alternative options to that recommended

Implications and Comments

Monitoring Officer/Legal

- 22 Extension of the PSPO is only available to the Council if there has been a consultation on it in accordance with S.72 of the 2014 Act, and it satisfied on reasonable grounds that extending it is necessary to prevent either the occurrence or reoccurrence of the activities identified in the order, or an increase in frequency or seriousness of those activities after expiry of the order.
- 23 The Council can only vary the PSPO where it has again carried out the required consultation as stated in the preceding paragraph, and is satisfied on reasonable grounds that the activities to which the order is directed in areas not previously covered by the PSPO, have had, or are likely to have a detrimental effect on the quality of life of those in the area, and such

activities are either persistent or continuing, or are in themselves unreasonable such as to justify the variation to the PSPO to encompass those areas.

- 24 Members will need to be satisfied that the required consultation has taken place before considering extending and varying the order.
- 25 Members must then be satisfied it is necessary to extend the order for a further three years to prevent occurrence of reoccurrence of anti-social behaviour or an increase in its frequency. This is a fact specific exercise. Members must be satisfied on the evidence before them that an extension to the order will prevent the anti-social behaviour occurring or increasing in frequency in the areas it currently covers.
- 26 Members must then be satisfied it is necessary to vary the order to cover the areas not previously covered by the PSPO because the activities to which the order is directed have had, or are likely to have a detrimental effect on the quality of life of those in the area, and such activities are either persistent or continuing, or are in themselves unreasonable such as to justify the variation to the PSPO to encompass those areas.
- 27 As before, this is a fact specific exercise. Members must be satisfied on the evidence before them that a variation is required to prohibit the activity stated in the order because without it, it will, is or may have a detrimental effect on the quality of life of those in the area because it is persistent, continuing or unreasonable.
- 28 Consideration would have to be given to make sure by extending and varying the PSPO the Council would be legally compliant in making sure that relevant signage is put in place if not already done so.

Section 151 Officer/Finance

- 29 The only direct costs associated with the renewal of the PSPO will be the professional fees associated with processing the Order. These activities will be funded from the existing Community Enforcement team service budgets.
- 30 There is a wider risk related to the current condition of the alley gates in certain locations which have been installed for over 10 years.
- 31 There is no current budget for regular maintenance or replacement of alley gates, hence where a gate becomes past its useful life, hence potentially a safety hazard to those residents operating it, the only option may be to remove it.

Policy

- 32 The proposal supports the following [Corporate Plan](#) priorities as shown below.

An open and enabling organisation <i>Priority: Support a sustainable financial future for the council, through service development, improvement and transformation</i>	A council which empowers and cares about people <i>Priority: Work together with our residents and our partners to support people and communities to be strong and resilient.</i>	A thriving and sustainable place <i>Priority: Reduce impact on the environment</i>
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Equality, Diversity and Inclusion

- 33 An Equality Impact Assessment has been completed and is included at Appendix D to this report.

Human Resources

- 34 The Community Enforcement team consists of 6 Community Enforcement Officers who are deployed across the entire borough. These Officers currently look at a wide variety of potential enforcement matters, such as fly tipping, dog fouling and abandoned vehicles, alongside those responsibilities which relate to the subject of this paper.
- 35 Therefore, considering the limited resource availability in this area any increased requests for patrols associated with the extension of this Order will have to be considered whilst taking account of the available staff resource capacity at the time.

Risk Management

- 36 The key risk for consideration is the reputational impact on the Council in the event that the Order is allowed to lapse and hence the limitations this would then place on enforcement action across what is already a well and long time established asset.
- 37 There are also risks relating to the continued resource availability with the Community Enforcement team which are set out in the previous section of this report.
- 38 Please also see paragraph 27 which sets out the wider risk around ongoing asset maintenance relating to alley gates.

Rural Communities

- 39 There are no specific implications for rural communities as a result of this report, as the Order in question relates to existing long established locations of alley gates.

Impact on Children and Young People

- 40 There are no specific implications for children and young people as a result of this report.

Public Health

- 41 There are no specific implications for climate change as a result of this report.

Climate Change

- 42 There are no specific implications for climate change as a result of this report.

Access to Information

Contact Officer:

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Appendices:

Appendix A – existing PSPO Alley Gates

Appendix B – draft Extension and Variation of Order

Appendix C – Consultation Report

Appendix D – Equality Impact Assessment (updated post consultation)

Background Papers:

NA