

# GATING ORDERS/PUBLIC SPACE PROTECTION ORDERS

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Powers to close alleyways were first introduced by the Countryside and Rights of Way Act 2000 (CROW Act 2000); this enables alleyways, which are also Public rights of way, to be closed through 'special extinguishment and diversion orders' and gated for crime prevention reasons.

For a route to be eligible it must lie within a designated crime area, the application procedures for which are set out under the CROW Act. It is unlikely that any areas within Cambridgeshire would meet a request for such a designation. Such orders do not enable alleyways to be gated expressly to prevent anti-social behaviour (ASB) and they exclude many alleyways that are public highways but not recorded as rights of way. Also, under these provisions the removal of rights of passage is irrevocable.

## PUBLIC SPACE PROTECTION ORDERS (PSPOs)

Public spaces protection orders (PSPOs) are intended to deal with a specific nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. PSPOs are dealt with by the local District or City Council. PSPOs were introduced in October 2014 by the Antisocial Behaviour, Crime and Policing Act 2014 and replace Gating Orders under section 129A of the Highways Act 1980.

## GENERAL PRINCIPLES

A PSPO is made by a Local Authority if satisfied that two conditions are met. Firstly, that (i) activities carried out in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality; and (ii) it is likely that activities will be carried out in a public place within that area and that they will have such an effect.

Secondly the restrictions imposed by the notice are justified if the activities are of a persistent, unreasonable nature.

A PSPO is an order that identifies the public place and prohibits specified activities in the restricted area and/or requires specified actions by persons carrying on specified activities in that area. The order may not have effect for more than 3 years and the Local Authority must consult with the chief officer of the police and the local Highway Authority before making an order.

Special extinguishment or diversion orders that remove the highway status of an alleyway, for crime prevention reasons, should continue to be made under the

provisions of the CROW Act 2005 if a Secretary of State crime area designation can be achieved.

Temporary gating orders for crime or ASB prevention reasons, should be made under the Clean Neighbourhoods and Environment Act 2005 (Sections 129A to 129G of the Highways Act 1980).

## RESTRICTIONS ON PUBLIC RIGHTS OF WAY

PSPOs are not the only solution to tackling crime and ASB on certain highways. Before proposing an order, consideration must be given to whether there are alternative measures that may be more appropriate for tackling the specific problems, which do not involve gating the highway. Government advice gives examples of the installation of security lighting and CCTV. PSPOs should be seen as a last resort.

Cambridgeshire County Council will only consider the use of a PSPO in the following circumstances:

- i) when alternative solutions for tackling the specific problems being experienced, such as the installation of security lighting, CCTV, increased police officer surveillance or neighbourhood watch, have been fully investigated or tried and have been found to be ineffective or prohibitively more costly than erecting a barrier.
- ii) on public highways (generally urban alleyways) where it can be shown that persistent crime and/or serious ASB is occurring and is expressly facilitated by the use of the public highway;
- iii) where the order will not restrict the public right of way over a highway for the occupiers of premises adjoining or adjacent to the highway.
- iv) where the order would not restrict the public right of way over a highway that is the only or principal means of access to a dwelling.
- v) where the order will not restrict the principal means of access to premises used for business or recreational purposes during periods when the premises are normally used for those purposes.

Cambridgeshire County Council will expect any consultation to demonstrate that all the above can be met through documented evidence.

It should be remembered that the orders are not meant to be permanent solutions. If a PSPO is made then they may not have effect for a period of more than 3 years so that the effect of the order and other factors such as action to combat the sources of the ASB or a change in local circumstances such as redevelopment can be assessed and a decision taken as to whether the order needs to be varied or revoked.