

**Report To:** Cabinet

**Date of Meeting:** 29 January 2024

**Report Title:** Review of the Gating Public Space Protection Order (PSPO) which allows the gating of 4 public rights of way and consider adding another gated footpath to the order.

**Report By:** Natasha Tewkesbury Head of Community & Regulatory Services

**Key Decision:** Yes

**Classification:** Public (Part 1)

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## Purpose of Report

To summarise the consultation feedback and determine whether to renew, and remain gated, public footpaths identified in the gating public space protection order (PSPO) in areas affected by long term anti-social behaviour using powers from the Anti-social Behaviour, Crime and Policing Act 2014 for a further 3 years.

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## Recommendation(s)

- 1. Cabinet authorises the Head of Community and Regulatory Services in conjunction with the Chief Legal Officer, to implement the statutory legal process required to renew the gating PSPO of public rights of way described in the report and gate a further footpath in Castle ward.**
- 2. The Gating PSPO is formally reviewed every 3 years.**

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## Reasons for Recommendations

As a result of long standing anti-social behaviour affecting the public rights of way, the council has been asked to renew the existing gating of 4 footpaths and gate a further footpath in Castle Ward, using powers set out in the Anti-social Behaviour Crime and Policing Act 2014.

The existing Gating PSPO originally came into force on 1 March 2021, was varied and extended on 7 November 2022. It now needs to be reviewed and potentially varied and extended again before it expires on 1 March 2024.

## Introduction

1. In recent years a number of footpaths in central St Leonards and central Hastings have been the focus for crime and anti-social behaviour. All of these footpaths are also Public Rights of Way (PROW). Gating is only considered for those footpaths where there is serious crime and anti-social behaviour impacting on the lives of residents and local businesses and not a blanket approach across the borough. The following 4 footpaths are currently gated under the gating PSPO in place and require review:
  - a. Valentine's Passage, Central St Leonards, Public Right of Way (No.94)
  - b. Laser Lane, Central St Leonards Public Right of Way (No.97)
  - c. Prospect Passage, Havelock Road, Public Right of Way (No.175)
  - d. Hoads Wood Road and Pilot Road, Public Right of Way (No. 232)\*

\*This was agreed and added to the order in November 2022 so not applicable for review now.

2. The current Gating PSPO is on the council's website, for further detail:  
[https://www.hastings.gov.uk/content/my\\_community/safety/493930/The\\_Public\\_Spaces\\_Protection\\_Order\\_\(No\\_3\)\\_Hastings\\_Borough\\_Council\\_2021.pdf](https://www.hastings.gov.uk/content/my_community/safety/493930/The_Public_Spaces_Protection_Order_(No_3)_Hastings_Borough_Council_2021.pdf)
3. It is proposed that a further footpath in Castle ward, which runs between Robertson Street and Claremont is also considered for gating under the PSPO:
  - a. Trinity Passage, Public Right of Way (No. 177)
4. Residents and local businesses asked the council and police several times to take steps to deal with the crime and anti-social behaviour associated with these footpaths. The behaviour reported includes drug dealing and use, noise and shouting (from drug dealers and potential clients), street drinking, arson, public defecation, prostitution, fly-tipping, graffiti, dog fouling, litter accumulations and some instances of public place violent crime.
5. Each PROW has a different profile of crime and anti-social behaviour, but reports continue to identify these footpaths as needing crime prevention interventions. These behaviours affect the quality of life of residents and the trading and operation of nearby businesses.
6. Increased patrols by police and council wardens, as well as the use of re-deployable CCTV cameras, are only a temporary solution and have been tried several times. Gating these footpaths has been a far more effective measure in the reduction of anti-social behaviour.
7. Support for safe and usable streets, including the need to address community safety issues, is found in planning national design guides, and is a recognised part of crime prevention through environmental design.
8. The Anti-social Behaviour, Crime and Policing Act 2014 gives local councils the power to gate public rights of way using the Public Space Protection Order (PSPO) process. The PSPO can restrict access, such as gating the PROW. The criteria for using gating orders stipulates that it must demonstrate it will positively affect the anti-social behaviour, crime and disorder exhibited along PROWs that:
  - a. has had, or is likely to have, a detrimental effect on the quality of life of those in the locality

- b. is, or is likely to be, persistent or continuing in nature
  - c. is, or is likely to be, unreasonable; and justifies the restrictions imposed
9. This report sets out the background to the gating and feedback from the public consultation.

## Consultation process

- 10. There is considerable evidence of ongoing crime, disorder and anti-social behaviour associated with each of the PROWs that are currently gated, collected from the same range of sources used from the original proposal.
- 11. Statutory consultees are the Highways Authority (East Sussex County Council ESCC Public Rights of Way Unit), Sussex Police, local councillors and any resident or landowner on or near the PROW likely to use it.
- 12. The formal public consultation took place for 4 weeks during December 2023. In addition, the Community Safety Manager has been working with residents and businesses in the vicinity of the footpaths for a long time and reports that there is support for the continuance of the gating.

## Consultation feedback

- 13. The anonymised detailed written feedback received during the consultation can be found in Appendix 1. The following paragraphs summarise the feedback.
- 14. Sussex Police responded supporting the renewal of the gating order for all footpaths currently gated. All of PROWs and the locale remain the focus of responses to high levels of crime as detailed in the response with crime statistics and anti-social behaviour. The removal of the gates to these footpaths will increase the crime levels and occurrence of anti-social behaviour. An unprotected secluded dark alleyway could increase opportunities for an increase in offences as there is already significant crime in the areas. There are limited other crime prevention opportunities available due to the nature of the locations to protect communities. Reductions have been seen since gating was introduced.
- 15. The police also support the introduction of gating for the Trinity Passage footpath as it is in an area of public violence concerns in the town centre and provides a secluded space to allow crime to occur freely putting users at risk and vulnerability.
- 16. The Hastings Business Improvement District (BID) and the Hastings Business Crime Reduction Partnership (BCRP) also responded supporting the proposals, as activity and complaints have reduced in the footpaths where gates have been in place. The proposed gating of Trinity Passage is well supported by residents and businesses in the area due to the high volume of anti-social behaviour being witnessed on a regular basis.
- 17. The East Sussex County Council Rights of Way team are not objecting to the continuation of the gating order but have provided feedback on measures to be considered to counter the difficulties of prolonged closure of the paths and any future reinstatement of public use.
- 18. Consideration is requested to partially reopen the footpaths to be public by varying the order to gate during night-time hours only. However, the evidence gathered shows that anti-social behaviour and crime occur in these footpaths throughout the day and night. ESCC suggest that in conjunction with police patrols and measures to assist in dealing with daytime offending, such as restrictions to gatherings, it must be at least a reasonable possibility that a

better result for the community could be achieved. This is not sustainable for the council as we do not have the resources to open and close the gates daily in multiple locations across the borough. Discussions have been held with a local community group regarding public access to Laser Lane (No 97) and these will continue with a view to extending community led use of the area including the management of the footpath.

19. If the order remains ESCC welcomes assurances as to how issues with the potential neglect and privatisation of gated paths be mitigated. In this respect, all residents and local businesses have agreed to manage and essentially own the gates and manage the alley e.g., cleanliness. A legal document (*a simple letter*) will be drawn up to clearly indicate future responsibilities. Notification to residents and permanent notices at the footpaths, as suggested by ESCC can be implemented once the order is renewed.

### **Valentine's Passage, Central St Leonards**

20. Only a very small number of residents are directly affected by the anti-social behaviour that happened here. Their comments are contained in Appendix 1.
21. Local residents affected have reconfirmed their offer to take responsibility for both management and repair of the gates and the ongoing management of the footpath.

### **Laser Lane, Central St Leonards**

22. There are few residents living in the gated part of Laser Lane. By far the largest users are the businesses along Kings Road who store their trade waste bins in the entrance. ESCC highways enforces the removal of these bins if they become problematic, but there has been little recent enforcement and traders have continued to utilise this area for bin storage. The Borough Council continues to issue section 47 notices under the Environmental Protection Act 1990 to ensure these bins are not causing any detriment to the public realm.
23. Progress Network CIC have offered to take responsibility for managing both gates in Laser Lane. They have agreed a land-use arrangement with an adjoining property making the area into a community garden, recreational space and more recently have held craft and art classes in the lane and adjoining grounds. The council will support Progress Network CIC and other local community groups to take on management of the gates to ensure the footpath can be opened up for use alongside community events. Engagement with local community groups will be encouraged and supported where land ownership is unregistered.
24. The development of flats along the alley, planning application HS/FA/06/00535 included further enhancement to the appearance of the lane.

### **Prospect Passage, Central Hastings**

25. This PROW leads from Havelock Road to Priory Square. The gates have greatly reduced the nuisance reported along Havelock Road and public place violence associated with the taxi rank could increase if ungated. The landlord of Brass Monkey has witnessed considerable antisocial behaviour in recent times. In the last eighteen months a machete wielding individual was delayed sufficiently for police to arrest the individual before bringing the weapon into town. This alone should be justification to continue the gating here.
26. The Brass (Monkey) management is changing and the council will engage with the new management to ensure the continued operation of these gates in line with the use of this building directly adjacent to the footpath and the terms of the PSPO order.

## Trinity Passage, Central Hastings

27. It is recommended that the footpath is gated and becomes part of the Gating PSPO. Ongoing reports from residents, businesses and the council's waste services identify Trinity Passage a significant hot spot for environmental crimes. There are regular fly-tips and waste left by local businesses. The location of this passage makes it an ideal location for public urination and graffiti, all of which occur frequently.
28. At a recent residents meeting, arranged by the Community Safety Manager, local business representatives and the neighbouring church reported considerable amounts of drug misuse, public defecation and other anti-social behaviours. Local residents and shop staff have been threatened by individuals committing these offences with one sales assistant assaulted. This passage is located in an identified 'high crime area' by the East Sussex Violent Crime Reduction Partnership.
29. Residents, businesses, police and the Hastings Business Crime Reduction Partnership support the gating of this footpath and is essential to making the area safer to use. There are alternative routes to the east and west of the passage between Robertson Street and Claremont and access to the residential properties adjoining the passage would be maintained.
30. Street cleaning would continue to be carried out for the footpath once its gated to ensure there is no accumulation of litter blown in from either end of the gates.

## Policy implications

### Equalities or community cohesiveness

31. If the gating of the footpaths is continued it can be argued that people are no longer able to use them are being discriminated against. However, access will be afforded to all those who need continued access because they live or work in the properties backing onto the footpaths. There are alternate routes very close by for all.
32. A reduction in the crime and anti-social behaviour associated with the withdrawal access has already resulted in improved community cohesiveness amongst the communities retaining access.

### Crime and fear of crime

33. A reduction in the crime and anti-social behaviour associated with the withdrawal of unfettered access to the footpaths continues to result in reduced fear of crime in the area.

### Risk management

34. Gating reduces the risk to the public to be victims of crime and anti-social behaviour whilst using the footpath or injured from litter left such as needles, broken glass and other hazardous items.

### Environmental Issues

35. The council's street cleaning service continue to have access when needed to these footpaths but there is less likelihood of fly tipping and accumulation of litter hotspots.

## Economic/financial implications

36. The cost of requesting planning permission and installation of the gates in Trinity Passage are being discussed with residents and local businesses with potential financial support from the Safer Hastings Partnership and the East Sussex Violence Reduction Partnership funds. There are no other cost implications to the council.

## Organisational consequences

37. By gating the footpaths that have historically been problem areas for enviro-crime it allows the council's limited resources to be focussed on other areas of the borough.

## Legal implications

38. It is essential that the council follows the legal provisions set out in the Anti-social Behaviour, Crime and Policing Act 2014, and associated statutory guidance. This primarily relates to the need for proper consultation, including with specified statutory consultees as mentioned in above.
43. It is also possible for the council to offer some reassurance to the Rights of Way Team in as much as:
- a. suitable management of the gated footpaths will be provided by local residents for Valentine's Passage, and Prospect Passage and Trinity Passage, and that the gate management in Laser Lane will be the responsibility of Progress Network CIC.
  - b. The council can review the orders at any time but must do so at least every 3 years. Subject to formally reviewing an order (including carrying out the associated statutory consultation), the council may vary or revoke an order. This means that the gating measures proposed are not permanent and can be changed to reflect changing circumstances.

## Timetable of Next Steps

39. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
CAP	Agree report and recommendations	18 January 2024	Head of community & regulatory services
Cabinet	Approve report and recommendations	29 January 2024	Head of community & regulatory services
Sign and seal Gating PSPO		1 March 2024	Chief Legal Officer
Implementation of gates at Trinity Passage		April/May 2023	Community Safety Manager

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## Wards Affected

Central St Leonards and Castle Wards

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## Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Y
Crime and Fear of Crime (Section 17)	Y
Risk Management	N
Environmental Issues & Climate Change	Y
Economic/Financial Implications	Y
Human Rights Act	Y
Organisational Consequences	Y
Local People's Views	Y
Anti-Poverty	N
Legal	Y

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## Additional Information

Appendix 1 – anonymised written feedback from the consultation on the gating proposals.

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## Officer to Contact

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