

Agenda Item No:	9	
Committee:	Cabinet/Investment Board	
Date:	20 February 2023	
Report Title:	Gating a passageway in Norfolk Street, Wisbech by use of a Public Space Protection Order	

[
Cover sheet:

1 Purpose / Summary

1.1 To block, by erection of gates, a passageway linking Norfolk Street and West Street, Wisbech as shown on Appendix A under the use of a Public Spaces Protection Order (PSPO)

2 Key Issues

2.1

- Community Safety have been involved with the Safer Streets 4 (SS4) initiative and part of this work is to identify issues within the local communities and, where possible, to act on improving the issues.
- The Passage (as shown on appendix A) has been a hotspot for antisocial behaviour, namely litter, urination and defecation with further reports suggesting it has been used for drugs, drinking and sexual activity
- PSPO's replaced previous Gating Orders following the Anti-social Behaviour, Crime and Policing Act 2014.
- The PSPO can be used to restrict a public right of way. It is proposed that each end of the passage be gated off
- There is no cost to the Council as funds are available under the SS4 Fund
- Consultation was a mix of in-person discussions, letters and emails. Letters were sent to residents and landlords. Emails were sent to statutory consultees.
- Not every consultee responded to the questionnaire or letters. 3 attempts were made to initiate a response, all by letter. Last letters were sent on 12/01/23 and gave those who hadn't previously responded until February 3rd to do so.
- A wider reaching survey was placed on the Council website which ran from 16/01/23 until 05/02/2023. The Survey and it's results are shown at Appendix B
- Legal advice has been received to ensure the process followed accords with legislation

- Consultation has been taken in accordance with legislation
- The legislation can be found at Chapter 2 Anti-social Behaviour, Crime and Policing Act 2014
- Consultation was undertaken in accordance with legislation including
 - Chief of Police (as delegated to Inspector)
 - Fire Service
 - Wisbech Town Council
 - Cambridgeshire County Council (Highways)
 - Locally Elected District Council Member
 - Police Crime Commissioner
 - Businesses in and around the affected area
 - Residents and landlords in and around the affected area
- The feedback indicated that there was a problem at the area and support for the passage to be closed. This can be seen at Appendix B
- Appendix C is the wording of the proposed order

3 Recommendations

3.1

- To approve the introduction of the PSPO for a 3 year period in Norfolk Street to restrict access to the passageway as shown on Appendix A
- To delegate authority to a Corporate Director to extend the order for up to 3 years at a time (in line with appropriate legislation) in the future if following the result of the consultation the portfolio holder for Community Safety agrees that a further extension is required. If the consultation suggests a need to amend or discharge any of the orders to bring that back to Cabinet for consideration.

Wards Affected	Wisbech
Forward Plan Reference	N/A
Portfolio Holder(s)	Cllr Steve Count
Report Originator(s)	Russell Wignall rwignall@fenland.gov.uk Alan Boughen aboughen@fenland.gov.uk
Contact Officer(s)	Russell Wignall Alan Boughen Dan Horn dhorn@fenland.gov.uk Carol Pilson cpilson@fenland.gov.uk

Report:

1 **Reasons for Exemption**

1.1 Not applicable in this case.

2 **BACKGROUND AND INTENDED OUTCOMES**

- 2.1 The Anti-Social Behaviour, Crime and Policing Act 2014, hereafter known as the Act, came into effect on 20th October 2014 making a number of changes to the law on anti-social behaviour. A key change was the introduction of PSPO's to replace DPPOs, dog control orders and gating orders in addition to a range of other behaviours that local authorities can now regulate in public spaces
- 2.2 The Anti-social Behaviour, Crime and Policing Act 2014 gives power to Local Authorities to create PSPOs if they are satisfied 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 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 is, or is likely to be persistent, unreasonable and justifies the introduction of the Order
- 2.3 Public Space Protection Orders (PSPO's) are intended to deal with a particular 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. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour
- 2.4 PSPO's can be drafted based on the specific issues being faced in a particular public space and can include multiple restrictions and requirements in one order. Examples of restrictions might include:
- Controlling Dogs;
 - restricting access to an area;
 - misuse of substances
 - tackling noise nuisance
 - tackling unreasonable behaviour having a detrimental effect on the community
- 2.5 Based on the response of the consultation, Fenland District Council are satisfied that the passageway is having a detrimental effect on the area and has done for some time. A summary of responses is set out in Appendix B
- 2.6 A PSPO can be used to restrict access to an area however before restricting access over a public right of way they must consider the effect it will have on

occupiers adjoining the highway, the likely effect on those in the locality and the availability of an alternative route.

- 2.7 Before making the Order, The Local Authority must also notify potentially affected persons of the proposed order, inform them how they can see the draft order and notify them how they might make comments about the draft order.
- 2.8 Persons potentially affected were written to on 12/1/23 with a copy of the proposed draft order and asked for their comments. A deadline was imposed of 3/2/23. No responses were received.
- 2.9 A PSPO that restricts the public right of way over a highway may authorise the installation, operation and maintenance of a barrier or barriers for enforcing the restriction. It is proposed that gates be erected either end of the passage. Under the legislation, A Local Authority may install, operate and maintain barriers
- 2.10 Rights of way may not be restricted if that highway is:
- a special trunk road
 - a trunk road
 - a classified or principal road
 - a strategic road
 - a highway in England of a description prescribed by regulations made by the Secretary of State
- 2.11 Fenland District Council has consulted Cambridgeshire County Council Highways team on the proposal. No adverse comments were received
- 2.12 A PSPO can be introduced for up to 3 years. It is proposed that the PSPO sought is made for the full 3 year period. Legislation requires there to be a review before the 3 year period expires. The outcome of the review can lead to a renewal, amendment or removal of the existing PSPO.

3 REASONS FOR RECOMMENDATIONS

- 3.1 The passageway has been identified as a location for anti-social behaviour including urination, defecation and litter the impact of which is having a detrimental impact upon the local community. It's believed the closure of the passage is the most effective way to prevent the anti-social behaviour happening.

4 CONSULTATION

- 4.1 Legislation guides who must be consulted and appropriate legal advice has been sought to this end. Emails were sent to:
- *Cambridgeshire Constabulary*
 - *Cambridgeshire Fire Service*

- *Wisbech Town Council*
- *Police Crime Commissioner*
- *Local Cllr for the area*
- *Cambridgeshire County Council Highways*

4.2 Further evidence was provided to us by FDC Streetscene, Community Safety Officers and the Local Neighbourhood Policing Team

4.3 Residents (and their landlords) and shop owners within the location were written to about the proposal and invited to comment

4.4 Two local businesses were visited by members of the Community Safety Team to discuss the proposals

4.5 A survey was placed on the FDC website and shared on the FDC Social Media pages from 16/01/23 until the 05/02/23 inviting views on the proposal

4.6 A summary of the responses can be found at Appendix B

5 ALTERNATIVE OPTIONS CONSIDERED

5.1 The only other option is to leave the passage open. This will allow ASB to continue at the location. This option has been ruled out as without intervention the behaviour will continue to have an adverse impact on the local community. It is felt that the introduction of the PSPO gives a more long-term solution to the problem.

6 IMPLICATIONS

6.1 Legal Implications

6.1.1 The legal implications are as detailed within the main body of the report. Fenland District Council is statutorily empowered to take the action proposed and has fulfilled its wider obligations by undertaking a period of consultation as well as seeking input from legal advisers throughout the process of putting this proposal together for consideration.

6.2 Financial Implications

6.2.1 None – there will be no cost to FDC as all money to complete the project comes from a successful funding bid through the Safer Streets initiative.

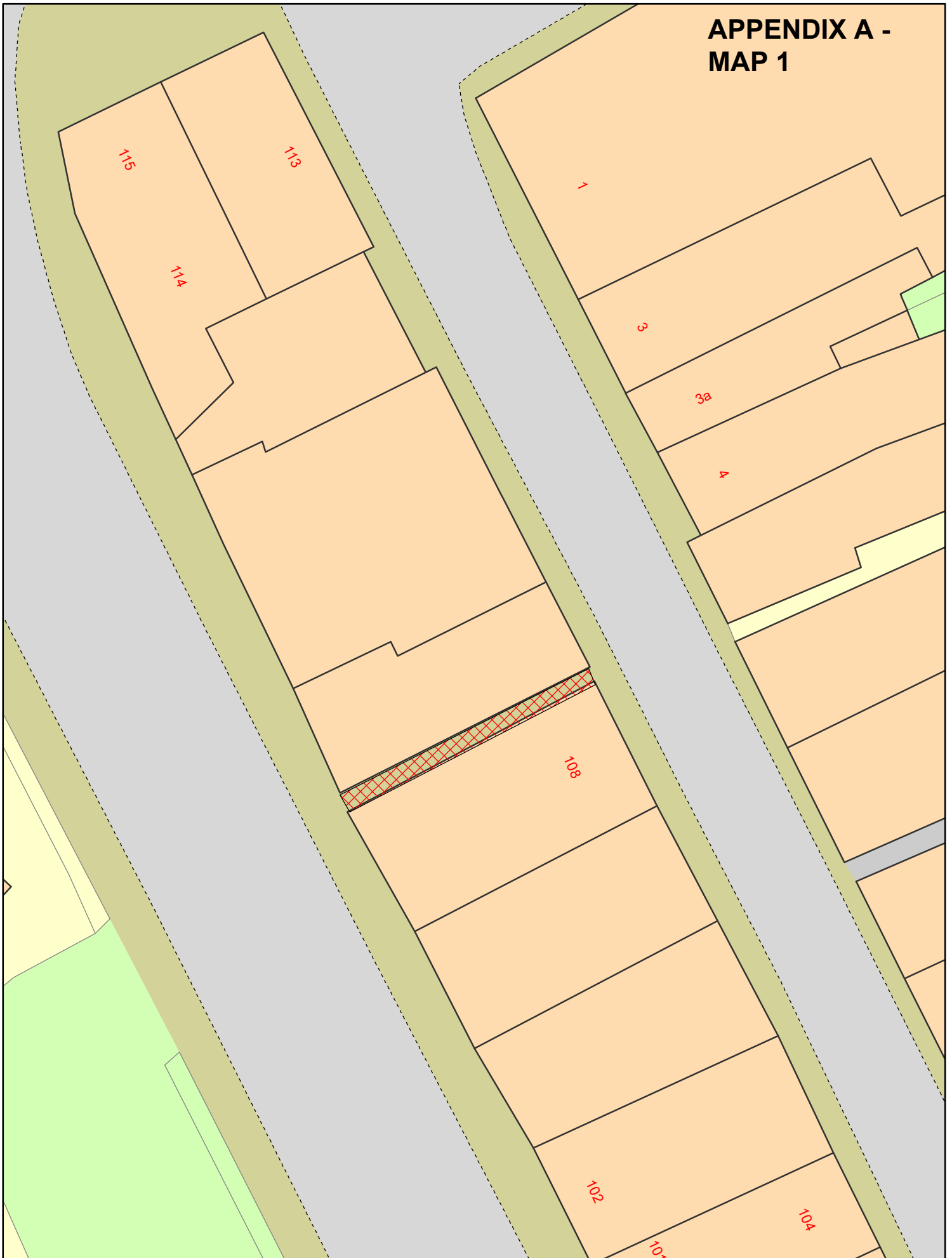
6.3 **Equality Implications**

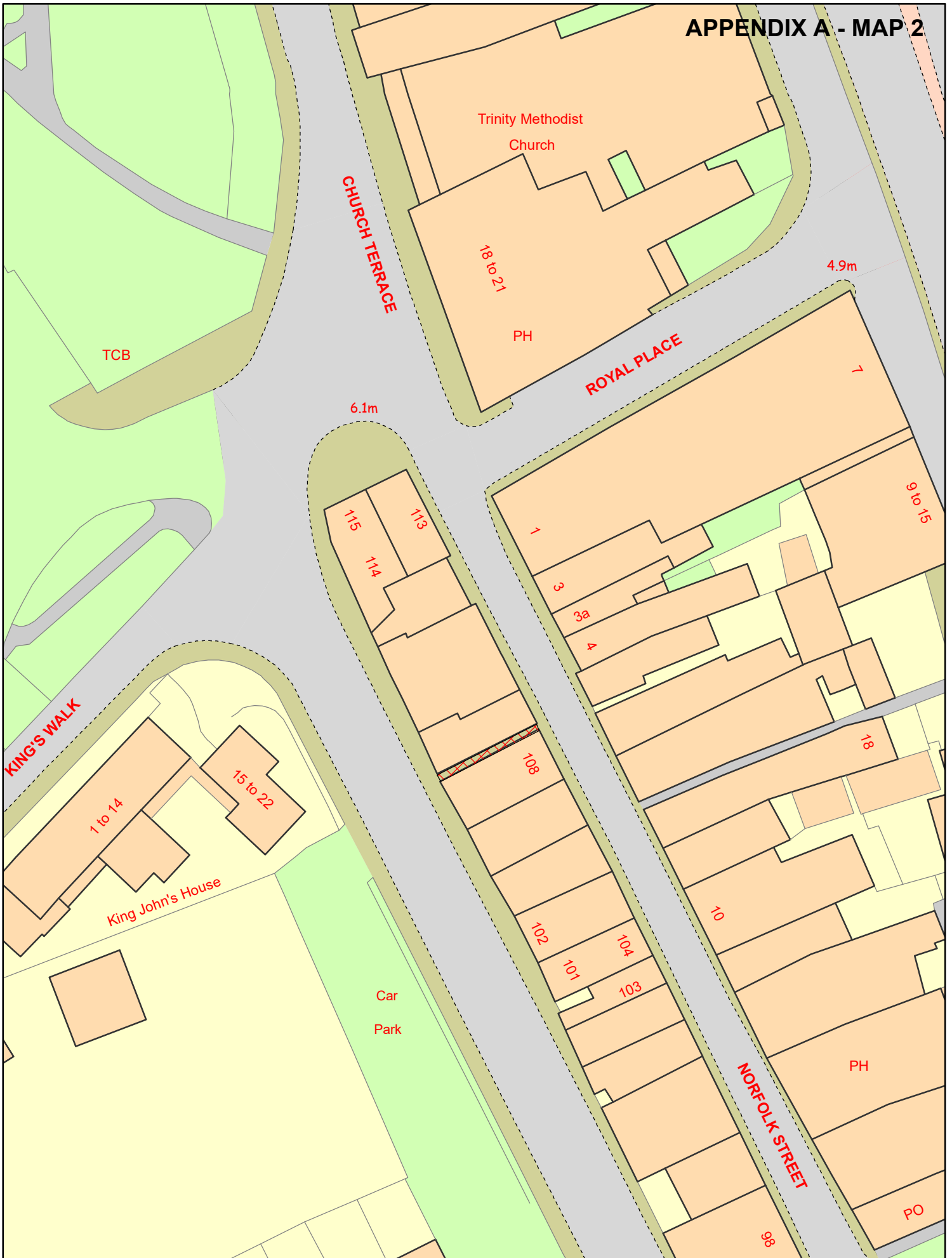
6.3.1 EIA at appendix D

7 **APPENDICES**

- Appendix A – 2 maps showing the location of the proposed closure. (Not Exempt)
- Appendix B – summary of consultation responses (not exempt)
- Appendix C – draft Order (not exempt)
- Appendix D – EIA (not exempt)

**APPENDIX A -
MAP 1**





APPENDIX B – SUMMARY OF CONSULTATION

CONSULTEE	RESPONDED	VIEW	SUMMARY
Chief of Police as delegated to inspector	yes	Support	Aware of the area is a focal point of ASB so closure mitigates the risk
CCC Highways	yes	Neither	Do not own the passage so no comment to make
Ward Cllr	yes	Neutral	Concerned the closure would move the issue elsewhere however stated that 'If all the residents are in support, then okay'
Wisbech Town Council	yes	Support	No comments made other than to support
Police Crime Commissioner	yes	support	No objections raised
Cambridgeshire Fire Service	Yes	Support	Door in passage is not a fire door. No issue if the alley was fenced off
Local Business	yes	Support	Issues affect business including litter. They have undertaken cleaning the area
Local Business	Yes (FDC officer attended)	support	Do not use the passage and it would be better if it was closed
Local Property Landlord	yes	support	Seen as a health hazard and has been an issue for circa 5 years
Local Resident	yes	support	Smell and rubbish an issue, happy to see some action taken
Local Resident	yes	support	Highlighted issues with litter and urination

Further Evidence was provided by Streetscene and Wisbech Police (Neighbourhood Police Team). They were not statutory consultees but provided evidence.

In January 2023 letters were sent to 19 addresses in the local geographical area. These were identified as nearby commercial outlets, residents and property landlords who could be affected by

the proposal. Recipients were asked to reply within 21 days and a self-addressed envelope was included to encourage replies. In addition, other contact options were provided as well as proposed wording of the restrictions. No official response was received by any of the addresses

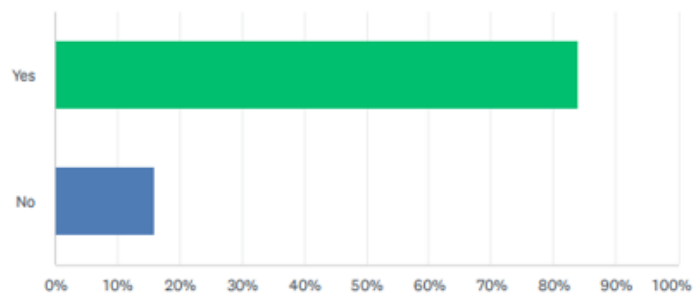
As part of the consultation process an online survey was produced and circulated through Fenland District Council website and social media pages. The survey was live between 16/01/23 and 05/02/23

44 respondents completed the survey the majority supporting closure. The results are shown below.

Norfolk Street / West Street Proposed Public Spaces Protection Order

Q1 Do you support the closure of the passage to prevent antisocial behaviour?

Answered: 44 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	84.09%	37
No	15.91%	7
TOTAL		44

There was an opportunity for comments to be made and these are shown below.

Q2 Please provide any comments you may have on the proposed closure.

Answered: 10 Skipped: 34

#	RESPONSES	DATE
1	Every time I pass it is usually full of rubbish. The passageway is very narrow and serves no real purpose.	1/27/2023 12:21 AM
2	Any action to clean up the streets and feel safer walking them highly appreciated.	1/26/2023 6:17 PM
3	I don't see you doing that elsewhere where the same antisocial behaviour occurs. If this was a temporary measure maybe. How about cctv down the passage and prosecuting the offenders instead.	1/26/2023 10:17 AM
4	I live locally and regularly visit Wisbech and the antisocial behaviour occurring in the passageway is unacceptable, and the only solution is closure.	1/22/2023 8:39 PM
5	schrimshires passage, ghost passage, norfolk street, love lane, wisbech park,(please dont waste the money building a community hub, unless it has a place for dogging, and drug using bin, a hole in the ground the feaces and urine and nitrous oxide recycling station, and free apples trees, as clearly some think the community orchard is come and dig up your own fruit tree? but seriously the places above listed all have problems with litter defecation and urination, and alcholics, will the district council be closing these areas too ?	1/19/2023 9:10 PM
6	I see a lot of ASB around Wisbech town. Please inform/educate the people about what is regarded as antisocial behaviour, e.g., spitting.	1/19/2023 2:44 PM
7	This is not going to affect or fix the problem at all! People who live in the area now will have to walk all the way around to get through to the post office and that will affect their business dramatically! It should be however pedestrianised so that cars cannot come through there and cause accidents! We have problems living down St Peters Road with people messing down our passageways! Rubbish and Dog mess everywhere! By blocking that road off completely really won't make any difference! Maybe the council need to look at some of the shops down Norfolk and ask them where the littering and Antisocial behaviour is coming from? Or better still install better CCTV to catch them.	1/19/2023 2:37 PM
8	Closing the passage doesn't solve the problem, it moves it somewhere else and inconveniences everyone who uses that road.	1/19/2023 1:44 PM
9	The alleyway needs to be constantly cleaned, as well as being illuminated. The a/s are repetitive offenders, one regular from a Local sheltered? Housing premises, who stays on the street for hours, using the passageway as a toilet,	1/19/2023 1:32 PM
10	Please investigate why people are using this passage as a toilet and take measures to stop the offender's, otherwise it will just move somewhere else.	1/19/2023 11:53 AM

APPENDIX C

FENLAND DISTRICT COUNCIL FENLAND DISTRICT COUNCIL (GATING PSPO) Wisbech. PUBLIC SPACES PROTECTION ORDER 2023

Fenland District Council ('the Council') in exercise of its powers pursuant to Section 59, and 72 of the Anti-social Behaviour, Crime and Policing Act 2014 ('the Act') hereby makes the following Order ('the Order') :-

1. This Order shall come into operation on * and shall have effect for a period of 3 years from that date.

2. This Order relates to the areas as shown *hatched in red on the attached Plans in Schedules 1* (the 'Restricted Area'); and applies to all the land which is open to the air and to which the public are entitled or permitted to have access (with or without payment). For the purposes of this paragraph, any land which is covered is to be treated as land which is "open to the air" if it is open to the air on at least one side.

3. The effect of this Order is to impose the following prohibitions and requirements on the Restricted Area as specified as follows:

4.1. In the Restricted Area shown in Schedule 1a and Schedule 1b:

Unless an employee of Fenland District Council or a member of the emergency services, in either case acting within their capacity, no person is to access or attempt to access the Restricted Area or to tamper or attempt to tamper with the gates at either end of the Restricted Area

5. It is an offence for a person without reasonable excuse to do anything prohibited by this Order, or to fail to comply with a prohibition or requirement to which a person is subject to pursuant to this Order.

6. A Constable or an 'Authorised Person' may issue a Fixed Penalty Notice (FPN) to anyone he or she has reason to believe has committed an offence under this Order.

7. An 'Authorised Person' and 'an authorised officer of the Council' means any person authorised in writing for the purposes of this Order by Fenland District Council (the Council). A Constable means a Police Constable in whatever capacity including a Community Support Officer.

8. A person found to be in breach of this Order is liable upon summary conviction to a fine not exceeding level 3 on the standard scale (currently £1000.00); or to be made subject to a FPN

9. "The Council is satisfied that the two conditions below have been met, in that:

(a) activities carried on in the designated area as stated below, have had a detrimental effect on the quality of life of those in the locality, or it is likely that these activities will be carried on in the public place and that they will have such an effect.

The said activities include: Litter, urination, Defecation

(b) that the effect, or likely effect of the activities described above, is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by this Order

The Council believe that it is reasonable to impose the above prohibitions and requirements in order to prevent the detrimental effect from continuing, occurring or recurring, and to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence

10. Any interested person (an individual who lives or regularly visits or works) in the restricted area who desires to question the validity of this Order on the grounds that the Council had no power to make it or that any requirement of the Act has not been complied with in relation to this Order, may apply to the High Court within six weeks from the date upon which this Order is made.

[Date]

Sealed as Deed on behalf of)
Fenland District Council the)
Common Seal being affixed in the)
presence of and signed by:)

Authorised Signatory

Assessing Equality – The Equality Act 2010

Customer Impact Assessment – Public Spaces Protection Orders (PSPO's)

Name and brief description of policy being analysed

Briefly summarise the policy including any key information such as aims, context etc; note timescales and milestones for new policies; use plain language – NO JARGON; refer to other documents if required

The Anti-Social Behaviour, Crime and Policing Act 2014, hereafter known as the Act, came into effect on 20th October 2014 making a number of changes to the law on anti-social behaviour. A key change was the introduction of PSPO's to replace Designated Public Places Orders (DPPO's), dog control orders and gating orders in addition to a range of other behaviours that local authorities can now regulate in public spaces.

The Act has introduced simpler, more effective powers to tackle anti-social behaviour that provide better protection for victims and communities. This includes the introduction of Public Spaces Protection Order (PSPO).

Councils will be responsible for making the new PSPO although enforcement powers will be much broader.

Public Space Protection Orders (PSPO's) are intended to deal with a particular 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. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

PSPO's are drafted based on the specific issues being faced in a particular public space, and can include multiple restrictions and requirements in one order. Examples of restrictions might include:

- Controlling the use of dogs;
- Restricting access to an area;
- Misuse of substances;
- Tackling noise nuisance; or
- Unreasonable behaviour having a detrimental effect on the community.

A PSPO can be made where the council is satisfied, after conducting the test, that the activity or activities, carried on in a public place, it proposes to restrict:

- Have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- Is, or is likely to be, persistent or continuing in nature;
- Is, or is likely to be, unreasonable; and
- Justifies the restrictions imposed.

A PSPO can be used to restrict access to an area where the test has been met.

Assessing Equality – The Equality Act 2010

Information used for customer analysis

Note relevant consultation; who took part and key findings; refer to, or attach other documents if needed; include dates where possible

The implementation of PSPO's is following the legislation from the Anti-social Behaviour, Crime and Policing Act 2014 and the Home Office 'statutory frontline officer' guidance.

As part of this assessment and for the need and use of PSPO's a number of partner groups, organisations and community have been consulted via a number of means. On review of the consultation it is believed that the PSPO is necessary to prevent access to the passage in question to quell the ASB activity in the area.

The consultation took place by writing to statutory consultees, business owners and residents in the vicinity and by way of a public online survey.

	Could particularly benefit	Neutral	May adversely impact	Explanations	Is action possible or required?	Details of actions or explanations if actions are not possible Please note details of any actions to be placed in your Service Plan
Race	<input type="checkbox"/>	X	<input type="checkbox"/>	<p>The use of PSPO's is responding to the linked behaviours that are either being requested to be stopped or conducted within the specified areas and not linked to an individual's race, sex, disability or age.</p> <p>In this case the use of PSPO is to reduce ASB by restricting the access to an ASB hotspot</p>	N	
Sex	<input type="checkbox"/>	X	<input type="checkbox"/>		N	
Gender reassignment	<input type="checkbox"/>	X	<input type="checkbox"/>		N	
Disability	<input type="checkbox"/>	X	<input type="checkbox"/>		N	
Age	<input type="checkbox"/>	X	<input type="checkbox"/>		N	
Sexual orientation	<input type="checkbox"/>	X	<input type="checkbox"/>		N	
Religion or belief	<input type="checkbox"/>	X	<input type="checkbox"/>		N	
Pregnancy & maternity	<input type="checkbox"/>	X	<input type="checkbox"/>		N	
Marriage & civil partnership	<input type="checkbox"/>	X	<input type="checkbox"/>	N		

Assessing Equality – The Equality Act 2010

Human Rights	<input type="checkbox"/>	X	<input type="checkbox"/>		N	
Socio Economic	<input type="checkbox"/>	X	<input type="checkbox"/>		N	
Multiple/ Cross Cutting	<input type="checkbox"/>	X	<input type="checkbox"/>		N	

Outcome(s) of customer analysis

a) Will the policy/ procedure impact on the whole population of Fenland and/ or identified groups within the population; negative neutral positive **X**

No major change needed **X** Adjust the policy Adverse impact but continue Stop and remove / reconsider policy

Arrangements for future monitoring:

Note when analysis will be reviewed; include any equality indicators and performance against those indicators

At the time of completing this document the PSPO will be subject of review before a three year period ends, as per legislative requirements. Within the 3 year period should there be any change in the situation the PSPO will be subject a review.

EIA's are subject of an annual review.

Details of any data/ Research used (both FDC & Partners):

Cambridgeshire Constabulary
 Fenland District Council – Streetscene
 Fenland Community Safety Partnership
 Community Feedback

Completed by:

Name: Russell Wignall
Position: Community Safety Officer
 24/1/23

Approved by (manager signature):
Alan Boughen – Community Safety & Partnerships Officer



Date published:

Details of any Committee approved by (if applicable):

Date endorsed by Members if applicable: