



## **ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014, SECTION 59**

### **Public Spaces Protection Order 2021 – Alleyway Gating, Seacombe & Birkenhead**

**This Public Spaces Protection Order is made by Wirral Council under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014**

#### **1. Citation**

This Order may be cited as The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead).

#### **2. Duration of The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead)**

- (i) The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead) will remain in force for a period of 3 years from the commencement date given in paragraph 3(i) below.
- (ii) Before the expiry of Wirral Council Alleyway Gating Order (Seacombe & Birkenhead), Wirral Council may extend the duration of it if satisfied on reasonable grounds that doing so is necessary to prevent occurrence or recurrence after that time of activities that have had a detrimental effect on the quality of life of those in the locality, or if it is satisfied on reasonable grounds that doing so is necessary to prevent an increase in the frequency or seriousness of such activities.
- (iii) The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead) may be extended more than once.

#### **3. Effect**

- (i) The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead) comes into force on .
- (ii) The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead) is made because Wirral Council is satisfied on reasonable grounds that the two conditions prescribed by section 59 of the 2014 Act are met, namely:
  - a. 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; and
  - b. the effect, or likely effect of the activities:
    - i. is, or is likely to be, of a persistent or continuing nature;
    - ii. is, or is likely to be, such as to make the activities unreasonable, and
    - iii. justifies the restrictions imposed by the Wirral Council Alleyway Gating Order (Seacombe & Birkenhead).

- (iii) The prohibitions or requirements imposed by the Wirral Council Alleyway Gating Order (Seacombe & Birkenhead) are ones that Wirral Council has determined are reasonable to impose in order to prevent the detrimental effect continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

#### **4. Offence of failing to comply with The Wirral Council Alleyway Gating Order (Birkenhead North): section 67 of the Act**

- (i) It is an offence for a person, without reasonable excuse:
- a. to do anything that that person is prohibited from doing by The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead); or
  - b. to fail to comply with a requirement to which that person is subject under the Wirral Council Alleyway Gating Order (Seacombe & Birkenhead).
- (ii) A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (iii) A person does not commit an offence under section 67 of the Act by failing to comply with a prohibition or requirement that the local authority did not have power to include in The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead).
- (iv) An authorised officer may issue a fixed penalty notice to anyone he or she has reason to believe has committed an offence under section 67 of the Act in relation to Wirral Council Alleyway Gating Order (Seacombe & Birkenhead).
- (v) A fixed penalty notice is a notice offering the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty not exceeding £100 to Wirral Council.

#### **5. Variation & Discharge of The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead): section 61 of the Act**

- (i) Wirral Council may, in appropriate circumstances, vary The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead) by increasing or reducing the restricted areas and/or by altering or removing a prohibition or requirement included in The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead), or by adding a new one.
- (ii) Wirral Council may discharge The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead) at any time.

#### **6. Challenging the Wirral Council Alleyway Gating Order (Birkenhead North): section 66 of the Act**

- (i) Under section 66(1) of the Act an Interested Person may apply to the High Court to question the validity of The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead), or the validity of any variation of it, on the grounds specified in section 66(2) of the Act, namely:
- a. that Wirral Council did not have power to make The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead), or any subsequent variation of it, or to include

particular prohibitions or requirements imposed by The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead) (or any subsequent variation of it); or

- b. that a requirement under Chapter 2 of Part 4 of the Act was not complied with in relation to The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead), or any subsequent variation of it.

(ii) Under section 66(3) of the Act any application to challenge the validity of The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead), or any subsequent variation of it, must be made by an Interested Person within the period of 6 weeks beginning with the date on which The Wirral Council Alleyway Gating Order (Seacombe & Birkenhead) is made, or the date on which any subsequent variation is made.

## **7. Prohibition**

### **BY THIS ORDER:**

1. Entry to the areas listed below at sub paragraph 4 and set out in the areas edged in blue on the attached plan(s) ("the affected areas") is limited to allow only:
  - i) persons who occupy or have any legal or equitable interest in a property within, or adjoining any alleyway within, the affected areas,
  - ii) any person visiting, delivering goods and services to, employed by or invited to attend the affected areas by any persons who occupy or have any legal or equitable interest in a property within the affected areas,
  - iii) any person carrying out any function for or on behalf of Wirral Council including, but not limited to, the removal of waste
  - iv) any person attending for or on behalf of the emergency services
2. The areas affected will be restricted at all times by the erection of a barrier(s) situated at such locations so as to prevent any person other than those identified in sub paragraph 1 entering the said areas affected.
3. Any other person who, without reasonable excuse, enters the affected areas during the currency of this order commits an offence.
4. The areas affected by this Order are:
  - (i) The alleyways behind 111-175 Cleveland Street and the alleyway between Wood Close and Price Street whose entry is at Exmouth Street in Birkenhead (Area "A");
  - (ii) The alleyways between Holt Road and Sidney Road behind 71-89 Seymour Street, between 59-101 Holt Road, and between Kelvin Road and Leighton Road whose entry is at Holt Road in Birkenhead (Area "B");
  - (iii) The alleyway between Hawarden Avenue and Radnor Place in Birkenhead (Area "C");
  - (iv) Back Menai Street in Birkenhead (Area "D");
  - (v) The alleyway at Zetland Road behind 32-42 Whetstone Lane in Birkenhead (Area "G");
  - (vi) The alleyway between 1-37 Edith Road and 2-38 Florence Road in Seacombe (Area "H");
  - (vii) The alleyway behind 69-81 Borough Road and the alleyway connecting Borough Way and Church Road in Seacombe (Area "I");
  - (viii) The alleyway between Vernon Avenue and Oakdale Avenue in Seacombe (Area "J");

- (ix) The alleyway behind 3-45 New Street in Seacombe (Area “K”) (For the sake of clarity, the area affected does not include the open space to the south of the alleyway where the play area is situated);
- (x) The alleyway to the immediate North and East of the Kingsway Tunnel Ventilating Station in Seacombe (Area “L”); and
- (xi) The alleyway immediately to the north of 2-12 North Park Court in Seacombe (Area “M”)

**Dated:** .....

**THE COMMON SEAL OF  
WIRRAL BOROUGH COUNCIL  
was hereunto affixed in the presence of**

.....  
**HEAD OF LEGAL AND MEMBER SERVICES**