

Making Places Safer



Alleyway and Gating Order Policy
Cheshire West and Chester Community Safety
Team

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1. Background

The design and layout of some highways can make it easier for crimes to be committed and for antisocial behaviour (ASB) to take place. This is most often the case in urban housing areas, particularly older estates. In these areas there are often pathways and roads that give access to the back and side of properties and that act as shortcuts through or between areas of housing.

They are commonly narrow footpaths (alleys, alleyways, cut-throughs, ginnels, paths, passageways or walkways) but often include wider back roads which can also be used for vehicular access. For ease of reference, these types of highways are referred to in this document as alleyways.

Alleyways can provide natural cover and so make it easier to conceal criminal acts and ASB. They can also provide criminals with convenient access and escape routes making it difficult to catch offenders and so easier to commit crime.

Over the years the Government has introduced various measures to deal with problematic alleyways. There is the need to balance the rights of legitimate users of the alleyways with the difficulties experienced by communities because of people using alleyways to commit crime or take part in ASB.

In 2002, a review of the existing laws for providing and maintaining a clean and safe local environment was carried out by Defra¹ to accompany the government report *Living Places – Cleaner, Safer, Greener*. This process considered difficulties with existing laws and ultimately resulted in new laws designed to enable local authorities to address the problems identified. These laws allow local authorities to make Gating Orders (Orders). The Gating Order provisions came into operation on 1 April 2006.

2. Gating Orders, an overview

Gating Orders enable councils to put up gates across alleyways (Alley Gates) to restrict access. Gating Orders can be very flexible. Not only can they be used to restrict access completely, but if the circumstances allow they can be used to restrict access only at certain times of the day. They can also be used in a way that does not restrict access to local residents, emergency services, utility companies or other organisations who might legitimately need to access the alleyway.

Gating Orders must be reviewed by the Council from time to time to ensure that they are still necessary and appropriate. Gating Orders can be varied or removed to respond to changes in the circumstances which led to an Order being made in the first place.

¹ The Government Department for Environment Food and Rural Affairs

3. Gating Orders, are they the answer?

The Legal Test and Alternative Options

The Highways Act 1980 says that before a Council can make a Gating Order it must be satisfied that:

- a) premises adjoining or adjacent to the highway are affected by crime or anti social behaviour;
- b) the existence of the highway is facilitating the persistent commission of criminal offences or ASB; and
- c) it is, in all the circumstances, expedient to make the Order for the purposes of reducing crime or ASB taking into account the likely effect on occupiers of premises adjoining or adjacent to the highway, other persons in the locality, the public using the route, and the availability of a reasonably convenient alternative route.

Used correctly, Gating Orders can be a powerful tool in the fight against crime and disorder. Reductions in crime and fear of crime have many benefits for the social, economic and environmental wellbeing of the community.

Gating Orders are just one tool that can be used to deal with crime and disorder. They are not a measure of first resort. The Council must always be mindful of the need to balance the rights of the public to use alleyways when considering Gating Orders and to preserve those rights wherever possible.

One of the circumstances that the Council must consider when deciding whether or not to make an Order, is whether there are any viable alternatives. Accordingly, this policy should not be applied in isolation as a Gating Order may be only one of several options that can be used to tackle crime and disorder in a particular place.

Costs

The costs of an Alley Gating Scheme include the costs of processing an Order application, purchasing and installing the Alley Gate, and the ongoing costs of maintaining the Alley Gate and the land that has been gated.

Cheshire West and Chester Council, through its Community Safety Partnership (CSP), will endeavour to fund Alley Gating Schemes where possible. The level of funding available will vary from year to year depending on the Council's overall budget and service priorities. The Safer Stronger Thematic Partnership also has a small capital budget for funding Gating applications. Other possible sources of funding include Members community budgets, external grants and contributions from local residents. It may be that match funding can be made available to supplement any external funding streams identified. Funding for Alley Gating Schemes will be considered on a case by case basis.

The Council will also explore whether opportunities exist to make use of the Probation Service's Community Payback resource in erecting Alley Gates and maintaining land that has been gated in order to reduce costs and emphasise the community reparation aspect this type of work.

Operating (opening, closing and maintaining) Alley Gates

In some circumstances a Gating Order may only be appropriate if the Alley Gate is to be opened and closed at certain times of the day. In such cases appropriate arrangements will have to be made to ensure that this happens.

Cheshire West and Chester Council's Environment and Communities Directorate will be responsible for maintaining the gates. Access required by utility companies for maintenance will be provided by the Council's Community Safety Team.

If suitable arrangements can not be identified then a Gating Order may not be appropriate. These are all matters which must be considered by the council on a case by case basis.

Consents

Gating schemes may need the agreement of various different people or organisations such as house holders, utility companies and the emergency services.

Highway Assessments

On certain routes, installing Alley Gates may have an unacceptable effect on pedestrian safety or journey times. Consideration will be given to the potential impact that a Gating Order might have on highway users with mobility difficulties to ensure that there are convenient and safe alternative routes that are free from obstructions and suitably paved.

Routes which form important transport links will not ordinarily be considered for Gating Orders if the Order would prevent the main use of the route. Examples of this type of route may include designated safe routes to school, popular routes to local bus stops, local shops, or places of religious worship, national cycle routes, or primary access routes to properties.

4. Application procedure

Stage 1 – Evaluating applications

Requests for Alley Gates will be dealt with by the Cheshire West and Chester Community Safety Team. Individuals requesting Gating Orders will be asked to complete an initial request form (**Appendix A**). On receipt of a formal request, an analysis will be undertaken utilising data from Cheshire police and CWCC ASB database highlighting whether the area experiences higher than average

levels of crime and disorder. A public meeting will be held to establish residents' experience of crime and disorder in the highlighted area. Following this process a recommendation will be made by a member of the Community Safety Team to the relevant Community Safety Task Group for a decision. The following decisions may result:

- To proceed to Stage 2 and begin collating an evidence file.
- To defer a decision in order to prepare and implement an action plan of alternative measures reviewing effectiveness and reconsidering a Gating Order accordingly.
- Decline the application and implement an action plan of alternative measures.

The applicant will be informed of the decision.

In order for an application to proceed to Stage 2, there must be sufficient evidence that the alleyway in question is facilitating crime and ASB and that there are no viable alternative methods to address the problem which have not yet been tried.

The Community Safety Team will make their recommendations based on:

- Information supplied by the applicant
- Police evidence
- Evidence from public meeting
- CWCC ASB Data-base
- Community Safety Warden Evidence
- Other evidence available to the Community Safety Team
- Site visit with a Highway or Public Rights of Way Officer and a Crime Reduction Advisor.

If the application is not successful at Stage 1 the Community Safety Team will write to the applicant and explain why. The matter will then be referred to the appropriate Community Safety Task Group to determine whether there are any appropriate alternative measures that can be implemented to address the issues identified in the application. The applicant will be kept informed as that process progresses.

Stage 2 – Prioritising applications

The Community Safety Team will prioritise applications taking into account all the relevant circumstances. They will compare and analyse the type and frequency of crimes or ASB demonstrated in the application evidence with baseline figures for the Cheshire West and Chester borough.

There will be an initial presumption that applications with evidence that demonstrates a gravity and frequency of incidents above Cheshire West and Chester averages for the area in question will receive a greater priority rating.

The Community Safety Team will prioritise applications that they consider will result in the most effective and achievable reductions in crime and ASB. Once agreed, the Community Safety Team will work up proposals for Alley Gating Schemes which will then be taken in order of priority to Stage 3, where the process of making an Order will commence.

Stage 3 – Formal consultations

The Community Safety Team will undertake a formal consultation exercise to gauge opinion to the proposed Gating Order Scheme. The intention is to identify any objections to the Gating Order proposal at an early stage in the process. The following parties would be ordinarily consulted at this stage:

Local Consultations

To gauge support for the proposal from the people who are most likely to be directly affected by it, the Community Safety Team (ordinarily Fire Service Advocates; Police Community Support Officer or Community Safety Wardens) will consult the occupiers of all properties that adjoin or take access from the alleyway in question. It is likely that residents will already be aware of the proposal by this stage. Some or all of the residents may even, as a group, be the applicant for the Gating Order. However, to ensure that they are all aware of the proposal and to gauge opinion, the Community Safety Team will send an initial letter to households detailing the proposal and will then undertake door to door consultations (an example consultation form is shown in **Appendix B**) to all properties that they consider to be directly affected by the proposal. Residents will be given the opportunity to receive the forms by post or email. In addition, the local Councillor, Parish Council and other local amenity groups may be consulted.

Council Departments

The Council's Legal Services Department, Highways Service, Development Management Service, Waste Management Service, Community Safety Wardens and Public Rights of Way Service will be consulted to so that they have an early opportunity to comment on the proposed scheme.

Community Safety Task Groups

The appropriate Community Safety Task Group will be consulted so that they can comment on the proposed scheme. Members of this group include Cheshire Police and the other emergency services.

The consultation phase will normally last approximately 28 days. Door to door consultations will be conducted whenever possible at various times during the day to achieve maximum community engagement. It is usual for there to be a requirement that any objections to the proposal be submitted in writing with reasons. This will enable the Community Safety Team to be clear as to why objections have been made and allow the opportunity to resolve any concerns

raised. The time allowed to resolve any concerns will vary from case to case depending on the number and nature of the objections raised.

In some circumstances if objections are not resolved the order will be abandoned. This is most likely to be the case where a legal problem has been identified with the proposal, or perhaps where the emergency services object to the proposal and their concerns can not be addressed. Otherwise, the Community Safety Team may decide to proceed to Stage 4 in the application process even if there are objections to the proposal that they have been unable to resolve.

Stage 4 – The decision to make an Order

If, following consultation process, the Community Safety Team decides to proceed with the proposal, a detailed report will be prepared. The report will cover the background to the proposal, the proposal in detail and a summary of the consultation responses. The report will include a summary of objections that have been resolved and where there are objections that remain unresolved; the report will set out those objections and explain why it is considered that the order should nevertheless be made. The report will then be presented to the relevant Elected Members of the Council's Executive for a decision on whether or not the Council should make the Gating Order.

Stage 5 – Making an Order

If the Council's Executive Member decides that the Order should proceed, the Council is required by law to give public notice of its intention to make the Order. It must publish the notice on its website, in a local newspaper, and post a copy of the notice on or near the alleyway that it wants to gate. The Council must also send a copy of the notice to various different people and organisations. The Council must then allow a period of at least 28 days for representations to be made.

If any fresh objections are received, the Community Safety Team may need some time to try and resolve these objections. They may need to take the proposal back to the Council's Executive Member to reconsider the decision to make the Order. In some circumstances the Council may need to hold a Public Inquiry to consider the proposed Alley Gating Scheme in more detail. However, because of the consultation process that will have been undertaken at Stage 3, in the majority of cases there should be no need to hold a public inquiry or refer the decision back to the Council's Executive Member. Ordinarily, objections received at this stage will not be considered by the Council Executive Member unless they raise new issues which have not previously been considered.

Stage 6 – Erecting gates and the challenge period

If following completion of Stage 5 the Council still wishes to proceed with the Order will be made and Alley Gates will be installed. The Council must also erect notices on site explaining that the Order has been made and the effect of the Order.

Once the order is made there is a period of six weeks within which the decision to make the Order can be challenged in the High Court on certain limited grounds. This procedure is designed to ensure that Orders are made in accordance with the law and so High Court challenges should be rare. However, applicants should be aware of the possibility that such a challenge may succeed and that an Order could be quashed requiring the Alley Gates to be removed.

5. Reviewing gating schemes

The Community Safety Team will review every Alley Gating Scheme implemented from time to time. Where it appears that levels of crime and ASB have improved the Community Safety Team will consider varying or removing the Order. A consultation and order making process similar to the process described above will apply in respect of varying or removing Gating Orders.

6. Complaints

In the event of dissatisfaction with the way in which an Alley Gating matter has been handled by the Council (other than for the purposes of repeating an objection which the Council has already responded to or for the purposes of challenging the legality of an order, for which see Stage 5 and 6 above) the Council operates a formal complaints procedure. Copies of this procedure can be obtained from the Council's web page or on request from the Community Safety Team.