

Burnley Borough Council
Alleygate Policy
2015

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Introduction.

Burnley Council has been utilising alleygates as an effective method to reduce crime and anti-social behaviour since 2000 and there are now 96 schemes across the borough. Over this time various

46 were implemented using powers from the Highways Act to close back streets and remove their status as highways. Responsibility for the maintenance and cleansing of these streets was passed to the adjoining residents.

In 2008 specific gating order legislation was introduced through Section 129a of the Highways Act 1980. Gating Orders provided local authorities with a means to gate affected back streets without the need to change the status of the highway. Using this legislation a further 46 schemes were established meaning over 2000 properties in Burnley now benefited from this increased security.

As of October 2014 gating was brought under the Anti-Social Behaviour and Policing Act 2014 through Public Space Protection Orders and this policy has been updated to reflect that change.

Purpose

The Burnley Council policy seeks to clarify the roles and responsibilities for all involved in alleygating. This includes council staff, partner agencies and members of the community.

The policy will be structured to clarify

- circumstance under which gates will be prioritised,
- procedures for maintaining and monitoring schemes,
- and, under what conditions a scheme can be removed.

Alleygating is an effective method of reducing crime and ASB. This policy will detail the two key factors in determining where to gate.

1. Need – is there clear evidence that there are issues affecting the area and that these relate to the back street in question.
2. Suitability – is gating an appropriate response and will they be successful.

Gating is a costly intervention and the council must be satisfied that the investment represents value for money. As such gating is not to be seen as the first option when dealing with crime and ASB.

Scope

A key factor in determining and supporting the need for gating is that the application must be supported by police crime data.

Day to day management of the gating programme will be managed through the council's Community Safety Team. This will ensure that the selection and governance of the programme is in line with policy and legislation.

The purpose is

- To review all applications in accordance with policy and selection criteria.
- To authorise the implementation of successful applications.
- To continually monitor existing schemes to ensure compliance.
- To authorise the removal of unsatisfactory schemes.

Funding Alternatives

Burnley Council has historically funded the programme through the council's own finances. There have been occasions when schemes have been funded through other sources and the council remains open to these options.

Any proposed scheme must meet criteria regarding crime and anti-social behaviour. A PSPO is only available to a local authority so all prospective alleygate schemes must be conducted through the community safety team, regardless of funding.

Other Criteria

All alleygates are subject to planning permission.

Policy

Following the enactment of the Anti-Social Behaviour, Crime and Policing Act in May 2014, there has been a change in the way alleygating is implemented. Where previously a Gating Order (S129 Highways Act) was used to install alleygates, future schemes will be delivered using Public Space Protection Orders (PSPO).

A PSPO can be made by the local authority when it is proven that a particular highway is facilitating high and persistent levels of high crime and/or anti-social behaviour, which are adversely affecting local residents or businesses.

A PSPO may authorise the installation, operation and maintenance of barrier(s) or gates to enforce the restrictions detailed in the Order.

A register will be maintained containing details of all gated areas with copies of notices proposing making, variation or revocation.

Under the legislation concerning PSPOs, a local authority may make an order if satisfied on reasonable grounds that two conditions are met:

1) The local authority must be 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 locally, 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.

2) The second condition is that the effect, or likely effect, of the activities –

- 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 the notice.

For the purposes of alleygating, a PSPO will restrict the public right of way at all times or periods as may be specified.

There are exceptions for occupiers and business premises in certain circumstances. Access for occupiers of premises adjoining or adjacent to the highway cannot be restricted, nor can an order be made if it forms the only, or principle means of access to dwellings.

There are also exceptions for certain people, such as emergency services and those with a legitimate reason for accessing any premises adjacent to a highway. In practice, this would involve the provision of keys to such people, or the opening of the gates during certain times/periods when such people would expect to use the highway. The management of periodic and regular access will be an essential ongoing requirement and accordingly access arrangements must be appropriately considered within the overall assessment.

The elderly, infirm and disabled must be considered, to ensure that there is a suitable alternative route before considering the proposed order.

The powers do not permanently extinguish public rights of way, making it possible to subsequently alter or revoke the restrictions and reinstate the use of public right of way. This effectively means that the land cannot be used for any other purpose and should still be maintained as a highway. The highway must remain clear at all times.

Selection, Installation, Management and Removal.

Alleygate selection process and criteria.

1) There must be clear evidence that premises adjoining or adjacent to the highways are affected by crime or ASB. It is insufficient to rely on individuals or local community groups. There must be documented evidence from police or council records or a written statement from a police officer.

2) There must be clear evidence that the highway itself is facilitating persistent crime and ASB. Again this should be evidenced from official sources and not rely on hearsay.

3) An order will not be made if it would restrict the only route of access to a dwelling.

4) If the highway is the only access to business or recreational premises, an order should not restrict the public ROW while those premises are normally in use.

5) If the highway constitutes a main arterial route, unless there are very exceptional circumstances, there must be a reasonably convenient alternative through route which is suitable for all users including the elderly and disabled.

6) The effectiveness of the order in reducing crime of ASB (or transferring the problem elsewhere in the vicinity) should be considered against the likely effects of making the order on:

- The occupiers of premises adjoining or adjacent to the highway
- Other persons in the locality
- The emergency services
- Statutory undertakers

7) The council must be satisfied that any proposal has the support of the local residents. Applications identified as meeting 'need' criteria will be subject to a resident consultation. There will be a minimum response rate of 80% required to proceed and 75% of responses in favour of the proposal.

8) To be considered for alleygating the council must receive an application from a resident or property owner within the affected area.

9) Alleygates should not be regarded as a permanent solution. Schemes will be reviewed and can be removed. Removal will occur if it is deemed that:

- The alleygates have not remedied the issues.
- The alleygates have contributed or created issues by being installed.
- The alleygates are not being properly utilised.

10) It is the responsibility of residents to ensure that the alleygates are correctly used. By agreeing to the proposal residents are accepting these terms.

To authorise the implementation of successful applications.

- 1) After selection has taken place an evidence statement will be compiled detailing relevant problems and evidence. The statement will also detail alternative routes for members of the public and consider any other implications the order would have.
- 2) This procedure will be administered and managed on behalf of the Head of Streetscene by a Streetscene Officer who will collate supporting evidence, carry out consultation and apply for planning permission.
- 3) The consultation for a PSPO will include the following:
 - Chief of Police / suitable rep. (Neighbourhoods Inspector)
 - Local Policing Authority – PCC
 - Landowner (LCC – Highways)
 - Local Residents
- 4) Any objection will be dealt with by the Community Safety Team.
- 5) Burnley Council will tender for a contractor to manufacture and install the gates. The council will liaise with the contractor regarding matters such as location, requirements for individual schemes and co-ordinate the installation.

Maintaining existing schemes.

Burnley Council will maintain all existing and future schemes. The council will carry out any repairs that are required and be responsible for replacement keys and locks.

To continually monitor existing schemes to ensure compliance.

The effectiveness and appropriateness of the alleygate schemes will be periodically reviewed. The duration of a PSPO is 3 years. At the end of this term, the scheme will be reviewed and a decision will be made as to whether the order remains as it has been, if it is altered or revoked.

On occasion it may be necessary to place a scheme in 'special measures'. If an alleygate scheme is identified as having persistent issues that hinder it from working successfully, that scheme will be reviewed and appropriate action taken.

To authorise the removal of unsatisfactory schemes.

Alleygate schemes should not be regarded as permanent. Schemes that are demonstrated to be failing will, if there is no improvement following review the decision may be taken to alter or remove the gates. This will be taken in full consultation with the residents affected but the final decision rests with Burnley Council.

Alleygate review process.

If a scheme is put into review there will follow a consultation and monitoring process before a final decision is taken. Residents will be notified by letter of the scheme being placed in review, the reasons for the review, and the length of the review. At the end of the review the council will decide, based on the performance and monitoring of the scheme, to alter or remove the scheme. Should there be acceptable improvement the scheme will remain in its present state.

SUMMARIES OF MAIN POINTS AND REQUIRED ACTIONS

1	Funding	Funding availability – source to commence procedure.
2	Application Period	Public notice of commencement of application period giving details of what is required.
3	Request by formal letter.	Resident (Lead Petitioner) makes formal request via application form.
4	Nature and extent of problem	Verification of comments made to the Gating management (sub group of the CSP) by individuals or groups. Determination of location and severity of different types of crime or ASB.
5	Police Incident Crime Numbers to be accessed by Partnership Analyst within the MAPS team	Supporting information provides essential justification for the making of a Gating Order.
6	Comparison to the main criteria – visual audit for suitability ie access, (flats to rear of shops,) engineering audit, check ASB and environmental complaints	Verification that premises adjoining or adjacent to the highway are affected by crime and disorder; that the highway facilitates persistent commission of criminal offences or ASB; that the highway is not the only or principal means of access to dwellings or premises while in use and that stopping up is inappropriate.
7	Methods of reducing crime or ASB	Consideration of different methods of reducing crime and ASB and their effectiveness. Comments on why a Gating Order is the preferred solution compared to other possible solutions.
8	Location of relevant highway(s)	Definition of the geographic extent over which the Gating Order is to apply. To ensure alternative route is suitable for all in particular elderly and disabled persons.
9	Access to dwellings/premises/facilities	Identification of the properties and

		facilities affected by the proposed restrictions. The list produced should, for each property and facility, indicate the type and use of the premise and whether the highway provides primary/only access to them.
10	Times/periods of restrictions (if applicable)	Identification of the times/periods that the restriction could apply and which particular premises/facilities are directly affected.
11	Consultation	Indication of groups/individuals/organisations already consulted, together with their comments.
12	Response to initial consultation by the community	<p>Commentary on the positive and negative effects on particular sections of the community.</p> <p>An indication of the level of response, acceptability and opposition be recorded.</p>
13	Management of Gate Keeping	Identification of the particular body/organisation to open/close the gate.
14	Alternative routes	Identification of routes which would probably be used as alternatives to the highway being restricted, together with comments on additional distances involved and highlighting any particular negative aspects (e.g. non-compliance with mobility standards) that should be designed out if possible.
15	Diversity issues	Comments on the effects of the proposals on the grounds of age, disability, gender, race, religion or belief, sexual orientation, other social exclusion issues.
16	Post implementation of Gating Order	Agreement of the relevant community representatives/groups to the appropriate design and siting of gates/barriers, and the times/periods of

		the restrictions etc
17	Housekeeping	Establishment of management regime for housekeeping of scheme i.e. explain gating procedure to new residents, problem reporting, gate keeping.
18	Maintenance of records	Accurate and up-to-date records of all Gating Orders and relevant keyholders. Record of actual opening/closing times/periods.
19	Review	A continuous review process where a scheme is reviewed quarterly. Dependent on the performance of a scheme action to be taken to tackle problems. Continued poor performance may result in modification or removal of a Gating Order. The Gating management will make recommendations regarding each individual scheme and current circumstances to the CDRP.

Checklist

- 1) Is the route recorded on the Definitive Map of Public Rights of Way or on the List of Streets.
- 2) Is there clear evidence that premises adjoining or adjacent to the highway are affected by crime or ASB? - Check Safer Lancashire, police records and Council records.
- 3) Is there clear evidence that the existence of the highway is facilitating the persistent commission of criminal offences or ASB? – Police Stats
- 4) Would a Gating Order restrict the private right of way over a highway that is the only, or principal, means of access to any dwelling? - Check for flats
- 5) Is the highway the only or principal means of access to business or recreational premises? If so, would limited times or periods be appropriate? – check the gated highway isn't blocking customer access of businesses
- 6) If the highway constitutes a through route, is there a reasonably convenient alternative route that is suitable for all users, including the disabled? Would the alternative be likely to lead to an increase in vehicular use? – check on GGP mapping
- 7) How will the Gating Order effect:
 - occupiers of premises adjoining or adjacent to the highway and its users?
 - other persons in the locality?
 - the emergency services and the statutory undertakers?
- 8) Have alternative means of preventing crime or ASB been considered and weighed against the option of a Gating Order? – MAPS team, MATAC

- 9) Will the Gating Order lead to the relocation of the problem? If so, what measures are needed to address this?

- 10) Have the appropriate individuals, groups and organisations been consulted? - send out initial letter, collate responses

- 11) If there are any objections, have they been resolved or is a Public Inquiry necessary/desirable? If there are a lot of objections reconsider, if one send to Lancashire Local

- 12) Have the management arrangements been put in place including the issue of keys, amendments to the inspection & maintenance regime and the establishment of the recording systems?

- 13) Have all copies of the Order been made available or advertised, and have all records been updated (including on the web)?

Managing Diversity

The proposals for the making of a Gating Order must acknowledge human diversity and difference. They should aim to provide an environment that is safe, equitable and enjoyable to use by everyone regardless of age, disability, gender, race, religion or belief, sexual orientation or social exclusion. The following notes should be used to help the assessor or designer to identify and reduce, where possible, the intentional or unintentional effects of the proposals on these groups.

Signage (Notices):

- are they clear, unambiguous and easy to read?
- are they positioned so that visibility/conspicuousness is good for all users?

Gates/barriers and the alternative routes:

- do they conform to standards for the mobility impaired?
- are they easy to use by people with:
 1. a wheelchair?
 2. a buggy/pram and/or with small children?
 3. a walking aid?
 4. visual impairments?

Locks and locking mechanisms:

- are they at an appropriate height for all users?
- are they easy to use by persons with manual dexterity problems or other disabilities?

Access to facilities:

- is access to any of the following significantly affected:
 1. schools
 2. shops
 3. health centres
 4. churches or religious establishments
 5. libraries or other public buildings/amenities?
 6. bus stops/taxi ranks?
 7. telephone boxes, post boxes?

- would the highway users be discouraged from using local facilities?

Levels of vehicle usage/ownership:

- would the highway users be discouraged from walking or cycling and use vehicular transport instead?
- are vehicle ownership levels low and would highway users therefore be significantly affected by the proposals

Appendix 1 – Review Procedure

Alleygate review process

What	How	Outcomes
Identify schemes for review	Intelligence from area teams, waste crews, police, selective licensing.	List of problem schemes compiled.
Warning letter	Letter delivered to all properties within scheme to inform of review commencement.	All residents aware of review, reasons for it and possible outcomes.
Notify relevant partners of selected schemes.	Notify relevant partners Area Teams officers, Selective Licensing (where appropriate), neighborhood police teams.	N/A
Monitoring process	Officers from Burnley Council Streetscene and Selective Licensing, Neighbourhood Police to report in when gates are being left open.	Log kept of all reported breaches.
Decision – Gate Removed	Gates have continued to be left open for majority of time. Multiple reports from officers. Notify residents of decision by letter.	Remove all or part of the scheme.
Decision – Gates Remain	Improvement in management of gates by residents. Notify residents of decision by letter.	Gates stay in place.