

POLICY FOR THE INSTALLATION OF ALLEYGATES

AND

POLICY FOR THE EXTINGUISHMENT OF PROBLEM ALLEYS



**IN THE ROYAL BOROUGH OF WINDSOR
AND MAIDENHEAD**

INTRODUCTION

Although alleys are useful for residents to access the rear of their properties or act as short-cuts (they are often part of the overall footpath network), they can also be used for crime and anti-social behaviour. While the Council will work with residents to improve the appearance and safety of alley ways (e.g. clearing vegetation), sometimes the best solution is to gate off the alleyway. In extreme circumstances, if it is part of the adopted highway network, the Magistrates Court could be asked to “extinguish” its highway status, so that control of its usage reverts back to the owners of the alley (often the houses next to the alley).

A. Alley gating

Alley gates are gates that are situated at entrances and exits to alleys. They are a tried and tested crime prevention measure that attempts to reduce the opportunity to commit crimes and anti-social behaviour by restricting access to people who have keys.

New powers, which came into force in April 2006, give the Council the ability to gate off alleys, without recourse to the Secretary of State, as part of the Royal Borough’s on-going battle against crime and anti-social behaviour.

Section 2 of the Clean Neighbourhoods and Environment Act 2005 introduces a new power that allows councils to make, vary or revoke gating orders in respect of highways within their area. New sections 129A to 129G in the Highways Act 1980 will enable councils to restrict public access to any public highway by gating it (at certain times of the day if applicable), without removing its underlying highway status. Local authorities will be able to make “gating” orders on grounds of anti-social behaviour as well as crime.

Guidance issued by the Home Office sets out the circumstances in which alley gates may be permitted and explains the necessary requirements which the Council must follow, before allowing them to be installed. This has been incorporated into the Royal Borough’s policy.

POLICY – INSTALLATION OF ALLEY GATES

It is the Council's Policy that :

- Where the evidence from the Police, Housing Association and/or local residents identifies crime and disorder being facilitated by an alleyway, the Council will investigate solutions to the problem, including whether the alley should be gated.
- Where it is clear that there is an outright majority of residents in favour, the Council will encourage the local residents to petition the Chief Executive in support of a gating order. This petition should clearly state :
 - the reasons for the gating of the alley. This could include a statement from the Police confirming that crime and disorder problems are directly associated with the alley.
 - if privately owned, provide a letter from the owner stating that they agree with the petition to gate the alley (ownership can be found from the Land Registry);
 - whether residents would like the Council to gate the alley permanently or only during certain hours, depending on the pattern of crime and disorder. While the Council will hold an annual review of all gating orders, residents can ask that a gating order is to be for a set period only.
- The Council will, upon receipt of such a petition, determine :
 - whether crime and disorder is expressly facilitated by the alley;
 - whether it would be reasonable to support the gating of the alley in view of the Council's duty under s.130 of the Highways Act 1980 to protect public rights of access;
 - whether and where there are alternative means of access, especially for those with mobility or other disabilities.
 - whether the gating of the alley will discourage healthier lifestyles, by reducing opportunities for travel by foot or cycle and encourage travel by car.
- The Chief Executive, in consultation with the relevant Lead Members and the Head of Highways and Engineering will, once satisfied that a gating order will be appropriate, issue a draft notice, setting out :
 - the location of the alley to be gated and the times the gates are to be locked (including 24 hrs);
 - clear justification as to why the alley way is to be gated;

- the alternative routes of access;
- how the gating will not have an adverse impact on healthier lifestyles;
- The draft notice will be paid for by the the Council .
- The Council will also notify the following :
 - All occupiers of premises adjacent to or adjoining the relevant highway/alleyway;
 - Any authority through which the gated highway will run including:
 - § Any other council, including parish and town councils;
 - § Police authorities (informing the chief of police);
 - § Fire authorities;
 - § NHS Trusts;
 - The Royal Borough's Local Access Forum.
 - Other public bodies and companies that do maintain or provide services on or around the locality in which the relevant highway is situated including:
 - § statutory undertakers;
 - § gas or electricity services providers;
 - § water services providers;
 - § communications providers;
 - Anyone who requests a copy of the notice; and
 - Anyone who has asked to be notified of any proposed gating orders. The Council has been informed that the Ramblers Association and the Open Spaces Society would like to be consulted on all gating orders.
- The Council will allow 28 days to receive representations relating to the alleys.
- If any of the following objects to the draft notice, then the Council will work with the objector(s) and the local residents to overcome the objection or develop a more acceptable solution :
 - Thames Valley Police.
 - Royal Berkshire Fire and Rescue Service.
 - Berkshire East PCT.
 - A Parish or Town Council in Windsor and Maidenhead.

- If there are no objections to the gating order from the above four statutory consultees, then the Chief Executive in consultation with the relevant Lead Members and the Head of Highways and Engineering will determine the gating order.
- The Council will inform those who wrote in to the Council of the decision.
- If the Council and residents still believe that a gating order is necessary, despite an objection from the Police, Fire Brigade, PCT or Parish Council, and no other solution is possible, then a public inquiry will be held.
- The Council will appoint an independent expert to Chair the inquiry. Government guidance suggests that this independent expert could come from the Planning Inspectorate. The Council will also publicise a further notice, detailing :
 - § the location, time and date of the inquiry.
 - § the location of the alley to be gated, including details of how to find out more information.
 - § details concerning the Chair of the inquiry and how representations can be made if residents are not able to be present on the day.
- The Council will provide assistance to the residents at the Inquiry and cover costs related to the public inquiry, including the issuing of the notice and Counsel. The Council will abide by the decision of the Inquiry and inform the residents of the decision.
- Once a gating order has been approved, the Council will work with local residents for the installation of the gates.
- All costs related to the installation of the gates, will be paid for by the Council. This includes :
 - administration costs/local authority fees (including statutory notices inviting objections);
 - solicitor's fees, land registry fees and insurance etc;
 - planning permission (if needed);
 - the design, creation, installation and maintenance of the gates, including provision of keys to all those who are eligible for them;
 - skip hire and paying for rubbish to be cleared out of the alley.

- The Council will keep a register of all gating orders, publish it both on site and at Council Officers and will keep it up to date. The Council will review every gating order annually.

B. Extinguishment of an Alleyway.

Most alleys within the Royal Borough are part of the adopted highway network. In extreme circumstances where residents are suffering from high levels of crime and disorder, it may be desirable to close an alley, thus removing all access rights to the alley. The Highway Authority can make submissions to the Secretary of State to include an alley in a designation order for crime and disorder purposes and to close it under a “*special extinguishment order*.”

Power to do this is under s.118b of the Highway Act 1980. This would be a permanent and irrevocable measure. In order for this to be approved, it would need to be proved that the alley was facilitating a high level of crime & disorder and will not be needed as an access route at any time in the future. This will be assessed against the Council’s duty under s.130 of the Highway Act 1980 to protect and preserve public access rights.

Any future usage of the alley will be determined by the freehold owner of the land (usually those households next to the alley). The owners could, if they wished, either install an alley gate themselves without recourse to the Council, or alternatively subsume the alley into their own gardens.

The Government has set down a clear procedure in the Highways, Crime Prevention etc. (Special Extinguishment Order) Regulations 2003 on how to do this.

There are also powers under s.118 of the Highways Act 1980 to permanently extinguish the access rights of a right of way, where it can be proved that it is unused and unnecessary. If there are any objections to this extinguishment, however, then the permission of the Magistrates Court is required under s.116 of the Highway Act. Further details of these can be found about the processes involved from the Council’s Rights of Way team.

POLICY – REMOVING AN ALLEY FROM THE ADOPTED HIGHWAY REGISTER

- Where the evidence from the Police, Housing Association and/or local residents identifies that high levels of crime and disorder are being facilitated by an alleyway, the Council will investigate solutions to the problem.
- The Council will encourage the local residents to petition the Chief Executive in support of a gating order, but if the residents insist that the alley be removed from the adopted highway network, then the Council will consider this.
- This petition should clearly state :
 - the reasons for the change in the alley’s highway status. This should include a details from the Police confirming that high levels of crime and disorder are directly associated with the alley, with evidence of the nature and scale of the problems and the efforts made in finding other solutions so far.
 - if privately owned, then the owner must agree with the petition to remove the alley from the adopted highway register (ownership can be found from the Land Registry);
- The Council, upon receipt of such a petition, will determine :
 - whether high levels of crime and disorder is expressly facilitated by the alley, in consultation with the Police and the Crime and Disorder Reduction Partnership;
 - whether it would be reasonable to support the removal of the alley’s highway status, despite the Council’s duty under s.130 of the Highways Act to protect public access rights.
 - whether and where there are alternative means of access, especially for those with mobility or other disabilities.
- The Head of Highways and Engineering, in consultation with the relevant Lead Members, once satisfied that an order under s.118b of the Highways Act in removing the alleys highway status will be appropriate, will issue a draft notice, setting out :
 - the exact location of the alley to be “*designated*”;
 - clear justification as to why the alley is to be closed under a “*special extinguishment order*”.
 - the alternative routes of access;

- The draft notice will be paid for by the borough.
- The Council will also notify the following :
 - All occupiers of premises adjacent to or adjoining the relevant highway;
 - Any authority through which the gated highway will run including:
 - § Any other council, including parish and town councils;
 - § Police authorities (informing the chief of police);
 - § Fire authorities;
 - § NHS Trusts;
 - The Royal Borough’s Local Access Forum.
 - Other public bodies and companies that do maintain or provide services on or around the locality in which the relevant highway is situated including:
 - § statutory undertakers;
 - § gas or electricity services providers;
 - § water services providers;
 - § communications providers;
 - Anyone who requests a copy of the notice; and
 - Anyone who has asked to be notified of any proposed gating orders. The Council has been informed that the Ramblers Association and the Open Spaces Society would like to be consulted on all gating orders.
- The Council will allow 28 days to receive representations relating to the alleys.
- If any objections are received, then the Council, in consultation with the Police will work with the objector(s) and the local residents to either overcome the objection or develop an alternative, more acceptable solution.
- If there are no objections to the order, then the Head of Highways and Engineering in consultation with the relevant Lead Members, will determine whether to apply to the Secretary of State on behalf of the residents for the alley to be included in a designation order and closed under a “*special extinguishment order*”. The Council will inform those who wrote in to the Council of the decision.