



HIGHWAY GATING POLICY

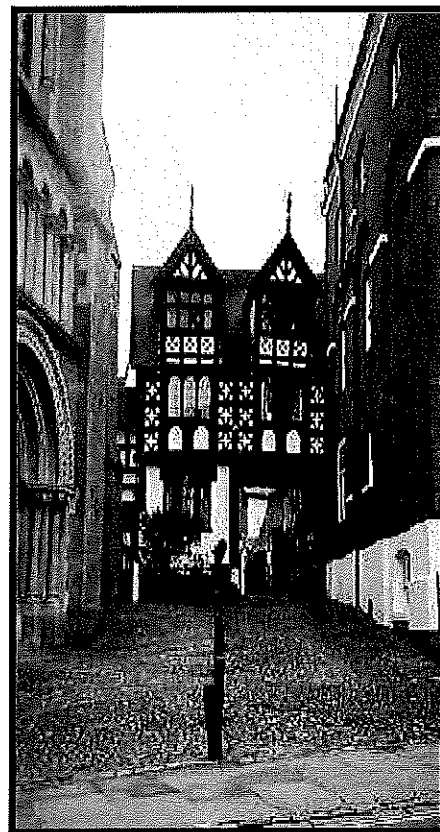
Background information

The Clean Neighbourhoods and Environment Act 2005 amends the Highways Act 1980 to allow Shropshire Council as Highways Authority to make Gating Orders.

Gating Orders enable councils to restrict public access to any highway by gating it (at all or limited times of the day, if applicable) without removing its underlying highway status. The new provisions enable a council to gate a highway in a similar manner to the Countryside and Rights of Way Act.

However, it does not require the highway to be designated as a high crime area by the Secretary of State. It enables gating to take place if the highway suffers crime and/or anti-social behaviour and allows a council to continue with a Gating Order, even if objections are made, as long as it is considered expedient to do so.

Gating Orders are intended as a temporary measure and are to be kept under review. Following the reduction of crime and/or anti-social behaviour, highway restrictions can be varied or revoked.



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The potential benefits of restricting public access to any public highway in Shropshire by gating on grounds of anti-social behaviour is recognised. The effective use of this policy supports Shropshire Council's vision to improve significantly the quality of life for Shropshire people, in particular associated with reducing anti-social behaviour and the fear of crime.



Gating Orders in Shropshire

Subject to the requirements of the Highways Act 1980 (Gating Orders) England Regulations 2006, Shropshire Council may consider the gating of a highway when they are satisfied that:

1. Premises adjoining or adjacent to the highways are affected by crime or anti-social behaviour;
2. The existence of the highway is facilitating the persistent commission of criminal offences or anti-social behaviour;
3. It is in all circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour.

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In considering the implications of point iii) above, consideration must be given to the following:

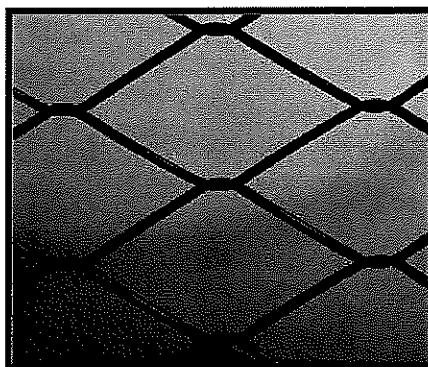
1. The likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway
2. The likely effect of making the order on the occupiers and other persons in the locality
3. In a case where the highway constitutes a through route the availability of a reasonable alternative

Unlike other legislation permitting the closure of highways, a Gating Order does not remove highway status but simply restricts the public from being able to use the highway at all times.

An order may be full or part-time dependant on the circumstances that justify it. The appropriate closure period can be set for each alleyway/ public right of way. It could, for example, be:

- For a few hours,
- When schools are closed,
- When the local sports club has a home fixture,
- Overnight or
- For 24 hours.

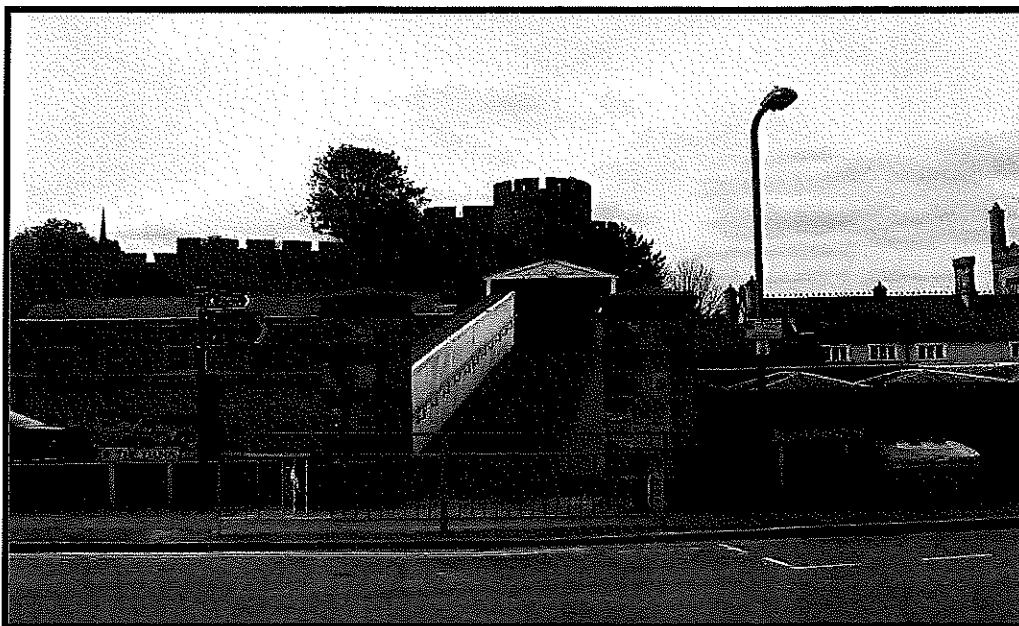
The legislation permits the installation of security gates and fencing to enforce the restriction.



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Criteria and procedure

The Clean Neighbourhoods and Environment Act 2005 allows local authorities the freedom to define the level of crime or anti-social behaviour necessary to bring about a Gating Order. It must be shown that the alleyway/ public right of way is facilitating persistent and significant levels of crime and/ or incidents of anti-social behaviour. This can include incidents of fly-tipping or other environmentally related incidents or crimes.



A Gating Order is not intended to be brought about if the alleyway/ public right of way is facilitating persistent and significant levels of crime and/ or incidents of anti-social behaviour in other areas. For example if the alleyway/ public right of way is being used as a means of access, escape route or similar to facilitate crime and/ or incidents of anti-social behaviour on adjacent streets.

The policy allows for:-

1. requests to be considered on a case by case basis.
2. the raising of concern for ongoing issues of crime/anti-social behaviour in relation to a highway/alleyway or shuts with either West Mercia Police and/ or Shropshire Council's Anti-Social Behaviour (ASB) Officer

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3. an initial investigation to be undertaken by West Mercia Police and/or the ASB Officer to establish history, area, issues, etc. This should include establishing incidents reported to the Fire Service, Police and local authority for a period of up to 12 months. A site visit may also be appropriate. The initial investigation will establish if the issues can be resolved by a single/two agency response.
4. the initial investigation to establish if the issues can be resolved by a single/two agency response. If this is the case the relevant agency or agencies will work to resolve the issues. This is followed by a six month review to establish if there has been a reduction in reported incidents/issues. If the issue is resolved no further action is required other than maintaining records and monitoring for reoccurrence.
5. if the issues can not be resolved by a single/two agency response a multi-agency meeting would be arranged by West Mercia Police/ASB Officer to include relevant partners to discuss the issues and devise resolutions in the form of a PIER (Prevention, Intelligence, Enforcement and Reassurance) action plan.
6. regular monitoring of the PIER to be completed by Police/ASB Officer with regular review meetings held as appropriate. Again, this is followed by a six month review.
7. If the six month review shows that crime/ASB is continuing, a multi-agency review meeting to be called to discuss the potential of a Gating Order, or, revised PIER action plan and monitoring. The review determines if there is sufficient evidence to show that the alleyway/ public right of way is facilitating persistent and significant levels of crime and/or incidents of anti social behaviour and anti-social behaviour and crime incidents linked to the highway/ footpath.



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8. if potential for gating is identified consideration of the criteria is then assessed with the council's legal team and if satisfied a feasibility analysis is undertaken to:
 - a. assess availability of potential funding, including capital and future revenue funding which shall include an appropriate contingency for future removal
 - b. an implementation and priority assessment with consideration given to other current gating commitments
 - c. assessment of potential gating operational procedures including obtaining agreement from the relevant town or parish council to undertake locking and unlocking of the proposed gate/s, without which it is unlikely that a gating order will proceed.

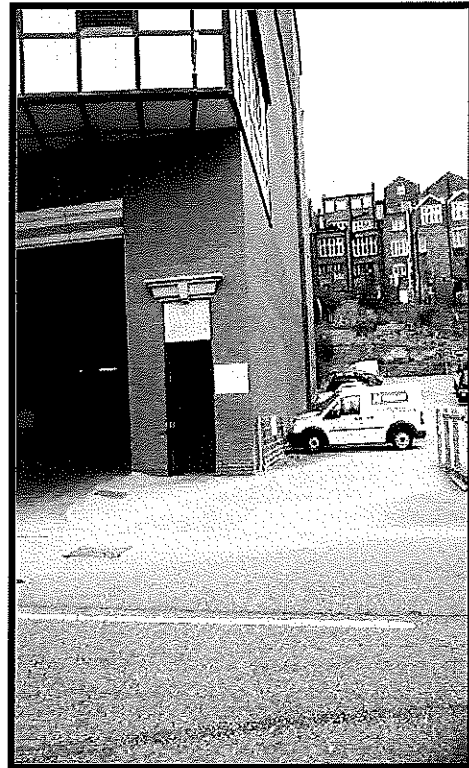


9. Shropshire Council to undertake an informal consultation process with key stakeholders. This informal consultation includes a viability assessment and is carried out by either the Traffic Management & Regulation Team or the Countryside Right of Way Team depending on the status of the alleyway/ public right of way.
10. a formal consultation process in accordance with the Gating Order Regulations that includes a 28 day statutory objection period.

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The formal consultation process also includes consultation with:

- The occupiers of all the premises, adjacent to, or adjoining the relevant highway
- The Police, Fire Service and NHS
- Any other relevant local authority
- Any local access forum
- Statutory undertakers
- Communications providers
- Any person who might reasonably have interest
- Any person requesting a copy of the notice



If during the objection period an objection to the proposed order is received from the Police, the Fire Service, the NHS Trust and /or any town, district or parish council in the area, Shropshire Council cannot proceed to make the order. In these circumstances Shropshire Council has the choice either of not proceeding with its proposed order or arranging a public inquiry to resolve the opposed order. In these circumstances consideration may be given to revising the terms of the proposed order in such a way that the likelihood of objections is reduced. However, the presumption will be that the council will proceed only under extreme circumstances if an objection is received.

If during the objection period an objection is raised by any other individual or organisation included above, Shropshire Council has discretion as to whether to hold a public inquiry or not. If it decides not to it may proceed to make the order. These objections will be considered by the relevant area regulatory committee. Again, it may be possible to revise the terms of the proposed order to reduce the likelihood of objections.

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If no objection is received permission will be granted for the Gating Order by officers under the delegations in the councils constitution. This is subject to planning permission being obtained, in accordance with the legislative requirements where that is required.

To ensure consistency and joined-up working a copy of the Gating Order policy is included within the Shropshire Anti-Social Behaviour Practitioner Toolkit.



Register of records and annual review

A register of all orders, or proposed making, variation or revoking of orders, is kept and is open to general inspection and published on the council's website. Full justification of action taken during the application process is also retained on file.

All Gating Orders are reviewed on an annual basis by the Traffic Management & Regulation Engineering Section and the Countryside and Rights of Way Sections.

Practical implications of gating

A Gating Order temporarily suspends rights of access to the specified section of the highway by members of the public. A stopping up or extinguishment order may be a more suitable option in some cases where permanent closure is required, although different criteria apply to such orders.

Before a Gating Order is made it is necessary to make arrangements with the appropriate town or parish council for the alleyway/ public right of way to be opened and closed at the appropriate times at no cost to Shropshire Council.

Gating Orders are intended to be used as a deterrent while the crime or anti-social behaviour is persistent. All Gating Orders are reviewed after twelve months in order to determine whether the closure needs to be made permanent, amended or revoked.

**Effects of Gating Orders**

The effects of a Gating Order must be such that:

1. Access for occupiers of premises adjoining or adjacent to the highway is not restricted.
2. A gating order can not be made if the highway forms the only or principal means of access to any dwelling.
3. If the highway is the only or principal access to premises used for business or recreational purposes, the order can not restrict public access during the times of day when such premises are normally used.

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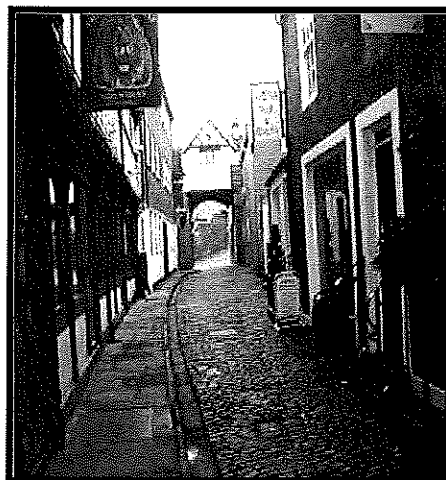
Issues of mobility

Special consideration is given to the impact any proposed order might have on disabled users of the highway to ensure that alternative routes are free from obstruction and suitably paved. Consideration is also given to the practicalities in the use of the proposed gates (height of the locks and the ease with which they can be opened and closed).



Health implications and sustainability

Consideration is given to health implications and sustainability issues when assessing the viability of Gating Orders. If the alternative routes are too long or lack pedestrian sections this could potentially encourage the use of cars. It may be appropriate in some situations to undertake a Health Impact Assessment to balance against the health impacts facing pedestrians from the ongoing crime or anti social behaviour.



Financial implications

The implementation of gating orders will be limited to a maximum of four per year and will be subject to the availability of the necessary resources. Consideration will also be given to the use of external funding where appropriate.



Monitoring

During the first year of this policy's operation no more than four applications should be considered. This will allow officers to monitor and review the process and use of the policy. Officers will assess the costs of each closure and practical implications in particular for emergency services in retaining access to the properties affected by the installation of a gate.

This policy will be reviewed twelve months after approval by the relevant Portfolio Holders.