

Meeting:	Cabinet
Date:	17 July 2008
Subject:	Gating Policy and Procedures
Key Decision:	Yes
Responsible Officer:	Andrew Trehern, Corporate Director, Community and Environment Services
Portfolio Holder:	Councillor Susan Hall, Portfolio Holder for Environment
Exempt:	No
Enclosures:	Gating Policy and Procedures

Section 1 – Summary and Recommendations

This report puts forward for adoption a Gating Policy and Procedures to ensure that there is a fair and consistent approach for installing alley gates across Harrow.

Recommendations:

Cabinet are requested to:

1. Agree that the Gating Policy and Procedures shown at Appendix 1 is formally adopted.
2. That the Policy is subjected to ongoing consultation and reviewed on an annual basis, with minor amendments agreed and incorporated on an annual basis in consultation with the Portfolio Holder.
3. That where significant amendment or review is required the Policy is brought back to Cabinet for decision.

Reason: To introduce a prioritised approach to alley gating that ensures effectiveness, efficiency and encourages local resident involvement and ownership. This policy directly relates to the Partnership Plan and the Community Safety Priorities of reducing crime, the fear of crime and anti-social behaviour (ASB). If Cabinet does not agree the recommendations this would result in a reduced opportunity to develop our response to tackling anti-social behaviour, the delivery of key corporate priorities and expose the Council to risk through formal challenge.

Section 2 – Report

2.0 **Background**

- 2.1 Alley gating is a situational crime prevention technique that aims to reduce the likelihood of crime and Anti-Social behaviour (ASB), by restricting access in alleyways. A gate can prevent opportunistic criminals who are looking for concealed places to commit their offences and helps restore a sense of community and safety for those living adjacent to an alleyway.
- 2.2 Since September 2007, the Council's ASB Unit have lead on a number of gating projects across the borough and the current demand for gates is exceeding supply. There has been widespread support for gates by local residents and the benefits to the council include a reduction in complaints to various services such as public realm, environmental health and the ASB Unit.
- 2.3 These projects are an excellent example of partnership working with local Councillors, the local Safer Neighbourhood Teams and the Community Payback Scheme. Over 20 gates have been installed since January 2008. Residents who have benefited from the gates are extremely grateful and satisfied with the council for taking such action. Neighbours who may not normally talk to each other have been brought together, demonstrating a willingness to make their communities cleaner, greener and safer.
- 2.4 In most instances gates are paid by using a combination of Priority Action Team funds, the ASB Budget and local resident contributions. A system is required to ensure that money is spent in the areas with the greatest need.
- 2.2 The policy specifically covers the procedures undertaken to prioritise gating projects across the borough. It sets out a consistent approach regarding the procedures undertaken from project initiation to completion and ensures that the processes are efficient and transparent.
- 2.3 The aim of the policy is:
- a) To introduce a prioritised approach to alley gating that ensures effectiveness in expending a finite resource.
 - b) To establish a criteria for choosing where to install alley gates
 - c) Where areas are not prioritised by partners, to provide a self-service kit on the web for residents and business to use themselves.
 - d) To engage and empower the community to tackle environmental crime
- 2.5 The primary objective is to deliver a consistent approach to all activities, assist officers in the decision making process when dealing with all aspects of each alley gate project. The aim is to ensure consistently high quality service in line with the corporate strategies.

3.0 Options considered (statutory requirement for Executive-side reports)

- 3.1 That the approach proposed in this policy reflects guidance on good practice for gating proposals.
- 3.3 This policy is being proposed as a response to anti-social behaviour and environmental crime and:
- Demonstrates the Council's leadership and commitment to tackling anti-social behaviour, the fear of crime and making environmental improvements within the borough.
 - Gives a clear statement of the Council's approach to improving the quality of life for residents
 - Facilitates working with partners such as the Police and Probation on joint ASB issues.
 - Provides a clear statement to the Council's alley gate referral agencies on their responsibilities.
- 3.4 There is however no obligation on the council to adopt a formal Gating Policy and a decision could be made not to do so and to retain the current ad hoc and unprioritised approach. This may lead to resources both of council staff and money being wasted or not used where benefits can be maximised.
- 3.5 The policy supports the work of the council and partner agencies, such as the Police in developing a consistent approach to enforcement and the deployment of resources. The policy sits alongside the other enforcement policies within the authority.

4.0 Consultation

- 4.1 The policy will form the basis for further consultation with stakeholders including local residents and businesses and those with an interest in alley gates, including Police, Community Payback/Probation Service and the Environmental health and Public Realm.
- 4.2 The Policy will be subjected to ongoing consultation through formal and informal consultation and together with experience of various projects will be reviewed on an annual basis, with minor amendments agreed and incorporated on an annual basis in consultation with the Portfolio Holder. Where significant amendment or review is required the Policy is brought back to Cabinet for decision.
- 4.3 The Joint Action Group will review the Alley Gate Request forms and prioritise the projects accordingly.

5.0 Legal Comments

- 5.1 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. This is achieved by inserting new sections 129A to 129G in the Highways Act 1980 which 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.

- 5.2 Powers to close alleyways were first introduced by the Countryside and Rights of Way Act 2000 (CROW Act 2000); this enables alleyways, which are also rights of way, to be closed and gated for crime prevention reasons. This legislation does not enable alleyways to be gated expressly to prevent anti-social behaviour and also excludes many alleyways that are public highways but not recorded as rights of way. Also, under these provisions the removal of rights of passage is irrevocable.
- 5.3 The Clean Neighbourhoods and Environment Act 2005 provisions enable a council to gate a highway in a similar manner to the CROW Act 2000 power but it:
- a) does not first require the highway to be designated by the Secretary of State,
 - b) enables gating to take place if the highway suffers from crime and/or anti-social behaviour,
 - c) enables the council to continue with a gating order, even if objections are made (if it is considered in the best interests of the local community to do so).

The power to make a gating order commenced on 1 April 2006.

6.0 **Financial Implications**

- 6.1 The report is not seeking additional financial resources at this time and there are no financial implications relating to the agreement of the recommendations by cabinet.
- 6.2 In almost all of the gating projects to date residents have been asked to make a financial contribution. Residents and businesses have been more than willing to assist with these costs and have reimbursed the costs incurred by the council.

7.0 **Equalities Impact Consideration**

- 7.1 There are no anticipated impacts on Equalities or Diversity, but as part of the ongoing consultation any impacts will be recorded, assessed and included as part of the evaluation of the policy.
- 7.2 The implementation of the gating policy will provide a standard process for installing alley gates and be implemented across the borough and will apply equally to all people and businesses. The process will not target or exclude any person or businesses on the basis of ethnicity or any other factor. Training to support the implementation of the scheme will cover the importance of consistency during the enforcement procedure to ensure that no person is discriminated against on the basis of ethnicity.
- 7.3 Within the Policy all officers must have regard to:
- (a) The Councils Corporate Policy on Racial Equality at all times in undertaking their duties and in the investigation of complaints, inspections and contravention’s of legislation and the gathering of evidence in relation to these must be carried out in accordance with this policy.

(b) The provisions of the Human Rights Act 1998 at all times in undertaking their duties and in the investigation of complaints, inspections and contravention's of legislation and the gathering of evidence in relation to these must be carried out in accordance with this Act. The enforcement decision making process should have regard to the Checklist for Human Rights Convention Rights

(c) The provisions of the Data Protection Act 1998 at all times in undertaking their duties and in the investigation of complaints, inspections and contravention's of legislation and the gathering of evidence in relation to these must be carried out in accordance with this Act.

7.4 The provision of a policy also supports the delivery of equalities issues associated with fear of crime, such as reassurance of vulnerable communities and consultation with hard to reach groups. Implementation of the recommendations will serve to support delivery against the key equalities issues identified.

8.0 **Community Safety (s17 Crime & Disorder Act 1998)**

8.1 The content of the report and recommendations address the need for partner agencies to work together to develop and implement strategies to tackle environmental crime and the clear links to crime and disorder, ASB and fear of crime. The report makes direct recommendations relating to partnership working arrangements and activities that should be co-ordinated across agencies and implementation of these recommendation will serve to underpin the delivery of crime reduction strategy priorities, specifically the ASB and fear of crime priority, delivery of LAA stretch targets and BCS crime and as such directly support section 17 key objectives.

9.0 **Performance Issues**

9.1 The development of a detailed policy for gating of alleyways will be overseen by the Joint Action Group. It will influence the achievement of measures related to the environment and environmental cleanliness, including the Mori satisfaction survey, and support the delivery of a number of key BVPi's and National Indicators as listed below. However the policy will be one of many factors in the achieving higher performance.

9.2 Although there are no direct performance measures, BVPi's, or National Indicators the policy will indirectly impact on a number of key indicators as follows:

- National indicator 195 - Improved street and environmental cleanliness (levels of graffiti, litter, detritus and fly posting) - The delivery of the gating policy will directly assist with the enforcement of environmental crime and serve to support improvements in this area. Gates prevent crime and anti-social behaviour and therefore help reduce the fear of crime.
- BVPi 199a - Street and Environmental Cleanliness – litter/detritus. Current indicator: Performance against this indicator is currently classified by the Council as "Needs prompt attention". The delivery of the environmental crime gating policy will directly support enforcement of environmental crime and serve to support improvements in this area.

- NI 199b Street and Environmental Cleanliness – graffiti. Current indicator: Performance currently “Excellent” (Green). The delivery of the gating policy will act as a deterrent to those committing acts of graffiti and support improved public realm response in this key area
- Flagship Actions – Deliver cleaner streets, better environmental services and keep crime low. Reference 1.7 – Tackle environmental crime and reduce fly-tipping, graffiti by installing alley gates in problem areas. Measurement: Achieve the Gold Standard on the LGA Reputation Campaign in relation to Grot Spots in Neighbourhoods and Protecting the Environment. The gating policy will directly support the delivery of an enhanced enforcement regime through the Environmental Enforcement Team and the Public Realm Blitz Team.
- Local Area Agreement Stretch Target, National Indicator 17 - Perceptions of Anti Social Behaviour – These indicators have specific sub criteria relating to fly tipping, littering and graffiti which will be directly supported by the Policy.
- National indicators 24 and 25 - Satisfaction with the way the police and local council dealt with anti-social behaviour - These indicators have specific sub criteria relating to fly tipping, littering and graffiti which will be directly supported by the Policy. Current procedures clearly demonstrate partnership working and all projects to date have received excellent feedback from local businesses and residents.

9.3 There is no direct impact in terms of the key lines of enquiry for CAA but the Policy will provide direct evidence to support the delivery of key corporate priorities relating to improving environmental conditions, the provision of open and transparent services and support key BVPI’s and national indicators.

10. **Risk Management Implications**

10.0 Risks associated with enforcement activities are low and chiefly are the risks of appeal against enforcement action. The development of a detailed Gating Policy and Procedures supports consistent decision-making and enforcement standards and minimises the risk associated with enforcement activities.

Section 3 - Statutory Officer Clearance

Name: Sheela Thakrar on behalf of the
Chief Financial Officer

Date: 23 June 2008

Name: Rachel Jones on behalf of the
Monitoring Officer

Date: 24 June 2008

Section 4 – Performance Officer Clearance

Name: Tom Whiting Divisional Director of
Strategy and
Improvement

Date: 20 June 2008

Section 5 - Contact Details and Background Papers

Contact:

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Background Papers:

Cabinet Report: 15th March 2006 – Implementing the Clean Neighbourhoods
and Environment Act 2005 (Summary of provisions and ALG agreed FPN fine
levels.

Clean Neighbourhoods and Environment Act 2005 – available on the OPSI
web site at:

<http://www.opsi.gov.uk/acts/acts2005/20050016.htm>

Environmental Offences (Fixed Penalties)(Miscellaneous Provisions)
Regulations 2006 (these regulations detail the levels of fixed penalties for a
number of offences and other related provisions) – available on the OPSI
website at:

<http://www.opsi.gov.uk/si/si2006/20060783.htm>

Explanation of the Clean Neighbourhoods and Environment Act's provisions:

http://www.opsi.gov.uk/acts/en2005/ukpgaen_20050016_en.pdf

The Cautioning of Adult Offenders. Home Office. Circular 30/2005, 15th June 2005. (www.homeoffice.gov.uk)

Code for Crown Prosecutors. November 2004 (www.cps.gov.uk)

Regulation of Investigatory Powers Act 2000 and code of practice on the Act (www.homeoffice.gov.uk/ripa)

Code of practice B to the Police and Criminal Evidence Act 1984 (s.60(1)(a) and s.66) (<http://www.homeoffice.gov.uk/pcrg>)

Data Protection Act 1998 and the Freedom of Information Act 2000. (Department of Constitutional Affairs, www.dca.gov.uk).