



Nottingham
City Council

NOTTINGHAM CITY COUNCIL

GUIDANCE NOTES FOR MAKING AN APPLICATION FOR A GATING ORDER

SECTION 129A HIGHWAYS ACT 1980

INTRODUCTION

From April 2006, the City Council acquired a new power to make “gating orders” to help deal with crime and antisocial behaviour under the Clean Neighbourhoods and Environment Act 2005 (this amended the Highways Act 1980). The Council may make a gating order to restrict the use by the public of a “relevant highway” and may authorise the placing of gates at each end.

A “relevant highway” is a “way” over which the public have access and includes alleyways, footpaths and bridleways as well as carriageways (roads) other than special roads, trunk roads, classified or principal roads and any other path or track that is considered a public right of way. Some “ways” may be private, for example where they serve the rear of properties only. The Traffic Management Team will be able to advise you if you are unsure whether the route that relates to this application is a public right of way.

The restriction may be full time or part time so that, for example, a highway may be gated only at night but open during the day. A gating order may be subsequently revoked or varied and does not enable the highway to be used for other purposes e.g. for a building to be erected on the highway.

These Notes are for Guidance purposes only when completing the application form. They are not intended to provide a statement of law.

PART 1: GATING ORDER LEGISLATION AND THE COUNCIL’S LEGAL OBLIGATIONS (THE “STATUTORY TESTS”)

1 to 5 below are known as the “Statutory Tests”. Before the Council can interfere with a highway (for example to close or divert it), over which the public have certain rights (for example a right to walk or a right to drive) they must first make a legal order. Before making a gating order and erecting a gate the Council must be able to demonstrate that the tests have been satisfied. The gating order legislation contained in the Highways Act 1980 section 129A enables the Council to make a gating order only where it is satisfied that:-

1. premises adjoining or adjacent to the highway are affected by crime or antisocial behaviour;
2. the existence of the highway is facilitating the persistent commission of criminal offences or antisocial behaviour
3. the gating order will help reduce crime or antisocial behaviour in the locality

The Council must also consider:-

4. the likely effect of the order on premises adjoining or adjacent to the highway and other persons in the locality
5. the availability of a reasonably convenient alternative route should the highway be gated.

PART 2: COMPLETING YOUR APPLICATION

Part 2 will help you complete the application form

SECTION 1: APPLICANTS CONTACT DETAILS

Please provide your full contact details, including your full name (not just your initials) address and postcode, phone number and email address. Please use BLOCK capitals. This will help us to keep you up to date and to send out any further information as and when required.

This information will only be used for the purpose of this application and for no other purpose. Your details may need to be shared with other agencies, such as the police and crime reduction team, as part of the application process. Signing the application form will indicate that you are happy to share your details in this way.

SECTION 2 - CONTACT DETAILS OF OTHER COUNCIL STAFF YOU MAY HAVE CONTACTED REGARDING THIS APPLICATION

Please provide the contact details of any City Council staff that you have discussed either the problems with the highway and/or this application with. For example you may have discussed the problems with the Council's Community Protection Officers or local housing office. The more information you can provide at this time may save time in the future.

SECTION 3 - CONTACT DETAILS OF POLICE OFFICER(S) YOU MAY HAVE CONTACTED REGARDING THIS APPLICATION

Please provide the contact details of any Police Officer(s) that you have discussed either the problems with the highway and/or this application. For example you may have discussed the problems with the highway with the Council's Community Protection Officers. The more information you can provide at this time may save time in the future.

SECTION 4 - DESCRIPTION / LOCATION OF THE HIGHWAY

It is important that you provide as much information as possible to enable us to clearly identify the highway to which the application refers. In your description you may use house/property numbers that the highway is adjacent to, or located near, or other physical landmarks such as a park, petrol station or electricity sub station. Ordnance Survey grid reference points may also be a good way of describing where the highway is located.

You are advised to attach a plan to your application showing the location of the highway. Your plan should be of a reasonable scale which will enable us to identify the full width and length of the highway and determine whether or not there are any suitable alternative route(s) should the highway be gated. Please mark clearly the location of the highway.

If necessary, the Traffic Management Team will be able to provide you with a plan for this purpose. Please put your name on the plan along with your signature and date. This will ensure we can match the plan with the corresponding application.

SECTION 5 - EVIDENCE IN SUPPORT OF THE APPLICATION

Evidence to support the application, and therefore the order, is probably the most important part of the gating order process. The Council must be fully satisfied that the highway is helping to cause crime or antisocial behaviour in the area and that a gate will actually help reduce the problems. Therefore, the evidence submitted with your application must demonstrate a link between the crime and/or the antisocial behaviour in the area and the location of the highway.

The importance of good quality evidence to support the application cannot be stressed enough. The evidence may be collected from a range of sources including your neighbours, Neighbourhood Watch (if one operates in your area), the Police, the Council and any other individuals or groups who may play an active or supporting role in the local community.

Some evidence may take longer to collect. We would advise that when you first make the application you provide as much information as possible on the types of incidents that are occurring. This will enable us to get a reasonable understanding of the problems. You can then submit additional evidence/information as and when it becomes available in the future.

We have provided “evidence log sheets” which you may wish to complete with details of any incidents related to the highway. If you choose to complete and return the log sheets with this application please indicate this in section 5 of the application form. Please report any incidents of a more serious nature (that are directly related to the highway) to the Police or the Council’s Community Protection Officers which will help support making a gating order in the future, if it is considered necessary. When reporting the incidents please provide as much information as you can and try to explain exactly how the highway helped contribute towards the incident(s).

SECTION 6: PERIODS THAT YOU BELIEVE THE HIGHWAY SHOULD BE GATED

Usually, we would expect the period of time when the highway would be gated to coincide with the period when the majority of crime or antisocial behaviour is occurring. This period should be reflected in the evidence to support the application/order. Before and after this period the gate would be open and the restriction over the highway removed. This will ensure the period the gate was locked would be most effective in reducing crime or antisocial behaviour. It will also ensure that the highway was gated for the minimum period of time and that commuters and day to day users of the highway would still be able to use it to access local services, schools, shops and public transport, especially at peak commuter times.

In extreme circumstances the levels of crime or antisocial behaviour may be so high that, to be affective, the highway may need to be permanently gated during all times of the day and night. Again, this can only be established through the available evidence and other supporting information.

Please note: Don't forget to sign and date the form

PART 3: DETERMINING THE APPLICATION

Part 3 explains what happens when the Council receives your application

WILL THE COUNCIL NEED FURTHER INFORMATION / EVIDENCE?

Part 1 of these Notes sets out the “statutory tests” that the Council must be able to satisfy before they may consider making an order. For example; the Council must consider; “*are the properties adjacent or adjoining the highway affected by crime or antisocial behaviour?*” This question can only be answered by considering the available evidence (for the types of evidence to support your application please see Part 2 Section 5 above). If the evidence does not demonstrate that the statutory tests can be satisfied the Council may need to gather more evidence. (For an explanation of the “statutory tests” please see Part 1 above) If we need further supporting evidence/information we will contact you to discuss this in more detail and advise you on what type (or types) of additional information we require. We will also need to discuss this with the Police to see if they can provide any additional information in support of the application.

THE ROLE OF “JOINT TASKING”

Joint Tasking is a partnership between the Council, Crime Disorder Reduction Partnership, the Police, the Probation Services, Nottingham City Homes, the local NHS Trusts and the Fire and Rescue Service. Representatives of each of these bodies attend regular meetings at which geographical areas of crime, disorder and antisocial behaviour are identified and incident data and evidence is considered. Resources are then allocated, with priority being given to tackle identified hotspots.

In the gating order process the role of Joint Tasking will be similar to that of the Police and their Crime Reduction Managers. They will provide evidence which helps build an understanding of the types of incidents that are occurring in the locality that are related to the highway. Key to this intelligence building is the Council's Community Protection Officers (formally neighbourhood wardens) who are best placed to talk to local people and understand any local problems.

THE ROLE OF THE COUNCIL'S AREA COMMITTEES

The Council has nine Area Committees, covering the City of Nottingham. Each committee consists of local Ward Councillors, representatives from local businesses, neighbourhood watch groups, local residents, community groups and other interested individuals. Meetings may also be attended by the local Police Officers, the Council's Community Protection Officers and the Fire Station Officer for that area.

The role of Area Committees in the gating order process will be to decide, on the basis of information and evidence which Council staff have received and assessed, whether a gating order should be authorised. Committees generally have 6 meetings per annum. A reporting system is used to up date the committee at their meetings on

the progress of a particular gating order application. Once we are confident there is enough evidence to support the application and to satisfy the statutory tests the committee will be advised accordingly. Applicants will then be informed of the committee's decision.

It may be beneficial for you or your neighbours to attend a committee meeting, which may be an ideal opportunity to raise and discuss any problems that you are experiencing. Dates of meetings may be obtained from the Council's Committee Services on 0115 9155030 or from the Council's web site at www.nottinghamcity.gov.uk. Alternatively a member of the Traffic Management Team will be able to advise you.

CONSULTATION

When we first receive the application we will need to ask other people in the local area what they think about the idea of gates. For example, will a gate inconvenience them and do they use the highway to access their property, and more importantly, would they support a gating order. We will write to the adjacent and adjoining properties asking their views and we will also ask them to supply as much information as possible using the same "incident log sheets" that we have sent out to you.

If the Council's Area Committee (for the area in which you live) approve the application and authorise the gating order you will be contacted by letter. Alternatively, if the decision is not to approve the application we will write to you explaining why the decision was made. For example, it may be that there was not enough evidence linking the highway to the crime or antisocial behaviour and the Council could not satisfy the statutory tests for making an order.

If the decision is to proceed with the order, a Notice of the proposed order must be published in a local newspaper, on the Council's web site and on or adjacent to the highway. Adjacent properties will also be sent a copy along with all the statutory consultees. This is a legal requirement which must be carried out at least twenty eight days before an order may be made and gates erected. This period gives anybody the opportunity to comment on the proposed order. The Notice must include the general effects of the order, the times when the highway will be gated (and open), the alternatives routes that are available when the highway is gated and an address where people may send their objections or other comments.

HOW LONG WILL THE APPLICATION TAKE?

Once we receive the application it will be necessary to contact the local Police, Crime Reduction Managers and the Council's Community Safety team and other agencies that may need to be involved. This will provide a better idea of what is happening in your local area and whether a gating order is the best way forward to tackle the problems. The time period involved from when we receive the application to a decision being made is approximately 6 months. Individual cases may take longer depending on the availability of information and other local circumstances. If objections are received and a Public Inquiry is necessary to consider the proposed order and the objection(s), the times scales may be considerably longer.

WHAT HAPPENS IF SOMEONE OBJECTS TO THE ORDER?

During the 28 day consultation period the Council may receive objections. What happens next depends on who actually objects. If the Police, the National Health Service (NHS) or the Fire and Rescue Service object, the Council cannot progress with the order and they must hold a Public Inquiry, if they wish to continue with the order.

A valid objection may be that; the evidence the Council took into consideration when deciding to publish the proposed order does not show the premises adjacent or adjoining the highway are affected by crime or antisocial behaviour or that the highway is not facilitating the persistent commission of criminal offences or antisocial behaviour. If a member of the public or other statutory body (for example, any provider of gas, water or electricity) objects the Council may cause a Public Inquiry to be held. If objections are received the Council's Area Committee (for the area in which the Order relates to) will be notified and asked to resolve how they wish to proceed in light of the objections.

The Area Committee may wish to proceed to a Public Inquiry. At the Public Inquiry the Council will be expected to provide the evidence and information they took into consideration when deciding to publish the proposed order. There are no guarantees that at the end of the Public Inquiry the proposed order will be upheld.

PROVISION OF KEYS

There may be a number of people who have legitimate reasons to access the highway during the period when it is gated. These may include:-

- Emergency services
- Adjacent property owners/occupiers
- Council staff
- Utility companies (such as water, gas, electricity)

CITY COUNCIL CONTACT DETAILS

Please use the following contact details If you require further advice on the Gating Order process or you wish to discuss your application in more detail:-

John Lee
Traffic Management
Nottingham City Council
City Development
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Talbot Street
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FLOW CHART SHOWING PROCEDURES FOR A GATING ORDER

