



AGENDA

REGULATION COMMITTEE

Wednesday, 7th September, 2011, at 10.00 am
Council Chamber, Sessions House, County Hall, Maidstone

Ask for: **Andrew Tait**
Telephone **01622 694342**

Tea/Coffee will be available 15 minutes before the start of the meeting.

Membership (17)

- Conservative (15): Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman), Mr A H T Bowles, Mr R E Brookbank, Mr C J Capon, Mr H J Craske, Mr J M Cubitt, Mr J A Davies, Mr T Gates, Mr S Manion, Mr R F Manning, Mr J M Ozog, Mr R A Pascoe, Mr J N Wedgbury, Mr M J Whiting
- Liberal Democrat (1): Mr S J G Koowaree
- Independent (1) Mr R J Lees

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Substitutes
2. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes (1 - 22)
 - (a) Committee: 17 May 2011
 - (b) Member Panel: 13 June 2011
28 June 2011
12 July 2011
19 July 2011
4. Dates of meetings in 2012
Tuesday, 24 January 2012
Tuesday, 15 May 2012
Wednesday, 5 September 2012

5. Transport Appeals Terms of Reference - Verbal Update
6. Transport Appeal Statistics (23 - 26)
7. Update on Village Green Issues (27 - 32)
8. Update on the Definitive Map Team casework (33 - 56)
9. Gating Orders - Un-named footpath to the rear of Henley Fields, Tenterden (57 - 60)
10. Update on Planning Enforcement Issues (61 - 90)
11. Other Items which the Chairman decides are Urgent

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services
(01622) 694002

Tuesday, 30 August 2011

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

KENT COUNTY COUNCIL**REGULATION COMMITTEE**

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 17 May 2011.

PRESENT: Mr M J Harrison (Chairman) Mr A D Crowther (Vice-Chairman)
Mr R Brookbank, Mr C J Capon, Mr H J Craske, Mr J M Cubitt, Mr J A Davies,
Mr K A Ferrin, MBE (Substitute for Mr A H T Bowles), Mr T Gates,
Mr S J G Koowaree, Mr R J Lees, Mr S Manion, Mr R F Manning, Mr J M Ozog,
Mr J N Wedgbury Mr M J Whiting

ALSO PRESENT: Mr P J Homewood

IN ATTENDANCE: Mr G Rudd (Assistant Democratic Services Manager),
Mr C Wade (Countryside Access Principal Case Officer), Miss M McNeir (Public
Rights Of Way and Commons Registration Officer), Mrs S Thompson (Head of
Planning Applications Group), Mr R Gregory (Principal Planning Officer -
Enforcement) Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS**10. Terms of Reference**

(Item 3)

The Committee noted its new Term of Reference (b):

“all Commons Registration functions under Part 1 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008.”

11. Minutes

(Item 4)

RESOLVED that the Minutes of the Committee meeting held on 25 January 2011, the Member Panel meetings held on 8 February 2011 and 22 February 2011 and the Mental Health Guardianship Panel meeting held on 21 January 2011 are correctly recorded and that they be signed by the Chairman.

12. Update on Home to School Transport Appeals (Oral Report)

(Item 5)

(1) Mr S C Manion and Mr J N Wedgbury made declarations of Personal Interest as their children were or were about to receive transport assistance.

(2) The Assistant Democratic Services Manager tabled a brief report setting out the number of Home to School Transport Appeals heard between 1 January and 30 April 2011. He also tabled a response from the Director of Governance and Law on a question of the legal basis for Transport appeals.

(3) The Committee noted that any review of Home to School Transport policy would be commissioned by the Education, Learning and Skills Policy Overview and Scrutiny Committee.

(4) RESOLVED that the report be noted.

13. Update from the Commons Registration Team

(Item 6)

(1) The Public Rights of Way and Commons Registration Officer informed the Committee that a half day seminar for District Councils was being arranged on the topic of Village Greens. She would inform all Members of the Committee of the details once they were finalised.

(2) RESOLVED that:-

(a) the report be received; and

(b) a proposal be initiated under section 19 of the Commons Act 2006 to correct an error in the Register of Village Greens in relation to VG235 at Wittersham.

14. Update on recent Public Rights of Way cases

(Item 7)

(1) The Public Rights of Way Principal Case Officer updated the Committee on the cases of the Claimed Public Footpaths on the former Bayham Estate in Tunbridge Wells and on the proposed diversion of Public Footpath SD284 at West Kingsdown.

(2) RESOLVED that the report be received

15. Update on Planning Enforcement Issues

(Item 8)

(1) Mr P J Homewood was present for this item pursuant to Committee Procedure Rule 2.24 and spoke.

(2) The Head of Planning Applications Group reported the receipt of a letter of response from the Minister for Decentralisation, The Rt Hon Greg Clark MP to representations made by the County Council seeking improved planning enforcement powers in the context of the Localism Bill. The Chairman offered to provide each Member of the Committee with a copy of the letter.

(3) The Committee agreed to endorse the Head of Planning Applications Group's draft Policy 1 (set out in Paragraph 13 of the report) for inclusion within the Emerging Minerals and Waste Development Framework.

(4) RESOLVED that:-

- (a) the Head of Planning Applications Group's draft Policy 1 (set out in Paragraph 13 of the report) be endorsed for inclusion within the Emerging Minerals and Waste Development Framework; and
- (b) the actions taken or contemplated on the respective cases set out in paragraphs 5 to 26 of the report be endorsed, together with those contained within Schedules 1, 2 and 3 as set out in Appendices 1, 2 and 3 of the report.

EXEMPT ITEMS
(Open Access to Minutes)

(Members resolved under Section 100A of the Local Government Act 1972 that the public be excluded from the meeting for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act.)

16. Enforcement Strategy for Four Gun Field, Otterham Quay Lane, Upchurch
(Item 11)

- (1) The Head of Planning Applications Group reported the latest enforcement strategy concerning the Four Gun Field site in Otterham Quay Lane, Upchurch.
- (2) RESOLVED that the enforcement strategy outlined in paragraphs 7 to 20 of the report be endorsed, with particular emphasis on the aspects set out in paragraphs 18 and 19.

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REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Kings Hall, Herne Bay on Monday, 13 June 2011.

PRESENT: Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman), Mr S J G Koowaree, Mr R J Lees Mr R A Pascoe

ALSO PRESENT: Mrs J P Law

IN ATTENDANCE: Mr C Wade (Countryside Access Principal Case Officer), Miss M McNeir (Public Rights Of Way and Commons Registration Officer) Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

9. Application to register land at Hartley Woods, Hartley as a new Village Green (Voluntary Registration)

(Item 3)

(1) The Public Rights of Way Officer briefly explained that a large part of Hartley Woods in the ownership of Southwark LB had been registered in 2009. As a consequence, Hartley PC had offered to voluntarily register the remainder of the land which was under its ownership.

(2) As this was a voluntary registration, the only matters for the Panel to consider were whether the applicants actually owned the land; and whether use of the land would be by people living in a locality.

(3) The necessary checks had proved that Hartley PC was indeed the landowner, whilst it was appropriate that the locality should be defined as the civil parish of Hartley.

(4) On being put to the vote, the recommendations of the Head of Countryside Service were unanimously agreed.

(5) RESOLVED that the applicant be informed that the application to register the land at Hartley Woods in Hartley has been accepted, and that the land subject to the application be formally registered as a Village Green.

10. Application to register land known as The Downs at Herne Bay as a new Town Green

(Item 4)

(1) Members of the Panel visited the application site shortly before the meeting. Mr P Rose, the applicant and Ms R McIntyre were present.

(2) Mrs J N Law was present for this item pursuant to Committee Procedure 2.24.

(3) Also present at the meeting were Mr P Rose (applicant) and Ms R McIntyre (supporter), Mrs J Taylor (Legal Services – Canterbury CC) and Mrs R Doyle (Canterbury CC Portfolio Holder for Environment and Street Scene).

(4) The Public Rights of Way Officer introduced the application, which had been made under Section 15 of the Commons Act 2006. She informed the Panel that it had been accompanied by more than 1000 user evidence questionnaires, three letters of support and a petition containing 70 signatures.

(5) Ownership of the land was predominantly by Canterbury City Council who had objected that the land was not capable of being registered.

(6) In 1970 the Commons Commissioner had determined that the land (which at that time was mainly owned by Herne Bay Urban District Council) should not be registered.

(7) The Public Rights of Way Officer briefly explained that there was no dispute that the land had been used for lawful sports and pastimes by a significant number of inhabitants in the locality of Herne Bay for a period of over twenty years up to the date of the application. The outstanding issue was whether it has been used “as of right”.

(8) The Public Rights of Way Officer explained that in order for use of the land to have been “as of right”; use would have needed to be without force, stealth or permission. It was clear that neither force nor stealth had been used. The critical question was whether it had been used without permission.

(9) In order to ascertain whether use had been with or without permission, it was necessary to investigate the purposes for and powers under which it had been acquired. The City Council’s records were incomplete in this regard, although it claimed that the land had mainly been acquired under the Public Health Act 1875 as open space for the use and enjoyment of the public.

(10) The Public Rights of Way Officer said that such land as had been acquired under the 1875 Act would, in her and Counsel’s opinion, be incapable of registration as use would have been “by right” rather than “as of right.” She added that the applicant disputed this interpretation of the Law and that it had never been tested in the Courts.

(11) The Public Rights of Way Officer then said that the applicant had argued that it would be wrong to place reliance on entries in the Register of Council-owned land which referred to “presumably Public Health Act 1875.”

(12) The Public Rights of Way Officer concluded her presentation by saying that Counsel had advised that there were a large number of unanswered questions in respect of how the land was held by the City Council. The best solution would be to hold a Non-Statutory Public Inquiry as this would enable the individual parcels of land to be examined in more detail. She therefore recommended accordingly.

(13) Mrs Law asked whether the petition was used as evidence as some of the signatories lived outside the locality of Herne Bay. The Public Rights of Way Officer

replied that the petition was merely a request to Canterbury City Council to support the application. It was the User Evidence forms which had enabled the locality to be identified.

(14) Mrs J Taylor (Canterbury City Council) explained that the parcels of land had originally been acquired by Herne Bay Urban District Council. The records had been damaged during the floods of 1953.

(15) Mr Pascoe asked why the Byelaws were considered to be important. The Public Rights of Way Officer replied that their significance was that they purported to show that the land had been acquired under the Public Health Act 1875.

(16) Mr Rose (applicant) requested the Panel to register the land as a Village Green without going to a non-statutory Inquiry. In support of this request, he said that his legal advisor disputed that land acquired under the Public Health Act 1875 could not be registered as a Village Green.

(17) Mr Rose then said that he also disputed that the land was held under the 1875 Act. He quoted Vivian Chapman QC in support of his view that it was incumbent on Canterbury CC to prove that it held the land under the 1875 Act and that the Panel should not allow the City Council to assert that this might be the case and then claim that the applicant needed to disprove it. In this instance, the City Council could only demonstrate that 3% of the land in question was held under that Act.

(18) Mr Rose continued by saying that the City Council itself agreed that 50% of the application was not held under the 1875 Act. It was either not registered to the Council, or it was registered as a "long user" or had been acquired under the Coast Protection Act.

(19) Mr Rose then said that although the City Council claimed that it owned the other 50% of the land by virtue of the 1875 Act, it had failed to provide the necessary evidence to this effect in the 21 months since the application had been made. It was therefore unlikely that they would ever be able to do so.

(20) Mr Rose spoke in detail about the various parcels of land. He provided the Panel with a laminated map, accepting the Chairman's observation that one of the title numbers was incorrect.

(21) Members of the Panel considered that they did not have sufficient detailed evidence to make a decision at this point and unanimously agreed the Head of Countryside Access Service's recommendations.

(22) RESOLVED that a non-statutory Public Inquiry be held into the case to clarify the issues.

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KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Council Chamber, Ashford Borough Council on Tuesday, 28 June 2011.

PRESENT: Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman),
Mr H J Craske Mr T Gates

IN ATTENDANCE: Mr C Wade (Countryside Access Principal Case Officer),
Miss M McNeir (Public Rights Of Way and Commons Registration Officer) Mr A Tait
(Democratic Services Officer)

UNRESTRICTED ITEMS

11. Application to register land at Princes Parade, Seabrook as a new Town Green *(Item 4)*

(1) Members of the Panel visited the site of the application prior to the meeting. The visit was attended by the applicant, Mrs D Maskell; the Local Member, Mr C J Capon and three other local residents.

(2) The Public Rights of Way Officer introduced the application, explaining that it had been made by Mrs D Maskell under the Commons Act 2006. The application had been supported by 57 user evidence questionnaires. The land was owned by Shepway DC, who had objected because, in their view, there had not been 20 years continuous use of the site by a significant number of residents, and because use had not been “as of right.”

(3) The Public Rights of Way Officer set out the legal tests that needed to be met if registration were to take place. She said that the land had been used for the purposes of lawful sports and pastimes by a significant number of inhabitants of the East Ward of the Hythe Town Council administrative area (the “locality”). In addition, such use as there had been had been “as of right” and had taken place up to the date of application.

(4) The Public Rights of Way Officer informed the Panel that most (86%) of the site had been fenced off during 2002/03 for the purpose of dredging operations. Although legislation had been passed which exempted closure of the site during periods of statutory enactments (such as the outbreak of Foot and Mouth disease), this event did not qualify for such an exemption. The same applied to the eastern end of the site, which had been closed off in the mid 1990s and also during 2002 during construction of the car park. The public footpaths and their abutting grass verges were incapable of registration. For these reasons, she recommended that the land in question should not be registered as a Village Green.

(5) Mrs D Maskell (Applicant) said that in her view, the Commons Act could be interpreted to enable the Panel to disregard the period when Shepway DC had erected fencing to be disregarded. This was because the Law used the term “any

enactment” when it permitted the Registration Authority to do so. The site had been fenced off to enable Shepway DC to carry out its duties under the Health and Safety at Work Act 1974. She pointed out that Shepway DC’s bundle itself claimed that the work was undertaken in such a way as to allow some public access to part of the site at all times.

(6) Mrs Maskell then said that the user questionnaires indicated that the site had been used immediately after removal of the fencing, demonstrating its continued accessibility.

(7) Mrs Maskell showed the Panel an aerial photograph and identified a green strip most of the way around the site and a triangular area at one end. She said that these areas were not Public Rights of Way and were therefore capable of registration.

(8) Mrs Maskell concluded her presentation by saying that the Panel Members should have particular regard to the term “any enactment” in the Commons Act 2006, bearing in mind that the only reason that Shepway DC had fenced the area off was to enable it to carry out its statutory duties rather than to exclude the public for any other reason.

(9) Mr Timothy Moreshead (Landmark Chambers) spoke on behalf of Shepway District Council. He said that the District Council agreed with the recommendation but that it still considered that use had not been by a significant number of people in a locality.

(10) Mr Moreshead disagreed with Mrs Maskell’s legal interpretation of the term “any enactment” by saying that Parliament had intended this term to cover those periods when it had taken the use of the land out of the control of the landowner rather than whenever the landowner(s) were carrying out their legal duties.

(11) On being put to the vote, the recommendations of the Head of Countryside Access were carried unanimously.

(12) RESOLVED that the applicant be informed that the application to register the land at Princes Parade, Seabrook as a new Town Green has not been accepted.

12. Application to register land at Westwell Lane, Westwell as a new Town Green *(Item 5)*

(1) Members of the Panel had visited the application site prior to the meeting. The visit was attended by Mr R Butcher (Westwell Parish Council) and Mr D Robey, the local ward Member from Ashford Borough Council.

(2) The Public Rights of Way Officer introduced the application, which had been made by Westwell Parish Council under the Commons Registration Act 2006. Attempts (including consultation with the Parish Council and the Land Registry Office) to identify the landowner had failed and no response had been received to consultation.

(3) The Public Rights of Way Officer briefly outlined the legal tests which the application needed to meet in order for registration to take place. These had all been met and she was therefore recommending that registration should take place.

(4) The Panel unanimously agreed the Head of Countryside Access' recommendations and informed the appellants that there was no need for them to make representations.

(5) RESOLVED that the applicants be informed that the application to register the land at Westwell Lane, Westwell as a new Village has been accepted, and that the land subject to the application be formally registered as a Village Green.

13. Application to register land known as Pilgrims Way, Canterbury as a new Village Green

(Item)

(1) Members of the Panel had visited the application site prior to the meeting. The visit was attended by Mr S Bax (applicant), Mrs J Taylor (Canterbury City Council) and some 11 members of the public. These included Rev Walling from Barton Residents Association.

(2) Correspondence from Dr S Bax in response to the report had been circulated to the Panel before the meeting. Correspondence from Mr M J Northey (Local Member) in support of the application was tabled.

(3) The Public Rights of Way Officer introduced the application, which had been made under the Commons Act 2006. It had been accompanied by 8 user evidence questionnaires. The land in question had been acquired by Canterbury City Council in 1926 under the Allotments Act.

(4) The Public Rights of Way Officer reported that Canterbury City Council had objected to the application on the grounds that the land had not been used by a significant number of the residents of the locality for the purposes of lawful sports and pastimes over the required period. It had refused permission for a BMX track to be built in 1997 and had removed BMX jumps erected by local youths in 2001.

(5) The Public Rights of Way Officer set out the legal tests that needed to be met in order for registration to take place. She said that, in her view, use had been as of right for a period of twenty years up to the date of the application.

(6) The Public Rights of Way Officer then said that the user evidence questionnaires and evidence provided by the City Council had indicated that use of the land had been trivial and sporadic. For this reason, it could not be said that use had been for lawful sports and pastimes or by a significant number of inhabitants of a particular locality or neighbourhood within a locality. Accordingly, she recommended that the application should not be accepted.

(7) Mr Murphy, a local resident said that he had lived opposite the site since 1985. he had played ball games since 1986. Numerous people had used the site, including an elderly lady who used to walk her dog. He asked the Panel to ensure that this part of Canterbury remained open for recreational use by local residents.

(8) Dr S Bax (applicant) said that the only question that now needed to be addressed was whether use had been by a sufficient number of local people for the landowners to have been made aware that the land was in use. A number of people had observed use which was more widespread than the report suggested, because it had only taken actual claimed usefully into account - although observed use had been reported.

(9) Dr Bax produced an aerial photograph taken in 1998, which he said indicated that the grass had been trimmed and footpaths laid out. Other photographs suggested that the land had been walked on and that the City Council had been aware of this to such an extent that it had cut the grass at least once a year since 1987.

(10) Dr Bax concluded his presentation by saying that use of the land had been sufficient for Canterbury City Council to have been aware of it. However, it had chosen not to take steps to put a stop to this use. He therefore suggested that the Panel should either confirm the Village Green status or defer the application to enable a non-statutory public inquiry to examine the "significant usage" question in greater detail. The land was needed as an open space for local residents.

(11) The Public Rights of Way Officer commented on Dr Bax' presentation by saying that the Members of the Panel were not allowed to take the question of the need for open space into consideration. Nor could it now consider the new evidence provided by the aerial photograph and the user questionnaire from Mr and Mrs Murphy. The applicant had been asked to provide such information on 10 December 2010. This would have been the appropriate time for this to have been given to the officers. It was important to note the judgement of the Supreme Court that the use of the land needed to be of such amount and in such manner to indicate to the City Council that it was of *general* use by the community.

(12) Mrs J Taylor (Canterbury City Council) said that she was satisfied with the recommendation to not accept the application. She said that four allotment owners had given evidence that there had been very little use. Two ladies had walked their dogs on the land for a period but this had stopped. Since that time, use had been very occasional indeed, which was the reason that the City Council had not noticed it. On the one occasion in 2001 that the land had been widely used as a BMX track, the City Council had asked the boys to leave.

(13) Dr Bax summed up his case by saying that its primary point was whether the landowner would have known that use was taking place. In his view there was enough evidence to demonstrate that the City Council should have been aware.

(14) The Chairman assured Dr Bax that his request for consideration of the application to be deferred pending a non-statutory public inquiry would be recorded in the Minutes.

(15) On being put to the vote, the recommendations of the Head of Countryside Access were unanimously agreed.

(16) RESOLVED that the applicant be informed that the application to register the land at Pilgrims Way, Canterbury as a new Village Green has not been accepted.

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KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Shepway District Council on Tuesday, 12 July 2011.

PRESENT: Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman), Mr T Gates, Mr S J G Koowaree Mr R J Lees

ALSO PRESENT: Mr T Prater

IN ATTENDANCE: Mr C Wade (Countryside Access Principal Case Officer), Mrs L Wilkins (Definitive Map Team Leader) Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

14. Claimed Public Footpath from Valebrook Close to Public Footpath HF43, Folkestone

(Item 3)

(1) The Panel Members visited the site prior to the meeting. This visit was also attended by Mr T Prater (applicant) and by Mr T Boxell (landowner).

(2) The Countryside Access Principal Case Officer set out the legal tests for the application. Section 53 of the Wildlife and Countryside Act 1981 enabled the County Council to add a route to the Definitive Map and Statement when it had evidence to show that a public right of way either subsisted or was reasonably alleged to subsist.

(3) Section 31 of the Highways Act 1980 stated that in order for the land in question to be dedicated as a public footpath, it needed to have been actually enjoyed by the public as of right and without interruption for a full period of 20 years unless there was sufficient evidence that there was no intention during that period to dedicate it. The qualifying period for this application was from 1988 to 2008, which was the year that the landowner had erected barbed wire fencing around the perimeter of the land.

(4) The Countryside Access Principal Case Officer then said that there was also a Common Law provision if it could be demonstrated that the public had used the route for so long and in such a manner that the landowner must have been aware that that the public were acting in the belief that the right of way had been dedicated but had taken no steps to disabuse them. He explained that the word "disabuse" meant informing the public that they had no such right. This could be done verbally or through the erection of notices and fences.

(5) The Definitive Map Team Leader set out the documentary evidence she had examined in order to fully investigate the application. This consisted of the Tithe Maps (@ 1840), The First Edition Ordnance Survey Map and book of Reference (@ 1860), the Finance Act 1910 and Valuer's Field Book, Borough Maps and Draft Maps, the Provisional Maps for Hythe and Folkestone, the Definitive Map (1952), the Draft Revised Map (1970), the Definitive Map (1987), Ordnance Survey Maps, and

numerous aerial photographs. None of these documents had been of any assistance as they did not record the claimed route.

(6) The Definitive Map Team Leader said she had consulted Shepway DC, Folkestone TC, Local District Councillors (except for Mr Prater, the applicant), the Ramblers' Association, the Open Spaces Society and the British Horse Society. None of these had replied except for the Open Spaces Society, who strongly supported the claim on the grounds that the area had been walked for many years by local people and others.

(7) The Definitive Map Team Leader went on to summarise the content of the 14 user evidence forms. These had set out their various reasons for use and the frequency. They also referred to the natural obstructions and the clearance of the land by the landowners in 2006 when new drainage ditches had been installed. Despite the appearance of rubble on the land, most people had claimed that they had continued to walk the route until 2008, when a barbed wire fence was erected to prevent access from Valebrook Close. Nearly all the witnesses referred to the fingerpost, which one witness claimed had been erected by Shepway DC between 20 and 25 years earlier (at a time when the District Council had responsibility for the maintenance of public rights of way).

(8) The Definitive Map Team Leader had also contacted all the registered landowners, including Mr T Boxell who had spoken on all their behalves. He had informed her that he had checked with his solicitor whether any rights had been recorded. When this proved not to have been the case, he had fenced the land in order to claim adverse possession over the unregistered section (adjacent to No 65 Valebrook Close). He had also confirmed that none of the landowners had ever put up any notices or taken other action to deter public use; nor had they ever given anyone permission to use the claimed route. He had also provided the County Council with an EDF Map and Land Registry Plan (2006), neither of which recorded a right of way along the claimed route – but which did show the recorded footpaths.

(9) The neighbouring landowners had also been consulted by the Definitive Map Team Leader. Mr and Mrs Wilson, the owners of 65 Valebrook Close had stated that they had last attempted to use the claimed route some twenty years earlier. They had commented that since that time, they had been unable to recall much use of the route, which had been boggy and overgrown.

(10) The Ministry of Defence (MoD) owned the land south of 65 Valebrook Close (taking in the first part of the claimed route). They had confirmed that the first section adjacent to no. 65 had been the subject of a Deed of Grant with GHS (Contractors) Ltd in 1964 in respect of a private right of way on foot and with vehicles for agricultural purposes.

(11) The Definitive Map Team Leader referred to the Common Law provisions and said that in her view, although a fingerpost had been erected by Shepway DC, this had been in error and could not be seen as a dedication of the way by the landowner.

(12) The Definitive Map Team Leader then moved on to consider the statutory and legal tests. She said that the year 2008 should be used as the “date of challenge” because this was the year when the landowner had put up the fencing around the site. The material period was therefore 1988 to 2008.

(13) The Definitive Map Team Leader said that use of the claimed route had not been with force, in secret or with permission, and therefore had been “as of right”. However, an analysis of the user evidence forms indicated that there was no actual defined route. Instead, a variety of routes had been used, depending on the ground conditions and destination. Only two users had stated that they had used the claimed route, and their use was stated as rarely and occasionally. In support of this view, she quoted Ross Crail QC who had said “If people have crossed land in the same general direction but by varying routes, their uses can not be aggregated and attributed to a single route.”

(14) The Definitive Map Team Leader then explained that the law required a right of way to have a fixed terminus. This could be a public highway/ footpath or a public place. In the case of the claimed route, it was evident that the section adjacent to 65 Valebrook Close was just one small part of a multitude of different routes taken by the public.

(15) The Definitive Map Team Leader concluded her presentation by saying that although the landowner had not taken steps to disabuse the public of their right to walk the route, the fact that only two witnesses had given evidence that they had walked the actual route in question had led her to recommend that the claimed path should not be added to the Definitive Map.

(16) Mr T Boxell (landowner) said that had there been a route, he would have erected a stile. The reason he had put up the fence in 2008 had been in order to prevent fly tipping on his land as well as to challenge public use of it. This was necessary because he had applied for permission to build houses on it.

(17) Mr T Prater addressed the Panel in his capacity as the applicant rather than as the Local Member. He said he had brought the application forward on behalf of a number of residents of Valebrook Close. In support of his application, he referred to the plans produced in support of the Deed of Grant between the MoD and GHS (Contractors) Ltd in 1964. These had marked the claimed route as “Right of Way”. He believed that this was the reason that the fingerpost had been erected at a later stage.

(18) Mr Prater then said that Public Footpath HF43 did not appear to lead anywhere. He accepted the possibility that it might have led to the former Rectory, but said that this was unlikely as it could not be defined as a public place. It seemed more probable that HF43 was intended to link up with Valebrook Close.

(19) The Countryside Access Principal Case Officer replied to Mr Prater by saying that public footpaths had indeed led to rectories in the 17th Century.

(20) The Chairman noted Mr Prater’s view that the claimed route would link HF43 with Valebrook Close but pointed out that prior to the latter’s construction in the 1960s there would have been no obvious destination.

(21) Both parties were invited to sum up their cases. Mr Boxell had nothing further to add. Mr Prater asked the Panel to bear in mind that the fingerpost had been in existence for some twenty years without challenge and that the paperwork relating to

the claimed route might have been lost. Local people believed that the path had existed and it seemed logical to believe that it was connecting Valebrook Close and HF43.

(22) On being put to the vote, the Head of Countryside Access' recommendations were carried unanimously.

(23) RESOLVED that the applicant be informed that the County Council is not prepared to modify the Definitive Map and Statement by adding a Public Footpath running between Valebrook Close and Public Footpath HF43 as shown in Appendix A of the report.

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Riverside Centre, Dickens Road, Gravesend DA12 2JY on Tuesday, 19 July 2011.

PRESENT: Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman), Mr R Brookbank, Mr R J Lees Mr T Prater

ALSO PRESENT: Mr R A Pascoe Mr B J Sweetland

IN ATTENDANCE: Mr C Wade (Countryside Access Principal Case Officer), Miss M McNeir (Public Rights Of Way and Commons Registration Officer) Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

15. Application to register land at St Andrew's Gardens, Gravesend as a new Town Green *(Item 3)*

(1) The Members of the Panel had visited the site prior to the meeting. The visit was attended by Mrs C Brown (Urban Gravesham - the applicant) and Mr J Foxwell.

(2) Correspondence from Mr H R Craske had been circulated to the Members of the Panel prior to the meeting.

(3) The Public Rights of Way Officer introduced the application which had been made by Urban Gravesham under Section 15 of the Commons Act 2006. It had previously been considered by the Panel on 16 November 2009, when it had been decided to refer it to a non-statutory public inquiry. The Inquiry had taken place in May 2010 and the Inspector's report had been published in July 2010. Following submissions received from the Applicant and comments upon them from the Objector, the Inspector had published a second report in April 2011 re-affirming her findings.

(4) The Public Rights of Way Officer set out the legal tests that had to be met in order for the application to succeed. The Inspector had concluded that use of the site had been by a significant number of the inhabitants of the locality for the purposes of lawful sports and pastimes for a period of at least 20 years.

(5) The Public Rights of Way Officer explained that the Inspector had focussed on the question of whether use of the site had been "as of right." She had concluded that it had not been used by force or stealth. The question of whether use had been with permission had been far more complicated. She had established that although most of the land was owned by Gravesham Borough Council, this ownership had been acquired at various times under various powers. Because one of those powers had been Section 164 of the Public Health Act 1875 (for the purposes of public walks and pleasure grounds), those parts of the site had been used "by right" rather than

“as of right.” The Inspector had therefore concluded that the site was incapable of registration in its entirety.

(6) The Public Rights of Way Officer referred to Appendix B of the report, which showed the powers under which the land had been acquired by the Borough Council. She said that the Inspector had considered the application afresh in respect of each individual section of the site. Those acquired under Section 164 of the Public Health Act 1875 were not capable of registration for the reasons set out in (5) above. The same principle applied in respect of land at the eastern end of the site, which the Borough Council had originally acquired for other purposes, but which had later been formally appropriated for use as public walks and pleasure grounds.

(7) The Public Rights of Way Officer said that the Inspector had then applied the legal tests to parcels of land that came under a further three categories. These were: land which had been acquired and held for other purposes (such as street improvement works); land acquired for unknown purposes; and land to which Gravesham Borough Council could not prove formal ownership.

(8) The Public Rights of Way Officer referred to Appendix C of the report in order to identify which parcels of land the Inspector had decided should not be registered because there had been no or insufficient evidence of use for recreational purposes (lawful sports and pastimes). The Inspector had also concluded that some of the surfaced paths could not be registered because use of them would have been by a “rights of way” type user rather than for general recreation. This left six small and unconnected parcels of land which the Inspector had recommended should be registered. These were identified in Appendix D to the report.

(9) Mr B J Sweetland (Local Member) informed the Panel that although he was a Member of Gravesham Borough Council, he was speaking in his capacity as a local representative. He said that he, the local MP and the local Borough Councillors all thoroughly supported the application. He believed that the site should be registered in its entirety because (in principle) the application had passed the necessary tests. The site in question represented the last good view of the Thames and common sense demanded its registration. He was personally aware that it had been used by the public for the last thirty years.

(10) The Chairman ruled that Mr Sweetland should not refer to the planning history of the site in his presentation because this was an irrelevant consideration for the Panel. He also explained that the Panel was fulfilling a quasi-judicial function, which meant that it had to consider the application on the basis of the Law as it stood rather than in the light of what it might wish the Law to be.

(11) Mrs C Brown (Urban Gravesham) addressed the Panel as the applicant. She said that she wished to take issue with the Inspector’s findings because on the one hand she had concluded that the entire site had been used for lawful sports and pastimes; on the other hand, though, she had then considered the same question again when she had moved on to consider which component parts of the site had been used “as of right” or “by right.”

(12) Mrs Brown went on to say that the Inspector had ruled out some of the areas on the grounds that they were unsuitable for recreation. She said that conclusions such as these were, in her view, based on the Inspector’s own personal preferences

rather than on fact. She gave as an example, areas which the Inspector had described as “too steep” on the basis of two witnesses stating that they had not played football on it. The Inspector had not asked questions about these areas of other witnesses. Mrs Brown then listed a number of activities which she felt the Inspector should have established and then taken into account. These included gathering conkers, BMX riding, eating and drinking, metal detecting and courting. She also considered that the conclusion that the paths were used as “public rights of way” uses rather than for recreational purposes to be erroneous. This was because the path went to the boundary fence of Thames House, where people congregated to sit, eat and drink.

(13) Mrs Brown then referred to the land at the eastern end of the site. The Inspector had concluded that this land had been “formally appropriated” for public walks and pleasure. She said that this conclusion had been reached on the basis of a ministerial letter received by the Borough Council in 1960 and delegated powers used by Officers. She believed this conclusion to be mistaken as there was no record of such appropriation in the Council Minutes and Officers did not receive delegated powers until the enactment of the Local Government Act 1972.

(14) Mrs Brown concluded her presentation by saying that her Counsel had advised that there was no binding authority to support the view that land held for the purposes of public walks and pleasure was not capable of registration as a Town or Village Green.

(15) The Public Rights of Way Officer advised the Panel that once the Inspector had made the decision that the site needed to be considered section by section, she had no option but to consider whether each of these sections individually passed the legal tests. It was the applicant’s responsibility (rather than the Inspector’s) to provide evidence of use for lawful sports and pastimes. The Panel should therefore make its decision on the basis of what the Inspector had been able to establish during the Inquiry rather than on what the applicant was now claiming to be the case. There was nothing to prevent the applicant from coming forward with a fresh application at a later stage if she considered that she had sufficient evidence to make a material difference to the Inspector’s findings.

(16) Mr T Prater moved that the entire application site be registered as a Town Green. This motion fell as there was no seconder.

(17) Mr A D Crowther moved, seconded by Mr R J Lees that the recommendations of the Head of Countryside Access be agreed.

(18) The Democratic Services Officer advised that the motion set out in (17) above could not be amended by asking the Panel to register the entire site. As the recommendation was to not register some 80% of the site, such an amendment would represent a negation. If the Panel wished to register the entire site, it could do so by voting against the motion – at which point it would be in a position to decide what it wished to do in respect of the application.

(19) On being put to the vote, the Motion set out in (17) above was carried by 4 votes to 1.

(20) RESOLVED that for the reasons set out in the Inspector's report dated 28 July 2010, the applicant be informed that the application to register land known as St Andrew's Gardens at Gravesend had been accepted in part, and that the areas shown edged in black at Appendix D to the report be registered as a Town Green.

By: Head of Democratic Services & Local Leadership

To: Regulation Committee 7 September 2011

Subject: Home To School Transport

Classification: Unrestricted

Summary: To provide Members with a brief overview on Home to School Transport appeal statistics for the period between 1 April 2011 and 31 August 2011

1. Introduction

The Chairman has requested that the Committee receive a brief update on Home to School Transport Appeals.

2. Transport Appeal Statistics – 2011

(2.1) For the period between 1 April 2011 to 31 August 2011 a total of 18 Home-to-School Transport appeals were submitted to 5 Transport Appeal Panel meetings. 8 were successful, (44%) at least in part (eg, time-limited assistance).

(2.2) 4 of the appellants had Local Member representation at their appeals and 9 different Members sat on the Transport Appeal Panels.

(2.3) There are 21 appeals to date at various stages of the appeals process which will need to be heard by the Transport Appeals Panel. There is also a hazardous walk to be assessed.

3. Statistic Details

(3.1) Details relating to the Admissions and Transport Home to School Transport appeals for Mainstream Pupils and Additional Educational Needs Teams in respect of Statemented Pupils are shown in the attached Appendix.

4. Recommendations

(4.1) Members are asked to note this report.

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**MAINSTREAM HOME TO SCHOOL TRANSPORT APPEALS
(ADMISSIONS AND TRANSPORT)**

1 APRIL 2011 – 31 AUGUST 2011

Grounds for Appeal	Upheld	Not Upheld	Total	% Upheld
Denominational	0	1	1	0
Distance	0	1	1	0
Not Attending NAS	5	2	7	71
16+	2	1	3	67
Hazardous Routes	0	0	0	0
Other	0	0	0	0
Low Income Criteria	0	1	1	0
TOTALS	7	6	13	54

APPEALS BY AREA: WEST: 1 - MID: 3 - EAST: 5 - O/S KENT: 4

**STATEMENTED PUPILS HOME TO SCHOOL TRANSPORT APPEALS
(ADDITIONAL EDUCATION NEEDS)**

1 JANUARY 2011 – 30 APRIL 2011

Grounds for Appeal	Upheld	Not Upheld	Total	% Upheld
Denominational	0	0	0	0
Distance	0	2	2	0
Not Attending NAS	1	2	3	33
16+	0	0	0	0
Hazardous Routes	0	0	0	0
Other	0	0	0	0
Low Income Criteria	0	0	0	0
TOTALS	1	4	5	20

APPEALS BY AREA: WEST: 1 - MID: 2 - EAST: 2 - O/S KENT: 0

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Update from the Commons Registration Team

A report by the Head of Countryside Access to Kent County Council's Regulation Committee on Wednesday 7th September 2011.

Recommendation:

I recommend that Members receive this report.

Progress with Village Green applications

1. Members have requested that a summary of the current position of applications to register Town and Village Greens be provided at meetings of the Regulation Committee. A copy of the Schedule of Village Green applications is therefore attached at **Appendix A**.
2. Since the last Regulation Committee meeting in May, five applications have been determined by Member Panel, which brings the total to 12 applications having been determined this year. This has greatly assisted in reducing the backlog of applications awaiting resolution; this time last year there were 28 applications outstanding, whilst currently there are now just 15. There has also been a slight reduction in the number of applications received this year, with an application being received on average every six weeks rather than last year's rate of one per month.
3. There are four Public Inquiries in relation to Village Green applications due to take place over the next few months. One is currently under way (week commencing 5th September) at Whitstable, and another is due to take place next week (week commencing 12th September) at Broadstairs. Further Inquiries are scheduled to take place in Cranbrook in October and in Herne Bay in November.

Commons Act 2006 – Pilot project

4. Work continues on updating the Registers of Common Land and Village Greens, both in terms of KCC-initiated proposals to correct known errors in the Registers and applications received from members of the public to make certain amendments to the Registers. Two recent cases of note, which were reported to the last Regulation Committee meeting in May, involve Village Greens at Seasalter (VG128) and Wittersham (VG235).
5. Members will recall that the County Council has been dealing with an application from Mrs. A. Wilks to amend the Register of Village Greens for VG128 at Seasalter by increasing the registered extent of the Village Green. The necessary consultation processes have been completed and, in consequence, 45 objections have been received to the application. These objections originate from landowners affected by the application. As required by the relevant Regulations¹, the matter has now been referred to the Planning Inspectorate. There has been no information from the Planning Inspectorate as to how it intends to proceed with the determination of this application, but it is expected that, given the volume of objections, a Public Inquiry is

¹ The Commons Registration (England) Regulations 2008

likely to be held into the matter. Further updates will be provided to the Committee in due course.

6. Also at the Committee's last meeting in May, authority was sought (and obtained) to commence work on a proposal to correct the Register of Village Greens for VG235 at Wittersham. This was due to an entry made in the Register referring to an exchange of land agreement which it is now known was invalid and had no lawful effect. The proposal is therefore to restore the Register to its original position and delete the reference to the exchange of land agreement. The necessary consultation procedures are currently under way, with a deadline for responses of 12th September 2011. As with the Seasalter case, the matter will ultimately be referred to the Planning Inspectorate for decision and the outcome will be reported to the Committee in due course.
7. On a more general note, after many months of uncertainty, there now appears to be some progress on determining the future of this legislation. It will be recalled that the purpose of the pilot project has been to test the provisions contained in Part 1 of the Commons Act 2006 in a limited number of areas in order to help shape the form of a national implementation of the legislation.
8. No formal announcement has yet been made, but it is understood from colleagues at DEFRA that the Minister has approved a decision to continue with the implementation of this legislation. At this stage, it is likely that this will continue on a piecemeal basis, with the legislation being rolled out to a further group of volunteer local authorities in 2013. Further information on this will be reported to the Committee when it becomes available.

Consultation on the registration of new Town or Village Greens

9. DEFRA has recently launched a consultation on proposals to reform the system for registering new Town or Village Greens under section 15 of the Commons Act 2006. A full copy of the consultation document is available at:
<http://www.defra.gov.uk/consult/2011/07/25/town-village-greens>.
Alternatively, a hard copy of the document is also available on request from the Public Rights of Way and Commons Registration Officer.
10. The reforms are being proposed in response to growing concerns regarding the volume, nature, cost and impact of Village Green applications, and the Government's desire to achieve an improved balance between protecting valuable open space and enabling development to occur. The consultation has been launched at the same time as the publication for consultation by the Department for Communities and Local Government of a draft National Planning Policy Framework, which includes a commitment to introduce a new Green Spaces Designation through the planning system.
11. Although the consultation document includes an option which involves no change to the current system, the Government has indicated that it does not believe that this is an appropriate response to the problems identified with the current system. The reforms proposed are therefore set out below.
12. The first proposal is to refine the current system, by giving Commons Registration Authorities more powers to reject weak or vexatious applications at an early stage,

providing a system whereby landowners can make a declaration that any use of their land for recreational purposes is with their permission, and introducing a 'character test' to consider whether the land in question is recognisably similar to the popular perception of a traditional green.

13. The latter element of this proposal would involve the addition of a new, more subjective test to the existing legal tests set out in section 15 of the Commons Act 2006. It has been proposed in response to the increasing number of Village Green applications which involve land that do not have the traditional characteristics of a Village Green; for example, school playing fields, woodlands, beaches etc. The new test proposed would mean that only land which is open, unenclosed and uncultivated would be capable of registration. It would therefore limit registration to land with a more traditional appearance of a Village Green. However, the concern with this is that it would lead to applications involving valued open space that had been subject of long recreational usage being rejected on the basis of non-conformity with the character test.
14. The next proposal is to create a link between the planning system and the village green registration system. Currently, the two are mutually exclusive which means that sites earmarked for development can still be the subject of a subsequent application for Village Green status (thereby thwarting any proposed development if successful) and, similarly, planning permission can be granted and development commenced on the land before the outcome of an outstanding Village Green application is known. The reform being proposed would prevent a Village Green application from being made in relation to any land in respect of which there was a pending application for planning permission.
15. The third proposal involves the introduction of a fee for dealing with Village Green applications. The reason for this proposal is to reflect the substantial costs to Commons Registration Authorities in dealing with Village Green applications, but also to increase commitment from applicants and thereby deter spurious applications. The proposal is to charge a fee of up to £1000, which would be refundable if the application were to be successful.
16. The introduction of a fee is arguably the most controversial of the proposed reforms. On the one hand, it would allow Commons Registration Authorities to recoup some of the costs of dealing with the application (but not where it is successful) and encourages only properly constructed applications to be made, thereby reducing the burden on Commons Registration Authorities. However, the disadvantage of this option is that it may well deter worthwhile applications from communities without the means to pay the necessary fee, and could give rise to a perception that the authority is pre-disposed to reject the application in order to retain the fee.
17. Members' views on the consultation are welcomed. The deadline for response to DEFRA is 17th October 2011. Officers will be compiling a response to be sent to DEFRA via the Cabinet Member for Customer and Communities.

Recommendation

18. I RECOMMEND Members receive this report.

Background documents:

Appendix A – Schedule of Village Green applications

Contact Officer:

Melanie McNeir

Public Rights of Way and Commons Registration Officer

Countryside Access Service

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**APPENDIX A:
Schedule of Village Green applications**

**Applications resolved by the Regulation Committee since last report
(17th May 2011)**

Description	Parish	Member(s)	Outcome
Land at Hartley Woods	Hartley	Mr. D. Brazier	ACCEPTED and registered as VG257 on 13/06/11
The Allotment Field, Barton Estate	Canterbury	Mr. M. Northey	REJECTED on 28/06/11
Land at Princes Parade	Hythe	Mr. C. Capon	REJECTED on 28/06/11
Land at Westwell Lane	Westwell	Mr. R. King	ACCEPTED and registered as VG258 on 28/06/11
St Andrew's Gardens	Gravesend	Mr. B. Sweetland Mr. J. Cubitt	ACCEPTED IN PART ONLY and registered as VG259 on 19/07/11

Forthcoming Public Inquiries

Description	Parish	Member(s)	Details
Grasmere Pastures at Whitstable	Whitstable	Mr. M. Harrison Mr. M. Dance	Commences 05/09/11 at Whitstable Castle
Broadstairs Cricket Ground	Broadstairs	Mr. B. Hayton Mr. R. Bayford	Commences 12/09/2011 at the Broadstairs Campus of Christ Church University
Land known as Long Field at Angley Road*	Cranbrook	Mr. R. Manning	Commences 11/10/11 at Unity Hall, Hawkhurst
The Downs	Herne Bay	Mrs. J. Law	Commences 28/11/11 at St. Andrew's Hall, Hampton

**Note that this case has been referred to the Planning Inspectorate for determination due to KCC's interest in the outcome of the application. The Inquiry is being held by the Planning Inspectorate.*

Outstanding applications to be resolved

Description	Parish	Member(s)	Status
Round Wood at Walderslade	Boxley	Mr. P. Carter	On hold at applicant's request
Dawbourne Wood	Tenterden	Mr. M. Hill	Under investigation
Seaton Meadow	Wickhambreaux	Mr. M. Northey	Under investigation
Land at Woodland Road	Lyminge	Ms. S. Carey	Under investigation
Land known as Fisherman's Beach	Hythe	Mr. C. Capon	Under investigation
Land at Mountfield Road	Meopham	Mr. M. Snelling	Under investigation
Playing Field	Marden	Mrs. P. Stockell	Under investigation
Scrapsgate Open Space	Minster-on-Sea	Mr. A. Crowther	Under investigation
The former airfield	Lympne	Ms. S. Carey	Awaiting investigation
Rammell Field	Cranbrook	Mr. R. Manning	Awaiting investigation
Chaucer Field (at the University of Kent campus)	Canterbury	Mr. G. Gibbens	Awaiting investigation
Sandgate Escarpment	Sandgate	Mr. T. Prater	Awaiting investigation

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From: Director of Customer and Communities
To: Regulation Committee 7 September 2011
Subject: Update on the Definitive Map Team Casework

Classification: Unrestricted

Summary: A report updating the Regulation Committee on the Definitive Map Team casework.

Background – Register of cases

1.1 At the Regulation Committee on 18 May 2010 I provided an update on the schedule of outstanding public rights of way (PROW) cases and the work of the Definitive Map Team.

1.2 A hard copy of the Register of Applications to amend the Definitive Map and Statement (DMS) and Register of Diversion Applications is circulated with this report. The registers are also available on line at :
[https://shareweb.kent.gov.uk/Documents/environment-and-planning/public-rights-of-way/claims%20\(website\).pdf](https://shareweb.kent.gov.uk/Documents/environment-and-planning/public-rights-of-way/claims%20(website).pdf) and

<https://shareweb.kent.gov.uk/Documents/environment-and-planning/public-rights-of-way/diversion-schedule-for-web.pdf>

1.3 The production of a register of applications to amend the DMS was a requirement of the Countryside and Rights of Way Act 2000. The registers are regularly updated to reflect progress with case load.

1.4 The substantial progress made in recent years has been continued and currently there are 30 unallocated diversion applications and 9 unallocated applications to amend the DMS of Kent. The average wait between receipt of an application and allocation to an officer is currently 24 months for diversions and 18 months for amendments to the DMS.

The May 2010 report identified a number of pressures that had the potential to increase the backlog of cases. Fortunately there has been no appreciable increase in the submission of applications in the last twelve months primarily as:

- the construction sector appears static. The threat of construction as with Village Greens is frequently a catalyst for the public to seek to claim public rights of way that have been in use for 20 years, often specifically with the aim of thwarting or delaying development.
- work to introduce a continuous right of access on foot around the coast of England has slowed and will rely on the creation of a linear strip of access land rather than the creation of public rights of way

- the implementation of a statutory right for landowners to apply for the diversion of PROW has not yet been revisited by Government.

2.1 April 2010 to March 2011 saw 31 public path orders confirmed and 8 definitive map modification orders confirmed and the resolution of high profile cases at Adisham and Bayham Estate. 5 cases were referred to the Secretary of State with the Definition Team appearing at 4 public inquiries. Preparation of submission documents for public inquiries and appearance at inquiries continues to place a significant burden on the team. The recently closed public inquiry into the diversion of footpath MT392 at Shipbourne lasting 7 days, spanning two months and involving 2 venues.

2.2 The coming year will see the team continue to process cases and to work towards the production of a new edition of the DMS. However, the team are not immune to the savings¹ that must be found by the Countryside Access Service in the next three financial years. It is therefore intended to place greater emphasis on firstly completing the production of the new edition of the DMS; and processing applications to divert and extinguish PROW as the costs incurred through this work may be recharged.

2.3 Additionally planning authorities in Kent are being approached with a view to the team processing Town and Country Planning Act 1990 diversions and extinguishments orders on their behalf. The full cost of such work can be recharged to the applicant. Agreement is already in place to undertake this work on behalf of Ashford Borough Council. Tunbridge Wells Borough, Dartford Borough, Dover District and Canterbury City Councils have all expressed an interest in a service agreement..

2.4 If successful it is hoped to offer this service to other authorities in the South East contributing to the SE7 memorandum of understanding².

2.5 It is anticipated through this approach that it will be possible to deliver the necessary savings while safeguarding the knowledge, experience and expertise that exists within the team.

2.6 The change in emphasis will in all likelihood mean that less resource is dedicated to the statutory element of the team's work: dealing with applications to amend the DMS and that the backlog in this area will grow. Cases will still be progressed in line with the County Council's statement of priorities.

Gating Orders

3.1 Requests from the Kent Police, Community Safety Teams and the public for information about the gating of highways have been sporadic over the last 12 months. In the majority of instances there is insufficient evidence of the crime and anti-social behaviour being persistent, facilitated by the highway

²

or likely to be prevented by the installation of gates. Additionally it has not been possible to overcome the legislative restrictions placed on the making of gating orders for instance an application to gate public footpath AU79 Ashford Churchyard could not be pursued as although crime and antisocial behaviour in the area was persistent and could clearly be linked to the footpath, the footpath provided the only means of access to residential property and as such the criteria set out in the legislation could not be met. This despite the full support of the residents enjoying the access.

3.2 Proposals in Swale and Gravesham are currently being worked on with local Crime and Disorder Reduction Partnerships.

Where possible practical interventions will be supported that retain public access while contributing to the reduction of crime and antisocial behaviour: for instance the introduction of vehicle barriers.

Recommendations:

4.1 I recommend that members receive this report.

Contact Officer.

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1 £618K in total over three financial years.

2 Kent County Council, East Sussex County Council, Brighton and Hove City Council, Hampshire County Council, Medway Council, Surrey County Council and West Sussex County Council make up SE7.

All seven councils have signed a Memorandum of Understanding with the aim of achieving savings while improving the quality of local services.

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Register of Applications under Section 53(5) of the Wildlife and Countryside Act 1981

For further information please call 01622 221568
Last updated - 08 August 2011



Serial No.	Area	Location	OS Grid Reference	Path Number	Description	Status Claimed	File Ref	Date Accepted	Current Position	Case Officer	Final Outcome
165	East	Whitstable			Claimed Bridleway, Carlton Road	Bridleway	PROW/CC/C165		Under investigation Declined to make an Order - no appeal received	Chris Wade	
166	East	Folkestone	TR 2031 3645		Claimed Footpath, Green Walk	Footpath	PROW/SH/C165	11/03/1998	Orders not confirmed following a Public Inquiry	Sonia Coventry	Case complete
171A	West	Bayham Abbey			Claimed Footpath at Bayham Abbey	Footpath	PROW/TW/C171A	03/09/1998	No grounds of Appeal received	Chris Wade/Melanie McNeir	Case complete
174	West	Speldhurst	TQ 5580 4215	WT65	Claimed amendment to Footpath WT65		PROW/TW/C174	21/01/1999	Orders Confirmed by Secretary of State	Laura Wilkins	Case complete
184	East	Chilham & Chartham	TR 0854 5399		Claimed Footpath, Mill Lane to Thruxted Lane	Footpath	PROW/AS & CC/C184	09/03/2000		Laura Wilkins	Case complete
195	East	Bethersden	TQ 9200 4038, TQ 9197 4059, TQ 9219 4053		Claimed Footpath, Wissenden Road to AW258 & AW257	Footpath	PROW/AS/C195	22/02/2001	Under investigation	Sonia Coventry	
203	East	Whitstable	TR 0469 6484 to TR 0622 6478		Claimed deletion of Footpath CW57 - Seasalter		PROW/CC/C203	01/08/2001	Order made, objections received - case submitted to Secretary of State Public Inquiry to be held on 18 January 2012	Chris Wade/Maria McLauchlan	
205	East	Whitstable	TR 106 663		Claimed Footpath, Nelson Road to Shaftsbury Road	Footpath	PROW/CC/C205	01/11/2001	Order not confirmed by Secretary of State following Public Inquiry	Laura Wilkins	Case complete
207	East	Margate	TR 337 693		Claimed Footpath, Brooke Avenue to Bridleway TM22	Footpath	PROW/TH/C207	16/11/2001	Declined to make an Order - no Appeal received	Laura Wilkins	Case complete
208	East	Dunkirk	TR 085 589		Claimed Bridleway, A2 to Bridleway ZR529	Bridleway	PROW/SW/C208	22/01/2002	Case withdrawn	Laura Wilkins	Case complete
209	West	Borough Green	TQ 6156 & TQ 6157		Claimed Footpath, Crouch Lane to recreation ground	Footpath	PROW/TM/C209	11/03/2002	Appeal dismissed	Sonia Coventry	Case complete

212	West	Edenbridge	TQ 4392 4632		Claimed Footpath, Crouch House Road to Springfield Road	Footpath	PROW/SE/C212	26/04/2002	Order made and confirmed	Sonia Coventry	Case complete
214	West	Ryarsh to Birling	TQ 6590 6144	MR145 & MR60A	Claimed upgrading of Bridleway MR145 and RUPP MR60A	Byway	PROW/TM/C214	31/10/2002	Appeal rejected	Melanie McNeir	Case complete
217	East	Whitstable	TR 5070 5715		Claimed Byway, Pean Hill to Foxes Cross Road	Byway	PROW/CC/C217	07/11/2002	Declined to make an Order	Laura Wilkins	Case complete
222	East	Whitstable	TR 127 658	CW38	Claimed downgrading of part of CW38		PROW/CC/C222	28/03/2003	At Appeal - Case with the Planning Inspectorate	Chris Wade	
224	West	Headcorn	TQ 834 443	KH264	Claimed upgrading of KH624	Byway	PROW/MA/C224	14/04/2003	Appeal dismissed	Chris Wade	Case complete
225	West	Snodland	TQ 6855 6215	MR594	Claimed Byway, Pilgrims Way to Paddlesworth Road	Byway	PROW/TM/C225	01/05/2003	Order confirmed by Secretary of State	Maria McLauchlan	Case complete
226	West	Edenbridge	TQ 4460 4655		Claimed Footpath, Edenbridge Town Station to Railway Cottages	Footpath	PROW/SE/C226	06/08/2003		Sonia Coventry	Case complete - Notices served incorrectly at Appeal
227	West	Bredgar	TQ 864 603		Claimed Footpath, Deans Bottom Farm	Footpath	PROW/MA/C227	06/08/2003	Appeal dismissed		
228	East	Dover	TR 3677 5091		Claimed Footpath, Telegraph Road to Cowdry Square	Footpath	PROW/DO/C228	28/07/2003	Order made, objections received - Public Inquiry to be held on 10 January 2012	Sonia Coventry	Case complete
230	East	Ospringe	TQ 995 587	ZR359	Claimed amendment of Footpath ZR359		PROW/SW/C230	27/10/2003	Order made and confirmed	Maria McLauchlan	Case complete
232	West	Hartlip	TQ 8420 6495	ZR685	Claimed Footpath, Mill Lane to Lower Hartlip Road	Footpath	PROW/SW/C232	16/10/2003	Order made & confirmed	Maria McLauchlan	Case complete
233	East	Lower Halstow	TQ 8610 6711		Claimed Footpath, Westmoreland Drive to Cumberland Drive	Footpath	PROW/SW/C233	11/11/2003	Deed of Dedication - complete	Maria McLauchlan	Case complete
234	West	Hartley	TQ 6103 6842	SD334	Claimed Footpath, Caxton Road to Gorsewood Road	Footpath	PROW/SE/C234	15/12/2003	Order made & confirmed	Maria McLauchlan	Case complete
235	East	Hartlip	TQ various		Claimed Footpaths, lots 1-14	Footpath	PROW/SW/C235	09/12/2003	Declined to make an Order - no Appeal received	Maria McLauchlan	Case complete
236	West	Luddesdown	TQ 677 668 to TQ 678 667	NS243	Claimed Byway, RUPP NS243	Byway	PROW/GR/C236	23/02/2004	Appeal dismissed	Melanie McNeir	Case complete
238	West	Dunton Green			Claimed Footpath, from underpass opposite Dunton Green Primary School to Footpath SR105	Footpath	PROW/SE/C238	07/05/2004	Under investigation	Melanie McNeir	

239	West	Hadlow	TQ 6289 5017		Claimed Footpath, The Freehold to Carpenters Lane	Footpath	PROW/TM/C239	25/06/2004	Declined to make an Order - no Appeal received	Melanie McNeir	Case complete
240	West	Sevenoaks	TQ 523523 to TQ 528519		Claimed Footpath, Hubbards Hill to Gracious Lane	Footpath	PROW/SE/C240	04/08/2004	Order confirmed	Melanie McNeir	Case complete
242	East	Chilham	TR 077 526	AE18 & AE429	Claimed upgrading of AE18 & AE429	Byway	PROW/AS/C242	01/10/2004	Under investigation	Chris Wade	
243	East	St Margaret's Bay	TR 3639 4466		Claimed Footpath, Droveway Gardens to Kenilworth Close	Footpath	PROW/DO/C243	20/10/2004	Appeal rejected	Melanie McNeir	Case complete
244	East	Ramsgate	TR 388 657		Claimed Footpath across playing fields off Honeysuckle Road	Footpath	PROW/TH/C244	25/10/2004	Orders made and confirmed	Chris Wade	Case complete
245	West	Gravesham	NU31A, TQ 642 691 to TQ 644 693 NU33 TQ 644 693 to TQ 652 692	NS31A, NS33	Claimed upgrading of NU31A & NU33	Byway	PROW/GR/C245	26/10/2004	Declined to make an Order - No Appeal received	Chris Wade	Case complete
246	East	Whitstable	TR 0627 6482 to 0980 6573		Claimed Footpath, Reeves Beach to Footpath CW82 north of the Sportsman Public House	Footpath	PROW/CC/C246	03/11/2004	Under investigation	Chris Wade/Sonia Coventry	
248	East	Whitstable	TR 1295 6606		Claimed Footpaths, Grasmere Pastures	Footpath	PROW/CC/C248	14/12/2004	Order made and confirmed	Melanie McNeir	Case complete
249	East	Tenterden	TQ 588530 to TQ 135400		Claimed Footpaths, Ashford Road to ABS and Heather Drive to footpath leading to A28	Footpath	PROW/AS/C249	21/01/2005	Order made and objections received	Stewart Biggs	SOS did not confirm the Order
250	East	Stourmouth	TR 265 633		Claimed Byway, West Stourmouth to former B2046 through Heronsgate Farm	Byway	PROW/CC/C250	08/02/2005	Under investigation	Melanie McNeir	
255	West	West Kingsdown	TQ 588 606		Claimed Footpath Terry's Lodge Farm	Footpath	PROW/SE/C255	22/07/2005	Appeal rejected	Stewart Biggs	Case complete
256	East	Leysdown	TR 043 695		Claimed Footpath, Wing Road to Muswell Manor	Footpath	PROW/SW/C256	05/08/2005	Order made and confirmed	Stewart Biggs	Case complete
257	East	Sandgate	TR 201 351	HF64, HF65, HF66	Claimed Footpath, Encombe to Prospect Road	Footpath	PROW/SH/C257	15/08/2005	Order made and confirmed	Maria McLauchlan	Case complete
258	West	Meopham	TQ 6387 6486	NS360	Claimed Footpath, Steele's Lane, A227 - NS285	Footpath	PROW/SH/C258	23/08/2005	Order confirmed by Secretary of State	Maria McLauchlan	Case complete
259	East	Westgate-on-Sea	TR 3155 6906		Claimed Footpath, Allen Avenue to Dunstan Avenue	Footpath	PROW/TH/C259	27/09/2005	Order made and confirmed	Sonia Coventry	Case complete linked with file PROW/TM42 /1283

260	East	Adisham	1) TR 218 533 2) TR 222 534 3) TR 219 526 4) TR 223 530		Four claimed Footpaths	Footpath	PROW/CC/C260	10/10/2005	Order confirmed by the Secretary of State, adding 3 footpaths and 1 bridleway	Maria McLauchlan	Case complete
261	West	Marden	TQ 759 448		Claimed Footpath, KM272 to Battle Lane	Footpath	PROW/MA/C261	04/11/2005	Order confirmed	Maria McLauchlan	Case complete
262	West	Birling	TQ 667 617	MR48	Claimed upgrading of MR48	Byway	PROW/TM/C262	04/11/2005	Declined to make an Order - no Appeal received	Melanie McNeir	Case complete
263	West	Wrotham	TQ 601 592	MR231	Claimed upgrading of MR231	Byway	PROW/TM/C263	04/11/2005	Declined to make an Order - no Appeal received	Stewart Biggs	Case complete
264	West	Birling	TQ 665 623	MR60	Claimed upgrading of MR60	Byway	PROW/TM/C264	04/11/2005	Declined to make an Order - no Appeal received	Melanie McNeir	Case complete
265	East	Alkham	TR 238 428	ER76	Claimed upgrading of ER76	Byway	PROW/DO/C265	07/11/2005	Declined to make an Order - no Appeal received	Stewart Biggs	Case complete
266	East	Alkham	TR 269 435	ER175	Claimed upgrading of ER175	Byway	PROW/DO/C266	07/11/2005	Declined to make an Order - no Appeal received	Maria McLauchlan	Case complete
267	East	Alkham	TR 260 423	ER177	Claimed upgrading of ER177	Byway	PROW/DO/C267	07/11/2005	Declined to make an Order - no Appeal received	Maria McLauchlan	Case complete
268	East	Alkham	TR 268 429	ER178	Claimed upgrading of ER178	Byway	PROW/DO/C268	07/11/2005	Declined to make an Order - no Appeal received	Maria McLauchlan	Case complete
269	East	Alkham	TR 261 432	ER184	Claimed upgrading of ER184	Byway	PROW/DO/C269	07/11/2005	Declined to make an Order - no Appeal received	Maria McLauchlan	Case complete
270	East	Alkham	TR 271 422	ER261	Claimed upgrading of ER261	Byway	PROW/DO/C270	07/11/2005	Declined to make an Order - no Appeal received	Maria McLauchlan	Case complete
271	East	Alkham	TR 287 400	ER89 & ER223	Claimed upgrading of ER89 & ER223	Byway	PROW/DO/C271	29/11/2005	Declined to make an Order - no Appeal received	Laura Wilkins	Case complete
272	East	Alkham	TR 257 418	ER179	Claimed upgrading of ER179	Byway	PROW/DO/C272	29/11/2005	Declined to make an Order - no Appeal received	Laura Wilkins	Case complete
273	East	Ellinge	TR 238 428	ER186	Claimed upgrading of ER186	Byway	PROW/DO/C273	29/11/2005	Declined to make an Order - no Appeal received	Stewart Biggs	Case complete
274	East	West Hougham	TR 263 393	ER224	Claimed upgrading of ER224	Byway	PROW/DO/C274	29/11/2005	Under investigation	Melanie McNeir	Case complete
275	West	Lenham	TQ 904 522	KH433	Claimed upgrading of KH433	Byway	PROW/MA/C275	29/11/2005	Under investigation	Melanie McNeir	Case complete

276	West	Ightham	TQ 606 550	MR311	Claimed upgrading of MR311	Byway	PROW/TM/C276	29/11/2005	Declined to make an Order - within Appeal period	Melanie McNeir	
277	West	Wateringbury	TQ 697 544	MR501	Claimed upgrading of MR501	Byway	PROW/TM/C277	29/11/2005	Under investigation	Melanie McNeir	
278	East	Wormdale	TQ 858 635	ZR64	Claimed upgrading of ZR64	Byway	PROW/SW/C278	29/11/2005	Under investigation	Melanie McNeir	
279	West	Hawkhurst	TQ 765 283	WC230	Claimed upgrading of WC230	Byway	PROW/TM/C279	29/11/2005	Under investigation	Melanie McNeir	
280	East	Capel-le-Ferne	TR 266 388	ER226	Claimed upgrading of ER226	Byway	PROW/DO/C280	16/12/2005	Declined to make an Order - no Appeal received	Laura Wilkins	Case complete
281	East	Capel-le-Ferne	TR 276 393	ER225	Claimed upgrading of ER225	Byway	PROW/DO/C281	16/12/2005	Declined to make an Order - no Appeal received	Laura Wilkins	Case complete
282	East	Westerham	TQ 453 568	ER225	Claimed upgrading of Public Footpaths, SR331 (part) and SR332	Bridleway	PROW/SE/C282	19/12/2005	Declined to make an Order - Appeal received. Case with the Planning Inspectorate	Laura Wilkins	
283	East	Lydd	TR 055 185	Footpaths HL4, 37 & 38 Restricted Byways HL39, 40 & 41	Claimed upgrading of Footpaths HL4, 37 & 38 and Restricted Byways HL39, 40 & 41	Byway	PROW/SH/C283	26/01/2006	Declined to make an Order - Appeal withdrawn	Maria McLauchlan	Case complete
284	East	Sandwich	TR 325 581	ES9	Claimed amendment to Footpath ES9	Footpath	PROW/DO/C284	28/02/2006	Under investigation	Sonia Coventry	
285	East	Newington	TQ 853 645		Claimed Footpath from Orchard Drive to the Recreation Ground	Footpath	PROW/SW/C285	03/03/2006	Orders made for an extinguishment and creation	Laura Wilkins	
286	West	Marden	TQ 735 437		Claimed Footpath running along Roughlands Lane	Footpath	PROW/MA/C286	15/03/2006	Declined to make an Order - Appeal received. Case with the Planning Inspectorate	Sonia Coventry	
287	West	West Kingsdown	TQ 575 609		Claimed Footpath, Tinkerpot Lane to SD283	Footpath	PROW/SE/C287	28/03/2006	Under investigation - case linked to PROW/SE/C337	Sonia Coventry	
288	West	Marden	TQ 751 461		Claimed Footpath, KM240 to Milebush Lane	Footpath	PROW/MA/C288	08/08/2006	Under investigation	Sonia Coventry	
289	West	Northfleet	TQ 864 603		Claimed Footpath, Beaumont Road and Dover Road	Footpath	PROW/GR/C289	09/08/2006	Declined to make an Order	Maria McLauchlan	Case complete

290	East	Lydden	TR 242 448	ER121	Claimed addition to the particulars relating to Bridleway ER121			PROW/DO/C290	14/08/2006	Declined to make an Order - no Appeal received	Laura Wilkins	Case complete
291	East	Lydden	TR 242 448	ER121	Claimed addition to the particulars relating to Bridleway ER121			PROW/DO/C291	30/08/2006	Declined to make an Order - no Appeal received	Laura Wilkins	Case complete
292	East	Little Chart	TQ 934 466	AW108	Claimed addition to the particulars relating to Footpath AW108			PROW/AS/C292	04/09/2006	Order confirmed with modifications following Public Inquiry	Maria McLauchlan	Case complete
293	East	Birchington	TR 304 692		Claimed Footpath, Yew Tree Gardens to Neame Woods	Footpath		PROW/TH/C293	05/10/2006	Declined to make an Order - no Appeal received	Laura Wilkins/Matt Garvey	Case complete
294	West	Marden	TQ 744 474 to TQ 744 477		Claimed Byway, Tilden Lane to Footpath KM229	Byway		PROW/MA/C294	31/10/2006	Declined to make an Order - Appeal received. Case with the Planning Inspectorate - Appeal dismissed	Melanie McNeir	Case complete
295	East	Teynham			Claimed Footpath, ZR234 to ZR234	Footpath		PROW/SW/C295	29/01/2007	Order made and confirmed	Stewart Biggs	Case complete
296	East	Whitstable	TR 106 664		Claimed Footpath, Middle Wall to Cornwallis Circle	Footpath		PROW/CC/C296	20/02/2007	Order made and confirmed	Laura Wilkins/Matt Garvey	Case complete
297	East	Littlebourne	TR 1984 5725 to TR 2060 5758		Claimed Footpath, CB150 to The Hill	Footpath		PROW/CC/C297	27/03/2007	Under investigation	Melanie McNeir	
298	East	Littlebourne	TR 1910 5656 to TR 2060 5758		Claimed Footpath, CB152 to The Hill	Footpath		PROW/CC/C298	27/03/2007	Under investigation	Melanie McNeir	
299	East	Whitstable	TR 105 659		Claimed Footpath, Glebe Way to the level crossing	Footpath		PROW/CC/C299	07/06/2007	Order made and confirmed	Laura Wilkins/Matt Garvey	Case complete
300	West	Marden	TQ 717 417 to TQ 751 411		Claimed Restricted Byway, Sherenden Lane to Harts Heath	Restricted Byway		PROW/MA/C300	04/07/2007	Declined to make an Order - Appeal received. Case with the Planning Inspectorate - Appeal withdrawn	Melanie McNeir	Case complete
301	West	Swanscombe	TQ 605 750		Claimed Footpath, Pilgrims Road	Footpath		PROW/DA/C301	20/07/2007	Order made and confirmed	Maria McLauchlan	Case complete

302	East	Greatstone	TR 0808 2288		Claimed Footpath, The Parade to Merritt Road	Footpath	PROW/SH/C302	20/08/2007	Order made and confirmed	Maria McLauchlan	Case complete
303	East	Ickham	TR 2002 5677 to TR 2054 5629		Claimed Footpath, Lackenden to Garrington	Footpath	PROW/CC/C303	20/08/2007	Order made and confirmed	Maria McLauchlan	Case complete
304	East	Lympne, Hythe	TR 120 351		Claimed Footpath, Belcaire Close to Harman Avenue	Footpath	PROW/SH/C304	06/09/2007	Order made and confirmed	Maria McLauchlan	Case complete
305	West	Marden & Horsmonden	TQ 738 422 to TQ 723 426	Includes path numbers FP KM261, FP KM258, FP WT333, FP WT332 & FP WT331	Claimed Restricted Byway, Goudhurst Road to Queen Meads	Restricted Byway	PROW/MA&TW/C305	06/12/2007	Declined to make an Order - Appeal received. Case with the Planning Inspectorate - Appeal dismissed	Maria McLauchlan	Case complete
306	West	Dartford	TQ5097/7241 to TQ5104/7264 to TQ5098/7273		Claimed Footpath, Tile Klin Lane to Calvert Drive	Footpath	PROW/DA/C306	05/02/2008	Declined to make an Order - no Appeal received	Matthew Garvey	Case complete
307	West	Snodland & Larkfield	TQ7119 6131 to TQ 7131 6102		Claimed Footpath running between Footpath MR44 and another connection with Footpath MR44	Footpath	PROW/TM/C307	04/04/2008	Accelerated in line with Statement of Priorities - under investigation	Sonia Coventry	Case complete
308	West	Lenham	TQ 9101 4995 to TQ 9128 4985		Claimed Bridleway from Bull Hill to Footpath KH405, Lenham Heath	Bridleway	PROW/MA/C308	01/05/2008	Order Confirmed (Public Footpath status) by Secretary of State following Written Representations	Matthew Garvey	Case complete
309	West	Sundridge	TQ 4808 5345 to TQ 4814 5346		Claimed Footpath from New Road to Bridleway SR259, Sundridge	Footpath	PROW/SE/C309	05/06/2008	Declined to make an Order - Appeal received. Case with the Planning Inspectorate	Matthew Garvey	Case complete
310	West	Hollingbourne	TQ 8422 5482 to TQ 8434 5501		Claimed Footpath from Greenway Court Road to B2163, Hollingbourne	Footpath	PROW/MA/C310	10/06/2008	Order made and confirmed	Matthew Garvey	Case complete

311	West	West Kingsdown	TQ 5732 6325 to TQ 5739 6317		Claimed Footpath from Hever Avenue to Church Road, West Kingsdown	Footpath	PROW/SE/C311	18/06/2008	Order made, objections received - case will be submitted to the Secretary of State	Maria McLauchlan	
312	East	Margate	TR 3885 7196 to TR 3887 7113		Claimed Footpath from Knockholt Road to The Ridings, Margate	Footpath	PROW/TH/C312	22/07/2008	Order made and confirmed	Maria McLauchlan	Case complete
313	East	Whitstable	TR 1072 6479 to TR 1098 6499		Claimed Footpath from Gorrell Wood via Benacre Wood to St Andrews Close and returning to Gorrell Wood	Footpath	PROW/CC/C313	06/08/2008	Case withdrawn	Melanie McNeir	Case complete
314	West	Snodland	TQ 7003 6183 to TQ 7008 6184		Claimed Footpath from Birling Road to Bingley Close	Footpath	PROW/TM/C314	29/08/2008	Under investigation	Matthew Garvey	
315	West	Shipbourne	TQ 5894 5093 to TQ 5894 5089		Claimed Bridleway from MT50 to MT50	Footpath	PROW/TM/C315	06/10/2008	Order made and confirmed	Matthew Garvey	Case complete
316	West	Riverhead	TQ 5147 5624 to TQ 5147 5620		Claimed Footpath from Maidstone Road to St. Mary's Church	Footpath	PROW/SE/C316	13/10/2008	Order made	Laura Wilkins	
317	West	Tunbridge Wells	TQ 5838 3937 to TQ 5840 3945 and TQ 5844 3938		Claimed Footpaths from Clanricarde Road to Mount Pleasant Road and Church Road	Footpath	PROW/TW/C317	20/11/2008	Application has been accelerated in line with Statement of Priorities (development), Order made, objections received	Laura Wilkins	
318	West	Hildenborough	TQ 581 491 to TQ 582 492 and TQ 580 488 to TQ 580 493 and TQ 580 488 to TQ 579 486		Claimed Footpaths from Bridleway MT52 to Public Footpath MT37 and from Bridleway MT52 to Public Footpath MT37	Footpath	PROW/TM/C318	24/11/2008	Under investigation	Laura Wilkins	
319	East	Minster	TR 3057 6472 to TR 3047 6456		Claimed Footpath from Monkton Road (start of TE34) to its junction with Footpath TE33	Footpath	PROW/TH/C319	24/04/2009	Case accelerated - Order made and confirmed	Maria McLauchlan	Case complete
320	East	Cheriton, Folkestone	TR 1903 3618 to TR 1909 3609		Claimed Footpath from the end of Valebrook Close to the northern end of Public Footpath HF43	Footpath	PROW/SH/C320	14/05/2009	Declined to make an Order - within Appeal period	Laura Wilkins	

321	West	Tunbridge Wells	TQ 5896 4039 to TQ5893 4045		Claimed Footpath from the Top Gate of Grosvenor Park to Quarry Road	Footpath	PROW/TW/C321	25/05/2009	Order made, case submitted to Secretary of State for modification	Matthew Garvey	
322	East	High Halden	TQ 9069 3645 to TQ 9229 3664	AT164	Claimed downgrading to a Footpath the Restricted Byway AT164 running from Redbrook Street to Harbourne Lane	Footpath	PROW/AS/C322	11/06/2009	Application does not comply with legislation		Case complete
323	East	Harbledown	TR 129 573 to TR 129 9577	CB485	Claimed upgrading to a Restricted Byway part of Public Footpath CB485 running from Whitehall Road to its junction with the North Downs Way	Restricted Byway	PROW/CC/C323	07/07/2009	Declined to make an Order - no Appeal received	Matthew Garvey	Case complete
324	East	Whitstable	TR 1082 6571 to TR 1084 6580		Claimed Footpath from Green Lane to Harwich Street	Footpath	PROW/CC/C324	13/08/2009	Order made and confirmed	Matthew Garvey	Case complete
325	East	Milton Regis, Sittingbourne	TQ 9006 6503 to TQ 9011 6494		Claimed Footpath from Middleturne Avenue to Vicarage Road	Footpath	PROW/SW/C325	27/08/2009	Order made and confirmed	Maria McLauchlan	Case complete
326	East	Brabourne	TR 0766 4014 to TR 0740 4042		Claimed Footpath from Church Road to Public Footpath AE285	Footpath	PROW/AS/C326	07/12/2009	Order made	Maria McLauchlan	
327	East	Ringwood with Kingsdown	TR 3759 4811 to TR 3771 4811		Claimed Footpath from The Avenue to Footpath ER8	Footpath	PROW/DO/C327	29/12/2009	Under investigation	Maria McLauchlan	
328	West	Hildenborough	TQ 5778 4750 to TQ 5773 4739	MT43	Claimed amendment to the alignment of part of Public Footpath MT43	Footpath	PROW/TM/C328	05/01/2010	Under investigation	Maria McLauchlan	
329	East	Dymchurch & Burmarsh	TR 1275 3191 to TR 1215 3317		Claimed Restricted Byway running from A259 to Botolph's Bridge Road	Restricted Byway	PROW/SH/C329	17/02/2010	Under investigation	Matthew Garvey	
330	East	Shepherdsweil with Coldred	TR 2591 4779 to TR 2594 4752		Claimed Footpath from Public Footpath ER80/81 (Moonland Road) to Public Footpath ER83	Footpath	PROW/DO/C330	02/03/2010	Under investigation	Matthew Garvey	
331	West	Aylesford & Burham	TQ 7169 6199 to TQ 7247 5904	MR465, MR459, MR430 & MR454 (part)	Claimed upgrading to Restricted Byway status Public Footpaths MR465, MR459, MR430 & MR454 (part) and the addition of four Restricted Byways	Restricted Byway	PROW/TM/C331	23/03/2010	Awaiting investigation		
332	West	Swanley	TQ 5095 6815 to 5094 6814		Claimed Public Footpath from Azalea Drive to Ladds Way	Footpath	PROW/SE/C332	25/03/2010	Awaiting investigation		

333	West	Sevenoaks	TQ 5354 5291 to TQ 5354 5296 Route 1 TQ 6978 5482 to 7017 5439 Route 2 TQ 6986 5465 to 6980 5461 Route 3 TQ 6991 5479 to 7017 5459 Route 4 TQ 7006 5443 to 7017 5459		Claimed Public Footpath running from one public roadside footpath to another in front of the White Hart Public House (Tonbridge Road)	Footpath	PROW/SE/C333	26/04/2010	Awaiting investigation		
334	West	Teston	TR 2584 4805 to TR 2587 4798		Claimed Bridleways known as Green Walks:- Route 1 -Northpole Road to KM333 Route 2 - Route 1 to Livesey Street Route 3 Northpole Road to KM333 and Route 4 Route 4 Route 1 to KM333 and Route 3	Bridleway	PROW/MA/C334	27/04/2010	Awaiting investigation		
335	East	Shepherdswell with Coldred	TR 2584 4805 to TR 2587 4798		Claimed Footpath from Eythorne Road to Church Hill	Footpath	PROW/DO/C335	01/06/2010	Awaiting investigation		
336	East	Dover	TR 3199 4221 to TR 3203 4218		Claimed Footpath from Connaught Road to Footpath EBX9 (Godwyne Path) running alongside the property known as Castle Rise	Footpath	PROW/DO/C336	29/07/2010	Awaiting investigation		
337	West	West Kingsdown & Kemsing	TQ 5751 6095 to 5747 5934 & 5781 6040 to 5807 6067		Claimed Restricted Byway from Tinkerpot Lane to Pilgrims Way and St Clere Hill, including the upgrading of parts of Public Footpaths SD283 & SD284	Restricted Byway	PROW/SE/C337	11/08/2010	Application has been accelerated in line with Statement of Priorities - case linked to PROW/SE/C287	Sonia Coventry	
338	West	Kingswood	TQ 8426 5066 to TQ 8414 5015		Claimed Footpath from Lenham Road, Kingswood, ME17 1LZ to Footpath KH312 and Footpath KH313A	Footpath	PROW/MA/C338	17/11/2010	Awaiting investigation		
339	West	Greenhithe	TQ 5862 7515 to TQ 5862 7519		Claimed Footpath from the High Street to the Foreshore adj. to the Sir John Franklin P.H.	Footpath	PROW/DA/C339	22/02/2011	Awaiting investigation		
340	West	Swanscombe & Greenhithe	Deletion - TQ 5881 7419 to TQ 5883 7419 Addition - TQ 5881 7419 to TQ 5885 7416	DS10	Claimed deletion of part of Footpath DS10 running from the steps through the gardens of 73, 71, 69 & 67 Valley View and the addition of a footpath running from the steps in a southerly direction and easterly to Valley View	Footpath	PROW/DA/C340	18/07/2011	Awaiting investigation		

Register of applications under the Highways Act 1980
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For further information please call 01622 221568



Ref. No.	Details				Date Received	Status (the stage the application has reached)	Confirmation		
	Path No	Parish	Description	Withdrawn			Completed	Case Officer	
1244	AE451	Aldington	Extinguishment		27/02/2006	Order confirmed (SoS)		Completed	Laura Wilkins
1245	WC42	Cranbrook	Diversion		02/03/2006			Completed	Maria McLauchlan
1246	HE356	Postling	Diversion		07/03/2006			Completed	Laura Wilkins
1247	KM164	Hunton	Diversion		21/03/2006			Completed	Maria McLauchlan
1248	CW52	Whitstable	Diversion		21/03/2006		Withdrawn		
1249	KH405	Lenham	Diversion		05/04/2006			Completed	Sonia Coventry
1250	WC297, WC302	Sandhurst	Diversion		12/04/2006	Order Declined		Completed	Sonia Coventry
1251	WT295, WT293, WT294	Brenchley & Matfield	Diversion		23/05/2006	Order Confirmed (SoS)		Completed	Sonia Coventry
1252	AE450, AE452	Aldington	Diversion		24/05/2006	Order confirmed (SoS)		Completed	Laura Wilkins
1253	SR524	Hever	Diversion		05/06/2006	Order confirmed		Completed	Sonia Coventry
1254	HE276B	Saltwood	Extinguishment		22/06/2006	Order Confirmed (SoS)		Completed	Sonia Coventry
1255	AW170	Hotfield	Diversion		21/07/2006	Inspector declined to Confirm		Completed	Sonia Coventry
1256	WC37	Gouldhurst	Diversion		01/08/2006	Order made & confirmed		Completed	Sonia Coventry
1257	KH245	Leeds	Diversion		08/08/2006	Order made & confirmed		Completed	Laura Wilkins
1258	MT2	Hildenborough	Diversion		07/09/2006	Order made & confirmed		Completed	Stewart Biggs
1259	MR493	Aylesford	Extinguishment & Ceation		10/10/2006	Order declined		Completed	Sonia Coventry
1259	MR493	Aylesford	Diversion			Order Declined		Completed	Sonia Coventry
1260	MT50	Shipbourne	Diversion		10/10/2006	Order made & confirmed		Completed	Stewart Biggs
1261	AW156	Pluckley	Diversion		24/08/2006	Order made & confirmed		Completed	Stewart Biggs
1262	AT205	Woodchurch	Diversion		17/11/2006	Order made & confirmed		Completed	Maria McLauchlan
1263	CB421	Petham	Diversion		04/12/2006	Order made & confirmed		Completed	Laura Wilkins
1264	AW148	Pluckley	Diversion		03/10/2005	Order made & confirmed	28/08/2006		
1106	KH402	Lenham	Diversion		21/06/2002			Completed	Laura Wilkins
1265	ZU29	Sittingbourne	Diversion					Completed	Melanie McNeir

Register of current applications under the Highways Act 1980

Year 2007

For further information please call 01622 221568

Last updated 08/08/2011



Ref. No.	Details				Date Received	Status (the stage the application has reached)	Confirmation		Case Officer
	Path No	Parish	Description				Withdrawn	Completed	
1266	CC16	Canterbury	S116 Extinguishment		01/02/2007	Declined to make Order		Completed	Sonia Coventry / Chris Wade
1267	MR44	Snodland	Diversion & extinguishment		01/02/2007	On Hold			Sonia Coventry
1268	MR178	Offham	Diversion & extinguishment		02/03/2007	Order made & confirmed		Completed	Maria McLauchlan
1269	ZR105	Bobbing	Diversion		02/04/2007	Order made			Sonia Coventry
1270	CB177	Ickham & Well	Diversion		17/04/2007	Order made			Maria McLauchlan
1271	WC75	Sissinghurst	TCPA Diversion		20/04/2007		Withdrawn		
1272	CC18	Canterbury	Diversion		02/05/2007	Awaiting new updated application			Laura Wilkins
1273	AW200A	Bethersden	Diversion		02/05/2007	Order made & confirmed		Completed	Maria McLauchlan
1274	AW217	Great Chart	Diversion		02/05/2007	Withdrawn	Withdrawn		
1275	SD246	Ash-cum-Ridley	Diversion		02/05/2007	Order Made & Confirmed		Completed	Matthew Garvey
1276	NS229A	Luddesdown	Extinguishment & Creation		24/05/2007	Declined to make Order		Completed	Matthew Garvey
1277	SU49	Sevenoaks	Diversion			Order made & confirmed		Completed	Maria McLauchlan
1278	AW5	Benenden	Diversion					Completed	Laura Wilkins
1279	ZR219	Doddington	Diversion					Completed	Laura Wilkins
1280	MR421	Ightham	Diversion		25/06/2007	Order made & confirmed		Completed	Matthew Garvey
1281	ZR449	Stalisfield	Diversion		26/06/2007	Order made & confirmed		Completed	Sonia Coventry
1281a	ZR420, ZR424	Throwley	Diversion		22/07/2007	Order made & confirmed		Completed	Laura Wilkins
1282	EE149	Preston	Diversion		21/06/2007		Withdrawn		Maria McLauchlan
1283	TM42	Westgate-on-Sea	Diversion		08/08/2007	Order made & confirmed		Completed	Sonia Coventry
1284	MT114	Hadlow	Diversion		01/08/2007	Declined to make Order		Completed	Maria McLauchlan
1285	TE33	Minster	Diversion		12/09/2007	Order made & confirmed		Completed	Laura Wilkins
1286	CH62	Reculver	Diversion & extinguishment		05/09/2007		Withdrawn		
1287	SU3	Sevenoaks	Diversion		12/09/2007	Declined to make Order		Completed	Sonia Coventry
1288	ZR32	Upchurch	Diversion			Order made			Maria McLauchlan
1289	MR502	Wateringbury	Diversion			On Hold			Maria McLauchlan

1290	MR108, MR488	Ditton	Diversion	24/09/2007	MR108-Order made & confirmed (Oak Wood) - Declined to make Order for part		Completed	Matthew Garvey
1291	KM290	Staplehurst	Diversion	23/10/2007	Order made & confirmed			Matthew Garvey

**Register of current applications under the Highways Act 1980
Year 2008**

For further information please call 01622 221568
Last updated 08/08/2011



Ref. No.	Details				Status (the stage the application has reached) confirmed by Secretary of State	Confirmation		Case Officer
	Path No	Parish	Description	Date Received		Withdrawn	Completed	
1292	ZU47	Milton Regis, Sittingbourne	Extinguishment	19/02/2008			Complete	Matthew Garvey
1293	MR350	Plaxtol	Diversion	21/02/2008	Order made & Confirmed		Complete	Sonia Coventry
1293	MR392	Shipbourne	Diversions	21/02/2008	Sbmission to SoS - resolution by Public Inquiry (June 2011) (Inquiry reconvenes Aug 2011)			Sonia Coventry
1294	ZR439	Throley	Diversion	28/02/2008		Withdrawn		Matthew Garvey
1295	MR430	Ivy Hatch	Diversion	28/02/2008	Rejected			
1296	HE74	Elham	Diversion	29/04/2008	Order made & Confirmed		Complete	Colin Finch & Sonia Coventry
1297	NS185	Cobham	Diversion	01/05/2008	Order made & confirmed		Complete	Sonia Coventry
1298	TRX3	Tonbridge	Diversion		Order made & confirmed		Complete	Maria McLauchlan
1299		Ramsgate	Diversion		Order made & Confirmed		Complete	Maria McLauchlan
1300	KM43, KM42	East Farleigh	Diversion		Report			Sonia Coventry
1301	TE9	St Nicolas at Wade	Diversion				Complete	
1302	CW52	Whitstable	Diversion		Order made, confirmed & certified		Complete	Laura Wilkins
1303	AE282	Brabourne	Diversion	16/06/2008	Order made & Confirmed		Complete	Sonia Coventry
1304	KB17	Maidstone	Diversion	17/06/2008	Order made & Confirmed		Complete	Sonia Coventry
1305	MR235	Wrotham	Extinguishment	30/07/2008	Order made			Sonia Coventry
1306	AW136	Westwell	Diversion	31/07/2008	Order made & Confirmed		Complete	Sonia Coventry
1307	MR81	Birling	Diversion	13/08/2008	Order made & Confirmed		Complete	Sonia Coventry
1308	CB86	Sturry	Diversion	26/08/2008	Order made & Confirmed		Complete	Maria McLauchlan
1309	ZR193	Tonge	Diversion	01/09/2008	Order made			Matthew Garvey
1310	KB28	Maidstone	Diversion	10/12/2008	Order made			Matthew Garvey
1311	WC138	Cranbrook	Diversion	19/12/2008	Order made & confirmed		Complete	Matthew Garvey

**Register of current applications under the Highways Act 1980
Year 2009**

For further information please call 01622 221568
Last updated 08/08/2011



Ref. No.	Details				Date Received	Status (the stage the application has reached)	Confirmation	
	Path No	Parish	Description	Completed			Withdrawn	Case Officer
1312	WT297, WT299	Brenchley	Diversion	02/01/2009	Order made & confirmed			Maria McLauchlan
1313	SR396	Westerham	Diversion	30/01/2009	Report			Maria McLauchlan
1314	SR442	Penshurst	Diversion	16/02/2009		Withdrawn		
1315	AE515	Ruckinge & Bilsington	Diversion	09/03/2009	Order made			Matt Garvey
1316	CB15	Blean	Diversion	01/04/2009	Under consultation			Maria McLauchlan
1317	KH49	Bredhurst	Diversion		Order confirmed			Maria McLauchlan
1317	WC5A	Goudhurst	Diversion	07/04/2009	Under consultation			Maria McLauchlan
1318	KM119	Boughton Monchelsea	Diversion	23/04/2009	Order Confirmed		Complete	Laura Wilkins
1319	HM29	Brooklands	Diversion	29/04/2009	Under consultation			Edward Denne & Sonia Coventry
1320	CW15	Whitstable	Diversion	30/04/2009	Awaiting allocation			
1321	MR184, MR177	Trottscliffe			Order made, confirmed & certified			Sonia Coventry
1322	AU58A	Ashford	TCPA Diversion Extinguishment	02/07/2009	Awaiting allocation		Complete	
1323	CB442, CB432	Petham	Diversion	16/07/2009	Awaiting allocation			
1324	EE255	Eastry	Diversion	23/07/2009	Awaiting allocation			
1325	AW226, AW226A	Kingsnorth	Extinguishment & Creation	03/08/2009	Awaiting allocation			
1326	WC174	Hawkhurst	Diversion	08/09/2009	Awaiting allocation			
1327	TE462	Minster, Thanet	Diversion	08/09/2009	Order made & confirmed			Maria McLauchlan
1328	AW150	Pluckley	Diversion	14/09/2009	Awaiting allocation		Complete	
1329	CB151A	Littlebourne	Diversion	14/10/2009	Awaiting allocation			
1330	KH555A	Chart Sutton	Diversion	14/10/2009	Awaiting allocation			
1331	AW318	Kingsnorth	Creation Order	01/08/2007	Declined	Withdrawn		Chris Wade
1332IP	HM4, HM117, HM115, HL27, HL15, HL14	Lydd	Diversion, Creation, Upgrade, Extinguishment	01/10/2009	Orders made			Matthew Garvey
1333	ZR24	Upchurch	Diversion	14/12/2009	Awaiting allocation			

1334	MR251	Borough Green & Wrotham	TCPA Diversion	22/12/2009	Order made, confirmed & certified			Matthew Garvey
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**Register of current applications under the Highways Act 1980
Year 2010**

For further information please call 01622 221568
Last updated 08/08/2011



Ref. No.	Details				Date Received	Status (the stage the application has reached)	Confirmation		Case Officer
	Path No	Parish	Description				Withdrawn	Completed	
1335	WC256	Frittenden	TCPA Diversion		25/02/2010	Order made & confirmed			Laura Wilkins
1336	KM318	Staplehurst	Diversion			Awaiting allocation			
1274	AW217	Great Chart	Diversion		12/03/2010	Awaiting allocation			
1337	CC57	Canterbury	Diversion		12/04/2010	Awaiting allocation			
1338	WT347	Horsmonden	Diversion		19/03/2010	Awaiting allocation			
1339	KH210	Hollingbourne	Diversion		27/04/2010	Awaiting allocation			
1340	ZR349, ZR350	Newnham	Diversion			Awaiting Allocation			
1341	CC17	Canterbury	Diversion		10/06/2010	Order made & Confirmed		Complete	Laura Wilkins
1342IP	ZS45, ZS53, ZS52, ZS38	Leysdown	Diversion			Orders made			Colin Finch
1343	CB225, CB225A	Adisham & Barham	Extinguishment			Awaiting Allocation			
1344	AE110	Wye	Extinguishment		07/07/2010	Awaiting Allocation			
1345IP	EE351	Eythorne	Extinguishment and Create by Order			Orders made			Matt Garvey
1346	MU12	Tonbridge	Extinguishment		12/08/2010	Awaiting Allocation			
1347IP	TR31	Manston	Diversion		12/08/2010	Awaiting Allocation			
1348	AW170	Hothfield	Diversion		24/09/2010	Order made			Sonia Coventry
1349	KH541, KH544, KH542	East Sutton	Diversion & Extinguishment		30/08/2010	Awaiting Allocation			
1350	AW149	Pluckley	Diversion		21/09/2010	Awaiting Allocation			
1351	SR371	Crockham Hill	Div		11/11/2010	Awaiting Allocation			
1352	MR52, MR24	Burham	Div & Ext			Order made & confirmed			Laura Wilkins
1353	ZR432	Throwley	Div		22/11/2010	Awaiting Allocation			

**Register of current applications under the Town and Country Planning Act 1990
by Kent County Council on behalf of District and Borough Councils**
For further information please call 01622 221568
Last updated: 08/08/2011



Ref. No.	Details						Confirmation		
	Path No	Borough	Parish	Description	Date Received	Status (the stage the application has reached)	Withdrawn	Completed	Case Officer
1	AE210	Ashford	Boughton Aluph	Diversion	12/08/2010	Order made & confirmed			Sonia Coventry / Kate Beswick
2	AW150A	Ashford	Pluckley	Diversion	23/08/2010	Orders made & confirmed			Sonia Coventry / Kate Beswick
3	AE345, AE647, AE648, AW296	Ashford	Sevington & Kingsnorth	Diversion, creation, stopping-up	22/09/2010	Under Consultation			Sonia Coventry / Kate Beswick
4	AE278, AE294	Ashford	Brabourne	Diversions	01/06/2011	Under Consultation			Sonia Coventry

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From: Director of Customer and Communities
To: Regulation Committee 7 September 2011

Subject: Gating Order – Un-named footpath to the rear of Henley Fields, Tenterden.

Classification: Unrestricted

Summary: A report seeking a decision from the Regulation Committee on whether to continue the Henley Fields Gating Order in operation.

Background

1.0 On 15 September 2008 a panel of the Regulation Committee resolved that a Gating Order should be made excluding the public from an un-named footpath to the rear of Henley Fields, Tenterden. The decision included a commitment to review the effectiveness of the Order after two years of operation. The Order became operational in April 2009.

1.1 A review of the effectiveness of the Order has been carried out and is summarised in this report. On the basis of the review Members are asked to endorse the recommendation that the Gating Order remains in place to be periodically reviewed if and when circumstances in the area change.

1.2 On the 1 April 2006 the Highways Act (Gating Orders) (England) Regulations 2006 came into force. The regulations brought into effect amendments to the Highways Act 1980 providing the County Council, as the Highway Authority, with the power to make, revoke or vary gating orders. The powers may be exercised in order to prevent crime or antisocial behaviour on or adjacent to the highway, if the Highway Authority are satisfied that premises adjoining or adjacent to the highway are affected by the persistent commission of crime or anti-social behaviour, and that it is facilitated by the existence of the highway.

1.3 In September 2007 Kent Police and Ashford Community Safety Unit submitted an application for a Gating Order in respect of an un-named footpath to the rear of Henley Fields, Tenterden.

1.4 The footpath is a public highway, approximately 334 metres in length with a metalled surface. It links Silver Hill with Henley Fields at three locations, passing to the rear of properties along its length. Close board fencing along the northern boundary of the path prevents good natural surveillance of the footpath from the adjacent properties. The area to the south of the footpath is a mixture of garden and scrub bordering the Homewood School site. The footways of Henley Fields provide an alternative to using the footpath. They are of a similar length, width and gradient.

1.6 Statistics relating to reported crime were submitted in support of the application and provided to Members in the original report to the Regulation Committee Panel dated 15 September 2008. The statistics clearly demonstrated that persistent (enduring, constant, repeated) criminal and anti-social behaviour occurred on, and was facilitated by, the existence of the footpath. The statistics indicated that reported crime had increased significantly in 2006 and 2007. The reported anti-social and criminal activity included: persistent damage to fences, graffiti and missile throwing at houses.

1.7 Statements from residents concerning instances of criminal damage and antisocial behaviour were also provided in support of the application. It is clear from the residents' statements that the level of anti-social and criminal behaviour was having a significant impact on their quality of life.

1.8 Reported crime and anti-social behaviour in Henley fields, and specifically those properties adjacent to the footpath, represented a significant proportion of all reported criminal damage for the St Michaels ward. This despite considerable police resource being devoted to detecting and deterring crime and anti-social behaviour in this area.

Impact of the Gating Order.

2.0 Mr M Hill the Elected Member for (Tenterden) has received correspondence from a constituent asking that the footpath is reopened. The author points to the impact of the closure and highlights:

- The parking of vehicles on the footpath.
- The placing of a trellis and plant pots at one of the gates.
- The loss of amenity.
- That street lights in the passage have remained on.
- The moving of the gates and encroachment onto the highway by one of the businesses adjacent to the footpath.

The author asks if crime has fallen since the closure, whether residents have taken advantage of the closure and whether drug dealing now takes place in the area.

2.1 Analysis of recorded crime and antisocial behaviour in the Henley Fields area for the period April 2009 to the 27 January 2011 indicates that only three calls have been made relating to houses backing onto the alley during this period.

- One relating to an abandoned vehicle, not on the path,
- One an information report not relating to the route, and
- One report of antisocial behaviour (dated 23/4/09) coinciding with the completion of the installation of gates and fencing.

2.2 In total there have been 15 calls relating to the St Michaels ward;

- two of these relate to a house party nearby (not attached to the alleyway)

- two further calls relate to a domestic incident.

There are calls relating to concern for welfare, traffic hazards, theft offences and information reports relating to abandoned vehicles. The reports could not be considered to be associated with or facilitated by the existence of the highway. Additionally the level of reports for the ward area is in line with the level of reports in the period prior to the introduction of the Gating Order. There appears to have been no displacement of the crime and anti-social behaviour in the area as a result of the introduction of the Order. There are no reports of drug dealing associated with the footpath.

2.3 No public consultation was carried out in reviewing the effectiveness of the Gating Order, the review relying primarily on analysis of police records. Additional information of note has been received and should be considered in reaching a decision.

2.4 A statement has been provided by PCSO Gipson-White setting out the very positive impact that the Gating Order has had on the policing of the area and the quality of life of residents.

2.5 Six letters have been received from residents living adjacent to the path highlighting the very positive impact that the introduction of the Gating Order has had on their quality of life.

2.6 A walk through of the alley way indicates that some trellis has been erected around one of the gates. This improves the aesthetics of the gate but does not interfere with access should it be required.

2.7 The gates beside the fire station do appear to have been moved and there has been very clear encroachment by an adjacent property owner who has erected a close board fence within the highway.

2.8 No maintenance has been carried out to the route since the introduction of the Gating Order as is evident from the overgrowth and accumulations of debris and vegetation on the surface of the route.

2.9 It should be noted that the gating of a route does not remove the maintenance and protection responsibilities of the highway authority. The encroachment and overgrowth have therefore been reported to Kent Highways Services for attention.

2.10 I believe that the Gating Order has been successful in achieving its primary objective of reducing crime and anti-social behaviour facilitated by the footpath. I recommend that the Order should continue in operation indefinitely, to be reviewed periodically should there be a material change in the area that suggests that it should be amended or revoked.

3. Recommendation

- (a) That the Gating Order continues in operation.
- (b) That the Order is subject to periodic review if and when circumstances in the area change.

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Update on Planning Enforcement Issues

Item 10

10 Report by Head of Planning Applications Group to the Regulation Committee on 7th September 2011.

Summary: Update for Members on planning enforcement matters.

Recommendation: To endorse the actions taken or contemplated on respective cases.

Local Member: Given by case in Appendices 1 to 3

Unrestricted

Introduction

1. This report provides an update on enforcement and monitoring work carried out by the Planning Applications Group since the 17th May 2011 Regulation Committee.
2. Summary schedules of all current cases have been produced (see Appendices 1, 2 and 3). They cover unauthorised breaches of planning control and those occurring on permitted sites, primarily waste-related. The emphasis is on live and active cases along with those resolved between Meetings. Those cases resolved or sufficiently progressed to be removed from our immediate workload are highlighted in bold.

Report Format

3. Cases have been summarised in the appended schedules and presented in this report under the following categories:
 - Achievements / successes [including measurable progress on existing sites]
 - New cases, especially those requiring Member endorsement for action
 - Significant on-going cases
 - Other cases / issues of interest and requests by Members
4. Members may wish to have verbal updates at Committee on particular sites from the schedules, (ideally with prior notice) or reports returned to the next Meeting. The report continues to give details of general site monitoring and progress on chargeable monitoring for minerals development.

Meeting Enforcement Objectives

Co-ordinating Role

5. I am continuing to receive a number of district enforcement cases, particularly from Sevenoaks District and Swale Borough Councils. Whilst returning or transferring those to the relevant District Authorities, I am still offering advice on enforcement strategy and on the wider controls and powers available. County Officers have adopted a supportive role and co-ordinated cases where appropriate. The Milton Creek case at Sittingbourne in Swale Borough (see number 12 of Schedule / Appendix 1) is a good example of that approach with a pooling of expertise and powers and a sharing of workloads between regulators. Landowners and operators, tend to yield and co-operate more quickly when

they are presented with a united enforcement front.

6. I reported to the last Meeting that the types of cases mentioned within paragraph 5 above are largely mixed-use contraventions. These fall within district council jurisdiction, unless a primary (usually waste-related) County planning use is evident. Our Enforcement Protocol with Kent district councils and fairly recent case law in *R (East Sussex County Council) v Secretary of State for Communities and Local Government and Robins (2010)* require that 'Unless the breach involves a purely 'county matter', the district council should then initiate any necessary enforcement action'. The County Council is obliged to relinquish such cases to the relevant district council. Nevertheless, we still attempt to assist in an advisory capacity.

Consultation on draft National Planning Policy Framework (NPPF)

7. The County Council has recently been consulted on the Government's proposed streamlining of national planning guidance. The intention is to bring together all current Planning Policy Guidance (PPGs), Planning Policy Statement (PPSs) and related supplementary guidance into one all-embracing and simplified document. The aim is to reduce over a thousand combined pages down to around fifty.
8. The County Council will produce one co-ordinated response and contribute to various Peer Group responses, such as the Planning Officers Society (POS) and the National Association for Planning Enforcement Officers (NAPE).
9. Of relevance to this Committee, is the proposed removal of PPG 18 'Enforcing Planning Control'. This forms the common and agreed basis for planning enforcement. It informs what might be expected of the service and proscribes how local authorities should carry out the function in a balanced and proportionate way. It also promotes consistency and fairness.
10. Whilst the aim of streamlining national planning policy is acknowledged, it would nonetheless take away a detailed body of guidance, relied upon by staff engaged in enforcement action. That support is particularly important at Public Inquiry. Indeed, County Council Proofs of Evidence are always seated in such policy guidance, which is relied upon as a pre-agreed framework for our case. I am concerned that, added to limited mention of planning enforcement in the Localism Bill, a policy vacuum is starting to emerge in this challenging field of planning.
11. Two bullet points concerning planning enforcement have already been sent to the Planning Officers Society as part of a collegiate response to the Government's consultation. They are:
 - *Enforcement in relation to minerals and waste planning is an important issue and the NPPF should provide a high level policy framework for planning enforcement issues; and*
 - *The removal of a well-rehearsed and detailed body of planning policy and guidance would be acutely felt at Public Inquiries, particularly in the minerals and waste enforcement field. It is likely that the increased ambiguity that the loss of more*

detailed policy and guidance would cause would engender a more adversarial approach in that forum.

12. I would add that a loss of common policy ground among local planning authorities would very likely lead to inconsistency of approach in enforcement matters. That could potentially weaken the overall service.
13. Should the confirmed NPPF not include sufficient policy context for planning enforcement, the County Council would need to fall back on the emerging Minerals & Waste Development Framework (MWDF) and our agreed Enforcement Protocol. In anticipation of this, I reported to the last meeting on the following draft policy which is proposed for inclusion within the document:

“The County Council will carry out its planning enforcement functions within the terms of its own Enforcement Protocol (and any subsequent variations) and specifically for waste-related matters, in light of the European Union Waste Framework Directive.”

14. If eventually enshrined as County Council policy, this would give in a sense the opportunity for a local version of the current PPG18 (Enforcing Planning Control), expanded to include case law precedents and examples of good practice gleaned from peer group networks. Either way, the Regulation Committee would have a pivotal role in endorsing and fine-tuning such policy guidance. The support of Members to a set of operational principles would undoubtedly prove crucial in underpinning any enforcement action taken.

Consultation on proposed revisions to village green status.

15. A further consultation concerns Village Green Policy. This comes under the remit of this Committee and has general planning aspects. Under the Chairman’s guidance a response will be made to DEFRA through a combination of the Planning Applications Group and Public Rights of Way and Commons Registration.

Consultation by Natural England on new enforcement powers

16. A general consultation by Natural England (NE) is also current. It concerns a new enforcement regime to protect wildlife and the natural environment, including Sites of Special Scientific Interest (SSSI). This would also cover breaches of the Environmental Impact Assessment (Agriculture) Regulations.
17. Until recently, NE advise that the only options available to tackle most breaches of regulations were either to issue warning letters and cautions or to proceed to full criminal prosecution. That has changed in the wake of the decision by DEFRA to enable Natural England to impose “civil sanctions” against alleged illegal activities and order the restoration of environmental damage. A ‘half-way’ house would be to accept voluntary enforcement undertakings where legislation has been breached.
18. I intend to reply in a positive vein, since complementary and enhanced powers of this kind can only improve the level and scope of environmental protection that is currently

available. It would also help to share the public enforcement burden in the sensitive environments that qualify for these new sanctions.

EA training initiative

19. The Environment Agency has been re-structuring and re-deploying its more specialist personnel. It was therefore thought opportune by them to invite their planning counterparts to a workshop session on planning liaison and enforcement issues. I welcome this invitation since it will allow some consultation issues over planning applications to be aired and for the now improved enforcement relationship to be further cemented.

Case focus

20. Since the last Meeting resources have been focussed on 6 sites where formal enforcement action has been taken, 3 cases where investigations are underway and a further 2 cases have been satisfactorily progressed. Amongst formal monitoring visits on permitted sites there have been 13 chargeable and 19 non-chargeable visits.

Achievements / Successes [including measurable progress on sites]

Shaw Grange, Charing (Member: Richard King)

21. Members are very familiar with this site (see summary details under Appendix 1, Schedule 1, No. 1). It has been acquired by the County Council after a long enforcement battle with the previous owner and I can now report that it has essentially been restored. The former landfill section has been lined across its surface, then covered with soil, smoothly contoured and seeded with a wild flower mix. Tree-planting will take place in the coming growing season, from October onwards. Gaps in the site perimeter fence are currently being bridged. Leachate is also under active review. The aim is to create a landscape asset from a former contravention site, close to local residents. I shall keep Members informed of the progress in absorbing the site back into its sensitive AONB setting.

Four Gun Field, Otterham Quay Lane, Upchurch (Member: Keith Ferrin)

22. A further achievement since the last Meeting concerns this long standing case of alleged waste-related activities on this former lawful brickfield site, at Upchurch. Summary particulars are given under Appendix 1, Schedule 1, No. 10.
23. The site remains quiet and inactive. The County Council's Enforcement Notice has been confirmed and the remaining items of compliance are now the subject of planning applications to Swale Borough Council (SBC). These seek to retain certain site infrastructure (the site office, turning area, wheel-spinner and so on). A consultation has been received and my reply is attached for Members endorsement. SBC is the determining authority and now the first port of call for any question as to what planning

use might be carried out under the B2 (General Industrial) Lawful Use on site. The Enforcement Notice is available to prevent the kind of unacceptable use described within its terms, which should now be in the past. All other planning and enforcement aspects now fall to SBC to manage and control.

24. I shall inform Members of the outcome of the current planning applications submitted to SBC. Otherwise, apart from attending case conferences at SBC Offices, under the chairmanship of their Chief Executive, I am looking to draw back from the case in favour of other sites. I shall however maintain meaningful contact with the Borough Council and local residents, until a more permanent planning solution is found at the site. I shall assist in that endeavour, in the public interest but SBC is now the all-purpose lead authority in the case (i.e. development management, forward planning, enforcement and environmental health).

New Cases, especially those requiring action / Member support

25. Three new cases have arisen since the last Meeting. They include: the former Chelsfield Ammunition Depot, Shacklands Road, Shoreham (see Appendix / Schedule 1, no. 7); Unit 15A, Ridham Dock Industrial Estate, Nr Sittingbourne (see Appendix / Schedule 1, no. 13) and finally, Easy Load, Dartford Heath (see Appendix / Schedule 2, no. 2).
26. These alleged contraventions have been (or are being) investigated and addressed as summarised within the attached schedules.

Significant on-going cases

27. I would refer Members to the 'Achievements' section from paragraphs 21 to 24. Two very notable and demanding cases – Shaw Grange and Four Gun Field - have been brought to a reduced and more manageable level in the context of the general enforcement workload reported elsewhere in these papers.

Other cases / issues of interest and requests from Members

28. I would refer Members to the extended section on 'Meeting Enforcement Objectives' between paragraphs 5 to 19 of this report, concerning our advisory and co-ordinating role in complex multi-agency cases. Also, the raft of consultations and the responses sent or contemplated in fields of interest to this Committee

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

29. In addition to our general visits to sites as a result of planning application work, we also undertake routine visits to formally monitor sites. Since the last Regulation Committee, we have made a further 13 chargeable monitoring visits to mineral and waste sites and 19 non-chargeable visits to sites not falling within the chargeable monitoring regime.

Resolved or mainly resolved cases requiring monitoring

30. Alongside the chargeable monitoring regime there is also a need to maintain a watching brief on resolved or mainly resolved enforcement cases which have the potential to recur.
31. Cases are periodically removed to make way for others when the situation on site has been stabilised; restoration or acceptable restoration has been achieved, a district or Environment Agency (EA) remit confirmed (or with action being a realistic possibility by them). Another occasion is where a planning application would address the various issues and there is the realistic prospect of one being submitted. Cases then go onto a 'reserve' data base, with an in-built monitoring commitment; ready to be returned to the Committee's agenda should further enforcement issues emerge or a positive planning solution becomes available. An example this time is Longton Woods, Detling (see Schedule 1, Appendix 1 and No.2).
32. There is a running list of sites which fall within this category, against which priorities are drawn and enforcement monitoring checks are made.

Conclusion

33. The cases reported conform to an emerging pattern. On the one hand, set-piece cases such as Shaw Grange and Four Gun Field are coming to a tentative close. On the other; difficult district enforcement matter cases are being increasingly referred to us. These are being assessed for a County locus and if missing returned (or transferred to the appropriate authority) in favour of a consultative and advisory role. That support, drawing on our expertise and experience in major and complex enforcement cases has proved decisive on a number of occasions. However, our involvement has to be circumspect in planning legal terms, given the case law quoted under paragraph 6 of this report and tempered by the demands of our own County Matter enforcement workload.

Recommendation

34. I RECOMMEND that MEMBERS:

- (i) ENDORSE the actions taken or contemplated on the respective cases set out in paragraphs 5 to 24 above and those contained within Schedules 1 and 2 of Appendices 1 and 2.

Case Officers: Robin Gregory

01622 221067

Background Documents: see heading

Active Enforcement Cases

Schedule 1: Contraventions on (part) unauthorised sites

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
1	<p>Ashford</p> <p>DC3/AS/03/COMP/0090 Shaw Grange, Charing (Member: Richard King)</p>	<p>Previous multiple breaching of landfill permissions, Enforcement Notices and High Court Injunctions.</p>	<p>To secure restoration of the site in the public interest.</p>	<p>The landfill site has now been sealed, restored, contoured and seeded with a wild flower mix. The site is being left to settle, with leachate under active review. Gaps in the perimeter fencing are being bridged.</p>	<p>The neighbouring residential park has been kept informed of progress and any ‘day-to-day’ disturbance has been dealt with promptly. Final tree planting will take place from October onwards.</p>

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
2	<p style="text-align: center;">Maidstone</p> <p>DC3/MA/11/COMP/ Longton Woods, Detling</p> <p>(Member: Ms Jenny Whittle)</p>	The alleged depositing of waste materials in woodland	To investigate and establish whether the reported activity falls within the County Council's planning enforcement remit.	Access to the woodland is through a metal gate leading directly from the A249. The gate was found to be insecure and two small stockpiles of mixed waste materials fly-tipped just inside the entrance.	The landowner was advised to remove the material and secure the site. That has now happened and the site is restored. I shall therefore remove from these papers.
3	<p style="text-align: center;">Sevenoaks</p> <p>DC3/SE/11/COMP/ Marwood House Crockenhill</p> <p>(Member: Roger Gough)</p>	The importation, depositing, land raising and storage of waste materials on agricultural land.	To investigate and establish whether the reported activity falls within the County Council's planning enforcement remit. If not, to advise and assist in brokering a solution to the site given its scale and impact.	Sevenoaks DC (SDC) have jurisdiction over the site, given the equestrian development and caravan park with ancillary storage. Importation of construction spoil has ceased.	The County Council's and EA joint intervention has brought importation to a halt. Nevertheless, it is for SDC to consolidate the position, under any advice they may request from KCC and the EA.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
4	DC3/SE/11/COMP/ Willow Farm Crockenhill (Member: Roger Gough)	The importation and depositing of waste materials to raise the land.	To investigate and establish whether the reported activity falls within the County Council's planning enforcement remit.	Waste materials have been imported and deposited on the land to develop (district sanctioned) earthbunds to form enclosures in the form of manure pits to store animal waste generated internally on the farm landholdings prior to being spread on the farmland as a fertilizer.	This represents a district rather than County Council case. It has therefore been returned to SDC to regulate together with the Environment Agency. There has been no further complaint and I shall therefore remove from these schedules.
5	SE/10/03196/FUL. Brasted Sandpits Brasted (Member: Richard Parry)	Delayed restoration of a former sand quarry with some unauthorised infilling.	To achieve restoration to original levels, in compliance with the County Council's confirmed Enforcement Notice.	The EA pursued the errant tipping through the courts, resulting in the site being sold to the adjoining Golf Club. A planning application has since been submitted to SDC for a 9 hole par 3 Golf Course, completion of restoration and a Golf Academy.	County Council officers were consulted by SDC on the original set of proposals and replied in a positive vein. That application has since been superseded and our views invited once more. I intend to reply largely as before and commend this creative solution to delayed restoration of a former sand quarry.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
6	DC3/SE/11/COMP/ Mussenden Lane Horton Kirby (Member: Roger Gough)	The importation and depositing of waste materials on agricultural land.	To investigate and establish whether the reported activity falls within the County Council's planning enforcement remit.	Small stockpiles of inert waste materials from external ground works were found deposited on the land without authority. Sevenoaks D.C. and the Environment Agency are both investigating the activity.	Whilst the case fell within the planning remit of Sevenoaks DC, the errant stockpiles of spoil were removed by the landowner under advice from the County Council. It remains for SDC and the EA to monitor continued compliance. I shall therefore remove from these schedules.
7	Former MOD Chelsfield Ammunition Depot, Shacklands Road, Shoreham (Member: Roger Gough)	Shoreham Parish Council reported to KCC the presence of a mobile crusher at the above site. It is located within the Metropolitan Green Belt and AONB.	To investigate and establish whether the reported activity falls within the County Council's planning enforcement remit.	Investigations have taken place. The crusher was being stored and not used. There was no detectable waste management use and jurisdiction remains with Sevenoaks DC.	The site has a complex planning history and includes recent complaints of non-compliance with the B8 Lawful Use for storage & distribution. That however is a SDC matter to deal with. I now intend to remove from these schedules.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
8	<p style="text-align: center;">Shepway</p> <p>DC3/SH/10/COMP/A02 Keith Cornell Waste Paper Ltd, Lymgne Industrial Park, Lymgne</p> <p>(Member: Ms Susan Carey)</p>	Alleged unauthorised waste-related recycling use on industrial land resulting in local residential complaints of noise and fire risk.	To achieve a reduction in the current amenity impacts through voluntary restraint, pending submission of a retrospective planning application.	The operator has voluntarily re-located the noisy bottle recycling use away from those affected. Indeed, local residents have submitted noise logs confirming a definite benefit. However, they also report a continuing and general noise problem. The applicant's own noise adviser points to enhanced acoustic fencing at the estate perimeter, as the likely solution.	Negotiations are proceeding with the estate landowner for enhanced amenity fencing. Meanwhile, a draft retrospective application has been received for comment by officers. A potential solution to this vexed issue is slowly emerging. I would seek contingency support however for the service of an Enforcement Notice, should a viable solution flounder.
9	<p>DC3/SH/11/COMP/A02 Moores Turf & Topsoil Brenzett</p> <p>(Member: Ms Carole Waters)</p>	Waste material stockpiles encroaching into the countryside without authority.	To arrest and retract the alleged breach.	The alleged breach has been urgently addressed within the time frame of a recent and now granted Lawful Use Certificate for inert waste processing on site.	Compliance has been reached, without the need for any formal enforcement action. The Lawful Use and related boundaries have been carefully drawn and should ensure an overall improvement in the organisation and standard of operation at the site. I shall continue to monitor the site.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
10	<p style="text-align: center;">Swale</p> <p>DC3/SW/04/COMP/0059 Four Gun Field, Upchurch (Member: Keith Ferrin)</p>	Alleged waste activities on a former brickfield site with an associated lawful use.	To ensure that no waste-related use is carried out on site, particularly given its sensitivity close to housing.	Compliance is now being sought with the County Council's confirmed Enforcement Notice. That is by means of planning applications submitted to Swale BC for retention of site infrastructure.	The case is reported in more detail between paragraphs 22 and 24 of these papers.
11	<p>DC3/SW/11/COMP/ APM Metals Sittingbourne (Member: Mike Whiting)</p>	Unusual site traffic movements disrupting peak-hour flows.	To urgently alleviate the problem.	Swale BC hold jurisdiction but the operator was contacted by County officers and a practical solution found. Phased use of the site was organised by radio, using remote parking spots.	Essential site improvements (required by the EA) have restricted operational space on site, decanting site vehicles onto the road. The operator was quick to respond, though an element of the problem remains. Works are not yet complete but the EA are applying the necessary pressure.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
12	DC3/SW/11/COMP/ Milton Creek Sittingbourne. (Member: Mike Whiting)	Over stacking and stock-piling of site materials causing collapse of the creek bank structure, resulting in the blockage of water flow within the creek and obstruction to navigation. This partly involves alleged trespass onto Medway Ports Authority land.	To see whether enforcement of the district planning permission for production of 'growing media' (i.e. soil-based compost) at the site, warrants the further intervention of the County Council?	A joint meeting involving officers from KCC, Swale B.C., the Environment Agency and Medway Ports Authority has prompted an on-going investigation into the problem. There is no direct County Council remit but a team co-ordinating role has been adopted.	The pooling of powers from a range of regulatory bodies should prove sufficient to ensure a reversal of damage on site and in the water channel. Swale BC holds the lead and the EA, Medway Ports Authority and SBC Technical Services have the task of finding an engineering solution to the overall problem. I shall keep Members informed of progress, as SBC drive the case.
13	KCC/SW0194/2011 SITA UK Limited Unit 15A Ridham Dock Industrial Estate (Members: Mr M. Whiting & Mr A. Whillicombe)	Alleged unauthorised wood-shredding.	To seek to regularise the on-site wood-shredding activities through submission of a retrospective planning application.	SITA secured the use of the site earlier this year and stopped the activity. They then applied for permission. The case is was due to be considered at yesterday's Planning Applications Committee, with a recommendation for conditional planning permission.	I shall inform Members of the outcome of the application at the Meeting.

Schedule 2: Alleged breaches on Permitted Minerals & Waste Sites

Appendix 2

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
1	<p style="text-align: center;">Ashford</p> <p>DC3/AS/COMP/ Ripleys Scrap Metal Recycling Tennyson Road Ashford</p> <p>(Member: George Koowaree)</p>	Over-stacking of permitted metal stockpiles and related additional noise and disturbance.	To urgently bring the stockpiles back down and in compliance.	The company Managing Director has taken personal ownership of the problem. He traced the issue to some outdated site machinery and made other site adjustments. He has further met with those living next to the site and offered an enhanced 'buffer-strip', with road surfacing, improved landscaping and gated private access.	The current over-stacking is being addressed by the operators, including the acceleration of investment into more modern and capable machinery. The largely voluntary 'side' improvements are in the form of a draft planning application, which is due to be submitted shortly. I shall keep Members informed of these proposals, which are styled very much within the spirit of the current Localism Bill.

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
2	<p style="text-align: center;">Dartford</p> <p>DA/10/1232 Easy Load Ltd Dartford Heath</p> <p>(Member: Jan Ozog)</p>	<p>Alleged unauthorised use of soil screening machine on site.</p> <p>It has also been reported that the cross-sectional height of machinery, very recently permitted has been breached, creating a potential noise, dust and visual problem.</p>	<p>To have the screener removed.</p> <p>To assess the alleged additional amenity impacts being caused, to see if they are acceptable within planning terms. Failing that, to ensure that the recently permitted elevations are honoured.</p>	<p>The screener is due to be removed in favour of the permitted 'Trommel' recycling machine.</p>	<p>The permission granted in March 2011 gives the opportunity for higher waste recovery rates and improved controls on site. That potential benefit however, is at risk of being overshadowed by the alleged breach of the new permission. Should a retrospective application not be supportable by officers, I would seek Members support for the service of Breach of Condition Notices to correct any site irregularities.</p>
3	<p style="text-align: center;">Tonbridge & Malling</p> <p>DC3/TM/08/COMP/0013 Aylesford Metals Co. Ltd, Mill Hall, Aylesford</p> <p>(Member: Peter Homewood)</p>	<p>Complaints from local residents of out of hours working and visual amenity impacts from the over-stacking of scrap.</p>	<p>To ensure compliance with the base planning permission and related Enforcement Notice.</p>	<p>Re-location holds the key to resolving issues on site. A suitable site has now been identified and a planning application for relocation is imminent. If granted, a legal agreement would secure an end to the present use of Mill Hall.</p>	<p>The site is being closely monitored whilst re-location is sought. Officers are acting as a bridge and solving any issues between the operator and local residents as they arise.</p>

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
4	<p>TM/09/3231 New Earth Composting Facility, Blaise Farm Quarry, Kings Hill, West Malling, Kent, ME19 4PN</p> <p>(Members: Mrs S Hohler, Mrs T Dean and Mr R Long)</p>	<p>Alleged breaches of planning permission relating to odour nuisance in parts of Offham, Kings Hill and West Malling since the beginning of 2010 (and ongoing).</p> <p>Alleged breach of Environmental Permit.</p>	<p>To investigate concerns and ensure that the terms of the planning permission are complied with. The EA would separately enforce the terms of the Environmental Permit (the main odour controls)</p> <p>A submission has also been made pursuant to condition 5 of planning permission TM/09/3231 to regularise a number of discrepancies between the permitted and “as built” facility and provide for improved ventilation control. This is currently the subject of consultation with relevant parties.</p>	<p>The application has been supplemented since May 2011 and the number of complaints has reduced significantly in recent months, as further improvements have been implemented at the site.</p> <p>Officers expect to report this application to KCC’s Planning Applications Committee on 11 October 2011. Further information on these issues will be included in the relevant Planning Applications Committee report.</p>	<p>A close working relationship is being maintained with relevant parties and it is hoped that any future complaints will continue to become less frequent until they become exceptions rather than the rule (as we would expect from any well run waste management facility).</p>
7	<p>TM/08/175 Gallaghers Ltd Workhouse Lane Pit, Ryarsh.</p> <p>(Mrs Sarah Hohler)</p>	<p>Alleged breach of site restoration scheme through the introduction of new materials on site.</p>	<p>To halt the activity.</p>	<p>On receiving complaints from local residents, the company were approached and importation of materials was stopped.</p>	<p>Swift intervention by officers has dealt with the matter. The site will be monitored though to prevent any recurrence. I am unaware of any further disruption of this sort.</p>

Schedule 3: Alleged breaches on Permitted County Council Developments

Appendix 3

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
1	<p style="text-align: center;">Swale</p> <p>Tunstall School Bredgar</p> <p>(Members: Mike Whiting & Alan Willicombe)</p>	<p>Alleged breach of planning permission, concerning informal car parking in front of the Listed School building, which itself is within a Conservation Area.</p>	<p>To help alleviate the parking issue at the site and within its village context.</p> <p>Whilst the School are not actually in breach of any planning permission, we are continuing to monitor the situation.</p>	<p>Given the lack of progress since the last unsuccessful planning application, it is clear that no one party is in a position to remedy the school parking problem on their own, and therefore a group of local representatives is needed to try and broker a mutually acceptable solution.</p>	<p>In the meantime, the Diocese and the Education Authority are considering improving upon their earlier submitted planning package to incorporate some properly managed parking on the school site with high quality landscape planting to complement the Conservation Area setting.</p> <p>I have being investigating progress and I shall report on any positive moves forward at the Meeting.</p>

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APPENDIX 4

Rob Bailey
Planning Services
Swale Borough Council
East Street
Sittingbourne
Kent. ME18 3HT

Planning Applications Group

First Floor, Invicta House
County Hall
Maidstone
Kent ME14 1XX
Tel: 01622 221067
Fax: 01622 221072
Textbox: 08458 247905
e-mail: robin.gregory@kent.gov.uk

Ask for: Robin Gregory
Your Ref: Case 16772
Our Ref: PAG/SW/04/COMP/0059
Date: 30 August 2011

Dear Mr Bailey,

Re: **Application SW/11/0866 Stationing of portable office / rest-room.**
Application SW/11/0867 Formation of areas of hard-standing, siting of wheel-
spinner, CCTV cameras and stanchion,
Four Gun Field, Otterham Quay Lane, Upchurch

Introduction

Thank you for your consultation on the two current retrospective planning applications for this site. They have been made to your Authority as they have been linked by the applicant to the B2 Lawful Use originally granted by Swale Borough Council. The County Council defers to you as the determining authority.

The County Council's Role

The County Council has had an association with the site for over 8 years; the first-half in fending-off potential planning contraventions and the second-half, in taking conclusive enforcement action. I attach a copy of our confirmed Enforcement Notice for your convenience.

Enforcement Notice

The Enforcement Notice prohibits any material change of use (within the terms proscribed) from the B2 Lawful Use (and part-residential) to an independent waste management use and related 'facilitating' development (i.e. the means used to carry out the unauthorised use). It is this latter part, which the planning applications are attempting to address. There was the option on the part of the owner / occupiers to remove the items listed under the Enforcement Notice or alternatively to yield to planning control through means of these applications. If they had taken neither course, they would have opened themselves to prosecution by the County Council.

Validation

The County Council did not have sight of the applications during the validation stage. That has unfortunately allowed a number of alleged inaccuracies to creep into them. Those in the County

Sharon Thompson
Head of Planning Applications

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Council's opinion are at odds with the Planning Enforcement Appeal Decision and recent High Court rulings.

Items covered in relation to the Enforcement Notice

The County Council confirms that the applications cover the correct operational development on site but the fence-meshing is not included. It remains on site in breach of the Enforcement Notice. The County Council awaits urgent confirmation of either its immediate removal or urgent inclusion within the current applications. It is not permitted development; it is caught by the Notice and is unlawful.

Similarly, the proposed internal 'dog-leg' to the main compound footprint (so as to avoid the residential corner of the site) would require the erection of new fencing. Minor operational permitted development rights would undoubtedly be claimed (see 1.5 of the Supporting Statement); however the side-track may be a highway (there is also a nearby public footpath), potentially limiting the height of any fence to 1 metre. That would be inadequate for purpose. Anything higher in those set of circumstances would potentially require planning permission.

Content of applications

The applications contain only basic information. There is one drawing identifying the position of items on site. There are no elevational drawings, with reliance instead on photographs and no cross-sectional engineering detail of the hard-surface turning area. Should Borough Members be minded to grant permission, this lack of precision would make enforcement more difficult.

The Supporting Statement

The supporting statement strays within section 3, from explanation of the proposals into planning legal comment on the applicant's perception of the appeal dismissal against service of the County Council's Enforcement Notice and the outcome of the High Court Appeals. The County Council does not wish to become drawn into these arguments within the context of regularising applications for site infrastructure. That would need to take place through more appropriate channels. Nevertheless, the applicant has chosen to introduce the subject in a public arena and some comment from the County Council is required.

The use on site

The lawful use of the site is for B2 General Industrial (an open-use version). B2 'concrete crushing' has not been '*legally established*' on site, as asserted. Only an unlawful use, as described within the Enforcement Notice has been carried out. Unlawful remnants of that use remain. It is acknowledged however, that the applications seek to regularise that position, in the context of the B2 lawful use.

Notwithstanding that, the County Council would question, an implied and automatic 'return' to concrete crushing. There would be many 'hoops' to go through before approaching that point. For instance, any such use would need to steer away from the terms of the Enforcement Notice. The current applications would need to be granted in their entirety, including the mesh-fencing. Any 'secondary' permission(s) to secure required safeguarding (e.g. screening bunds, enhanced fencing and even enclosure within a building) would also need to be in place. Environment Agency

Permitting; Medway Council registration and regulation of mobile plant and machinery and WRAP (Waste and Resource Action Programme) compliance would also be required, along with adherence to the Noise Abatement Order.

The Enforcement Appeal established that amongst other matters, any such use would have to be WRAP compliant. In addition to a full set of planning permissions that clearly has in mind a properly organised, safeguarded, managed, specified and conducted use. The WRAP Protocol has been dismissed in the application as *'irrelevant'*. The opposite is true in the context of the currently proposed use. It would have an integral part to play in evaluating the planning status of any such use within the B2 Lawful Use and in ensuring the standard of operation required.

Planning conditions if granted

Swale Borough Council is the determining authority on the applications and also for any conditions to be attached, if granted. To assist however, a number of areas for conditions spring to mind.

Firstly, to call in any information that is missing (e.g. construction detail of the hard surface). Secondly, to tie the operator to the terms of the applications as submitted (with any negotiated or required amendments). Thirdly, to incorporate within a condition the understanding of the use to which the operational development would apply (B2 General Industrial) and then specify that the B2 use asserted in the applications would not be automatic; rather it would be subject to the qualifying 'hoops' listed in the last paragraph of page 2 above. The grounds would be *'for the avoidance of doubt and understanding of the context of the operational development the subject of these planning permissions'* (or something similar). The County Council has used this construction a number of times. Informatives would be unenforceable.

In addition, operational maintenance of the site surface to and from the wheel-spinner and prevention of mud and debris onto the highway could be conditioned, allied with controls of a similar nature. Direction of the CCTV cameras into the site would be an example. All of that might fall short of hours of working and noise and dust control but any further level of safeguarding development required by amenity regulators might conceivably offer a second layer of control. Further advice on available controls may be sought from the County Council in that scenario.

Grounds if refused

If either or both of the planning applications are refused, the owner / occupiers would have a duty to comply with the County Council's Enforcement Notice in the same measure. The reasons for issuing the Enforcement Notice (see section 4 of the document) may assist in formulating grounds of refusal, should that emerge as your recommendation or the will of the Committee.

I trust that this consultee return assists Borough Members in determining the two applications

Yours sincerely,

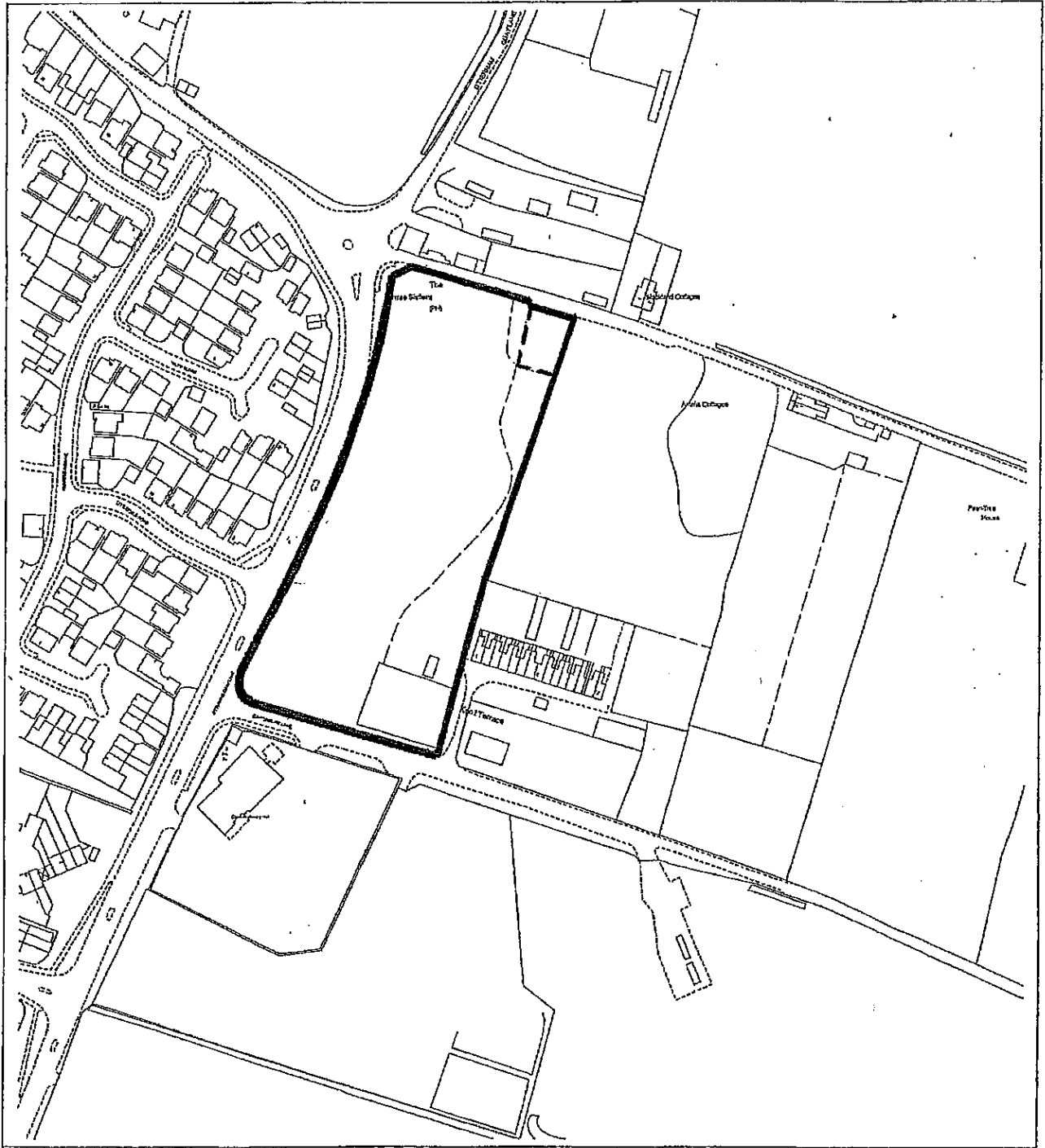
For Head of Planning Applications

Sharon Thompson
Head of Planning Applications

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Enforcement of Planning Control
Four Gun Field, Otterham Quay Lane, Upchurch



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Scale 1:2500

DC3/SW/04/COMP/0059

G. Wild 17
19/05/2008

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IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ENFORCEMENT NOTICE

ISSUED BY: KENT COUNTY COUNCIL

1. THIS NOTICE is issued by the Kent County Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material considerations. The Annex at the end of this notice and the enclosures to which it refers contain important additional information.

2. THE LAND TO WHICH THE NOTICE RELATES

Land at Four Gun Field, Otterham Quay Lane, Upchurch, Kent as shown edged thick black on the attached plan.

3. THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, the material change of use of the land from that described within the Certificate of Lawfulness of Existing Use or Development dated 8 May 2001 (as granted on appeal), and the material change of use of an additional and smaller area of land (shown within a dotted line on the attached plan) from a former residential use, to a sui generis waste management use by the carrying out on the land of the following waste management activities and related facilitating development:

- (a) The importation of waste materials and associated plant and machinery for the processing of waste, together with their storage on the land;
- (b) The processing of waste concrete and other waste materials by crushing, grinding, screening or other operation leading to a size reduction of the waste;
- (c) The exportation of size-reduced waste materials.
- (d) The screening and size separation of waste materials and their exportation from the site.
- (e) The use of the site for the transfer of waste materials.
- (f) On-site development facilitating the above waste management activities, including excavation of the bank of material on site, creation of an area of hard surfacing, concrete bases and lighting structures, installation of a wheel spinner, weighbridge and the

stationing and use of office accommodation, welfare facilities, waste containers, skips, storage tanks, noise monitoring and dust suppression equipment, green fence meshing, perimeter landscaping, CCTV cameras and stanchion and residential accommodation for the site security guard.

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last ten years and that in the context of the development plan, central government guidance and emerging regional policy the development conflicts with relevant policies as summarised below:

Countryside intrusion

- (a) the development represents an unacceptable intrusion into the countryside at this sensitive location, which is protected for its own sake. It adversely affects rather than conserves, maintains or enhances the area and is therefore contrary to Government advice contained within PPS7 'Sustainable Development within Rural Areas (2004); Adopted Kent and Medway Structure Plan (2006) Policies SS8, EN1, QL1 and WM2 and Policies SP11, SPV, E1 and E6 of the Swale Borough Local Plan First Review Re-Deposit Draft July 2005 and Policies SP2, SP5, E1 and E6 of the (pre-publication) Draft Swale Borough Local Plan (2008)

Erosion of Strategic Gap

- (b) the development represents an unacceptable urban intrusion into the Medway Towns and Sittingbourne Strategic Gap; a vulnerable area of open and undeveloped countryside between Rainham and Upchurch. It contributes to the erosion of this protected section of the Thames Gateway Planning Area, designated to maintain the separation of the Medway Towns and Sittingbourne urban areas. Such an intrusion is contrary to Adopted Kent and Medway Structure Plan (2006) Policies SS3 and QL4; emerging Regional Plan Policy W17 and Policies TG1, E1 and E7 of the Swale Borough Local Plan First Review Re-Deposit Draft and Policies TG1, E1 and E7 of the Draft Swale Borough Local Plan (2008).

Does not demand a rural location

- (c) the siting of the development is inappropriate in that it does not demand a rural location within the terms of Adopted Kent and Medway Structure Plan (2006) Policy SS8 and is adversely impacting upon the character, amenity and functioning of the area, particularly adjoining residential interests and those using the adjoining Public Right of Way and sections of the Saxons Shore Way. This situation is contrary to Policy QL1 of the Kent & Medway Structure Plan (2006), Kent Waste Local Plan Policies W18, W22, W27 and Policies RC1, E1 and E6 of the Swale Borough Local Plan First Review Re-Deposit Draft and Policies RC1, E1 and E6 of the Draft Swale Borough Local Plan (2008).

Not an identified waste location

- (d) the site is not identified in the Kent Waste Local Plan as being suitable in principle for waste related activities. The activity is in fact causing material and unsustainable amenity and environmental impacts on the locality and wider afield including in part the servicing of the site through potential routeing of Large / Heavy Goods Vehicles through the Villages of Upchurch and Lower Halstow, other rural roads and along sections of the Saxons Shore Way. The activity is also remote from groupings of similar and compatible uses. Overall the development is contrary to Policies W7, W9, W18, W19 and W22 of the Kent Waste Local Plan.

No overriding case of need

- (e) there is no apparent case of need for waste related activities at this particular site, to override and justify the adverse material harm being caused to the environmental quality and amenity of the area. The waste management activities at this location fail to represent the best balance between the most efficient and most sustainable method of managing the waste streams involved. The underlying sustainability principles of the BPEO (Best Practicable Environmental Option) are not reflected in the scheme. This state of affairs is contrary to Adopted Kent and Medway Structure Plan (2006) Policy WM2 and Policy W6 of the Kent Waste Local Plan.

Unsustainability

- (f) the waste management activities at Four Gun Field are not located '*in the right place*' in the context of paragraph 2 of PPS10 (Planning for Sustainable Waste Management) and run counter to the principles of the waste hierarchy laid down in the Executive Summary of the Waste Strategy for England 2007 and contained within Policy WM1 of the Kent and Medway Structure Plan (2006). They are further contrary to emerging Regional Plan Policy W17; Kent Waste Local Plan Policies W7 and W9 and Policy E1 of the Swale Borough Local Plan First Review Re-Deposit Draft and Policy E1 of the Draft Swale Borough Local Plan (2008).

Amenity impacts to surrounding interests

- (g) unacceptable impacts are being caused to residential amenity by virtue of noise, dust, odour, fumes, vibration and visual and light intrusion. These impacts are disrupting the tranquillity and quality of life of local residents to an unacceptable degree. That in turn is contrary to Kent and Medway Structure Plan Policies QL1 and NR5; Kent Waste Local Plan Policies, W7, W9, W18, W22 and W25 and Policy E2 of the Swale Borough Local Plan First Review Re-Deposit Draft and Policy E2 of the Draft Swale Borough Local Plan (2008).
- (h) the pattern of the breach and its potential to be further intensified, is placing local residents and the community as a whole, in an increasing state of fear and apprehension, concerning the level of amenity impacts that may arise, their exposure to them, together with associated health risks and damage to their quality of life and wellbeing. Such a state of affairs is contrary to: 'The Key Planning Objectives' of PPS10 (Planning

for Sustainable Waste Management), which seeks amongst other matters '*....to secure the recovery of waste without endangering human health to reflect the concerns and interests of communities*' (paragraph 3) by considering '*..the cumulative effect on the wellbeing of the local communityand its social cohesion*' (paragraph 29) and overall to ensure that '*the location of[waste] development is acceptable*' taking account of the fact that '*health can be material to such decisions*' (paragraph 30). The activity is further contrary to Policy QL1 of the Kent & Medway Structure Plan (2006), particularly regarding the provision of a healthy, safe and secure environment; Policy W18 of the Kent Waste Local Plan (1998) and Policy E2 of the Swale Borough Local Plan First Review Re-Deposit Draft and Policy E2 of the Draft Swale Borough Local Plan (2008).

- (i) unacceptable impacts are being caused to rural amenity by virtue of noise, dust, odour, fumes, vibration and visual and light intrusion. These impacts are disrupting the tranquillity and quality of life of users of this countryside setting, including along the adjoining Public Right of Way, in turn subjected to traversing vehicles and plant & machinery from the excavation of site banking and along sections of the Saxons Shore Way, forming part of some of the available access routes. Such impacts are contrary to: Policy QL17 of the Kent & Medway Structure Plan (2006) and Policies W22 and W27 of the Kent Waste Local Plan.

Highway Impacts

- (j) rural access routes from the north, north-east, east and south-east of the site are not well related to the primary and secondary route network. In addition, the north-eastern coastal route and some local servicing would be directed through Upchurch Village and potentially Lower Halstow Village, which is contrary to Policy TP15 of the Kent & Medway Structure Plan (2006); Policies W7, W9 and W22 of the Kent Waste Local Plan; and Policy T1 of the Swale Borough Local Plan First Review Re-Deposit and Policy T1 of the Draft Swale Borough Local Plan (2008).
- (k) the uncontrolled movement of Large / Heavy Goods Vehicles travelling to and from the site, from the north, north-east, east and south-east is capable of affecting in a materially adverse way the amenity (by virtue of noise, dust, smell, vibration and other emissions) of those coming into contact with the vehicles, including, cyclists, pedestrians and those resident along such access routes, particularly through the Villages of Upchurch and Lower Halstow and along sections of the Saxons Shore Way. Such impacts are contrary to Kent & Medway Structure Plan (2006) Policy EN14 and QL17; Policies W7, W9, W18, W22 and W27 of the Kent Waste Local Plan; Policy RC7 of Swale Borough Local Plan First Review Re-Deposit Draft and Policy RC7 of the Draft Swale Local Plan (2008).

Groundwater / surface water protection

- (l) the uncontrolled importation, storage, handling and processing of waste on the site, in the absence of a properly constructed operating base with impermeable surface and integral drainage is placing surface and groundwater resources at unnecessary risk from contamination (including through the medium of surface water run-off), which is contrary to Kent and Medway Structure Plan (2006) Policy NR5 and Kent Waste Local Plan Policies W19 and W20 and Swale Borough

The Council does not consider that planning permission should be granted since planning conditions could not overcome these material planning objections. The rights and interests of the landowner(s) have been balanced against those people affected by the alleged breach. It is considered that proportionate controls are being used to protect the enjoyment of local amenity and the quality of residential life and therefore no breach under the human rights act is caused in serving this Notice.

5. WHAT YOU ARE REQUIRED TO DO

(a) to cease:

- (i) The importation of waste materials and associated plant and machinery for the processing of waste, together with their storage on the land.
- (ii) The processing of waste concrete and other waste materials by crushing, grinding, screening or other operation leading to a size reduction of the waste.
- (iii) The exportation of size-reduced waste materials, other than to meet the requirements of 5(b) of this Notice.
- (iv) The screening and size separation of waste materials and their exportation from the site, other than to meet the terms of 5(b) of this Notice.
- (v) The use of the site for the transfer of waste materials.
- (vi) The carrying out of development facilitating the above waste management activities, including excavation of the bank of material on site, the laying of waste materials to create areas of hard surfacing, the use of high-intensity site lighting, the stationing and use of office accommodation and welfare facilities, containers, skips and storage tanks, the installation of amenity safeguarding measures and equipment, CCTV camera surveillance and residential accommodation for the site security guard.

Time for compliance: 1 day from the date when this Notice takes effect.

(b) to remove from the land stockpiles of imported waste materials.

Time for compliance: 2 months from the date when this Notice takes effect.

(c) to remove from the land the area of hard surfacing, concrete bases and lighting structures, the wheel spinner, weighbridge, office and residential accommodation and welfare facilities, containers, skips, storage tanks, noise monitoring and dust suppression equipment, CCTV cameras and stanchion and green fence meshing.

Time for compliance: 2 months from the date when this Notice takes effect.

- (d) to remove plant and machinery and vehicles associated with the waste management uses alleged in this Notice.

Time for compliance: 2 months from the date when this Notice takes effect

- (e) in meeting steps 5 (b) to (d) above:
 - (i) material required to be removed from the land under 5 (b) and 5 (c) above shall be taken to a site permitted to accept such waste;
 - (ii) all vehicles used shall approach and leave the site via Otterham Quay Lane / A2, avoiding use of Canterbury Lane, Wallbridge Lane and Upchurch Village (see attached 'Road Traffic Compliance Route Plan');
 - (iii) removal shall take place in a manner such that the carrying of mud and debris onto the public highway is minimised;
 - (iv) all departing materials shall be sheeted;
 - (v) activities shall only take place between 0700 to 1800 hours on weekdays and 0700 to 1300 hours on Saturdays. There shall be no vehicular movements on Sundays or Public Holidays.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on the 20 June 2008 unless an appeal is made against it beforehand.

Dated:

Signed:

By authorised signatory on behalf of: County Secretary
Legal Services
The Kent County Council
Sessions House
County Hall
Maidstone
Kent
ME14 1XQ

Ref: LS/83872/359