

From: Director of Environment and Waste
To: Regulation Committee Member Panel – 15 September 2008
Subject: Proposed Gating Order – Un-named footpath to the rear of Henley Fields, Tenterden.

Classification: Unrestricted

Summary: A report seeking a decision from the Regulation Committee Gating Orders Sub Group on whether to:

- (a) make a Gating Order, the effect of which is to allow the installation of gates prohibiting access to an un-named footpath to the rear of Henley Fields in Tenterden; *or*
 - (b) cause a public inquiry to be held relating to the proposed gating order; *or*
 - (c) to decline to make a Gating Order.
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1. Background

(1) 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.

(2) On the 17 May 2007 the County Council delegated the power to make, vary or revoke Gating Orders to the Managing Director of Environment and Regeneration. The terms of reference of the Regulation Committee were amended to include the making, variation or revocation of Gating Orders in circumstances where substantive objections have been received to proposals. The County Council Constitution was then further amended to enable a Regulation Committee Member Panel to consider Gating Orders.

(3) In September 2007 Kent Police – 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.

(4) The footpath is an adopted 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. One short section is garden. The footways of Henley Fields provide an alternative to using the footpath. They are of a similar length and are of a similar gradient.

(5) Statistics relating to reported crime were submitted in support of the application (appendix 1). The statistics clearly demonstrate persistent (*enduring, constant, repeated*) criminal and anti social behaviour occurs on and is 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 criminal damage to fences, graffiti and missile throwing at houses.

(6) 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 is having a significant impact on their quality of life.

(7) Reported crime and anti social behaviour in Henley fields, and specifically those properties adjacent to the footpath, represents a significant proportion of all reported criminal damage for the St Michaels ward. The following policing measures have been employed in the period since November 2005 in an attempt to prevent criminal and antisocial behaviour:

- Hawkeye (mobile CCTV van) has been deployed on several occasions.
- Targeted operations involving up to 10 officers patrolling the area.
- Plain clothed patrols .
- Interaction with Schools.
- CCTV equipment was installed for a period of time.
- The Tenterden Police Community Support Officer visits the alleyway at least once during a shift sometimes spending up to four hours in the area.
- This is identified as a location to which Area Response Team Officers are to default during any down time on their shift.

The above measures have had no demonstrable lasting impact in reducing criminal and antisocial behaviour in the area.

(8) A draft Gating Order was produced, notice of which was advertised in the local press. Consultation with the prescribed parties and those that had requested to be consulted on the Draft Gating Order took place at the same time. (Draft Order and notice appendix 2).

2. Response to consultation:

(1) One response supporting the proposal , one objecting to it, and four suggesting amendments to it were received. The four responses suggesting amendments to the proposal should be considered as objections. One of those responses suggesting amendments was received from Tenterden Town Council. Tenterden Town Council subsequently resolved to support the application in its draft, un-amended, form; effectively withdrawing their objection

(2) One individual objected outright to the proposal on the grounds that she was not aware of any crime or antisocial behaviour and the footpath is used on a daily basis by many residents.

(3) One individual objected to the proposed locking of the gates 24 hours a day and suggested that they were unlocked between 6am and 6:30pm or until dusk.

(4) Two of the objections broadly supported or accepted the proposal but suggested that gates 1 and 2 on the proposal plan (appendix 3) should not be installed, so maintaining access along that length of the path between the shop and the first cul-de-sac in Henley Fields.

(5) Clearly the statistics provided by the Community Safety Unit indicate that there is appreciable criminal or anti-social behaviour and that it is facilitated by the existence of the highway. Further analysis of the police records by the Community Safety Unit indicates that the greatest proportion of criminal and antisocial behaviour takes place during the daytime and on the length of path between points 1 and 2 on the proposal map. It is therefore clear that to amend the proposal in the ways suggested would in effect reduce the impact of gating the highway significantly.

(6) Gating Orders do require a decision to be reached on the on the balance between the benefits to residents affected by crime and anti social behaviour, in terms of their quality of life, and the impact on the wider community of a loss of access. It is important to note that Gating Orders should be periodically reviewed and that they are not viewed as being a permanent or long-term solution.

(7) The Draft Order omits specific details as to the individual responsible for the maintenance of the Gates and their contact details. The local PCSO will be responsible for the gates and their details will be provided in the made Order.

3. Decisions available to members:

In respect of the Henley Fields Gating Order proposal three decisions are available to the Regulation Committee Gating Order Panel:

- (a) the proposed Order should be made;

- (b) a Public Inquiry is caused to hear representations objecting to or in support of the Order; or
- (c) the Gating Order should not be made.

4. Recommendation

- (a) that the Gating Order be made; and
- (b) that if the Gating Order is successful, it is reviewed in two years and revoked, amended or continued at that time as appropriate.

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