

From: Divisional Director – Environment and Waste  
To: Regulation Committee 19 September 2006  
Subject: Update on recent Public Rights of Way cases  
Classification: Unrestricted

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**Summary:** To update Members on Public Rights of Way issues

**Recommendation:** That Members take note of recent cases and decisions relating to Public Rights of Way cases

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## **Introduction**

1. The purpose of this report is to update Members on various Rights of Way issues which have been before the Regulation Committee over recent months and inform Members of the outcomes and/or progress on these cases.

## **Diversion of Public Footpath SD260 at West Kingsdown**

2. In 2004, an application was received to divert footpath SD260 out of the farmyard of Terry's Lodge Farm at West Kingsdown on the grounds of public safety and to overcome a longstanding obstruction issue on the path. A number of objections were received and the matter was put before a panel from the Regulation Committee in September 2006. Members decided to support the officers recommendation that a Public Path Diversion Order be made and, following the making and advertisement of the Order, a Public Inquiry was held in August last year by an Inspector appointed by the Planning Inspectorate.
3. Although following the Public Inquiry the Inspector confirmed the Order, a subsequent application was made to the High Court by the local Ramblers' Association representative on the grounds that, on a point of law, the Order should not have been confirmed. Counsel was instructed and advised that this was not correct. Following negotiations between lawyers acting on behalf of the Ramblers Association and those acting for DEFRA, the County Council has been informed that the application to the High Court has now been withdrawn and no further challenge to the Order can be made.

## **Diversion of Public Footpath SD283 at West Kingsdown**

4. At the same Regulation Panel meeting as the above application was being considered, Members also considered an application to divert footpath SD283 from the grounds of a private residential dwelling. In this case, the property concerned had been the subject of

a significant number of burglaries and, despite the installation of CCTV, alarms and other measures to secure the property, continued to be targeted. With the footpath running immediately adjacent to the front door and ground-floor windows of the property, the landowners effectively had no legal right to challenge anyone acting suspiciously within a few metres of their front door. A Public Inquiry was held in April 2006 and the local Crime Prevention Officer from Kent Police attended the Inquiry to support the County Council's case. Once again, despite the objections received, the Inspector decided to confirm the Order. Very favourable comments were received afterwards from the landowners regarding the County Council's professional conduct and support throughout the case.

### **Extinguishment of Public Footpath ZU29 at Sittingbourne**

5. Members may recall this case, which involves a footpath running through the grounds of Highsted School and Fulston Manor School in Sittingbourne, that was put before a panel of the Regulation Committee in February of this year. The case is being progressed using new legislation introduced under the Countryside and Rights of Way Act 2000 which allows the County Council to make an Order to divert or extinguish a footpath which passes through school premises on the grounds that there is a significant threat to staff and pupils from violence, harassment and other anti-social behaviour. It is the first case of its kind in the county under this new legislation.
6. Following the making and publication of the Order, a number of objections have been received from both local residents and user groups, including the Ramblers' Association and the Open Spaces Society. Due to the nature of this case, the Planning Inspectorate has decided to accelerate its determination and a Public Inquiry has been arranged to commence on Tuesday 31<sup>st</sup> October 2006 at Hempstead House in Sittingbourne. Members are most welcome to attend the Inquiry should they wish and the Inspectors decision will be reported to Members at the next Regulation Committee.

### **Recommendation**

7. I RECOMMEND that Members take note of recent cases and decisions relating to Public Rights of Way cases.

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