

25 June 2007	
Report to Head of Strategy, Environment, and Development Services	
<p>PROPOSAL TO ERECT GATES ACROSS PUBLIC FOOTPATH NO 129 BETWEEN COLLEGE AVENUE AND BRADLEIGH AVENUE</p> <p>PUBLISH AN EXTINGUISHMENT ORDER FOR A SECTION OF PUBLIC FOOTPATH NO 129 BETWEEN COLLEGE AVENUE AND BRADLEIGH AVENUE</p> <p>Report of: Chief Highway Engineer, Les Burns</p>	
<p>Purpose: To immediately implement the installation of gates across public footpath No 129</p> <p>To approve the publishing of an Extinguishment Orders to stop up a section of public footpath No 129 under Section 118 of the Highways Act 1980</p>	
Wards affected: Grays Thurrock	Key decision: No

1. RECOMMENDATIONS:

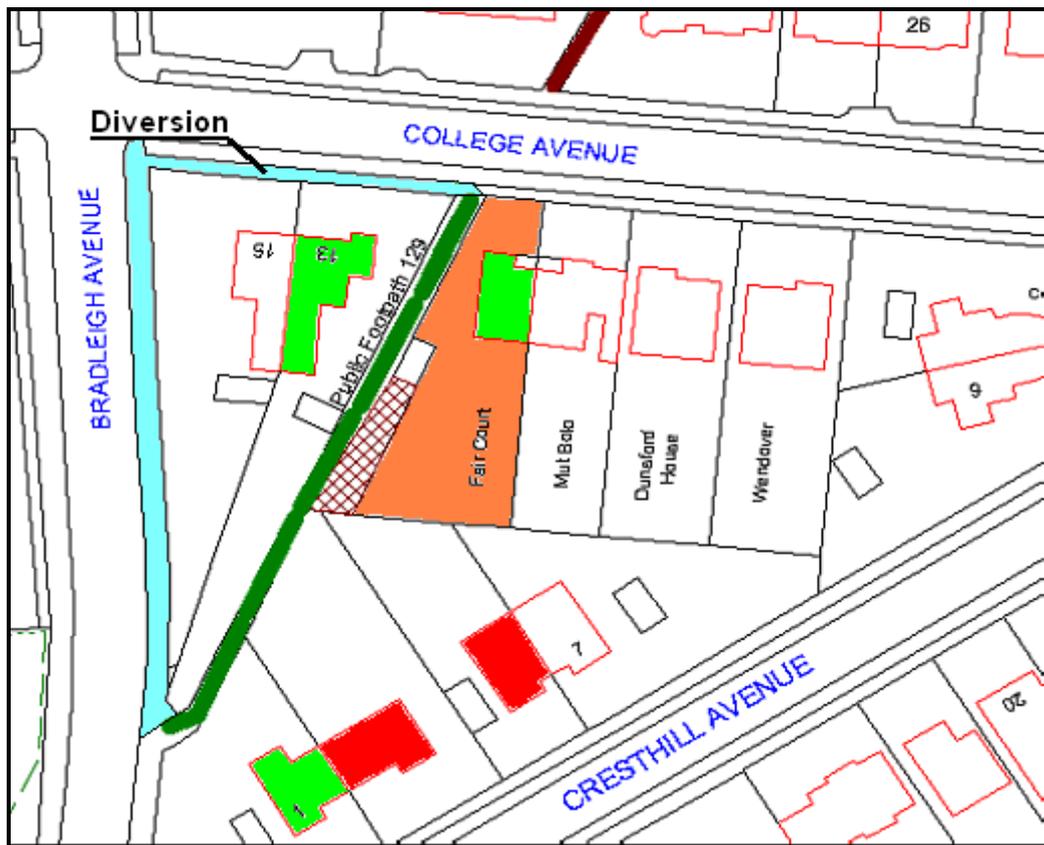
- 1.1. To immediately install gates across the Public Footpath No 129 at both ends between College Avenue and Bradleigh Avenue.**
- 1.2. To seek the extinguishment of Public Footpath No 129 between College Avenue and Bradleigh Avenue by making a Order under Section 118 of the Highways Act 1980.**

2. INTRODUCTION:

- 2.1. There is considerable antisocial behaviour occurring on the footpath between College Avenue and Bradleigh Avenue which is causing distress to local residents
- 2.2. The anti-social behaviour includes congregation of noisy youths, vandalism, drug taking and other similar activities.

3. BACKGROUND:

3.1. In 2007 the Council received a request from residents, Mr & Mrs Holloway, to restrict access to public footpath, which runs alongside their property. The section of footpath links College Avenue with Bradleigh Avenue but also forms a part of the longer length of footway from Bradleigh Avenue to Langthorne Crescent. The closure of this section of footway will require a diversion along “normal” edge of road footpaths and an increased journey length of only 100 metres.



Location Plan

3.2. The section of footway adjacent to the Holloways property also serves as the access to their garages, which are located to the rear of their property.

3.3. There is a history of antisocial behaviour along this length of footway and in particular in a wider section adjacent to the Holloway’s garages. This has caused upset and inconvenience to the Holloways. The police have sent in a letter of support for the closure of this section of footway. Despite their knowledge of the problem the incidents continue to occur.

- 3.4. An initial proposal for a gating order where the footpath would be closed for a predetermined time period each day was rejected by the Holloways as it would not prevent all the antisocial behaviour which occurs at all times. A consultation limited to the residents adjacent to the footpath received favourable responses for a gating order. A gating order would retain the footpath status and require Thurrock Council maintenance including the gates and any opening mechanism.
- 3.5. The extinguishment of the footpath would remove Thurrock Council's liability for the maintenance and upkeep of the footway. The ownership of the land of the footway rests with the adjoining neighbours. Consultation was carried out on the proposal for closing the Bradleigh Avenue end using fencing and providing a gate for the College Avenue end. A further consultation for this option, limited to the residents adjacent to the footpath, raised objections. Reasons for the objections included the loss of current access rights. The location plan shows in green the residents that supported the closure and in red the residents that raised objections to the closure.
- 3.6. The current proposal is for two lockable sets of gates, one at each end of the footpath with keys for all the adjacent residents so that they can continue to access the rear of their properties from the footpath.
- 3.7. If an extinguishment order is successful then the residents can access the footway area using rights contained in their land deeds or negotiated with the owners of the land.
- 3.8. An agreement will be required for the transfer of the gate and the responsibility for maintenance once the extinguishment order is confirmed.

4. ISSUES AND/OR OPTIONS:

- 4.1. It is considered that two options are currently available to address the concerns of the residents :
 - (a) stop up the footpath pursuant to Section 118 of the Highways Act 1980; or
 - (b) make a gating order pursuant to Section 129A to 129 G of the Highways Act 1980 which restricts access to the footpath for all pedestrians during specific hours.
- 4.2. The antisocial behaviour is not confined to a particular period of time during the day. A gating order would therefore not satisfy the residents' needs.
- 4.3. In this case the convenient alternative path (diversion shown on Location Plan) and the small length of the diversion would satisfy

Thurrock as local authority that the path should be stopped up on the grounds that it is not needed for public use.

- 4.4. The high level of antisocial behaviour justifies the implementation of the gates in advance of the legal process as an emergency measure. This is supported by Essex Police and a letter from them is attached to this report.

Risks

- 4.5. Placing the gates and closing the footway in advance of the legal authority could result in a legal challenge from individuals or interest groups such as the Ramblers Association. If these challenges are successful then this could lead to the gates being removed or put out of use.
- 4.6. The use of the Section 118 extinguishment could lead to objections to that process and then require a Public Inquiry for an inspector to decide the issue.
- 4.7. The antisocial behaviour could be displaced by this closure to other footpaths in the area. The extinguishment of the public footway over this length could lead to a precedent whereby other similar requests are made for the closure of footways at the rear of residential properties.

5. IMPACT ON CORPORATE PRIORITIES:

- 5.1. These actions accord with the Council priorities to create a safer environment; tackle crime, anti-social behaviour and making people feel safer by improving the physical environment.

<p>RELEVANT POLICIES None</p>
<p>FINANCIAL IMPLICATIONS Code ET074 2600: Capital Costs of gates + installation £2000.00</p> <p>Contained with existing maintenance budget:</p> <p>Revenue costs of maintenance £300/Annum until the confirmation of the extinguishment order and transfer to the owners.</p>
<p>LEGAL IMPLICATIONS Section 118 of the Highways Act 1980 allows for the extinguishment of bridleways and footpaths.</p>

It must appear to the Local Authority that the path should be stopped up on the grounds that it is no longer needed for public use.

There is a convenient alternative path, which can be used.

Installation of the gates in advance of the extinguishment could lead to legal challenge.

Objections to the Order usually lead to a Public Inquiry being required.

OTHER IMPLICATIONS

- None

BACKGROUND PAPERS

Letter from Essex Police

Contact: Les Burns

Telephone: 01375 413842

E-mail: lburns@thurrock.gov.uk

Delegated Decision:

After consultation with the Cabinet Member with responsibility for Community Safety and Highways and Transportation and the appropriate ward councillors, I have used my delegated authority to carry out the recommendations contained in the report, for the reasons stated in the original report.

Name: Mr Andrew Millard

Position: Head of Strategy, Environment and Development Services

Date of Decision: 25 June 2007

Deadline for call-in: N/A

In the event of any departure from the original proposed decision, the rationale for departing from that proposed decision must be stated.

Police Station,
Brooke Road,
Grays, RM17 5BX

Telephone: 01375 391212
Website: www.essex.police.uk
Facsimile: 01375 392037

Date: 17 April 2007

Dear Sir/Madam,

Re: The closure of Footpath 129, College Avenue, Grays.

I am writing to you as a representative of Essex Police and to inform you of the current anti-social behaviour issues we have involving the above.

Anti-social behaviour has increased dramatically over the past 3 years and up to 70 offences have been reported to the police in the immediate area of College Avenue. The offences occur throughout the week and at no specific time of the day.

There have been reports of racist graffiti, underage drinking and urinating down footpath 129. Not only has this put a strain on police resources but is having a negative impact on the community surrounding area. Further reports include threatening behaviour, sexual acts and possible drug dealing.

Due to the number of incidents that have occurred down the footpath 129, members of the public now state that they feel unsafe walking down this footpath and therefore use other means necessary to get to their destinations. This involves walking around the footpath which takes a further 33 seconds added to their journey, clearly not a great inconvenience.

Essex Police have attempted a number of target hardening solutions for footpath 129 including more lighting, CCTV and high visibility patrolling but have yet to have any positive outcomes. The only solution to the re-occurring problem is to close the footpath **permanently** therefore preventing any further criminal damage and public intimidation.

I hope that these matters are taken seriously so that the resident's lives can be put at ease.

Yours sincerely,

Kelly Turnage
Police Community Support Officer 70404

Response from Councillor Gupta

From: Cllr Y.P Gupta
Sent: 19 June 2007 17:51
To: Burns, Les
Subject: RE: College Avenue

Thanks Les for summarising my views . I am happy if these comments are passed on to the Delegated Officer and the Portfolio holder.

Regards,

Cllr Yash Gupta

-----Original Message-----

From: Burns, Les
Sent: 19 June 2007 17:36
To: Cllr Y.P Gupta
Subject: College Avenue

Cllr Gupta,

I refer to our telephone conversation this afternoon. I explained that the Delegated Decision Report is a report which is prepared for Andy Millard (the Officer with the delegated powers) and is signed after consultation with the Portfolio Holders and the Ward Councillors The report is in a draft version and your views are sought and once received will be considered before a final report for signature is produced. You have been involved in this issue for some time at least since you became a Councillor in 1996 and have received advice during that time from previous Highway Engineers.

I have recorded below, as you requested, your comments as told to me in the conversation,so that they can be relayed as your contribution.

You have read the Delegated Decision Report and have the following comments.

1. You have no personal objection to the proposal but are concerned about the wider interests of the community and the footpath users.
2. You would like to have a longer period to consider the issues as you would like to consult more fully for instance with the nearby school and parents.
3. Although the additional length of the diversion is short you consider that this is counter to the efforts being made in promoting walking and the safer Routes to School.
- 4.You consider that the consultation, limited only to the neighbouring residents and not including the views of the users is insufficient.
- 5.You are concerned over placing the Authority in a difficult legal position by installing the gates before obtaining legal consents.
6. You are also of the view that the funding used for the gates could be better used on highway activities such as pothole filling.

Response from Councillor Kent

From: Burns, Les
Sent: 25 June 2007 09:55
To: Cllr C Kent
Cc: Hicks, Linda
Subject: RE: Draft DDR for Exting Order

Councillor Kent,

I refer to our telephone conversation this morning.

I confirm that you require the following to be added to your views on the Footpath.

1. There are a large number of terraced properties in Grays where there is garage access along the rear of the properties. The closure of this footpath will create a precedent for other requests.

2. The resident in question initially contacted Councillors Gupta and Harris and they referred the matter to the police as it is an anti-social behaviour issue. Similar issues have been dealt with by the Police identifying when the offences take place and managing the problem by increased police presence at those times.

I trust that this sets out the issues that you raised in our conversation. Please confirm that this is an accurate record or inform as to changes that you require.

Regards

Les Burns
Chief Highways Engineer
01375 413842
Thurrock Ext 4842

-----Original Message-----

From: Hicks, Linda
Sent: 25 June 2007 08:24
To: Burns, Les; Millard, Andrew
Subject: FW: Draft DDR for Exting Order

Comments for your attention from Cllr Kent re College Ave.

Regards,
Linda

-----Original Message-----

From: Cllr C Kent
Sent: 22 June 2007 17:24
To: Hicks, Linda
Subject: Re: Draft DDR for Exting Order

Dear Les

I am against the decision to block off this footpath for the following reasons

It is used by many people on a regular basis

It is used by school children to get to the convent quarry hill and at Thomas schools

The council has a policy of encouraging residents to use footpaths instead of taking the car

The cost implications there are many pot holes and pavements that this money could be used to repair and these repairs would have a greater impact on the local community

And finally the lack of proper consultation only consulting with half a dozen properties is an insult to the local community

There should be at least the local community the Grays central forum as well as the schools mentioned above

I am willing to discuss the matter further if you wish to call me

Regards

Cathy