

## **REGENERATION, CULTURE AND ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE**

**15 OCTOBER 2020**

### **PETITIONS**

Report from: Richard Hicks, Director of Place and Deputy Chief Executive

Author: Stephen Platt, Democratic Services Officer

#### **Summary**

This report advises the Committee of a petition received by the Council which falls within the remit of this Committee including a summary of the response sent to the petition organiser by officers.

The Committee is also requested to consider the petition referral request.

#### **1. Budget and policy framework**

1.1 In summary, the Council's Petition Scheme requires the relevant Director to respond to the petition organiser, usually within 10 working days of the receipt of the petition by the Council. Overview and Scrutiny Committees are always advised of any petitions falling within their terms of reference together with the officer response. There is a right of referral of a petition for consideration by the relevant Overview and Scrutiny Committee by the petitioners if they consider the Director's response to be inadequate. Should the Committee determine that the petition has not been dealt with adequately it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to Cabinet and arranging for the matter to be considered at a meeting of the Council.

1.2 The petition scheme is set out in full in the Council's Constitution at:

<https://www.medway.gov.uk/downloads/file/2657/401 - council rules>

1.3 Any budget or policy framework implications will be set out in the specific petition response.

#### **2. Background**

2.1 The Council's Constitution provides that petitions received by the Council relating to matters within the remit of an Overview and Scrutiny Committee will

be referred immediately to the relevant Director for consideration at officer level.

- 2.2 Where the Director is able to fully meet the request of the petitioners a response is sent setting out the proposed action and timescales for implementation.
- 2.3 For petitions where the petition organiser is not satisfied with the response provided by the Director there is provision for the petition organiser to request that the relevant Overview and Scrutiny Committee review the steps the Council has taken, or is proposing to take, in response to the petition.

### 3 Completed Petition

- 3.1 A summary of the response to a petition relevant to this Committee that has been accepted by the petition organiser are set out below.

<b>Subject of petition</b>	<b>Summary of response</b>
<p>We the undersigned petition the council to introduce traffic calming measures along Matts Hill Road, ME9 in response to a number of traffic collisions along this road. As these traffic collisions have commonly been caused by speeding vehicles, we the undersigned are petitioning the Council to introduce measures such as speed humps or traffic cushions.</p> <p>Paper petition – 22 signatures</p>	<p>It is always disappointing to learn of people driving in an inconsiderate and potentially dangerous manner. Sadly, we are seeing a rise in this behaviour, particularly during the lockdown period when emptier roads have encouraged some to drive at a higher speed.</p> <p>In terms of road safety improvements in Medway, spend is prioritised on areas where there is a record of incidents and frequent vehicle use. An initial look at Matts Hill Road suggests it is a road with low journey numbers, comparative to other roads in Medway. It is also relatively long in length, narrow, and rural in nature; it is therefore not a road that would ordinarily be considered for traffic calming. However, Road Safety Officers will examine whether the crash record for the road warrants investment in road safety measures, and if so, what measures might be appropriate. Once that work is concluded, officers will follow this up with the petitioner organiser.</p>

### 4. Petition Referred to this Committee

- 4.1 The following petition was referred to this Committee because the petition organiser indicated that they were dissatisfied with the response received from the Director of Place and Deputy Chief Executive.

4.2 Re-instate vehicle access way between 71 – 73 Sunnymead Avenue, ME7

- 4.3 A paper petition containing 106 signatures was presented by Councillor Johnson on behalf of the petition organiser at full Council on 16 July 2020. The petition statement was as follows:

‘This petition is to reinstate the vehicle accessway for all residents between 71 and 73 Sunnymead Avenue, ME7. This accessway has been blocked off unlawfully by the residents of 73 Sunnymead Avenue ME7. They are not the lawful owners of the land. This land has a right of way and effects all residents’.

- 4.4 On 24 July 2020, the Director of Place and Deputy Chief Executive responded as follows:

‘Thank you for your petition. I can advise that the gates in question were installed some time ago using the Cleaner Neighbourhood and Environment Act at the request of the residents to prevent anti-social behaviour (ASB). This current issue first came to our attention earlier this year when the resident of no 73 was concerned about the escalation of ASB in the area in question.

I understand the resident wrote to all residents affected, advising them of what they wanted to do and the reasons why.

We have been working to find a solution since then. I can confirm that we recently instructed our contractor to carry out some remedial works on the gate to help allay these fears, with access to the gates being restored in the immediate future. The lock will be refitted to the gates by Medway Council, to which all residents affected already have a key. This will ensure everyone with a key will have equal access.’

- 4.5 On 5 August 2020, the petition organiser requested that the matter be reviewed by the relevant Overview and Scrutiny Committee. The request advised that the reasons for requesting the review would follow and on 13 August a detailed letter was sent to the Director of Place and Deputy Chief Executive by another resident of Sunnymead Avenue setting out a range of issues associated with the access way including details of a neighbour dispute. The petitioner was advised that the Committee’s consideration of this matter would be focused on the section within the referral letter headed ‘The Council’. As stated in the Council’s Petitions Scheme, the Committee can review the steps that the Council has taken or is proposing to take in response to a petition. Therefore, it would not be appropriate for the Committee to discuss any of the wider areas covered in the referral letter concerning a neighbour dispute.

- 4.6 As stated above, the letter requesting that the petition be referred to the Committee included a section related to the Council’s actions, which is the aspect that is within this Committee’s remit. This part of the letter, together with parts of the concluding paragraph, is reproduced below:

'The Council

I have read the replies from the council and the following is a selection of those replies, along with my response underneath.

Q What remedial works were authorised?

A I authorised the work to make the gate higher and install a bar along the bottom for extra security.

The gate has not been made higher– the framework has been extended over the top of the gates and it is fixed and therefore greatly reduces the height. Who is the "I" in this response?

Q Why were the residents not informed?

A It was not deemed necessary as this works secures the area for all residents concerned.

Can you explain how this work makes the area more secure than the previous gate? How many residents are you referring to, exactly?

S It seems very odd that the council would complete works at this time to the exact specification that the home owners of 73 wanted.

R It was not to the exact specification that they wanted. I was informed of the problems they were experiencing and felt that these works were the way to resolve the issue.

S There is a legal case ongoing with these gates....etc

R I am aware of this and we did this work to try and solve the situation.

So you knowingly interfered in ongoing litigation, so what precisely did you hope to achieve?

You have taken the word of just one resident and dismissed all the other residents as inconsequential. As it stands those who live in the terraced properties, for example, will be severely affected. Any future building plans with garages and the like will not be realised as large vehicles like scaffolders, double glazing, skip lorries, cement mixers will no longer be able to gain access to the rear of their houses. How is this fair to these residents?

In Conclusion

The gates sit on private land so the council is not at liberty to dictate what we can, or can not do, with our land. And yet your actions have done just that and have exacerbated the problem. The council has no jurisdiction and yet have interfered with ongoing litigation, which is all the more remarkable as Perry Holmes has previously stated they could not get involved in private matters.

... I have just been sent an updated Q&A from the FOI request and it is clear the author has no real understanding of the matter. As far as large vehicles

are concerned they are not expected to 'turn around' but are directed by the resident at the time to enter via the Redfern gate and exit via the 71 – 73 gate. In fact this method is used for most vehicles as reversing back out is not a safe option. The council have now acknowledged that they changed the frame of the gate at the behest of just one resident and that they did this knowing there was an ongoing legal dispute. What you have done is unacceptable and irresponsible. And the gateway has neither improved security nor resolved the situation.

We see no reason why the gate cannot be returned to its original design. There is nothing wrong with making the gate higher but in any event all work must always ensure the access road is free from any obstructions and that includes height restrictions, we fully expect the council to now correct this.

It is not our intention to deny anyone a safe place to live but help create a better and harmonious area for all. On the evidence I have presented within this letter I request a review of the decision to alter the framework of the gate leading to private land between number 71 & 73 Sunnymead Ave.

This has been ongoing during an extremely distressing time for all concerned. I hope we can resolve it quickly and allow everyone to move on. It's time the council was more proactive rather than reactive in this matter.'

- 4.7 In line with the Council's remote meetings protocol, the petition organiser was invited to provide a further written representation in support of their petition or to take part in the meeting remotely. They chose the first option and their statement is reproduced below. It has been redacted to remove references to the neighbour dispute.

'... the council review of the petition will only focus on the comments titled 'The Council' and not the wider areas of the dispute with our neighbours. But this is not a personal dispute between neighbours, it is a council or community-based problem.

Earlier this year Mr & Mrs x contacted the council to complain about anti-social behaviour coming from the Cobham Rise estate, 'criminals' were allegedly jumping the boundary wall and then the gates, which are next to their house. The Council later carried out remedial work on the gates, which led to a private access road, claiming that the work done has 'secured the area'. But nothing is mentioned about the underlying issue of ASB. If there is a genuine cause for concern this is a council matter. Has the council registered this in their response? It is the responsibility of the Housing Association, the local council and the police to coordinate and address any issues with persistent anti-social behaviour.

The council has since stated the work on the gates was done to resolve the situation, the situation being the dispute between the neighbours. The petition asked for the road access to be reinstated .... The gates are the entrance to privately owned land over which some eighty residents have legal right of way, as stated in the title deeds to their properties.

Nonetheless the structure of the gates was altered without any consultations with any other residence and the council was in full knowledge there was ongoing litigation.

We know this because in an FOI request we asked:

Q. Why were residents not consulted regarding the changes and restricted access?

A. The residents were not consulted as the work carried out will improve security for everyone and we did not restrict the access.

Q. Why was a height restriction put in restricting access by ambulance and fire brigade?

A. The works were not intended as a height restriction but the works carried out have strengthened the frame and stopped the gates from moving as they were slipping and overlapping. It is highly unlikely that the fire brigade would even attempt to go down this entrance as they would not be able to go any further due to the inability to turn around at the bottom.

Those answers revealed that the sole purpose of the reply was to fix the slipping gate and not about security; it also proves that, either no site inspection took place or, they have very limited knowledge of the road and area. Was the ground examined for subsidence? A request to see the engineers / surveyors report seems to have fallen on deaf ears.

Evidently no one considered the implications of reducing the height of an entrance / exit to a road. Large vehicles are not expected to 'turn around' but are directed by the resident at the time to enter via the Redfern gate and exit via the 71-73 gate.

The boundary wall between our road and the estate near the Redfern gate was built to facilitate larger vehicles turning in and the boundaries of no's 71 & 73 have 45 degree angled corners which allows them to leave.

The 'dispute' between x and the neighbours was resolved using the services of a solicitor, the council contributed nothing, the restructured gates have achieved nothing. x informed a select few neighbours, via a solicitors letter, that they had consulted with the planning and legal department of Medway Council and that the council had no objection to the changing of the padlock. But this was not true and Perry Holmes has since informed us that no such approval was ever given. If we had not instructed a solicitor the gates would have remained closed to this day.

Mr & Mrs x complained about ASB.

The neighbours complained about the road being illegally blocked off. The council has reacted to a perceived situation without consulting any other residents.

If any resident now wishes to undertake works which require a skip, for example, they will no longer be able to. The access road has always been wide enough to accommodate such vehicles and a diagram is enclosed which shows the measurements of the road. (see Appendix 1).

The height of a skip lorry is 12 feet / 3.66m, the height under the bar is now approximately 6 ft 6"/ 2m.

The access road has been enjoyed by residents since 1936 and the gates have been in place for 20 years without any complaints. We can see no reason why the gates cannot be returned to their original design. There is nothing wrong with making the gates higher but in any event all work must always ensure the access road is free from any obstructions and that includes height restrictions. We fully expect the council to now correct this.

- 4.8 In response, the Director of Place and Deputy Chief Executive has further commented as follows:

'It is noted that there has been a complaint that has been lodged with Medway Council with regard to this matter. This complainant has suggested a compromise to retain the newly installed static height barrier but to make alterations enabling the height barrier to open with the gates. In addition to the suggestion contained within this petition, the work will be carried out in due course, thus allowing a vehicle of any height to enter; this will therefore reinstate vehicle access way for vehicles of any height.'

## 5. Risk Management

- 5.1 The Council has a clear scheme for handling petitions set out in its Constitution. This ensures consistency and clarity of process, minimising the risk of complaints about the administration of petitions.

## 6. Financial and Legal Implications

- 6.1 The works referred to in the petition referral would be carried out within existing budgets.
- 6.2 Overview and Scrutiny Rule 21.1 (xiv) in the Council's Constitution provides that the terms of reference of this Committee include the power to deal with petitions referred to the Committee under and in accordance with the Council's petition scheme.

## 7. Recommendations

- 7.1 The Committee is requested to note the petition responses and appropriate officer action in paragraph 3 of the report.
- 7.2 The Committee is requested to consider the petition referral request and the Director's response in paragraph 4 of the report.

## Lead officer contact

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## Appendices

Appendix 1 – Diagram provided by the petition organiser.

## Background papers

None