

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

**14 JANUARY 2021**

### **PETITIONS**

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

Author: Stephen Platt, Democratic Services Officer

#### **Summary**

The Committee is requested to consider two petition referral requests.

#### **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. Petitions Referred to this Committee

- 3.1 The following petitions were referred to this Committee because the petition organisers indicated that they were dissatisfied with the response received from the Chief Legal Officer and the Director of Place and Deputy Chief Executive.

#### 3.2 **Petition concerning Domino Pizza, Walderslade**

- 3.3 A paper petition containing 56 signatures was presented by Councillor Brake on behalf of the petition organiser at full Council on 8 October 2020. The petition statement was as follows:

“It is now two years since Domino Pizza was granted planning permission to trade from premises in Walderslade Village. In that time, local residents, particularly those living in Birchfields have be subjected to excess noise and behaviour by the staff, customer delivery drivers and in ability of the management to control staff.

I the undersigned, call upon Medway Council to address and resolve the appalling behaviour being displayed by the management, staff and delivery drivers of Domino Pizza, Walderslade as outlined in the attached report compiled by local residents.

In particular, attention should be paid to:

- Ensure strict enforcement of the planning consent.
- Absolute control by Pizza Domino management over the behaviour of customer delivery drivers with regards their driving, behaviour, excess noise and their legality to drive.
- Traffic calming along Birchfields.
- Arrangements regarding customer deliveries including the ability of this branch to continue a service without hindrance or disruption to local residents.”

- 3.4 The petition organiser also submitted a further statement listing residents’ concerns. These included concerns about the behaviour of staff, delivery drivers’ driving and the advertised opening hours on Domino’s website.

- 3.5 On 22 October 2020, the Chief Legal Officer responded as follows:

“Thank you for your recent petition which asked for four actions to be taken.

## **1. Ensure strict enforcement of the planning consent**

I wanted to let you know that in accordance with the Licensing Act 2003, a licence is required for the sale of hot food and/or drink between the hours of 11pm and 5am. The authorised opening hours of a premises are set through the planning process and any breach of those hours could be investigated by the Planning Enforcement team. We can confirm this premises is not licensed by this authority for the sale of hot food. So they should not be trading during the above hours.

Based on the information that you have provided the Licensing Team will write to the Director(s) of the premises informing them of the requirements in relation to the Licensing Act and the penalties, which could be imposed following evidence of non-compliance and request their advertised opening hours are amended.

It is possible that the advertised hours reflect their aspirations to obtain longer hours through their planning application which, as you say, was refused. It is possible therefore that the hours advertised do not actually reflect the actual trading hours at the premises. If you have evidence of actual trading outside of their authorised opening hours please feel free to refer that to the Council. That would enable us to take planning enforcement measures. You will appreciate that we need evidence to support any such action.

## **2. Absolute control by Domino's Pizza management over the behaviour of customer delivery drivers.**

Unfortunately, I am afraid there is little the Council can do in this regard. The behaviour of delivery drivers is entirely within the gift of Domino's Pizza management to control. You should pass your concerns about this matter to them. If the drivers are acting illegally then of course the police should be notified. They are the appropriate authority for dealing with road traffic matters.

## **3. Traffic calming along Birchfields.**

Traffic calming measure would normally involve a 20-mph zone being introduced. I do of course fully understand your desire to deter to speeding and reckless road users, but enforcement of traffic laws, including speeding and dangerous driving, can only be undertaken by the Police. In the first instance, when there are issues of speeding, I would recommend contacting Kent Police with details of the incident. It may also be useful if there seems to be a time or day (e.g. weekends or weekdays) when the problem seems to be worse, so they might tailor their visit to the optimum time, if they have the resources.

We receive many requests for speed reduction measures and each request is carefully considered. Whilst speeding, inconsiderate and dangerous drivers are all matters of serious concern, the basis upon which we introduce road safety measures is casualty reduction, meaning those locations already

recording an ongoing poor road casualty history are tackled first, to help prevent further casualties on our roads. There is a limited annual budget to carry out these improvements, and the most serious locations must have priority.

In terms of traffic calming measures for Walderslade, such as the introduction of a 20mph speed limit, as you have requested, unfortunately with a limited budget to undertake this scheme it is not something we would currently consider implementing.

Although we share your concerns and would want to prevent this problem it is simply that there are other roads that need to be prioritised, where the need for intervention is higher.

#### **4. Arrangements regarding customer deliveries.**

Unfortunately again, this is also a matter that the Domino's Pizza management should be controlling as part of their day to day operational duties and I do not consider there is anything at this stage that the Council could do in that regard.

#### **Conclusion**

Can I thank you for raising these matters with the Council, through a petition handed to your Ward Councillor, Councillor Brake. I do hope the information in this letter has been of some assistance to you. I also hope that the general situation improves.”

- 3.6 On 28 October 2020, the petition organiser requested that the matter be reviewed by the relevant Overview and Scrutiny Committee. 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 as follows:

“I have tried to obtain information from the council such as a copy of the letter sent to Dominos and a copy of the minutes of the meeting at which this petition was presented but none was forthcoming to help with this appeal.

I would like this matter to be reviewed by the relevant Overview and Scrutiny Committee the reason for this is as follows; -

You state in your response to me that you share our concerns and would want to prevent these problems, but this problem is of the councils own making by allowing a licence to Dominos in a built-up area knowing that their main business is deliveries (up to 500 a day) via a small no through road.

No one in the area was notified that Dominos had put in for planning permission, therefore no consultation could take place. There is now an excess noise and pollution problem with all these vehicle movements in

Birchfields to the extent that the air on a Friday and Saturday evening is heavy with car engine fumes. Driving in this restricted area is causing a big environmental problem.

No consideration was given when this licence was granted to the fact that there is a school at one end and a nursery at the other end of Birchfields and therefore is heavily used by pedestrians. By the council granting a licence to increased vehicle volume in such a small road by up to 500 vehicle movements will inevitably lead to a someone being injured or worse. The Councils attitude to this is wait for someone to be killed or seriously injured to bump the problem up the listing before anything is done. We the residents of Birchfields and Silver Birches want the road redesignated as 20MPH zone with or without the traffic calming.

Once the speed limit is redesignated this will help Kent Police sort out the speeding problems and cut down on some of the noise and pollution issues. Hopefully this can be done at very low cost with just two posts put at each end of Birchfields. I noted that on driving along Luton Road Chatham recently there has been 27 parking signs and posts put in three already designated parking areas so there must be some budget for signs somewhere.

The only action the Council has taken on this matter is to push the problems they have caused on to other agencies and to write to Domino's to confirm their opening hours.

I would like to draw your attention to the noise management plan put in by Domino's via their agents Cole Jarman on the 19th September 2018 reference 18/0142/M1 which formed part of the licencing agreement. Much of these sections have not been implemented by Domino's mainly section 2.1 which states that after 21:00 all deliveries will take place from the front of the premises and therefore avoiding Birchfields.

Can checks be done by the Council to ensure that Dominos own Noise Management Plan is being carried out in full. This plan was forwarded to Councillor Brake with the petition which would mean Dominos drivers using the correct route out of Walderslade village (as all the other outlets do) which is using Walderslade Road and Robin Hood Road (pass Councillor Brake's house).

Finally, 56 people from the small road of Birchfields and Silver Birches signed this petition all would like to be ensured that before Domino's A5 licence is renewed the Council will send out letters to all residents in the area so objections can be put in to the current licencing agreement.

We want Domino's to use the front of their premises for all deliveries and collections and use the main road for this purpose which is Walderslade Road."

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

Regarding the request for speed limit lowering and request for traffic calming, unfortunately the Council's position remains the same. Budgets remain very limited and therefore have to be focused on areas where there is a record of accidents, rather than a road where residents feel there might be an issue.

The premises is not licensed to sell hot food after 11pm. At the request of the petitioner organiser, the Licensing Manager has provided him with an extract from a letter sent to the Directors of the premises setting out, for their information, the requirements of the Licensing Act 2003.

In addition, the petition organiser has been advised that if he has evidence of actual trading outside of Domino's authorised opening hours this should be referred to the Council and this would enable the Council to take enforcement action.

**3.8 Petition for the installation of a warden operated gating system at the access into Cozenton Park from Cranford Close.**

3.9 A paper petition containing 32 signatures was presented by Councillor Doe on behalf of the petition organiser on 16 October 2020. The petition statement was as follows:

"Please find attached a combination of email responses and sheets containing signatures supporting this proposal. In all 32 Residents who make up the total number of 37 homes which make up the Cranford Close Neighbourhood Watch Scheme, have given their support for the Gated System. No Residents have declined to sign the petition.

The access into the park opened twelve to eighteen months after the development was started and from the very beginning there have been frequent incidents where the Police, Anti Social Behaviour Team and Local Councillors have been involved.

Residents have at times intervened in an effort to deal with some issues but they have only met with abuse. On several occasions there have been Traveller incursions when for several days at a time Residents have been left feeling anxious.

Many of our experiences have been well documented in the past and other options including applying for full closure have been discussed but in fairness to all Residents the proposed arrangement has been considered to be the best at this time.

We are mindful that some Residents require access to the main line station and for this reason wish to propose that the access is closed from 8pm - 5am daily.

It is apparent that ASB issues in Cozenton Park pre date the construction of the homes in Cranford Close and we feel that adequate measures should have been put in place when planning permission was granted.

Medway Council is now proposing to set aside £5m in order to refurbish Splashes Leisure Centre and we feel it is not unreasonable to address, out of this budget, the whole issue of access/exit involving the park not only from Cranford Close but Bloors Lane. Anti Social Behaviour in the Splashes Car Park has sometimes continued into the early hours of the morning. We also feel an allowance should be set aside for the strengthening or renewal of the existing fencing which is currently suspect.

We understand the creation of the access into the park was intended to be for the benefit of the wider community but a minority have abused this and we feel the Residents of the Close should be the greater priority.

We hope you will consider our request favourably.”

3.10 On 2 November 2020, the Director of Place and Deputy Chief Executive responded as follows:

“I am writing in response to the petition for the installation of a warden operated gating system at the access in Cozenton Park from Cranford Close.

We have assessed your petition, along with the site history and note the following information:

- Since 2018 there have been 6 reported events:
  - o 4 Nuisance – bikes in Cozenton
  - o 1 ASB – vehicle parked in Cranford, youths coming from Cozenton
  - o 1 Covid-19 breach – group in park.

It is also worthwhile to note, the gate was built in line with the development plans for the estate.

In terms of the proposal to secure funds from the Splashes redevelopment, I am afraid this has been fully costed, and there are no additional funds for enhancements outside of this project.

In relation to the query around replacing the fence, we do inspect fences annually and the current fence along the Cranford Close/Cozenton Park boundary has no significant signs of defects, is in good order and does not need any repair or replacement at present.

On this basis, there does not appear to be sufficient grounds to support a gated entrance and I am therefore proposing we monitor this for 12 months, and for residents to report any anti-social behaviour to the police via 111 or the Police web site.”

3.11 On 16 November 2020, the petition organiser requested that the matter be reviewed by the relevant Overview and Scrutiny Committee. The reasons for referral are as follows:

"I am writing as the Lead Petitioner in order to appeal against the decision not to install the above and for the matter to be reviewed by the relevant Overview and Scrutiny Committee.

I presume you will be able to obtain details of the Petition from the Director of Place & Deputy Chief Executive who informed me of the Council's decision. The request was for a gate to be installed and closed between the hours of 8pm and 5am which the Residents of Cranford Close are heavily in favour of as a result of many incidents over recent years.

Initially I would like to respond to a number of points in the decline letter, a copy of which is enclosed to assist you. The majority of Residents at the time of purchasing their properties were led to believe that the access was not definite. Admittedly it appeared in marketing material but sales staff could not commit one way or another. Abbey Developments was keen to avoid doing the work until I would imagine your Planning Department insisted on it going ahead. Residents were not consulted. The work was undertaken at some point in 2013 and shortly after incidents started to occur.

The Petition has been assessed on the basis of 6 incidents being reported since 2018. This does not reflect the severity of the incidents and as you will see from the previous paragraph incidents have been occurring for much longer.

The decline letter suggests a gate is in situ and I must stress there is no such gate and there are simply steps leading down from the pavement into what can only be described as a 'black hole' during the hours of darkness. The lack of a gate is the very purpose of the petition.

It is accepted that the fences are inspected annually and at the present time there are no significant defects. However Residents do feel that that in time the foundations may be undermined due to ground erosion and AS Behaviour.

With regard to the reasons for asking for a review these are as follows:

1. Over a long period there have been countless incidents. Car break ins and attempted break ins were first. Some Residents opted to improve security by installing CCTV and in the period that followed suspects were recorded attempting further crimes. The exit route was always via the park access. We have experienced traveller incursions resulting in stays of several days and the added worry for Residents that the Close was unprotected at night. One burglary took place a day after CCTV captured an intruder in the garden behind me.
2. We have repeatedly been advised to report incidents on 101. This is all well and good but I am afraid a lack of confidence exists in this process. Residents have had to wait 45 minutes to get through before giving up. Therefore the number of incidents reported is misleading. There have been occasions when the police have just not attended. Clearly we have been the victims of under resourcing.



3. Other parks in the immediate area are gated and we simply seek parity.
4. Rainham North Local Ward Councillors Martin Potter and Kirstine Carr have been very supportive of our case and yet there is no mention of them being consulted before the decision was made to decline our request.
5. No. [REDACTED] Cranford Close faces the Splashes Car Park and I am attaching copies of emails concerning two incidents. They particularly have experienced a great deal of distress.
6. Several other properties in the Close are extremely close to the Splashes Car Park and they frequently experience unacceptable noise levels in the form of car engines, shouting and music. One incident during the summer involved a bonfire. Control of the barrier which gives access to the Splashes Car Park has been unreliable and teenagers with vehicles have parked up into the early hours. They are unconcerned if the barrier is eventually closed because they exit via the grass bank which leads out onto Bloors Lane.
7. Residents have been involved in monitoring and compiling record sheets for the ASB Team and the Police. During the summer of 2019 it was necessary to display warning notices and serve Community Protection Orders on five vehicle owners. I am taking the liberty of enclosing copies of some of the incidents.
8. There is regular use of drugs and smoking of cannabis in the park and Residents have had to endure the stench infiltrating their homes. Youngsters with vehicles have also spilled into the Close practising their unacceptable habits. More than one Resident has tackled the youngsters sometimes there is understanding but on other occasions this has only invited abuse. This is unacceptable.
9. It has come to light that Medway Council has been aware of longstanding issues surrounding the park and yet agreed to our homes being built without addressing ASB issues first and affording us with the necessary security.
10. As previously mentioned many Residents have been forced to invest in CCTV to record incidents. The incident involving the CCTV capturing a person in the garden behind me was of no interest to the Police as it amounted to trespass which is not a criminal but civil matter. That incident caused my wife to be unwell as did an incident at around 2.30am one morning when drunks be shouted loudly through our letterbox.

Before our NW Group agreed on this preferred course of action others were considered but this was seen as the fairest option. As a result of the Close giving 24 hour access into the park we experience a level of activity inconsistent with that of a normal 'cul de sac' arrangement and some Residents favoured a total closure. Other daytime noise and nuisance goes on which we have to deal with.

The standard of behaviour accepted today seems very different to yesteryear and you may take the view that everyone has to tolerate some problems. It accepted that not all incidents have been reported but they are numerous and is very real and have caused much distress to many Residents. Much time and energy has been expended on this subject and we feel it is only fair that

our concerns should be a priority over 'the nice to have facility' given to the wider community. The reality is that a largely undesirable element are the ones using the access in the dark of night."

- 3.12 Included with the referral request was a number of emails of support and a log of incidents including car number plates which has been past to the Director of Place and Deputy Chief Executive.
- 3.13 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 have asked Councillor Potter to represent them at the meeting.
- 3.14 In response, the Director of Place and Deputy Chief Executive has further commented as follows:

Whilst additional security and a pedestrian gate can be considered and costs are detailed in item 6.3.1, there would continue to be other open routes into the park that cannot be secured. Furthermore, reports from the past two years from the Police do not support the level of antisocial behaviour. It would appear more social engagement is needed to endeavour to reduce the antisocial activities.

It is recommended all issues are reported via 101 and that the Anti social team / PSCOS continue to monitor and feedback after a year of monitoring.

#### 4. Risk Management

- 4.1 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.

#### 5. Financial and Legal Implications

- 5.1 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.

##### 5.2 Options the securing of the park

- 5.2.1 New gate and locking at dawn / dusk at Cranford Close £900, plus £11,500 per year to secure dawn / dusk.

This option is not recommended as this leaves other access points open at Birling Avenue, High Elms and Bloors Lane and also would not remove some of the antisocial issues in the car park and skate park as this would still be accessible.

- 5.2.2 Secure all access points – would need access gates installed at Birling avenue and High Elms and a whole refurbished Bloors Lane frontage

and entrance with a new fence replacing current pedestrian access to a securable one and replace current vehicle access gates. This would be approx. £38k, plus the annual fee for locking at £15k

## 6. Recommendations

- 6.1 The Committee is requested to consider the petition referral requests and the Chief Legal Officer's and Director's responses in paragraph 3 of the report.

## Lead Officer Contact

Steve Platt, Democratic Services Officer, (01634) 332011  
[stephen.platt@medway.gov.uk](mailto:stephen.platt@medway.gov.uk)

## Appendices

None

## Background Papers

None