

REGENERATION, COMMUNITY AND CULTURE OVERVIEW AND SCRUTINY COMMITTEE

29 SEPTEMBER 2010

PETITIONS

Report from: Robin Cooper, Director of Regeneration, Community and Culture

Author: Caroline Salisbury, Overview and Scrutiny Co-ordinator

Summary

This report advises the Committee of the petitions presented to the Mayor at Council meetings including a summary of officer's response to the petitioners.

1. Budget and Policy Framework

- 1.1 The constitution provides that petitions presented at Council meetings 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. Background

- 2.1 Where the Director is able to fully meet the request of the petitioners a response is sent of the proposed action and timescales for implementation. The petition organiser may request to refer the matter to the relevant Overview and Scrutiny Committee if s/he is not satisfied with the answer and has given reasons for their dissatisfaction.
- 2.2 For petitions where the Director is unable to meet the request of petitioners or where there are a range of alternative responses the petition will be referred to the next relevant Overview and Scrutiny Committee for discussion.

3. Petitions

- 3.1 A summary of responses relevant to this Committee that have passed the ten day deadline for a request for referral to the Committee and are therefore seen as acceptable to the petitioners are set out below.

Subject of petition	Council Date Presented by	Response
Request the council to introduce a free bus pass travel scheme for 11-18 year olds in Medway	29 July 2010 Councillor Stamp	The council does not directly control bus fares but does have the power to offer reduced fares for young people. It is estimated that free bus travel for young people in Medway would cost about £1.5 million a year which would represent a significant increase in the council's costs. The budget is currently fully committed so it would not be possible to introduce this new concession without impacting on other services provided.

4 Petitions referred to this committee

4.1 The following petition has been referred to the Committee for consideration as the lead petitioner has indicated that he is dissatisfied with some of the response received.

4.2 Protect the future of Watts Meadow Nature Reserve

This petition of 452 signatures was presented to Council on 30 July by Councillor Murray. The petition stated:

"We the undersigned ask that the following requests be address by Medway Council:

1. That Bellway Construction reopens access from Priestfields to Watts Meadow for the general public with immediate effect.
2. Bellway construction ceases work within the nature reserve until it can be ascertained that they have a legal right to carry out work there and are carrying out any work with proper regard to the environment and protected species living there (slow worms).
3. All access routes to and from Watts Meadow be granted a legal Right of Way status immediately.
4. Watts Meadow be granted a legally protected status, in line with the original wishes of Richard Watts, "for the enjoyment of the people of Rochester".

- 4.3 The Director of Regeneration, Community and Culture responded to the petition and the letter is attached at Appendix A.
- 4.4 The letter requesting referral to the Committee is attached at Appendix B.
- 4.5 Director's Comments

In response to the letter expressing the petitioner's dissatisfaction:

Why was no notice given to footpath users that the route between Priestfields and Watts Meadow was to be closed and indication given of the alternative route through Southfields?

There is no requirement for the Council (Highways) to erect notices indicating closures or diversions where a route is effectively private, i.e. not recorded as public highway in our statutory highway records, being either the highway records kept under s36 Highways Act 1980 or, in respect of public footpaths or bridleways, etc, the Definitive Map. Officers would normally advise the landowner to erect notices if advised that a route was to be closed and in this case the landowner was notified, however the quality of the signs erected was poor.

Why was no notice given to Watts Meadow users regarding Bellway's 'right' of incursion on to Watts Meadow itself?

When the former nursery site was sold to Bellway, the company was granted rights to connect into drainage on an area of Watts Meadow immediately to the north of the land which was sold. Again there is no legal requirement to give users of Watts Meadow notice of the area being cordoned off whilst the drainage works are carried out, but officers agree that it would have been courteous to give notice by placing notices on site.

Why can no guarantee be given that the path through Watts Meadow will be mapped as a legal right of way?

Over half the length of the path through Watts Meadow is recorded as public highway, the southern section does not currently carry the status of public highway at all. The council intends to declare the whole of the route a public right of way in the 'Excluded Areas Project' but the process for this is such that if there were any objections the matter would have to be determined by the Secretary of State.

Although Watts Meadow is designated as a public open space it does not mean it is safe from development. It is no more than a planning designation that can be changed as circumstances change and there are a number of local examples of land so designated being developed. If Medway Council is happy to agree that there are no plans to develop Watts Meadow and it is protected from any development, then why can't the Watts Meadow Management Scheme (2007) be immediately and fully implemented?

Implementation of the Watts Meadow Management Plan is dependant on securing capital investment and this process started in 2007-08 through Member Priority Funding of £50,000 that was spent on site improvements that included new signage, footpath/access works and site entrance improvements. These works were undertaken in full consultation with the Friends of Watts Meadow.

Further funding will be received for site improvements through a legal Section 106 contribution from the current development, as shown below. In addition officers will look to designate the site a Local Nature Reserve in 2011-12.

The legal Section 106 agreement that was signed between Bellway Homes and Medway Council contains the following clauses:

“Open Space

To pay the sum of £45,688 to the Council towards the provision of enhancements to sport, play and environmental features within Watts Meadow and Priestfields in two parts being 50% on the date of first occupation of the first housing unit to be occupied and the remaining 50% on the first date of first occupation of the twelfth housing unit to be occupied.

Ecological Mitigation

To pay the sum of £15, 769 (“the Ecological Mitigation Contribution”) to the Council towards the provision of fifteen years management costs for ecological mitigation measures as approved within the Ecological Mitigation Strategy on the date of commencement of the development or, if later on the date of approval of the Ecological Mitigation Strategy by the council.”

It is anticipated that the open space contribution will be received during the 2011-12 financial year depending on completion of the development. The nature of this contribution is such that providing detail on what it is to be spent on at this time is difficult and the Development Team will work with Ward Councillors to determine priorities for spending.

The Ecological Mitigation contribution will be received shortly and spent in accordance with an agreed programme of works for sustaining an increased population of reptiles on Watts Meadow.

5 Financial and Legal Implications

- 5.1 Any financial and/or legal implications arising from the issues raised by the petitions are set out in the comments on the petitions.

6 Recommendation

- 6.1 Members are requested to:
- (a) note the petition responses and appropriate officer action in paragraph 3 of the report;
 - (b) consider the petition referral and Director's comments in paragraph 4 of the report.

Background papers

None

Contact for further details:

Caroline Salisbury, Overview and Scrutiny Co-ordinator.

Tel No: 01634 332013 Email: caroline.salisbury@medway.gov.uk

Please contact: Leigh Ann Thurgood

Your ref:

Our ref: Lat/ME262

Date: 13 August 2010

Mr H Jarvis
29 Kings Avenue
Rochester
Kent
ME1 3DS

Director's office
Regeneration, Community and Culture
Medway Council
Gun Wharf, Dock Road, Chatham
Kent ME4 4TR
(DX56006 STROOD)
telephone: 01634 331022
facsimile: 01634 331729
email: leighann.thurgood@medway.gov.uk

Dear Mr Jarvis

Petition to Protect the Future of Watts Meadow Nature Reserve

Thank you for recent petition that was presented at Council by Councillor Murray to protect the future of Watts Meadow Nature Reserve.

The petition covers 4 main points which I will answer below.

The petition requests that Bellway Homes reopen the access path from Priestfields into Watts Meadow.

As the route has not been mapped as public right of way, there are no Highways Act controls over maintaining access to the route. The sale agreement for the land requires the route to be kept open but allows it to be closed during the construction period of the new access road for health and safety reasons.

There is an alternative route available, which passes over council land. This does include a flight of steps. The Council is talking to Bellway Homes and nearby local landowners to see if an additional route can be created in the short term which provides a choice of alternative routes.

The original path will re-open as soon as it safe to do so.

The petition asks that Bellway Homes ceases work within the nature reserve until it can be ascertained that they have a legal right to carry out the work there and are carrying out any work with proper regard to the environment and protected species living there (slow worms).

Bellway have the right to enter onto the southern most area of Watts Meadow to make drainage connections and to build soakways. Bellway are required to reinstate any damage caused to the land.

This information is available in other formats and languages from Leigh Ann Thurgood on 01634-331022. If you wish to contact the Council through the Minicom (text) facility please ring 01634 333111.

Appendix A

I can confirm that there is a condition on the planning decision notice and a S106 requirement for ecological surveys and translocation of habitat at Watts Meadow. I understand that information is currently being collated to discharge this condition.

All access routes to and from Watts Meadow be granted legal rights of way status immediately.

Following national legislation passed in 1949, certain urban areas of Medway were excluded from the requirement to map potential public rights of way. The status of many urban footpaths in Medway is such that they are used by the public but not yet legally recognised as public rights of way. The original legislation has been repealed and now Central Government have given local authorities until 2026 to add public rights of way to the definitive map for the former excluded areas. Medway is well advanced but the area of Rochester including the path through Watts Meadow will not be completed until the end of this financial year.

It is accepted that when that route is considered, due to the time that it has been used, together with planning conditions for the Bellway Homes development, that it is likely (but not guaranteed) that the path will be mapped as a public right of way.

Had the path already been recognised on the definitive map as a public right of way, the Road Traffic Regulation Act 1984 allows for a diversion for up to 6 months to be requested by developers and a diversion route through Southfields is available, as a result a request for a diversion would be hard for the council to refuse.

Watts Meadow be granted a legally protected status in line with the original wishes of Richard Watts, “for the enjoyment of the people of Rochester.”

There are no plans for the council to dispose of any part of Watts Meadow. Watts Meadow is designated as public open space in the local plan and is used by the public as open-space. The site is therefore protected from any development. In addition to this, the site is subject to a covenant, which restricts its use to playing fields and open space.

If you do not consider that the issues raised in your petition have been addressed, please refer to the procedure sent with the acknowledgment letter for a possible further course of action.

Yours sincerely

Robin Cooper
Director of Regeneration, Community & Culture

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P.H. Jarvis,
29 Kings Avenue,
Rochester,
Kent, ME1 3DS

21st August 2010

Head of Democratic Services,
Medway Council.
Gun Wharf,
Dock Rd,
Chatham,
Kent, ME4 4TR

Dear Sir/Madam,

Thank you for the response to the **Petition: To Protect the future of Watts Meadow Nature Reserve** dated 13th August, from the Director of Regeneration, Community & Culture.

Whereas I am generally happy with the response given due to the practicality of the situation, there are still some issues that remain unresolved, namely;

1. Why was no notice given to footpath users that the route between Priestfields and Watts Watts Meadow was to be closed and no indication given of the alternative route through Southfields?
2. Why was no notice given Watts Meadow users regarding Bellway's 'right' of incursion on to Watts Meadow itself?
3. Why can no guarantee be given that the path through Watts Meadow will be mapped as a legal right of way?
4. Although Watts Meadow is designated as a public open space it does not mean it is safe from development. It is no more than a planning designation that can be changed as circumstances change and there are a number of local examples of land so designated being developed. If Medway Council is happy to agree that there are no plans to develop Watts Meadow and it is protected from any development, then why can't the Watts Meadow Management Scheme (2007) be immediately and fully implemented?

I would be grateful if these matters (especially points 3 & 4) could be referred to the relevant Overview and Scrutiny Committee.

Many thanks,

Yours sincerely,

P.H.Jarvis



(delivered by hand)

