

Committee	<b>Lead Cabinet Member for Transport and Environment</b>
Date	<b>5 December 2005</b>
Report By	<b>Director of Transport and Environment</b>
Title of Report	<b>Petition requesting the closure of part of a twwitten between 1b and 1c Milldown Road, Seaford and the provision of a lockable gate.</b>
Purpose of Report	<b>To advise of a petition requesting the closure of a 28.5 metre length of footpath 40a between 1b and 1c Milldown Road, Seaford, and including the provision of a lockable gate, with resident access only, to protect the rear gardens of Milldown Road (no.s 1-11).</b>

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## **RECOMMENDATION**

**To advise the petitioners that their request has been considered and the closure of a 28.5 metre length of footpath 40a and the provision of a lockable gate cannot be justified under current highway legislation.**

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### **1. Financial Appraisal**

1.1 There are no specific financial implications in respect of the recommendations detailed in this report

### **2. Supporting Information**

2.1 At the County Council meeting on 11 October 2005 Councillor Murphy presented a petition to the Chairman requesting that a 28.5 metre length of twwitten [public footpath 40a], adjacent to 1b and 1c Milldown Road be closed, and a strong lockable gate, with resident access only, be provided to protect the rear gardens of Milldown Road (nos 1-11). The section of path proposed to be closed is part of a longer public right of way which passes from Milldown Road along the length of Mill Drive to Sutton Drove. In addition, the petition asks for a lockable gate to be provided at the end of the private passage way giving access to the rear of properties 111 Milldown Road.

2.2 A copy of the petition is available in the Members' room. Standing Orders provide that where the Chairman considers it appropriate, petitions are considered by the relevant Committee or Lead Member and that a spokesperson for the petitioners be invited to address the Committee. The Chairman has referred this petition to the Lead Cabinet Member for Transport and Environment.

### **3. Comments / Appraisal**

3.1 This matter has been investigated at some length previously by the officer with responsibility for Public Rights of Way in the Seaford area. It is recognised that incidents and behaviour reported as occurring on the footpath to the rear of Milldown Road do cause considerable distress to residents.

3.2 Legislation does exist to divert or extinguish paths for the purpose of reducing crime under Section 118B of the Highways Act 1980, but before a path can be considered for diversion or extinguishment under the Act the area in question must be designated as a

'high crime area'.

3.3 The case can be made by the Highway Authority and other agencies for designation of an area but the guidelines regarding these regulations are quite specific in making it clear that the purpose of those powers is to curtail persistent serious crime. It is widely understood that to be considered a high crime area there must be demonstrable evidence of crime, such as burglary, intimidation or other serious incidents and that those incidents derive directly from the existence of the public path. The incidents cited as having occurred in the area do not appear to be of the nature or seriousness that would be regarded as grounds for designation. It is understood that no such designation has been made in East Sussex.

3.4 Section 118 of the Highways Act also provides powers to close paths which are 'not needed by the public'. In applying this test it has to be recognised that there must be an extraordinary reason why the path is not needed, for example where a path has become a 'dead end'. The argument made in the statement accompanying the petition that there is an alternative path in relative proximity could be made for the majority of urban paths, but it would not in itself provide grounds for extinguishment.

3.5 The petition also requests consideration be given to the provision of a lockable gate at the southern end of the private path which gives access to the rear of the properties on Milldown Road (no.s 1-11). As a private access the County Council has no responsibility for this land and therefore have no objection to the residents doing this.

#### **4. Conclusion and Reason for Recommendation**

4.1 The County Council has duty to reduce crime wherever possible, but it must also be mindful of its duty as the Highway Authority to protect the rights of the public to use public paths.

4.2 It is unfortunately the case that the nature of the problems outlined in the petition are all too common incidents of anti-social behaviour. Clearly Police resources are limited and such matters no doubt constitute a growing burden.

4.3 Legislation does not, however, allow the County Council to address these problems by closing paths unless there are extreme circumstances. In this case it is felt that the circumstances would not meet the tests to be applied and subsequently it is recommended that the residents' request cannot be granted.

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#### **BACKGROUND DOCUMENTS**

None.