

ED2. EXECUTIVE DECISIONS BY A CABINET MEMBER OR AN OFFICER

A. Report Title: PROPOSAL TO MAKE A GATING ORDER IN RESPECT OF MULBERRY DRIVE PURFLEET	
B. Report Author(s): Margaret Willson	Tel: 01375 373949 Email: Mwillson@thurrock.gov.uk
C. Decision Maker: Andrew Millard	
D. Position held: Head of Planning and Transportation	
E. Key decision: NO	F. Delegation ref:
G. Is the decision urgent? NO	
H. If yes, state why.	

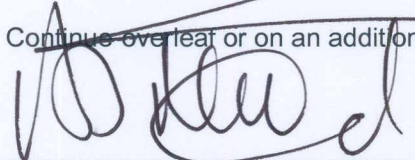
I. DECISION (strike out whichever does not apply) :

1. I agree the recommendations in the attached report for the reasons given in the report; **OR**

2. ~~*My decision is:~~

~~*The reason for my decision is:~~

~~* Continue over leaf or on an additional sheet if necessary.~~

Signed:  Date: 31.1.11

URGENCY

Democratic Services will arrange for the completion of the following:

J. I confirm that in my opinion a decision on this matter is urgent and cannot reasonably be delayed:

Signed: _____ Date: _____

To be completed by Democratic Services

Date decision received by Dem. Services:	Date decision published:
Implementation date:	
Relevant O & S Committee:	

January 2011		ITEM
Report to Head of Planning & Transportation		
PROPOSAL TO MAKE A GATING ORDER IN RESPECT OF MULBERRY DRIVE PURFLEET		
Portfolio Holder: Councillor Y Gupta Portfolio Holder for Environment		
Wards and communities affected: Aveley and Uplands Wards Purfleet Community	Key Decision: No	
Accountable Head of Service: Andy Millard		
Accountable Director: Bill Newman		
This report is Public		
Purpose of Report: To Obtain Authority to Publish the Council's Intention to Make a Gating Order under Section 129A of the Highways Act 1980 in respect of Mulberry Drive Purfleet and to commence the statutory consultation process		

EXECUTIVE SUMMARY

Subject to compliance with Part 8A of the Highways Act 1980 and the Highways Act 1980 (Gating Orders) (England) Regulations 2006, authorisation is sought to commence notification and consultation processes on the Council's Intention to make a Gating Order to prohibit pedestrian access between Mulberry Drive and the footpath between Centurion Way and Chieftan Drive Purfleet as shown at Point C on Appendix 1.

1. RECOMMENDATION:

- 1.1 To authorise the Notification of the Council's Intention to impose a Gating Order under S129A of the Highways Act 1980 and to commence the Statutory Consultation processes in respect of Mulberry Drive Purfleet.**

2. INTRODUCTION AND BACKGROUND:

- 2.1 Mulberry Drive is a Warden Controlled Sheltered Housing Complex. See Appendix 1
- 2.2 Mulberry Drive, including two independent footpaths, was adopted during the 1980's although no firm date is recorded and no adoption plans are available.
- 2.3 The sheltered housing complex comprises of some 38 elderly person properties with social facilities.
- 2.4 Following numerous incidents of reported antisocial behaviour the Warden approached the Highways Department for advice on the procedure to have the highway right removed over the road or for a possible Gating Order.
- 2.5 A letter from Essex Police dated 17 September 2009 sets out recorded incidents. Subsequent update information from Essex Police was received on 2 November. See Appendices 2 and 2A.
- 2.6 Other incidents have happened although not reported to the Police.
- 2.7 The complex is on a level much higher than Centurion Way to the west of the properties.
- 2.8 The land to the west is shrubbery/woodland.
- 2.9 This land is used to access the rear of the complex by those causing the anti-social behaviour.
- 2.10 The paths shown marked A-B and C-D on Appendix 1 attached are not in place although shown as adopted highway. Due to the excessive difference in level these would be difficult to use.
- 2.11 Vehicular access via Mulberry Drive is used by residents of the complex, visitors, and those servicing the complex.
- 2.12 There are equally good alternative accesses for the public on foot to and from Centurion Way and Chieftan Drive.

3. ISSUES AND/OR OPTIONS:

- 3.1 An alternative to a Gating Order would be to remove the highway right over Mulberry Drive. However, this would have considerable cost implications to the Housing Department.
- 3.2 Councillors A.J.Smith, O Gerrish, J. A. Burkey and Councillor Rockliffe, Portfolio Holder for Highways were consulted in March 2009 and had no objections to the proposal. Councillor Burkey requested implementation as soon as possible.

- 3.3 Since the initial report was compiled there has been an election with a new Portfolio Holder for Highways, Councillor Y Gupta, who has added his support of the proposal.
- 3.5 A letter from Essex Police dated 17 September 2009. See Appendix 2 which sets out recorded incidents and suggested two options to reduce nuisance crime, namely to make the car park area in Mulberry Drive for residents only. This suggestion was investigated by our Parking Section and not considered a practical solution. The second option of gating the access between Mulberry Drive and path between Centurion Way and Chieftan Drive is the subject of this Report.
- 3.6 In August 2010 Purfleet Housing Office carried out a pre-consultation on the current use of the route with local residents.
- 3.7 37 responses were received and general support was shown for the proposal. See Appendix 3.
- 3.8 Thurrock Council's Senior Trading Standards Officer is investigating the feasibility of a 'no cold calling' area for the complex and has sent a message of support for the proposal. See Appendix 4

4. CONSULTATION (including Overview and Scrutiny, if applicable)

- 4.1 Councillor Gupta, Portfolio Holder for Highways, Councillors A.J.Smith, O Gerrish, J. A. Burkey.
- 4.2 Councillors A.J.Smith, O Gerrish, J. A. Burkey and Councillor Rockliffe, then the Portfolio Holder for Highways were consulted in March 2009.
- 4.3 Consultations with local residents as mentioned at 3.6 and 3.7.

5. IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT

- 5.1 None

6. IMPLICATIONS

6.1 Financial

Implications verified by: **Michael Jones**

The costs of this application are to be borne by the Thurrock Council Housing Department and been estimated at £4,196.04

Evidence is attached at Appendix 5 that the costs will be met by current budgets.

Telephone and email: **Michael Jones – 01375 652772:**
mxjones@thurrock.gov.uk

6.2 Legal

Under S129A (3) of the Highways Act 1980, before the Council makes the gating order, it has to be satisfied that the following criteria have been met:

- (a) premises adjoining or adjacent to the highway are affected by crime or anti-social behaviour;
- (b) the existence of the highway is facilitating the persistent commission of the criminal offences or anti-social behaviour; and
- (c) it is in all the circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour.

Under S129A (4) of the above Act, the circumstances referred to in (c) above include:

- (a) the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway;
- (b) the likely effect of making the order on other persons in the locality; and
- (c) in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.

Regulation 5 of the 2006 Regulations provides that Council shall consider any representations as to whether or not the proposed gating order should be made.

The Council has to consider if it is in the public interest to make the gating order. It is a matter for the Council to consider what weight is attached to the representations received and to have regard to and balance against the factors and circumstances in support and in opposition of making the gating order as set out in the Report.

The Council has to balance the crime and anti-social behaviour concerns against the impact it will have on users of the highway and the local residents.

The Home Office Guidance dated March 2006 states that the gating order provision is intended to be used as a deterrent for temporary closures while the crime or anti-social behaviour is persistent. It is not to be used to permanently gate the highway. Local authorities should also be satisfied that residents and members of the public who use the relevant highway would not be inappropriately inconvenienced by its gating.

Gating Orders should also be considered and balanced alongside the duty, set out under section 130 of the Highways Act 1980, for the local authority to "assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority".

It should also be noted that Section 129B(4) provides that a Gating Order may not be made so as to restrict the public right of way over a highway which is the only or principal means of access to any dwelling

If a gating order is made, then under section 129D of the Highways Act, a person may apply to the High Court within a period of 6 weeks, questioning the validity of a gating order on the ground that –

- (a) the council had no powers to make it or
- (b) any requirement under this Part was not complied with in relation to it.

Apart from the above provision, a gating order may not, either before or after it has been made, be questioned in any legal proceedings (section 129D (6) of the Highways Act 1980).

Implications verified by: **Remi Aremu**
Planning Solicitor
 Telephone and email: X 2994
raremu@thurrock.gov.uk

6.3 Diversity and Equality

Implications verified by: **Samson DeAlyn**
 Telephone and email: **01375 652472**
sdealyn@thurrock.gov.uk

There are no adverse diversity implications noted in this report. The sheltered housing complex in question comprises of some 38 elderly persons properties with social facilities. The Police have recorded as mentioned in 2.5, five incidents of nuisance and one incident of criminal damage between August and September 2009. The gating order will reduce these incidents and improve the health and social well-being of the residents in Mulberry Drive.

Implications verified by: Samson DeAlyn
 Telephone and email: X2472 – **sdealyn@thurrock.gov.uk**

6.4 Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental

None

7. CONCLUSION

7.1 The preliminary consultations undertaken with residents and Elected Members indicated a strong support of this proposal. It is, therefore, concluded that the Council should publish its Intention to Make a Gating Order and commence the statutory Consultation processes.

BACKGROUND PAPERS USED IN PREPARING THIS REPORT:

- Gating Order Regulations

APPENDICES TO THIS REPORT:

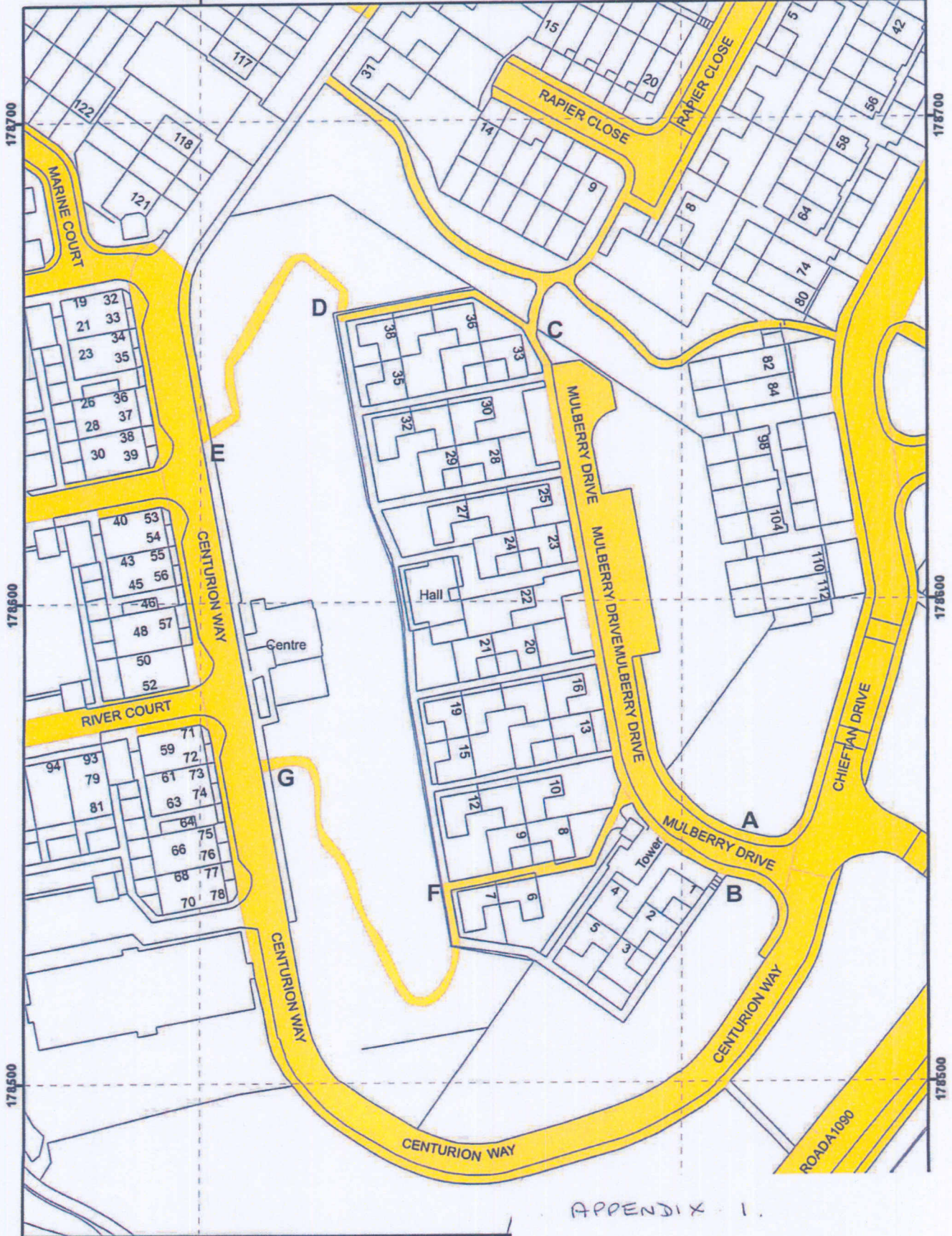
- Appendix 1 - Extract from the Highway Records showing the extent of the Publicly Maintainable Highway in the vicinity of Mulberry Drive.
- Appendix 2 - A letter from Essex Police dated 17 September 2009.
- Appendix 2A - Updated information from Essex Police.
- Appendix 3 - Pre – Consultation undertaken by the Purfleet Housing Department in August 2010.
- Appendix 4 – Supporting email from Thurrock Council's Senior Trading Standards Officer.
- Appendix 5 – Evidence that costs will be met by Thurrock Council Housing Department within their current budgets.

Report Author Contact Details:

Name: Margaret Willson

Telephone: 01375 373949

E-mail: mwillson@thurrock.gov.uk



APPENDIX 1.



South Ockendon Police Station
Darenth Lane
South Ockendon
Essex
RM15 5LJ

17th September 2009

Nicola Dean
Estate Officer
Purfleet Area Office
53 River Court
Purfleet
RM19 1ZY

RECEIVED
21 SEP 2009

Re: Mulberry Drive, Purfleet

In the last month there have been five reported incidents of nuisance youth and one incident of criminal damage in Mulberry Drive, Purfleet.

On the 14th of August 2009, youths were seen to untie flowers in the garden of one of the houses before running off.

On the 29th of August 2009, a group of youths were throwing eggs at three of the residents houses, from the wooded area between River Court and Mulberry Drive.

On the 31st of August 2009, a group of youths were throwing stones at the residents houses, from the wooded area between River Court and Mulberry Drive.

On the 7th of September 2009, a car window was smashed whilst in the car park.

The residents have also complained of youths writing graffiti on their Community Hall (the remains seen by police), damaging the clock tower, knocking over bins and just "hanging around" being a general nuisance.

Although some of those responsible have been identified and spoken to, the problem is still continuing. The following may help the problem:

- CCTV cameras to deter potential offenders and to identify those who are responsible
- A higher fence at the rear of Mulberry Drive where the wooded area is, to stop items being thrown over and help residents feel more secure

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APPENDIX Z

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- Making the car park resident only parking with permits, so the car park is not used by other cars and as a cut through
- Locking the gates at the end of Mulberry Drive, so the road is not used as a cut through so residents feel more secure

The police support any of the above suggestions and any others which will reduce the nuisance behaviour and crime and help the residents to feel less vulnerable and more secure.

Yours sincerely,

Clare Archer

Clare Archer
Police Constable 71571
Neighbourhood Specialist Officer Purfleet

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APPENDIX 2

PAGE 2

Thurrock Council
01375 652240

www.thurrock.gov.uk | e mmwilson@thurrock.gov.uk | t 01375 652240 Thurrock Council,
Civic Offices, New Road, Grays Essex, RM17 6SL

We want Thurrock to be at the dynamic heart of the Thames gateway, a place of
ambition, enterprise & opportunity, where communities and businesses flourish.

Thurrock Council awarded Bronze IIP status... Read more
<http://www.thurrock.gov.uk/news/content.php?page=story&ID=3738>

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

From: Andy Lawrence [mailto:Andy.Lawrence@essex.pnn.police.uk]
Sent: 02 November 2010 14:30
To: Wilson, Mary
Cc: Dean, Nicola; O'Prey, Kerry
Subject: ASB Mulberry Drive Purfleet. [NOT PROTECTIVELY MARKED]

Hi Margaret.

I have been handed a letter concerning the potential closure of the gate access at the
end of Mulberry Drive - Rapier Close. There have historically been issues reference
this gate, and ability for the public to walk through and past the Mulberry Complex. I
am aware of numerous calls from the complex relating to minor crime and disorder and

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anti-social behaviour from local youths congregating in the area and under the
communal hall. They being rowdy and loud distressing residents and evidence of
possible cannabis use there. This is currently an ongoing issue that the local NSO and
PCSOs are monitoring.

Further due to the ease of public access there has been a stranger attack and assault
in the immediate area 27/10/09, garden lights stolen 23/04/10, criminal damage to
plant pots 20/08/10 and an ambulance car had its ambulance stickers stolen on site
30/08/10.

I am aware the question of this gate being permanently closed has been on an agenda
for a long time and that residents would be willing to hold a key to lock it evenings
and unlock it mornings.

From my point of view, to reduce minor crime and disorder and ASB and distress to the
residents. The permanent closure, or managed closure over night, of this public access
which is an unnecessary public right of way, is fully supported by Essex Police.

Please do not hesitate to contact me to discuss further if required.

Many Thanks.

Andy.

PC 2583 ANDY LAWRENCE
COMMUNITY LIAISON OFFICER
SOUTH OCKENDON
BELHUS
AVELEY
PURFLEET
WEST THURROCK
TEL: 0300-333-4444 EXE 364103
MOB: 07708 - 404158
E-MAIL: Andy.lawrence@essex.pnn.police.uk

APPENDIX ZA.

To find out what is happening in your neighbour
Policing Team visit www.essex.police.uk/mynei

Classification: NOT PROTECTIVELY MARKED
This message has been classified by Titus Labs
information visit www.titus-labs.com

Name	Address	Contact Number	Do you currently use the Garrison wall gate? (Y/N)	Do you walk through the gate after 5pm? (Y/N)	Why do you use this route?	Other Comments/Objections
George Douch	29 Mulberry Drive	07960 103346	Y	Y	After Late night visits to my Daughter in Marlowe Ave, this is the shortest return route for me. Also take my dog for walks via gate to River Bank.	Were I am situated in Mulberry Drive is like an open prison! From my garden seat I see 3 walls. I can see nothing from my sitting room, my kitchen looks onto trees and I have only one exit. Perhaps residents that need to use the gate can be issued with a Key, making it their responsibility to ensure it is locked after use! As for anti-social behaviour, I personally never see anybody.
Patricia Ndiyisu	51 Marine Court	01708 867103	Y	Y	I finish work after 9pm everyday and it is the easiest and the safest way I can use	I think you have to do something about Anti-social behaviour in Garrison Estate. It is not only the resident of Mulberry Drive that is experiencing it. It is everyone in the estate. A curfew should be in place in the estate and this is to be supported by community officers.
T. Carter	9 Rapier Close	01708 866886	Y	Y	I work at Morrisons until 10pm at night and we live opposite the wall gate. If this is closed I would have to walk the long way round in the dark on my own.	I have not noticed any anti social behaviour on my way home and whilst I am in my house. As a woman walking alone I would not like the idea of walking another 10 minutes out of my way in the dark. If this gate is to be locked could I not be issued with a key to use it for when I come home?
L. Nicholls (daughter of resident)		07988 232794	Y	N		None
A. Resident	Garrison Estate		Y	Y	because it's a public path and I am entitled to use it!	This is a ridiculous complaint, if the old people don't like being near children then they shouldn't live on an estate. You should have better things to spend your money on like the childrens play area because they are more important. This is a complete waste of time and money. The people in the complex are no more important or better than everyone else in the estate.
E. J. Harvey	7 Rapier Close	07852 980078	Y	Y	because I feel safe walking to the Station and back everyday.	If I use the other route via the steps, it is dark and a lot of the time jobs and drunks are in the area near shops and surrounding areas. The reason why you are getting problems in this area is because of the people coming from the buildings onto the green also loud music, shouting and drunks. In Rapier Close maybe Warden Patrols should be carried out day and night, so maybe some control can be given to the estate. This would also cut down on all crimes which are happening etc.
Mrs. M. E. Noakes	2 Rapier Close		Y	Y	I am partly disabled and it is easier that going right the way round.	I understand it is a right of way. This has been tried before and it didn't work as people come home from work in the evenings. I was on the tenants association committee and it didn't work then.
B. Thomas & P. Elliott	76 River Court	01708 802479	N	N		We have only recently moved onto the estate and are still finding our way around. Although we may use the gate at some point in the future, it would be during the day and I cannot see how closing the gate between the hours specified will cause particular hardship to anyone. Peace of mind for the older residents takes priority.
G. Collins	8 Mulberry Drive		N	N		No Objections
Mr. Hutchinson	91 River Court		N	N		None
Mrs. M. Siman	17 Mulberry Drive		N	N		No Objections
Sheila Lavenmore	14 Mulberry Drive	01708 867188	Y	N	Quick way to shops and the Care Centre	No Objections
Mrs. J. Burrows	24 Mulberry Drive		N	N		None
Mrs. McFadden	11 Mulberry Drive		N	N		No Objections

Willson, Margaret

From: Everett, Terry
Sent: 17 February 2010 14:25
To: Willson, Margaret
Subject: Mulberry Court

Hi Margaret,

I have just spoken with Marion Dean at the above sheltered housing complex. Marion tells me that you are looking at the possibility of a 'gate order' for the footpath running in the front and back of the bungalows.

The purpose of my visit was to look at the feasibility of a no cold calling area for the complex to combat distraction burglary and incidents of rogue trading. I mention this just in case it supports your efforts in seeking the gate order (or whatever it is).

Any queries, please mail or call

Regards

Terry

Terry Everett
Senior Trading Standards Officer
Thurrock Council
Tel: 01375 652483 Fax: 01375 652780

The contents of this message do not necessarily represent the opinions, views, policy or procedures of Thurrock Council.

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APPENDIX 4.

Willson, Margaret

From: Dean, Nicola
Sent: 02 August 2010 15:37
To: Willson, Margaret
Cc: Dean, Marion
Subject: Gating Order

Hi Margaret,

You will be pleased to know that housing management have agreed to pay the amount required to process the gating order at Mulberry Drive.

However before we commence I have received several concerns from other residents of the wider Garrison Estate who use the gate at night time and would have objections to the gate being closed.

Should we carry out a consultation with the rest of the Garrison Estate and find out exactly how many objections there could be as it would be ashame to begin the process only to be knocked back by objections at a later date?

What do you think as you have more experience in these matters.

Kind Regards
Nic

Nicola Dean | Estate Officer | Purfleet/West Thurrock
53 River Court | Centurion Way | Purfleet | RM19 1ZY

Tel: 01708 864898

Email: ndean@thurrock.gov.uk

APPENDIX 5