

AREA COMMITTEE TWO (BASFORD AND BESTWOOD WARDS) 29 JULY 2009

Title of paper:	RESPONSE FROM CONSULTATION FOR PROPOSED GATING ORDER FOR FOOTPATH AT BAGNALL ROAD, BASFORD	
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Relevant Council Plan theme(s):		
Choose Nottingham		
Respect for Nottingham		X
Transforming Nottingham's Neighbourhoods		X
Supporting Nottingham People		X
Serving Nottingham Better		X
Summary of issues (including benefits to customers/service users):		
At its meeting on the 28 January 2009 Area Committee authorised the making of a proposed full-time gating order (gates locked at all times of the day and night) for a footpath between Bagnall Road and Greenwich Avenue. This report provides Area Committee with the response to the statutory consultation for the proposed gating order and asks how it wishes to proceed in light of those responses. The introduction of a gating order in appropriate cases will provide the Council with an additional tool to complement other corporate initiatives for reducing crime, disorder and antisocial behaviour in the community		
Recommendation(s):		
1	In the light of the responses from the consultation determine that the gating order should be made in the same terms as that proposed and consulted on, namely that the footpath should be gated full time ; or	
2	(i) In the light of the responses from the consultation determine that the gating order should be made but in different terms to that proposed and consulted on, namely that the footpath should be gated part-time; and (ii) Specify the operating hours of the gating order i.e. the times during which the footpath should be locked; and (iii) Authorise publication of and consultation on a proposed part-time gating order for the hours specified in accordance with statutory requirements; or	
3	In the light of the responses from the consultation determine that the proposal to gate the footpath should not be proceeded with; or	
4	In the light of the responses from the consultation authorise the referral of the opposed full-time gating order and objections to a public inquiry; or	

5	Request that officers seek further information from residents and defer determination of the request until this information has been received.
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1 BACKGROUND

1.1 In May 2008 local residents requested a gating order in respect of the footpath which runs between 124 and 126 Bagnall Road and 20 and 21 Greenwich Avenue, Basford due to problems of crime and anti-social behaviour occurring either on the footpath itself, or resulting from its use. Additionally, in support of this request, a petition with forty four signatories was presented to the meeting of Council on the 8 September 2008. The footpath is shown at appendix 1. The alternative route, should the footpath be gated, is also shown at appendix 1.

1.2 At its meeting on the 28 January 2009 Area Committee received a report which summarised information from the Crime and Disorder Partnership, the Council's Anti-Social Behaviour Team, the Police and three local residents whose properties were adjacent to or adjoined the footpath. The Area Committee was advised that a gating order should be authorised only if it was satisfied that the legal criteria were met, namely that

- (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 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 antisocial behaviour.

and the Area Committee was advised that the legislation specified that the circumstances referred to in paragraph 1.1 (c) above included:-

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

1.3 After consideration of the report, and the petition presented to the meeting of the Council, the Area Committee authorised the making of a proposed full-time gating order to restrict public access at all times of the day and night.

2 REASONS FOR RECOMMENDATIONS (INCLUDING OUTCOMES OF CONSULTATION)

2.1 Following the Area Committee meeting on 28 January 2009 meeting, officers undertook the statutory consultation which included a notice in a local newspaper and on the Council's website giving details of the proposed order and identifying the alternative route which would be available if the proposed order were to be made. The 28 day statutory consultation period ran from 6 March 2009 to 3 April 2009. The published notice invited representations on the proposed order to be received by the City Council within the period specified. In addition, notices were erected on or adjacent to the footpath for no less than 28 days. The notice was also sent to a number of statutory consultees, including all the occupiers of premises adjoining and adjacent the footpath, the Police the Fire and Rescue

Service, the local NHS Trust, the Nottingham Local Access Forum, statutory undertakers and providers of gas, electricity, water and telecommunications services in the area of the footpath.

- 2.2 During the consultation period thirty six responses were received from occupiers of premises on Greenwich Avenue, Bagnall Road, Sycamore Rise, Christina Crescent and Christina Avenue. From the thirty six responses received, thirty-four residents object to the proposals, one of whom lives in premises directly adjoining the footpath and one in premises directly opposite. Additionally, a petition with sixty- six signatories objecting to the proposed order was received. Two local residents, one of whom lives in premises directly adjoining the footpath, support the proposed order. The responses objecting are summarised at appendix 2 and those in support are summarised at appendix 3. No responses were received from the Police, the Fire and Rescue Service, the local NHS Trust, the Nottingham Local Access Forum, statutory undertakers and providers of gas, electricity and water and telecommunications services.

3 OTHER OPTIONS CONSIDERED IN MAKING THE RECOMMENDATIONS

No other options have been considered in making the recommendations.

4 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY)

To date the financial implications to Area Committee is £200 for publishing the proposed order. Should Area Committee decide to refer the opposed order and objections to a public inquiry the costs to Committee would be £630 per day. It is unlikely that such an inquiry would exceed two days. Should Committee resolve to progress the order or resolve to refer it to an inquiry and the proposed order were to be upheld the cost to Committee to install the gates and fencing is £4150.

5 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS, CRIME AND DISORDER ACT IMPLICATIONS AND EQUALITY AND DIVERSITY IMPLICATIONS)

5.1 LEGAL IMPLICATIONS

Area Committee will be aware from the report of the Lead Services Director of City Development to its meeting on 19 October 2006 that if objections are received from the Police, the Fire and Rescue Service or the local NHS Trust, that the Council cannot proceed with the proposed order. In such a case, the Area Committee has the choice either of not proceeding with its proposed order, or of arranging a public inquiry to resolve the opposed order. No order can be made until a public inquiry has been held and concluded in a case involving one of the above objectors. If objections are received from persons other than those specified above, as is the case with the proposed order for the footpath with which this report is concerned, the Area Committee has a discretion as to whether to arrange to hold a public inquiry or not. If it decides not to do so, it may proceed to make the order and publicise it in accordance with statutory requirements.

- 5.1.2 If Area Committee decide to refer the opposed order and objections to a public inquiry, the Council will be required to provide the evidence on which it decided that the proposed order should be made i.e. the basis on which it was satisfied that

the statutory criteria set out in paragraph 1.2 above were met. Further, it will be required to demonstrate by the production of evidence that those tests are still met at the date of the inquiry. It is the opinion of the report author that on balance, the Council could not be confident that the proposed order would be upheld at inquiry. The length of the available alternative route would be considered by the Planning Inspector, together with the strength and breadth of the evidence in support of the order. All those who objected to the order, and any other persons who wished to be heard, would be able to attend the inquiry and address the Inspector as to whether the proposed order should be upheld. Because of pressure of work on the part of the Planning Inspectorate, the date of the inquiry is likely to be many months after this Committee meeting.

5.1.3 In the light of the objections which have been received, one option for Area Committee would be to authorise an order whose terms differed from those of the proposed order which was authorised in January 2009. A revised order could address the concerns of some of the objectors by restricting public access solely during the night, instead of at all times of the day and night. For example, the revised order could lock the gates at 01.00 hrs and open them at 05.00 hrs, which reflects the operating hours of and access to the NET tram stop at Highbury Vale. This option is supported by three objectors who state that the footpath should be gated in the evening's only. Furthermore, during the statutory consultation period a 'flyer' from an unknown source was circulated to residents which stated '*we are writing to the Council to propose that they need to find a solution that works for all the community, for instance by having a gate that is open during the day but closed at night to deter any antisocial behaviour*'. However, this option would have resource implications for the City Council because the gates would have to be opened and locked at these times, and to reflect the terms of the order, these operating hours would have to be strictly adhered to.

5.1.4 Such a proposed revised order would need to be publicised in the same way as the original order but the result may be that previously lodged objections would not be repeated and therefore a greater degree of local consensus could be obtained.

5.1.5 A person wishing to challenge the validity of a gating order may do so by application to the High Court within six weeks of the order having been made. The possible grounds of challenge are either that the Council had no power to make the order, or that a requirement under the gating order legislation has not been complied with.

5.1.6 CRIME AND DISORDER ACT IMPLICATIONS

Under section 17 of the 1998 Crime and Disorder Act the Council has a duty to take account of community safety in all areas of its work and under the *Safe For Nottingham: Nottingham City Crime, Drugs and Anti-Social Behaviour Strategy 2005 – 2008*, all policies, plans, activities and budgets need to be considered from the standpoint of their potential contribution to the reduction of crime and disorder. The introduction of a gating order in appropriate cases will provide the Council with an additional tool to complement other corporate initiatives for reducing crime, disorder and anti-social behaviour in the community.

5.2 EQUALITY AND DIVERSITY IMPLICATIONS

The introduction of a gating order in appropriate circumstances will help reduce crime, disorder and anti-social behaviour in the local community and therefore the use of these powers will improve the quality of life for vulnerable and disadvantaged groups within the community.

- 5.3 Area Committee is asked to note that a number of the objections make reference to the implications for the elderly and less able residents who would have to walk further using the alternative route (shown at appendix 1) to access local amenities, should the footpath be gated.

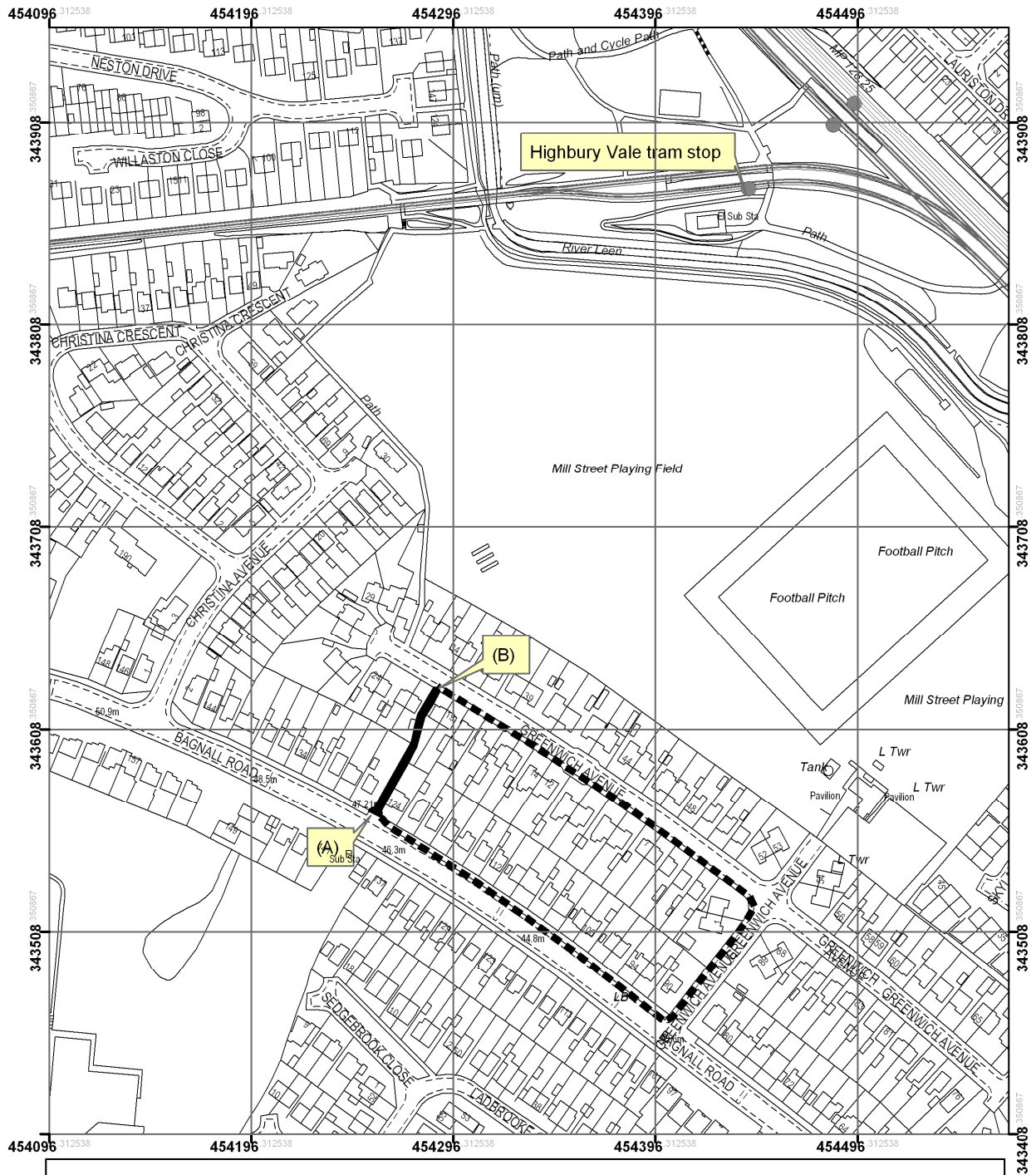
6 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

None


7 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

- 7.1 Report to Area Two Committee (Basford and Bestwood Wards) meeting on the 28 January 2009 headed Request to Gate a Footpath Between Bagnall Road and Greenwich Avenue
- 7.2 Minute no. 46 (b) of Area Two Committee (Basford and Bestwood Wards) dated 28 January 2009
- 7.3 Report to Area Committee (Basford and Bestwood Wards) meeting on the 19 October 2006 headed Gating Orders to Reduce Crime and Antisocial Behaviour
- 7.4 Crime and Disorder Act 1998
- 7.5 Safe for Nottingham: Nottingham City Crime, Drugs and Anti-Social Behaviour Strategy 2005 – 2008

APPENDIX 1



Gating Order Request for Footpath Between Bagnall Road and Greenwich Avenue, Basford

<p>Legend</p> <ul style="list-style-type: none"> --- alternative route ■ (A) - (B) footpath subject of gating order 	<p><small>Map produced on 30 December 2009 Map produced by John Lee Traffic Management</small></p>	 <p>Nottingham City Council</p> <p>Environment and Regeneration</p> <p>Scale 1:2,500</p>
<p>This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Nottingham City Council 100019317.2008.</p>		

APPENDIX 2

RESPONSES OBJECTING TO THE PROPOSED GATING ORDER

Location of objector's residence	Summary of response
Bagnall Road	Use path daily, to get to and from the tram stop. As stated on your notice of intention, there is a problem of anti-social behaviour along the footpath. The problem is people hanging around the area, and not the footpath itself. Need better lighting and further patrols from community support officers would be more productive. The path should be cleaned and disinfected regularly; this would deter not only people but pets too. Problem will be moved to another area. Deter the anti-social behaviour, don't just block off a footpath that a majority of people use for legitimate purposes.
Bagnall Road	This footpath has been there since 1900 and is in regular use by locals. We access the tram. I can understand that at night it could be closed to avoid anti-social behaviour but to close it completely is going to be detrimental to a large number of people, most who are pensioners or people with walking difficulties. It seems idiotic to introduce a fantastic tram system and then reduce access to it. Close it at night only.
Bagnall Road	Closure would cause difficulty to all that use the footpath. Require access to tram. If gated the footpath would add approx 10 mins to my journey, this would have a significant impact. If gated people would still climb the adjacent walls. Concerns that the gardens will become a thoroughfare for those who cannot use the path. Look at suitable alternative
Bagnall Road	Closure will not reduce anti-social behaviour, but will cause resentment an increase in antisocial behaviour. The closure is an attack on people freedom of use. It's been there since 1800's. If people are not happy with where they live, they should move to somewhere where there isn't a footpath that is a choice they have. Little thought given to young children who will face increased danger as they have further to walk to access tram, park, football pitch and Bulwell. Detrimental to the wellbeing of the elderly and disabled people, who find it difficult to walk the extra distance.
Bagnall Road	Police state no crime recorded by immediate properties. There are crimes to properties close to the footpath, but cannot be related to the footpath. Police also state how clean and tidy the path is. No damage or graffiti. There is lack of detail to some of the alleged incidents. This is a Neighbourhood Watch Area and would expect residents to report crime to the Police. The gating order will be a punishment imposed on the residents of the area. As there is no evidence of criminal behaviour, the residents are now becoming the victims. Gating order cannot be removed once implemented. Disabled residents will struggle to walk the extra distance. The gating order will not reduce criminal behaviour in the area. The footpath is not essential to commit a crime. There are other open spaces which have been used as escape

	routes with Police helicopters often circling. Footpath leads to the Highbury Vale tram stop. Risk of vandalism to gates when erected.
Christina Avenue	Path is regularly used, especially to reach the tram. Incidents that have been reported to the City Council and have reacted quickly. Closure will affect the older generation. Would like to attend a public meeting to discuss keeping it open.
Bagnall Road	Older people living in the area would not be able to walk the further route to reach tram, buses etc.
Greenwich Avenue	(Information from 5 premises received in one letter) Due to the age of several residents who use the path, alternative route is not possible. Need to catch the bus, tram. Using the path is much easier
Greenwich Avenue	Closure would mean an extended journey, not easy for the elderly who need to get out daily to the shops. Access to Highbury Vale tram stop. Concern over the gates, people may climb over residents' fences. Gates should not be visible from the house. Concern over visual appearance of the gates and wire. Would support a part time gating order.
Bagnall Road	Alternative route not suitable. Will not stop antisocial behaviour. Access to tram, adds time to your journey. If closing one path, should close all paths.
Bagnall Road	Not enough information. Use path to reach tram. More young people passing through the area rather than using the path. People will use cars more. Not seen any antisocial behaviour. Police have no data. Issue with the keys and who would have them. Discrimination is some get keys and others not. Request a public meeting
Sycamore Rise	Access to tram, walks etc. Promote walking not obesity. Alternative route not acceptable. Closure will not stop vandalism. Improve path, upgrade lighting or CCTV.
Bagnall Road	Needs access to River Leen, children, elderly and dog walkers need this access. Closing this path will not stop ASB, but displace it, curtailing everybody else's freedom of movement.
Greenwich Avenue	The path has been there since 1899. Increased danger to children and elderly using the alternative route. Detrimental to elderly who use the path to reach the bus stop in Bagnall Road. It will add significant time to the journey, isolating the elderly from local services. Majority of antisocial behaviour is on the Greenwich Ave to River Leen footpath. Suggest a gate at the top of the path in Bagnall Road and another at Greenwich Ave. Keys should be offered to all local residents having the need to use the path. Should be regular monitoring by Police and Community Support Officers.
Greenwich Avenue	Says the original petition was for the closure of the path from Greenwich Ave to the tram stop. The closure of this path will cause inconvenience for the law abiding citizens. Inconvenience the elderly whose use public transport, difficult to carry heavy shopping further. Never witnessed any disturbance at any time.
Christina Avenue	The proposal has responded to a minority request. We must avoid the closure of rights of way which have existed for over 100 years and was there when the houses were built. Provides easy access to River Leen and tramway. The half

	a mile detour would encourage people to drive rather than walk to the paying fields.
Greenwich Avenue	Closure will not combat the antisocial behaviour and vandalism that has been occurring on Greenwich Ave. Increase in 'foot' traffic on Greenwich Ave, currently approx 90% are school pupils using it as a short cut. This exit is not used for commuters using the tram. I have witnessed wheelie bins pushed over and emptied all over the Road, writing on my vehicle with a marker pen and van mirror broken. Litter thrown into gardens and hedges broken, fences damaged. Taxis reluctant to drive into Greenwich Ave as they have experienced passengers avoiding payment and escaping on the footpath. Want footpath from Greenwich to Highbury Vale to be closed. Pupils can use footpath on Mill Street.
Bagnall Road	Footpath has been here for over 100 years. Have used over the last 45 years, the closure will make my journey 500 yds longer.
Greenwich Avenue	Closure will penalise law abiding people who need to use the bus and forcing them (some aged and infirm) to walk further along Greenwich Ave to access Bagnall Road. This could further antagonise the 'undesirables' and increase the level of antisocial behaviour. We think a better option would be to gate the path from Greenwich Ave to the river, enclose the park area leaving a turnstile, which will eliminate the bikes and quads, and pedestrians can still gain access. The path from Greenwich to the river is dark and without CCTV and people can be at risk of mugging. The real problem cannot be solved by any amount of gating orders. Policing the area and stronger sentencing would help.
Greenwich Avenue	Elderly people without cars would be cut off from an easily accessed bus stop and town. Several would find it impossible to walk the extra distance – more so coming home with shopping. This 'path' is a very convenient and essential amenity.
Bagnall Road	<p>The problems are as a result of gangs of youths using Greenwich Ave and the footpath to the tram stop on Highbury Vale. The closure of the Bagnall Road footpath will not address the issues on the other footpath to Highbury Vale. This closure would create more problems for local residents. Object to the permanent gating due to the following reasons: the safety of young children will be at risk. Bagnall Road is not a safe place for children to walk or ride their bikes. Alternative route is a long way to walk for a child. Government initiative to combat obesity and encourage children to be more active – closing this path would deter families from letting their children use the nearest and accessible open green space.</p> <p>The Government have targets to reduce emissions – closure of the path would encourage people to get in their cars and drive to the park. Closure would have a detrimental impact on the elderly as they need this access to amenities. Closing the path using a gate at each end could create a safe haven for youths to congregate. People can put in place measures to refrain thieves from climbing over fences. Police report no evidence to support a gating order. Suggest the following: Put cameras on Greenwich Ave to catch people causing problems, create alcohol exclusion zone in the key areas, and have a higher Police presence in these areas. If gating is the answer then it needs to be on both footpaths</p>

	and residents will need to have keys to both sets of gates.
Greenwich Avenue	Residents have experienced a rise in the last year of antisocial behaviour and vandalism. Would like to see the Greenwich Ave to Highbury Vale footpath closed. Closing the Bagnall Road footpath would not address the issues of the other footpath.
Bagnall Road	Understand that there have been problems, but can't see why it should be shut permanently. Just lock the gates in the dark hours.
Greenwich Avenue	The path has been there for many years and is access to the Tram. Concern that if closed, it will become a dumping ground. Closure of the path would inconvenience us.
Sycamore Rise	Closure of the footpath would be a great inconvenience to me and family. We are encouraged to use public transport; the closure would make us use cars more. Police do not support it. If implemented, would welcome a 12 month review.

APPENDIX 3

RESPONSES IN SUPPORT OF THE PROPOSED GATING ORDER

Greenwich Avenue	Constant antisocial behaviour from children and gangs of youths. Incidents of vandalism, it is used as an escape route for thieves. The people who are against the proposal are mainly dog walkers who do not live on Greenwich Ave and do not have to put up with the antisocial behaviour. Access to the fields is no problem via Mill Street.
Greenwich Avenue	I am still in support of the closure of the footpath.