

Highway Adoption & Stopping Up Policy

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1. INTRODUCTION

- 1.1. This document sets out the Highway Adoption and Highway Stopping Up Policy at Harrow Council. The policy supersedes all previous criteria that may have been applied for the adoption of highways in the Borough.
- 1.2. Harrow Council is the highway authority for roads in Harrow and has a responsibility to keep all highways safe and accessible for everyone to use. Throughout this document, the 'highway' refers to publicly accessible roads, footways, public areas and other public rights of way which are the responsibility of the highways authority.
- 1.3. Highway Adoption is a process where a road in private ownership (private road) or a privately maintainable highway (private street) becomes a public road, which is then maintained by the highway authority.
- 1.4. Stopping up of an adopted highway is a process where the highway rights over a road are extinguished in law. When highway rights are extinguished, ownership reverts to the owner of the land and the public have no right to access.
- 1.5. The Highway Adoption and Highway Stopping up Policy is relevant when:
 - Adopting a new highway;
 - Adopting an existing highway; and
 - Stopping up of highway.
- 1.6. The policy will not be applied retrospectively and will not affect any prior highway adoption or stopping up decisions made by the Council.

2. POLICY OBJECTIVES

- 2.1. The objectives of the Highway Adoption and Stopping up Policy are:
 - To ensure that the Council has the clear policy, process and criteria for evaluating any requests to adopt or extinguish highway.
 - To ensure that the Council's policy is clear to both members and the public and is communicated effectively;
 - To ensure that the Council's policy is applied consistently and fairly, in accordance with legislation; and
 - To serve as a reference document on highway adoption matters.

3. HIGHWAY STATUS

3.1. All roads in the Borough can be classified into the following highway status categories.

Highway Category	Description
Adopted Public Highway - Maintainable at Public Expense	Public rights of way exist along the road and it is maintained by the Highway Authority at public expense.
Public Highway - Not Maintainable at Public Expense (private street)	Public rights of way exist along the road, although it is not maintainable at public expense, the owners / frontages are responsible for maintenance (may also be referred to by some as a 'private street'). The Highway Authority is under no obligation to carry out repairs, even though there is a public right of way to which highway and traffic law can be applied.
Private Road (Not Public Highway)	No public rights of way exist along the road and it is not maintainable at public expense, the owners / frontages are responsible for maintenance.

- 3.2. The status of highway on older roads has been gained by established public use while newer roads are typically dedicated as highways from the time they are adopted by the local authority. Most of the highway network has been deemed to be highway under the provision that any road established before 1835 is assumed to be a publicly maintainable highway, or more commonly known as an 'ancient highway'.
- 3.3. In respect of un-adopted private streets Harrow Council is only responsible for traffic regulation (e.g. traffic and parking restrictions) but not for any planned maintenance.
- 3.4. The Council has no responsibility for any roads which are under private ownership with no highway rights (private road), or those that fall within the responsibility of another agency; for example, an estate management company or the Transport for London Road Network (TLRN). In Harrow there is no Transport for London (TfL) managed highways.
- 3.5. Information on the classification of all highways in Harrow as of December 2014 is available from www.harrow.gov.uk¹.

¹ Information on Adopted roads in Harrow Council can be downloaded from the www.harrow.gov.uk website. For more details see Chapter 8.

4. POLICY STATEMENT

Statement 1

Harrow Council, as the Highway Authority, will manage all highways in the Borough where there are established public rights of access and maintain any adopted highways at public expense. This includes administering the adoption of new highways and the stopping up of existing highway in accordance with current legislation and complying with the criteria set by the Council;

Statement 2

Fees will be charged by the Council to cover their reasonable costs in administering, approving, inspecting undertaking statutory legal processes and enforcing agreements relating to the adoption of or stopping up of highway;

Statement 3

The Council does not automatically adopt all new roads built by developers. New roads that have been constructed in accordance with Council guidelines are normally adopted by way of a legal agreement between the developer and the Council;

Statement 4

The Council will not adopt existing unadopted highways unless it meets the adoption criteria set by the Council. This includes, among others that the Council has sufficient funding and the highway will be of sufficient utility to the public. See Section 6 for more details; and

Statement 5

The Council will consider the stopping up of highways which are considered to be surplus to use for highway purposes and which meet the Council's criteria for doing so. See Section 7 for more details.

5. RELEVANT LEGISLATION

- 5.1. Highways can be adopted and/or stopped up under the Highways Act 1980. Powers to stop up highways are also contained in the Town and Country Planning Act 1990 (as amended). A summary of the relevant sections of the Acts are set out in Appendix A and B respectively.

6. ADOPTING HIGHWAYS

- 6.1. The Council will consider adopting roads as publicly maintainable highway if a substantive case for highways adoption is made. It will be necessary to meet two or more of the following criteria:
 - It has a direct link with or connects to the existing public highway network;
 - It is a strategic part of the highway network and carries larger volumes of traffic.
 - Where a development has no through route, only the main access road will be considered for adoption where it serves in excess of 50 residential units;
 - It serves bus routes as well as community facilities;
 - It is a public space that acts as a local amenity or community area within the highway network and requires public access.
- 6.2. The applicant will be responsible for all costs to bring the highway up to the relevant standards required by the highway authority which may involve a substantial construction cost including any administrative, professional and legal costs incurred in the process.
- 6.3. Once the case for highways adoption has been accepted by the Council, the following requirements need to be met by the applicant as a minimum:
 - the carriageway and footways are of widths and gradients that offer a safe passage for pedestrians and vehicles respectively;
 - there is an approved means of surface water drainage to the carriageway and footways;
 - the street lighting provided meets the current local requirements and national standards;
 - the materials used meet the current design and construction standards;
 - the freehold owner(s) of the land over which the road is built is willing to dedicate the road to the public as a highway when it is built, at no cost to the Council, under Section 38 Agreement of the Highways Act 1980; and
 - the road will be a public right of way and will remain open to the public to pass and re-pass at all times when formally adopted.
- 6.4. Highway adoption will not be considered where the required adoption criteria and design and construction standards are not met or do not meet the satisfaction of the Council.
- 6.5. The Council will require the necessary legal agreements to be in place prior to highway adoption taking place.

7. STOPPING UP HIGHWAYS

- 7.1. Stopping up may be considered when the highway is considered to be surplus to use for highway purposes or to allow development to take place. Public highway can include roads, streets, footpaths, public car parks, grass verges and footways which are accessible to the public.
- 7.2. Two or more of the following criteria will need to be assessed before an existing highway can be considered to justify consideration of a formal stopping-up process:
 - Is the land required to retain adequate sight lines for all traffic including pedestrians, equestrians and cyclists?
 - Is the land required for any future improvement scheme?
 - Whether the extinguishment and disposal of the land may result in a change to the character of the street scene
 - Whether the extinguishment and disposal of the land may result in a perceived loss of amenity
 - Any detrimental environmental conditions that may result.
 - Whether the extinguishment and disposal of the land result in perceived gain to the applicant but to the detriment of local residents: for example, to secure private parking on land which was previously accessible to and enjoyed by local residents
 - In the case of land owned by the Council, whether it needs to be retained for other statutory purposes.

8. HIGHWAY ADOPTION AND STOPPING UP PROCESS

- 8.1. The process of highway adoption and/or stopping up involves various internal and external stakeholders at different stages of the process.
- 8.2. Appendices C and D show the process flowchart for the Highway Adoption and Stopping up. This is briefly discussed below.

Highway Adoption under the Highways Act, 1980

- 8.3. For new roads, built as part of a development, the developer will have to enter into a legal agreement with the Council under Section 38 of the Highways Act 1980, pay the required fees and construct the roads to the Council's standards prior to the street being considered for adoption by the Council and:
 - The terms of the agreement would include that the developer maintains the new road for a year after it has built the final phase; and
 - In the case of larger developments, the adoption can only be undertaken on completion of the whole development.
- 8.4. For a road which has been historically private, then the owner will have to enter into a legal agreement with the Council to bring the street up to the appropriate standards and also pay fees prior to the street being considered for adoption by the Council.

8.5. The highway adoption process is typically between 6 to 8 months.

Stopping up under the Highways Act, 1980

- 8.6. Where areas of public highway are considered by the Highway Authority to be surplus to highway requirements, the public rights of way can be extinguished by an Order made by Magistrates under section 116 of the Highways Act.
- 8.7. An application has to be made to the Magistrates' Court by the Highway Authority on behalf of an applicant. Applicants must apply to the Council and pay for all costs involved.
- 8.8. The land concerned needs to be owned by the applicants for the stopping up application to be processed. An application under S116 require that at least 28 days notice is given, before the date on which the application is to be heard, to all owners and occupiers whose land adjoin the relevant highway and statutory undertakers at least 28 days prior to making of the application. Where the Highway Authority makes a stopping up order under Section 118 of the Highways Act, the order has to be submitted to the Secretary of State for confirmation if there are unresolved objections to the order.
- 8.9. Notice of the intention to apply for the order must also be advertised in a local newspaper and the London Gazette and displayed in a prominent position on the highway to be stopped up for no less 28 days before the application is made
- 8.10. The time scale required to process stopping up applications is typically a minimum of nine months.
- 8.11. It will be necessary to satisfy the criteria in this policy, receive the approval of the relevant Council Portfolio Holder or committee and undertake the necessary legal processes before an order for stopping up under section 116 is made to the Magistrates Court or before the Council makes an order under section 118 of the Highways Act.

Stopping up under the Town and Country Planning Act, 1990

- 8.12. Land can be stopped up to facilitate development through the planning process under section 247 of the Town and Country Planning Act 1990 (the Planning Act). A highway can be "stopped up" to allow development to take place if it has received planning permission. It will relate to an area of highway which is to be built upon or affected by development in some form.
- 8.13. Notice of the intention to make the order is displayed on a prominent position on the highway to be stopped up and is advertised in a local newspaper and the London Gazette. There is a period of 28 days from the publication date of the Notice in a local paper and the London Gazette in which to make an objection.
- 8.14. If no objections are received, the order is made and re-advertised as before. Challenge to the validity of the order can be made in the High Court within six weeks of the publication date of the Notice of making of the order. The timescale for processing a stopping up application under the Planning Act varies but the applicants are requested to allow at least six months subject to no objections being received to the order.

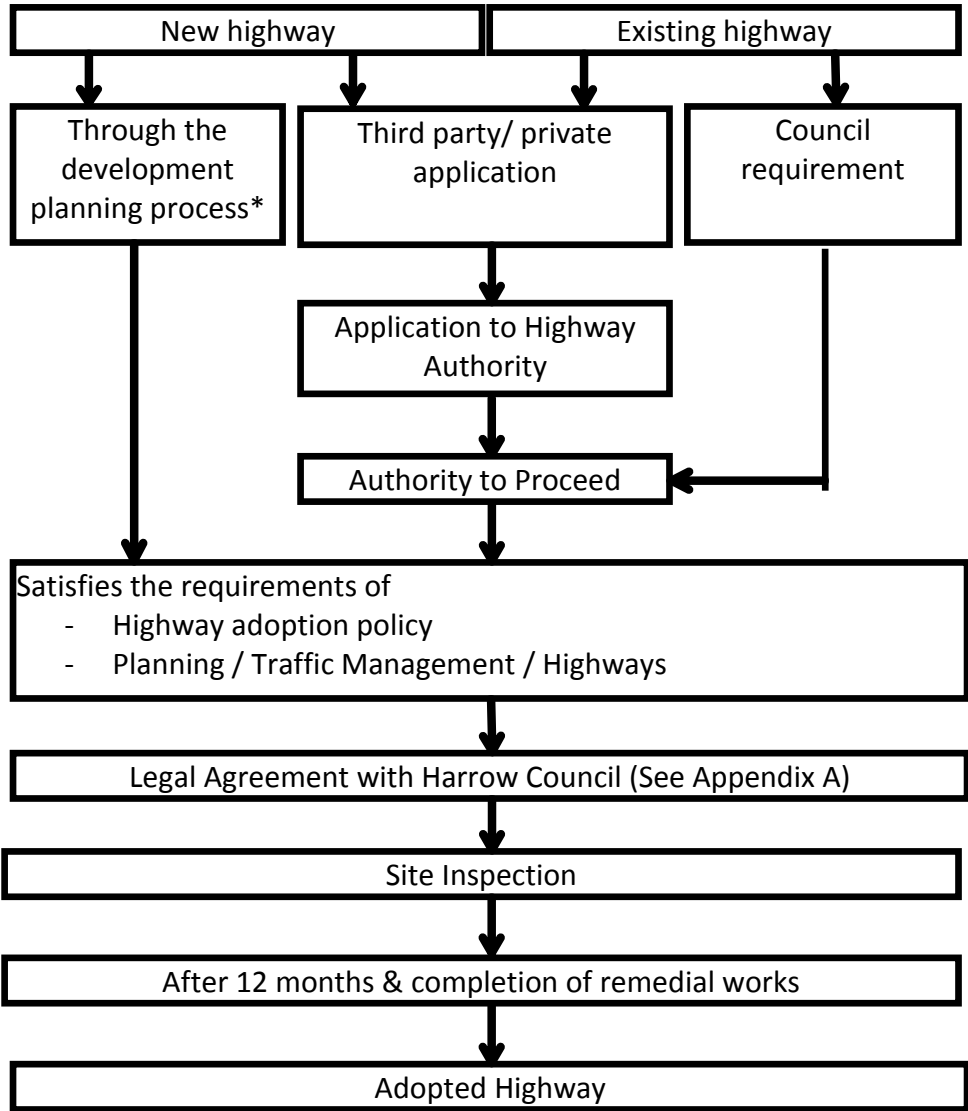
9. ADDITIONAL INFORMATION

- 9.1. Information regarding highway adoption and/or stopping up can be obtained from the Council's website, www.harrow.gov.uk.
- 9.2. All inquiries and comments regarding highway status, highway adoption and/or stopping up should be directed to:

Traffic & Highway Asset Management
Harrow Council
Civic Centre
Station Road
Harrow HA1 2XA

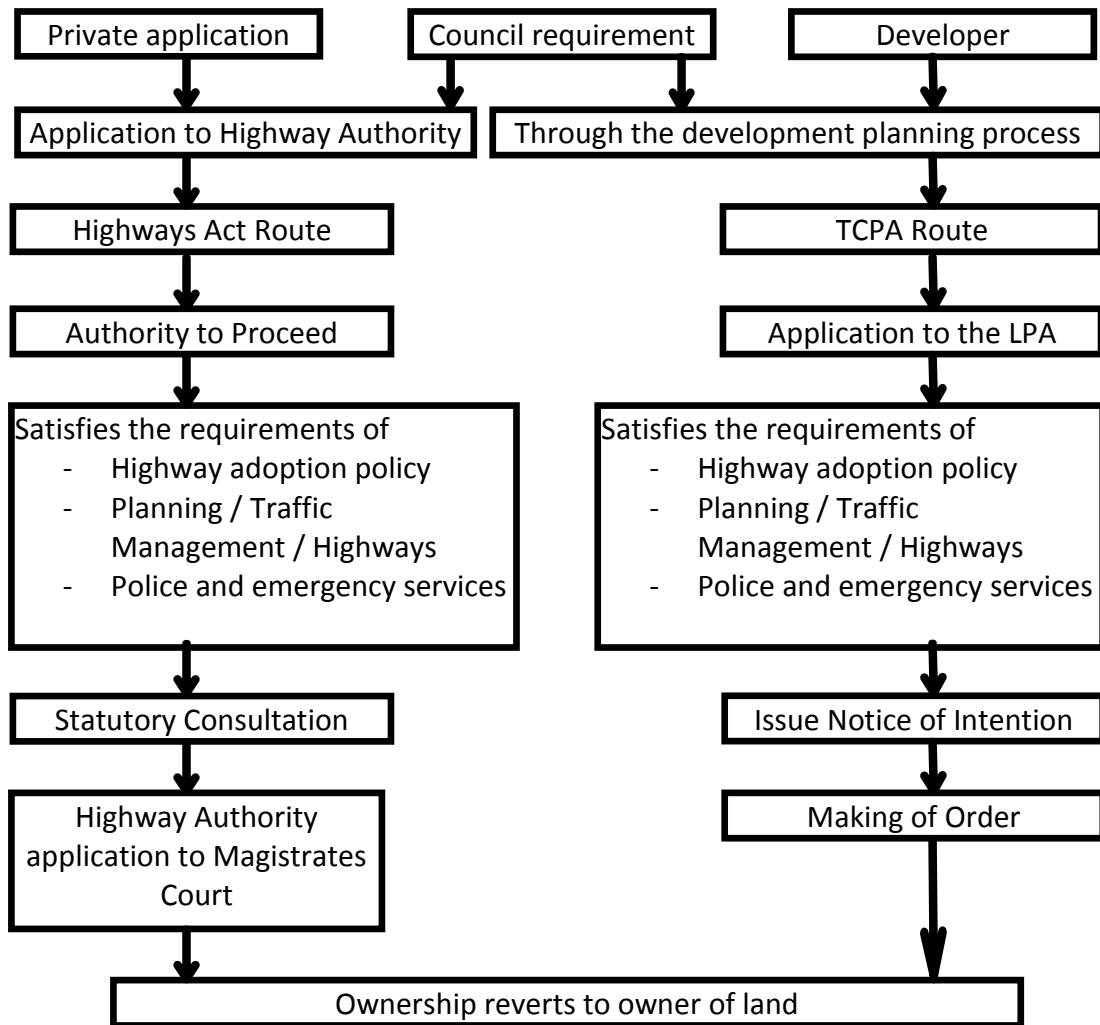
Email: highways@harrow.gov.uk

10. APPENDIX A: HIGHWAY ADOPTION PROCESS FLOWCHART



*The highway adoption will be dealt with as part of the development application approval process. The Highway authority's comments will be sought on planning applications.

11. APPENDIX B: STOPPING UP PROCESS FLOWCHART



*The highway stopping-up through the development planning process will follow the TPCA route. The Highway authority's comments will be sought on planning applications.