

REPORT FOR: LICENSING PANEL

Date of Meeting:	30 May 2012
Subject:	Harrow School – public footpaths application
Responsible Officer:	John Edwards, Divisional Director Environmental Services
Exempt:	No
Enclosures:	Appendix 1 – Application Letter from Harrow School Appendix 2 – Drawing showing the existing footpaths and the proposed diversion (Hard copies of Appendix 2 available on request from the clerk)

Section 1 – Summary

This report sets out an application from Harrow School (Appendix 1) to divert public footpaths 57 and 58 and create a new footpath located on the school playing fields and seeks authority to commence the statutory process for diverting and creating the proposed footpaths (shown at Appendix 2) under sections 119 and 26 of the Highways Act 1980.

Recommendations:

The Panel is requested to:

1. Note the application received from Harrow School;
2. Authorise the Director of Legal and Governance Services, in consultation with the Divisional Director of Environmental Services to:
 - carry out an informal consultation with key interest groups on the proposed diversion of footpaths 57 and 58 (“the Diversion Orders”) and the creation of the new footpath (“the Creation Order”) shown on Appendix 2;
 - make the Diversion Orders and the Creation Order subject to consideration of any representations received during the

informal consultation exercise;

- carry out a minimum four week formal public consultation on the Diversion Orders and the Creation Orders when the orders are made;
- confirm the Diversion Orders and the Creation Order if no objections are received to the orders (or if objections received are withdrawn) following the formal public consultation;
- submit the Diversion Orders and the Creation Order to the Secretary of State if objections are made to the orders which are not withdrawn following the formal public consultation.

Reason: (For recommendation)

The proposed diversion of footpath 57 and 58 and the creation of the new footpath will provide improved, clear and unobstructed routes for use by the public around the playing fields at Harrow School, which will resolve the conflict between the public's use of the footpath and the School's use of the existing sports pitches.

Section 2 – Report

Background

- 2.1 In 2001 Harrow School submitted a planning application for new sports facilities to be constructed on the school playing fields. The application for two all weather pitches and twelve tennis courts was approved and subsequently constructed. The facilities encroach upon the current line of footpath 57 (as shown in the Council's definitive map) which runs in between the two all weather pitches and crosses the tennis courts. The line of footpath 58 as shown on the definitive map also crosses several of the grass sports pitches. No formal diversion of the footpaths was undertaken thus creating a conflict between the public's use of these footpaths and the School's use of its sports facilities.
- 2.2 In 2003, following discussions between the Council and the School, a permissive footpath agreement was entered into by the Council and the School which permitted the public to use some alternative routes around the sports facilities. The agreement did not, however, take away the right of the public to use the existing right of way as shown on the Definitive Map.
- 2.3 When the permissive footpath was introduced the gates to the enclosure around the all weather pitches was locked thus denying the public access to this part of footpath 57. The Ramblers organisation protested against the locking of the gates and demanded that they be reopened in 2003 and more recently in 2011. In both cases the Council wrote to the school requesting that the gates be unlocked.

Current position

- 2.4 A meeting between the School and the Ramblers and the Council was organised on 7th March 2012 to discuss the options available to see if it was possible to resolve this issue amicably without the necessity of legal action which could involve huge costs to all parties. At the meeting the school presented a proposal to divert footpaths 57 and 58 and create a new footpath as a solution to the encroachment upon the current line of footpath 57. The proposal lengthens the routes of both footpaths 57 and 58 but the distances are not excessive. An additional footpath is also created which would improve connectivity between the footpaths and would provide an overall improvement to public access around the playing fields. The School agreed to open the gates on an unconditional basis and the gates remain open at the time of writing this report.
- 2.5 The School has now submitted a formal application to the Council under sections 26 and 119 of the Highways Act 1980 dated 19th March 2012 (Appendix 1) to divert footpaths 57 and 58 and create a new public footpath. A plan setting out the proposals can be found at Appendix 2.
- 2.6 Authority is, therefore, sought from the Panel for officers to commence the statutory process for diverting footpaths 57 and 58 and creating the proposed new footpath.

Legal Comments

- 2.7 The Council has powers under the Highways Act 1980 ("the Act") to divert existing footpaths and to create new footpaths.
- 2.8 Before making and/or confirming the Diversion Orders requested by the School, the Council must be satisfied that:
- it is expedient in the interests of the School (as owner and occupier) or of the public that footpaths 57 and 58 be diverted
 - the proposed lines of diversion will not be substantially less convenient to the public
 - the diversion will have a positive effect on the public's enjoyment of the footpaths as a whole.
- 2.9 The Council must also be satisfied that the new footpath to be created will add to the convenience or enjoyment of a substantial section of the public (or to the convenience of persons resident in the area) before making the Creation Order.
- 2.10 The procedures for the making of the Diversion Orders and Creation Order are set out in Schedule 6 of the Highways Act 1980 and can be summarised as follows:

- The Council must give notice of the Diversion Orders and Creation Order to every owner, occupier and lessee of the land, all statutory consultees and such other persons as the Council considers appropriate
- The Council must publish a copy of the notice in a local newspaper circulating in the area and in the London Gazette and display a copy of the notice in prominent positions at the land and at the Council offices
- If no objections are received to the Diversion Orders or Creation order following the consultation period (or any objections made are withdrawn), the Council may proceed to confirm the Diversion Orders and the Creation Order.
- If, however, objections are received which are not withdrawn, the Council must submit the Diversion Orders and the Creation Order to the Secretary of State who may decide to hold a public inquiry to determine the objections.

Finance

- 2.11 Harrow School has undertaken to pay for the drafting, advertising and making of the Diversion Orders and Creation order. If a public inquiry is held to consider any objections, the School will also be responsible for any legal costs to be incurred. Therefore there will be no costs incurred by the Council.

Risk

If the Diversion Orders are not made the line of footpath 57 will continue to be encroached by the School's pitches causing further conflict between the School and users of the footpath.

Section 3 - Statutory Officer Clearance

Name: Kanta Hirani	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 16 May 2012		
Name: Abiodun Kolawole	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 9 May 2012		

Section 4 - Contact Details and Background Papers

Contact:

David Eaglesham, Service Manager – Traffic & Highway Network Management

Tel: 020 8424 1500

Fax: 020 8424 7622

email: david.eaglesham@harrow.gov.uk

Background Papers: None