

Report Title:	Footpath 19 Maidenhead: diversion application
Contains Confidential or Exempt Information	No - Part I
Officer reporting:	Sharon Wootten, Public Rights of Way Officer
Meeting and Date:	Rights of Way and Highway Licensing Panel 14 th December 2023
Responsible Officer(s):	Andrew Durrant, Director of Place Alysse Strachan, Assistant Director of Neighbourhood Services
Wards affected:	Riverside

REPORT SUMMARY

The report considers an application received from the landowner for the diversion of part of Footpath 19 Maidenhead near North Town Moor in Maidenhead. The report sets out the detail of the proposed diversions, assesses the proposal against the relevant legislation (section 119 of the Highways Act 1980), and gives details of responses received to informal consultations on the proposal. The report concludes that the proposed diversions meet the criteria set out in the Highways Act 1980, and therefore recommends that the diversion Order is made.

1. DETAILS OF RECOMMENDATION7

RECOMMENDATION: That the Panel notes the report and:

- i) The footpath diversion application for part of Footpath 19 Maidenhead near North Town Moor in Maidenhead, as shown in Appendix 1, is accepted and an Order made.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options

Table 1: Options arising from this report

Option	Comments
Accept the footpath diversion application and publish a Diversion Order under the Highway Act 1980 This is the recommended option.	It is considered that the application does meet the criteria for public footpath diversions set out in the Highways Act 1980, as detailed below. If the Panel chooses to proceed with publication of a Diversion Order and objections are received and not subsequently withdrawn, the Council cannot itself confirm

Option	Comments
	the Order, but may refer the Order and objections to the Secretary of State and a decision on whether the Order is confirmed would then rest with the Secretary of State or an Inspector acting on their behalf.
Reject the diversion application This option is not recommended.	The Panel should consider the responses received to the consultation on the application, as set out in Appendix 2 to this report.

2.1 **The application:** the diversion application submitted by the landowner is shown on the application map attached at Appendix 1. The proposal is to divert the part of Footpath 19 Maidenhead which is currently a ‘cross-field’ footpath to follow a field-edge path. The proposal also includes short extensions to Footpaths 12 and 17 Maidenhead in order to provide improved linkages to the diverted path.

2.2 The reasons for the diversion proposal, and details of the proposed new routes, as stated by the applicant, are as follows:

“To facilitate provision of additional football facilities”

“FP19 to be diverted to run parallel to FP17 to FP20, then west to rejoin route” (NB this proposed route was superseded by an updated diversion route which sees Footpath 19 run along the eastern boundary of the existing football pitches to rejoin in the east to Footpath Maidenhead 16 and in the west to existing Footpath Maidenhead 19).

“3m width to accommodate rerouted permissive cycle path along same route.

Surface improvements to permeable hard surface suitable for walking and cycling route”

2.3 **Assessment:** the proposed diversion must be considered under the criteria set out in Section 119 of the Highways Act 1980. This requires that before making a Diversion Order the Council must be satisfied that the proposal would be in the interests of the owner of the land and/or in the interests of the public. Before confirming an Order, the Council must also be satisfied that the proposed new route will not be substantially less convenient to the public than the existing route, and must have regard to the effect that the diversion would have on public enjoyment of the path as a whole, and the effect that the coming into operation of the diversion would have on land served by the existing right of way. The Council must also have regard to the needs of agriculture and forestry, flora and fauna, and any relevant provisions within the current *“Royal Borough of Windsor and Maidenhead Public Rights of Way improvement Plan 2016-2026”*.

2.4 The officer’s view is that the diversion as proposed does meet the criteria set out above. In particular it is considered that the diversion of the cross-field

section of Footpath 19 and the provision of a 3m wide hard surface for the whole length of the diversion will result in an easier and equally convenient walking experience for the user compared to the existing partly unsurfaced path with no significant loss of amenity or enjoyment. The route also represents improved provision for cyclists (on a permitted basis).

- 2.5 The objective of the diversion is to facilitate the installation of additional football pitches; there is a wider social benefit to this provision.
- 2.6 The design of the diverted section is a 3m wide limestone dust surface 15mm deep on a 200mm type 2 sub base laid on a geotextile membrane, all with a 3% drop to facilitate drainage.
- 2.7 It is noted from the informal consultation responses that most respondents have expressed support for the diversion proposal, and these comments should be recognised. One respondent objected to the proposal.

3. KEY IMPLICATIONS

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Diversion application determined	Application not determined	Application determined	n/a	n/a	tbc

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 There are no financial implications arising from this report. The administrative costs of processing the diversion application are being met by the applicant, and if the footpath diversions were to proceed all associated financial costs would also be met by the applicant.

5. LEGAL IMPLICATIONS

- 5.1 The legal tests to be applied in assessing the footpath diversion application are set out in paragraph 2.3 above. Section 119(6) of the Highways Act 1980 provides that before a diversion order is confirmed as an unopposed order the Council or the Secretary of State must be satisfied that new paths will not be substantially less convenient to the public as a result of the diversion and that confirmation is expedient having regard to the effect of the diversion on public enjoyment of the path as a whole and on land crossed by the existing path or to be crossed by the new one. It is submitted that the tests for confirmation of an order are met.
- 5.2 Under Section B8 of Part 6 of the Council's Constitution ('Terms of Reference of all other Committees, Panels and other bodies of the Council'), this Panel is empowered to exercise the Council's functions to determine public rights of way diversion applications.

6. RISK MANAGEMENT

Table 3: Impact of risk and mitigation

Risk	Level of uncontrolled risk	Controls	Level of controlled risk
None			

7. POTENTIAL IMPACTS

- 7.1 Equalities. An Equalities Impact Assessment Screening Form has been completed (Appendix C). If the diversion application is refused, there will be no negative impacts as the footpath routes will remain unchanged. If the application is accepted and the diversions were to be implemented (subject to confirmation of the Order), there may be low level impacts (both positive and negative) on some users as set out in the EQIA screening form.
- 7.2 Climate change/sustainability. If the diversion application is refused there will be no impact on climate change/sustainability, as the footpath routes would remain unchanged. If the diversions were to proceed, there would be no material impact on climate change/sustainability.
- 7.3 Data Protection/GDPR. All personal data has been removed from consultation respondents' comments set out in Appendix 2.

8. CONSULTATION

- 8.1 The applicant for the diversion order approached some interested parties regarding the application, and all resulting comments received are set out in Appendix 2. Additionally, the Council has undertaken pre-order consultations with interested parties, and again all comments received are set out in Appendix 2.

9. TIMETABLE FOR IMPLEMENTATION

Table 4: Implementation timetable

Date	Details
14 th December 2023	Application to be determined by the Panel

10. APPENDICES

- 10.1 This report is supported by 3 appendices:

Appendix 1: Footpath 19 Maidenhead diversion application map
Appendix 2: Consultation responses
Appendix 3: Equality Impact Assessment form

11. BACKGROUND DOCUMENTS

None

12. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory:</i>		<i>Statutory Officers (or deputy)</i>	
Elizabeth Griffiths	Executive Director of Resources	28/11/23	tbc
Rebecca Hatch	Assistant Director of Strategy	28/11/23	tbc
<i>Deputies:</i>			
Andrew Vallance	Deputy Director of Finance and (Deputy S151 Officer)	28/11/23	tbc
Elaine Browne	Deputy Director of Law and Governance and Monitoring Officer	28/11/23	tbc
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Stephen Evans	Chief Executive		
Andrew Durrant	Executive Director of Place	28/11/23	tbc
<i>Heads of Service (where relevant)</i>			
Chris Joyce	Assistant Director of Infrastructure, Sustainability and Economic Growth		
Alysse Strachan	Assistant Director of Neighbourhood Services	28/11/23	tbc
<i>External (where relevant)</i>			
N/A			

Confirmation relevant Cabinet Member(s) consulted	Cllr Joshua Reynolds, Cabinet Member for Communities and Leisure	Yes
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REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Rights of Way and Highway Licensing Panel decision	No	No

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