

Report Title:	<b>PUBLIC RIGHTS OF WAY: Proposed Diversion Orders, Maidenhead Footpaths 12, 16 (part) and 19 (part)</b>
Contains Confidential or Exempt Information?	NO
Officer reporting:	Anthony Hurst, Parks and Countryside Team Leader
Meeting and Date:	Rights of Way and Highway Licensing Panel 17 <sup>th</sup> July 2017
Responsible Officer(s):	David Scott, Head of Communities and Highways
Wards affected:	Maidenhead Riverside

## REPORT SUMMARY

**This report seeks the Panel's authorisation to publish Diversion Orders for Maidenhead Footpaths 12/16 (part) and Maidenhead 19 (part), in response to an application received from the owner of the land crossed by the footpaths. There will be no cost to the Council as all costs will be met by the applicant. Plans showing the proposal are attached at Appendix 1.**

### 1. DETAILS OF RECOMMENDATION

#### RECOMMENDATION:

**That the Head of Communities and Highways be authorised to publish a Diversion Order for Maidenhead Footpath 12/16 (part), and Maidenhead Footpath 19 (part) as detailed in this report. If no objections are received following publication of the Orders, or any such objections are subsequently withdrawn, to confirm the Orders without further recourse to the Panel. If objections are received and not subsequently withdrawn, the proposal is to be brought back to the Panel for further consideration.**

### 2. REASON FOR RECOMMENDATION AND OPTIONS CONSIDERED:

Option	Comments
Publish Diversion Orders for Maidenhead Footpath 12/16(part) and Maidenhead 19 (part).	<b>This is the recommended option</b> , as the footpath diversions and associated access improvements would be in the interests of both the landowner and users of the footpaths.
Decline the Diversion Order application	This option is not recommended.

### 3. KEY IMPLICATIONS:

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Orders confirmed, and diversions implemented	Orders not made.	Diversion implemented by 30 Sept.	Diversion implemented by 22 Sept.	Diversion implemented by 15 Sept.	30 Sept 2017.

#### 4. FINANCIAL DETAILS / VALUE FOR MONEY

**Financial impact on the budget:** All costs associated with the footpath diversions, (including legal and administration costs, the cost of newspaper advertisements, and the costs of works carried out on the ground) will be met by the applicant. There will thus be no cost to the Council. The diverted routes of the footpaths will be maintainable by the Council as part of the public rights of way network (as are the existing routes), but no additional maintenance costs will be incurred as a result of the diversions.

#### 5. LEGAL IMPLICATIONS

**Legal test to be applied:** The proposed diversions 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. 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 Management and Improvement Plan 2016-2026*”

**The applications:**

**Footpath 12/16:** The current route of Maidenhead Footpath 12 runs westwards from Summerleaze Road, (starting near to the sharp bend where Summerleaze Road meets Blackamoor Lane), then turns northwards along the surfaced access road to North Maidenhead Cricket Club. Part-way along the route the footpath number changes from Footpath 12 to Footpath 16. The footpath is shown by the solid black line B-A on Map 1 attached.

The proposal submitted by the landowner is to divert this section of footpath to follow the route shown by the dashed black line between points A-C on Map 1, part of which is an existing surfaced permitted footpath-cycleway. A level permeable surface 2.5m wide will be provided along the whole length of the proposed new route of the footpath, which would have a legally defined width of 2.5 metres.

The reasons for the diversion of Footpaths 12/16 as stated by the applicant are as follows:

*“For the safety and enjoyment of users of FP12:*

*The existing public footpath runs on a shared surface with vehicles accessing the North Maidenhead Cricket Club. This is used by various teams, playing cricket, football, softball and a thriving social club, with darts, snooker and other games. This results in substantial traffic levels at times when it is most likely walkers and cyclists will be using the path. In addition there is a large vehicle repair facility which takes access from the track used by FP12, resulting in pedestrians having to avoid these vehicles. The proposed diversion would provide a safer route, removing the joint use of the access road by FP12 to the*

currently used permissive path, which runs north-south parallel with the existing FP12 line.

*For the safety and enjoyment of users of FP16 and to provide a link with FP12:*

*FP16 runs due west from the northernmost point of FP12. The proposal is to divert the most easterly part of FP12 onto the permissive path which is the subject of a concurrent application for the diversion of FP12. This small part of FP16 (18m) occupies a shared surface with vehicles accessing the North Maidenhead Cricket Club. This is used by various teams, playing cricket, football, softball and a thriving social club, with darts, snooker and other games. This results in substantial traffic levels at times when it is most likely walkers and cyclists will be using the path. There is also a "large vehicle" repair facility which takes access from the track shared by FP12, requiring pedestrians having to avoid these vehicles. The proposed diversion completes a safer route, removing the joint use of the access road by FP12 to the currently permissive path, which runs north-south parallel with the existing FP12 line. FP16 will remain for pedestrian use, whilst the cycle path will share the surface of the access road. However this has good visibility and traffic within this area is slowed by the bend."*

**Footpath 19:** The section of Maidenhead Footpath 19 proposed for diversion follows a curving route as shown by the solid black line between points A and B on Map 2 attached. The proposal submitted by the landowner is to divert this section of the footpath to follow the route shown by the dashed black line between points A and B on Map 2, which is an existing surfaced permitted footpath-cycleway. No works are proposed to the proposed new route of the footpath, which already has a reasonably firm and level surface. The proposed new legal route of the footpath would have a legally defined width of 2.7 metres.

The reasons for the diversion of Footpath 19 (part) as stated by the applicant are as follows:

*"A Permissive Path has already been provided as a more convenient and direct route between points A and B on the enclosed Plan. The Permissive Path is surfaced with gravel and is used by the great majority of walkers, including users of Green Way East. The present Definitive Route loops into a small field that the applicant wishes to continue using for recreational use for football in response to requests from local community football clubs. The footpath conflicts with this use due to walkers exercising their right during periods when the football pitch is in use. Users of the footpath also exercise their dogs in the field and do not clear up their dog faeces. This unedifying task is left to the players and is deterrence to participation. The playing area therefore needs to be fenced"*.

**Associated accessibility improvements:** No gates or barriers will be installed on the proposed new sections of Footpaths 12/16, or Footpath 19. Additionally, the landowner has agreed that, if the Diversion Orders are confirmed, five existing gates/barriers on connecting footpath/cycleways will be removed: three of these barriers will be replaced by easy-access "K barriers" (which allow access for most designs of cycles, mobility vehicles, pushchairs etc.), and two existing gates/barriers will be replaced by gaps (minimum 1m width). The locations of these accessibility improvements are on shown on Maps 1, 2 and 3.

**Assessment:** It is considered that the criteria set out in Section 119 of the Highways Act 1980, as detailed above, are met in this case: the proposed new routes of the footpaths would be equally or more convenient and enjoyable for users than the existing routes; potential for conflict between walkers/cyclists and vehicles will be reduced; there would be no adverse impact on agriculture, forestry, flora or fauna. The proposed accessibility improvements would improve access for cyclists and mobility restricted users, including users of National Cycle Route 4, and are consistent with the following proposals in the adopted “*Royal Borough of Windsor and Maidenhead Public Rights of Way Management and Improvement Plan 2016-2026*”

*2.15 Removal of unsuitable barriers on paths, and other access improvements.*

*25 (c) make the Greenway accessible to mobility restricted users*

No objections were received in response to the preliminary consultations on the proposal, as detailed in section 8 below. It is therefore recommended that Diversion Orders are published, as shown on the Plans attached at Appendix 1.

## **6. RISK MANAGEMENT**

There are no identified risks associated with this proposal.

## **7. POTENTIAL IMPACTS**

### **7.1 SUSTAINABILITY IMPACT APPRAISAL**

The proposed diversions and associated accessibility improvements would have a positive impact on sustainable transport by encouraging alternative forms of transport to the car.

### **7.2 EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION**

The accessibility improvements associated with the diversion applications would have a positive impact on ‘access for all’.

### **7.3 STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS**

None.

### **7.4 PROPERTY AND ASSETS**

None.

## **8. CONSULTATION**

**The Local Access Forum** has confirmed that in principle it has no objection to the proposed diversions, subject to a number of detailed comments (see Appendix 2).

**Maidenhead Civic Society** has confirmed that in principle it has no objection to the proposed diversions, and has submitted a number of detailed comments (see Appendix 2).

**The East Berks Ramblers** have confirmed that they support the proposed diversions, subject to a comment about the width of the proposed new barriers (see Appendix 2).

**Ward councillors (Maidenhead Riverside)** have been consulted, and have raised no objections to the proposed diversions.

## 9. TIMETABLE FOR IMPLEMENTATION

If no objections are received during the statutory 28-day public consultation period, it is anticipated that the diversions could be confirmed and implemented by the end of September 2017.

## 10. APPENDICES

**Appendix 1:** plan of the diversion proposals and associated accessibility improvements.

**Appendix 2:** consultation responses

## 11. BACKGROUND DOCUMENTS

None.

## 12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr Maureen Hunt	Panel Chairman	22/06/17 (Briefing 29/06/17)	
David Scott	Head of Communities and Highways	22/06/17	
Ben Smith	Highways, Parks and Countryside Manager	22/06/17	

## REPORT HISTORY

<b>Decision type:</b> Non-key decision	<b>Urgency item?</b> No
Report Author: Anthony Hurst, Parks and Countryside Team Leader 01628-796180	