

PLYMOUTH CITY COUNCIL

Subject: Public Path Extinguishment Order – Ridgeway School
Committee: Planning Committee
Date: 20 October 2011
Cabinet Member: Councillor Wiggins, Cabinet Member for Transport
CMT Member: Director for Development and Regeneration
Author: Robin Pearce, Public Rights of Way Officer
Contact: Tel: 01752 304233
Email: robin.pearce@plymouth.gov.uk
Ref: HAE.002
Key Decision: No
Part: I

Executive Summary:

This report presents to Members an opposed Special Extinguishment Order (SEO) for consideration. The Order was applied for by Ridgeway School, Plympton, Plymouth and seeks to extinguish a public right of way (known locally as Geasons Lane) which runs through the school grounds. The relevant legislation is Section 118B Highways Act 1980. This report sets out the legal criteria to be met and provides members with all relevant evidence.

Corporate Plan 2011 – 2014:

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Should the Order be referred a public inquiry is likely to be called which will require external legal support. Estimated costs are £10,000 - £12,000 which will be shared 50/50 with the school. Funding would be met from existing revenue budgets.

The school recently became an Academy and the land is subject to a long term lease. This lease would need to react to any changes to public highways within the land subject to the lease.

Other Implications: e.g. Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:

Community safety – promoting the ethos of our schools being a safe and secure environment for the education of children.

Crime reduction – to reduce the high levels of criminal and anti-social behaviour within Ridgeway school grounds.

Health and Safety – to reduce the risk posed to the staff and pupils of Ridgeway School.

Recommendations & Reasons for recommended action:

That the Order be referred to the Secretary of State for determination by public inquiry.

Reason - The recommendation is made on the basis that the legal tests set out by the Highways Act 1980 have clearly been met and, given there have been objections to closure, that a full and open public inquiry would be the most transparent and fair way to progress the matter further.

Alternative options considered and reasons for recommended action:

Abandonment of the application. This option is not recommended because the legal tests have been met therefore the correct course of action is referral to an external decision maker. Abandonment would fail to help the school deal with the quite serious health and safety issues it faces and deny both the school and the public the opportunity to have their opinions aired.

Background papers:

- Appendix 1:** A copy of the application made by the school
- Appendix 2:** Letters of Representation (Statutory Undertakers)
- Appendix 3:** Letters of Representation (Supporters)
- Appendix 4:** Letters of Representation (Objectors)
- Appendix 5:** Police Crime Statistics – 1 July 2010 – 30 June 2011
- Appendix 6:** Pedestrian Count
- Appendix 7:** School Incident Log and Plan

Sign off:

Fin	Dev F11 120 032	Leg	JAR/ 1285 2	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

1.0 Introduction

- 1.1 The committee has before it a Public Path (Special) Extinguishment Order which seeks to extinguish a public right of way which runs through the grounds of Ridgeway School, Plympton, Plymouth.
- 1.2 This application falls under section 118B of the Highways Act 1980 which allows for a public right of way to be extinguished if it meets specific criteria. Whilst this report will explain in some details those tests which must be met, for the purposes of an introduction Members should be aware that s.118B is a unique power for the extinguishment of a public right of way through school grounds.
- 1.3 This report sets out the schools application for closure, the legal tests Members are asked to measure the application against and advice as to whether, and to what degree, those tests have been met.

2.0 Legal Context and Legislative Background

- 2.1 This application falls under section 118B(1)(b) of the Highways Act 1980 which provides that a special extinguishment Order may be made:

(1) ...where it appears to a council...

(b) that, as respects any relevant highway for which they are the highway authority and which crosses land occupied for the purposes of a school, it is expedient, for the purpose of protecting the pupils or staff from –

- (i) violence
- (ii) harassment
- (iii) alarm or distress arising from unlawful activity; or
- (iv) any other risk to health and safety arising from such activity,

...that the highway should be stopped up.

2.2 In order to fall within section 118B the following criteria must therefore be established:

- (i) Is the route in question a relevant highway?
- (ii) Does the route cross land occupied for the purposes of a school?
- (iii) Is it expedient for the purposes of protecting the pupils or staff from one or more of the specified activities?

2.3 The decision as to whether or not an Order should be made is currently delegated to the Director of Development and Regeneration who, taking advice from *Hockerill College, R (on the application of) v Hertfordshire County Council [2008] EWHC 2060 (Admin)* considers the question of expediency. The process thereafter dictates that the fact that an Order has been made be advertised and representations invited. If the Order attracts objections the matter goes before the appropriate decision making body of the authority who decide its future, if not the Order may be confirmed as an unopposed Order.

2.4 As objections have been received Plymouth City Council no longer has the authority to confirm the Order, this power now lies with the relevant Secretary of State. The options open to Members today is to either abandon the Order or refer the Order to the Minister. Irrelevant of who considers the Orders confirmation the legislation specifies they must have regard to all the circumstances but in particular the matters set out in 118B(8) those being:

- (a) any other measures that have been or could be taken for improving or maintaining the security of the school,
- (b) whether it is likely that the coming into operation of the Order will result in a substantial improvement to that security,
- (c) the availability of a reasonably convenient alternative route, or, if no reasonably convenient alternative route is available, whether it would be reasonably practicable to divert the highway,
- (d) the effect upon land served by the highway.

2.5 Unlike the matters at 118B(1) which MUST be satisfied before the Order can be considered capable of confirmation the matters at 118B(8) are matters that simply have to be taken into account in forming the overall judgement as to whether the confirming of the Order was expedient. Thus it clearly follows some or all of the matters at 118B(8) might not necessarily be made out and yet it could still be concluded that the Order was none the less expedient to be confirmed.

2.6 The tests that would be applied by the Secretary of State if Members authorised the referral of this Order are quite clear. As such this report will proceed to guide Members through those tests.

3.0 Procedural Matters – 118B(1)

3.1 Is the route in question a relevant highway?

3.1.1 Section 118B(2) defines a relevant highway to include footpaths, bridleways and restricted byways. The definition includes BOATS but excludes trunk roads and other special roads.

3.1.2 The footpath subject to this application has sat on the City of Plymouth Definitive Map since 2006 and was recorded on a range of preceding maps including the original parish surveys of Plympton carried out in the 1950's by the rural district authority of the time. There has never been a challenge to its status as a public right of way and no application has been made seeking to correct any error on the definitive map. Furthermore, no objector to the Order has questioned the status of the way nor claimed it does not meet the criteria for 118B(1)(b). Accordingly Ridgeway School relies upon s.118B(2)(a) in that the footpath meets the criteria of being "any footpath, bridleway or restricted byway" and the Order therefore meets this test.

3.2 Does the route cross land occupied for the purposes of a school?

3.2.1 Ridgeway School is an Academy (DfE number: 4178) within the meaning of section 482 of the Education Act 1996 (as amended by the Education Act 2010) and the Academies Act 2010. It transferred from the control of the Local Education Authority on 1 April 2011. There is no dispute within the local education authority and no suggestion by objectors that the land either side of the footpath is not used and occupied by the

school as part of its school premises and grounds. The school use the highway as a means of access to the school site and as a means of ingress and egress between school sites. The footpath splits the school site and if it were not for the existence of the public highway the land would most sensibly be enclosed within the school grounds. This test is therefore considered met.

3.3 Is it expedient for the purposes of protecting the pupils or staff from one or more of the specified activities?

3.3.1 The statute does not say that there has to be actual violence or actual harassment but rather it has to be expedient to protect staff or pupils from such activities. Therefore even if there were no incidents of violence or harassment at all the Order is still supportable under this test.

3.3.2 Rather there is only a requirement for a clear evidential basis to conclude that the making of the Order is expedient to protect staff and pupils from one or more of the specified activities. If one can properly conclude on the basis of the evidence that there is a real threat of one of the specified events occurring and that it is expedient to close the path to protect staff or pupils from that event then this test can be met.

3.3.3 The applicant for the Order has, as part of their application, submitted a range of supporting evidence. Primarily they include a school security audit carried out by an accredited third party professional security consultancy (included in appendix I to this report) and a log of incidents, both police reportable incidents and incidents of anti-social non-criminal behaviour (Included in appendix I to this report with an updated version in Appendix 7). The school security audit is strongly worded to the effect that the footpath facilitates the occurrence of the specified activities and identifies closure as a remedy to the situation. The incident log is supported by the police both in terms of the incidents that occur, most notably the written comments of the local policing team who provide numerous examples of specified activities and from a policy perspective via the police Architectural Liaison Officer and the references to 'Secured By Design' (see Appendix 2). On the basis of that evidence, it is clear that there have been numerous incidents of actual violence against both staff and the children in their care, there has been the threat of violence, there has been harassment and alarm and distress caused and there is a threat to the health and safety of the staff and pupils of

Ridgeway School. There is evidence that the footpath lies at the heart of that activity, that the footpath facilitates a means of entry and escape and it therefore follows that if the footpath remains open then there is an overwhelming likelihood of the reoccurrence of such activities. Taking the information available into account, the evidence indicates that there is violence or the threat of violence, harassment, alarm or distress arising from unlawful activity and other risks to the health or safety of pupils or staff as a result. It is therefore considered that the closure of the footpath would be expedient for the purpose of protecting the pupils and staff of Ridgeway School from those activities. The test is therefore considered met.

4.0 Procedural Matters – 118B(8)

4.1 Given the assessment of the initial tests of 118B(1) above, the resolution of this case comes down to a straightforward balance between whether the problems that occur and the problems that will be prevented are sufficient to warrant the impact upon the amenity of current users of the path. This topic can be conveniently dealt with by considering the tests of 118B(8). These are the statutory tests which the Inspector at any subsequent public inquiry will consider.

4.2 Any other measures that have been or could be taken for improving or maintaining the security of the school.

4.2.1 For a number of years Ridgeway School seems to have taken professional advice as to what should be done to protect its staff and pupils from the behaviour presented to this committee. Evidence suggests that it would be wrong to say that the school have done nothing save pursue headlong a desire to close the footpath. The school have, over a period of years sought advice from a range of bodies including DEFRA, Plymouth City Council, Devon and Cornwall Police, Devon and Somerset Fire and Rescue Service, security consultants, Health and Safety consultants, OFSTED, disabled access consultants and Natural England.

4.2.2 Throughout this period the school appear to have listened to the advice they have received and acted upon the recommendations given which were not dependant upon footpath closure such as staff training, installing Intruder Detection Systems (IDS), key management systems and “lockdown” routines, a visitor pass system, robust incident

logging and installation of CCTV (of which there are 14 digital cameras 6 being on and around the public footpath and sports hall). As time has progressed however the school (and police crime logs – see Appendix 5) say the level of crime and disorder has continued.

- 4.2.3 The security measures the school have so far taken are under constant review and will have cost the school tens of thousands of pounds. The school take the view that, at present, their spending money on such measures is akin to putting secure fencing around ones home and leaving the front and back doors wide open 24/7. The evidence put forward by the school suggests that security is taken seriously. They have implemented a wide range of additional security measures on the back of independent professional advice over an extended period. They have provided evidence of their external security audits which support this view.
- 4.2.4 In terms of the comments of objectors (see appendix 4) the only issues raised regarding security measures relate to fencing, both around the school perimeter and adjacent to the path. As the situation currently stands the public footpath is partially fenced with a number of sizable gaps in the fencing. Objectors state that this does little to help school security, that the school should reinstate the fencing and that doing so would improve the situation. The school disagree. They say that at the start and end of each day, at each break, at each lunch and at each lesson changeover some 1200 pupils and 170 staff cross between the various school buildings using the public footpath. The gaps in the fencing are the only means of ingress and egress across the path to move between various school buildings. Further to this the schools emergency evacuation point is on the school playing field. Therefore should the school be required to evacuate in an emergency those 1200 pupils would need to pass through those gaps in a short period of time. The School say the effect of these gaps as they stand today is to create a shocking pinch point of great concern to the school.
- 4.2.5 Devon and Somerset Fire and Rescue Service have previously advised and as part of our consultation on this order have advised again that the fencing be removed in its entirety to reduce the pressure caused to the movements of crowds of people however the school say they feel forced into ignoring that advice in the knowledge that objectors would take that as the school worsening school security. The gaps in the fence are the absolute minimum recommended by the fire service as being

sufficient to allow the safe evacuation of the school but the recommendation is to remove the entire length of the fencing.

4.2.6 The Fire Service have been consulted as part of this process and have made a number of pertinent observations. Their comments are in evidence (see Appendix 2) but the relevant points can be summarised as:

- There are no alternative options available as an emergency evacuation point other than the current location on the school field. The school therefore cannot assemble at any other location which would avoid having to cross the path. These gaps in the fence are therefore absolutely essential to allow the school to evacuate safely and so must not be closed or restricted any further.
- The gaps at present are sufficient in terms of evacuation but the situation would be improved by the full removal of the railings.
- If the whole area were open plan it would allow for faster and safer evacuation to the specified muster point.
- Full removal of the railings would be considered positive in terms of access to the site by fire Service personal and equipment. In fact it is specifically noted that the existing railings are rusted and pointed and from the operational perspective of the fire Service their removal is preferred.

4.2.7 Ultimately the issue seems a moot point. There is little that the school could do with this fencing that would improve the situation. The school could erect high fencing either side of the path which would undermine the safe evacuation of its pupils, it could leave the situation as it stands today and the catalogue of incidents may continue, it could remove the fencing entirely which would improve its evacuation procedures but make intruder detection all the more difficult or it could erect new fencing of the same height which would not change the situation in the slightest. Any action taken is of no benefit whilst the footpath exists because crucially those gaps absolutely must remain and so any member of the public may still enter into the heart

of the school at any time and therefore there is a strong likelihood of one or more of the specified activities occurring.

4.2.8 In terms of the perimeter fencing the situation is similar. Whilst on the face of it one might suggest that the lack of robust perimeter fencing detracts from a secure school environment the advice the school has received consistently states that there is little point securing the perimeter whilst the footpath remains open. The professional advice from several sources states the existence of the footpath undermines all other attempts the school might make to address its security. To reuse the schools previous analogy, the school spending money on the considerable expense of erecting perimeter fencing is entirely pointless whilst their front and back doors are wide open 24/7 and when it is entirely likely that the criminal element would rather enter the school site using the footpath where they can escape detection for longer than to trespass upon the school at other points along the perimeter.

4.2.9 A recent decision issued by the Planning Inspectorate addresses this very issue. This decision relates to an application for the extinguishment of a public footpath through the grounds of a school in Buckinghamshire similar in many ways to this case and the decision was issued in February 2010. In his decision report the Inspector, Mr. Martin Elliot, states...

“In my view the school has taken certain steps to improve the security of the premises. However, in respect of the fencing of the perimeter of the school I do not think that the fencing [as it currently stands] as a whole is particularly effective. In cross examination Mr Forrester [Bursar and Clerk to the Governors] accepted that it will be a number of years, possibly five to ten, before secondary hedge planting will become effective. Mr Forrester also accepted that the panel fencing adjacent to the Boss Lane entrance to the school needed to be raised and that other fencing is not as robust as it ought to be.....At the inquiry it was suggested that additional measures could be taken to improve the security. It was suggested that the footpath could be fenced either on one or both sides with an additional security gate on the main drive where it is crossed by the footpath. The Council submitted that this measure could be implemented but regard would need to be given as to the costs involved. In my view whilst these measures could be implemented, the overall costs of any additional gate and fencing would be

considerable, nevertheless Mr Forrester indicated that it would be possible to find the cost from the school budget. As regards the fencing of the way, as suggested by P.C. Gilbert, this would turn the footpath into a tunnel, particularly if the path is fenced on both sides, and therefore increase the fear of crime to walkers. On balance, whilst the provision of an additional gate and fencing would have benefits to the security of the school, given the additional costs and the practical difficulties a gate may present I do not think that this is a reasonable option.”

4.2.10 The Inspector in this case noted that the school had a distinct lack of secure perimeter fencing but concluded that the cost and practicalities were so prohibitive as to remove it as a basis for the rebuttal of the test. The Inspector also displays a clear disdain for the fencing of the edges of the path.

4.2.11 This is a view supported via another credible source. In the case of *Hockerill College, R (on the application of) v Hertfordshire County Council [2008] EWHC 2060 (Admin)* LJ Mackie QC was caused to consider an appeal against the decision of Hertfordshire County Council not to make a Special Extinguishment Order. One of the reasons given by the Council for not making the Order was “*further security works were required to make the college premises more secure and that a Footpath Extinguishment Order on its own would not provide the total solution at the present time*” This was based on the condition of the schools perimeter fencing which although explained in detailed can be summarised as lacking. There were gates which were incapable of being locked and the fencing was not continuous. On this topic LJ Mackie stated in his judgement

“most security measures, as a matter of commonsense, need to be evaluated at the time the potential stopping up order would come into effect. It would be daft for the school to spend public money on taking measures now unless a SEO was to come into force. It would be wrong to expect this school to spend money on security steps which will be useless unless a SEO is made”

4.2.12 Whilst each case should be judged on its merits the decisions above, applied to the Ridgeway case and when combined with the views of the police and the independent security audit commissioned by the school seems to present the view that perimeter fencing would be best employed as part of a package of measures that the school would implement should full closure eventually be granted rather than as an expensive

and likely ineffective pre-requisite to extinguishment. The public right of way facilitates lawful public access to the heart of the school site and the security measures that the act is worded to consider should look to reduce the risk. Perimeter fencing simply cannot do that, it can only become effective once extinguishment is secured and so should be looked at in that light rather than as a solution to the problems the school experiences.

4.2.13 It is suggested that the school have taken all reasonable steps to secure the school site and so this test is considered to be met.

4.3 Whether it is likely that the coming into operation of the Order will result in a substantial improvement to that security.

4.3.1 On the basis of the evidence submitted by the school and the police and in consideration of the professional advice received and the comments of supporters to the Order it would be difficult to suggest that Ridgeway School has suffered anything other than an unacceptable level of unacceptable behaviour over many years. It would be similarly difficult to state that the footpath does anything other than contribute significantly to the level of criminal and anti-social activity that Ridgeway School has suffered. The following incidents given as examples by the local policing team (see Appendix 2) are worthy of note:

- At 20:10hrs on Friday 1 April 2011 a report was made to police that approximately 12 youths aged 15/16 yrs were throwing fireworks around on the site of Ridgeway School in the area behind the sports hall that is adjacent to Geasons Lane.
- At 08:09hrs on 10 March 2011 a report was made to police expressing concerns about a male that had been seen hanging around school taking photos of children.
- At 05:18hrs on 17 October 2010 a motor cycle was stolen from an address in Geasons Lane, pushed up Geasons Lane onto school premises where it was parked up against the school sports hall building adjacent to Geasons Lane and set light to. The bike was completely burnt out and damage was caused to the sports hall building.

- On 21 February two suspects for a serious assault were seen hanging around Geasons Lane trying to intimidate witnesses to that assault who were students at Ridgeway School. One of these males was later arrested nearby and when searched by Police Officers was found to be in possession of a knife. An offence for which the male was later imprisoned.
- 4.3.2 The school have over an extended period of time recorded all incidents which take place on the school grounds. They plot the location of those incidents on a plan of the school. Where the incident is a criminal offence it is reported to the police and the crime reference number is recorded on that list. That plan is attached to this report as Appendix 7. This creates something of a scatter graph which shows the distribution of both criminal and non-criminal incidents within the school grounds.
- 4.3.3 What is immediately apparent is that there are a disproportionate number of incidents taking place on or around the public footpath. This is not unexpected as those who commit crime will wish to act in a way which is ostensibly lawful for as long as possible in order to minimise the likelihood of detection. An opportunistic criminal is unlikely to expose themselves to the risk of detection by acting as a trespasser to enter the school site when they can walk in the metaphorical front door as of right. It is clear from this plan that the footpath facilitates criminal and anti-social behaviour both opportunistic and premeditated. It therefore follows that the threat of the reoccurrence of such behaviour is overwhelmingly likely.
- 4.3.4 During discussions with the school it became clear that they are not so naive as to believe that if the footpath closes the school grounds will become a crime free utopia, self evidently it will not. However it does mean that those with nefarious intent will no longer have a lawful right to enter into the heart of the school unchallenged either with a view to committing a crime or causing trouble or with a mindset that they would be prepared to take advantage of any opportunity to commit a crime or cause trouble.
- 4.3.5 The school therefore have a considerable evidential basis to say that the footpath facilitates the persistent commissioning of specified events and that closure would result in a substantial improvement to school security.

4.3.6 It is important to note that this is not simply the uncorroborated opinion of the school but the result, over a period of many years, of advice they have taken from a wide range of reputable sources. To quote a number of those sources.....

“As a result of the footpath being open, the school is unable to secure its boundaries. The open access to the school via Geasons Lane currently prevents the school from securing the site” - PCSO 30068 Elaine Hesketh

“There should be no public footpath through the school ground’s – Paul Shepard, Architectural Liaison Officer, Devon and Cornwall Police.

“The lane and footpath is a crime hotspot, the frequency of casual and deliberate crime is disproportionate. The footpath enables easy access into the School area which has escalated trespass and criminal activity over a period of time. Teachers and pupils are regularly subjected to verbal abuse and threatening behaviour. During our survey many acts of vandalism were noted. Access through the Footpath should be curtailed so that the boundary of the School can be clearly defined.” – Noble Security consultants

“The single most significant security problem affecting the Ridgeway School is the footpath and all of the crime and misbehaviour it brings into the area of the School, without it a large central area of the School from which a great deal of trouble radiates would become a safer and less hostile place almost immediately.” – Noble Security consultants

4.3.7 It is suggested that closure of the public footpath would allow the school the opportunity to implement a package of robust security improvements that, whilst the footpath remains, would otherwise be an expensive and pointless exercise. Primarily closure of the footpath could be met with secure perimeter fencing which would affect an immediate closure of all access points to the school site. This would mean that the school would have the ability to detect and challenge unauthorised access. The security measures already in place (i.e. visitor pass system, CCTV, staff training etc) and the school staffs already keen awareness of school security would mean that there would be an almost immediate relief offered to the school. The only way into the

school would be via manned reception areas where visitor passes would be issued and staff are trained and well familiar with the practise of challenging people on the school site who do not display such a pass. These measures will result in a clear, immediate and substantial improvement to school security.

4.3.8 This test is therefore considered to be met.

4.4 The availability of a reasonably convenient alternative route, or, if no reasonably convenient alternative route is available, whether it would be reasonably practicable to divert the highway.

4.4.1 In assessing the reasonableness of an alternative route it is not sufficient to simply consider the means of getting from one end of the path to the other. This sort of assessment is of little if any use in considering the convenience of an alternative. Instead the conclusion must be reached that the aim is to understand the trips being taken by the public in using the right of way and for what purpose the public are using the path, i.e. where they are coming from and where it is they intend to reach. Only by understanding the nature of the journey being undertaken may objective consideration be given to the reasonableness of any proposed alternative.

4.4.2 When the public objected to the Order some of them stated that they used the footpath to access various local services and facilities and that the footpath is their preferred route. To better understand the journey those people were making the locations of objectors who lived within 500 metres of the school were plotted. This is shown in fig 1.1 below. It is important to recognise that, in order to avoid pinpointing objectors houses, for the purpose of this report, the centroid of the post code area for the objector was used not the street and house number so the locations only show the general area of the source of the objection.

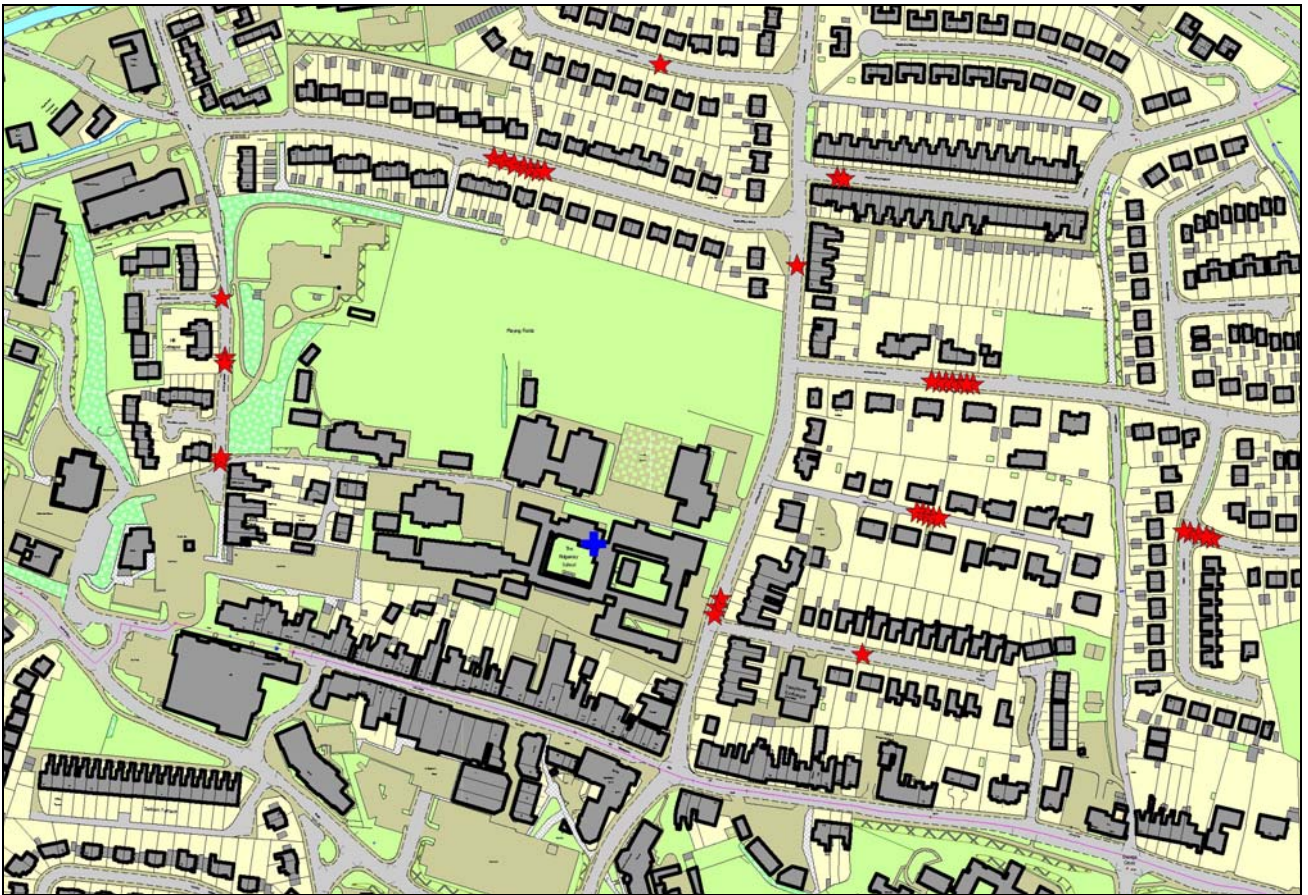


Fig 1.1 – Source Locations of Objections

4.4.3 Based on this data it was possible to identify a number of points where users had a choice of different routes. For the purposes of the assessment those points were identified as shown in fig 1.2. These locations gave measuring points which allowed comparisons to be made between the different routes available to users. Whilst these start points don't allow a direct and precise comparison between each individual objector they do provide sufficient accuracy to make a general comparison for a particular group of objectors. So for example, all the objectors residing in Ridge Park would need to walk to point 4 before a choice of route could be made.



Fig: 1.2 – Starting points for comparison of alternative routes.

4.4.4 With the starting points for trips established the destinations objectors referred to were identified. 4 separate locations were identified marked A – D in fig 1.3 below. These 4 areas cover all the destinations referred to by objectors as the end point of their trips.

Area A: covers the eastern end of the Ridgeway shopping centre.

Area B: covers the western end of the Ridgeway shopping centre.

Area C: covers the tennis courts, bowling green, Harewood House and the library.

Area D: covers Plympton swimming Pool.

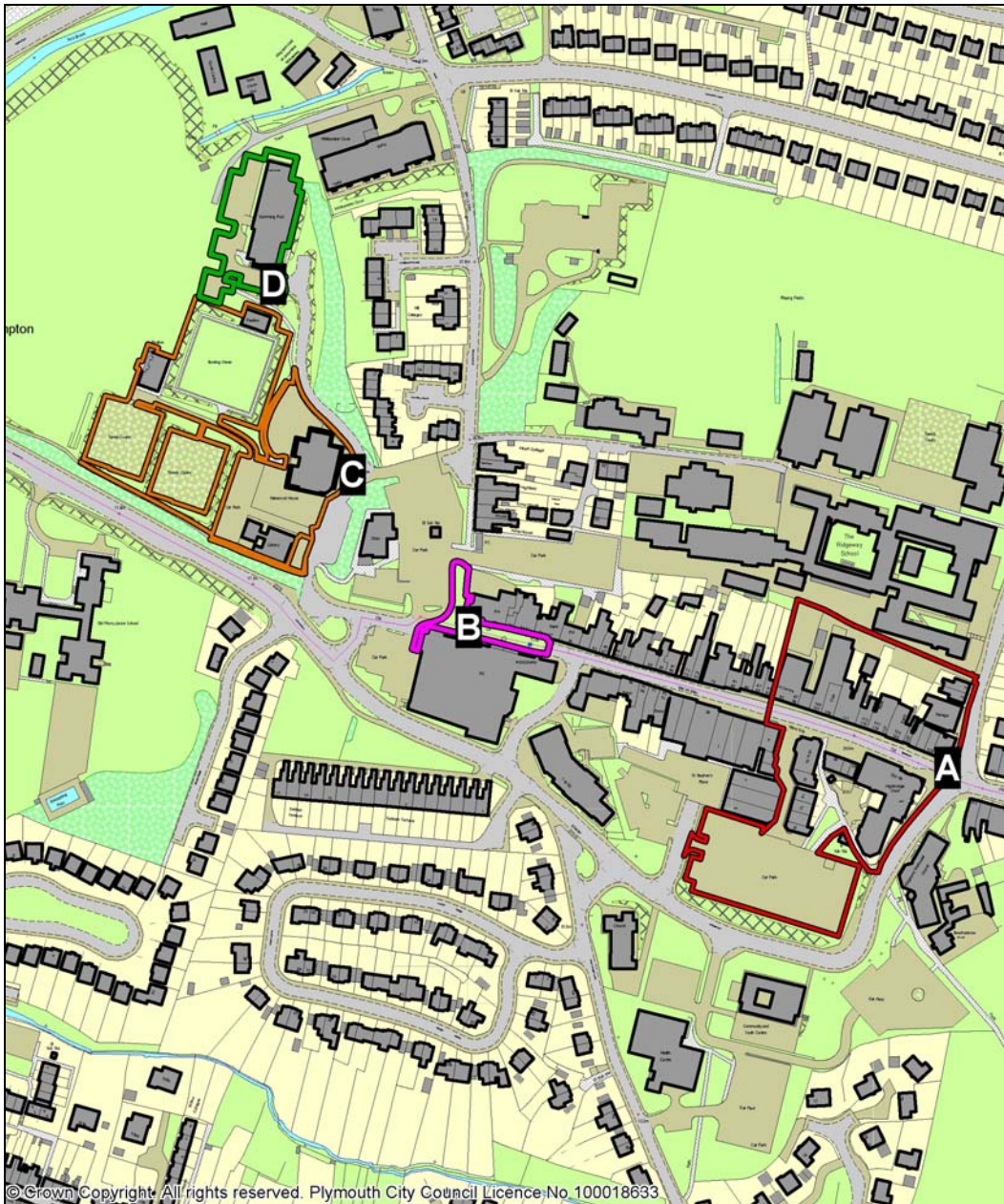


Fig: 1.3 – Destination areas

4.4.5 With this data in place the distances between each start point and each destination were measured and collated as shown in Table I.1. This provides the means to compare the distances between the various routes. Using this table the distance in metres from each of the starting points can be compared with each of the alternatives including the use of the public right of way. The blue cells indicate the distance using the public right of way subject to this application. Certain routes have been disregarded as the route would not be used, for example it is extremely unlikely that someone would walk from Point 6 to destination B via Moorland Road or that someone would walk from Point 5 to destination A via Geasons Lane. However only routes that seem nonsensical have been removed, point 4 to destination C via station Road for example has been included because although it is unlikely someone would use that route it is not altogether unlikely.

	Starting Points					
	1	2	3	4	5	6
A						
Station Road Route						
Moorland Rd/Ridgeway Route	454	303	230	168	78	357
Geasons Lane Route						413
B						
Station Road Route	465	610	680	742		97
Ridgeway Route	830	559	487	425	339	
Geasons Lane Route	720	565	498	436	434	
C						
Station Road Route	412	561	632	694		56
Ridgeway Route	817	666	593	531	443	
Geasons Lane Route	674	524	452	390	393	
D						
Station Road Route	528	675	746	808		172
Ridgeway Route	929	780	707	645	557	
Geasons Lane Route	787	638	566	504	507	

Table: 1.1 – Comparison of routes in metres

4.4.6 To aid members table 1.2 takes analysis of the alternative routes a step further in that it shows the difference in distance travelled between Geasons Lane and the available alternatives. The conditional formatting makes the differences visual using the following criteria: -

- An equal or shorter distance than if the right of way were to be used – Green.
- A longer distance than if the right of way were to be used – Red.

Difference Between Geasons Lane

	Starting Points					
	1	2	3	4	5	6
A						
Station Road Route						
Moorland Rd/Ridgeway Route	0	0	0	0	0	-56
Geasons Lane Route						413
B						
Station Road Route	-255	45	182	306		97
Ridgeway Route	110	-6	-11	-11	-95	
Geasons Lane Route	720	565	498	436	434	
C						
Station Road Route	-262	37	180	304		56
Ridgeway Route	143	142	141	141	50	
Geasons Lane Route	674	524	452	390	393	
D						
Station Road Route	-259	37	180	304		172
Ridgeway Route	142	142	141	141	50	
Geasons Lane Route	787	638	566	504	507	

Table: 1.2 – Difference in length (metres) of alternative routes over Geasons Lane

4.4.7 Table 1.2 shows that there are 13 journeys which are shorter if the right of way is not used and 23 which are longer. It was noted that a number of objectors stated that due to the gradient of Station Road they preferred, or indeed were incapable, of using it therefore table 1.3 below shows the situation were the Station Road route removed.

Without Station Road

Starting Points						
	1	2	3	4	5	6
A						
Moorland Rd/Ridgeway Route	0	0	0	0	0	-56
Geasons Lane Route						413
B						
Ridgeway Route	110	-6	-11	-11	-95	
Geasons Lane Route	720	565	498	436	434	
C						
Ridgeway Route	143	142	141	141	50	
Geasons Lane Route	674	524	452	390	393	
D						
Ridgeway Route	142	142	141	141	50	
Geasons Lane Route	787	638	566	504	507	

Table: 1.3 - Difference in length (metres) of alternative routes over Geasons Lane without Station Road

4.4.8 As can be seen if users were to avoid using Station Road the numbers change leading to 10 journeys being the same as or shorter than using the right of way and 11 trips being longer. This is likely as a result of the fact that although a number of journeys included Station Road as an alternative the fact of the matter is that the majority of users are unlikely to use it due to the gradient.

4.4.9 The variations in the distances travelled are only one of a range of factors to be considered when determining the convenience of alternative routes. Safety and accessibility should also be given consideration.

4.4.10 As a narrow pedestrian only route it must firstly be noted there are no mechanically propelled vehicles travelling along the right of way. This would seem to be an attractive option in terms of public safety. However it must also be noted that use of the public right of way comes only with the need to travel along Geasons Lane. The public right of way leads onto Geasons Lane which is an adopted public highway which, although providing vehicular access to the school may be considered a “dead end” which serves only the purposes of access to properties adjacent to it. It is not a through route and nor is it known to suffer excessive speeds. The public right of way runs directly onto the public footway lying adjacent to the vehicular highway. The pedestrian footway however lies only to the northern extent of Geasons Lane and it is

noted that the available width of that footway narrows considerably after the end of the right of way to around 50cm wide. This narrowing will certainly force users onto the road and it would not be possible for two pedestrians travelling in opposite directions to pass without one moving off of the footway which is undesirable. It is also impossible for prams, pushchairs, wheelchairs and other mobility vehicles to use the pedestrian footway and so they would be forced to travel along the road for its entire length.

- 4.4.11 In the alternative, Moorland Road is a public vehicular highway which runs north to south along the eastern edge of the school site. Moorland Road has pedestrian only footways to either side and is well lit by street lightening. There are a number of road safety features aimed at providing a more “pedestrian friendly” environment. These include a pedestrian crossing point, safety railings, bollards, tactile surfacing and road markings preventing obstructive parking. Although there does appear to be a narrowing of the pedestrian footway at one point the remainder of the footways either side are more than sufficient for users travelling in opposite directions to pass without the need for one to step onto the road.
- 4.4.12 Earlsmill Road is a public vehicular highway which runs east to west along the northern border of the school site between Moorland Road and Station Road. It has public pedestrian footways to either side and has street lighting. Walking from the Moorland Road end to Station Road it has a gentle downhill slope and appears to be a very quiet road through a largely residential area. It has a more than satisfactory width available for use and two users travelling in opposite directions could pass with ease.
- 4.4.13 The Ridgeway is a public vehicular highway which runs east to west along the southern border of the school site from junction with Moorland Road. The western end of the Ridgeway is a pedestrian only zone and at that point the vehicular highway deviates to the south onto Mudge Way. To a large extent the Ridgeway is very pedestrian friendly. As well as the pedestrian only area to the western end the public footway is largely separated from the vehicular highway to the extent that the two separate uses are at different levels and separated by a brick wall. The Ridgeway currently has extensive public use as it constitutes the commercial centre of the area. Whilst it has been stated by objectors that the Ridgeway is narrow two users are more than able to pass each other without need for either to step foot onto the road and in any case the width available is still significantly greater than the width of the public right of way.

4.4.14 As part of the making of their application Ridgeway School commissioned a disabled persons Accessibility Study which is available in Appendix I to this report and which concludes that the public footpath is not a suitable route for disabled people and that disabled people, especially wheelchair users and the visually impaired, use the public right of way at their own risk.

4.4.15 In conclusion my opinion is that for those law abiding members of the public who habitually use the footpath as a short cut that there will be an impact upon their amenity. However when assessing the question as to whether there are alternative routes available which are reasonably convenient it is important to note three points.

- Firstly for every destination for which one might use the footpath there are at least 2 alternative routes that can be taken;
- Secondly whilst those routes might involve travel along pavements adjacent to roads they are on perfectly acceptable footways which are designed to accommodate pedestrians and which however narrow they might be at points they are wider than the public footpath; and
- Thirdly whilst for some walkers there may be an additional distance to walk, when one examines the totality of the routes the additional journey length is very modest. In fact in absolute terms the furthest additional distance is a matter of 143 metres if, as objectors state, Station Road is not considered a feasible option.

4.4.16 Accordingly, whilst the footpath is no doubt an attractive option for many people, for most the alternative is at least as convenient and for the minority of people whose journey lengths are marginally extended the alternatives will be only marginally less convenient. As the test only recommends the consideration of diversion where there are no reasonable convenient alternative routes no consideration has been given to diversion.

4.5 The effect upon land served by the highway.

4.5.1 This matter can be dealt with directly – there is no such land served.

5. Representations to the Order

5.1 The fact that an Order was made was advertised in accordance with the statutory requirements. As a result 53 letters of objection and 256 letters of support were received. Responses from statutory undertakers were also received. Copies of all representations to the Order can be found in appendices 2, 3 & 4.

5.2 A summary of the letters of objection and support have been provided in the table below. It should be noted that many people who submitted representation stated multiple grounds.

Grounds for Objection	Number of Objectors
The path provides a shortcut to local services and facilities or is a preferred route	31
The school have not taken sufficient steps to secure the school site	23
The school built over the footpath / the path was there before the school	18
The historic merits of the footpath	12
There is no suitable alternative	7
Closure will not improve school security	7
Public use of the path improves school security	6
The school has a hidden agenda/wants to develop the site	5
The school have no evidence to support their case	3
We should be encouraging people to walk	2
The school have exaggerated the scale of the problem	2
The police/Neighborhood watch should deal with the issues	2
Closure will cause congestion	2
The school is moving to Chaddlewood	1
The procedure has not been open or transparent	1
The Order should be referred to the Secretary of State	1
The Order fails to comply with Highways Act 1980 S.118B(8)[a]-[d]	1
The effect of extinguishment on land served by the path	1
No reason given	1
Crime statistics are falsified/spurious	1
Council Officers attempted to influence the opinions of individuals	1

Table 1.4 – Summary of objections to the Order

Grounds for Support	Number of Supporters
It is necessary to protect the staff and pupils of Ridgeway from unnecessary danger	256
The safeguarding of children is more important than the convenience of a small number of people	20
I have been involved in incidents on the path	14
There are suitable alternatives	9
Dog(s)(mess) on the school field is unacceptable	8
My child has told me he/she feels unsafe at school	3
It was a problem when I went to Ridgeway XX years ago	2
The path causes parents to think twice about sending their child to this school	2
The school should not be spending so much money on repairing vandalism	2
I don't like to use the lane, its not safe, too many hiding places.	1
The footpath is not widely used	1

Table 1.5 – Summary of letters in support of the Order

6. Officer Recommendation

- 6.1 The legislation gives the council a series of clear tests to weigh applications against. It is incumbent on the school to make every effort to demonstrate how those tests have been met and the law allows for the application to be abandoned where the council feel those tests have not been met. The law also allows for the council to exercise its discretion in considering other matters outside of those matters prescribed by 118B(8) if it so wishes.
- 6.2 It is suggested that the matters set out in 118B(1) and 118B(8) have not only been met but that they have been met by a considerable margin and that none of the objections received have raised any further issues which Officers consider relevant. With the benefit of more time and sight of the schools full case that would be made available should the matter be referred to inquiry then those objections might well become more refined and therefore become more compelling than at present.
- 6.3 The issue at hand is a deeply complex and contentious one. As Members will be aware this committee can not dedicate the time required to give all aspects of the matter the detailed consideration it needs. The Planning Inspectorate however will spend days or if necessary weeks to ensure any person who has a view might be heard and to present their evidence in support of their particular views. On this basis it is suggested that the school only need make out a *prima facie* case for extinguishment for the council to be confident that referral of the application is the correct course of action.
- 6.4 The recommendation of Officers is that committee authorise the referral of the Order to the Secretary of State and allow the confirmation of the Order to be considered by public inquiry. This is the only way to ensure a full and open public debate of each sides views and for the evidence for both sides to be thoroughly tested.

7. Alternative Options

7.1 The alternative option open to the committee is to abandon the application. This option is not advised for the following reasons: -

- This is a matter which relates directly to the safeguarding of children and young people and the Council are committed to a joint agency approach via the Plymouth Children and Young People Plan 2011 - 2014. The council is a key partner in identifying ways to work with our schools and their other stakeholders to make them safer places for our children. Referring the application would support council priorities relating to the safeguarding of children.

- The school has gone to considerable expense in making their application and the public have gone to the effort of submitting their considered representations, not only in this scenario but for in excess of 30 years whilst the various proprietors of Ridgeway School have sought to close the footpath. It would seem to be in the public interest to bring this matter to a final conclusion and allow the open debate both sides want to be had.