

18 July 2016

Democracy Services
London Borough of Merton
Morden

Dear Sir/Madam,

RUTLISH SCHOOL AND JOHN INNES RECREATION GROUND

I wish to submit a formal objection to the proposal to close the footpath. My grounds for objection are as follows:

1. In your correspondence you have indicated that the school has "continuing safety concerns plus recent security recommendations by the police". The Headmaster is quoted on-line as stating "We are pleased the council has embarked on the consultation and will make submissions. The safeguarding and wellbeing of our students and staff are our top priority, but we are keen to work with the council and residents on workable solutions for the school and the community". However, as a neighbour to the school I will make the following observations:
 - a. Pupils regularly leave the premise during school hours and at meal times unsupervised
 - b. Pupils are often placing their safety at risk on Cannon Hill Road as they access the school from this direction and when they go home
 - c. Pupils regularly attempt to retrieve their footballs from Hadleigh Close, during the day – this includes climbing walls
 - d. I could not see any policy paper, or any document on the internet from the Police on the alleged "security recommendations" – I would suggest that at the very least the Policy authority should articulate the recommendations and demonstrate the evidence base
 - e. I could not see any school policy paper presenting their arguments about the security risks and what methodology they have utilised to asses those risks
 - f. The school has not evidenced giving serious consideration to the utilisation of other measures to mitigate risks to their Pupils safety – such as the use of CCTV on all exits to track the unsupervised Pupils
 - g. Also, the school has not evidenced giving serious consideration to building an access friendly bridge over the pathway and thereby integrate their sites

2. Closure of the footpath would disrupt pedestrian and cycle traffic between the grounds and limit access to tennis courts, bowling green, and a croquet lawn at John Innes Park. I will make the following observations:
 - a. For the elderly who participate in the bowling green and croquet lawn activities and who live at the Canon Hill Lane side, this is significant discriminatory impact
 - b. The closure of the footpath means access from the Canon Hill Lane side is via a roadway past the school where there is for part no pathway [I note the school is not looking at the health and safety risks associated with Pupils walking along a road with no pathway]
 - c. For Mothers (and/or Fathers) who have young children in prams and live in the Canon Hill Lane side, they will have their access significantly impaired and therefore they are discriminated against
 - d. I have not seen any equality impact assessment on the proposal on the internet – the last one was done as a knee jerk reaction to a request and was of poor quality

3. Cllr Alambritis understands the concerns from residents regarding the possibility of limited access to the parks and he believes this consultation will help the Council reach a balance between security and accessibility. The Headmaster, Mr Williamson, too, realizes the impact the closure of the footpath would have on the community. My observations are as follow:
 - a. The accessibility is **recognised as a significant concern** for the local community
 - b. There has been no evidence from the School of seeking to look at alternatives to closing down the public realm – I have already mentioned investing in a access friendly pedestrian bridge and CCTV – which could be funded via the school stakeholders – if there was a genuine will

I would also submit that the School has not got a developed model of its impact on the local environs.

I hope that these comments are useful.

Yours sincerely.

It is wrong to assert that the public footpath linking the John Innes Park and the John Innes Recreation ground is a “path separating the school sites” (headline of this consultation), or that this footpath “crosses the Rutlish School site” (first paragraph of the “Summary and second paragraph of the “Detail”). The footpath was in existence before Rutlish School was deployed on two sites on either of the path. The status of the footpath and the school are correctly described in a Merton Council cabinet report available at

<https://consult.merton.gov.uk/UploadedFiles/Cabinet%20report%2016.01.12.pdf>

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2.1. A footpath runs between the John Innes Park and John Innes Recreation Ground. John Innes bequeathed the use of the path to the public, along with the John Innes Park and the John Innes Recreation Ground. Ownership of the three component parts of the park was transferred by the John Innes Charity to the Council's predecessor, Merton and Morden UDC in 1949. A restrictive covenant preventing alternative use was applied as part of the transfer (see section 7).

2.2. The footpath links the John Innes Park to the John Innes Recreation Ground and provides a direct pedestrian and cycle route from one to the other for local residents and park users.

The School's Position

2.3. Rutlish School was built within the grounds of John Innes Park in 1957. The school has two main sites, which are situated either side of the footpath.....

It has come to my notice recently that during the school day, the school has been leaving open its gates on either side of the footpath. Indeed on several occasions before the present Consultation exercise, I passed along the footpath during the main “inter-site migration” times and there was not even any staff supervision. The obvious message that this puts out is that the school does not believe that there is any danger. Alternatively, if the school does believe that there is some danger, then they are clearly being wilfully negligent in not taking the obvious basic security precautions (i.e. closing and locking their gates on to the footpath and/or providing staff supervision). In fact, the only time that the school does seem to be taking such elementary precautions is at night, at weekends and during school holidays, i.e. when there is clearly nobody present to protect on either site.

It would be a great shame to lose a very convenient (not to mention safe and traffic-free!) footpath linking two public open spaces. The alternative routes around either of the Rutlish sites:

- a) via Church Path and Watery Lane, or
- b) via Mostyn Road and Leafield Road

are unsatisfactory in being longer (in both cases; significantly longer in the case of (b)) and/or more dangerous (i.e. no footpath for a stretch around a narrow blind bend in Watery Lane in the case of (a)). Both of these alternatives are unsatisfactory for a pensioner such as myself.

It is clear from John Innes's Will (obtainable via <http://probatesearchservice.gov.uk/Calendar?surname=innes&yearOfDeath=19> & page=1#calendar, Folio Number = 1094) that land in his estate was to be used as a park for public recreation and sporting activities:

"..... And as to the remaining portion of my grounds my trustees shall hold the same as a public park to be dedicated to the recreation of the public..... to lay out the land in a suitable manner for the purposes above and make such roads and footpaths through the same as may be necessary or convenient.....to render the public park or such portions thereof as my trustees may think suitable for outdoor games and sports and especially for cricket football lawn tennis croquet or bowls....."

This gives us the existing Park and Recreation Ground and mentions footpaths. According to the sign at the western end of the footpath, the Park and Recreation Ground were opened to the public in 1909. The walls on either side of the footpath were clearly constructed before the transfer from John Innes's trustees to the local authority in 1949 (and definitely long before the construction of Rutlish School on these sites in 1957), so it seems reasonable to believe that the footpath was made available for public use at the same time, i.e. in 1909.

I believe that there is a case for making this footpath a Public Right of Way "as of right" under the various Rights of Way Acts and other legislation, as the public have enjoyed use of the footpath for well over 20 years. There have (at least not during the time that I have lived here) ever been any notices to the effect that it is not to be "dedicated as a public right of way". While the local authority may have closed the gates of the Park and the Recreation Ground (I am not aware of these being locked from 1909 to 1949), it was still possible to access the footpath via the Rutlish School car park (indeed I did so on my son's 5th birthday, taking him (on a Sunday) into the "quad" at the rear of the northern site after I had taken the stabilizer wheels off his bicycle. He then rode around there for over an hour gaining confidence and balance. With the creeping closure and locking-up of Rutlish School, no other parent and/or child can now have such tremendous pleasure. Similarly, the school used to allow residents to park in the school car park overnight, at weekends and during holidays. This helped with parking congestion in Watery Lane at such times and was much appreciated by the residents. The removal of such a facility is much deprecated.

In addition, the Park, footpath and Recreation Ground were transferred to the local authority under a restrictive covenant (following extract from the Merton Council cabinet report referred to above):

"...The Council ...hereby covenant with the trustees that the Council ...will not at any time... use or allow to be used the ... [first] piece of land ...for any purposes than as a Public Park and will not at any time ...use or allow to be used the second piece of land ... for any purpose other than as a Sports or

Recreation Ground and **will not any time ...use or allow to be used the... strip of land ...for any purpose other than as a pathway connecting the... two pieces of ground respectively** first and secondly ... conveyed with borders of flowers beds or shrubs on each side such three pieces of ground to be maintained for the use of the Public in the same manner as the said pieces of ground have respectively been... maintained by the Trustees..." (emphasis added).

This indicates very clearly the intention of John Innes's trustees that this footpath should be made and kept available to the public (and hence that it should acquire "as of right" status as a Public Right of Way).

Further, I believe that it is totally wrong that a police report on the security "situation" is not being disclosed to the public and that members of the public may be excluded from Council discussions on this matter. This is not a matter of "National Security" and I can see no reason for such exclusion (even in a court of law there is a requirement for disclosure of the evidence from both sides, so that such evidence can be tested to ascertain the best outcome [and that British justice "can be seen to be done"]). I would argue that "secret" evidence like this should not be considered admissible. For such decisions to be taken behind closed doors is totally undemocratic and I must protest that this is even being considered. I also believe that it is wrong to make a decision on such an important matter in August (during the holiday period) and without any public meeting on the subject. Again, I feel I must protest about how this is being handled.

Ultimately, Rutlish School exists to provide a service to the local community, not the other way round. The school having accepted establishment on two sites (was any "due diligence" exercise conducted at that time [and if not, who was responsible for such negligence?]) is, therefore, responsible for any remedial measures necessary. They have, after all, had almost 60 years to take the necessary measures, or to make financial provision for such contingencies (£1000 a year for 60 years is not much per year in the school's entire annual budget, but adds up over the years). If a school were to be proposed now, to occupy two sites on either side of a public footpath, such a proposal would not be allowed to go ahead. Why was it allowed in the past?

There is already a precedent in the school having moved once before (presumably having outgrown its previous site in Rutlish Road). I am not particularly proposing this as a solution in this case (although at a recent Residents' Association meeting, one of our ward councillors did mention that a new school was being built on a new site in the borough). Maybe now is a time to consider this for Rutlish School (possibly on the site in question?). However, as a possible alternative to closure of the footpath I would suggest the following:

It would be possible to construct a bridge (over the footpath) between the two sites. If such a bridge were to be constructed along similar lines to the Millennium Bridge in central London, it could have suspension points on either side, rather like the spines on a stylized holly leaf (cf. the lateral spines on the holly leaves on the badge/logo of Merton Park Primary School, at <http://www.merton-park.org.uk>), with the central vein

as the walkway. The two ends of the bridge would represent the end-spine and the stalk of the stylized leaf. Such a bridge could be called "The John Innes Bridge" and would be an asset to both the local community and the school, as well as a fitting tribute to one of the founders and benefactors of the local community. It would also meet the needs of both the local community (access, convenience and safety) and Rutlish School (security, safety).

Clearly such a bridge could only be used for ad hoc access between the two sites for small numbers of pupils and staff between the main "mass-transit" times between the sites, when unlocked gates and staff supervision would be required.

In summary, I believe very strongly that closing of the footpath is not the right way to proceed and that ultimately Rutlish School must take responsibility for implementing the necessary security precautions at the perimeters of their two sites. Closing the footpath is not going to stop access by someone determined or deranged enough, when such a person can enter via the main/front gate (which presumably has to be left open to allow legitimate visitors to enter). I have made a proposal for a bridge that would meet the needs of all parties and would be in keeping with the character (and history) of the area. I feel that this would add to the local area and help to soothe the strong feelings of both the school and local residential communities over this matter.