

TRAFFIC REGULATION ORDER PANEL Overview & Scrutiny Committee Agenda

Date Thursday 14 March 2024

Time 5.30 pm

Venue Council Chamber, Civic Centre, Oldham, West Street, Oldham, OL1 1NL

- Notes
1. DECLARATIONS OF INTEREST- If a Member requires advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Constitutional Services at least 24 hours in advance of the meeting.
 2. CONTACT OFFICER for this agenda is Constitutional Services email constitutional.services@oldham.gov.uk
 3. PUBLIC QUESTIONS - Any Member of the public wishing to ask a question at the above meeting can do so only if a written copy of the question is submitted to the contact officer by 12 noon on Monday, 11 March 2024.
 4. FILMING - The Council, members of the public and the press may record / film / photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

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https://www.oldham.gov.uk/homepage/1449/attending_council_meetings

MEMBERSHIP OF THE TRAFFIC REGULATION ORDER PANEL
Councillors Salamat, Woodvine, Murphy, Fryer and Shuttleworth (Chair)



Oldham
Council

Item No

- 6 S257 Town and Country Planning Act 1990 – Diversion of Definitive Footpath 26 Oldham, land off Knowls Lane, Oldham, and S53A – Wildlife and Countryside Act 1981
(Pages 1 - 12)

To update members on the current position in relation to the proposed diversion of Definitive Footpath 26, Oldham.

N.B These documents replace the reports contained in the full agenda pack previously circulated.



TRO Panel

Decision Maker: Director of Environment, Nasir Dad

Date of Decision: 14 March 2024

Subject: Definitive Map and Statement Modification Order Update

S257 Town and Country Planning Act 1990 – Diversion of Definitive Footpath 26 Oldham, land off Knowls Lane, Oldham, and S53A – Wildlife and Countryside Act 1981

Report Author: Liam Kennedy, PRow Officer

Ward: Saddleworth West & Lees

Reason for the decision: N/A

Summary: To update members on the current position in relation to the proposed diversion of Definitive Footpath 26, Oldham.

Background: The Council received an application from Russell Homes UK Limited to facilitate the proposed development of a link road leading to the Knowls Lane Housing Development (Hybrid Planning Permission PA/343269/19). Planning Ref: MMA/344723/20 (Approved 23 April 2021) which required the diversion of part of Footpath 26 Oldham to facilitate the construction of the link road.

Oldham Council have the power subject to Section 257 Town and Country Planning Act to divert Footpath 26 Oldham in order for the development to be carried out in accordance with the granted planning permission.

Oldham Council made an order diverting Footpath 26 Oldham over the proposed link road via a stepped route on 4th May 2022 which was subsequently advertised in the local press and received numerous objections.

As the objections could not be resolved the matter was referred to the Planning Inspectorate and a Public Inquiry was held 13th-14th June 2023. The Inspector's decision (ref: ROW/3303492) NOT to confirm the Made Order was issued 31st July 2023. Russell Homes successfully challenged the Inspector's decision by judicial review and a Consent Order (ref: AC-2023-LON-002664) was confirmed by the High Court quashing the Inspector's decision on 27th October 2023.

As a result of the High Court Consent Order, we are now in a position of having made the Order and it remains to be confirmed. As objections remain unresolved, the matter has again been referred to the Secretary of State to confirm the Made Order and will be determined by an Inspector appointed on behalf of the Secretary of State by the written representations procedure.

Proposal:

It is to be noted that modifications to the Made Order are required to amend the description of the overall length and description of the footpath in the definitive statement for Footpath 26 Oldham to reflect the fact that Footpath 26 Oldham terminates at Footpath 197 Saddleworth. Footpath 26 Oldham joins Footpath 25 Oldham and then they both run jointly to meet Footpath 197 Saddleworth where they both terminate. The measurements given in the Order were only between its commencement at Knowls Lane and where it joined Footpath 25 Oldham. The amendments also remove the reference to the number of steps and riser depth and to confirm that the diversion of the footpath would take effect when the Council certifies that the diverted route has been provided. The amendments were accepted by the previous Planning Inspector and would have been included in the Confirmed Order if her decision had been to confirm the Made Order. However as the Inspector did not confirm the Made Order and as her decision was subsequently quashed, the Council will need to submit the amendments to the Planning Inspectorate again to be considered by a new Inspector appointed as part of the written representations procedure. The proposed amendments to the Made Order are detailed in Appendix 2.

What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):

Option 1 is to agree to the proposed amendments to the Made Order. Option 2 is to not agree to the proposed amendments.

It is recommended that Option 1 be approved to assist the Inspector as without modification the Made Order will be inaccurate as Footpath 26 Oldham will be incorrectly described in the definitive statement and it will be unclear when the diversion can be brought into effect (in the event that the Made Order is confirmed by the Planning Inspector).

If the Panel were to prefer Option 2 then Officers would not be authorised to confirm the Council's agreement to those corrections to the Inspector and so it would be a matter for the Inspector to decide whether they recommend to the Secretary of State that such modifications should be made in any event.

Recommendation(s):

The Panel is requested to note the report and to request that the Planning Inspector make the modifications to the Made Order detailed in Appendix 2.

Consultation: including any conflict of interest declared by relevant Cabinet Member consulted

N/A

N/A

Landowners - the applicant is the only affected landowner.

Implications:

What are the financial implications?

N/A

What are the legal implications?

The planning inspector may make minor modifications to a diversion order provided that they do not affect land not affected by the order (eg the modifications cannot make a diversion follow a different route). The proposed amendments to the Made Order do not affect the line of the proposed diversion route in the Made Order and can be considered to be minor as they are either procedural or they correct inaccuracies in the description of Footpath 26 Oldham in the definitive statement. (A Evans)

What are the procurement implications?	None
What are the Human Resources implications?	None
Oldham Impact Assessment Completed (Including impact on Children and Young People)	No
What are the property implications	None
Risks:	None
Co-operative implications	None
Community cohesion disorder implications in accordance with Section 17 of the Crime and Disorder Act 1998	None
Environmental and Health & Safety Implications	None
IT Implications	None

Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?	Yes
Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget?	Yes
Are any of the recommendations within this report contrary to the Policy Framework of the Council?	No

There are no background papers for this report

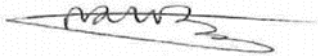
Report Author Sign-off:	
Liam Kennedy	
Date: 26 February 2024	

Please list and attach any appendices:-

Appendix number or letter	Description
1	Order
2	Proposed Amendments to the Order

In consultation with Director of Environment

Signed :



Date: 11 March 2024

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**Oldham Borough Council (Footpath 26 Oldham) Public Path Diversion
and Definitive Map and Statement Modification Order 2022**

Proposed amendment to paragraph 3 of the Order

3. The diversion of the footpath shall have effect on the **date on which Oldham Borough Council certify that the terms of paragraph 2 above have been complied with** and upon the occurrence of the diversion the Oldham Metropolitan Borough Council Definitive Map of Public Rights of Way definitive map shall be modified by deleting from it the path or way referred to in paragraph 1 of this order and the path or way referred to in paragraph 2 of this order shall be added to it, and the definitive statement shall be modified as described in Part 3 of the Schedule.

Proposed amended Statement to be added

District and page number	Page Number	Status	Length	Description	Comments
Oldham Footpath 26	11	Footpath	519 metres	Footpath 26 Oldham commencing at GR SD95648 04292 off Rhodes Hill and proceeding for a distance of 168 metres in an easterly direction to GR SD95808 04305 then turning to and proceeding in a south-easterly direction for a distance of 35 metres following stepped route of 1.2 metres width to GR SD95831 04289. Proceeding east across link road for a distance of 15 metres to GR SD95851 04289 then heading east and north-east for a distance of 36 metres following stepped route of 1.2 metres width to GR SD95851 04289 and proceeding east and south-east for a distance of 181 metres to GR SD96048 04267 where Footpath 26 Oldham joins Footpath 25 Oldham, then proceeding in a generally north	

				easterly direction for a distance of approximately 84 metres before joining FP197 Saddleworth at GR SD 96088 04334, a total distance of 519 metres or thereabouts.	
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The amended wording is indicated in bold writing

**PUBLIC PATH DIVERSION AND DEFINITIVE MAP
AND STATEMENT MODIFICATION ORDER**

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53A(2)

**OLDHAM BOROUGH COUNCIL (FOOTPATH 26 OLDHAM) PUBLIC PATH DIVERSION
AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2022**

This order is made by Oldham Borough Council under section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the footpath to which this order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 namely MMA/344723/20 – Section 73 application. Variation of Conditions 8 (landscaping management) and amendments to approved plans within condition 13 (link road plans) to PA/343269/19 for up to 265 new homes (outline) and new link road between Knowls Lane and Ashbrook Road (full).

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 (“the 1981 Act”) because it appears to the authority that the Oldham Metropolitan Borough Council Definitive Map of Public Rights of Way definitive map and statement require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely, the diversion (as authorised by this Order) of highways hitherto shown or required to be shown in the map and statement.

BY THIS ORDER:

1. The footpath over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this order (“the Schedule”) shall be diverted and the Oldham Metropolitan Borough Council Definitive Map of Public Rights of Way definitive map and statement shall be modified as described below.
2. There shall be created to the reasonable satisfaction of Oldham Borough Council an alternative highway for use as a replacement for the said footpath as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the footpath shall have effect on the confirmation of this order and upon the occurrence of the diversion the Oldham Metropolitan Borough Council Definitive Map of Public Rights of Way definitive map shall be modified by deleting from it the path or way referred to in paragraph 1 of this order and the path or way referred to in paragraph 2 of this order shall be added to it, and the definitive statement shall be modified as described in Part 3 of the Schedule.
4. Where immediately before the date on which the footpath is diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

SCHEDULE

PART 1

Description of site of existing path or way

Existing Footpath 26 Oldham commencing at GR SD95648 04292 off Rhodes Hill proceeding in an easterly direction for a distance of approximately 480 metres to its junction with Footpath 25 Oldham at GR SD96048 04267 as shown on the attached map.

PART 2

Description of site of alternative highway

Footpath 26 Oldham commencing at GR SD95648 04292 off Rhodes Hill and proceeding for a distance of 168 metres in an easterly direction to point A (GR SD95808 04305) then turning to and proceeding in a south-easterly direction for a distance of 35 metres following stepped route to point C (GR SD95831 04289). Proceeding east across link road for a distance of 15 metres to point D (GR SD95851 04289) then heading east and north-east for a distance of 36 metres following stepped route to point B (GR SD95851 04289) and proceeding east and south-east for a distance of 181 metres to GR SD96048 04267 where Footpath 26 Oldham joins Footpath 25 Oldham, a total distance of 435 metres or thereabouts as shown on the attached map.

PART 3

Modification of Definitive Statement

Variation of particulars of path or way

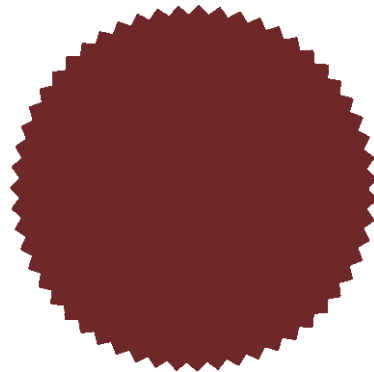
Statement to be deleted

District and page number	Page Number	Status	Length	Description	Comments
Oldham Footpath 26	11	Footpath	480 metres	The path is a worn grass track leaving Rhodes Hill just south of Thornley Brook and running in an easterly direction south of the Brook. It crosses the Brook near the junction with path 25 before joining definitive footpath no.197 in Saddleworth U.D.	

Statement to be added

District and page number	Page Number	Status	Length	Description	Comments
Oldham Footpath 26	11	Footpath	435 metres	Footpath 26 Oldham commencing at GR SD95648 04292 off Rhodes Hill and proceeding for a distance of 168 metres in an easterly direction to GR SD95808 04305 then turning to and proceeding in a south-easterly direction for a distance of 35 metres following stepped route to GR SD95831 04289. Proceeding east across link road for a distance of 15 metres to GR SD95851 04289 then heading east and north-east for a distance of 36 metres following stepped route to GR SD95851 04289 and proceeding east and south-east for a distance of 181 metres to GR SD96048 04267 where Footpath 26 Oldham joins Footpath 25 Oldham, a total distance of 435 metres or thereabouts.	Min. width 1 metre 79 steps with treads @ 178 mm riser

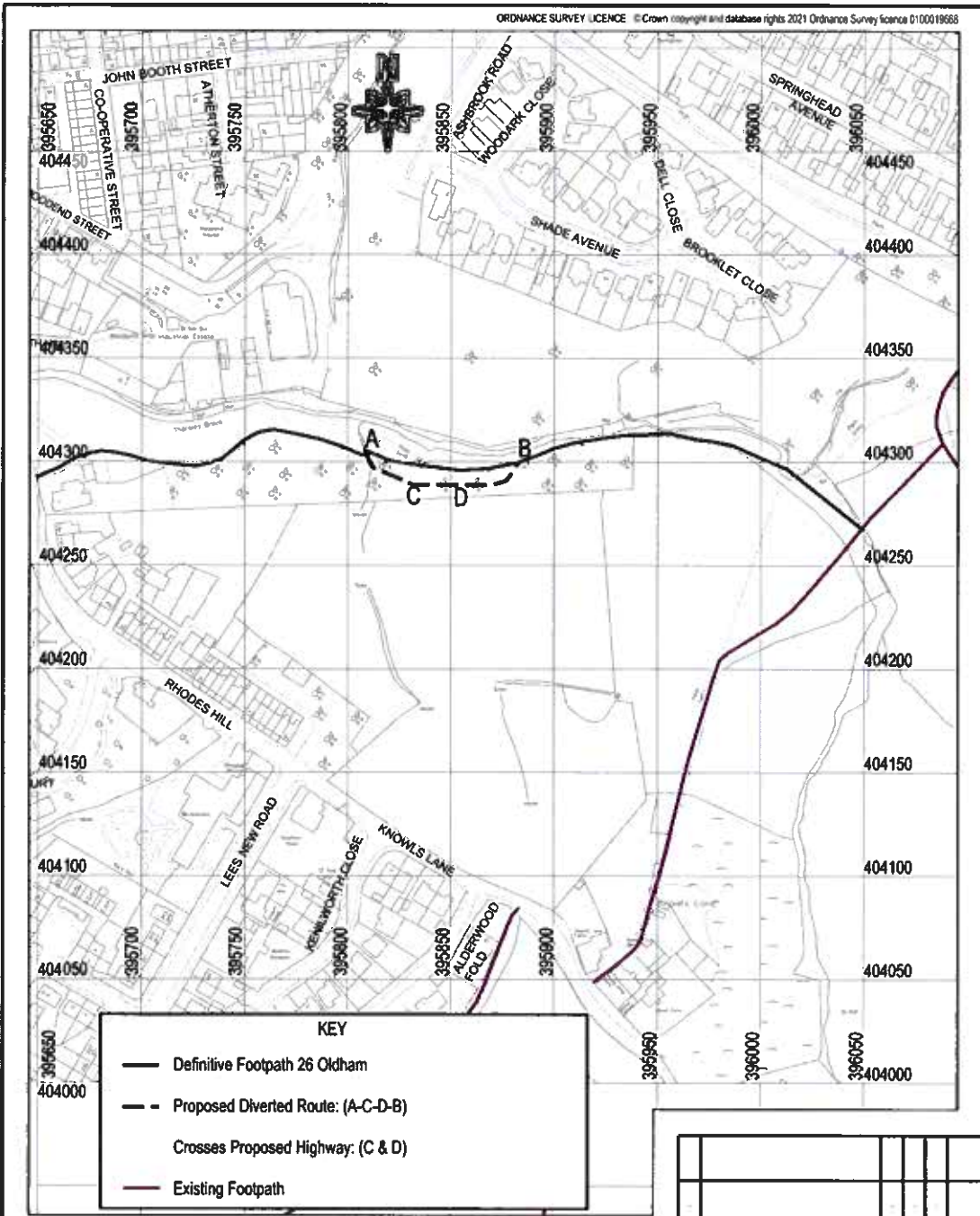
THE COMMON SEAL of)
 OLDHAM BOROUGH)
 COUNCIL was hereunto)
 affixed on 4th May 2022)
 in the presence of: -)



Number in Seal Book
 7804/22^B

RE

Alan Evans
ALAN EVANS
GROUP SOLICITOR



KEY	
	Definitive Footpath 26 Oldham
	Proposed Diverted Route: (A-C-D-B)
	Crosses Proposed Highway: (C & D)
	Existing Footpath

Rev	Revision details	By	Chk	App	Date

<p>Oldham Council</p>	Client	Oldham MBC	Diversion of Public Highway Combined Order s119 Highways Act 1980 Diversion of Public Footpath 26 Oldham (part) and Wildlife and Countryside Act 1981 S53(2) Modification of the Definitive Map and Statement
	Project	Knowls Lane Link Road	
<p>Unitypartnership HIGHWAYS & ENGINEERING Henahew House, Cheapside, Oldham OL1 1NY</p>	Drawn by	RW	Purpose of issue
	Checked by	LK	Order Plan
	Approved by	GS	Scale at A4 size
Date		Date	
12/21		12/21	
Date		Date	
12/21		12/21	
Drawing No.		764/A4/226/1	

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Alan Evans
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