

***TRAFFIC REGULATION ORDER PANEL
Regulatory Committee
Agenda***

Date Thursday 26 September 2019

Time 5.30 pm

Venue Crompton Suite, Civic Centre, Oldham, West Street, Oldham, OL1 1NL

Notes 1. DECLARATIONS OF INTEREST- If a Member requires any 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 Kaidy McCann in advance of the meeting.

2. CONTACT OFFICER for this Agenda is Kaidy McCann Tel. 0161 770 5151 or email Kaidy.McCann@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, 23 September 2019.

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.

Please note that anyone using recording equipment both audio and visual will not be permitted to leave the equipment in the room where a private meeting is held.

Recording and reporting the Council's meetings is subject to the law including the law of defamation, the Human Rights Act, the Data Protection Act and the law on public order offences.

MEMBERSHIP OF THE TRAFFIC REGULATION ORDER PANEL IS AS FOLLOWS:

Councillors Akhtar (Vice-Chair), Garry (Chair), C. Gloster and Murphy

Item No

1 Apologies For Absence

2 Urgent Business

Urgent business, if any, introduced by the Chair

3 Declarations of Interest

To Receive Declarations of Interest in any Contract or matter to be discussed at the meeting.

4 Public Question Time

To receive Questions from the Public, in accordance with the Council's Constitution.

5 Minutes of Previous Meeting (Pages 1 - 4)

The Minutes of the meeting held on 25th July 2019 are attached for approval.

6 Godson Street, Oldham - Objections to Traffic Regulation Order (Pages 5 - 28)

To consider a number of objections received to the introduction of double yellow lines and bus stop clearways along Godson Street, Oldham

7 Claim to Register a Public Footpath on Land at The Meadows, Grotton (Pages 29 - 40)

To determine an Application submitted under Schedule 14 of the Wildlife and Countryside Act 1981 requesting that a Modification Order be made in respect of a route running over a parcel of land between The Meadows and Bridleway 194 Saddleworth which is shown purple on the attached location plan



TRAFFIC REGULATION ORDER PANEL
25/07/2019 at 5.30 pm

Present: Councillor Garry (Chair)
Councillors Murphy and Al-Hamdani (Substitute)

Also in Attendance:

Gary Sutcliffe	Unity Highways
Kaidy McCann	Constitutional Services
Darryll Elwood	Unity Partnership

1 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Akhtar and Councillor C. Gloster.

2 **URGENT BUSINESS**

There were no items of urgent business received.

3 **DECLARATIONS OF INTEREST**

There were no declarations of interest received.

4 **PUBLIC QUESTION TIME**

There were no public questions received.

5 **MINUTES OF PREVIOUS MEETING**

RESOLVED that the minutes of the meeting held on 6th June 2019 be approved as a correct record.

6 **OBJECTIONS TO PROPOSED PROHIBITION OF WAITING
- LANSDOWNE ROAD AREA, CHADDERTON**

The Panel gave consideration to a report which proposed to introduce a Prohibition of Waiting Order in the Lansdowne Road Area of Chadderton in the form of double yellow lines.

The proposal had been approved under delegated powers on 4th February 2019 and subsequently advertised. Two letters of objection had been received. The basis of the objections was that there was no parking available for the staff and customers of the nearby businesses. Ward Councillors have shown support requesting the proposal be extended.

Observations showed that excessive parking did take place on Lansdowne Road and Stockfield Road. Whilst the parking on Arkwright Street was minimal, if it was not to be included in the proposal, parking could be displaced to this street creating difficulties for vehicles entering and exiting the waste disposal depot. The visibility and free flow of traffic was obstructed due to larger vehicles parking on the streets. The sight lines for

motorists entering and exiting premises/junctions can become obstructed, creating a highway safety issue.

Options considered: -

Option 1: to approve the amended recommendations.

Option 2: not to approve the amended recommendations.

RESOLVED that, notwithstanding the objections received, the double yellow lines be introduced in the Lansdowne Road Area in accordance with the schedule at the end of the report and the proposal relating to extending those lines be advertised.

7

DIVERSION OF DEFINITIVE FOOTPATH 83 CROMPTON (PART), EXTINGUISHMENT OF UN-RECORDED HIGHWAY AT HEYHILL FARM, LOW CROMPTON ROAD, ROYTON

The Panel gave consideration to a report seeking approval of the making of a Combined Diversion, Modification of Definitive Map and Statement Order for Footpath 83 Crompton (part) and an Extinguishment Order for the un-recorded highway at Heyhill Farm, Low Crompton Road, Royton.

A 'Draft Guidance on diversion or extinguishment of rights of way that pass-through gardens, farmyards and Commercial premises' had been published by the Government that described the problems of Public Rights of Ways that passed through contained spaces, such as private gardens.

The application had been considered in the light of the draft guidance, in the interests of the residents and footpath users, it was considered that the footpaths should be diverted/extinguished and that delegation be given to Officers to carry out the necessary procedures in the event that no objections to the order are received.

Options considered: -

Option 1: to approve the amended recommendation.

Option 2: not to approve the amended recommendation.

RESOLVED that:

1. a Combined Public Path Diversion Order for the diversion of Footpath 83 Crompton (part) under Section 119 of the Highways Act 1980 as detailed in the report and officers be authorised to carry out the necessary procedures with a view to confirming the Order in the event that no objections are made to the Order be approved.
2. Modification Order to the Definitive Map and Statement for Footpath 83 (part) as detailed in the report be approved.
3. Public Path Extinguishment Order for the un-recorded highway at Heyhill Farm, Low Crompton Road, Royton as detailed in the report under Section 118 of the Highways Act 1980 and officers be authorised to carry out the necessary procedures with a view to confirming the Order in the event that no objections are made to the Order be approved.

The meeting started at 5.37 pm and ended at 5.48 pm



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Report to TRO Panel

Godson Street, Oldham – Objections to Traffic Regulation Order

Portfolio Holder:

Councillor A Ur-Rehman, Cabinet Member for Neighbourhood Services

Officer Contact: Deputy Chief Executive – People and Place

Report Author: Sarah Robinson, Traffic Engineer
Ext. 4377

26 September 2019

Reason for Decision

The purpose of this report is to consider a number of objections received to the introduction of double yellow lines and bus stop clearways along Godson Street, Oldham.

Recommendation

In light of the objections received, it is proposed that consideration be given to four options for amending the scheme and the Panel approve which option is introduced.

Godson Street, Oldham – Objections to Traffic Regulation Order**1 Background**

- 1.1 A report recommending the introduction of double yellow lines and bus stop clearways was approved under delegated powers on 4 February 2019. The report was subsequently advertised and a petition and 3 letters of objection have been received; 2 of the letters being from Elected Members.
- 1.2 The approved Mod Gov Report is attached at Appendix A and the objections are attached at Appendix B.
- 1.3 Councillors Jabbar and Malik are supporting the objectors due to the parking requirements in the area; consequently a site meeting has recently taken place with Councillor Jabbar to discuss the proposal in greater detail. Councillor Jabbar confirmed at the site meeting that he would support the introduction of yellow lines outside the Trinity House frontage only, he does not support the introduction of the bus stop clearways or the double yellow lines proposed opposite Trinity House or along the length between Magdala Street and Crompton Street, on both sides of the road.
- 1.4 The yellow lines and bus stop clearways have been proposed to address the obstructive parking being experienced by tenants of Trinity House. Many of the residents are wheelchair users and are unable to see approaching traffic due to the parked vehicles; the approved proposal addressed this issue and any displaced parking that would result.

2 Consideration of Revised Proposal

- 2.1 The revised proposal suggested by Councillor Jabbar will only address the issue for Trinity House residents who want to cross Godson Street from the Trinity House side of the street, to access the bus stop facility located opposite. Should the residents wish to cross Godson Street from the opposite side of the road, then the displaced parking resulting from yellow lines being introduced on one side of the road only, will result in the same problems for the wheelchair users. It is accepted that the yellow lines proposed on both sides of the road, in-between Magdala Street and Crompton Street could be removed from the proposal and any displaced parking monitored; this will help to address the 3 other objections received, but from a highway safety and bus operational requirement it is felt the yellow lines in-between Coldhurst Street and Magdala Street and the bus stop clearways, on both sides of the road should be introduced.
- 2.2 The proposal favored by Councillor Jabbar and the proposal supported by Highway Officers are detailed on drawing numbers 47/A3/1514/1A and 47/A3/1514/1B respectively.

3 **Options/Alternatives**

3.1 Option 1 – Amend the proposal to reflect Councillor Jabbar’s favoured option.

Option 2 – Amend the proposal to reflect Highway Officers preferred option.

Option 3 – Approve the proposal as originally approved.

Option 4 – Rescind the proposal.

4 **Preferred Option**

4.1 The preferred option is Option 2.

5 **Comments of Coldhurst Ward Councillors**

5.1 The Ward Councillors have been consulted again and no comments were received.

6 **Financial Implications**

6.1 These were dealt with in the previous report.

7 **Legal Services Comments**

7.1 These were dealt with in the previous report.

8 **Co-operative Agenda**

8.1 In respect of the introduction of Traffic Orders along Godson Street, Oldham there are no Co-operative issues or opportunities arising and the proposals are in line with the Council’s Ethical Framework.

9 **Human Resources Comments**

9.1 None.

10 **Risk Assessments**

10.1 None

11 **IT Implications**

11.1 None.

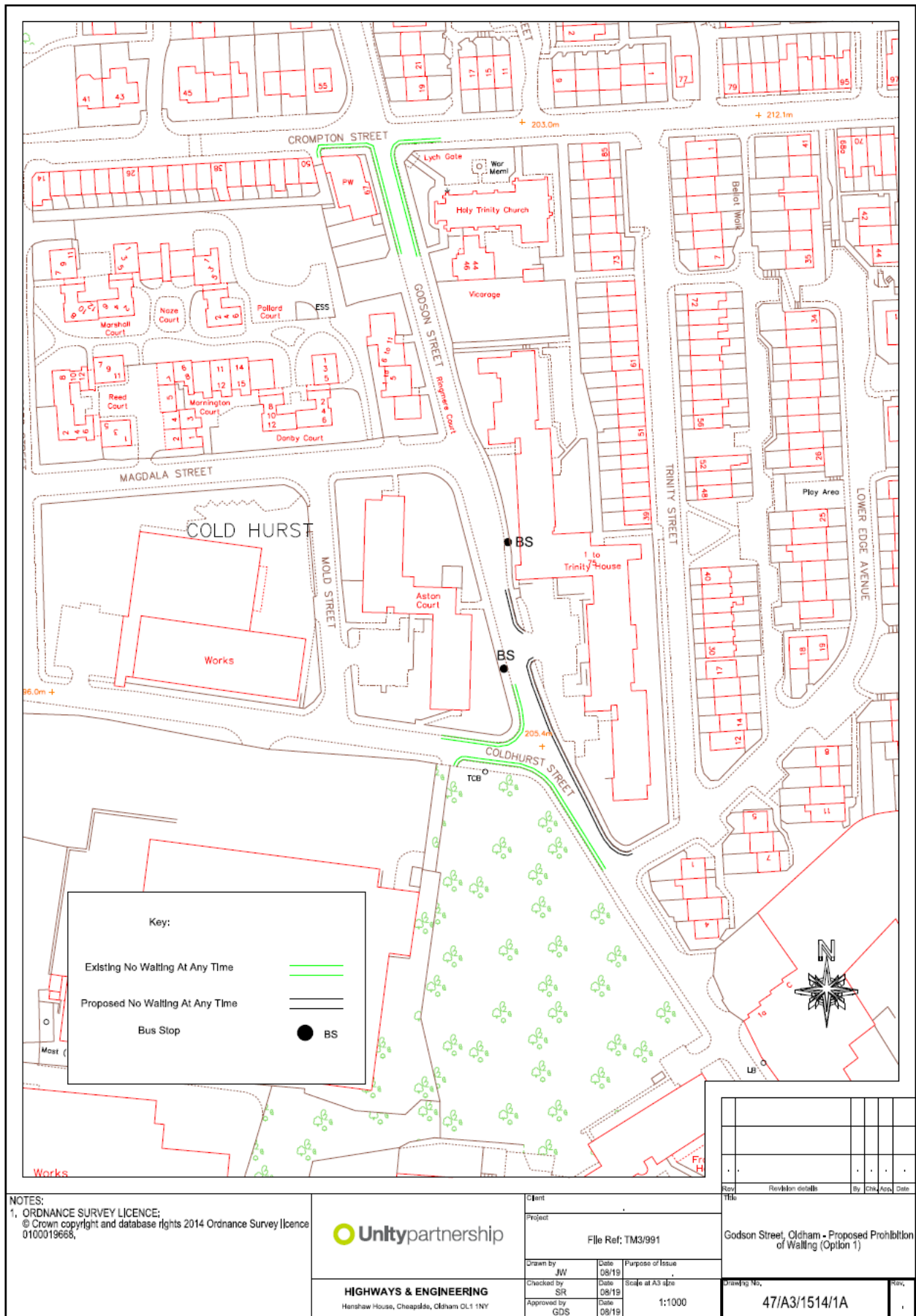
12 **Property Implications**

12.1 None.

13 **Procurement Implications**

13.1 None.

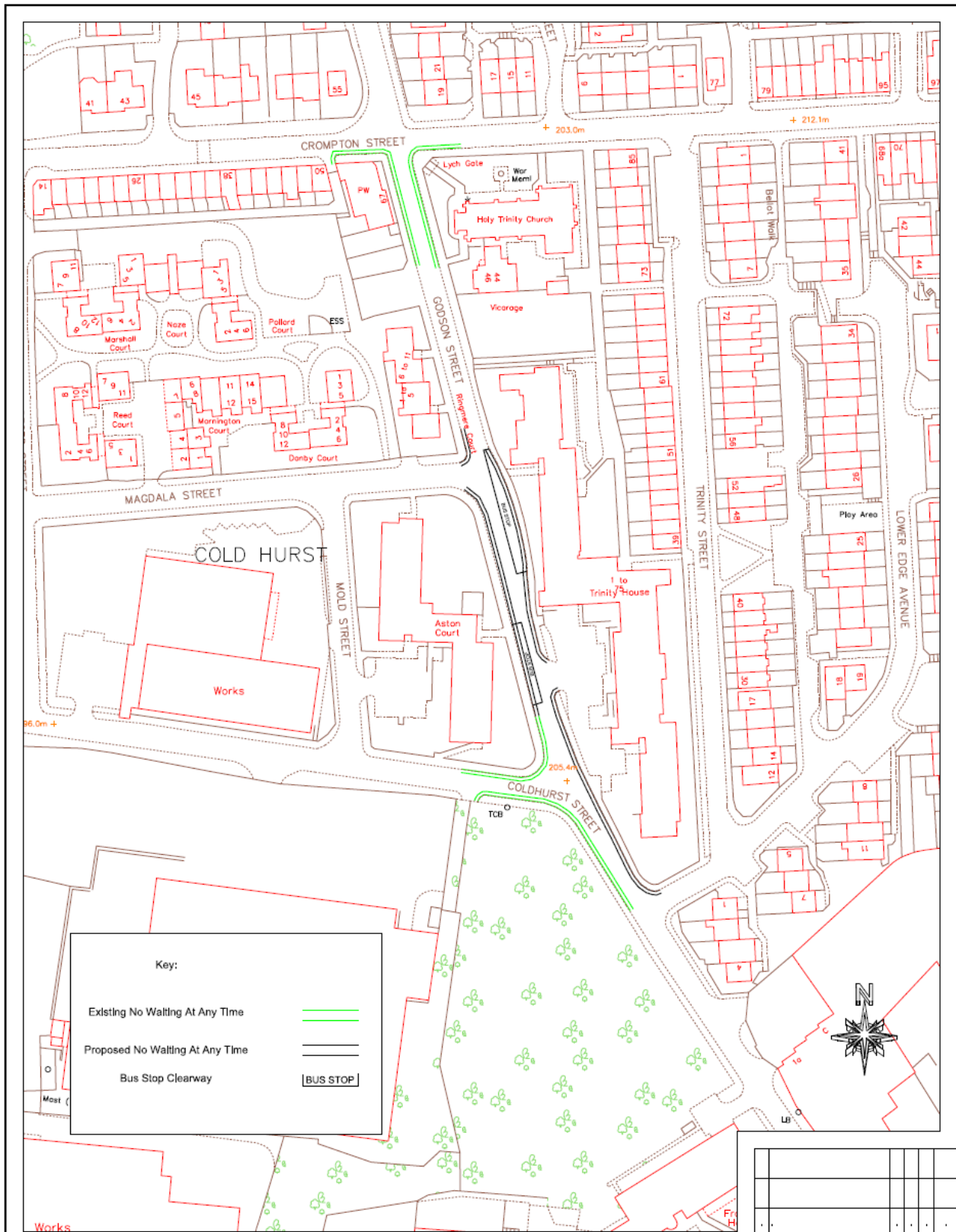
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- 14 **Environmental and Health & Safety Implications**
- 14.1 These were dealt with in the previous report.
- 15 **Equality, community cohesion and crime implications**
- 15.1 These were dealt with in the previous report
- 16 **Equality Impact Assessment Completed?**
- 16.1 No.
- 17 **Key Decision**
- 17.1 No.
- 18 **Key Decision Reference**
- 18.1 Not applicable.
- 19 **Background Papers**
- 19.1 None
- 20 **Appendices**
- 20.1 Appendix A – Approved Mod Gov Report
Appendix B – Copy of Objections
- 21 **Proposal**
- 21.1 It is proposed the Panel consider the options detailed at paragraph 2 and 3 and advise which they feel should be approved.



TM3/991

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19.08.19



NOTES:
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HIGHWAYS & ENGINEERING
 Henshaw House, Cheapside, Oldham OL1 1NY

Client		
Project		
File Ref: TM3/991		
Drawn by	Date	Purpose of Issue
JW	08/19	
Checked by	Date	Scale at A3 size
SR	08/19	
Approved by	Date	1:1000
GDS	08/19	

Rev	Revision details	By	CHK	ACT	Date

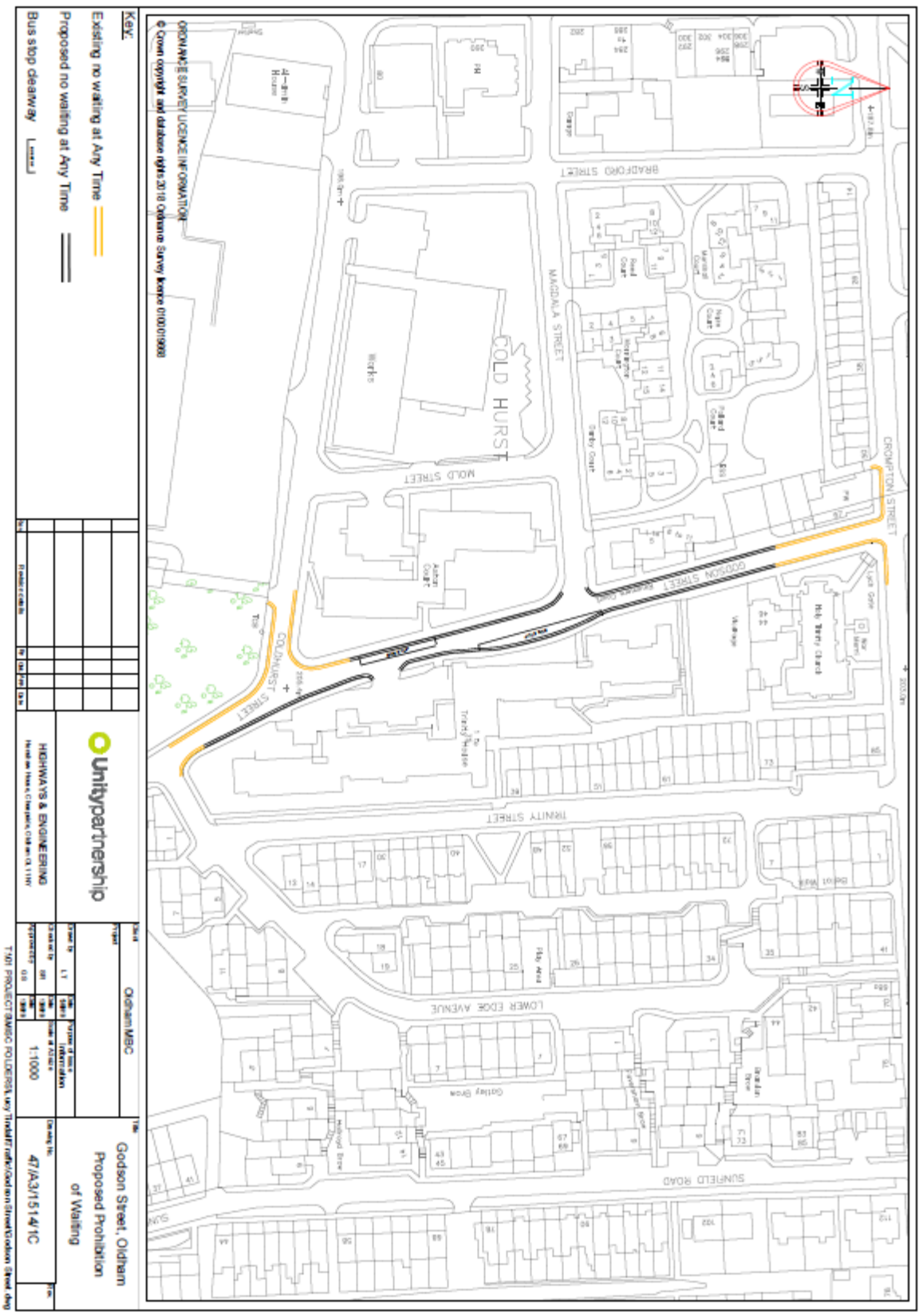
Title	
Godson Street, Oldham - Proposed Prohibition of Waiting (Option 2)	
Drawing No.	Rev.
47/A3/1514/1B	

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TM3/991

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19.08.19



APPENDIX A
APPROVED MOD GOV REPORT

Delegated Decision

Proposed Prohibition of Waiting and Bus Stop Clearways - Godson Street, Oldham

Report of: Deputy Chief Executive – People and Place

Officer contact: Darryll Elwood, Technical Admin
Ext. 1946

23 January 2019

Purpose of Report

The purpose of this report is to consider the introduction of prohibitive waiting restrictions and bus stop clearways along part of Godson Street Oldham, to alleviate obstructive parking problems experienced by residents of Trinity House when trying to cross the road.

Recommendation

It is recommended that no waiting at any time restrictions to be introduced along part of Godson Street, Oldham in accordance with the schedule and plan at the end of this report.

Godson Street, Oldham - Proposed Prohibition of Waiting

1 Background

- 1.1 A complaint has been received from a number of residents of Trinity House, Godson Street, Oldham regarding difficulties they are experiencing when trying crossing the road outside the entrance of the residence. The difficulties relate to the level of parking taking place along Godson Street which is being created by employees / visitors to Oldham Town Centre or Royal Oldham Hospital parking their vehicles along the carriageway throughout the day. The residents are experiencing difficulties crossing the road safely due to poor visibility. Some of the residents also use mobility scooters and are sat too low to see over the parked vehicles.
- 1.2 To alleviate the problems being experienced, yellow lines have been requested to prevent motorists from parking. It is also proposed to introduce Bus Stop Clearways at the bus stop locations to ensure disabled motorists do not park and obstruct these areas.

2 Current Position

- 2.1 Godson Street is located between Oldham Town Centre and the Royal Oldham Hospital and is therefore used as a convenient parking place by both staff and visitors to the hospital and employees and shoppers to Oldham Town Centre.
- 2.2 Due to the current parking situation, the residents of Trinity House are experiencing difficulties when crossing the carriageway due to poor visibility and having to cross between parked vehicles, particularly when using mobility aids such as wheelchairs, scooters etc.

3 Options/Alternatives

- 3.1 Option 1: To approve the recommendation
- 3.2 Option 2: Not to approve the recommendation

4 Preferred Option

- 4.1 The preferred option is Option 1

5 Justification

- 5.1 In view of the road safety problems being experienced when vehicles are parked on Godson Street, Oldham in the vicinity of Trinity House, it is felt that double yellow lines should be introduced to alleviate the problem, in accordance with the schedule at the end of this report and drawing number 47/A3/1514/1.

6 **Consultations**

- 6.1 G.M.P. View - The Chief Constable has been consulted and has no objection to this proposal.
- 6.2 T.f.G.M. View - The Director General has been consulted and supports this proposal.
- 6.3 G.M. Fire Service View - The County Fire Officer has been consulted and has no comment on this proposal.
- 6.4 N.W. Ambulance Service View - The County Ambulance Officer has been consulted and has no comment on this proposal.

7 **Comments of Coldhurst Ward Councillors**

- 7.1 The Ward Councillors have been consulted and no comments were received.

8 **Financial Implications**

- 8.1 The cost of making this restriction along with road marking/signage and maintenance thereafter is as follows:

	£
Advertisement of Order	1,200
Lining Cost	500
Signing Cost	50
TOTAL	<u>1,750</u>
Annual Maintenance Costs (estimates calculated August 2018)	105

- 8.2 The advertising, sign removal and road marking costs of £1,750 will be funded from cost centre 40916 (Highways Operations – Unity).
- 8.3 The annual maintenance costs estimated at £105 per annum will be met from cost centre 40350 (Highways Operations). If there are pressures in this area as the financial year progresses, the Directorate will have to manage its resources to ensure that there is no adverse overall variance at the financial year end. (Nigel Howard/Sadrul Alam)

9 Legal Services Comments

- 9.1 The Council must be satisfied that it is expedient to make the Traffic Regulation Order in order to avoid danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising, or for preventing damage to the road or to any building on or near the road, or for facilitating the passage on the road or any other road of any class of traffic, including pedestrians, or for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property or for preserving or improving the amenities of the area through which the road runs.
- 9.2 In addition to the above, under section 122 of the Road Traffic Regulation Act 1984, it shall be the duty of the Council so to exercise the functions conferred on them by the Act as to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway. Regard must also be had to the desirability of securing and maintaining reasonable access to premises, the effect on the amenities of any locality affected and the importance of regulating and restricting the use of roads by heavy commercial vehicles so as to preserve or improve the amenities of the areas through which the roads run, the strategy produced under section 80 Environmental Protection Act 1990 (the national air quality strategy), the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles and any other matters appearing to the Council to be relevant.
- 9.3 In relation to the proposed bus stop clearway, these can be introduced without the need for a Traffic Regulation Order. The Council has introduced an approvals procedure for dealing with bus stop clearways which to a large extent mirrors the procedure to be followed when making Traffic Regulation Orders. It is recommended that the approval procedure be followed.
(A Evans)

10 Co-operative Agenda

- 10.1 In respect of this proposal there are no Co-operative issues or opportunities arising and the proposals are in line with the Council's Ethical Framework

11 Human Resources Comments

- 11.1 None.

12 Risk Assessments

- 12.1 None.

13 **IT Implications**

13.1 None.

14 **Property Implications**

14.1 None.

15 **Procurement Implications**

15.1 None.

16 **Environmental and Health & Safety Implications**

16.1 Energy – Nil.

16.2 Transport – Nil.

16.3 Pollution – Nil.

16.4 Consumption and Use of Resources – Nil.

16.5 Built Environment – Nil.

16.6 Natural Environment – Nil.

16.7 Health and Safety – Nil.

17 **Equality, community cohesion and crime implications**

17.1 By removing obstructive parking along Godson Street, Highway Safety will be improved for pedestrian crossing the carriageway, therefore, meeting the aspirations of the complainant.

18 **Equality Impact Assessment Completed?**

18.1 No.

19 **Key Decision**

19.1 No.

20 **Key Decision Reference**

20.1 Not applicable.

21 Background Papers

- 21.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

None.

22 Proposal

- 22.1 It is proposed that a Traffic Regulation Order be introduced in accordance with the following schedule and drawing number.

Schedule

Drawing Number 47/A3/1514/1

Add to the Oldham Borough Council (Oldham area) Consolidation Order 2003

Part 1 Schedule 1

Column 1 Item No	Column 2 Length of Road	Column 3 Duration	Column 4 Exemptions	Column 5 No Loading
	<u>Godson Street</u> (West Side) From a point 34 metres south of its junction with Crompton Street to a point 20 metres north of its junction with Coldhurst Street	At any time	A, B1, B3, B4, C, E, K3	
	<u>Godson Street</u> (East Side) From a point 34 metres south of its junction with Crompton Street to a point 10 metres North West of its junction Lower Edge Avenue	At any time	A, B1, B3, B4, C, E, K3	

Bus Stop Clearway Schedule

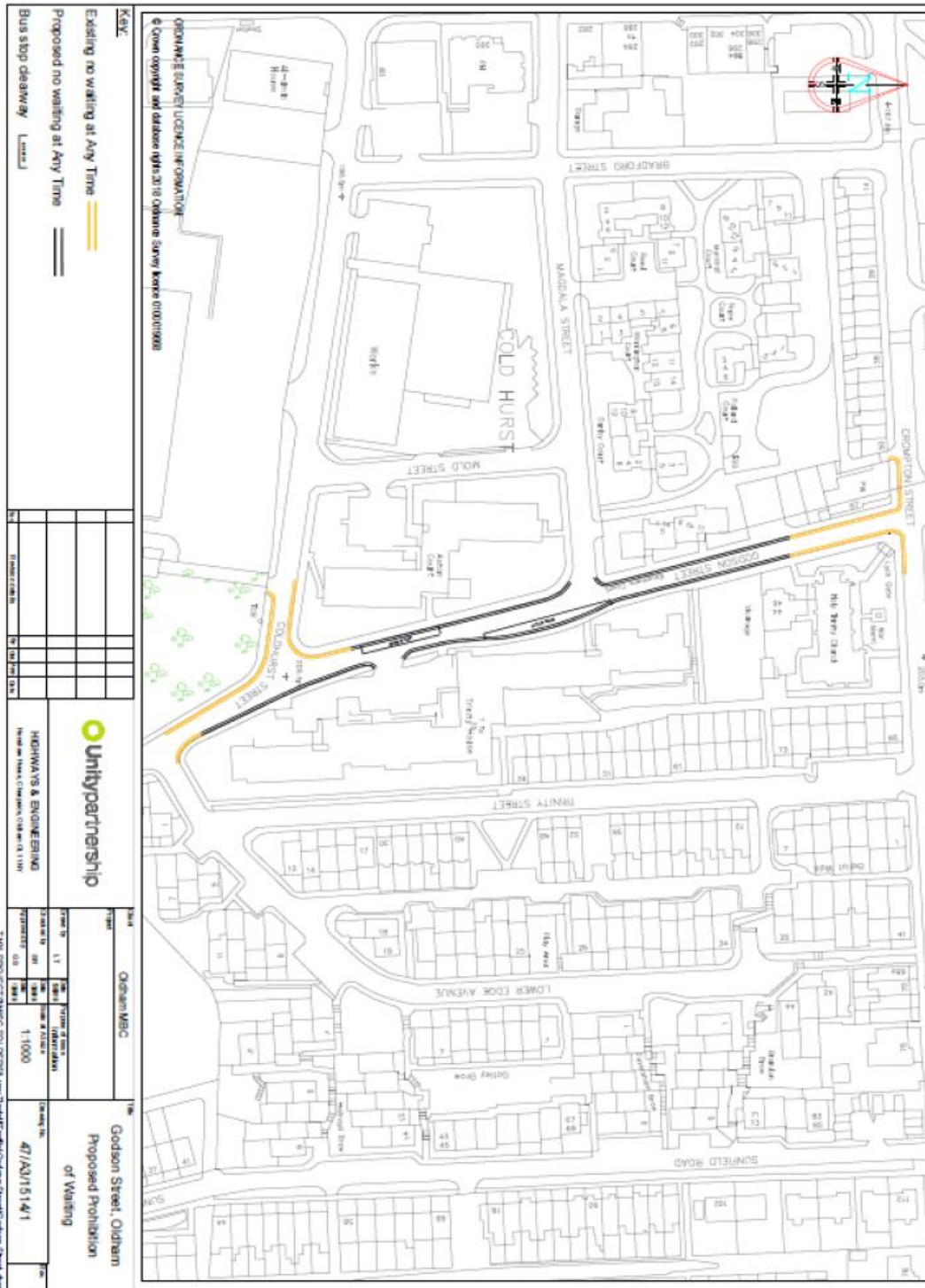
Introduce Bus Stop Clearways Order

Drawing Number 47/A3/1514/1

Location	Description	Hours of Operation
Godson Street (West Side)	From a point 23 metres north of its junction with Coldhurst Street for a distance of 24 metres in a northerly direction	24 hours
Godson Street (East Side)	From a point 90 metres south of its junction with Crompton Street for a distance of 45 metres in a southerly direction	24 hours

APPROVAL

Decision maker Signed:  Cabinet Member, Neighbourhood Services	Dated: 04/02/19
In consultation with Signed:  Director Of Environmental Services	Dated: 25/01/19



ORGANISATION SURVEILLANCE INFORMATION
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Key	Existing no waiting at Any Time	Proposed no waiting at Any Time	Bus stop clearance
	(Yellow line)	(Black line)	(Dashed line)

		Highways & Engineering Newham Road, Chesham, Bucks, HP8 4LN	
Project No	17	Project Title	Oldham MBC
Drawn by	AS	Scale	1:1000
Checked by	AS	Date	47/03/15/14/1

1701 PROJECT DRAWING POLICIES AND STANDARDS/STREET CLOSURE STREET ANY

APPENDIX B
COPY OF OBJECTIONS

Dear Darryll,

With regard to proposal TM3/991- GodsonSt - 12/3/19

I only became aware of this proposal at 10.15pm yesterday when a neighbour informed me personally as no written notification was received at the Vicarage at 46 Godson Street. (deadline 12/April).

As a local resident and as Chair of Holy Trinity Church Parochial Church Council, I write to **object** to the proposal of extending the double yellow lines along Godson Street, beyond the stipulated distance required approaching a crossroads. This is a busy residential area and is also served by two places of worship and two Care homes. - the Madrassa on Godson St and Coldhurst Holy Trinity Parish Church, plus Trinity (sheltered) Housing and Franklin Nursing Home.

Speaking for the Church - we have activities 7 days a week and not just Sunday mornings.

Church members and those who attend our Older Person lunch club (Tues) and (Weds) drop-in often park in the vicinity, many with mobility needs. Our hirer groups also prefer our building due to the unrestricted parking in the area. The proposal will therefore have serious implications for access for our members and reduce our usage / financial income from hirer groups.

Our Church was built here in 1848 as a community resource, and land donated by local benefactors. Hence the names of the surrounding streets in honour of the Church and benefactors. We have a historic right of unimpeded access to the building and land.

Even if residents parking permits were introduced, this would still adversely affect our members who travel across Oldham. The problem of parking is due to local residences not having allocated garages in the area and the high parking costs at the hospital, causing hospital staff to occupy neighbouring streets. The problem would be alleviated if additional parking at reduced cost could be found for hospital staff.

Please acknowledge receipt of this written objection.

Yours sincerely,

Environment Group Solicitors

Civic Centre

West Street

Oldham

OL1 1UL

Dear Sir/ Madam

Re: Godson Street

Please find enclosed a copy of a petition objecting to the proposal of the order to prohibit waiting at all times on Godson Street.

In this objection, I'm paying particular attention to the section of road between Crompton Street and Magdala Street. As a resident at Ringmere Court I object to the above proposal for a few reasons. The worshipping communities for both Christians and for the Muslim, how and where will these people park to be able to come and give prays, how parents will be able to park to pick their children up and drop them off for school safely plus for scouts. I suffer with crohns disease and short bowel syndrome so it is vital that I park near to the entrance so I can access the building quickly for quick access to the toilet. Parking further away from my home address would cause my stress and would have an adverse effect on my condition resulting in embarrassing and humiliation if accidents would have happen, which often happens in my day to day living.

I except that there are issues with parking on the highways in this area but as a resident I have the right as a road tax payer to park outside my property. This issue the highways have is down to the hospital staff at Oldham royal hospital which I have witnessed on many occasions and that of the employees the work in Oldham town centre; they park on Godson Street and then walk to work.

The residents of Ringmere court would ask if a permitting holder only bay be put in place so that the resident could park outside their address which would elevate the congested parking on Godson Street. These parking permit holder only bays could run on the same side of Ringmere court between Crompton Street and Magdala Street.


I look forward to hearing from you with your reply.

Yours sincerely

PETITION

GODSON STREET, OLDHAM

This is a petition for the objection to the prohibition of waiting amendment order 2019.

DATE	ADDRESS	SIGN
8.4.19	5 RINGMERE COURT	A. Lees
8.4.19	11 RINGMERE	← Merv
8.4.19	10 Ringmere Court	P. Asher
8.4.19	10 RINGMERE COURT	

Environment Group Solicitors

Civic Centre

West st

Oldham

OL1 1UL

11/04/2019

Dear sir/madam

Please find enclosed a petition filled by the church in objection to the road markings and no waiting anytime which is proposed for Godson street. An email as also been send in by Rev.David Austin.

We look forward to your response.

Your sincerely

PETITION

GODSON STREET, OLDHAM

This is a petition for the objection to the prohibition of waiting amendment order 2019.

DATE	ADDRESS	SIGN
9/4/2019	46 Godson St (Vicarage)	Rev. D. Austin
9/4/2019	133 EDGE LANE RD	Marian Ashworth
9/4/2019	42 MOTTOMER ST HIGGINSHAN	Arthur Short
9-4-2019	100 EDGE LANE RD.	Demig Lofthouse
9-4-2019	7 genuine walls Chad	Soekia Hulme
9 4 2019	ASTON COURT mold St	Doreen Tierney
10/4/19	32, TANTHILL LANE	Sophie Courtney
	27 TRINITY HOUSE Godson Street	DENSE CLARK
10-4-19	136, BOUNDARY PARK RD OLDHAM	John Greenwood CHURCH WARDEN H.T.C.
10-4-19	24 TANTON AVENUE	R-cooper

From: Cllr A Jabbar
Sent: 11 April 2019 22:53
To: Darryll Elwood
Cc: Gary Sutcliffe; Cllr A Malik
Subject: Fwd: double yellow lines godson st and at Franklin Street
Attachments: 20190408_214916.jpg; 20190408_214916.jpg; 20190408_214904.jpg; 20190408_214932.jpg

Hi Darryll

I would like to inform you that as ward councillors myself and councillor Abdul Malik have received the presentation not to go ahead with the proposed traffic waiting restrictions and double yellow line on Godson Street and Franklin Street.

As you are aware that there are serious parking issues on those two streets and in the surrounding area. I think it will be better to have a plan for the whole area before we consider these measures. On that basis please hold these proposals for now until we developed a plan for the whole area.

Please do not hesitate to contact me if you wish to discuss this matter any further.

Many thanks

Abdul

Cllr Abdul Jabbar MBE

Deputy Leader of Oldham Council

Cabinet Member for Finance and Corporate Resources

T | 0161 770 4031

| 0797 0826649

E | abdul.jabbar@oldham.gov.uk



Report to TRO Panel

Definitive Map Modification Order

s53 – Wildlife and Countryside Act 1981 Claim to Register a Public Footpath on Land at The Meadows, Grotton

Portfolio Holder:

Councillor A Ur Rehman, Cabinet Member for Neighbourhood Services

Officer Contact: Deputy Chief Executive – People and Place

Report Author: Jean Greer, Traffic Engineer
Ext. 4306

26 September 2019

Purpose of Report

To determine an Application (the Application) submitted under Schedule 14 of the Wildlife and Countryside Act 1981 (the 1981 Act), requesting that a Modification Order be made in respect of a route running over a parcel of land between The Meadows and Bridleway 194 Saddleworth (the application route), which is shown in purple on the attached location plan.

Executive Summary

The Council has a Duty to investigate and determine applications for Modification Orders submitted under the 1981 Act.

The Application has been received in respect of the application route.

The Application is supported by User Evidence Forms, completed by 25 individuals who claim to have used the application route for periods ranging between 22 and 55 years.

The application route is not recorded on the Definitive Map and Statement for the area and was not identified on either the draft or provisional maps prepared in the early 1950's.

The evidence in support of and against the Application must be considered and the application determined in line with the legal requirements.

The evidence in support of and against the Application must be considered and the Application determined in line with legal requirements as described in paragraph 1.5 of this report.

It is considered that there is sufficient evidence of use to raise a presumption of dedication under Section 31 of the Highways Act 1980 (the 1980 Act).

Recommendation

It is recommended that:

- a. A Modification Order in respect of the application route under s53 of the 1981 Act, should be made;
 - b. The Applicant and the Landowners be notified of the Council's decision; and
 - c. The Landowners be notified of their Right of Appeal under Schedule 15 of the 1981 Act.
-

Definitive Map Modification Order
S53 – Wildlife and Countryside Act 1981
Claim to register a Public Footpath on land at The Meadows, Grotton to Bridleway
194 Saddleworth

1 Background

- 1.1 The Application was submitted by Mr Michael William Wild (the Applicant) on 15th July 2019. The Application was supported by 25 User Evidence Forms. The information contained in those Evidence Forms is summarised in Appendix 1 to this report.
- 1.2 The Application appears to have been prompted by challenges to Users of the application route made by one of the Landowners by erecting a sign, “Private Land”.
- 1.3 The basis on which the Application needs to be considered

It can be seen that the evidence in support of the application comprises of User Evidence which needs to be considered against the statutory provisions on s31 of the Highways Act 1980 on dedication.

s31 of the 1980 Act

Under s31 of the 1980 Act, a way is deemed to have been dedicated as a highway after 20 years use by the public unless there is evidence of a contrary intention. In order to establish a presumed dedication under this section, each element in the wording of s31(1) and (2) needs to be proved on the balance of probabilities.

“(1) Where a way over any land, other than a way of such a character that use if it by the public could not give rise at Common Law to any presumption of dedication, has been actually enjoyed by the public as of Right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

(2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the Right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise”.

(3) Where the owner of the land over which any such way as aforesaid passes:-
(a) has erected in such a manner as to be visible by persons using the way a notice inconsistent with the dedication of the way as a highway; and
(b) has maintained the notice after the 1st January 1934, or any later date on which it was erected,

the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.

To make a Modification Order to add the Claimed Footpath to the Definitive Map the Council needs to decide whether an event under s53 of the 1981 Act has occurred. If so, a Modification Order should be made. The “events” which are relevant to this application are those in s53(3)(b) and s53(3)(c)(i) of the 1981 Act. These provisions can overlap. “The discovery of evidence which shows that a Right subsists or is reasonably alleged to subsist” under s53(3)(c)(i) can include the discovery that the period of User required to raise a presumption of dedication has expired. Thus where an Application is made for the addition of a path on the grounds of User for a requisite period, the Application can be for an Order either under s53(3)(b) and/or under s53(3)(c)(i). An important difference between s53(3)(b) and s53(3)(c)(i) should be noted. The former does not contain words “reasonably alleged”. Unless the period has without doubt expired, the subsection does not apply. Under the latter, it is sufficient if it is no more than reasonably alleged that the way exists as a Public Right of Way.

1.4 The Applicants Evidence

The evidence submitted in support of the Application consists of User Evidence Forms completed by various individuals. In total 25 completed Right of Way Evidence Forms have been received in support of the Application.

It can be seen from the summary of User Evidence that:-

A number of people claim to have used the application route, all are local people.

Of those persons completing Evidence Forms most people referred to the existence of a sign during the period of their use informing members of the public that the application route was signed as Private, it is uncertain when this first appeared. However, the sign has only appeared recently ie there has been at least 20 years use before the sign appeared.

None of the persons who completed a User Evidence form have indicated that they ever sought or were granted permission to use the application route. A number have commented about the current owners having challenged people using the application route in the months prior to the Application being made.

The periods of use range from 22 to 55 years, with the earliest use being 1960. For those persons who have used the application route, the frequency of their use is high.

One supporting User Evidence Form from David Slater has a photograph attached, taken in 1997 taken of people using the application route and is clearly identifiable by a church in the background which is also shown on street view today.

1.5 Assessing the Evidence

The Applicant has applied for an Order to be made to add the application route of the Definitive Map and has submitted user evidence. The Council has to decide what it considers are the correct facts, and on the basis of those facts, whether an event under s 53(3)(c)(i) has occurred.

Use of the way is not in itself enough – it is the nature of such use that has to be established. All the provisions of s31 of the 1980 Act, together with the Common Law rules need to be carefully considered.

a) “use by the public”

Whilst the user evidence submitted comes mainly from residents who live in the area that does not mean that the use cannot be regarded as “use by the public”

In the case of *R v Inhabitants of Southampton 1887* it was held that use by the public “must not be taken in its widest senses; it cannot mean that it is a use by all the subjects of the Queen, for it is common knowledge that in many cases it is only the residents in the neighbourhood who ever use a particular road”

Use by those persons who completed User Evidence forms should be regarded as “use by the public”.

(b) “use as of right”

There has been a sign in place (precise dates unknown) informing people that the route was Private. Use would have meant ignoring the sign. However, the sign appeared recently and there has been 20 years use before the sign appeared.

None of those persons who completed User Evidence Forms have indicated being challenged themselves, except for some months prior to the Application being submitted.

On the face of it the use by those who completed User Evidence Forms appears to have been open, without force, and without the permission of the landowners.

(c) “period of 20 years To be calculated retrospectively from the date when the right of the public to use the way is brought in question, whether by a notice such as is mentioned in subsection (3) below or otherwise”

It is considered that the date when the public’s right was first called into question was when the Application was submitted. It appears that challenges from the current occupiers may well have prompted the Application. The period of consideration (for the purposes of presumed dedication under s31 of the 1980 Act) has, therefore, been taken from 1960 to 15th July 2019.

The use described in the User Evidence Forms extends throughout that period.

(d) “without interruption”

An interruption has been defined as the actual and physical stopping of the use of a way by the landowner or their Agent. Moreover, such interruption must be with the intention to prevent public use. It is not sufficient if the interruption is for some other purpose.

There seems to be no evidence that the landowners did not intend to dedicate the way ie no gates.

e) “unless there is sufficient evidence that there was no intention during that period to dedicate it”

There have in recent years been numerous legal rulings on what constitutes “sufficient evidence” that there was no intention to dedicate a highway. The leading case is Godmanchester, which was considered by the House of Lords in 2007. In that case the House of Lords ruled that the words “unless there is sufficient evidence that there was no intention during that period to dedicate” in s31(1) of the 1980 Act requires landowners to have communicated to users their lack of intention to dedicate and that must have been communicated at some point(s) during the 20 year period of use by the public.

For dedication at Common Law to arise the onus is on the Applicant to prove that intention.

2 Conclusion

2.1 A number of people have used the application route. Those persons appear not to constitute a limited Class and ought to be regarded as members of the public. Use of the path was called into question on 15th July 2019 when the application was made.

There is sufficient evidence to suggest that the application route has been used without interruption for at least twenty years prior to this date.

2.2 Schedule of Map Modification – Drawing

Label	Grid Reference		Comments
	Easting (m)	Northing (m)	
A	396523E	404828N	Start of Application Route
B	396602E	405070N	End of Application Route

District and Path Number	Page Number	Status	Length	Width
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293 Saddleworth	11 and 6	Footpath	277 metres	1.3m
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2.3 Schedule of Modification of the Definitive Statement

Description	From Point A at the cul se sac end of The Meadows (OS Map Ref 396523E, 404828N) proceeding in a general north-easterly direction to Point B at Bridleway 194 Saddleworth (OS Map Ref 396602E, 405079N)
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3 Options/ Alterations

3.1 Option 1: To approve the recommendation that a Modification Order be made in respect of a route running over a parcel of land between The Meadows and Bridleway 194 Saddleworth (the application route), which is shown in purple on the attached location map.

3.2 Option 2: Not to approve the recommendation

4 Preferred Option

4.1 The Preferred option is to approve Option 1.

5 Consultation Required

5.1 Consultation required with those listed below, simultaneously, for a 42 day period from posting Notice on site and in the newspaper.
 Saddleworth Parish Council
 Prescribed Bodies
 Ward Councillors
 Landowners

6 Financial Implications

6.1 This report contains no commitment to perform any kind of remedial or development work on the affected bridleway/footpaths.

6.2 As it stands, the proposal only commits the authority to spend approximately £1,200 on advertising costs. This will be funded from the Highways Operations Unity cost centre. (Nigel Howard)

7 **Legal Services Comments**

7.1 The basis on which the application needs to be determined together with an explanation of the relevant legal provisions is contained in the report. For use to be “as of right” it must have been of such a character as should have brought home to the owner of the land the fact that the public were claiming the right to use the way. In addition, whilst the owner of the land may establish his lack of intention to dedicate the claimed right of way by other means, the burden is on him to provide sufficient evidence that his lack of intention was brought home to those who were using the claimed right of way. (A Evans)

8 **Co-operative Agenda**

8.1 In respect of the Claim there are no Co-operative issues or opportunities arising and the proposals are in line with the Council’s Ethical Framework.

9 **Human Resources Comments**

9.1 None.

10 **Risk Assessments**

10.1 None

11 **IT Implications**

11.1 None.

12 **Property Implications**

12.1 None

13 **Procurement Implications**

13.1 None

14 **Environmental and Health & Safety Implications**

14.1 None.

15 **Equality, community cohesion and crime implications**

15.1 None

16 **Equality Impact Assessment Completed?**

16.1 No

17 **Key Decision**

17.1 Yes

18 **Key Decision Reference**

18.1 No.

19 **Forward Plan Reference**

19.1 Not applicable.

20 **Background Papers**

20.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

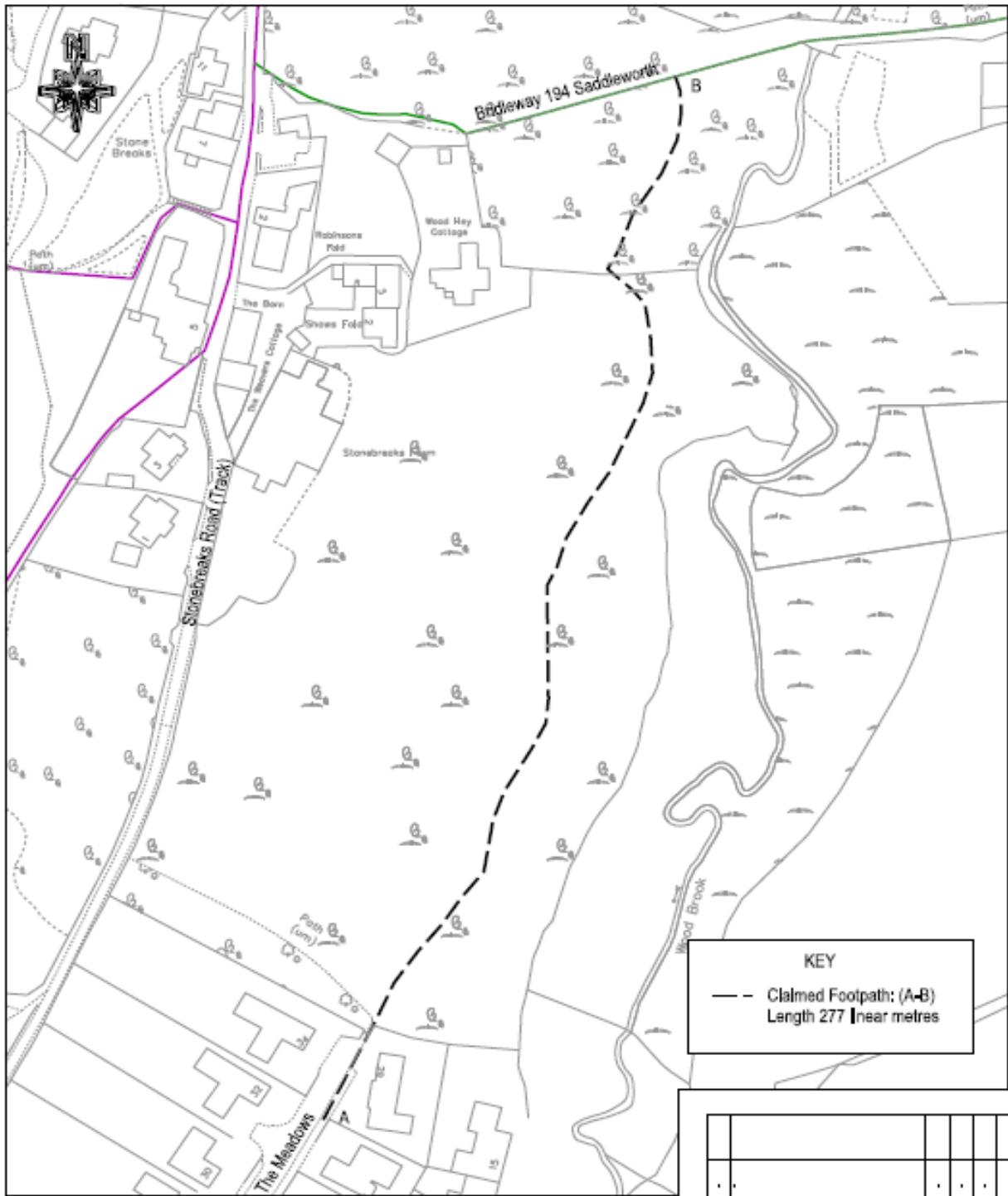
None.

21 **Appendices**

21.1 Table 1 Summary of Supporting User Evidence Forms

LIST OF CLAIMANTS COMPLETING FORM E**FOOTPATH THE MEADOWS GROTTON OL4 4LR TO BRIDLEWAY SPRINGHEAD**

NAME	AGE	YEARS WALKED PATH
1. DONALD TAYLOR	65	55
2. DUNCAN JOHNSON	52	42
3. JOHN PURTILL	84	31
4. JEAN PIRTILL	80	31
5. KATHLEEN HODGES	78	44
6. MICHAEL WILD	76	31
7. JOHN LEYLAND	78	40
8. MARIANNE LEYLAND	76	40
9. DAVID SLATER	69	22 **
10. Cllr RICHARD DARLINGTON	86	24
11. ARNOLD ELLIS	79	30
12. MARGARET ELLIS	77	30
13. JOHN BLACKBURN	74	30
14. JEAN BLACKBURN	74	30
15. SUSAN VARCOE	62	30
16. LINDSAY WILD	43	30
17. GLENYS WILD	71	31
18. ANDREA KERSHAW	58	24 ***
19. DAVID HUTTON	71	36 ****
20. ANDREW KERSHAW	28	24
21. CHRISTINE WHEATLEY	61	26
22. THEO WHEATLEY	29	26
23. MICHAEL BIRD	72	50
24. LINDA SCHOFIELD	65	32
25. ROGER SCHOFIELD	67	32
26. ROBERT KERSHAW	61	24



KEY
 --- Claimed Footpath: (A-B)
 Length 277 near metres

Rev	Revision details	By	CHK	Appr	Date



Oldham Council



Unity Partnership
HIGHWAYS & ENGINEERING
 Henshaw House, Cheapside, Oldham OL1 1NY

Project		
The Meadows, Grotton		
Drawn by	Date	Purpose of Issue
RW	07/19	Order Plan
Checked by	Date	Scale at A4 size
JG	07/19	1:1250
Approved by	Date	
GS	07/19	

Definitive Map and Statement Modification
 Order s53(3)(b) Wildlife and Countryside Act 1981
Footpath 293 Saddleworth - The Meadows, Grotton

Drawing No. **764/A4/222/1**