

## ***TRAFFIC REGULATION ORDER PANEL Agenda***

Date Thursday 17 March 2022

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 Constitutional Services in advance of the meeting.

2. CONTACT OFFICER for this Agenda is Constitutional Services Tel. 0161 770 5151 or email [constitutional.services@oldham.gov.uk](mailto: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, 14 March 2022.

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 Davis (Chair), Brownridge (Vice-Chair), C. Gloster, Salamat and Woodvine

### 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 20<sup>th</sup> January 2022 are attached for approval.

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 Modification of the Definitive Map & Statement (Pages 5 - 62)

To seek approval to the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpath 26 Oldham, land off Knowls Lane, Oldham as detailed in the report.

7       Definitive Map Modification Order S53 – Wildlife and Countryside Act 1981 Claim to Register a Public Bridleway from Standedge Foot Rd to Huddersfield Rd, Diggle (Pages 63 - 88)

To determine an 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 between Standedge Foot Road and Huddersfield Road, Diggle.

8       Public Path Extinguishment and Definitive Map and Statement Modification Order S118 Highways Act 1980 – Extinguishment of part of FP118, Saddleworth – Mount Lane/Husteads Lane, Dobcross and s53A Wildlife and Countryside Act 1981 Modification of the Definitive Map and Statement (Pages 89 - 96)

To seek approval to make a public path extinguishment order for part of Footpath 118, Saddleworth.

9       Public Path Diversion and Definitive Map and Statement Modification Order s119 Highways Act 1980 - Diversion of Definitive Footpath 185 Saddleworth (part), at Mount Sorrel, Mount Lane, Dobcross and s53A Wildlife and Countryside Act 1981 Modification of the Definitive Map and Statement (Pages 97 - 108)

To seek approval for the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpath 185 Saddleworth (part) at Mount Sorrel, Mount Lane, Dobcross as detailed in the report.

# Public Document Pack Agenda Item 5

## TRAFFIC REGULATION ORDER PANEL

20/01/2022 at 5.30 pm

**Present:** Councillors Davis (Chair), Brownridge (Vice-Chair),  
C. Gloster, Salamat and Woodvine

In attendance: Alan Evans (Group Solicitor)  
Liam Kennedy (Public Rights of Way Officer)  
Peter Thompson (Constitutional Services)

### 1 **APOLOGIES FOR ABSENCE**

There were no apologies for absence received.

### 2 **URGENT BUSINESS**

There were no items of urgent business received.

### 3 **DECLARATIONS OF INTEREST**

Councillor Brownridge declared a personal interest at agenda item 6.

### 4 **PUBLIC QUESTION TIME**

There were no public questions received.

### 5 **MINUTES**

Resolved:

That the minutes of the meeting of the Traffic Regulation Order Panel held on 25<sup>th</sup> November 2021 be approved as a correct record.

### 6 **S257 TOWN AND COUNTRY PLANNING ACT 1990 – DIVERSION OF DEFINITIVE FOOTPATH 26 CHADDERTON, AT BURNLEY LANE TO CHADDERTON WAY, CHADDERTON, AND S53A WILDLIFE AND COUNTRYSIDE ACT 1981 MODIFICATION OF THE DEFINITIVE MAP & STATEMENT**

The Panel considered a report that sought approval for the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpath 26 Chadderton at Burnley Lane to Chadderton Way, Chadderton.

The route of Footpath 26 Chadderton was shown the plan, that was attached to the report (764/A4/227/1). The path commenced at point A off Burnley Lane (s/o 372a) following an easterly route for approximately 208m where it met Chadderton Way. The existing route ran through undeveloped land. The description of the current route was given in Schedule 1 to the report.

The diverted path was also shown on the plan and follows points A-C-D-E-F. The description of the diverted route is given in Schedule 2 to the report.

The existing alignment of the Footpath would be directly affected by the development being constructed by the applicants. The required highway signage, from the metallised road and the way markers along the route will be paid for by the Applicant.

If the order were to be confirmed it would be necessary to modify the Definitive Map and Statement for Footpath 26 Chadderton. The Council has an obligation to continuously review the Map and Statement. The Public Rights of Way (Combined Orders) (England) Regulations 2008 allows the Order-making Authority to make a Combined Order for a diversion proposal and Definitive Map and Statement Modification. Considering the above it was felt that this would be appropriate in this case. The current wording for the Definitive Statement was given in Schedule 3 and the amended wording was given in Schedule 4 to the report.

Options considered:

Option 1: To approve the recommendation.

Option 2: Not to approve the recommendation

Resolved:

That the Council make a Public Path Diversion and Definitive Map and Statement Modification Order for the diversion of Footpath 26 Chadderton under Section 257 of the Town and Country Planning Act 1990 and section 53A of the Wildlife and Countryside Act 1981 as detailed in the report and officers be authorised to carry out the necessary procedures with a view to confirming the Order if no objections are made to the Order.

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**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 MODIFICATION  
OF THE DEFINITIVE MAP & STATEMENT**

The Panel considered a report that sought approval for the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpath 26 Oldham, land off Knowls Lane, Oldham.

The Panel were informed that the route of Footpath 26 Oldham was shown on attached plan (764/A4/226/1). The path commences off Rhodes Hill South of Thornley Brook following an easterly route to its junction with Footpath 25 Oldham for approximately 480m. The existing route runs through undeveloped land. The description of the current route was given in Schedule 1, to the report. The diverted path was also shown on the plan and followed points A-C-D-B. The description of the diverted route was given in Schedule 2, to the report.

The existing alignment of the Footpath would be directly affected by the development being constructed by the applicants.



The required highway signage, from the metallised road and the way markers along the route would be paid for by the Applicant.

Under section 149 of the Equality Act 2010 the Council must, in the exercise of its functions have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic (which includes disability) and persons who do not share it. In considering this application it was assessed that the current route of Footpath 26 Oldham was not accessible to wheelchair users as it is uneven, unpaved, muddy, and often steep and narrow in parts, so it did not provide equality to disabled persons. A diversion route could not be created that would be entirely level and without steps owing to the topography of the area. Any member of the public accessing the Thornley Brook valley on foot is met with a steep inclined approach and as a result, users of the footpath had to be able to navigate initial slopes and steps to be able to walk the footpath. The proposed diversion route and the provision of timber framed steps and flagging at steep points would improve access for all non-wheelchair users. As the existing footpath is not accessible to all wheelchair users, the proposed diversion would not result in any additional loss of access to all wheelchair users.

If the order were to be confirmed it would be necessary to modify the Definitive Map and Statement for Footpath 26 Oldham. The Council has an obligation to continuously review the Map and Statement. The Public Rights of Way (Combined Orders) (England) Regulations 2008 allows the Order-making Authority to make a Combined Order for a diversion proposal and Definitive Map and Statement Modification. The current wording for the Definitive Statement is given in Schedule 3 and the amended wording are given in Schedule 4, to the report.

In considering this matter Members of the Panel expressed their dissatisfaction with the plans that were appended to the report, insofar as they were not clearly understandable and did not highlight access points to the application site.

An objector attended the meeting and was permitted to address the Panel on this application.

A Saddleworth West and Lees Ward Councillor attended the meeting and was permitted to address the Panel on this application.

Resolved:

That consideration of this application for Diversion of Definitive Footpath 26 Oldham, land off Knowls Lane, Oldham, be deferred to a future meeting of the Traffic Regulation Order Panel, pending the submission by the applicant, Russell Homes UK Ltd, of information about why a stepped diversion route was the most appropriate diversion option.

The meeting started at 5.30pm and finished at 6.12pm.

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## **Report to TRO Panel**

### **Public Path Diversion and Definitive Map and Statement Modification Order**

#### **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 Modification of the Definitive Map & Statement**

##### **Portfolio Holder:**

Councillor A Chadderton, Cabinet Member for Neighbourhoods

**Officer Contact:** Deputy Chief Executive – People and Place

**Report Author:** Liam Kennedy, PRow Officer  
Ext. 4306

**17 March 2022**

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##### **Purpose of Report**

To seek approval to the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpath 26 Oldham, land off Knowls Lane, Oldham as detailed in the report.

##### **Executive Summary**

The Council has 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).

Consultations with user groups over the application did not result in any objections only recommendations.

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**Recommendation**

It is recommended that the Council make a Public Path Diversion and Definitive Map and Statement Modification Order for the diversion of Footpath 26 Oldham under Section 257 of the Town and Country Planning Act 1990 and section 53A of the Wildlife and Countryside Act 1981 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.

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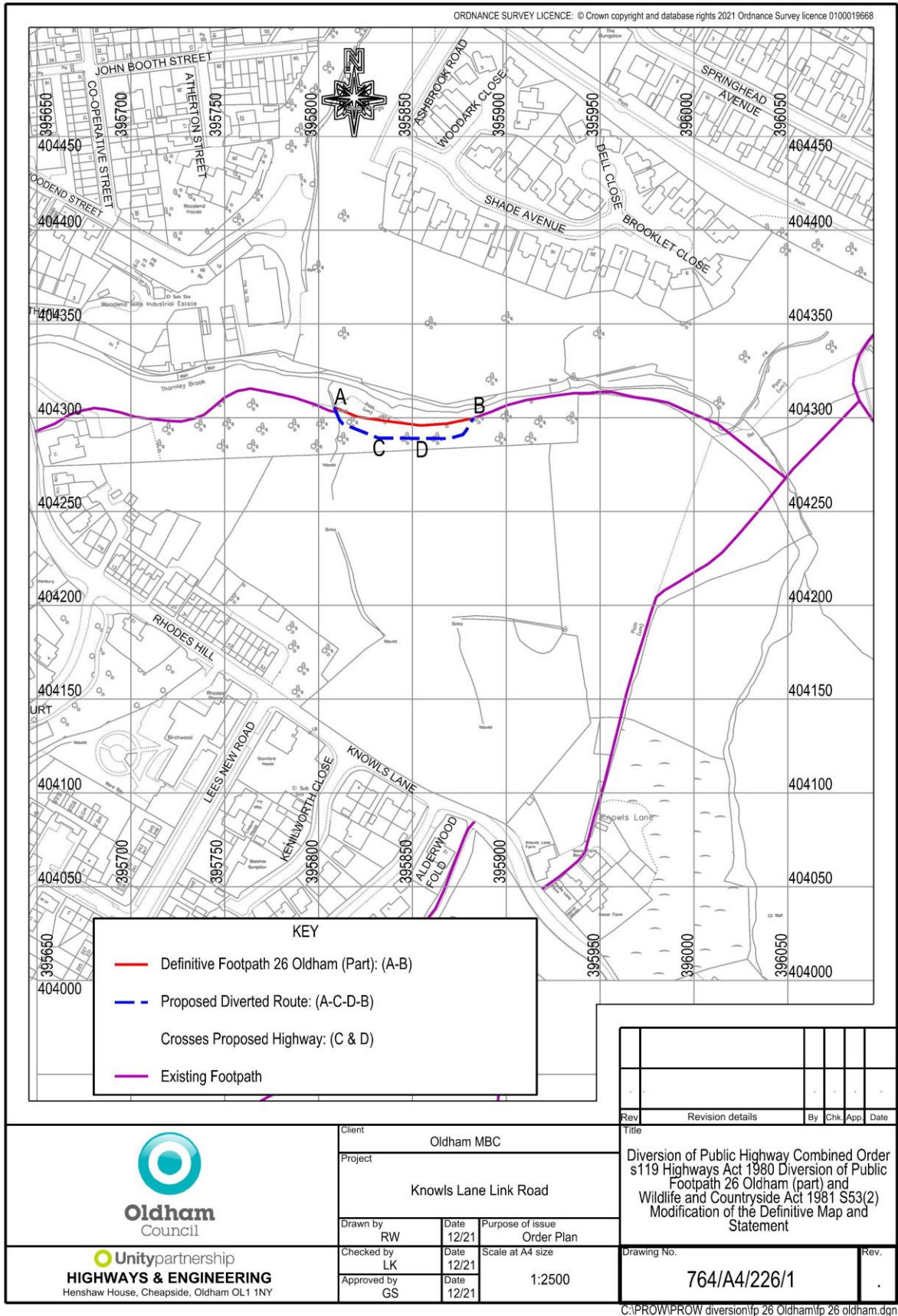
**Public Path Diversion and Definitive Map and Statement Modification Order  
S257 Town and Country Planning Act 1990 - Diversion of Footpath 26 Oldham, land off  
Knowls Lane, Oldham and s53A Wildlife and Countryside Act 1981 Modification of the  
Definitive Map and Statement**

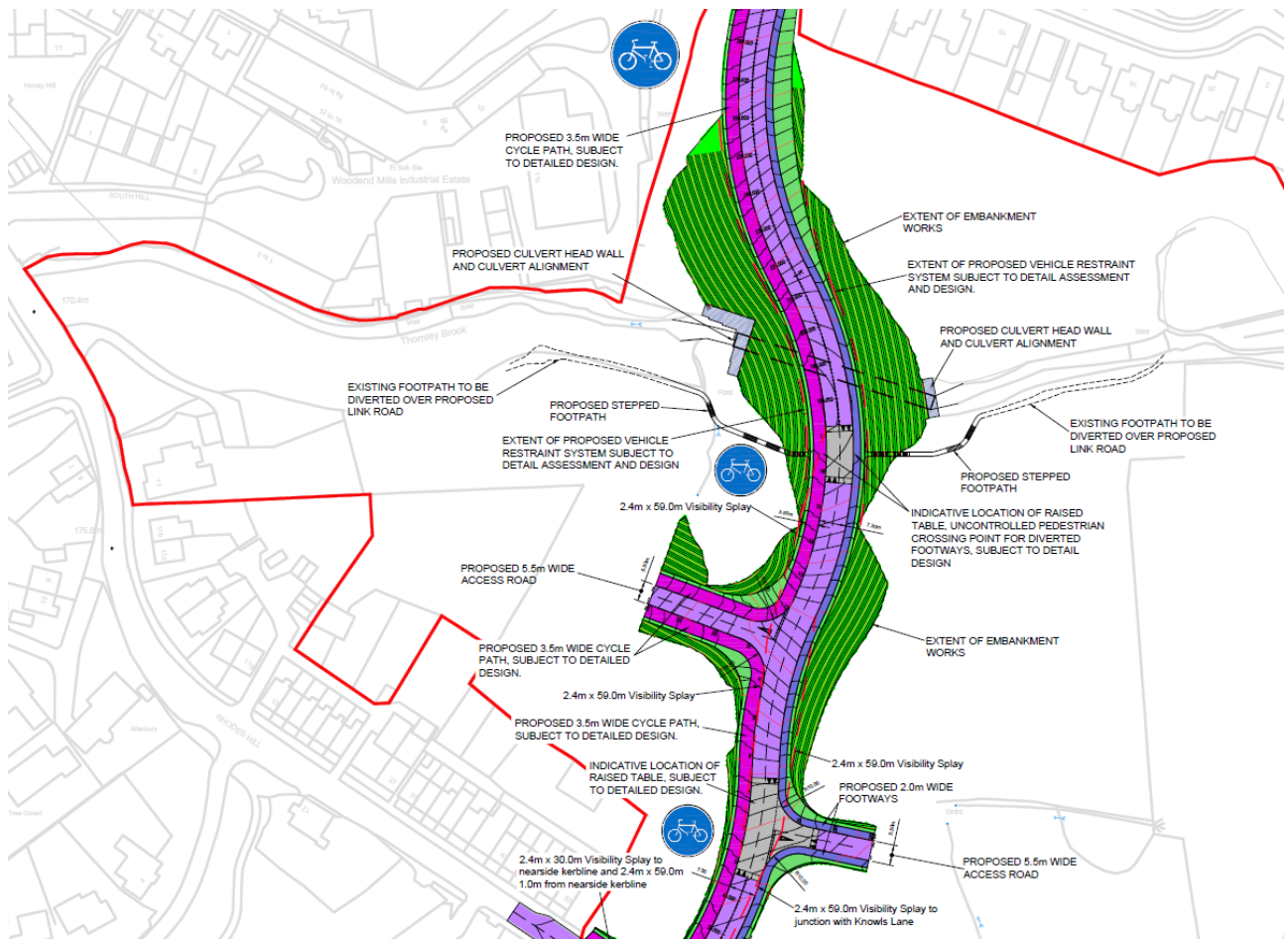
**1 Background**

- 1.1 The Application has been made by the above in relation to the proposed construction of a link road to the proposed Knowls Lane Housing Development. (MMA/344723/20).
- 1.2 The Order-making and Confirming Authority are guided to authorise the diversion of any footpath if they are satisfied that it is necessary to do so in order for the development to be carried out in accordance with the granted planning permission.

**2 Proposal**

- 2.1 The route of Footpath 26 Oldham is shown on attached plan (764/A4/226/1). The path commences off Rhodes Hill South of Thornley Brook following an easterly route to its junction with Footpath 25 Oldham for approximately 480m. The existing route runs through undeveloped land (i.e. fields). The description of the current route is given in Schedule 1.
- 2.2 The diverted path is also shown on the plan and follows points A-C-D-B. The description of the diverted route is given in Schedule 2.
- 2.3 The existing alignment of the Footpath would be directly affected by the development being constructed by the applicants.
- 2.4 The required highway signage, from the metallised road and the way markers along the route will be paid for by the Applicant i.e. both installation, posts and the sign.
- 2.5 Under section 149 of the Equality Act 2010 the Council must, in the exercise of its functions have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic (which includes disability) and persons who do not share it. In considering this application it was assessed that the current route of Footpath 26 Oldham is not accessible to wheelchair users as it is uneven, unpaved, muddy and often steep and narrow in parts, so it does not provide equality to disabled persons. However a diversion route cannot be created that would be entirely level and without steps owing to the topography of the area. Any member of the public accessing the Thornley Brook valley on foot is met with a steep inclined approach and as a result users of the footpath have to be able to navigate initial slopes and steps to be able to walk the footpath. The proposed diversion route and the provision of timber framed steps and flagging at steep points will improve access for all non wheelchair users. As the existing footpath is not accessible to all wheelchair users, the proposed diversion does not result in any additional loss of access to all wheelchair users.
- 2.6 If the order is confirmed it will be necessary to modify the Definitive Map and Statement for Footpath 26 Oldham. The Council have an obligation to continuously review the Map and Statement. The Public Rights of Way (Combined Orders) (England) Regulations 2008 allow the Order-making Authority to make a Combined Order for a diversion proposal and Definitive Map and Statement Modification. In light of the above it is considered that this is appropriate in this case. The current wording for the Definitive Statement is given in Schedule 3 and the amended wording is given in Schedule 4.







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### Schedule 1

#### Description of Existing Footpath Route – Drawing 764/A4/226/1

Existing FP 26 Oldham commences 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).

### Schedule 2

#### Description of Proposed Diverted Footpath Route – Drawing 764/A4/227/1

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 for a total distance of 435 metres or thereabouts. This route follows the proposed layout of the Development in the plan shown above.

### Schedule 3

#### Current Definitive Statement

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.	



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## Schedule 4

### Modification of Definitive Statement

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 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 for a total distance of 435 metres or thereabouts.	Min. width 1 metre  79 Steps with treads@178mm riser

### 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 to approve Option 1. This will enable continued usage of the PRow network whilst simultaneously facilitating the construction and development of the link road and associated housing development.

### 5 Informal Consultation

Parish Council  
5.1 Not applicable.

Footpath Societies

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- 5.2 The Ramblers Association and Peak and Northern Footpath Society were consulted and requested reinforced step structures. The developer has accommodated this request and since then no objections to the proposal have been received.

Ward Councillors

- 5.3 The Ward Councillors comments are included in Appendix 1. The Developer has provided the information attached in response to the Ward Councillors' comments explaining why a stepped route was chosen.

Landowners

- 5.4 The only affected landowner is the applicant.

**6 Financial Implications**

- 6.1 The applicant paid the standard diversion fee of £2,685 on 16<sup>th</sup> September 2021. This fee covers all costs associated with this order including, advertising, site notices and administration incurred by the Council. (Nigel Howard)

**7 Legal Services Comments**

- 7.1 Section 257 of the Town and Country Planning Act 1990 enables the Council to authorise the stopping up or diversion of any footpath or bridleway if it is satisfied that it is necessary to stop up or divert the footpath or bridleway in order to enable development to be carried out in accordance with planning permission granted under the Act. In the event of objections the application will be referred to the Secretary of State who must be satisfied that it is necessary to stop up or divert the footpath or bridleway and who has a discretion as to whether to confirm the stopping up/diversion. In the exercise of that discretion the Secretary of State is obliged to take into account any significant disadvantages or losses flowing directly from the stopping up/diversion which have been raised and must also take into account any countervailing advantages to the public, along with the planning benefits and the degree of importance attached to the development. He must then decide whether any such disadvantages or losses are of such significance or seriousness that he should refuse to confirm the stopping up/diversion. (A Evans)

**8 Co-operative Agenda**

- 8.1 Not applicable.

**9 Human Resources Comments**

- 7.1 None.

**8 Risk Assessments**

- 8.1 None

**9 IT Implications**

- 9.1 None.

**10 Property Implications**

- 10.1 None.

**11 Procurement Implications**

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- 11.1 None.
- 12 **Environmental and Health & Safety Implications**
- 12.1 None.
- 13 **Equality, community cohesion and crime implications**
- 13.1 See paragraph 2.5 above
- 14 **Equality Impact Assessment Completed?**
- 14.1 Not Applicable
- 15 **Key Decision**
- 15.1 No.
- 16 **Key Decision Reference**
- 16.1 Not applicable.
- 17 **Background Papers**
- 17.1 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.

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## Appendix 1

Cllr S Al-Hamdani

“With regards to this report, I wish to register my disappointment that this document states that the only consultees were the Ramblers Association and the Northern Footpath Society, and the assertion that there is no requirement to have an equality assessment as the current path is inaccessible to wheelchair users.

There is no reason given in this report as to why it would not be possible to change this footpath's route to make it a graduated slope rather than steps, which would improve rather than reduce accessibility in this area, for both able-bodied and mobility-impaired users, and I oppose this proposal unless due consideration is given to this option.

I have been approached by one wheelchair user in the community who has stated that they currently use some of this section of the footpath in its current condition, and while it is not ideal, they have said it is accessible in good conditions. They have an adapted wheelchair which is suitable for less accessible terrain, but steps will of course ensure that it is completely inaccessible.

The document also states that the changes will improve access for all non-wheelchair users. This contradicts the input that I have had from many elderly walkers in the area, who have strongly objected to the introduction of the stepped access, saying that it will make it much harder for them to use the route.

I have spoken previously to the highways officers with regards to this, and I do not regard this as a satisfactory approach to resolve the need to change the current location of the footpath due to the new link road. As such, I do not support this proposal, and wish to see an option which gives due consideration to the needs of wheelchair users and users with other mobility issues.”

Cllr M Kenyon

“I’d like to reiterate both my colleague Cllr Al-Hamdani’s comments and objections to the change of route to this footpath.

I find it concerning that the formal consultees were not local organisations and no consultees from groups representing those who have mobility needs.

I’m not the only councillor in the area who has had representations from residents who are wheelchair or pram users and who use this footpath regularly who are concerned that the route change will now include a series of steps meaning that they will be unable to use the path. I’ve also spoken with other residents who are elderly and who have said that the introduction of steps will make access for them more difficult. In short, I cannot believe an impact statement as been correctly prepared for this proposal.

I do not support this proposal.”

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Cllr V Leach

“- you will have seen now the objections of local residents who were not consulted on the new plans for this footpath. I believe they need a response and there needs to be further consideration of their and other residents’ views about this plan.”

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7<sup>th</sup> January 2021

**Application for Diversion of Public Footpath 26 at Knowls Lane, Oldham- Section 257 Town and Country Planning 1990**

**1. THE EXISTING ROUTE**

The existing Public Footpath has a number of obstacles, making it impossible for wheelchair users to navigate the full lengths of the path. These obstacles are evidenced at the appended photographs<sup>1</sup> and locations shown on the appended plan<sup>2</sup>. Obstacles include narrow paths, stepped access, very narrow bridges – as well as there being poor saturated ground conditions that prevent the use of wheelchairs.

Within the wider networks of paths that connect to this footpath, there are styals, further stepped accesses and very steep hillside paths. As such, the wider network of paths, including Public Rights of Way and informal non-designated footpaths that branch from Public Footpath 26, have a number of barriers to movement for wheelchair users.

**2. REASONS FOR CHOOSING THE PROPOSED ROUTE**

Two options of PROW diversion were discussed with one route being the route before the TRO Panel and the other being a longer more winding and meandering route through the woodland at lesser gradient (see Appendix 3).

The stepped route and gradient was considered to be the most appropriate method of diversion over a ramped route because it would result in the loss of less woodland and would have a lesser ecological impact. Discussions were held during the consultation processes of the planning application with the Environment Agency, Greater Manchester Ecology Unit, the Council and following concerns from local residents regarding the loss of woodland. During the informal consultation process for this S.257 Application the PROW Officer undertook an initial consultation with other statutory consultees such as the Ramblers and the Peak and Northern Footpath Society whom have requested a more structured step be introduced which Russell Homes have accommodated at their request. This results in steps with a tread length of 1m and a riser of 178mm thus providing wider steps up a slope of 1 in 5 and an opportunity to rest.

Accordingly, Russell Homes did consider alternatives, and selected the most favoured option, informed by consultation feedback. This proposes a more direct stepped route with a steeper gradient as shown on the approved plan P5 as part of Permissions PA/34369/19 and MMA/344723/20. A ramped access at the gradient proposed – i.e. the stepped gradient – is not possible. The ramp would be too steep to accommodate and not safe for other pedestrian users. The only way to accommodate a ramp, is as noted above using a longer more meandering system, which as the functionality of the existing PROW beyond the Diversion proposed is limited and already restricts the PROW from being used by a wheelchair user and also results in a greater ecological impact and loss of woodland.

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<sup>1</sup> See Appendix 1: Site Photographs taken on the 14<sup>th</sup> December 2021

<sup>2</sup> See Appendix 2: Shows Location of the photographs on a Plan

In addition, the longer route to allow for the ramp would be a path length of circa 160m allowing for ramps and landings (for rest) and a subsequent area of circa 240m<sup>2</sup> each side of the Link Road. This would be set against 60m<sup>2</sup> for the proposed route.



**Appendix 1: Photographs of the condition of Public Footpath 26 taken on  
14<sup>th</sup> December 2021**



Photograph 21: Shows the track leading to the junction with Footpath 25 and sign stating "Caution Keep Clear of unstable bank side ahead"





Photograph 20: Shows the bridge crossing and the continuation of Footpath 25 going north





Photograph 15: Shows the route of footpath 26 going east from path routes from Ashbrook Road and sign which states "Caution Keep Clear of unstable bank side ahead"





Photograph 8: Shows route along Footpath 26 going east from Rhode Hill





Photograph 5: Shows footpath 25 going west toward Rhodes Hill





Photograph 3: Shows Footpath 26 going west toward Rhodes Hill approximately 30m from photograph 1.





Photograph 1: Shows the access onto Footpath 26 from the informal footpath from Ashbrook Road





Photograph 25: Shows a Styal access on Footpath 25 going south from Footpath 26.





Photograph 23: Shows the stepped junction from Footpath 26 to Footpath 25





Photograph 22: Shows the continuation of the stepped Footpath 25 over Knowls Brook





Photograph 26: Shows the embanked footpath of Footpath 25 after crossing the Styal shown on Photograph 25

## Appendix 2: Plan showing locations of the photographs in Appendix 1

### Appendix 3: Plan showing the meandering ramp route

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## **NOTE ON THE APPLICATION FOR DIVERSION OF PUBLIC FOOTPATH 26 AT KNOWLS LANE, OLDHAM- SECTION 257 TOWN AND COUNTRY PLANNING 1990**

### **1. THE EXISTING ROUTE**

- 1.1 The existing Public Footpath 26 has a number of obstacles, making it impossible for wheelchair, pushchair or pram users or those users with a mobility disability to navigate the full lengths of the path. These obstacles are evidenced at the photographs shown at Appendix 1 and their respective locations are shown on the plan at Appendix 2. Obstacles include narrow paths, stepped access, very narrow bridges. There is also poor saturated ground conditions that prevent the use of wheelchairs, pushchairs and prams.
- 1.2 Within the wider network of paths that connect to this footpath, there are styals, further stepped accesses and very steep hillside paths. As such, the wider network of paths, including designated public rights of way and informal non-designated footpaths that branch from Public Footpath 26 have a number of barriers to movement for wheelchair, pushchair or pram users or those users with a mobility disability before they can even access that part of Public Footpath 26 that is to be diverted.

### **2. CONSIDERATION OF OPTIONS**

- 2.1 Full consideration of the footpath diversion and link road was carried out during the planning application process. Discussions were held during the consultation process of the planning application with the Environment Agency, Greater Manchester Ecology Unit and the Council. The concerns of local residents regarding the loss of woodland were also taken into consideration. Options, such as the introduction of a tunnel, had previously been considered however, the tunnel option after consultation was discounted by the Local Planning Authority for practical reasons, including that it may have created a security hazard for vulnerable users and therefore discouraged access. A bridge crossing Thornley Valley and Thornley Brook was also considered however this was discounted following an assessment by Russell's technical team and after consultation with Oldham Council's Highway Officers because of (i) construction implications and maintenance; (ii) environmental considerations; and (iii) viability.
- 2.2 This left two options for diverting the existing footpath being (i) the route that is before the TRO Panel (the "Proposed Route"); and (ii) the other route being a longer more winding and meandering route through the woodland at lesser gradient (the "Ramped Route"). Both routes are shown on the drawing at Appendix 3.

### **3. THE PROPOSED ROUTE**

- 3.1 The Proposed Route is considered to be the most appropriate method of diversion to divert footpath FP26 OLDH, it will be made to a minimum width of 1.5 metres and surfaced with self-binding gravel with the inclusion of steps as shown on the application drawings. The existing length of FP26 OLDH to be diverted runs for a length of 77 metres and it is proposed to be diverted for a length of 89 metres along the Proposed Route. The increase is negligible.
- 3.2 The PROW Officer undertook an initial informal consultation as part of this S.257 Application with other statutory consultees such as the Ramblers and the Peak and Northern Footpath Society, who requested a more structured step be introduced into the Proposed Route which Russell Homes have accommodated at their request along with the inclusion of flagging. This results in steps with a tread length of 1m and a riser of 178mm thus providing wider steps up a slope of 1 in 5 and an opportunity to rest.
- 3.3 The Proposed route will result in the loss of less woodland and will have a lesser ecological impact than the Ramped Route as demonstrated by the ecological and arboricultural notes.

#### 4. THE RAMPED ROUTE

4.1 A ramped route was considered. In order to achieve a gradient that meets the requirement for disabled access the implementation of a longer more meandering system as shown at Appendix 3 would be required. This longer route, to allow for the ramp, would need a path length of circa 160m allowing for ramps and landings (for rest) and a further area of circa 240m<sup>2</sup> each side of the Link Road. The option was discounted because of the greater ecological impact and loss of woodland that would result as opposed to the Proposed Route.

4.2 In addition, as discussed at paragraph 7, the existing PROW network beyond the diversion is not suitable for wheelchair, pushchair or pram users or those users with a mobility disability and therefore the Ramped Route offers little benefit.

#### 5. ECOLOGICAL CONSIDERATIONS OF THE TWO ROUTES

5.1 TEP have provided an ecological note comparing the ecological impact of both routes (see Appendix 4 and its appended drawing 1500 7 PROW 01). The note confirms that from an ecological perspective, the preferred Proposed Route presents less of an ecological impact than the Ramped Route. Substantially more tree and scrub clearance will be required to facilitate construction of the Ramped Route and the Ramped Route will also have a greater impact on the native bluebell *Hyacinthoides non-scripta*.

5.2 In terms of tree loss associated with the Ramped Route are three trees with low bat potential (T7, T8, 0574), three trees with moderate bat potential (T9, 0522 and 0538) and one tree with high bat potential (0531). The Proposed Route would result in the loss of one tree with bat potential, in contrast an additional six trees with bat potential will need to be removed if the Ramped Route was utilised as opposed to the Proposed Route.

#### 6. ARBORICULTURAL CONSIDERATIONS OF THE TWO ROUTES

6.1 Mulberry Tree Management have provided a note comparing the loss of trees between the two routes (see Appendix 5) the Proposed Route would result in the loss of 23 trees and the Ramped Route would result in the loss of 43 trees. All trees are within the C2 category, being trees of low quality with an estimated remaining life expectancy of at least 10 years.

#### 7. EQUALITY CONSIDERATIONS

7.1 Equality has been fully considered. The planning officer in his report to committee for the Planning Permission (application reference MMA/344723/20) set out that:

***“Recent concerns have been expressed that the introduction of a diversion and stepped access across the link road, which will dissect public footpath 26 OLDH, would not ensure accessibility for all and therefore impact on the Council’s obligations under the Equality Act 2010.***

***It should be noted that the proposed arrangement reflects that which has previously been approved and deemed acceptable. The present route of this footpath follows the southern bank of Thornley Brook. It comprises an unmade, meandering footpath, with an undulating surface, including short stepped sections. Consequently, in consideration of the introduction of the revised route and access, due regard has been given to whether the changes as a result of the new road would unduly impede access,***



***and whether improvements would be practical given the existing situation.***

***... Consequently, it is considered that the impacts of the development in respect of highway and access issues has fully addressed the impacts on different groups within the community.”***

- 7.2 Any equality impact of the Proposed Route relates to only 89 metres of existing footpath FP26 OLDH, it does not affect the full length. The Proposed Route does not worsen equality. The photographs at Appendix 1 demonstrate that the existing lengths of FP26 OLDH and FP25 OLDH are not suitable for wheelchair, pushchair or pram users or those users with a mobility disability. The Appendix 1 photographs should be viewed in conjunction with the plan at Appendix 2 which shows the location where the Appendix 1 photographs were taken. For example, Photograph Location 8 shows small wooden steps and a narrow wooden plank that is required to be crossed; Photograph Location 5 shows rocks and wooden steps that would need to be navigated to walk up a rising embankment; and Photograph Location 25 shows a styal which would prevent wheelchair, pushchair or pram users or those users with a mobility disability from using the existing PROW – note also the steep embankment.
- 7.3 The unmade, meandering footpaths, with an undulating surface are demonstrated clearly on the photographs at Appendix 1 and cross sections showing the severity of steep sections giving a sense of the impact the existing PROW route has on wheelchair, pushchair or pram users or those users with a mobility disability are shown at Appendix 6.
- 7.4 Any equality impact caused by the Proposed Route is indistinguishable from that that currently exists, the Proposed Route does not worsen equality for existing users, it does however offer a minor benefit along the small length to be diverted that will be made up of self-binding gravel and flagged steps.
8. **SUMMARY OF THE CONSIDERATION GIVEN**
- 8.1 As part of the planning application process Russell Homes did properly consider alternatives and, informed by consultation feedback and ecological and arboricultural impacts, selected the most favoured Proposed Route as set out above.
- 8.2 The Ramped Route requires a longer meandering route that has greater impacts on ecology and tree/shrub loss than the Proposed Route. Given that the physical composition of the current PROW route hinders the use for wheelchair, pushchair or pram users or those users with a mobility disability then there is no benefit to offset this increased loss against.
- 8.3 After careful consideration during the planning process the Proposed Route was chosen for the reasons set out in this note and this is the route that is before the TRO Panel. A diversion order is necessary in order for the development to be carried out. The statutory test set out at section 257(1) in the Town and Country Planning Act 1990 has been satisfied for the reasons set out in the Application and we would ask that the Panel confirm that the order should be made.

## APPENDIX 1

### PHOTOGRAPHS OF THE CONDITION OF PUBLIC FOOTPATH 26 TAKEN ON 14TH DECEMBER 2021



Photograph 21: Shows the track leading to the junction with Footpath 25 and sign stating "Caution Keep Clear of unstable bank side ahead"





Photograph 20: Shows the bridge crossing and the continuation of Footpath 25 going north





Photograph 15: Shows the route of footpath 26 going east from path routes from Ashbrook Road and sign which states "Caution Keep Clear of unstable bank side ahead"





Photograph 8: Shows route along Footpath 26 going east from Rhode Hill





Photograph 5: Shows footpath 25 going west toward Rhodes Hill





Photograph 3: Shows Footpath 26 going west toward Rhodes Hill approximately 30m from photograph 1.





Photograph 1: Shows the access onto Footpath 26 from the informal footpath from Ashbrook Road





Photograph 25: Shows a Styal access on Footpath 25 going south from Footpath 26.





Photograph 23: Shows the stepped junction from Footpath 26 to Footpath 25





Photograph 22: Shows the continuation of the stepped Footpath 25 over Knowls Brook



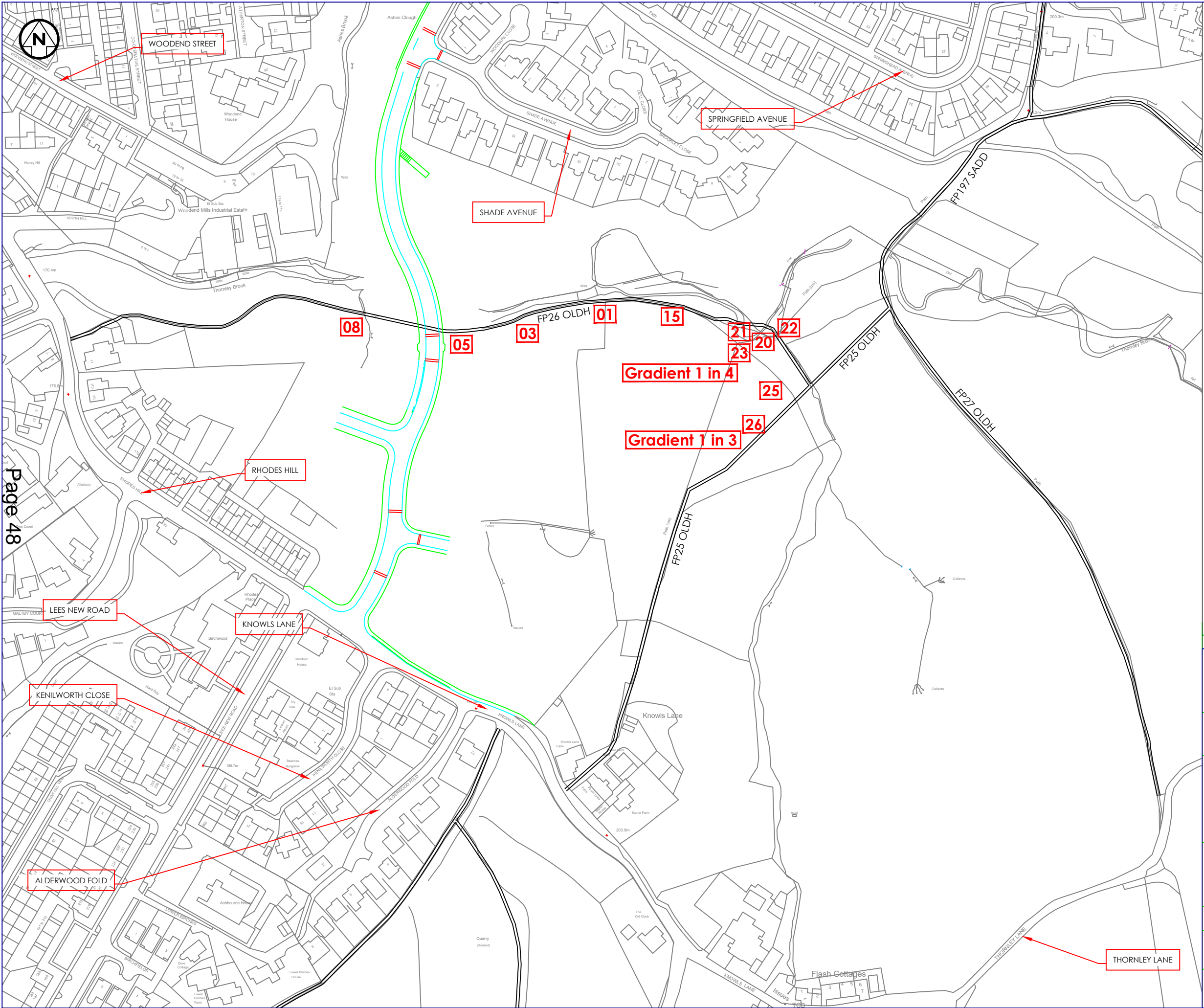


Photograph 26: Shows the embanked footpath of Footpath 25 after crossing the Styral shown on Photograph 25

## APPENDIX 2

### PLAN SHOWING LOCATIONS OF THE PHOTOGRAPHS IN APPENDIX 1





- NOTES – GENERAL:**
- 1) ALL DIMENSIONS ARE STATED IN MILLIMETRES UNLESS NOTED OTHERWISE.
  - 2) ALL LEVELS ARE STATED IN METRES
  - 3) DO NOT SCALE. PLEASE REFER ANY QUERIES TO THE PROJECT MANAGER / SUPERVISOR.

- KEY - EXISTING PUBLIC RIGHT OF WAY**
- EXISTING FOOTPATH
  - PROPOSED KERBLINE
  - PROPOSED EDGING

P03	PM	CL	DJL	10/02/22	CLIENT COMMENTS
P02	DL	CL	RB	26/07/21	CLIENT COMMENTS
P01	DL	CL	RB	23/07/21	CLIENT COMMENTS
REV	DRN	CHK	APP	DATE	DESCRIPTION

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Stockport, Cheshire.  
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[www.wildecivil.co.uk](http://www.wildecivil.co.uk)  
Tel : 0161-474-7479  
Fax : 0161-474-7492

Client  
**RUSSELL HOMES**

Project  
**KNOWLS LANE LINK ROAD  
OLDHAM**

Title  
**EXISTING PUBLIC RIGHT OF WAY**

Scale 1:2000	Drawn DL	Date 22.07.21	Chkd CL	Approved RB
Drawing No. <b>KL-WCE-XX-XX-DR-CH-0002</b>				Revision <b>P03</b>
Status <b>PRELIMINARY</b>				Sheet Size <b>A3</b>

### APPENDIX 3

#### PLAN SHOWING THE PROPOSED ROUTE AND THE RAMPED ROUTE







**APPENIDX 4**  
**TEP ECOLOGICAL NOTE**

---

### **Proposed Footpath Diversion Options**

TEP has been provided with the detail of two proposed footpath diversion routes for the footpath which currently runs alongside the south of Thornley Brook, through the location of the proposed link road.

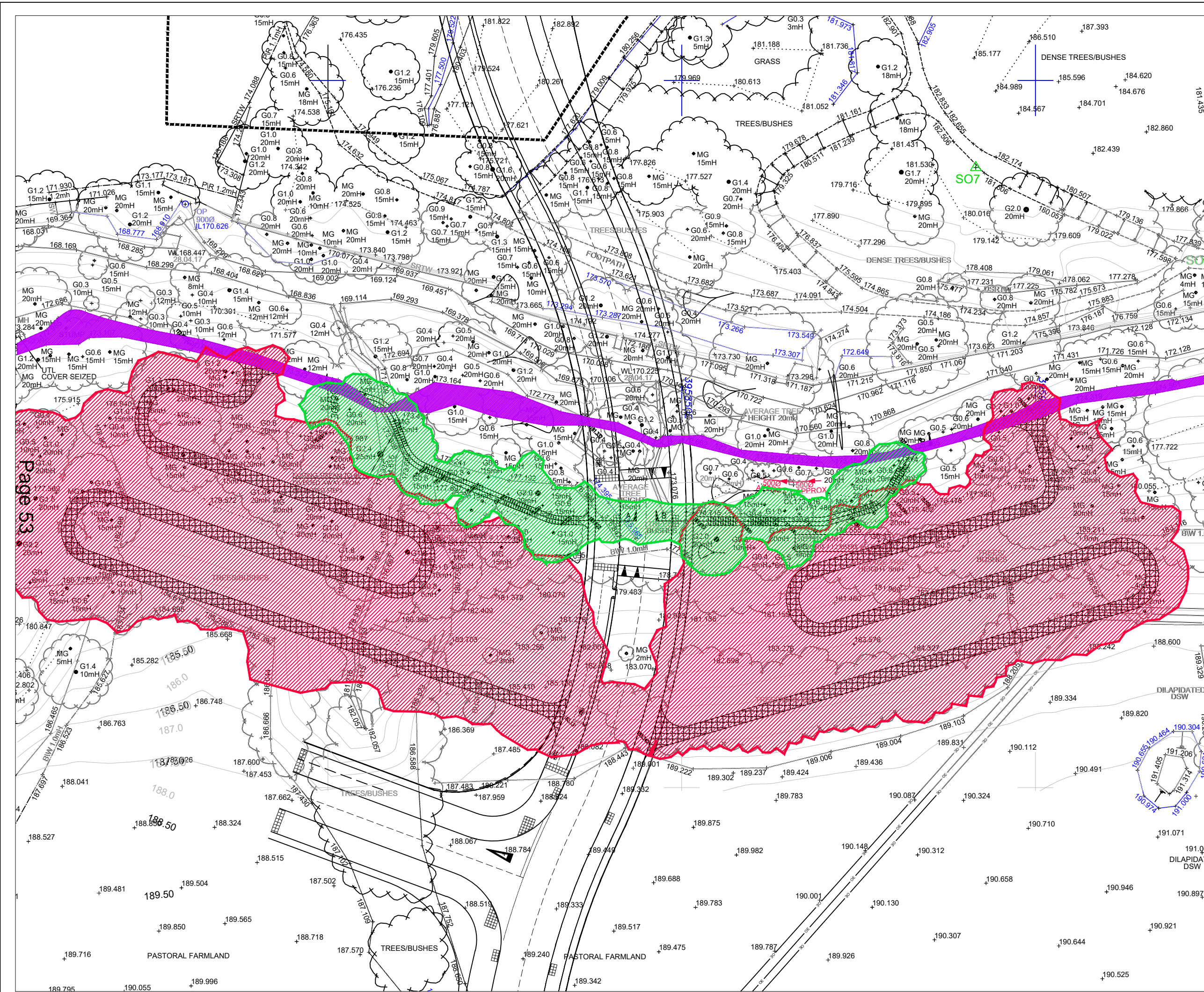
All ecology reports have been based around the preferred option of the shorter footpath diversion, this has a low impact on surrounding woodland and understorey as the majority of the works required take place within an area which will already be disturbed for the proposed link road construction.

For the purposes of this review, it is assumed that due to the steepness of the valley on the southern side no-dig methods could not be used for the alternative proposed footpath diversion, this would need confirmation from an engineer.

From an ecology perspective, substantially more tree and scrub clearance will be required to facilitate construction of this alternative footpath diversion. Additionally, native bluebell *Hyacinthoides non-scripta* has been recorded on the slopes of the valley leading down to Thornley Brook. This alternative route will have a greater impact on the native bluebell.

The arboricultural consultant will detail trees/areas of loss associated with the two footpath options. In terms of specific trees, utilising the alternative rather than the preferred route would result in the retention of one tree, T7, with moderate bat potential. However, the additional losses associated with the alternative route are three trees with low bat potential (T7, T8, 0574), three trees with moderate bat potential (T9, 0522 and 0538) and one tree with high bat potential (0531). An additional six bat potential trees will require removal for the alternative route.

From an ecological perspective, the preferred footpath route presents less of an ecological impact than the alternative proposed route.



# REVISIONS

- Alternative Routes Impact
- Proposed diversion Impact
- Existing Footpath 26



## Knowls Lane OLDHAM PROW Diversion Impact Plan

15007 PROW 01

Scale: 1:500@A3 Date: 21/01/22

Dwn By: nap Chk By: xxx

Russell Homes

13 Westpoint Enterprise Park,  
Clarence Avenue, Trafford Park,  
Manchester M17 1QS  
Tel : 0161 868 4326  
www.russellhomes.co.uk



**APPENIDX 5**  
**MULBERRY TREE MANAGEMENT ARBORICULTURAL NOTE**

Dear Thomas,

Re: Knowls Lane Supplemental SI

This note has been prepared to respond to the queries from the Council Members on the TRO Panel at the 20th January Meeting about Tree Loss for the two routes for the Diversion of Footpath 26, Oldham. As noted below the proposed route would result in the loss of 23 Tree and the longer meandering route would result in the loss 43 trees.

All the trees within the footpath area considered fall within G21 of our survey. Section 4.4.2.3 of BS5837:2012 advises trees growing as groups or woodland should be identified and assessed as such where the arboriculturist determines that this is appropriate. However, an assessment of individuals within any group should still be undertaken if there is a need to differentiate between them, e.g. in order to highlight significant variation in attributes (including physiological or structural condition). It was felt that on this occasion the trees within this group were all of a similar quality and had similar attributes; as such they were recoded as one record.

This assessment identified the trees as being within the C2 category. C2 states that the trees are of low quality with an estimated remaining life expectancy of at least 10 years. It further advises that the trees are present in groups or woodlands, but without this conferring on them significantly greater collective landscape value; and/or trees offering low or temporary/transient landscape benefits.

Details of the impacts on this group from each of the routes are detailed in the table below:

Path	Tree Group	Tree Category	Tree Loss
Green Route	G21	C2 (Low Quality)	23 trees (not including infill)
Red/Orange Route	G21	C2 (Low Quality)	43 trees (not including infill and the dense areas where the <u>topo</u> did not pick up individual tree locations)

In summary, almost double the amount of trees would need to be lost to facilitate the alternative public footpath route and would also involve the loss of scrub planting. An accompanying Ecological Assessment has been prepared by TEP and should be read in conjunction with this report.

Kind Regards

**Carl Salisbury - Director**

(HND. ARB, M ARBOR A)

**Mulberry - Tree Management Consultants**

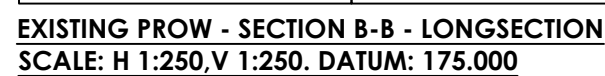


**APPENIDX 6  
CROSS SECTIONS**







EXISTING PROW - SECTION B-B - LONGSECTION  
SCALE: H 1:250,V 1:250. DATUM: 175.000



- 1) ALL DIMENSIONS ARE STATED IN MILLIMETRES UNLESS NOTED OTHERWISE.
- 2) ALL LEVELS ARE STATED IN METRES
- 3) ALL DIMENSIONS, LEVELS AND CO-ORDINATES ARE BASED UPON TOPOGRAPHICAL SURVEY PROVIDED BY RUSSELL HOMES - DRAWING (NO. 17C226/001) BY SURVEY OPERATIONS DATED MAY 2017.
- 4) DO NOT SCALE. PLEASE REFER ANY QUERIES TO THE PROJECT MANAGER / SUPERVISOR.
- 5) THIS DRAWING IS TO BE READ IN COLOUR.

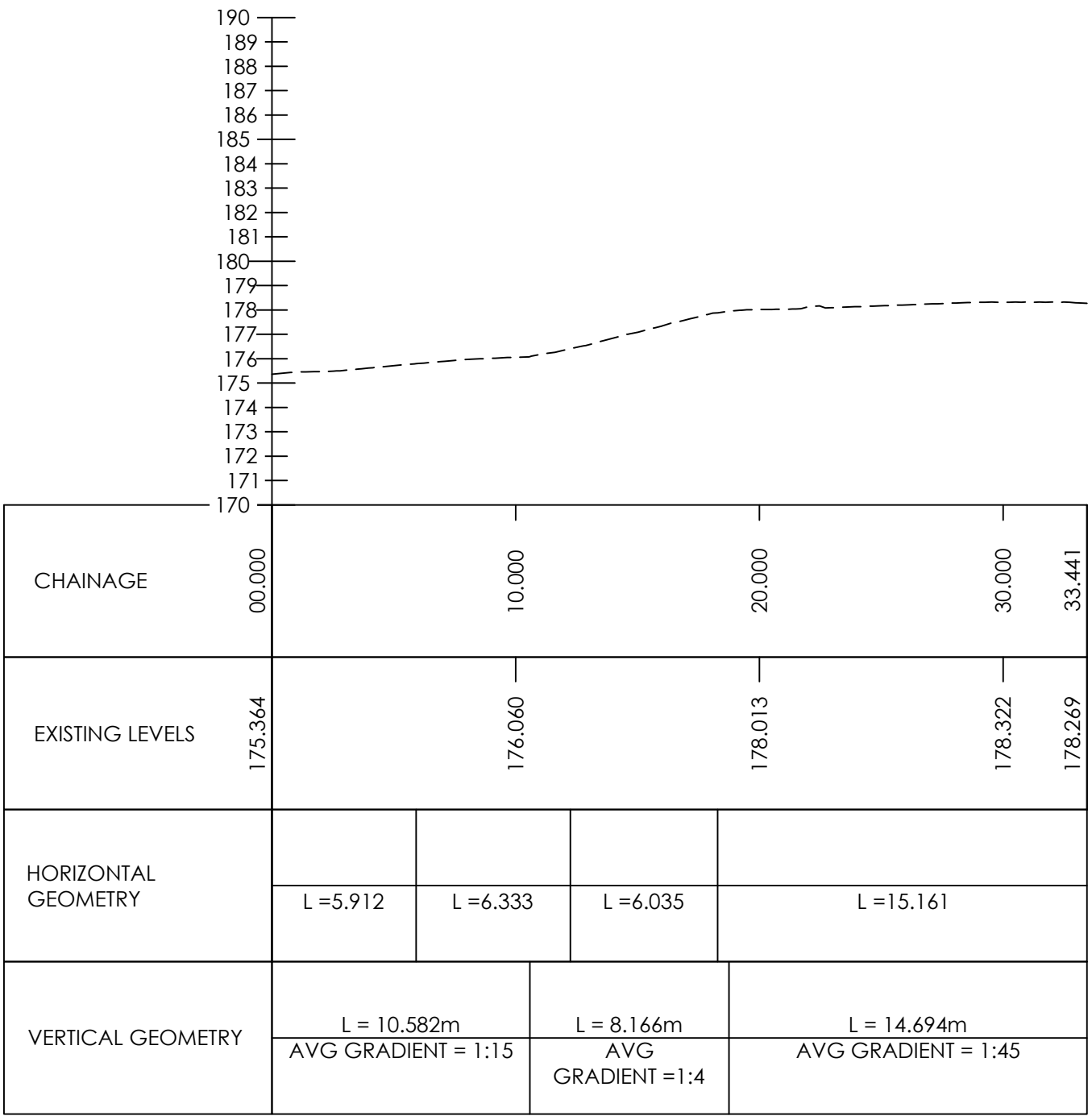
— — — EXISTING GROUND LEVEL

REV	PM	CL	DJL	09.02.22	CLIENT COMMENTS	
DRN	CHK	APP	DATE	DESCRIPTION		
						Brindley Lodge, Adcroft Street, Stockport, Cheshire, SK1 3HS. <a href="http://www.wildcivil.co.uk">www.wildcivil.co.uk</a> Tel : 0161 474 7479 Fax : 0161 474 7492
Consulting Civil & Structural Engineers						
Client						
Project RUSSELL HOMES KNOWLS LANE LINK ROAD OLDHAM						
Title PROW EXISTING LONG SECTIONS SHEET 2 OF 2						
Scale AS SHOWN		Drawn JW	Date 28.01.22		Chkd CL	Approved DJL
Drawing No. KL-WR-XX-XX-DR-CH-0009					Revision P02	
Status FOR INFORMATION					Sheet Size A1	





LOCATION PLAN  
SCALE - 1:500



EXISTING PROW - SECTION A-A - LONGSECTION  
SCALE: H 1:250, V 1:250, DATUM: 175.000



PICTURE NUMBER 15

NOTES – GENERAL:

- 1) ALL DIMENSIONS ARE STATED IN MILLIMETRES UNLESS NOTED OTHERWISE.
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- 3) ALL DIMENSIONS, LEVELS AND CO-ORDINATES ARE BASED UPON TOPOGRAPHICAL SURVEY PROVIDED BY RUSSELL HOMES - DRAWING (NO. 17C226/001) BY SURVEY OPERATIONS DATED MAY 2017.
- 4) DO NOT SCALE. PLEASE REFER ANY QUERIES TO THE PROJECT MANAGER / SUPERVISOR.
- 5) THIS DRAWING IS TO BE READ IN COLOUR.

EXISTING PUBLIC RIGHT OF WAY

— EXISTING PROW FOOTPATH

— PHOTO ORIENTATION

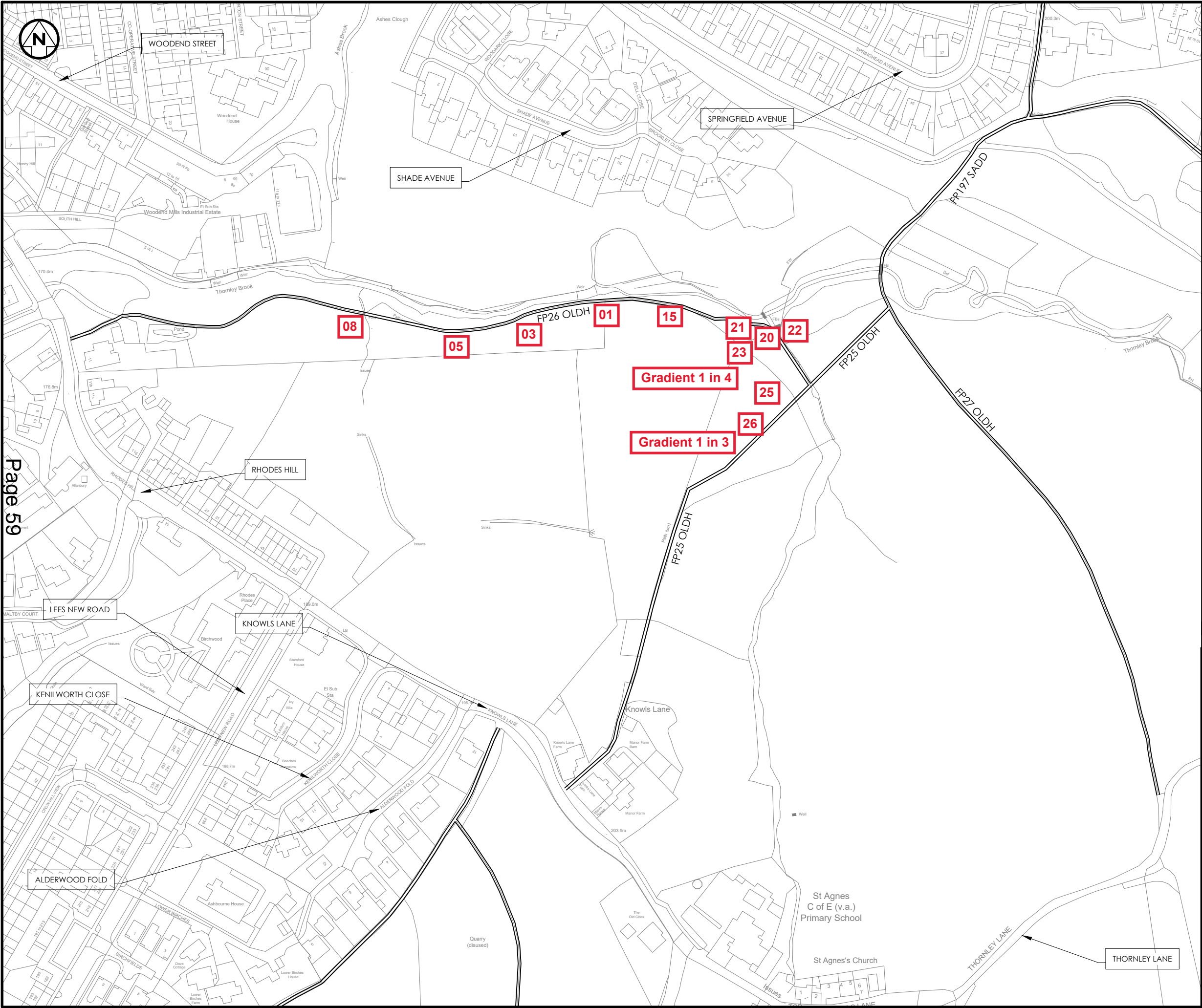
— PROPOSED ProW DIVERSION ROUTE

SECTIONS

— EXISTING GROUND LEVEL

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REV	DRN	CHK	APP	DATE	DESCRIPTION
<div><div><div><div><div><div><b>Wilde</b></div><div>Consulting Civil &amp; Structural Engineers</div></div></div><div><div><div><div><div><div><b>ISO 9001</b></div><div>certified</div></div></div><div><div><div><b>ISO 9001</b></div><div>certified</div></div></div></div></div><div><div>Brindley Lodge, Adcroft Street, Stockport, Cheshire. SK1 3JG</div><div><div>www.wildescivil.co.uk</div><div>Tel : 0161-474-7479</div><div>Fax : 0161-474-7492</div></div></div></div></div></div></div>					
Client <b>RUSSELL HOMES</b>					
Project <b>KNOWLS LANE LINK ROAD OLDHAM</b>					
Title <b>PROW EXISTING LONG SECTIONS SHEET 1 OF 2</b>					
Scale AS SHOWN	Drawn JW	Date 28.01.22	Chkd CL	Approved DJL	
Drawing No. <b>KL-WCE-XX-XX-DR-CH-0008</b>				Revision <b>P02</b>	
Status <b>FOR INFORMATION</b>				Sheet Size <b>A1</b>	





- NOTES – GENERAL:**
- 1) ALL DIMENSIONS ARE STATED IN MILLIMETRES UNLESS NOTED OTHERWISE.
  - 2) ALL LEVELS ARE STATED IN METRES
  - 3) DO NOT SCALE. PLEASE REFER ANY QUERIES TO THE PROJECT MANAGER / SUPERVISOR.

**KEY - EXISTING PUBLIC RIGHT OF WAY**

EXISTING FOOTPATH

P02	DL	CL	RB	26/07/21	CLIENT COMMENTS
P01	DL	CL	RB	23/07/21	CLIENT COMMENTS
REV	DRN	CHK	APP	DATE	DESCRIPTION

**Wilde**  
Consulting Civil & Structural Engineers

  
ISO 9001  
CERTIFIED

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Stockport, Cheshire.  
SK1 3HS.  
[www.wildecivil.co.uk](http://www.wildecivil.co.uk)  
Tel : 0161-474-7479  
Fax : 0161-474-7492

Client

**RUSSELL HOMES**

Project

**KNOWLS LANE LINK ROAD  
OLDHAM**

Title

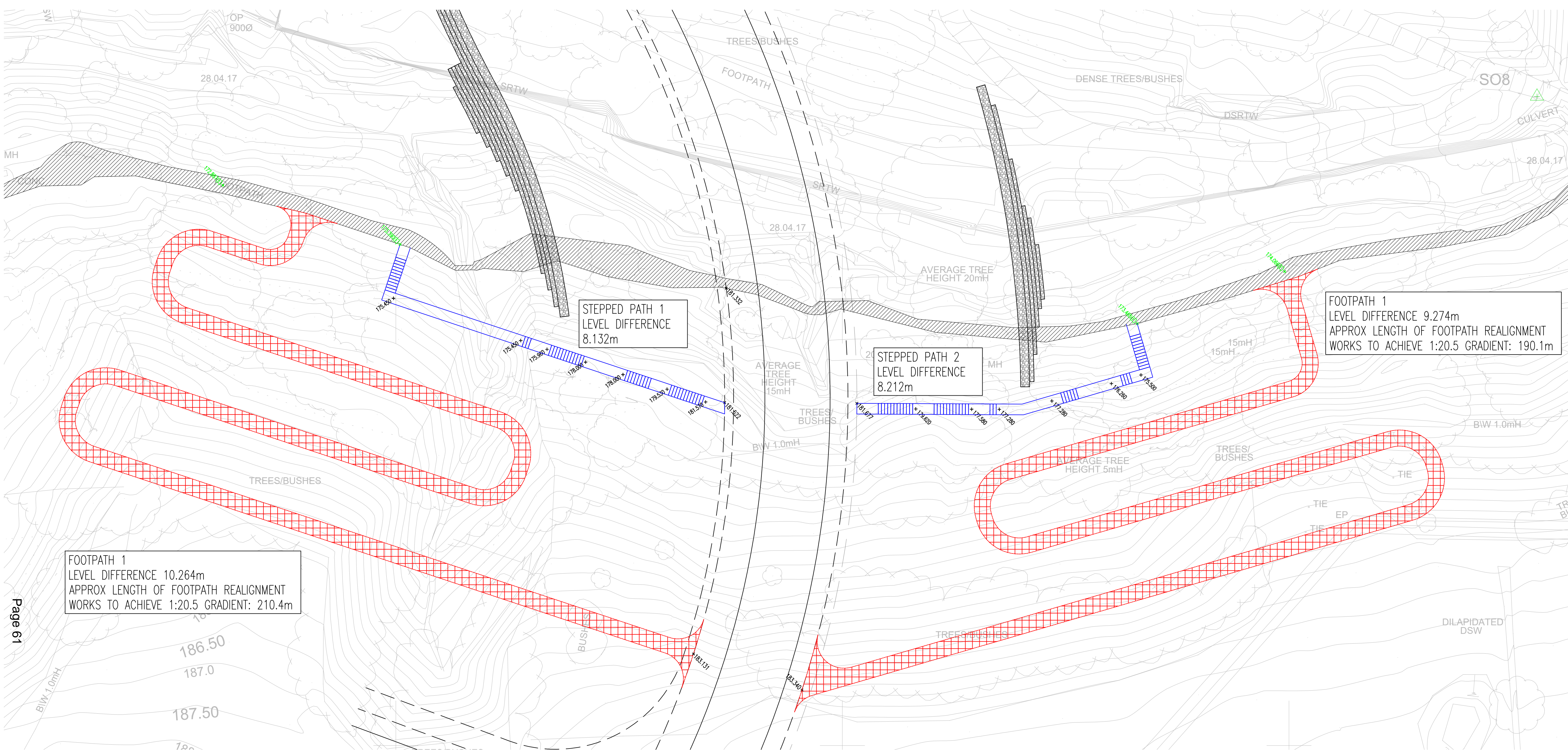
**EXISTING PUBLIC RIGHT OF WAY**

Scale 1:2000	Drawn DL	Date 22.07.21	Chkd CL	Approved RB
Drawing No. <b>KL-WCE-XX-XX-DR-CH-0002</b>				Revision <b>P02</b>
Status <b>PRELIMINARY</b>				Sheet Size <b>A3</b>



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DO NOT SCALE OFF THIS DRAWING

GENERAL NOTES:

1: THIS DRAWING TO READ IN CONJUNCTION WITH ALL RELEVANT STRUCTURAL AND ARCHITECTURAL DRAWINGS AND SPECIFICATIONS.

P2	30.08.17	MDP	PRELIMINARY DRAWING	CR
Rev	Date	Checked	Description	By
PRELIMINARY DRAWING				
<div><div><div>S</div><div>Sutcliffe</div></div><div><div>18-20 Harrington Street, Liverpool L2 9QA</div><div>t: 0151 227 3155 f: 0151 227 3156</div><div>e: sutcliffe@sutcliffe.co.uk w: www.sutcliffe.co.uk</div></div><div><div>9</div><div>A</div><div>C</div><div>E</div></div></div>				
Client RUSSEL HOMES				
Project KNOWLS LANE OLDHAM				
Drawing title PATH REALIGNMENT WORKS				
Scale at A1	1:250		Drawing number	
Drawn by	C ROBERTS		28959-628	
Date	AUGUST 17		Revision suffix	P2



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## **Report to TRO Panel**

### **Definitive Map Modification Order**

#### **S53 – Wildlife and Countryside Act 1981 Claim to Register a Public Bridleway from Standedge Foot Rd to Huddersfield Rd, Diggle**

##### **Portfolio Holder:**

Councillor A Chadderton, Cabinet Member for Neighbourhoods

**Officer Contact:** Deputy Chief Executive – People and Place

**Report Author:** Liam Kennedy, PRow Officer  
**Ext.** 4305

**17<sup>th</sup> March 2022**

##### **Reason for Decision**

To determine an 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 between Standedge Foot Road and Huddersfield Road, Diggle (the application route), which is shown 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 which is claimed to be a bridleway. However, unusually, the Application is not supported by any User Evidence Forms showing the use made of the application route.

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 as described in paragraph 1.2 of this report.



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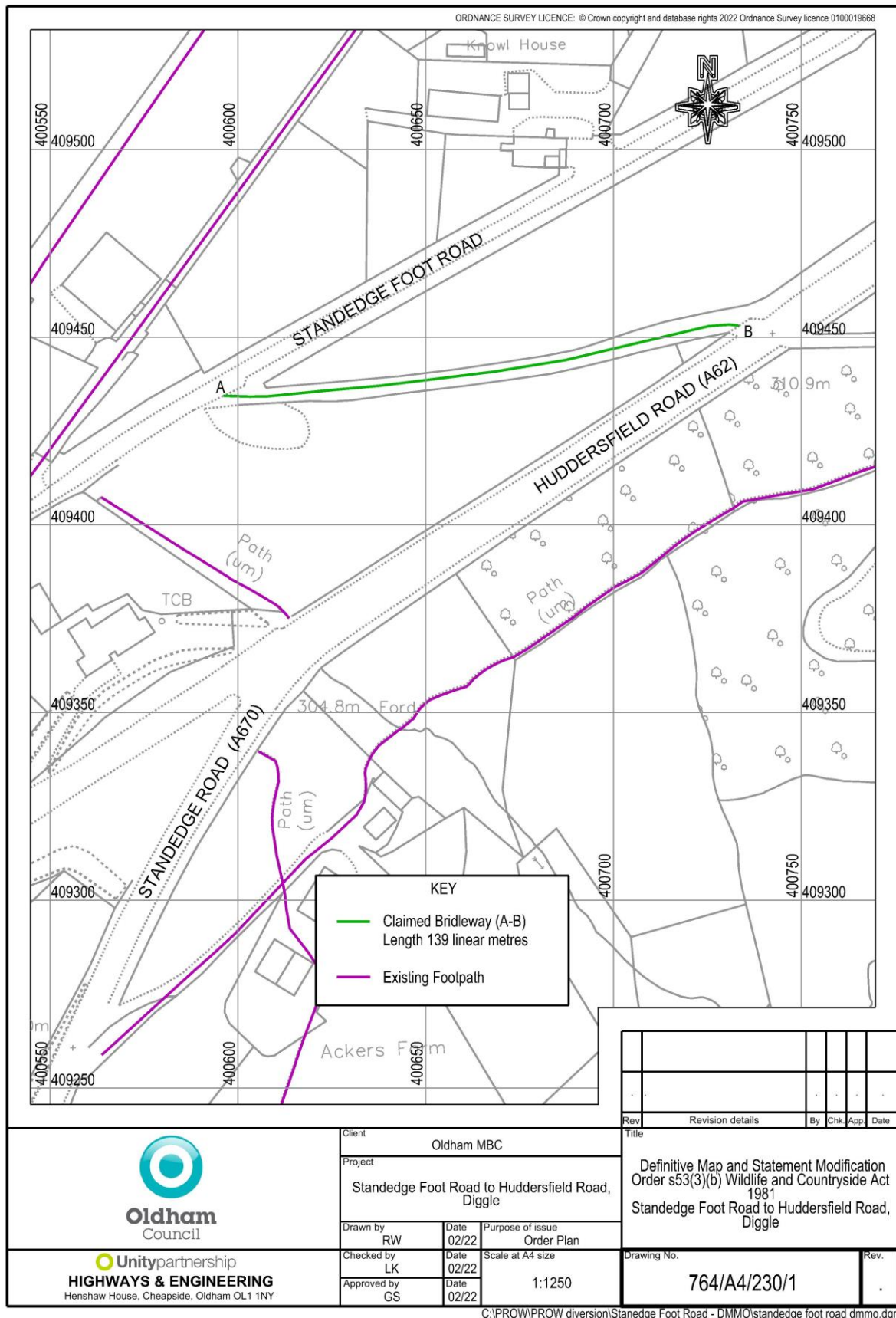
It is considered that there is insufficient evidence of use to raise a presumption of dedication under Section 31 of the Highways Act 1980 (the 1980 Act).

### **Recommendation**

It is recommended that the application for a Modification Order in respect of a route running between Standedge Foot Road and Huddersfield Road, Diggle to be recorded in the definitive map and statement as a bridleway be rejected due to the lack of evidence showing that the route has been used as a bridleway.

---







**S53 – Wildlife and Countryside Act 1981. Claim to Register a Public Bridleway from Standedge Foot Rd to Huddersfield Rd, Diggle.****1 Background**

- 1.1 The application was submitted by the British Horse Society (BHS) on 4<sup>th</sup> March 2021. The application is not supported by any User Evidence forms showing use of the route as a bridleway or any other type of highway. There are 9 maps included with the application (see attached 'Summary of Evidence' document)

**1.2 The Applicant's Evidence**

Numerous maps have been provided by the BHS in support of the application. However no User Evidence showing the use made of the route by horses has been submitted. The BHS has been requested to provide user evidence but has refused to do so and has requested that the application be determined based on the map evidence alone.

**2 Current Position**

- 2.1 The BHS have submitted a claim to register a Public Bridleway but have failed to provide the necessary documentary evidence to support the claim.

**3 Options/Alternatives**

- 3.1 Option 1 – To approve the application.  
Option 2 – Not to approve the application.

**4 Preferred Option**

- 4.1 The preferred Option is Option 2 due to the lack of documentary evidence to substantiate the claim.

**5 Consultation**

- 5.1 Saddleworth Parish Council – No comments received.  
Ward Councillors – Cllr L Lancaster "I am generally in favour of improving and increasing public access, including for horse-riders. However, if the Applicant is legally required to have demonstrated prior use for this category of persons (which is my reading of it) and hasn't done so, then I can appreciate your difficulty in recommending approval of the Order.

**6 Financial Implications**

- 6.1 None.

**7 Legal Services Comments**

- 7.1 Under section 53 of the 1981 Act, the Council is required to make a Modification Order amending the definitive map and statement where it appears requisite in consequence of



---

the discovery by the Council of evidence which (when considered with all other relevant evidence available to them) shows that a right of way which is not shown in the definitive map and statement subsists or is reasonably alleged to subsist over land in the area to which the definitive map relates, being a right of way such that the land over which the right subsists is a public path (ie a footpath or bridleway) or a restricted byway.

7.2 The documentary evidence submitted by the BHS is strong evidence of the physical existence of a path or track on the dates the various maps were produced but the maps give no indication of what use is made of the path or track and therefore what category of highway (if any) it should be considered to be. In appropriate circumstances map evidence can be used as supporting evidence to identify the particular nature of a highway eg title maps referring to a specific road as a bridleway, but the map evidence provided by the BHS consists of 3 historic Ordnance Survey maps from 1854 – 1896 and 5 other maps from 1903 onwards. The depiction of any road, track or path on an Ordnance Survey map does not constitute evidence of the existence of a public right of way and the other maps also do not identify the highway status of the application route.

7.3 The burden of proof on establishing that the application route is a bridleway lies with the BHS as the applicant. Despite being requested to provide additional evidence to support their claim that the application route is a bridleway they have decided not to do so. As the Council cannot be satisfied on the balance of probabilities that the application route is a bridleway (or any other type of highway), the claim should be rejected. The applicant has a right of appeal to the Secretary of State against the Council's decision not to make a Modification Order. (A Evans)

## 8 **Co-operative Agenda**

8.1 None.

## 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 These were dealt with in the previous report.

- 
- 15      **Equality, community cohesion and crime implications**
- 15.1    None.
- 16      **Equality Impact Assessment Completed?**
- 16.1    Not applicable.
- 17      **Key Decision**
- 17.1    No.
- 18      **Key Decision Reference**
- 18.1    Not applicable.
- 19      **Background Papers**
- 19.1    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.
- 20      **Appendices**
- 20.1    'Summary of Evidence' File name 'GRE-0043'

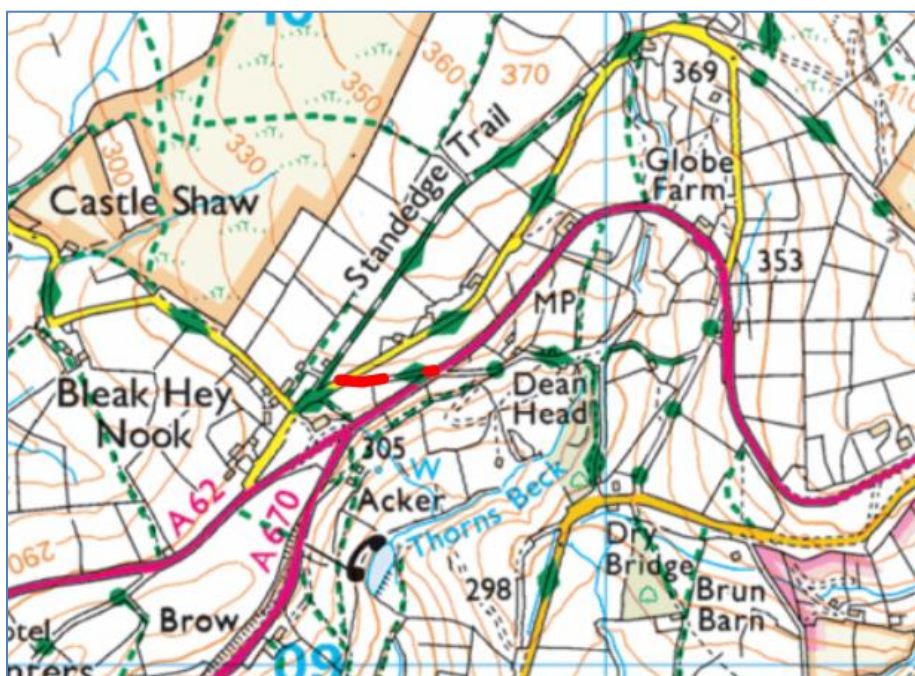


# Wildlife and Countryside Act 1981

## Summary of Evidence

### Definitive Map Modification Order Application

**For a route in the Parish of Saddleworth to be shown as a Public Bridleway  
marked on the map below by the red dashed line**



Applicant's Reference: GRE -0043

Application Route shown in red dashes.

**08/02/2021**

Quick reference path facts to assist the Surveying Authority in its investigation.

OS Explorer series map 1:25 000 scale

The Peak District OL1

Grid references of ends of route  
(approximate) SE00590943 SE00730945

Standedge Foot Road to Huddersfield Road.

My name is Mark Corrigan. I am the applicant for the order, for and on behalf of The British Horse Society (BHS). I am employed by The BHS as Access Field Officer Yorkshire. My rights of way experience stems from Kirklees Bridleways Group affiliated to The British Horse Society from 2010-2020. I have successfully completed 'Access and Rights of Way Training' up to level 3 with The British Horse Society and also 'Restoring the Record' in conjunction with The Ramblers. I am a horse owner and rider who has been riding for forty eight years and have lived in the area for forty nine years.

1. This application is made because, on the cut off day, 1<sup>st</sup> January 2026, the effect of s.53(1) and (2) Countryside and Rights of Way Act 2000 on a public path that existed prior to 1949, still exists on the cut-off date, and hasn't been a highway of a different description in between, and is not shown in the definitive map and statement at all is to extinguish all rights on that route. (This applies if the route is determined to be a footpath or bridleway.)

2. I believe this application will pass the planned Preliminary Assessment Test required by para 2 Sch 13A Wildlife and Countryside Act 1981, when introduced, because:

- a. This application statement includes explanations as to how the evidence applies to the application route, and
- b. The application contains one or more of the following forms of supporting evidence:
  - i. Legal document(s) relating specifically to the right of way that is the subject of the application (such as Railway Act, Inclosure Act and Award, Finance Act, Court Order or Main Roads Order evidence).
  - ii. Evidence of reputation in legal document(s), even though not written specifically about the right of way that is the subject of the application (such as Tithe Awards and Maps).
  - iii. Documentary evidence of expenditure that would be unlawful unless the way was a public highway, for example Highway Board records.
  - iv. Documentary evidence of reputation, for example an Ordnance Survey map, coupled with public scrutiny, or evidence of highway status in a landowner produced document.
  - v. Maps and other documents which, over a period of time, and taken together, provide evidence of reputation that the order route is part of the public road network.

#### THE APPLICATION ROUTE

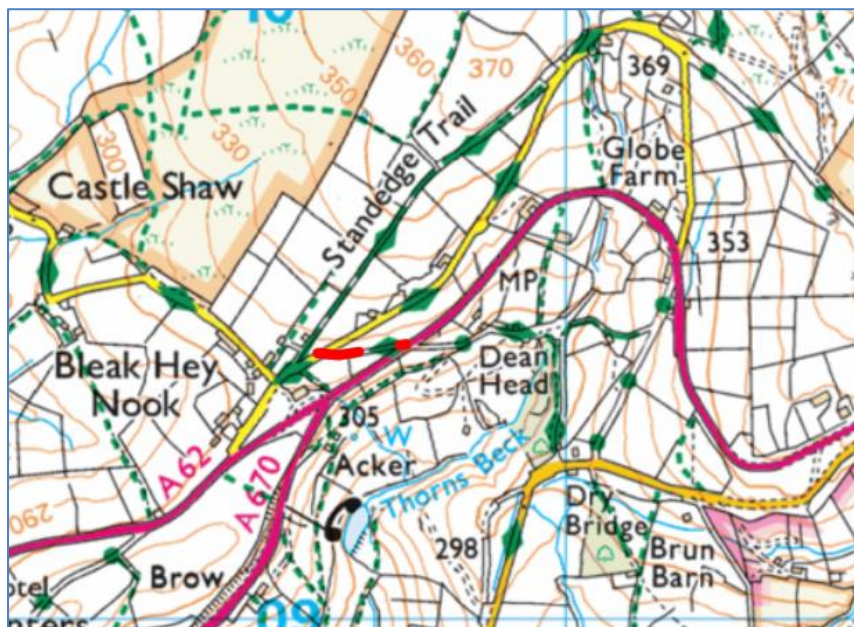
3. The application route is shown approximately on the plan below:

- a. The start of the application route is at Standedge Foot Road SE00590943 the Eastern termination at Huddersfield Road SE00730945

4. The application route is not recorded on the Council's definitive map. It is not on the current list of streets.

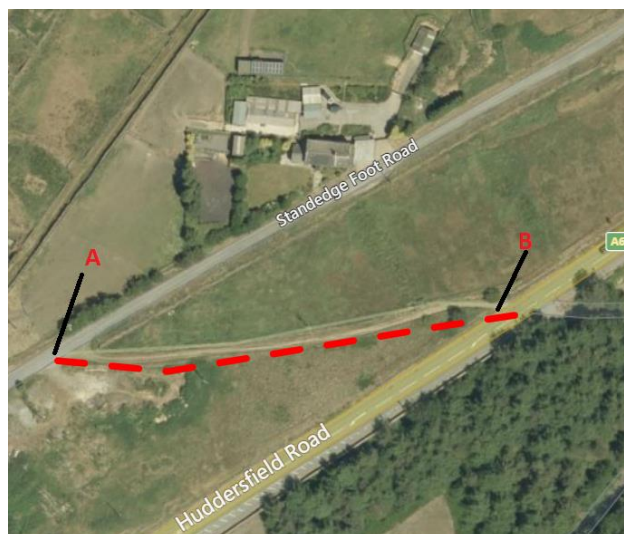


5. The route's width should be recorded as shown uncoloured on the Inland Revenue Valuation Plan.



*Extract of Ordnance Survey 1:25000 scale map showing application route as Red dashed line (not to scale)*

6. Photograph 1 from Google.



*Photograph 1 is a Google Aerial View with the route indicated from A to B. The route is a clear landscape feature, typical of an old enclosed highway.*



*Photograph 2- A Photograph taken from the start of the route looking towards Huddersfield road.*



*Photograph 3- Route looking towards Huddersfield Road. Metalled surface clearly visible as are horse hoof prints. Path width 12-18 feet*





Photograph 4. Looking towards Huddersfield Road, metalling clearly visible.



Photograph 5. End of application route joining Huddersfield Road.

## DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

7. In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence which shows, on the balance of probabilities, that highway rights exist. The use of the 'balance of probabilities' test rather than 'beyond reasonable doubt' was confirmed by the High Court in *Todd, Bradley v SOS for EFRA* [2004] 4 All ER 497.
8. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another* [2012] EWCA Civ 334, Lewison LJ said, at paragraph 22,
 

*'In the nature of things where an inquiry goes back over many years (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless. As Pollock CB famously directed the jury in R v Exall (1866) 4 F & F 922:*

*"It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength."*
9. While no single piece of evidence is conclusive, the applicant believes that taken as a whole the pieces of evidence demonstrate highway reputation over many years, indicating that the route does indeed have highway status, and that prior to the Natural Environment and Rural Communities Act 2006, there were full vehicular rights.



e. Assessment. The depiction of route, in the same manner as the surrounding ordinary road network provides a strong inference that it was also considered to be part of that road network. This inference is reinforced by the absence of any boundaries separating it from the network.

## 11. Ordnance Survey 6 inch Maps.

- a. Date. OS sheet Yorkshire 260 was surveyed in 1848 and published in 1854.
- b. Relevance. The 6" maps were based on and derived from the 25" series. Consequently they seldom show any topographical differences from the larger scale. However, useful information can sometimes be derived from the particular conventions used to show detail.
- c. Archive. The extracts from this sheet below were obtained from the National Library of Scotland.
- d. Meaning. The Characteristics Sheet for the 6" Maps differentiate between main and other roads through the use of a bold boundary on one side of a road. The claimed route is shown as a through road.
- e. Assessment. This series of maps supports the inference drawn from the 25" maps, that the route is part of the full vehicular road network.

National Library  
of Scotland  
*Leabharlann Nàiseanta  
na h-Alba*

Yorkshire 259 (includes: Colne Valley.)  
Surveyed: 1848 to 1850  
Published: 1854

home > OS Six-inch England and Wales, 1842-1952





## 12. Ordnance Survey 1 inch Maps.

- a. Date. OS sheet 260 Yorkshire was published in 1898.
- b. Relevance. These maps were made for sale to the travelling public and thus would only generally show routes of some significance that were available to them.
- c. Archive. The extracts from this sheet below were obtained from the National Library of Scotland at.
- d. Meaning. The route is shown as a third class fenced metalled road.
- e. Assessment. Other through routes shown in a similar manner are now largely part of the ordinary road network and thus this is evidence in support of the route being a public vehicular carriageway.

National Library  
of Scotland  
Leabharlann Nàiseanta  
na h-Alba

Sheet 86 - Glossop (Hills)  
Publication date: 1896

Home > OS One-Inch to the mile, England and Wales, Revised New Series



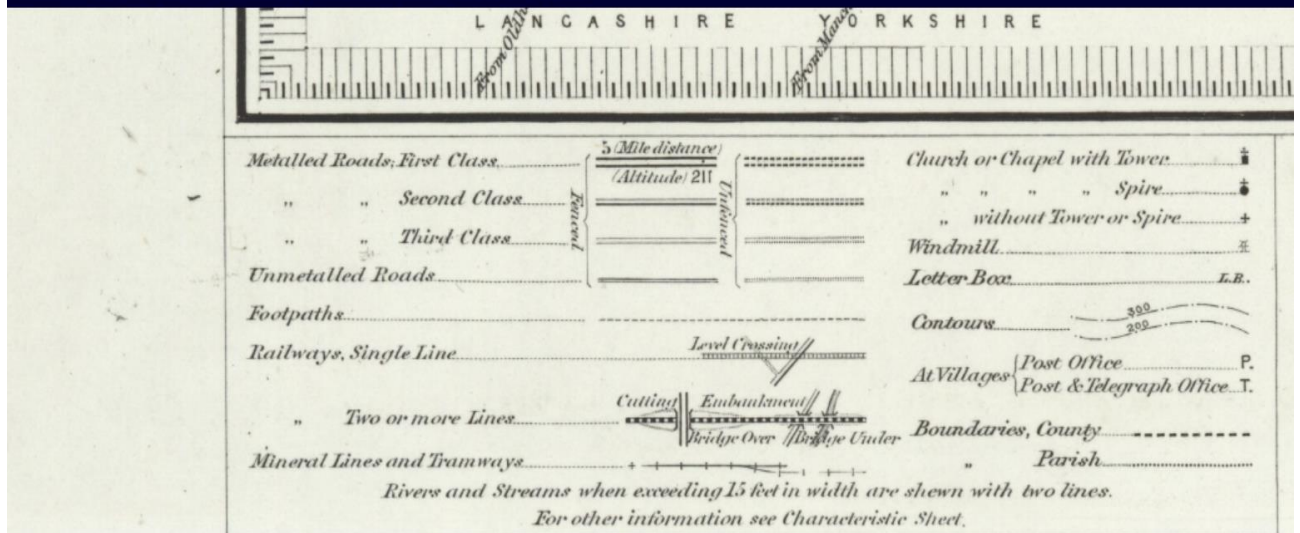
*Extract from OS 1" Map showing the application route as a third class fenced metalled road.*

Extract from Key to OS 1" Map

National Library  
of Scotland  
Leabhrairinn Nàiseanta  
na h-Alba

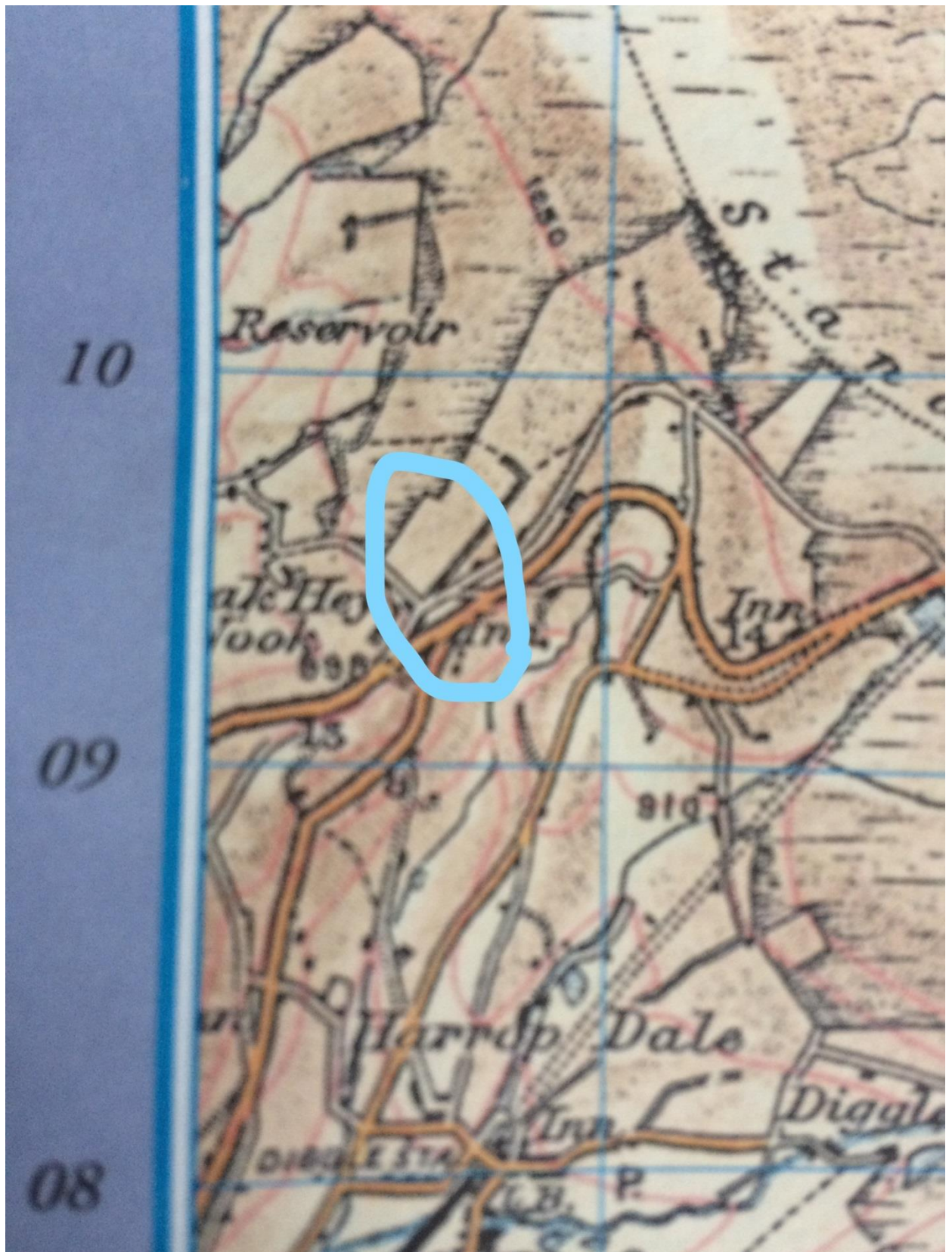
Sheet 77 - Huddersfield (Hills)  
Publication date: 1896

s home > OS One-Inch to the mile, England and Wales, Revised New Series

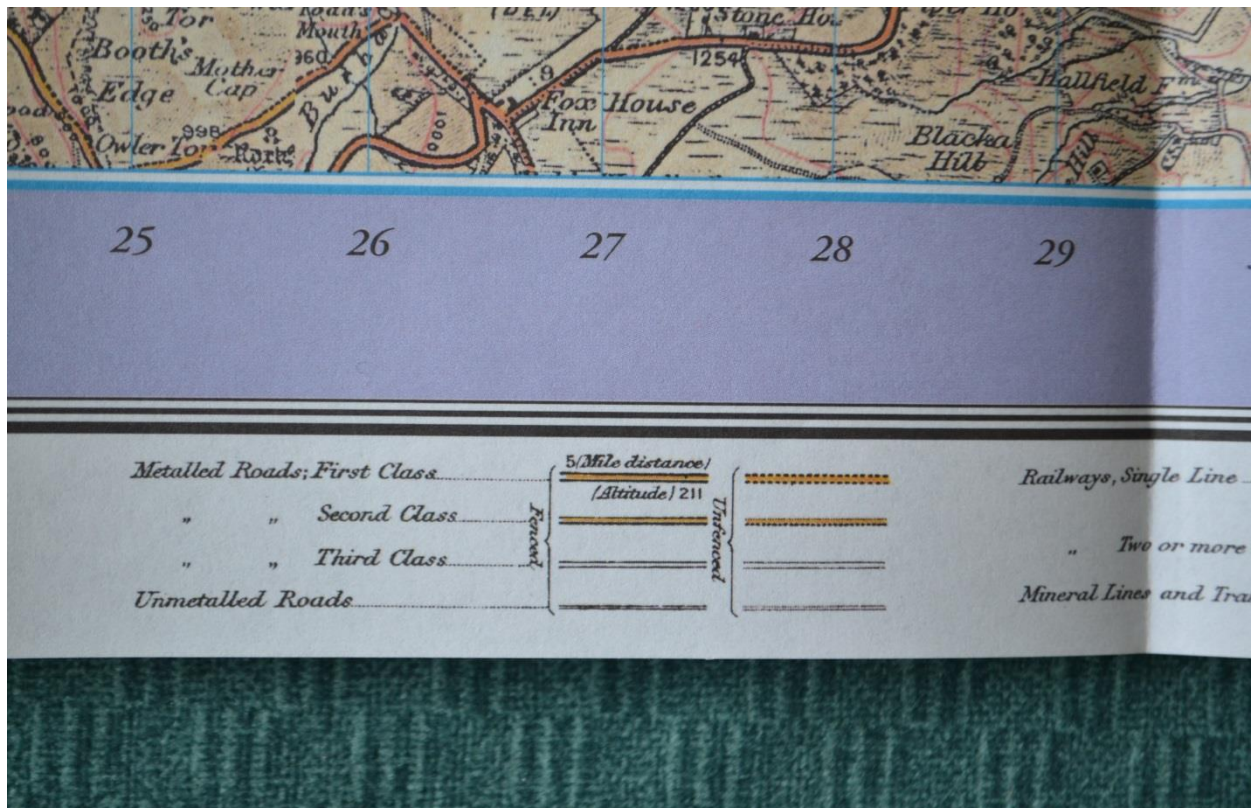


OS One Inch map Key.





*Cassini 1903 Sheffield & Huddersfield Sheet 110. Application route Circled in blue.*



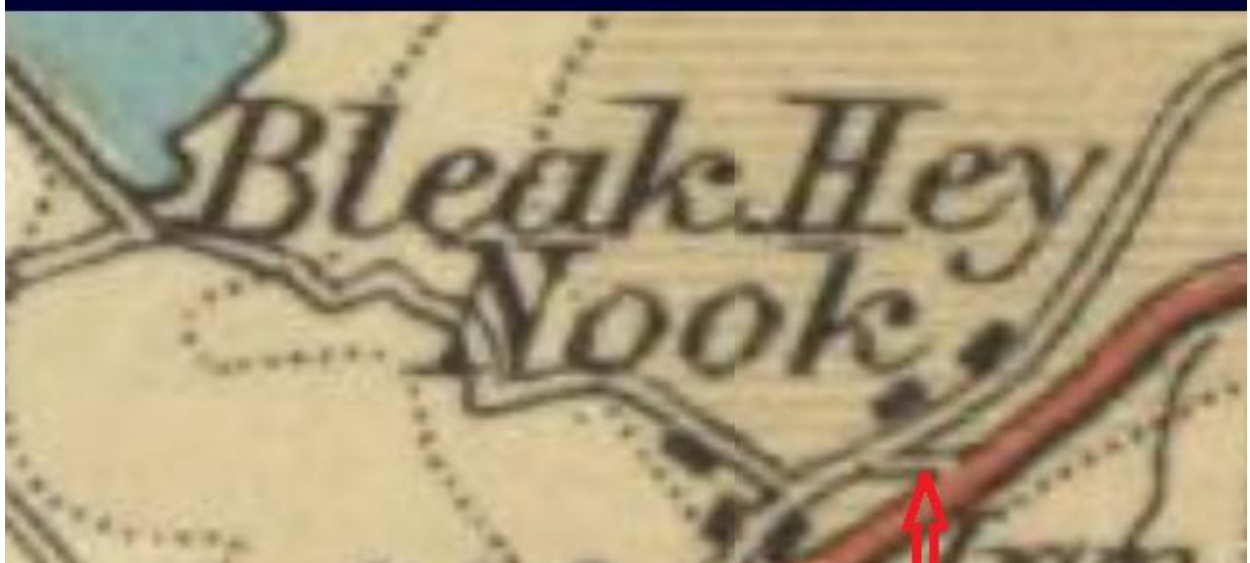
13. Cassini 1903 Map Key.

The application route is shown as a fenced metalled third class road according to the map key.

National Library  
of Scotland  
Leabharlann Nàiseanta  
na h-Alba

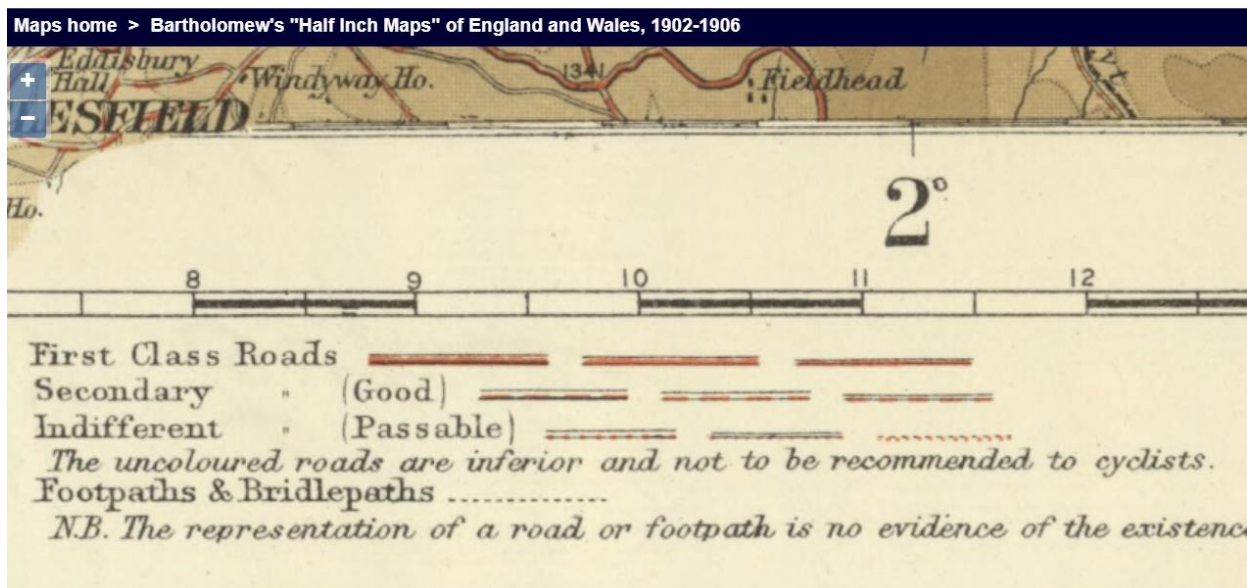
Sheet 9 - Sheffield  
Publication date: 1904

home > Bartholomew "Half Inch Maps" of England and Wales, 1902-1906



Bartholomew half Inch map 1904. Sheet 9 Sheffield. Red arrow highlights route.





Map Key Bartholomews 1904.

#### 14 Bartholomew's Half-Inch Maps of England and Wales

- a. Date. This map was published in 1904.
- b. Relevance. The map was made for sale to the public, particularly for tourists and cyclists, and so is unlikely to show routes that the public could not use. It has a key in which different types of route are distinguished.
- c. Archive. An original of Sheet 9 Sheffield is held by the National Library of Scotland (NLS) and can be viewed via [http://maps.nls.uk/series/bart\\_half\\_england.html](http://maps.nls.uk/series/bart_half_england.html).
- d. Meaning. The application route is shown as an 'inferior' road. That is, according to the key, a road which 'is not to be recommended to cyclists'.
- e. Assessment.

(1) Although the map carries the standard disclaimer that the representation of a road or footpath is no evidence of a right of way, it remains the case that this map was produced for sale to the travelling and cycling public, and the roads were revised by the Cyclists' Touring Club. It seems likely that the disclaimer is to avoid the publishers from finding themselves in the midst of legal action, and that their true beliefs come from the fact that the CTC assessed the roads as suitable or 'inferior'. In addition, the application route was shown as this 'inferior' road rather than as a footpath or bridleway, and cyclists at the time of publication (1903) had no right to use bridleways, having been declared to be carriages by s.85 Local Government Act 1888, so it is appropriate that at least a little weight be given to this document as evidence of vehicular status.

(2) The PINS Consistency Guidelines suggest that little weight can be given to this source. However, in *Commission for New Towns and Another v J. J. Gallagher Ltd* [2002] EWHC 2668 (Ch), the judge stated at para 108:

"Bartholomew's Map of England, 1901 and 1911 editions, has three categories of coloured roads. They are "first class roads", "secondary roads (good)", and "indifferent roads (passable)". There are two other

categories, namely uncoloured roads and "footpaths & bridlepaths". The application route is marked in each of the two editions as uncoloured road. The legend to each of the Bartholomew maps states that "the uncoloured roads are inferior and not to be recommended to cyclists". The implication of the demarcation of the application route on these maps appears to me to be that they are public carriageways. First, each of the other four categories is a public highway. Secondly, in a somewhat paradoxical way, the indication in the description of the uncoloured road is that they can lawfully be used by cyclists, which, as at 1901 and 1911, would have meant that they were public carriageways. However, it is important to mention that there is a note to the effect that "the representation of a road or footpath is not evidence of the existence of a right of way". **I do not consider that that means that one can cast aside what one could otherwise glean from Bartholomew as being of assistance**, but the disclaimer underlines the fact that one cannot place much weight on Bartholomew's Maps, or indeed on any map which does not have the positive function of identifying public carriageways."

(3) The conclusion is that at least some weight must be given to this source.

#### 15. Inland Revenue Valuation / Finance Act 1910 Maps

- a. Date. The valuation records were produced in the few years after 1910.
- b. Relevance. The Finance (1909–10) Act 1910 caused every property in England and Wales to be valued. The purpose was to charge a tax on any increase in value when the property was later sold or inherited. The valuation involved complicated calculations which are not relevant for highway purposes. However, two features do affect highways: public vehicular roads were usually excluded from adjoining landholdings and shown as 'white roads', and discounts could be requested for land crossed by footpaths or bridleways. This is known because s.35 of the 1910 Act provided,

*"No duty under this Part of this Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority."*

It is noted that a highway authority was a rating authority. There was no obligation for a land owner to claim any of the other discounts available (applying for discounts was an entirely voluntary act), but Section 25 authorised the discount for footpaths and bridleways if they were claimed:

*"The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public rights of user, and to any right of common and to any easements affecting the land, and ... [other exclusions]."*

All land had to be valued unless it was exempted by the Act. There were harsh penalties for making false declarations, and Section 94 provided:

*"If any person for the purpose of obtaining any allowance, reduction, rebate, or repayment in respect of any duty under this Act, either for himself or for any other person, or in any return made with reference to any duty under this Act, knowingly makes any false statement or false representation, he shall be liable on summary conviction to imprisonment for a term not exceeding six months with hard labour."*

As it appears to be a highway from other evidence, and no duty was assessed in the Inland Revenue Valuation, and the Inland Revenue were under a duty to collect all taxes applying, and hence value the land unless certain that an exemption applied, it is surely for anyone who argues that a different reason for the non-valuation of this white road to show which other exemption could have applied.



c. Archive. The extracts below are from the records that were passed from the IR Valuation Offices to The National Archives at Kew. This document is available at, the West Yorkshire Archives document reference C243 Sheet number 259/13.

d. Meaning. The extract below clearly shows the application route as a white road, separated from the adjoining hereditaments by continuous colour-washed boundaries. Where hereditaments continue either side of the route connected by braces broken over the route, that is an indication that the route did not form part of the hereditament.

e. Assessment.

(1) As this land is unvalued, this suggests it belonged to a rating authority. As it is not held by a local authority or government department for any other known reason, this suggests that it belonged to a highway authority. Had it only been a bridleway, the Inland Revenue would probably have valued the land and allowed a deduction instead, since this would have resulted in a greater tax levy. Had it been held by a rating authority for another purpose there would be some evidence of that holding, yet none has been found.

(2) The legislation is sufficiently clear that anyone arguing that white road status means something other than the route is a public vehicular highway must show which other exception from valuation the route falls under.



*Extract from the Inland Revenue Valuation Map Sheet 259/13 West Yorkshire Archive Ref C243*



*Extract from the Inland Revenue Valuation Map Sheet 259/13 West Yorkshire Archive Ref C243  
Red arrow highlights the route.*



# INTRODUCTION

**I**N response to many inquiries from users of the Authentic Map Directories of London and Suburbs and South Lancashire and from many large business houses in the West Riding "Geographia" Ltd., the publishers of these famous Map Directories, decided to publish one of South-West Yorkshire, covering all the Industrial Area of the West Riding.

The Authentic Map Directory of South-West Yorkshire is an entirely new publication and has been specially designed to meet a demand for a large-scale, detailed street map of this important and populous area.

Never before has there been produced an Atlas of this part of the country of similar magnitude. It covers an area of over 1,200 square miles and extends from Harrogate on the North to Sheffield on the South, Doncaster on the East and Todmorden on the West.

During the past few years many new districts have been opened up and new streets and trunk roads made. The publishers have made every effort to incorporate all these developments in the Authentic Map Directory, and they gratefully acknowledge the assistance of the Municipal and District Surveyors who helped them in this connection.

The large scale of 4 inches to 1 mile adopted for the Sectional Map has made it possible to name all but the small, less-important thoroughfares, and even they will be found in the comprehensive Index with the name of the nearest street which appears on the Map.

All Public Buildings, Town Halls, Municipal Offices, Churches, Police Stations, Courts, Fire Stations, Railways and Stations, etc., are marked, and Public and Private Parks and Open Spaces are also shown.

Another novel feature is the selection of house numbers inserted at intervals along the principal thoroughfares in some of the chief towns. This makes it possible to approximately locate any address in these streets.

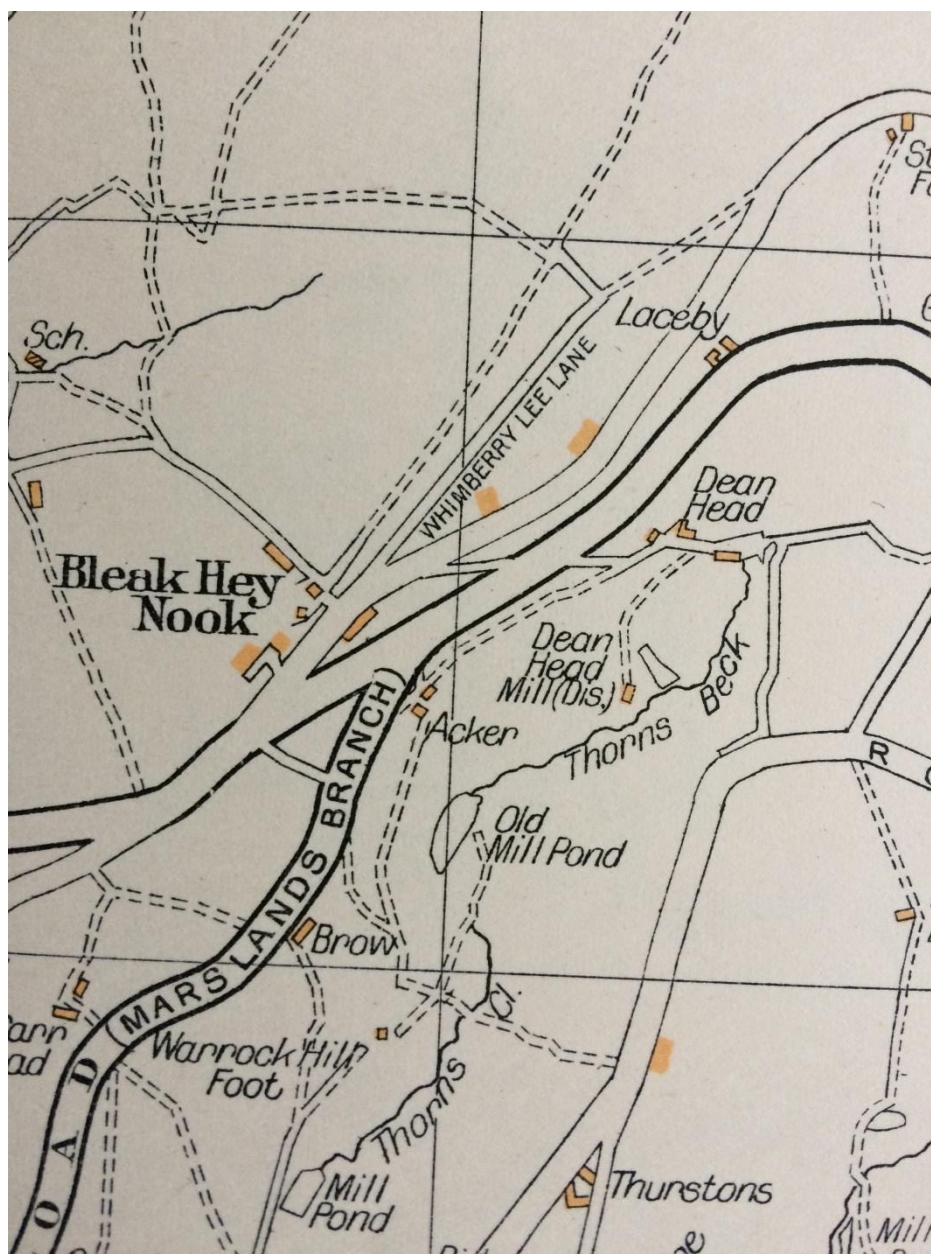
The Atlas also includes plates showing Parliamentary Divisions, Local Government areas and Railways.

The Index to Streets, etc., includes every thoroughfare named on the Maps, together with the Postal Division Numbers in the case of Leeds and Sheffield where the numbering system has been adopted, plate number and map square in the Atlas on which it will be found. There is a total of over 30,000 entries.

## 16. The Authentic Map Directory of South West Yorkshire 1938.

The Authentic map directory of South West Yorkshire was produced with the assistance of the Municipal and District surveyors. Source, Kirklees Bridleways Group Archives.

The application route is clearly shown as a through route.

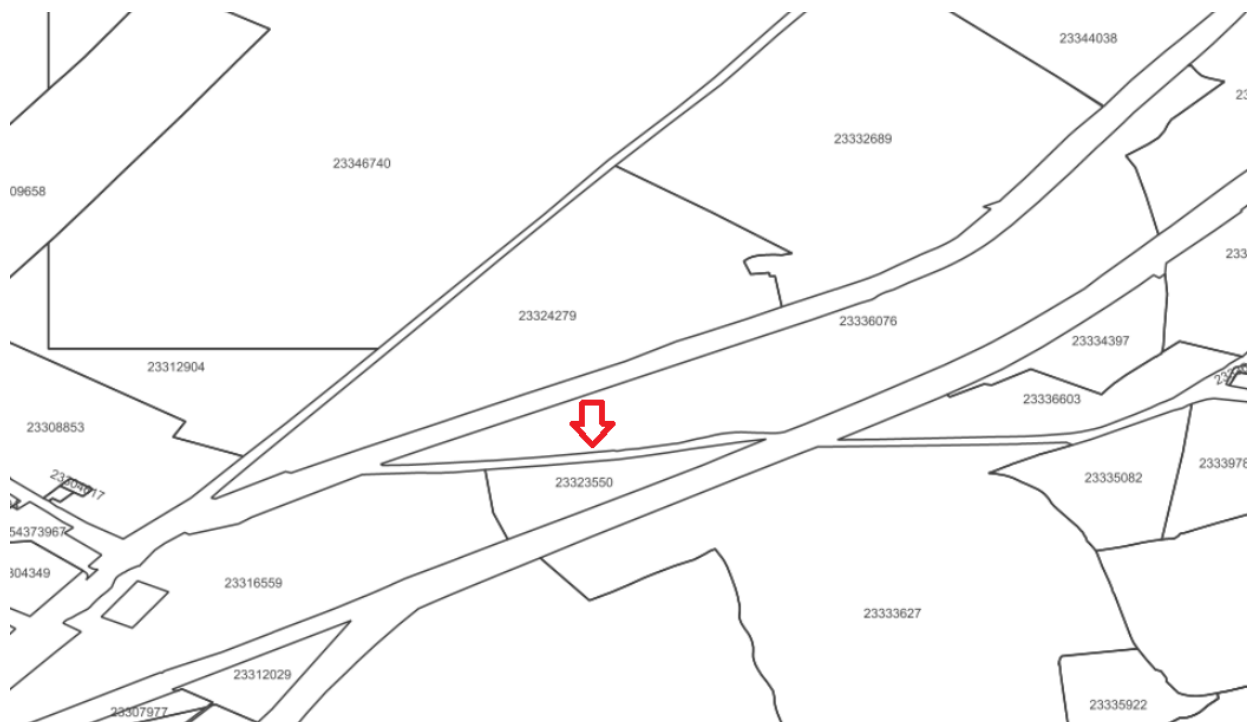


**The Authentic Map Directory of South West Yorkshire 1938.**

17. Date. This extract from the INSPIRE database was taken on 06/02/2021.
  - a. Relevance. The Land Registry INSPIRE Index Polygons Service is a Web Mapping Service which provides map images of HM Land Registry's INSPIRE index polygons. The INSPIRE index polygon dataset contains only freehold registrations, and the polygons indicate the location of registered land.
  - b. Archive. The publicly accessible dataset is found at <https://data.gov.uk/dataset/land-registry-inspire-view-service-and-metadata>. The extract below is taken from a screen shot taken by the Applicant on the date stated above.
  - c. Meaning. The application route is shown, indicated by a red arrow, separate from any registered landholding.



d. Assessment. Vehicular highways of ancient origin are often on unregistered land. Where the adjoining land on each side has been registered, but the ancient vehicular highway has not been claimed as part of either land ownership, this is supportive evidence of the ancient vehicular highway status. In the absence of any other explanation why neither adjoining landowner would lay claim to the land, the applicant draws the conclusion that this supports the view that the application route is a vehicular highway of ancient origin.



*Extract from the INSPIRE mapping with approximate line of application route indicated by a Red arrow.*

### CONCLUSIONS

- 18 This document presents evidence from the last 180 years that consistently indicates that the application route was part of the wider roads network. Whilst no single piece of evidence is conclusive in its own right, taken as whole it paints a compelling picture of the existence of public vehicular rights.
- 19 Employing the well-established legal maxim 'Once a highway always a highway', in the absence of a stopping up order, it follows that vehicular highway rights existed immediately before the operation of the Natural Environment and Rural Communities Act 2006.
- 20 The Thoroughfare Principle: the order route runs as a thoroughfare between two public roads which means that it is public too. This principle was held in the 2010 Fortune case which went to appeal in 2012 and was upheld. Page 11 para.49, page 12 para.51 and page 27 para.126 vii.  
<https://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Civ/2012/334.html>

- 21 The applicant requests the surveying authority to add the route to the definitive map as a bridleway. It is arguable that the evidence suggests that carriageway rights exist over the route, however due to the current construction of the law and the proposed extinguishment of unrecorded rights in 2026, the application will be made for bridleway status with an acknowledgement that the surveying authority should make an order for Restricted Byway status if they consider that merited.

Name: Mark Corrigan AIPROW

Position: Access Field Officer Yorkshire.

Organisation: The British Horse Society.





## **Report to TRO Panel**

### **Public Path Extinguishment and Definitive Map and Statement Modification Order**

#### **S118 Highways Act 1980 – Extinguishment of part of FP118, Saddleworth – Mount Lane/Husteads Lane, Dobcross and s53A Wildlife and Countryside Act 1981 Modification of the Definitive Map and Statement**

#### **Portfolio Holder:**

Councillor A Chadderton, Cabinet Member for Neighbourhoods

**Officer Contact:** Director of Environment Management

**Report Author:** Liam Kennedy – PRow Officer  
Ext. 4305

**17<sup>th</sup> March 2022**

#### **Purpose of Report**

To seek approval to make a public path extinguishment order for part of Footpath 118, Saddleworth.

#### **Executive Summary**

The Council has received an application from the residents of The Old Vicarage, Streethouse Lane, Dobcross via their agent Roundhay Properties Ltd for the extinguishment of part of Footpath 118, Saddleworth which is situated on their land, under Section 118 of the Highways Act 1980.

#### **Recommendation**

It is recommended that the Council make a Public Path Extinguishment Order to stop up that part of Footpath 118, Saddleworth which passes through the land of The Old Vicarage, Streethouse Lane, Dobcross under Section 118 of the Highways Act 1980 and Section 53A of the Wildlife and Countryside Act 1981 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.

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## 1 Background

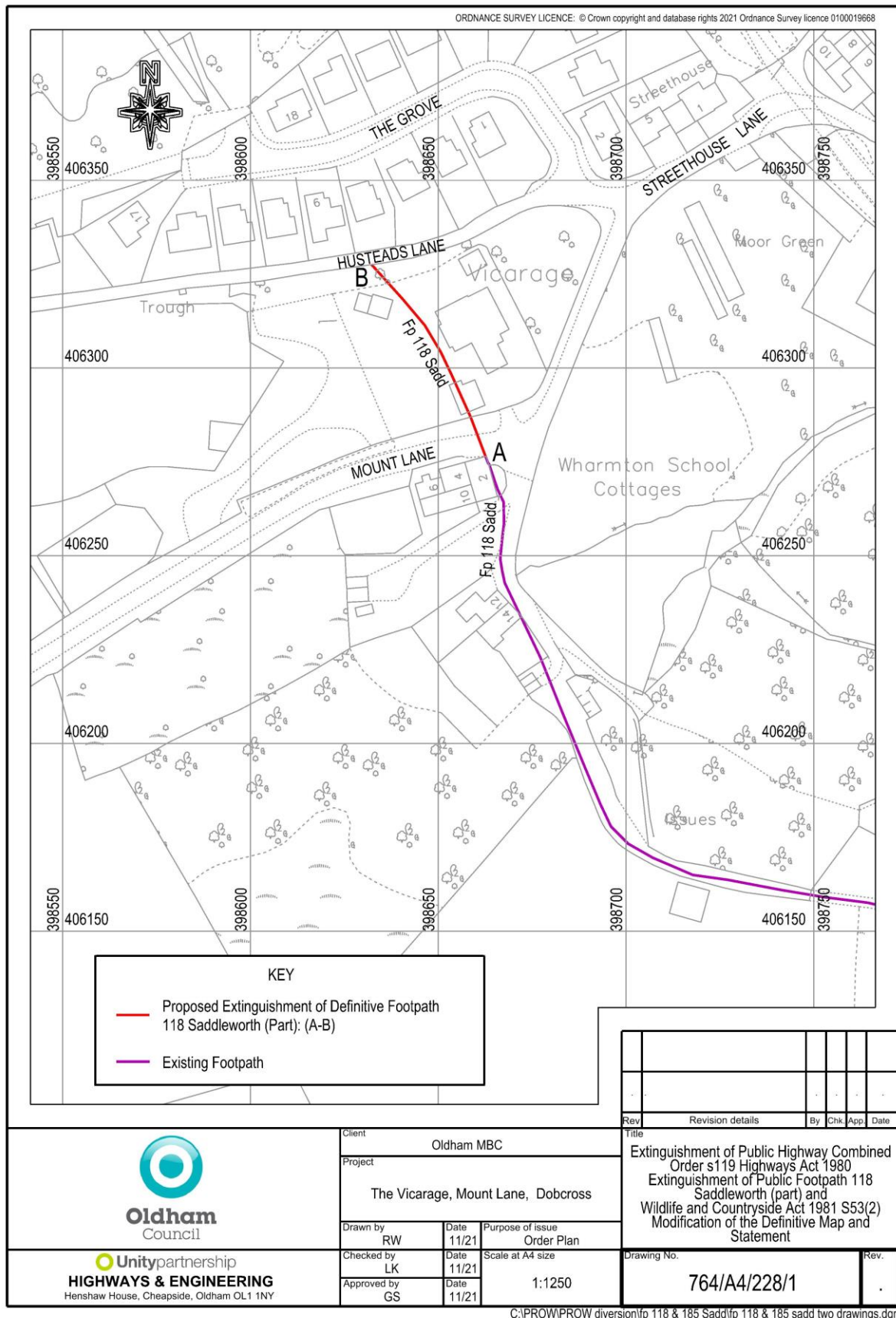
- 1.1 Part of Footpath 118 Saddleworth passes through The Old Vicarage, Streethouse Lane, Dobcross. The line of the path passes close to the property at The Old Vicarage. The Government have issued 'Draft Guidance on the diversion or extinguishment of rights of way that pass through gardens, farmyards and commercial premises'. The Guidance describes the problem of Public Rights of Way which pass through contained spaces, such as private gardens. It states that 'Members of the public may not be comfortable following a path through a contained space of this type because doing so may be infringing on the privacy of a houseowner'. Such path alignments can deter people from exercising the public's right to walk along the path. In addition, the line of the path has been blocked for many years by an outbuilding/garage. The residents of The Old Vicarage, Streethouse Lane, Dobcross have been in discussion with the Council for some time about resolving these issues. The diversion of the path away from The Old Vicarage was originally proposed as a combined diversion with part of the nearby Footpath 185 Saddleworth under section 257 of the Town and Country Planning Act 1990. However, following discussions with representatives of the Ramblers Association and the Peak and Northern Footpath Society, it has been agreed that the most appropriate action to take is for the residents to apply to have the branch of Footpath 118 Saddleworth which passes through their land stopped up under Section 118 of the Highways Act 1980.
- 1.2 Where it appears to the Council as respects a footpath in their area that it is expedient that the path should be stopped up on the ground that it is not needed for public use, the Council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order, extinguish the public right of way over the path.
- 1.3 The Secretary of State shall not confirm a public path extinguishment order and a Council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that it is expedient to do so having regard to the extent (if any) to which it appears to him or, as the case may be, them that the path or way would, apart from the order, be likely to be used by the public and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path.
- 1.4 Furthermore the considerations to which the Secretary of State is to have regard in determining whether or not to confirm a public path extinguishment order, and a Council is to have regard in determining whether or not to confirm such an order as an unopposed order should include any material provision of a rights of way improvement plan.

## 2 Proposal

- 2.1 The route of Footpath 118 Saddleworth is shown on attached plan (764/A4/228/1). The stretch of route concerned commences at point A off Mount Lane following a north-westerly route for approximately 60m where it meets Husteads Lane. The existing route runs through the land of the applicant. The description of the current route is given in Schedule 1.
- 2.2 The proposal is to extinguish the 60m stretch that is A-B on the attached plan (764/A4/228/1). The description of the proposed section of extinguishment is given in Schedule 2.



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- 2.3 It is considered that it is expedient to stop up the part of Footpath 118 Saddleworth on the ground that it is not needed for public use. The reason for this is that it is only a short section of footpath (60 metres) which links Mount Lane with Hustead Lane and given the close proximity of the path to the property at The Old Vicarage, which is likely to deter use of the route, the public are more likely to use the existing highway network to pass between Mount Lane and Hustead Lane. Also extinguishment of the right of way would not have an adverse effect on the land served by the footpath, as it is owned by the applicants for the order.
- 2.3 If the order is confirmed it will be necessary to modify the Definitive Map and Statement for Footpath 118 Saddleworth. The Council have an obligation to continuously review the Map and Statement. The Public Rights of Way (Combined Orders) (England) Regulations 2008 allow the Order-making Authority to make a Combined Order for an extinguishment proposal and Definitive Map and Statement Modification. In light of the above it is considered that this is appropriate in this case. The current wording for the Definitive Statement is given in Schedule 3 and the amended wording is given in Schedule 4.



TM2 PROW\TM2-251 FP118 SADD Part Extinguishment

Tuesday, January 25, 2022



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### Schedule 1

#### Description of Existing Footpath Route – Drawing 764/A4/228/1

Existing FP118, Saddleworth commences at point B (GR SD98632 06328) proceeding in a South-easterly direction for a distance of approximately 322m to its junction with Footpath 116 Saddleworth at (GR SD98876 06114).

### Schedule 2

#### Description of Proposed Extinguishment Route – Drawing 764/A4/228/1

Existing FP118, Saddleworth commences at point B (GR SD98632 06328) proceeding in a South-easterly direction for a distance of approximately 60m to point A (GR SD98663 06276).

### Schedule 3

#### Current Definitive Statement

District	Page Number	Status	Length	Description	Comments
Saddleworth	6D	F.P.	322m	Footpath commencing at its junction with Husteads Lane, Dobcross and proceeding in a south easterly direction across Mount Lane to its junction with Path No. 116	1.2m wide 2 wicket gates 1 field gate 1 stile

### Schedule 4

#### Modification of Definitive Statement

District	Page Number	Status	Length	Description	Comments
Saddleworth	6D	F.P.	262m	Footpath commencing at GR SD98663 06276) and	

				proceeding in a south-south easterly direction for a distance of approximately 112m then heading east-south easterly for a distance of approximately 150m to its junction with Footpath 116 at GR SD98876 06114	
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### 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 to approve Option 1.

### 5 Informal Consultation

#### Parish Council

- 5.1 Saddleworth Parish Council – No comments received.

#### Footpath Societies

- 5.2 The Ramblers Association and Peak and Northern Footpath Society (PNFS) have been dealing with the resident for a number of years with a view to a satisfactory proposal. This application is the result of negotiations between the PNFS, the Ramblers Association, the Council and the landowner. No objections to the proposal have been received.

#### Ward Councillors

- 5.3 Cllr L Lancaster – ‘I agree with the premise that public users are more likely to travel along the existing Highways network in this case, and whilst I don’t like for private landowners to remove access (particularly without alternative provision, this is something I could agree to considering the Ramblers and Footpath Society have’

#### Landowners

- 5.3 The only landowner is the applicant.

### 6 Financial Implications



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6.1 Application fees have previously been paid by the applicant.

**7 Legal Services Comments**

7.1 Under section 118 of the Highways Act, the Council may make a public path extinguishment order where it appears to the Council that it is expedient that the path should be stopped up on the ground that it is not needed for public use. The confirming body for the order must be satisfied that it is expedient to confirm the order having regard to the extent to which it appears to them that the path would, apart from the order, be likely to be used by the public and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path.

7.2 In the event of objections to the Order, it will be sent to the Secretary of State for determination. If no objections are received it is recommended that officers be given delegated authority to determine whether it is expedient to confirm the Order, as otherwise this decision would have to be taken at a future meeting of the TRO Panel, adding unnecessary delay to the process. (A Evans)

**8 Co-operative Agenda**

8.1 Not applicable.

**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.

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16      **Equality Impact Assessment Completed?**

16.1      Not applicable.

17      **Key Decision**

17.1      No.

18      **Key Decision Reference**

18.1      Not applicable.

19      **Background Papers**

19.1      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.





## **Report to TRO Panel**

### **Public Path Diversion and Definitive Map and Statement Modification Order**

#### **s119 Highways Act 1980 - Diversion of Definitive Footpath 185 Saddleworth (part), at Mount Sorrel, Mount Lane, Dobcross and s53A Wildlife and Countryside Act 1981 Modification of the Definitive Map and Statement**

#### **Portfolio Holder:**

Councillor A Chadderton, Cabinet Member for Neighbourhoods

**Officer Contact:** Director of Environment Management

**Report Author:** Liam Kennedy, PRow Officer  
**Ext.** 4306

**17<sup>th</sup> March 2022**

#### **Purpose of Report**

To seek approval for the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpath 185 Saddleworth (part) at Mount Sorrel, Mount Lane, Dobcross as detailed in the report.

#### **Executive Summary**

The Council has received an application from the resident of The Old Vicarage, Streethouse Lane, Dobcross for the diversion of Footpath 185 Saddleworth (part) across their land via their agent Roundhay Properties Ltd.

The application has been considered in light of draft guidance on public rights of way passing through gardens and farmyards. It is considered that in the interests of the resident and footpath users, the footpath should be diverted and that Officers be given delegated authority to carry out the necessary procedures with a view to confirming the Public Path Diversion and Definitive Map and

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Statement Modification Order in the event that no objections to the order are received.

**Recommendation**

It is recommended that the Council make a Public Path Diversion and Definitive Map and Statement Modification Order for the diversion of Footpath 185 Saddleworth (part) under Section 119 of the Highways Act 1980 and Section 53A of the Wildlife and Countryside Act 1981 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.

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## **Dobcross and s53A Wildlife and Countryside Act 1981 Modification of the Definitive Map and Statement**

### **1 Background**

- 1.1 The application has been made by the landowner via their agent for the diversion of Footpath 185 Saddleworth (part). A diversion was originally proposed together with the diversion of part of Footpath 118 Saddleworth. However following discussions with the Peak and Northern Footpath Society, it is considered that the proposed diversion detailed in this report would be more appropriate diversion route.
- 1.2 The Government have issued 'Draft Guidance on the diversion or extinguishment of rights of way that pass through gardens, farmyards and commercial premises'. The Guidance describes the problem of Public Rights of Way which pass through contained spaces, such as private gardens. It states that 'Members of the public may not be comfortable following a path through a contained space of this type because doing so may be infringing on the privacy of a houseowner'. Such path alignments can deter people from exercising the public's right to walk along the path.
- 1.3 The Order-making and Confirming Authority are guided to weigh the interests of the landowner against the overall impact of the proposal on the public as a whole, noting that reducing or eliminating the impact of the current route of the right of way on the landowner, in terms of privacy, security and safety, are important considerations to which due weight should be given. In these limited circumstances only, the Order-making Authority should, therefore, be predisposed to make the Order provided it satisfies the relevant test for the making of an Order set out in the legislation, namely that in the interests of the landowner it is expedient that the line of the right of way should be diverted.
- 1.4 The principle test before deciding whether to confirm a Public Path Diversion and Definitive Map and Statement Modification Order is that the diversion should not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the Order.

### **2 Proposal**

- 2.1 The route of Footpath 185 Saddleworth is shown on the attached plan (764/A4/229/1) marked in red. The path commences off Mount Lane (approximately 252m from its junction with Streethouse Lane) following a northerly route for approximately 29m, then proceeding west for approximately 71m. At this point Footpath 185 branches off to the north for a distance of approximately 77m and north-west for a distance of approximately 88m (points F & G on attached plan). The description of the current route is given in Schedule 1.
- 2.2 The diverted path is also shown on the plan marked in blue from point H-L including the access points via proposed new kissing gates at point H & K. The description of the diverted route is given in Schedule 2.
- 2.3 The applicant proposes a diversion within the boundaries of their land which is significantly more direct, with improved connectivity to Footpaths 117 & 181 Saddleworth and will negate the use of the footbridge on the current route which is in a poor state of repair.
- 2.4 Users of the diverted route will not be deterred from using the route, which could occur if using the existing alignment as it passes between property and buildings at Mount Sorrel.

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- 2.5 The required highway signage, from the metallised road, the way markers along the route and new kissing gates will be paid for by the Applicant (i.e. provision & installation of kissing gates and installation of signage).
- 2.6 If the Order is confirmed it will be necessary to modify the Definitive Map & Statement for Footpath 185 Saddleworth (part). The Council have an obligation to continuously review the Map & Statement. The Public Rights of Way (Combined Orders) (England) Regulations 2008 allow the Order-making Authority to make a Combined Order for a diversion proposal and Definitive Map and Statement Modification. In light of the above it is considered that this is appropriate in this case. The amended wording for the Definitive Statement is given in Schedule 3.

#### Schedule 1

##### Description of Existing Footpath Route – Drawing 764/A4/229/1

Existing FP185 Saddleworth leaves Mount Lane (GR SD98443 06169) heading North for a distance of approximately 29m to (GR SD98440 06196), then proceeds West for a distance of approximately 71m to (GR SD98369 06203). At this point Footpath 185 branches off to the north for a distance of approximately 77m to (GR SD98388 06277) and north-west for a distance of approximately 88m to (GR SD98300 06250). Both branches join Bridleway 178 Saddleworth on the unadopted stretch of Husteads Lane.

#### Schedule 2

##### Description of Proposed Footpath Route – Drawing 764/A4/229/1

Footpath 185 Saddleworth commencing at point H (GR SD98342 06001) through a kissing gate and proceeding North for a distance of 53 metres to point I (GR SD98328 06052) then North-North West for a distance of 80 metres to point J (GR SD98300 06126) then heading in a general Northerly direction for a distance of 116m to point K (GR SD98313 06238) through a kissing gate and further North for 14 meters to point L (GR SD98311 06251) to join BR178 Saddleworth on Husteads Lane.



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Schedule 3

Current Definitive Statement

District & Path Number	Page Number	Status	Length	Description	Comments
Saddleworth 185	6	Footpath	917m	Footpath commencing at its junction with Wall Hill Road and proceeding southward in a zig-zag manner to its junction with Mount Lane at Mount Sorrell with (1) branch proceeding northeastward to its junction with path No.184 at Bankfield and (2) a branch proceeding north westward from Mount Sorrell to its junction with path No.178	1.2m wide 3 stiles

Schedule 4

Modification of Definitive Statement

District & Path Number	Page Number	Status	Length	Description	Comments
Saddleworth 185	6	Footpath	835m	Footpath commencing at (GR SD98342 06001) at kissing gate off Mount Lane and proceeding North	1.2m wide 2 stiles 2 kissing gates (GR SD98342 06001 & GR SD98313 06238)

				<p>for a distance of 53m to (GR SD98328 06052) then North-North West for a distance of 80m to (GR SD98300 06126) then heading in a general Northerly direction for a distance of 116m to (GR SD98313 06238) through kissing gate and further North for 14m to (GR SD98311 06251) to join BR178 Saddleworth on Husteads Lane, proceeding East for a distance of approximately 51m to (GR SD98436 06296) then North for a distance of 46m to (GR SD98420 06340) then West for a distance of 61m to (GR SD98363 06316) then Northwest for a distance of 67m to (GR SD98324 06371) where the path branches (1) to head in a</p>	
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				general North Easterly direction for a distance of 224m to its junction with FP184 SADD at (GR SD98484 06508) (2) continuing Northwest for a distance of 123m to its junction with FP184 SADD at Broadgate (GR SD98254 06473).	
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### 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 to approve Option 1. This will benefit the applicant and landowner as well as PRow Network users with a more direct route following the topography of the land with increased connectivity to other sections of the Network. Option 2 will maintain the status quo where the property has the liability of the footpath passing in close proximity to their residence, infringing upon privacy.

### 5 Consultation

- 5.1 Parish Council  
Saddleworth Parish Council – No comments received.

#### Societies

The submitted application is a direct result of consultation & negotiation with Peak and Northern Footpath Society. No other objections have been raised.

#### Ward Councillors

Cllr L Lancaster – ‘As the Applicant have said that they will meet the costs, I can agree to this.’

#### Landowners

The only landowner affected is the applicant.

### 6 Financial Implications

- 6.1 The costs have been met by the applicant of £2,685.00.

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## **7 Legal Services Comments**

- 7.1 Under S119 of the Highways Act 1980 the Council may make a public path diversion order where it appears to it to be expedient, either in the interests of the owner, lessee or occupier of land crossed by the path, or in the interests of the public, that it should be diverted. The confirming body for the order must also be satisfied that the diversion is expedient in the interests of the owner, lessee or occupier of land crossed by the path or in the interests of the public and that the path will not be substantially less convenient to the public as a consequence of the order. The confirming body must also be satisfied that it is expedient to confirm the order having particular regard to the effect on public enjoyment of the path as a whole, the effect on other land served by the existing path and the effect of the new diversion on the land and other land held with it, to be crossed by the diversion.
- 8.2 In the event of objections to the Order, it will be sent to the Secretary of State for determination. If no objections are received it is recommended that officers be given delegated authority to determine whether it is expedient to confirm the Order, as otherwise this decision would have to be taken at a future meeting of the TRO Panel, adding unnecessary delay to the process. (A Evans)

## **8 Co-operative Agenda**

- 8.1 Not applicable.

## **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 Not applicable.

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

- 15.1 None.

## **16 Equality Impact Assessment Completed?**

- 16.1 Not applicable.

## **17 Key Decision**



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17.1 No.

18 **Key Decision Reference**

18.1 Not applicable.

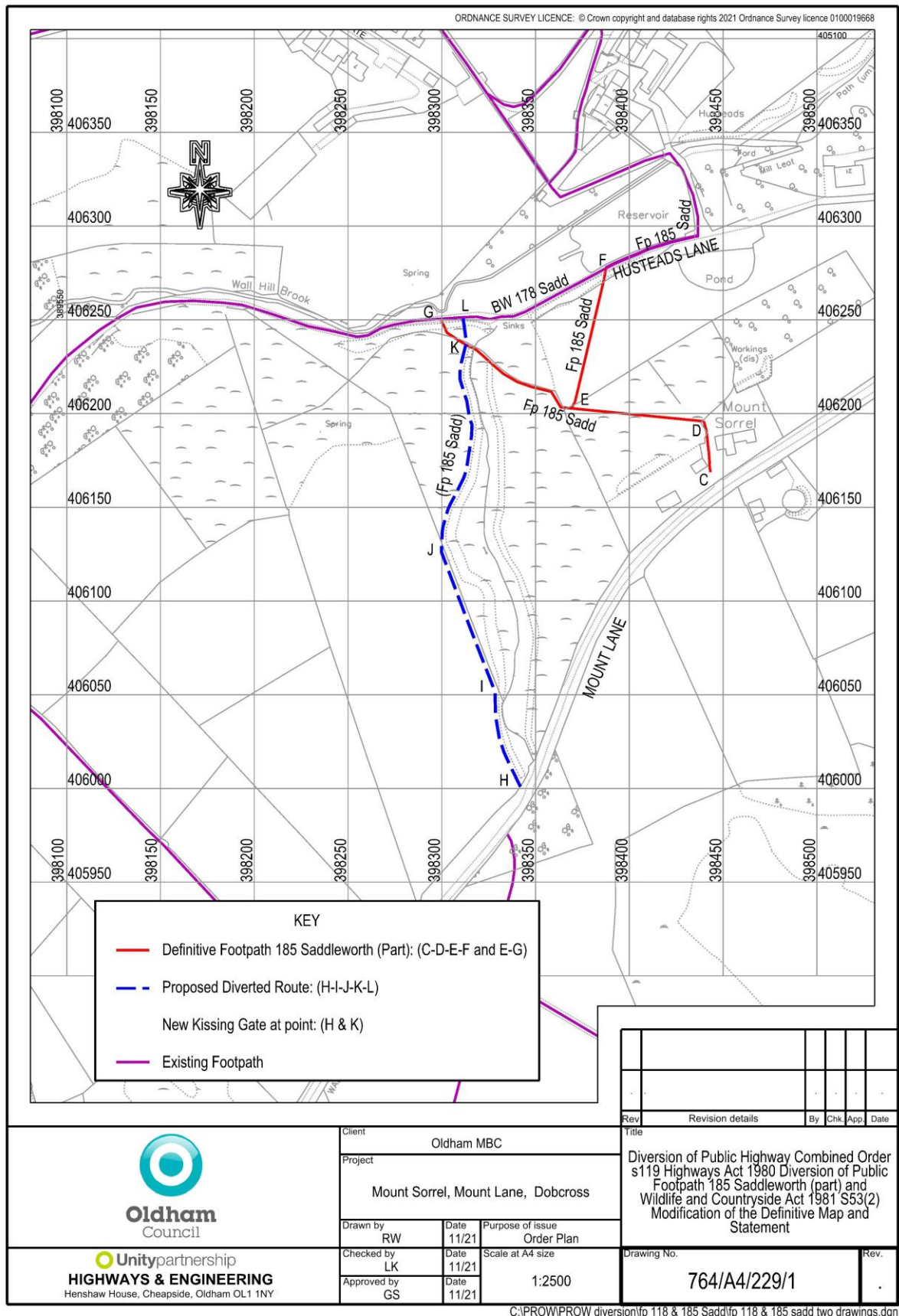
19 **Background Papers**

19.1 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.

20 **Appendices**

20.1 None







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