

Report to TRO Panel

Public Path Diversion Order

s119 Highways Act 1980 – Diversion of Definitive Footpath 264 Saddleworth (part), a branch proceeding northward via Hollins Hill Farm to Bradbury Lane and s53(2) Wildlife and Countryside Act 1981 Modification of the Definitive Map and Statement

Portfolio Holder:

Councillor A Ur-Rehman, Cabinet Member for Neighbourhood Services

Officer Contact: Deputy Chief Executive – People and Place

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Reason for Decision

To seek approval to the making of a Combined Diversion, Modification of the Definitive Map and Statement Order for Footpath 264 Saddleworth (part), a branch proceeding northward via Hollins Hill Farm to Bradbury Lane, as detailed in the report.

Executive Summary

The Council has received an application from the owner of Hollins Hill Farm for the diversion of Footpath 264 Saddleworth (part) which passes along the drive of Hollins Hill Farm near to the house and farm buildings.

The application has been considered in the light of draft guidance on public rights of way passing through gardens and farmyards.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 Diversion Order in the event that no objections to the Order is received.

Recommendations

It is recommended that the Council make:

- a. A Combined Public Path Diversion Order for the diversion of Footpath 264 Saddleworth (part) under s119 of the Highways Act 1980 as detailed in the report and Officers be authorised to carry out the necessary procedures with a view to confirming the Order in the event that no objections are made to the Order.
 - b. Modification Order to the Definitive Map and Statement for Footpath 264 Saddleworth (part) as detailed in the report.
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**Public Path Diversion Order
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proceeding northward via Hollins Hill Farm to Bradbury Lane and s53(2) Wildlife and
Countryside Act 1981 Modification of the Definitive Map and Statement**

1 Background

- 1.1 An application has been made by the resident of Hollins Hill Farm, Saddleworth, via their Agent for the diversion of Footpath 264 Saddleworth (part) which passes along the driveway and through the rear of the grounds of the property.
- 1.2 The Government have issued 'Draft Guidance on 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 house owner. Therefore, 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 all the relevant tests for the making of an Order set out in the legislation.
- 1.4 The principal test is that the diversion should be substantially as convenient and seek to ensure a balance between the interests of the public, as users and the occupier and in relation to the diversion, that it is expedient that the path or way should be diverted on the grounds that it is as convenient for the public to use.

2 Proposal

- 2.1 The route of Footpath 264 Saddleworth (part) to be diverted (to the east, to the other side of the wall) is shown on attached plan (PROW/A4/101). The path commences from the south at point B, proceeding northwards of Hollins Hill Farm yard along the drive, crossing the property, passing close to the eastern edge of the farm house building, to the northern boundary of the yard/drive to point A, Bradbury Lane.
- 2.2 A stile for the ingress and egress of animals will be placed at point C, plan number PROW/A4/101. The applicant is putting in place the relevant stile to British Standard. The stile at point C and the diverted path will be on the neighbouring field which is also owned by the Applicant and the tenant farmer has given his permission in writing for the diversion and stile.
- 2.3 The diverted path starts at point C to point D at the edge of the field over an existing set of steps at point D and then commences to point B. The path then commences in a southwest direction on the existing Footpath 264 Saddleworth.

- 2.4 The applicant proposes that the diverted route along the walled boundary of the neighbouring field will be stoned with a width of 2m, this gives a clearly delineated path for public use. The distance travelled around the diversion is minor and well provided. Any inconvenience to members of the public will be minimal.
- 2.5 Users of the diverted route will not be deterred from using the route which can occur if using the existing alignment which passes through a yard and along a drive ie land associated with farm buildings at Hollins Hill Farm.
- 2.6 The required highway signage, from the metalised road, Bradbury Lane, will be paid for by the Applicant ie both installation, posts and the sign.
- 2.7 If the Order is Confirmed it will be necessary to modify the Definitive Map and Statement for Footpath 264 Saddleworth (part). The Council have an obligation to continuously review the Definitive 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. In light of the above it is considered that this is appropriate in this case.

3 Current Position

3.1 Points of Note – Drawing PROW/A4/101

Label	Grid Reference		Comments
	Easting (m)	Northing (m)	
A	401009	403416	
B	400959	403334	Existing FP264 Saddleworth (Part) leaves Bradbury Lane and extends from Point A to Point B in a general south-westerly direction for a distance of 103 metres

Schedule 1 Footpath to be Diverted – Drawing PROW/A4/101

Road	Length
Footpath 264 Saddleworth (Part) Section as indicated on map) A-B	The whole width that is part of Footpath 264 Saddleworth commencing at Point A (Ordnance Survey Grid Reference ("GR") SE01009 03416) and proceeding for a total distance of 110 metres in a general south-westerly direction to Point B (GR SE00959 – 03334

Schedule 2
Diverted route of Footpath – Drawing PROW/A4/101

Road	Length
Footpath 264 Saddleworth (Part) Section as indicated on map) C-D-B	A (surface description) 2 metre wide stoned Footpath commencing from Point C (GR SE01013 - 03416) proceeding for a distance of 110 metres in a general south-westerly direction to Point D (GR SE00999 - 03349) then turning to a general south-westerly direction to Point B (GR SE00959 - 03334) making a total distance of 110 metres or thereabouts

Schedule 3

Part 1 Modification of Definitive Map

Description of the path to be diverted (A-B):

From Point A (OSGR 401009e, 403416n), to Point B (OSGR 400959e, 403334n)

Description of the path to be added (C-D-B):

From Point C (OSGR 401013e, 403416n), to Point D (OSGR 400999e, 403349n), to Point B (OSGR 400959e, 403334n)

Part 2 Modification of Definitive Statement

Statement to be amended

District and page number	Page Number	Status	Length	Description	Width
Footpath 264 Saddleworth	12	Footpath	2212 metres	Footpath commencing at its junction with Path No, 263 and proceeding in a south easterly direction via Kinder Intake and Chew Rise Plantation to its junction with Chew Road (Path No 272) with a branch proceeding northward via Hollins Hill to its junction with Bradbury Lane	1.2m wide, (2m wide stoned FP adjacent to Hollins Hill Farm drive ie the other side of the wall. 7 stiles 1 set stepping stones

4 **Options/Alternatives**

4.1 Option 1: To approve the recommendation.

4.2 Option 2: Not to approve the recommendation.

5 **Preferred Option**

5.1 The preferred option is to approve Option1. This will benefit the occupants of Hollins Hill Farm and the Users of the Footpath and will test the proposal through the democratic process. Option 2 will maintain the status quo where the property has the liability of a Footpath passing through the yard and along the drive and Users are inhibited when passing through the yard.

6 **Consultation**

6.1 Consultation will take place with Saddleworth Parish Council, Saddleworth South Councillors, the Prescribed Bodies, Notice will be placed on site and in the newspaper in accordance with the legal requirements of 28 days' Notice of making the Order, simultaneously.

7 **Comments of Shaw Ward Councillors**

7.1 The Ward Councillors have been consulted and Councillor G Sheldon supports the application but has also commented that he would like to see a secure fence between the new path an field and new path and driveway (this I am sure will be done).

8 **Response to Councillors Comment**

8.1 The Footpath (part) is to be moved to the other side of the wall and I can confirm that a Highway Authority has no legal authority to prescribe fencing a Public Right of Way.

9 **Financial Implications**

9.1 The standard fee for making an order of this type is £2,611 and is payable by the applicant to the Council. The standard fee is intended to cover costs associated with the application including, legal work, posting notices on site, advertising and general administrative effort. As a result, no additional financial burden will fall upon the Council in dealing with this application.

9.2 The income and associated cost will be credited/charged to Highways Operations – Unity.

(Nigel Howard)

10 **Legal Services Comments**

- 10.1 Under section 119 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.
- 10.2 In the event of objections to the order, the order 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)

11 **Co-operative Agenda**

- 11.1 In respect of the diversion of Footpath 264 Saddleworth (part) there are no Co-operative issues or opportunities arising and the proposals are in line with the Council's Ethical Framework.

12 **Human Resources Comments**

- 12.1 None.

13 **Risk Assessments**

- 13.1 None.

14 **IT Implications**

- 14.1 None.

15 **Property Implications**

- 15.1 None.

16 **Procurement Implications**

- 16.1 None.

17 **Environmental and Health & Safety Implications**

- 17.1 None.

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

- 18.1 None.

19 **Equality Impact Assessment Completed?**

19.1 No

20 **Key Decision**

20.1 No.

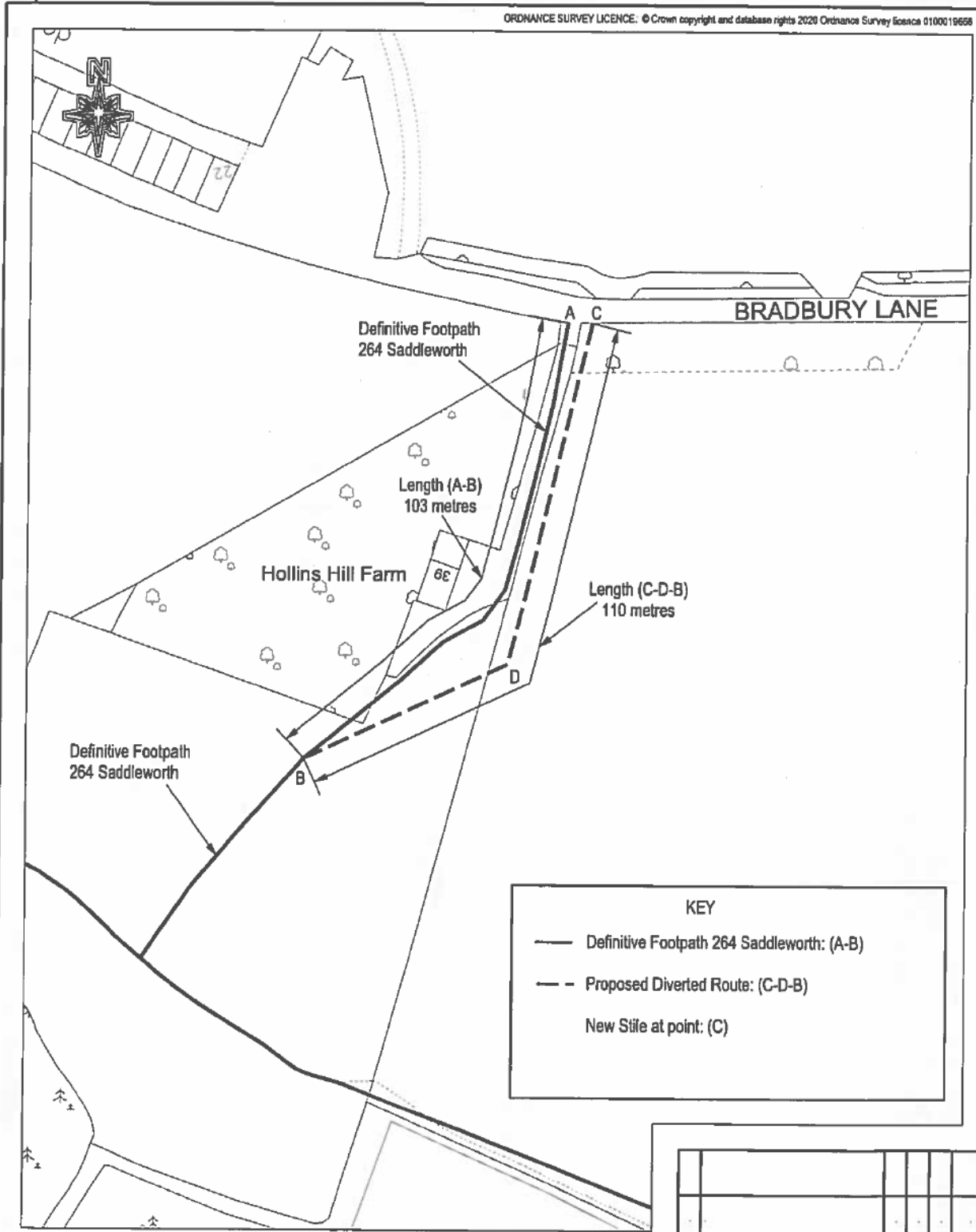
21 **Key Decision Reference**

21.1 Not applicable.

22 **Background Papers**

22.1 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.



KEY

- Definitive Footpath 264 Saddleworth: (A-B)
- - Proposed Diverted Route: (C-D-B)
- New Stile at point: (C)

Rev	Revision details	By	Chk	App	Date

 Oldham Council	Saddleworth Parish Council Ward - Saddleworth South			Title Diversion of Public Highway Combined Order s119 Highways Act 1980 Diversion of Public Footpath 264 Saddleworth (part) and Wildlife and Countryside Act 1981 s53(2) Modification of the Definitive Map and Statement
	Project Hollins Hill Farm, Bradbury Lane, Greenfield			
Unitypartnership HIGHWAYS & ENGINEERING Henshaw House, Cheapside, Oldham OL1 1NY	Drawn by RW	Date 01/20	Purpose of Issue Order Plan	Drawing No. PROW/A4/101
	Checked by JG	Date 01/20	Scale at A4 size 1:1000	
	Approved by GS	Date 01/20	Rev. .	