



Oldham
Council

TRAFFIC REGULATION ORDER PANEL

Section 257 Town & Country Planning Act 1990 – Diversion of Part of Footpath 119 Saddleworth

Portfolio Holder:

Councillor Brownridge, Cabinet Member for Neighbourhoods and Culture

Officer Contact: Director of Legal Services

Report Author: Alan Evans Group Solicitor
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24 September 2020

Reason for Decision

To seek approval for possible modifications to the Oldham Borough Council (Part of Footpath 119 Saddleworth) Public Path Diversion and Definitive Map and Statement Order 2017.

Recommendations

It is recommended that:

1. In the event that the Planning Inspector determines that point B on the Oldham Borough Council (Part of Footpath 119 Saddleworth) Public Path Diversion and Definitive Map and Statement Order 2017 does not lie on Council owned land, the Inspector be requested to modify the Order by moving point B slightly to the south east to a position which lies on Council owned land;
2. The Planning Inspector be requested to modify the Order by extending the termination of the footpath diversion from point C to point A on the Order map so it terminates on an adopted highway.

Section 257 Town & Country Planning Act 1990 – Diversion of Part of Footpath 119 Saddleworth

1 Background

- 1.1 Following a decision by the Traffic Regulation Order Panel on 27 July 2017, the Council made a Public Path Diversion and Definitive Map and Statement Modification Order in respect of part of footpath 119 Saddleworth at the rear of Treetops Close, Dobcross. A copy of the Order plan is attached at Appendix 1. The diversion was proposed to enable the Council owned land through which the footpath passes to be sold to the owners of 1 - 3 Treetops Close as garden extensions. The proposed diversion route to an extent follows an existing unofficial track across Council owned land and would divert the footpath around the garden extensions.
- 1.2 The owner of 3 Treetops Close obtained planning permission for the change of use of the land to garden use associated with the dwellings (PA/340311/17), with the intention of buying the land from the Council with his neighbours. However, several objections to the Order were received and the Order has been sent to the Planning Inspectorate for determination.
- 1.3 Four objections were received, one of which was subsequently withdrawn following discussions with the objector. The three remaining objections, two from local residents and one from a former Saddleworth Parish Councillor, mainly raise issues relating to the planning permission rather than the Order.
- 1.4 The objections are being dealt with by the written representations procedure, where all parties submit their comments to the Planning Inspector for consideration. The Inspector will subsequently decide whether the Order should be confirmed or not. It is possible for the Inspector to confirm the Order with modifications if no prejudice is caused by the proposed modifications.
- 1.5 One of the objections, from a resident of Sycamore Cottages, is that the start of the diversion route (point B on the Order map) lies on land in his ownership and that point B should be located slightly to the south east. In February 2020 the objector acquired land at the rear of Treetops Close, Dobcross from the Council by adverse possession, having fenced off the land without the Council's permission and incorporated it into his garden several years before. A copy of the Land Registry plan showing the land acquired by adverse possession is shown at Appendix 2.

2 Current Position

- 2.1 Where a footpath is being diverted it is necessary to obtain the consent of any landowner over whose land the diverted footpath passes before the Order can be confirmed. From the different scales of the Order map compared to the Land Registry plan it is difficult to determine whether point B on the Order map lies on land still owned by the Council or on the land acquired by the objector. The Council view is that point B remains on land owned by the Council. However in the event that the Planning Inspector agrees that point B lies on the objector's land, the Panel is requested to agree that the Inspector be requested to modify the Order so that point B is relocated slightly to the south east onto land remaining in the Council's ownership and which is due to be sold to the owners of 1-3 Treetops Close.

2.2 It has also been noted that point C on the Order map is not located on an adopted highway. Point C is an existing footpath which forms part of the access to Holy Trinity C of E Primary School but it has not been formally dedicated as a highway. A footpath diversion should end on a highway so it is recommended that the Planning Inspector be requested to modify the Order so that the proposed diversion continues from point C along the access footpath to point A where it joins the adopted highway network.

2.3 It is not considered that any prejudice is caused to any party by the proposed modifications to the diverted footpath route as they will be on Council owned land.

3 **Options/Alternatives**

3.1 Option 1 – to approve the recommendations

3.2 Option 2 – not to approve the recommendations

4 **Preferred Option**

4.1 It is recommended that option 1 be approved. If option 1 is not approved and the Planning Inspector determines that point B on the Order plan lies on land not owned by the Council, the Order cannot be confirmed. Extending the proposed footpath diversion between points C and A will also ensure the diverted route ends on the adopted highway network.

5 **Consultation**

5.1 The Saddleworth North ward councillors have been consulted and made no comments.

6 **Financial Implications**

6.1 The original report dealing with the diversion of footpath 119 was submitted in July 2017. At that time the applicant had paid the required standard submission fee of £2,500 (including Court Fees). This was credited to the Highways Operations Unity cost centre to cover the costs of dealing with the application.

6.2 As this report is ancillary to the original proposal, there are no further financial implications arising from it. (Nigel Howard)

7 **Legal Services Comments**

7.1 Legal comments are incorporated in the body of the report. (A Evans)

8. **Co-operative Agenda**

8.1 There are no co-operative issues or opportunities arising.

9 **Human Resources Comments**

9.1 Not applicable.

10 **Risk Assessments**

10.1 Not applicable

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- 11 **IT Implications**
- 11.1 None
- 12 **Property Implications**
- 12.1 The course of action and recommendation referred to within this report is fully supported from a property perspective. (Mark Elton)
- 13 **Procurement Implications**
- 13.1 Not applicable
- 14 **Environmental and Health & Safety Implications**
- 14.1 None
- 15 **Equality, community cohesion and crime implications**
- 15.1 None
- 16 **Equality Impact Assessment Completed?**
- 16.1 No
- 17 **Key Decision**
- 17.1 No
- 18 **Key Decision Reference**
- 18.1 N/a
- 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:
- File Ref : FD4/17 (visual file 11708)
Name of File : Footpath 119 Saddleworth - S257 Order
Records held in Director of Legal Services Department, Civic Centre, West Street, Oldham
Officer Name: Alan Evans
Contact No: 0161 770 3019
- 20 **Appendices**
- 20.1 Appendix 1 - Oldham Borough Council (Part of Footpath 119 Saddleworth) Public Path Diversion and Definitive Map and Statement Order 2017 map
- Appendix 2 – Land at rear of Treetops Close, Dobcross acquired by adjacent landowner
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