

Report to TRO Panel

Public Path Diversion and Definitive Map and Statement Modification Order

s119 Highways Act 1980 - Diversion of Definitive Footpath 107 Saddleworth (part), at Ambrose Lodge, Sandy 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

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30 September 2021

Purpose of Report

To seek approval to the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpath 107 Saddleworth (part) at Ambrose Lodge, Sandy Lane, Dobcross as detailed in the report.

Executive Summary

The Council has received an application from the resident of Ambrose Lodge, Sandy Lane for the diversion of Footpath 107 Saddleworth (part), which passes through the garden and farm fields adjacent to the residence.

The application has been considered in the light of draft guidance on public rights of way passing through gardens and farmyards.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

Public Path Diversion and Definitive Map and 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 107 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.

**Public Path Diversion and Definitive Map and Statement Modification Order
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Sandy Lane, 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 resident of Ambrose Lodge, Dobcross for the diversion of Footpath 107 Saddleworth (part), which passes through 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- 1.2 The Government have issued 'Draft Guidance on diversion or extinguishment of rights of way that pass through gardens, farmyards and Commercial premises'.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'. 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 107 Saddleworth is shown on attached plan (764/A4/224/1). The path commences to the west of Standedge Road (approximately 190m from its junction with Sandy Lane) following a south westerly route for approximately 166m. The existing route runs parallel to the stone wall and crosses the driveway access, where it then crosses a step stile through a hedge line proceeding directly across the front yard area of Ambrose Lodge and continues south westerly through the adjacent field. The description of the current route is given in Schedule 1.
- 2.2 The diverted path is also shown on the plan and starts as point A to point C with access to the adjacent field provided by a step stile located next to the field access gate. The path then follows a south-westerly direction to rejoin the existing footpath route. The description of the diverted route is given in Schedule 2.
- 2.3 The applicant proposes a diversion along the boundary of his land into his adjacent field, this gives a clearly delineated path for the public use. The distance travelled around the diversion is minor. Any inconvenience to members of the public will be minimal.
- 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 across the front yard area of Ambrose Lodge.
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- 2.5 The required highway signage, from the metalised road and the waymarkers along the route will be paid for by the Applicant ie both installation, posts and the sign.
- 2.6 If the order is confirmed it will be necessary to modify the Definitive Map and Statement for Footpath 107 Saddleworth (part). 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 amended wording for the Definitive Statement is given in Schedule 3.

Schedule 1

Description of Existing Footpath Route – Drawing 764/A4/224/1

Existing FP 107 Saddleworth leaves Standedge Road (GR SD99857 07376) proceeding in a general south-westerly direction for a distance of 166 metres to (GR SD99748 07253), then proceeding north-westerly on the remaining route of existing FP107 Saddleworth

Schedule 2

Description of Proposed Footpath Route – Drawing 764/A4/224/1

Footpath 107 Saddleworth commencing at point A (GR SD99837 07351) and proceeding for a distance of 39 metres in a general southerly direction to point B (GR SD99834 07317) then turning to a general south-westerly direction for a distance of 36 metres to point C (GR SD99798 07305) for a total distance of 62 metres or thereabouts

Schedule 3

Modification of Definitive Statement

District and page number	Page Number	Status	Length	Description	Width
Saddleworth Footpath 107	6+7	Footpath	595 metres	Bridleway and footpath commencing at its junction with Ward Lane and proceeding in a south westerly direction to Path No.75 thence North to Holly Grove then West across the Huddersfield Road continuing across Standedge Road A670 (GR SD99857 07376) and following a south westerly direction parallel to stone wall for approx. 28m then proceeds south at (GR SD99837 07351) following hedgeline for a distance of 39m to (GR SD99834 07317). Path then proceeds west, crossing a	2.4m wide 1 footbridge 1 tunnel 1 cart bridge 3 field gates 3 stiles 2 sets stone steps

				<p>stile (conforming to BSI BS5709:2018) into the field adjacent to Ambrose Lodge for a distance of 36m to (GR SD99798 07305) rejoining the route of FP107 SADD continuing to its southern point (GR SD99748 07253) before proceeding north to meet FP109 SADD at (GR SD99687 07382) to the west or continuing north-east on FP107 SADD returning across Standedge Road A670 at (GR SD99879 07521) proceeding east to Spurn Lane with a branch footpath proceeding north from Holly Grove to Ward Lane. 2.4m wide 1 footbridge 1 tunnel 1 cart bridge 3 field gates 3 stiles 2 sets stone steps.</p>	
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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 occupants of Ambrose Lodge 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 footpath passing through close to their residence infringing upon privacy.

5 Informal Consultation

Parish Council

- 5.1 The Parish Council have been consulted and no response received.

Footpath Societies

- 5.2 The Ramblers Association have no objection to the proposal.

Saddleworth North Ward Councillors

- 5.3 The Ward Councillors have been consulted and Councillor P Byrne has no objection to the diversion of this footpath as the residents have another through their land which they have been forcing walkers to use.

Councillor L Lancaster has commented as the report notes, the effect is 'minimal'. I've also not received any objections from ward constituents, and I note that the Ramblers Association do not have any either. I think the proposals would probably result in any

walkers using the footpaths to have a more tasking ascent, but Lark Hill is already tasking and I don't think it adds much in the grand scheme!

Landowners

5.4 The only affected landowner is the applicant.

6 Financial Implications

6.1 The applicant has paid the standard Stopping Up fee of £2,685. 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 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.

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 In respect of diversion of FP107 there are no Co-operative issues or opportunities arising and the proposals are in line with the Council's Ethical Framework

9 Human Resources Comments

7.1 None.

8 Risk Assessments

8.1 None

9 IT Implications

9.1 None.

10 Property Implications

10.1 None.

11 Procurement Implications

11.1 None.

12 **Environmental and Health & Safety Implications**

12.1 None.

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

13.1 None

14 **Equality Impact Assessment Completed?**

14.1 Not Applicable

15 **Key Decision**

15.1 No.

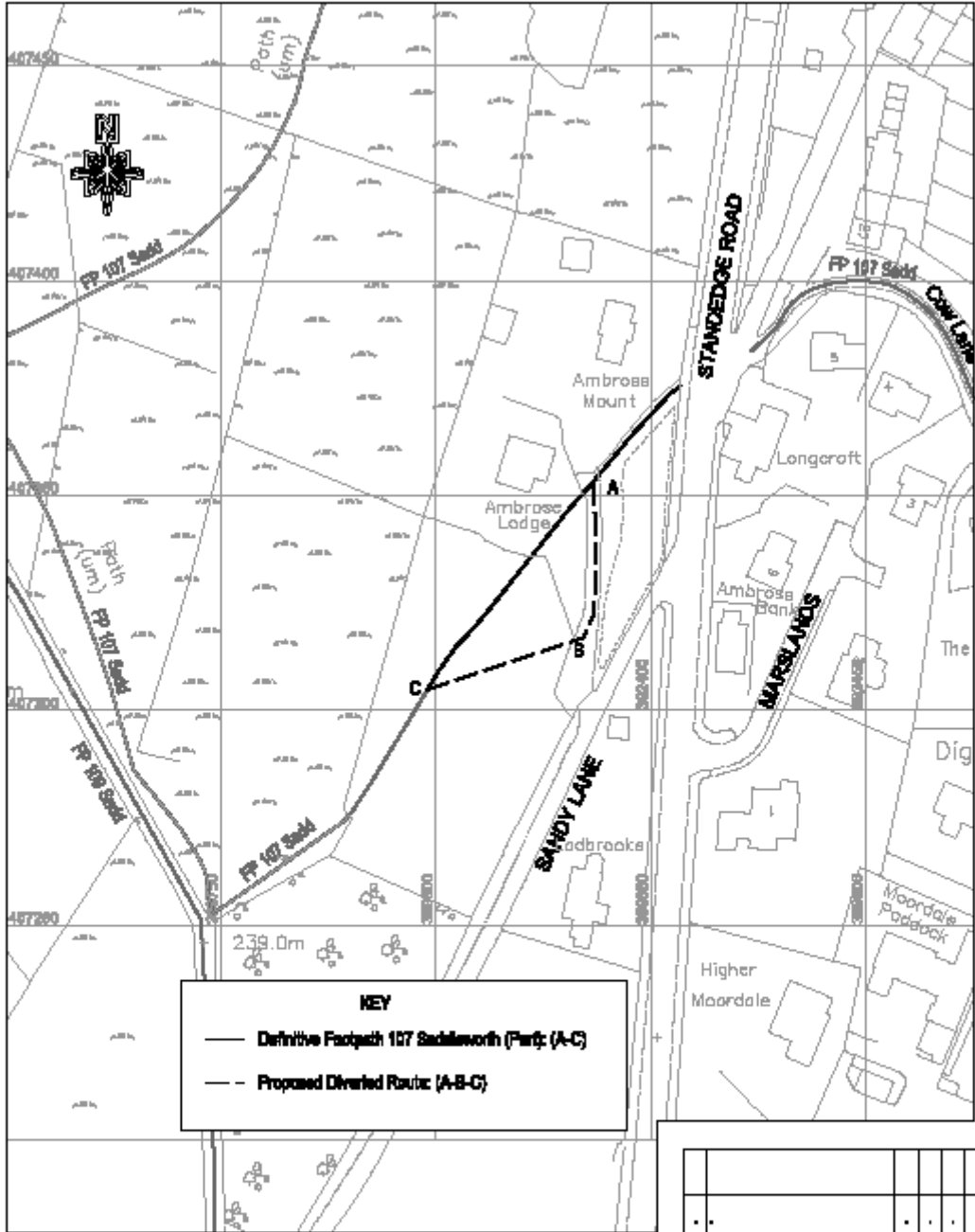
16 **Key Decision Reference**

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.



Oldham Council

Unity partnership
HIGHWAYS & ENGINEERING
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Saddleworth Parish Council		
Project Ambrose Lodge, Sandy Lane, Dobcross		
Drawn by RW	Date 08/21	Purpose of Issue Order Plan
Checked by LK	Date 08/21	Scale of Plan 1:1250
Approved by GS	Date 08/21	

Rev	Revision details	By	Iss. App.	Date
Title Division of Public Highway Combined Order s119 Highways Act 1990 Division of Public Footpath 107 Saddleworth (part) and Walls and Countryside Act 1961 s53(2) Modification of the Drainage Map and Statement				
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