

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

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17 March 2022

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.

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.

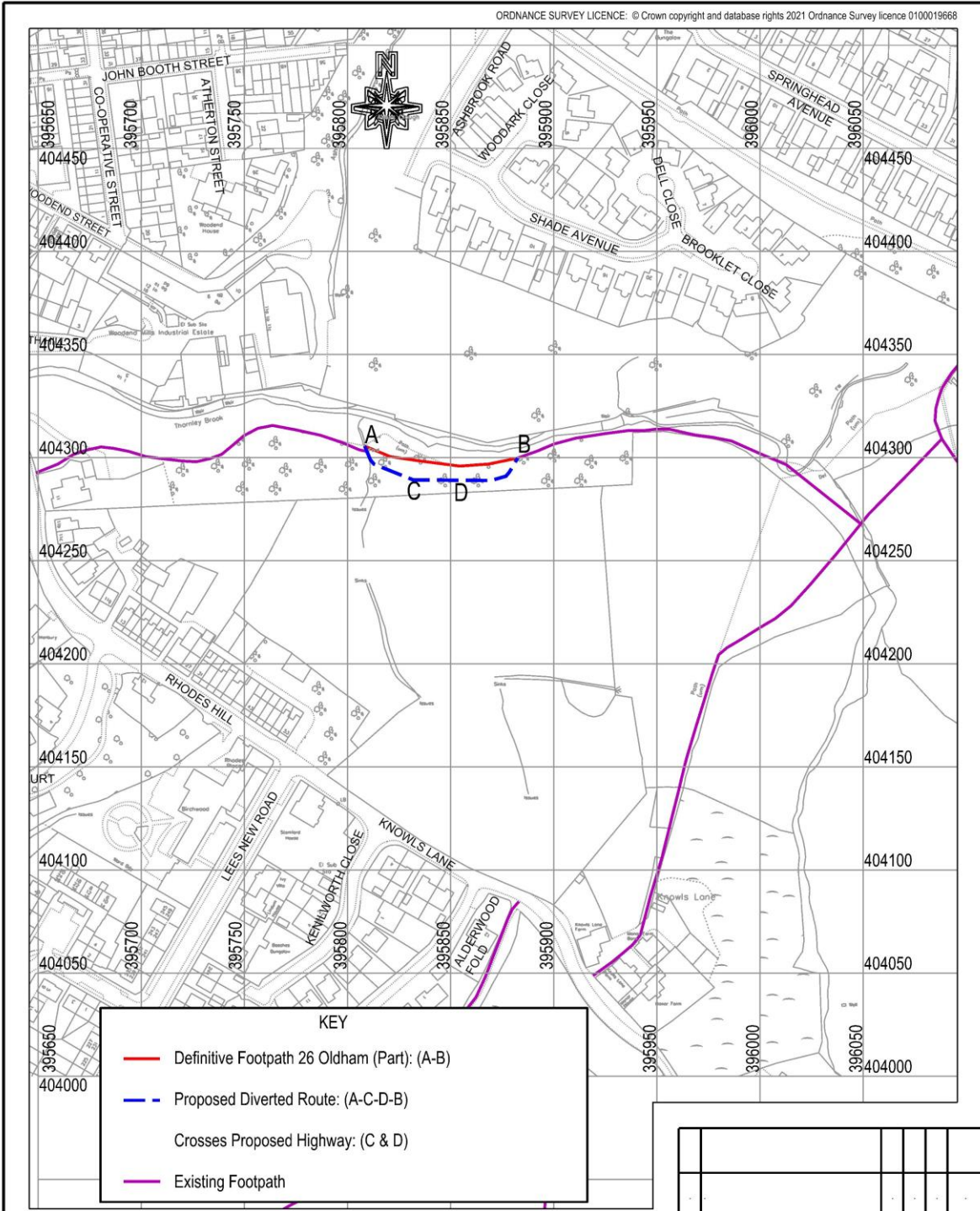
**Public Path Diversion and Definitive Map and Statement Modification Order
S257 Town and Country Planning Act 1990 - Diversion of Footpath 26 Oldham, land off
Knowls Lane, Oldham and s53A Wildlife and Countryside Act 1981 Modification of the
Definitive Map and Statement**

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

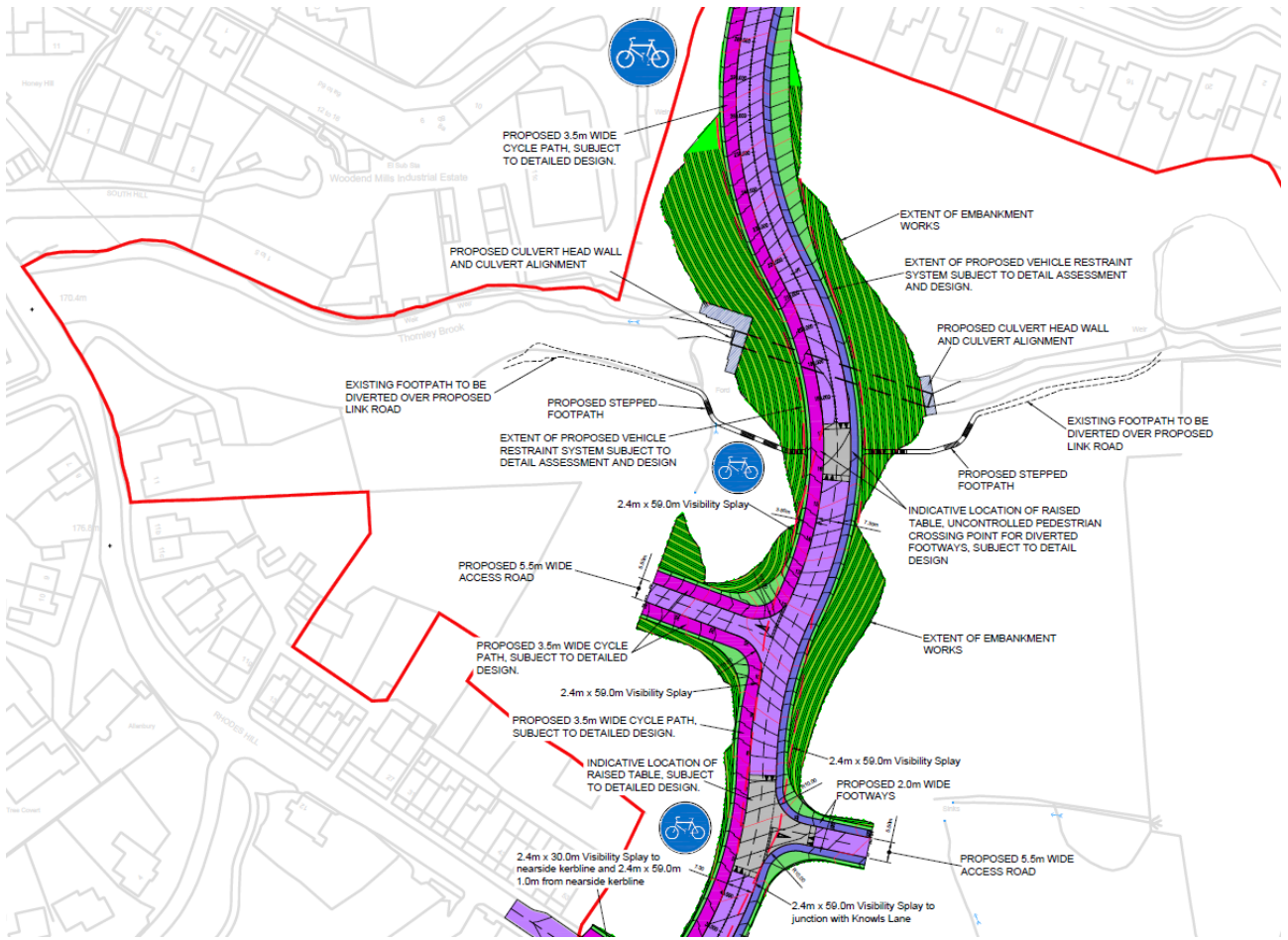
- 2.1 The route of Footpath 26 Oldham is shown on attached plan (764/A4/226/1). The path commences off Rhodes Hill South of Thornley Brook following an easterly route to its junction with Footpath 25 Oldham for approximately 480m. The existing route runs through undeveloped land (i.e. fields). The description 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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KEY			
	Definitive Footpath 26 Oldham (Part): (A-B)		
	Proposed Diverted Route: (A-C-D-B)		
	Crosses Proposed Highway: (C & D)		
	Existing Footpath		

Rev	Revision details	By	Chk	App.	Date

<p>Oldham Council</p>	Client Oldham MBC		Title Diversion of Public Highway Combined Order s119 Highways Act 1980 Diversion of Public Footpath 26 Oldham (part) and Wildlife and Countryside Act 1981 S53(2) Modification of the Definitive Map and Statement
	Project Knowls Lane Link Road		
<p>Unity partnership HIGHWAYS & ENGINEERING Henshaw House, Cheapside, Oldham OL1 1NY</p>	Drawn by RW	Date 12/21	Purpose of issue Order Plan
	Checked by LK	Date 12/21	Scale at A4 size
	Approved by GS	Date 12/21	1:2500
Drawing No. 764/A4/226/1		Rev. .	



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.	

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

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 16th 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

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.

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.”

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.”
