

## **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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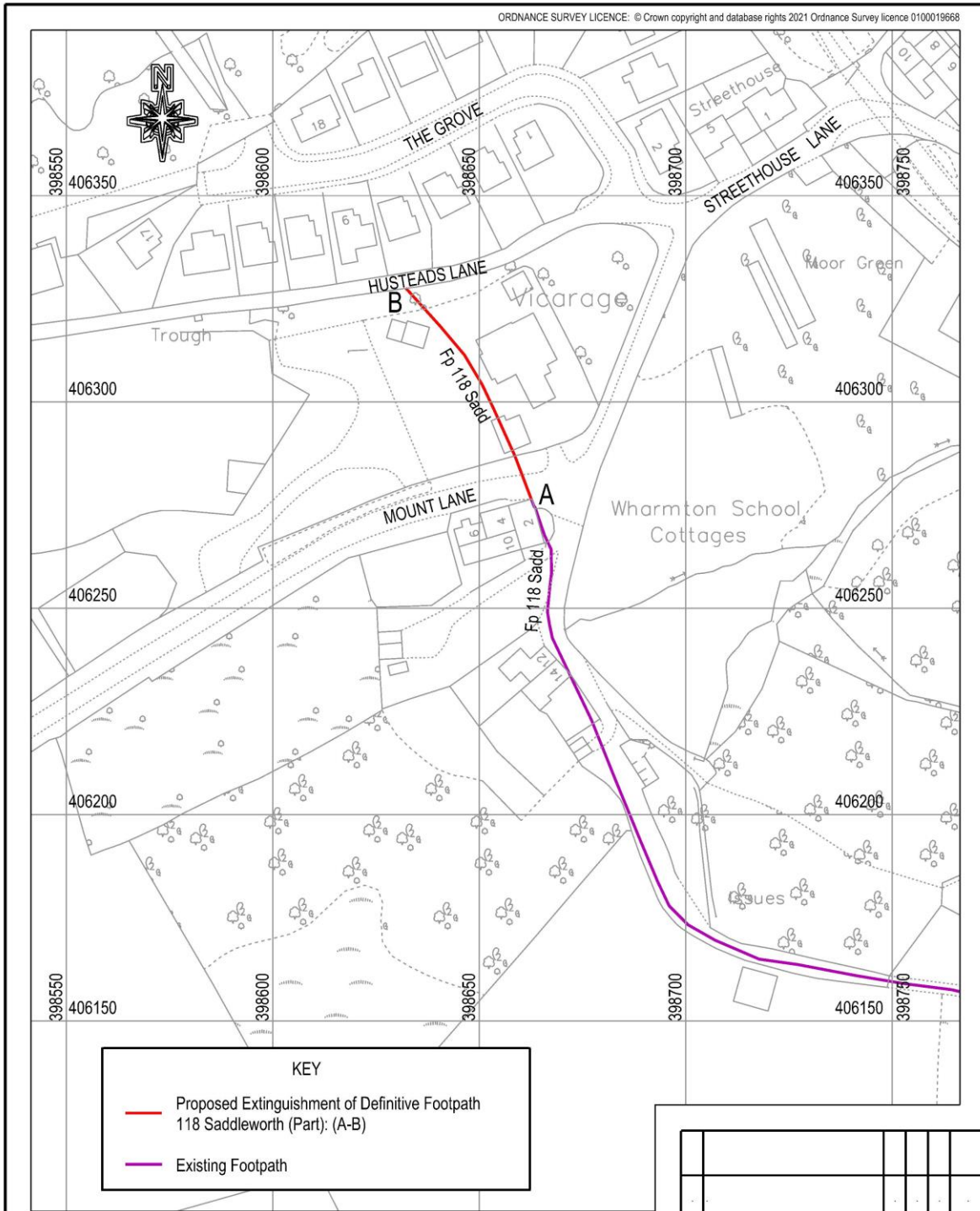
## 1 Background

- 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 The Government have issued 'Draft Guidance on the diversion or extinguishment of rights of way that pass through gardens, farmyards and commercial premises'.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.



**KEY**

- Proposed Extinguishment of Definitive Footpath 118 Saddleworth (Part): (A-B)
- Existing Footpath

Rev	Revision details	By	Chk	App.	Date

 <b>Oldham Council</b>	Client Oldham MBC		Title Extinguishment of Public Highway Combined Order s119 Highways Act 1980 Extinguishment of Public Footpath 118 Saddleworth (part) and Wildlife and Countryside Act 1981 S53(2) Modification of the Definitive Map and Statement
	Project The Vicarage, Mount Lane, Dobcross		
 <b>HIGHWAYS &amp; ENGINEERING</b> Henshaw House, Cheapside, Oldham OL1 1NY	Drawn by RW	Date 11/21	Purpose of issue Order Plan
	Checked by LK	Date 11/21	Scale at A4 size 1:1250
	Approved by GS	Date 11/21	Drawing No. <b>764/A4/228/1</b>
			Rev. .

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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.