

Report to TRO Panel

Definitive Map and Statement Modification Order

S257 Town and Country Planning Act 1990 – Diversion of Definitive Footpaths 8 & 176 Oldham, at Snipe Clough, Oldham, and S53A – Wildlife and Countryside Act 1981

Portfolio Holder:

Councillor J Stretton, Cabinet Member for Neighbourhoods

Officer Contact: Gordon Anderson, Head of Highways & Engineering

Report Author: Liam Kennedy, PRow Officer

29th September 2022

Purpose of Report

To seek approval to the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpaths 8 & 176 Oldham as detailed in the report.

Executive Summary

The Council has received an application from Sanderson Associates (Consulting Engineers Limited acting as agent to OMBC (c/o Andrew Hall) to facilitate the proposed development of the Northern Roots site Bike Hub off Cherry Avenue, Oldham (land at Snipe Clough). Planning Ref: FUL/348472/22 (granted 25th August 2022).

Recommendation

It is recommended that the Council make a Public Path Diversion and Definitive Map and Statement Modification Order for the diversion of Footpaths 8 & 176 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 Footpaths 8 & 176 Oldham,
at Snipe Clough, Oldham and S53A Wildlife and Countryside Act 1981 Modification
of the Definitive Map and Statement**

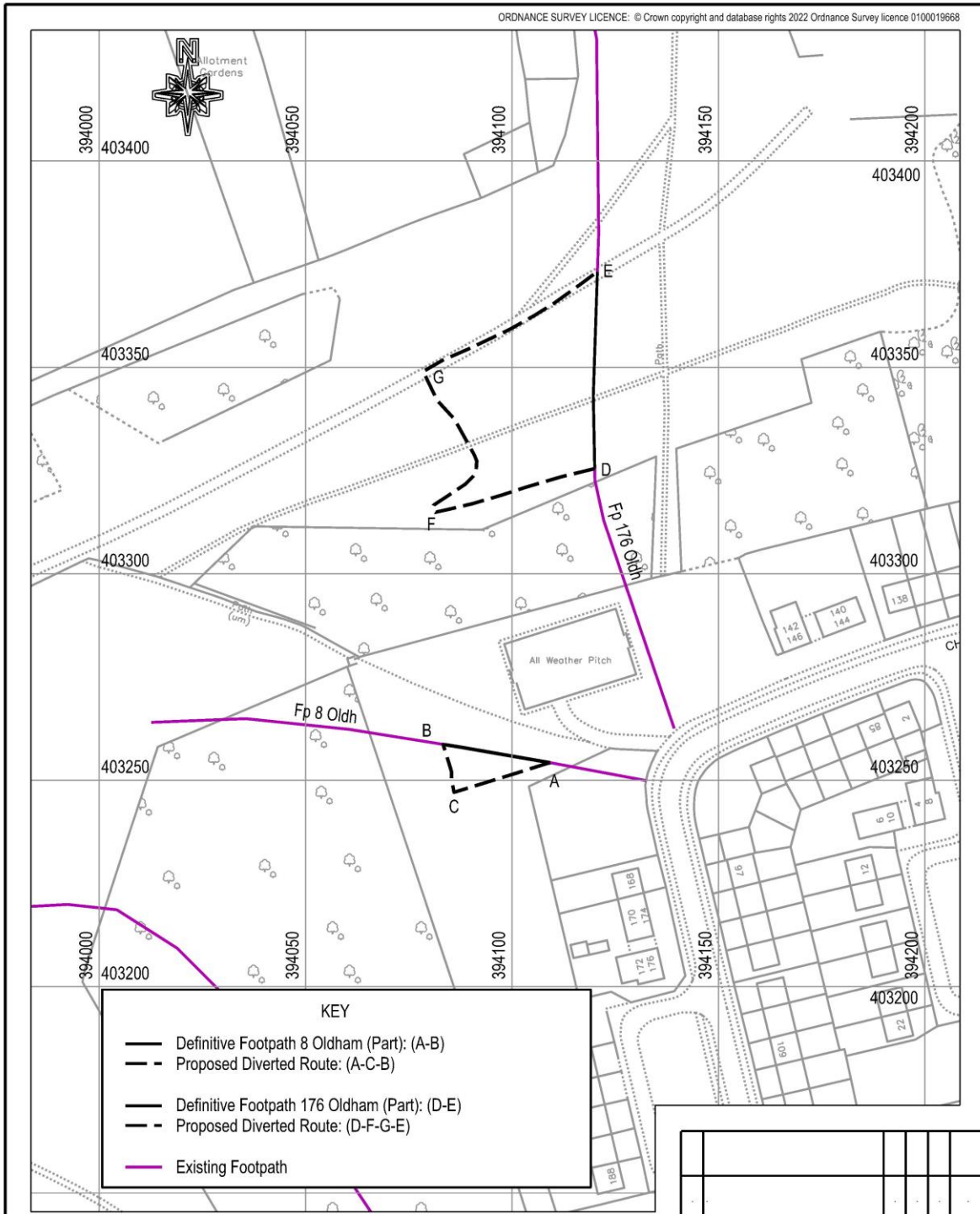
1 Background

- 1.1 The application has been made by OMBC via their agent named above in relation to the proposed development of the Northern Roots site (FUL/348472/22) for a Bike Recreation Hub, including 2 bike track areas, ancillary service area and new car park.
- 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 8 Oldham is shown on the attached plan (764/A4/234/1). The path commences off Cherry Avenue, Oldham (GR SD94132 03250) proceeding West to terminate at (GR SD94012 03265). The description of the current route is given in Schedule 1.
- 2.2 The diverted route is also shown on the plan and follows points A-C-B. The description of the diverted route is given in Schedule 2.
- 2.3 The route of Footpath 176 Oldham is shown on the attached plan (764/234/1). The path commences off Cherry Avenue, Oldham (GR SD94139 03263) proceeding North terminating slightly East of Matthew Close. The description of the current route is given in Schedule 1.
- 2.4 The diverted route is also shown on the plan and follows points D-F-G-E. The description of the diverted route is given in Schedule 2.
- 2.5 The existing alignment of the footpaths would be directly affected by the development. On its current alignment FP176 Oldham would be severed by the bike track and FP8 Oldham would cross the parking area, which has safety implications for users of the footpath. Therefore diversions would be required in order to implement the granted planning application.
- 2.6 The required highway signage, from the metallised road and the way markers along the route will be paid for by the applicant.
- 2.7 If the order is confirmed it will be necessary to modify the Definitive Map and Statement for Footpaths 8 & 176 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.

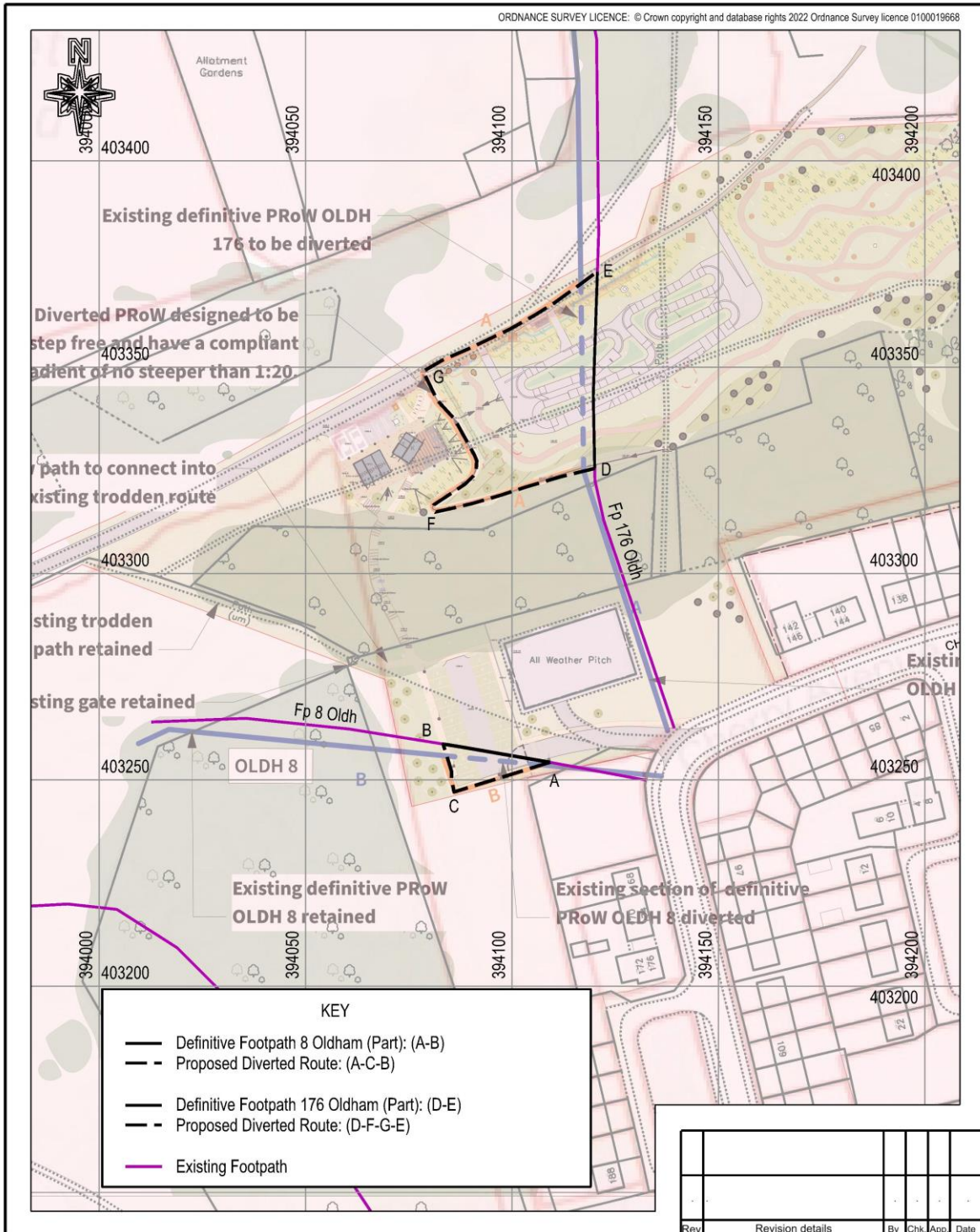


KEY	
	Definitive Footpath 8 Oldham (Part): (A-B)
	Proposed Diverted Route: (A-C-B)
	Definitive Footpath 176 Oldham (Part): (D-E)
	Proposed Diverted Route: (D-F-G-E)
	Existing Footpath

Rev	Revision details	By	Chk	App	Date

<p>Oldham Council</p> <p>Place and Economic Growth HIGHWAYS & ENGINEERING Henshaw House, Cheapside, Oldham OL1 1NY</p>	Client Oldham MBC		Title Diversion of Public Highway Combined Order s119 Highways Act 1980 Diversion of Public Footpath 6 Oldham (part) and Footpath 176 Oldham (Part) and Wildlife and Countryside Act 1981 S53(2) Modification of the Definitive Map and Statement	
	Project Proposed Bike Hub, Cherry Avenue, Oldham		Drawing No. 764/A4/234/1	
	Drawn by RW Checked by LK Approved by 	Date 07/22 Date 07/22 Date 	Purpose of issue information Scale at A4 size 1:1250	Rev.

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<p>Oldham Council</p>	Client	Oldham MBC			Title Diversion of Public Highway Combined Order s119 Highways Act 1980 Diversion of Public Footpath 6 Oldham (part) and Footpath 176 Oldham (Part) and Wildlife and Countryside Act 1981 S53(2) Modification of the Definitive Map and Statement
	Project	Proposed Bike Hub, Cherry Avenue, Oldham			
Place and Economic Growth HIGHWAYS & ENGINEERING Henshaw House, Cheapside, Oldham OL1 1NY	Drawn by	RW	Date	07/22	Drawing No. 764/A4/234/1
	Checked by	LK	Date	07/22	
	Approved by		Date		

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Schedule 1

Description of Existing Footpath Routes – Drawing 764/A4/234/1

Existing FP 8 Oldham commences off Cherry Avenue, Oldham (GR SD94132 03250) proceeding West for a distance of approximately 73 metres to terminate at (GR SD94012 03265).

Existing FP 176 Oldham commences off Cherry Avenue, Oldham at (GR SD94139 03263) following a northern route for approximately 460m to terminate slightly East of Matthew Close at (GR SD94104 03592).

Schedule 2

Description of Proposed Diverted Footpath Routes – Drawing 764/A4/234/1

Footpath 8 Oldham commences off Cherry Avenue, Oldham (GR SD94132 03250) and proceeds in a slightly West-North-Westerly heading for a distance of approximately 29m to Point A (GR SD94109 03254) then heads directly West for a distance of approximately 24m to Point C (GR SD94086 03247) then heading North for a distance of approximately 12m to Point B (GR SD94083 03259) then continuing in a West-North-Westerly heading for a distance of approximately 47m to this section of Footpath 8 Oldham's termination point at (GR SD94012 03265) for a total distance of 112m or thereabouts. This route follows the proposed layout of the development in the Developments plan shown above

Footpath 176 Oldham commences off Cherry Avenue, Oldham (GR SD94139 03263) and proceeds North for a distance of approximately 65m to Point D (GR SD94120 03325) then proceeds West for a distance of approximately 40m to Point F (GR SD94081 03315) where the route heads East and then North between the bike wash/staff parking area & Cycle Track for a distance of approximately 43m to Point G (GR SD94079 03349) then heading East-North-East for a distance of approximately 49m to Point E (GR SD94121 03373), finally proceeding North for a distance of approximately 347m to terminate slightly East of Matthew Close at (GR SD94104 03592) for a total distance of 544m or thereabouts. This route follows the proposed layout of the development in the Developments plan shown above.

Schedule 3

Current Definitive Statement

District and page number	Page Number	Status	Length	Description	Comments
Oldham Footpath 8	10	Footpath	530 metres	The path begins at Cherry Avenue on Alt Estate and runs down the side of the clough where it crosses the stream by means of stepping stones. From here it runs steeply up the side of the clough until it crosses Path 1 and the disused railway line. The path is cinder surfaced for a few yards off Cherry Avenue and afterwards becomes a worn grass track. Beyond the footbridge the worn grass track runs along the northern boundary fence of Fitton Hill County Infant School to North Croft at Fitton Hill. The path	Public path extinguishment order 1976 confirmation date 20/4/77 operative date 3/5/77 DMMO part deleted (1977 order)

<p>Oldham Footpath 176</p>	<p>10</p>	<p>Footpath</p>	<p>460 metres</p>	<p>begins at Cherry Avenue on Alt Estate and proceeds in a easterly direction across the reclamation site at Deanshot Clough. The path recommences on the road crossing the disused railway then runs along the northern boundary fence at Fitton Hill Infants to North Croft.</p> <p>From Warren Lane in a SS. Easterly direction passes to the east of St. Albans School. Path is poorly defined past the school. Path crosses waste ground and adventure playground to the east of allotment gardens and becomes more defined through the clough to Cherry Avenue.</p>	
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Schedule 4

Modification of Definitive Statement

District and page number	Page Number	Status	Length	Description	Comments
Oldham Footpath 8	10	Footpath	574 metres	Footpath commences off Cherry Avenue, Oldham (GR SD94132 03250) and proceeds in a slightly West-North-Westerly heading for a distance of approximately 29m to (GR SD94109 03254) then heads directly West for a distance of approximately 24m to (GR SD94086 03247) then heading North for a distance of approximately 12m to (GR SD94083 03259) then continuing in a West-North-Westerly heading for a distance of approximately 47m to this section of Footpath 8 Oldham's termination point at (GR SD94012 03265). Route continues further West at (GR SD93937 03256) through Snipe Clough continuing in a generally Westerly direction to join North Croft, Fitton Hill at (GR SD93502 03192).	
Oldham Footpath 176	10	Footpath	544 metres	Footpath commences off Cherry Avenue, Oldham (GR SD94139 03263) and proceeds North for a distance of approximately 65m to (GR SD94120 03325) then proceeds West for a distance of approximately 40m to (GR SD94081 03315) where	

				the route heads East and then North between the bike wash/staff parking area & Cycle Track for a distance of approximately 43m to (GR SD94079 03349) then heading East-North-East for a distance of approximately 49m to (GR SD94121 03373), finally proceeding North for a distance of approximately 347m to terminate slightly East of Matthew Close at (GR SD94104 03592).	
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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 enable continued usage of the PROW network whilst simultaneously facilitating the construction and development of the site to provide a community based facility for the residents of the Borough.

5 Informal Consultation

5.1 Parish Council
Not applicable

5.2 Footpath Societies
The Ramblers Association, Peak & Northern Footpath Society & Wednesday Walkers were consulted on the proposal. Suggestions were made in relation to the part extinguishment of the section of Footpath 8, Oldham that leads off Cherry Avenue. Issues relating to the potential of increased usage of bicycles on the Definitive Footpaths in the area due to the nature of the development were also raised. Disability Discrimination Act compliant kissing gate installation was explored with the developer but deemed not practical due to the routes not being fenced in.

Therefore there would be no deterrent as cyclists would simply cycle around the structure.

5.3 Ward Councillors

None received.

5.4 Landowners

The only affected landowner is the applicant.

6 **Financial Implications**

6.1 The application is made on behalf of OMBC via their agent Sanderson Associates (Consulting Engineers Limited). Due to the application being internal the advertising and notice posting fees will be the only payable costs to be funded via Andrew Hall.

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**

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.

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.

20 **Appendices**

20.1 Appendix 1 (developers footpath construction detail for diverted sections)