

## TRO Panel

**Decision Maker:** Director of Environment, Nasir Dad

**Date of Decision:** 23 November 2023

**Subject:** Definitive Map and Statement Modification Order

**S257 Town and Country Planning Act 1990 – Diversion of Definitive Footpaths 83, 84 & 88 Crompton, at Land off Cocker Mill Lane, Shaw, and S53A – Wildlife and Countryside Act 1981**

**Report Author:** Liam Kennedy, PRoW Officer

**Ward:** Crompton

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**Reason for the decision:** The Council has received an application from Redrow Homes Lancashire to facilitate the proposed development of 201 dwellings at Land off Cocker Mill Lane, Shaw. Planning Ref: FUL347664/21 (granted 21/01/2022).

**Summary:** To seek approval to the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpaths 83, 84 & 88 Crompton as detailed in the report to replace the Order made on 28 June 2023.

**Background:** The application has been made by Redrow Homes Lancashire in relation to the proposed construction of a residential development of 201 dwellings (FUL/347664/21)

The Order-making and Confirming Authority are guided to authorise the diversion and/or extinguishment 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.

In January 2023, the TRO Panel approved a different Public Path Diversion and Definitive Map and Statement Modification Order for Footpaths

83, 84 & 88 Crompton for the same development, which did not involve diverting some of the footpaths along proposed estate roads to be constructed pursuant to the planning permission. Diversions along estate roads are contrary to the Secretary of State's guidance in Rights of Way Circular 1/09 that in considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic.

A Public Path Diversion and Definitive Map and Statement Modification Order was subsequently made on 28 June 2023 and advertised. A number of objections were received from the Ramblers Association and the Peak and Northern Footpath Society that the diversions were not following the proposed estate roads.

The developer has requested that a new Public Path Diversion and Definitive Map and Statement Modification Order be made to address the objections, rather than delay matters by referring the existing Order to the Planning Inspectorate for consideration. The Council is currently experiencing considerable time delays with Footpath Orders which are with the Planning Inspectorate for determination and officers support the developer's request.

In the interest of expediency, a new order is requested accommodating the requests of the objectors for the diversion of the existing footpaths to follow the estate roads. This decision is supported by the applicant.

**Proposal:**

The route of Footpath 83 Crompton is shown on attached plan (764/A4/242/1). The path commences at point A, approx. 108m west of Cowlshaw following a northerly route for approximately 141m to point B, it then proceeds in a general north-westerly direction for approximately 109m to point C. The existing route runs through undeveloped land (i.e. fields). The description of the current route is given in Schedule 1.

The diverted route is also shown on the plan and follows points G-H-I-C. At point C the diversion re-joins Footpath 83 Crompton on its existing alignment. The description of the diverted route is given in Schedule 2.

The route of Footpath 84 Crompton is shown on attached plan (764/A4/242/1). The path commences at point A, approximately 108m west of Cowlshaw following a northerly direction for approximately 141m to point B, and then proceeds in a general north-easterly direction for approximately 40m to point D. The description of the current route is given in Schedule 1.

The diverted route is also shown on the plan and follows points C-D, F-J-K-L. The description of the diverted routes is given in Schedule 2.

The route of Footpath 88 Crompton is shown on attached plan (764/A4/242/1). The path commences at point E and follows a northerly, then easterly direction for approximately 116m to point A at its junction with Footpaths 83 & 84 Crompton. The path continues east for approximately 94m to point F on Cowlshaw. The description of the current route is given in Schedule 1.

The diverted route is also shown on the plan and follows points E-M-L-F. At point F the diversion re-joins Footpath 88 Crompton on its existing alignment. The description of the diverted route is given in Schedule 2.

The existing alignment of the footpaths would be directly affected by the housing development being constructed by the applicants.

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.

If the order is confirmed it will be necessary to modify the Definitive Map and Statement for Footpaths 83, 84 & 88 Crompton. 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.

***What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):***

Option 1: To approve the recommendation  
Option 2: Not to approve the recommendation.

It is recommended that Option 1 be approved as otherwise the developer is likely to suffer from considerable delays if the Council proceeds to refer the Public Path Diversion and Definitive Map and Statement Modification Order of 28 June 2023 to the Planning Inspectorate for determination.

***Consultation: including any conflict of interest declared by relevant Cabinet Member consulted***

The Ward Members have been consulted and no representations have been received.

Shaw and Crompton Parish Council has been consulted and (Planning Committee on behalf of the Parish Council) support the recommendation.

Footpath Societies have been consulted and;

- The Ramblers Association have no objection to the proposal.
- The Wednesday Walkers have no objection to the proposal.
- The Peak and Northern Footpath Society have no objection to the proposal.

Landowners - the applicant is the only affected landowner.

***Recommendation(s):***

It is recommended that:

1. the Council make a Public Path Diversion & Definitive Map and Statement Modification Order for the diversion of Footpaths 83, 84 & 88 Crompton 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 the Director of Environment 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.

2. No further action be taken to progress the Oldham Borough Council (Footpaths 83, 84 and 88 Crompton) Public Path Diversion and Definitive Map and Statement Modification Order 2023 made on 28 June 2023.

## Implications:

*What are the **financial** implications?*

The cost for introducing the order will be £2.68k and will be revenue expenditure.

This will be funded from the application fee of £2.68k already received from the applicant within the Highways TRO budget.

(John Edisbury)

*What are the **legal** implications?*

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)

*What are the **procurement** implications?*

None

*What are the **Human Resources** implications?*

None

<b>Oldham Impact Assessment Completed (Including impact on Children and Young People)</b>	No
<i>What are the <b>property</b> implications</i>	None
<b>Risks:</b>	None
<b>Co-operative implications</b>	Diversion of Definitive Footpaths 83, 84 & 88 Crompton will strengthen future partnership working with Redrow Homes Lancashire and provide a safe footpath for residents  (Mahmuda Khanom)
<b>Community cohesion disorder implications in accordance with Section 17 of the Crime and Disorder Act 1998</b>	None
<b>Environmental and Health &amp; Safety Implications</b>	None
<b>IT Implications</b>	None

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Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?	Yes
Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget?	Yes
Are any of the recommendations within this report contrary to the Policy Framework of the Council?	No
<b>Schedule 1 – Description of Existing Footpath Routes – Drawing 764/A4/242/1</b>	Existing FP83 Crompton commences at point A (GR SD93032 08354) proceeding in a northerly direction for a distance of approximately 141 metres to point B (GR SD92981 08486) then proceeds in a general north-westerly direction for approximately 109 metres to point C (GR SD92886 08513). The path then continues in a north-westerly direction for approximately 640 metres then in a south-westerly direction for approximately 284 metres to cross the former Urban District Boundary where the path becomes Footpath 57 Royton.

Existing FP84 Crompton commences at point A (GR SD93032 08354) proceeding in a northerly direction for a distance of approximately 141 metres to point B (GR SD92981 08486) then proceeds in a north-easterly direction for approximately 40 metres to point D (GR SD93014 08506) continuing in a north-easterly direction for a further 58 metres then proceeding in a northerly direction for a distance of approximately 431 metres to end at Edward Road.

Existing Footpath 88 Crompton commences at point (GR SD92867 08088) at the former Urban District boundary proceeding in an easterly direction for a distance of approximately 104m (this length of Footpath is also part of Footpath 56 Royton) to Cockermill Lane where it meets Footpath 55 Royton, it then proceeds in a northerly then easterly direction for a distance of approximately (387m) where it meets Cowlshaw and Footpath 53 Royton (GR SD393141 08382), continuing in an easterly direction for a distance of approximately 84m along Cowlshaw where the footpath ends (GR SD93223 08398).

**Schedule 2 – Description of Proposed Diverted Routes – Drawing 764/A4/242/1**

Footpath 83 Crompton commencing at point G (GR SD92955 08227) proceeding in a westerly direction along the footway of the estate road for a distance of approximately 112 metres to point H (GR SD92845 08247) then proceeding north along the western boundary of the development site for a distance of approximately 238 metres to point I (GR SD92826 08481) then proceeding in a north-easterly direction for a distance of approximately 68 metres to point C (GR SD92886 08513) to proceed in a north-westerly direction on FP83s existing alignment.

Footpath 84 Crompton commencing at point C (GR SD92886 08513) proceeding in an easterly direction along the northern boundary of the development site for a distance of approximately 132 metres to point D (GR SD93014 08506) then proceeding in a north-easterly direction for a distance of approximately 37 metres to point F (GR SD93119 08380) (D-F is on the existing alignment of FP84 Crompton) and continuing in

an easterly direction for a distance of approximately 119 metres to point J (GR SD93153 08484) to meet the estate road. Then proceeding south along the footway of the estate road for a distance of approximately 58 metres to point K (GR SD93146 08427) and proceeding directly west continuing on the footways of the estate road for a distance of approximately 29 metres to point L (GR SD93117 08426) to meet FP88 Crompton on its proposed diverted alignment.

Footpath 88 Crompton commences at point E (GR SD92964 08285) proceeding in a northerly direction along the footway of the estate road for a distance of approximately 150 metres to point M (GR SD92959 08434) then directly east continuing on the footway of the estate road for a distance of approximately 158 metres to point L (GR SD93117 08426), then proceeding south continuing on the footway of the estate road for a distance of approximately 46 metres to point F (GR SD93119 08380).

**Schedule 3 – Current Definitive Statement**

See below table.

District and page number	Page Number	Status	Length (m)	Description	Comments
Crompton Footpath 83	5	Footpath	1269	Path from Park Lane, Royton to Cowlshaw. Path proceeds east of Heyhill Farm towards a stile and then proceeds northwards along the western edge of a field boundary towards another stile whereby the path heads	Public path diversion (part) order 12.5.95 Approx. 2m wide  s118 & s119 Highways Act 1980 & s53(2) Wildlife & Countryside Act 1981 DMMO, Diversion & (part) Extinguishment.  Order Nos: (part) Extinguishment 5847/20 Order Made: 12/08/2020,



				<p>in a westerly direction along the north side of a field boundary and then heads in a north-easterly direction with a spur path on the north side of a field boundary linking to Low Crompton Road through a stile. Path follows north-east course through a further stile to field boundary below Low Crompton Farm (with spur path linking through gate with Low Crompton Road near the farmhouse) and thence turns south-east to follow field boundaries through four stiles to source of River Irk. Path then crosses field to stile at</p>	<p>Order Confirmed: 02/12/2020  Diversion 5848/20 Order Made: 12/08/2020,  Order Confirmed: 02/12/2020,  Order Brought into Effect: 30/12/2020  File: TM2-242</p>
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Crompton Footpath 84	5	Footpath	482	field boundary to further stile and thence south to link with occupation road at Cowlshaw (opposite No 47)  Path from Cowlshaw to Edward Street. Path commences at occupation road at Cowlshaw and follows line of footpath No.83 for 110 metres to gate. Path passes through gate and stile and in northerly direction along boundaries of two fields and through two further stiles to Edward Street	Public path diversion (part) order 12.5.95
Crompton Footpath 88	5	Footpath	531	From Diamond Rope Works to Cowlshaw. Path crosses boundary from Urban District of Royton on	

				<p>road (Cocker Mill Lane) along the side of Diamond Rope Works. Path continues to end of road and thence follows field boundary in northerly direction for approx 174 metres to join occupation road from Cowlshaw Farm. Path then follows occupation road in easterly direction past farm buildings and cottages to link with Cowlshaw Lane off Manchester Road. A further short length of path (approx 55 metres) leads off from occupation road - east of farm in a southerly direction to cross Urban District Boundary near to No.45 and continues to Higher Fold</p>	
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**Schedule 4 – Modification of Definitive Statement**

See below table. Additions in bold.

District and page number	Page Number	Status	Length (m)	Description	Comments
Crompton Footpath 83	5	Footpath	<b>1428</b>	Path from Park Lane in former Urban District of Royton to Cowlshaw. Path crosses boundary with former Royton Urban District 91 metres east of Low Crompton Road at watercourse and proceeds northwards <b>passing to the east of</b> Hey Hill Farm with spur path linking with Low Crompton Road through a stile. Path follows north-east course through a further stile to field boundary below Low Crompton Farm (with spur path linking through gate with Low Crompton Road near the farmhouse) and thence turns south-east to follow field boundaries through four stiles to source	Public path diversion (part) order 12.5.95 Approx. 2m wide  s118 & s119 Highways Act 1980 & s53(2) Wildlife & Countryside Act 1981 DMMO, Diversion & (part) Extinguishment.  Order Nos: (part) Extinguishment 5847/20 Order Made: 12/08/2020, Order Confirmed: 02/12/2020 Diversion 5848/20 Order Made: 12/08/2020, Order Confirmed: 02/12/2020, Order Brought into Effect: 30/12/2020 File: TM2-242  <b>Path from Park Lane to River Irk (FP57 Royton) FP83 Crompton starts at River Irk</b>

Crompton Footpath 84	5	Footpath	828	<p>of River Irk. Path then crosses field to stile at field boundary to further stile at <b>GR SD92886 08513 and proceeds south west for a distance of approximately 68 metres to GR SD 92826 08481 then proceeds south for a distance of approximately 238 metres along the western boundary of housing estate to GR SD92845 08247 to join the estate road and proceed east for a distance of approximately 112 metres following the footway of the estate road to GR SD92955 08227 to join FP88 CROMP.</b></p> <p><b>Path commences at GR SD93110 08958 on Edward Road proceeding in a generally southern direction for a</b></p>	<p><b>1.5 metres wide</b></p> <p>Public path diversion (part) order 12.5.95</p> <p><b>1.5 metres wide</b></p>
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				<p>distance of approximately 453 metres to GR SD93119 08380. At this point Footpath 84 branches to the east and west.</p> <p><b>WESTERN BRANCH</b> proceeds in a south-westerly direction for a distance of approximately 37 metres to GR SD93014 08506 then immediately west for a distance of approximately 132 metres along the northern boundary of housing estate to GR SD92886 08513 where the route joins existing Footpath 83 Crompton.</p> <p><b>EASTERN BRANCH</b> continues east from GR SD93119 08380 for a distance of approximately 119m to join the estate road at GR SD93153 08484 then proceeds south along</p>	
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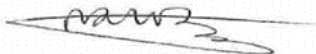
Crompton Footpath 88	5	Footpath	719	<p>the footway of the estate road for a distance of approximately 58m to GR SD93146 08427 then proceeding west along the footway of the estate road for a distance of approximately 29 metres to GR SD93117 08426 to join existing Footpath 88 Crompton.</p> <p>Footpath commences at GR SD92867 08088 proceeding east for a distance of approximately 107 metres to Cocker Mill Lane at GR SD92959 08132 then proceeding in a northerly direction for a distance of approximately 152 metres to GR SD92964 08285 following the estate road footway, continuing on the footway north for a distance of approximately</p>	
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				<p>150 metres to GR SD92959 08434 then proceeding immediately east along the estate road footway for a distance of approximately 158 metres to GR SD93117 08426 at its junction with Footpath 84 Crompton then heading south for a distance of approximately 46 metres to GR SD93119 08380 then heading east for a distance of approximately 106 metres to terminate on Cowlshaw at GR SD93223 08398.</p>	
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There are no background papers for this report

<b>Report Author Sign-off:</b>	
Liam Kennedy	
<b>Date:</b> 3 November 2023	

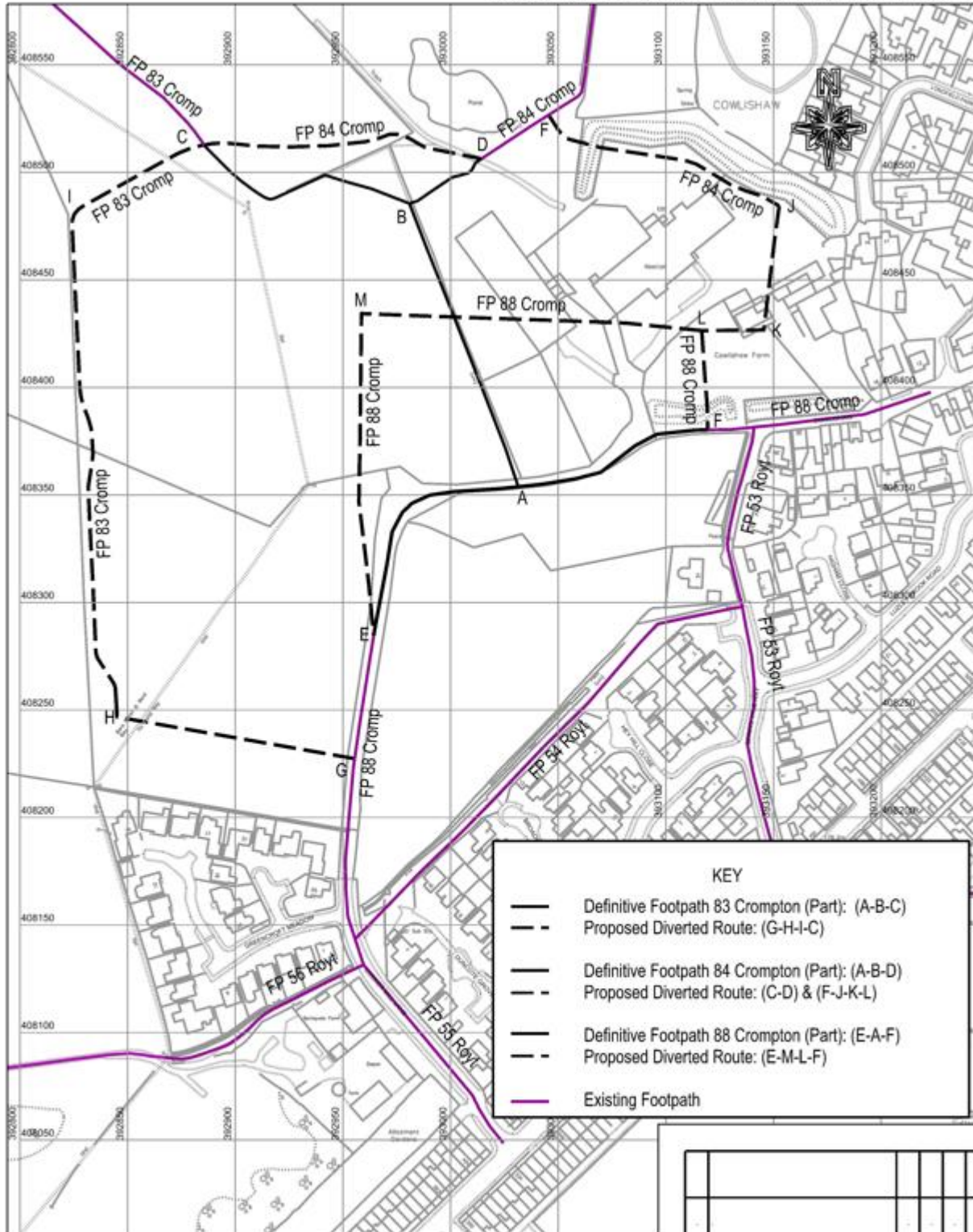
In consultation with Director of Environment



Signed :

Date: 8.11.23






**Oldham Council**

**Place and Economic Growth  
HIGHWAYS & ENGINEERING**  
Henshaw House, Cheapside, Oldham OL1 1NY

Client Oldham MBC		
Project Development at Cocker Mill Lane, Shaw		
Drawn by RW	Date 09/23	Purpose of issue information
Checked by LK	Date 09/23	Scale at A4 size
Approved by	Date	1:2500

Rev	Revision details	By	Chk	App	Date

Title  
Diversion of Public Highway Combined Order s257 Town and Country Planning Act 1990  
Diversion of Public Footpath 83, 84 & 88 Crompton (part), and Wildlife and Countryside Act 1981 S53(2) Modification of the Definitive Map and Statement

Drawing No.  
**764/A4/242/1**

Rev.  
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