

TRO Panel

Decision Maker: Director of Environment, Nasir Dad

Date of Decision: 14 March 2024

Subject: Definitive Map and Statement Modification Order Update

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

Report Author: Liam Kennedy, PRoW Officer

Ward: Saddleworth West & Lees

Reason for the decision: N/A

Summary: To update members on the current position in relation to the proposed diversion of Definitive Footpath 26, Oldham.

Background: The Council 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) which required the diversion of part of Footpath 26 Oldham to facilitate the construction of the link road.

Oldham Council have the power subject to Section 257 Town and Country Planning Act to divert Footpath 26 Oldham in order for the development to be carried out in accordance with the granted planning permission.

Oldham Council made an order diverting Footpath 26 Oldham over the proposed link road via a stepped route on 4th May 2022 which was subsequently advertised in the local press and received numerous objections.

As the objections could not be resolved the matter was referred to the Planning Inspectorate and a Public Inquiry was held 13th-14th June 2023. The Inspector's decision (ref: ROW/3303492) NOT to confirm the Made Order was issued 31st July 2023. Russell Homes successfully challenged the Inspector's decision by judicial review and a Consent Order (ref: AC-2023-LON-002664) was confirmed by the High Court quashing the Inspector's decision on 27th October 2023.

As a result of the High Court Consent Order, we are now in a position of having made the Order and it remains to be confirmed. As objections remain unresolved, the matter has again been referred to the Secretary of State to confirm the Made Order and will be determined by an Inspector appointed on behalf of the Secretary of State by the written representations procedure.

Proposal:

It is to be noted that modifications to the Made Order are required to amend the description of the overall length and description of the footpath in the definitive statement for Footpath 26 Oldham to reflect the fact that Footpath 26 Oldham terminates at Footpath 197 Saddleworth. Footpath 26 Oldham joins Footpath 25 Oldham and then they both run jointly to meet Footpath 197 Saddleworth where they both terminate. The measurements given in the Order were only between its commencement at Knowls Lane and where it joined Footpath 25 Oldham. The amendments also remove the reference to the number of steps and riser depth and to confirm that the diversion of the footpath would take effect when the Council certifies that the diverted route has been provided. The amendments were accepted by the previous Planning Inspector and would have been included in the Confirmed Order if her decision had been to confirm the Made Order. However as the Inspector did not confirm the Made Order and as her decision was subsequently quashed, the Council will need to submit the amendments to the Planning Inspectorate again to be considered by a new Inspector appointed as part of the written representations procedure. The proposed amendments to the Made Order are detailed in Appendix 2.

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

Option 1 is to agree to the proposed amendments to the Made Order. Option 2 is to not agree to the proposed amendments.

It is recommended that Option 1 be approved to assist the Inspector as without modification the Made Order will be inaccurate as Footpath 26 Oldham will be incorrectly described in the definitive statement and it will be unclear when the diversion can be brought into effect (in the event that the Made Order is confirmed by the Planning Inspector).

If the Panel were to prefer Option 2 then Officers would not be authorised to confirm the Council's agreement to those corrections to the Inspector and so it would be a matter for the Inspector to decide whether they recommend to the Secretary of State that such modifications should be made in any event.

Recommendation(s):

The Panel is requested to note the report and to request that the Planning Inspector make the modifications to the Made Order detailed in Appendix 2.

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

N/A

N/A

Landowners - the applicant is the only affected landowner.

Implications:

What are the financial implications?

N/A

What are the legal implications?

The planning inspector may make minor modifications to a diversion order provided that they do not affect land not affected by the order (eg the modifications cannot make a diversion follow a different route). The proposed amendments to the Made Order do not affect the line of the proposed diversion route in the Made Order and can be considered to be minor as they are either procedural or they correct inaccuracies in the description of Footpath 26 Oldham in the definitive statement. (A Evans)

What are the procurement implications?	None
What are the Human Resources implications?	None
Oldham Impact Assessment Completed (Including impact on Children and Young People)	No
What are the property implications	None
Risks:	None
Co-operative implications	None
Community cohesion disorder implications in accordance with Section 17 of the Crime and Disorder Act 1998	None
Environmental and Health & Safety Implications	None
IT Implications	None

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

There are no background papers for this report

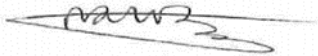
Report Author Sign-off:	
Liam Kennedy	
Date: 26 February 2024	

Please list and attach any appendices:-

Appendix number or letter	Description
1	Order
2	Proposed Amendments to the Order

In consultation with Director of Environment

Signed :



Date: 11 March 2024