

# **Definitive Map and Statement Modification Order**

## **S257 Town and Country Planning Act 1990 and S53A Wildlife and Countryside Act 1981 – Diversion of Definitive Footpath 28 Chadderton (part), at land off Westhulme Way, Coldhurst**

### **Portfolio Holder:**

Councillor C Goodwin, Cabinet Member for Don't Trash Oldham

**Officer Contact:** Nasir Dad, Director of Environment

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

**Ext.** 4325

**Highway Regulation Committee - 26 September 2024**

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### **Reason for Decision**

The Council has received an application from Lancet Homes, Sale, via their agent, Mode Transport Planning, Manchester, to divert part of Definitive Footpath 28 Chadderton to facilitate the proposed residential development of 10 dwellings on land off Westhulme Way, Coldhurst. Planning Ref: FUL/352791/24 (pending determination).

### **Executive Summary**

An application has been received to divert a section of Footpath 28 Chadderton under S257 Town and Country Planning Act 1990, to facilitate the development of 10 dwellings (FUL/352791/24). The diversion is necessary in order to implement the planning permission and the report seeks approval for the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpath 28 Chadderton as detailed below.

### **Recommendation**

It is recommended that the application be approved and the Council make a Public Path Diversion & Definitive Map and Statement Modification Order for the diversion of Footpath 28 Chadderton 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 and the Director of Legal 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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**Definitive Map and Statement Modification Order S257 Town and Country Planning Act 1990 and S53A Wildlife and Countryside Act 1981. Diversion of Definitive Footpath 28 Chadderton (part) at land off Westhulme Way, Coldhurst.****1 Background**

- 1.1 An application has been received from Lancet Homes, Sale via their agent Mode Transport Planning, Manchester to divert part of Definitive Footpath 28 Chadderton to facilitate the proposed residential development of 10 dwellings on land off Westhulme Way, Coldhurst. Planning Ref: FUL/352791/24. The Order-making and Confirming Authority are guided to authorise the diversion and/or extinguishment of any Footpath if they are satisfied it is necessary to do so in order for the development to be carried out in accordance with the granted planning permission.

**2 Current Position**

- 2.1 The route of Footpath 28 Chadderton is shown on attached plan (764/A4/246/1). The path commences at point A, 29 metres west of its junction with Footpath 27 Chadderton, proceeding in a generally westerly direction for a distance of approximately 29 metres to point B. The existing route runs through undeveloped land. 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-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 If the Order is confirmed, it will be necessary to modify the Definitive Map and Statement for Footpath 28 Chadderton. The Council have an obligation to continuously review the Map and Statement under the Wildlife and Countryside Act 1981. 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.

**3 Options/Alternatives**

- a) Option 1: To approve the recommendation.
- b) Option 2: Not to approve the recommendation.

**4 Preferred Option**

- 4.1 The preferred option is Option 1, as it is necessary to divert the existing alignment in order to enable the development to occur.

**5 Consultation**

- 5.1 The Ward Members have been consulted and no comments have been received.
- 5.2 The Footpath Societies have been consulted and;
- The Ramblers Association have no comments on this proposal 'as the diversion is minimal'

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- The Peak & Northern Footpath Society have not made comment on this proposal.
  - The Wednesday Walkers have no objection to this proposal.

## 6 **Community Cohesion Implications, including crime and disorder implications under Section 17 of the Crime and Disorder Act 1998**

6.1 None

## 7 **Risk Assessments**

7.1 The legal and financial risks are documented separately in this report. The introduction of a stopping up order for Footpath 28 and the realignment of the footpath on a diverted route transfers the liability for the original footpath from the Council ownership to the developer. The Council will still be responsible for the diverted footpath which is longer in length than the previous route. There could be reputation risks if the scheme didn't go ahead due to the developer not being able to develop the land.

Vicki Gallacher (Head of Insurance and Information Management)

## 8 **Co-operative Implications**

8.1 The proposals set out in this report facilitate a diversion of a public path to allow the development of 10 dwellings. This both takes into account resident requirements to use the path and supports our residents by increasing the supply of housing in the borough. As such, this proposal is in line with our cooperative agenda. (James Mulvaney, Policy Manager)

## 9 **Financial Implications**

9.1 The cost for the modification order to divert part of Footpath 28, Chadderton will be £3.3k and will be revenue expenditure. This will be funded in full from the developers, Lancet Homes.

(John Edisbury)

## 10 **Legal Implications**

10.1 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)

## 11 **Equality Impact, including implications for Children and Young People**

11.1 No

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12 **Key Decision**

12.1 No

13 **Key Decision Reference**

13.1 N/A

14 **Background Papers**

14.1 There are no background papers

**Schedule 1 – Description of Existing Footpath Route – Drawing 764/A4/246/1**

Existing Footpath 28 Chadderton commences at point A (GR SD91408 06446) proceeding in a westerly direction for a distance of approximately 29 metres to point B (GR SD91382 06448) and continues west on its existing alignment.

**Schedule 2 – Description of Proposed Diverted Route – Drawing 764/A4/246/1**

Footpath 28 Chadderton commencing at point A (GR SD91408 06446) off Furtherwood Road, proceeding in a northerly direction for a distance of approximately 2 metres to point C (GR SD91408 06448) then proceeding west for a distance of approximately 25 metres to point D (GR SD91383 06449) then south for a distance of approximately 2 metres to point B (GR SD91382 06448) then proceeding west on the existing alignment of Footpath 28.

**Schedule 3 – Current Definitive Statement**

District and path number	Page Number	Status	Length (m)	Description	Comments
CHADDERTON 28	5	Footpath	112	From the junction of Path No.26 and 29 to Boundary Park Road	

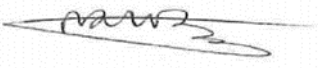
**Schedule 4 – Modification of Definitive Statement**

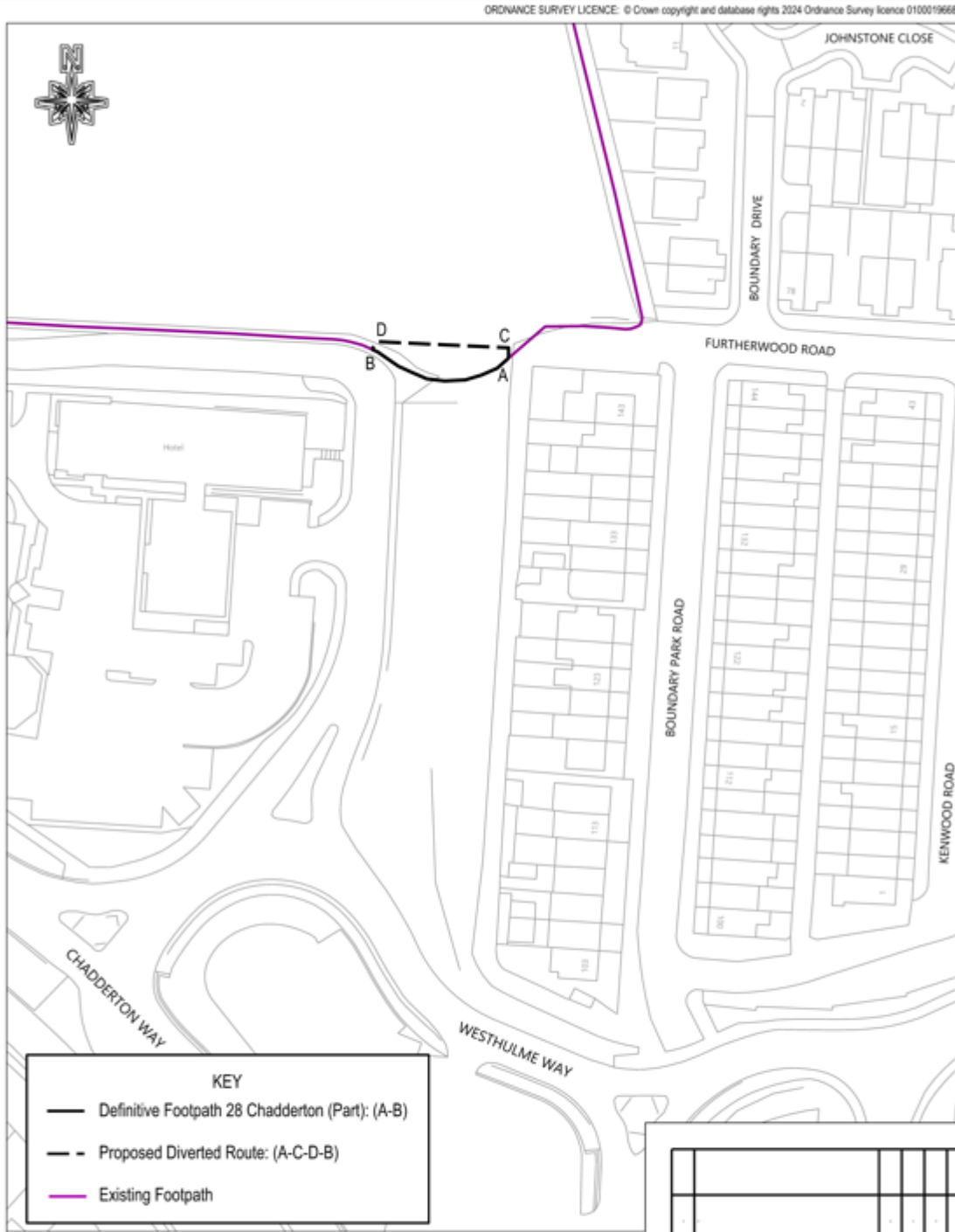
District and path number	Page Number	Status	Length (m)	Description	Comments
CHADDERTON 28	5	Footpath	153	Footpath commencing at (GR SD91433 06454) at the junction with Footpath 27	2m wide between (GR SD91408 06446) and (GR SD91382 06448)

				<p>Chadderton, proceeding in a generally westerly direction for a distance of approximately 29 metres to GR SD91408 06446 approximately 24 metres west of the junction of Furtherwood Rd/Boundary Park Rd, then proceeding north for a distance of approximately 2 metres to (GR SD91408 06448) then proceeding west for a distance of approximately 25 metres to (GR SD91383 06449) approximately 50 metres west of the junction of Furtherwood Rd/Boundary Park Rd then south for a distance of approximately 2 metres to (GR SD91382 06448) then proceeding west for a distance of approximately 95 metres to (GR SD91287 06454) to terminate at the junction of Footpaths 26 &amp; 29 Chadderton</p>	
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				approximately 85 metres north of Chadderton Way.	
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<p>Signed</p>  <p>In consultation with Director of Environment</p>	<p>Dated 13.09.2024</p>
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KEY	
	Definitive Footpath 28 Chadderton (Part): (A-B)
	Proposed Diverted Route: (A-C-D-B)
	Existing Footpath

Rev	Revision details	By	Chk	App	Date



**Oldham Council**

**Place and Economic Growth  
HIGHWAYS & ENGINEERING**  
Oldham Council Offices, Spindles Shopping Centre,  
West Street, Oldham OL1 1LJ

Client Oldham MBC		
Project Westhulme Way, Oldham		
Drawn by RW	Date 07/24	Purpose of issue information
Checked by LK	Date 07/24	
Approved by -	Date -	Scale at A4 size 1:1000

Title Diversion of Public Highway Combined Order s257 Town and Country Planning Act 1990 Diversion of Public Footpath 28 Chadderton (part) and Wildlife and Countryside Act 1981 S53(2) Modification of the Definitive Map and Statement	
Drawing No. 764/A4/246/1	Rev. -