

Definitive Map and Statement Modification Order

S257 Town and Country Planning Act 1990 and S53A Wildlife and Countryside Act 1981 – Diversion of Definitive Footpath 20 Failsworth, at Hollinwood Junction, Albert Street, Failsworth

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

Reason for Decision

The Council has received an application from Langtree Property Partners, Warrington, via their agent, Spawforths, Wakefield, to facilitate the proposed development of a food retail unit at Hollinwood Junction, Albert Street, Failsworth. Planning Ref: FUL/353109/24 (pending determination).

Executive Summary

An application has been received to divert Footpath 20 Failsworth under S257 Town and Country Planning Act 1990, to facilitate the development of a new foodstore (Use Class E) with associated car parking and landscaping (FUL/353109/24). The diversion is necessary in order to implement the planning permission and this report seeks approval for the making of a Public Path Diversion and Definitive Map and Statement Modification Order for Footpath 20 Failsworth as detailed below.

Recommendation

It is recommended that the application for a Public Path Diversion & Definitive Map and Statement Modification Order for the diversion of Footpath 20 Failsworth, under Section 257 of the Town and Country Planning Act 1990, and Section 53A of the Wildlife and Countryside Act 1981, be approved 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.

Definitive Map and Statement Modification Order S257 Town and Country Planning Act 1990, and S53A Wildlife and Countryside Act 1981 – Diversion of Definitive Footpath 20 Failsworth, at Hollinwood Junction, Albert Street, Failsworth

1 Background

- 1.1 The application has been made by Langtree Property Partners, Warrington, in relation to the proposed development of a food retail unit at Hollinwood Junction, Albert Street, Failsworth (PLANNING REF FUL/353109/24).
- 1.2 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 Proposal

- 2.1 The route of Footpath 20 Failsworth is shown on attached plan (764/A4/243/1). The path commences at point A approximately 68 metres east of Albert Street following a generally southerly route for approximately 123 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 C-D-E-F-G. 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 applicant.
- 2.4 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 signs.
- 2.5 If the Order is confirmed it will be necessary to modify the Definitive Map and Statement for Footpath 20 Failsworth. 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 and 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 Current Position

- 3.1 The application has been received and processed. The proposal has the agreement of the Footpath Societies. The application fee has been paid and the Highway Regulation Committee is requested to consider whether or not to approve the application.

4 Options/Alternatives

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

5 Preferred Option

- 5.1 The preferred option is Option 1, as the development cannot be implemented without the diversion of the Footpath.

6 Consultation

6.1 The Coldhurst Ward Members have been consulted and no comments have been received.

6.2 Footpath Societies have been consulted and;

- The Ramblers Association have no objection to the proposal.
- The Peak & Northern Footpath Society have no objection to the proposal.
- The Wednesday Walkers have opted to leave RA/PNFS to comment.

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

7.1 None

8 Risk Assessments

8.1 The legal and financial risks are documented separately in this report. The introduction of a diversion for Footpath 20 and the realignment of the footpath on a diverted road 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, which could have financial risks for the Council. There could also 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)

9 Co-operative Implications

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

10 Financial Implications

Revenue

10.1 The cost for the modification order of Definitive Footpath 20 Failsworth, at Hollinwood Junction, Albert Street, Failsworth will be £3.3k and will be revenue expenditure. This will be funded in full from the developers, Langtree Property Partners.

(John Edisbury)

11 Legal Implications

11.1 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)

12 Equality Impact, including implications for Children and Young People

12.1 No

13 Key Decision

13.1 No

14 Key Decision Reference

14.1 N/A

15 Background Papers

15.1 None

16 Appendices

16.1 None

17 Schedules

Schedule 1 – Description of Existing Footpath Route – Drawing 764/A4/243/1

Existing Footpath 20 Failsworth commences at point A (GR SD90683 02431) proceeding in a generally southerly direction for a distance of approximately 123 metres to point B (GR SD90701 02310) to join Footpath 61 Oldham.

Schedule 2 – Description of Proposed Diverted Route – Drawing 764/A4/243/1

Footpath 20 Failsworth commencing at point C on Hollins Road (GR SD90636 02463) proceeding in a generally southerly direction along the Footway of Hollins Road/Albert Street/Olive Claydon Way for a distance of approximately 37 metres to point D (GR SD90614 02434) continuing in a generally southerly direction for a distance of approximately 123 metres to point E (GR SD90646 02322) then proceeding in an easterly direction for a distance of approximately 49 metres to point F (GR SD90694 02318) then heading south across Olive Claydon Way for a distance of approximately 12 metres to point G (GR SD90698 02307) to join Footpath 61 Oldham on its diverted alignment (diversion yet to be confirmed and brought into effect)

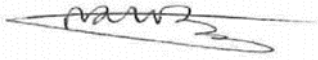
Schedule 3 – Current Definitive Statement

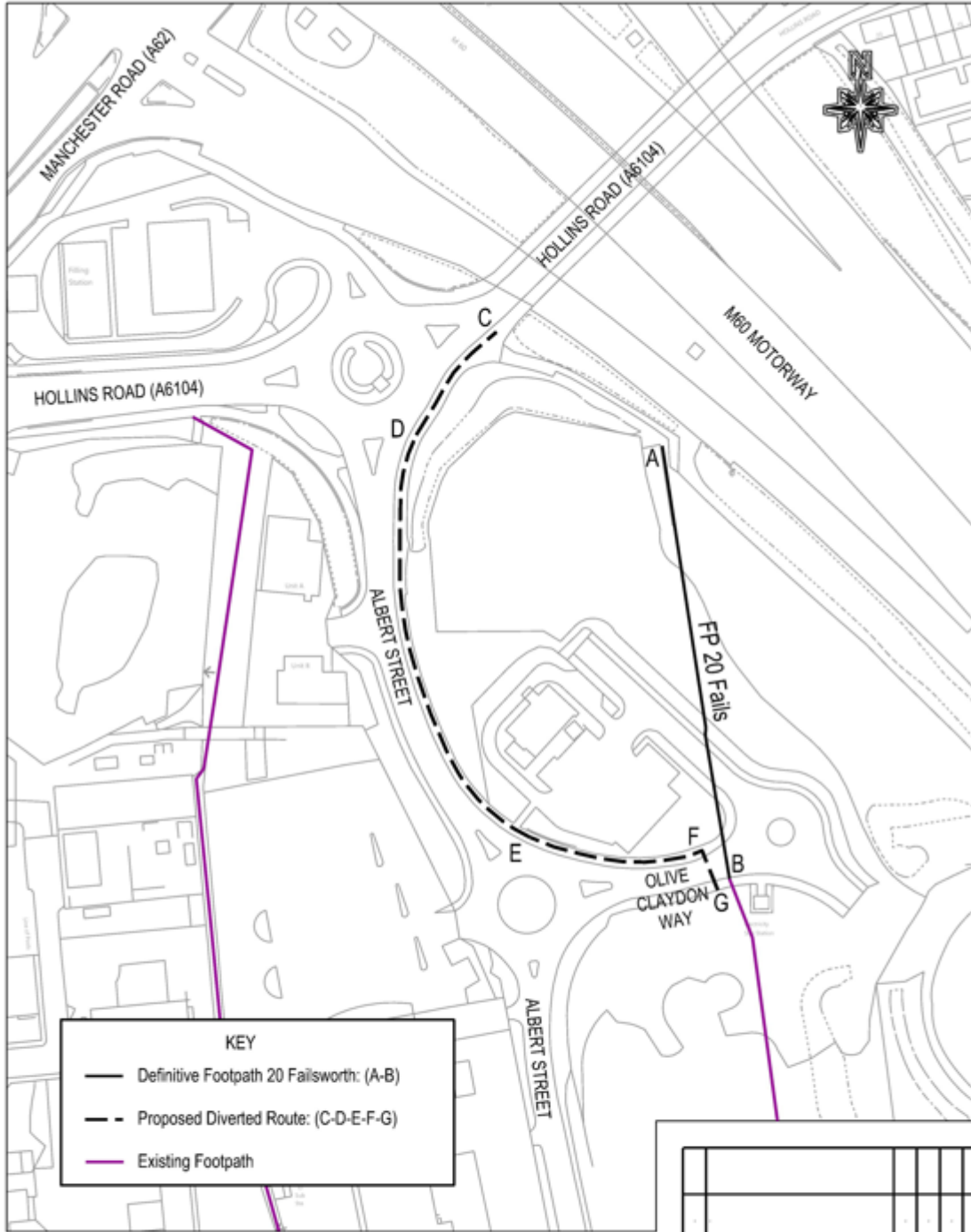
District and path number	Page Number	Status	Length (m)	Description	Comments
FAILSWORTH 20	10	Footpath	144	Starts opposite the 'Lime Mill' reservoir in a southerly direction past the Lime Mill to cross the boundary by second reservoir	Side Order (1989) Highway Agency 7.4.89

Schedule 4 – Modification of Definitive Statement

District and path number	Page Number	Status	Length (m)	Description	Comments
FAILSWORTH 20	10	Footpath	223	Footpath commences at (GR SD90636) on Hollins Road, Failsworth and follows the footway in a generally southerly direction for a distance of approximately 162 metres to (GR SD90646 02322) at the roundabout at the junction of Hollins Rd/Albert St then proceeding in a generally easterly direction to (GR SD90694 02318) at the roundabout at the junction of Abert St/Olive Claydon Way,	Side Order (1989) Highway Agency 7.4.89 Width 1.8m between (GR SD90636 02463) and (GR SD90701 02310)

				then crossing Olive Claydon Way heading south for a distance of approximately 12 metres to (GR SD90698 02307) to join Footpath 61 Oldham.	
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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 20 Failsworth: (A-B)
	Proposed Diverted Route: (C-D-E-F-G)
	Existing Footpath



Oldham Council

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

Client Oldham MBC		
Project Albert Street, Failsworth		
Drawn by RW	Date 12/23	Purpose of issue information
Checked by LK	Date 12/23	Scale at A4 size 1:1500
Approved by	Date	

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 20 Failsworth and Wildlife and Countryside Act 1981 S53(2)
Modification of the Definitive Map and Statement

Drawing No.	Rev.
764/A4/243/1	.