

Definitive Map and Statement Modification Order

Diversion of Definitive Footpath 45 Oldham, at Rosary Road, Oldham, S53 Wildlife and Countryside Act 1981

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. 4306

Highways Regulation Committee

Reason for Decision

Subsequent to the confirmation of the Public Path Diversion Order 2013 for the diversion of Footpath 45, Oldham, it is necessary for Oldham Council as Highway Authority, to amend the Definitive Map and Statement for the aforementioned Footpath to reflect the diversion.

Recommendation

It is recommended that the Council make a Modification Order in respect of the diversion of Footpath 45 Oldham under Section 53(2)(b) of the Wildlife and Countryside Act 1981, as detailed in the report and the Director of Environment and the Director of Legal Services be authorised to carry out the necessary procedures.

Definitive Map and Statement Modification Order Diversion of Definitive Footpath 45 Oldham, at Rosary Road, Oldham, S53A Wildlife and Countryside Act 1981**1 Background**

- 1.1 Definitive Footpath 45 Oldham was diverted under s257 of The Town & Country Planning Act 1990, in accordance with planning permission granted for the development of land at Rosary Road, Oldham (PA/331978/12) by a Public Path Diversion Order in 2013. The Order was to come into effect when the diverted route was provided to the Council's reasonable satisfaction. Subsequently, this Order was Confirmed as an Unopposed Order on 16 January 2025, and subsequently brought into effect. As a result of this, Oldham Council has to make the necessary amendments to the Definitive Map and Statement.
- 1.2 The Council has an obligation to continuously review the Definitive Map and Statement. The Definitive Map shows the location and status of public rights of way and the Definitive Statement gives descriptions of the public rights of way, including any restrictions on their use.

2 Current Position

- 2.1 The part of Footpath 45 Oldham to be diverted is shown in purple on the attached plan below. The path commences from point B, situated at the back of footway off Rosary Road, Oldham, 143 metres in a generally north easterly direction from the junction of Mills Farm Close and Rosary Road, and proceeds for a distance of 48 metres in a south easterly direction to point A, situated 15 metres north east of 9 Mills Farm Close, Oldham.
- 2.2 The diverted route of Footpath 180 Oldham is also shown (in green) on the attached plan below. The path commences from point A and proceeds for a distance of 34 metres in a generally north easterly direction to point X, situated 49 metres in a generally north easterly direction from 9 Mills Farm Close and then proceeds for a distance of 48 metres in a north westerly direction to point Y, situated at the back of the footpath off Rosary Road, 175 metres north east of the junction of Mills Farm Close and Rosary Road, where it rejoins the existing route of Footpath 45 Oldham. The diverted route has a width of 1.8 metres throughout.
- 2.3 The amendments required to the Definitive Statement are detailed in the Schedule.

3 Options/Alternatives

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

4 Preferred Option

- 4.1 As the Public Path Diversion Order has been brought into effect, pursuant to the duty in section 53 of the Wildlife and Countryside Act 1981, the Council is required to modify the Definitive Map and Statement accordingly. Therefore, it is recommended that Option 1 be approved, and the Council make a Modification Order in respect of Footpath 45 Oldham under Section 53(2)(b) of the Wildlife and Countryside Act 1981, as detailed in the report and the Director of Environment and the Director of Legal Services be authorised to carry out the necessary procedures.

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- 5 **Consultation**
- 5.1 No consultation is required as the Order is merely updating the Definitive Map and Statement to reflect the amendments made following the bringing into effect the Public Path Diversion Order. Consultation procedures involving the public, relevant landowners and statutory undertakers will have been carried out as part of the process of making and confirming the Public Path Diversion Order.
- 6 **Community Cohesion Implications, including crime and disorder implications under Section 17 of the Crime and Disorder Act 1998**
- None
- 7 **Risk Assessments**
- Not applicable
- 8 **Co-operative Implications**
- Not applicable (James Mulvaney, Policy Manager)
- 9 **Procurement Implications**
- None
- 10 **Financial Implications**
- 10.1 Implementing a Modification Order for the diversion of Footpath 45 will have no financial implications to the Authority
- (John Edisbury)
- 11 **Legal Implications**
- 11.1 Under section 53(2)(b) of the Wildlife and Countryside Act 1981 the Council is required as soon as reasonably practicable after the occurrence of any of the events specified in section 53(3), to make by order such modifications to the Definitive Map and Statement as appear to them to be requisite in consequence of the occurrence of that event. The events in section 53(3) include at section 53(3)(a)(i) the coming into operation of any enactment or instrument or any other event whereby a highway shown in the map and statement has been authorised to be stopped up, diverted, widened or extended. An order made pursuant to an event in section 53(3)(a)(i) is known as a legal event modification order.
- 11.2 Legal event modification orders simply record on the Definitive Map and Statement legal changes that have already taken place under some other legislation. They do not have to be advertised, are not subject to objections and take effect as soon as they are made. The modification order to be made by the Council will be a legal event modification order, as it is being made as a result of the confirmation and bringing into effect the Public Path Diversion Order relating to Footpath 45 Oldham. (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 Not applicable
- 15 **Background Papers**
- 15.1 None
- 16 **Appendices**
- 16.1 1) s257 TCPA Public Path Diversion Order

Schedule – Current Definitive Statement

District and path number	Page Number	Status	Length (m)	Description	Comments
OLDHAM 45	10	Footpath	670	The path leaves Rosary Road between two blocks of flats and enters a field over a wooden stile. From here it runs southwards along the field boundary fence until it reaches a second fence which the path follows in an easterly direction before turning southwards to run along the west side of Little Bankfield Clough. The footpath crosses to the east side of the Clough	


				beyond the junction with path 46. It crosses the Medlock River by means of a footbridge to cross the borough boundary and join definitive footpath no. 144 in Ashton M.B. The path is a worn grass track.	
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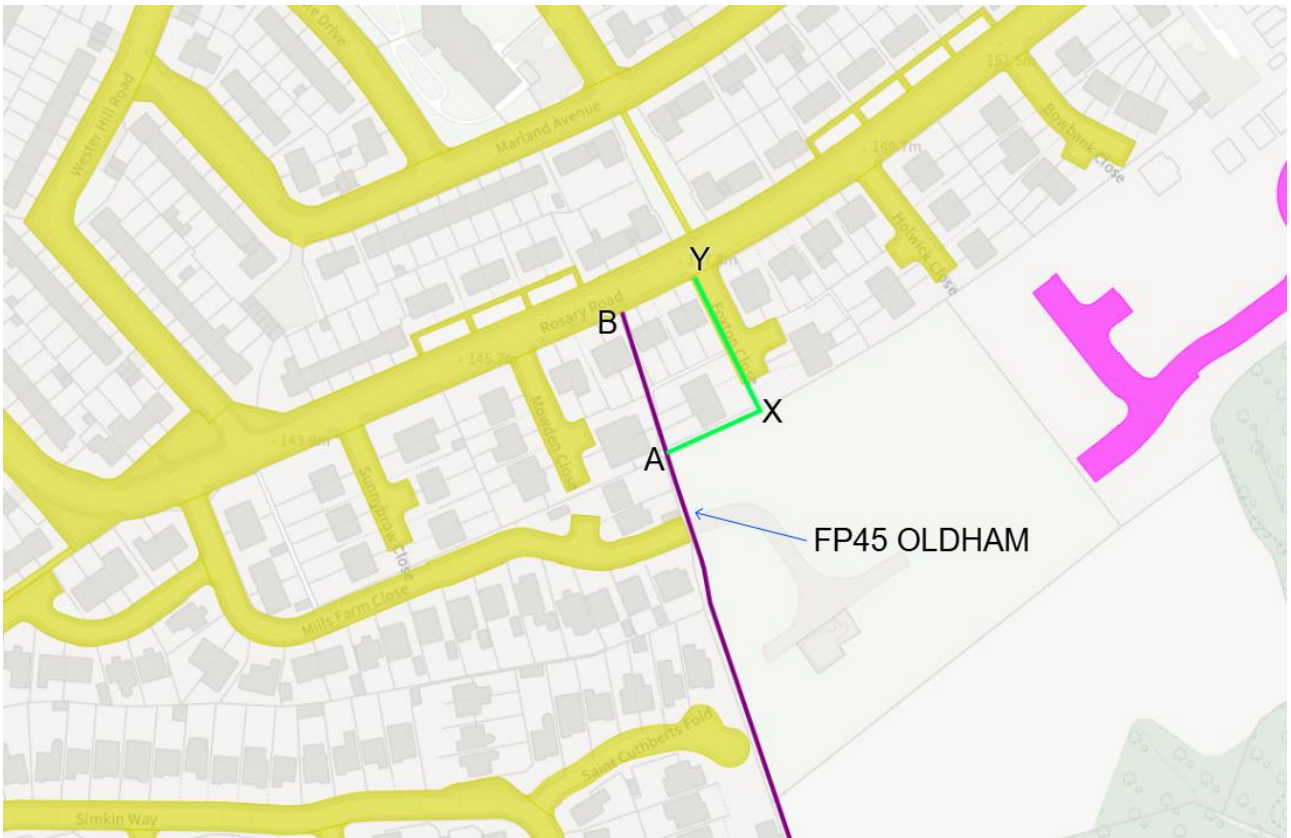
Schedule – Amended Definitive Statement

District and path number	Page Number	Status	Length (m)	Description	Comments
OLDHAM 45	10	Footpath	704	Path commences at GR SD93265 02376 on Rosary Road, Oldham and proceeds for a distance of approximately 48 metres in a south easterly direction along the Footway of Foxton Close to GR SD93288 02335 then proceeds in a generally south westerly direction for a distance of approximately 34 metres to GR SD93255 02320 then	Public Path Diversion Order 2013 The path has a width of 1.8 metres between GR SD93265 02376, SD93288 02335 and GR SD93255 02320

				<p>proceeds south for a distance of approximately 137 metres along the field boundary fence to GR SD93299 02186 at the junction of Footpath 136 Oldham. Path then proceeds east for a distance of approximately 126 metres to GR SD93427 02188 then proceeds in a generally south easterly direction for a distance of approximately 77 metres running along the west side of Little Bankfield Clough to its junction with Footpath 137 Oldham at GR SD93480 02134. Path continues south east then east for a distance of approximately 131 metres to its junction with Footpath 46 Oldham at GR SD93571 02064. Path continues in a generally south easterly direction for a distance of approximately 40 metres to</p>	
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				<p>its junction with Footpath 44 Oldham at GR SD93606 02053. Path then proceeds in a generally southerly direction for a distance of approximately 70 metres to GR SD93615 01984 to cross the River Medlock via footbridge and to cross the borough boundary and join definitive footpath no. 144 in Tameside. The path is a worn grass track.</p>	
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<p>Signed:</p>  <p>In consultation with Nasir Dad, Director of Environment</p>	<p>Dated: 23.01.25</p>
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APPENDIX 1
Public Path Diversion Order

**SECTION 257 TOWN & COUNTRY PLANNING ACT 1990
PUBLIC PATH DIVERSION ORDER**

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257

**OLDHAM BOROUGH COUNCIL (PUBLIC FOOTPATH 45 OLDHAM)
PUBLIC PATH DIVERSION ORDER 2013**

This order is made by Oldham Borough Council under section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the footpath to which this order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990, namely the development of land at Rosary Road, Oldham (PA/331978/12).

BY THIS ORDER:

1. The footpath over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this order ("the Schedule") shall be diverted as described below.
2. There shall be created to the reasonable satisfaction of Oldham Borough Council an alternative highway for use as a replacement for the said footpath as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the footpath shall have effect on the date on which Oldham Borough Council certify that the terms of Article 2 above have been complied with.
4. Where immediately before the date on which the footpath is diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

SCHEDULE

PART 1

Description of site of existing path or way

Commencing at point B situated at the back of the footway of Rosary Road, Oldham 143 metres in a generally north easterly direction from the junction of Mills Farm Close and Rosary Road, for a distance of 48 metres in a south easterly direction to point A situated 15 metres north east of the north east corner of 9 Mills Farm Close, Oldham.

PART 2
Description of site of alternative highway

Commencing from point A for a distance of 34 metres in a generally north easterly direction to point X situated 49 metres in a generally north easterly direction from 9 Mills Farm Close and then for a distance of 48 metres in a north westerly direction to point Y situated at the back of the footpath of Rosary Road 175 metres north east of the junction of Mills Farm Close and Rosary Road and having a width of 1.8 metres throughout, as shown on the attached map.

THE COMMON SEAL of)
OLDHAM BOROUGH)
COUNCIL was hereunto)
affixed on 17th July 2013)
in the presence of: -)



RE *Alan Evans*
ALAN EVANS
GROUP SOLICITOR

Number In Seal Book
408^B/13

Date of making this Order: 17th July 2013

Date of confirming this Order: