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# **Definitive Map and Statement Modification Order**

## **S119 Highways Act 1980 - Diversion of Definitive Footpath 247, Saddleworth (part), at Grove Road, Uppermill, and S53A – Wildlife and Countryside Act 1981**

### **Portfolio Holder:**

Councillor C Goodwin, Cabinet Member for Transport & Highways

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

**Report Author:** Liam Kennedy, PRow Officer  
**Ext.** 4325

### **Highway Regulation Committee – 29 January 2026**

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#### **Reason for Decision**

The Council has received an application from the resident of 2 Grove Road, Uppermill for the diversion of part of Footpath 247, Saddleworth which passes through their land.

#### **Executive Summary**

To seek approval for the making of a Public Path Diversion and Definitive Map and Statement Modification Order for part of Footpath 247, Saddleworth as detailed in the report. If the application is approved, the Director of Environment and the Director of Legal Services be authorised to carry out the necessary procedures to make the Order and to confirm the Order in the event that no objections are made to it.

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## **Recommendations**

It is recommended that:

1. The Council make a Public Path Diversion & Definitive Map and Statement Modification Order for the diversion of part of Footpath 247, Saddleworth under Section 119 of the Highways Act 1980 and Section 53A of the Wildlife and Countryside Act 1981 as detailed in the report and
2. the Director of Environment and the Director of Legal Services 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. S119 – Highways Act 1980 and S53A – Wildlife and Countryside Act 1981 Diversion of Definitive Footpath 247, Saddleworth (part) at Grove Road, Uppermill.**

**1 Background**

- 1.1 An application has been made by the resident of 2 Grove Road, Uppermill for the diversion of part of Footpath 247 Saddleworth which currently passes through the garden and over the driveway of the property. The proposed diversion would run along the boundary of the driveway and be clearly delineated with a fence line to ensure public safety (see Appendix 1).
- 1.2 The Department for Environment, Food and Rural Affairs have issued 'Government Guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises'. The Guidance describes the problem of public rights of way which pass through contained spaces, such as private gardens. It states that *'Members of the public may not be comfortable following a path through a contained space of this type because doing so feels like infringing on the privacy of a house owner..... Such path alignments can deter people from exercising the public's right to use the path'*.
- 1.3 In cases where a public right of way passes through the garden or curtilage of a residential dwelling the Order-making and Confirming Authority are guided to weigh the interests of the owner and/or occupier against the overall impact of the proposal on the public as a whole, noting that reducing or eliminating the impact of the current route of the right of way on the owner and/or occupier, in terms of privacy, security and safety, are important considerations to which due weight should be given. In these cases, the Order-making Authority should, therefore, be predisposed to make and the confirming authority will be similarly predisposed to confirm an Order provided that it satisfies the relevant test for the making of an Order set out in the legislation, namely that in the interests of the landowner it is expedient that the line of the right of way should be diverted.
- 1.4 The principal test before deciding whether to confirm a Public Path Diversion and Definitive Map and Statement Modification Order is that the diversion should not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the Order.
- 1.5 In such circumstances it is in the public interest that any change to remove or reduce the impacts on the property owner or occupier of the existing Public Right of Way should wherever possible involve diversion or replacement of the way rather than extinguishment alone.

**2 Proposal**

- 2.1 The route of Footpath 247, Saddleworth is shown on attached plan (764/A4/253/1) following points A-B.
- 2.2 The diverted route is also shown on the plan and follows points A-Z.
- 2.3 The applicant proposes a diversion along the boundary of their driveway including a clear delineation of a fence line to maintain User safety. As the existing alignment passes directly through the curtilage of the property this creates issues of infringement of privacy and safety in relation to the potential conflict between Footpath Users and vehicles using the driveway.

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- 2.4 Users of the diverted route will not be deterred from using the route, which could occur if using the existing alignment as it passes over the driveway of the property where there are vehicular movements. It is also considered that the diversion is not substantially less convenient to the public in consequence of the diversion, as the distance of the diversion to exit upon Grove Road is equal (20 metres)
- 2.5 If the Order is confirmed it will be necessary to modify the Definitive Map and Statement for Footpath 247, Saddleworth. 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.
- 3 **Community Cohesion Implications, including crime and disorder implications under Section 17 of the Crime and Disorder Act 1998**
- None
- 4 **Risk Assessments**
- None.
- 5 **Procurement Implications**
- None.
- 6 **Current Position**
- 6.1 Discrepancies have been identified in the existing entries in the Definitive Map and Statement for Footpath 247, Saddleworth. Therefore in addition to the diversion applied for by the resident we are able to take the opportunity to amend and improve these entries as is our legal duty under Section 53(2) of the Wildlife and Countryside Act 1981.
- 7 **Options/Alternatives**
- 7.1
- i. Option 1: To approve the recommendation.
  - ii. Option 2: Not to approve the application.
- 8 **Preferred Option**
- 8.1 The preferred Option is Option 1, as it is expedient to divert the path in the interests of the landowner and the diversion is not substantially less convenient to the public in consequence of the diversion.
- 9 **Consultation**
- 9.1 The Ward Members have been consulted and Councillor Woodvine supports the application/recommendation and Councillor Bishop has no objections.
- 9.2 Saddleworth Parish Council have been consulted and support the application.
- 9.3 Footpath Societies have been consulted and
- The Wednesday Walkers have no objection to the diversion.

- The Peak & Northern Footpath Society have no objection to the diversion.
- The Ramblers Association have no objection to the diversion.
- An objection has been received from a party who claim to be the Freehold owners of the land, however their ownership is not documented on Land Registry and for the purposes of the act the applicant Mr Clinch is the owner of the land. Officers do not consider there will be safety issues if the footpath is diverted. If residents do believe otherwise they may submit objections at the relevant stage after an Order is made and the determination will be made by the Secretary of State.

## 10 **Financial Implications**

- 10.1 To produce and advertise a modification Order in respect of a Section 119 diversion for Footpath 247, will cost an estimated £700.
- 10.2 This will be funded by the Resident requesting the amendment, so no cost to the Authority.
- (John Edisbury)

## 11 **Legal Implications**

- 11.1 Under Section 119 of the Highways Act 1980 the Council may make a public path diversion order where it appears to it to be expedient, either in the interests of the owner, lessee or occupier of land crossed by the path, or in the interests of the public, that it should be diverted. The confirming body for the order must also be satisfied that the diversion is expedient in the interests of the owner, lessee or occupier of land crossed by the path or in the interests of the public and that the path will not be substantially less convenient to the public as a consequence of the order. The confirming body must also be satisfied that it is expedient to confirm the order having particular regard to the effect on public enjoyment of the path as a whole, the effect on other land served by the existing path and the effect of the new diversion on the land and other land held with it, to be crossed by the diversion.
- 11.2 In the event of objections to the order, the order will be sent to the Secretary of State for determination. If no objections are received it is recommended that the Director of Environment, be given delegated authority to determine whether it is expedient to confirm the order, as otherwise this decision would have to be taken at a future meeting of the Highway Regulation Committee, adding unnecessary delay to the process. (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 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

There are no background papers for this report.

## 16 Appendices

- 16.1 Appendix 1 – Design Drawing of diverted section of FP247 SADD

### Schedule 1 – Description of Existing Footpath Route – Drawing 764/A4/253/1.

Part of existing Footpath 247, Saddleworth commencing at point A (GR SD99985 05562) proceeding in a south easterly direction for a distance of approximately 20 metres to point B (GR SD99997 05545) across the driveway of No. 2 Grove Road, Uppermill

### Schedule 2 – Description of Proposed Diverted Route – Drawing 764/A4....

Part of existing Footpath 247, Saddleworth commencing at point A (GR SD99985 05562) proceeding in a generally easterly direction for a distance of approximately 20 metres to point Z (GR SE00004 05566) along the boundary of the driveway of No. 2 Grove Road, Uppermill to join the adopted footway. Continuing east across Grove Road to join the adopted footway on the eastern side of Grove Road at point Y (GR SE00014 05561) then proceeding south for a distance of approximately 34 metres to point X (GR SE00002 05525) at the junction of Grove Road/Bankside Avenue. Proceeding in an easterly direction for a distance of approximately 40 metres to point W (GR SE00040 05516) to join the remainder of the existing route of Footpath 247, Saddleworth.

### Schedule 3 – Existing Definitive Statement

District and path number	Page Number	Status	Length (m)	Description	Comments
SADDLEWORTH 247	6+7+12	F.P.	1384	Footpath commencing at its junction with Path No.249 near Golburn Clough and proceeding in a northerly direction to its	1.2m wide 1 stile 1 wicket gate

				junction with Bankside with a branch proceeding eastward to Shaw Lane then recommencing at Grove Road and continuing in a north westerly direction to its junction with Path No.97	
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**Schedule 4 – Modification of Definitive Statement (Amendments in bold)**

District and path number	Page Number	Status	Length (m)	Description	Comments
SADDLEWORTH 247	6+7+12	<b>Footpath</b>	<b>820</b>	Footpath commencing at its junction with Path No.249 near Golburn Clough <b>at GR SE00166 04975</b> and proceeding in a northerly direction <b>for a distance of approximately 280 metres to its junction with Footpath 86 Saddleworth at GR SE00146 05245.</b> Continuing north <b>for approximately</b>	1.2m wide 1 stile 1 wicket gate

				<p>74 metres to its junction with Footpath 276</p> <p>Saddleworth at GR SE00140 05319 and continuing north for a further distance of approximately 140 metres to GR SE00101 05447 where the Footpath forks east and northwest.</p> <p>Eastern branch proceeds in a generally easterly direction for a distance of approximately 80 metres to its junction with Shaws Lane at GR SE00167 05481.</p> <p>Northwest branch proceeds north for a distance of approximately 60 metres to GR SE00086 05508 then proceeds west along Bankside Close for a distance of approximately 60 metres to its junction with Bankside Avenue at GR SE00039 05516 and continuing west for a</p>	
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				<p>further 40 metres along Bankside Avenue to its junction with Grove Road at GR SE00004 05530. Then proceeding north for a distance of approximately 30 metres along the footway of Grove Road to GR SE00013 05560 then crossing the road in a westerly direction and continuing west along the boundary of the driveway of 2 Grove Road for a distance of approximately 56 metres to its junction with Path No.97 at GR SD99954 05584.</p>	
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## Appendix 1 – Design Drawing of diverted section of FP247 SADD





Drawn By:	LK
Division:	PRoW Highways & Engineering
Date:	November 2025
Drawing No.	764/A4/253/1

Oldham Council  
Spindles Shopping Centre  
West Street  
Oldham  
OL1 1LF



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