

Report To:	SPEAKERS PANEL (PLANNING)
Date:	29 May 2019
Reporting Officer:	Ian Saxon (Director Operations and Neighbourhoods)
Subject:	DIVERSION OF FOOTPATHS 43,44,45 AND 46, MOSSLEY IN LINE WITH PLANNING APPLICATION 11/00915/FUL
Report Summary:	To gain approval to promote a Diversion Order to divert part of footpaths MOS/45, MOS/43, MOS/44 and MOS/46. The diversion of the footpath is needed to allow the new housing development to take place as approved in application 11/00915/FUL.
Recommendations:	That the Speakers Panel authorises the Borough Solicitor to make and advertise the necessary legal order under Section 257 of the Town and Country Planning Act 1990.
Links to Community Strategy:	Provide a safer and secure environment for the people of Tameside.
Policy Implications:	Provide a safer and secure environment for the people of Tameside.
Financial Implications: (Authorised by the Section 151 Officer)	The costs of the diversions will be met by the developer.
Legal Implications: (Authorised by the Borough Solicitor)	<p>Section 257 of the Town and Country Planning Act 1990 gives local planning authorities the power to make orders to extinguish or divert footpaths where it is necessary to enable development for which planning permission has been granted to be carried out.</p> <p>Paragraph 7.15 of Defra Rights of Way Circular 01/09 provides:</p> <p>The local planning authority should not question the merits of the planning permission when considering whether to make or confirm an order, but nor should they make an order purely on the grounds that planning permission has been granted. That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.</p>
Risk Management:	If the order is made and attracts objections then considerable officer time will be required to deal with the appeal, diverting resources away from other projects. The Applicant will meet some of these costs.

Access to Information:**Appendix 1 – Route Map**

The background papers relating to this report can be inspected by contacting the report writer, Reece McLaughlin, Assistant Engineer by:



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1. BACKGROUND

- 1.1 A Planning Application (11/00915/FUL) was received by the Council on 22/05/18 to allow for the construction of a New Build Housing Development which will be built over existing parts of the following footpaths: MOS/45, MOS/43, MOS/44 and MOS/46. Diversions to these footpaths will need to be put in place to connect these routes back so the public can use them.
- 1.2 The Planning Application stated that the footpaths which are affected will be diverted on the new Highways constructed.
- 1.3 The applicant has agreed to bear the legal costs associated with the application. They will also provide alternative routes and cover the expense of any necessary works.

2. THE CURRENT AND PROPOSED ROUTE

- 2.1 Footpath 45 starts at the junction of Micklehurst Road then runs in a southerly direction for 138 metres and then meets at the junction of Footpath 44 which then runs in an easterly direction for about 202 meters and leads you out onto Huddersfield Rd. Footpath 43 starts at the junction of Richmond Crescent and runs northerly for about 36 metres and then turns east for about 38 metres where it then meets at the junction of footpath 44.
- 2.2 The proposed diversion will affect more than half of each footpath and the alignment of the footpaths will have to change to fit in with the new development being built. Also because of the difference in levels on Footpath 46, steps will be needed (a plan showing the proposed diversion can be seen as **Appendix 1**). The diverted footpaths will have a minimum width of 2.0 metres.
- 2.3 A change was made by CPUK to alter the new location for the new footpath leading from the access road to meet with Footpath MOS/44. The new preferred location will not change from a specification point of view; this request is purely to move the currently approved location of the footpath, to be constructed to the west of the approved location by two pairs of houses. The new revised diversion plan can be seen in **Appendix 1**.

3. CONSULTATION

- 3.1 All of the public rights of way organisations that operate in Tameside have been approached and asked for their views on the diversion. Of the responses received, only one raises objections to the proposed diversions.
- 3.2 The objection has been received from the Voluntary Footpath Inspector from the Peak and Northern Footpaths Society. The grounds for the objection are:
 1. The plans show several diversions on to estate roads. I understood that this is not allowable. It would certainly be a very poor experience for walkers to be walking on a pavement instead of on a grassy hillside as at present.
 2. The plans as shown involve a substantial increase in length of route for several footpaths, including MOS 45 and MOS 46. This would mean a great decrease in convenience for users. The zig-zagging is very undesirable.
 3. Up to the present, MOS has been used as a popular route to and from the primary school on Micklehurst Road by children living in the houses on the hill to the south of the proposed development. This rural route without traffic hazards will now disappear, and children will be exposed to a longer route with the hazards of traffic fumes and

safety fears. I feel we should cherish grassy paths and preserve them. The quality of walking routes for schoolchildren is important.

4. It appears that there will now be steps on the line of several footpaths. Walkers with stiff knees and mobility problems frequently dread steps. To introduce them where there have been none before seems highly insensitive and at odds with the Equality Act 2010. Steps could prevent some people using the footpath at all. What are the steps going to be like? Where are they located? We need more details. The mapping provided does not convey the fact that the whole site is on quite a steep hillside.

In conclusion, I object strongly to the proposed diversions.

4. ENGINEERING RESPONSE

- 4.1 The diversions of these footpaths are necessary if the approved development is to take place as detailed in Planning Permission 11/00915/FUL.
- 4.2 It is acknowledged that walkers on these diverted footpaths will be placed in closer proximity to vehicles. Walkers will be on a properly constructed footway however and so it is not considered to pose a safety risk. All of the footpaths to be diverted must be approached from an existing road and so vehicular traffic alongside the routes is considered to be less of a concern.
- 4.3 The diversion of these footpaths would appear to be beneficial to walkers in the area in that these new diversions will be created to a much better standard than what is already there. They will be constructed wider and have a better surface to walk on.

5. RECOMMENDATION

- 5.1 As set out at the front of the report.

APPENDIX 1

