

Report to:	Speakers Panel (Planning)
Date:	15 March 2023
Reporting Officer:	Emma Varnam, Assistant Director (Operations & Neighbourhoods)
Subject:	HIGHWAYS ACT 1980 – APPLICATION TO STOP UP DEFINITIVE FOOTPATH STALYBRIDGE 48
Report Summary:	A request has been received from a local resident for the Council to make an Order to stop up the full length of Footpath Stalybridge 48. If approved, the path will be stopped up and the footpath will be removed from the definitive map and statement for Tameside.
Recommendations:	That the Panel supports this request and authorises the making of the requisite Orders on the grounds that the stopping up of the footpath is expedient on the ground that it is not needed for public use.
Corporate Plan:	It is considered that the proposal could contribute towards the aspirations of the Corporate Plan for Tameside & Glossop and more specifically in the promotion of Living and Aging Well by benefiting the priorities of the Nurturing Communities priorities
Policy Implications:	It is considered that the proposal could contribute towards the aspirations of the Corporate Plan for Tameside & Glossop and more specifically in the promotion of Living and Aging Well by benefiting the priorities of the Nurturing Communities priorities.
Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer)	There are no financial implications arising from this proposal.
Legal Implications: (Authorised by the Borough Solicitor)	The Highways Act 1980 details a statutory procedure for the making, publication and confirmation/non-confirmation of orders to stop up public footpaths. The Council will adhere to this process in the making of this order if authorised by the Panel. If there are unresolved objections to the Order then the decision as to whether the Order is confirmed or not will rest with a Planning Inspector. The Council will also have the ultimate decision as to whether to proceed with the Order if objections are received.
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 Council will meet these costs.
Access to Information:	Not confidential.
Background Information:	The background papers relating to this report can be inspected by contacting, Michael Hughes, Sustainable Travel Officer, Operations and Neighbourhoods:



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1. INTRODUCTION

- 1.1 A request has been received from a local resident for the Council to make a Public Path Order under section 118 of the Highways Act 1980 (the Act) by stopping up the full length of Footpath Stalybridge 48.
- 1.2 The resident contends that the stopping up of the footpath is expedient on the grounds that it is not needed for public use. This belief is based on the fact that the footpath is subject to a historical obstruction caused by construction of numerous houses.
- 1.3 Footpath 48 does not appear to have been accessible on its definitive alignment for a period of approximately 50 years since the housing development took place.
- 1.4 It is suggested that the adopted pavements along these streets provide high quality alternative routes to replace the journey's made using the public footpath.
- 1.5 This application is made to the Council, as highway authority, under Schedule 6 of the Act. This report seeks a decision on whether the stopping up meets the criteria as set out in Section 3 below and whether it is needed for public use or not. Under the Council's Constitution, these matters are for determination by the Speakers Panel (Planning).
- 1.6 If the application is rejected, the applicants have no right of appeal. If the application is accepted and the stopping up order is made, the order will be advertised. If anyone objects to the order then it cannot be confirmed by the Council. The only way it can be confirmed is if it is referred to the Secretary of State who will decide the matter following a public inquiry or hearing.

2. DESCRIPTION OF THE CURRENT AND PROPOSED ROUTES

- 2.1 Footpath Stalybridge 48 starts at the junction of Lord Street and Laburnum Avenue then runs along the footway of Laburnum Avenue and Hawthorn Drive in Stalybridge. Part way along Hawthorn Drive, the footpath leaves the footway and turns to the north-east at which point it passes through the gardens and buildings of houses on both Hawthorn Drive and Maple Avenue. Ultimately, the footpath re-joins the footway of Maple Avenue before terminating at the junction of Maple Avenue and Quarry Rise. The footpath runs for a distance of 362 metres (see **Appendix 1**).
- 2.2 Due to the long-standing nature of the obstruction to this public footpath and due to the fact that there are high quality, adopted footways that serve as an alternative route for pedestrians wanting to follow this route, the applicant suggests that Footpath Stalybridge 48 be stopped up. The justification for this being that the footpath is no longer needed for public use.

3. CRITERIA FOR DIVERSION

- 3.1 Section 118 of the Highways Act 1980 gives the Council power to make a stopping up order if it is satisfied that "... it is expedient that the path or way should be stopped up on the grounds that it is not needed for public use ...". Even if the Council is satisfied that it is expedient, the Council has discretion on whether or not to make the order.
- 3.2 The order cannot be confirmed unless the Council considers that the stopping up is expedient when having regard to the following:-
 - a) The extent to which the path, apart from the order, would be likely to be used by the public, and

- b) The effect which the extinguishment of the right of way would have as respects land served by the path.

4. CONSULTATION OVER THE STOPPING UP

- 4.1 In the lead-up to this report, provisional consultation was carried out with the affected residents and the public rights of way organisations that operate within the borough. The aim of this consultation exercise was to highlight at an early stage whether there is likely to be strong opposition to the proposed stopping up of Footpath 48.
- 4.2 Five of the eighteen residents that were contacted, responded to outline their support for the stopping up of the footpath. There was no opposition received from these residents.
- 4.3 Five responses were received to the consultation from the public rights of way organisations that operate in Tameside. There were no objections raised to the proposal.
- 4.4 Of the local councillors for the ward, Cllr Sweeton has voiced his strong support for the stopping up of this footpath.

5. COMMENTS OF THE DIRECTOR OF OPERATIONS AND NEIGHBOURHOODS

- 5.1 The decision on whether Public Footpath Stalybridge 48 should be stopped up needs to be made when taking into account the provisions contained within Section 118 of the Highways Act 1980 (discussed within section 3 of this report).
- 5.2 The main decision is whether the Council considers that it is expedient for the path to be stopped up after satisfying itself that the path is not needed for public use.
- 5.3 The fact that the public footpath has been inaccessible for a period of approximately 50 years without any apparent objection suggests that Footpath 48 is not needed for public use. The provision of the adopted pavements appears to have superseded the need for this public footpath. These pavements provide a well surfaced, lit and maintained route that serves roughly the same alignment as the public footpath whilst adding very little length to the journey.
- 5.4 A subsequent decision is needed on whether the Council considers that it is expedient that the footpath be stopped up when taking the following into account:
 - a) Taking into account the provisions within paragraph 3.2 (a); it has not been possible to use this route for an extended period of time. Therefore, even when ignoring the effect of the proposed stopping up order, Footpath 48 could not be used. It is further felt that if the alignment of the footpath were free from obstructions, that there would be a preference from the vast majority of the public to make use of the adopted pavements at the roadsides.
 - b) Taking into account the provisions within paragraph 3.2 (b); the extinguishment of the public right of way is likely to have little to no impact on the land served by the path. Currently, the land-use within this area is that of private residential dwellings and garden areas. These land parcels are not physically linked and there is no need to travel between them and so the impact on the land should be negligible.
- 5.5 It is therefore considered by officers that it is expedient that Footpath Stalybridge 48 should be stopped up on the ground that it is not needed for public use.

6. RECOMMENDATION

6.1 As set out at the front of the report.