

**DIVERSION OF A SECTION OF PUBLIC FOOTPATH 19 HAZEL GROVE AND
BRAMHALL UNDER SECTION 119 OF THE HIGHWAYS ACT 1980**

1. MATTER FOR CONSIDERATION

- 1.1 Committee is requested to consider whether to send the above order to the Secretary of State for confirmation or not proceed with the order.

2. LEGAL POSITION

- 2.1 Under section 119 of the Highways Act 1980, the Council has the power to make an order to divert a footpath where it appears expedient to do so in the interests of the landowner or of the public.
- 2.2 Before confirming the order, the Council must be satisfied that the footpath will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect the order would have on the public's enjoyment of the footpath as a whole and on the land over which the existing and diverted footpaths run.
- 2.3 When the Council makes an order under the above section, it is required to publish notice of making the order. Members of the public have 28 days from the date of the notice to submit to the Council any objections and/or representations in respect of the order.
- 2.4 The Council is under a duty to resolve/attempt to secure the withdrawal of any objections and/or representations made subject to being received within the 28 day objection period. If an objection is not withdrawn, the Council must send the order to the Secretary of State for confirmation. The Secretary of State has the power to confirm the order (with or without modifications) or not confirm the order. Alternatively, the Council has the option to not proceed with the order.

3. BACKGROUND

- 3.1 This section of footpath 19HGB was diverted under the Metropolitan Borough of Stockport (Hazel Grove (A6) to Manchester Airport A555 Classified Road)(Side Roads Order) 2013 as part of the Stockport East Manchester (SEMM) Strategy along the route marked E-D-C-F on the plan marked 'Plan 1' attached. The section A-F has now been subsequently diverted to the broken black line shown A-B-C on 'Plan 1'. The plan attached to the order ('Plan 1') is unfortunately incorrect in that it shows A-F-C has been diverted. F-C forms part of a route diverted under the Metropolitan Borough Council of Stockport (Hazel Grove (A6) to Manchester Airport A555 Classified Road)(Side Roads Order) 2013 as shown by the magenta line on the plan marked 'Plan 2' attached. The owner of the land over which the current path and the proposed line cross is the same landowner.

- 3.2 The current order is considered to be in the interests of the public as it provides a more commodious route further away from the A555 for that section of the footpath. Further, it is considered to be in the interests of the landowner as it follows the field edge, rather than crossing the centre of the field.
- 3.3 Members of the Council's Bramhall and Cheadle Hulme South area committee considered the report proposing to divert this footpath at its meeting on 12 December 2019 and resolved to make the order which was subsequently made on 6 February 2020.
- 3.4 The objection period ran for 28 days from 19 February 2020.
- 3.5 The Council received one objection to the making of the Order and has been unable to secure the withdrawal after an extensive exchange of correspondence.
- 3.6 The Council has been unable to ascertain the specific ground for objection as there was protracted correspondence from the objector and attempts to seek clarification in relation to how the objector considered the order was not in the interests of the public and/or the landowner failed. However, it would appear that the grounds for the objection relate to the SEMMMS Scheme and the A6 MARR Scheme as a whole and do not address how the diversion is not in the landowner's or public's interest; as such the objection is not considered relevant to the grounds which the Council may take into account when diverting a public path under section 119.
- 3.7 Members now have the option to send the order to the Secretary of State for confirmation (with a modification to the order plan) or not proceed with the order.

4. SUMMARY

- 4.1 The Metropolitan Borough Council of Stockport (Footpath 19 Hazel Grove and Bramhall) Public Path Diversion and Definitive Map and Statement Modification Order 2020 was made by the Council on 6 February 2020.
- 4.2 One objection was received to the Order and is maintained; consequently the Council may not itself confirm the Order and must either send it to the Secretary of State for confirmation or not proceed with the Order.
- 4.3 The objection received is not considered to be relevant to the grounds for making the Order.

5. RECOMMENDATION

- 5.1 That the Committee resolves to send the order to the Secretary of State for confirmation with a modification to the order plan to show the diverted route marked A-F.

BACKGROUND PAPERS

There are none.

Anyone wishing to inspect the above background papers or requiring further information should contact Sue Stevenson on telephone number 0161 474 4351 or alternatively email sue.stevenson@stockport.gov.uk.