



# The Planning Inspectorate

3/25 Hawk Wing  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Direct Line: 0303 444 5226  
Customer Services: 0303 444 5000  
Fax No: 0117 372 6153  
e-mail: caroline.baylis@pins.gov.uk

---

Helen Leach  
Rochdale Borough Council  
1st Floor, Brook House  
Oldham Road  
Middleton  
MANCHESTER  
M24 1AY

Your Ref: PRS09:581  
Our Ref: FPS/P4225/5/8  
Date: 23 October 2015

---

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257  
Rochdale Borough Council  
(Unadopted Highways at Cherwell Avenue and Bank Top Street, Heywood) Order 2015  
Public Path Stopping-Up Order

I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to the above named Order, which was submitted for confirmation on 1 October 2015.

Examination of the Order and map has revealed that the Order has been incorrectly drafted. The Order was made under Section 257 of the Town and Country Planning Act 1990, which provides for the stopping up or the diversion of a footpath or bridleway, where it is necessary to enable development to be carried out in accordance with planning permission granted under Part III of the Act. However, the Order refers to "unadopted highway", rather than footpath or bridleway.

Additionally, it is noted in the committee report that Members agreed that an application should be made under Section 247, not 257, of the Town & Country Planning Act 1990. Orders under section 247 authorise the removal ("stopping-up") and/or the diversion of any highway, in order to enable development to be carried out in accordance with a valid and relevant planning permission and are made by the Secretary of State for Transport. For advice please contact the National Transport Casework Team, Department for Transport, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne NE4 7AR Email: [nationalcasework@dft.gsi.gov.uk](mailto:nationalcasework@dft.gsi.gov.uk) Telephone: 0207 944 4310  
Website:- <https://www.gov.uk/legislation-administered-by-the-department-for-transport>

The Secretary of State takes the view that this constitutes a fundamental error which is fatal to the validity of the Order. As she cannot purport to use her power of modification to correct such an error, she has decided not to exercise her power of confirmation. The sealed Orders are returned herewith and I ask that you notify the objectors and all interested parties of the contents of this letter.

Yours faithfully

*Caroline Baylis*

Rights of Way Section