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| **Order Decision** |
| Hearing held on 5 August 2025Site visit undertaken on 4 August 2025 |
| **by Mark Yates BA(Hons) MIPROW** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
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| **Decision date: 09 September 2025** |

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| **Order Ref: ROW/3327834** |
| * This Order is made under Section 119 of the Highways Act 1980 (‘the 1980 Act’) and Section 53A(2) of the Wildlife and Countryside Act 1981. It is known as The Metropolitan Borough Council of Stockport (Footpath 19 Hazel Grove and Bramhall) Public Path Diversion and Definitive Map and Statement Modification Order 2020.
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| * The Order was made by the Metropolitan Borough Council of Stockport (‘the Council’) on 6 February 2020 and proposes to divert a section of Footpath 19 in the parishes of Hazel Grove and Bramhall. The Order would also modify the definitive map and statement to take account of the proposed change to the alignment of the right of way.
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| * There was one objection outstanding at the commencement of the hearing.
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| **Summary of Decision: The Order is proposed for confirmation subject to the modifications set out below in the Formal Decision.**  |
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**Preliminary Matters**

1. All of the points referred to below correspond to those delineated on the modified Order Map attached to this Decision.
2. The Council requests that the Order is modified in relation to the F-C section of the existing path as this path was incorrectly shown on the Order Map. It is clearly appropriate, if confirmed, for the Order to extinguish the correct route of the footpath. I shall therefore consider this revised route when assessing the main issues below. The proposed modification to the alignment of this path would affect land not originally included in the Order. I consider this to be distinctfrom the modified alignment running on land in the same ownership. Accordingly, any such modification would need to be advertised in accordance with paragraph 2(3) of Schedule 6 to the 1980 Act.
3. The sole objector (Mr Street) raises a number of points in his written submissions that have no relevance to whether the relevant section of Footpath 19 should be diverted. Accordingly, as set out in the pre-hearing note, the focus of the hearing was on matters that have some bearing on the relevant considerations I need to determine. I therefore did not permit Mr Street to stray at length into irrelevant matters at the hearing. Any concerns regarding the condition of public rights of way nearby should be pursued with the Council.

**Main Issues**

1. Section 119(6) of the 1980 Act involves three separate tests for an Order to be confirmed, namely:

TEST 1: Whether it is expedient in the interests of the landowner, occupier, or the public for the path to be diverted. This is subject to any altered point of termination of the path being substantially as convenient to the public.

TEST 2: Whether the proposed diversion is substantially less convenient to the public.

TEST 3: Whether it is expedient to confirm the Order having regard to the effect which: (a) the diversion would have on public enjoyment of the path as a whole, (b) the coming into operation of the Order would have as respects other land served by the existing public right of way, and (c) any new public right of way created by the Order would have as respects the land over which the right is so created and any land held with it.

1. Regard must also be had to any material provision contained in a rights of way improvement plan (ROWIP) for the area under section 119(6A) of the Act.

**Reasons**

***Background to the diversion***

1. The A-F section is recorded on the definitive map (DM) and is an acknowledged section of public footpath. A Side Roads Order (‘SRO’) was made on 5 December 2013 in connection with the Manchester Airport Relief Road. The SRO contained various highway provisions, including the stopping up of a section of Footpath 19. Additionally, a new section of path was created between points F-C. This change has not yet been incorporated on the DM, but it is represented on a working version. Although, it should be noted that the working map has no statutory status.
2. The A-F section is available to use and lies adjacent to a boundary which partly comprises of a hedge. In contrast, the F-C section runs through an area of vegetation and is not readily visible on site beyond a stile at point F. However, when comparing the convenience of the routes in the Order, it is appropriate to disregard any obstructions and consider the existing path as if it were fully available for the public to use. Although it seems that it was initially possible following the SRO for the public to continue over other land beyond point F to the roadside, this has since ceased to be the case.
3. Mr Street believes the proposed path is already a footpath by reference to various historical documents. However, this path is not recorded on the DM and no application has been submitted to add it to the DM. Whilst it is also evident that there has been some public use of the proposed path, at least following the making of the SRO, I can make no judgement as to whether such use is sufficient to have led to the dedication of a public right of way.

***Whether it is expedient in the interests of the owner, occupier or the public that the footpath should be diverted***

1. The Council considers the diversion to be in the interests of the landowner and the public. In contrast, the Order specifies that the diversion is in the interests of the landowner. Nonetheless, I only need to be satisfied that the diversion is in the interests of at least one of these parties.
2. Reference was made at the hearing to sheep being grazed on the land at times. Cattle are also stated to have previously been on the land. However, it became apparent during the course of the hearing that the land crossed by the existing and proposed paths is presently in the ownership of the Council. Although there is a draft agreement in place to transfer the land to the person who currently occupies it, this is still to be finalised. It is therefore unclear how the diversion can be viewed as presently being in the interests of the landowner.
3. In terms of the current occupier of the land, no information of any substance has been provided in support of the diversion being in the interest of this party. I only understand that they support the Order. The grazing of animals only applies to the A-F section of the existing path and a greater proportion of the proposed path runs over land that could be grazed. The hedge and fence alongside the A-F section could potentially be removed to leave it as a cross field path, but I do not consider that I can reach my decision on the basis of something that might happen. Accordingly, from the information provided, I find there to be little support for the diversion being in the interests of the occupier of the land.
4. The Council believes that the diversion would provide a more convenient route for the public. The existing path requires a person to go up and down a steep incline that is difficult to negotiate and traverse two stiles. In contrast, the proposed path follows a flat route with no stiles. I also note that the proposed path would have a designated width of 3 metres which constitutes asuitable width for a footpath along the edge of a field. Both routes run on a natural surface and there is little difference between the lengths of the two routes. Mr Street draws attention to incidents where flooding has occurred on the land between points B-C. The extent to which this has happened is not evident. However, I do not consider that it carries a significant degree of weight when set against the issue of the incline on the existing path. Overall, having regard to all of these factors, the diversion would provide the public with a more convenient route to use, and this is particularly the case for those with limited mobility.
5. Mr Street raises concerns about the safety of the proposed path where it passes near to a railway line. There is fencing in place to separate the field from the railway embankment. This comprises in places of barbed wire, but it is not as substantial or high as the fencing adjacent to Footpath 19 at the underpass located just beyond point C. There is clearly the potential for a person to break through the fence in order to trespass on the railway line. However, no details have been provided of any reported incidents in the locality of the B-C section despite it apparently being used to some extent in recent years. Further, no objection has been received from Network Rail. The potential risk arising from a person trespassing on adjacent land is not the same as a path crossing land that poses a risk to the public. I would expect the Council and/or Network Rail to carry out an appropriate assessment in relation to the suitability of the present boundary fencing in the event that the Order is confirmed. This issue does not in my view prevent a finding that the diversion is in the interests of the public.

***Whether the new path will not be*** ***substantially less convenient to the public***

1. I have concluded above that the diversion would lead to the provision of a more convenient path for the public. It therefore follows that the proposed path would not be substantially less convenient for the public.

***Termination points***

1. The proposed modification to the existing path recorded in the Order would re-align point C a short distance to the west of the original termination point. However, it would continue to connect with an unaffected section of Footpath 19. In essence the diversion would not lead to any change to the termination points for the footpath. Both the existing and proposed paths terminate at points A and C.

***The effect of the diversion on public enjoyment of the path as a whole***

1. I observed the far reaching views mentioned by Mr Street where the land is at an elevated position. However, the existing path runs through land surrounded by vegetation and the views of the surrounding landscape are likely to be far more limited. He acknowledges that the area in general suffers from noise, and this is likely to be an issue at times whichever route is used.
2. The diversion would lead to a greater proportion of the footpath crossing land grazed by livestock on occasions. I recognise that some people can be nervous of animals. Nonetheless, there may be others who like to see animals, and livestock are commonly found on land crossed by public rights of way.
3. Overall, I am not satisfied that the diversion would lead to any meaningful loss of enjoyment for the public.

***The effect of the diversion on other land served by the existing path and the land over which the new path would be created***

1. The current and proposed paths run over land owned and occupied by the same parties who both support the diversion. I have not been presented with any evidence to indicate that there would be an adverse effect on land served by the existing path or crossed by the proposed path.

***ROWIP***

1. There is nothing to suggest that the proposed diversion conflicts with any provision contained in the Council’s ROWIP. It would also be consistent with the aims of Conclusion 5 in the ROWIP regarding the provision of access for all.

***Other Matters***

1. It is evident that mitigation measures were implemented in relation to the road scheme regarding Great Crested Newts. However, no evidence has been provided to indicate that this diversion would impact on Great Crested Newts or any other species. The diversion also does not require the removal of the hedge alongside the A-F section of the existing route.

***Conclusions on whether it is expedient to confirm the Order***

1. I am not satisfied it has been demonstrated that the diversion is in the interests of the landowner. There is also little information in support of the diversion being beneficial for the occupier of the land in question. However, I have concluded that the provision of a more convenient path would be in the interests of the public and the Order could be modified to make this point clear.
2. In light of my other conclusions regarding the relevant matters, I conclude that it is expedient to confirm the Order subject to modifications to the alignment of the existing path.

**Overall Conclusion**

1. Having regard to the above, and all other matters raised at the hearing and in the written representations, I conclude that the Order should be confirmed with modifications.

**Formal Decision**

1. I propose to confirm the Order subject to the following modifications:
* Delete in the second and third lines of the first paragraph in page 1 of the Order ‘*in the owner of the land crossed by the footpath described in paragraph 1 of this orde*r’ and insert ‘*of the public’*.
* Insert the grid references provided for the appropriate points in the descriptions contained in Parts 1 and 2 of the Order Schedule.
* Delete ‘*200 metres’* in the second line of the description in Part 1 of the Order Schedule and insert *‘180 metr*es’.
* Delete ‘*adjacent’* in the thirdline of the description in Part 1 of the Order Schedule and insert *‘roughly parallel*’.
* Delete ‘*195 metres’* in the fourth line of the description in Part 1 of the Order Schedule and insert *‘180 metr*es’.
* Delete ‘*190 metres’* in the third line of the description in Part 2 of the Order Schedule and insert *‘145 metr*es’.
* Amend the alignment of the existing path shown on the Order Map between points F-C to reflect the alignment shown on the map provided by the Council.
* Amend the extent of the proposed path shown on the Order Map towards point C to reflect the revised alignment of the existing path.
1. Since the confirmed Order would affect land not affected by the Order as submitted, I am required by virtue of Paragraph 2(3) of Schedule 6 to the 1980 Act to give notice of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

Mark Yates

**Inspector**

**APPEARANCES**

**For the Council:**

Mr N. Robinson Senior Public Rights of Way Officer

Ms J. Connelly Head of Planning and Highways Team

Ms E. Hughes Project Manager, Highways and Transportation

Ms E. Brough Strategy, Policy and Research Team Manager

**Objector**

Mr R. Street

**DOCUMENTS SUMITTED FOLLOWING THE CLOSE OF THE HEARING**

1. Details of modifications requested by the Council
2. Landownership map