



Date of Meeting	26 th July 2021
Portfolio	Leader of the Council
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Public/Private Document	Public

Permanently Stop up Part of Definitive Footpath HeyFp25

Executive Summary

1. Section 118 Highways Act 1980 confirms that the Council may stop up a right of way should it be expedient to do so and if it is not needed for public use.

Definitive footpath HeyFp25 shown by a solid black line on the plans below is identified on the definitive map and described in the related statement as running from Black Dad to Black Dad Lane and continuing to Shepherds Hey. The description in the statement does not state that it runs from HeyBp111 which would connect the footpath to the network in the vicinity of the farm. The footpath appears to lead from the rear of Black Dad Farm and proceed in a north-westerly direction away from HeyBp111. This route does not therefore connect with any highway nor to the definitive route at Black Dad.

A bridleway runs over Black Dad Lane labelled as HeyBp14 that leads to Black Dad Farm and links the network of rights of way in the area.

The landowner at Black Dad Farm has applied to the Council to delete that part of definitive footpath HeyFp25 that leads from the rear of Black Dad Farm to the bridleway HeyBp14.

The Council may proceed with this request by implementing Section 118 Highways Act 1980 as:

- HeyFp25 does not appear to connect to the network leading south from Black Dad Farm.
- There is a route of a higher standard that leads to Black Dad Farm and the network of rights of way in the area.

- It does appear to the Council that the section of HeyFp25 requested to be stopped up is not needed for public use.

Section 118 Highways Act 1980 confirms that should the order be opposed the Council may not confirm the order and an application will have to be submitted to the Secretary of State to decide whether the footpath will likely be used by the public having regard to the effect the extinguishment of part of this right of way would have on the land served by the footpath.

The associated costs for Officer/Legal time and advertising costs will be borne by the Landowner.

Recommendation

2.

That the Council proceed with a Public Path Extinguishment Order to stop up part of the footpath under Section 118 Highways Act 1980.

In the event the Council receive objections to the order the matter is referred to the Secretary of State for their consideration and decision.

That the Assistant Director (Legal, Governance & Workforce) be authorised to execute the Change of Control Notice and enter into any legal agreements necessary to give effect to this decision.

Reason for Recommendation

3. Under section 130 Highways Act 1980 the Council have a duty to assert and protect the rights of the general public to the use and enjoyment of any right of way.

Under Section 53 of the Wildlife and Countryside Act 1981 the Council should keep the definitive map and statement under continuous review and one method is to permanently alter a definitive footpath either by extinguishment and/or diversion.

On the definitive map and statement the footpath does not appear to continue to link the network of rights of way on the south easterly side from Black Dad Farm.

There are no historical features along this route that may indicate that it should be in existence.

The general public appear to always use the bridleway leading to Black Dad as it connects with other rights of way in the area.

Key Points for Consideration

4. Whilst the Council have a duty to protect the rights of the general public and consider the safety aspects whilst using the definitive network of rights of way we have also to consider the location of networking and transport.

A definitive route exists that does not seem to lead to any point on the network forming a cul de sac, it does not allow the general public to pass and repass only to return from where they came.

The landowner has applied to stop up part of HeyFp25 from an existing bridleway at Black Dad Lane to the rear of Black Dad Farm as it is not required for public use.

The Council are able to continue with an order under Section 118 Highways Act 1980, the legislation is in place to enable the Council to proceed.

The order may not be confirmed by the Council should any relevant (points of law) objections be submitted, the matter is considered and decided by the Secretary of State either by written representations or Public Inquiry.

All costs will be paid by the landowner

4.1 **Alternatives Considered**

The alternative is to leave the full length of footpath HeyFp25 on the definitive map and statement.

Divert the section of footpath to meet with the network of rights of way in the area. However, the land owner may not accept this proposal and the costs of diverting may fall to the Council.

The Council should support that this section of HeyFp25 is not necessary for public use as it is not used. It has not been highlighted to the Council as unable to proceed further than Black Dad Farm, this would appear to indicate that this part of HeyFp25 is not being used.

Costs and Budget Summary

5. The Landowner will bear the associated costs for the order, the costs relate to Officer/Legal time and Advertising costs.

Risk and Policy Implications

6. There are no risks associated with this proposal, the legislation is in place to allow Council's to consider this action for rights of way that are not necessary as not being used.

There are alternative routes of a higher status that are currently used that connect to the network of rights of way.

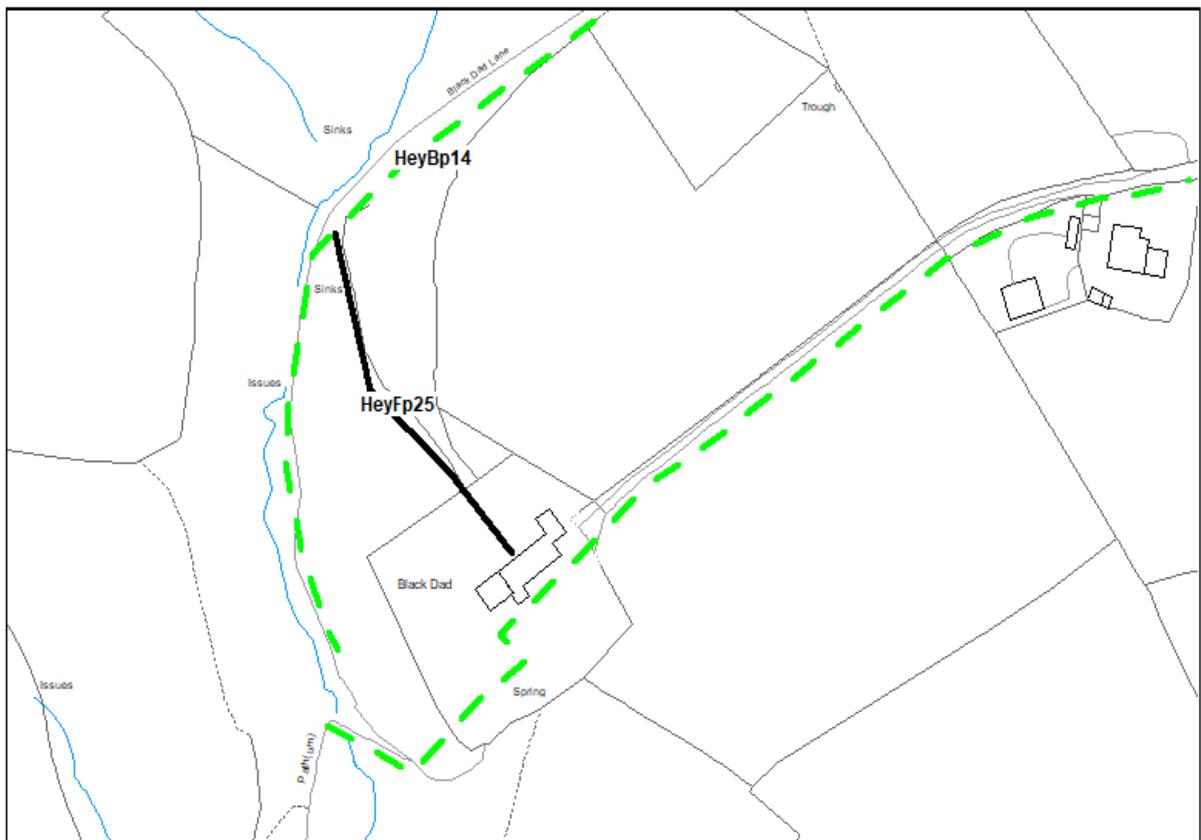
This proposal meets the Council's obligations in respect of continually reviewing the definitive map and statement.

Consultation

7. An informal consultation was carried out with representatives of the Council's Rights of Way Forum members, the views/comments provided were mixed whilst some had no opinion others were against it.

There is also a formal consultation with the Statutory Consultees during the order, and an objection period during which any member of the public may submit an objection, the Council will decide whether these are relevant and a point of law, any relevant objections received will deem the matter to be referred to Secretary of State.

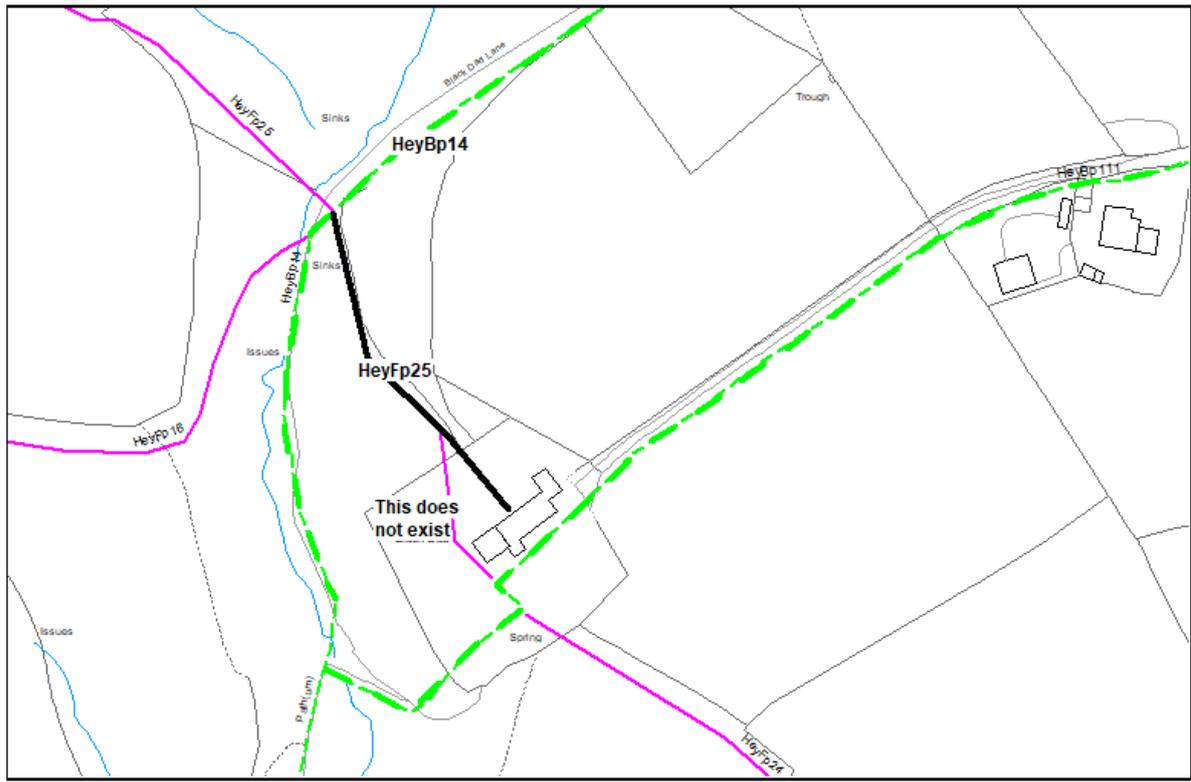
Background Papers	Place of Inspection
8. File Stopping Up of Part of HeyFp25	Environmental Management, Green Lane, Heywood, OL10 2DY
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Scale 1:1475

Map showing the route of HeyFp25 proposed to be stopped up and the route of
bridleway HeyBp14 leading to Black Dad Farm along Black Dad Lane.



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Map showing the definitive routes in the area and the cul de sac of HeyFp25 at Black Dad Farm