

REPORT AUDIT TRAIL**CONSULTATION**

*This is important as it shows that consultation has been undertaken in the preparation of the report and provides a quick reference point for specific comments, whilst the report will not be publishable if these areas have not been completed by the named persons below. **You must liaise with and receive sign off from the relevant Cabinet Member(s).***

Name/Position	Portfolio/Ward/ Directorate	Date Sent	Date Received	Comments in para:
Councillor John Williams	Cabinet Member for Transport, Jobs and the Local Economy	2/9/25	04/09/25	Supports the report and the recommendation to not approve this footpath request.
<i>Chloe Parker</i>	Head of Finance Regeneration and Environment	2/9/25	1/10/25	
<i>Chloe Parker, Finance</i>	Finance and Customer Services	2/9/25	01/10/25	6.1
<i>Bal Nahal, Legal Services</i>	Legal Services	26/08/25	27/08/25	
<i>Alan Rodgers, Human Resources</i>	Assistant Chief Executive's Office	27/08/25	01/09/25	
<i>Karen Millbrook, Procurement</i>	Finance and Customer Services	2/9/25	04/09/25	
Equalities	Assistant Chief Executive's Office	01/09/25	10/09/25	Asked to include notes in equality plan.
<i>Other officers below</i>		Click here to enter a date.	Click here to enter a date.	

REPORT APPROVAL TRACKING			
Equalities Your report will not be authorised for submission to Cabinet by your Strategic Director if you have not undertaken and included an initial equalities screening. All equalities analysis documents should be sent to Equality@rotherham.gov.uk for feedback prior to being included as appendices.	Initial Screening completed and included with report	YES	10/9/25
	Full Assessment completed and included with report	YES/NO (delete as appropriate)	Insert date agreed
Carbon Impact Assessments Carbon Impact Assessments are to be appended to the associated cabinet reports. Carbon Impact Assessments should be sent to climate@rotherham.gov.uk for feedback prior to your report being sent to your Strategic Director for approval.	Carbon Impact Assessment completed and included with report.	YES	10/9/25
Background information MANDATORY: Insert headings for a few main public documents you have used or referenced to write this report. This is a legal requirement. For Cabinet reports, insert hyperlinks . Do not list private documents.	Policy doc Rights of Way Improvement Plan – Rotherham Metropolitan Borough Council Govt advice [Withdrawn] Wildlife and Countryside Act 1981 - Definitive Map Orders: Consistency Guidelines - GOV.UK		
Appendices If appendices are essential to the understanding of the report, list titles here. Ensure that appendices have proper titles. List any appendices relevant to the decision being taken first with the Equality Analysis documents coming next and the Carbon Impact Assessment being listed as the last Appendix for all reports.	Appendix A Lodge Farm Close to Main Street North Anston Decision Report and Appendices Appendix B Lodge Farm Close to Main Street North Anston Plan Appendix C Lodge Farm Close to Main Street North Anston Redacted Pre Decision Consultation Responses		
Cabinet Member Approval You should retain an email confirming the Cabinet Member approval for your records. Strategic Directors should not authorise reports unless Cabinet Members have given sign off	YES/NO (delete as appropriate)	Click here to enter a date.	
Report Authorised by Strategic Director	YES/NO (delete as appropriate)	Click here to enter a date.	
Report Authorised for publication by Chief Executive	YES/NO (delete as appropriate)	Click here to enter a date.	

Delegated Officer Decision – 24 October 2025

Wildlife and Countryside Act 1981 s53. Application for a Definitive Map Modification Order to add a Public Footpath between Lodge Farm Close and Main Street, North Anston

Is this a Key Decision and has it been included on the Forward Plan?

No, but it has been included on the Forward Plan

Assistant Director Approving Submission of the Report

Sam Barstow, Assistant Director, Community Safety & Street Scene

Report Author(s)

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Ward(s) Affected

Anston and Woodsetts

Report Summary

The Council has received an application asserting that a public footpath not presently recorded on the Definitive Map at Main Street, North Anston should be recorded as a public right of way.

The Council must determine the claim under the Wildlife and Countryside Act 1981. Section 53(3)(c)(i) of that act provides that an Order should be made upon the discovery of evidence which (when considered with all other relevant evidence) shows that a right of way which is not shown in the map and statement subsists or is reasonable alleged to subsist.

If, based on evidence, the Council feels this case has been met, they should make a Definitive Map Modification Order (DMMO) under the Wildlife and Countryside Act 1981 to assert such rights exist. As part of the subsequent legal process a widespread consultation is then held which is open to objection. If objections are received that cannot be resolved, the Order must be submitted to the Secretary of State for confirmation, which will usually involve a public inquiry to decide if such rights exist or not.

If the Council does not consider such rights exist they must inform the claimants, who then have 28 days to appeal the decision to the Secretary of State.

Officers have carried out an extensive investigation of any relevant archive material and the claims submitted by the public and this is attached as Appendix A and Appendix C, a plan showing the route in question is attached as Appendix B.

Recommendations

That the Strategic Director for Regeneration and Environment exercises their delegated powers and:

1. That Legal Services do not make a Definitive Map Modification Order (DMMO) adding the route detailed in the attached report.
2. That the claimant is advised of due process regarding an appeal to the Secretary of State.

List of Appendices Included

Appendix A Lodge Farm Close to Main Street North Anston Decision Report and Appendices

Appendix B Lodge Farm Close to Main Street North Anston Plan

Appendix C Lodge Farm Close to Main Street North Anston Redacted Pre Decision Consultation Responses

Background Papers

Rights of Way Improvement Plan 2

[Public rights of way – Rotherham Metropolitan Borough Council](#)

Statutory Guidance Relating to Public Path Claims

<https://www.rotherham.gov.uk/rights-way>

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None.

Council Approval Required

No

Exempt from the Press and Public

No

An exemption is sought for Appendix C under Paragraph 2 (Information which is likely to reveal the identity of an individual) of Part I of Schedule 12A of the Local Government Act 1972, as this Appendix contains information which might identify individuals.

It is considered that the public interest in maintaining the exemption would outweigh the public interest in disclosing the information because the proposal is based upon evidence submitted through due process.

Wildlife and Countryside Act 1981 s53. Application for a Definitive Map Modification Order to add a Public Footpath between Lodge Farm Close and Main Street, North Anston

1. Background

- 1.1 On 20th July 2022, the Council received a claim made under the Wildlife and Countryside Act 1981 asserting that a path at North Anston had acquired public rights and should be recorded as public footpath.
- 1.2 The Council is under a statutory duty to assess the evidence that such rights exist and reach a conclusion under due process.

2. Key Issues

- 2.1 Officers are required by legislation to investigate any claims submitted to the Council requesting a modification of the Definitive Map. Due process requires the Council to thoroughly investigate any evidence that may be of relevance to the claims, including archive research and assessing the evidence submitted by the public in support of the claim.
- 2.2 The report assessing this research is attached as Appendix A.

3. Options considered and recommended proposal

- 3.1 The Council has a statutory duty to assess claims made under the Wildlife and Countryside Act 1981 section 53(3).
- 3.2 Section 53(3)(c)(i) provides that an Order should be made upon the discovery of evidence which (when considered with all other relevant evidence) shows that a right of way, which is not shown on the map and statement, subsists or is reasonably alleged to subsist.
- 3.3 Section 31 of the Highways Act 1980 and Common Law lay out guidance relating to this presumption, and in particular the period of time (usually 20 years) in which this 'right' can be reasonably alleged. The assessment of this guidance in relation to the claimed path is detailed in the attached report in Appendix A.
- 3.4 The findings of the report show that in officers' view the route should not be recorded as a public footpath.
- 3.5 If the Council does not consider such rights exist they must inform the claimants, who then have 28 days to appeal the decision to the Secretary of State.

4. Consultation on proposal

- 4.1 Consultations have been undertaken with a range of user and local interested parties, elected members, user groups, as well as the landowners.

Any evidence arising from the consultation exercise has been incorporated into the body of the report.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The Head of Highway Services is accountable for the development of the Highway Policy, Strategy and Plan and for ensuring the Definitive Map is kept up to date. The Head of Legal Services is responsible for the formal making of any orders relating to public paths.
- 5.2 If an order is made, due process requires the Council to widely consult interested parties and if any objections are received that cannot be resolved an independent inspector will be appointed to assess the Order.
- 5.3 In legislation, if the Council chooses not to make an order adding the route onto the Definitive Map as public footpath, they must inform the claimant(s) who have 28 days to appeal the decision with the Secretary of State, who may decide to require the council to make an order, may choose to suggest another alternative (such as different status) or agree with the council's assertion.

6. Financial and Procurement Advice and Implications

- 6.1 The costs associated with the implementation of this officer decision such as legal and consultation costs, have been funded within the approved revenue budget for the Service. Should this decision receive any objections that aren't withdrawn and the matter be referred to the Secretary of State, a further report will be required, which will outline how the additional costs will be funded.

7. Legal Advice and Implications

- 7.1 The process followed as set out in the report, is in accordance with the relevant legislation namely Section 53 Wildlife and Countryside Act 1981 and the Statutory Guidance which underpins the process.
- 7.2 The full reasoning for the decision is set out in Appendix A with the main reason being that the existence of 'private property no public right of way' signs on the path is incompatible with an intention by the landowner to dedicate the application route for public use.
- 7.3 As such the evidence available along with the responses to the consultation does not provide justification for amending the Definitive Map as applied for. The decision as set out in the Recommendations is therefore a lawful and reasonable one.

8. Human Resources Advice and Implications

8.1 There are no direct Human Resources implications arising from the recommendations contained in this report.

9. Implications for Children and Young People and Vulnerable Adults

9.1 None.

10. Equalities and Human Rights Advice and Implications

10.1 The use of the proposed path by all users has been considered, which is consistent with the requirements of the Equalities Act 2010 and the Public Sector Equality Duty (and the Wildlife and Countryside Act 1981 s53), however this decision is a quasi-judicial one, based on evidence available to the Council. As such a full Equality Analysis would not affect the decision being made so is not considered necessary and therefore has not been undertaken.

11. Implications for CO2 Emissions and Climate Change

11.1 None.

12. Implications for Partners

12.1. None.

13. Risks and Mitigation

13.1 The rights of way network is accessed by residents, businesses and visitors to the Borough and the condition of the network influences resident's opinion of Rotherham and the confidence of businesses to invest in the Borough.

13.2 The Council is under a statutory requirement to investigate all claims for public rights of way and if they refuse to make an order the claimant has a right of appeal as detailed above.

14. Accountable Officers

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Report Author: **Error! Reference source not found.**

This report is published on the Council's [website](#).