Gmail

Claire Waters <castlehedinghamparishclerk@gmail.com>

Footpath 25, Castle Hedingham

15 messages

Alan Roscoe <Alan.Roscoe@essexhighways.org> 24 May 2022 at 14:17

Dear Sir/Madam,

Essex County Council would welcome your thoughts on the above diversion proposal. This is an informal consultation only and no Order has yet been made.

Please note this informal consultation is not a statutory requirement on the Highway Authority. Its aim is to enable the principal stakeholders to comment on the proposed changes; feedback which is then considered by the Highway Authority and provided to the applicant. It is not intended as a public consultation. The public are informed and invited to respond if they so wish at the formal, Made Order consultation stage via on-site notices and plans, and the newspaper advertisement for the order. To enable us to continue this discretionary service we would appreciate it if informal consultations are not shared with the public beyond any council meetings as no order has yet been made and public comments on the proposals are not at this stage being sought.

Highways Act 1980 Section 119, Essex County Council intend to make the following orders: To divert Footpath 25 in the parish of Castle Hedingham in the District of Braintree under section 119 of the Highways Act as shown on the attached plan.

It is proposed to divert a section of Footpath 25, Castle Hedingham away from its current route to an alternative and parallel route along the edge of the field some 50m to the southeast, as indicated. If you have any comments, please reply directly to this email (not 'reply all') by 21 June 2022.

Please be advised that if an order is made for this proposal then any representation to that order will need to be made (in writing) at the time of that order's public consultation.

Prior responses to the informal process will not be considered as carried forward to the made order consultation process.

Regards

Alan
Alan Roscoe | PROW & Records Analyst

Definitive Map Team

Claire Waters <castlehedinghamparishclerk@gmail.com> 17 June 2022 at 17:38
To: Alan Roscoe <Alan.Roscoe@essexhighways.org>

Dear Alan

Please find attached a response from Castle Hedingham Parish Council following our meeting earlier this week when this matter was on the agenda. I also attach our previous response to Mr Collins when he initially enquired about the Parish Council's view on his proposal in January 2012.

Could you please clarify the process - in light of your comments below about this informal consultation and not sharing it with the public? I have two specific questions:

1. Are we able to report this agenda item in the Parish Council minutes? I have not included it in the Parish Magazine abridged version but how confidential is it? We would prefer the public to be aware of what is planned.
2. A Made-Order sounds very much like a foregone conclusion and this is the impression I gained from our telephone conversation. Can you clarify the process for me please, including what consultation will take place with local residents, how much influence will they actually have if they object, and how long will the consultation period be? Or will it just be a notice in a local paper without notifying local people by any other means?

The Parish Council is not in the habit of objecting to reasonable proposals over footpaths or other matters including planning, so please accept that we are not deliberately trying to be difficult.

With thanks and kind regards

Claire

Claire Waters
Parish Clerk
07845 056597
castlehedinghamparishclerk@gmail.com

See our website at **www.castlehedingham.org**

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2 attachments

CHPC response Footpath 25 Jan 14 2021.pdf
36K

CHPC response Footpath 25 June 17th 2022.pdf
82K

Claire Waters <castlehedinghamparishclerk@gmail.com> 22 June 2022 at 14:49

Dear Councillors

I had a phone call from Alan Roscoe of the Definitive Maps team following sending our response about Footpath 25 last week. He summarised the process and I thought it would be helpful for you all to know how it works:

This is an informal consultation and not a statutory requirement but something Essex Highways choose to do voluntarily so he would prefer it not to be reported in the minutes.

When an application is submitted for diversion of a footpath, the Definitive Map team make a judgement on first sight to assess if it is reasonable. If it is, they conduct a site visit and talk to the applicant to assess any legal, practical and physical issues. If they judge it is viable, they then proceed to "informal consultation" which we have just been involved in.

One those informal consultation responses are received and assessed, they then publish a Made Order - this is the public consultation which gives 28 days for the public to respond. An email is sent to the Parish Clerk, notices are put up at the footpath itself (red and white notices so clearly visible) giving contact details for responses, and a notice will be published in the Halstead Gazette. It's at this stage that local people need to submit their objections if they feel strongly about the proposals. **It is worth noting that all path diversion applications and objection responses are assessed against the provisions of the Highways Act 1980 s119** https://www.legislation.gov.uk/ukpga/1980/66/section/119 so worth reading this before submitting a response.

Once this Made Order consultation is completed, if approved by the CEO the Definitive Maps team then proceeds to the Confirmed Order where the new route is certified and added to the map.

Kind regards

Claire

Claire Waters
Parish Clerk
07845 056597
castlehedinghamparishclerk@gmail.com

See our website at **www.castlehedingham.org**

---------- Forwarded message ---------
From: **Claire Waters** <castlehedinghamparishclerk@gmail.com>
Date: Fri, 17 Jun 2022 at 17:38
Subject: Re: Footpath 25, Castle Hedingham
To: Alan Roscoe <Alan.Roscoe@essexhighways.org>
[Quoted text hidden]

2 attachments

CHPC response Footpath 25 Jan 14 2021.pdf
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Alan Roscoe <Alan.Roscoe@essexhighways.org> 24 June 2022 at 13:38
To: Claire Waters <castlehedinghamparishclerk@gmail.com>

Dear Claire

Thank you again for your email and I have read the points raised in your two letters with interest. Specifically with regard to your letter of 17 June 2022:

- Usage

I have no data on the frequency of usage of the path but I suspect it is, as you suggest, subject to regular use at pre-lockdown levels. In itself, the frequency of usage has no material impact on the validity of an application although clearly, in areas of heavy footfall, we sometimes have to consider the surface provided.

- Surface

The resurfacing was certainly a well-intentioned move by the applicant and I believe they deserve credit for considering this. Clearly, if a surface had been provided it would have been (notwithstanding the condition of other connecting routes) of benefit to those with disabilities. In light of your comments however, the applicant has agreed that a surface will not now be provided and it will remain as grass, thus reflecting the Council's desire to maintain local landscape character.

- Fencing

Although the new route would be fenced (2.5m width, more than the minimum legal requirement of 2m) it will be post and rail. This, I would venture, will be difficult to see against the background of the adjacent woodland. The open nature of the fence will give good visibility from the road in the event of an accident.

- Route

To avoid the relatively steep ascent/descent off the road indicated on the plan I sent you (the zig-zag section), the intention is now to circle round the top of the field and back to the existing kissing gate. This also has the benefit of keeping the link at either end of the field to the Magna Carta Walk, which I know is important to the Council.

- Drainage

Some re-profiling work is being undertaken but this is a matter for the applicant and the issue of drainage is not

considered within the provisions of the Act concerning diversions.

- Archaeology

I note your concerns. Our colleagues within ECC who deal with such issues were included on the informal consultation and did not respond. Just to be sure therefore, I have emailed them a second time asking them specifically if they have any comments on archaeological interest in the area.

I hope this sets the Council's mind at rest and I confirm a Made Order will be issued in due course. At that point, the Council has the option to object formally but I do hope that the time taken to respond to your concerns and the applicant's obvious willingness to react to feedback will reassure the Council and that they will find that no formal objections will be necessary.

If I can clarify anything, do let me know.

Regards

Alan

Alan Roscoe | PROW & Records Analyst

Definitive Map Team

Claire Waters <castlehedinghamparishclerk@gmail.com> 27 June 2022 at 08:22

Dear Councillors - District and County Councillors copied in

This is the response from the Definitive Maps officer to our letter regarding Footpath 25. As you will see he has responded to some of the concerns raised and the Made Order will be issued - we will be informed when this happens

Kind regards

Claire

Claire Waters
Parish Clerk
07845 056597
castlehedinghamparishclerk@gmail.com

See our website at **www.castlehedingham.org**

Claire Waters <castlehedinghamparishclerk@gmail.com> 1 July 2022 at 15:44

I just had another call from the Alan Roscoe the Definitive maps officer asking if I knew what the Parish Council reaction was to the amendments in his email of 24th June. I said I had emailed them to you all but would not be able to comment until after our meeting on 11th July. He seems remarkably keen to chase this up - but maybe it's just good customer service.

Kind regards

Claire

Claire Waters
Parish Clerk
07845 056597

castlehedinghamparishclerk@gmail.com

See our website at **www.castlehedingham.org**

Alan Roscoe <Alan.Roscoe@essexhighways.org> 4 July 2022 at 13:05
To: Claire Waters <castlehedinghamparishclerk@gmail.com>

Dear Claire

I hope my email below has helped members of the PC. To aid any discussion next Monday, can I take this opportunity to advise the PC that we can only entertain formal objections to the application by reference to the criteria identified in s.119 Highways Act 1980. I show a link below and s.119 is about one third of the way down the webpage.

https://www.legislation.gov.uk/ukpga/1980/66

Essentially, objections can only be made on the grounds of convenience or enjoyment and I have also shown below an extract from our application form which explains the situation in a little more detail. You will see that this particular application will satisfy the first three criteria. The issue with the fourth is that it has to be demonstrated that the new route is 'substantially less convenient' in terms of public enjoyment, the effect on land already served by the existing right or the effect on land where the new right passes. 'Enjoyment' is clearly highly subjective as is the word 'substantially' but unless it can be shown that the application fails the tests contained in s.119, it will then be the subject of a Confirmed Order.

In this case, the surface will remain natural (as you requested) and the new route is only 22m longer than the old route. We would maintain therefore, that the application does not fall foul of this fourth criterion.

GUIDANCE ON STATUTORY CRITERIA FOR A DIVERSION

1. In the case of an application for a diversion order; that in the interests of the owner, lessee or occupier of land crossed by the path or way, or in the interest of the public, it is expedient that the line of the path should be diverted
2. The public path diversion should not alter the point of termination if the new point is not on another public path or highway
3. The new termination point should be on the same path/highway or one connected with it, and which is substantially as convenient to the public
4. The new path or way should not be substantially less convenient to the public in consequence of the diversion having regard to:
   i) public enjoyment of the path or way as a whole,
   ii) the effect the order will have on other land served by the existing right of way, and
   iii) the effect on land over which the new right of way is created

I hope this all makes sense but if you need anything else, do let me know. I suspect you will circulate this email to the PC members and I am happy to talk to any of them direct, should they wish to chat before your meeting next week.

Regards

Alan
Alan Roscoe | PROW & Records Analyst
Definitive Map Team

Claire Waters <castlehedinghamparishclerk@gmail.com> 5 July 2022 at 08:56

Dear Councillors - District & County Councillors copied in

From the PROW Definitive Map officer regarding Footpath 25 - this item will be on the agenda for our meeting next Monday

Kind regards

Claire

Claire Waters
Parish Clerk
07845 056597
castlehedinghamparishclerk@gmail.com

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