



Footpath 25, Castle Hedingham
Public Inquiry, 5 and 6 March 2024
Statement of Case by Essex Highways
and Associated Documents

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**DOCUMENTS SUBMITTED BY ESSEX COUNTY COUNCIL
TO THE PLANNING INSPECTORATE
(Electronic Submission)**

**IN THE MATTER OF THE DETERMINATION TO CONFIRM
PUBLIC PATH DIVERSION ORDER 2022 FOOTPATH 25 CASTLE HEDINGHAM
IN THE DISTRICT OF BRAINTREE
SECTION 119 – HIGHWAYS ACT 1980**

DOCUMENTS REQUIRED BY THE PLANNING INSPECTORATE

1. Electronically sealed Order and associated plan – *separate document (SD)*
2. Statement of the grounds on which it is considered the order should be confirmed – *within this submission (WS)*
3. OMA's submission letter (WS)
4. Representations and objections to the order, including supporters (attached to various emails) along with a covering list of their names (SD). [4a and b Online petition comments and names – two SD.]
5. Statement containing the OMA's comments on the objections (SD)
6. Copy of the notice publicising the order together with a copy of the advertisement voucher copy (SD)
7. Certificate that notices have been published, served and posted on site and at the local offices (WS)
8. Certificate that the necessary consultations have been carried out (WS)
9. Copies of replies to the pre-order consultation and responses by the OMA (SD)
10. Name and address of every person notified (SD)
11. Undertaking that if confirmed, notice will be duly published and served; or if not confirmed notice will be duly served (WS)
12. Location map to enable the Inspector to identify the site (SD)
13. Written permission from the landowner allowing Inspector access to the land (SD)
14. Name and address of the applicant (SD)
15. Confirmation that the OMA is supporting the Order (WS)
16. Details of the time and place where documents relating to the order will be made available for public inspection (WS)
17. Health and Safety questionnaire document (WS)
18. Undertaking by OMA to provide new paths in readiness for public use (WS)
19. Extract from the Definitive Map and Statement (SD)
20. Extract from the Essex County Council Rights of Way Improvement Plan (ROWIP) (SD)

21. PROW Officer's statement (SD)

1. Electronically sealed Order and plan

See submitted pdf file:

1-Electronically sealed order and associated plan

2. Statement of the grounds on which it is considered the Order should be confirmed

This statement explains why in the opinion of Essex County Council (ECC) as the Order Making Authority (OMA) the Order meets the relevant criteria as set out in Section 119 of the Highways Act 1980 and why the diversion is expedient on the grounds stated.

Footpath 25 Castle Hedingham (PUBLIC PATH DIVERSION ORDER 2022).

The applicant, who is also the main landowner, applied for a diversion of sections of the above footpath. Consent has been secured from the other affected landowner.

The relevant statutory tests that were examined in detail and categorical evidence for their applicability was sought by the County Council before agreeing to proceed with the making of the Diversion Order. Concerning the main criteria when considering a public path diversion:

(i) Whether it was expedient to make such an Order in the interests of the landowner.

The applicant's reasons for applying to divert this grassland section of footpath are varied. He has become increasingly concerned by walkers straying from the definitive cross-field line towards his own residence (and that of his neighbours, owners of part of the land affected by this application) and has had dog-walkers close to the house. Walkers have also picnicked and flown kites. Attempts to persuade people to stay on the definitive line have occasionally been met with abuse and threatening behaviour. The applicant has been keeping a diary of such incidents which have occurred since his application. The field is used for a hay cut and litter and dog excrement have affected his ability to collect a clean cut. He is also concerned at substrate damage during wet weather (please see later comments). The diversion would be to a field edge line far more convenient for hay cuts and general management of the field.

(ii) The termination points of the diversion are not substantially less convenient to the public.

The termination points of the diversion would remain unaltered from the current termination points.

- (iii) The diversion should not be substantially less convenient to the public (in terms of increased distance).**

The diverted line is approximately 22m longer than the current route (397m -375m), an increase of 6% of the section concerned. The additional length represents an increase of only 4% over the total length (currently 499m) of this particular path. In the context of the path as a whole and the parish therefore, the OMA do not view the diversion route as being substantially less convenient.

- (iv) Regard to the effect the diversion would have on the public enjoyment of the path as a whole.**

Per subsection (i), the path currently passes through the middle of a grassland. The path rises slowly up the field from a lower point in the southwest to its termination point at the main carriageway in the northeast. The diverted line would remain as a natural surface but would instead follow the nearby field edge. The applied-for diversion has almost identical views of the surrounding countryside to the current definitive line and as the northeastern termination point would remain unchanged, the views from that point would remain unaltered. The proximity of the woodland as a result of diversion may marginally increase the enjoyment of the path. The applicant originally intended to lay an artificial surface (obviously at his expense) to facilitate better access for residents but withdrew this after the Parish Council objected during the informal consultation on the grounds that such action it would adversely alter the rural character of the path.

The applicant intends to fence in the diverted line but only post and rail, with mesh, to a height of 1.2m is to be permitted, thereby ensuring the rural 'feel' of the path and its associated views are maintained.

- (v) The effect the order will have on the land served by the existing right of way and of the land over which the right of way is created.**

The path is being diverted from and onto land in the ownership of the applicant and the consentors. The application was made by the landowner of their own volition and is in their interests. As such, there is no negative effect on the land from this proposal. A confirmed diversion will allow the applicant to more easily manage the land for their benefit. The public would also be separated from the movement of machines, thereby increasing safety for all users.

Taking the above factors into account, the OMA concludes that the proposed diversion for the Public Rights of Way meets the relevant tests as laid down in section 119 of the Highways Act 1980.

3. OMA's submission letter

The Planning Inspectorate
Rights of Way Section
Room 3A Eagle
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

Date 17 February 2023
Our Ref: Footpath 25 Castle
Hedingham Diversion

Dear Sir/Madam,

Highways Act 1980 – Section 119 Public Path Diversion Order 2022
Footpath 25 Castle Hedingham, District of Braintree, Essex

Essex County Council, being both the Order Making Authority and Highway Authority, are writing with regard to the above proposed diversion application which has undergone a statutory consultation period of the order made on 21 July 2022. At the expiry of the consultation period, the Authority had received 44 objections. When taking into account the number of objections, the OMA considered that it would not be realistic to attempt to seek the withdrawal of them all and a small number have been acknowledged.

The County Council having considered the criteria for making and confirming the order are satisfied that the application meets the relevant tests and therefore support the Order. Accordingly I write to formally request the Secretary of State in pursuance of section 2(2) of Schedule 6 to the Highways Act 1980 determines to confirm the above mentioned Order. I enclose by email attachment documentation required for the submission of Public Path Orders to the Secretary of State for consideration.

The list of documents follows the order given on The Planning Inspectorate's *'Documents Required By The Planning Inspectorate (Checklist for Order Making Authorities)*.

The Council also hereby confirms that it would be in agreement and preferable for the matter to be resolved by written representations, should that be acceptable to all interested parties, although recognises this is a slim possibility.

Yours faithfully

Alan Roscoe, PROW & Records Analyst/PROW Officer, Essex County Council

4. Representations and objections to the order (including supporters) with a covering list of names

The representations and objections to the order are attached to various emails. A small number of these were acknowledged but no attempt was made by the OMA to secure the withdrawal of these objections. A list of all the objectors' names is also submitted.

See submitted pdf file:

4-List of all objectors' names

Please note that an online petition was also initiated by one of the objectors and garnered many signatures. The OMA has not recognised these comments as they are unduly made. In the interests of full disclosure however, a list of the petitioners' names and comments, as provided by the petition organiser, is provided.

See submitted pdf files:

4a-Online petition comments

4b-Online petition names

5. Statement containing the OMA's comments on the objections

The OMA has not sent formal itemised responses to all objectors as it quickly became clear that none, if any, would withdraw their objection. The OMA's comments on the objections are provided at document 5.

See submitted pdf file:

5-Statement containing the OMA's comments on the objections

6. Copy of the notice publicising the order together with a copy of the newspaper cutting

See submitted pdf files:

6-Copy of the notice publicising the order

6-Copy of the advertisement voucher copy

7. Certificate that in accordance with the requirements of the Act, notices have been published, served and posted on site and at the local offices

I hereby certify that:

1. A Notice in the form numbered 1 of Schedule 2 to the Public Path Orders Regulations 1993[Si 1993 No. 11] in respect of Orders under the Highways Act 1980 was published in the Halstead Gazette on 4 August 2022. The time allowed for objections was not less than 28 days from date of publication of the Notice and the last date for objections was 1 September 2022
2. Notices in form 1 referred to above, were duly served on every owner, lessee and occupier of the land to which the Order relates, Braintree District Council, Castle Hedingham Parish Council and prescribed persons as specified in Schedule 3 of the said Regulations. The Notices were served by email or letter on 27 July 2022 (owners of land) and 29 July (councils and prescribed persons).
3. A copy of the Order and Map were uploaded to our website (<https://www.essexhighways.org/public-path-notices>) on 4 August 2022. It was also specified in the site notice and newspaper advertisement that copies of the order and notice could be requested to be posted or viewed by emailing publicpathorders@essexhighways.org to arrange a suitable time to inspect the documents quoting the Order title. Documents can be made available for inspection 8.30am-4.30pm Mon-Fri at Essex County Council, County Hall, E block main reception, Market Road, Chelmsford if so required.
4. Copies of the Notice and Plan were posted on site on 3 August 2022 by me.

Alan Roscoe
PROW & Records Analyst/PROW Officer
Essex County Council

8. Certificate that the necessary consultations have been carried out (other local authorities and statutory undertakers)

I hereby certify that:

1. Braintree District Council, Castle Hedingham Parish Council, owners and occupiers of affected land and prescribed persons as specified in the Regulations were consulted on 29 July 2022.
2. Those responses received from statutory undertakers during the informal consultation confirmed that no apparatus would be affected by the proposed diversions.
3. Such comments as were received from the District Council, Parish Council or other statutory and ECC policy consultees are included in the pdf documents numbered '9'

Alan Roscoe
PROW & Records Analyst/PROW Officer
Essex County Council

9. Copies of any replies to the pre-order consultation and the responses by the OMA

Three parties contacted the OMA during the pre-order consultation. The Parish Council were concerned about various issues and the OMA looked to address these as far as was possible at that stage. The Parish Council later formally objected to the Made Order. The Ramblers were concerned about the exit point onto the main carriageway and an alteration to the plan before the Made Order looked to address this concern.

See submitted pdf files:

- 9-Copy of reply to the pre-order consultation and response by the OMA, Castle Hedingham PC
- 9-Copy of reply to the pre-order consultation and response by the OMA, Cllr Schwier
- 9-Copy of reply to the pre-order consultation and response by the OMA, Katherine Evans, The Ramblers

10. Name and address of every person, council or prescribed organisation notified under

- (i) paragraph 1(3)(b)(i), (ii) and (iv) of Schedule 6 to the 1980 Act and Schedule 3 of SI 1993 No.11 Highways England and Wales, The Public Path Orders regulations 1993;

See submitted pdf file:

10-Name and address of every person notified

11. Undertaking that if confirmed, notice will be duly published and served; or if not confirmed notice will be duly served

Essex County Council, hereby undertakes as the relevant order making authority for the area of land in question, in accordance with the requirements of the Planning Inspectorate the following:

That if the aforementioned Highways Act Order to divert a section of Footpath 25 Castle Hedingham is confirmed by the Secretary of State, the Council will duly publish and serve notice of the same

or

if not confirmed notice to that effect will be duly served in accordance with the directions of the Secretary of State

Alan Roscoe
PROW & Records Analyst/PROW Officer
Essex County Council

12. Location map to enable Inspector to locate the site

The diversion of Footpath 25 Castle Hedingham is located in the field immediately to the south of Rushley Green Farm, Rushley Green, Castle Hedingham, Essex CO9 3AH.

See submitted pdf file:

12-Location map to enable the Inspector to identify the site

13. Written permission from the landowner allowing the Inspector access to the land

See submitted pdf file:

13-Written permission from the landowner allowing Inspector access to the land

14. Name and address of applicant

See submitted pdf file:

14-Name and address of the applicant

15. Confirmation that the OMA is supporting the order

Essex County Council as the Order Making and Highway Authority hereby confirms it is supporting the order as made to divert part of Footpath 25 in the parish of Castle Hedingham, District of Braintree.

We also confirm the County Council will continue to support the order should the matter be dealt with by Inquiry or Hearing.

Alan Roscoe
PROW & Records Analyst/PROW Officer
Essex County Council

16. Details of the time and place where documents relating to the order will be made available for public inspection by the authority

The documents relating to the Order will be made available for public inspection on Essex Highways website at: <https://www.essexhighways.org/getting-around/opposed-orders>

Copies of the documents relating to the order can also be made available to view at Essex County Council Offices, County Hall, E block main reception, Market Road, Chelmsford, Essex CM1 1HQ between the hours of 8.30am to 4.30pm Monday to Friday, or posted or emailed (subject to a recipients' email file size limitations). To arrange to view or be sent the documents, requests should be submitted by email to alan.roscoe@essexhighways.org or publicpathorders@essexhighways.org

17. Health and Safety issues questionnaire

Health and safety at the site questionnaire

1. Is the site uneven or does it present any other known risks? Is special footwear or any other Personal Protection Equipment required?

No specific risks are known of that would require PPE other than normal walking clothing/footwear. Temporary electric fencing may be on site.

2. Is there any likelihood of exposure to pets or other animals which may present a risk to the safety of the Inspector?

The general area is popular with walkers including dog walkers so there is a reasonable probability of encountering dogs. There may be sheep in the field but these animals are timid.

3. Is the site remote and/or can it be seen from other highways or rights of way?

The site is accessed and can be seen from Rosemary Lane (partially a byway). The site is outside Castle Hedingham itself but is not 'remote'.

4. Does the site have a good mobile phone signal or is there easy access to a public telephone should the emergency services be required?

Ofcom's mobile service checker indicates that there is service (three ticks for voice, data and enhanced data) from EE, Three, O2 and Vodafone. In the event of an emergency, please call at one of the nearby houses on Rosemary Lane.

5. Is the right of way easily accessible? Will arrangements for access by the Inspector need to be made in advance?

The PROW is accessible by car and it is easy to pull in at the gateway at the northeastern end of the applied-for diversion. The nearest train station is Braintree, with services from Liverpool Street. The station is a 10 mile taxi ride from the site. The number 89 bus service runs from Braintree station to Castle Hedingham but frequency is not known.

The landowner has given consent for PINS to visit at any time with no prior notice.

6. Are there any dangerous pieces of equipment or substances stored at any point along the right of way?

Although there are some fences, and some barbed wire along the edge of the woodland, there is not thought to be any storage of dangerous equipment or substances on site.

7. If there is any other relevant information which the Inspector should be aware of that is not covered in this questionnaire?

There is very significant local feeling about this application and it is possible that walkers, if the inspector's purpose becomes known, may attempt to engage in conversation.

18. Undertaking that any new path or way to be provided will be ready for use before the order comes into operation;

Essex County Council, hereby undertakes as the relevant authority for the area of land in question, in accordance with the requirements of the Planning Inspectorate the following:

That any new path or way to be provided in accordance with the above Diversion Order confirmed by the Secretary Of State will be ready for use before the Diversion Order comes into operation.

Alan Roscoe
PROW & Records Analyst/PROW Officer
Essex County Council

19. Extract from the definitive map and statement;

See submitted pdf file:

19-Extract from the Definitive Map and Statement

20. Copy of relevant part of the County Councils Rights of Way Improvement Plan;

See submitted pdf file:

20-Extract from the Essex County Council Rights of Way Improvement Plan (ROWIP)

21. PROW Officer's Statement;

See submitted pdf file:

21-PROW Officer's statement