

**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 11 LAMBOURNE
IN THE DISTRICT OF EPPING FOREST
SECTION 119 – HIGHWAYS ACT 1980**

DOCUMENTS REQUIRED BY THE PLANNING INSPECTORATE

1. Electronically sealed Order (there is no paper form of this order) and associated plan
2. Statement of the grounds on which it is considered the order should be confirmed
3. OMA's submission letter
4. Representations and objections to the order (including supporters) along with a covering list of their names
5. Statement containing the OMA's comments on the objections
6. Copy of the notice publicising the order together with a copy of the advertisement voucher copy
7. Certificate that notices have been published, served and posted on site and at the local offices
8. Certificate that the necessary consultations have been carried out
9. Copies of replies to the pre-order consultation and responses by the OMA
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
12. Location map to enable the Inspector to identify the site
13. Written permission from the landowner allowing Inspector access to the land
14. Name and address of the applicant
15. Confirmation that the OMA is supporting the Order
16. Details of the time and place where documents relating to the order will be made available for public inspection
17. Health and Safety questionnaire document
18. Undertaking by OMA to provide new paths in readiness for public use
19. Extract from the Definitive Map and Statement
20. Extract from the Essex County council Rights of Way Improvement Plan (ROWIP)
21. PROW Officer's statement

1. Electronically sealed Order and plan

See submitted PDF file:

1-Copy of Made Order inc. plan.pdf

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 11 Lambourne (PUBLIC PATH DIVERSION ORDER 2022).

The applicant, who is also the landowner, applied for the diversion of a part of the above footpath.

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 primary reason for applying to divert these footpaths is the safety of livestock kept on the two fields traversed by the relevant footpath sections. The cross-field route taken by both sections and their open aspect combined with poor control of dogs have resulted in livestock deaths following dog attacks. This is in spite of the fact that grazing is extensive, with stock at low density. Littering and dog excrement have also been left in both fields and the applicant has faced hostile responses when challenging offenders. The applicant wishes to divert the path around the edges of both fields, with the diverted line being fenced in (post and rail to a maximum height of 1.2m, with mesh, minimum path width of 2.5m) to ensure the security of livestock. The applicant has been considering an application for some years but the situation has now become sufficiently serious that he feels he has been left with no option but to apply for a diversion. The required fencing will cost the applicant a significant five figure sum and indicates the seriousness with which he views the current situation.

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

The termination points of the route would remain unaltered if the diversion were to come into force.

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

The diverted line is approximately 229m longer than the current route (new: 547m - old: 318m), an increase of 72% of the sections concerned. The additional length represents however, an increase of only 28% over the total length (currently 801m) 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.

Specifically, the more western of the two fields is a cross-field section of 179m, increasing to 302m on diversion round the field edge. The eastern field is a cross-field section of 139m, increasing to 245m on diversion round the field edge.

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

Per subsection (i), the current route crosses two fields which are grazed extensively. The route currently drops down the first field to a ditch/stream, crossing a bridge before rising up across the second field. The diversion would be around four field edges, thus maintaining views of the fields themselves but also providing closer views of the adjacent hedgelines and woodland, perhaps marginally increasing the interest of the diversion. A small ditch/stream runs alongside two of the field edges. The two termination points represent the highest parts of the diversion and will remain unaltered, thereby ensuring views will be maintained at the entry points onto both fields.

Some objectors have speculated that a security-type fence (high, solid) might be installed but fencing will be as stipulated at subsection (i) and the applicant is also keen that users should continue to enjoy views along the diverted route.

(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. 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 the benefit of themselves and their animals and will also render the precise line of the path clear to all users. The public would also be separated from the movement of animals and machines, thereby increasing safety for all users.

Taking the above factors into account, the OMA conclude 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 6 December 2022
Our Ref: Footpath 11 Lambourne
Diversion

Dear Sir/Madam,

Highways Act 1980 – Section 119 Public Path Diversion Order 2022 Footpath 11 Lambourne Parish, District of Epping Forest, 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 25 May 2022. Following the expiry of the statutory consultation period and ensuing negotiations the County Council were unable to achieve withdrawal of five duly made objections.

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)*.

I would request that where possible the dates below are avoided in respect of possible dates for attendance at a hearing or inquiry. 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.

Dates to avoid please:

Alan Roscoe: None at present

Robert Lee: 1 January, 24 March, 29 March, 5 April 2023

Yours faithfully

Alan Roscoe, PROW & Records Analyst/Public Rights of Way Officer, Essex County Council

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

See submitted PDF files:

2-Representations and objections to the order

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

The OMA responded to some objectors with reasons for the order but, once it became apparent that referral would be necessary, later objectors received an acknowledgement only. Responses to the objection letters are included in Document no.3.

The reasons for objecting to the diversion fall into seven broad categories, as identified below, and further summary details of the objections and OMA responses can be found in Document **xx**. Please note that Lambourne Parish Council also objected but the objections were unduly made, the reasons being explained to the Council. Their comments reflected however, objections made by other parties.

- Historicity of the current route
- Loss of countryside views
- Steeper gradient
- Increase in distance
- Potentially wet surface
- Reduction of personal privacy/safety of residents
- Detrimental effect on residents' property values

3-OMA responses to the objections

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

See submitted PDF file:

4-Copy of site notice publicising the order.pdf

5-Copy of the newspaper cutting.pdf

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 Epping Forest Guardian on 16 June 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 14 July 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, Lambourne Parish Council, Epping Forest Council and prescribed persons as specified in Schedule 3 of the said Regulations. The Notices were all served by email to the owner of the land on 14 June 2022 and to the local councils on 15 June 2022.
3. A copy of the Order and Map were uploaded to our website (<https://www.essexhighways.org/public-path-notices>) on 16 June 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 following the current social distancing restrictions.
4. A copy of the Notice and Plan were posted on site on 16 June 2022 by Alan Roscoe, PROW and Records Analyst.

Alan Roscoe
PROW & Records Analyst/Public Rights of Way 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. Epping Forest District Council, Lambourne Parish Council and prescribed persons as specified in the Regulations were consulted on 15 June 2022. The owner of the land received a personal notice on 14 June 2022. Statutory undertakers were consulted on 14 March 2022.
2. Those responses received from statutory undertakers confirmed that no apparatus would be affected by the proposed diversion.
3. Comments received from the Parish Council are included in Document no.6. Epping Forest District Council and other ECC policy consultees, except the Ramblers, made no observations.

Alan Roscoe
PROW & Records Analyst/Public Rights of Way Officer
Essex County Council

6-Comments received from Lambourne Parish Council

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

The only responses were from three statutory undertakers, who confirmed they had no issues with the proposed diversion. The OMA did not respond further to these assurances.

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:

7-Name and address of every person notified under Schedule 6 of the 1980 Act.pdf

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 11 Lambourne 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/Public Rights of Way Officer
Essex County Council

12. Location map to enable Inspector to locate the site

The diversion of Footpath 11 Lambourne is located at:
Oakfield House, New Farm Drive, Abridge, Essex RM4 1BU

See submitted PDF file:

8-Footpath 11, Lambourne, Location Map.pdf

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

See submitted PDF file:

9-Landowner consent form Simon.Gilbert.pdf

14. Name and address of applicant

Mr Simon Gilbert, Oakfield House, New Farm Drive, Abridge, Essex RM4 1BU

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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 Footpaths 3 and 8 in the parish of Lambourne.

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/Public Rights of Way 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?

The site is a grazed field and whilst there is some undulation and a slope down to a stream, the substrate is fairly even and presents no particular hazards. Boots are suggested but no other PPE is necessary.

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

This PRoW is fairly popular with dog walkers and it is reasonable to believe that dogs will be encountered. The livestock in the field have been found by the officer to be docile and slightly wary of human contact and are not believed to present any threat.

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

The site comprises two medium-sized fields and parking at the termination point on New Farm Bridge, Abridge is straightforward. The site is close to residential housing but topography means that a walker can be slightly unsuspected halfway across the proposed diversion as the route dips into a small valley, although the small number of houses to the north can still be seen from some of the current definitive and proposed diverted lines. It is not thought the route can be seen from any other highways.

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 coverage (green tick) for voice and data services with the Three, O2, EE and Vodafone networks in the site area. There are no known public telephone boxes in the area. The applicant lives at Oakfield House, which overlooks the fields from the west. In case of emergency, the steel gate at the entrance off New Farm Drive is locked and vehicle access may not be possible, but there is an adjacent kissing gate.

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

Parking is possible at the roadside at the western termination point of the proposed diversion on New Farm Drive, although there are some private accesses. Debden underground station on the Central Line is the closest rail link, this being a three mile taxi ride from the site. No prior notice is required.

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

There are no known dangerous pieces of equipment or substances stored on the route although there are small concrete stepovers near the bridge (which are due to be removed if the application is successful) and there may be some barbed wire or electric fencing in the general vicinity.

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

Two of the objectors live in the two properties immediately to the north of the site. Whilst very courteous in their objections, they may seek to engage with any representative of the Inspectorate should they become aware of your presence.

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/Public Rights of Way Officer
Essex County Council

19. Extract from the definitive map and statement;

See submitted PDF file:

10-Extract from the Definitive Map and Statement.pdf

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

See submitted PDF file:

11-ROWIP Objectives (Extract from plan)

21. PROW Officer's Statement;

See submitted PDF file:

12-PROW Officer's Statement.pdf