

**DOCUMENTS SUBMITTED BY ESSEX COUNTY COUNCIL
TO THE PLANNING INSPECTORATE (ELECTRONIC SUBMISSION)**

**IN THE MATTER OF THE DETERMINATION TO CONFIRM
PUBLIC PATH DIVERSION ORDER 2025 FOOTPATH 15 FINCHINGFIELD
IN THE DISTRICT OF BRAINTREE - SECTION 119 HIGHWAYS ACT 1980**

DOCUMENTS REQUIRED BY THE PLANNING INSPECTORATE

01. Digitally sealed Order and plan
02. OMA's submission letter
03. Statement of the grounds on which it is considered the Order should be confirmed
04. Representations and objections to the order (including supporters) with a covering list of names
05. Statement containing the OMA's comments on the objections
06. Copy of the notice publicising the order together with a copy of newspaper cutting(s)
07. Certificate that, in accordance with the requirements of the Act, notices have been published, served and posted on site and at the local offices
08. Certificate that the necessary consultations have been carried out (other local authorities and statutory undertakers)
09. Copies of any replies to the pre-order consultation and the responses by the OMA
10. Name and address of every person, council or prescribed organisation 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 Inspector to locate the site
13. Written permission from the landowner allowing the Inspector access to the land
14. Name and address of applicant
15. Confirmation that the OMA is supporting the order
16. Inquiry or Hearing
17. Details of the time and place where documents relating to the order will be made available for public inspection by the authority
18. Health and Safety questionnaire
19. Order Map

20. Secretary of State's letter of dispensation
21. to 25. WCA only
26. Undertaking that any new path or way to be provided will be ready for use before the order comes into operation
27. Extract from the definitive map and statement
28. Details of any statutory designation affecting the order route(s)
29. Where land is owned by an ecclesiastical benefice, certificate that the Church Commissioners have been notified
30. A copy of the relevant part(s) of the Rights of Way Improvement Plan

01. Digitally sealed Order and plan

See submitted PDF file:

01. Made Order.pdf

02. 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 12 Nov 2025

Our Ref: Finchingfield Footpath 15 Diversion

Dear Sir/Madam,

Highways Act 1980 – Section 119 Public Path Diversion Order 2025 Footpath 15 Finchingfield Parish, Braintree District, 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 May 2025. Following the expiry of the statutory consultation period and ensuing negotiations the County Council were unable to achieve withdrawal of the three 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 hereby enclose the electronically sealed made Order by email attachment along with supporting documentation required for the submission of Public Path Orders to the Secretary of State for consideration. The inclusive documents follow the order given on The Planning Inspectorate's 'OMA Checklist'.

As the Definitive Map Public Path Order Officer assigned the progress of the aforementioned order I confirm at present there are no dates I would not be available to attend a hearing or inquiry over the next 12 months. 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.

Yours sincerely

[Redacted Signature]

[Redacted Name]

03. 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 (HA 1980) and why it is considered expedient to confirm the order. The OMA consider the proposals to be balanced, practical, and legally compliant under the relevant test of HA 1980 Section 119.

HA 1980 s. 119(1) '...in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted...'

The OMA considers that it is expedient to divert the path in the interests of the landowner. The existing route passes in close proximity to the landowner's dwelling, creating significant privacy and security concerns for a young family residing at the property. The landowner has reported frequent incidents of dogs roaming off lead into their garden, some of which are large and have caused distress and safety concerns for the family and their children.

The landowner is also undertaking a permitted extension to the north of the property, which will bring the building even closer to the current footpath alignment, exacerbating these issues.

The proposed diversion would reduce the risk of intrusion and improve security for the family as well as reducing the risk of dogs straying into the residential curtilage. It also provides a more scenic and enjoyable route for the public along the River Pant, enhancing opportunities to observe wildlife. Likewise, the proposed diversion would remove the need for steps and kissing gates, improving safety and accessibility for path users.

Following the statutory consultation the landowners have continued to show willingness to engage with objectors and the Highway Authority in an attempt to find a mutually agreeable solution. This includes meeting objectors on site to discuss the proposed diversion.

HA 1980 s. 119(2) 'A public path diversion order shall not alter a point of termination of the path or way—

- (a) if that point is not on a highway, or**
- (b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.'**

The termination points of the existing path and proposed diversion remain unchanged, with the starting point A and ending point C retained in the proposed diversion. The diversion replaces the section between A-B-C with a new alignment running along the riverside from A to C.

The existing path measure approximately 139 metres, while the proposed diversion is approximately 278 metres. This increase equates to roughly 100 seconds of additional walking time at a normal pace. The OMA does not consider this increase to be substantial under the legal test, particularly given the routes gentler gradient and scenic riverside setting.

HA 1980 s. 119(6) 'the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—

- (a) the diversion would have on public enjoyment of the path or way as a whole,**
- (b) the coming into operation of the order would have as respects other land served by the existing public right of way, and**
- (c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it'**

The proposed diversion will not render the path substantially less convenient to the public. Although the new route is longer, the additional distance is modest and does not materially affect usability, particularly given its gentle gradient and improved accessibility. Unlike the existing route, which includes steps and two kissing gates, the diversion removes these features entirely, reducing physical barriers and maintenance requirements. This enhancement makes the path more inclusive for a wider range of users.

In terms of public enjoyment, while enjoyment is inherently subjective, the recreational nature of this footpath means that scenic quality is an important consideration. The proposed route runs alongside the river and maintains elevated views across the Pant Valley, offering a strong visual connection with the wider landscape. Many users may find a riverside walk preferable to the current alignment, and the overall character and amenity value of the route are preserved. For these reasons, the diversion is considered expedient and consistent with the statutory test under Section 119(6).

The proposed diversion is entirely within land owned by the applicant, so any compensation considerations are not relevant.

HA 1980 s. 119(6A) 'The considerations to which...include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the order would create or extinguish a public right of way.'

The OMA has considered the material provisions of the rights of way improvement plan and concluded that the proposed diversion would improve accessibility by removing steps and two kissing gates.

PROW Officer's Statement

See submitted PDF file:

03.2. PROW Officer Statement.pdf

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

See submitted PDF files:

04.1. [REDACTED]

04.2. [REDACTED]

04.3. [REDACTED]

04.4. [REDACTED]

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

The OMA's written responses to the objection letters are included in submitted PDF files 04.1 to 04.3.

Objection 1. [REDACTED]

[REDACTED] objects primarily on the grounds of flood risk. [REDACTED] argues that the existing route is on higher ground and rarely floods, whereas the proposed diversion runs along the River Pant and would be highly susceptible to flooding, potentially leaving an estimated two-thirds of the path underwater for weeks after flood events. [REDACTED] also notes that the current route is well-used and was only moved to its present position within the last 20 years.

Objection 2. [REDACTED]

[REDACTED] objects on the basis of a lack of public benefit and increased distance. [REDACTED] states that the diversion benefits only one property at the expense of multiple users and that the additional distance from Point A to Point C is unjustified and less enjoyable. While [REDACTED] mentions possible flooding, [REDACTED] main concern is the principle of maintaining historical access and resisting unnecessary changes that degrade countryside rights.

Objection 3. [REDACTED]

[REDACTED] objected on behalf of the Ramblers. [REDACTED] argues that the proposed route is less convenient and enjoyable than the existed route as it is longer, lies on lower ground, and offers less extensive views. [REDACTED] highlights flooding concerns, noting that the proposed route runs through Flood Zone 3 and along wetter areas near the river and tributary. [REDACTED] points out that the views will be diminished. [REDACTED] contends that Defra guidance does not apply in this case as the land is not a garden, farmyard, or commercial premises where privacy or security is an issue.

OMA's comments on the objections

The OMA acknowledges the objections received and appreciates the engagement of local residents and user groups in this process. We also note that the proposal has attracted support, including written representation from [REDACTED] and positive comments observed on social media, which appear broadly supportive of the application. Having carefully considered the objections alongside the statutory tests under Section 119 of the Highways Act 1980, the OMA offers the following consolidated response:

Flooding concerns

Several objectors raised concerns about the proposed route's proximity to the River Pant and its location within Flood Zone 3. While the Environment Agency's Flood Map for Planning identifies this as a theoretical risk, it is important to note that this dataset is precautionary and intended for planning purposes. In practice, the Risk of Flooding from Rivers and Sea data indicates a "Very Low" likelihood of flooding, less than 0.1% in any given year (1 in 1,000). The Environment Agency has confirmed that the last recorded flood event in this area occurred in 1947, and the Public Rights of Way Officer is not aware of any flooding issues affecting the route, which does cross the river. The Environment Agency was consulted and have not objected to the proposal. Furthermore, the new path has been aligned to run no less than three metres from the brow of the watercourse to mitigate any residual risk.

Convenience and distance

The proposed diversion increases the route length from approximately 139 metres to 278 metres. While this represents an increase, it equates to roughly 100 seconds of additional walking time, and the OMA does not consider this increase to be substantial under the legal test. The new route follows a gentle gradient and avoids steps, improving accessibility and reducing maintenance requirements. It also provides a scenic riverside walk, which many users value, and retains the overall character and amenity of the existing path.

Public use and enjoyment

We acknowledge that the existing route offers elevated views across the Pant Valley. However, the proposed route maintains a strong visual connection with the river and surrounding landscape. A riverside walk is considered attractive by many users, and the OMA does not believe the diversion would materially diminish the quality of the walking experience.

Landowner interest and Defra guidance

The diversion supports the landowner's need for improved privacy, security, and safety, which are legitimate considerations under Section 119 and consistent with Defra's Presumptions Guidance. While historic planning applications may have described the land differently, these are not determinative for the purposes of a public path diversion. Based on site visits and current land management, the affected area has the appearance of a domestic garden.

Access rights

The OMA respects concerns about the cumulative impact of diversions on countryside access. However, each application must be assessed on its own merits. In this case, the

proposal represents a reasonable and lawful adjustment that balances landowner and public interests without substantially reducing convenience or enjoyment.

Conclusion

The OMA considers that the statutory tests under Section 119 have been met.

06. Copy of the notice publicising the order together with a copy of newspaper cutting(s)

See submitted PDF file:

06. Copy of notice.pdf

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

1. A Notice in the form prescribed by Schedule 2, Form 1, Public Path Orders Regulations 1993 [SI 1993 No. 11] in respect of Orders under the Highways Act 1980 was published in the Braintree & Witham Times on 5 June 2025.
2. Copies of the said Notice were duly served on every owner, lessee, and occupier of the land to which the Order relates, and prescribed persons as specified in Schedule 3 of the said Regulations. The Notices were served by email on 5 June 2025.
3. A copy of the Notice was posted on site on 4 June 2025 by [REDACTED]
4. A copy of the Notice was sent to Braintree District Council and Finchingfield Parish Council on 5 June 2025 where they were requested to be made available for public inspection.
5. A copy of the Notice was uploaded to our website (<https://www.essexhighways.org/public-path-notices>) on 5 June 2025.

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

1. A Notice in the form prescribed by Schedule 2, Form 1, Public Path Orders Regulations 1993 [SI 1993 No. 11] in respect of Orders under the Highways Act 1980, and a copy of the Order and Order Plan were sent to statutory consultees, user groups, interested parties, Finchingfield Parish Council, and Braintree District Council on 5 June 2025.

2. Consultation with Statutory Undertakers was carried out on 1 April 2025.

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

See submitted PDF files:

09. [REDACTED]

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. Notified persons and organisations.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 sections of Footpath 15 Finchingfield 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

12. Location map to enable Inspector to locate the site

The diversion of Footpath 15 Finchingfield is located at Ashwell Hall, Hull's Lane, Great Bardfield, CM7 4QP. Street parking is available in West Drive, Wethersfield. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Parking locations are marked on submitted PDF file:

12. Location map.pdf

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

See submitted PDF file:

13. Landowner access consent.pdf

14. Name and address of applicant

[REDACTED]
[REDACTED]

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 Footpath 15 in the parish of Finchingfield.

16. Inquiry or Hearing

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

17. 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 publicpathorders@essexhighways.org

18. Health and Safety 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 comprises gently sloping grassland. While generally even, the surface may become slippery or soft during wet weather. No specific risks are known that would require PPE beyond standard walking footwear suitable for grassy terrain. Inspectors are advised to wear appropriate outdoor clothing and footwear.

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

There are no grazing animals on the site, which is wholly grass, but some cattle have been seen in adjacent fields. Dog walkers may be using this and surrounding rights of way.

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

The site is remote from nearby settlements though is adjacent to the landowner/applicant's residence. It can be seen from nearby rights of way.

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?

Mobile network coverage in the area is generally good across major providers according to Ofcom's service checker. There are no known public telephones nearby. [REDACTED]

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

As the site is in a remote location, it is only practically accessible by car. [REDACTED]

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

To the best of our knowledge, there are no known dangerous substances or equipment stored along the right of way or within the vicinity of the proposed diversion route. No hazards were observed during site visits.

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

None known.

19. Order Map

Digital map is contained within the sealed Order (see 01. Made Order.pdf)

20. Secretary of State's letter of dispensation

Not applicable as all landownership has been identified.

21. to 25. WCA only

Not applicable.

26. 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 within the terms set up in the respective Order.

27. Extract from the definitive map and statement

See submitted PDF file:

27. Extract from the definitive map and statement.pdf

Please note this includes a copy of the Definitive Map Modification Order for the previous Public Path Diversion.

28. Details of any statutory designation affecting the order route(s)

Not applicable.

29. Where land is owned by an ecclesiastical benefice, certificate that the Church Commissioners have been notified

Not applicable.

30. A copy of the relevant part(s) of the Rights of Way Improvement Plan

See submitted PDF file:

30. ROWIP Extract.pdf

Relevant sections have been highlighted and can be found on page 28 item 5 'to improve accessibility on the public rights of way network' and page 45 associated with gate and step design. The proposed diversion is likely to provide more convenient and accessible access for less mobile users as it removes steps and kissing gates.