

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

**IN THE MATTER OF THE DETERMINATION TO CONFIRM
PUBLIC PATH DIVERSION ORDER 2024 FOOTPATH 65 SIBLE HEDINGHAM
IN THE DISTRICT OF BRAINTREE - SECTION 119 HIGHWAYS ACT 1980**

DOCUMENTS REQUIRED BY THE PLANNING INSPECTORATE (as referred to in the Planning
Inspectorate OMA Checklist document)

1. [Digitally sealed Order submitted \(i.e. no original paper copy to be supplied\)](#)
2. [OMA's submission letter](#)
3. [Statement of the grounds on which it is considered the order should be confirmed](#)
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 newspaper cutting](#)
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 \(including email contact address\)](#)
15. [Confirmation that the OMA is supporting the Order](#)
16. [In the event of an Inquiry or Hearing confirmation that the OMA will still be supporting the Order](#)
17. [Details of the time and place where documents relating to the order will be made available for public inspection](#)
18. [Health and Safety questionnaire document](#)
19. [Digital Order Map supplied](#)
20. [Landownership Note 2 - Dispensation under HA 1\(3C\) Schedule 6 not required](#)
- 21.-25. Checklist items not applicable to this Order
26. [Undertaking by OMA to provide new paths in readiness for public use](#)
27. [Extract from the Definitive Map and Statement](#)
28. [Where applicable, details of any statutory designation affecting the order route\(s\) \(such as common land, AONB, SSSI\)](#)
29. [Where land is owned by an ecclesiastical benefice, certificate that the Church Commissioners have been notified.](#)
30. [Essex County council's rights of Way Improvement Plan \(ROWIP\) Statement](#)
- 31.-48. Checklist Items 31 to 48 not applicable to this Order

1. Digitally sealed Order included with submission,

See supporting file submitted: 1-EssexCountyCouncil PPO SibleHedinghamFP65Jul2024.pdf

2. 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 01 August 2025
Our Ref: Sible Hedingham
Footpath 65 Diversion

Dear Sir

Highways Act 1980 – Section 119 Public Path Diversion Order 2024 Footpath 65 Sible Hedingham, 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 09/07/2024. Following the expiry of the statutory consultation period and ensuing negotiations the County Council were unable to achieve withdrawal of two duly made objections.

The County Council having considered the criteria for making and confirming the order are satisfied 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, I am employed by the County Council on a part time basis Wednesday to Fridays only, but arrangements could be made to attend a site visit or associated hearings on alternative days of the week. 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.

Please note, the originating case Officer (Sarah Potter) who commenced the order process has since departed from County Council service and the order following its statutory publication has been progressed by myself working in the same Definitive Map Team as the departed Sarah Potter.

Yours sincerely
Andrew Ritchings
Public Path Order and Development Officer, Essex Highways.

3. 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 made on 09/07/2024 to divert Footpath 65 in the District of Braintree Essex meets the relevant criteria as set out in Section 119 of the Highways Act 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 Section 119 of the Highways Act 1980.

In considering the relevant tests under the Highways Act 1980, the following were taken into account:

Section 119(1); whether in the interests of the landowner, 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:

- A summary provided by the Applicant/Landowner received by the Order Making Authority (OMA) outlines why in the opinion of the OMA the proposal to divert the path can be considered to be in the interests of the landowners: The farmland is used for raising livestock, specifically, rare breed cattle and sheep. A transformation of farming practices has led towards more nature and environment friendly pasture fed, regenerative farming. This requires the animals to be able to graze more freely, utilising a more frequent rotation of fields, and for the animals to have access to shelter from extreme weather, hot, wet or cold. It includes using less inputs in the form of hay, straw etc, and so reduces the carbon footprint of the farm. There is therefore a need to maximise access to land that can be used safely by the animals. Part of Footpath 65 passes through pasture and woodland and it is considered not possible to safely use this land for grazing or shelter due to the risks to the stock of gates being left open, littering, harassment from dogs, and from possible diseases that could be spread by dogs (e.g. neosporosis via faeces). A different part of the footpath passes less than 10 metres adjacent to a building used for office/commercial purposes. This building (Mount Nebo) was previously let to tenants managing a children's nursery which is now understood to be used periodically as a wedding venue utilising surrounding private gardens as consented by the local Planning Authority.

Diverting the path would allow the farm to be used for livestock grazing and sheltering during extreme weather without pedestrian conflict and allow greater privacy, safety and security for the users of the property.

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.

Section 119(2); the 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 that to another point which is on a the same highway, or a highway connected with it, and which is substantially as convenient to the public

The termination of the existing path and the proposed alternative path at Point A is unchanged and the termination of the existing path at Point B is relocating to a point on the same highway at Point D approximately 45 metres southwest of the original point. It is therefore considered the diversion meets the aforementioned s119(2) criteria by not altering one of its points of termination and the second

point of termination is considered substantially as convenient to the public being only a short distance from the original and on the same highway.

Section 119(6); the diversion 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 as a whole,
- b) the coming into operation of the order would have with respect to the land served by the existing right of way, and
- c) any new public right of way created by the order would have as respects land over which the right is so created and any land held with it,

so, however, that for the purposes of paragraphs (b) and (c) above the Secretary of State or, as the case may be, the council shall take into account the provisions as to compensation:

Considering the enjoyment aspect of any path is likely to provide varying opinions to what one person finds enjoyable against another. The existing path is mainly a grass surface with patchy boggy places during inclement weather and includes two consented gate limitations due to the keeping of livestock by the landowner, it passes close to a commercial building previously used by a nursery and now periodically used as granted by planning consent as a wedding venue utilising private gardens over which Footpath 65 travels.

The proposed alternative path will mainly be of hard gravel surface enabling year-round passage not subject to boggy surface conditions or gate limitations. Although the majority of the route will be shared with vehicle access to and from the commercial building, the planned vehicle use is infrequent and nonetheless, it has ample sight lines and grass margins for safe passing. A 10mph speed restriction notice is in place requesting drivers of the requirement to drive slowly.

It is therefore considered enjoyment of the path as a whole would not be substantially less convenient given the year-round improved access, no gate limitation encounters and no conflict with grazing livestock, the benefits of which are considered to outweigh those of infrequent vehicle conflict.

As the applicants are the respective landowners who are proposing the alternate route it would not appear that any compensation aspect is considered applicable.

Section 119(6A) (b); 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 - In making the order the OMA has considered material provisions of its ROWIP in that the creation of the alternative path would improve accessibility by removing the encounter with any limitations currently in place on the existing way and avoid the occurrence of boggy sections provided by the existing path during wetter conditions.

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

See supporting submitted PDF files:

4-Sible Hedingham MO Representation Contacts.pdf

4-[REDACTED]

4-[REDACTED]

4-Ramblers.pdf

4-Applicants [REDACTED].pdf

4-Sible Hedingham PC Minutes 2024.pdf (see highlighted items 14. 82. And 102.)

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

Objector One - [REDACTED]

The main grounds forming [REDACTED] objections are the loss of a scenic lakeside walk and concerns over conflict between footpath users and hazardous venue traffic at the times when wedding parties are in attendance.

Objector Two - [REDACTED]

[REDACTED] has also raised safety concerns of pedestrian and dog walker conflict with vehicle use of the track especially during events. In [REDACTED] opinion the redirection of the footpath is along a narrow, vehicle-shared track and argues that the proposed diversion is disproportionate to the landowner's claimed need for privacy.

OMA'S RESPONSE

The OMA acknowledges the concerns raised and has sought to address them through dialogue and compromise. The following points are offered in response having been considered in conjunction with the respective Section 119 legislation:

Landowner Interest - The proposed diversion supports improved land management, livestock control, and enhanced privacy/security for the commercial venue, all of which are legitimate considerations under Section 119.

Public Convenience and Enjoyment - The proposed route offers a firmer surface and improved accessibility during wet seasons and still retains views of the lake from a further distance. Whilst the new route will not provide access to the seat mentioned by [REDACTED] the OMA consider the bench is a private item of furniture and not within the bounds of the public footpath and are mindful that pedestrians using the public footpath are able to pass and repass. The diversion includes a section of track with good sight lines which has existing verges. The track has historically coexisted with pedestrian use, including by nursery staff and children without any known issues, wedding event traffic is expected to be less frequent than previous nursery operations.

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

See supporting submitted PDF file:

6-Notices publicising the Order.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

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 08 August 2024.
2. Notices in Form 1, referred to above were duly served on the owners of the land to which the Order relates. All notices were served via email by Sarah Potter who has since departed County Council employment.
3. A copy of the Notice and Plan were posted at the site subject to the Order proposal on 07 August 2024 by Jason Botelho, (Public Rights of Way Area Management Officer responsible for various parishes in the Braintree District including Sible Hedingham).
4. Notice of order and a copy of the order and map were sent to Braintree District Council Offices (The Local Authority) on 07/08/2024 where they were requested to be made available for public inspection.

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

1. Notices 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, and a copy of the order and order plan were sent to statutory consultees, user groups, interested parties, Sible Hedingham Parish Council and Braintree District Council, on 08/08/2024.
2. Consultation with Statutory Undertakers was carried out on 19 February 2024.

The aforementioned consultations were sent via email by Sarah Potter who has since departed County Council employment.

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

See supporting submitted PDF files:

9-County Cllr Schwier response.pdf

9-Ramblers response.pdf

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 supporting submitted PDF file:

11-Named Consultees Prescribed Orgs.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 Footpath 65 Sible 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

12. Location map to enable Inspector to locate the site

The diversion of Footpath 65 Sible Hedingham is located at;

Brickwall Farm, Sible Hedingham, Essex CO9 3RH

Location details can be viewed on the submitted file **12-Sible Hedingham Location details.pdf** which includes a Google Street view photo of the entrance to Brickwall Farm from Queen Street.

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

See supporting submitted PDF file:

13-landowner access consent.pdf

14. Name and address of 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 Footpath 65 Sible Hedingham

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 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 existing footpath travels over a mixture of grass and gravel surface, it can become boggy in places during wet weather. The proposed alternative route is a mainly firm level hard surface/gravel access track.

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

There can be cattle in some of the meadows along the route of the existing path.

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

The site is remote from village/towns though is adjacent to the landowner/applicants dwelling and other farm type buildings.

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?

I am advised there is good mobile network coverage in the location. There are no public telephones nearby, however the owners of Brickhall Farm have advised a landline is available in the case of an emergency at the farm provided occupants are at home.

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

The site of the Order plan can be accessed via the rights of way network or a pavement from the village. There is a public car park near to the Co-op in Sible Hedingham village north of the order plan site and the main road with adjacent pavement through the village leads directly to Brickwall Farm, there is an alternative option via the rights of way network from the Co-op west of the main road, both routes are approximately 1.5 kilometers. I am also advised there is parking at Broaks Wood southeast of the site, which would involve an approximate 2k walk mainly utilising the public rights of way network but also includes some unpaved road walking. If deemed appropriate the owners at Brickwall farm (the applicants) are offering parking at the farmyard directly adjacent to the site.

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

I am unaware of any dangerous equipment or substances along the right of way or proposed alternative route and none were observed at various site visits undertaken by the OMA.

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. Digital Order Map

Digital map is contained within the sealed Order (see item 1.)

20. Note 2 – Landownership

All landownership has been identified.

21.to 25. Items noted on the Planning Inspectorate (OMA Checklist) do not relate to this Order;

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 supporting submitted PDF file:

20-DefMapStatment SibleHedingham65.pdf

28. Details of any statutory designation affecting the order route(s) (such as common land, AONB, SSSI)

None identified.

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

Not applicable.

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

See supporting submitted PDF file:

21-ROWIP extract SibleHedingham65.pdf

Relevant parts can be seen on extract page 28 item 5 '*to improve accessibility on the public rights of way network*' and page 45 associated with gate design; The proposed diversion route is more likely to provide more convenient access all year round with the firmer surface providing additional access for less mobile users and the supplementary ease of use by the reduction in 2x limitation gate consents in situ on the existing path.