

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

**IN THE MATTER OF THE DETERMINATION TO CONFIRM
PUBLIC PATH DIVERSION ORDER 2026 FOOTPATH 39 WETHERSFIELD
IN THE DISTRICT OF BRAINTREE
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
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 copies
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 consultations 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. Confirmation of no relevant provision within the Essex ROWIP
21. PROW Officer's statement
22. DEFRA Presumption Guidance
23. EA Flood map for planning

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. Please also see Document 21.PROW Officer's Statement.

Footpath 39 Wethersfield (PUBLIC PATH DIVERSION ORDER 2026).

The applicants, [REDACTED] who are also the landowners, applied for a diversion of a section 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.

[REDACTED] who reside at New Barns Farm applied to divert a section of this footpath where it crosses their property. The current footpath route cuts across their paddock area and garden and within 8 metres of their dwelling, impacting the convenience and safety of their management of their animals and affecting their own security and privacy. The proposed diversion follows a route that has been in use by the public for some time and which would address all of the landowner's concerns.

DEFRA Presumptions Guidance

The applicants' reasons for diverting are supported by the DEFRA Presumptions Guidance (Document 22.DEFRA Presumptions Guidance). The introductory statement from the then Government Minister (Document 22. Page 4) describes the intent of the guidance and the situation in which it applies, which is relevant to Footpath 39 and the situation currently experienced by the applicants:

"The right to apply will be supplemented by guidance that will effectively act as a presumption to divert or extinguish public rights of way that pass through the gardens of family homes, working farmyards or commercial premises where privacy, safety or security are a problem.

The guidance will give authorities more scope to confirm orders made in the interests of

the landowner in circumstances where a right of way may cause hardship because it goes through the garden of a family home, a working farmyard or other commercial premises." It is noted that the Ramblers Braintree representative disputes the applicability of the guidance, but in taking that position they have not considered the proximity of the current legal footpath route to the applicant's home.

See also 'Context' (Document 22. Pages 4-5, points 2-6) – selected extracts below:

"Members of the public may not be comfortable following a path through a contained space of this type because doing so feels like infringing on the privacy of a house owner" "Such path alignments can deter people from exercising the public's right to use the path." "Even where a public path through a private garden or farmyard has existed for centuries, and perhaps even pre-dates the use of the land for these purposes, there may be one or more reasons why its presence could be problematic for the landowner:

A reasonable expectation of being able to relax in the garden or spend time with family and friends without strangers appearing in the same contained space;

Greater concerns today than in previous eras about the security of children or property in such situations;

An increased use of public rights of way for general leisure and recreational use rather than local people using them to get around the locality, particularly where rights of way are promoted by local authorities. A concern that having a public path close to the house has a negative impact on the value of the property;"

Further evidence that the guidance applies to the circumstances addressed in this order can be found in the Guiding Principles 7.a. (Document 22. Page 6).

The public's attitude towards the footpath, as evidenced by their existing usage of the proposed diversion route would suggest that they have accepted it in preference to the definitive route running through paddocks, garden and within metres of the applicants' house.

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

The termination point at the southern end of the diversion route (Point A on the order plan) remains unaltered. At the northern end the footpath would connect to same PROW as currently (Byway 17 Wethersfield) but at a point approximately 125 metres southwest of the current connection point (C instead of B on the order plan). The diversion therefore preserves the connectivity of the current route.

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

The proposed diversion would add or subtract 125 metres to the walking distance versus the current footpath depending on a walker's direction of travel and end destination. This is not viewed as being substantially different to the current route and at an average walking speed of 3mph would add/subtract

around 1 and a half minutes to/from a walk. The public's usage of the proposed diversion route over what is believed to be a significant period and the lack of enquiries concerning the definitive route would also appear to indicate that the public have found it to be no less convenient and certainly not a substantial difference.

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

In the view of the OMA the public enjoyment of this footpath if diverted would be unaffected as the footpath would be moved to a route already used and enjoyed by them. As the DEFRA Presumptions Guidance acknowledges, some walkers do feel uncomfortable walking within people's gardens and close to their houses and so for those people their enjoyment will be enhanced by removing the footpath from within the property curtilage removing any sense of awkwardness or intrusion. It is also noted that there was only one member of the public objection to this order (at the reconsultation stage) and one user group objection with a representative of the same user group supporting the change. The parish council did not object, nor did any other council or user group.

(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 applicants in their interests, and therefore there is no negative effect on the land from this proposal. The effect would be beneficial in respect of the land crossed by the current routes as if the diversion order is confirmed it will enable the landowners to enjoy their garden and property in peace and to feel secure doing so.

Taking all 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 18.09.26
Our Ref: Footpath 39 Wethersfield
Diversion

Dear Sir/Madam,

Highways Act 1980 – Section 119 Public Path Diversion Order 2026 Footpath 39 Wethersfield 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 on the order which was made on 14 April 2026 Formal, public consultation took place on 14 May 2026 and again on 16 July 2026 (due to a problem with one of the plans on the first consultation). Following the expiry of the statutory consultation periods and ensuing negotiations, the County Council were unable to achieve withdrawal of the two maintained 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 find it preferable and appropriate for the matter to be resolved by written representations given that there only the two objections should that be acceptable to all interested parties.

Dates to avoid:



Yours sincerely

, Public Path Order and Development Officer

4.a. Made Order consultation Essex Ramblers Braintree District Footpath Secretary objection & OMA response

4.b. Post 1st Made Order Consultation Essex Ramblers Area Footpath Secretary response to Braintree District Footpath Secretary objection

4.c. Made Order reconsultation Essex Ramblers Braintree District Footpath Secretary objection & OMA response

4.d. Made Order reconsultation [REDACTED] objection and OMA response

See submitted PDF files:

04.a.- Made Order consultation Essex Ramblers Braintree District Footpath Secretary objection & OMA response

04.b.- Post 1st Made Order Consultation Essex Ramblers Area Footpath Secretary response to Braintree District Footpath Secretary objection

04.c.- Made Order reconsultation Essex Ramblers Braintree District Footpath Secretary objection & OMA response

04.d.- Made Order reconsultation [REDACTED] objection and OMA response

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

The OMA's written responses to the objections are included in Document no's 4.a, 4.c, 4.d and 9.b.

However, for the sake of clarity the objector's reasons and the OMA's responses to them have been expanded upon below.

Representation (objection maintained) – Essex Ramblers Braintree District Footpath Secretary

The Essex Ramblers Braintree District Footpath Secretary initially objected to the diversion proposal at the Informal Consultation stage in respect of a flooding issue on the byway (Byway 17 Wethersfield) which

the current and proposed diversion routes of Footpath 39 connect to. They then expanded upon this objection at the first formal consultation and the subsequent formal reconsultation on the same order (deemed necessary due to an error with one of the notice plans that was placed on site).

To more clearly address the points raised I have numbered them below in the order in which they were received, at both the Informal and Formal consultation stages. The points are quoted verbatim which may result in a degree of repetition:

Objection reasons given by the Braintree District Footpath Secretary at the Informal Consultation stage:

1. There is a blocked ditch and flooding/route underwater at C, where the proposed diversion of footpath 39 would connect with Byway 17. The legal line of FP39, which is obstructed, does not currently pass point C so is unaffected by the flooding. The flooding at C has been reported as fault report number 4025012. The proposed diversion is therefore currently objected to until the flooding at point C is dealt with².

OMA response:

1. The reported flooding issue affected the byway and not the proposed footpath and followed a short period of intensive rainfall which left puddles on the byway including but not limited to the area where the footpath diversion would connect. While the objector's report listed the area of flooded byway as being under 6 inches of water the area PROW Officer confirmed that it was in fact safe to walk in appropriate footwear considering the time of year and rural nature of the PROW and that it did not meet the requirements of a flooding defect (standing water for 10 days after significant rain). Furthermore, the Ramblers Essex Area Footpath Secretary emailed (N.B. his email states Footpath 59 instead of 39) and stated 'The objection that has been made by the Ramblers Footpath Secretary for Braintree, on the above was not agreed with Essex Ramblers. As Essex Area Footpath Secretary I am informing yourself, on behalf of Essex Area Ramblers, that this is not supported and it can be withdrawn.'

Objection reasons given by the Essex Ramblers Braintree District Footpath Secretary, [REDACTED] at the Formal, Made Order Consultation stage:

1. Highways Act Legal Tests: Less convenient due to susceptibility to flooding
The diversion of Footpath 39 to join Byway 17 at the low point C is substantially less convenient to the public and would have a negative effect on the public's enjoyment of the footpath, by reason of causing them to negotiate a low-point which is prone to flooding. In February this year (2026), after a period of rain, the area around point C was flooded to a depth of about 100mm (about 4 inches). The surface water flood maps on the government website show that this low-point area, where a watercourse flows north to south, has a 1-in-30 chance of flooding to a depth of over 300mm (about 12 inches) each year. If point C was east and so higher up byway 17, the flooding issue would be much reduced

2. Procedural irregularity: two different Order Maps were displayed with the Order Notices on site. However, the Order Map posted at point A, has a different proposed diversion route, being shown as joining the byway further "up"/ further east. It is therefore confusing and unclear to the public which diversion route is proposed.
3. DEFRA guidance and the legislative tests. Paragraph 8 of the DEFRA Guidance states..."It [the guidance] does not apply to gardens, dwellings or commercial premises which do not have the necessary permission for the current use of the land." In the location plan from the 08/00658/FUL granted Braintree District planning application, the western parcel of land is shown as agricultural land with the footpath shown running diagonally across it, at some distance from the New Barns buildings. There has been no granted "change of use" application. The 2002 hard copy Definitive Map and earlier Ordnance Survey maps, also show the footpath at a distance from less extensive buildings/a smaller dwelling with curtilage mainly to the south and not to the west.
4. The proposed diversion is objected to on the grounds that the diversion would be less convenient and less enjoyable due to the propensity for flooding / waterlogging at the low point C. The historic and current legal line of footpath 39 is on higher ground avoiding this low point. The proposed diversion is longer by about 128 metres. The proposed diversion from point A to point C to point B has a total distance of about 280metres compared to 152metres as stated in the Order for the legal line directly from A to B. The current legal line of footpath 39 is clear of the habitable accommodation. Many footpaths pass through field boundaries, fences and hedges. There has been no change of use to "garden" of the land therefore the DEFRA guidance does not apply. Without prejudice: A modification of the proposed diversion is and has been proposed, such that point C is further "up" / east along byway 17 at about grid reference (5)739 (2)321. This would avoid the low point, would only affect the western parcel of land and would move the footpath further away from the habitable buildings.

OMA response:

1. The Environment Agency identify the area in question as being within 'flood zone 1, an area with a low probability of flooding' (see Document 23.EA Flood map for planning). It should also be noted that the rest of Footpath 39 (unaffected sections) already sits within the same flood risk zone. Logically, no one could use either the current or proposed sections of the footpath if the rest of the footpath is already flooded to the extent described by the objector. The PROW Officer noted that there have been no reports of flooding (prior to the Rambler's report) on the byway in the last 5 years. The PROW Maintenance team Manager noted that in total, there have only been 2 enquiries recorded in the PROW team's history of flooding along Byway 17. One was from [REDACTED] following her survey of the diversion and it did not meet that team's investigatory level as the puddle could be walked around. The other was in 2021 when the then owner of New Barns Farm (the diversion applicant's address) was concerned that their garden was flooded, which would seem to evidence that the current footpath alignment has flooded too. There have not been any enquiries received relating to flooding on Footpath 39 despite it sitting almost entirely within the same flood risk zone.

2. The OMA acknowledge that during the initial formal/public consultation one of the notice plans placed on site was inaccurate and differed to the other site plan leading to confusion for the Ramblers Braintree District Representative. This resulted from a printing problem and the PROW Officer's attempts to overcome it. It was deemed appropriate therefore to reconsult on the Made Order to address this error and remove the possibility that anyone else may have been confused as to the proposed diversion route. This was a full reconsultation (emails to consultees, newspaper advertisement and replacement notices and plans on site) with its own 28-day consultation period.
3. The objector, through their reliance on historic (predating current ownership) planning application plans and maps which omit the details of the current property configuration, has apparently not understood that the current footpath passes within 8 metres of the dwelling. It also passes through their paddocks, garden and property curtilage. The lack of planning permission for a change of land use has become a familiar given reason for this objector to try to diminish or deny the applicability of the DEFRA guidance, however, in doing so in this case they have ignored the facts on the ground, most pointedly the proximity of the footpath to the applicant's house. The OMA are confident that when the Inspector visits the site the true intrusive nature of the footpath will be evident and this objection point will be deemed unfounded.
4. In this point the objector summarises their previous objection reasons without adding any new evidence to support their conclusion. The OMA do not agree that the proposed route is less enjoyable and convenient as the differences in distance are clearly not significant and the flooding issue is noted as being within an area of low flood risk which would in any case also impact upon the unaffected sections of the footpath. It is also self-evident (both on the ground and from the order map), and in direct contrast to the objector's claim, that the footpath does, in fact, pass very close to the applicant's house as well as through a section of their garden and the wider property curtilage.

Objection reasons given by [REDACTED] at the (2nd) Formal, Made Order Consultation stage:

1. The proposed route places pedestrians on the same track as horses and vehicles
2. Byway 17 is such a poor state of repair - i.e. rutted and churned up - in the area proposed for the diversion as to make it difficult and dangerous for pedestrians to use at any time of year
3. Byway 17 is frequently flooded in the section proposed for the diversion and this makes it impossible to walk the route in normal footwear, including walking boots.

OMA response:

1. [REDACTED] was advised that the order does not propose to divert the footpath onto the byway, which is an existing PROW, it merely changes the existing footpath's connection point to it and that anyone walking to the footpath in that direction or from it is by necessity already connecting to and walking along that byway.
2. [REDACTED] was advised that the byway's condition was not part of the consultation on a footpath diversion order but that he could report issues on the byway for investigation by PROW Maintenance colleagues using the Highway Authority's online reporting system.
3. It was reiterated to [REDACTED] that the footpath is not proposed to be diverted onto the byway and that PROW Maintenance colleagues have confirmed that once the wet season arrives, they are happy to revisit the byway with a view to cutting a grip into the north side of it to help any standing water drain into the adjoining ditch. He was advised again that temporary water on the byway is a byway maintenance issue and that the byway is not the diversion route and not the subject of the consultation.

OMA summary:

This diversion attempts to resolve a long-standing issue on a footpath which was intrusive to the previous landowners/residents of New Barns Farm and remains so to the current landowners (the applicants). The diversion has the full support of the Ramblers Essex Area Footpath Secretary and is an issue which they have personally sought a resolution to over a prolonged period. Clearly, there is a difference of opinion within the Ramblers on the merits of the diversion proposal, however, it is the firm opinion of the OMA that the reasons provided by objectors are not supported by evidence and that the order should be confirmed. The recorded flooding issue is on the byway not the footpath and the current legal line of the footpath already connects to that byway. The Environment Agency classify the area as being of low risk of flooding and of particular relevance here is that the Flood Zone 1 area as indicated by Environment Agency mapping includes the existing, unaffected footpath sections. Crucially, the PROW Maintenance team advise that Footpath 39 has received no reports of flooding at all and Byway 17 has had only 2, one of which was from a former resident of New Barns Farm in respect of an impact to their property, which implies that the existing route would be as likely to be impacted. While the relevance of the DEFRA Presumption guidance is disputed by [REDACTED] their argument for doing so is unsubstantiated as the current footpath route clearly passes very close to the applicant's dwelling as well as within their garden and wider property curtilage.

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

See submitted PDF file:

6-Copy of notices publicising the order plus newspaper cuttings.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 Braintree and Witham Times on 14 May 2026 and again on 16 July 2026. The time allowed for objections was not less than 28 days from dates of publication of the Notices and the last dates for objections were 11th June and 13th August 2026 respectively.
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, Wethersfield Parish Council and prescribed persons as specified in Schedule 3 of the said Regulations. The Notices were served by email on 14 May 2026 and again on 16 July 2026.
3. A copy of the Order and Map were uploaded to our website (<https://www.essexhighways.org/public-path-notices>) on 8th May 2026 and 15th July 2026. It was also specified in the site notices and newspaper advertisements 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. A copy of the Notice and Plan were posted on site on 13th May 2026 and 15th July 2026 by [REDACTED] Area Public Rights of Way Officer.

[REDACTED]
PPO & Development 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, Wethersfield Parish Council, statutory undertakers, owners and occupiers of affected land and prescribed persons as specified in the Regulations were informally consulted on 23rd January 2026
2. Those responses received from statutory undertakers 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 0.9a-e


PPO & Development Officer
Essex County Council

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

See submitted PDF files:

- 09.a.- Representations (Utilities) to the informal consultation
- 09.b.- Essex Ramblers Braintree District Footpath Secretary Objection to the informal consultation (includes OMA response)
- 09.c. - Informal consultation Essex Ramblers Area Footpath Secretary's responses to Braintree District Footpath Secretary objection
- 09.d.- Informal Consultation confirmation of no objection from Wethersfield Parish Council and council minutes advising same
- 09.e.- Braintree District Council confirmation of no comments received to Informal Consultation

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 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 39 Wethersfield 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

 PPO & Development Officer
Essex County Council

12. Location map to enable Inspector to locate the site

The diversion of Footpath 39 is located at;

New Barns Farm, New Barns, Wethersfield, Essex CM7 4EW

See submitted PDF file:

12-Location map Footpath 39 Wethersfield.pdf

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

See submitted PDF file:

13-Landowner consent form .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 39 Wethersfield.

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


PPO & Development 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/permanent-closures-or-diversions/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 first be submitted by email to 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?

We are not aware of any specific risks that would require PPE other than normal walking clothing/footwear.

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

The PROW in the area may be in use dog walkers and we understand the applicants have a dog/dogs so there is a reasonable probability of encountering dogs on or off lead.

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

The proposed diversion route is accessible and in use and the current legal route should be visible to some extent from the current PROW network and is partially accessible.

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 evidences a 'good' outdoor coverage for the O2 and Vodafone networks and variable for EE and Three.

There are no known functioning public telephone boxes close to the site. The nearest hospital with an A& E department in case of an emergency is Broomfield Hospital near Chelmsford (16 miles), or for minor injuries Braintree Community Hospital (8 miles).

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

The footpath is accessible by car, however, there is not really any parking available on site that would not potentially obstruct a PROW or a field access. It is suggested that the Inspector contact the applicant to make parking arrangements as there is plenty of parking available within New Brans Farm. We are not aware of any public transport services that would provide easy access to the site.

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 no equipment or substances are stored along the PROW or proposed routes.

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

Due to the relatively rural location of the site, the nearest significant public facilities inc. shops/fuel etc. are located in either Sible Hedingham, Braintree or Halstead.
The current footpath and proposed footpath connect to a Byway Open to All Traffic so walkers may encounter other users including motorised vehicles.

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.


PPO & Development Officer
Essex County Council

19. Extract from the definitive map and statement;

See submitted PDF file:

19- Extract from the Definitive Map and Statement.pdf

20. Confirmation of no relevant provision within the Essex ROWIP

See submitted PDF file:

20- Confirmation of no relevant provision within the Essex ROWIP.pdf

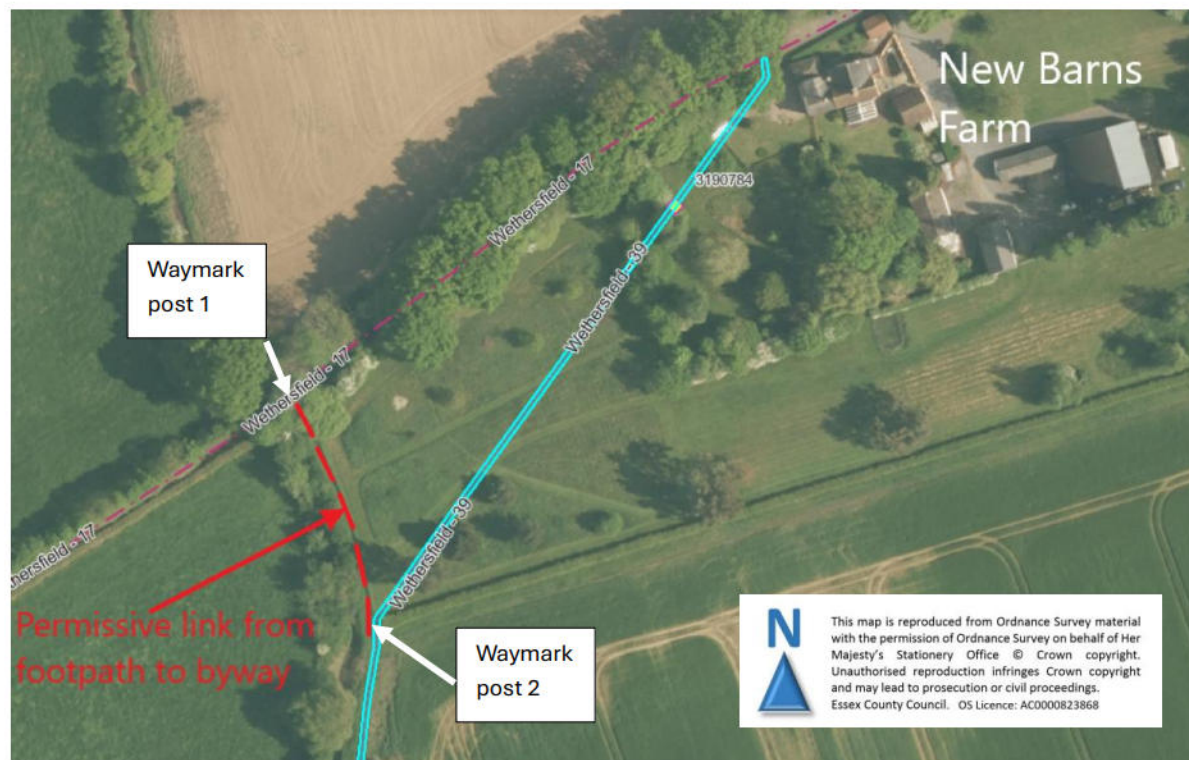
21.PROW Officer's Statement

I, [REDACTED], Public Rights of Way Officer of Essex County Council will say as follows:

I have been employed (full time) by Essex County Council as a Public Rights of Way (PROW) Officer since August 2009 and am a full member of the Institute of Public Rights of Way. I am responsible for maintaining the PROW network within the District of Braintree and Borough of Colchester. This involves assessing and prioritising enquiries I receive, initiating maintenance work by liaising with our maintenance supervisor and landowners and requesting underground utility searches. I also undertake low-level enforcement for noncompliance issues and escalate matters to the PROW Enforcement & Liaison Officer if required. Although I have no direct involvement with the management of budgets, I will always strive to provide the best value for money and prevent financial burdens for the organisation. It is therefore often the case that my colleagues within the Definitive Map & Highways Records Team will request I attend site visits to determine the suitability of a proposed diverted routes and what (if any) requirements are needed to ensure user safety.

Background

In January 2024 I was asked to take a look at the alignment of a section of Footpath 39 Wethersfield, where it crosses a property known as New Barns Farm. It was immediately apparent that the route as shown on the Definitive Map was not available but that an alternative route around the property boundary was evident and in fact, was signed with waymarkers using official Essex County Council waymark discs.



I contacted the resident, a lady called [REDACTED], who, at the time of our conversation in January 2024, explained that she was an 89-year-old, wheelchair bound widow. She explained that she and her husband purchased the property in the 1970s. They kept horses so gated the footpath and offered a permissive route around the boundary of their property. She said that the Highway Authority (HA) had waymarked the permissive route about twenty years ago and not having any knowledge of PROW, assumed that as the HA had waymarked it, they assumed this had now been accepted as the correct route for the footpath.

I explained that unless there had been a formal Modification Order it is not possible to alter the Definitive Map just by installing some waymarkers. She accepted my explanation and said she was happy to get on with the formal diversion process because she was concerned how close to the house the footpath came and would like to get it done before she died so that it would not be someone else's problem.



Shortly after, an application for a diversion under s119, HA 1980 was submitted. However, [REDACTED] died before the diversion process could commence. Although the property was subsequently sold, her family did undertake to pay for the diversion process on behalf of the new occupiers.

Going back to 2024 I was working on a project in conjunction with [REDACTED], a senior representative of the Ramblers Association in Essex. We discussed this location and he was happy with the proposed diversion route which was the existing permissive path that everyone had assumed was the PROW for many years. The permissive path is well maintained and easy to follow.

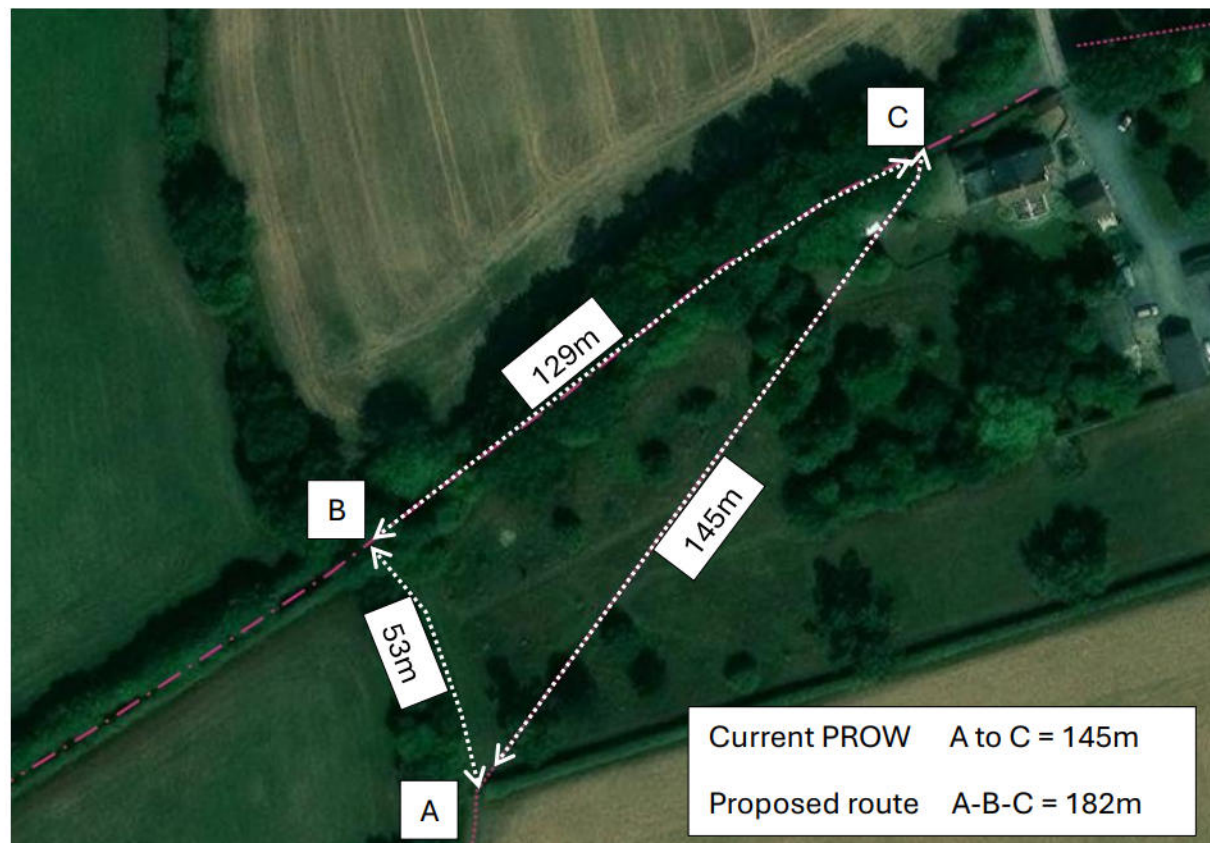
Assessment of the proposed diversion

In my capacity as a maintenance officer, I was asked to attend a site meeting with the new occupier and my colleague, [REDACTED], who is a Public Path Order and Development Officer within the Definitive Map team. This meeting was held on the 22nd January 2026.

As the maintenance officer for the area my priorities are to ensure that any new route does not create a new significant liability for the Highway Authority in terms of maintenance cost, practicality of access and usability for the public in terms of being able to readily identify the new route and enjoy something that is not substantially less convenient.

We walked both the existing line of Footpath 39 and the proposed diversion route. The existing line of the PROW crosses diagonally a fenced in garden coming within 6 metres of the occupier's house. The proposed diversion keeps to the western boundary of the garden and then connects with the existing Wethersfield Byway 17.

Amongst my considerations will be any change in overall length which can impact maintenance. Also, the difference in surface types and any other hazards that may need to be removed or other issues that could present concerns.



The difference in length between A and C, with an additional 37 metres, did not present any concern.

With regard to surface type, both sections A to C and A to B are a natural grass surface. The proposed route between A and B is already well maintained and irrespective of its legal status, A to B is easier to walk.

Photo of A to B – July 2026



In 2026 an enquiry was raised about the surface of the byway close to point B. At the time of my initial visit in January 2026, I did observe standing water. However, the surface here is old road planings that provides a firm and level surface, even when under a puddle of 2-3cm. As this is a maintenance issue, specific to Wethersfield Byway 17, I am proposing to revisit this location again, after a period of sustained wet weather to see if cutting a grip into the nearby ditch will reduce any issue at this location. It should be noted that I have done a review of any enquiries/complaints specific to this location and with the exception of the single 2026 complaint by an objector, no other enquiries of a similar nature have been raised in recent years. The only other enquiry on record dates from 15th January 2021. It was made by the original applicant, [REDACTED] and was specifically regarding a blocked ditch. The location was inspected two weeks later on the 29th January 2021 and the inspector stated that the water levels had already dropped and no further action required.

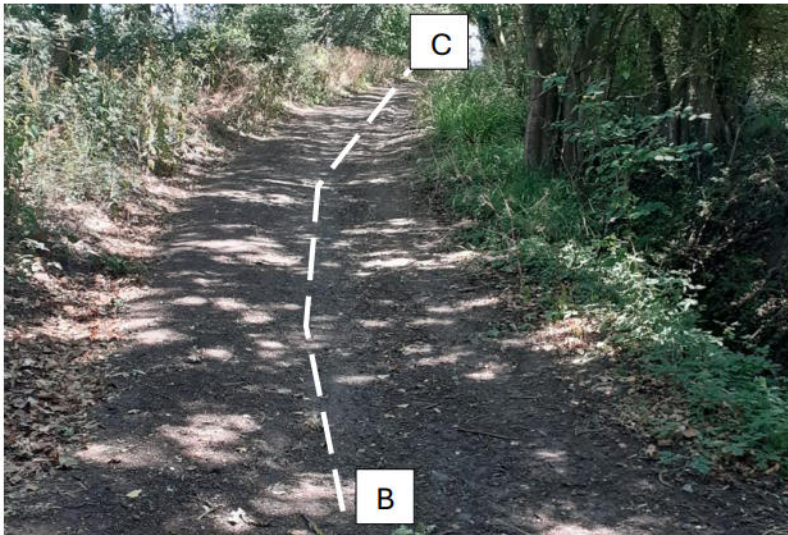


Photo by byway surface
between points B and C

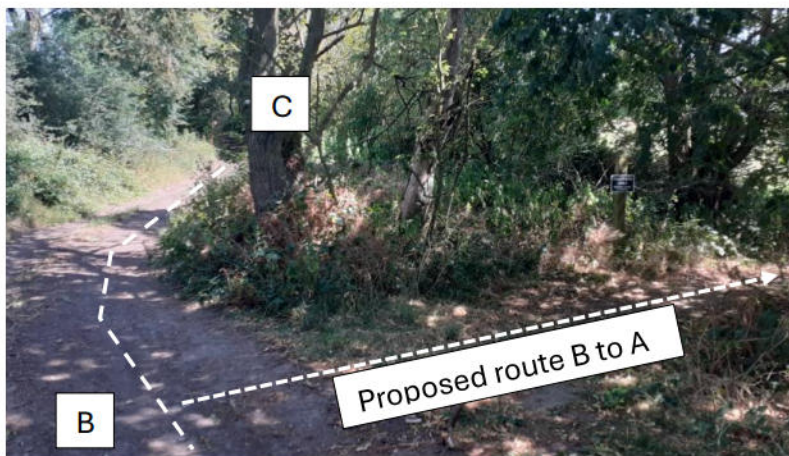


Photo at point B - junction of
byway proposed diversion
route

Therefore, I am satisfied that the existing surfaces are no less convenient for users and that if remedial work for the byway is required in the future, that is something that can be addressed when necessary.

Summary

In terms of maintenance and the risk of additional future costs for the Highway Authority, there is nothing here that raises any concerns. The proposed new route is structure free with a similar gradient. With regard to surface, length and amenity, there is nothing I would consider to merit being considered a substantial inconvenience. Any objections raised about surface and possible standing water are specific to the Byway and not the proposed diversion and as such can and will be addressed in due course but with the exception of the enquiry raised by an objector, there has only been one other issue raised in the last six years and had naturally drained away within a fortnight of being reported.

It appears that the proposed diversion route has been (mistakenly) waymarked by the highway authority for a number of years and has been accepted to be the line to the footpath. The proposed diversion would be to simply confirm the popularly walked route and is supported by [REDACTED] who is the Area Footpath Secretary for the Ramblers Association.

On this basis I am happy for this application to go forward.

[REDACTED]

Public Rights of Way Officer

Essex Highways

Essex County Council

17 September 2026

22. DEFRA Presumptions Guidance;

See submitted PDF file:

22-DEFRA Presumptions Guidance.pdf

23. EA Flood map for planning;

See submitted PDF file:

23-Flood map for planning.pdf