

APPLICATION FOR A PUBLIC PATH DIVERSION ORDER

FOR FOOTPATHS, BRIDLEWAYS & RESTRICTED BYWAYS

HIGHWAYS ACT 1980 – SECTION 119

Complete all sections in clear print and return to publicpathorders@essexhighways.org OR

Essex Highways Definitive Map Service

Seax House 2nd Floor

Victoria Road South

Chelmsford

CM1 1QH

All 6 pages must be completed and submitted for an application to be considered, any incomplete forms will be returned (it is advisable to retain a copy for your records)

Please provide a plan that clearly shows: the route of the existing public right(s) of way; and the proposed diversion route(s). The plan should include road names, place names, and any other identifiable features on the plan. You can refer to www.essexhighways.org/getting-around/public-rights-of-way/prow-interactive-map

1. Parish in which the public right(s) of way are located

2. Path number(s) (if known)

3. Name of Applicant

Address

Postcode Telephone

Email address

4. Do you own the land that the current legal public right(s) of way cross?

Yes No*

5. Do you own the land that the proposed diversion route(s) cross?

Yes No*

*If no, please state whether you are:

Occupier/Tenant Agent Other:

6. If the land for either the current legal or proposed diversion routes is on third party owned land, have you obtained consent from all the registered landowners to the diversion:

Yes* No

*If yes, please complete the section below and provide written confirmation from the third party landowner (either by email or letter) and submit it with the completed application form.

Name of landowner(s)

Address

Postcode Telephone

Email address

7. I/we confirm that the land for both the current legal and proposed diversion routes are registered with Land Registry, or that alternative proof of ownership is available.

Yes No*

*If no, please detail the actions being undertaken to rectify this:

.....

Please note: Land that is not yet registered, whether on the current legal or proposed diversion route(s), will result in delays in the processing of your application. Essex Legal Services will not accept an instruction to make an order where landownership is not confirmed by Land Registry title plans and registers or alternative suitable proof (at ECC's discretion). Applicants are therefore urged to use the waiting list time to register any affected land parcels to prevent delays.

8. Is the current legal route available for use by the public?

Yes No*

*If no, please state why. A failure to provide the current legal route without exceptional circumstances may result in the refusal of your application.

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9. Please provide reasons for the diversion of the public right(s) of way and any further comments you wish to make, noting the Guidance on Statutory Criteria for a Diversion:

1. In the case of an application for a diversion order; that in the interests of the owner, lessee, or occupier of land crossed by the path or way, or in the interest of the public, it is expedient that the line of the path should be diverted
2. The public path diversion should not alter the point of termination if the new point is not on another public path or highway
3. The new termination point should be on the same path/highway or one connected with it, and which is substantially as convenient to the public
4. The new path or way should not be substantially less convenient to the public in consequence of the diversion having regard to:
 - i) public enjoyment of the path or way as a whole,
 - ii) the effect the order will have on other land served by the existing right of way, and
 - iii) the effect on land over which the new right of way is created.

TERMS AND CONDITIONS – IMPORTANT – PLEASE READ BEFORE SIGNING

I/We acknowledge that a non-refundable assessment fee will be invoiced when notification is received that Essex County Council (ECC) will proceed with the application.

I/We acknowledge and undertake that:

1. The application will not proceed until the assessment fee invoice has been paid.
2. The assessment fee amount paid covers the following costs:
 - (a) land ownership verification
 - (b) determining the validity of the proposals (i.e. accept, consider, refuse, and issue decision)
 - (c) initial site visit
 - (d) drafting of a proposal plan
 - (e) pre-Order 'informal' consultations and negotiations
3. The total amount payable is a fixed fee (which includes the assessment fee above) determined at the time of commencement by the fees published on the Essex Highways website: www.essexhighways.org/permanent-closures-or-diversions. Fees are generally reviewed each year on 1 April. The set fee includes the following costs:
 - (a) making an Order(s) including legal costs and compiling final order plans
 - (b) advertising and consultation of Orders
 - (c) confirmation of Orders including legal costs
 - (d) certification of new diversion routes including site visits
 - (e) works costs are not included*

*Any works required to bring the new route(s) into being will be paid for by the applicant unless in exceptional circumstances other terms are agreed with ECC. 'Works' also includes any work requiring execution on land other than that owned by the applicant to meet the legal schedule as set out in the conditions of the Order. The applicant will meet any costs incurred by ECC as a consequence of any alteration or replacement of any statutory undertaker's apparatus including telecommunications apparatus, arising from the effect of the Order together with any costs provided for under the 1980 Act. It may be possible in some circumstances for applicants to undertake or commission their own works to ECC design standards subject to certification by ECC. Please note: works connecting with highways with vehicular rights, such as carriageways and roads, can only be undertaken by ECC or their nominated contractors.

4. IMPORTANT - Non-ECC works: please note it is your responsibility to check for any underground cables, pipes, or any other equipment before breaking the ground and commencing the installation of any approved structures on the diverted route. You must contact the relevant Statutory Undertakers (i.e. BT, gas, water, electricity companies etc.) to ascertain whether they have apparatus within the area proposed to install the structure. If there is any objection from any of the relevant Statutory Undertakers then the highway authority must be informed and the installation must not proceed.
5. To pay on demand the applicable costs at the made Order stage (plus extra costs if application includes more than one path and/or more than one Order).
6. To pay on demand the remaining fees at the confirmation Order stage (plus works costs if applicable).
7. If objections lodged are not withdrawn and upon referral to the Secretary of State, they subsequently dismiss the Order, but not on the ground of invalidity, monies paid by the applicant for costs incurred up to and including the made Order stage are not refundable. Please be advised that opposed orders will only be forwarded to the Secretary of State for Rural Affairs at the discretion of the Highway Authority who will determine if the benefit of the order outweighs the costs to the taxpayer of a referral.

8. To pay any compensation in respect of a diversion onto land owned by persons other than the applicant under provisions of Section 28 (as applied by Section 121) of the Highways Act 1980 which may become payable to a person whose interest in the land has depreciated or who has suffered damage by being disturbed in enjoyment of the land, in consequence of the coming into operation of the said Order.
9. Where immediately before the date on which part of the public right of way is diverted, there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying out their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.
10. I/We will notify the Highway Authority the name and address of any other person(s) known as having an interest in any of the land or premises affected by either the existing or proposed new routes; please complete the Requisition for Information form overleaf as appropriate.

I/We have read and agree the terms and conditions and these provide a legally binding agreement between Essex County Council and the applicant.

Signatures of all landowners

.....

Name of signatories (print)

.....

Date

Requisition for Information - Essex County Council

Pursuant to the provisions of section 16 of the Local Government (Miscellaneous Provisions) Act 1976, the above-named authority hereby requires you to state in writing the nature of your interest in the land affected by this application. This information is required by the Council with a view to performing their function in relation to public path orders under Section 119 of the Highways Act 1980. You are also required to state in writing the name and address of any other person known to you as having an interest in the said land or premises, as freeholder, lessee or otherwise, mortgagee or who receives rent for the land.

My/our interest in the land is as (owner, lessee, licensee, occupier)	
Full name and address of occupier	
State whether premises held on weekly tenancy, agreement or lease and term	
Full name and address of person to whom rent is paid, if he is Agent for another person state full name and address of such person	
Full name and address of Freeholder	
Full name and address of Leaseholder	
Full name and address of Mortgagee (Bank, Building Society etc.)	
Full name and address of any other person having an interest in the premises	