

**APPLICATION FOR A PUBLIC PATH DIVERSION ORDER
FOR FOOTPATHS, BRIDLEWAYS & RESTRICTED BYWAYS**

HIGHWAYS ACT 1980 – SECTION 119

TO: Essex Highways Definitive Map Service
Seax House 2nd Floor
Victoria Road South
Chelmsford
CM1 1QH

Email: publicpathorders@essexhighways.org

Please complete all sections in clear print and return to the above address. Emailed scans of originally signed forms are acceptable. All 5 pages must be completed and submitted for an application to be considered. (it is advisable to retain a copy for your records)

The Public Right(s) of Way

Parish in which the public right(s) of way is located

Path numbers (if known)

Name of Applicant

Address

.....

Postcode Telephone

Email address

Are you the owner of the land from which the public right of way is to be diverted? YES/NO*

Are you the owner of the land to which the new route is to be located? YES/NO*

If NO then state whether you are:

Occupier /Tenant Agent Other

Name of landowner(s)

Address

.....

Postcode Telephone

Email address

*Where 3rd party landowner consent is required for a diversion the applicant is responsible for obtaining that consent. ECC will provide the 3rd party with a form for completion, signing and return. It will not be possible to proceed with any application without the landowner's consent.

Please provide a PLAN showing the line of the current path and the route where you wish to divert the public right of way.

Include road names, place names and any other identifiable features on the plan.

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

Please provide reasons below for the diversion of the path and any further comments you wish to make. See ‘Guidance on Statutory Criteria for a Diversion’ above, (use additional paper if required).

Important note: In order to determine the merits of Applications, ECC must be convinced that an order should be made in the interests of the owner, lessee or occupier, it is therefore extremely important to use the space below to clearly identify the reasons why the proposals are in your interests. If it is not clear why a diversion would be in your interest we may not be able to proceed with your application. Orders that receive objections which are unable to be withdrawn, will be forwarded to the Secretary of State (The Planning Inspectorate) for determination at the discretion of ECC, and the reasons given below will form the basis for requesting the Planning Inspectorate to confirm any opposed orders.

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TERMS AND CONDITIONS – IMPORTANT – PLEASE READ BEFORE SIGNING

I/We acknowledge that a non-refundable assessment fee of £500.00 will be paid when notification is received of the commencement of the processing of the application.

I/We acknowledge and undertake that:

1. The application will not proceed until the assessment fee cheque has cleared
2. The assessment fee amount paid covers the following costs:
 - (a) land ownership verification
 - (b) determining if we will process the application i.e. accept, consider and issue decision
 - (c) initial site visit
 - (d) drawing up of a proposal plan
 - (e) pre-Order 'informal' consultations and negotiations
3. The total amount paid is currently a fixed fee of £3,125 (which includes the £500 above). Any additional orders required which may form part of the same scheme will cost a further £795 per order, and a fee of £368 will apply for the second and each additional path within any order. The set fee includes the following costs:
 - (a) making an Order/s including legal costs and compiling final order plans (see above and PPO Fee Guide re additional Orders/paths).
 - (b) advertising and consultation of Orders
 - (c) confirmation of Orders including legal costs
 - (d) the certification of the diversion routes including site visits
 - (e) * works costs are not included – see below

*NB. Any works required to bring the new route into being will be paid for by the applicant unless in exceptional circumstances other terms are agreed with the Council. 'Works' 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 the Council 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 costs at the made Order stage of £1,850 (plus extra costs as 3. above).
6. To pay on demand the remaining fees at the confirmation Order stage – plus works.
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 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 tax payer 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.
11. Please advise if any Statutory Undertakers/Utility Companies have rights of access over the land subject to the existing Public Right of Way:

Name of company.....

Details of rights.....

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12. If any of the land appertaining to the diversion proposals is registered with Land Registry please provide the relevant Land Registry Extract No.s:

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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.

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

Signature(s)

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	

Public Path Order (PPO) fee guide S118 & S119:

Please use the menu system below as a guide as to how much your PPO diversion order/s may cost.

NB. The costs outlined also apply to PPO extinguishment applications. ECC will only process extinguishments in exceptional circumstances where we determine that a path is not needed for public use.

Actual costs excluding works costs will be confirmed when your application is ready to be processed.

NB: the costs in this table are for s119 Diversion and s118 Extinguishment Applications under the Highways Act 1980 only.

For Section 257 Applications under the Town and Country Planning Act 1990 please refer to our website.

ALL APPLICATIONS	ALL APPLICATIONS	WHEN ADDITIONAL ORDER/S REQUIRED*	WHEN ADDITIONAL PATHS INCLUDED*	WORKS COSTS AS REQUIRED*
ASSESSMENT FEE	SET FEE	Y/N	Y/N	Y/N
£500	£3,125 (includes £500 assessment fee)	£795 per order	£368 per path	Estimate can be provided once works requirement known

*see additional guidance below:

Examples:

1. Application to divert Footpath 22 in the Parish of Finchingstead, and Footpaths 9 and 13 in the Parish of Great Balford requiring two orders.
Assessment fee £500, set fee £3,125 (which includes the £500), additional order fee x £795, additional path fee x1 (one path is included with each order) £368. TOTAL FEE (exc. Works) = £4,288
2. Application to extinguish Footpath 7 Little Charlwood and Footpath 23 Midsummer Warley (note: these paths are contiguous and in the same ownership. The parish and path number change because the of the location of the parish boundary but they can logically be included in one order)
Assessment fee £500, set fee £3,125 (which includes the £500), additional path fee x1 £368. TOTAL FEE (exc. Works) = £3,493

*The Definitive Map Team officer processing your application will determine how many orders are required when there are multiple paths included within the application.

Please note that Extinguishments and Diversions cannot be combined within the same order.

ECC will generally advise against combining proposed changes within one order unless the paths, though numbered and named differently, are contiguous or in close proximity to each other, making their inclusion within a single order logical and an aid to the public's comprehension of the proposals.

Including more than one diversion proposal within one order could increase the risk that both proposals fail. This is because if an objector objects to one proposal and not the other the whole order will then nonetheless need to be referred to the Planning Inspectorate on behalf of Secretary of State for determination if it is to proceed.

The additional path fee will apply even if both/all the path proposals can be included within the same order. This reflects the additional work involved in site visits, plan construction, order and advertisement wording etc. for more than one path.

Payment schedule:

At application commencement: assessment fee £500

At Made Order stage: £1,850 (plus any additional path/order costs as applicable)

At confirmation stage: remaining costs plus applicable works costs.

Works costs:

Applicants may be able to reduce or remove works costs by undertaking the works themselves or commissioning a 3rd party to undertake them to ECC's design specifications.

The Area Public Rights of Way Inspector and Definitive Map Team Officer will be able to advise if this is possible after the site visit.

If an applicant opts to undertake works they will be fully responsible for undertaking Statutory Undertaker (STATS) searches (to determine the presence of buried services i.e. utility pipes, telecommunications assets etc.) and for any consequences, whether personal or financial arising from damage or interference with them (see 13. in app. form).

Works associated with public paths connecting with highways with vehicular rights, such as carriageways and roads, are likely to require traffic management and therefore will only be able to be undertaken by ECC or their nominated contractors. Please confer with the respective Area PROW Inspector as your application progresses.

Schemes

As in the examples above a number of paths can be included in one application and where these are not contained within one order this is referred to as a 'scheme.'

The costs for a scheme are captured in the menu-based fee calculation system above depending on the number of orders required and paths included.

In exceptional circumstances only it may be possible to combine several distinct applications from different applicants and to process them at the same time.

If these applications then proceed in-sync it may result in cost savings to the Highway Authority e.g. through shared newspaper advertisements and email consultations, site visits etc. It will not be possible to determine if such savings are likely until proposals have been fully assessed. If such savings can be achieved it will be possible to pass these on to both/all sets of applicants in the form of reduced fees commensurate to the complexity of the various applications and savings achieved. Please note, however, that at the assessment stage such a fee reduction cannot be accurately quantified and savings may not materialise at all. Applicants should therefore in the majority of cases budget for and expect to pay the full fee.

Applications which are not cohesive (e.g. different parishes and/or districts, paths in locations remote from each other, different landowners) will likely not be suitable for consideration as a scheme and will for clarity and ease of presentation to the public be presented to them separately.