

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

**IN THE MATTER OF THE DETERMINATION TO CONFIRM
PUBLIC PATH DIVERSION ORDER 2020 BRIDLEWAY 32 ALPHAMSTONE
IN THE DISTRICT OF BRAINTREE
SECTION 119 – HIGHWAYS ACT 1980**

DOCUMENTS REQUIRED BY THE PLANNING INSPECTORATE

1. Original signed and sealed Orders in duplicate (the only document to be submitted in paper form via Royal Mail)
2. A copy of the order and associated plan
3. OMA's submission letter
4. Statement of the grounds on which it is considered the order should be confirmed
5. Representations and objections to the order (including supporters) along with a covering list of their names
6. Statement containing the OMA's comments on the objections
7. Copy of the notice publicising the order together with a copy of the newspaper cutting
8. Certificate that notices have been published, served and posted on site and at the local offices
9. Certificate that the necessary consultations have been carried out
10. Copies of replies to the pre-order consultation and responses by the OMA
11. Name and address of every person notified
12. Undertaking that if confirmed, notice will be duly published and served; or if not confirmed notice will be duly served
13. Location map to enable the Inspector to identify the site
14. Written permission from the landowner allowing Inspector access to the land
15. Name and address of the applicant
16. Confirmation that the OMA is 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. Undertaking by OMA to provide new paths in readiness for public use
20. Extract from the Definitive Map and Statement
21. Essex County council's rights of Way Improvement Plan (ROWIP) Statement

1. Original signed and sealed Orders in duplicate (the only document to be submitted in paper form via Royal Mail)

Sent by [REDACTED] of Essex Legal Services C/o Essex County Council via Royal Mail on 09/08/2021.

2. A copy of the order and associated plan

See submitted PDF file:

2-Alphamstone BR32 Made ORDER.pdf

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 11 August 2021
Our Ref: Alphamstone Bridleway
32 Diversion

Dear Sir

Highways Act 1980 – Section 119 Public Path Diversion Order 2020 Bridleway 32 Alphamstone, 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 21/02/2020. 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. With exception of the original sealed orders 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)*.

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 11 months, I am employed by the County Council on a part time basis Wednesday to Fridays only, but arrangements could be made to attend 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 original Officer (Mr Laurence Page) who commenced the order process has since retired 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 retired Mr Page.

Yours sincerely
Andrew Ritchings
Definitive Map Analyst Essex County Council

4. 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 21/02/2020 to divert Bridleway 32 Alphamstone 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.

An application was received by the County Council in September 2018 from Birketts LLP acting as agents for the Applicants and Landowners [REDACTED] seeking an amendment to the alignment of Bridleway 32 Alphamstone. A précis of reasons submitted by the landowners contained in the application asserts that: *Bridleway 32 shares its alignment with a private access drive serving Clees Hall dwelling and six adjacent properties providing access to farm buildings and grazing and arable land, where livestock is also moved around the farm. There are no public vehicular rights along its way, however it is regularly used as a cut through by vehicles, especially delivery vans which is considered detrimental for legitimate public users, particularly those on horseback and affects the amenity value of the route. There are no historic limitations so the route is unable to be gated other than when livestock are being moved as authorised by a Section 147 Highways Act consent. Public vehicular use presents a security concern to the owners and occupiers of the properties and farm buildings and raises safety concerns when livestock are being moved.*

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 – the proposed alternative diversion route would enable the landowner's and occupants of Clees Hall to secure the existing way by introducing lockable gates, consequently preventing the current unauthorised vehicular movements through the farm resulting in a more secure, less intrusive and a safer environment. The OMA consider the aforementioned aspect to be in the landowner's interest and therefore it is considered expedient to divert the path.

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**

At the eastern end of the diversion route (Point A on the order plan), the path deviates south westward away from the existing route by approximately 20 metres, it then proceeds north westward parallel with the current alignment of Bridleway 32 and exits the field onto the unclassified metalled lane known as Clamps Grove Road which is a public highway that terminates further eastward at its connection with Bridleway 32, there is also an additional and optional connection by way of a gap to the junction of the existing Bridleway and the point where Clamps Grove Road public vehicular rights terminate. It is considered the diversion meets both the aforementioned criteria by not altering its point of termination and also connecting to a point on a highway connected with it and in the OMA's opinion substantially as convenient.

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 original intention to provide a grass only surface was considered to provide an alternative section of soft surface path away from the private access driveway through Clees Hall Farm, mitigating vehicle and livestock conflict for all users with open countryside views though retaining aspects of the Clees Hall setting. The current s147 licensed double field gates (see submitted pdf **4-s147 Consent.pdf**) would no longer restrict path users at times when cattle movements are being managed by farm operatives which is considered to be an improvement in convenience.

Bridleway 32 as a whole could be considered to reach from its connection with the carriageway known as Cooks Green at its eastern end to its western end connecting to the carriageway known as Clamps Grove Road at the south western corner of Clees Hall (point C on the order map). The total length of

the way is approximately 800 metres being a mixture in places of metalled and sprayed tar with shingle surface. The section proposed to be diverted adjacent to the southern side of Clees Hall is approximately 170 metres in length representing approximately 21% of the total path distance.

The land served by the existing right of way and the land over which the right is so created are both in the ownership of the applicants, and as provided in the application précis and s119(1) above it is the landowners preference that the route would be better served by the alternative proposed diversion route.

Given the minor deviation of a small proportion of Bridleway 32 is proposed to be diverted to a field edge section providing unhindered access at all times and taking into consideration the effect the order would have on land served by the existing right of way and the land by which the right is to be created, it is the OMA's opinion the diversion would not be substantially less convenient to the public.

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 increase the amount of bridleways and off road cycling and reflect an improved accessibility by reducing the amount of limitations currently in place on the existing way.

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

See submitted PDF files:

5-Alphamstone BR32 Representation Contacts.pdf

5-(1) [redacted].pdf

5-(2) [redacted].pdf

5-(3) [redacted].pdf

5-(4) [redacted].pdf

5-(5) [redacted].pdf

5-(6) [redacted].pdf

5-(7) [redacted].pdf

5-(8) Ramblers.pdf

5-(9) [redacted].pdf

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

Objector One - [REDACTED]

The final grounds of [REDACTED] objection states that [REDACTED] does not believe the proposal is supported by any grounds of security, privacy or safety.

The objection by [REDACTED] questions that the order would provide improved security, privacy or safety for the landowner and applicants of the order. Paragraph 1 of Section 119 of the Highways Act 1980 provides that where it appears to a council in their area that in the interests of the owner, lessee or occupier of the 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 order has been made in the interests of the landowner as the OMA believe the details submitted by the applicant deem it expedient that the path should be diverted in their interests, for the following reasons:

Bridleway 32 aligns between two public carriageways known as Cooks Green and Clamps Grove Road via the property known as Clees Hall, it also carries private vehicular rights giving access to the Clees Hall dwelling, farm buildings, grazing and arable land and other dwellings. There are no public vehicular rights along the way but it is understood the route is regularly used as a cut through to the aforementioned connected roads by vehicles, especially delivery vans. This unauthorised use poses a security concern to the owners of the farm buildings where various valuable agriculture items are stored. The movement of these unauthorised vehicles along with authorised path users provides a privacy issue to the landowners who might be disturbed when engaged in any agricultural or social activities. As the property incorporates the management of livestock the farm operatives have need to consider the safety of path users, farm workers and conflict with unauthorised vehicles when the livestock is moved along the bridleway. The diversion of the bridleway would mean the landowner could introduce locked gates across the current route at all times therefore preventing unauthorised access and mitigating the security, privacy and safety concerns, the OMA therefore believe for the aforementioned reasons that the order is in the interest of the landowner and meets Section 119 (1) of the Highways Act 1980.

Objector Two - [REDACTED]

There were multiple emails of correspondence between the OMA and the aforementioned objectors (all have been included in section 5.), the objection focuses on the type of surface of the proposed alternative path as it is claimed the proposed new route, being a different surface type, will not provide the same level of amenity to all users compared to the existing surface currently in use.

The order does not specify any surface type or works to bring the surface to a similar type to the existing path and had intended to utilise the current grass headland surface, which is the preference of two supporting representations. Discussions with the applicants, in view of the objections received, lead to a proposal to construct a 3 metre wide surface path to be split between 1.5 metres of hard surface suitable for bridle use and 1.5 metres of hard-wearing amenity grass mix, intending to provide users a choice of surface to ride, walk or cycle over. This proposal was acceptable to two other previous representations requesting a similar surface.

The objectors [REDACTED] rejected the proposed 3 metre split surface as they consider horses would be able to canter or gallop along the soft surface and therefore create unsafe conditions for the horse and rider and other users.

Given that supporters of the full grass route who ride regularly consider the softer surface to be safer away from farm and other vehicles using the hard surface route one can only assume responsible riders would not put themselves or others at risk along any Public Right of Way irrespective of the path surface.

The objectors contend that as the current route has a minimum width of 2.4 metres and maximum width of 3.6 metres the proposed 1.5 metre width hard surface portion would be a significant reduction in amenity for all users.

The section of Bridleway 32 subject to this diversion order has no recorded width, Schedule 12A to the 1980 Act interprets that unless proven otherwise the maximum width shall be 3 metres (and minimum of 2 metres as respects a bridleway which is not a field-edge path). The width of the diverted bridleway as specified in the order will be 3 metres for all users, the proposed 50/50 split of hard/grass surface would provide users the option at the time of usage, it is likely that individual preference will dictate which surface they wish to utilise. The proposed 1.5 metre wide hard surface constructed of a base of crushed concrete, weed control fabric membrane finished with a top surface of blinded granite dust or similar is considered suitable for all bridle users by the Highway Authority and the route offers an optional 1.5 metre softer grass surface to which some users may consider having the choice to be an increased amenity, be they horse riders, cyclists or pedestrians.

In an attempt to satisfy the objectors request for a 2.4 metre hard surface, the applicant then offered to provide the 3 metre full width to be the hard surface base crushed concrete topped with granite dust aforementioned, this however was also rejected by the objectors, contending the proposed surface is a clear and obvious downgrade, also advising the proposed route is subject to several inches of flooding with a suggestion the County Council is acting discriminatory towards disabled users.

It is the Highway Authority (and therefore the OMA) opinion that the proposed aforementioned surface is suitable for all users, the reason at present bridle users utilise the existing concrete track surface is due to it being a shared vehicular access drive for the owners of Clees Hall, the HA consider that the proposed surface for the alternative diversion route is a more sympathetic surface at this rural remote location providing a more aesthetic characteristic at the field edge viewed across the open countryside. The area subject to flooding could be appropriately addressed by introducing engineered drainage alongside the path as per the section of ditch already existing. In terms of any discrimination towards disabled users; comprised in the OMA's consultee list is the Local Access Forum (LAF) which consists of varied representation of rights of way users including disabled users. No representation of concern was received from the LAF by the consultation expiry date, however due to the ongoing negotiations direct contact was made with a member of the LAF representing disabled users. Their observations are included in item 5. as '*appendix 5-(9) [REDACTED].pdf*' which essentially references the Scottish National Heritage document 'Paths for All' concluding the proposed surface to be an

appropriate type as a replacement for the existing provided; (i) the correct depth of top surface is achieved, (ii) it's sufficiently compacted and (iii) it is well-maintained.

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

See submitted PDF file:

7-MadeOrder NoticePublication.pdf

8. 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 Suffolk Free Press on 05 March 2020. The time allowed for objections was not less than 28 days from the date of publication of the Notice and the last date for objections was 02 April 2020.
2. Notices in Form 1, referred to above were duly served on every owner (or acting Agent in this case), of land to which the Order relates. All notices were served via email by Mr Laurence Page who has since retired from County Council service. Notice of order and a copy of the order and map were sent to Braintree District Council Offices where they could be made available for public inspection.
3. A copy of the Notice and Plan were posted on site on 03 March 2020 by [REDACTED] (Public Rights of Way area Management Inspector responsible for various parishes in Braintree District including Alphamstone). (see PDF file enclosed: *8-Certification of site Notice posting.pdf*)

Andrew Ritchings
Definitive Map Officer
Essex County Council

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

I hereby certify that:

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 Braintree District Council, Alphamstone and Larmarsh and Bures Parish Councils. The aforementioned documents were sent via email by Mr Laurence Page who has since retired from County Council service.
2. Consultation with Statutory Undertakers was carried out on 14 May 2021.

Andrew Ritchings
Definitive Map Officer Essex County Council

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

See submitted PDF files:

- 10-ECC Pre-Order consultation.pdf
- 10-(1) Sustrans.pdf
- 10-(2) ECC Floods Team.pdf
- 10-(3) Ramblers.pdf
- 10-(4) ECC Arboriculturist.pdf
- 10-(5) Braintree District Council.pdf
- 10-(6) Alphamstone Parish Council.pdf
- 10-(7) British Horse Society.pdf

11. 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:

- 11-Alphamstone BR32 Notified Parties.pdf

12. 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 Bridlway 32 Alphamstone 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

Andrew Ritchings, Definitive Map Officer
Essex County Council

13. Location map to enable Inspector to locate the site

The diversion of Bridleway 32 Alphamstone is located at;
Clees Hall, Alphamstone, Bures, Essex CO8 5DZ

See submitted PDF file:

13-LocationPlans.pdf

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

See submitted PDF file:

14-LandownerPermissionSigned.pdf

15. Name and address of applicant



16. 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 Bridleway 32 Alphamstone.

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

Andrew Ritchings
Definitive Map Officer

17. Details of the time and place where documents relating to the order will be made available for public inspection by the authority

At the time of submission, due to COVID-19 social mixing conditions, copies of the documents relating to the order can 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, copies can also be posted or emailed on request. Contact Andrew Ritchings on 07597 799573 or emailing andrew.ritchings@essexhighways.org or publicpathorders@essexhighways.org to arrange any of the above requirements.

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 BR exists on a shared private access hard surface driveway, I understand some sections of the path are subject to infrequent movements of livestock and farm vehicle traffic. The proposed alternative route is currently a mainly firm level grass surface

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

I understand there are infrequent controlled livestock movements on some sections 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 no public telephone local to the site and general mobile coverage is available though may require walking around in order to pick up the best signal depending on the mobile network provider.

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

Yes, in my opinion both routes are easily accessible. The landowners have provided a signed a declaration allowing access for an Inspector.

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. 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.

Andrew Ritchings Definitive Map Officer

20. Extract from the definitive map and statement;

See submitted PDF file:

20-DefMapStmnt BR32Alphamstone.pdf

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

See submitted PDF file:

21-ROWIP extract AlphamstoneBR32.pdf

Relevant parts can be seen on extract pages 28 item 3 *'to better integrate rights of way with other access provision, initiatives and facilities'*, 5 *'to improve accessibility on the public rights of way network'* and Theme D on pages 41 and 42 *'increasing the amounts of bridleways and off road cycling'*.