

0.2 Statement of the grounds on which it is considered the Diversion 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 Appendix 1. PROW Officer's Statement.

Footpaths 14 and 15 South Hanningfield (PUBLIC PATH DIVERSION ORDER 2022).

The applicants who are also the landowners applied for a diversion of sections of the above footpaths.

The relevant statutory tests that were examined in detail and for which categorical evidence was sought by the County Council before agreeing to proceed with the making of the Diversion Order concerned 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.

Part lengths of Footpaths 14 and 15 run diagonally across fields, currently used for harvesting a hay crop. In previous years, these fields have been used to graze livestock. The applicant wishes to re-route the cross-field sections of both of the footpaths to make it safer when using farm equipment to harvest the hay crop, and in particular, to facilitate the return of grazing animals to the fields. Both activities are key to the commercial operation of these agricultural fields, and the retention of their historic usage and character. The applicant's insurers as well as potential tenants for grazing use have made it clear to them that such usage would require the separation of the public and animals. If the applicants fenced along the current routes, they would effectively bisect both of the fields, making both farming and managing them more difficult as well as more time consuming. They have also raised concerns re security as well as their ability to safely operate machinery on the land to maintain it e.g. maintaining fencing and gates, cleaning ditches, cutting hedgerows and the general upkeep, while the footpaths runs across open fields. It is the consideration of the OMA that the reasons provided by the applicants support the making of an order in their interests.

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

The termination points of the diversion for Footpath 14 (A and B) remain on the current definitive line of the footpath and are unaltered. The termination points for Footpath 15 (D and E) are also on the current definitive line of that footpath and are unaltered. In both cases they are therefore as convenient.

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

The OMA acknowledge that the diverted routes add length to both footpaths. For Footpath 14 the increased distance is approximately 31%, which equates to it being 92m longer than the current route. Footpath 15 is approximately 38% longer, which adds about 131m extra walking. We do not consider that either of these increased distances are substantial, especially in the context of the footpaths being used for leisure rather than as functional routes. For PROW used for leisure/fitness purposes, the added distance, while not significant, could be viewed as beneficial.

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

Footpath 14 climbs to a higher elevation than both Footpath 15 and De Beauvoir Chase, and at its highest point it offers expansive views to the south. The diversion route achieves the same elevation and the views available are substantially the same, allowing the public to enjoy far-reaching views. Footpath 15's current route does not provide the same sort of views as Footpath 14, and the diversion route makes no significant change in this regard.

The sole objector expressed their preference for the current, definitive routes; however, no other representations were received from either the public or user groups in support of that view. The objector referenced their dislike for field-edge paths and their concern that the diversion would facilitate a return to livestock use, but it should be noted that the fields are working farmland with a hay crop and the perfectly legitimate intention of a return to animal grazing. Putting aside the issue of the safety of livestock and walkers when a footpath runs through a grazing field, not everyone would feel comfortable or enjoy walking through a field that is being used for that purpose.

(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 to land in the ownership of the applicants at their instigation and therefore there is no negative effect 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 them to manage and maintain their land more easily and to freely choose the land usage.

Taking the above factors into account, the OMA concluded 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.