



# Hampshire County Council

## PUBLIC PATH ORDER GUIDANCE NOTES

For applications to amend the Hampshire Definitive Map and  
Statement of Public Rights of Way

*Please read this guide thoroughly before commencing your application*

### Contents:

What Is the Definitive Map?	2
Making an application for a Public Path Order	2
What does it cost?	2
Who decides whether an application should be accepted?	3
The order making process	4
<b>Public Path Diversion Orders</b>	5
First Steps	6
Choosing a diversion route	7
Landowner Responsibilities	9
<b>Public Path Extinguishment Orders</b>	10
Contact Us	11
Data Protection	11

### What is the Definitive Map?

Hampshire's Definitive Map of Public Rights of Way is the legal record of the location and status of public rights of way in the county. It is maintained by Hampshire County Council and is available [online](#); a copy can also be inspected by appointment at our offices in Winchester. The Map, which is also accompanied by a Definitive Statement describing each public right of way in detail, is conclusive evidence of the existence of the rights of way shown on it.

The Definitive Map and Statement shows four categories of public rights of way, which are all public highways:

- Footpath (FP) - for people on foot only and mobility scooters or powered wheelchairs
- Bridleway (BR) - for walking, horse riding, cycling, and mobility scooters or powered wheelchairs

- Restricted Byways (RB) - for any non-motorised vehicle, and mobility scooters or powered wheelchairs
- Byway Open to All Traffic (BOAT) - for any motor-powered vehicle (but mainly used by walkers, cyclists and horse riders)

## **MAKING AN APPLICATION FOR A PUBLIC PATH ORDER**

Anyone can apply for a Public Path Order (PPO) to change an existing right of way recorded on the Definitive Map. This guide explains the procedure for making an application to change the Definitive Map and, the criteria against which applications will be assessed. We are unlikely to agree to progressing an application without the prior consent of the owners and occupiers of the land affected by the proposal.

A different procedure (a Definitive Map Modification Order) is used to modify the Definitive Map based on evidence that a route is incorrectly shown, or that a route not already shown should be added to the map. Routes can also be voluntarily dedicated by a landowner. Further information about these processes is available [here](#).

### ***What does it cost?***

We charge the applicant for the time we spend processing an application and for the actual cost of advertising an order in the local press. If an order is opposed, we may decide to refer it to the Secretary of State for determination. However, we are not obliged to do so and may opt to abandon the order if we believe it is unlikely to be confirmed. We will however consider referring the order to the Secretary of State if the applicant agrees to promote the order at their own expense if a public hearing or inquiry is held.

We will specify any work that needs to be done before we make an order but, if the order is confirmed, the applicant must carry out the work to our satisfaction, at their own expense. We have the power to do the necessary work and recover the cost from the applicant if they fail to do so.

An applicant may be required to pay compensation to anyone whose land is devalued as a result of an order coming into force of (as per the provisions of Section 28 of the Highways Act 1980).

We can require an applicant to enter into an agreement with us to pay these costs.

### ***Who decides whether an application should be accepted?***

In the first instance, the case officer will make a recommendation as to whether an order should be made. The recommendation will either be approved or rejected by the Regulatory Committee or, more commonly, at officer level under delegated powers. However, the making of an order is a public process, and if we receive objections to the order, it can only be confirmed following referral to the Secretary of State. This may result in a public inquiry, or hearing, or be dealt with through an exchange of written

representations. If an order receives objections, then we may decline to take the matter further. This will depend on issues relating to cost and strategic benefit. If we do decide not to promote the confirmation of an opposed order, we will provide the applicant with the opportunity to take on this role following referral to the Secretary of State.

Please note that currently we are not obliged to make an order, even if it complies with the requirements of the legislation. We hope that the advice in this guidance will encourage applicants to submit proposals which improve the network or offer the public better access opportunities. We reserve the right not to agree to progress applications that do not do so. We will, however, consider all applications and give reasons for our decision.

Depending on the type of change that is sought, applications will need to meet certain criteria. These are set out below.

Applications for PPOs should be completed [online](#) and submitted to us along with a map showing the proposed change.

Before determining an application, we will consult with a range of statutory consultees, including user groups (such as The Ramblers, the Open Spaces Society and the British Horse Society) and local parish councils. We aim to make our decision on an application within three months of receipt. Even where we agree to make an order, it may be a further several months before the legal process is complete. If the order is contested, it can take considerably longer.

### ***The County Council's Role***

The County Council is neutral when investigating applications for DMMOs. Our duty is to assess the evidence within the legal framework and reach a decision about whether a public right of way subsists along the application route.

When the application is investigated, a Definitive Map Officer will review the evidence that has been submitted with the application and carry out any additional research that may be necessary to find out whether the Definitive Map needs to be amended. They will also undertake an informal consultation, writing to all interested parties including landowners, user groups and the parish council. We recommend that anyone who wishes to be consulted on a particular application contacts us via email ([countryside@hants.gov.uk](mailto:countryside@hants.gov.uk)), quoting the reference number for the application.

The decision to accept or reject the application will be made either by the Countryside Service Strategic Access Manager (under delegated powers), or by a committee of elected councillors (the Regulatory Committee). Before reaching a decision, the decision maker will have reviewed a comprehensive written report from the Definitive Map Officer. The decision will be based on the evidence available about the history or past use of the route, and whether this demonstrates that a public right of way subsists, not on whether the change proposed is seen as desirable. A recommendation won't always reflect the status or exact route of the right of way applied for in the application.

If the decision is made by the Regulatory Committee, the Definitive Map Officer will write to the applicant and landowner(s) to let them know in advance of the meeting. Any resident of Hampshire may register to speak at this meeting.

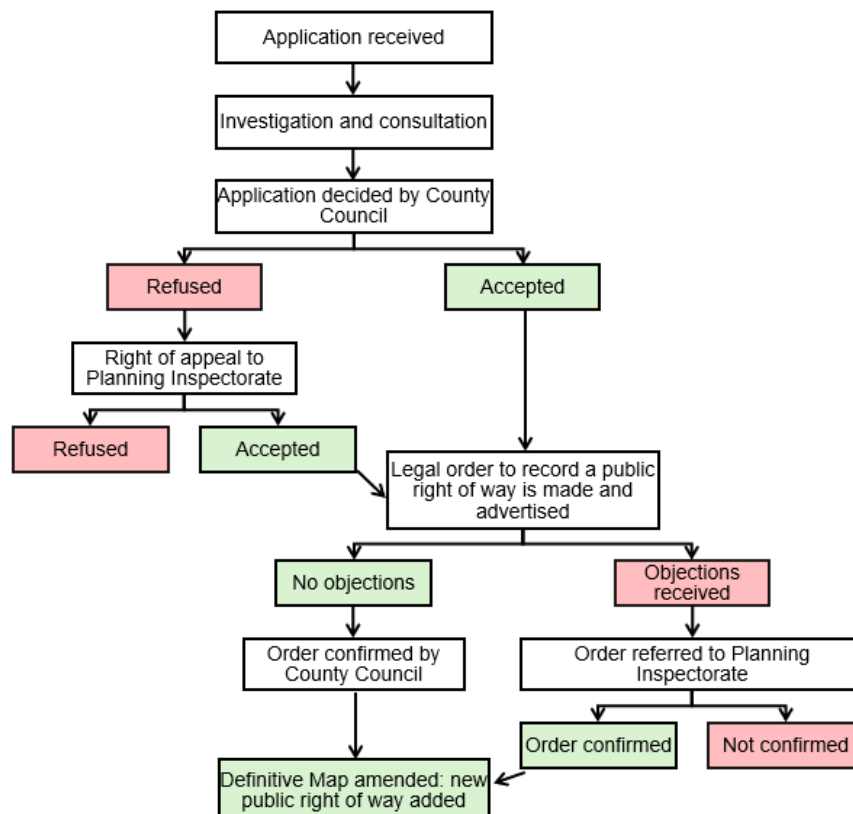
If the decision maker decides that the evidence does not support the application, the applicant will be advised of any right to appeal against the decision. If it is decided that the application should be accepted, notice will also be sent to the landowners and occupiers and a DMMO will be made.

### ***The order-making process***

If the County Council accepts an application, a legal order will be made to formally record the application route on the Definitive Map. We will advertise the order by displaying notices at each end of the route and in the local press. Anyone may object to the order within 42 days following the advertisement (they are known as ‘statutory objectors’). If any objection is made, we must refer the order to the Secretary of State for determination. The Secretary of State will arrange for the order and the objections to be considered by an Inspector, either at a public inquiry or hearing, or by an exchange of correspondence (known as ‘written representations’). The Inspector will decide whether to confirm the order, and again, can only consider evidence that is relevant to the question of whether a right of way subsists. Statutory objectors have a right to be heard during these proceedings. Other objectors, and supporters of the order, may also be involved at this stage.

The order must be confirmed before any change can be made to the Definitive Map. When confirmed, it will amend the Definitive Map to the extent specified in the order. Definitive Map procedures can seem complex, but the chart below shows the process and the different stages.

The Map Modification Process



## PUBLIC PATH DIVERSION ORDERS

### Section 119, Highways Act 1980

The route of a public right of way may not be moved unless the change has first been authorised by a legal order, known as a 'public path diversion order'. Diversion orders can be made by the County Council or by other local authorities. This guidance explains how to apply to Hampshire County Council for the authority to move a footpath, bridleway or restricted byway. Different rules apply to the diversion of a byway open to all traffic.

#### ***When can a path be diverted?***

The County Council will only agree to make a diversion order if the proposal meets certain requirements<sup>1</sup>, which are set out in Section 119 of the Highways Act 1980:

- The proposed diversion must be in the interests of the owner, occupier, or lessee of the land crossed by the right of way, or in the interests of the public.
- The new route must terminate at a junction with the same highway, or a highway connected with it, and be substantially as convenient to the public.
- If the route does not currently terminate on a highway, the legislation will not permit the County Council to make an order to divert the route (although it may be possible to achieve the desired outcome via an extinguishment and/or creation order under the Highways Act 1980).

The above criteria *must* be satisfied before an order can be made. Other matters, such as the relative distance, views, gradient and accessibility of the proposed path, and its impact upon public enjoyment and other land, are also relevant factors that must be considered before the order can be confirmed<sup>2</sup>. These factors are discussed further below.

Guidance published by the Department for Environment, Food & Rural Affairs (DEFRA) in August 2023<sup>3</sup>, provides a steer for local authorities as to the weight they should attach to the impact of public footpaths, bridleways or restricted byways where they run by private houses and gardens, farmyards and commercial and industrial premises. The guidance sets out Government policy on changes to public rights of way 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. The County Council will have regard to this guidance when considering applications.

We can also make diversion orders to improve school security, but we would advise applicants to discuss proposals with us before an application is made, as different considerations apply.

---

<sup>1</sup> Section 119(1)

<sup>2</sup> Section 119(6)

<sup>3</sup> [Government guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises – August 2023](#)

## ***First Steps***

We recommend that anyone thinking of applying to amend the alignment of a public right of way first establishes the legal line of the path (which may not always reflect the line of the path in use on the ground). The most up to date information about the rights of way network is available [online](#). Each public right of way is uniquely referenced by the name of the parish in which it is located, and a number. We will need this information to process an application.

Applicants should have regard to the issues set out in this guidance document when planning their application. We ask applicants to use our [pre-app](#) service before submitting a full application, so we can provide feedback on the proposals and advise whether they are likely to succeed.

We generally advise applicants to consult informally before submitting an application to the County Council. This ensures that the views of interested parties can be established at an early stage, enabling applicants to modify proposals as required, thus reducing the chances of objections after costs have been incurred. We suggest erecting a notice and plan beside the section of the path to be diverted, explaining the proposed diversion and seeking comments and suggestions from those who use the route. We also recommend seeking the views of local residents, users of the path and statutory consultees such as The Ramblers, the Open Spaces Society and the Parish Council (we can confirm who you should consult and provide relevant contact details).

Anyone can apply for a Public Path Order (PPO) to change an existing right of way recorded on the Definitive Map. This guide explains the procedure for making an application to change the Definitive Map and, the criteria against which applications will be assessed. We are unlikely to agree to progressing an application without the prior consent of the owners and occupiers of the land affected by the proposal.

A different procedure (a Definitive Map Modification Order) is used to modify the Definitive Map based on evidence that a route is incorrectly shown, or that a route not already shown should be added to the map. Routes can also be voluntarily dedicated by a landowner. Further information about these processes is available [here](#).

## ***Choosing a diversion route***

The County Council will have regard to the needs of both path users and landowners when considering an application to divert a public right of way. We will also have regard to our [Countryside Access Plan](#), which shapes the way we manage the rights of way network, and has been prepared following consultation with local residents, access user groups, landowners, farmers and land managers.

The overall quality of an application will be a combination of many different factors, and we recognise that different users will not necessarily agree on whether an application meets their specific needs. This guidance, whilst not intended to be prescriptive, does highlight the factors that are likely to be important to stakeholders, including the quality of the proposed new route in terms of surface, gradient, views and the user's overall experience, the importance of the path in the context of the local network, the nature of the terrain and the likely level and cost of future maintenance.

Key considerations are discussed further below:

## **Structures**

We prefer routes without gates or other structures, unless these are necessary to prohibit unauthorised use or to control livestock. If a structure is needed to prevent unauthorised use, where possible a gap should be left at the side for pedestrian or equestrian access.

The specification of any structures should be discussed with the County Council prior to submitting your application. Radar gates and medium mobility gates help to improve accessibility. Bridleway gates need to be a minimum 5 ft wide and have a longtail latch, and ideally be situated sufficiently far back from the junction with any road to provide an area for riders to wait safely before crossing.

## **Widths**

As a general rule, we prefer new paths to be at least as wide as the paths they replace. They need to be wide enough for people to use easily and (in the event surface cutting is necessary) for machine access. Ideally we would seek a minimum width of 2 metres for a footpath and 3 metres for a bridleway, but generally, the wider the path, the better. If the width of a diverted path is to be narrowed by fencing or hedges (at the time the diversion is processed or at some point in the future) an additional 0.5 metres of width should be offered.

We recognise that in some instances, it may not be practical to provide a width in line with our recommendations, and failure to do so does not necessarily mean that an application will be unsuccessful.

## **Surface**

Ideally, new paths should have a surface which is as durable as the existing path, and which is no more expensive to maintain. Drainage of the new path is an important matter to consider, as is the ability of the path to dry out after wet weather. The surface of a brand new path across open land may not be as durable as the surface of a path that has been compacted as a result of having been trodden for centuries, so the new path may need to be drained or engineered before it is of a similar standard.

We prefer new paths to have a durability that is consistent with their character and situation, and we will advise on the required standard of construction of a new path. This will vary according to location and future use. For example, if the diversion means that the path is likely to be used more after the diversion than before, we may require the new path to be constructed to a higher standard.

Where possible paths should avoid using existing private access points where livestock congregate, or where surface damage can be caused by farm machinery.

## **Enjoyment**

Proposals are likelier to succeed if the new path offers users an experience which is similar (or superior) to the existing path in terms of character, views, gradient and convenience of use. A significant increase in length should be avoided if possible, unless this is justified where it offers an improved experience or enhanced network connection.

If possible, proposed diversions should not take the user away from points of interest such as views, historic features or water (unless an equivalent feature is on the new route). We prefer diversions which reduce potential hazards for the user, such as paths which take users off a busy road, offer improved sight lines at road crossings, or away from land used by heavy plant and/or machinery. Ideally, new paths should follow a route that is easy for users to follow, without the need for excessive waymarking.

### ***Strategic Value***

We prefer diversion proposals which provide improvements in connectivity to other parts of the rights of way network or to areas of public access, or which offer network improvements identified by the Countryside Access Plan.

We welcome diversions which have the potential to offer additional rights for non-motorised users. For example, if a new footpath is suitable for use by horse riders and cyclists, we will welcome the dedication of additional rights to allow those users to access the path.

We will not make or confirm an order if we do not consider it expedient to do so. In deciding whether it is expedient, we will take into account the cost of promoting an order once made, and the prospective benefit afforded to the public by the new route. In instances where we decide not to promote the confirmation of a made order, we will nevertheless give the applicant an opportunity to take responsibility for doing this.

### ***Landowner Responsibilities***

The County Council will become responsible for the maintenance of the surface of any public right of way that has been diverted, but landowners have certain responsibilities for public paths which cross their land. Prospective applicants should bear this in mind, so that future liabilities can be considered when a new route is proposed.

### ***Vegetation***

A landowner must ensure that vegetation from land on either side of a right of way does not overhang or encroach onto the path. If a path is to be enclosed by hedges, or is to run next to a hedge or woodland, the regular cutting back of vegetation will be an ongoing responsibility on the part of the landowner or occupier of the land. Care should also be taken to ensure that there is adequate headroom for users of the path - in the case of a bridleway, clear headroom of at least 3 metres must be maintained. Any tree falling across a right of way should be cleared by the owner of the tree.

### ***Ploughing and cropping***

There is a right to plough across a footpath or bridleway if it runs across a field, provided that it is not reasonably convenient to avoid disturbing the surface of the path. A footpath should be reinstated to a minimum width of 1 metre and a bridleway to a minimum width of 2 metres within 14 days of the first disturbance for sowing of a crop, and within 24 hours in any other case. The potential disturbance to users caused by the ploughing of a right of way is a factor that we will consider before approving a diversion, but where it has been approved, landowners should be aware that the right to plough comes with the responsibility to reinstate. It is an offence to disturb the surface of headland paths.

Any path running through a field of crops must be kept clear by cutting or spraying to the same widths.

### **Structures**

Landowners and occupiers are normally responsible for the maintenance of gates and other structures on rights of way. They should be repaired or replaced when necessary, so that they are safe and easy to use. We can provide advice and assistance when structures need to be replaced. No structures should be erected unless previously authorised by us.

### **Livestock**

Livestock and the public are not always a good mix. All land managers are under a duty not to put the health and safety of persons at risk, including those not in their employment. Specific rules relate to bulls: it is an offence to keep any bull in a field crossed by a right of way unless the animal is under 10 months old, or it is not of a recognised dairy breed and is at large with cows or heifers.

### **Obstructions**

It goes without saying that rights of way should not be obstructed, even temporarily. It is an offence to erect signs or act in a way intended to mislead or deter members of the public from using a public right of way.

We would remind landowners that the maintenance of free passage along public rights of way is a key farm activity that falls within the cross-compliance rules of the Single Payment. The County Council, as a relevant enforcement body, is encouraged to report GAEC breaches to the Rural Payments Agency ('RPA'), particularly those which breach GAEC 8 – Public Rights of Way. The RPA will then consider a reduction in the SPS Payment.

## **PUBLIC PATH EXTINGUISHMENT ORDERS**

### **Section 118, Highways Act 1980**

Section 118 of the 1980 Act enables authorities to make orders extinguishing footpaths, bridleways and restricted byways ('public path extinguishment orders'). A route does not necessarily have to be shown on the definitive map and statement before it can be extinguished, but the County Council will need to be satisfied as to the status of the alleged right of way before making an order.

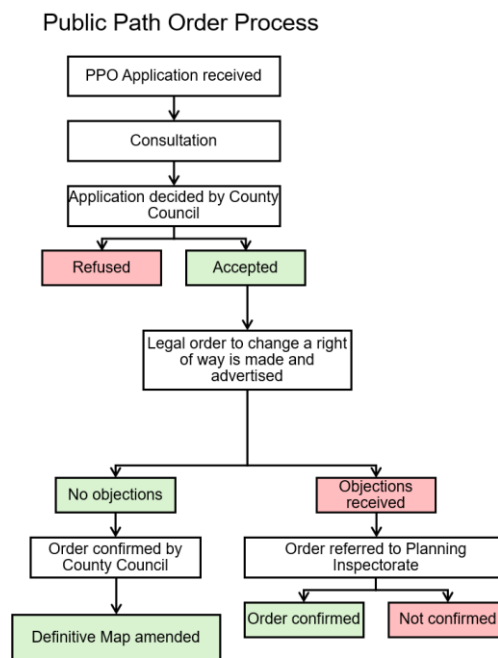
An extinguishment order can be made only if the County Council considers it expedient that the way should be stopped up because it is not needed for public use. Any temporary circumstances preventing or otherwise negatively impacting use of the way (which may include the obstruction of the route by buildings or other structures) must be disregarded.

When assessing whether to make a public path extinguishment order, the County Council must have regard to the following matters:

- The frequency and nature of use of the path;

- The availability of alternative routes, which provide similar connectivity to the existing path;
- Whether the extinguishment of the path would affect access to owners/occupiers (including private residences), services or recreational areas;

Prospective applicants for an extinguishment order are advised to follow the steps outlined in 'First Steps' on page 6 before submitting a full application.



## CONTACT US

If you have any questions about the public path order process or would like to submit an application, please contact the Definitive Map Team at [countryside@hants.gov.uk](mailto:countryside@hants.gov.uk)  
[Pre-app for diversions | Customer pages](#)

## DATA PROTECTION

The personal data you provide in any response will be treated in accordance with Data Protection Legislation, and may be published in a decision report, be disclosed to other interested parties, including the landowner (or their representatives). It may also be made public if the matter is referred to the Planning Inspectorate. Your data will be retained for a maximum period of 3 years from the date that the application is resolved. In the event that this changes to a legal event order, it will become part of the permanent records kept on rights of way in Hampshire. The legal basis for our use of this information is the compliance with a legal obligation – Highways Act 1980.

You have some legal rights in respect of the personal information we collect from you. Please see our website Data Protection page for further details: [www.hants.gov.uk/dataprotection](http://www.hants.gov.uk/dataprotection) You can contact the County Council's Data Protection Officer at [data.protection@hants.gov.uk](mailto:data.protection@hants.gov.uk) If you have a concern about the way we are collecting or using your personal data, you should raise your concern with us in the first instance or directly to the Information Commissioner's Office at <https://ico.org.uk/concerns/>