

Public Path Order Creations, Diversions and Extinguishments
Sections 26, 118 and 119 Highways Act 1980
Section 257 Town & Country Planning Act 1990

KEY GUIDANCE FOR APPLICANTS

Introduction

Public rights of way - footpaths, bridleways and byways – are public highways governed by the same legislation as public vehicular roads. The Rights of Way Access Team at Cambridgeshire County Council manage them, and the Asset Information Team provides advice on consultations. *Defra Rights of Way Circular 1/09* states “the effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered”.

Key Procedural Guide

- **Responsibility of applicants:** It is the responsibility of an applicant to ensure that they know the legal and physical nature of any public rights of way affecting land in which they are interested, and the implications of that for any proposals you may have. This information can be found through research using:
 - Sources as advised on the County Council's website:
http://www.cambridgeshire.gov.uk/info/20012/arts_green_spaces_and_activities/199/definitive_map_and_statement
 - Your own deeds and knowledge
 - Talking to the local parish/town council and local people
- **A resource:** Public rights of way are an important resource to communities which should be actively protected and enhanced in partnership through early consideration in the planning process, e.g. through planning-in green infrastructure and sustainable travel. If done well, the quality of developments and local quality of life can be significantly improved. The Asset Information and Rights of Way Teams at the County Council are happy to discuss potential implications before a planning application is submitted.
- **Specifications:** Development around public rights of way can result in paths being adversely fenced in or encroached upon. It is important to ensure, through early consideration, conditions and landscape plans, that an adequate width is allowed for rights of way and that any planting is set back sufficiently such that future maintenance will not be a problem and that future public enjoyment of paths is not put at risk. Landscaping plans affecting boundary treatment of rights of way must be approved by the Asset Information Team at the County Council. See our detailed guidance for specifications
<http://www.cambridgeshire.gov.uk/environment/countrysideandrights/definitivemapandstate/ma kingchanges/townandcountryplanning/>
- **Diversions:** Whilst the first option should be to incorporate and enhance an existing path, some developments may require path diversion orders. Although there is a separate public legal process for diversion orders, the desirability and effect of a diversion *must* be considered at the planning application stage¹. Failure to consider this properly at the planning application stage may jeopardise the chances of a diversion order being successful.

¹ <http://www.legislation.gov.uk/ukpga/2013/27/section/12/enacted>
<https://www.gov.uk/government/publications/rights-of-way-circular-1-09>

- **Diversions (2):** Applications for public path orders can now be made at the same time as applying for planning permission. Applications will be most likely to succeed if there is early engagement at scoping stage, as it is often too late to address design conflicts with user or legal constraints over width and alignment of rights of way by application stage.
- **Success of Public Path Order (PPO) applications:** Unfortunately it is not possible to guarantee the success of a public path order, because it is an open, public process, which has to follow a statutory procedure. Please see the Flow Chart of the PPO process.
- **Check list:** The Asset Information Team will do its best to assist and advise you, but in order to give your application the best chance possible you should ensure that the requirements in the check-list below have been met *before you submit your application*. Each point must be evidenced, for example by a letter or email from an affected adjacent landowner giving their consent to your proposal.
- **Certification:** If works are required, a third stage called 'Certification' may be required whereby the County Council's Rights of Way Officer or other inspector will sign them off as satisfactory. Please note that *the new route will not come into effect until Certification has occurred*, i.e. the original route will still legally be in force.
- **Objections:** The County Council or Planning Authority as relevant will meet the costs of taking an opposed Order to a public inquiry, provided we consider that it has a good chance of success. The Authority reserves the right to decline to proceed to a public inquiry for an opposed Order.

Costs:

- **Costs charged for processing a Public Path Order application are:**
 - the administrative costs of processing your application up to the making of a public path order, as set out in the Cambridgeshire Highway Records Guide which contains a Schedule of Charges that are available at https://www.cambridgeshire.gov.uk/info/20081/roads_and_pathways/116/highway_records;
 - staff travelling expenses @ 45p per mile plus VAT;
 - the cost of inserting Public Notice(s) in the relevant local newspaper(s) at the time of the making of the Order and Public Notice(s) in the relevant local newspaper(s) at the time of the confirmation of the Order.
- **Cost of new structures and ongoing maintenance:** usually borne by applicant. Must be agreed before application is submitted (see Check List and Flow Chart)
- **Ongoing maintenance liability (path surface):** paths created by PPOs are maintainable at public expense (the responsibility of CCC) but the applicant may incur some responsibilities - e.g. on arable cross field paths or tracks with private rights, and is also responsible for keeping path clear of overgrowth; see also County Council policy.

Sources of information

Defra Rights of Way Circular 1/09 is a good source of general background to public rights of way; section 7 is **essential** for planners

<https://www.gov.uk/government/publications/rights-of-way-circular-1-09>

The County Council has produced a guide for developers, available here

<http://www.cambridgeshire.gov.uk/rightsofway>





Contact

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Cambridgeshire County Council Public Path Order Pre-application Requirements

	Requirements	Evidence?	Date
1	Initial site meeting with CCC ROW Officer (ROWO) and Asset Information Definitive Map Officer (AIDMO) to advise applicant on legal and practical requirements		
2	Road Safety: If it is proposed to divert a path to exit at a different location on a road, to create a new path joining a road, or to change the status of a path adjoining a road that will introduce different users, 'Road Safety Comments' must be sought from the County Council's Road Safety advisors to ensure that safety requirements will be met. Contact the team at: 01223 715549 or Accident.Investigation@cambridgeshire.gov.uk http://www.cambridgeshire.gov.uk/info/20081/roads_and_pathways/136/road_safety		
3	Pre-application consultations must be carried out by applicant with the list of prescribed bodies at the back of the application form in order to gauge local and statutory consultee opinion. If these are successful, it is more likely that the application will be. If objections are raised to your proposal please consider what you could do to resolve them. Meeting to discuss on site with objectors is usually helpful. Alter proposal as appropriate.		
4	Structures and maintenance – must be discussed and agreed with ROW Officer		
a)	Are there any existing structures? 		
b)	What is their status i.e. are they recorded on the Definitive Map & Statement or are they authorised? 		
c)	Will any new structures be needed on the new line? If so, will they be authorised or limitations on the Definitive Statement? 		
d)	Who will pay? Structures will normally be at applicants' expense. 		
e)	What will the future maintenance liability (including diversions from cross-field to field edge) be? If maintenance burden is greater, landowner may be required to enter into a legal Agreement and to modify property deeds.		
5	Other landowner consents must be obtained in writing before application is made. Please also supply a map showing the proposed diversion together with all potentially affected landowners, including adjacent owners (e.g. of boundary hedges), and other interests, e.g. utility companies, rights of access.		
6	Existing path open and available for use in accordance with CCC Policy? If not has agreement been reached with CCC as to how problems will be dealt with?		
7	Width for new route must be agreed with AIDMO + ROWO (Minimum 2 metres for footpath; 4 metres for bridleway)		
8	Certification for the new route may be required by Cambridgeshire County Council – officers will advise		