

Legal Orders

1. Background

The County Council has a power to divert, extinguish or create public rights of way either of its own volition or following an application to do so from the public. The Council may also enter into agreements with landowners regarding the dedication of public rights.

As a Surveying Authority the County Council has a statutory duty to keep under continuous review the Definitive Rights of Way Map and Statement for Rutland and to make orders to take account of events requiring the map to be modified. This is carried out by the processing of Definitive Map Modification Orders (DMMOs) which are either applied for by the public or initiated by the Authority on the discovery of evidence.

2. Policy

In our second [Rights of Way Improvement Plan](#) we committed to publishing a policy statement setting out criteria to be met in order for the authority to accept an application for a diversion and also for the prioritisation of applications that have been accepted by 2022. Until that time we will continue to exercise discretion in the use of our powers to divert rights of way. Applications that can't demonstrate some form of public benefit will not generally be accepted.

We also committed to publishing a statement of priorities / exception criteria in relation to applications for definitive map modification orders (DMMOs) by 2022. If a surveying authority fails to determine an application for a definitive map modification order within one year of receipt an appeal may be made to the Secretary of State. In considering the appeal they take into account any statement made by the authority setting out its priorities for bringing and keeping the definitive map up to date. Our statement will ensure that we can justify the prioritisation of applications with the potential to deliver the greatest benefits to the network.

3. Summary of current cases

Public path orders

- a) Preliminary enquiries have been made regarding the proposed diversion of public footpath D79 at Whissendine Lodge under section 119 of the Highways Act 1980. The effect of the diversion would be to move the footpath away from the farm / house to the edge of nearby fields (route map at Appendix A).
- b) Proposed diversion of footpath D85 remains on hold due to the undetermined definitive map modification order (RCCDC/M15) and various issues with the proposed diversion route (report to director at Appendix B).
- c) In order to give effect to planning application reference 2019/0433/FUL bridleway E135 at Clipsham must be diverted. Consequently an application was made under section 257 of the Town and Country Planning Act 1990 (Appendix C). A diversion has been agreed in principle.

- d) Local bridleway groups proposed the diversion of E252 at Preston to avoid the busy A6003 and create a safe and more convenient route for bridleway users. To expedite the diversion they agreed the alternative route with the affected landowner (Appendix D) and agreed to meet the legal costs incurred by the council.
- e) An application has been made by the owners of Seaton Mill to divert footpath E320 under section 119 of the Highways Act 1980. The effect of the diversion would be to move the footpath away from the building and on to adjoining arable land (Appendix E).

Definitive map modification orders

- f) An application was made to record a bridleway in the definitive map and statement for Rutland at Ranksborough, Langham. The council rejected the application but were directed to make a definitive map modification order on appeal. After making the order the council received objections, so the matter was referred back to the planning inspectorate for determination (Appendix F).

4. Recommendations

That the report is noted and formal written advice given where required.

5. Background papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report: [The second Rights of Way Improvement Plan for Rutland](#).