

## 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. Updates since last meeting

#### Public path orders

- a) A new application (Appendix A) has been made to divert public footpath E229 at Home Farm in Ketton, to facilitate construction of a residential development recently granted planning permission ([2020/1254/MAF](#)). The proposal will require a departure from guidance ([Circular 1/09](#)) in allowing an estate road to be constructed on the same alignment as the diverted footpath.
- b) The Rutland County Council District Council (Preston) Bridleway E252 and Footpath E253 Diversion Order (No1) 2021 was made on the 22<sup>nd</sup> December

2021 (Appendix B) and notice was published on the 13<sup>th</sup> January 2022. Public consultation closed on the 11<sup>th</sup> February. No objections were received. Any works on site required to give effect to the diversion will now be undertaken prior to confirmation of the order.

#### Definitive map modification orders

- c) On the 16<sup>th</sup> December 2021 an application to record a footpath between Main Street in Barrow and Sheep Dyke in Cottesmore in the definitive map and statement for Rutland was registered (ref [RCCDC/M17](#)). The application submits that the documentary evidence provided proves the existence of the claimed footpath. Affected landowner have indicated that they're opposed to the recording of the footpath.

#### 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](#).