

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 report discussing the proposed diversion of public footpath E229 (Home Farm, Ketton) will be considered by Planning and Licensing committee at their meeting in March.
- b) An application for the diversion / stopping up of public footpath E151 (Langham) to enable development for which permission has already been granted is expected shortly (see Appendix A).
- c) A report discussing the application to divert footpath D79 at Whissendine Lodge is being drafted for Planning & Licensing committee.
- d) The proposed diversion of public footpath D85 at Ranksborough (Langham) to enable construction of a solar farm may be allowed to go ahead despite the route being affected by an undetermined DMMO application claiming bridleway rights.

- e) A proposed rationalisation package of diversions has been proposed by the owners of Leighfield Estate (Appendix B).

Definitive map modification orders

- f) Landowners affected by application reference RCCDC/M17 (footpath between Main Street in Barrow and Sheep Dyke in Cottesmore) requested an extension to allow them undertake research. They were given a further 6 weeks, which concluded on the 20th February. No new evidence in support of their objection was provided, so based on the evidence supporting the application the director for places has instructed legal services to make a DMMO.
- g) On the 30th of August 2022 an application to record a public footpath between the Avenue, Exton and Exton Lane, Burley in the definitive map and statement for Rutland was registered (ref RCCDC/M19). The application submits that the documentary evidence provided proves the existence of the claimed footpath (APPENDIX C).
- h) On the 8th of December 2022 an application to record a public footpath between the village green in Barrow and Burley Road, Cottesmore (via Ashwell Road) in the definitive map and statement for Rutland was registered (ref RCCDC/M20). The application submits that the documentary evidence provided proves the existence of the claimed footpath (APPENDIX D).

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](#).