

THIS IS AN EXPLANATORY STATEMENT AND DOES NOT FORM PART OF THE ORDER

HIGHWAYS ACT 1980

PUBLIC PATH ORDER

Under the Highways Act 1980, county and district councils have the power to make orders to create, extinguish (close) or divert public rights of way. A notice that such an order has been made has to be advertised on the site of the path(s) in question and in the local press. This provides an opportunity for objections or representations to be made to the proposed change.

East Suffolk Council has made an order to divert part of Benhall Footpath 26 and Footpath 27. This statement has been prepared to explain various aspects of the order.

The order has been made in the interests of the owners of the land crossed by the existing footpaths. The applicants' reasons for requesting the diversions are summarised as follows:

The current alignment of Footpath 27 passes in close proximity to the applicants dwelling and through the private garden. The applicants are seeking a permanent diversion of the route for privacy and security reasons and to formalise a route walked by members of the public for at least 30 years. This is in accordance with the current DEFRA Presumptions Guidance where a public right of way passes through a garden or curtilage of a residential dwelling.

The current alignment of Footpath 26 passes through the middle of a wet meadow that is subjected to boggy, unusable conditions for most of the year. The proposed route seeks to formalise a well-established path where ground conditions are much improved, including a boardwalk at point B.

The proposed routes will have a minimum width of two metres.

Government guidance dated August 2023 titled “*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*”, known as the ‘Presumptions Guidance’, sets out Government policy on changes to public rights of way through gardens and curtilages of private dwellings, working farmyards and other commercial premises.

Paragraph 9 states “*...the order-making and confirming authority should weigh the interests of the owner and/or occupier against the overall impact of the proposal on the public as a whole. They should note that reducing or eliminating the impact of the current route of the right of way on the owner and/or occupier, in terms of privacy, security and safety, are important considerations to which due weight should be given...*

Paragraph 10 states “*The order-making authority should therefore be predisposed to make, and the confirming authority will be similarly predisposed to confirm, an order if it satisfies the respective relevant legislative tests...*”

The Council is satisfied that the order complies with the legal grounds and tests laid down in the Highways Act 1980 (s119).

It considers that the proposal is in the interests of the owners of the land, that the order does not alter any termination points of the footpaths other than to other points on the same paths or highways connected with them and which are substantially as convenient to the public, that the proposed routes will not be substantially less convenient to the public as a consequence of the diversions and that the proposal will not have an adverse effect on public enjoyment of the footpaths as a whole.

The order will come into effect only after it has been confirmed: making and advertising the order simply provides an opportunity for objections or representations to be made.

Where a new path is being created (by a diversion order) the change will come into effect only after a specified period from the date of confirmation to allow time for any necessary works to be undertaken.

Objections or representations relating to the order must be made in writing by **13 March 2026** to the Rights of Way Delivery Officer, East Suffolk Council, East Suffolk House, Station Road, Melton, Woodbridge, IP12 1RT. Please state the grounds on which they are made. Please note that any such correspondence cannot be treated as confidential and may be inspected by any interested party. For further information please refer to East Suffolk Council's Rights of Way Privacy Notice which can be viewed online at Rights-of-Way-Privacy-Notice.pdf (eastsuffolk.gov.uk) or contact the Data Protection Officer at: East Suffolk House, Riduna Park, Station Road, Melton, IP12 1RT, tel: 01394 444488 email: dataprotection@eastsuffolk.gov.uk

The Council is willing to discuss the concerns of those considering objecting or making representations relating to the order. Please contact the Council's Rights of Way Delivery Officer Tel: 01394 444508 email: publicpathorders@eastsuffolk.gov.uk

The right of objection to an order is a statutory right, but it should be exercised in a reasonable manner. The costs involved in dealing with objections to orders are normally awarded against objectors only in cases of unreasonable behaviour.

If any objections are made and not withdrawn then the council will have to refer the order to the Department of the Environment, Food and Rural Affairs for determination. An Inspector from the Planning Inspectorate will then hear the objections at a public inquiry or hearing, or in writing if the objectors agree. The Inspector can confirm an order, confirm it with modifications, or refuse to confirm it. If no objections are received the Council will be able to confirm the order itself but it has no power to modify orders.

C Bally
Chief Executive
East Suffolk Council

5 February 2026