

## **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 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 Clopton Public Footpath No 4. 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 footpath. The applicants' reasons for requesting the diversion are summarised as follows: The purchase of the property has been recently concluded, and the footpath dissects the property. The Footpath currently runs the boundary of the property garden and is approximately 10 metres from the house and leaves 90 % of the property (the land) on the other side of the footpath. As well as privacy for the property, access to the remainder of the land 90% will be continuous, 24hrs and in constant use. Securing the path will be nearly impossible without creating a huge impact to the users of the footpath, ourselves and the ability to extend our small garden and look after our horses and other animals. Safety wise, the path would be crossed regularly by plant and machinery and would need to be secured in some way for our dogs and to protect the property and livestock from those who use the footpath. The current footpath runs along the bottom of a section of the field we plan to use as our garden. We worry for the safety of the dogs if they were in the garden and the public were walking with just a fence between them. We also worry about the safety of the horses. Due to the risk of the public feeding the horses, 2 of which have medical needs so being feed anything that is not their strict diet will likely cause the need for medical intervention. For all of these reasons we would like to propose to move the footpath to the opposite side of the field. The side of the field we propose to move the footpath to is currently used unofficially by the public and this diversion will not be any less convenient, it is not extending or reducing the length, has identical views and will have no material impact as we can determine. The proposed side of the field is just 75 metres at the widest point from the current path.

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 owner and occupier of the land crossed by the footpath, that the order does not alter the eastern termination point of the footpath and only seeks to alter the western termination point 35 metres to the south, that the proposed route will not be

substantially less convenient to the public as a consequence of the diversion and that the proposal will not have an adverse effect on public enjoyment of the footpath 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 **23 May 2025** 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](http://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](mailto: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](mailto: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.

B Woolnough

Head of Building Control and Coastal Management

East Suffolk Council  
17 April 2025