

Public Path Orders

The types of public path orders that this Authority can make are:

- Section 118 Highways Act (1980) Orders, that have the effect of extinguishing public rights of way. Such orders can only be made if it can be demonstrated that the right of way is no longer needed for public use.
- Section 119 Highways Act (1980) Orders, that have the effect of diverting public rights of way. They may be made in the interests of the landowner and or the public but strict criteria have to be met before they can be considered.
- Sections 257 and 261 Town & Country Planning Act (1990) Orders, where the County Council has issued the relevant planning permission. If the relevant permission has been granted by a local district or borough council, then that authority is the appropriate authority to make an order. You will need to make your application to that authority. Such orders can only be made if it can be demonstrated that it is necessary to divert, temporarily divert, or extinguish a right of way to enable the associated development to take place.
- Section 118a & 119a Highways Act (1980) Orders. These orders only relate to the extinguishment or diversion of public rights of way over and adjacent to operating railways. (Special application forms are required to make an application which can be supplied on request by contacting the Rights of Way team at Footpaths@Leics.gov.uk)

Why apply for a diversion?

Public Rights of Way are public highways. There is an ancient Legal principle “Once a highway, always a highway. Public rights of way come in four forms:

Public Footpaths – along which the public can walk with a lawful accompaniment such as a dog a pram or a push chair (if the route is capable of being used in that way)

Public Bridleways – along which pedestrians, horse riders and cyclists can travel

Restricted Byways – along which pedestrians, horse riders, cyclists and non-motorized vehicles can travel

Byways Open to all Traffic – along which all the above plus motor vehicles may travel

All the public rights of way known by the County Council to exist are recorded on the Definitive Map of Public Rights of Way, which constitutes a legal record conclusive in law of the existence, alignment, and status of public rights of way depicted on it and described in the accompanying Definitive Statement. It is, however, possible for other rights of way to exist that the Authority, is as yet unaware of and that, therefore, are not yet shown on the Definitive Map.

It is unlawful to obstruct or re-route a public right of way without some form of legal order made by a local authority, a Magistrates Court, or a Government Department.

Leicestershire County Council, as Highway Authority for Leicestershire, is one of the bodies which can make public path diversion orders, extinguishment orders and creation orders, within its administrative area, if it considers it expedient to do so. It can make orders affecting public footpaths, public bridleways and restricted byways but not Byways Open to All Traffic. Only the Magistrates Courts and Government Departments have powers to extinguish or divert byways. For more information on this please contact the County Council's Highway Records Enquiries Team at HRE@leics.gov.uk

Fees

The County Council charges a standard fee of £3,435 (one path) plus a further £220 for each additional path included in an Order. Details of how and when elements of this fee will be charged are included in the application form. In addition, the Authority will reclaim the costs of statutory advertising of the Order in a local newspaper which is a statutory requirement. These advertising costs are set by the newspaper used and are therefore outside the control of this Authority.