

Rights of way issues for Committees

SURREY COUNTY COUNCIL

PLANNING & REGULATORY

DATE: 14 JUNE 2017

LEAD OFFICER: Debbie Prismall
Senior Countryside Access Officer

SUBJECT: Rights of way issues for Local
Committees and P & R Committee.



What is a public right of way?

- A public right of way is a way over which all members of the public have a right to pass and re-pass between two points.
- Public rights of way can be split into four categories:
 1. Footpath
 2. Bridleway
 3. Restricted Byway
 4. Byway Open to All Traffic (BOAT)
- Once a public right of way has come into existence it continues indefinitely and can only be brought to an end through judicial process. (“Once a highway always a highway”).



The Definitive Rights of Way Map and Statement

- Legal record of the public rights of way
- Legal duty to keep up to date
- Conclusive evidence of the existence and particulars of a public right of way.
- Only definitive as to what it contains NOT what it omits – there may be public rights not yet recorded.

Committees and rights of way

Responsibilities and functions include determining:

- Map Modification Orders (MMOs)
- Extinguishments/diversions/creations
- Conversion of footpaths into cycle tracks
- Traffic Regulation Orders

Map Modification Orders

We must make an MMO where the evidence shows that:

- a right of way subsists or is reasonably alleged to subsist
- a highway ought to be shown as a highway of a different description; or
- that there is no public right of way over land, or the right requires modification.
- **Applicant makes Schedule 14 application to Council.**
- **Requires us to examine evidence and make decision.**

Public Path Orders

Town & Country Planning Act 1990

A path can be:

- Diverted to allow a development to take place. The alternative route should be no less convenient to the public.
- The County Council can require the applicant to pay all of the costs for making a legal order and to complete any works on the ground.

The Role of Committee

- A quasi-judicial process
- Decision based on the current legal situation, County policy and the evidence available.
- Opportunity for the public to object to or make representations about Orders
- Members should avoid indicating their likely decision prior to the committee meeting.
- Members should declare any pecuniary (or other) interest in the matter.

Speaking at committee

- Up to 10 people can speak- 5 for and against, plus applicant.
- Up to 3 minutes each
- If officer received written reps beforehand.
- Must contact committee officer by 12 noon of working day before committee.
- No new topics or materials
- May send deputy if cannot attend

Please refer to the Surrey Code of Best Practice and Members Code of Conduct

If you have any further questions please contact:

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See also www.surreycc.gov.uk/rightsofway