

NOTES FOR GUIDANCE **PUBLIC PATH ORDERS**



Under the Highways Act 1980 and the Town and Country Planning Act 1990, the Borough Council may make a footpath or bridleway Diversion or Stopping-up Order on receipt of an application from the owner, lessee or occupier of land crossed by the path.

Before it makes an Order, the Borough Council must first be satisfied that the Order would be in the interests of the owner, lessee or the occupier of the land and/or in the interests of the public. The Council must also be satisfied that the new route will not be substantially less convenient for the public to use. Consideration must also be given to the effect the Order would have on the public's enjoyment of the footpath or bridleway as a whole, on the land subject to the existing right of way and on the land over which the right of way is to be created.

The processing of a Public Path Order involves a complex, lengthy procedure and, for your information, an outline of this is set out below:

PROCEDURE FOR PROCESSING A PUBLIC PATH ORDER

- STAGE 1:** Receipt of application and preliminary consultation with applicant, including site visit.
- STAGE 2:** Consultation with all the statutory undertakers (e.g. British Gas, Thames Water) and other interested parties to reveal any objections and other comments.
- STAGE 3:** Preparation and publication of report to the Council's Highways Sub-Committee (Highways Act Orders) or Planning and Transportation Committee (Town and Country Planning Act Orders).
- STAGE 4:** Preparation and publication of the Order including newspaper advertisements, circulation to consultees and the posting of site notices.
- If the proposed Public Path Order is unopposed, please proceed to STAGE 7.*
- STAGE 5:** Receipt of any objections to the Public Path Order. If the applicant wishes to proceed, the Council may negotiate with the objectors in an attempt to seek withdrawal of the objections.
- If objections to the proposed Public Path Order are withdrawn, please proceed to STAGE 7.*
- STAGE 6:** If the objections are not withdrawn but the applicant still wishes to proceed, the Council must decide whether the Order can still be justified. The matter is reported once again to Committee with a recommendation to abandon the Order or to refer the Order to the Secretary of State for confirmation. The Secretary of State may deal with the Order by holding a public inquiry, by arranging a hearing or by written representations. It is only the Secretary of State who can decide whether or not the Order should be confirmed.
- STAGE 7:** Confirmation of the Public Path Order including newspaper advertisement, circulation to consultees and the posting of site notices.

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The Borough Council's power to make Public Path Orders is purely discretionary. Applications will only be processed upon receipt of a fully completed application form and provided that the Council is satisfied that the proposal meets the requirements of the Acts.

In accordance with the Local Authorities (recovery of Costs for Public Path Orders) Regulations 1993, applicants will be charged for the full costs incurred in making (and confirming) an Order. Applicants will also be charged for the costs of advertisements (approximately £250.00 per day per advertisement) in one local paper prior to making (STAGE 4), confirming (STAGE 7) and if appropriate certifying the Order. Applicants are required to give an undertaking that they will meet these costs on their application form.

Applicants are also normally required to defray any compensation which may become payable if it is shown that the value of an interest of a person in land is depreciated, or that a person has suffered damage by being disturbed in his enjoyment of land, in consequence of the coming into operation of a Public Path Order. The written consent of all other parties with an interest in the land over which the footpath or bridleway passes and/or is to be diverted i.e. owner, lessee or occupier is required before an application can be processed. In cases where this is applicable please complete the relevant section on the application form.

Where it appears to the Council that work is required to be done to bring the new route into a suitable condition for the appropriate public use, applicants are required to ensure that this work is carried out at their own expense.

APPLICATION PROCEDURE

Formal applications for a Public Path Order should be submitted to the Borough Council using the attached form. Please note that applications cannot be dealt with unless all appropriate sections of the form are completed and signed and the form is accompanied by the following enclosures:

1. An extract from a current edition of an Ordnance Survey map (scale 1:2500) showing the definitive line of the path by means of a bold black line and the line of the proposed diversion by a broken black line. The map should be endorsed "Reproduced from (based upon) the [DATE] Ordnance Survey 1:2500 scale map with the sanction of the Controller of HMSO. Crown Copyright." (An extract from the relevant O.S. map can be provided on request).
2. Proof of ownership of the land crossed by the path or bridleway, for example a copy of title deeds and, in the case of a lessee or tenant of land crossed by the path, a copy of the lease or tenancy agreement.
3. Written consent of all other parties with an interest in the land over which the footpath or bridleway passes and/or is to be stopped-up, i.e. owner, lessee or occupier. In cases where this is applicable, please complete the relevant section at the end of the application form.