



## **Public Path Diversion Order Application Guidance Form Section 119 Highways Act 1980**

### **Requirements of Section 119 Highways Act 1980**

Section 119 Highways Act 1980 enables a Council to make an order to divert a footpath, bridleway or restricted byway (other than a trunk road or special road) that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way or part of that line, should be diverted.

Section 119(2) Highways Act 1980 prevents the diversion of the end of a path if it is not on a highway, for example a path leading to the sea-shore. It also restricts a path that does end on a highway to a point which is on the same or a connected highway and which is substantially as convenient to the public.

This requires a balancing exercise to be carried out between the interests of the owner, lessee and occupiers of the land and the public that use the route. The diverted route will need to be assessed to determine whether it is equally as commodious as the existing route for the public to use it before any order will be made.

In making a Public Path Diversion Order, the Council has a duty to consider the needs of agriculture, forestry and the desirability of conserving flora, fauna and geographical and physiographical features.

### **Payment of Costs of the application**

The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 SI 1993 NO 407, allows a council to recover charges from the applicant in respect of making the order and the local advertisements on the making and confirmation of the order. A separate letter informing you of the costs incurred in processing any order made will be sent to you after the application has been submitted. You will need to sign and return a copy of this letter.

They may also be costs incurred in the physical works required to make up the proposed route and there may also be compensation claims from landowners once the order has been confirmed. Therefore it would be advisable to reach agreement with any landowners for compensation before the Order is made. A copy of any agreement made with regard to compensation will need to be enclosed with this application.

If the matter does proceed to public inquiry then no extra costs will be charged and if the order is not successful then no further costs will be recovered from you.

## **Procedure and Order making Process**

When your completed application has been received and all the information required has been verified, the decision as to whether the order should be made or not will be made by the Public Rights of Way Committee. You will be informed when your application goes before the Public Rights of Way Committee and you will be able to come along and speak to the committee about your application.

The diversion of a public right of way is effected by legal order under section 119 Highways Act 1980.

When the Order has been made it will go through a 28 days objection period which will be advertised at either ends of the way and will be advertised in the local newspaper. A consultation exercise will also take place which will involve sending a copy of the order and plan off to the statutory consultees, which are listed under the Pre-consultation paragraph below.

If after the 28 days objection period has ended there are no objections made to the order, the Council will be able to confirm the order. There would then be a six weeks period when a challenge could be made to the order in the High Court due to the proper procedures not being followed. Usually within 28 days of the order being confirmed the proposed route will need to be in operation on the ground.

If objections are made to the order, the objectors will be consulted to see if their objections can be resolved. If the objections cannot be resolved and are not withdrawn, the order will be sent to the Secretary of State to be confirmed. This may result in the holding of a public inquiry to hear all the objections to the order or the matter might be dealt with on written representations.

If unopposed, the making of an order can take up to one year. An opposed order could take considerably longer to resolve.

## **Landownership**

The application should contain details of the land across which the existing and proposed routes run including, where appropriate, the title numbers and information for each piece of land affected by the proposal.

A list of all the owners must be included on the application form, along with their contact details and, where appropriate, confirmation that they have given their consent for the application.

## **Pre-consultation**

Once the application has been received and accepted, the Council will undertake a consultation exercise with the required statutory consultees. However, in order to make the process as speedy as possible, it would be

helpful where possible for applicants to conduct a pre-consultation exercise with the landowners/lessee and occupiers before submitting their application. In addition, the consultation should include the statutory consultees listed below [as set out in the Public Path Orders Regulations 1993]. It could also be useful for the applicant to consult local groups and organisations which might have an interest in the proposal, such as local rambling or horse-riding groups, parish councils and community associations.

### ***List of Statutory Consultees***

Auto-Cycle Union  
British Horse Society  
Byways and Bridleways Trust  
Open Spaces Society  
Ramblers Association  
Cyclists Touring Club

### **Your Application**

It is important that we obtain all the correct and full information about the application in order to be able to process it as quickly as possible. Therefore any further information that you have that may assist your application would need to be enclosed. If you need to include separate sheets for the further information, please do so. When attaching plans; please ensure that they are on a scale of not less than 1:2500. If you wish, you can attach other plans on different scales **in addition to** the required plan on a scale of 1:2500.

**Once the application has been completed please return it to:-**

**Strategic Director of Legal and Corporate Services  
Development Law  
Gateshead Borough Council  
Civic Centre  
Regent Street  
Gateshead  
NE8 1HH**