



DARLINGTON
Borough Council

Guidance notes for applying to Stop-Up or Divert a Public Right of Way

1. Please read these notes carefully before completing the attached forms as incorrect or incomplete information can cause delay.
2. These notes deal with applications for the extinguishment and /or diversion of footpath(s) and /or bridleways, by order

Extinguishment of Paths

Section 118 of the Highways Act 1980 gives a Council a discretionary power to make an Extinguishment Order on the grounds that it is **not needed for public use**. A Council may not confirm an extinguishment order unless satisfied that it is expedient so to do having regard to the extent (if any) which it appears that the path would, apart from the order, be likely to be used by the public and having regard to the effect the order would have on land served by the path. For all the above purposes, any circumstances obstructing or frustrating use of the way shall be disregarded.

Diversion of Paths

Section 119 of the Highways Act 1980 gives a Council a discretionary power to make a Diversion Order where it appears to the Council that:-

- a) it is in the interests of the owner, lessee or occupier of the land crossed by the path; or
- b) it is in the interests of the public.

A diversion order, when confirmed, will create a new path(s) to effect the diversion, and extinguish such path(s) as to appear requisite. A diversion order shall not alter a point of termination of a path except to another highway connected with it and which is substantially as convenient to the public.

A Council may not confirm a diversion order unless satisfied that the diversion will not be substantially less convenient to the public and that it is expedient to confirm the order having regard to the effect which:-

- a) the diversion would have on public enjoyment of the path as a whole;
- b) the diversion would have on land served by the existing path; and
- c) the new path would have on land over which the right of way is to be created.

A path which is diverted from land in one ownership to another may give rise to claims for compensation which shall be considered together with the above.

3. The Council may require an applicant (or joint applicants) to defray or make a contribution to:-
 - a) any compensation payable to any party; or
 - b) any expense of the Council in facilitating the convenient exercise of any new path
 - c) any costs related to the making and confirmation of the Order by Darlington Borough Council.

Procedure

4. Upon receipt of an application, the Council will consult any Parish Councils in area affected and those organisations prescribed by DOE Circular 2,93 Annex E (Ramblers' Association, British Horse Society, Byways & Bridleways Trust etc) before the appropriate Committee of the Council determines the application. If the making of the Order is authorised, the provisions of Schedule 6 of the 1980 Act and regulations made by the

Secretary of State will apply. These provisions require the advertisement of the Order at the ends of the path(s) and in the local press, stating the effect of the order and inviting objections with a period of not less than 28 days. If any objections are lodged, the order is **opposed** and if no objections are lodged, **unopposed**. Subject to the conditions in note 2 above, the Council may confirm an unopposed order after certifying that the new paths have been made up to its satisfaction. If the order is opposed and any objections(s) not withdrawn, then the order and the objections are referred to the Secretary of State for the Environment to determine and who must allow the objectors a hearing either by written representation or a public inquiry.

Highways

5. "Highway" is a generic term encompassing various public rights of way over land. Highways, or parts of them, may be classed as follows:-
- a) "all-purpose highway" – one over which the public has a right of way on foot and with vehicles, and over which they may exercise a bridleway use;
 - b) "carriageway" – a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public has a right of way for the passage of vehicles;
 - c) "footway" – a highway in its own right over which the public has a right of way on foot only.
 - d) "footpath" – a highway in its own right over which the public has a right of way on foot only, not being a footway;
 - e) "bridleway" – a highway over which the public has the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway.
 - f) "cycle track" – a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot.

Proposal Plan

6. When an application is made to the Council, either to extinguish or to divert a public right of way, it is necessary to supply a copy of a plan at a scale of not less than 1:2500 showing the route to be extinguished, and the new route of any proposed diversion..

Period of Making an Order

7. The minimum time taken to make an order allowing for the procedure on note 4, above is six months. Where the order is opposed, a further 6-12 months may be required for the holding of a public inquiry and determination by the Secretary of State.

Return of Form

8. Once completed a copy of the form should be returned (together with all the necessary enclosures) to :

**Public Rights Of Way Officer
Darlington Borough Council
17 Allington Way
Darlington
DL1 4QB**

Rightsofway@darlington.gov.uk

The above notes are not intended as a complete statement of the law for which reference should be made to Part VIII of the Highways Act 1980 and subsequent amending legislation and statutory regulations.



DARLINGTON

Borough Council

APPLICATION FOR THE STOPPING UP or DIVERSION of a PUBLIC FOOTPATH or BRIDLEWAY

Town and Country Planning Act Section 257 or Section 118 / 119 Highways Act 1980

WE HEREBY MAKE APPLICATION TO DARLINGTON BOROUGH COUNCIL FOR THE STOPPING-UP OR DIVERSION OF THE PATH DESCRIBED AT 6 BELOW, AND SUPPLY THE FOLLOWING INFORMATION IN SUPPORT OF THE APPLICATION.

FOR DEPARTMENTS USE ONLY

File Ref:
Date Acknowledged:

PLEASE READ THE ATTACHED NOTES CAREFULLY BEFORE COMPLETING THIS FORM

1.
Full name of applicant or names of joint applicants.

Address(es)

Name and address of Agent or Solicitor

2.
If applicable, please supply below the details of the planning permission in consequence of which this application is made.

Application number: _____

Date of permission: _____

Description of development: _____

DECLARATION

I / We

- a) understand that no authority for the stopping up or diversion of a highway is conferred unless or until an order has been made and notice of its confirmation has been published;
- b) declare that, except to the extent authorised by or under some other statutory provision, the highway or highways to be stopped up or diverted are in no way obstructed and are fully available for use;
- c) undertake to defray the following costs and expenses incurred by Darlington Borough Council.
 - Any compensation which may become payable in consequence of the coming into operation of the Order.
 - The cost of any works necessary as a consequence of the coming into operation of the Order including the removal or repositioning of statutory undertakers' apparatus or equipment.
 - The cost of advertising the making and confirmation of the Order in the local newspaper.
 - The administrative costs incurred by Darlington Borough Council in the making of the Order, as specified in the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993, as amended in 1996.
- d) Undertake to provide the alternative way to the agreed specification within six weeks of notification from the Highway Authority;
- e) Hereby declare that, to the best of my knowledge and belief, all the particulars given in this application are correct and that I/We have read and understood the form and the notes attached.

Agent/Applicant Signature: _____

Print Name: _____

Date: _____

This form should be returned to:

**Public Rights Of Way Officer
Darlington Borough Council
17 Allington Way
Darlington
DL1 4QB**

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