

Gloucester City Council

TOWN AND COUNTRY PLANNING ACT 1990 S257

STOPPING UP OR DIVERSION OF FOOTPATH OR BRIDLEWAY

IMPORTANT: READ THE GUIDANCE NOTES CORRESPONDING TO THE NUMBERS ON THE FORM

To: Gloucester City Council, Eastgate Management Suite, Eastgate Street, Gloucester, GL1 1PA

IMPORTANT: No authority for the stopping up of a footpath or bridleway is conferred unless and until a Stopping Up or Diversion Order made under s257 of the above Act has been confirmed and, if appropriate, certified. Any preliminary obstruction or interference with the footpath or bridleway concerned is not only an offence but may make it impossible to proceed with the making of an Order.

SECTION 1 - PROPOSAL

1 I / We* _____
of _____

2 hereby request that the public footpath/bridleway* described in Section 4 (Part A) of this application and shown by a bold continuous line on the attached 1:2500 scale Ordnance Survey map extract:-

a) be stopped up*

OR

b) be stopped up and that in substitution an alternative highway be created over the land at:

_____ as described in Section 4 (Part B) of this application, and shown by a bold broken line on the attached 1:2500 scale Ordnance Survey map extract *

SECTION 2 – DEVELOPMENT INFORMATION

3 a) What is the development affecting the footpath/bridleway? _____

4 b) Has planning permission been granted for the development by Gloucester City Council **YES / NO***

c) If so, on what date was planning permission granted? _____

d) On what date is the development affecting the footpath/bridleway expected to begin? _____

e) Name and address of developer _____

Contact Name: _____ Telephone Number: _____

5 f) Has the Highway Authority been asked to accept responsibility for maintenance of the proposed highway **YES / NO***

REGENERATION - DEVELOPMENT CONTROL

Gloucester City Council
Eastgate Management
Suite
Eastgate Street
Gloucester
GL1 1PA

Tel 01452 396776
Email development.control@gloucester.gov.uk
www.gloucester.gov.uk

SECTION 3 – PERMISSION TO INSPECT ROUTE

6 The Council will carry out consultations before determining your application. Whilst consultees are able to walk the existing route, they need permission to walk the proposed route(s).

- I give permission for consultees to inspect the proposed route(s) unaccompanied*
- I give permission for consultees to inspect the proposed route(s) but they should contact

_____ On Telephone Number: _____

** Delete as appropriate*

SECTION 4 (PART A) – DESCRIPTION OF EXISTING FOOTPATH OR BRIDLEWAY

7 Section of Footpath/Bridleway

8 Description

9 Definitive Width

10 Limitations & Structures (indicate if authorised)

11 Name and Address of each Owner/Occupier/Lessee and Rights of Statutory Undertakers

&

12

SECTION 4 (PART B) – DESCRIPTION OF PROPOSED HIGHWAY

13 Section of Highway

14 Status

15 Description

16 Proposed Width

17 Proposed Limitations & Structures

**18 Name and Address of each Owner/Occupier/Lessee and Rights of Statutory Undertakers
&
19**

*Section continued? No/Yes, on ... sheets**

SECTION 5 – STATEMENT OF REASONS

20 The reasons for this request are as follows:-

*Section continued? No/Yes, on ... sheets**

SECTION 6– DECLARATION & AGREEMENT

I/We* understand that no authority for the stopping up or diversion of a footpath/bridleway* is conferred unless and until an Order made under s257 of the Town and Country Planning Act 1990 has been confirmed and, if appropriate, certified.

I/We* declare that the footpath(s)/bridleway(s)* to be stopped up or diverted is/are* in no way obstructed and that it/they* is/are* fully available to the public. I/We* undertake that it/they* shall in no way be obstructed before the Order comes into operation.

I/We* hereby agree:-

- 21** a) To a site visit by a group of Council Officers, Members and other interested parties to inspect the proposed routes on a pre-arranged date.
- 22** b) To make up the new lengths of footpath/bridleway* to such standard as is required by the Highway Authority or to meet the costs of the works.
 - c) To reimburse Gloucester City Council all expenses incurred by it in connection with the making of the Order, whether or not the Order is confirmed.
- 23** d) To the information supplied within and in support of this application being supplied to other parties as necessary in the context of the application and in accordance with the provisions of the Data Protection Act 1988 and the Freedom of Information Act 2000.

24 Date: _____ Signature(s): _____

Address: _____

Postcode: _____

Email Address: _____

Daytime Tel. No.: _____

Date: _____ Signature(s): _____

Address: _____

Postcode: _____

Email Address: _____

Daytime Tel. No.: _____

** Delete as applicable*

TOWN AND COUNTRY PLANNING ACT 1990 S257

STOPPING UP OR DIVERSION OF FOOTPATH OR BRIDLEWAY

SECTION 4 (PART A) – DESCRIPTION OF EXISTING FOOTPATH OR BRIDLEWAY

Continuation Sheet No.: ...

7 Section of Footpath/Bridleway

8 Description

9 Definitive Width

10 Limitations & Structures (indicate if authorised)

11 Name and Address of each Owner/Occupier/Lessee and Rights of Statutory Undertakers

&

12

TOWN AND COUNTRY PLANNING ACT 1990 S257

STOPPING UP OR DIVERSION OF FOOTPATH OR BRIDLEWAY

SECTION 4 (PART B) – DESCRIPTION OF PROPOSED HIGHWAY

Continuation Sheet No.: ...

13 Section of Highway

14 Status

15 Description

16 Proposed Width

17 Proposed Limitations & Structures

18 Name and Address of each Owner/Occupier/Lessee and Rights of Statutory Undertakers

&

19

Gloucester City Council

Gloucester City Council administers applications

for public path orders and agreements

in accordance with the requirements of the relevant legislation,

national recommended best practice

Rights of Way

Town & Country Planning Act 1990 s257 Public Path Diversion Order Public Path Stopping Up Order

Guidance Notes

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Frequently Asked Questions **Page 7**

The most common queries received regarding applications Made under the Town and Country Planning Act 1990. For Further queries regarding procedures or your application, Please contact the office.

Charges for Public Path Orders and Agreements **Page 9**

This is correct at the time of sending out this pack, but is Subject to review, and may be changed without notice

Relevant Legislation **Page 10**

Town and Country Planning Act 1990 – Section 257
Department of the Environment Circular 2/1993: Public Rights of Way

Application Form Guidance Notes

Section 1 – Proposal

- 1 Insert the name(s) and address(es) of the individual(s) making the application. This would normally be the owner and/or the occupier of the land crossed by the affected route. Details of the landowners/occupiers/lessees should be given in Section 4 of the form. If the land is owned by a business the form should be completed in the name of the business by the Company Secretary or one of the partners. If the form is completed by an agent, written authority to act on behalf of the application should accompany the application. If you are not the owner/occupier/lessee of the land crossed by the affected route, state in what capacity you are applying and why in Section 5 of the form.
- 2 The application must be accompanied by an extract from the current Ordnance Survey map at a scale of 1:2500, accurately showing the definitive route of the footpath/bridleway to which the application relates (by a bold continuous line) and any proposed route (by a bold broken line). Any other adjoining public rights of way should also be accurately shown on the plan. We can help to prepare this plan. The application should also be accompanied by copies of the plans submitted with your planning application, to which you should also accurately add the definitive route of the existing footpath/bridleway and any proposed route.

Section 2 – Development Information

- 3 Give details of the proposed development, including the planning application reference number if known.
- 4 Please attach a copy of any planning permission(s) to the application.
- 5 Please attach a copy of any relevant correspondence with the Highway Authority.

Section 3 – Permission to Inspect Route

- 6 Please indicate whether you wish to meet representatives of the user groups (such as the Ramblers' Association) who may wish to view the proposed route. If so, please provide a contact name and telephone number.

Section 4 (Part A) – Description of Existing Footpath or Bridleway

- 7 Refer to each section by letter (A-B, C-D etc). Add the letters to the plan accompanying the application. Where there are no sections insert 'Whole Path' in this column.
- 8 Describe each section of the route (e.g. along field edge, following river bank).
- 9 If you do not know the recorded definitive width of the route put 'Unknown'.
- 10 Give details of any limitations on the public's right of way along the route, such as gates and stiles, and of any structures, such as bridges which exist on it. Indicate if any limitations have been authorised by the County Council.
- &
- 11 Give details of the owner, occupier and lessee of the land crossed by each section of the route. You should supply written confirmation from all owners, occupiers and lessees that they are in agreement with the proposal. The Council reserves the right to request proof of ownership in cases of dispute.
- 12 Give details of the rights of any Statutory Undertakers (such as electricity, gas and communication suppliers) along each section of the route.

Section 4 (Part B) – Description of Proposed Highway

- 13** Refer to each section by letter (W-X, Y-Z etc) and add these letters to the 1:2500 Ordnance Survey map extract accompanying the application. Please indicate the 10 digit Ordnance Survey grid reference for each point on the plan (ie. WSO 1498, 2936).
- 14** Indicate if footpath, bridleway, road, or estate road. The use of roads and estate roads for alternative routes should be avoided wherever possible. There is preference for alternative footpaths or bridleways to be provided which pass through landscaped or open space areas away from vehicular traffic. For further information see Gloucestershire County Council Highway Requirements for Development Local Guidance and Standards. Please note this document is currently under review and is anticipated that it will be superseded in 2009.
- 15** Describe each section of the route with reference to geographical features which will exist if the development is completed as proposed (e.g. within eastern boundary of proposed public open space).
- 16** Minimum widths for proposed routes are 2 metres for a footpath and 3 metres for a bridleway. If a greater width is recorded on the existing route then you should propose a width at least the same as the existing, unless there is good justification (such as a short section passing between two buildings) for less. If you are proposing a route along an existing track it is usually appropriate for the public's right of way to exist over the entire width of the track. Greater widths may also be appropriate if increased use of a route is likely as a result of the development.
- 17** Give details of any limitations and structures you are proposing along the route, such as gates and bridges.
- 18** Give details of the owner, occupier and lessee of the land crossed by each section of the proposed route and indicate if ownership is likely to change when the development is complete. You should supply written confirmation from all owners, occupiers and lessees that they are in agreement with the proposal. The Council reserves the right to request proof of ownership in cases of dispute.
- &**
- 19** Give details of the rights of any Statutory Undertakers (such as electricity, gas and communication suppliers) along each section of the proposed route.

Section 5 – Statement of Reasons

- 20** You should be aware that under S257 of the Town & Country Planning Act 1990 the Council may stop up or divert a footpath/bridleway if it is satisfied:
- that it is necessary to do so to enable development to be carried out in accordance with planning permission granted by the Council under Part III of the Act
 - with regard to the disadvantage or loss likely to arise as a result of the stopping up or diversion to members of the public generally, or to persons whose properties adjoin or are near the existing highway, weighed against the advantages of the proposed stopping up or diversion
 - with regard to the need for an alternative highway to be provided
 - that the development affecting the route has not already been carried out

State clearly the reasons for making the application, explaining how the reasons meet the above criteria. You should give details of the effect of the development on the footpath/bridleway (e.g. refer to the number and location of the properties that would otherwise obstruct it).

Section 6 – Agreement

- 21** You are asked to agree that a group of Council officers, members and other interested parties may inspect the proposed route(s) on a pre-arranged date.

- 22** For details of the charges payable refer to the "Charges for Public Path Orders and Agreements" page.
- 23** The Council will manage your application in accordance with the provisions of the Data Protection Act 1988, which controls the processing and disclosure of personal data, and the Freedom of Information Act 2000.
- 24** The form should be signed and dated by the individual(s) given in Section 1.

Frequently Asked Questions

How much does it cost?

See 'Charges for Public Path Orders and Agreements'

How long does it take?

The time varies depending on several factors. A **minimum** time of around 6 months can be expected for a simple application to alter the route of one path, assuming that all the information we require is to hand when you submit an application – including relevant planning permission. This is due to the time needed for consultation and objection periods.

Is my application likely to succeed?

The Council carries out informal consultations on proposals with the appropriate Parish Council, the user groups (such as the Ramblers' Association) and Gloucestershire County Council. The Ramblers' Association have a policy of objecting to Public Path Orders unless a clear public benefit can be shown. It is often the case that initial proposals are amended at the consultation stage, and suggestions made by the consultees can help achieve a successful outcome. The Council is keen to encourage applicants and consultees to reach agreement on proposals where possible.

In view of the Ramblers' Association's policy concerning public benefit for Orders, it is difficult for applications for stopping up orders to succeed unopposed, unless they are accompanied by other applications for diversions or creations that bring public benefit.

Before the Council decides whether to make a public path stopping up or diversion order it needs to be satisfied that the appropriate legal criteria are met. You will need to demonstrate that it is necessary for the route to be stopped up or diverted to enable the approved development to be carried out. It is usually the case that outline planning permissions do not contain sufficient detail to enable the Council to make a decision on the necessity of altering a route. However, it is important that any alterations are considered before full planning permission is granted. It is recommended that pre-application consultation is undertaken with Gloucestershire County Council Public Rights of Way team.

When deciding whether to make an Order the Council also has to take into account any disadvantages or loss caused by the change to members of the public or to persons whose properties adjoin or are near the existing route.

When should I prepare the new route?

The new route should not be prepared until 6 weeks after the confirmation of the Order effecting the change. We will inform you when this is. You must be aware that, although you can then prepare the new route when you wish, the old route cannot be disturbed until after the new route has been prepared to the required standard and the Order certified.

How wide should the new route be?

If you are altering an existing route which has a recorded width, then the new route must be at least as wide. A minimum width applies to all other routes: 2 metres for footpaths and 3 metres for bridleways. A greater width may be appropriate if there is likely to be heavy use of the route. If you are proposing a route along an existing track it is usually appropriate for the public's right of way to exist over the entire width of the track.

Can I make a joint application?

Joint applications for different types of Orders and covering several paths or sections of paths can be made to achieve economy of scale. However, each application is determined by the Council according to the appropriate legal criteria.

Large applications are very difficult to prepare and manage. In consequence, joint applications are usually only appropriate where:-

- proposals are from the same landowner and in the same area **or**
- a package is necessary because the proposals are interconnected **and**
- one person is able to represent all the landowners involved during the period of the application.

Can I change the proposal?

Yes. We will advise you of the cost of administering your submitted application before carrying out informal consultations on the proposal. If a change is then made by you as a result of a suggestion from a consultee you will not be charged. However, if you decide to add new routes or significantly change your proposal independently, then you will be advised of the supplement that will be added to the original charge.

I think a right of way is recorded in error. Can a PPO get rid of it?

No. If you think it is recorded in error, then you should contact the County Council about submitting a claim for the Definitive Map and Statement to be modified, telephone 01452 425000.

Charges for Public Path Orders and Agreements

The Council usually requires all applicants for Public Path Orders/Agreements for the creation, diversion and extinguishment of public rights of way to reimburse to the Council the whole of the charges involved.

The charges for Orders made under the Town & Country Planning Act 1990 comprise:-

Administrative Charge

All new applicants are given an actual figure for the administration of their proposals following submission of a technically correct application and prior to the Council carrying out informal consultations on any proposal. The following figure is given as guidance only:

- £2,000 is the current average administration charge for a one path/one order application. This fee includes legal charges.

Once fixed an administrative charge will only be increased if an applicant initiatives changes that expand the application.

The charges above were agreed by the Rights of Way Committee at its meeting in November 2002 and are correct at the time of publication. However, they are subject to regular review and may be changed without notice.

Advertising Costs

Public Notices of the making, confirmation and certification of Public Path Orders made under the Town & Country Planning Act 1990 have to be published in a local newspaper – the Citizen. Costs are likely to be in the region of £1,500, but as the charge is dependent upon the amount of type required, it can vary considerably for different Orders.

Cost of the Works

Applicants are required either to prepare each new route to the County Council's required standard and/or to meet the costs of having the works done. This may include installing waymarking, signposts, bridges, ground-works etc.

Will the Council pay?

The Council requires applicants to fund applications.

Relevant Legislation

Town and Country Planning Act 1990 – Section 257

- (1) Subject to Section 259, a competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out:-
 - (a) in accordance with planning permission granted under Part III, or
 - (b) by a government department.
- (2) An order under this section may, if the competent authority are satisfied that it should do so, provide:-
 - (a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;
 - (b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement, provision is made by the order;
 - (c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;
 - (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.
- (3) An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.
- (4) In this section “competent authority” means –
 - (a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it ...

Department of the Environment Circular 2/1993: Public Rights of Way: Annex C paragraph 23

While it is not open to question the merits of the planning permission when considering whether to make or confirm an order, it should not be assumed that the order should be made simply because planning permission has been granted. The disadvantages or loss likely to arise as a result of the stopping up or diversion, either to members of the public generally, or to persons who properties adjoin, or are near the existing highway, should be weighed against the advantages to be conferred by the proposed order. However, having arrived at the conclusion that it was right for the planning permission to be granted, there must be good reasons for deciding that an order, which would permit implementation of that permission, should not be made or confirmed.

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