

NOTTINGHAM CITY COUNCIL CITY DEVELOPMENT

GUIDANCE NOTES
FOR MAKING AN APPLICATION FOR A
PUBLIC PATH ORDER
HIGHWAYS ACT 1980
SECTION 118 (EXTINGUISHMENT) AND
SECTION 119 (DIVERSION)

Important

- You have no authority to Extinguish or Divert a highway until the notice announcing that the City Council or the Secretary of State has confirmed the order as unopposed, has been published. Not only is it an offence to obstruct or interfere with a highway before this is done, but it may also make it impossible for the City Council to make or confirm an order
- Please read these Guidance Notes before answering the questions
- Please ensure all the necessary enclosures accompany this form (see Guidance Notes)

GUIDANCE NOTES

1.0 The Council's power to make Public Path Orders (PPO's)

The City Councils power to make PPO's is discretionary. The Council is under no obligation or statutory duty to make Orders to divert or extinguish public rights of way. It may make Orders on the application of any person if it is satisfied that:-

- **for a diversion under section 119:** it is expedient to do so in the interests either of the owner, lessee or occupier of land, or of the public
- **for an extinguishment under section 118:** it is expedient to do so because the path is not needed for public use.

Please Note: if a path is not used it does not always follow that it is not needed.

In practice the Council will consider making a diversion or extinguishment Order provided that:-

- it is expedient as mentioned above,
- the applicant agrees to pay the Council's costs in processing an application (for both types of Order) and in addition, for diversions:-
 - that the diverted route would be on the applicant's land or with the written agreement of any other landowner whose land it crossed including an agreement about compensation
 - that the applicant enters into an agreement, if required, to put the new path into a fit condition
 - that the diverted path would not be substantially less convenient to the public nor detract from the public's enjoyment

This last point means that the newly created path (to replace the diverted one) should meet the Council's minimum standard for width (2m for a footpath, 4m for a bridleway, but is dependent on physical constraints), should not be substantially longer, and should, in general, be as pleasant to use as the one being diverted.

Please Note: Even if the City Council is prepared to make an Order, it cannot guarantee that it will be confirmed, as anyone may object to an Order. The City Council reserves the right to withdraw from the proceedings at any point and to revoke the Order.

2.0 Prioritising applications

The City Council may give priority to applications where an Order:-

- would satisfy one of the key principles set out in the City Council's Rights of Way Improvement Plan, their Statement of Priorities or other corporate plans and policies relating to public rights of way **or**
- where the processing of an Order would save significant costs incurred in other rights of way functions.

The key principles are to:-

- i. Prioritise routes where public safety could be substantially improved
- ii. Prioritise routes according to the level of use and strategic importance
- iii. Prioritise routes where the City Council's actions could result in a significant positive contribution to the network.

The policy on Public Path Orders is:-

PPO's will normally be processed in the order in which applications are received, except in any of the following circumstances where an Order may be processed sooner:-

- where an Order would satisfy one or more of the key principles
- where an application has been made to the City Council in its capacity as planning authority
- where the processing of an Order would save significant costs incurred in other rights of way functions

Please Note: In practice it is highly unlikely that an application to extinguish a right of way, without the provision of an alternative, would be given high priority.

3.0 Applications

The first step, before making a formal application, is to discuss your proposal with one of the City Council's Highway Authority officers at the address below, who will be able to advise whether it seems to meet the basic criteria mentioned above. A site visit would then be arranged between the applicant(s) and a representative of the Highway Authority. There is a fixed (non-refundable) fee of £150.00 which is payable to cover the initial costs of opening a file, notifying interested parties and holding a site meeting. To proceed to this stage please send a cheque for £150.00 payable to Nottingham City Council with a covering letter to:-

**Senior Rights of Way Officer
Nottingham City Council
City Development
Traffic Management
Lawrence House
Talbot Street
Nottingham
NG1 5NT
0115 9156078**

Once it is agreed that it is reasonable to proceed, the attached application form and agreement about costs should be completed and sent, with a cheque for £1850.00 payable to Nottingham City Council to the address given above to cover the costs of preparing and advertising the Order and maintaining notices on site during the statutory consultation period. This payment also covers the cost of confirming the Order including preparing and maintaining the notices and advertising.

An Order will not be confirmed by the City Council, or submitted to the Secretary of State for confirmation, unless all payments are honoured. If the Order is opposed and the City Council exercises its right to revoke the Order a refund may be made which, normally, will not be more than 50% (or £1000.00) of the total cost.

Please Note: You will also need to provide evidence of who has title to the land concerned.

4.0 Charging for Public Path Orders

The Local Authorities (Recovery of Cost of Public Path Orders) Regulations 1993, as amended by The Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 allows the City Council to charge for the administrative costs incurred in the making of a Public Path Order.

There may be additional costs to the applicant if the Order is opposed, and the applicant wishes to continue, and a public inquiry is deemed necessary to determine the opposed Order. There may also be additional costs related to bringing a newly created path (to replace the diverted path) into a fit and proper condition for public use.

5.0 The steps in processing an application

Once the City Council has agreed a proposal there may be a delay, possibly up to three months before it reaches the head of the queue. Once it does, the following steps will take place:

- The Order is prepared and advertised in a local newspaper and on site and all statutory consultee's are consulted.
- If no objections are received by the Council during the 28 days following publication, the Council may confirm an Order itself.
- If there are objections, and the objector(s) cannot be persuaded to withdraw their objection(s) then the Council cannot confirm the Order itself, but may decide either not to proceed further (revoke the Order), or to submit the Order to the Secretary of State, who may request a public inquiry to be held.
- Following an inquiry, the Inspector appointed by the Secretary of State would give a decision whether to confirm the opposed Order or not.

These stages of the process could take anything from three months to two years, depending on the need for negotiation and/or a public inquiry.

**DIAGRAM SHOWING PROCEDURE FOLLOWED AND POSSIBLE OUTCOMES
ONCE THE CITY COUNCIL DECIDES TO MAKE A DIVERSION ORDER OR AN
EXTINGUISHMENT ORDER**

