Application to divert or remove a public right of way under the Highways Act 1980 

Diversion or Extinguishment of Footpaths and Bridleways

Highways Act 1980 Sections 118 and 119

North Somerset Council is registered with the Information Commissioner’s Office for the purposes of processing personal data. The information you provide will be held and used in accordance with UK and European data protection law. For further details on how we use your personal information in the delivery of the Public Rights of Way service, please read our full privacy notice available at <http://www.n-somerset.gov.uk/privacy-cookies/how-we-use-your-personal-data/privacy-notices-and-data-protection/>. If you have any concerns about how your personal data is handled, please contact the Data Protection Officer at DPO@n-somerset.gov.uk

Under the provisions of the Highways Act 1980 a diversion of a public right of way is usually dealt with under s.119 and an extinguishment under s.118. Compliance with the Acts involves legal and administrative costs and the Council requires a commitment from the applicant to meet these costs. In order that you are aware of how these costs are made up the procedure is summarised below.

An Officer will discuss the proposal with you to ensure that the proposed new route meets the legal requirements concerning public convenience and enjoyment etc. We will seek the least restrictive means of any path furniture proposed for a new or diverted route and this can only be authorised for stock control purposes. Where a gap cannot be left or there is an existing stile (on what would form part of a new or diverted route), we will request a pedestrian gate, kissing gate, bridle gate or field gate as applicable.

However, it should be noted that any preliminary obstruction of or interference with the highway concerned may constitute an offence on which the Highway Authority could take formal action and which could prejudice the making of an Order.

The above requirements may be waived in circumstances where a route is blocked by a significant obstruction e.g. a building or expanse of water.

A plan, based on your application, will be prepared and informal consultations undertaken with local councils, user organisations, statutory undertakers, landowners and others.

Time will be saved if you ensure that your application is supported by a plan showing the extent of your ownership edged red. Also it should be noted that for a footpath diversion a width of 2 metres is required (3 metres in the case of a bridleway). In cases where a footpath is enclosed on both sides a width of up to 4 metres (2.5 minimum) is required. You should also state your reasons for the diversion.

If no sustained objections are received as a result of the informal consultations, a report is taken to the Director of Development and Environment to gain authority to make the Order.

However, if sustained objections are received during the informal consultation stage, two decisions need to be made:

1. The applicant has to decide whether to proceed;
2. The proposal will be re-evaluated by the Public Rights of Way Sub Committee in order to decide whether the Order should be made.

The Order is then made, published and circulated. Advertisements are placed in a local paper and notices erected on site.

When the Order is published, any enquiries will be dealt with and, providing there are no sustained objections, the Order will be confirmed and the route legally diverted. If however, the objections are not withdrawn the matter will be referred to the Public Rights of Way Sub-Committee who will decide whether or not to refer the Order to the Secretary of State for Environment, Food and Rural Affairs for determination.

This could lead to a Public Inquiry or Hearing and in these circumstances the Inspector at the Inquiry or Hearing decides whether the Order should be confirmed and so takes effect. As the Council cannot recharge the costs of an Inquiry or Hearing the Public Rights of Way Sub-Committee may decide to withdraw the Order at this stage.

**It should be noted that if an Order is withdrawn following objection or fails to be confirmed by an Inspector that the actual costs associated with the publication of the Order (press advertisement) will be recharged back to the applicant.**

Following the Statutory Objection period we would normally expect works associated with the Order to be completed within three months.

Once the Order is confirmed a notice is sent to all persons and bodies previously consulted and must also be advertised in the local press and placed on site.

The effective date of the diversion will be advised when confirmation is advertised and it is not until this date that the diversion takes effect. Any obstruction of the existing route before this date is an offence and may jeopardise the diversion.

There will be a charge of £68.34 per hour for pre-application and further negotiations.  The Council's charge for carrying out the informal consultations and preparing a report is £967.36 and, if an Order is published, a further administration charge of £1,889.00 will be made for

drafting, making and confirming the Order.  There will be an additional charge of £1,026.00 per additional order processed as part of a package. The cost of the press advertisements (2 of these required, if an order is made and confirmed) will also be added, at newspaper cost.

The Council’s invoice will be issued when processing of the application is complete.

The applicant is also required to bear the costs of bringing the new path into a fit condition and any compensation that may become payable to other landowners.

Further details of the procedures may be found in the Natural England publication “A Guide to Definitive Maps and Changes to Public Rights of Way” from the Natural England website [www.naturalengland.org.uk](http://www.naturalengland.org.uk).

**Important notice**

No authority for the diversion or extinguishment of a highway is conferred unless and until the Diversion or Extinguishment Order is Operative. Any preliminary obstruction of or interference with the highway concerned may constitute an offence on which the Highway Authority could take formal action and which could prejudice the making of an Order.

Details

Parish and location of footpath or bridleway:

Footpath or bridleway number (if known):

**Applicant details**

Name:

Address:

Telephone number:

Email address:

**Agent details (if applicable)**

Name:

Address:

Telephone number:

Email address:

Names and address of all other landowners affected by the proposal:

Please confirm that the consent of every person having an interest in the land has been obtained:

Please attach letters of consent and give particulars if any consents still to be obtained.

Plans

Please supply a plan showing the proposal preferably to a scale of either 1:1250 or 1:2500.

Please also include a signed and dated plan showing land in your ownership edged red.

**Description of existing path to be diverted or extinguished**

Section of path or way as indicated on map:

Position and length to be diverted or extinguished (shown in a bold black line on plan and grid references):

Rights of Statutory Undertakers if any to be clearly indicated on map:

Width of path or way in metres:

**Description of site of proposed new path or way**

Position and length of proposed new route (shown in bold black dashes on plan to include grid references and description of surface to be provided):

Name and address of any other landowners lessees or occupiers of land over which proposed new route runs:

Width of Path or Way in metres:

**Statement of reasons for the proposal**

Schedule of works

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Work required** | **Type** | **BS** **Standard** | **State whether new, replacement, or change existing** | **Width** | **Materials to be used, stone, wood or metal** | **Centrewire catalogue number (if applicable)** | **Location i.e Point on plan** | **Whom to install** |
| Establishment of Path inc Surfacing |       |       |       |       |       |       |       |       |
| Path furniture | Stile |       |       |       |       |       |       |       |
| Path furniture | Kissing Gate |       |       |       |       |       |       |       |
| Path furniture | Pedestrian Gate |       |       |       |       |       |       |       |
| Path furniture | Bridlegate |       |       |       |       |       |       |       |
| Path furniture | Handrail |       |       |       |       |       |       |       |
| Path furniture | Steps |       |       |       |       |       |       |       |
| Path furniture | Bridge |       |       |       |       |       |       |       |
| Path furniture |       |       |       |       |       |       |       |       |
| Waymarking | Fingerpost |       |       |       |       |       |       |       |
| Waymarking | Discs |       |       |       |       |       |       |       |
| Drainage |       |       |       |       |       |       |       |       |
| Vegetation Clearance |       |       |       |       |       |       |       |       |
| Overhanging vegetation clearance |       |       |       |       |       |       |       |       |
| Fencing |       |       |       |       |       |       |       |       |
| Other works required |       |       |       |       |       |       |       |       |

I/we agree to the following general conditions:

1. Where the proposed path is physically undefined, the width of the new footpath shall be not less than 2 metres, or in the case of a new bridleway, not less than 3 metres. In cases where a footpath is enclosed on both sides a width of up to 4 metres (2.5 minimum) is required.
2. All gates and other furniture shall conform to British Standards specification and be subject to a condition that they should be considered for removal in the event that they are no longer necessary in order to prevent the ingress or egress of livestock or the land ceases to be used for agricultural purposes.
3. The surface, design and specification of the proposed path shall be to a standard acceptable to North Somerset Council.

And I/we hereby undertake to:

1. pay North Somerset Council within 28 days of receiving an invoice, the cost of :
	1. pre-application and further negotiation/per hour £68.34
	2. undertaking informal consultations and Report £967.36
	3. drafting, publishing and confirming the Order £1,889.00 (if applicable a further £1026 will be added per additional route added)
	4. advertising the Order (actual cost dependant on size, minimum 2) approx £450 per ad
2. meet the costs of bringing the new path into a fit condition for use by the public in accordance with the schedule of works agreed with North Somerset Council;
3. defray any compensation which may become payable to any other landowner affected by the diversion.

Signed by applicant/s:

In the case of multiple applicants, each party must sign

Date:

Signed by agent (if applicable):

Date:

Where an application is submitted by an agent, please indicate which party the invoice should be sent to:

[ ]  applicant

[ ]  agent

Please return completed form to:

Public Rights of Way

North Somerset Council

Town Hall

Walliscote Grove Road

Weston-super-Mare

BS23 1UJ