

Temporarily Diverting and Stopping Up Public Rights of Way

Town and Country Planning Act 1990

Please read this information carefully before completing the attached application form, as incorrect or incomplete information can cause delay or additional costs. You should discuss any proposals with the County Council's Rights of Way Officer on site to ensure your application is suitable. You should arrange this by telephoning; 03000 265342.

Please be aware that an application does not guarantee the Diversion or Stopping Up of a path. We will normally expect for any existing path/s, subject to Diversion and Stopping Up proposals, to be open and available until an Order has been made and confirmed.

The County Council is currently receiving an influx of Definitive Map Modification Order applications prompted by the 'cut-off' date of 01 January 2026, introduced by the Countryside and Rights of Way Act 2000, based on historical documentary evidence under Wildlife and Countryside Act 1981 Section 53 and Schedule 14. Applicants should be aware of the possibility that additional and/or higher rights may exist over their land and a confirmed diversion and/or stopping up order would only affect the existing rights, not any rights added to the Definitive Map at a later date under the 1981 Act. Please contact the Rights of Way Officer if you have any concerns.

Town and Country Planning Act Legislation

The provisions of Section 261 of the Town and Country Planning Act 1990 are to enable the County Council (as a Mineral Planning Authority), by Order to Divert or Stop Up a Right of Way for a specified period to enable the surface workings of minerals. An Order may require the provision and maintenance of an alternative route or the improvement of existing Rights of Way used on alternative routes. It is a requirement that the original route will be reinstated at the end of the mineral working period.

Important:

The granting of planning permission does not give authority to temporarily divert or stop up a footpath or bridleway. The diversion or stopping up of footpaths and bridleways is a separate process which must be carried out before the paths are affected by the development.

Costs

On receipt of a properly submitted application, we will write to you detailing the likely cost of the Diversion or Stopping Up and ask you to sign a declaration that you agree to pay these costs and carry out specified works (which we will have discussed with you) to create any new paths.

The County Council will normally expect you to pay for the full costs of an Order which on average amounts to approximately £2500. However, if you are applying for more than one path the costs will be greater. The costs are split into 2 payments, the first payment is payable once the Order is Made and advertised, the 2nd is payable once the Order has been Confirmed. These costs include the administration of the Order as well as two newspaper adverts which are required by legislation. Regulations about costs mean that if your application has to be forwarded to the Secretary of State you will not be required to pay any additional costs, even if the matter is heard at a public inquiry. If your application is not successful you will not be required to pay any costs.

Note: The costs quoted are in addition to your planning application costs

Initial consultation

We will then consult the Parish Council in the area and organisations prescribed by specific regulations (*Defra* Circular 1/09 -Ramblers' Association, British Horse Society, Byways and Bridleways Trust, etc). We will ask them to reply within one month. Where no objections are received we will present the proposals to the Council's Director of Regeneration, Economy & Growth and ask him to approve the making of a Diversion or Stopping Up Order.

We must deal with the proposals differently where objections are lodged, whatever the nature of the objection. Where appropriate we will try to negotiate the withdrawal of objections but if we are left with an objection at this stage we must present the proposals to the Council's Highways Committee. This is a group of Councillors who will meet especially to consider the application. They will visit the site and they will hold a meeting locally to the path. All parties can make representations to the Committee. The Committee will either approve the making of an Order or decide to reject the proposal. If they reject the proposal then there is no right of appeal against their decision other than by way of a judicial review.

The Diversion or Stopping Up Order

An Order will be made and is subject to strict rules. It must be advertised at each end of the path/s affected and in the local press, stating the effect of the order and inviting representations within a period of not less than 28 days. For a Diversion Order It will specify details of the new path including its route and width. It will be served on all owners and occupiers of the land affected, the parish council and path user organisations. If any objections are lodged we call this an opposed order whereas if no objections are lodged it is unopposed.

The Council may confirm an unopposed order. For Diversion Orders; normally the Order will specify that the new path will be created 28 days after confirmation and the old path closed once we are satisfied that the works to create the new path have been completed satisfactorily. We will expect you to erect any structures such as stiles, gates or bridges but we will move any signposts and ensure the diversion is adequately waymarked. It is possible for someone to contest a confirmed order but this has to be to the High Court and would be for a procedural or technical reason. No such challenge has ever been made to a Diversion or Stopping Up Order in County Durham.

If the Order is opposed we will try to seek the withdrawal of the objections. However, often they are the same objectors as at the consultation stage and negotiation will have already been attempted. Whatever the objection we must send the Order to the Secretary of State for the Environment, Food and Rural Affairs who will appoint an independent inspector to consider the proposal. The inspector will normally decide to deal with the matter by an exchange of written representations between the Council, applicant and objector. Sometimes, where a proposal will be heard at a public inquiry at which all the parties can make their case.

Time scales

The average time for an unopposed Order to be completed is between 6 and 12 months. Where an Order is opposed it is likely to take about 2 years.

Your application

It is important that you provide us with as much information as possible on your application so feel free to provide further information on separate sheets of paper. You should clearly and in detail make the case for why the Temporary Diversion or Stopping is necessary. This is essential for when we are consulting and at a later stage e.g. if we have to present the case to the Highways Committee or Secretary of State. Although you will always be given an opportunity to present your case we will have to put your case forward for you as well.

Please include an appropriate scale plan showing the routes to be Temporarily Diverted or Stopped Up. The plan should clearly show the existing and the proposed routes.

Please ensure that you provide us with the correct information about landownership and occupancy. This is crucial and misinformation has invalidated some Orders in the past with additional costs having to be charged to applicants.

Section 261 of the Town and Country Planning Act 1990

Section 261 of the Town and Country Planning Act 1990 is the relevant legislation under which we consider your application. This gives the County Council a discretionary power to make a Temporary Diversion or Stopping Up Order for a specified period to enable the surface working of minerals.

Return of form

Completed application forms should be returned to;

**Access and Rights of Way
Regeneration, Economy & Growth
Durham County Council
County Hall
Durham
DH1 5UQ**

Tel: 03000 265342

Email: prow@durham.gov.uk

Procedure for public path orders

