



RIGHTS OF WAY

PUBLIC PATH ORDER PACKAGE

for orders under section 118 & 119
of the Highways Act 1980

containing

***ADVICE TO APPLICANTS
MAKING AN APPLICATION***

plus

Application form (s.119)

April 2003

ADVICE TO APPLICANTS

The Council's power to make public path orders

The County Council has no 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

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

It should be noted that if a path is not used it does not always follow that it is not needed.

This package has been designed for the use of owners, occupiers or lessees.

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 a diverted path should meet the Council's minimum standard for width (2m for a footpath, 4m for a bridleway), should not be substantially longer, and should, in general, be as pleasant to use as the existing one. A diversion order, even if made, cannot be confirmed unless these tests are met.

Even if the County Council is prepared to make an order, it cannot guarantee that it will be confirmed, as anyone may object to an order. The County Council reserves the right to withdraw from proceedings at any point.

Prioritising applications

The County Council may give priority to applications where an order:-

- would satisfy one of the key principles set out in the County Council's Definitive Map Policies effective from April 2001 (see below) 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
- iii. Prioritise routes where the County Council's actions could result in a significant positive impact on the network.

The policy on public path orders is:-

Public Path Orders 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 HCC in its capacity as planning authority
- where the processing of an Order would save the significant costs incurred in other RoW functions.

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.

Applications

The first step, before making a formal application, is to discuss a proposal with one of the County Council's Countryside Access Officers, who will be able to advise whether it seems to meet the basic criteria mentioned above. A site visit would then normally be arranged between the potential applicant, the Access Officer and a Definitive Map Officer. 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 £70 (see below), to:

**DEFINITIVE MAP OFFICERS
RIGHTS OF WAY UNIT, ENVIRONMENT DEPARTMENT
HERTFORDSHIRE COUNTY COUNCIL
COUNTY HALL
HERTFORD SG13 8DN**

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

IF YOU WISH TO CONTACT AN ACCESS OFFICER, OR IF YOU HAVE ANY QUERIES ABOUT FILLING IN THESE FORMS OR NEED ANY HELP, PLEASE TELEPHONE (01992) 555262

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 County Council to charge for the administrative costs incurred in the making of a diversion order where the applicant is the owner, occupier or lessee in whose interest the order is intended to be made.

There is a fixed, non-refundable fee of £70, which is payable on making an application, to cover the initial costs of opening a file, notifying interested parties and holding a site meeting.

Then, if it is decided to proceed, and the application has reached the top of the priority list, a payment of £750 is requested to cover the costs of producing a draft order and consulting and negotiating on it with other local authorities, user groups and interested parties. Finally, once an order has been made and published, and after the period for objections is over, the applicant will be billed for any outstanding administrative costs, including the cost of advertising the order, plus the projected costs for preparing and advertising notice of the confirmation of the order. Refunds will be made where any payment exceeds the actual costs incurred. An order will not be confirmed by the County Council, or submitted to the Secretary of State for confirmation, unless all outstanding bills are paid.

The total cost may vary widely, depending particularly on the amount of time necessary to consult and negotiate with interested parties, but is unlikely to be less than about £3000 or more than about £5000.

There may be additional costs related to bringing a new path into a fit condition for use.

Details of current hourly rates for Officers' time are available on request.

The steps in processing an application

Once the County Council has agreed a proposal there may be a lengthy delay, possibly for a matter of years, before it reaches the head of the queue. Once it does, the following steps will take place:

- all interested parties, including parish and district councils and rights of way user groups, are consulted with a draft order.
- Negotiations are then usually needed to forestall objections on publication of an order. If negotiations are unsuccessful, it may be decided not to proceed.
- Otherwise, an order is made and notice of it is published on site, by post to all interested parties, and in a local newspaper.
- If no objections are received by the Council in 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, or to submit an order to the Secretary of State, who could order a public inquiry to be held.
- Following an inquiry, the Inspector appointed by the Secretary of State would give a decision whether to confirm or not.

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

APPLICATION FOR A PUBLIC PATH DIVERSION ORDER Highways Act 1980 Section 119

Please read the Advice to Applicants carefully before filling in the application form.

- The completed form,
- a plan based on an ordnance survey map of a scale not less than 1:2500,
- proof of title, and
- a cheque for £70, payable to Hertfordshire County Council
should be sent to the Definitive Map Officer

Application to divert public footpath*/bridleway*

Number

Parish WATTON AT STONE

Full name(s) of applicant KC & KJ LUTCHFORD

Address GREGORYS FARM WHEMPSTEAD
WARE HERTS SG12 0PH

Phone no. 01438 869519 daytime phone no. SAME

Fax no. 01438 869592 e-mail address -----

Address for correspondence (if different from above e.g. solicitor)

(*Delete as appropriate)

1. **Ownership of land affected by the application**

1.1 Are you the freehold owner and occupier of all of the land affected by the proposed diversion?

Yes No

If yes, go to 1.4

1.2 If no,

- list below the names and addresses of all the owners, occupiers or lessees of land affected by the diversion including yourself,
- indicate accurately on the application plan the different ownerships and occupations.
- enclose a letter of consent, and supporting documentation proving title, such as Land Registry documents, from all of the owners, occupiers and lessees.

Name	Address	Status (i.e. landowner, occupier or lessee)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

1.3 Will any owners, occupiers or lessees of the land affected by the proposed diversion to your knowledge claim compensation under Section 28 of the Highways Act 1980?

Yes No

1.4 Does, to your knowledge, any statutory undertaker (e.g. gas, water, electricity, telephone) have any rights on, over or under the land over which the right of way runs?

Yes No

If yes, describe the rights (e.g. wayleave)

1.5 Is to your knowledge the apparatus of any statutory undertaker affected by the proposed diversion?

Yes No

If yes, state what apparatus may be affected

2. **Reasons for application**

2.1 Please state fully your reasons for applying to divert the public right(s) of way. Remember that the County Council may not make an order unless it is satisfied that it is expedient in your interests to do so.

Following our meeting with Paula Chapman (Countryside Access officer) we were informed that the present routes being used through our property both footpath/bridleways were not entirely in accordance with Public Bridleways 002, 005 & Public footpath 005a. It was agreed that we apply for a diversion which is the routes ^{presently} being used which ^{we fear} in no way detracts from enjoying the paths routes through the farm and they offer easy & convenient access for the public's enjoyment.

3. **Description of routes**

The routes should be shown on an accurate up-to-date plan at a scale of not less than 1:2500.

3.1 **Existing Route** (i.e. the path recorded on the Definitive Map)

from (see sheet) OS grid ref _____

to _____ OS grid ref _____

distance _____ metres width _____

existing stiles/gates/bridges (list and show position on plan)

3.2 **Proposed Route**

from _____ OS grid ref _____

to _____ OS grid ref _____
(if known)

distance _____ metres width _____

proposed stiles/gates/bridges (list with grid refs and show position on plan). The Council will not normally agree to stiles or gates in the Order setting out the new route. If necessary they may be authorised separately under s147 of the Highways Act 1980 to prevent the ingress or egress of stock.

3.3 Is the existing (definitive) route unobstructed and fully available to the public?

005 Bridleway NO Yes No
005a YES

3.4 If the answer is NO, state fully the reasons why the route is obstructed and describe and show clearly on the application plan the obstruction and the route walked/ridden by the public.

005 At the start of definitive route Post/Rail
and at the end point where it rejoins the
definitive route Post/Rail (400 metres) approx

4. COSTS

4.1 ~~*/~~We agree to pay the cost of processing the application as detailed in the Advice to Applicants. ~~*/~~We enclose a cheque for £70.

(*delete as appropriate)

Signed K Kretzford Date 22.4.04

on behalf of _____

5. AGREEMENT REGARDING WORKS AND COMPENSATION COSTS

5.1 Works

~~*/We~~ ^{we} understand that the applicant must pay the cost of all works which may be required by the County Council including signposting and waymarking to bring the new site of the path diversion into fit condition for use by the public.
~~*/We~~ understand that ~~*/We~~ will be required to enter into an agreement to carry out works specified in a schedule to be drawn up by the Countryside Access Officer. ~~*/We~~ understand that if the works are not completed within the time specified, or to the required standard, the Countryside Access Officer will, after notice in writing, carry out or complete the works and that ~~*/We~~ will be liable for all costs so incurred.

(*delete as appropriate)

5.2 Compensation

~~*/We~~ confirm that ~~*/We~~ are the sole owner(s) and occupier(s) of the land affected by the proposed diversion.

~~*/We~~ enclose letters of consent from all landowners, occupiers or lessees of the land affected by the diversion and agree to pay any compensation which may become payable in consequence of the order becoming operative.

* ~~*/We~~ declare that the existing public right of way is not obstructed as described in 3.1 and is fully available to the public.

~~*/We~~ undertake not to obstruct the existing public path(s) in any way before the confirmed diversion order comes into operation.

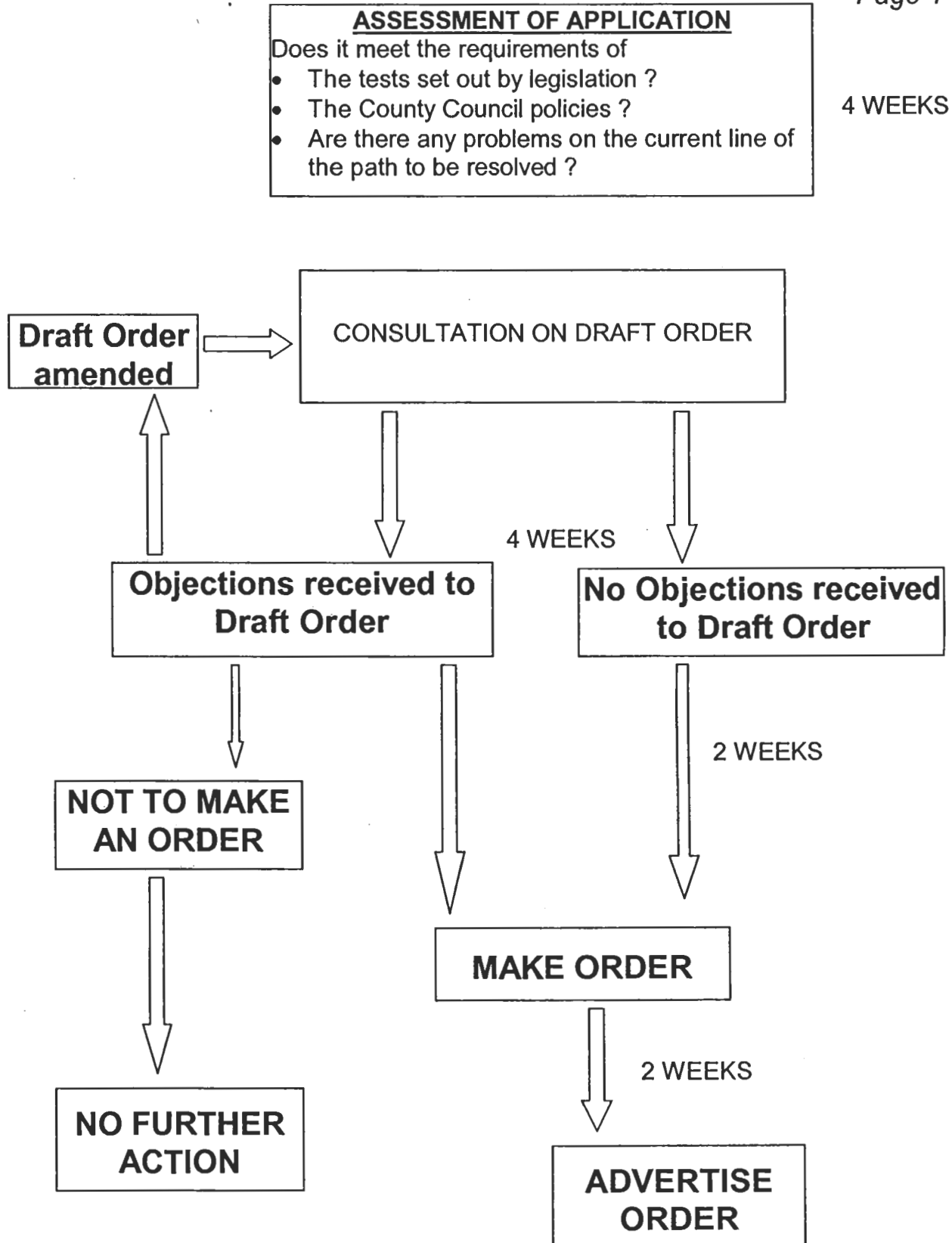
~~*/We~~ understand that the diversion is not operational until the works, as specified, have been completed.

(*delete as appropriate)

Signed *K. Kretzschmar* Date 22-4-04

on behalf of _____

THE DIAGRAM BELOW SHOWS THE PROCEDURE FOLLOWED, TIMESCALES INVOLVED AND POSSIBLE OUTCOMES ONCE HCC DECIDES TO MAKE A DIVERSION ORDER OR EXTINGUISHMENT ORDER



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