

GUIDANCE NOTE ON FOOTPATH DIVERSION ORDERS

This Council processes applications to divert, extinguish and stop up footpaths and bridleways to allow development to proceed under Section 257 of the Town and Country Planning Act 1990.

Before a footpath or bridleway can be diverted under this act the act must have full planning permission.

The process takes up 6 to 12 months for a straightforward diversion. A contentious diversion can take several years if strong objections are made.

PROCEDURE

FIRST STAGE

Before a footpath or bridleway can be diverted, extinguished or stopped you must obtain full planning permission. The application form should be submitted with the following documents:

- An extract from the Ordnance Survey map showing the existing route and proposed alterations to the footpath/bridleway at scale 1:1250 or 1:2500.
- A copy of the full planning permission
- A cheque for the initial payment of £1000 made payable to Mid Devon District Council
- If you are not the owner of the land, you will need to send written consent of the landowner.

On receipt of the application and first stage payment the Council will examine the proposal, prepare a draft and undertake informal consultations with the relevant consultees. Any suggested amendments to the proposal or objections, will be discussed with the parties concerned and the applicant.

SECOND STAGE

When agreement has been reached the Order is sealed under delegated authority given to the Head of Planning & Regeneration under the Scheme of Delegation in the Council's Constitution or if agreement cannot be reached the matter is referred to the Planning Committee to seek authority for the Order to be made.

THIRD STAGE

A notice is displayed in the local newspaper and at each end of the footpath to advise the public where to inspect the Order and that objections should be made within **28 days**

Relevant consultees are notified.

After the 28 day objection period the Council will seek to negotiate withdrawal of objections within a 2 month period.

AN UNOPPOSED ORDER

If at the end of the 28 day objection period no objections have been received the Council will write and advise the applicant to complete the works in respect of the proposed footpath as detailed in the Order (**the course of the existing footpath should not be obstructed**). Once the proposed footpath works are complete you should notify the Council to enable inspection to ensure the footpath has been constructed to a satisfactory standard and that the diversion is in place. **If the development is complete, we are unable to confirm the Order.**

A final payment of £2000 is required before the Order is confirmed and certified that the diversion is in place. Notices are again posted on the path and in the local press to this effect and relevant consultees notified.

At this stage if any person believes that the legal requirements have not been complied with they may apply to the High Court within 6 weeks under Section 287 of the Town and Country Planning Act 1990. To quash Order.

If no application has been made to the High Court by the end of this 6 week period, the Order is unchangeable.

After the 6 week period we will advise the applicant that the Order has been certified and has come into operation.

If the Order has not been certified, then there is no legal change to the path even if there is a confirmed Order.

AN OPPOSED ORDER

If objections are received within the specified time limit and are not withdrawn within the 2 month negotiation period, the Order is referred to the Secretary of State who will decide the matter by holding a Public Inquiry or by appointing a person to hear the representations of the objector(s).

The Secretary of State then decides whether to confirm the Order with or without modifications.

The applicant is informed of any objections. Any action the Council may wish to take to resolve objections at this stage is not chargeable to the applicant.

If objections are not withdrawn or are considered by the Secretary of State to be irrelevant, charges against the objector can be sought at the Inquiry and decided by the Secretary of State.

Public Inquiries can take several months to arrange and up to a year or more before the Order is decided, therefore it is 'best practice' to resolve any problems at an early stage of the design of the development.

FEES & CHARGES

Mid Devon District Council makes a standard charge of £1500 to cover administrative costs, legal advice, site visits, postage and printing, plus £1500 to cover the cost of advertising, per application. We will advise how to make payment when the form has been received.

- Initial fee of £1000 paid with the application to divert the footpath
- Final payment of £2000 paid before the order is confirmed and certified that the order is in place
- £500 is paid before submission to the Secretary of State (SOS) if objections are received and the order is submitted to the SOS for a decision
- £200 for each additional path is paid where it is included in the same order
- £1000 initial fee is retained if the application is withdrawn / rejected following informal consultation and first advertisement.

REFUNDS

The Council will only refund a charge where:

- They fail to confirm an unopposed order
- Having received objections which have not been withdrawn, we fail to submit an Order to the Secretary of State for confirmation, without the agreement of the person requesting the order
- The Order is not confirmed by us or on submission to the Secretary of State, by him/her, on the ground that it was invalidly made due to no fault of the applicant
- The applicant must make a request to have the charges refunded.

Please send your completed application to:

**Mid Devon District Council
Development Management
Phoenix House
Phoenix Lane
Tiverton
EX16 6PP**

Email dcregistration@middevon.gov.uk

Phone 01884 234262

Website www.middevon.gov.uk