



# **BARNSLEY**

## **Metropolitan Borough Council**

### **Applying to divert or close Public Rights of Way**

Public rights of way (public footpaths, bridleways or restricted byways) are public highways protected by law. To divert or close a right of way you must apply for a public path order.

#### **Before you apply**

##### What status does the route have?

The Definitive Map and Statement form the legal record of all known public rights of way. The map shows path locations while the statement gives a written description and records their status, width, surface type and any features (e.g. stiles and gates). Working copies of the map and statement can be viewed on the public computers at Wellington House, 36 Wellington Street, Barnsley between 9am and 5pm, Monday to Friday. Reference maps are also available via the Interactive Mapping feature on the Council's website.

The Definitive Map and Statement record the following rights of way:

Footpaths: for pedestrians only

Bridleways: for pedestrians, cycles and horse riders

Restricted byways: for pedestrians, cycles, horse riders and non-motorised vehicles

Byways Open to All Traffic: for all categories of user above plus motorised vehicles.

Please note that other routes which are not recorded on the Definitive Map and Statement may also have public rights of access. Public rights can be established through use over time and / or historical records and we recommend that any routes which appear to be used by the public are taken into consideration, even if they do not have a recorded legal status.

##### Legal criteria

Public rights of way can only be diverted if the following criteria are met:

Under the Town and Country Planning Act, if a diversion is necessary to allow development to be carried out (planning permission is required).

Under the Highways Act, if a diversion is in the interests of the land owner / occupier or public.

You must also consider the effect the changes would have on public enjoyment of the path, the land served by both the existing and proposed new routes and any impact on agriculture, forestry and biodiversity.

Public rights of way can only be extinguished / closed without providing an alternative if you can demonstrate that they are not needed for public use, based on the likelihood that the path will be used by the public in future. (In practice this is often very difficult, particularly if objections are received.)

## **New path requirements**

Any proposed diversion routes should be as good as or better than the existing routes and should take into account the effect of the changes on public convenience and enjoyment. Before finalising your proposals, you should consider the following:

**Safety / security:** New routes should where possible avoid vehicular traffic, dangerous crossing points and sharp bends and should be as open as possible. Routes should not be enclosed by fencing unless they are wide and have good sight lines.

**Length:** New routes should be of similar length to the existing paths, or should provide other benefits e.g. improved accessibility or surfacing.

**Width:** The Council generally expects new public footpaths to be at least 2 metres wide, and bridleways 4 metres wide. If routes are enclosed by fencing, new paths should be wider.

**Accessibility:** New routes should not be any less convenient than the existing paths. You should consider any gradients, and should minimise barriers. Features such as stiles and gates are only permissible for stock control – please contact the Council to discuss.

**Surfacing:** Should be at least as good as on the existing routes. Generally, path surfaces will correspond to one of 3 types (specifications available from the Council):

- Tarmac, street lit routes on urban estate links
- Crushed stone hard surfaces on accessible rural paths or urban non-estate links
- Grass surfaces for rural paths

**Views:** Views can have a major impact on public enjoyment and should be comparable to those on the current paths.

**Future maintenance:** New routes should not significantly increase the Council's maintenance responsibilities and maintenance agreements may be required if this is the case.

## **Construction of new routes**

Applicants are responsible for carrying out any works necessary to bring new routes into suitable condition for public use (to Barnsley Council's requirements) at their own expense. This includes responsibility for meeting the requirements of any statutory undertaker in respect of any apparatus which may be in, over or under the affected rights of way.

Works should be agreed in writing with the Council when you submit your application.

Please note that it is very important that you provide accurate plans of the diversion route at the beginning of the process – any amendments are likely to require a further diversion order at additional cost.

Please also note that no authority is given to close, divert or obstruct any existing public rights of way unless and until the Council has made, confirmed and, where appropriate, certified a public path order. This includes applications where planning permission has been granted. If it is necessary to close the existing route to allow construction works, a separate temporary closure order will be required.

## **Process / timescale**

Timescales for processing diversion orders can vary greatly. As a guideline, simple diversions that receive no objections often take approximately 6 months to process to confirmation stage. The procedure is as follows:

### **Initial discussions**

Before submitting your application you should speak to the relevant rights of way officer(s) to consider your proposals and advise on the best way to proceed. This will normally involve a site visit.

### **Consultations**

The Council will consult user groups, local councillors, utilities companies and any other appropriate parties in order to gauge the public response to your proposals, identify any potential problems and reduce the risk of objections at a later stage. (Minimum 4 weeks if no objections.)

### **Barnsley Council's decision**

A recommendation will then be made to the Council's Planning Regulatory Board, which will determine whether to accept your application.

### **Making the Order**

If your application is accepted, the Council will prepare and publish a public path order. Notice of the Order will be advertised in the local press and on site, followed by a 4 week formal objection period.

### **Objections**

If no objections are made, the Council can confirm the Order

If objections are made which cannot be resolved, the Order can only be confirmed by the Planning Inspectorate. Objectors will have an opportunity to comment and the matter may be determined by written representations, a hearing, or a public inquiry.

### **Confirmation**

If accepted, the Order will then be confirmed. Notice of the confirmation will be advertised in the local press and on site, followed by a 6 week formal objection period (objections can be made on procedural grounds only at this stage).

If the diversion is made under the Highways Act (i.e. not due to development), it will come into effect when the application is confirmed. The new route should be opened to the public at this stage.

If the diversion is made under the Town and Country Planning Act, the diversion will not come into effect until any necessary works to bring the new path into operation have been completed and certified as satisfactory by the Council.

## **Charges 2021-22**

Charges are variable and are designed to cover the Council's actual costs for processing your application. This includes consideration of your proposals, site visits, consultations, preparing, publishing and promoting the relevant legal orders and certifying any works. If your application is accepted and objections are received, the Council will continue to support your application at no further cost.

The minimum charge for applications is £3296.

Actual costs above £3296 will be charged up to a maximum total of £5665.

### **Payment timings**

Once your proposals are confirmed the Council will make an initial charge of £1000. The Council will then carry out consultations and decide whether to accept your application.

If your application is accepted, a further charge of £2296 or greater will be made according to the costs incurred by the Council, up to a maximum total of £5665, after which the relevant legal orders will be published.

Following confirmation of your diversion (or after certification if required), a final charge will be made to cover any remaining costs, up to a maximum total of £5665, if necessary.

### **Contact**

To discuss any issues regarding public rights of way in Barnsley, please contact us

- by email via [publicrightsofway@barnsley.gov.uk](mailto:publicrightsofway@barnsley.gov.uk)
- by telephone on 01226 787650