

## **Application for a Public Path Order to change the Public Rights of Way Network**

### **GUIDANCE ON COSTS**

PLEASE NOTE THAT THE INFORMATION ON COSTS BELOW RELATES TO APPLICATIONS FOR ORDERS UNDER HIGHWAYS ACT 1980 S26, S118 & 119 (Creation, Extinguishment & Diversion). THE GUIDANCE APPLIES GENERALLY TO ORDERS MADE BY THE COUNCIL UNDER TOWN AND COUNTRY PLANNING ACT 1990 S257 BUT STATUTORY PROVISIONS IN RESPECT OF COMPENSATION DO NOT APPLY. THIS GUIDANCE DOES NOT APPLY TO APPLICATIONS FOR S116 MAGISTRATES' COURT ORDERS OR FOR ORDERS AFFECTING VEHICULAR RIGHTS OF WAY NEEDED FOR PLANNING REASONS THAT MUST BE MADE BY THE SECRETARY OF STATE.

Applicants for public path orders are required to pay an **administration** charge for the processing of an application, the costs of **advertising** (the placing of statutory public notices in the local press at the making, confirmation and where required the coming into force stages of an order), the costs for any **works** that are needed and any **compensation** (claimed by other affected landowners) that may become payable.

#### **ADMINISTRATION TO INCLUDE COSTS FOR ADVERTISING**

The total cost of Council administration is charged at £4493.50

#### **ADVERTISING**

The Legislation requires that Public Path Orders must be advertised in the local press at each formal stage of the process. The Council must place public notices for both the making and the confirmation of an order. Where the Articles of the order specify that the Council must Certify that the works required to bring the site of the new path into fit condition for public use have been properly completed, then a further press notice to advertise the Coming into Force of the Order is required.

## WORKS

The cost of works required to bring the route of any new path up to a standard suitable for use by the public will be borne by the applicant. There are a number of options for carrying out the works, including the applicant doing the works themselves or engaging their own contractor. However, should the applicant elect to have the Council's own direct labour organisation carry out the works then the charge will also include the cost of materials and labour for any structures required along the route.

The extent of works required, and any costs involved, will be agreed with the applicant before an Order is made. The works and structures required may be subject to restrictions imposed by and/or the consent of other organisations (e.g. English Heritage, Natural England, Environment Agency, or Internal Drainage Board). You will be liable for all costs involved in gaining any required consent from such bodies. When necessary the Council will endeavour to provide an applicant with accurate estimates and quotes.

Where the Council's labour is engaged, if the costs of the agreed works are less than the sum paid then a refund of the difference will be made. If the agreed works cost more than the sum paid the applicant will not, usually, be liable for the extra.

## COMPENSATION

Section 28 of the Highways Act 1980 (as applied by Section 121(2) of the same Act) allows any person with an interest in the land to make a claim for compensation if it is shown that the value of the interest of the land is depreciated or that person has suffered damage by being disturbed in his enjoyment of the land because of the effects of the coming into force of a public path order.

The **cost of any compensation that may be claimed by other affected landowners** will be payable by the applicant. So as to properly protect the public purse applicants for public path orders may be required to complete an Agreement with the Council under Highways Act 1980 Section 119(5) that binds the applicant to defray claims for compensation. Such an Agreement must be completed before the Council makes an order. Where it is considered that the possibility of other affected landowners making claims for compensation exists, the Council will endeavour to provide the applicant with an estimate of any potential compensation before an order is made. However, the Council may recover the costs of obtaining a valuer's estimate of compensation - from the applicant. This cost will not be incurred without the applicant's prior consent.

## VAT

VAT at the standard rate of 20% is payable on any costs involved in advertising the making and confirmation of Orders and on any works undertaken and materials used. VAT is not payable on costs relating to Council Administration and compensation.

## WHEN COSTS WILL HAVE TO BE PAID

1. The costs must be paid within one month of the date of the definitive map team validating the application and completing the first site inspection.
2. Where the Council's direct labour force has been engaged, the **cost of the works** will have to be paid either:
  - When the order is unopposed and the Council is in a position to Confirm it: or
  - When the order is opposed the Council has submitted it to the Secretary of State.
3. **Claims for Compensation from Affected Landowners under Highways Act 1980** may be submitted to the Council at any time up to six months after the date of coming into force of an order.

Bedford Borough Council will issue invoices at the appropriate times for all costs outlined in this guidance.

## PLEASE NOTE:

An unopposed Order will not be Confirmed and Brought into Force (and therefore the Order will not take effect) until and unless all outstanding invoices have been paid.

An opposed Order will not be submitted to the Secretary of State for determination until and unless all outstanding invoices have been paid.

## REFUNDS

If Bedford Borough Council decides not to confirm an unopposed order or not to submit an opposed order to the Secretary of State, without the applicant's permission, you will have all administration fees (*if* already paid) refunded. If you have paid any funds towards works or compensation – this will also be refunded. **Any advertising costs already incurred at this stage will not be refunded.**

**PLEASE NOTE:** If the Secretary of State determines not to confirm an opposed order - the administration and advertising charge (already paid) **will not be refunded**. If you have paid towards works or compensation – this will be refunded.

# **Application for a Public Path Order to Change the Public Rights of Way Network**

## **GUIDANCE ON WIDTHS**

The following table gives suggested MINIMUM\* widths for new\*\* or diverted paths:

	Cross field***	Field edge*** And other circumstances	Where width is physically restricted***
Bridleway	3 m	4 m	2m
Footpath	1.5 m	2m	1m

\* Only in very exceptional circumstances should a path be diverted with a width less than it currently enjoys. These circumstances must be clearly set out in the application form.

\*\* New paths which do not accompany an extinguishment may have widths of less than those set out in the general guidelines, but only where the paths concerned provide an absolute increase in public access.

\*\*\* Restricted access will usually be where all or part of the new route is using a pre-existing alley way or where there are other significant structures which physically prevent the allocation of a greater width. Paths should conform to the general guidelines in as far as possible. The acceptability, or otherwise, of widths of 1m (for footpaths) and 2m (bridleways) will be assessed carefully and only implemented if those widths are felt to be reasonable in all the circumstances of the case. Where there are localised intrusions and/or short lengths over which the path would be less than 1m wide this may be acceptable depending on the circumstances.

## **DECLARATION**

Please read the declaration in Section 6 of the Application Form. False declarations may jeopardise or delay your application. If you have any queries please contact Bedford Borough Council's Definitive Map Technical Team using the contact details on the covering letter.

## **PLEASE NOTE:**

Bedford Borough Council reserves the right to change or amend these guidelines at any time. It is expected that any guidelines or charging regime, that is in force when the application is formally accepted will be applicable.

**END OF TEXT**