



DEFINITIVE MAP TEAM

PUBLIC PATH DIVERSION APPLICATION

ADVICE, INFORMATION AND FORMS

FOR ORDERS UNDER SECTION 119, HIGHWAYS ACT 1980

FORMS VALID UNTIL END MARCH 2024

ADVICE TO APPLICANTS

Law

Under the Highways Act 1980 Dorset Council may make public path orders to divert public rights of way where an application is made by any person but it has no duty to do so.

Diversions

Section 119 of the Highways Act 1980 says that where it appears in the interests of the owner, lessee or occupier of the land **or** of the public that it is expedient to divert a footpath, bridleway or restricted byway, or part of one, Dorset Council may make an order (subject to certain criteria). There are also further tests that must be applied before an order can be confirmed.

Dorset Council will consider making a public path diversion order if: -

1. It is expedient to do so (as above); and
2. The applicant agrees to pay Dorset Council's costs for dealing with an application.

If the diverted (new) route is not on the applicant's land the applicant must supply the written agreement of any other landowner whose land it crosses, including an agreement about compensation.

If required, the applicant must enter into an agreement to bring the new path into a fit condition for public use; and

The diverted (new) route should not be substantially less convenient to the public nor detract from the public's enjoyment.

A diverted path should meet, or preferably exceed, Dorset Council's minimum standard width of 2 metres for a footpath or 4 metres for a bridleway where possible. Widths for restricted byways will be considered on their own merits. A diverted path should also not be substantially longer and should, in general, be as pleasant to use as the existing path.

Regard must also be given to the effect the diversion would have on public enjoyment of the path as a whole; the effect the diversion would have on other land served by the present path; and the effect on the land over which the diverted path will run and any land held with it. A diversion order, even if made, cannot be confirmed unless these tests are met.

Even if Dorset Council is prepared to make an order, it cannot guarantee that it will be confirmed, as anyone may object to an order. Dorset Council reserves the right to withdraw from proceedings at any point as it is unable to re-charge the costs of a public inquiry.

Minimum standards for new rights of way

When a new public right of way is created we have minimum standards that must be adhered to. We are required by law to consider the needs of disabled people. This means that we do not accept stiles on new rights of way. All furniture on new rights of way must be to British Standard (BS5709:2018) and the gradient and surface of the new path must be suitable for all users wherever possible. Dorset Council's minimum standard width is 2 metres for a footpath or 4 metres for a bridleway where possible.

Before you start

Before making an application please contact the Senior Ranger who covers your area. Tel 01305 224463 or email rightsofway@dorsetcouncil.gov.uk to arrange a site meeting. The Senior Ranger will walk the current path and proposed diversion with you, and give advice as to suitability, ground conditions and any works that might be needed along the new route.

Pre-application consultation

Before you submit an application you will need to carry out a pre-application consultation (see separate documents) and include the completed forms with your application. This consultation enables you to get the views of the leading rights of way user groups in Dorset: The Ramblers, the British Horse Society, and also the local Parish Council. In our experience they include the most likely objectors and their input at this stage is important. Contact details for the user groups are found on the Explanatory Notes document. **We reserve the right to refuse your application if negative responses are received to your pre-application consultation.** We also recommend that you consult any affected neighbours at this stage.

What happens when you apply?

When we receive your application we will check it and send you an acknowledgement with an estimated start date. Applications are usually dealt with in order of receipt. When we are ready to process your application the case officer will contact you to arrange a site meeting. Any works needed on the new route will be agreed; this may include surfacing or installation of furniture. Any structures should be to British Standard (BS5709:2018). A draft plan of the proposal will be drawn up and agreed. We will then carry out a consultation and copies of the consultation letter and plan will be posted on site. If nobody objects, or no problems arise as a result of the consultation, the application will be approved under delegated powers. If there are any objections, further site meetings may be held and a revised proposal may be consulted on. If objections are upheld, a report will be considered by the Strategic and Technical Planning Committee, who will decide whether or not to make the order in light of the objection/s received. If the Committee reject your application you have no right of appeal therefore it is important to avoid objections or to compromise to get them withdrawn where possible. Otherwise you may have to reconsider or drop the proposals.

What happens after the consultation phase?

If your application is accepted under delegated powers or by committee an Order will be made. Dorset Council publish the Order and copies will be sent to prescribed bodies and interested persons (including you). The Order will also appear in the local press under 'Public Notices' and a copy of the Notice and Order will be placed at each end of the diversion.

Following publication of an Order: Unopposed Orders

If there are no objections to the Order it can be confirmed by Dorset Council and a notice of confirmation will be advertised in the local press.

Opposed Orders - Secretary of State (Planning Inspectorate)

If there are objections to the Order, Dorset Council does not have powers to confirm it. The Council may send the Order to the Secretary of State for confirmation but it does not have to do so. It may be necessary for the Strategic and Technical Planning Committee to decide whether to proceed with the Order. If it is not sent on to the Secretary of State for confirmation you may be entitled to a refund of the administration charge that you have paid.

If the Order is submitted to the Secretary of State, they will appoint an Inspector who will determine the application by written representations, or by holding a local public inquiry where the evidence can be examined in more detail or a Hearing. If they decide to confirm the Order an Inspector may do so subject to modifications, which may or may not have to be advertised at your expense.

If the Order is confirmed by the Secretary of State, Dorset Council will advertise a notice of confirmation. However the Order will not come into effect until the Senior Ranger has confirmed that the new path is in suitable condition for public use and that any agreed works

have been done. Therefore an additional advert may be needed for a notice of coming into operation, after the works on the new route have been completed.

Charges

Dorset Council's administrative charges are:

- £3000 for processing an application for a public path diversion order where a legal order is made. Adjacent paths that can be considered at the same time and included in the same order are charged at £2000 per path (e.g. £3000 for one path, £5000 for two paths, £7000 for three paths etc.)

In addition to our administrative charges there are other costs that you will be required to pay for:

- The advertising costs for dealing with the order. The legislation requires us to advertise the order in a local newspaper when it is made and then if the order is confirmed you must then pay the cost of advertising the confirmation. If the Order is confirmed by the Secretary of State, a third advert may be required for the notice of coming into operation. The adverts are recharged at cost and vary significantly with the newspaper and length of advert required.
- Plus the cost of any works necessary to put a new route into a suitable condition. This may include installation of gates, bridges, or surfacing works etc.
- Plus any compensation payable to third parties who may be affected by your proposals.

What the charges cover

The Government¹ allows us to charge for our administrative costs incurred in making an order but not to make any profit. The fee covers our charges for:

- Initial advice and site visits;
- Acknowledgement of completed application, check of the information provided and preliminary assessment.
- Researching the status and history to the path.
- Drafting order plan.
- Pre-decision consultations and negotiations.
- Report for decision makers.
- Decision whether or not to make the order.
- Order making.
- Posting notices on site and elsewhere and site inspections.
- Dealing with enquiries which we may receive about your application.
- Preparing reports for Committee and drafting the relevant orders and notices.

We may not charge you for the cost of any informal consultations (such as negotiations between authorities, applicants, landowners and other interested parties) unless these negotiations lead to the making of an order.

We also charge for the cost of advertising the order if we accept your application. The legislation requires us to advertise the order on two occasions in local newspapers.

Refund if the diversion is not completed

You may be entitled to a refund where we:

- Do not confirm an order where there are no objections.

¹ Section 119 of the Highways Act 1980 and Department of Transport Circular - Recovery of Costs for Public Path and Rail Crossing Orders - Amendment Regulations Circular 11/96

- Do not send the order to the Secretary of State to confirm where there are objections without first obtaining your consent.
- Make an invalid order.

Paying for works to create the new path

If your application involves creating a new right of way in another location it might be necessary to carry out works to ensure the public are provided with a safe route. For example, this could include laying stone or gravel or installing a bridge or boardwalk.

Please consult the Senior Ranger before undertaking any such works to ensure that they will meet any legal requirements we may have.

Paying when someone claims compensation from Dorset Council

The existing legislation allows anyone to claim compensation when they can show that the diversion:

- Affects the value of their property.
- Causes damage by disturbance because of the diversion.

Before you submit your application, you may wish to seek advice from a Surveyor about whether there are any compensation issues which may affect your proposal. A Surveyor may charge for advising you on the compensation.

Payment of invoice

Dorset Council will not ask you to pay for the costs of the application in advance. You will receive your first invoice after the order has been published – it will include the administrative charge as advised plus the cost of the first advertisement.

The legislation allows us to delay confirming the order or referring the order to the Secretary of State (if there are objections) until you pay the invoice.

A second invoice for advertising will be sent if the order is confirmed and the Notice has been advertised in the local newspaper. If the order is confirmed by the Secretary of State a third invoice for advertising the notice of coming into operation may be needed.

Please contact the Definitive Map Team for additional advice:

**Definitive Map Team
Dorset Council
County Hall
Colliton Park
DORCHESTER
DT1 1XJ**

📞 **01305 224463**

✉ **definitivemapteam@dorsetcouncil.gov.uk**

**HIGHWAYS ACT 1980: SECTION 119
APPLICATION FOR A PUBLIC PATH DIVERSION ORDER**

Please seek the advice of the Definitive Map Team before completing these forms

A. THE APPLICANT

1. Name of applicant: AJ & RG Barber Limited

Address: Mary Land Farm, Ditcheat, Shepton Mallet, Somerset, BA4 6PR

Daytime tel no: 01749 862400

Mobile: 07976 565076

Email: Chrisbarber@Barbers.co.uk

2. Name of applicant's agent (if any):

Address:

Daytime tel no:

Mobile:

Email:

3. Is the applicant the owner, lessee or occupier of land crossed by the path or way to be diverted? YES (please select)

If no please give details of the applicant's interest in the land:

B. THE PUBLIC PATH (to be diverted)

4. Is the path a **footpath**, **bridleway** or **restricted byway**? Footpath (please select)

5. Number on Definitive Map: S56/12

6. Description of:

(a) the present length of path to be diverted (and therefore extinguished)
49 Meters

(b) the proposed new length of path to be created
64 Meters

(N.B. Both lengths of paths in 6(a) and (b) above should be clearly shown (and marked with different colours) on a plan, preferably an extract from the Ordnance Survey Map at a scale of 1:2500, to be submitted with this application. Dorset Explorer, Dorset Council's online mapping application, can be used to create a map for your application
<https://explorer.geowessex.com/>)

- (c) width of the proposed path 4 Meters
- (d) Will there be a physical limitation to the width of the path at any point? e.g. less than the width specified in (c) If so, please provide details: No restrictions in width

7. (a) Is the application to be considered concurrently with any other application to extinguish, create or divert a public path? NO (please select)
- (b) If so, please give brief details of that other application:
- (i) Purpose of application:
 - (ii) Definitive Map number of path concerned:
 - (iii) Date submitted:

(N.B. Any other such application for extinguishment of a public path must be made on separate forms.)

8. Name(s) and address(es) of the owner(s), occupier(s) and lessee(s) of **all** land crossed by:

- (a) the path to be diverted (include the applicant if appropriate)

Name: AJ & RG Barber Limited

Address: Mary Land Farm, Ditcheat, Shepton Mallet, Somerset, BA4 6PR

- (b) the proposed diverted route of the path
- Name:

AJ & RG Barber Limited

Address:

Mary Land Farm, Ditcheat, Shepton Mallet, Somerset, BA4 6PR

9. Name(s) and address(es) of all owner(s) and occupier(s) of any other land served by the path to be diverted (e.g. it is used to access their property?):

Name: AJ & RG Barber Limited

Address: Mary Land Farm, Ditcheat, Shepton Mallet, Somerset, BA4 6PR

10. (a) Is there any apparatus (e.g. buried pipes) belonging to, or used by, any statutory undertaker, in, upon, over, or across the land over which the path passes and any other land served by the path to be diverted or created? NO (please select)

- (b) If yes, provide details of the location and nature of such apparatus:

C. REASONS FOR THE APPLICATION

11. State in full the reasons/circumstances why the application is being made.

The proposed route will give better year-round access to the bridleway giving greater enjoyment to all users. This route will also provide better access for disabled and limited mobility users. The current route can get muddy and mucky in wet periods and gates would be required, which could make the route less accessible to all users all year round.

The proposed route has been used by the public for over 40 years and has been the preferred route for walkers and horse riders.

The current route passes through the middle of an active field where sheep are often kept, or crops are grown. The new route will improve biosecurity and reduce the risk of neospora being spread to livestock.

The new route is only 15 metres longer and will still terminate at the same point. The route also maintains the minimum requirement of 4 metres in width.

12. Internal applicants only – please provide a budget code for your application:

13. All applicants – please sign and date below:

Signed:



Name of applicant/s (please print)

Chris Barber

Date: 03/04/23

Dorset Council is a Data Controller for the purposes of the General Data Protection Regulation 2016. This Act regulates how we obtain, use and retain personal information. The information you supply will be used for the purpose of fulfilling our functions and duties, including those under the Highways Act 1980, Town and Country Planning Act 1990 and the Wildlife and Countryside Act 1981. Any information provided, including personal details will be available for public inspection, disclosed to interested third parties and may be used during public inquiries and other proceedings. The information will be kept indefinitely. By signing this form you are consenting to your personal information being retained and used for these purposes. Further information about the use of personal information and data protection is available on our web-site at www.dorsetcouncil.gov.uk or by contacting the Council's Data Protection Officer.

N.B. The following must be signed by the applicants:

I undertake:

- (i) To pay Dorset Council's full costs in connection with this application including all costs if objections are made to this application. This is £3000 for the diversion of one path plus £2000 per additional path on the same Order.
- (ii) To pay these costs if an order is made. However, I understand that I may be entitled to a refund in limited circumstances i.e. where Dorset Council:-
 - Do not confirm an order where there are no objections except where an order is abandoned on the basis of a failure to carry out required works - see (v) below.
 - Do not send the order to the Secretary of State to confirm where there are objections without first obtaining your consent.
 - Make an invalid order.
- (iii) To pay for the cost of the advertisements giving details of the order and confirming the order. The applicant has to pay for the cost of publishing a notice in one local newspaper, once on making and once on confirming the order. An additional advert may be required in the event that the order is confirmed by the Secretary of State and a notice of coming into operation is needed.
- (iv) To meet in full the cost of any necessary works and/or any compensation which payable in connection with this application and any order made pursuant to it.
- (v) To carry out the agreed works within eighteen months of Dorset Council requesting that they are completed (if the order is unopposed or objections are withdrawn). In the event that the works are not completed to the required standard within eighteen months, Dorset Council reserve the right to abandon the order with no refund. The current definitive public rights of way may be enforced if not already available on the ground. Once an order has been formally abandoned, a new application will be required for any future diversions.
- (vi) In the event of an objection being made to the proposed order, to provide evidence in support of this application and any order.

I understand:

Dorset Council cannot guarantee that an Order will be confirmed, as anyone may object to an order. Dorset Council reserves the right to withdraw from proceedings at any point as it is unable to re-charge the costs of a public inquiry.

Signed:



Name of applicant/s (please print)

Chris Barber

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Date: 03/04/23.....