

NORFOLK COUNTY COUNCIL

Highways Service

Public Path Order Application Pack

Advice and Directions for Applicants/Agents applying for
Extinguishment Orders under section 118 of the
Highways Act 1980

**Note that the eligibility criteria and processes must be followed
before completing the application form in this pack
For details go to www.norfolk.gov.uk
or telephone the Customer Service Centre on 0344 8008020**

This pack contains the following:

- **Introduction to Public Path Orders and costs** page 4
 - a) Brief overview of the procedure page 5
 - b) Where the Council refuses to make an Order page 8

- **Appendices**
 -
 - Appendix 1
 - Legal criteria
 - Council policy page 9

- Appendix 1a
- How the tasks are divided/'who does what' page 10

- Appendix 2
- Application Form page 13

- Appendix 2a
- Guidance Notes for completing the Application form page 19

- Appendix 3
- List of relevant legislation page 22

- Appendix 3a
- Links to useful websites page 23

- Appendix 4
- Format of Consultation Report page 24

- Appendix 4a
- Checklist for Consultation Report page 26

- Appendix 5
- Letter templates and Site Notice template page 28

- Appendix 6
 - Example Notice of Decision
- page 32
-
- Appendix 7
 - Costs
- page 33
-
- Appendix 8
 - Determination Report
- page 35
-
- Appendix 9
 - List of Consultees
- page 37
-
- Appendix 10
 - Contact details for District and Borough Councils
- page 41

Introduction to Public Path Orders

A public right of way (other than a Byway Open to all Traffic) which appears on the Definitive Map and Statement can be extinguished by a legal process whereby a local authority makes a Public Path Order.

In Norfolk the majority of Public Path Orders, made under the Highways Act 1980, are processed by Norfolk County Council (the Council). Public Path Orders made under the Town and Country Planning Act 1990 are generally processed by the relevant District/Borough Council and are the appropriate means where a change is necessitated to implement a planning permission.

The Council has a power (and not a duty) to make Public Path Orders under section 118 of the Highways Act 1980. These orders, once confirmed, have the effect of permanently extinguishing Footpaths, Bridleways or Restricted Byways respectively.

Before it decides to make an Order, the Council must be satisfied that the legal tests relevant to the Order can be satisfied. A Council is under no obligation to make an Order. Extending this further, if the Council decides to make an Order it is again under no duty to refer it to the Secretary of State for the Environment, should objections be received.

The Council policy for accepting applications can be found in Appendix 1.

Applicants for Public Path Orders are invited to engage their own experienced rights of way practitioners, consultants or legal representatives (agents) to undertake the majority of the work involved in the process. In this way, the Council's input will be kept to an absolute minimum and Applicants are able to undertake their own consultations and revisions independently.

Throughout this pack the Applicant and appointed Agent are referred to as 'the Applicant'

The Council undertakes to make a decision on whether to make an Order within 3 months of a completed, technically and legally correct consultation report, being received from an Applicant.

If an Order is subsequently made the statutory process for advertising and site notices will follow and if after 28 days from the first date of publication on site and in the press no objections are received, the Order may be confirmed by the Council, subject to satisfaction of the legal tests for confirmation.

Costs and charges

All of the costs and charges associated with these processes, whether incurred by the County Council or Rights of Way Practitioners, have to be paid for by the Applicant. The Council's costs for a simple Order, involving one right of way, would be in the region of £1,850.00.

Full details of costs and charges can be found at Appendix 7

Brief Overview of the procedure

- 1) The Applicant searches the Council's website for PPO eligibility criteria and answers the questions. Depending upon the answers given, Applicant then emails/sends in a map of the proposal or continues to stage 1 of the application process (see page 10). Alternatively Applicant telephones the Customer Services Centre (CSC) on 0344 8008020. The CSC checks the eligibility criteria.
- 2) If initial proposals considered acceptable, site visit with relevant Countryside Access Officer takes place to check matters on the ground. If it appears to the Officer the application stands a reasonable chance of success Applicant instructs an **agent who** obtains this pack from the website or the CSC.
- 3) Applicant carries out written consultations and erects site notices advising any potential users of the proposals (**see notice template and letter templates in Appendix 5 and note that content of Site Notice must be approved by the Council**) Applicant chases any outstanding responses from consultees.
- 4) If any objections are received, Applicant negotiates with objectors to resolve any issues. If any amendments to initial proposal are required to secure withdrawal of objections Applicant checks first with Countryside Access Officer as to whether amendments are acceptable/within confines of legislative tests (**see Appendix 1**).
- 5) Applicant re-consults all those previously consulted on any proposed amendments to original plans.
- 6) Applicant completes the application form (**see Appendix 2**) and submits to the Council with first installment of fees. Applicant prepares and submits consultation report for consideration by County Council Officers (**see Appendix 4**).
- 7) Council Officers determine whether to proceed. Notice of Decision issued with reasons for refusal or acceptance (**see Appendix 6**).
- 8) Council Officers draft the Order and Notice of Making and send to Applicant for approval.
- 9) Once approved, Council Officers arrange for the Order to be sealed and served on all prescribed **persons/organisations/those** initially consulted by Applicant with Notice of Making of Order. Applicant sends second installment of fees.
- 10) Council Officers arrange for Notice to be advertised in the local press and on site.
- 11) If any **objections/representations** are received these are acknowledged by Council Officers and passed on, as received, to the Applicant for consideration and reply. Applicant sends copies of replies to the Council.
- 12) Where objections made, Applicant negotiates withdrawal, again in consultation with Council Officers. Applicant drafts and submits Determination Report (**see Appendix 8**).
- 13) Council Officers consider Determination Report and decide whether legislative tests for confirmation have been met (**see Appendix 1**) and if so, arrange for the Order to be confirmed (sealed) and Notice of Confirmation to be drafted or to refer the Order to the Planning Inspectorate for confirmation if objections not withdrawn.
- 14) Council then serves a copy of the confirmed Order and Notice of Confirmation (on a date agreed with the Countryside Officer) on all those persons/organisations previously served with the Order.
- 15) Council Officers arrange for Notice of Confirmation to be advertised and site Notices to be erected, maintained and inspected on site.
- 16) Council receives third instalment of fees from the Applicant.

- 17) Any works required to be undertaken are completed by the Applicant.
- 18) Inspection by Countryside Access Officer and 'sign off' by completion of 'Certificate of Works'.
- 19) Amendment of Definitive Map and Statement by Council.
- 20) Council sends copy of confirmed Order to Ordnance Survey.

A more detailed description of the process and explanation as to 'who does what' can be found in Appendix 1a

The following points must be noted;

- a) The specific elements of the process and procedure that the Applicant must undertake are the consultations (some of which are mandatory), negotiations with potential objectors (to secure removal of objections) and preparation of the consultation report for consideration by officers. If the Order were to progress, the copying and service of the Order and Notice on the prescribed persons or organisations will be carried out by the Council at cost to the Applicant. If the Order then proceeds to confirmation, the Council will again serve Notice of the Confirmation and a copy of the confirmed Order on all those served previously and the Applicant would again have to pay for the copying and service of the confirmed Order and confirmation Notice. The full costs of both the appointed Agent and the Council associated with these stages will need to be covered by the Applicant.
- b) Statutory Undertakers will not receive automatic protection of rights of access to their equipment unless a paragraph specifically saving those rights is inserted into the extinguishment order or dealt with by way of a separate easement/wayleave. The legislation states that the confirming authority shall not confirm an extinguishment Order if the Order extinguishes a right of way over land where there is any apparatus belonging to or used by any statutory undertakers for the purposes of their undertaking unless the undertakers have consented to the making or confirmation of the Order. For this reason it is important to alert the Statutory Undertakers to the proposals to provide **them with the** opportunity to advise whether they consent/have any rights of access (and if so to give full details) and confirm whether they need protection.
- c) Beyond some initial broad guidance and details of relevant consultees, the Council will not be able to provide help, assistance or advice on the complex legislative, prescribed and technical processes that have to be followed.
- d) In light of this, it is highly recommended that only competent Rights of Way Practitioners/Consultants are used who have experience of rights of way legislation and a successful track record in relevant case work. The Institute of Public Rights of Way Officers has a list of registered consultants.-
<http://www.iprow.co.uk/index.php?page=page&catId=11&subId=11>
- e) If a consultation report is submitted to the Council but is not complete, has not followed the legislative process or has any other problem which means the Council is unable to make a decision, council officers will not be able to correct it or help with any further work that may be required to get it to an appropriate standard. The Council decision will be final but it will provide broad feedback on why a report is considered inadequate or flawed. In particular the Council expects Applicants

to chase replies from consultees who have not responded.

- f) If required, the opportunity to present the report in person (as opposed to in writing) to council officers would be available where the Applicant would be able to explain how the Order satisfies the legal tests.
- g) If, in the judgement of the Council, continuing the Order making process after receipt of a suitable consultation report could result in a public inquiry, the case will not be dealt with until (a) all objections or reasons why a public inquiry may be necessary are resolved, or (b) until the case comes to the top of the current list of priorities.
- h) If the Order receives objections which are irrelevant and the Council believes the Order has met the statutory tests and should be confirmed, it may consider sending it to the Planning Inspectorate for determination. Any such determination will occur by written representations, hearing or public inquiry. If the Council proceeds on this basis, it would be up to the Applicant to be responsible for drafting the necessary statement of case and associated documentation. The appointed Agent would be expected to act as the Applicant's advocate at the inquiry itself. The Council will only carry out such duties that it is statutorily required to do in such an event.
- i) If an Order is made applicants will be expected to pay for the officer time incurred in arranging for the prescribed notices to be advertised in the local press, the costs of the adverts and advertising agency fees, together with officer time and Council expense incurred in supplying, erecting, maintaining and inspecting site notices for the required period.
- j) Where the Council decides that works are required the Council will insert in the Order a clause stating that the Order will not come into operation until the Council has certified that those works have been carried out or a certain number of days have elapsed.
- k) In certain limited circumstances the Council may consider waiving part of its costs. In deciding whether to charge reduced costs the Council may take into account such factors as any direct benefit to the public of the proposed changes to the path network. Similarly, in some circumstances (e.g. where the Council fails to submit an unopposed order to the Secretary of State) the Council may provide a refund of costs paid to date.
- l) It should be noted that if due legal procedure is not followed a confirmed Order would be open to a successful High Court challenge.

Measures open to an Applicant if the Council refuses to make an Order

Once a decision has been made either not to make or to confirm or not to confirm an Order, the decision can only be challenged through an application to the High Court. However, if a party wishes to complain about the way a particular case has been handled the Council has a complaints procedure, details of which can be provided to the complainant.

The Local Government Ombudsman can investigate complaints about the way particular cases have been handled. A complaint can be made directly to the Ombudsman at any time but action will usually only be taken when the Council investigations have been completed.

The Ombudsman can be contacted at: The Oaks, Westwood Way, Westwood Business Park, Coventry, CV4 8JB. Telephone 024 7682 0000, Fax 024 7682 0001, Website <http://www.lgo.org.uk>

District and Borough Councils also have the power to make public path orders.

APPENDIX 1

Legal criteria and Council policy for making and confirming orders

The legal criteria for making and confirming public path extinguishment orders are set out in section 118 of the Highways Act 1980 as amended by the Countryside and Rights of Way Act 2000 and the Equalities Act 2010- see Appendix 4 and also

<http://www.legislation.gov.uk>

Council policy

It is accepted that it is beneficial for applicants and their agents if the Council has a formal policy as to what type of extinguishment case it is prepared to consider. An added advantage is that it enables the Council to adopt a systematic approach. The disadvantage of having such a policy is that it could fetter the Council's discretion and be difficult to formulate. With this in mind and as a starting point, the Council would initially consider cases where there are no objections and where historically and currently, the rights of way affected have not been cultivated, obstructed or re-instated in accordance with the governing legislation by the Applicant. In addition, there should be no structures or other limitations on any part of the affected route with the stated width completely clear of any obstructions. The Council may make an exception to this but only if extenuating circumstances can be evidenced.

APPENDIX 1a

HOW THE TASKS ARE DIVIDED/'who does what'

Applicant

1) Prepares an accurate map on a scale of 1:2500, showing precisely what is proposed (route to be extinguished shown by a bold black line) with points of the compass, grid references and a key.

It is recommended that the map is entitled 'Proposed extinguishment'. The Council will, for a fee, plot the Definitive route of the public right of way on this plan if requested.

2) If necessary prepares a written schedule (using the existing definitive statement wording for the registered route which can be obtained from the Council). The new statement to include new lengths, termination points as required.

3) Approaches the Council to discuss proposals, the plan and description on site with allocated Countryside Access Officer.

4) Discusses proposals with neighbours/adjoining landowners.

5) Formally consults all those on Appendix 9 and anyone else considered appropriate by Applicant on proposals by sending copy plan and schedule requesting response within 28 days. Asks for comments and/or suggested improvements to the scheme.

6) At the same time as (5) above, prepares and erects non statutory site notice (having first agreed the wording with the Council Officers) and consultation plan with an explanation of what is proposed and maintains these at each end of the route to be extinguished. Site notice to include Applicant's contact details. Notices to be in place for at least 28 days and inspected every 7 days and replaced as required.

7) Receives responses to consultation and chases any outstanding replies.

If objections received, to discuss issues with objectors to see if a compromise can be reached. If so, compromise solution to be referred back to the Council for agreement. If agreed, to re-consult on amended proposals.

If objections not resolved Applicant to advise Council accordingly. Council unlikely to proceed where the proposal has attracted outstanding objections.

8) If no objections received Applicant submits formal application to the Council with first instalment of fees and the signed Agreement for works (if any works/such an agreement is required). Applicant compiles consultation report (see Appendix 4) for the Council's consideration but first gives the Council 3 weeks notice of likely time of receipt.

9) Receives Notice of Decision from Council – if to make Order a draft of the Order and Notice of Making will be sent for approval. Final copies then received from the Council. If Notice states that the application is refused then this is the end of the process. Sends second instalment of fees to Council.

10) If objections are received to the Order, Applicant receives copies as they are submitted to the Council and seeks to secure withdrawal. Submits Determination report (see Appendix 8) to Council. If successful, proceeds to 11 below.

11) Carries out any works required having first checked with the appropriate District or Borough Council whether planning permission is required.

12) Arranges meeting with allocated Countryside Access Officer to inspect and sign off works.

13) Receives a copy of the confirmed Order and accompanying Notice of Confirmation from the Council. Sends last payment to Council in respect of copying costs, advertising of public notice, site notices and officer time.

14) Erects and maintains permanent notices at both ends of the extinguished route to explain the changes. The notice should consist of a map showing changes and a brief statement explaining the changes.

The Council

1) Provides for the Applicant a copy of the Definitive Map and Statement showing and describing the right of way.

2) Allocates a Countryside Access Officer who discusses the proposal with the Applicant and if appropriate attends site visit with Applicant. If required, the Council will for a fee, plot on the Applicant's consultation plan the Definitive route of the public right of way. The Council receives formal application with first instalment of fees and signed Agreement for works (if required).

3) Considers any proposals for amendment (if any) to the proposal

3) Receives three weeks notice of the proposed date of submission of the report.

4) Receives and considers content of the report in light of the legal tests and decides whether to proceed to make an order. Issues written Notice of Decision to Applicant.

5) Drafts Order and accompanying Notice and sends to Applicant for approval.

6) Seals and serves Order and Notice on all prescribed persons and organisations and anyone else who is considered to have an interest. Council invoices Applicant for second instalment of fees.

7) Arranges for Site Notices to be erected for the duration of the 28 day objection period and the Notice to be published in the local press.

8) Passes any objections to the Applicant as soon as they arrive to enable the Applicant to contact objectors to negotiate removal of objections.

9) If any objections are sustained the case may be closed unless specific public gain identified by proceeding at cost to the Applicant.

10) If no objections received/objections made are withdrawn Council receives Applicant's Determination Report and then considers whether to confirm Order in light of the legal tests.

11) Confirms Order and drafts Notice of Confirmation. Serves copy of confirmed Order and Notice of Confirmation on all prescribed persons and organisations and anyone else considered to have an interest. Council invoices for third installments of fees.

12) Countryside Access Officer inspects any required works and if satisfied 'signs off' Certificate of Works'.

13) Sends copy of Confirmed Order and Notice to the Applicant.

14) Arranges for the Notice of Confirmation and Order plan to be posted and maintained on site for the duration of the 42 day high court objection period and the Notice to be published in the local press.

15) Amends the Definitive Map and Statement.

16) Sends a copy of the confirmed Order and accompanying Notice to Ordnance Survey.

APPENDIX 2 - APPLICATION FORM

**NORFOLK COUNTY COUNCIL
Highways Act 1980 S118**

Application for a Public Path Extinguishment Order

IMPORTANT: READ THE GUIDANCE NOTES BEFORE COMPLETING THIS FORM

SECTION 1 – PROPOSAL (see Guidance Note section 1 page 19)

To: Environment, Transport and Development, Highway Network Management, Norfolk County Council, Martineau Lane, Norwich NR1 2SG

I / We* _____

of _____

being the owner(s) / lessee(s) / occupier(s)* of land at

hereby request that the public footpath/bridleway/restricted byway* described in Section 3 of this application and shown by a bold continuous line on the attached plan be extinguished.

***please delete as appropriate**

NB. Disclosure of Information – The Application and any representations made cannot be treated as confidential – see page 21 (Guidance Notes) If you are not the landowner please ensure that Section 6 is also completed.

Details of other owners, lessees and occupiers and holders of any other rights over the affected land (including statutory undertakers)

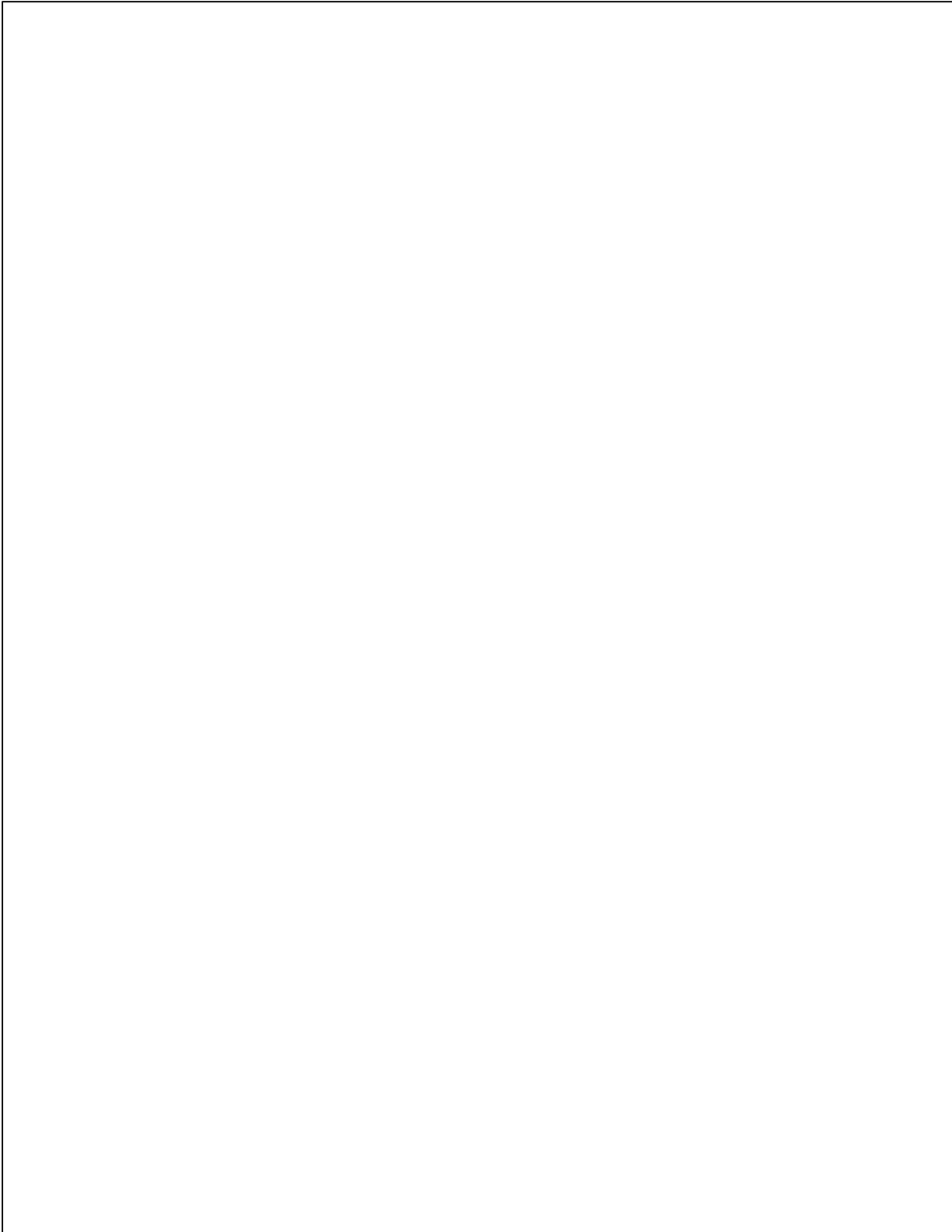
Name(s)	Address(es)

SECTION 2 – STATEMENT OF REASONS (see Guidance Notes section 2 page 20)

- (a) This application is made on the grounds that the public footpath / bridleway / restricted byway* is no longer needed for public use.

***please delete as appropriate**

- (b) The reasons why this public right of way is no longer needed for public use are as follows:-

A large empty rectangular box with a thin black border, intended for the user to provide reasons for why the public right of way is no longer needed for public use.

SECTION 3 (see Guidance Note section 3 page 20)

DESCRIPTION OF FOOTPATH OR BRIDLEWAY OR RESTRICTED BYWAY

Letters from plan (A-B-C)	Description	Width	Structures	Owners/Occupiers Statutory Undertakers

continue on a separate sheet if necessary

SECTION 4 – DECLARATION (see Guidance Notes section 4 page 20)

The County Council expects all landowners and occupiers to fulfill their normal statutory responsibilities for public rights of way over their entire holding. Whilst the following will not affect your right to apply for a Public Path Extinguishment Order, failure to comply with your statutory responsibilities for public rights of way may result in enforcement action or prosecution.

I shall ensure that at all times, throughout my/our* holding(s):-

- **All cross-field paths are free from crops and are reinstated to their statutory minimum width ***
- **All headland paths are uncultivated and free from overhanging vegetation***
- **Any structures unauthorised by the County Council, obstructions or misleading notices affecting any public right of way will be removed by me/us* or drawn to the attention of the County Council***

*** please delete as appropriate**

SECTION 5 – AGREEMENT of APPLICANT (see Guidance Notes section 5 page 20)

I/we* hereby affirm the declaration in section 4 and that I/we* have read, understood and accept the Guidance Notes accompanying this application and accept the Charges for Public Path Orders and Agreements.

I/we* agree:-

To reimburse the County Council any compensation which may become payable by the County Council to any third party whose interests may be adversely affected by the Order as set out in section 28 of the Highways Act 1980 as applied by section 121(2) of the same Act.

To reimburse the County Council all rechargeable expenses incurred by it in connection with the making of the Order, whether or not the Order is confirmed.

* Please delete as appropriate

Signature(s) _____

Print Name(s) _____

Date _____

Address _____

_____ Postcode _____

Email address _____

Daytime telephone number(s) _____

This section should only be completed where the applicant is NOT the landowner of ALL the land affected by the proposal.

SECTION 6 – AGREEMENT OF LANDOWNER/S (see section 6 in Guidance Notes page 21)

I/we * hereby confirm that I/we * own the land affected by this application and affirm the declaration in section 4 and also affirm that I/we* have read, understood and accept the Guidance Notes accompanying this application.

I/we *agree to the proposal/s and undertakings made by the applicant and described in this application.

I/We* will/will not* be seeking compensation if this application is successful

* Please delete as appropriate

Signature(s) _____

Print Name(s) _____

Date _____

Address _____

_____ Postcode _____

Email address _____

Daytime telephone number(s) _____

APPENDIX 2A

GUIDANCE NOTES

Highways Act 1980 S118

Application for a Public Path Extinguishment Order

SECTION 1

Insert the name(s) and address(es) of the individual(s) making the application. This would normally be the owner and/or the occupier of the land crossed by the affected route.

If the land is owned by a business the form should be completed in the name of the business by the Company Secretary or one of the partners.

If the form is completed by an agent, written authority to act on behalf of the applicant should accompany the application.

Proof of Title to all the affected land is required and must accompany the application

The application must be accompanied by an extract from a current Ordnance Survey map at a scale of no less than 1:2500. The Council can plot the Definitive route to the OS plan for a fee.

The Map will accurately show the definitive route of the footpath/bridleway/restricted byway to which the application relates (by a bold continuous line). It should also show points of the compass and grid references together with a key.

If parts of the affected route(s) cross land not wholly within the applicant's ownership, details of other landowners/occupiers/lessees should be given in the box below the proposal and Section 6 must be completed. The extent of this land should be indicated on the map described above or, for clarity, a separate copy of that map, **together with relevant proof of title.** Details of the rights of any Statutory Undertakers (such as electricity, gas and communications suppliers) should also be provided in Section 1 as should details of any other rights held by any other person (eg; access rights).

The description of the land should include the name(s) of the parish(es) in which the footpath, bridleway or restricted byway is located.

SECTION 2 – STATEMENT OF REASONS

Extinguishment Orders under Section 118 of the Highways Act 1980 are only permitted on the grounds that the public right of way to be extinguished is no longer needed for public use. Temporary circumstances preventing or diminishing the use of the public right of way must be disregarded when a decision is made whether or not to make an extinguishment Order.

State clearly the reasons for making the application in the box provided, explaining how the reasons meet the criteria that the public right of way is no longer needed for public use.

SECTION 3

DESCRIPTION OF FOOTPATH, BRIDLEWAY OR RESTRICTED BYWAY TO BE EXTINGUISHED

- Refer to each section of the path by letter (A-B, B-C etc) and add the letters to the Map accompanying the application.
- Describe each section of the route (eg; field edge, river bank, alongside buildings etc), including path widths (where possible) and path surface (eg; grassland, concrete track, earth etc).
- Give details of any limitations on the public right of way along the route, such as gates and stiles, and of any structures, such as bridges, which exist upon it and **state whether or not they have been authorised by the County Council.**

SECTION 4 – DECLARATION

The Council encourages all landowners/lessees/occupiers to meet their legal obligations for public rights of way. Whilst these responsibilities are not statutory requirements under this application process, the Council considers that acceptance of these clauses, which define the basic legal obligations of any applicant, is a demonstration of willingness to respect public rights now and in the future. Conversely, acknowledgement that legal obligations are not being met may result in early enforcement action from the Council.

SECTION 5 – AGREEMENT

The form should be signed and dated by the individual(s) given in Section 1.

The County Council cannot guarantee or predict the outcome of an application and cannot accept liability for any consequential loss arising from the processing of the application however incurred. **The application may not proceed, for example, because a reasonable objection cannot be overcome or because the Council decides not to proceed with the Order.**

SECTION 6 - AGREEMENT OF LANDOWNER/S

Please ensure that this section is completed where the applicant is not the landowner or is not the only landowner.



Disclosure of information – the Application and any representations made cannot be treated as confidential. Any information you submit to the Council will be used for any purpose associated with the Application to amend the Definitive Map and Statement this is likely to mean that this information will at some point be released to others interested in the Application. This information will be held for as long as is necessary for the purposes set out above. You are entitled to access any information held on you by Norfolk County Council in relation to this

APPENDIX 3

List of relevant legislation.

Numerous statutes, statutory instruments and regulations apply to Public Path Orders –see <http://www.legislation.gov.uk/>

Legislation
Countryside Act 1968
Countryside and Rights of Way Act 2000
Department of the Environment Circular 3/1993: Recovery of Costs of Public Path and Rail Crossing Orders
Amendment Regulations: Department of the Environment Circular 11/1996: Recovery of Costs for Public Path and Rail Crossing Orders
Equality Act 2010
Highways Act 1980
Highways Act 1980: Section 28
Highways Act 1980: Section 118
Highways Act 1980: Section 119
Highways Act 1980: Section 120
Highways Act 1980: Schedule 6
Law of Property Act 1925
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 1993 (SI 1993/407)
National Parks and Access to the Countryside Act 1949
Natural Environment and Rural Communities Act 2006
Public Path Order Regulations 1993 (SI 1993/11) & 1995 (SI1995/451)
Public Rights of Way Circular (1/09) (Version 2)

APPENDIX 3a

Useful links and publications related to Public Path Orders. Please note that we try to keep these links up to date but if you have any problems do contact us.

- <http://www.localaccessforum.norfolk.gov.uk/links.htm>
- A link to Norfolk County Councils local access forum, Rights of Way Improvement Plan (ROWIP) and information on walking, cycling and riding in Norfolk. Also provides links to maps and promoted routes

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<http://www.planningportal.gov.uk/planning/countryside/rightsofway/rightsofway>

A link to the rights of way pages of the Planning Inspectorate, including Guidance on Procedures for Considering Objections to Definitive Map and Public Path Orders in England and Definitive Map Orders – Consistency Guidelines.

- <http://publications.naturalengland.org.uk/publication/31038>

This is a link to Natural England's A Guide to Definitive Map & Changes to Public Rights of Way and was revised in 2008. Available as a down loadable PDF only.

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https://www.gov.uk/government/publications?keywords=public+rights+of+way&publication_filter_opti on=all&topics%5B%5D=rural-and-countryside&departments%5B%5D=all&official_document_status=all&world_locations%5B%5D=all&from_date=&to_date=&commit=Refresh+results

This is a link to the rights of way section of the Department of Food & Rural Affairs site, including the Public Rights of Way Circular (1/09) Version 2.

- Rights of Way – A Guide to Law & Practice (4th edition)
By John Riddall & John Trevelyan
Published by the Ramblers' Association and Open Spaces Society
ISBN-13: 978-1-901184-99-0
Available from Amazon.

- http://www.iprow.co.uk/gpg/index.php/Main_Page

A link to the Institute of Public Rights of Way's Good Practice Guide. Go to Public Path Orders

- <http://www.iprow.co.uk/index.php?page=page&catId=11&subId=11>

IPRoW's list of registered consultants.

- <http://www.broads-plan.co.uk/appendix-3-map-broads-authority-executive-area>

A link to the Broads Authority, the local planning authority for the Broads Area. You will need to consult both the relevant District or Borough Council and the Broads Authority if the right of way is located within the Broads Authority Area.

APPENDIX 4 – Format of Consultation Report

Once you have completed the negotiations with the consultees and resolved any objections you should report to the Council Officer. This will allow us to consider the proposal and make a decision as to whether the Order will be made.

Please give us at least three weeks’ notice of when we may expect to receive the Consultation Report. This will enable us to schedule the officers’ decision meeting and therefore avoid any unnecessary delays. The Consultation Report must be complete and accurate, having followed all necessary stages in the legislative process, as the Council will base its decision solely on this report. Any missing information may lead to no Order being made, or any Order made receiving objections, which may in turn lead to the Council deciding to abandon it rather than seek its confirmation. The report should be contained in a ring binder so that it can be easily scanned and/or photocopied, but we would also like to receive a pdf version for our ease of use. The pages must be numbered. It should also be divided into clear subtitled sections so that the Council can clearly see the evidence to be considered at the officers’ decision meeting. Those sections should be as follows:

Frontispiece	<ul style="list-style-type: none"> • a copy of our checklist (see Appendix 4a) showing that all relevant documents are included
Proposal	<ul style="list-style-type: none"> • a comprehensive statement detailing the proposals and how the changes will meet the legislative tests and the Council’s policies • a plan showing the path(s) affected and the proposed changes
Ownership	<ul style="list-style-type: none"> • evidence of your client’s title to the land or, • where the changes affect land not owned/managed by your client, letters of consent from any affected landowners, tenants or lessees, as well as evidence of their title to the land
Agreements	<ul style="list-style-type: none"> • a signed and dated Agreement (including works) pursuant to S.119(5) of the Highways Act 1980 (if required by the Council) • agreement to pay any compensation
Consultation	<ul style="list-style-type: none"> • list in tabulated form of those parties consulted and those who responded, along with a short précis of their comments and a tick box to indicate whether they agree to the proposals or not. If there are any unresolved objections please state clearly as the Council is unlikely to make an Order in such a case. For those statutory undertakers who replied you need to clearly indicate if their apparatus is affected, whether they wish to receive protection by a savings clause and whether they are likely to object to the Order • copies of the letters of consultation that were sent out, along with the site notices that were erected with a note of the

	<p>dates they were advertised</p> <ul style="list-style-type: none">• copies of any correspondence from the consultees <u>clearly divided into subsections</u> according to consultee, including copies of correspondence from the local district/borough and parish councils confirming that they have been consulted• evidence that any objections that were made have since been withdrawn• a copy of the relevant part of the Rights of Way Improvement Plan, or confirmation that there isn't any relevant provision.
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Appendix 4a: checklist for Consultation Report

Checklist of items to be included with Consultation Report

	Item to be included in Consultation Report	Included
1.	This checklist, representing confirmation that you have read and understood these instructions	Signed _____
2.	A comprehensive statement detailing the proposals and how the changes will meet the legislative tests and the Council's policies	
3.	A plan showing the public path(s) affected and the proposed extinguishment	
4.	Evidence of title to the land affected by the proposal	
5.	Letters of consent from any affected landowners, tenants or lessees	
6.	Signed and dated agreements as applicable for (a) section 119(5) Highways Act 1980 including Works, (b) Agreement to pay Compensation Costs	(a) (b)
7.	Copies of the covering letter(s) of consultation and plan together with the list of addressees.	
8.	A tabulated list of which consultees responded to the consultation	
9.	Copies of any consultation responses (cross referenced to the tabulated list) from: <ul style="list-style-type: none"> • district/borough and parish councils/meetings • statutory undertakers, indicating whether they wish to receive protection of rights of access/further communications • other consultees, including correspondence showing what you have done to resolve any objections 	
10.	Copy of the site notices and dates they were on site.	

11.	Copy of the Plan used for consultation.	
12.	If further consultation is carried out as a result of comments received, repeat steps 9-11 clearly marking them as 2nd Consultation	
13.	Copy of the relevant part of the Rights of Way Improvement Plan, or confirmation that there isn't any applicable provision	

APPENDIX 5 – letter templates –to User Groups/External agencies/other organisations

I write on behalf of my client, #####, who is the owner of ##### and with the agreement of Norfolk County Council to consult you/your organisation about a proposal to extinguish part/all of footpath/bridleway/restricted byway numbered ###.in the Parish/Town of #####. If you require confirmation of the Council’s agreement to me undertaking consultation with you please contact ##### (note that contact details will be provided by the Council at the start of the process).

I attach a plan showing the existing route of the footpath/bridleway/restricted byway to be extinguished as a solid black line.

I have set out below the reasons for these proposed changes, how they provide benefits, how they meet the legislative tests and the County Council’s policies

a)The reasons for this proposed change are as follows:

(set out reasons in full)

b)The proposals meet the legislative tests and the County Council’s policies as follows:

(ditto)

The proposed extinguished footpath/bridleway/restricted byway will be the full width of the route from point A at grid reference xxxx xxxx and proceeding in a [northerly] direction for xx metres to point B at grid reference xxxx xxxx and then turns to run in a [north-easterly] direction for xx metres to point C at grid reference xxxx xxxx in the Parish of xxxxxxxx.

Please let me have your response to this proposal in writing, including any suggestions you may have for improving the suggested diversion. If you could let me have your reply within the next 28 days it would be appreciated. If I do not hear from you within that time I shall assume you have no comments to make. Please let me know if you require more time to respond.

Please note that your response will not be confidential and may, for example, be included in a public report published by the Council.

A stamped addressed envelope is enclosed for your use.

Yours faithfully/sincerely”

APPENDIX 5 – letter templates – to Statutory Undertakers

“I write to consult your organisation about a proposal to extinguish part/all of footpath/bridleway/restricted byway numberedin the Parish/Town of.....

I enclose a letter of authority from Norfolk County Council establishing that this consultation is being undertaken with its authority.

I attach a plan showing the existing route of the footpath/bridleway/restricted byway to be extinguished as a solid black line.

If your organisation does not have the benefit of an easement/wayleave with the landowner and has been instead using the public right of way for access it will not receive automatic protection of rights of access to equipment if the right of way is extinguished unless a paragraph specifically saving rights of access is inserted into the extinguishment order or dealt with by way of a separate easement/wayleave. It is in your interest to tell us whether you have plant or equipment to which you require access. The wording of the savings clause is as follows:

‘Notwithstanding clause 1 of this Order (name of S/UT) shall have the following rights over the land referred to in clause 1, namely the right of access to inspect, repair, maintain or replace its plant and equipment as required’

With this in mind please confirm in writing

- 1) whether you consent to the making of the order and if not the full grounds for refusing consent
- 2) whether you have rights of access which require protection by the insertion of a savings clause in the proposed diversion order (and if so please give full details of the rights required such as the nature and extent of rights you wish to protect.)

If I do not hear from you within 28 days I shall assume you have no equipment affected by the proposal.

Yours faithfully”

APPENDIX 5 letter templates to Parish/District/Borough Councils

I write on behalf of my client, #####, who is the owner of ##### and with the agreement of Norfolk County Council to consult you/your organisation about a proposal to extinguish part/all of footpath/bridleway/restricted byway numbered ### in the Parish/Town of #####. If you require confirmation of the Council’s agreement to me undertaking consultation with you please contact #####.

(note to Applicants - contact details will be provided by the Council at the start of the process)

I attach a plan showing the existing route of the footpath/bridleway/restricted byway to be extinguished as a solid black line.

I have set out below the reasons for these proposed changes, how they provide benefits, how they meet the legislative tests and the County Councils policies

a)The reasons for this proposed change are as follows:

(set out reasons in full)

b)The proposals meet the legislative tests and the County Council’s policies as follows:

(ditto)

The proposed extinguished footpath/bridleway/restricted byway will be the full width of the route from point A at grid reference xxxx xxxx and proceeding in a [northerly] direction for xx metres to point B at grid reference xxxx xxxx and then turns to run in a [north-easterly] direction for xx metres to point C at grid reference xxxx xxxx in the Parish of xxxxxxxx.

Please let me have your response to this proposal in writing, including any suggestions you may have for improving the suggested diversion. If you could let me have your reply within the next 28 days it would be appreciated.

Yours faithfully/sincerely”

Appendix 5 Notice template

FOOTPATH

WE HAVE APPLIED TO NORFOLK COUNTY COUNCIL FOR THE EXTINGUISHMENT OF THIS [PUBLIC FOOTPATH/BRIDLEWAY/RESTRICTED BYWAY]WHICH RUNS ON OUR LAND.

THE PROPOSAL IS SHOWN ON THE ATTACHED PLAN. YOU ARE AT POINT # ON THE PLAN.

WE HAVE AGREED WITH NORFOLK COUNTY COUNCIL THAT WE WILL CARRY OUT CONSULTATIONS BEFORE THEY DETERMINE OUR APPLICATION. IF YOU HAVE ANY COMMENTS TO MAKE ON THE PROPOSED CHANGES TO THE ROUTE PLEASE CONTACT OUR REPRESENTATIVE BY [+28 days] **2018**:

[CONTACT DETAILS]

THANK YOU

THE HIGHWAYS SERVICE AT NORFOLK COUNTY COUNCIL HAS AGREED THE CONTENTS OF THIS NOTICE.

APPENDIX 6

Notice of Decision

NORFOLK COUNTY COUNCIL

NOTICE OF DECISION

**APPLICATION FOR THE CREATION/EXTINGUISHMENT/DIVERSION OF PART
OF /FOOTPATH/BRIDLEWAY/RESTRICTED BYWAY No IN THE
PARISH/TOWN
OF.....**

On Norfolk County Council registered an application submitted by for the modification of the Definitive Map and Statement of Public Rights of Way by the creation/extinguishment/diversion of Footpath/Bridleway/ Restricted Byway numberedin the Parish/Town of..... The proposal is shown on the attached map.

Norfolk County Council hereby gives Notice of the Council's decision to make/not to make an Order under section 26/118/119 of the Highways Act 1980.

The reasons for this decision are as follows:

Dated

County Hall
Martineau Lane
Norwich
NR1 2DH

APPENDIX 7

COSTS/CHARGES FOR PUBLIC PATH ORDERS AND AGREEMENTS

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 Council to charge for the administrative costs incurred in the making of an Extinguishment or Diversion Order where the applicant is the owner, occupier or lessee and in whose interest the Order is intended to be made.

As a general guideline a single simple Order usually costs in the region of £1,850.00. This figure is paid in instalments as follows;

1. Application Deposit - £400.00

When you provide the Council with the Application Form we will require a deposit of **£400** to cover the cost of Officer time involved in site visits/surveys and case discussions.

2. The Making and Publication of the Order - £800.00

You will be invoiced for costs including legal, drafting and sealing fees, public advertisement, posting and inspection of the site notices and service of the Order and Notice on prescribed persons and other interested parties plus any adjustment required from costs accrued in section 1 above.

3. Confirmation of the Order - £650.00

You will then be invoiced for costs including drafting, legal and sealing fees, public advertisement, posting and inspection of the site notices copying of the confirmed Order and Notice of Confirmation. Any final invoice adjustments will be made at this time.

These figures represent an estimate of costs for a simple Order (£1,850.00). Charges may exceed this figure where the proposals involve longer or more complicated Orders.

In some circumstances it may be possible for the applicant to apply for a refund: see the Department of the Environment Circular 3/1993: Recovery of Costs of Public Path and Rail Crossing Orders and the Amendment Regulations: Department of the Environment Circular 11/1996: Recovery of Costs for Public Path and Rail Crossing Orders.

Please note that an Order will not be confirmed by the County Council unless all outstanding bills are paid.

Please note the provisions of section 121(2) of the Highways Act 1980 with regard to compensation which state that the compensation for loss caused by public path

creation orders applies in relation to public path extinguishment orders, rail crossing extinguishment orders, special extinguishment orders, public path diversion orders, rail crossing diversion orders and special diversion orders.

Any compensation which is successfully claimed must be met by the Applicant as provided for by the section 119(5) agreement signed by the Applicant. The Council will have no involvement in any private financial agreements made between adjoining landowners.

Appendix 8

DETERMINATION REPORT

Once the advertising period has ended you should hopefully either have received no objections or be able to negotiate for any objections made to be withdrawn. If no objections to the Order are received we will confirm this to you in writing. If no objections are received or those received are withdrawn you will need to send the Determination Report to the Council. This will enable us to determine whether or not it is possible to confirm the Order. As with the Consultation Report, please give us three weeks' notice of when we may expect to receive it so that we may book time for the decision meeting.

The Determination Report should be sent to us in a ring binder and also by pdf and be divided into the following sections, with numbered pages:

Frontispiece	<ul style="list-style-type: none">• a copy of our checklist (see below) showing that all relevant documents are included
Objections (if made)	<ul style="list-style-type: none">• a tabulated list of any objections received, including a short précis of the objectors' reasons and a tick box to indicate whether their objection was withdrawn• copies of the correspondence entered into with the objectors, <u>clearly divided into sections</u> as with the Consultation Report, including copies of the letters withdrawing the objections.• a statement of your comments on any remaining objections and their validity/relevance to the legal tests
Tests for confirmation	<ul style="list-style-type: none">• a statement of the grounds upon which the Order should be confirmed, with reference to the legal tests and the Council's policies. You should focus on the reasons for which the Order should be confirmed, as the Council will refuse to confirm an Order that it has made if it considers that the confirmation tests are not met.

Upon receipt of the Determination Report in hard copy and pdf the Council Officer will convene a meeting with the Definitive Map Team to discuss whether the Order can be confirmed. You will be notified of our decision.

In the event of there being outstanding objections it should be remembered that the Council is not obliged to proceed with contested Orders, particularly where the objections are valid and relevant. In such an event the Council will seek to abandon the Order and close the case.

If the Order receives objections which are irrelevant and we believe the Order has met the statutory tests and should be confirmed, we may consider sending it to the Planning Inspectorate for determination. Any such determination will occur by written representations, hearing or public inquiry. The Applicant must understand that should we proceed on this basis, we would expect their appointed Agent to be responsible for drafting the necessary statement of case and associated documentation and acting as

the Applicant’s advocate at the inquiry itself. The Council will only carry out such duties that it is statutorily required to do in such an event.

If there are no outstanding objections the Council may decide to confirm the Order. While the Council may have made the Order, there is no requirement that it continues to support the Order or confirm it if it is apparent that the confirmation tests are not met. It is important, therefore, that your Determination Report offers a full and comprehensive explanation as to why these tests are met. As with the Consultation Report we will base our decision upon the contents of the Determination Report and so you should ensure that you provide us with all relevant information to enable us to make an informed decision. If we confirm an Order based on erroneous information there may be a high court challenge which could result in the abandonment of the Order.

Checklist of items to be included with Determination Report

	Items to be included in Determination report	Included
1.	This checklist	
2.	Tabulated list of any objections received and any which have been withdrawn	
3.	Copies of the correspondence entered into with the objectors	
4.	A statement of the grounds upon which the Order should be confirmed	

APPENDIX 9

List of consultees

LOCAL AUTHORITIES

County Council Departments						
County Councillor	For details of the member for your area go to https://www.norfolk.gov.uk/what-we-do-and-how-we-work/councillors-meetings-decisions-and-elections/councillors					
Countryside Access Officer	Telephone (01603) 224357 or 222902 for details of which officer to contact depending on your area.	Norfolk County Council	Martineau Lane	Norwich	NR1 2SG	
Flood and Water Management section (Lead Local Flood Authority)	water.management@norfolk.gov.uk	Norfolk County Council	Martineau Lane	Norwich	NR1 2SG	

Other Councils and Local Authorities						
District/Borough Councils and Town or Parish Councils	For details of the councils go to http://whereilive.norfolk.gov.uk/ or see page 40					
The Broads Authority	For details of the area covered by the Broads Authority go to http://www.broads-plan.co.uk/appendix-3-map-broads-authority-executive-area	Yare House	62-64 Thorpe Road	Norwich	Norfolk	NR1 1RY

USER GROUPS

Ramblers Association						
Mr I Mitchell	5 Montcalm Road		Norwich	NR1 4HX		

British Horse Society						
BHS Access & Rights of Way Department		access@bhs.org.uk				
Mrs H Chester		helenc.bhs@gmail.com				

Cycling Societies (for bridleway, restricted byway and byway open to all traffic rights only)						
	Cyclists' Touring Club	Parklands	Railiton Road	Guildford	Surrey	GU2 9JX

Driving Societies (for vehicular rights only)						
Mr R Mills	Breckland Land Rover Club	32 Sunningdale	Norwich	Norfolk	NR4 6AN	
	Trail Riders' Fellowship			notices@trf.org.uk		
Mr P E Pointer		185 Hungate	Aylsham	Norfolk	NR11 6JX	
Martin Sullivan				martinsullivan4x4@yahoo.co.uk		

Open Spaces Society (all cases)						
Mr I Witham	Open Spaces Society	The Hollies	Church Lane, Edingthorpe	Norfolk	NR28 9TJ	

Byways and Bridleways Trust (all cases)							
(Send to E-mail address)	Byways and Bridleways Trust	57 Bowers Mill	Branch Road	Barkisland	Halifax	HX4 0AD	notices@bywaysandbridlewaystrust.org.uk

EXTERNAL AGENCIES

The Water Management Alliance (formerly Internal Drainage Boards)(all cases involving main drains' & ditches)	Kettlewell House	Austin Fields Industrial Estate	King's Lynn	Norfolk	PE30 1PH	planning@wlma.org.uk
Environment Agency Development Control (where a route runs beside, along or across a river or watercourse) EstatesEnq@environment-agency.gov.uk	Cobham Road	Ipswich	Suffolk		IP3 9JD	
Middle Level Commissioners (drains & ditches)	Middle Level Offices	85 Whittlesey Road	March	Cambs	PE15 0AH	
Norfolk Wildlife Trust	Only consult when the proposal affects a County Wildlife Site					planning@norfolkwildlifetrust.org.uk
Defence Estates Records	St Georges House	Blakemore Drive	Sutton Coldfield		B75 5RL	

- Statutory undertakers (you may find that the statutory undertakers try to charge you as you are not part of a local authority. To prevent this problem we can on request supply a letter confirming that you are acting on our behalf)

STATUTORY UNDERTAKERS

Statutory Undertakers					
Savills (L&P) Ltd (Anglian Water)	FAO: Mr Bryan Houghton	Stuart House	City Road	Peterborough	PE1 1QF
Essex and Suffolk Water	Records Management	Hall Street	Chelmsford	Essex	CM2 OHH
EDF Energy	Plan Provision	Fore Hamlet	Ipswich	IP3 8AA	
British Pipeline Agency	5-7 Alexandra Road	Hemel Hempstead	HP2 5BS		
British Telecom plc	Incoming Notices, PP:RH017	Russell House	St Andrew's Street	Norwich	NR2 4AE
Cable & Wireless Communications	c/o Atkins Telecoms	PO Box 290, 220 Aztec West	Park Avenue	Almondsbury	Bristol, BS32 4SY
Atkins Telecoms (send to E-mail address)					osm.enquiries@atkinsglobal.com
Cadent Plant Protection (Formerly National Grid)	Block 1	Brick Kiln Street	Hinckley	LE10 0NA	plantprotection@cadentgas.com
British Gas plc	London Road	Hemel Hempstead	HP3 9AZ		
Electricity Enquiries	National Grid	PO Box 3484	Warwick		CV34 6TG
Arquiva	Crawley Court	Winchester	Hampshire		SO21 2QA
Virgin Media (Send to e-mail address)	National Plant Enquiries	Cablephone House	Smallheath Business Park	Birmingham	B10 0HJ Plant.enquiries.team@virginmedia.co.uk
Network Rail (where path/way runs beside, along or across the railway)					TownPlanningSE@networkrail.co.uk

Please note that we try to keep the contact list up to date but if you have any problems do contact us.

APPENDIX 10 Contact details for District and Borough Councils

Breckland District Council Elizabeth House, Walpole Loke, Dereham, Norfolk NR19 1EE Tel: 01362 656870 Fax: 01362 692582 Breckland House, St. Nicholas Street, Thetford Norfolk IP24 1BT Tel: 01362 656870 Fax: 01842 765117 Email: contactus@breckland.gov.uk Website: www.breckland.gov.uk

Broadland District Council Thorpe Lodge, Yarmouth Road, Norwich NR7 0DU Tel:01603 431133 Fax:01603 300087 Email: reception@broadland.gov.uk Website: www.broadland.gov.uk

Great Yarmouth Borough Council Town Hall, Great Yarmouth Norfolk NR30 2QF Tel: 01493 856100 Fax: 01493 846359 Email: enquiries@great-yarmouth.gov.uk Website: www.great-yarmouth.gov.uk

King's Lynn & West Norfolk Borough Council King's Court, Chapel Street, King's Lynn, Norfolk PE30 1EX Tel: 01553 616200 Fax: 01553 691663 Email: contact@west-norfolk.gov.uk Website: www.west-norfolk.gov.uk

North Norfolk District Council Holt Road, Cromer, Norfolk NR27 9EL Tel: 01263 513811 Fax: 01263 515042 Email: districtcouncil@north-norfolk.gov.uk Website: www.north-norfolk.gov.uk

Norwich City Council City Hall, Norwich NR2 1NH Tel: 0344 980 3333 Fax: 01603 213000 Email: info@norwich.gov.uk Website: www.norwich.gov.uk

South Norfolk District Council South Norfolk House, Swan Lane, Long Stratton, Norwich NR15 2XE Tel: 01508 533633 Fax: 01508 533695 Email: council@s-norfolk.gov.uk Website: <http://www.south-norfolk.gov.uk/index.asp>

