



APPLICATION TO EXTINGUISH A PUBLIC PATH

GUIDANCE NOTES Please read before completing application form

These guidance notes are for applicants for a Public Path Order to close (extinguish) a recorded public right of way. Applicants should read these notes carefully before completing the application form.

1. Plymouth City Council will only consider applications seeking an extinguishment that meet one of the following criteria: -

- **Section 118 Highways Act 1980** – Where it appears to the council that it is expedient that the path should be stopped up on the ground that it is not needed for public use
- **Section 118ZA Highways Act 1980** – Extinguishment of paths made in the interest of owners, lessees or occupiers of land used for agriculture, forestry or the breeding or keeping of horses.
- **Section 118A Highways Act 1980** - Extinguishment of paths crossing railway lines other than by a bridge or tunnel, made in the interests of public safety.
- **Section 118B Highways Act 1980** - Extinguishment of certain highways for the purposes of crime prevention in designated areas.
- **Section 118C Highways Act 1980** - a special Extinguishment of certain highways crossing school premises for the purpose of protecting pupils and staff from: -
 - Violence.
 - Threat of violence.
 - Harassment.
 - Alarm or distress arising from unlawful activity.
 - Any other risk to their health and safety arising from such activity

2. Applicants should note the City Council are under no obligation to made an Order and reserve the right to refuse to make an Order where it feels the criteria of the legislation are not met, even where informal consultation suggests there are no public objections.

3. The City Council must take account of the extent to which the path in question is likely to be used by the public and the effect that the extinguishment might have on other land served by the path. **In your reason for making an application to extinguish a public right of way you should give a realistic indication of the extent to which the path is used.**

4. If you are not the legal owner of the land over which the public path subsists, you must include his/her written consent on the appropriate certificate or the application cannot be processed. It is important that the City Council clearly identifies the owners of the land affected as well as tenants, because the owners must be consulted and their written consent obtained, before an Order can be made.

The following is a brief summary of the legislative conditions and considerations (in relation to crime prevention) that apply to section 118B.

- A highway authority may only make an order in an area which has been designated by the Secretary of State by order [section 118B(1)(a)].
- The section only applies where it is expedient, for the purpose of preventing or reducing crime, which would otherwise disrupt the life of the community, that the highway should be stopped up [section 118B(1)(a)].

It must appear to the local highway authority that the following conditions are satisfied:

- that premises adjoining or adjacent to the highway are affected by high levels of crime [section 118B(3)(a)]; and
- that the existence of the highway is facilitating the persistent commission of criminal offences [section 118B(3)(b)].

Before making a special extinguishment order, the highway authority shall consult the police authority for the area in which the highway lies [section 118B(6)].

The highway authority (or Secretary of State) shall not confirm a special extinguishment order unless the conditions above are satisfied and it is expedient to confirm the order having regard to all the circumstances, in particular;

- the extent to which the special extinguishment order is consistent with any strategy for the reduction of crime and disorder under section 6 of the Crime and Disorder Act 1998 [section 118B(7)a)];
- the availability of a reasonably convenient alternative route [section 118B(7)(b)]; and
- the effect which the extinguishment would have as respects land served by the highway [section 118(7)(c)].

Any person may object to a special extinguishment order, and opposed orders will be referred to the Secretary of State to decide, with the opportunity for a hearing or inquiry.

Conditions for Special Extinguishment Orders in relation to Public Rights of Way crossing School ground:

The extinguishment is expedient for the purposes of protecting pupils or staff of a school from violence or the threat of violence, harassment, alarm or distress arising from unlawful activity and any risk to health and safety arising from unlawful activity where the applicant is a school proprietor as defined by Section 579(1) of the Education Act 1996 or a Local Education Authority.

PUBLIC PATH ORDERS

RECOVERY OF COSTS

Under the 'Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993' as amended by SI 1996 No. 1978, the City Council is empowered to recover the costs incurred in the making of Public Path Orders. The costs involved in making and confirming an order invariably differ from order to order especially where additional paths are involved or objections to the order are made. At present it is envisaged that a straight forward order will cost in the region of £1,500, however, the actual costs incurred in processing an order will be charged whether more or less than the estimate. The City Council will normally expect to recover the total costs, from the person applying for the order.