Tendring District Council

Please contact the Technical Team via:
Tel: 01255 686190
Email: dcadmin.planning@tendringdc.gov.uk

APPLICATION FOR A PERMANENT STOPPING UP OR DIVERSION ORDER TOWN & COUNTRY PLANNING ACT 1990 SECTION 257

FOR FOOTPATHS, BRIDLEWAYS, RESTRICTED BYWAYS AFFECTED BY DEVELOPMENT

To: Planning Department
Tendring District Council
Town Hall
Station Road
Clacton on Sea
Essex
CO15 1SE
E-mail: dcadmin.planning@tendringdc.gov.uk

Please complete all sections and return to the above address *(it is advisable to retain a copy for your records)* Please read the accompanying notes and Terms and Conditions.

N.B: Tendring District Council is the Order Making Authority for the legal order. However, it will be processed by Essex County Council.

1. Applicant Details:	
Name:	
Address:	
Postcode:	
E-mail Address:	
Phone / Mobile Number:	

2. Agent Details (if applicable):	
Name:	
Address:	
Postcode:	
E-mail Address:	
Phone / Mobile Number:	

3. Details of granted planning permission (including Planning Ref. number & address):

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4. Parish or Town in which the path(s) are situated:

5. Type and numeral of paths to be stopped up or diverted	
Type: (delete as appropriate)	Bridleway / Footpath
Footpath No: (e.g. Footpath No. 10)	

6. Approximate length (m) to be diverted or stopped up:

7. Approximate length and width (m) of alternative paths:

8. On what date is the development affecting the highway expected to begin:

9. Has the development which necessitates the diversion or stopping up already begun? (Please delete where necessary)	**YES***	**NO**
If so, when?		
Is the development substantially complete? (Please delete where necessary)	YES*	NO
*PLEASE NOTE: If you have answered YES to any part of Question 9 you should not continue with this application, and should seek advice from the Local Planning Authority, or ECC Public Path Order team.		

10. Details of Landowners		
Is the land owned by a 3rd party?	YES*	NO
*Where 3rd party landowner consent is required for a diversion, the applicant is responsible for obtaining that consent. At the time of commencement and agreement of the route/order County will draft a consent form for the respective 3rd party landowner to sign, but in the meantime please obtain and provide evidence of their consent/commitment to the proposals.		

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The following information is also required to accompany your application:

- **A PLAN showing the existing and proposed alternative paths.** Please include road names and place names on the map. They should be based on Ordnance Survey, include a North point and be drawn to a scale of not less than 1/2500.

- **A case justifying the proposed stopping up or diversion** should accompany this application either in the form of an Appendix or covering letter.

- **Administrative fee**, payable to Tendring District Council. **Please note:** This is payable upon submission and is separate from the fees invoiced by Essex County Council.

Please Note: Essex County Council will invoice an initial, pre-order fee when they commence the case. They will issue separate invoices based on their costs at the Made Order, Confirmed Order and Certifications stages as appropriate.

Essex County Council will charge applicants directly for their work in processing this application. For information regarding an estimate of the overall cost and the current applicable initial charge please email publicpathorders@essexhighways.org specifying that your enquiry relates to costs for a s257 TCPA order on behalf of a Local Planning Authority.

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TERMS AND CONDITIONS

Charges apply for work undertaken by Essex County Council, together with an administrative fee for work undertaken by Tendring District Council. Essex County Council costs are higher for contested orders.

Essex County Council will invoice applicants directly for their costs: no invoicing of Essex County Council costs will take place through Tendring District Council.

The power to recharge costs is contained in the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993.

By submitting your application, you are providing your agreement to the following statements.

I/We agree:

1. That the application will not proceed until an initial administrative fee has been paid to Tendring District Council.

2. To pay the Essex County Council costs for the following matters:
   (a) preliminary assessment
   (b) determining application i.e. accept, consider and issue decision
   (c) pre-Order consultations and negotiations
   (d) making Orders and compiling plans
   (e) advertising Orders
   (f) confirmation of Orders
   (g) arrangements for works and their certification
   (h) all other costs that may be incurred in the processing of the application

3. There is no authority to stop up a path until an Order has been confirmed and has taken effect as required by the Order, to provide and construct any new route or improvement to an existing highway to be certified by the Highway Authority prior to the old path being closed.
   Where certification is required it should be noted that The Order will not become operative until the diversion route is constructed on the ground, to the satisfaction of the highway authority and in accordance with the specifications as agreed.

4. The existing path(s) is/are not obstructed and are open to public use

5. To pay any invoice or demand for payment from Tendring District Council or Essex County Council within 21 days of the date of the invoice or demand

6. To reimburse all costs associated with processing this application

7. Should objections be lodged, and not withdrawn, the applicant will reimburse the cost of any resulting inquiry or hearing

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8. Should objections be lodged and not withdrawn, and upon referral to the Secretary of State, the Order is subsequently dismissed (but not on the ground of invalidity), monies paid by the applicant for costs incurred up to the made Order stage are non-refundable

9. To meet the cost of providing any telecommunications apparatus in substitution for any apparatus rendered useless in the opinion of the operator as a consequence of the removal or abandonment of apparatus under, in, on, over, along or across the path to be stopped up.

I/We agree to the above Terms and Conditions, and declare that, to the best of my/our knowledge and belief, all the particulars inserted on this form are true and accurate.

Applicant Print Name(s)	
Applicant Signature(s)	
Date	

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Guidance on Statutory Criteria for a Town & Country Planning Act 1990 Order

1. Tendring District Council as the competent authority may by Order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so to enable development to be carried out in accordance with planning permission granted under Part III of the Act.

2. An order under the Act, if the competent authority is satisfied that it should do so, provides for the creation of an alternative highway for use as a replacement for the one authorised by the Order to be stopped up or diverted, or for the improvement of an existing highway for such use; for authorising or requiring works to be carried out in relation to any footpath, bridleway or restricted byway for whose stopping up or diversion, creation or improvement provision is made by the Order; for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the Order is under, in, on, over, along or across any such footpath, bridleway or restricted byway; for requiring any person named in the Order to pay, or make contributions in respect of the cost of carrying out any such works.

3. Planning permission granted does not mean that the public right of way will therefore automatically be diverted or stopped up, the disadvantages or loss likely to arise because of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed Order.