Development Department
Application for a Stopping Up or Diversion Order
Town and Country Planning Act 1990 Section 257

Important

- You have no authority to Stop Up or Divert a highway until the notice announcing that the City Council or the Secretary of State has confirmed the order, has been published. Not only is it an offence to obstruct or interfere with a highway before this is done, but it may also make it impossible for the Order to be made or confirmed
- Please read the Guidance Notes before answering the questions
- Please ensure all the necessary enclosures accompany this form (see Guidance Notes)

A – Names and Addresses

Please give:

The address of the place where the highway(s) is/are situated	Postcode
The developers full name address and telephone number (private or business)	Postcode Telephone
If a limited company, address of Registered Office	Postcode Telephone
The agents full name, address and telephone number. (if no agent, put 'none')	Postcode Telephone

B – The Development

Describe briefly the development that necessitates the proposed stopping up or diversion. Would you also attach a statement justifying this stopping up or diversion, either as an appendix or as a covering letter?

- If known at this stage, what is the planning application reference for the development?

- If known at this stage, what is the date planning permission was / will be granted?

- On what date is work on the development expected to start?

- Is there a related compulsory purchase order, or other statutory action? Yes ☐ No ☐

If 'Yes, please give details.

C – Highway to be (*stopped up) or (*diverted) (*delete as appropriate)

- Is it:- Bridleway ☐ Footpath ☐ Byway ☐
- What is its name?

  and number (if known) ☐

- Description of each section

	Length (metres)	Width (metres)	Terminal Points (use OS grid reference points) From	To
1			SK	SK
2			SK	SK
3			SK	SK
4			SK	SK

- Who owns the land on either side of each section?

1	
2	
3	
4	

D – Consents

Warning – If there is no evidence to the contrary, then it is presumed that the owners of the adjoining land own the sub-soil of the highway, up to the centre line. The making of an order may be delayed or frustrated if you fail to obtain consent from the owner of the sub-soil. Even if an order is made, a development may be frustrated if consent has been withheld.

- Have you obtained written consent from everyone who has interest in the land to be developed insofar as consent is needed before the development can be carried out? Yes ☐ No ☐

  If 'Yes', please attach these consent's.
  If 'No', please give particulars below of those you have yet to obtain.

(Continue on separate sheet)

E – New alternative highway to be created (for use as replacement for the one authorised by the order to be stopped up or diverted) - Will it be -

All-purpose highway ☐ Bridleway ☐ Footpath ☐ Byway ☐

- Description of each section.

	Length (metres)	Width (metres)	Terminal Points (use OS grid reference points) From	To
1			SK	SK
2			SK	SK
3			SK	SK
4			SK	SK

- Who owns the strip of land to be dedicated as new highway?

- If the applicant will not own or control the land to be dedicated, has the landowner's consent been given to the proposed dedication? Yes ☐ No ☐
  If 'Yes', please attach copies of any correspondence

F – Existing highway to be improved (for use as replacement for the one authorised by the order to be stopped up or diverted) Will it be -

All purpose highway ☐ Bridleway ☐ Footpath ☐ Byway ☐

- What is its name?

  and classification (if any)

- Description of each section

	Length (metres)	Width (metres)	Terminal Points (use OS grid reference points) From	To
1			SK	SK
2			SK	SK
3			SK	SK
4			SK	SK

- Describe the improvement briefly (continue on separate sheet if necessary)

G – Undertaking and Declaration

I/We declare that:-

I/We understand that authority to stop up or divert a highway is conferred solely by the publication of a notice announcing that the order has been confirmed.

- I/We undertake that:-
  Except to the extent authorised above, such highway shall in no way be obstructed before the order has been confirmed and comes into operation.
- All information given in this form is, to the best of my knowledge and belief, true and accurate.
- I/We apply for an order to authorise the stopping up or diversion of the highway(s) described above.
- I/We agree to pay any costs, which may be incurred, under Section 257(2) of the Town and Country Planning Act 1990.
- I/We agree to pay all of the City Council's legal, administrative and advertising costs in connection with the making and confirmation of the Order (please see below Guidance Notes and Charging for Public Path Orders)

Name	Signed:	Position:	Date
……	……	……	……..
……	……	……	……..

Please check that you have enclosed everything specified on the form and Guidance Notes, then send your completed application and payment to:

Nottingham City Council
Development Department
Traffic Management
Loxley House
Station Street
Nottingham
NG2 3NG

☐ Check list of items to be submitted with application. Please tick to check enclosures.

☐ If available at this stage, the approved planning permission

☐ If available at this stage, one set of plans approved by the planning permission, including the site layout plan.

☐ One copy of existing highway layout taken from an up to date Ordnance Survey map scale 1:1250 or 1:500 as agreed.

☐ One copy of proposed order plan, showing the highway to be stopped up or diverted, to scale as above

☐ One copy of a plan showing the existing highway to be improved or the new highway to be created

☐ One copy of section 106 Agreement (if applicable)

☐ One copy of Compulsory Purchase Order details (if applicable).

☐ Copies of correspondence with statutory undertakers

☐ Copies of any correspondence with the Highway Authority

GUIDANCE NOTES

Please read carefully before completing the application forms for Stopping Up or Diversion Orders under Section 257 of the Town and County Planning Act 1990

Definitions

"Highway" means a strip land over which the public has certain rights of way

"all purpose highway" is a way over which the public have rights of way on foot and with vehicles, and over which they may exercise an animal that may use a bridleway

"carriageway" means a way forming all, or part of, a highway (other than a cycle track) over which the public have a right of way for the passage of vehicles.

"public footpath" is a way over which the right of way is on foot

"public bridleway" is a way over which the right of way is on foot, horse back, leading a horse, pedal cycle and in some instances to drive animals

"byway open to all traffic" (BOAT) is a carriageway and therefore a right of way for vehicles, but one used mainly for the purposes for which footpaths and bridleways are used

"restricted byway" is a way over which the right of way is on foot, on horse or leading a horse and on a vehicle (other than mechanically propelled) including pedal cycles and horse drawn carriages

"cycle track" means a way forming all, or part of, a highway, over which the public have a right of way on pedal cycles, with or without a right of way on foot. There is no other right of way on a cycle track

Powers

Under Section 257 of the Act, the City Council may, by order, authorise the stopping up or diversion of footpaths bridleways and byways, if satisfied that it is necessary to do so to enable development to be carried out in accordance with planning permission already granted, or in anticipation of planning permission being granted, as the case may be, under Part III of the Act. Therefore where planning permission has already been granted a copy of the planning permission must be submitted with this application or in anticipation of planning permission being granted a copy of the planning application, must be submitted with this application.

Plans required for submission

One copy of existing highway layout taken from an up to date Ordnance Survey map of a scale not less than 1:2500 or as agreed. The plan should show existing highways, with the terminal points of the lengths of the highway proposed to be stopped up, diverted or improved, clearly labelled.

An unmarked copy of the above plan is also required

All plans must clearly show a north point preferably shown parallel with the vertical side of the plan.

Highways must be identified in orders in words e.g. “the footpath/bridleway leading to Nottingham Road from London Street”. Sufficient Information should be given on the plans to enable an adequate description to be prepared.

Distances and highway lengths shall be provided in metric measurement.

Objections

If any objections to the proposed order are made to the City Council, they will be copied to the applicant so that the applicant may, if they wish, negotiate with the objectors with a view to resolving the objections.

Where objections cannot be resolved within a reasonable time scale, it may be necessary for the Secretary of State to hold a Local Inquiry. In such cases, the period before a decision is taken will be considerably long, possibly a year or even longer in some cases.

General Information

If you believe that a path, track or way exists on the land that may be affected by the proposed development and that the public have had access to and along that path, track or way you are advised to discuss the proposal with one of the City Council’s Highway Authority officers as early as possible. They will be able to advise whether the path, track or way is a public right of way and whether the effect of the development on the line of the path, track or way meets the basic statutory criteria (which are detailed in the Guidance Notes under Powers) and that the making of an order can be fully justified. A site visit would generally be necessary between the applicant(s)/developers and representative(s) of the Highway Authority.

In normal circumstances, the City Council will only consider the stopping up of a highway if an existing alternative highway can be improved to act as a replacement for the one(s) being authorised to be stopped up, or a new highway can be created or where it is neither practical nor physically possible for a diversion to be used instead.

Please Note: You will also need to provide evidence of who has title to the land concerned.

Charging for Public Path Orders

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 City Council to charge for the administrative costs incurred in the making of a Public Path Order.

Following receipt of the application, if it is agreed that it is reasonable to proceed there is a charge of £3,000 for the Order. This covers the cost of site meetings, preparing and advertising the Order and maintaining Notices on site during the statutory consultation period and the cost of confirming the Order including preparing and maintaining the Notices and advertising. Please send a cheque for £3,000 payable to Nottingham City Council with the completed forms to:-

Nottingham City Council
Development Department
Traffic Management
Loxley House
Station Street, Nottingham, NG2 3NG

Please Note: an Order will not be confirmed by the City Council, or submitted to the Secretary of State for confirmation, unless all payments are honoured.

There may be additional costs to the applicant if the Order is opposed, and the applicant wishes to continue, and a public inquiry is deemed necessary to determine the opposed Order.

There may also be additional costs related to bringing a newly created highway or an existing highway to act as a replacement for the one(s) authorised by the order to be stopped up or diverted into a fit and proper condition for public use.

The steps in processing an application

Once the City Council has agreed a proposal and received the application it takes approximately 5 months (which includes the 28 day statutory consultation period and a 6 week challenge period which starts following confirmation of the Order) before the Order can be confirmed and changes made to the highway, providing there are no objections. On receipt of an application, the following steps will take place:

- If the decision is to proceed with the application and make the Order, the necessary authorisation for the making and confirmation of the Order is obtained from the relevant City Council body.
- The Order and Order Map is prepared and the Notice is advertised in a local newspaper and on site and all statutory consultee's are consulted.
- If no objections are received by the Council in the 28 days following publication of the Notice, the Council may confirm an Order itself. There is then a 6 week challenge period where anyone may challenge the Order on the ground that the Council did not have the power to make and/or confirm the Order.
- If there are objections, and the objector(s) cannot be persuaded to withdraw their objection(s) then the Council cannot confirm the Order itself, but may decide either not to proceed further (revoke the Order), or to submit the Order to the Secretary of State, who may request a public inquiry to be held. There is no guarantee that the order will be confirmed.
- Following an inquiry, the Inspector appointed by the Secretary of State would give a decision on whether the opposed Order is or is not confirmed.

These stages of the process could take anything from 6 months to two years, depending on objections and the need for negotiation and/or a public inquiry.