

## Public Guidance Note 23

### Special Diversion and Extinguishment Orders on School Grounds

#### Introduction

As part of the Countryside and Rights of Way Act 2000 amendments were made to the Highways Act 1980 to allow special extinguishment and diversion applications to be made for Public Rights of Way that run through school grounds.

Under section 118B and 119B the Council have the power to make orders to extinguish or divert Rights of Way where it feels it is expedient to do so in order to protect staff and pupils from:

- violence
- harassment
- alarm or distress arising from unlawful activity, or
- any other risk to their health or safety arising from such an activity

Before confirming such an order, the Council or the Secretary of State must consider other measures that have been or could have been taken to improve security and must be satisfied that the order will significantly improve safety.

#### Who can apply for a special order under these provisions?

Under Section 118C and 119C the proprietor of the school can make an application to the Council (proprietor means the person responsible for the management of the school). The order will be made under section 118B and 119B and the tests to be met are stated above.

#### What is the procedure for applying for a Public Path Order?

- 1) An application form, details of the legal criteria, procedures and costs will be initially sent out to the applicant.
- 2) A site visit will be undertaken by the Rights of Way Mapping & Enforcement Officer for the area to determine the suitability of the proposal.
- 3) The applicant will be required to consult with the relevant consultees (list supplied by officer) on the proposal prior to submitting the application form.

- 4) If objections are received to the proposal a report will be written and passed to the delegated officer for consideration. If no objections are received the issue will still be dealt with by delegated powers. If approval is given the legal order can be made.
- 5) There is then an objection period of 28 days during which formal objections can be made. If there are no objections, then the order can be confirmed after the necessary work has been undertaken to open up the new route and the route has been certified as operational by an officer.
- 6) If formal objections are received, the council will consider the objections and try to resolve them. If this is not possible then the order has to be forwarded to the Planning Inspectorate for determination who will decide whether the order is to be determined via Public Inquiry, Public Hearing or whether the written representation procedure can be undertaken.
- 7) The order may or may not be confirmed.

#### **How much does it cost?**

If the proprietor of the school applies, the council may request that the fees incurred by the making of the legal order are paid for by the school. Please refer to the standard cost schedule as laid out in Public Guidance Note 9.