Application to Extinguish a Public Right of Way Information Pack

Advice to Applicants

Before you apply
The process for extinguishing a public right of way can be lengthy and contentious, and the outcome cannot be guaranteed. It is therefore recommended that you discuss your proposals with the Rights of Way Team before you submit your application.

The Council's power to make these orders is discretionary. Applications will only be processed once a fully completed application form has been received and the Council is satisfied that the proposal meets the requirements of the Highways Act.

The application must be accompanied by two Ordnance Survey maps at a scale of 1:2,500 (or similar). One map should show the proposed extinguishment, and the second should identify those who own, occupy, or otherwise have an interest in the land affected by the existing path. Maps to accompany an application can be provided on request.

The existing route proposed for extinguishment must remain open and available for use until the Order has been confirmed and comes into effect. If the path is obstructed and the Extinguishment Order is not confirmed, the obstruction must be removed.

WCC Policy
The Rights of Way and Recreational Highway Strategy (RoWRHS) sets out how applications are prioritised.

Please read the Policy and Priorities section of this information pack before submitting your application. If you can offer additional public benefits, your application may be given a higher priority.

The Process
The process will take several months and, in particularly contentious cases, may take several years. The Council operates a policy that prioritises cases according to the public benefit they provide. It may therefore be some time before your application is processed. If you can offer additional public benefits, this may help your application achieve a higher priority. A flowchart illustrating the process is included at the end of this pack.

For further information, please contact:
Sonu Copson
Rights of Way Definitive Map Officer
Email: paths@warwickshire.gov.uk

Write to:

Warwickshire County Council
Rights of Way Team
PO Box 43
Shire Hall
Warwick
CV34 4SX

Public Path Extinguishment Order Section 118 Highways Act 1980

Notes for Applicants

Please read and retain these notes

Important
Before completing the application form, you are advised to contact the Rights of Way Team to discuss the feasibility of your proposal and whether it meets the relevant legal tests. However, discussing a proposal with the Rights of Way Team does not guarantee that an Order will be made or confirmed. The Rights of Way Team can also provide you with two suitable maps to accompany your application.

Path details
Each path has a unique number, for example AL124. Paths will be numbered on the maps available from the Rights of Way Team which should be used to accompany this application.

Reasons for application
For an extinguishment application to succeed, the applicant must show that the proposed extinguishment satisfies the requirements set out in the legislation:

(a) whether the path or way to which the public path extinguishment order relates is needed for public use, or

(b) to what extent (if any) that path or way would apart from the order be likely to be used by the public,

Please explain why this is the case on the application form.

Ownership
If you have proof of ownership of the land crossed by the existing route, please provide this with the application. It is important that every person with an interest in the land crossed by the existing route signs and completes Section 6 of the application form. This is to declare their interest in the land and confirm whether they intend to seek compensation.

"Interest" in land would include owners, tenants, those with private rights of access, shooting rights, other sporting rights or anyone relying on a public right of way as a means of access to property. If you are in any doubt, please contact the Rights of Way Team.

Failure to declare a third-party interest may delay the process or invalidate the Order.

Policies
The Policy and Priorities section sets out priorities for dealing with cases.

Existing route

The existing route must remain open until any Order affecting it has been confirmed and brought into effect.

Compensation

Although uncommon, compensation claims may arise from changes made to routes over land in which third parties have an interest. The person who signs the form as the applicant will be required to pay for any compensation which becomes payable.

Maps

Two maps are required at a scale of not less than 1:2,500.

Map A should clearly show the sections of path to be extinguished as a continuous bold black line and any unaffected routes shown as a bold black broken line.

Map B should show the boundaries of all parties with an interest in the land.

Consultations

Informal consultations are carried out on each application with relevant consultees before a formal Order is prepared. If objections are received when the Order is formally made, the Order cannot be confirmed by the Council and may be referred to the Secretary of State for determination.

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Policy RW5a: Creations, diversion, conversion and extinguishments

The County Council will prioritise creations, diversions, conversions and extinguishments on the rights of way and recreational highway network according to the following criteria and deal with them accordingly.

Any of the following will be treated as **High Priority:**

- Where there is a clear benefit to public safety e.g. at-grade rail level crossings or major road crossings.
- Where an application is made under Highways Act 1980 Sections 118B or 119B (crime prevention), Section 119D (SSSIs). ***(NB Legislation for s118C or s119C; schools special orders not yet in force.)***
- Where a path is in danger of being (naturally) eroded.
- Where an additional link, higher status or new path is dedicated (or created) which will have a significant positive impact on the local network and/or local population.
- Where an order (or combination of orders) will contribute to achieving actions **within** the ROWIP Implementation Plan.
- Applications processed by the County Council in its capacity as the Planning Authority.

Any of the following will be treated as **Medium Priority:**

- Where processing an order could save significant costs incurred in processing other orders.
- Where an order will significantly benefit members of the public using a highway, i.e. where an order is in the public interest.
- Where the town/parish council or district/borough council resolve to actively support the proposal or where they are the applicant.

- Where, in the opinion of Warwickshire County Council heritage or ecology professionals, an order is necessary to safeguard an archaeological or ecological feature.

Any of the following will be treated as **Low Priority:**

- Where an order is principally in the landowner's or land manager's interest and meets none of the above criteria.

- Orders and agreements promoted by WCC and which meet none of the above criteria.

- Orders and agreements which resolve Definitive Map and Statement anomalies, but which meet none of the medium or high priority criteria.

Applications should be made in writing on the relevant form, and the relevant charges will apply.

The County Council will make a number of orders and agreements each year in order to achieve ROWIP Implementation Plan actions. Whilst the County Council will try to reach agreement with persons who have an interest in the affected land, it will inevitably mean progressing orders contrary to the wishes of some individuals or landowners/land managers.

Charges for the Process of Making a Public Path Order

The charge payable to Warwickshire County Council (WCC) for processing a Public Path Extinguishment Order application is **£3,534.00**, plus advertising costs*. The outcome of an application cannot be guaranteed.

***Charges are valid from 1 April 2026 until 31 March 2027 unless amended in the interim.**

Payment becomes due once the application has reached the Order Making stage. If the Order is opposed and subsequently confirmed by the Secretary of State, advertising costs will also be charged.

Please note:

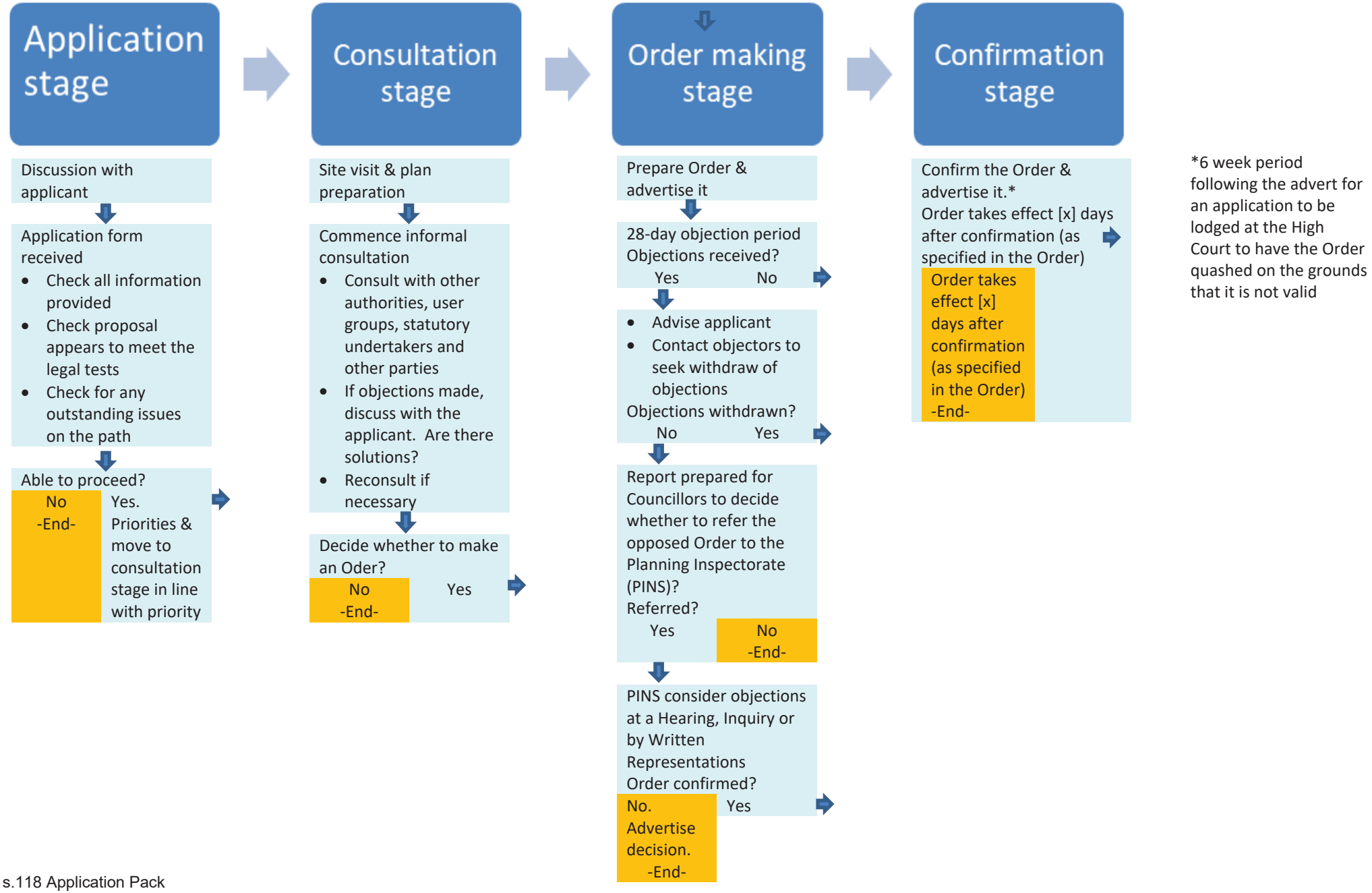
- If you withdraw the application, or if the application is withdrawn following objections at the consultation stage, we will charge 30% of the total costs.
- If the application is abandoned following objections at the Order Making stage, we will charge the full costs, less any charges associated with advertising at the confirmed Order stage.
- Any payments made are non-refundable if ownership of the land changes while the Order is being processed.

No guarantee of success

Officers will make every effort to minimise unnecessary costs for the applicant and will advise on the realistic prospects of success. However, applicants should be aware that costs are not refundable if an Order fails to be confirmed.
A proposal may fail at a number of stages, including:

- If a proposal does not meet the legal tests for making an Order, WCC will provide the applicant with an opportunity to amend the proposal.
- If an Order receives objections and the authority considers that it is unlikely to be confirmed by the Planning Inspectorate, a decision may be taken to abandon the Order at that stage.
- Even where WCC submits an Order to the Planning Inspectorate, the Inspector may decide not to confirm the Order.

Flow Chart Showing Application and Order Making Process - s118 Highways Act 1980



*6 week period following the advert for an application to be lodged at the High Court to have the Order quashed on the grounds that it is not valid