

GLOSSARY OF HIGHWAY TERMS

For use by Tees Valley Local Access Forum members

Welcome to the Tees Valley Local Access Forum Glossary of Highway Terms.

What follows is our attempt to put into plain English those terms regularly used by Highway Engineers, Planners and Rights of Way Officers, so we can all understand what is being discussed.

We trust we have explained clearly the different types of similar terms and included those that have recently been superceded.

The list as they say, is not definitive, if there are any terms we have missed and you believe needs including, please let us know.

Robin Daniels
Chair Tees Valley Local Access Forum

For further information please contact:

Development Officer
Tees Valley Local Access Forum
Hartlepool Borough Council
Civic Centre
Hartlepool
TS24 8AY
Tel: (01429) 523419
Email: rightsofway@hartlepool.gov.uk

www.teesvalleylocalaccessforum.co.uk

Contents

- Definitive Map and Statement**
- Barrier Requests**
- Gating Orders/Public Space Protection Orders**
- Pedestrian Counters**
- Definitive Map Modification Orders**
- Public Path Creation Agreements**
- Public Path Creation Orders**
- Section 116**
- Public Path Extinguishment Orders**
- Public Path Diversion Orders**
- Public Path Extinguishment & Diversion Orders as part of a Development**
- Section 31 (6)**
- Legal Event Orders Omnibus**

Definitive Map and Statement

The only legally conclusive register of all recorded Public Rights of Way. It is conclusive evidence in law for what it shows without prejudice to other highways or higher highway rights existing which are not shown. It can only be altered by going through the correct legal process, which are described later in this glossary.

It comprises a series of maps and a written statement describing each Public Right of Way. The legal copies of the Definitive Map and Statement are kept by the Highway Authorities and can be viewed by the public. On occasion Parishes may hold copies of the Definitive Map for the Public Rights of Way in their Parish; these copies must be available for the public to view.

Barrier Requests

A Highway Authority may provide and maintain a 'barrier, rail or fence' in a footpath for the purpose of safeguarding users. A County or District Council may place objects or structures on a highway for the purpose of enhancing the amenity of the highway and its immediate surroundings, or for providing a service for the benefit of the public or a section of the public.

The power may be exercised to restrict the access of the public to any part of the highway provided that what is placed does not prevent traffic, other than vehicular traffic, passing along the highway. It would seem that the power extends to the erection of barriers to restrict vehicles using a bridleway or footpath.

Gating Orders/Public Space Protection Orders

Gating Orders were replaced by Public Space Protection Orders (PSPO) in the Anti-Social Behaviour, Crime and Policing Act 2014. The Act deals with a wide range of issues but the provisions that are of interest to us are set out in sections 59 to 75 which give local authorities the power to make PSPOs.

These orders are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life by imposing conditions on the use of that area which

apply to everyone. They are designed to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

PSPOs and a number of other measures are intended to combat anti-social behaviour (e.g. designated public place orders and Dog Control Orders).

The power to make these new orders was commenced on 20 October 2014 and since that date authorities have been unable to make new Gating Orders. Gating Orders already in existence will continue to have effect. Unlike Gating Orders, under a PSPO it may be possible to restrict specific activities that cause anti-social behaviour rather than the access in totality.

Existing Gating Orders can be converted to PSPO's now or in 3 years time, but in all cases they only last for a maximum of three years before they have to be renewed. They are made at the cost of the local authority and do not have to be advertised in the newspaper.

Pedestrian Counters

Used by owners/managers of sites or buildings to establish how many walkers, cyclists and cars visit.

Visitor counter equipment can record usage of footpaths, gates, stiles, car parks, country roads and exhibition buildings. Many land management organisations need this data to evaluate their present public services, to attract new funds, and to prioritise and develop future projects.

Definitive Map Modification Order (DMMO)

Anyone may apply to their Borough Council for a Definitive Map Modification Order (DMMO) to amend the Definitive Map & Statement if they believe that they are inaccurate or incomplete. Anyone applying must have evidence to support their claim. They can do this under the Wildlife and Countryside Act 1981.

Public Path Creation Agreements

These use a Council's power under s25 of the Highways Act 1980 to enter into an agreement for the dedication of a footpath, bridleway or restricted byway. A Council will require anyone dedicating a new route by a creation agreement to show that they do have power to do so. This usually means supplying proof of ownership of the land in question.

Public Path Creation Orders

These use a Council's power under s26 of the Highways Act 1980. Before making an order to create a new footpath, bridleway or restricted byway must appear to the Council that there is a need for the new footpath, bridleway or restricted byway.

Section 116 Highways Act 1980

Where areas of public highway are considered by the Borough Council, (as Highway Authority), to be unnecessary for highway purposes, the highway rights can be extinguished or stopped up by an Order made by Magistrates.

They can also be diverted, provided a suitable alternative exists or can be made available. In order to do either of these, an application has to be made to the Magistrates Court by the Council on behalf of an applicant under Section 116 of the Highways Act 1980.

The successful making of such an Order will extinguish the highway rights over the land concerned and free it from Highway Authority control. Should the owner then wish to enclose or develop the land,

planning consent may be required.

Public Path Extinguishment Orders

These use a Council's power under s118 of the Highways Act 1980. Before making an order a Council needs to be satisfied that the footpath, bridleway or restricted byway is not needed for public use.

It also needs to take into account what the likely use of the footpath, bridleway or restricted byway be if an order was not made, and also the effect the change would have on the land the route currently crosses.

Public Path Diversion Orders

The Council uses these orders under s119 of the Highways Act 1980. Before making the order, the Council needs to be satisfied that:

- it is expedient to divert the path in the interests of the public or the landowner,
- the diversion does not alter the termination of the path other than to another point on the same path or another highway connected with it and which is substantially as convenient to the public,
- the diversion is expedient in the interests of the persons stated in the order,
- the path will not be substantially less convenient to the public as a consequence of the diversion and
- that it is expedient to confirm the order having regard to the effect it will have on public enjoyment of the path as a whole, on the land served by the existing path and on the land affected by the new path.

Public Path Diversion and Extinguishment Orders as part of a Development

These are found under s257 of the Town and Country Planning Act 1990. A Council uses this power if it is satisfied that it is necessary for the footpath, bridleway or restricted byway be diverted or stopped up in order to enable development to be carried out in accordance with planning permission granted by the council. The changes, disadvantages and/or loss likely to arise to users of the route as a result of the change are also factors to be considered by the Council.

Section 31(6)

Highways statements and highways declarations under section 31(6) of the 1980 Act allow landowners to prevent their land being recorded as highway on the Definitive Map on the basis of presumed dedication. A highways statement or a previous highways declaration must be followed by a highways declaration within a 10 year period. These statements and declarations are not retrospective and only take effect from the date when the statement and declarations were first lodged/recorded.

Legal Event Orders Omnibus

Councils must continue to review and update the Definitive Map and Statement as part of a Statutory Duty under the Wildlife and Countryside Act 1981, s53. This section allows and provides for a Council to update the Definitive Map and Statement, taking into account any Public Path Orders that have taken place since the last review and update.

The Council can then produce a new legal copy of the Definitive Map to replace the previous copy. These small physical changes will mirror the diversions, creations and extinguishments that have been confirmed and agreed so that the legal map will agree with the 'on the ground' changes wrought by the order.