

Public Rights of Way Training

Gwyn Teague

Public Rights of Way Officer
Vale of Glamorgan Council

Definitive Map and Statement

- Highways recorded on the map are exclusively
 - Footpaths
 - Bridleways
 - Restricted Byways
 - Byways open to all traffic
- Map legally conclusive of the existence and location of rights.
- Statement conclusive of position, width, limitations and conditions
- Not conclusive of what isn't contained

Changing the Network

- Creation, diversion or extinguishment of PROW requires legal mechanism.
 - Town and Country Planning Act 1990 (TCPA1990)
 - Highways Act 1980 (HA1980)
 - Diversion
 - Extinguishment
 - Creation Order
 - Creation Agreement
 - Other Legal Instruments
 - Side Road Orders
 - Acts

Public Path Diversion Orders (TCPA s257)

- Applicability:
 - Footpaths, bridleways, restricted byways.
 - Create, Extinguish, Divert
- Necessary to do so in order to enable development to be carried out
 - Cannot make order until planning permission has been awarded
 - Cannot confirm order if development has been completed

Public Path Diversion Orders (HA1980 s119)

- Applicability:
 - Footpaths, Bridleways, Restricted byways.
- Diversion of paths must be expedient in the interests of the landowner or the public.
- Diversion must not alter point of termination of the path
 - If that point is not on a highway
 - Where it is on a highway, to another point which is on the same highway or, another one connected with it, and which is substantially as convenient to the public.

Public Path Diversion Orders (HA1980 s119)

- The diversion is subject to certain legal tests before it can be confirmed
 - Termination point and expediency in the interest of the public/landowner
 - Diverted path will not be substantially less convenient to the public.
 - Expediency having regard to the effect it would have on:
 - Public enjoyment of the path or way as a whole.
 - Other land served by the existing public right of way, taking into account provisions for compensation.
 - The new path or way on the land over which it is to be created and any land held with it, taking into account provisions for compensation.
 - Any material provisions included within the Rights of Way Improvement Plan for the area.

Public Path Extinguishment Orders (HA1980 s118)

- Applicability:
 - Footpaths, Bridleways, Restricted byways.
- Extinguishment of path where it is not needed for public use having regard to:
 - The extent to which that the path or way would, apart from the Order, be likely to be used by the public.
 - The effect on land served by the path or way, account being taken of the provisions as to compensation.
 - Section 118(6), which allows for temporary circumstances preventing the use of the way being disregarded.
- May be made concurrently with creation orders

Public Path Creation Orders (HA1980 s26)

- Applicability:
 - Footpaths, Bridleways, Restricted byways.
- Creation of path where one is needed and it is expedient to do so having regard to:
 - The convenience or enjoyment of a substantial section of the public; or
 - The convenience of persons resident in the area.
- Other consideration include:
 - Rights of persons interested in the land
 - Compensation
 - Agriculture, forestry and conservation
- May be made concurrently with extinguishment orders

Public Path Creation Agreements (HA1980 s25)

- Applicability:
 - Footpaths, Bridleways, Restricted byways.
- Requires owner to demonstrate capacity
- May provide for
 - Compensation
 - Works
 - Conditions compatible with a PROW
- May not be taken into account alongside extinguishment unless already in force

Magistrates Court Applications (HA1980 s116)

- Applicability:
 - Footpaths, bridleways, restricted byways, byways open to all traffic.
 - Extinguish, Divert
- Authority should have good reasons for not making use of other powers
 - Scheme includes vehicular rights
 - Extinguish vehicular rights subject to retention of lower status route