

**Authorisation of a Structure on
a Public Footpath or Bridleway**

Section 147 Highways Act 1980



CAPITA SYMONDS

Application and Agreement of Works (FORM 1)

This is an application for authorisation to erect a structure on a public footpath or Bridleway which crosses agricultural land, in order to prevent the ingress or egress of animals. Pleas note that forms are publicly available and the Document may be shown to any member of the public requesting it.

Public Footpath/Public Bridleway* Number.....

Parish.....

Applicants Details:

Applicant's Full Name:	
Address/Description of Land affected:	
For the Above Land, I am the	<input type="checkbox"/> Owner <input type="checkbox"/> Occupier <input type="checkbox"/> Tennant
This land is used For	<input type="checkbox"/> Agriculture <input type="checkbox"/> Forestry <input type="checkbox"/> Breeding/keeping horses <input type="checkbox"/> Other - Please give details.
Applicant's Contact Details Postal address, Phone and email	<div style="text-align: center;">    </div>

Schedule

Type of Public right of way	<input type="checkbox"/> Public Footpath <input type="checkbox"/> Public Bridleway
Location of structure (8 figure Grid Ref)	
Is a Plan of the of the location enclosed, showing fencing layout and the location of the Structure?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Type of Structure Requested Note : a stile is no longer considered acceptable for a new location because of the requirements laid out in the Equalities Act (2010).	<input type="checkbox"/> Formal gap (narrower than legal width of Right of way) <input type="checkbox"/> Field Gate <input type="checkbox"/> Deer Gate <input type="checkbox"/> Bridleway gate <input type="checkbox"/> Pedestrian gate <input type="checkbox"/> Accessable kissing gate <input type="checkbox"/> Kissing Gate <input type="checkbox"/> 2 Step Stile
Width	
Material	
Details of Catches and hinges	
Reason for Choice of this kind of Structure.	
Construction	<input type="checkbox"/> I will undertake the construction myself and ensure that it conforms to the set standard. <input type="checkbox"/> I would like the Council to undertake the Construction at my expense. (the applicant should check that they are satisfied that the finished works conforms to the agreement.

Reason for application:

Type of animal to be controlled	
Reasons why movement needs to be controlled	
Type of Boundary	<input type="checkbox"/> New fenceline / boundary <input type="checkbox"/> Replacing existing structure (please state existing) <input type="checkbox"/> New Structure in existing boundary (currently no access)
Plan	<input type="checkbox"/> A plan of the area showing the Location of the Right of way, the location of the proposed structure and the Fencing layout has been attached to this form.

Terms and Conditions:

The Applicant(s) hereby agree(s) to these conditions and acknowledge(s) that the Council may withdraw or revise this Authorisation at any time and may require the structure's removal or remove it themselves if it is in breach of any of the conditions or Legislation.

1. The Authorisation covers only the structure specified; no other type of structure will be installed.
2. All structures will be of suitable material and constructed to a specification that conforms to BS5709:2006 and agreed with the Blackburn with Darwen Public Rights of Way team.
3. All Gates must be fitted and maintained with a suitable latch, enabling it to be easily opened and closed by lawful users from both sides at all times. On Bridleways the latch must be positioned so that it can be operated from horseback and foot without difficulty.
4. No part of the structure will be used as a straining post for fencing and no barb/eclectic wire will be attached to or within 1m of the Structure.
5. To avoid surface poaching, no water troughs or feeders are to be located within 10m of the Structure.
6. All structures will be the property of the Landowner and their successors in title, and will be regularly inspected and maintained by them in a safe condition and to a standard required to prevent unreasonable inference with the rights of the use.
7. The Council will be permitted to affix Waymark or information signs to the structure as it considers appropriate.
8. The authorisation is granted for only so long as it is expedient to prevent the movement of animals on agricultural land. Should the use or management of the land change so that the structure is no longer necessary for the purpose laid out in the application, then the authorisation will lapse and the structure should be removed by the landowner restoring free passage along the right of way.
9. Failure to meet these conditions may result in the removal of the structure by the council.

Signed (Applicant)

Print Name

Date

Agreement to Proceed with Works

Signed (Officer)

Print Name

Date

Please return completed form with Plan showing right of way in question, location of proposed new structure and Fencing layout to:

to:

Public Rights of Way Team
Capita Blackburn Business Centre
Castleway House
Preston New Road
Blackburn
BB2 1AU

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GUIDANCE NOTES

Introduction

Blackburn with Darwen Council aim to have a network of public Footpaths and Bridleways that are, as far as possible, available for everyone to use and free from barriers. It is understood that there are occasions where landowners need structures to enable them to control effectively use the land for agriculture.

Provisions for this are made under section 147 of the Highways act 1980 which allows landowners to apply for authorisation for a structure such as a gate, if it can be shown that there is no reasonable alternative. This is a discretionary power, but authorisation will not unreasonably be withheld.

These guidance notes explain:

- The law relating to structures on a public right of way
- When permission can be given for a structure
- Landowner and Council responsibilities and
- How you can apply for a structure across a public footpath or bridleway over your land.

When Structures are allowed?

There are only three circumstances when a structure is allowed on a Public footpath or Bridleway.

- When the Definitive Map and Statement records the presence of a structure as a limitation on the right of way.
- When a gate or stile has been authorised by the Council under section 147 of the Highways act, because it is needed to control the movement of animals on agricultural land. Agricultural land includes land used for forestry and keeping horses.

- Where a structure is required for safeguarding the public – and has been installed under s66(3) of the Highways Act 1980. This is done by the Council in instances where there is strong evidence of risk to users, and the provision is supported by the police and parish council.

Any other structure on a right of way is an unlawful obstruction. If a structure is installed by a landowner, tenant, or occupier without prior authorisation, they are committing an offence and action can be taken to remove it.

Getting permission for a structure – Highways Act 147

Permission can be given to you as the landowner to install a Structure on the Public footpath or Bridleway, in order to control the movement of animals on agricultural land. Agricultural land in this instance includes land being brought into use for agriculture, land used for keeping horses, and forestry plantations.

Permission can ONLY be granted if the conditions of the Act can be met:

- You need to justify that the land crossed by the public footpath or bridleway is being used for agriculture

AND

- That in order for this agriculture to be carried on efficiently, a structure is needed to control the ingress and egress of animals.

Type of Structure

The Equalities Act 2010 placed duties on the council to have a regard to the needs of persons with mobility problems, and this applies to when considering the authorisation of a structure on a Public footpath or Bridleway. For a public footpath, a simple formalised Gap, or Pedestrian gate that conforms to BS5709:2006, will normally be suitable, unless a good case can be made for the need of a more restricting option such as a kissing gate. On a bridleway any gate must provide a minimum of 1.6m clear gap, and be easily operated on horseback and foot from both directions.

The merits of each case will be judged with consideration for the animals involved, level of use of the path, impact of the structure, the fencing layout. Whilst there must be an “expedient” need for a structure in order for “efficient” agricultural use of the land, any structure must also be suitable, appropriate and convenient for the public using the path.

If the Land use changes and the structure is no longer needed for the reason it was originally granted permission it will become unlawful and need to be removed.

Cost and Maintenance

As the structure is to be installed for the benefit of the Landowner it is done at the applicants cost and they are also responsible for the maintenance of the structure, making sure it is always safe and easy to use. This is described in s146 of the highways act, which places the duty on the owner/occupier "to maintain the structure in a safe condition and to a standard required to prevent unreasonable interference with the rights of the user". The structure is not part of the highway and so the onus for liability is placed on the owner by the Occupiers Liability Act 1957.

If the owner refuses to repair a structure or where a repair is unsatisfactory the law gives powers to the council to carry out the work and recover its costs from the owner.

Where there is an existing Authorised structure the council will contribute 25% towards the reason cost of repair or replacement where this is agreed in advance. The contribution may be made in kind in the provision of materials, but the responsibility for the structure remains with the landowner.

How to Apply for Authorisation

There is no charge made for application under s147. The application is a two step process. Firstly application and agreement of works are sort (Form 1), then when the structure has been installed it is inspected, authorisation is granted (Form 2).

The application and agreement (Form1) enclosed includes a copy of the terms and conditions that apply to any authorisation. If in the future any of these conditions are broken the structure will become unlawful and need to be removed.

An application will be refused if it does not meet the conditions laid out in s147 of the Highways act. There is no provision to appeal a refusal to grant authorisation or the conditions imposed with authorisation.