

Appendix 2 Highways Act 1980

S.118. Stopping up of footpaths, bridleways and restricted byways

- (1) Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one which is a trunk road or special road) that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the council may by order made by them and submitted to and confirmed by the Welsh Ministers, or confirmed as an unopposed order, extinguish the public right of way over the path or way.

An order under this section is referred to in this Act as a 'public path extinguishment order'.

- (2) The Welsh Ministers shall not confirm a public path extinguishment order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that it is expedient so to do having regard to the extent (if any) to which it appears to him or, as the case may be, them that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the way would have as respects land served by the path or way, account being taken of the provisions as to compensation contained in section 28 above as applied by section 121 (2) below.
- (3) A public path extinguishment order shall be in such form as may be prescribed by regulations made by the Welsh Ministers and shall contain a map, on such scale as may be so prescribed, defining the land over which the public right of way is thereby extinguished.
- (4) Schedule 6 to this Act has effect as to the making, confirmation, validity and date of operation of public path extinguishment orders.
- (5) Where, in accordance with regulations made under paragraph 3 of the said schedule 6, proceedings preliminary to the confirmation of the public path extinguishment order are taken concurrently with proceedings preliminary to the confirmation of a public path creation order, public path diversion order or rail crossing diversion order then, in considering-
 - (a) Under subsection (1) above whether the path or way to which the public path extinguishment order relates is needed for public use; or
 - (b) Under subsection (2) above to what extent (if any) that path or way would apart from the order be likely to be used by the public;

The council or Welsh Ministers, as the case may be, may have regard to the extent to which the public path creation order, public path diversion order, or rail crossing diversion order would provide an alternative path or way.

(6) For the purposes of subsections (1) and (2) above, any temporary circumstances preventing or diminishing the use of the path or way by the public shall be disregarded.

(6A) The considerations to which-

- (a) The Welsh Ministers are to have regard in determining whether or not to confirm a public path extinguishment order, and
- (b) A council are to have regard in determining whether or not to confirm such an order as an unopposed order,

Include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the order would extinguish a public right of way.