

STOPPING UP ORDERS

GENERAL INFORMATION

A **Highway** is a defined route over which the public has a right to pass and re-pass at all times without permission or charge.

A highway must be open for public use and must not be obstructed unless or until such time as it may be “stopped-up” by order.

A highway can be temporarily closed by a temporary traffic regulation order, made by the Council being the traffic authority.

A highway can be permanently extinguished by a **Stopping up Order**, mainly for the following two reasons:

1) To allow development to take place;

These requests are typically dealt with through the planning process and should be highlighted at the time of your planning application and referenced within it. The relevant orders are:

- a) A **Stopping up Order** under **section 247 of the Town and Country Planning Act 1990**, which is made by the Secretary of State, if he/she is satisfied that it is necessary to enable a development to be carried out in accordance with a planning permission. The Council, being the Highway Authority is consulted before a decision is made.
- b) A **Stopping up Order** under **section 257 of the Town and Country Planning Act 1990** may be made by the Council as the Local Planning Authority only when it involves a **Footpath, Bridleway or Restricted Byway**. Such orders may extinguish a right of way where it is necessary in order to enable a development to be carried out in accordance with a planning permission. If you wish to apply to stop-up or divert a public **Footpath, Bridleway or Restricted Byway** to enable development to be carried out, please ensure that the matter is raised with your planning officer and is referenced in any subsequent planning application. In considering such an application, the applicant will need to clearly demonstrate to the Authority that the **Footpath, Bridleway or Restricted Byway** proposed to be stopped up or diverted will be affected by the proposed development. Therefore a copy of the planning permission, together with the approved site layout plan clearly showing the boundary of the development area by a red line or similar means, must be enclosed with an application.

Please note that authority to stop-up or divert a Highway is not conferred through the approval of a planning application. Approval to stop-up or divert a highway is only given once the **Stopping up or Diversion order** has been confirmed and notice of its confirmation has been published. Any obstruction of the interference with the way concerned, is not only an offence but may make it impossible to proceed

with the making or confirmation of a **Stopping up** or **Diversion order**.

2) Where the highway is no longer required for public use

- a) A **Stopping up Order** under **Section 116 of the Highways Act 1980**, which is granted by the Magistrates' court, if the court is satisfied that the highway is "unnecessary".
- b) A **Stopping up Order** under **Section 118 of the Highways Act 1980**, made by the Council as the Highway Authority only when the stopping up involves certain classes of highways, namely a **Footpath, a Bridleway or a Restricted Byway**. The Highway authority can only make such an order, if it is satisfied that the path in question is no longer needed for public use.

The sub soil over which a public highway runs is often not owned by Manchester City Council as the Highways Authority. If a **Highway** is stopped up the land comprising the former highway returns to the owner of the subsoil. Where the owner of the subsoil is not known and cannot be found, there is a legal presumption that the owners of the adjoining properties own the subsoil beneath the former highway out to the central line of the former highway

FREQUENTLY ASKED QUESTIONS

- **What is a Highway?**

A **Highway** is a defined route over which the public has a right to pass and re-pass at all times without permission or charge.

A **Highway** must be open for public use at all times and must not be obstructed unless or until such time as it may be “stopped-up” by order.

A **Highway** can be temporarily closed by a temporary traffic regulation order, made by the Council being the traffic authority.

A **Highway** can be permanently extinguished by a **Stopping up Order**.

- **What is a Footpath, Bridleway or Restricted Byway?**

Footpath is a **Highway** over which the public have a right of way on foot only (not being a footway/pavement).

Bridleway is a **Highway** over which the public have a right of way on foot or on horseback.

Restricted byway is a carriageway over which the public right of way is for all types of traffic except for mechanically propelled vehicles.

- **What is a classified road?**

It is a road that has been classified in accordance with section 12 of the Highways Act 1980. Classified roads have an A or B number. Unclassified roads don't but some are designated as C roads.

- **How can a Highway be closed on a temporary basis?**

A **Highway** can temporarily be closed (and the public right of way suspended), by a temporary traffic regulation order made by the Council being the traffic authority. If you wish to apply to the Council for such an order, please do this on line at the following address.

http://www.manchester.gov.uk/info/200063/licences_and_permissions/4293/traffic_regulation_orders

- **How can a Highway be stopped up to allow development to take place?**

A **Highway** may be “stopped up”, i.e. the right of the public to use the way is permanently extinguished, under the following powers, which are typically dealt with through the planning process and should be highlighted at the time of your planning application and referenced within it. The relevant orders are:

- c) A **Stopping up (or Diversion) Order** under **section 247 of the Town and Country Planning Act 1990**, which is made by the Secretary of State for Transport, if he/she is satisfied that it is necessary to enable a development to be carried out in accordance with a planning permission that has been granted (247) or it is anticipated to be granted (s. 253(1)). The Council, being the Highway Authority and various statutory undertakers are consulted before a decision is made.
- d) A **Stopping up (or Diversion) Order** under **section 257 of the Town and Country Planning Act 1990** may be made by the Council as the Local Planning Authority only when it involves a **Footpath, Bridleway or Restricted Byway**. Such orders may extinguish a right of way where it is necessary in order to enable a development to be carried out in accordance with a granted planning permission. If you wish to apply to stop-up or divert a public **Footpath, Bridleway or Restricted Byway** to enable development to be carried out, please ensure that the matter is raised with your planning officer and is referenced in any planning application. In considering such an application, the applicant will need to clearly demonstrate to the Authority that the **Footpath, Bridleway or Restricted Byway** proposed to be stopped up or diverted will be affected by the proposed development. Therefore a copy of the planning permission, together with the approved site layout plan clearly showing the boundary of the development area by a red line or similar means, must be enclosed with an application for a **Stopping Up (or Diversion) Order** under **section 257 of the Town and Country Planning Act 1990**.

Please note that authority to stop-up or divert a Highway is not conferred through the approval of a planning application. Approval to stop-up or divert a highway is only given once the **Stopping up or Diversion order** has been confirmed and notice of its confirmation has been published. Any obstruction of the interference with the way concerned is not only an offence but may make it impossible to proceed with the making or confirmation of a **Stopping up or Diversion order**.

The sub soil over which a public highway runs is often not owned by Manchester City Council as the Highways Authority. If a **Highway** is stopped up the land comprising the former highway returns to the owner of the subsoil. Where the owner of the subsoil is not known and cannot be found, there is a legal presumption that the owners of the adjoining properties own the subsoil beneath the former highway out to the central line of the former highway.

- **What is the procedure for making a Stopping Up (or Diversion) Order under section 247 of the Town and Country Planning Act 1990?**

Before making any order under this section the Secretary of State for Transport will commence the statutory public consultation, by publishing the relevant notices on local newspapers and on the highway(s) to be stopped up (diverted) and serving the same notices on every local authority in the area and on all

affected statutory undertakers. There is a minimum of 28 days period for submission of any objections to the proposed order. At the expiry of the objection period, if the proposals are unopposed, the Secretary of State for Transport will proceed with the making of the order. However, if there are objections which have not been withdrawn at the time of determination, the Secretary of State must hold a public inquiry if the objections have been submitted by a local authority or a statutory undertaker. It is at the Secretary of State's discretion to hold a public inquiry if any remaining objection has been submitted by anyone else. The Secretary of State will then proceed to confirm the order, with or without modifications, or not confirm it. The validity of an order may be challenged in the High Court, but this challenge should be made within six weeks for the date on which notice of the making of the order is published in accordance with the statutory requirements.

- **What is the procedure for making a Stopping Up (or Diversion) Order under section 257 of the Town and Country Planning Act 1990?**

Before making any order under this section the Local Authority will commence the statutory public consultation, by publishing the relevant notices on local newspapers and on the highway(s) to be stopped up (diverted) and serving the same notices on every owner, tenant or occupier of the land which will be affected by the proposed order, on every local authority or parish council whose area includes any part of the affected land, every statutory undertakers and every other persons specified by the law. There is a minimum of 28 days period for submission of any objections to the proposed order. At the expiry of the objection period, if the proposals are unopposed, the Local Authority will proceed with the making of the order without modifications. However, if there are objections which have not been withdrawn at the time of determination, the Local authority will have to submit the proposed order to the Secretary of State for Transport for confirmation. The Secretary of State will not confirm the order unless satisfied that all the conditions of section 257 apply. A public inquiry will be held if the remaining objection has been duly submitted by a local authority. It is, however, at the Secretary of State's discretion to decide whether to hold a public inquiry if the duly made objections which have not been withdrawn have been submitted by any other persons. The Secretary of State will then proceed to confirm the order, with or without modifications, or not confirm it. The validity of an order may be challenged should be made within six weeks for the date on which notice of the making of the order is published in accordance with the statutory requirements.

- **What is the Fee for?**

Upon receipt of any applications under s.247 of the Town and Country Planning Act, the Council is normally requested by the Secretary of State for Transport to facilitate the process by undertaking the public consultations on its behalf. Under s.257 of the Town and Country Planning Act 1990, it is the Council's obligation.

The making of a Stopping up (Diversion) Order under both these procedures should be a cost neutral exercise for Manchester City Council and we will therefore look to recharge our costs for processing, making and advertising such orders. [This applies to requests from both internal and external clients, including applications made through Section 247 of the Town and Country Planning Act which provide a specific mechanism to allow the Authority to recover reasonable costs].

Please note that **the standard non-refundable deposit for processing a Section 247 Application is currently £1,500.00. The standard non-refundable deposit for processing a Section 257 Application is currently £4,000.00.**

Manchester City Council will claim all reasonable costs incurred in processing a Section 247/257 application, this includes Highway Officers, Legal fees, advertising costs etc. Any costs incurred will be drawn down against the deposit paid, when the deposit is 80% expended Officers will contact you with an estimate of future fees and costs, you will be asked if you wish to proceed. If you confirm your intention to proceed with the application, once the value of the deposit has been exceeded you will be invoiced on a monthly basis.

- **Who are the Consultees the Council notifies as part of the Statutory Process?**

- Adjoining and adjacent land owners and occupiers;
- the **Statutory Undertakers**;
- the four **Rights of Way Societies** who are active in Manchester;
- the Secretary for Transport if the road is a **classified road**;
- **Ringway Parish** if the highway is an unclassified road situated within its area. Where this consent is withheld your application will be rejected.

- **Who are the Statutory Undertakers?**

1. National Rail- Manchester Square One- 4 Travis Street- Manchester- M1 2NY-
- 2.NRSWA Coordinator -Atkins Telecoms- PO Box 290-260 Aztec West- Almondsbury- Bristol-BS32 4WE
- 3.Colin Charlton- Plant Enquiries- Instalcom House- Manor Way- Borehamwood-Herts -WD6 1QH
- 4.Sky Telecommunications Services Ltd- 70 Buckingham Avenue- Slough- SL1 4PN
- 5.Openreach Incoming Notice Reception- BT-PP 100B-1st Floor, Dial House-21 Chapel Street- Salford M3 7BA
- 6.Virgin Media Business- Bartley Way-Bartleywood Business Park- Hook-Hampshire-RG27 9UP-
7. United Utilities- Ground Floor, Windermere House- Lingley Mere Business Park -Lingley Green Avenue- Great Sankey-Warrington-WA5 3LP
- 8.Spectrum Interactive- 3rd Floor-One Park Lane- Hemel Hempstead- Hertfordshire-HP2 4YJ
9. Plant Protection Team-National Grid-Brick Kiln Street- Hinckley-LE10 0NA-
- 10.Peak and Northern Footpaths Society- Taylor House- 23 Turncroft Lane- Offerton-Stockport- SK1

4AB-

- 11.Cable and Wireless- Head Office- 1-2 Berkeley Square- 99 Berkeley Street -G3 7HR--
- 12.Estates & Wayleaves -Electricity North West -Frederick Road- Salford-M6 6QH--
- 13.Scottish Power- SPEN Construction Connections England- SP Energy Networks- Prenton Way-
Prenton-CH43 3ET-
- 14.Vodafone- Vodafone House- The Connection- Newbury-Berkshire-RG14 2FN-
- 15.Colt Telecommunications- Colt Technology Services- Beaufort House-15 St. Botolph Street -London-
EC3A 7QN-
- 16.KCOM Group PLC- 5th Floor-Prospect House-Prospect Street-Hull-HU2 8PU-
- 17.Verizon Business Ltd-Reading International Business Park-Basingstoke-Reading-RG2 6DA--
- 18.Network Rail-Nework Rail Infrastructure Ltd-90 York Way-N1 9AG---
- 19.Virgin Media-Main Office-National Noticing Department-Communications House-Scimitar Park-SS13
1ND-
- 20.O2 (UK) Ltd-260 Bath Road –Slough -SL1 4DX---
- 21.Global Crossing-Global Crossing by Instalcom-Instalcom Ltd-Instalcom House-Manor Way-WD6
1QH-
- 22.Independent Pipelines Ltd-Energy House-Woolpit Business Park-Bury St Edmund's-Suffolk-IP30
9UP-
- 23.BSkyB Telecommunications Services Ltd.-70 Buckingham Ave-SloughBerkshire –SL1 4PN--
- 24.KPN Telecomm Ltd-McNicholas Construction-Lismirrane Industrial Park-Elstree Road-WD6 3EA--
- 25.GTC Pipeline Ltd-Unit 23-Woolpit Business Park-IP30 9UP---
Level 3 Communications-Instalcom House-Manor Way-WD6 1QH---
- 26.Orange PCS Group-Fujitsu Telecoms-Birmingham Business Park-Birmingham-B37 7YU--
- 27.Atlantic Telecom-Instalcom House-Manor Way-WD6 1QH---
- 28.Interoute-Elm Resurfacing Ltd on behalf of Interoute-Adelaide Dock-Symmonds Drive-MF10 3SY--
- 29.TATA CommunicationsMcNicholas Construction-Lismirrane Industrial Park-Elstree Road-WD6 3EA--
- 30.T-Mobile (UK) Ltd-Hatfield Business Park-Hertfordshire-AL10 9BW---
- 31.Vtesse Networks Ltd-John Tate Road-Foxholes Business Park-SG13 7DT---
- 32.Smallworld Cable Ltd-Chalmers Place-Riverside Business Park-KA11 5DH---
- 33.ES Pipelines Ltd-Hazeldean-Station Road-Leatherhead-KT22 7AA--
- 34.Energetics UK-Energetics Design and Build-International House-Stanley Boulevard-Hamilton
International Technology Park-Glasgow-G72 0BN
- 35.Independent Power Networks Ltd-Energy House-Woolpit Business Park-Bury St Edmund's-Suffolk-
IP30 9UP-
- 36.Fulcrum Pipelines Limited-Head Office-2 Europa View-Sheffield Business Park-Sheffield-S6 1XH-
- 37.Instalcom (On behalf of Opal Telecom)-Instalcom House-Manor Way-WD6 1QH---
- 38.Chris Sexton, -Zayo Group UK Limited,-4th Floor, Harmsworth House-13-15 Bouverie Street- London
–EC4Y 8DP-

- 39.ESP Electricity-Hazeldean-Station Road-KT22 7AA---
- 40.Energetics Gas Ltd-30a Kingsland Grange-Woolston-Warrington-WA1 4RW--
- 41.Core Utilities-Section 50 Works-Core Utilities (Other)-Prenton Way-Prenton-Ch43 3ET-
- 42.Fibernet-Level 3 Communications-7th Floor-10 Fleet Place-London –EC4M 7RB-
- 43.Telent-Teliasonera Line Plant Enquiries-Crompton Close-Basildon-Essex-SS14 3BA-
- 44.Gamma Telecommunications Ltd-Roy Darley-Unit C Focal Point-Second Avenue-Trafford Park-Manchester-M17 1FG
45. .Traffic Management-Transport for Greater Manchester-2 Piccadilly Place-Manchester-M1 3BG--

- **Which are the PROW Societies?**

1. The Open Spaces Society, 25a Bell Street, Henley-on-Thames, RG9 2BA
2. The Ramblers, 28 Derby Road, Heaton Moor, Stockport, SK4 4NE
3. Greater Manchester Pedestrian Association, 12 Tarleton Walk, Longsight, Manchester, M13 9DF
4. Peak and Northern Footpaths Society, 23 Turncroft Lane, Stockport, SK1 4AB

- **What is the address for Ringway Parish?**

Mr Peter Johnson,
Clerk to Ringway Parish Council,
Brewzehill,
Hasty Lane,
Ringway,
Cheshire,
WA15 8UT

What if an objection is raised and I cannot persuade the objector to withdraw it ?

For applications under section 247 of the Town Country Planning Act, if any remaining objection that has been duly made has been submitted by a local authority or a statutory undertaker, the Secretary of State will have to cause a public inquiry. For any other duly made and not withdrawn objections, it is at the Secretary of State's discretion to decide whether to cause a public inquiry before determining the application or not.

For applications under section 257, if there are objections to the stopping up (diversion) proposals, the local authority will have to submit the proposals to the Secretary of State for Transport for confirmation. If the submitted objections were duly made by a local authority, the Secretary of State will have to cause a public inquiry before confirming or not any order. For any other objections, it is at the discretion of the Secretary of State for Transport whether to cause a

public inquiry or not before determining the matter. The Secretary of State may then proceed to the making of the order with or without modifications, or not confirm it.

- **Having submitted my Application, what if I change my mind about applying to stop up the highway?**

The Council will cease processing your **application**, upon written request. However, please note that any **Fee** made up to the time that you decide to withdraw your application is non-refundable.

If you wish to resume an **application**, which you have requested in writing to be closed, you will need to start the procedure from the beginning, by submitting a new **Application**, which will trigger the payment of a new **non-refundable deposit**.