

Summary of legislation under which West Berkshire Council may make Orders to divert, extinguish or create public rights of way

All Orders must be advertised to the public and may be opposed. West Berkshire has no power to confirm opposed Orders – only the Planning Inspectorate has power to do this, on behalf of the Secretary of State for the Environment and Rural Affairs.

Section 26 Highways Act 1980 (Creations): West Berkshire Council may make Orders to create new Public Footpaths, Public Bridleways and Restricted Byways (but not Byways Open to All Traffic). Consideration must be given to how much a creation would add to the convenience and enjoyment of a substantial section of the public, and also to the effect on people with an interest in the affected land, taking into account provisions for compensation. Opposed Orders of this type may only be confirmed by the Planning Inspectorate.

Section 116 Highways Act 1980 (Diversions and Extinguishments): A Magistrates' Court (after application by West Berkshire Council) may make and 'confirm' Orders to divert or extinguish all categories of Public Rights of Way (Public Footpaths, Public Bridleways, Restricted Byways and Byways Open to All Traffic).

Section 118 Highways Act 1980* (Extinguishments): West Berkshire Council may make Orders to extinguish Public Footpaths, Public Bridleways and Restricted Byways (but not Byways Open to All Traffic) under this legislation. Opposed Orders of this type may only be confirmed by the Planning Inspectorate.

Section 119 Highways Act 1980* (Diversions): West Berkshire Council may make Orders to divert Public Footpaths, Public Bridleways and Restricted Byways (but not Byways Open to All Traffic) under this legislation. Public Enjoyment and convenience are important factors to consider under this legislation. Opposed Orders of this type may only be confirmed by the Planning Inspectorate.

Section 257 Town and Country Planning Act 1990 (Diversions and Extinguishments): West Berkshire Council may make Orders to divert or extinguish Public Footpaths, Public Bridleways and Restricted Byways (but not Byways Open to All Traffic) under this legislation, to enable permitted development to be carried out. Opposed Orders of this type may only be confirmed by the Planning Inspectorate.

Section 247 Town and Country Planning Act 1990 (Diversions and Extinguishments): The Secretary of State (but not West Berkshire Council) may make Orders to divert or extinguish Public Footpaths, Public Bridleways and Restricted Byways **and also Byways Open to All Traffic** under this legislation to enable permitted development to be carried out.

* West Berkshire Council may make Special Orders under sections 118B and 119B Highways Act 1980 to extinguish or divert Public Footpaths, Public Bridleways, Restricted Byways and also Byways Open to All Traffic for the purposes of crime prevention (but only in certain designated areas) or for the purpose of school security