

# APPLICATION FOR THE AUTHORISATION OF A STRUCTURE ON A PUBLIC RIGHT OF WAY: SECTION 147 OF THE HIGHWAYS ACT 1980



## **Introduction**

North Somerset Council (NSC) aims to provide a network of public rights of way that are, as far as possible, free from barriers and easy for everyone to use. However, there are instances where structures such as gates are needed to control livestock.

Structures, such as stiles and gates, can be present on a public right of way if they were either a) present at the time the right of way was originally dedicated to the public, or b) authorised by the highway authority to control the ingress and egress of farm animals. If a structure does not meet either of these criteria then it is an unlawful obstruction and will be the subject of enforcement action. This pack contains guidance about how to apply to have a structure authorised, as well as the form which needs to be completed.

## **Authorisation**

Under section 147 of the Highways Act 1980, NSC can give you permission to erect a gate if you need to control the ingress or egress of animals on agricultural land. Agricultural land includes land that is being brought into use for agriculture, land used for grazing, land used for the keeping of horses and land used for plant nurseries. In this instance, 'ingress' can include keeping deer out of commercial forestry plantations and 'egress' can include keeping sheep in a field where they are being grazed. You can only be given permission if the provisions of section 147 can be met and the law does not allow structures to be erected on Restricted Byways or Byways Open to All Traffic (BOATs).

## **Structure Type**

NSC will give permission for structures that can be easily used by as many people as possible, while balancing this against the need for the structure to be stock-proof. The Disability Discrimination Act 2005 requires consideration to be given to the needs of disabled people when authorising structures and NSC will not therefore authorise stiles on rights of way. Suitable gates may include pedestrian gates, kissing gates or 5-bar farm gates and any new gate should conform to British Standard 5709. Consequently, gates on bridleways must be easily opened from horseback and on foot and must open to at least 1.5 metres (5 feet).

## **Cost and maintenance**

As a gate is usually erected for the benefit of the landowner/occupier, it is you, as the applicant, who is responsible for providing and looking after the gate. Section 146 of the Highways Act places a 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 users.' As the structure is not part of the highway, the onus for liability is placed on the owner by the Occupiers Liability Act 1957. When there is an existing authorised structure, the NSC will contribute 25% towards the reasonable costs of repair or replacement so long as this is agreed in advance with the Public Rights of Way Team. If an owner refuses to repair a structure or the repair is unsatisfactory, then the law does give NSC powers to do the necessary work and to charge the owner.

There is currently no charge for the submission of an application for the authorisation of a structure on a Public Right of Way.

### **How to apply for authorisation**

A copy of the Structure Authorisation Application Form is attached below, as is a schedule of conditions which would be applied to any authorisation that is granted. Please read these carefully before applying for authorisation to make sure that you will be able to comply if authorisation is granted. If you would like to discuss any aspects of your application please do not hesitate to contact NSC's Public Rights of Way Team on 01934 888802.

The completed application form should be returned to 'Public Rights of Way Team, North Somerset Council, Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ'. If consent is granted, you will be sent two copies of the authorisation agreement to sign, with one copy to be returned to NSC and one to be kept for your own records; the authorisation will then become valid. If any of the conditions cease to be met, then the NSC will require the structure to be removed.

An application will be refused if it does not meet the provisions of Section 147 of the Highways Act and there is no appeal against NSC's refusal to grant authorisation or its imposition of conditions.

**SECTION 147 OF THE HIGHWAYS ACT 1980  
STRUCTURE AUTHORISATION APPLICATION FORM**

Name of Applicant: .....

Address of Applicant: .....

.....  
.....

being the landowner/lessee/occupier\* of the land at the location described below, which is crossed by the public footpath/bridleway\*.

Where the applicant is not the landowner:

Name of landowner: .....

Address of landowner: .....

.....  
.....

**Location of structure**

Parish: ..... Path No: .....

Grid reference: .....

Description of location: .....

.....

Map included: Yes / No\*

Type of structure (e.g. pedestrian gate, kissing gate) .....

Reasons for structure: .....

.....  
.....

Signature of applicant: .....

Date of application: .....

Authorisation will be subject to the conditions detailed overleaf. Please read these before applying for authorisation to make sure that you will be able to comply if authorisation is granted.

(\*please delete as appropriate).

## **Schedule of Conditions for Authorisation of a Structure on a Public Footpath or Bridleway**

1. An applicant must be the owner, lessee or occupier of agricultural land,
2. Erection of a structure must be expedient in order to prevent the ingress or egress of animals on agricultural land and the gate must be the principal means of containing the livestock and not a second gate only of use in the event that another gate is left open. The livestock must have access to the area immediately beyond the gate.
3. The gate should be constructed to British Standard 5709.
4. The gate should not be locked at any time.
5. No barbed wire or electric fencing should be attached to any part of the gate.
6. To avoid the surface of the right of way being poached, no water troughs or feeders are to be located within 10 metres of the gate.
7. Any fences and other obstructions shall be removed from the full width of the right of way at the point where the gate is to be installed and it shall remain clear of any obstruction and at all times be accessible by the public in conjunction with its use as a public right of way.
8. The gate shall be kept in a state of repair consistent with the requirements of Section 146 of the Highways Act 1980 by yourselves.
9. Should at any time the use of the land adjoining the gate change such that the gate is no longer necessary in order to prevent the ingress or egress of animals, the gate must be removed.
10. Should at any time the portion of land crossed by the right of way cease to be agricultural land, the gate must be removed so as to restore uninterrupted passage along the right of way.
11. The authority retains the right to affix waymarkers to the gate or gate posts.
12. Should the gate fall into disrepair, the authority retains the right to revoke the authorisation and remove the gate at your expense.
13. If it is shown at a later date, that the route is of a higher status, for example a footpath becomes a bridleway, then authorisation will become invalid.
14. It is the duty of the applicant to ensure that the erection of a structure does not interfere with any private rights that may be exercised over the public highway.
15. Permission is granted only to the applicant. In the event that you intend to cease to occupy the property, permission is withdrawn and the gate must be removed before completion of the sale of the property or before you move away. However, if the new occupier can demonstrate that the circumstances regarding livestock are unchanged, it may be possible to immediately grant permission to that new occupier and avoid the need to remove the gate.
16. This authorisation shall not become effective until such time as a copy of the authorisation letter is signed by the prospective licensee and returned to NSC.