

**SECTION 6: NOTES ON THE APPLICATION OF LEGISLATION****1. OVERVIEW**

- 1.1 The following notes provide a quick guide for all volunteers in relation to legislation most commonly encountered in the work undertaken by the Society .
- 1.2 Further reading on relevant legislation can be found in the "Blue Book" (Rights of Way . A Guide to Law and Practice, 4th edition; by John Riddall and John Trevelyan; published by The Ramblers' Association and Open Spaces Society) . Volunteers may purchase a copy of this book at <http://www.ramblers.co.uk/rightsofwaybook> and claim the cost on expenses . Any copy of this book purchased with Society funds remains the property of the Society and should be returned if the volunteer resigns his post.
- 1.3 Updates to the blue book are published on the Blue Book Extra (BBE) website at <http://www.ramblers.co.uk/rightsofwaybook/bbe> This should be consulted to see if there have been any changes to the pages quoted in this handbook.
- 1.4 The Department for Environment, Food and Rural Affairs (DEFRA) publish a guidance document entitled "Rights of Way Circular (1/09) – Guidance for Local Authorities" . This is a very useful reference for Inspectors . A printed copy can be consulted at Taylor House and it can be found on the web at <http://www.defra.gov.uk/publications/2011/06/15/pb13553-row-circular-109/>
- 1.5 To assist the reader the notes use the same conventions as Parts 1 and II of the Blue Book . Chapter and page numbers are quoted for easy reference.

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### 2 HIGHWAYS ACT 1980 s130A - NOTICES FOR THE REMOVAL OF OBSTRUCTIONS ON PUBLIC HIGHWAYS (Chapter 13 - page 333 . Part II - page 497)

- 2.1 s130A proceedings are used as a last resort when a path is considered to be "obstructed" . An s130A notice is issued by the appropriate Courts and Inquiries Officer (C&IO) on behalf of the Society . The issue of such notices must have the prior approval of the Legal and Policy Committee ( or, in urgent cases, the authority of the Chairman and one other Trustee.
- 2.2 It is important to distinguish between obstructions, which are dealt with under this section and "out of repair", which is dealt with under s56 (see paragraph 7).

#### Key Features of s130A

- 2.3 s130A notices are served on the highway authority with respect to a highway recorded on the definitive map as a footpath, bridleway, restricted byway or byway open to all traffic.
- 2.4 They are used for certain types of obstruction described below.

#### Practicalities

- 2.5. When an Inspector has reported an "obstruction" and the highway authority has failed to act or provide a satisfactory plan of action within:

- 1 month for a dangerous obstruction or if the obstruction is on a well used path
- or 3 months if the obstruction is not dangerous or the path is less well used

from the date of the initial report the matter should be passed to the appropriate Area Officer (AO) . The AO will inspect the path and, providing all legal criteria are met, provide a report to the C&IO for consideration at the next LPC meeting.

- 2.6. List of obstructions included:

- walls, except where part of a building
- fences
- rubbish, or other things which constitute a nuisance deposited on highway
- machines, with or without wheels
- hedges
- blocked stile
- stile or gate in so poor a condition as to substantially prevent free access
- secured gate - e.g tied with baler twine
- overhanging vegetation

- 2.7 List of obstructions **not** included:

- buildings, temporary or permanent
- works for the construction of a building
- tent or caravan
- vehicle, or other temporary or moveable structure used for human habitation
- surface of highway out of repair
- ditch
- ploughing
- crops
- person obstructing the highway

**3. WILDLIFE AND COUNTRYSIDE ACT 1981 s53 - DUTY TO KEEP THE DEFINITIVE MAP AND STATEMENT ACCURATE BY MAKING MODIFICATION ORDERS** (*Chapter 5, page 99 . Part II, page 546*)

3.1 It is necessary to understand the difference between public path orders such as stopping-up, diversion and creation orders and modification orders . Public path orders change the public's rights; modification orders change only the way in which public rights are legally recorded on the definitive map and statement; they do not change the actual public rights .

**Key features of s53**

3.2 The surveying authority (the same council as the highway authority) has a duty to make modification orders to keep the definitive map and statement accurate if it has sufficient evidence that the map and statement are wrong.

3.3 This evidence can be found by the authority itself, or it can be presented to the authority in the form of a formal application made to the authority, in which case the authority will also look for other evidence itself .

3.4 The authority must make a modification order "as soon as reasonably practicable" after it finds this evidence, providing that the evidence is sufficient.

3.5 There are two kinds of modification orders:

- Legal event modification orders (LEMOs), which change the map and statement to show changes to public rights brought about by confirmed public path orders e.g . remove from the map and statement a public footpath which has been stopped up by means of a stopping up order . These LEMOs are purely administrative measures to which there can be no objection, since the time to object was when the public path order was being made . The Society is not consulted
- about the making of LEMOs, although it is sent copies of confirmed LEMOs
- Evidential modification orders, which change the map and statement by:
  - adding to them public rights of way which have been found on the basis of evidence to exist e.g . by adding a footpath, or by adding bridleway rights to a footpath already shown on the map and statement, or
  - removing public rights of way which have been found on the basis of evidence not to exist e.g . removing a footpath previously shown on the map and statement or removing bridleway rights from a bridleway, so that it is now shown as a footpath or
  - changing the manner in which a public path is shown on the map and statement e.g . adding a width to the description of a path in the statement.

3.6 The evidence which is relevant to the making of a modification order can be:

- evidence of use of a path by the public as of right, i.e . without force, without secrecy and without permission, over a period of at least 20 years before that use was challenged . (In some circumstances a lesser period is acceptable).
- evidence obtained from documents such as inclosure awards, tithe apportionments, old maps etc
- both user and documentary evidence

3.7 The basis on which the evidence found by or presented to the authority must be assessed to see if it is good enough to make an evidential modification order is usually on the "balance of probabilities" i.e . a weaker standard than the criminal one of "beyond all reasonable doubt", although there are some exceptions to this when an even lower standard is required (the C&IOs will give advice about this)

3.8 If an authority makes an evidential modification order, there is a 6-week period during which anyone may object to the order; such objections can only be made on the basis that the evidence is not sufficient to show that the order should be confirmed.

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- 3.9 If objections are made to an order and these are not subsequently withdrawn, the authority must send the order to the Secretary of State, who will appoint an independent Inspector to assess all the evidence by means of written representations, a hearing or a public inquiry; the Inspector's decision is final unless any aggrieved person obtains a High Court verdict that the order was wrongly confirmed .
- 3.10 It follows that the role of the Society in the implementation of s53 is to assist the surveying authority to collect evidence that a modification order should be made and to help the authority to assess all the evidence; any views of the Society that the change to the definitive map and statement which would be brought about by the order is not one that we want would be totally irrelevant.

### Practicalities

- 3.11 The Society may itself make an application to a surveying authority if it feels that it has sufficient evidence for a modification order to be made to change the map and statement . This application would be made on an official form provided by the authority and in accordance with strict legal procedure . It is essential that the advice of the relevant C&IO is sought if an application is to be made in the name of the Society.
- 3.12 When responding to a consultation about a modification order which an authority is considering making, or an order which the authority has made and is now seeking to confirm, the procedure is as follows:
- Look at the file (if there is one) for the past history . If the Society was consulted before an order was made, your consultation response to a made order should reflect this unless there are good reasons to change it, and these reasons must be explained.
  - If the proposed or made order would be/has been made to add a public path to the map and statement on the basis that there is evidence that the path has been used by the public as of right then, if you are able to do so, try to collect any further evidence of use (your own or other people's) using the forms provided by the authority . If you or any other people you know have any evidence concerning the status of the path which is the subject of the order, then send that to the authority.
  - Where the path which is the subject of the proposed order or published order has not been physically obstructed by the landowner, you should try to carry out an inspection . In the unlikely event that you are challenged by anyone whilst carrying out the inspection, identify yourself as a volunteer acting for the Society and show the letter/published order received by the Society to the person challenging your use of the path . This can actually be a useful opportunity to gather information as to what rebuttal evidence the landowner might have . However, if you are asked to do so, withdraw from the path . Do not place yourself in any danger at any point in the proceedings.
  - On site you should:
    - check that there are notices and plans displayed at both ends of the path which is the subject of a made order; if there are not, the authority must be informed
    - check if there are any stiles, gates, steps or other structures along the path and tell the authority about these if it does not seem to have acknowledged their presence
    - check that the width of the path agrees with the width stated by the authority, and let the authority know if it does not
    - note any other relevant features which you feel should be drawn to the attention of the authority, but remember that this does not include any feelings that you may have that the proposed change to the map and statement is undesirable.
- 3.13 This is one of the most complicated areas of legislation with which the Society is involved . If you are in any doubt, and definitely before you make any objection to a proposal to make an order or to a made order, you **must** consult the relevant C&IO.

**4 HIGHWAYS ACT 1980 s116 - POWER OF MAGISTRATES' COURT TO AUTHORISE STOPPING UP OR DIVERSION OF HIGHWAY (Part II, page 477)****Key features of s116**

- 4.1 This section allows a highway authority to make an application to a magistrates' court for an order to stop up or divert any highway other than a trunk road . The Society's view, shared by The Ramblers, is that these procedures are undemocratic and anachronistic . We should exercise our influence to try and persuade councils that the procedures under sections 118 and 119, where disputes are resolved by the Planning Inspectorate, are to be greatly preferred . This is recommended in paragraph 5.57 of DEFRA Circular 1/09 on Public Rights of Way.4.2 . All applications under section 116 must be referred to the appropriate C&IO, as well as being sent to the local Inspector for his or her comments.

**Practicalities**

- 4.2 All applications under section 116 must be referred to the appropriate C&IO, as well as being sent to the local Inspector for his or her comments.
- 4.3 The ground for a stopping-up order is that the path is "unnecessary" . This could be on the basis that the route no longer fulfils any useful purpose, e.g . as a result of redevelopment the path no longer goes anywhere meaningful . Alternatively the route may be claimed to be unnecessary because there is a reasonable alternative way meeting the purpose for which the public are using the existing way . This raises issues similar to that arising when a diversion is being sought under section 119, such as the comparative length, surface, gradient and attractiveness of the two paths.
- 4.4 The convenience or benefit to the landowner of stopping up the path is not a relevant factor, though that may well be the motive for the order being sought . Thus "unnecessary" is not the same as unwanted . Notice of an application under s116 must be given to a community or parish council for the area . Such a council can in effect veto the application by refusing to give their consent to the application being made.
- 4.5 The grounds for a diversion are that the diversion will be "nearer or more commodious to the public" . Whether the diverted path is *nearer* is a question of fact . Whether the diversion is *more commodious* means whether it is more convenient, roomy or useful to the public . The comparative width, gradient and surface of the original path and the proposed diversion will be pertinent . It is doubtful whether attractiveness of the path is a relevant consideration . The purpose and nature of the original way as compared to the diversion is relevant but as with a stopping-up application, not the convenience or benefit of the landowner.
- 4.6 Notice of an application under s116 must be given to a community or parish council for the area . Such a council can in effect veto the application by refusing to give their consent to the application being made . Thus it would be sensible to approach this body to try and persuade them to use this power . No reason need be given as to why they are vetoing the application.

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### **5    HIGHWAYS ACT 1980 s118 - STOPPING UP OF FOOTPATHS, BRIDLEWAYS AND RESTRICTED BYWAYS** *(Chapter 7, page 178 . Part II, page 479)*

#### **Key features of s118**

.5.1 This section allows a highway authority to make a public path extinguishment order on the ground that the footpath, bridleway or restricted byway is "not needed for public use" .

#### **Practicalities**

5.2 All such applications should be referred to the appropriate Courts and Inquiries Officer, as well as being sent to the local Inspector for his or her comments .

5.3 The application will be based either on an allegation that the path is no longer necessary because it serves no sensible purpose; or that there is an equally convenient path nearby . The latter type of case gives rise to similar arguments as in the case of a diversion application under section 119, e.g . the extent to which the alternative way is suitable in terms of surface, length, gradient and attractiveness.

5.4 In practice a crucial factor in a section 118 case is the extent of use by the public of the path whose closure is being sought . Evidence from local people who regularly use the path is extremely important . Body counts, i.e . statistics as to the use of the path, are an invaluable source of evidence . These need to be collected over several half-hour periods at various times of the day and an attempt should be made to ascertain why the path is being used.

5.5 Where the path is not used because it is obstructed this should be disregarded by the order-making authority . The issue then becomes what the use of the path would be if the obstruction were removed . In order to defeat the application it will be necessary to obtain evidence that walkers would use the path if unobstructed, e.g . producing a petition or letters from local people .

**6 ROAD TRAFFIC REGULATION ACT 1984 s14 - TEMPORARY PROHIBITION OR RESTRICTION ON ROADS**  
*(Chapter 7, page 219 . Part II, pages 569 & 787)***Key features of s14**

6.1 A traffic authority (normally the highway authority), has power to make a temporary traffic regulation order to restrict or prohibit the use of any road . This includes a public footpath, bridleway, restricted byway or BOAT to walkers.

**Practicalities.**

- 6.2 This may be done because there are works being done or proposed on or near the road . An example would be where a building is being constructed or repaired near a footpath and there is a danger to path users from this activity.
- 6.3 An alternative ground is that there is a likelihood of danger to the public or serious damage to the road not attributable to such works An example would be where a footpath is seriously out of repair so there is a significant hazard to walkers, as in the case of an unsafe bridge.
- 6.4 In the case of either ground being used a notice must be displayed on the affected right of way explaining the effect of the order and giving details of any alternative route available .
- 6.5 The order may last for up to 6 months but this may be extended by the Secretary of State . In practice this decision is made by a civil servant and extensions are readily granted, so that the order may be in existence for several years . There is no procedure for objections to be made but representations may be made to the traffic authority . Where the order is no longer required, but the path is still closed, this should be drawn to their attention .
- 6.6 Where an order is imposed because the path is a danger to the public because of its condition, this does not preclude the use by the Society of the section 56 procedure to get the highway authority to put the path back into repair . Indeed it makes this more straightforward, as there is clear evidence from the use of the order that the path is out of repair . Where the path is important and has been closed for an unreasonable period then the matter should be referred to the appropriate C&IO.

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### 7 . HIGHWAYS ACT 1980 s56 - NOTICE REQUIRING A HIGHWAY AUTHORITY TO REPAIR A HIGHWAY OR BRIDGE . *(Chapter 13, page 342 . Part II, page 464)*

- 7.1 s56 proceedings are used as a last resort when a path or bridge is considered to be "out of repair" . s56 notices are issued by the appropriate C&IO on behalf of the society . The issue of such notices must have the prior approval of the LPC or, in urgent cases, the authority of the Chairman and one other Trustee.
- 7.2 It is important to distinguish between "out of repair", which is dealt with under this section . and obstructions which are dealt with under s130 (see paragraph 2).

#### Key features of s56

- 7.2 s56 notices are served on the highway authority with respect to
- a highway recorded on the definitive map as a footpath, bridleway, restricted byway or byway open to all traffic.
  - surface out of repair; see list below.
  - bridge out of repair; see list below.

#### Practicalities

- 7.3 When an Inspector has reported a "path or bridge out of repair" and the highway authority has failed to act or provide a satisfactory plan of action within 3 months of the report, the matter should be passed to the appropriate AO . The AO will inspect the path or bridge and, providing all legal criteria are met, provide a report to the C&IO for consideration at the next LPC meeting.
- 7.4 A temporary traffic regulation order under s14 of the Road Traffic Regulations Act 1984 does not provide a defence to a s56 notice and would normally provide evidence that the highway is out of repair . This would also apply to unsafe bridges.
- 7.5 Examples of conditions included in out of repair:
- impassable mud
  - impassable water/flood
  - rutted impassable surface
  - deep holes
  - vegetation growing out of the surface of the highway, which prevents safe and convenient use of the highway.
  - any item making a bridge unusable or unsafe
- 7.6 Examples of conditions **not** included:
- obstructions
  - overhanging vegetation
  - stiles or gates in bad repair.
  - obstructions.

**8 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257 – PUBLIC RIGHTS OF WAY AND DEVELOPMENT**  
*(Chapter 7, pp 196-202 and 608)*

- 8.1 Development is defined as: "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land", subject to a number of exclusions .

**Key Features of section 257**

- 8.2 s257 states that, with certain exceptions, planning permission must be obtained before a development affecting a right of way can take place . Permission is granted by a planning authority or, in some cases, by the Secretary of State . Planning authorities are unitary authorities or, in a non-unitary authority area, district or borough councils . The Peak District National Park Authority is also a planning authority . In the case of mineral applications - e.g . opencast mining - the application is determined by the county council or unitary authority.
- 8.3 s257 allows a planning authority to make an order to stop-up (close), or divert any footpath, bridleway or restricted byway if it is satisfied that it is necessary to do so in order to enable development to take place in accordance with planning permission granted by the planning authority (or a government department) . The order can, if the authority considers it to be desirable, provide for the creation of an alternative highway for use as a replacement, or for an existing highway to be improved for such use .

**Practicalities**

- 8.4 Planning authorities must publicise any planning applications that affect public rights of way which are, or ought to be, shown on the Definitive Map . Publicity must be given by advertisement in a local newspaper and on site . However, the requirement to advertise on site is imprecisely worded so as to allow the notice to be placed somewhere other than on the right of way affected, especially if the development site is large.
- 8.5 Planning authorities often consult the Society about applications affecting rights of way, but we cannot be sure that all the many planning authorities in our territory will remember to do so on every occasion . Volunteers can help by checking local newspapers where lists of applications are advertised and, if they spot one affecting a right of way, drawing this to the attention of the relevant AO . Also, if a volunteer is aware of a proposed development or planning application that affects a used path that ought to be, but is not, recorded on the definitive map, they should draw this to the attention of the relevant AO . Developers do not always acknowledge the existence of paths not recorded on the Definitive Map, or may not be aware of them.
- 8.6 The most effective means for the Society to influence the outcome of a planning application affecting a right of way is to comment on the application before it receives planning permission . This helps to ensure planning officers are fully aware of the need to make provision for the affected path(s) . The effect of a proposed development on a right of way is a material consideration for a planning authority in deciding whether or not to grant planning permission . The Society can and does make representations if it believes that the development will adversely affect the path..
- 8.6 Existing paths are not the only factor to be taken into account . A proposed development can be an opportunity for the Society to seek improvements to the affected path in terms of the surface, width, furniture etc, or even seek the creation of new paths under legal agreements between the planning authority and the developer . If volunteers are aware of a development, particularly a large-scale one, that could offer opportunities to create new links in the footpath network they should draw this to the attention of the relevant AO as soon as possible . Once planning consent has been granted, the opportunity to argue for new paths is lost.

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- 8.7 Planning consent does not give the developer permission to obstruct or interfere with the right of way in any way . A separate Public Path Order is required under s257 . If a volunteer believes that a right of way has been obstructed or interfered with, and that there is no confirmed Public Path Order or temporary Traffic Regulation Order authorising this, they should report this immediately to the relevant AO . The Society will normally be consulted at this stage and invited to comment . Inspectors will be asked to comment on whether the stopping-up or diversion is 'necessary' to allow the development to take place . The word 'necessary' means exactly that . In other words, without the stopping-up or diversion, the development could not go ahead . If a volunteer feels that the development could go ahead without any diversion or stopping-up, they should make this known to the relevant AO.
- 8.8 A consultation on a Public Path Order is not an opportunity to debate the merits or demerits of the development for which planning permission has already been granted . That opportunity should have been taken, if needed, at the planning application stage . A volunteer should be cautious if approached by people or organisations who think that the existence of a right of way can be used to dispute the merits of the development, no matter how controversial that development might be.
- 8.9 A Public Path Order under s257 can only be confirmed if a substantial part of the development, for which permission has been granted, remains to be completed . The Society has objected in the past where a development affecting a right of way has been completed, or substantially completed, before an Order under s257 has been made or confirmed . If a volunteer believes that the development has been completed or substantially completed in these circumstances, they should draw it to the attention of the relevant AO.
- 8.10 The Society can only justify an objection to an Order under s.257 if we believe that one or more of these conditions apply
- The diversion or stopping-up is not strictly essential to enable the development to be completed.
  - The diversion or stopping-up will seriously inconvenience path users, because a satisfactory replacement path is not already available or will not be provided.
  - The development for which permission has been granted has been completed, or substantially completed before the application for the Order has been made.

**9 ADVICE TO INSPECTORS RESPONDING TO CONSULTATION ON DIVERSIONS UNDER S.119 HIGHWAYS ACT 1980** (*Chapter 7, page 181. Part II, page 482*)**Key features of s119**

- 9.1 This section allows a highway authority to make an order to divert a footpath bridleway or restricted byway if it is satisfied that it is expedient to do so, either in the interests of the landowner and/or the public. For a Highway Authority to make a diversion under this section the proposal must comply with the certain criteria
- 9.2 The grounds for the diversion should be that it is in the interests of the landowner and/or the public. It is normally self evident that the diversion is in the interests of the owner. An example of a diversion in the interests of the public would be where a path in need of repair is to be replaced by another route with better views and gradients. If it is claimed that the diversion is in the public interest and you do not agree please state your reason.
- 9.3. The end points of the diversion should be on the same highway or one connected with it and be substantially as convenient as at present. The first test is a matter of fact. The convenience test will depend on matters of safety, distance, gradient and surface comparing the original route with the diversion. With regard to safety, it is important that walkers are not exposed to increased danger from traffic as a result of the diversion, due to a reduction in visibility of walkers and drivers to each other. This could arise if the new exit point has no verge, is at a bend or where there is a high hedge.
- 9.4. The proposed path will not be substantially less convenient and will not have an undue effect on public enjoyment of the path as a whole.
  - 9.4.1 This again involves comparing the original route with the diversion in terms of length, width, gradient and surface. The diversion should not be substantially longer than the original. In assessing this, account must be taken of the typical use of the path. A longer path in a rural area mainly used for recreational purposes may well be acceptable, whereas the same increase in distance in a more urban setting where the path is used to reach a village, bus stop or station may be unacceptable. If the diversion involves a significant increase in gradient, this may be a reason to object.
  - 9.4.2 The replacement path should accommodate all existing users to a standard at least as good as the old route and be of similar character e.g. if a path is to be diverted out of a domestic curtilage into an adjoining field then the surface should be as firm under foot as the original path.
  - 9.4.3 There should be no increase in the number of stiles and gates on the diversion. Where possible kissing gates should be used in preference to stiles. Ladder stiles are objectionable as an impediment to a wide range of walkers.
  - 9.4.4 If using the diversion would deprive the walker of pleasant views then this is matter for comment. Similarly where the original path has an historical character or features which will be lost by it being diverted.
  - 9.4.5 It is also pertinent to consider how the diversion will link with the rest of the path network. If for example the effect of the diversion is to force the walker to use a dangerous narrow road with no footway to reach another public right of way, whereas the original route emerged opposite the continuation path, this should be noted. Also see the other examples of matters relevant to walker safety mentioned in paragraph 9.3
  - 9.4.6 In many cases a proposed diversion can be made more acceptable to walkers by minor changes. If that is the case please include these in your report to the assessors.

### 9.5 Summary

- 9.5.1 To be acceptable to the Society the diversion should provide a positive improvement to the route or offer an alignment which is only marginally less satisfactory to walkers. Whilst the inspector's view will be given considerable weight, the final decision whether to oppose a diversion when the order is made will be that of the Legal and Policy Committee.
- 9.5.2 Comments on a proposed diversion should be restricted to matters pertinent to rights of way as set out above. Inspectors should avoid referring to personal matters such as previous experiences of the landowner or his or her character. For more detail see section 8 on 'Risk management of accusations against the Society of defamation.'

### Practicalities

#### 9.6 What if the definitive line of the path is not available for inspection?

- 9.6.1 Where a path is obstructed most Highway Authorities will not consider a diversion application until the obstruction is removed. However an exception is made where the path has been built over or subject to quarrying, as an application to divert may be the only practicable response to provide a replacement route to walkers. If the original route is not available then the reason for this should be mentioned in the council's, 'Reasons for making the Order'. If this is not the case then this should be mentioned in your report.
- 9.6.2 In some cases the diversion will already be in place and being used by walkers. This is not objectionable in itself, as a diversion may well be the only possible solution to a longstanding obstruction of the path. However, if the definitive line is obstructed by a readily removable barrier such as a fence or a wall then it may be appropriate for the Society to request that the original route be made available.
- 9.7 Check the rest of the path being proposed for diversion and adjoining public rights of way. Inspectors should walk the whole length of the path, even when only part of it is subject to a diversion application. Any faults on the rest of the path such as it being obstructed or out of repair, should be reported. Whilst these are not valid legal reasons to object to the diversion they need to be drawn to the attention of the Highway Authority with a view to ensuring that the diversion route is available to walkers. Landowners seeking diversions are usually anxious to foster goodwill with the Highway Authority promoting the order and with user groups. This can provide the basis for resolution of other problems on their land. Similarly if a path providing a continuation from the diversion is obstructed or out of repair, this should be reported.
- 9.8 Assuming the diversion proceeds, the Inspector should check that the works set out in the Order have been carried out and that the diversion is waymarked. There should be a sign at either end of the diversion stating: 'This path has been officially diverted . Please follow the waymarks.'