

SCHEDULE 3

Regulation 5

HIGHWAYS ACT 1980, SECTION 119D
SSSI DIVERSION ORDER TO DIVERT CERTAIN HIGHWAYS TO PROTECT A SITE OF
SPECIAL SCIENTIFIC INTEREST

Status: This is the original version (as it was originally made).

[NAME OF COUNCIL]

[TITLE OF ORDER]

This Order is made by [name of council] (“the Council”) under section 119D(3) and (7) of the Highways Act 1980 (“the 1980 Act”) because it appears to the Council that as respects the relevant highway [note 1] described in [article 1 below] (“the highway”)—

- (a) the Council are the highway authority for the highway;
- (b) an application from Natural England has been received, and notice of application appears to have been duly given;
- (c) public use of the highway is causing/continued public use of the highway is likely to cause [*delete one or other] significant damage to the flora, fauna or geological or physiographical features by reason of which the SSSI is of special interest;
- (d) it is expedient that the line of the highway, or part of that line, should be diverted (whether on to land of the same or another owner, lessee or occupier) for the purpose of preventing such damage; and
- (e) it is requisite for that purpose to create the public right of way described in Part 1 of the Schedule to this Order and to extinguish the public right of way described in Part 3 of that Schedule.

In accordance with section 119E (3) of the 1980 Act, the Council has had regard to the questions of—

- (a) whether the Council would be able to prevent damage of the kind described by making a traffic regulation order, and
- (b) if so, whether the making of a traffic regulation order would cause less inconvenience to the public than that which would be caused by the diversion of the highway.

The Council has, by virtue of section 119D(8), required Natural England to enter into an agreement with it to [defray] [make contributions as specified in the agreement towards] [any compensation which becomes payable in consequence of the coming into force of this Order] [any expenses which the Council may incur in connection with bringing the new site of the [footpath] [bridleway] [restricted byway] [byway open to all traffic] into a fit condition for use by the public] [which may be recovered from the Council by the highway authority] [delete as appropriate].

The [name] council(s) have been consulted as required by section 120(2)(a) of the 1980 Act [complete or delete as appropriate].

The [name] council(s) have consented to the making of the Order as required by section 120(1A) and 2(b) of the 1980 Act [complete or delete as appropriate].

[National Parks]

- (a) [The [name] National Park Authority has been consulted as required by section 120(2)(a) of the 1980 Act;] [The [name] National Park Authority has consented to the making of the Order as required by section 120(2)(b) of the 1980 Act;] [complete or delete as appropriate] and
- (b) Natural England has been consulted as required by section 120(2)(c) of the 1980 Act.

[Note: section 120 of the 1980 Act was extended to National Park authorities by paragraph 11 of Schedule 9 to the Environment Act 1995].

BY THIS ORDER:

1. There shall at the end of days from the date of confirmation of this Order be a new public right of way being a [specify the type of the new right of way—note 2] over the land situate at shown by a bold broken line on the map [note 3] contained in this Order and described in Part 1 of the Schedule to this Order.
2. [The rights conferred on the public under this Order shall be subject to the limitations and conditions specified in Part 2 of the Schedule to this Order [delete if no limitations or conditions are specified in this Order].
3. The public right of way over the land situate at and shown by a bold continuous line on the map contained in this Order and described in Part 3 of the Schedule to this Order shall be extinguished after days from the date of confirmation of this Order [but not before the day following the date of certification] [delete if not appropriate—see note 4].

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[In this article, “the date of certification” means the date on which the highway authority for the new highway mentioned in article 1 certify that such work has been carried out as is required to be done in order to bring the site of that highway into a fit condition for use by the public] *[delete if not appropriate—see note 4].*

4. [The following provisions shall apply for the protection of *[name of statutory undertaker]*, namely] *[complete or delete as appropriate—note 5].*

Date

Signed

..... *[describe position held with the council]*

..... *[name of council]*

SCHEDULE

PART 1

DESCRIPTION OF SITE OF NEW PUBLIC RIGHT OF WAY

*[Describe position, length and width of the new way
in sections, e.g. A-B, B-C etc., as indicated on the map]*

PART 2

LIMITATIONS AND CONDITIONS

[Specify any limitations and conditions which are to apply—see footnote 6. Delete this Part if no limitations or conditions are specified]

PART 3

DESCRIPTION OF SITE OF EXISTING HIGHWAY

[Describe position, length and width of the existing highway in sections, e.g. C-D, D-E etc. as indicated on the map]

Notes

1. “Relevant highway” is defined in section 119D(2) of the 1980 Act as follows—
 - (a) a footpath, bridleway or restricted byway,
 - (b) a highway which is shown in a definitive map and statement as a footpath, a bridleway or a restricted byway but over which the public have a right of way for vehicular and all other kinds of traffic, or
 - (c) any highway which is shown in a definitive map and statement as a byway open to all traffic, but does not include any highway that is a trunk road or special road.
2. The new public right of way being created must be—
 - (a) such new footpath, bridleway or restricted byway, or
 - (b) in a case where the highway being diverted falls within (b) or (c) of note 1 above, such new highway over which the public have a right of way for vehicular and all other kinds of traffic, as appears to the council requisite for effecting the diversion (see section 119D(3) of the 1980 Act).
3. Section 119E(5) of the 1980 Act requires that an SSSI diversion order shall contain a map—
 - (a) showing the existing site of so much of the line of the highway as is to be diverted by the order and the new site to which it is to be diverted,
 - (b) indicating whether a new right of way is created by the order over the whole of the new site or whether some part of it is already comprised in a highway, and
 - (c) where some part of the new site is already so comprised, defining that part.
4. See section 119D(3)(b) and (6)(b) of the 1980 Act.
5. See section 121(5) of the 1980 Act.
6. The power to specify limitations and conditions is conferred by section 119D(7).