

## **HCC Structure Application Forms**

### **Notes for Applicants**

1) This Application form does not give authorisation in itself. HCC has discretion whether to authorise or not. There are 2 halves to the authorisation process; Form A is the Application & Agreement to proceed with works and Form B is the separate Inspection & Authorisation, which is completed by HCC Officers and signed by both parties.

2) Agricultural land and land being brought into use for agriculture, includes land used or land being brought into use for forestry, or for the breeding or keeping of horses.

3) The Rights of Way Good Practice Guide and further information about access issues can be found online at: **[www.hertsdirect.org/row](http://www.hertsdirect.org/row)**

Or

4) Details can be obtained by request from your local Countryside Access Officer in the Rights of Way Service, Environment Dept, Hertfordshire County Council, Pegs Lane, County Hall, Hertford, SG13 8DN.

Tel: 01992 555279

Fax: 01992 555251

Email: [row@hertsc.gov.uk](mailto:row@hertsc.gov.uk)

5) Standards for structures are shown and described in the Rights of Way Good Practice Guide and the British Standard for Gaps, Gates and Stiles (BS5709).

6) While there may be a need, for 'efficient' and 'expedient' agricultural use, to apply for a structure across a path, any structure must be suitable, appropriate and convenient for the public using the path.

7) The Countryside Management Service operate teams of volunteers, who may be available to install gates, barriers etc, which will reduce the overall costs of new structures. Contact them at; N&E Herts on 01462 459395 or S&W Herts on 01727 848168.

8) Further advice on your rights and responsibilities for structures across Public Rights of Way may be obtained from:

The county branches of the CLA; **[www.cla.org.uk](http://www.cla.org.uk)** / NFU; **[www.nfu.org.uk](http://www.nfu.org.uk)**

Defra, **[www.defra.gov.uk](http://www.defra.gov.uk)**

The Countryside Agency, **[www.countryside.gov.uk](http://www.countryside.gov.uk)**

9) Please note that forms are publicly available and the document may be shown to any member of the public requesting it.

10) See Appendix 1 for details of the legislation.

**Encs: 1) Plan,**

**2) Standards specified in the Rights of Way Good Practice Guide,**

**3) Highways Act 1980 extracts - Appendix 1.**

**Appendix 1.****Highways Act 1980 sections 146 / 147.****Section 146. Duty to maintain stiles, etc. on footpaths and bridleways.**

(1) Any stile, gate or other similar structure across a footpath or bridleway shall be maintained by the owner of the land in a safe condition, and to the standard of repair required to prevent unreasonable interference with the rights of the persons using the footpath or bridleway.

(2) If it appears to the appropriate authority that the duty imposed by subsection (1) above is not being complied with, they may, after giving to the owner and occupier not less than 14 days' notice of their intention, take all necessary steps for repairing and making good the stile, gate or other works.

(3) The appropriate authority may recover from the owner of the land the amount of any expenses reasonably incurred by the authority in and in connection with the exercise of their powers under subsection (2) above, or such part of those expenses as the authority think fit.

(4) The appropriate authority shall contribute not less than a quarter of any expenses shown to their satisfaction to have been reasonably incurred in compliance with subsection (1) above, and may make further contributions of such amount in each case as, having regard to all the circumstances, they consider reasonable.

**Section 147. Power to authorise erection of stiles, etc. on footpath or bridleway.**

(1) The following provisions of this section apply where the owner, lessee or occupier of agricultural land, or of land which is being brought into use for agriculture, represents to a competent authority, as respects a footpath or bridleway that crosses the land, that for securing that the use, or any particular use, of the land for agriculture shall be efficiently carried on, it is expedient that stiles, gates or other works for preventing the ingress or egress of animals should be erected on the path or way.

(2) Where such a representation is made the authority to whom it is made may, subject to such conditions as they may impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public, authorise the erection of the stiles, gates or other works.

(2A) In exercising their powers under sub-section (2) above the competent authority shall have regard to the needs of persons with mobility problems.

(3) Where an authorisation in respect of a footpath or bridleway is granted under this section the public right of way is to be deemed to be subject to a condition that the stiles, gates or works may be erected and maintained in accordance with the authorisation and so long as the conditions attached to it are complied with.

(4) ...any stile, gate or works erected in pursuance of an authorisation under this section is to be deemed to be erected under this section only if the provisions of the authorisation and any conditions attached to it are complied with.

(5) In this section references to agricultural land and to land being brought into use for agriculture include references to land used or, as the case may be, land being brought into use, for forestry or for the breeding or keeping of horses.

**Section 147ZA. Power to enter into agreements.**

(1) With respect to any relevant structure, a competent authority may enter into an agreement with the owner, lessee or occupier of the land on which the structure is situated which provides-

- (a) for the carrying out by the owner, lessee or occupier of any qualifying works and the payment by the competent authority of the whole or any part of the costs incurred by him in carrying out those works, or
- (b) for the carrying out by the competent authority of any qualifying works at their own expense or subject to the payment by the owner, lessee or occupier of the whole or any part of the costs incurred in carrying out those works.

(2) In this section-

(c) "qualifying works", in relation to a relevant structure, means works for replacing or improving the structure which will result in a structure that is safer or more convenient for persons with mobility problems.

(3) An agreement under this section may include such conditions as the competent authority think fit.

(4) Those conditions may in particular include conditions expressed to have enduring effect-

- (a) for the maintenance of the structure as replaced or improved, and
- (b) for enabling the public right of way to be exercised without undue inconvenience to the public.

(8) A competent authority may not enter into an agreement under this section except with the consent of every owner, lessee or occupier of the land on which the relevant structure is situated who is not a party to the agreement.

**If you would like to see this information in a larger print please see the Rights of Way Good Practice Guide on the website at**

**[www.hertsdirect.org/row](http://www.hertsdirect.org/row)**

**or contact the Rights of Way Service on 01992 555279.**

**FORM A – Application & Agreement to Proceed**

**HIGHWAYS ACT 1980 Section 147 APPLICATION for a STRUCTURE on a FOOTPATH or BRIDLEWAY on AGRICULTURAL LAND for PREVENTING the INGRESS or EGRESS of ANIMALS.**

**Parish** ..... **Path Status** ..... **Number** .....

**1. Full Name of Applicant:** .....

**Address of Applicant:** .....

.....

..... **Post Code:** .....

is the \*landowner / lessee / tenant / licensee / occupier of the land at the location described below. (\*delete any which do not apply).

**2. Where the applicant is not the landowner:**

Full Name of Landowner: .....

Address of Landowner.....

.....

..... **Post Code** .....

**3. Please attach a Land Registry Title Number, if known or evidence confirming the status of the applicant.**

.....

Evidence Checked?..... **Date:** ..... **Officer Initials:** .....

**4. Presumption of Highway:**

The applicant accepts that the land on which the structure is located forms part of a public highway, i.e. a public footpath or a public bridleway.

**5. My grounds for application** for a structure under the Highways Act 1980 section 147 are:- (delete as necessary)

- a) The land is in agricultural use, or
- b) The land is being brought into use for agriculture... (give details).

.....

.....

c) The ingress or egress of animals to be controlled are:

.....

d) Any other relevant matters? [*Authorisation is limited by statute, but other matters may be relevant in helping HCC decide whether to grant Authorisation or not*].

.....  
.....

**5. Type of Structure requested** (please circle one below). **Structures are defined as:**

- defined gap (narrower than path width)
- pedestrian gate (wicket / hand gate)
- maximum mobility (disabled access) kissing gate
- medium mobility kissing gate
- radar gate
- bridle gate
- other similar structure

Additional details (e.g. handles, latches, fencing, 2-way opening, self closing);

.....

[Stiles are no longer considered appropriate due to the requirement for ease of access under the Disability Discrimination Acts 1995 & 2005].

**6. Location of Structure:**

The structure to be located at the point marked A on the attached plan at grid reference

..... (8 figures)

(a plan must be attached for location purposes).

**7a. I will undertake the construction myself** (tick box below) and ensure that the structure will conform to the agreed standards and accept the responsibility for the ongoing maintenance of the structure to those standards and the liability therein.

YES...

**b. I would like the Council to undertake the construction at my expense** (tick box below) and I will accept the responsibility for the ongoing maintenance of the structure to the agreed standards and the liability therein.

YES...

[The Applicant(s) should check that they are satisfied that the finished structure conforms to the agreed standards].

Signed..... Print Name.....Date .....  
(Applicant).

Agreement to proceed with works

Signed..... Print Name.....Date .....  
(Officer).

**FORM B – Inspection & Authorisation**

**HIGHWAYS ACT 1980 Section 147 AUTHORISATION for a STRUCTURE on a FOOTPATH or BRIDLEWAY on AGRICULTURAL LAND for PREVENTING the INGRESS or EGRESS of ANIMALS.**

**Parish .....Path Status ..... Number .....**

1. WHEREAS: Hertfordshire County Council ("the Council") is the Highway Authority for footpaths and bridleways shown on the Definitive Map of Public Rights of Way in Hertfordshire.

2. AND: ..... (name of Applicant), of .....

..... is the Applicant and has applied to erect the structure described below, in the above public highway, to the standards and conditions specified and at the location described.

3. The Applicant(s) will be bound by section 147 of the Highways Act 1980 to the conditions set out below and acknowledge(s) that the Council has power under that Act to withdraw or revise this Authorisation at any time and to require removal of the structure or remove it themselves if it is in breach of any of the conditions or legislation.

4. **Type of Structure:** (Officer to insert detail of structure approved)

..... Subject to any approved or required modifications (below) standards for structures are shown and described in the Hertfordshire Rights of Way Good Practice Guide and the British Standard for Gaps, Gates and Stiles (BS5709).

Note: where the structure is narrower than the legal width of the path any fencing is to be specified here:

.....

5. **Approved Modifications:** (Officer to complete) The following modifications are approved or required (if none state 'None'):

*[An 'Approved' modification might be a narrower gate to meet a particular landholder need. A 'Required' modification might be a special bypass gate for disabled users.]*

.....

.....

6. **Location of Structure:**

The structure to be located at the point marked A on the attached plan at grid reference

..... (8 figures)

(a plan must be attached for location purposes).

Continued over...

**7. The Conditions:**

The Applicant(s) hereby agree(s) to these conditions and acknowledge(s) that the Council may withdraw or revise this Authorisation at any time and may require the structure's removal or remove it themselves if it is in breach of any of the conditions or legislation.

- a) The Applicant accepts the responsibility for maintenance of the structure to the standards specified in this document and the liability therein and any reasonable adjustments arising from changes to county and national standards, until such time as the structure is removed.
- b) This authorisation covers only the structure as specified above and only for the period of the applicants' occupancy. Any additions (such as fencing wire, sheep netting, latches, springs), may constitute an unlawful obstruction unless prior authorisation has been given.
- c) Gates must be capable of being opened at all times with reasonable ease by all lawful users of the route (e.g. on foot, cycle or on horseback) as relevant.
- d) Should any of the conditions under section 147 [Highways Act 1980], which allows structures to be erected cease to exist, then the authorisation becomes void and the structure becomes an unlawful obstruction and must be removed.
- e) If at any time the status of the route changes to that of a higher status this authorisation becomes void and should be reapplied for.
- f) The Applicant undertakes to notify Hertfordshire County Council of any anticipated material changes relating to the ownership and use of the land and any changes to the structure.
- g) Any failure of the Applicant to abide by these conditions may lead to the Council requiring the removal of the structure as an unlawful obstruction, under sections 143 or 333 [Highways Act 1980] and / or legal proceedings being commenced for the wilful and unlawful obstruction of the public highway under section 137 [Highways Act 1980]. Alternatively the Council may require that the structure be upgraded at the applicant's expense to one that is more convenient to the public.
- h) This approval is a restriction on public rights and the document may be shown to any member of the public requesting it.
- i) Other condition(s) specific to this case:

.....  
(e.g. securing a gate open during periods without stock, or the removal of any other structure made redundant by this authorisation).

Signed..... Date .....  
(Applicant). (subject to authorisation below).

**8. Inspection & Authorisation:**  
 The structure described in paragraphs 4 to 7 above was inspected on:  
 ..... (date), by.....(Officer print name)  
 and conforms to the above standards and subject to paragraphs 3 to 7 above,  
 authorisation is hereby granted.  
 Signed ..... Rights of Way Officer Date .....