



# **Bruton Town Council**

## **REQUESTS FOR VEHICULAR AND PEDESTRIAN ACCESS CROSSINGS OVER COUNCIL OWNED LAND OR FROM ITS CAR PARKS**

### **Procedure for the Processing of Enquiries**

If you have obtained a copy of this guidance note it probably means that you are interested in obtaining permission to cross and construct a vehicular or pedestrian access crossing over Council-owned land or from a Council car park. The purpose of this note is to provide guidance on the procedure and time-scale for the processing of applications access crossings and to provide a summary of anticipated accompanying costs.

### **Background**

Before explaining what we do, the applicant needs to know why we do it. Applications to construct a vehicular access crossing over Council-owned land are a two or three-stage process.

The first stage involves the Council as landowner giving permission to cross its land. This is exactly the same as asking any other landowner. It can involve renting the right of access with an annual payment or purchasing the right permanently with a one off payment. (For financial comparisons of the two options see the table at the end).

The second stage may involve the obtaining of Planning Permission from the Local Planning Authority (LPA) where this is relevant. This will depend upon what works are being carried out to form the crossing, what works are being carried out within your own land and what class of highway you propose to exit onto. In some cases the LPA may be the Council but it is important to know that the planning process and the land ownership process are entirely separate within the Council and obtaining one consent does not infer that the other has been granted or is not necessary.

The third stage involves obtaining consent from the Highway Authority to construct a drop-kerb onto the highway.

Please note that you will not be able to proceed without all relevant permissions being in place before you start the works and exercise the rights. It is up to you, as the applicant, to follow this procedure and obtain all the necessary consents in writing.

## **Alternatives**

If this matter proceeds you will eventually need to state whether you wish to rent the access from the Council (**known as a Licence**) or to purchase the permanent right (**known as an Easement**).

Purchase of the right is more expensive but the advantage is that once the purchase is complete it is yours forever, it will vary in value along with your house and you will be able to sell on the right with the house if you move.

Renting the right is less expensive, the right can be terminated in the future, the annual rental can be increased in the future and you will have to ask consent from the Council as landowner if you wish to transfer it to the new owner when you sell the house in future. However, the Council gives a general assurance to all those taking out the renting option that termination will not be required without a good reason, that annual rents will not be increased at unreasonable intervals or to unrealistic amounts (likely to follow inflation indices) and that transfer to new owners will not be unreasonably refused.

In cases where this guidance note is relevant the Council is the landowner of the grass verge and in some cases also the footpath or pavement that lies between the applicant's property and the public highway. It is important that the applicant seeks clarification of exactly what land the Council owns.

## **Procedure for Obtaining the Right to cross from the Landowner (the Council)**

1. Usually the applicant has an idea that the land is Council-owned and most commonly an enquiry starts with a telephone call to the Town Clerk, which will trigger the posting of this guidance note to the enquirer. Having read the note and assessed how it affects you, it is often sensible practice to talk to all the other relevant officers at the outset to see if any one element of the three possible consent procedures is likely to be a problem. If there is a negative reaction on one element it may well save a lot of wasted effort and expense on your account in respect of the other two.
2. Once the guidance note has been received and read, the best method of starting the process will be to complete the attached application form together with a sketch plan to help identify the area of land required. Please add as much detail as possible to identify the location and size of that land and state if you prefer to purchase outright or to rent.
3. You will then have to wait whilst he/she investigates and consults with relevant Council officers. Each application is judged on its individual merits.

*Dated 30<sup>th</sup> July 2013*

4. The Town Clerk will establish if the land in question is within the ownership of the Council. The cost of this is included within the £66.50 plus VAT administration fee.
5. Assuming the Council does own the land, the Town Clerk and members of the Planning Committee will inspect the site and research its legal (e.g. for restrictive covenants preventing use) and historical background. He/she will also initiate a process of consultation with relevant Council Departments including obtaining a valuation of the land. As a guide, this can take between six to eight weeks depending upon available resources and the speed of reply from consultees. However, if any significant delay in consultation is experienced or if significant issues of concern about the grant of the rights are raised this time-scale may be added to considerably.
6. You are advised at this stage to consult with the Town Clerk, Chairman of the Planning Committee and the SSDC Planning Services Manager about the need for and likely prospects of obtaining planning consent for change of use of the land and the cost of obtaining that consent. It is possible that land not previously used for access purposes or parking etc. will need planning consent for a change of use. Any decision by the council to grant rights over the land as landowner is separate from any decision to grant planning consent and the applicant must not assume that planning consent will be granted automatically just because "the Council" ultimately decides to grant the rights. It will be a condition of any grant that the applicant pays for and is responsible for obtaining that separate planning consent.
7. The applicant should note that the construction of a vehicular access onto a classified road (e.g. an A, B or C road) will automatically require planning permission.
8. If the consultees do not have any objections and if there are no overall estate management objections to the grant the Town Clerk will issue the standard terms and conditions for you to agree. At this stage you are still free to withdraw from the process but the administration charge is not refundable.
9. Once terms have been agreed you should contact the Highway agency about the highway crossing (see Section headed 'Contacts' below). It will be a condition of any grant that the applicant pays for (if applicable) and is responsible for obtaining that separate highway consent.
10. Usually at this stage you will also submit your planning application for change of use, if this is relevant, and completion can be deferred for a reasonable period whilst this is resolved.
11. Once you have secured Highways and Planning consent (if applicable) you should notify the Town Clerk. He/she will then instruct the Conveyancing Manager to prepare the legal documentation. You will then have to meet the Council's costs (see schedule at the end) and if you decide to appoint a Solicitor to act for you then you will have to meet his/her costs as well. You will have to give his/her details to the Town Clerk at that time, if relevant.

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12. Completion of the 'Grant of Rights' Licence document will end the process as far as the Landowner is concerned. It is up to the applicant to ensure that all other stages are completed simultaneously as relevant. Please note you are not authorised to carry out any works on Council owned land until all required consents are in place and the relevant legal documentation has been completed.
13. Please note that during the consultation process it is possible that the Council could decline your request, to which there is no right of appeal. The implication to you is that the Administration charge of £66.50 plus VAT is not refundable.

## **Typical Details of a Grant of Rights to cross land**

If a permanent right is taken, this speaks for itself.

Whatever right is taken, there will be some general conditions attaching to:

1. Require the applicant to carry out any works to an acceptable standard. Somerset County Highways will supply a copy of an acceptable specification for construction of a driveway on Council land if requested. Please note that this will include the requirements for drop-kerb and footway requirements of the highway authority.
2. Require the applicant to obtain and comply with all the relevant consents as set out above.
3. Require the applicant not to cause or permit any damage or nuisance to the land or neighbours.
4. The Grant may permit the applicant to just cross only or to cross and park on the land depending upon the circumstances. (Sometimes shared access arrangements are made jointly with neighbours and this may be needed to avoid unreasonable obstruction by either).
5. Require the applicant to indemnify the Council against claims arising from the use of the land.
6. Require the applicant to pay the Valuation cost and Legal documentation costs.

If a temporary right is taken, there will be specific additional conditions attaching:

1. To allow the grant to run for an indefinite period subject to termination by three months' notice by either party.
2. To make the grant personal to the applicant and not transferable without the Council's reasonable consent.

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3. To make the Applicant remove the access and make good the land if the right is terminated and if the Council reasonably requires it to be removed/made good.

All these terms and conditions and others will be set out in more detail in the final document.

## **General Policy**

Rents for small land uses will usually be reviewed at 3 year intervals in line with the Consumer Price Index although the Council reserves the right to review and amend this policy at any time. Tenancies can run for an indefinite period until the Council requires use of the land for its own purposes. Whilst security of tenure is not guaranteed beyond the 3 month notice period, if the rent is paid and other conditions are met then it is unlikely that the Council will terminate or rent it to anyone else without good reason and experience shows that in most cases such tenancies run indefinitely without interruption.

If a licence is taken out and the tenant later decides to sell his adjacent property, the Council will usually agree to the new purchaser taking a straightforward transfer of the licence if so requested in writing. At this time, dealing with transfers incurs an Administration fee, currently £66.50 plus VAT.

No guarantee is given that these policies will not change in the future and the applicant relies upon them at his/her own risk and the Council will not entertain claims for any losses arising from any change of circumstances.

Please also note that non-payment of the licence fee will result in the agreement being terminated and the licensee asked to remove the access covered by this agreement.

## **Contacts**

1. Landowner – Contact the Town Clerk, 26 High Street, Bruton. BA10 0AA  
Tel: 01749 813014.
2. Somerset County Highways – Highways Department, Somerset County Council, County Hall, Taunton. TA1 4DY Tel: 0845 345 9166.
3. Planning Permission – Chairman of the Planning Committee (contacted via the Town Clerk) and the Planning Services Manager, South Somerset District Council, The Council Offices, Brympton Way, Yeovil. BA20 2HT Tel: 01935 462462.

*Dated 30<sup>th</sup> July 2013*

## Summary of Possible Costs (as at July 2013)

<b>Summary of Possible Costs – Permanent Right (Easement)</b>	<b>Payable by the Applicant</b>
Value of permanent right	As valued but never less than £1500
Valuation fee	As charged by the valuer
Administration fee	£66.50 plus VAT
Town Clerk's overtime	As charged at the standard rate
Estimated Surveyors fees	£415 plus VAT
Estimated Council's legal costs	£555 plus VAT
Planning application fee	National scale via Planning Services Manager
Highway agency charge	As charged by Highway agency
Purchaser's own Solicitor's costs	As charged by Solicitor
Construction Works	As charged by the applicant's contractor
<b>Summary of Possible Costs – Licence</b>	<b>Payable by the Applicant</b>
Value of land	As valued but never less than £66.50 per annum
Valuation fee	As charged by the valuer
Administration fee	£66.50 plus VAT if Council's standard licence used
Town Clerk's overtime	As charged at the standard rate
Council's Legal costs	Can be avoided if the Council's standard licence is used
Planning application fee	National scale via Planning Services Manager
Highway agency charge	As charged by the Highway agency
Purchaser's own Solicitor's costs	Can be avoided if Council's standard licence used
Construction Works	As charged by the applicant's contractor

It is the responsibility of the applicant to check with the Town Clerk that these costs are still current before making any decision to proceed.

Bruton Town Clerk, 26 High Street, Bruton BA10 0AA Tel: 01749 813014  
e-mail: brutoncouncil@btconnect.com

*Dated 30<sup>th</sup> July 2013*



# Bruton Town Council

## APPLICATION FOR AN ACCESS EASEMENT/LICENCE OVER COUNCIL LAND

1. Name and address of applicant  Day time telephone number	
2. Location of land owned by Council	
3. State existing use of land	
4. Purpose for which land is required	
5. State whether you wish to be granted an easement or licence over the land	

I wish my application to be processed under the Council's Purchase/Lease/Rental scheme and enclose the administration fee of £66.50 plus VAT (£79.80). Cheques should be made payable to Bruton Town Council. *It should be noted that this fee is non-refundable.*

I confirm that I am aware of the additional costs involved and will pay all relevant costs, listed in the table on page 6 of this guidance note, should approval be given for the accessway.

I also confirm that I am aware that the Council may decline my application and that the administration fee is non-refundable.

Date: .....

Signed: .....