

Protecting the network

“The granting of planning consent confers no other necessary grant or permission.”

The grant of planning consent does not entitle the developer to obstruct the Public Right of Way. The development, insofar as it affects the Public Right of Way, must not be started, until such time as the Order necessary for its diversion has been confirmed, and the new route provided. The successful making and confirmation of an Order should not be assumed.

Where development which obstructs a PROW has been started without the necessary Order for the diversion or extinguishment of the PROW coming into effect Kent County Council will, in normal circumstances, use powers available to it to bring a prosecution.

Failure to deal at an early stage with PROW affected by development can lead to:

- significant delays to a project,
- the blighting of completed property,
- bad publicity,
- financial penalties.



Temporary Closure

- Kent County Council has powers to close PROWs for up to 6 months (Traffic Regulation Order - TROs).
- This process will not be used to enable a development to start immediately following full planning permission.
- TROs are for safety and emergency use only.
- 6 month closures cost up to £1000 to process.
- They may be extended by the Secretary of State.
- To apply for a TRO you need to contact your local PROW Officer.

Enhancements

Do

- Embrace the guidance for good design contained within Kent Design.
- Deal with PROW at an early stage as the legal processes take time.
- Seek to retain the existing alignment of PROW where possible.
- Seek to retain some of the existing route's character - for instance by routing through amenity areas.
- Think wider than just one development site: how can the links to the surrounding network be enhanced?
- Consider links to the wider countryside and to public transport.
- Increase the value of the network by linking to local shops and services.
- Use direct routes which are wide and pleasant to use.
- Routes can be made safer if they are free from hiding places and are overlooked (natural surveillance).
- Improve upon the construction of the existing PROW, considering width, gradient; and increased use.
- Give consideration to the needs of disabled people.

Don't

- Simply incorporate existing PROW onto estate roads or footways.
- Confine PROW in between high walls and fences. This reduces natural surveillance, discourages public use and can result in antisocial behaviour.

Further information concerning design standards can be found in Kent Design Guide.

Cycle tracks

Where it is intended to provide a cycle track over an existing footpath the Cycle Tracks Act 1984 **must** be used to bring about the change in status to the footpath.



The value of Public Rights of Way



Kent County Council values the rights of way network, recognising the recreational opportunities it offers and its important role in providing for everyday journeys.

The County Council also values the contribution that good quality, well-planned development makes to the diversity and economic well being of this unique and wonderful county.

PROW are of course just one element to be considered when bringing together an application for development. Do please take a little time to read this leaflet, which sets out sound advice about the benefits and pitfalls of PROW and development. I hope that you will be able to use the advice given to incorporate PROW thoughtfully into development, adding value to the network.

Richard King
Cabinet Member for Environment and Transport



Contacts:

KENT COUNTY COUNCIL
ENVIRONMENT & ECONOMY DIVISION

Definition Team

Invicta House
County Hall
Maidstone
Kent
ME14 1XX

01622 221568

West Kent PROW Team

01732 872829

Dartford, Gravesham, Sevenoaks, Tonbridge & Malling,
Tunbridge Wells.

Mid Kent PROW Team

01233 820797

Ashford, Maidstone, Swale.

East Kent PROW Team

01204 216307

Canterbury, Dover, Shepway,
Thanet.

KENT
Countryside
ACCESS
Public Rights of Way

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alternative formats please call
0845 3450210

public rights of way, planning and development

A guide for planners and developers

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Public Rights of Way

(PROW) are highways established in law and should be viewed as a positive benefit to development schemes.

Incorporated thoughtfully into a development PROW can add significantly to the quality of life and to the amenity of the area. They can provide opportunities for leisure and a healthy alternative to the car when undertaking short local journeys.

It is recommended that developers give thought at an early stage to:

- How the PROW network is affected by their proposals
- How the impact of development on the PROW network can be minimised
- And how the network can be enhanced

The effect of development on a PROW is a material consideration in the determination of planning applications.

DoE Circular 2/93

How do I find out if a proposed development will affect a PROW?

PROW are recorded on the Definitive Map and Statement (DMS) for Kent.

The DMS provides conclusive evidence at law as to the existence and alignment of PROW. However, a PROW may exist even if not shown on the DMS.

If paths are evident across a proposed development site but are not recorded on the DMS please seek advice from the Definitive Map Team (contact details on reverse).

The existence and alignment of PROW may be established through the Land Search process, Part 2. Developers are advised to seek this information which forms part of the discretionary element of land searches.

Failure to identify PROW at an early point in the planning process and to deal effectively with them can lead to significant and costly delays to development. It can also result in the blighting of property until any outstanding dispute is resolved.

The Definitive Map and Statement may be viewed at:

- Kent County Council PROW Offices
- District and Borough Council Offices

Diversion or Extinguishment of PROW to enable permitted development

Why?

- If the route of a Public Right of Way **will be** physically affected or obstructed by **permitted** development on your land, you must apply to have it either diverted or closed under the Town & Country Planning Act 1990.

When?

- **An Order for the diversion or extinguishment of a PROW may only be made once** the planning permission for the development has been formally granted.
- **In order to avoid delays the diversion or extinguishment of paths should be considered at the detailed planning application stage, and proposals advanced to a point where the planning authority is in a position to make the necessary orders at the point at which consent is given.**
- It is important that you allow enough time to ensure that the path has been officially diverted or closed before development directly affecting the original path alignment is commenced. Processing and advertising the Orders could take 6 months - work should not start until this is complete.

How?

- **Stage 1** The planning authority will make a Public Path Order to either close or divert the route.
- **Stage 2** This Order will be subject to a 28-day public consultation period. Notices will be advertised on site and in the local newspaper. The outcome of any application cannot be guaranteed.
- **Stage 3** If no objections are received, the planning authority will confirm the Order. Where objections are received, which are not resolved, the matter must be referred to the Secretary of State for determination.
- **Stage 4** If the route is being diverted, the diversion will not become official until the planning authority has certified that the new route has been created to a satisfactory condition.



Checking the Definitive Map

Who does what?

