

# Technical Appendix 17: Public Rights of Way (PRoW)

## 1. Service Overview

- 1.1. KCC has a duty under section the Highways Act 1980 to assert, protect and maintain the highway network, including 6,900km of Public Rights of Way (PRoW). This network of paths is freely available to the public to explore the countryside and coast; it is also integral to creating sustainable development, by providing important links between and within Kent's communities. Ensuring new development preserves and enhances the existing network adds significantly to the quality of life, health, and wellbeing of Kent's residents. The [Rights of Way Improvement Plan 2018-2028](#) and its supporting evidence base provides detail about the current network, its value and how it needs to evolve to meet future demand.
- 1.2. The [Definitive Map and Statement](#) (DMS) records Public Rights of Way and is conclusive evidence of the existence and alignment of PRoW at the date specified in the statement: National guidance for Local Authorities on Public Rights of Way is contained within the Department for Environment Food and Rural Affairs' [Rights of Way Circular](#) (1/09).

## 2. Existing PRoW Network

- 2.1. The granting of planning permission does not also permit the obstruction or diversion of a PRoW required for the development to proceed. Extinguishing or diverting the PRoW requires a separate application to the Planning Authority under section 257 of the Town and Country Planning Act 1990. Generally, KCC prefers a new development's design to incorporate any PRoW on existing alignments and within open, green corridors. Poor design that leaves PRoW in narrow corridors with no natural surveillance will not be supported. Where the need to divert or extinguish a PRoW is identified, KCC recommends early engagement with its PRoW and Access Service to avoid an objection to the development or the diversion / extinguishment order, and subsequent delay to the development.
- 2.2. KCC's general expectation is that the existing network, or amendments to it, will be preserved and improved within the development boundary.

## 3. Assessing the Impact of New Development

- 3.1. The [National Planning Policy Framework](#) (NPPF), Para 100 includes the expectation that "Planning policies and decisions should protect and enhance public rights of way and access". KCC will work with local planning authorities during their plan-making stage to assess proposed sites and development areas to establish the impact on the PRoW network. Where possible, costings for works will be set out.

3.2. KCC's PRoW and Access Service will assess development proposals on a case-by-case basis. Common impacts include:

- Plans involving construction on an existing PRoW which will require the successful confirmation of a Public Path Order, in order to lawfully proceed.
- Harmful impacts on the amenity.
- Fragmentation of the existing network.
- Increased motor vehicle use of PRoW where these also provide private access.
- Suppressed non-motorised use as a result of increased traffic/ harm to visual amenity/ noise / parking Increased use of the surrounding network.
- Positively impact PRoW in creating new links within and to the existing PRoW/ Highway network.

3.3. Kent County Council may seek developer contributions to fund the mitigation of development impacts to the PRoW network on-site or in adjoining areas, such as:

- the need to improve sections of PRoW to ensure suitability for increased use.
- the need to upgrade or create sections of PRoW to accommodate cycle and equestrian use required by the planning consent.
- to improve the connecting network to encourage active, non-vehicular travel.

Where contributions are sought, there is an expectation that they will be paid in advance of, or at the beginning of development, to ensure that existing communities and new residents benefit at an early stage.

3.4. To establish the s106 contribution, the PRoW and Access Service will:

- Identify the development's likely impact on the PRoW network
- Identify what is required to mitigate that impact
- Establish a best estimate of the cost of implementing the mitigation works, based on the current price KCC is paying for such works and the published charging schedule.

## 4. Indexation

4.1. Indexation will be applied to contributions in accordance with advice issued by the Office of National Statistics (ONS) and should match the type of measure to be delivered. For highways construction works this will generally be the Road Construction Index (ROADCON) or the General Building Costs Index. The base date for indexation will be based upon the date at which the costs have been established.

## **5. Time Limit on Spend**

- 5.1. Any contributions will be repaid to the original payee on request if not committed or spent towards its purpose within 10 years of receipt of the contributions in full (if paid in instalments) or alternative longer period as may be agreed.

## **6. Pre-application Advice**

- 6.1. For further information and pre-application advice, contact the PRow and Access Service at [prow@kent.gov.uk](mailto:prow@kent.gov.uk).