

Development & Public Rights of Way

1. Public Rights of Way (PRoW) include Public Footpaths, Bridleways and Restricted Byways. They are minor highways in law and give the public the legal right to pass and re-pass over a defined route. A PRoW does not have to be metalled or have street lights, it can be as simple as a muddy route across a piece of land. Government Circular 1/09 paragraph 7.4 advises that the effect of development on a PRoW is a material consideration in the determination of planning applications. All PRoW crossing or adjoining a proposed development site must be marked on the site plan submitted with the full planning application. This is so that it can be validated with the planning application.
 - Core strategy policy P5 seeks to ensure that new development proposals will ensure that developments must take into account accessibility by a range of means including cycling and pedestrians.
 - Allocations Plan Policy P8AP states that the Council will permit development proposal affecting PRoW provided that the integrity of the right of way is retained.
 - Developments must have full regard for NPPF 2024 paragraphs 96, 105 & 109.
 - Developments must have regard for Bolton Council's Rights of Way Improvement Plan 2018 – 2028.
 - Developments must have full regard for Bolton's Accessibility, Transport and Highway Safety SPD paragraph 7.5.
2. It is extremely important that all existing and any potential PRoW's on or adjacent the development are identified and considered at an early stage in the development process. It is possible that a path across an area of land may have become public by usage although not indicated on the Definitive Map. Consideration should also be given to the potential for Town or Village Green applications on the land in question. Consequently, developers must consider rights of way issues at an early stage of the planning process, to minimise the overall impact of the proposal on the right of way and reduce the risk of delay at a later stage. The identification of a PRoW at a late stage can cause significant delays and may even halt a development. A pre-application discussion is strongly advised with the Public Rights of Way Team if PRoW's are to be affected. [Contact email: prow@bolton.gov.uk].
3. Any request for the permanent or temporary extinguishment and/or diversion of footpaths, bridleways or restricted byways affected by development should be submitted prior to the planning application. Informal discussions with the Council's Rights of Way Officer will enable early discussion with statutory consultees, landowners and user groups, to identify any issues that may materially affect the development. Any formal application should then be made at the time of the planning application. Application forms are available from the PRoW team.
4. The granting of planning permission does not give a developer any right to interfere with, obstruct or move a PRoW. A PRoW can only be diverted or closed by a separate legal order. The minimum time for undertaking a Public Path Order is approximately six months, but it can take much longer and there is no guarantee that an application will be

successful. The Highway Authority has powers to remove all obstructions of a PRow and could require the demolition of buildings for this reason. You should therefore consider whether any PRow's cross your site before submitting a planning application.

5. As highway authority we have a responsibility to protect the PRow network. For this reason, PRow's should normally be retained, especially if they:
 - Provide a convenient well used route to local facilities.
 - Link areas.
 - Used for recreational reasons and for access to the countryside.
6. The first option should therefore be to retain PRow's on their existing line. However, if the most efficient use of a plot of land for the proposed development would benefit from existing routes being altered and/or realigned, the provision of an equally convenient and pleasant route will usually be required. If a PRow is diverted, Government Circular 1/09 paragraph 7.8 advises it should not usually be on to the footway or carriageway of an estate road and preference should be given to the use of made-up estate paths through landscaped or open space areas away from vehicular traffic. However, it is accepted that sometimes the type and scale of a development may dictate that the most sensible alternative provision will be on footway or shared use footway. In some cases, it may be possible to create a more convenient route as a result of a development or to enhance the quality of a route.
7. The use of estate roads along which an existing PRow will lead should be avoided due to the potential conflict between vehicles and the defined use of the right of way.
8. As a minimum, the following principles should be incorporated into the design of new PRow's or where existing PRow's are incorporated into a new development and have regard for 'Secured by Design Homes 2019':
 - PRow's should be as straight, direct and as wide as possible, open to view and clear of hiding places. Ideally each end being visible from the other.
 - Where possible locate PRow's away from the side or rear of premises.
 - Locate PRow's where natural surveillance is high.
 - Do not create a 'tunnelled effect' through narrow widths and/or high fences.
 - PRow's should be set in a landscaped area to avoid nuisance to neighbours.
 - Have due regard for person(s) with disabilities.
9. Where PRow's are not enclosed, footpaths should be of a minimum width of 1.5 metres and bridleways and byways 3 metres. If the way is to be enclosed by fencing, hedging or building the footpath should be of a minimum width of 2 metres and bridleways and byways 4 metres. These are minimum advised widths and may vary, dependant on local circumstances. If an existing PRow is to be retained on its existing line, then any widths recorded in the definitive statement or as a matter of evidence will apply.
10. The minimum advised heights for PRow are: footpath 2.2 metres and all other PRow 4 metres.
11. There will be a planning presumption that in urban areas new PRow's or PRow's whose use is likely to be significantly increased as a result of a development should be constructed to a high standard using bituminous materials and be fully drained. Standard construction details are available from the PRow team. Compacted aggregate surfacing options may be acceptable for new PRow's or PRow's whose use is likely to be significantly increased in rural or open green space within urban areas. However, this will be at the discretion of the highway authority. Unsurfaced paths will rarely be acceptable unless the anticipated use will be very light. Drainage on PRow's should be designed to avoid additional water crossing the surface or settling on PRow's.

12. The detailed design, layout, drainage and construction of diverted PRow's within or adjacent the development site shall be agreed with the highway authority prior to a public path order being made. The detailed design, layout, drainage and construction of existing PRow's within or adjacent the development site shall be agreed with the highway authority prior to the planning application approval.
13. Vehicle access to the development site should not be gained along a public footpath, bridleway or restricted byway. No public vehicular rights exist along these defined routes and they must not be driven along without lawful authority/unless a private right of way exists (or is established). It is the developer's responsibility to ensure that appropriate rights exist. It is recommended that access roads are made separate from a PRow to avoid surface damage and a conflict of use.
14. Gates or barriers should not be erected on a PRow without prior discussion with the highway authority. They are classified as obstructions unless the highway authority approves them. The authority has a least restricted access policy (that is a gate, before a kissing gate, before a stile). Any authorised structure must conform to BS 5709 for gaps, gates and stiles.
15. PRow's should have a gradient of less than 8% (1 in 12) and wherever possible 5% (1 in 20). Steps should be avoided unless the topography makes them absolutely essential. Generally, however, zigzag PRow's should be provided on steep slopes to reduce gradients to an acceptable level. Handrails will usually only be required where steps are provided or where path gradients exceed those recommended above.
16. Planting should be designed to provide a pleasant setting and require low maintenance. Planting alongside an urban PRow between buildings, should not unduly enclose or narrow the PRow or create hidden areas. Low growing shrubs or grass is therefore preferable, used in conjunction with trees. Any planting should be set 2 metres from the edge of a PRow to allow for growth.
17. Developments must consider how changes to land levels will affect PRow and to ensure that no surface water runoff has a detrimental effect on a PRow. Drainage within or adjacent the development site shall be agreed with the highway authority prior to the planning application approval.
18. The need to provide lighting along PRow's will depend on their location and likely use.
19. Tactile paving should be used in combination with dropped kerbs where a PRow leads across an estate road to allow for ease of crossing.
20. The need to provide safe road crossings where a PRow is to cross a carriageway will depend on their location and likely use.
21. If considering cycle routes; footways or footpaths should not be used as linking sections or routes for cyclists; footways and footpaths can only be used by pedestrians. New routes for cyclists if not created as a bridleway should be created parallel to a public footpath thereby retaining the footpath on the Councils definitive map for public rights of way. For further information on pedestrians and cyclists, please refer to The Greater Manchester Interim Active Travel Design Guidance.
22. Unless there are good and specific reasons not to allow horse riders to use any pedestrian/cycle routes that might be considered, steps should be taken to accommodate them. Horse riders are particularly vulnerable road users, a well-designed cycle network can provide appropriate and important opportunities to avoid busy roads. Ideally and where possible shared routes should be created as bridleways.

23. Even when planning permission has been granted and development has begun, affected PRoW's should be kept open for public use until a legal order has come into effect. Any obstruction or interference with a PRoW may make it impossible for an order to be made.
24. It must be emphasised that the ultimate decision to divert or extinguish a PRoW may be outside the control of both planning and highway authorities, should objections to the making of an order be received. The decision may be made by the Courts or by the Secretary of State which would result in delays before a decision is reached.
25. If any work is to be carried out on a PRoW, then permission must be given from the highway authority.
26. If it is likely that a PRoW will be temporarily affected during construction works, a temporary closure for up to six months, which can be extended up to 18 months should be applied for before construction starts. It should be noted that the process can take approximately six weeks to effect. The PRoW must be reinstated to no less than its original condition and along its legal line when the works have been completed.