

PUBLIC RIGHTS OF WAY AND DEVELOPMENT

Planning Guidance Note • Minor Applications

Purpose of the Guide

The purpose of this guide is to assist applicants with giving appropriate consideration to Public Rights of Way at an early stage in the development process. Applications that do not plan at an early stage for treatment of Public Rights of Way through proper statutory process can face additional costs including substantial delays.

The Public Rights of Way covered by this guide include Public Footpaths, Bridleways, Restricted Byways and Byways Open to All Traffic.

- Footpaths (available to pedestrians).
- Bridleways (available to pedestrians, horse riders and cyclists).
- Restricted Byways (allowing for pedestrians, horse riders & cyclists plus horse and carriage access).
- Byway Open to all Traffic (which allows for all of the above plus mechanically propelled vehicles).

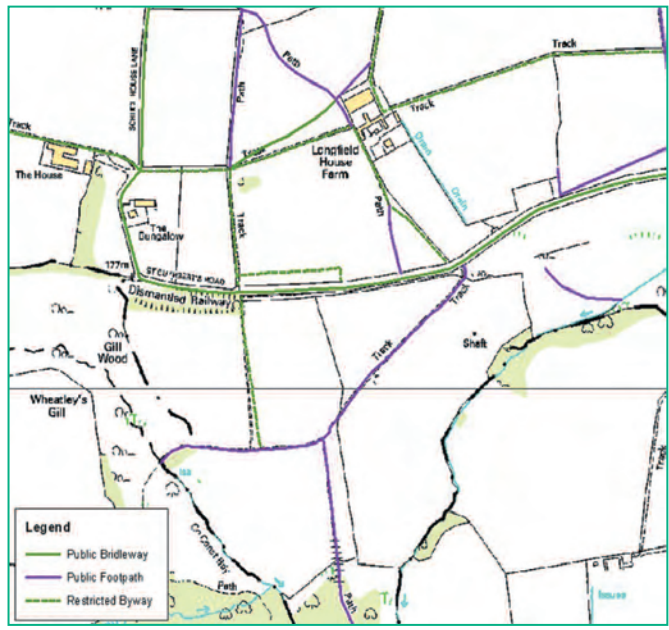
For all routes pedestrian rights includes wheelchair and push chair, although this does not guarantee accessibility to these, for example, where topography necessitates flights of steps.

In and between the larger urban conurbations, Public Rights of Way often provide important access connections for local pedestrian, equestrian and cycle trips.

Identifying Paths at the Outset

It is very important that all existing and potential Public Rights of Way are identified and considered at an early stage in the development process. The identification of a Public Right of Way at a late stage can cause significant delays and may even halt a development or make properties unsaleable. The Highway Authority has powers to remove an obstruction to a Public Right of Way and could require the demolition of buildings for this reason. You should therefore consider whether any paths cross your site before submitting a planning application. The easiest way of determining the location and status of any Public Rights of Way across a site is by undertaking a Land Charges search. Alternatively, an examination can be made of the Definitive Map which is a legal document giving information on the location of all Public Footpaths, Bridleways, Restricted Byways and Byways Open to All Traffic, known to the Highway Authority.

Copies of the Definitive Map are held by each of the authorities at the main Council Offices, and are available for inspection by the public (preferably by appointment). However, not all paths are shown on the Definitive Map(s) or revealed in a Land Charges search. If a path has been used for many years it may be a Public Right of Way even if not shown on the map. Very occasionally there are also some instances where public paths were created as a result of the Enclosure Acts in the 18th and 19th centuries, and there may be no evidence of these paths on the ground.



An extract from the definitive map of Public Rights of Way

You should discuss the status and significance of any paths with the relevant authority based Rights of Way Officer who can offer specific advice on these matters, including known non-definitive map Public Rights of Way, and undetermined but claimed Public Rights of Way.

The granting of planning permission does not give an applicant any right to interfere with, obstruct or move a Public Right of Way. Public Rights of Way can only be diverted or closed by a separate legal order. The minimum time for undertaking a Public Path Order is about six months, but it can take much longer and there is no guarantee that an application will be successful.

Detailed design of paths:

Where substantial development occurs all paths, whether existing or new, should be respectively adapted or designed to accommodate their intended use and to minimise the risk of disturbance to neighbours and opportunities for crime.

Surfacing and drainage

There will be a planning presumption that in urban areas new paths or paths whose use is likely to be significantly increased as a result of a development should be brought up to adoptable standards by the developer, unless there is a case specific reason why this would not be appropriate. Compacted aggregate surfacing options may be acceptable for new paths or paths 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. Unsurfaced paths, which may be passable in summer, can become boggy quagmires in winter even with light use. Site drainage should be designed to avoid additional water crossing the surface or settling on paths.

Lighting

The need to provide lighting along paths will depend on their location and likely use. Paths within development sites should normally be lit to the same standards as for highway street lighting, whereas for most 'rural' paths additional lighting would not be appropriate.

Width

Where ways are not enclosed, footpaths should be of a minimum width of 2 metres and bridleways and byways 3.5 metres. If the way is to be enclosed by fencing, hedging or buildings then footpaths should be of a minimum width of 4 metres and bridleways and byways 6 metres. If an existing path or way is to be retained on its existing line then any widths recorded in the definitive statement will apply.

Fences and walls

Paths should not be placed in narrow alleyways between high fences that will deter use. However, where housing adjoins footpaths, and cannot be designed to front it, appropriate robust and secure boundary treatment will be required to provide security and privacy.

Landscaping

The type of planting will depend on the length, width and setting of the path. Planting should be designed to provide a pleasant setting, and require low maintenance.

Planting alongside urban paths between buildings should not unduly enclose or narrow the path or create hidden areas. Low growing shrubs or grass is therefore often preferable, used in conjunction with trees.

Where paths lie next to housing it may be sensible to use thorny shrubs to provide security and deter ball games.

Access for All

Paths should have a gradient of less than 8% (1 in 12) and wherever possible 5% (1 in 20). Extended gradients of 8% may prove difficult for some wheelchair users and their pushers.

Steps should be avoided unless the topography makes them absolutely essential. Generally, zigzag paths 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. For technical advice on design standards contact the authority based Rights of Way Officer.

Barriers

Barriers serve two functions where paths join roads.

- Safety barriers are designed to prevent children and where appropriate cyclists and horse riders from joining a road from a path without looking.
- Access control barriers prevent access by unauthorised motorcycles and other motorised vehicles.

Both types of barriers should be designed to accommodate use by parents with pushchairs and by people with disabilities.

Check List: Public Rights of Way

Prior to submitting an application please check that your submission includes the following:

- The precise legally defined line of any existing Public Rights of Way.
- Consultations with local communities and user groups undertaken at the design stage.
- If applicable, reasons why it is not practical or desirable to retain a path on its existing line.
- Paths carefully designed to be segregated from roads and footways, and:
 - a) Routed through public open space.
 - b) Linked to existing paths.
 - c) Have an adequate width as shown below. While border widths may vary depending on the location and nature of the route, the specified minimum widths should be adhered to.

Please remember that if development commences before a path has been legally diverted, the existing route must be kept open and clear of obstructions.

| Status of Public Right of Way | Specified minimum width to be provided with an all weather surface | Landscaped borders to be provided on either side. |
|-------------------------------|--|---|
| Footpath | 1.8 metres | 2.0 metres |
| Bridleway | 3.0 metres | 1.5 metres |

Further Information

If you would like further information please contact:

- Gateshead Council: 0191 433 3000
- Newcastle City Council: 0191 277 8955
- North Tyneside Council: 0191 643 6087
- South Tyneside Council: 0191 427 7000
- Sunderland City Council:
 - Public Rights of Way 0191 561 2450
 - Adopted Highway 0191 553 1566
- Northumbria Police Architectural Liaison Officer: 01661 868 415