

# **POLICY ON BUCKINGHAMSHIRE STANDARDS FOR PUBLIC RIGHTS OF WAY THROUGH DEVELOPMENT**



**2018 - 2020**

## **POLICY STATEMENT**

### **Buckinghamshire Public Rights of Way – Planning & Development Policy 2018-2020**

#### **Political support within the planning process**

*The ROW network is a valuable resource in both urban and rural environments. It is one element of the county's sustainable transport network connecting communities together for every day journeys and a healthy way to access green space. The planning process is an important and often a rare opportunity to improve access for local communities, enhancing existing paths and creating new routes. I hope this guidance provides a guide to enable you to successfully incorporate ROW into your development, and by doing so, improve the sustainability of communities within Buckinghamshire.*

County Councillor Bill Chapple OBE  
Cabinet Member, Transport Economy & Environment

## POLICY FRAMEWORK

### Aims

This paper aims to provide developers with a standard for public rights of way (PROW) matters in order to enhance walking, cycling and horse riding opportunities, ensure compliance with the law and ultimately smooth the passage of applications through the planning process. It is an addendum to the existing Buckinghamshire Rights of Way Improvement Plan 2008-18, but will eventually form part of the 2018-2028 ROWIP currently being written.

Further planning advice on PROW is available in Defra Rights of Way Circular 1/09, chapter 7. Pre-application PROW advice is available for applications in Buckinghamshire free of charge - please email [definitivemap@buckscc.gov.uk](mailto:definitivemap@buckscc.gov.uk). Further local contacts can also be provided in order to consult with the Ramblers (rights of way), Open Spaces Society (rights of way and common land) or British Horse Society (bridleways).

### Introduction

PROW are an important part of the sustainable transport network linking communities together as part of the wider vehicular highway and public footway network. They provide safe opportunities for walking and cycling and a healthy alternative to the car for journeys to school, work, shops and local services. PROW should be seen as a positive benefit to development schemes, being able to add significantly to quality of life as well as improving public space and amenity.

Developers should give thought at an early stage to:

- how the existing PROW are affected by the development proposals;
- assessing and minimising impact on the existing PROW network; and
- enhancing existing surfaces and improving overall network connectivity.

*'The effect of development on a public right of way is a material consideration in the determination of applications for planning permission...'*

Defra Rights of Way Circular 1/09, para 7.2

### Preliminary investigations

PROW are highways that include footpaths, bridleways, byways open to all traffic and restricted byways, and have the same protection as adopted vehicular highways. They are recorded in a legal document called the Definitive Map and Statement (DMS) which provides conclusive evidence of a route on the ground. The map is held at County Hall, Aylesbury and can be viewed by appointment ([definitivemap@buckscc.gov.uk](mailto:definitivemap@buckscc.gov.uk)). It is also possible to view routes on the county website, but this is only updated periodically.

<https://www.buckscc.gov.uk/services/environment/public-rights-of-way/public-rights-of-way-map/>

The existence or alignment of a PROW and the extent of adopted highways can be established through the Local Land Charges Search process – please visit the County Council website for more information. It is worth bearing in mind there may also be higher rights or additional routes in existence which are not yet recorded on the DMS. If a claim has been made for an additional route or status change, these are listed on the county website. It is important to highlight that in

many instances a path on the ground may not always represent the true legal definitive route. It is therefore essential to check the legal line and width of a PROW as this will be the route assessed in a planning response, not the route the public happen to be taking today.

Failure to make the checks may result in costly delays to a development or delay the sale of a property until the matter has been resolved.

### **Diversions and extinguishments under section 257 Town & Country Planning Act 1990**

The County Council can make an Order to divert or extinguish a PROW if it is:

*'...satisfied that it is necessary to do so in order to enable development to be carried out.'*

Section 257 (1) Town & Country Planning Act 1990

This means that the diversion of a PROW should be an early consideration in the development process to allow enough time for a PROW to be legally diverted before development affecting the path is substantially complete. This involves designing a new route to a standard to which the Highway Authority is content. A legal Order will be advertised on site and in a local newspaper during a 28 day public consultation period. Providing no objections are received, the Order can be confirmed. If the public object, the matter will be referred to the Secretary of State for determination. Construction must not start until the highway authority is satisfied with the alternative provided.

### **Legislation**

- Section 257 TCPA 1990 path diversions/stopping up – these applications are managed by Buckinghamshire County Council in the Aylesbury Vale District area, but for all other Districts they are managed by the respective planning authority. The power of a local authority to use section 257 only comes into force once planning permission has been granted, but developers can apply prior to permission being granted. The council loses its power to confirm an order under section 257 if a development has been substantially completed; that is, a development should not be substantially complete until the Order is confirmed. The cost for a county diversion is £1540 plus newspaper advert costs and all works required to open up the new route are at the expense of the applicant. A £100 deposit needs to be paid by cheque when the application is made.
- Section 119 Highways Act 1980 diversions – these are diversions normally used outside the planning process and are used where it is **not** necessary for the path to be diverted '*in order for the development to be carried out*'.
- Section 25 Highways Act 1980 Creation Agreements - Developers can enter creation agreements with the county council to create new PROW to enhance the network. There is generally no charge.
- Temporary path closure – Temporary Traffic Regulation Orders (TTROs) – The county council has powers to close PROW for up to 6 months,

following payment of £1690 and providing 3 months' notice of the closure date. Extensions for a temporary closure can be sought for longer than 6 months, but these require approval from the Department for Transport; therefore 1 months' notice should be provided to the county council prior to the initial 6 month closure expiring to allow sufficient time to secure the extension. TTROs are for safety and emergency use only during construction; they can be in place concurrent to a formal diversion (s257 Order) being processed and can be used to close a PROW prior to the new alignment being provided. Applications should be made to the county council by emailing [definitivemap@buckscc.gov.uk](mailto:definitivemap@buckscc.gov.uk); details of any alternative routes should be provided together with payment by cheque.

### **Network Protection**

The county council has a duty as highway authority under Section 130 Highways Act 1980 to 'assert and protect' the rights of the public to use and enjoy the PROW network. This includes enforcement through prosecution or serving of a Notice where a developer obstructs a PROW which has not been deleted or diverted by legal Order. It is therefore in a developer's interest to ensure PROW matters are resolved to avoid a project being delayed or a property blighted.

### **Planning Considerations**

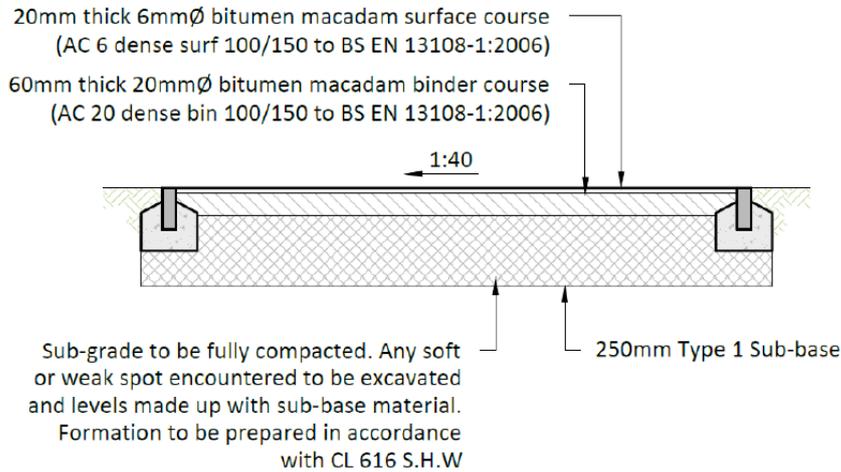
A developer should consider:

- speaking to the Definitive Map team at an early date. Pre-application consultations are free and could avoid lengthy delays in the planning process;
- upgrading a PROW, say from footpath to bridleway, in order to offer multi-user opportunities that connect new residents by walking and cycling to local shops, amenities and other transport modes, such as bus stops;
- maintaining the amenity of a PROW in terms of its width, directness, attractiveness and convenience: routes should be wide, direct, pleasant and give users confidence in an environment that enjoys natural surveillance. Narrow, fenced-in corridors that fail to follow 'safe by design' principles should be avoided;
- enhancements enabling greater access for the less able, such as upgraded surfaces or new British Standard (BS 5709 2018) gates to replace stiles;
- new links to the PROW network can be provided as part of the development to improve sustainable travel within and around a new development, linking with other formal off-road transport corridors, such as footways, cycle lanes and 'green corridors'. If a public footpath is to be used as a cycleway then an upgrade to a public bridleway (recommended) or conversion to a cycle track is required to avoid the developer inheriting the insurance liability for cyclists. The public commit trespass by cycling on a public footpath.

### **Improving the construction of PROW – better surfaces, bridges and gates**

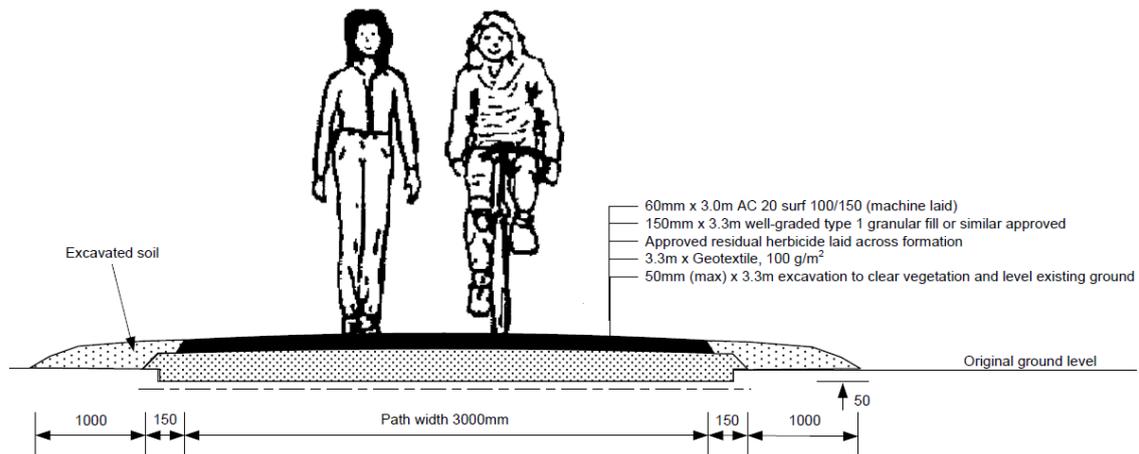
Depending on the size of the development, financial contributions or conditions will be sought to provide PROW improvements in order that an application meets policies and guidelines in the relevant Local Plan, National Planning Policy Framework and Buckinghamshire Local Transport Plan 4.

The type of surfacing will depend on the situation and likely use by the public (walking and/or cycling) and level of demand as a result of the development. Normally, urban paths will require surfaces that meet adoptable standards and a typical asphalt footpath construction abutting a vehicular highway is outlined in Fig.1. Applications under Section 38 or 278 Highways Act 1980 will be required, that include concrete edging.



**Fig. 1** - typical asphalt footpath/cycleway construction with concrete edging

We would normally seek 2m constructed widths for footpaths and 3m constructed widths for bridleways / cycleways, to include grass verges of at least 0.75m on either side. A typical asphalt cycleway construction from Sustrans is outlined in Fig 2; and in Fig 3 there is an example of a route surfaced for school traffic. In areas of landscape sensitivity, coloured top-dressing can be laid, for example, beige or green colours.



**Fig. 2** - typical asphalt cycleway construction

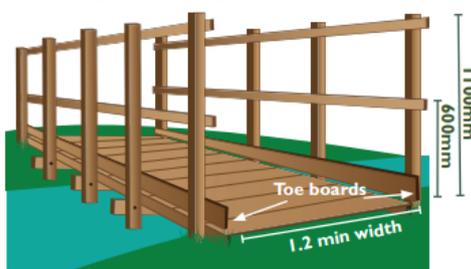
In circumstances with particular equestrian sensitivities or high demand, a rubber-crumb, 'flexipave' surface may be more appropriate. This is currently on trial in the county. Unfortunately, we cannot adopt permeable tarmac at present.



**Fig. 3** - bitumen-surfaced footpath and dropped kerb serving new residents with a route to school and access to green space in Stone

### Bridges

Normally, in order to comply with Equality Act 2010 legislation and be suitable for walkers, cyclists and horse riders, a bridge specification should be step-free and meet the standards outlined in *Design Manual for Roads and Bridges, vol. 2, section 2 (special structures), part 8, BD29/04*. Example foot and bridleway bridges are outlined in Fig. 3a and 3b below, together with example photos of two footbridges in Fig. 3c and 4c.



**Fig. 3a** – Typical footbridge design



**Fig. 3b** – Typical bridleway bridge design



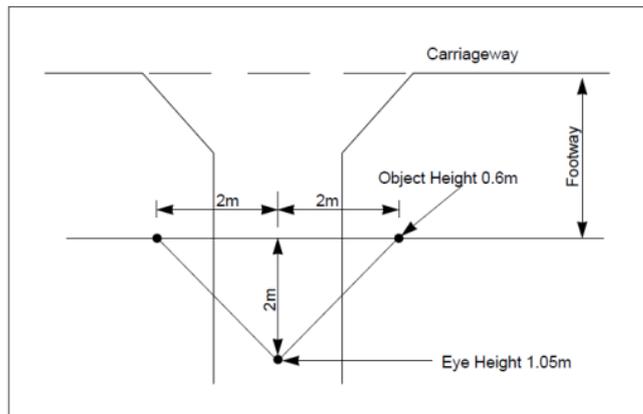
**Fig. 3c** - Footbridge



**Fig 4c** - Footbridge

### **Pedestrian visibility**

Where a private vehicular access emerges onto a right of way, the following visibility splays should be demonstrated – see Fig 5.



**Fig. 5** - Pedestrian visibility splays

### **Disabled Access**

Applications should comply with the Equality Act 2010. There are specific, PROW related, British Standard design guidelines (BS 5709: 2018) ensuring better access for the less able. The 'least restrictive option' requires, for example, 1 metre gaps at site boundaries, or pedestrian gates if stock control is required. Moving, changing, or introducing new gates on an existing PROW requires separate highway authority permission under Section 147 Highways Act 1980. Roadside kerbs should be dropped and steps ramped to allow access for wheelchairs, push chairs and mobility scooters.

### **Contact:**

#### **The Definitive Map and Local Land Charges Team**

Planning and Environment

Transport • Economy • Environment

Buckinghamshire County Council, County Hall, AYLESBURY, HP20 1UY

Email: [definitivemap@buckscc.gov.uk](mailto:definitivemap@buckscc.gov.uk)

Website: <http://www.buckscc.gov.uk/services/environment/rights-of-way/>