

Development and Public Rights of Way Advice to Developers

Introduction

The granting of planning permission does not give a right to interfere with, obstruct or move a public right of way, the obstruction of which is a criminal offence.

Public rights of way can only be altered by legal order and it is important that they are considered at an early stage in the development process. A failure to take them into account may cause significant delays and may make properties unsaleable.

The Government considers that the effect of development on rights of way is a material consideration in the determination of planning applications and it asks local authorities to ensure that the effect that development has on them is taken into account. (*Government circular 2/93 'Public Rights of Way' Annexes C and D*)

Consultation with the council

Shropshire Council is both the Planning Authority and the Highway Authority although these two functions rest with different departments within the council.

Where development might affect a right of way it is important that the Definitive Map of Public Rights of Way is consulted at the earliest opportunity. Anyone can make an appointment to view the Definitive Map at the Shirehall in Shrewsbury or alternatively a rights of way search can be carried out by post or email, although there is a fee for this service.

Where a proposed development may affect a public right of way the planning department will usually consult the Countryside Access Team as part of the planning process. Officers will respond confirming whether or not a route is likely to be affected and consider the effect the development may have on the rights enjoyed by the public. Where a route is affected the Access Team will occasionally object to the application but will more usually request that specified measures are taken to protect the public rights before the development is started.

What if the proposed development will obstruct a public right of way?

If a proposed development will permanently affect a route, for example, because it will be built upon, the developer will need to secure a legal diversion or extinguishment of the route before development begins. The application will usually be made under the provisions of the Town and Country Planning Act 1990 or the Highways Act 1980.

Until the right of way is permanently diverted or extinguished any planning conditions concerning the right of way must be fully complied with and the developer must ensure that:-

- No change to the surface of the right of way is made without consultation with the council
- There is no narrowing of the width of the right of way available for use by members of the public
- No building materials are stored on the right of way
- No damage or substantial alteration, either temporary or permanent, is caused to the surface of the right of way
- No additional barriers/fencing, either temporary or permanent, are placed across the right of way
- The safety of members of the public using the right of way is ensured at all times

It is possible for a right of way to be closed temporarily whilst building works are carried out. The applicant will need to pay a fee to cover costs and the Countryside Access Team will be able to provide further details. Upon completion of works the route will have to be reopened on its definitive line.

What if the public right of way is not directly built on but is still affected by the proposed development?

This situation often arises where, for example, a footpath runs along a track leading to a site which is to be developed resulting in increased vehicular traffic either during construction or after the development is completed.

We will normally highlight any concerns during consultation and will specify any measures that need to be taken mitigate any detrimental effects. Sometimes an indirect affect on a right of way will be so detrimental that we object to the application or require a diversion.

What if the applicant is unclear about the exact line of a public right of way after a search of the Definitive Map?

If after making a search of the Definitive Map and consulting the Countryside Access Team a developer is unsure as to whether or not a right of way is affected an officer can undertake a site visit to establish the correct line of the route on the ground. There will usually be a fee for this service to cover costs.

*If a developer suspects there might be a used route within the boundary of the development that is **not** shown on the Definitive Map (for instance if there is evidence of a well walked path or people object to a path being blocked) it is vital that they discuss it with a member of the Access Mapping Team at the earliest opportunity. The development of land is one of the most common causes of claims for rights to be added to the Definitive Map and such an application could cause serious delays to any building project or blight the completed property.*