

16.0**Legal Issues**

This section explains the procedures required for converting footway and footpaths to enable cycle use and also how to create new cycle tracks.

Unless these procedures are completed, it remains an offence under Section 72 of the 1835 Highways Act to cycle on any footway.

Please note the distinction between a footway and a footpath

16.1**Definitions**

Cycle track:	a right of way for pedal cycles which can either be part of a highway adjacent to a carriageway or a separate highway in its own right, with or without a right of way on foot. Pedestrians and cyclists may be segregated by level, blocks, or white lining.
Cycle lane:	part of a carriageway marked out and allocated for use by cyclists. Can be advisory or mandatory, can be with flow or contra flow. Short sections of cycle lane are required on the immediate approach to an Advance Cycle Stop Line.
Footway:	a right of way for pedestrians within the boundaries of a highway, usually adjacent to a carriageway, but could be separated by a verge. Often referred to as a 'pavement'. A footway may be converted to a cycle track by means of the highway authority's powers under the Highways Act 1980.
Footpath:	a separate right of way, provided exclusively for pedestrians, being part of a public highway that does not include a carriageway eg a 'definitive' public footpath but may include urban footpaths, e.g. within housing estates. A footpath may be converted to a cycle track by means of an order made under the Cycle Tracks Act 1984.

16.2 Converting Footways (adjacent to a carriageway) ie. Creating Shared Use Footways

- Section 65 of the Highway Act 1980 permits highway authorities to construct cycle tracks in or by the side of highways - to be maintained at the public expense. These may or may not be lit.
- The procedure for *converting* part or all of a **footway** to a cycle track involves: "removing" the **footway** under section 66(4) of the Highways Act 1980 and then "constructing" a new cycle track under section 65(1) of the 1980 Act. The actual physical works may be minimal (at the least it will include signing)
- ***There is no provision for orders to be made or for consultation*** however, LTN 2/86 states that 'any proposal to allow cyclists to use pedestrian facilities must involve extensive consultation and publicity'. Consultation therefore should be undertaken with disabled groups (contacted by District Access officers)
- When providing a **segregated** facility, the width of the footway required for the cycle track is removed under the powers in section 66(4) of the Highways Act 1980, and a cycle track 'constructed' over the width under section 65(1) of the same Act. Two distinct areas are created:
 - i) a cycle track - which will usually have a continuing right of way on foot which allows pedestrians to cross it (and cyclist to wheel bikes along)
 - ii) an adjacent footway (if next to carriageway) or footpath that has a right of way on foot only and on which it is illegal for a cyclist to ride.
- An **unsegregated** or shared facility is achieved by converting all of a footway or footpath to a cycle track with a continuing right of way on foot (DOT 1986 LTN 2/86).
- Do not use The Cycle Tracks Act 1984 to convert footways.

16.3

Converting Footpaths

- These orders are made under section 3 of the Cycle Tracks Act 1984 and the procedures in Cycle Tracks Regulation 1984 (SI 1984/1431).
- Under decision J1.34, the Planning Committee has delegated powers to the Highway Services Group Manager to convert footpaths into cycle tracks. Any proposals to convert should therefore be directed to the Highway Services Group Manager in the first instance prior to discussions with legal.
- This allows for the conversion of all or part of the *footpath* to a cycle track with a right of way on foot, where the County Council is the highway authority (there is no authority to create a cycle track on a private footpath). On conversion, the *footpath* becomes a highway, that is *maintainable at public expense* (section 36 of the Highways Act 1980) even if the footpath had not previously had that status.
- If Agricultural Land is involved, written consent of all those having a legal interest in the land needs to be obtained.
- Procedure for making an order. On making an order, the Highway authority shall consult with the following:
 - i) one or more organisation representing people who use the footpath to which the order relates or are likely to be affected by any provisions of the order, unless it appears to the authority that there is no such organisation which can appropriately be considered.
 - ii) Any other local authority, parish council or community council within whose area the said footpath is situated.
 - iii) Those statutory undertakers whose operational land is crossed by the said footpath
 - iv) The chief officer of police of any police area in which the said footpath is situated.
 - Publish and display notices in newspapers and on site.
 - A model order is available on request (this is from DoT 1986)
- A local authority can make and confirm an order under section 3 (1984) if there are no unwithdrawn objections. If unwithdrawn objections remain, the order has to be confirmed by the Secretary of State, and usually a public local inquiry is held. In the event of a public inquiry please contact the Cycling Officer for information.
- If the order is made, then the footpath must be deleted from the definitive map of footpaths. If only part of the footpath is converted then there will be two distinct but adjacent ways, a cycle track and a footpath. As the footpath remains in existence, it can remain on the definitive map.
- *An alternative method is to create a new cycle track adjacent to the existing footpath under the Highways Act 1980. This will result in a footpath running adjacent to a cycle track (which is highway). This is dependent on land ownership (landowners can dedicate the land to highway). Land owners can also give permissive access to the land.*

16.4**Bridleways**

- Cyclists are permitted to use bridleways, as are pedestrians and horses (1968 Countryside Act), although the surface material may not necessarily be best suited to cycling.
- Bridleways cannot be converted to cycle tracks (and indeed there is no need to do so).

16.5**Towpaths**

- Cyclists are permitted to cycle on some canal towpaths (note that permits are required for some).

16.6**Procedure for creating a new cycle track (non-highway)**

1. Identify the land owners over which the track is proposed, by way of enquiries in the locality and the posting of site notices. Undertake a Commons Registration search.
2. Complete the relevant notices and certificates required under section 27 of the Town and Country Planning Act 1971 depending on whether ownership is known
3. Obtain deemed planning permission under Regulation 4 of the Town and Country Planning General Regulations 1976. Consult with the District Council involved.
4. Seek planning permission to construct a cycle track from relevant committee
5. Construct a cycle track under section 24 of the Highways Act 1980
6. A cycle track can be defined for use by cycles only.