

10th March 2020

Agenda Item: 6

REPORT OF CORPORATE DIRECTOR (PLACE)

FOOTPATH CONVERSION TO ALLOW THE EXISTING PUBLIC FOOTPATH BETWEEN COMPTON ACRES AND THE BRIDGE TO THE NORTH OF 80 STUDLAND WAY IN WEST BRIDGFORD TO BE USED BY BOTH PEDESTRIANS AND CYCLISTS

Purpose of the Report

1. To seek approval to carry out statutory procedure for the conversion of a Footpath to a Cycle Track, to enable it to be used by both pedestrians and cyclists.

Information

The Current Situation

2. The section of public footpath subject to the proposed Conversion Order starts at Compton Acres to the west and ends to the north east, just to the north of a footbridge at the end of Studland Way in West Bridgford (between points C and D shown on **Appendix B**). A map of the surrounding area and cycle routes is shown on **Appendix A**.
3. The path is designated as a public right of way with a status of footpath (West Bridgford Footpath No.63), and currently can only legally be used by pedestrians. The path is currently part of the adopted highway network and is therefore already maintained by Nottinghamshire County Council as part of the public rights of way network.
4. As part of the West Bridgford Cycle Strategy works (undertaken 2017/2018) this path was improved by trimming back adjacent vegetation and carrying out surface improvements. The width of the path is 2.5 metres wide and it is surfaced with bitumen.
5. The path is part of Route 6 shown on **Appendix A**, linking Rushcliffe Arena to Compton Acres and the Compton Acres tram stop. The route is part of a wider cycle network which links key destinations in West Bridgford and beyond to Nottingham City Centre and the wider countryside.
6. Although the path is part of the proposed signed cycle routes in West Bridgford and has been improved to make it suitable for this, cyclists currently have no permission to cycle on it and it is not currently signed as a cycle route. Despite its status it is already a popular route for

cyclists that provides a key link to support the cycle network and is appropriate to convert.

Legal Background

7. Footpath Conversion Orders are made under Section 3 of the Cycle Tracks Act 1984.
8. The County Council, may, in the case of any footpath for which they are the highway authority, make an order designating the footpath or any part of it as a cycle track, so that, on the date the order is confirmed (or on such date as is stated in the order) the footpath shall become a highway over which the public have a right of way on both foot & pedal cycles.

Pre-Order Consultation

9. A pre-order consultation exercise in relation to the proposed conversion of the footpath into a cycle track has been carried out between 6th December 2019 and 10th January 2020. Notices of the proposal and plans were displayed along the route at key locations during this period. In addition electronic consultation information was forwarded to relevant interested parties identified on the County Council's Public Rights of Way consultee list.
10. Of those contacted electronically only four responded with anything other than a standard holding response. Of these, three supported the proposal or raised no objection.
11. The only electronic consultee objection received came from the Notts Ramblers. This objection referred to the removal of the route from the Definitive Map and Statement and indicated that the Ramblers considered this removed some protection from the footpath that being on the Definitive Map brings, and would cause it to be shown differently on OS mapping. Legal advice has been sought in relation to this objection, which indicates that the conversion will increase the public's rights over the route and, while cycle tracks are not recorded on the Authority's statutory Definitive Map and Statement, it would be recorded on the Authority's statutory List of Streets and would both continue to be maintained as public highway and would be subject to protection as a formal public highway at cycle track status rather than as a formal public highway at footpath status only. In relation to OS mapping, it is important to note that the Ordnance Survey specifically indicate that their maps show only physical features and are not intended to show the existence or otherwise of highway rights. Nonetheless, the route will be clearly signposted and publicised as a public right of way on foot and cycle, as with other such highways.
12. One other objection was received from a local resident as a result of the public notifications on site. This objection referred to further disruption to local residents and the allocation of funding as opposed to other sustainable transport facilities. The objector has been advised that costs and disruption will be minimal but wishes the objection to remain.

The Proposal

13. Approval is therefore requested to make a Footpath Conversion Order which, should it ultimately be confirmed, would convert the existing footpath to a shared use path which can be used by both pedestrians and cyclists.
14. Should Committee so resolve, the County Council may then proceed to make the appropriate Footpath Conversion Order and to publish formal notices giving a minimum of 28 days for

representations or objections. These notices would be placed in a local newspaper, placed on deposit for inspection along with a copy of the proposed order, placed up on site at each end of the affected footpath, placed on display where similar public notices would ordinarily be displayed (eg. Parish Council notice board) as well as providing a copy to those parties who have already been consulted:

- Any organisations who represent persons who already use the footpath or organisations likely to be affected by the conversion;
- Any relevant Parish, District, or Borough Council.
- Any statutory undertakers whose operational land is crossed by the footpath; and
- The Chief Constable of Nottinghamshire Police.

15. If no objection is made, the County Council may confirm the Conversion Order. However, if there are any objections (which are not subsequently withdrawn) the order can only be confirmed by the Secretary of State (following a public inquiry if considered necessary). Provided the Conversion Order is confirmed, either by the Highway Authority of the Secretary of State, this must then be publicised as above but also writing to anyone who appeared at or submitted written representations to any public inquiry.

Other Options Considered

16. Another option available to achieve a similar objective would be to seek permission from the two private landowners over whose land this footpath runs (Bovis Homes & David Wilson) for cycle use. However, while this may permit some cycle access along the footpath, it does not provide a formal permanent right to the public, but could be withdrawn by the landowners. Additionally, it would raise potential maintenance and liability issues for the landowners as a private (permissive) right of way.

17. In the interests of exploring all avenues, approaches were made to both Bovis Homes & David Wilson regarding the above option, but no response was received.

18. Therefore this option has been rejected for the following reasons;

- a. Private Landowner permission will be very difficult to achieve both legally and as a result of their increased ongoing maintenance and other liabilities.
- b. To ensure the safe and permanent right of the public to use a shared cycle/footpath route developed and promoted by the County Council.

Reason/s for Recommendation/s

19. It is recommended that the making of a Conversion Order is approved and formal consultation undertaken with a view to enabling the path to be used by cyclists as part of the wider network of cycle routes within and beyond West Bridgford (as shown on shown on **Appendix A**) in perpetuity.

20. The Conversion Order option outlined above is preferred to the Landowner Permissive Right of Access for cycles due to the reasons set out in paragraphs 16-18 above.

Statutory and Policy Implications

21. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder Implications

22. Nottinghamshire Police have been consulted as part of the notice process. No additional crime or disorder implications are envisaged.

Financial Implications

23. The scheme is funded through the Integrated scheme budget with an estimated cost to implement the conversion order of £1,000.00.

Human Rights Implications

24. Implementation of proposals within this report might be considered to have a minimal impact on human rights (such as the right to respect for private and family life and the right to peaceful enjoyment of property, for example). However, the authority is entitled to affect these rights where it is an accordance with the law and is both necessary and proportionate to do so, in the interests of public safety, to prevent disorder and crime, to protect health, and to protect the rights and freedom of others. The proposals within this report are considered to be within the scope of such legitimate aims.

Public Sector Equality Duty implications

25. As part of the process of making decisions and changing policy, the Council has a duty 'to advance equality of opportunity between people who share a protected characteristic and those who do not' by thinking about the need to:

- Eliminate unlawful discrimination, harassment and victimisation;
- Advance equality of opportunity between people who share protected characteristics (as defined by equalities legislation) and those who don't;
- Foster good relations between people who share protected characteristics and those who don't.

26. Disability is a protected characteristic and the Council therefore has a duty to make reasonable adjustments to proposals to ensure that disabled people are not treated unfairly.

Implications for Service Users

27. The path would be used by both pedestrians and cyclists, together with wheel chair and mobility scooter users as at present. Shared use signs will help to warn pedestrians that cyclists will also be using the path.

Implications for Sustainability and the Environment

28. The proposed conversion order is designed to facilitate the provision of effective and direct transport routes for sustainable modes. Improving the environment for vulnerable highway users, such as pedestrians and cyclists, may encourage modal shift to sustainable modes of transport.

RECOMMENDATION/S

It is recommended that Committee:

- 1) Approves the proposal and authorises officers to make and to advertise the making of a footpath conversion order to convert part of West Bridgford Footpath No.63 to a Cycle Track comprising a public right of way on foot and on pedal cycles;
and
- 2) Authorises the confirmation of the Footpath Conversion Order if there are no objections, but that should objections be received, the matter be brought back to Committee for a decision as to whether to refer the Order to the Secretary of State for confirmation.

Adrian Smith
Corporate Director (Place)

Name and Title of Report Author

Neil Lewis – Team Manager (Countryside Access)

For any enquiries about this report please contact:

Mike Elliott (0115 977 4282)
Principal Landscape Architect

Constitutional Comments (SJE – 03/02/2020)

While Communities & Place Committee has delegated responsibility for transport and highways, including the planning and management of highways, it is considered that as responsibility for the exercise of the Authority's functions relating to public rights of way (such as footpaths) and cycle paths has been expressly specified within the Terms of Reference of the Planning & Licensing Committee's, the most appropriate body to consider the content of this report is Planning & Licensing Committee.

Financial Comments (GB – 10/02/2020)

The costs of the works identified in this report total £1,000 and will be funded from the £7.3m Integrated Transport Measures capital budget in 2019/20.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

All relevant documents for the proposed scheme are contained within the scheme file which can be found in the Environmental Management and Design section at Via East Midlands Ltd, Trent Bridge House, Fox Road, West Bridgford, Nottingham.

Electoral Division and Member Affected

West Bridgford West – Councillor Gordon Wheeler