

BRIDLEWAY CREATION ORDER FOR BLACKBURN VALLEY

1.0 PURPOSE OF THE REPORT

- 1.1 To seek authority to submit the 'City of Sheffield Blackburn Valley (Butterthwaite Lane to Loicher Lane) Public Bridleway Creation Order 2012' ('the Order') to the Secretary of State for confirmation.

2.0 SUMMARY

- 2.1 This report follows on from a report to Members of this Committee on 8th May 2012. In respect of the Blackburn Valley, that report outlined the need for a Bridleway Creation Order to enable the continuation of the Blackburn Valley multi-user route for cyclists, pedestrians, horse riders and the disabled. This report outlines the objections and letters of support received whilst advertising the Order.

3.0 BACKGROUND

- 3.1 The background to the making of the Order is set out in the Report to North & West Area Planning & Highways Committee 8th May 2012. The body of that report is included as Appendix A.

- 3.2 On 8th May 2012 the North & West Area Planning & Highways Committee:

- (a) approved the making of the above Order, subject to satisfactory arrangements being made with Statutory Undertakers with regards to their mains and services that might be affected;
- (b) authorised the Director of Legal Services to take all necessary action on the matter under the powers contained within Section 26 of the Highways Act 1980;
- (c) authorised the Order to be confirmed (as an unopposed order) subject to: (i) no objections being received and (ii) in the event of objections being received, they are resolved; and
- (d) authorised the Order to be referred to the Secretary of State for determination if the landowner was the only objector.

- 3.3 The Order was made on 20th September 2012. Notice of the making of the Order was advertised in The Star newspaper on 24th

September 2012. Notices were displaying on the land and sent to the land owner, statutory undertakers and consultees on 25th September 2012, in accordance with the Public Path Orders Regulations 1993. Notices advised of the right to make objections to the making of the Order. The final date for objections was 29th October 2012.

3.4 The Council has received both objections and letters in support of the Order. These are appended to this report in Appendix B. There are two objections; one from the land owner, MHH Contracting Limited and the other from Mr Alan Kind. There are five letters in support of the Order; one from Mr Terry Howard, Chair of Ramblers; one from Mr Andrew Wild; one from Mr John Harker on behalf of the Peak & Northern Footpaths Society; one from Mr David Woodhead on behalf of the Sheffield Group Ramblers Association; and one from Simon Geller, CTC Right to Ride Rep.

4.0 NEED FOR FURTHER AUTHORISATION

4.1 Given that there are two outstanding objections to the Order, the Council cannot itself confirm the Order. If the Scheme is to be implemented, the Council must refer the Order to the Secretary of State for determination and confirmation. However authority from the North & West Area Planning & Highways Committee of 8th May 2012 only authorises Legal Services to submit the Order to the Secretary of State if the land owner is the only outstanding objector. The land owner is not the only objector.

4.2 The proposed path will form an important part of the Trans-Pennine Trail and the National Cycle Network and the land owners objections are essentially as outlined in the 8th May 2012 report. Basically, the owners are willing to offer a narrow two metre wide strip of land for the route. This is wholly inadequate for the purpose of a strategic, long-distance multi-user route. It would also be unsafe, unattractive and would undermine the significant public investment that has gone into the rest of the route. The owners have also raised the issue of site security and safety. This is something that the Council would take on board, in an appropriate manner and is something that we can discuss with the owners prior to a decision on the Order.

4.3 The second objector, Mr Kind, is not a land owner. He objects to the Order on the grounds that the proposed limitation or condition of private vehicular rights contained in Part 2 of the Order is not a valid limitation or condition. [Part 2 of the Order states that the public rights created by virtue of the Order will be subject to existing rights from adjoining land owners and their successors in title to cross the bridleway by vehicle for access purposes. Mr Kind asserts that the limitation or condition is unnecessary and invalid because any easements that exist over the proposed bridleway will exist regardless of the Order. It is correct that it only a criminal offence to drive a mechanically propelled vehicle on a bridleway *without lawful*

authority. Lawful authority can include easements of adjoining land owners.]

4.4 Legal Services are willing to negotiate alternative wording or remove Part 2 of the Order. However the Council has already made and sealed the Order and has no legal power to amend the wording of the condition contained within it. The Secretary of State is the only body that has power to amend the Council's order and to confirm it. The Council will submit revised wording for the Secretary of State to consider.

5.0 RELEVANT IMPLICATIONS

5.1 The Director of Legal Services has been consulted and has advised that it would be appropriate to submit the Order to the Secretary of State for confirmation.

5.2 The Secretary of State will decide on one of three methods of dealing with the objections to the Order: (i) a public local inquiry (ii) a hearing; or (iii) written representations.

5.3 The highway, equal opportunities and financial implications are as set out in the Report to North & West Area Planning & Highways Committee 8th May 2012. If authorisation is not given as detailed in this report, the Order cannot be amended or confirmed and consequently the Bridleway will not be able to be created.

5.4 If authority is given for the Order to be submitted to the Secretary of State for confirmation, the cost of a public local inquiry, a hearing or making written representations procedure will have to be met. The cost will include officer time and the cost of advertising notice of a hearing or public local inquiry should the Secretary of State decide to hold one. These costs will be met by identified scheme budgets.

10.0 REASONS FOR RECOMMENDATIONS

10.1 To respond to letters of objection and support for the Bridleway Creation Order and to enable its amendment and submission to the Secretary of State.

11.0 RECOMMENDATIONS.

11.1 Authorise the Director of Legal Services to submit the 'City of Sheffield Blackburn Valley (Butterthwaite Lane to Loicher Lane) Public Bridleway Creation Order 2012' to the Secretary of State for amendment and confirmation.

- 11.2 Authorise the Director of Legal Services, in conjunction with the Head of Transport Traffic and Parking Services, to take all necessary action on the matter to enable confirmation of the 'City of Sheffield Blackburn Valley (Butterthwaite Lane to Loicher Lane) Public Bridleway Creation Order 2012' and implementation of the Blackburn Valley Bridleway.

John Bann
Head of Transport, Traffic & Parking Services

2 January 2012

APPENDIX A

8th May 2012

PROPOSED 'BRIDLEWAY CREATION ORDERS' FOR BLACKBURN
VALLEY PHASE1 AND BEELEY WOOD.

- 1.0 PURPOSE OF THE REPORT
 - 1.1 To seek authority to make: -
 - A) The Order required to create a section of public bridleway for Blackburn Valley Phase1 and to implement this bridleway if and when the Order is confirmed;
 - B) The Order required to create a section of public bridleway in Beeley Wood and to implement this bridleway if and when the Order is confirmed.
- 2.0 BACKGROUND
 - 2.1 New bridleway routes for walkers, cyclists, disabled people and horse riders are planned in the Blackburn Valley in north-east Sheffield and in Beeley Wood in the Upper Don Valley in north-west Sheffield as part of the Sheffield Cycle Action Plan, strategic cycle route development in the Sheffield Core Strategy and the Rights of Way Improvement Plan.
 - 2.2 Core Strategy policy (CS55) states that "Improvement and development of the cycle network will be given priority on strategic links, mainly to key employment locations...through the Upper and Lower Don Valley...through the Blackburn Valley, extending through Smithy Wood and Hesley Wood to Chapeltown". The alignments of the two routes also appear in the emerging Sheffield Development Plan Proposal Maps to protect their alignments.
 - 2.3 The new bridleway routes will ultimately provide connections between the outlying settlements of Chapeltown and Oughtibridge and the main Sheffield urban area at Meadowhall and Wadsley Bridge respectively. Plans showing Blackburn Valley Phase1 and Beeley Wood Track are at Appendices A and C, respectively.
- 3.0 NEED FOR THE PROJECTS
 - 3.1 The planned strategic greenway network for the city aims to provide greater access to opportunities – especially employment – and to

reduce carbon emissions, whilst increasing leisure opportunities for health and well being. In doing so there are also benefits of reducing congestion and air pollution.

- 3.2 In the case of the two alignments in this report, accommodating pedestrians and cyclists on the existing road routes would be prohibitively expensive and not address the safety problems at road junctions, as well as not inspiring leisure use.
- 3.3 The schemes will provide safe alternatives to the dangerous and unappealing road corridors that pedestrians, cyclists and disabled people currently face for their everyday journeys in these areas.
- 3.4 Both bridleways also connect to longer distance routes through the Lower and Upper Don Valleys which comprise sections of the Trans Pennine Trail network.
- 3.5 Members of the public and campaign groups have made longstanding requests to resolve the difficulties and danger faced by people on foot and bicycle in using Chapeltown Road, The Common (A6135) and Ecclesfield Road (B6082) between Chapeltown and Meadowhall, and Middlewood Road (A6102) between Oughtibridge and Middlewood.

Blackburn Valley

- 3.6 Blackburn Valley – the disused railway line between Meadowhall and Chapeltown – has been allocated as a proposed strategic cycle/footpath in the Unitary Development Plan published in the 1990s. This was to ensure there was a safe off-road alternative route for pedestrians, cyclists and horse riders to the busy ‘A’ and ‘B’ roads that link these two localities and to form part of long-distance, cross-boundary routes. The designation also recognised the multi-functional nature of the proposed route encompassing both leisure and utility journeys. Without this route in place, cyclists and horse riders will have no choice but to use A6135, Ecclesfield Common, Chapeltown Road and Ecclesfield Road to get between Butterthwaite Lane (where the route currently terminates) and Chapeltown.
- 3.7 In the past five years there have been two serious and three slight injury accidents involving cyclists on the sections of main roads this route would relieve. The main road route (for example, The Common) typically has 5000 – 8000 vehicles each way in a weekday 7am – 7 pm period, with 18 – 25 cyclists using the road in a similar period in 2008. In several surveys, fear of traffic and unwillingness to cycle on busy main roads are the most frequently-cited reasons for people not cycling or not cycling more. The proposed route would overcome this barrier and would provide mobility for cyclists who have only Level 1 Bikeability, whereas the A6135 requires Level 3 Bikeability. There are many people who will be able to use the off-

road route who cannot use the on-road route, especially children and families.

- 3.8 Part of Blackburn Valley Phase 1 between Deep Lane and Butterthwaite Lane was constructed recently and is open to the public. This in itself follows on from previous route development between Meadowhall Interchange and Deep Lane.

Beeley Wood

- 3.9 The riverside track through Beeley Wood between Beeley Wood Lane and Oughtibridge – provides a safe, off-road alternative to the busy Middlewood Road (A6102). Middlewood Road (A6102) between Oughtibridge and Middlewood has a relatively narrow carriageway and one narrow footway (approx 1.5m wide). The existing footway on Middlewood Road is inadequate for wheelchair or mobility scooter users, or people with other mobility or sensory impairments, due to narrow widths and lack of safe crossings.
- 3.10 The road has a number of bends, carries frequent HGVs and the speed limit is 50mph for much of the rural stretch between the two settlements. These conditions make the road intimidating and dangerous for cyclists and also oppressive for pedestrians – particularly those with pushchairs or buggies – and disabled people using wheelchairs and scooters. Attracting more walking and cycling along the road for utility or leisure journeys is unforeseeable, even with safety measures.
- 3.11 Cyclists are in competition on a narrow carriageway with fast moving traffic including lorries. It can therefore be difficult for motor vehicles to safely overtake cyclists. In five years, there have been three serious and three slight accidents involving cyclists on the relevant section of A6102. The main road route typically has over 5000 vehicles each way in a weekday 7am – 7 pm period, with 9 – 16 cyclists using the road in a similar period. However, when Middlewood Road was closed to motor vehicles following the collapse of the embankment after the flood in 2007, up to 34 cyclists in one direction were recorded using the road, demonstrating a degree of suppressed demand for cycling along the corridor.
- 3.12 Use of the road can also present problems to horse riders as, whilst horses tend to be more noticeable to drivers than cyclists, the speed differential with motor traffic and the difficulty in passing are even greater on a busy, narrow road such as Middlewood Road.
- 3.13 At peak-times, road traffic volumes contribute to congestion at Middlewood and Meadowhall. The volume of traffic and level of congestion, as well as air pollution, are likely to increase in the future if safe and attractive provision for alternative travel means are not

provided. In both cases, new bridleway routes will allow, and attract, people to walk and cycle as an alternative to using a car.

4.0 NEED FOR BRIDLEWAY CREATION ORDERS

- 4.1 In the majority of cases where a new footpath or bridleway is required, the Council will use the powers contained in Section 25 of the Highways Act – and these have been made with landowners where possible – to create the footpath or bridleway by agreement with the landowner (or landowners) that the route affects. Alternatively, the Council will enter into an ‘adoption agreement’ with the landowner, or purchase the required strip of land – again, both methods by agreement with the landowner.

Blackburn Valley

- 4.2 Two landowners are affected by the proposed Blackburn Valley Phase 1 route. Railway Paths Limited has been consulted and is fully supportive of the route. They have entered into a lease arrangement with Sheffield City Council which has enabled the route to be built to the North and to the South of the piece of land which is the subject of this proposed order. The single owner of the section of land between Butterthwaite Lane Bridge and Loicher Lane Bridge and subject of this order proposal bought the piece of land in 1996 with a covenant that allows the construction of a public footpath/ cycle track on that land between Loicher Lane and Butterthwaite Lane.
- 4.3 Consultation has taken place with the landowner who has agreed to the path being constructed but has stipulated that the path can only be 1.5 metres in width. This width is wholly inadequate for the purpose of a strategic, long-distance multi-user route and would be unsafe, unattractive and would undermine the significant public investment that has gone into the rest of the route. The proposed path will form an important part of the Trans-Pennine Trail and the National Cycle Network.
- 4.4 The aim is to provide a consistent standard of provision for these major regional and national multi-user routes that serve the dual purpose of leisure routes and providing local access for pedestrians and cyclists. The route up to Butterthwaite Lane from Meadowhall Interchange is 6 metres wide, comprising a 3 metre-wide tarmac track, a 2 metre-wide horse track and a 1 metre-wide verge (to enable maintenance). The route to the north of Loicher Lane has been built to the same standard as far as the Smithey Wood site. The intention has always been to maintain this standard for the entire route between Meadowhall and Smithey Wood. At Smithey Wood the proposed route joins an interim bridleway pending completion of the Smithey Wood Development.

- 4.5 Officers propose to make the bridleway section between Butterthwaite Lane and Loicher Lane by Bridleway Creation Order to a 5.5 metre width, comprising a 3 metre-wide foot/cycle track, a 2 metre-wide horse track and a 0.5 metre-wide verge. This arrangement is shown on the plan included in Appendix B.

Beeley Wood

- 4.6 There is an existing footpath running the length of Beeley Wood from Beeley Wood Lane to Oughtibridge, which was enhanced in 2009 with a stone surface and removal of ditches and swampy areas on the footpath itself. At this time a more uniform width of a 3 metre path and 2 metre verge (where physically possible) was installed.
- 4.7 There are six separate land plots along the alignment of the Beeley Wood track. Officers have been in discussions with three landowners about the proposal to upgrade the existing footpath to a bridleway status. These three landowners are supportive of the proposed bridleway across their land and have offered to complete bridleway agreements with the Council, which would comprise of an Agreement to Create a Bridleway under Section 25 of the Highways Act 1980.
- 4.8 There are two plots of land along the course of the route where the landowner is unknown despite searches and notices on site to attempt to establish the landownership. However, no landowner has contacted the Council in response to these notices. Therefore an Order is required to create the bridleway along these sections of the route.
- 4.9 One remaining landowner has not yet responded to letters sent to both the address registered at the Land Registry and another address known to officers. Therefore, it is anticipated that no agreement for the bridleway upgrade is likely to be gained with this landowner.
- 4.10 To progress the scheme, officers consider that it is appropriate to make a Bridleway Creation Order for the section of the Beeley Wood track covering the two unknown land plots together with the land plot where it is considered that it is unlikely an agreement from the landowner will be reached. It is also proposed that the order will include a section of the path in one of the land plots (owned by Oughtibridge Sports Ground) where the landowner is supportive of the scheme because this section falls between the two plots of land with unknown landownership. This landowner will be notified of this course of action ahead of the formal making of the Order.
- 4.11 In Beeley Wood, the proposed bridleway would cover the same width as the existing footpath, which is a 3 metre path and 2 metre verge where width allows.

- 4.12 The creation of public bridleways by order falls under Section 26 of the Highways Act 1980. Compulsory Purchase powers are inappropriate where alternative procedures exist.
- 4.13 Plans of the route sections to be covered by the proposed bridleway Orders are included in Appendix A for Blackburn Valley and Appendix C for Beeley Wood.
- 4.14 The schemes have been designed to minimise the impact on the landowners whilst complying with appropriate guidance on public bridleway creation.
- 5.0 CONSULTATION
- 5.1 All affected landowners have been consulted, where known. Section 4 of this report describes the outcome of negotiations with all landowners affected by the two schemes.
- 5.2 A petition of around 450 signatures of Oughtibridge residents and members of cycle campaign groups was received in September 2010, requesting that the footpath in Beeley Wood be upgraded to a bridleway for use by cyclists, wheelchair users and horse riders.
- 5.3 Searches of Statutory Undertakers affected by the schemes have been carried out. Consultations with the relevant Statutory Undertakers will be carried out during detailed design of the routes.
- 5.4 Any further developments in respect of identification of or negotiations with landowners will be reported to the Committee at its meeting.
- 6.0 LEGAL IMPLICATIONS
- 6.1 The Director of Legal Services has been consulted and has advised that it would be appropriate to process the Bridleway Creation Order using the powers contained within Section 26 of the Highways Act 1980, on the basis that the bridleway will add to the convenience or enjoyment of a substantial section of the public and that Members have fully considered the effect the creation will have on the rights of persons interested in the land (account being taken of the provisions as to compensation contained within Section 28 of the Highways Act 1980).
- 7.0 HIGHWAYS IMPLICATIONS
- 7.1 The two proposed Orders will add around 1 km of public bridleway to the public path network and enable over 2km of public path in total within the two schemes. The Orders will also enable connection of longer-distance routes in both cases.

8.0 EQUAL OPPORTUNITIES IMPLICATIONS

8.1 Equal Opportunities Implications have been addressed in an Equality Impact Assessment for this type of multi-user path. This assessment indicates that the project will:

- Enable people with mobility and sensory disabilities to travel independently, and link into the city's major bus and tram hubs;
- Promote social inclusion and strengthen community relationships;
- Require specific consideration at detail design stage on the interaction between various users, the needs of disabled people, and vulnerable people.

9.0 ENVIRONMENTAL IMPLICATIONS

9.1 There are no adverse environmental or ecological impacts of implementing the two bridleways.

9.2 The new routes will allow local people to walk and cycle between the main urban area (and hence existing connections to the City Centre) from Chapeltown and Oughtibridge, therefore improving travel choice and contributing to the reduction of motor traffic and the associated impacts of congestion and air pollution.

10.0 FINANCIAL IMPLICATIONS

10.1 Blackburn Valley Phase1 and Beeley Wood Track are funded through approved allocations from the South Yorkshire Local Transport Plan and Local Sustainable Transport Fund.

10.2 Nominal costs will be incurred in processing the Bridleway Creation Orders, which will be met by the schemes' capital budgets.

10.3 Should the Bridleway Creation Orders be confirmed, the affected landowners may be entitled to make a claim for compensation (under Section 28 of the Highways Act 1980) for loss of use of the land taken by the bridleway. At present, officers do not anticipate that there will be any significant valid claim for either bridleway, as the alignments fall along an existing footpath in one case and a land covenant for a public path in the other.

10.4 Both routes are off road and it is expected there will be low maintenance costs as only very occasional motor vehicle (landowners / maintenance) use is expected. The central South Yorkshire ITA cash grant will be claimed from the South Yorkshire Integrated Transport Authority as expenditure is incurred throughout the year. Discussions are still ongoing internally and with South Yorkshire partners about how commuted sums required through the 'Streets Ahead' project to maintain the new transport infrastructure constructed in 2012-13 will be funded.

11.0 RECOMMENDATIONS

- 11.1 To approve the proposed Creation Orders, under Section 26 of the Highways Act, of new bridleway for the alignments shown on the plans in Appendices A, B and C, subject to satisfactory arrangements being made with Statutory Undertakers with regards to their mains and services that may be affected.
- 11.2 To authorise the Director of Legal Services to take all necessary action on the matter under the powers contained within Section 26 of the Highways Act 1980.
- 11.3 To authorise the Orders to be confirmed (as unopposed orders) subject to:
- a) No objections being received,
 - b) In the event of objections being received, they are resolved.
- 11.4 To authorise the Order(s) to be referred to the Secretary of State for determination if the landowner(s) are the only objector(s).

John Bann

Head of Transport and Highways
8th May 2012

APPENDIX B
LETTERS OF OBJECTION AND SUPPORT