

## Bath & North East Somerset Council

MEETING:	Cabinet	
MEETING DATE:	12th Sep 2012	EXECUTIVE FORWARD PLAN REFERENCE:
		<b>E2445</b>
TITLE:	<b>Proposed shared use path (pedestrian and cycle) between Bathwick Street and Powlett Road, Bath</b>	
WARD:	Walcot	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b> Appendix 1: plan TC8511/50 of proposal Appendix 2: background information and description of land Appendix 3: pedestrian counts Appendix 4: safety audit Appendix 5: Copy of questionnaire sent out to local residents by Bathwick Residents Association. Appendix 6: Cycle Track Order responses		

### 1 THE ISSUE

- 1.1 The proposal is to convert an existing footpath between Bathwick Street and Powlett Road to a shared use path (pedestrian and cycle). A cabinet decision is required to consider the objections received to the Cycle Track Order and decide to either abandon the Order or refer it to the Secretary of State for confirmation.
- 1.2 The Council has been unable to identify the owner of the land over which the footpath runs which has meant that it is not possible to see if he/she would have been willing to enter into a dedication agreement with the Council to allow cyclists to use this route. Therefore, a Cycle Track Order under the Cycle Tracks Act 1984 is required to legally increase the user rights on this route to enable cyclist use. The Cycle Track Order was advertised on 24<sup>th</sup> May and a 28 day objection period ran from this date. There were a number of representations made which included letters/emails supporting and objecting to the proposal.

### 2 RECOMMENDATION

The Cabinet agrees that:

- 2.1 The Cycle Track Order is referred to the Secretary of State for confirmation.

### **3 FINANCIAL IMPLICATIONS**

- 3.1 The works required for this scheme include signs and lines/symbols. All costs will be met from the Bath cycle network capital budget TC8511 which was approved by Council in the February 2012 budget report. The total capital budget for cycle schemes is £45k; the cost of this scheme is approximately £1.2k.
- 3.2 If the Cabinet decides to send the matter to the Secretary of State for determination then the Council will have to meet the costs of the public inquiry, including preparation, advertising, and hearing or written representations as well as covering the cost of providing the location for any public inquiry or hearing. The cost is estimated at £3-5K. If the Secretary of State confirms the order these costs will be found from the capital cycle schemes budget and other schemes reprioritised; if the Secretary of State decides not to confirm the order and the scheme does not go ahead, this cost will revert to revenue, in addition the Council could be liable to pay any objector's costs. There are no revenue budgets to cover this cost so any current or subsequent revenue costs will have to be found within existing resources.
- 3.3 The Cycle Tracks Act 1984 contains compensation provisions which include the Council paying compensation to anyone who suffers damage because of the highway works associated with the Cycle Track including the erection of barriers (s5(1)). The Cycle Track will be insured under the Council's public liability insurance. The act also provides for paying compensation to anyone who suffers damage because of depreciation in value of any interest in land to which he is entitled. However, that person would not be entitled to recover any compensation if a claim can be made under section 5(1) or where it is anticipatory (s5(2)). It is anticipated that the likelihood of compensation payments would be low.
- 3.4 Additional future maintenance costs as a result of the scheme relating to signs and lines are estimated at £55 pa. These maintenance costs have been discussed with the highways maintenance service and can be accommodated within the future highway maintenance budget.

### **4 CORPORATE OBJECTIVES**

- *Promoting independence and positive lives for everyone*
- *Creating neighbourhoods where people are proud to live*

### **5 THE REPORT**

- 5.1 Section 3(1) of the Cycle Tracks Act 1984 state that;

*“A local highway authority may in the case of any footpath for which they are the highway authority by order made by them and either (a) submitted to and confirmed by the Secretary of State, or (b) confirmed by them as an unopposed order, designate the footpath or any part of it as a cycle track, with the effect that...the footpath or part of the footpath to which the order relates shall become a highway which for the purposes of the 1980 Act is a highway maintainable at public expense and over which the public have a right of way on pedal cycles...and a right of way on foot.”*

- 5.2 This proposal to convert the footpath to a Cycle Track for use by pedestrians and cyclists was originally put forward by a number of cyclists as a potentially useful local cycle route. It was agreed with previous Cabinet member, Charles Gerrish and the Council Cycle Forum (representatives from cycling groups in Bath and co-ordinated by the Council) that this should be investigated and consulted on.

- 5.3 The alternative route for cyclists travelling between Powlett Road and the surrounding streets and the city centre is around Sydney Gardens which is a busy congested through route which includes a large number of HGV's and is therefore not cycle -friendly.
- 5.4 The link between Powlett Road and Bathwick Street is currently used by cyclists; however, complaints had been received from pedestrians about cyclists illegally using this route and that they considered that the path is not suitable for pedestrian and cycle use. This is a useful route for pedestrians as can be seen from the results in appendix 2.
- 5.5 An informal consultation exercise was carried out before advertising the Cycle Track Order. Details of these are in appendix 2. The responses from the Council consultation show that views are divided. There is strong support; however, there is also a lot of concern from local residents regarding the safety of elderly people and young children sharing the path with cyclists which need to be taken into account.
- 5.6 In response to the Cycle Track Order which was advertised between 24<sup>th</sup> May and 21<sup>st</sup> June 2012 18 people responded. Again views are divided and similar to the informal consultation responses. Eight of these stated that they objected to the proposal, four people did not state their objection but detailed their concerns of the proposal. Six respondents supported the proposal. Details of these responses are in appendix 6.
- 5.7 A stage 1/2 safety audit has been carried out which is included in appendix 4. If the scheme goes ahead the problems highlighted in the audit will be addressed and the recommendations followed.
- 5.8 Because objections have been received to the Cycle Track Order and not withdrawn, the Council will need to consider whether to abandon the order or submit it to the Secretary of State for confirmation. The Secretary of State will decide whether to call a public inquiry or to deal with the objections in some other way.

## **6 RISK MANAGEMENT**

- 6.1 The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

## **7 EQUALITIES**

- a) An Equality Impact Assessment (EqIA) has been completed. Adverse impacts were identified. These are that users will include disabled people, young children, and the elderly. This could have a negative impact, however, cyclists currently use the route and so this proposal will regularise the existing movement, with the use of signing and road markings. It is also recommended that bollards or barriers are erected at each end of the path to minimise the risk of collision between cyclists and pedestrians.

## **8 HUMAN RIGHTS**

- 8.1 In order to be compatible with the European Convention of Human Rights (the Convention) regard must be had of Convention Rights in the decision making process. Therefore the Council must strike a fair balance between the competing interests of the individuals and the community as a whole.

## 9 RATIONALE

9.1 The rationale of this scheme is to allow cyclists to use this route legally and encourage people to cycle rather than using their cars. This route would be useful for cyclists and has potential for being an important link between a residential area and a wider network of cycling routes, for example, to and from the city centre and the National Cycle Network route 4 which goes to Bristol and beyond. It would provide an attractive, safer and more convenient route for cyclists who might want to avoid using the roads around Sydney Gardens.

## 10 OTHER OPTIONS CONSIDERED

10.1 The other option would be to do nothing. Cyclists currently use this route and it is likely that they will continue to do so with the legal restriction. The Cycle Track Order will formalise/regularise the current situation. With the Cycle Track in place the number of cyclists are likely to increase if the route can be legally used but not significantly as this is a local route from a residential area.

## 11 CONSULTATION

11.1 *Ward Councillor; Cabinet members; Other B&NES Services; Service Users; Local Residents; Community Interest Groups; Other Public Sector Bodies; Section 151 Finance Officer; Chief Executive; Monitoring Officer*

An initial consultation was carried out with local residents and local pedestrian/access and cycling groups in May 2011 and in November 2011 a wider consultation was carried which included various national groups and notices on site. The Cycle Track Order was advertised on 24<sup>th</sup> May and a 28 day objection period ran from this date.

## 12 ISSUES TO CONSIDER IN REACHING THE DECISION

12.1 *Social Inclusion; Customer Focus; Sustainability; Human Rights; Health & Safety.*

## 13 ADVICE SOUGHT

13.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

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<b>Sponsoring Cabinet Member</b>	Councillor Roger Symonds
<b>Background papers</b>	<a href="http://www2.dft.gov.uk/pgr/roads/tpm/ltnotes/ltn208.pdf">http://www2.dft.gov.uk/pgr/roads/tpm/ltnotes/ltn208.pdf</a> Chapter 8 (8.5.3)
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