

Bath & North East Somerset Council

DECISION MAKER:	Cllr Roger Symonds, Cabinet Member for Transport		
DECISION DATE:	On or after 17 th March 2012	EXECUTIVE FORWARD PLAN REFERENCE:	
		E	2368
TITLE:	Proposed cycle track between Bathwick Street and Powlett Road, Bath		
WARD:	Walcot		
AN OPEN PUBLIC ITEM			
List of attachments to this report: 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.			

1 THE ISSUE

- 1.1 The proposal is to convert an existing footpath between Bathwick Street and Powlett Road to a cycle track. A cabinet member decision is required to authorise the making of a Cycle Track Order under the Cycle Tracks Act 1984.
- 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 is required to legally increase the user rights on this route to enable cyclist use. If the making of a cycle track is authorised it will then be advertised and a 28 day objection period will run from the date of advertising.

2 RECOMMENDATION

The Cabinet member is asked to agree that:

- 2.1 The Environmental Services Divisional Director is authorised to take all necessary action to make and advertise the Cycle Track Order.

- 2.2 In the event there are no objections received to the Cycle Track Order or if objections are received but subsequently withdrawn, the Environmental Services Divisional Director is authorised to take all necessary action to confirm the Cycle Track Order as unopposed; or
- 2.3 In the event that objections are received to the Cycle Track Order and not withdrawn the matter is referred to Cabinet for Members to consider the objections and decide to either abandon the Cycle Track Order or refer it to the Secretary of State for confirmation.

3 FINANCIAL IMPLICATIONS

- 3.1 The Council will be liable to pay the cost of preparation, making of the order and advertising the making of the Order in the Bath Chronicle. If objections are received against the Order and 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. The Council will also have to cover the cost of providing the location for any public inquiry or hearing. If the Secretary of State decides not to confirm the order, the Council could be liable to pay any objector's costs. All costs will be met from the B&NES cycle network budget which has an allocation each financial year.
- 3.2 If the Order is confirmed the Council will be responsible for covering the costs of any subsequent newspaper adverts. These costs will be met from the B&NES cycle network budget which has an allocation each financial year.
- 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 path will be insured under the Council 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)).
- 3.4 The works required for this scheme include signs and lines/symbols. All costs will be met from the B&NES cycle network budget which has an allocation each financial year. The cost of the scheme is approximately £1200.
- 3.5 There will be minimum additional future maintenance costs. The maintenance costs are not included in this budget and would be part of a future highway maintenance budget. These costs would be minimal as the scheme consists of signs and lines so it is unlikely that these will need replacing very often.

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 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 A consultation exercise has been carried out. 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. A stage 1/2 safety audit has been carried out which is included in appendix 4. If the scheme goes ahead the problems highlighted will be addressed and the recommendations followed.

5.6 If there are no objections received to the Cycle Track Order, the Council can confirm it as an unopposed order. However, if objections are received when it is advertised 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. The process will take approximately 15 months if it goes to an inquiry.

6 RISK MANAGEMENT

6.1 The report author and 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 and have been justified/mitigated by proposing that the situation should be monitored to ensure that this path can function as a cycle track and there is no conflict between users.

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. 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 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*

- 11.2 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.

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.

Contact person	Alison Sherwin Tel: 01225 394406
Background papers	http://www2.dft.gov.uk/pgr/roads/tpm/ltnotes/ltn208.pdf Chapter 8 (8.5.3)
Please contact the report author if you need to access this report in an alternative format	