

6th November 2017

TITLE OF REPORT: **Public Path Creation Order to create a bridleway at Burnhills, Gateshead.**

REPORT OF: **Strategic Director of Community and Environment**

Summary

This report relates to the proposed creation of Bridleway Ryton 115, that would link Sandy Banks, Long Ridge Road, Blaydon Burn to Barlow Lane, Greenside, Gateshead.

Purpose of the report

- 1) To seek authority from the Rights of Way Committee to make a combined public path creation order to create Bridleway Ryton 115, through Bog Wood, Burnhills Landfill Reclamation Site, Gateshead from Point A to Point B, shown with a dashed line on the plan at Appendix 2 to this report.

Background

- 2) The reason for proposing to create Bridleway Ryton 115 is to comply with the Planning Obligation Relating to Land at Burnhills, Gateshead, by virtue of Section 106 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 between Sita North East Limited (now SUEZ Recycling and Recovery UK Ltd) and Gateshead Council.
- 3) The proposed Bridleway Ryton 115 will be created as a link, from Sandy Banks, Long Ridge Road, Blaydon Burn through Bog Wood to Barlow Lane, Greenside and will formalise the status of a route presently used, permissively, by walkers, cyclists, equestrians.
- 4) The majority of land over which the proposed bridleway runs is owned by SUEZ Recycling and Recovery Limited apart from one small section of land which joins the adopted highway at Sandy Banks, which is unregistered. The proposed Bridleway Ryton 115 runs for approximately 45 metres across the unregistered land and has formed part of the permissive bridleway to which the public have had unrestricted access.
- 5) The overall proposal, if the proposed Bridleway Ryton 115 is created, is to make a bridleway that provides a continuous link from Sandy Bank, Long Ridge Road, Blaydon Burn to Barlow Lane Greenside, providing a safer off road route linking Blaydon Burn to Greenside with links to other Gateshead footpaths which give access to Barlow Village.

Proposals

- 6) The terms and effect of the proposed creation order is to :-

- a) To create a bridleway for a distance of over 1.6 kilometres along the route from point A to point B as shown with a dashed line on the plan at Appendix 2 to this report.
- b) The accommodation works to implement and improve the proposed bridleway will consist of vegetation clearance and a review of the access controls, which will be financed from the existing rights of way improvement budget.
- c) The Council will be responsible for the maintenance of the proposed bridleway on confirmation of the creation order.

Legislation

- 7) Section 26(1) of the Highways Act 1980 provides for the making of a public path creation order where it appears to the highway authority that:

“(a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and

(b) the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 28 below,

it is expedient that the path or way should be created, the authority may by order...create a footpath, bridleway or restricted byway over the land”.
- 8) Section 28 of the Highways Act 1980 does provide for the Council to pay compensation where it is shown that the value of an interest in the land has depreciated or a person has suffered damage by being disturbed in their enjoyment of the land. An “interest” for the purposes of section 28 of the Highways Act 1980, includes any estate in land or right over the land, whether that is exercisable by ownership, licence or agreement. The majority of the land, subject to the creation order, is owned by Suez Recycling and Recovery UK Ltd and is an area to which the public have open access. Suez is complying with the requirements of the Planning Obligation Relating to Land at Burnhills Gateshead under Section 106 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1990. The creation of the bridleway, part of the landfill re-instatement, will enhance the public’s use and enjoyment of the area by creating a continuous off road link between Sandy Bank, Long Ridge Road, Blaydon Burn and Barlow Lane, Greenside, for walkers, equestrians and cyclists. As the creation of the bridleway is in compliance with a planning obligation a claim for compensation from the landowner is not expected.
- 9) When a public path creation order is made, it does not modify the definitive map and statement until a legal event order is made. However local authorities can now make combined orders, which in effect, incorporates section 26 of the Highways Act 1980 along with section 53A(2) of the Wildlife and Countryside Act 1981. The result is that by doing a combined order the definitive map and statement will be modified once the order is made without the need for a legal event order to enable the modifications to the definitive map and

statement.

- 10) Section 29 of the Highways Act 1980 places a duty on local authorities to have regard to agriculture and forestry, and the desirability of conserving flora, fauna and geological and physiographical features. There are no such potential implications in this matter.

Consultation

- 11) Letters were sent out to the representatives of 6 local user groups, The British Horse Society, Chopwell Wood Horse Riders Association, Cycling UK, Gateshead Ramblers, Ryton Pathfinders and The Local Access Forum with 3 replies being received from Cycling UK, Ryton Pathfinders, and the British Horse Society, all in favour of the proposal. The British Horse Society representative commented, *"As a representative of the British Horse Society and the Bridleways and Riders Action Group I am so pleased to see that this route is finally to be added to the Definitive Map. It is a very popular route for all N M U's and there have been representation to planning applications to ensure its future use for all. It is a strategic link in the bridleway network and also provides a circular route for more local use"* Suez Recycling and Recovery UK Ltd have also been consulted during the process and are in support of the proposal. The relevant Ward members have been sent copies of the consultation letter without response.

Recommendation

- 12) Approval is sought from the Rights of Way Committee for:

- (1) A combined public path creation order to be made to create a bridleway at Burnhills Gateshead, between Points A to B shown with a dotted line on the plan at Appendix 2 to this report.

If the Committee recommends that such action should be taken, it is requested the Strategic Director of Corporate Services and Governance is authorised to undertake the following:

- i) To make a combined public path creation order to create a bridleway from Points A to B as shown with a dotted line on the attached plan at Appendix 2 to the report.
 - ii) If no objections are received, to confirm the order or if objections are received and not subsequently withdrawn, to send the order to the Secretary of State for determination as an opposed order.

1 FINANCIAL IMPLICATIONS

The cost of making and advertising the order will be covered by existing budgets.

2 RISK MANAGEMENT IMPLICATIONS

None

3 HUMAN RESOURCES IMPLICATIONS

Staff from Legal, Democratic and Property in conjunction with the Public Rights of Way Officer, will carry out the processing of the Order.

4 EQUALITY AND DIVERSITY IMPLICATIONS

Access controls will be assessed prior to the making of the order, however there are not considered to be any identified equality or diversity implications with this proposal.

5 CRIME & DISORDER IMPLICATIONS

None

6 SUSTAINABILITY IMPLICATIONS

None

7 HUMAN RIGHTS IMPLICATIONS

Under Article 8, everyone has the right to respect for his or her private and family life, home and correspondence. There is not considered to be any impact on those rights from this proposal.

8 WARD IMPLICATIONS

Crawcrook and Greenside

9 BACKGROUND INFORMATION

None