

Report for Rights of Way Committee

11th July 2016

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

REPORT OF: **Strategic Director, Communities and Environment**

Summary

This report relates to the proposed creation of a bridleway that would link Factory Road, Blaydon with Beweshill Lane access road, through Blaydon Burn to join with Burn Road, Blaydon Burn, 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 a bridleway through Blaydon Burn, Gateshead from Point A-B-D-E and C-D as shown with a green line on the plan at Appendix 2 to this report.

Background

- 2) The reason for creating the proposed bridleway is to formalise the status of a route presently used by walkers, cyclists, equestrians and this would add to the convenience and enjoyment of a substantial section of the public with some minor surfacing work to be completed on certain sections of the bridleway.
- 3) The proposed bridleway will be created as a link, from Factory Road, Blaydon through Blaydon Burn to Burn Road, Blaydon Burn, Gateshead and provide a link from Beweshill Lane access road to join the proposed bridleway through Blaydon Burn.
- 4) The majority of land over which the proposed bridleway runs is owned by the Council, with two small sections of unregistered land. The proposed bridleway adjoins privately owned land near to the railway underpass for a short distance. It is unclear whether a small section of the bridleway would cross into that private land when it passes under the railway underpass. A letter was sent to the landowners but there has been no response. In any event they would be given notice if a creation order is made.
- 5) The overall proposal, if the proposed bridleway is created, is to make a bridleway that provides a continuous link from Factory Road, Blaydon to Burn Road, Blaydon Burn, Gateshead, providing a safer off road route linking Winlaton and Blaydon Burn with the Keelman's Way.

Proposals

- 6) The terms and effect of the proposed creation order is to :-
- a) To create a 3 metre wide bridleway for a distance of over 2.6 kilometres along the route from point A to point E as shown with a green line on the plan at Appendix 2 to this report.
 - b) The accommodation works to implement and improve the proposed bridleway will consist of surface improvements (where necessary) and vegetation clearance, 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 the Council and is an area to which the public have open access. This land is managed by the Countryside Rangers of Waste Services and Grounds Maintenance, on behalf of the Council, who have been consulted throughout the process of this proposed bridleway creation and have no objections to the proposal. The creation of the bridleway will enhance the public’s use and enjoyment of the area by creating a continuous off road link between Factory Road, Blaydon and Burn Road, Blaydon Burn, for walkers, equestrians and cyclists. Part of the bridleway adjoins a section of land that is privately owned and the owners have been written to but without response.

- 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) User groups such as Bridleway and Riders Action Group (BRAG), British Horse Society (BHS), and Cyclist Touring Club (CTC) were consulted and of the 7 consultation letters sent out to the user groups, only 2 have replied, both of which were in favour of the proposals with no objections. Posters were put out on site at various locations along the route of the proposed bridleway but no responses, either for or against, were received. Adjoining landowners were consulted but no representations have been received.

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 Blaydon Burn from between Point A, B and Point D and Point C to Point E as shown with a green 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 between Point A, B and Point D and Point C to Point E as shown with a green 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 costs 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

None

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.

8 WARD IMPLICATIONS

Blaydon.
Winlaton and High Spen

9 BACKGROUND INFORMATION

None