

FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

MEETING OF CABINET MEMBER – EDUCATION

3 August 2021

Joint Report of the Executive Director for Children’s Services
and the Executive Director – Place

**Dedication of Land in Children’s Services Portfolio as a Public Right of
Way**

1. Divisions Affected

1.1 Bolsover North

2. Key Decision

2.1 This is not a Key Decision.

3. Purpose

3.1 To seek approval from the Cabinet Member to dedicate land, held under the portfolio of Children’s Services, as a public footpath with concessionary rights for cyclists.

4. Information and Analysis

4.1 Derbyshire County Council acquired the Clowne Branch Line in 2014 and has subsequently carried out a project to remove dereliction, regenerate a wildlife corridor and provide approximately 5 miles of traffic free highway between Seymour and Creswell. This route, known as the Clowne Greenway, forms a section of Derbyshire’s Key Cycle Network. It is now available for use and has proven highly popular with all users.

- 4.2 The eastern end of the route issues from the former branch line through a housing development off Skinner Street in Creswell, recently under construction by AVANT Homes. The internal path structure within this housing site provides a connection to the Clowne Greenway. A Section 106 agreement was also secured through the Bolsover District Council's Planning Department to include a financial contribution towards the development of a further off-site link path to allow access directly to the village centre and the Creswell railway station. Without this link, the route to the railway station is significantly increased by road and pavement by way of Skinner Street and Elmton Road.
- 4.3 In the interests of promoting Active Travel through walking and cycling, and in line with current Government policy, a short path between the Greenway and the railway station would provide a joined-up approach to promote car free journeys.
- 4.4 The land is included in the portfolio of Children's Services and provides a more direct connection to the station. The corridor is in two parts, the first part forming Gypsy Lane carriageway and footway, which is currently used as the main entrance to the Infant School. However, a new entrance to the school is being designed to connect directly from the new estate road within the housing site. The second part is a grass and stoned surface, allowing access for grounds maintenance vehicles. The intended works will form a bound surfaced track with a stoned edging to minimise onward maintenance costs.
- 4.5 The public footpath to be dedicated is shown on the attached plan (ref: ER/GM/Gypsy Lane FP/Ctte2021) by a bold dashed line between points A, B and C, an approximate distance of 255 metres. Between points A-B, the footpath follows the tarmacadamed school access road and pavement with an overall width which varies between 4.5 metres and 6.5 metres. Between points B and C, the new footpath will have an overall width of 6.0 metres and be provided with a tarmacadam surface to a width of 3.0 metres.
- 4.6 Once the public footpath has been dedicated, a statutory consultation process will be undertaken for a Cycle Track Order to be made to establish the legal rights for cyclists to use the route, as well as pedestrians.
- 4.7 Officers from Children's Services, Rights of Way, Highways and Legal Services have been consulted on this project and agreement has been reached by all parties to pursue this course of action.

4.8 Council Commitments

The dedication of this land, as public highway, links to the Council's pledges to provide a well-connected County and promote Active Travel and Healthy Lifestyles (as the route will be for walking and cycling and provides a link to the Creswell railway station) and a safer Derbyshire (as the route will be traffic free).

- 4.9 The dedication and delivery of this route also aligns with the Council's commitment to the Derbyshire Cycling Plan and the resulting Key Cycle Network.

5. Consultation

- 5.1 No further consultation is required in respect of the dedication of land as a public footpath with concessionary rights for cyclists.

- 5.2 There is a statutory consultation process to follow in subsequently promoting an order under Section 3 of the Cycle Track Act 1984 to convert the footpath into a cycle track. However, this is considered to be beyond the scope of this report.

6. Alternative Options Considered

- 6.1 Do Nothing – this alternative option would mean that the opportunity to provide a more direct and safer off-road link for pedestrians and cyclists from the end of Clowne Greenway and the adjacent residential areas/new housing development through to Creswell railway station and the village centre would be lost. The Section 106 monies, which have been secured by Bolsover District Council for surfacing the unbound section of the route and providing a new security boundary fence for the school, may also have to be returned to the developer.

- 6.2 Do Something Different - an alternative option would be not to proceed with dedication of the land as a public footpath, but to allow pedestrians and cyclists to use the route on a purely concessionary basis. This means that a legal right of way would not be established over the route in perpetuity and could be an issue if land ownership changes at some future point in time. As a concessionary route, responsibility for the ongoing maintenance of its surface would remain with Children's Services, rather than becoming the responsibility of the Place Department. It is considered to be more appropriate that a route which will be of significant benefit to local people should be maintained as part of the public highway network.

6.3 Another alternative would be to dedicate the land as a public footpath but not to allow concessionary rights for cyclists. This may reduce the incentive for more sustainable/active travel, as people cycling to the railway station from the end of Clowne Greenway would have to use a less direct route via Skinner Street and Elmton Road. This is not considered to be as safe or attractive to use, particularly for less confident cyclists or those with young families.

7. Implications

7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

8. Background Papers

8.1 None identified.

9. Appendices

9.1 Appendix 1 - Implications.

9.2 Appendix 2 - Plan Ref: ER/GM/Gypsy Lane FP/Ctte2021

10. Recommendation(s)

That the Cabinet Member:

- a) approves the dedication of land, as shown on the attached plan, as a public right of way carrying the status of public footpath with concessionary rights for cycling.

11. Reasons for Recommendation(s)

11.1 This approach has been recommended as it will create a route with confirmed rights for the public to use it on foot in perpetuity, as well as enabling it to be subsequently converted into a cycle track. It will also clarify responsibility for its future maintenance as part of the County's network of publicly maintainable highways.

12. Is it necessary to waive the call in period?

12.1 No.

Report Author: Anna Chapman

Contact details: 39653

This report has been approved by the following officers:

<p>On behalf of:</p> <p>Director of Legal Services and Monitoring Officer Director of Finance and ICT Managing Executive Director Executive Director(s)</p>	
--	--

Implications

Financial

- 1.1 The path connects directly to a new housing development site off Skinner Street in Creswell. The Bolsover District Council Planning Office secured an index linked contribution for the construction of this path through a Section 106 agreement. Bolsover District Council has now received the sum of £30,463.68 from the developer for these works and awaits instruction to transfer the sum to an appropriate budget. Approval is sought to undertake this instruction and add this work to the Capital Programme, generating a cost code for the expenditure. The works can be instructed on approval. It is thought that this provides sufficient funds to complete the necessary works which include surfacing that part of the route that is unbound and providing a new security boundary fence to the adjoining part of the school grounds.
- 1.2 It is intended that the full width and length of this land will be dedicated as a public footpath, initially with concessionary cycle rights, but subsequently converted into a cycle track, in order that future maintenance of its surface will become the responsibility of the Place Department in perpetuity. Ownership of the subsoil remains with Children's Services who will be responsible for maintaining the new security boundary fence.
- 1.3 The costs of any future maintenance of the path surface will be met from Highways maintenance budgets. There will also be costs associated with the promotion of a Cycle Track Order in Officer time and advertising the Order which will be met from the existing project budget.

Legal

- 2.1 Any person or organisation with the freehold interest in land can give the public the right to use a route by expressly dedicating it as a public right of way. Certain conditions must be met in order that a right of way can come into existence by express dedication and be added to the Definitive Map and Statement:
 - a) It must be shown that the landowner intended to dedicate the route - this can be achieved by Cabinet Member approvals and subsequent publication of the minutes
 - b) The dedication must be accepted by the public ie the route must come into actual use – this can be achieved once it has been surfaced and made available for people to use.

There is no provision to expressly dedicate a right of way for use both on foot and pedal cycle. It will therefore be necessary for the County Council to subsequently use its powers under Section 3 of the Cycle Tracks Act 1984 to make an Order converting the footpath into a cycle track. This has the effect

of removing it from the Definitive Map and Statement and adding it to the County Council's List of Streets as a publicly maintainable highway.

Human Resources

3.1 N/A

Information Technology

4.1 N/A

Equalities Impact

5.1 N/A

Corporate objectives and priorities for change

6.1 The dedication and delivery of this route aligns with the Council's commitment to the Derbyshire Cycling Plan and the resulting Key Cycle Network which was approved by Cabinet on 16 January 2020.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1



© Crown copyright and database rights 2021. Ordnance Survey 100023251.
You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

Scale: 1:2500 at A4
Plan Ref: ER/GM/Gypsy Lane FP/Ctte2021



