

Regulatory Committee

Meeting to be held on 19 September 2018

Electoral Division affected: Burnley Rural

Highways Act 1980 – Section 25

Proposed Public Path Creation Agreement to upgrade part of Worsthorne-with-Hurstwood Footpath 2 to Bridleway

(Annex 'B' refers)

Contact for further information:

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Executive Summary

Proposed creation by agreement of a publically maintainable bridleway on part of Worsthorne-with-Hurstwood Footpath 2 at Rowley Farm, Burnley.

Recommendation

- (i) That the proposal for a Public Path Creation Agreement to dedicate a length of bridleway on part of Worsthorne-with-Hurstwood Footpath 2 at Rowley Farm, Burnley be accepted.
- (ii) That a Public Path Creation Agreement be entered into under Section 25 of the Highways Act 1980 between the owner of the land crossed by part of Worsthorne-with-Hurstwood Footpath 2 at Rowley Farm, Burnley and Lancashire County Council to dedicate a length of bridleway as shaded pink on the attached map and marked A-B-C-D-E.

Background

Worsthorne-with-Hurstwood Footpath 2 lies within an area designated as Burnley Forest Park and is within close proximity to the popular recreational area of Rowley Lake. For many years representatives of Burnley Forest Park and local user groups have been looking at ways of improving public access to the wider countryside for equestrian use and cyclists.

A creation of a bridleway would provide a public right of way for equestrians, cyclists and pedestrians. In this instance, as the route is currently a public footpath when the proposed agreement comes into force, it would enable horse riders and cyclists to use the path, in addition to the existing public footpath rights that are available to pedestrians.

One of the routes that has been identified as a priority is a link from Rowley Lane, near to Rowley Lake, heading north then east to link with the Worsthorne recreational ground, the village centre of Worsthorne and beyond to the wider countryside. If the proposal is a success, it is envisaged that it would secure an additional 2km length of bridleway for local residents and visitors to the area to enjoy.

An opportunity has arisen to achieve the first step in securing agreement to the bridleway link as a result of a planning application for the conversion of several agricultural buildings at Rowley Farm, to residential dwellings. In order to obtain planning permission, the owner has indicated that they would be willing to enter in agreement for that part of Worsthorne-with-Hurstwood Footpath 2 that runs over their land to be dedicated as a bridleway.

It is proposed that the Terms of the Agreement be signed by this particular landowner, in order that they are able to finalise their planning permission, however it is proposed that the Terms of the Agreement will not be entered into (signed) by the county council until the continuation of the proposed route has been agreed with the other landowners, to avoid the creation of an unconnected bridleway.

Consultations

Section 25 of the Highways Act 1980 requires that the county council shall consult any other local authority in whose area the proposal is situated. Accordingly, the necessary consultations have been carried out with Burnley Borough Council and at the time of writing, no objection regarding the proposal has been received.

Advice

Points annotated on the plan

Point	Grid Reference	Description
A	SD 8619 3309	Immediately east of the concrete gateposts.
B	SD 8622 3309	Point on the track by the gate at entrance to Rowley Hall.
C	SD 8629 3308	Point on the track at the gate located to the east of the entrance to The Coach House.
D	SD 8638 3307	Eastern end of the surfaced track at the gate.
E	SD 8647 3306	Eastern field boundary at the gate.

Description of Proposed Bridleway

Bridleway as described below and shown by a bold broken line A-B-C-D-E on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	SURFACE
A	B	ENE	20	3	Concrete
B	C	ESE	80	3	Concrete
C	D	ESE	90	3	Stone and grass
D	E	ESE	90	3	Grass.
Total length of bridleway to be created:			280		

It is proposed that the footpaths to be created by the proposed agreement will be subject to the following limitations and conditions:

<u>Limitations and Conditions</u>	<u>Position</u>
The right of the landowner to maintain a bridleway gate that conforms to BS 5709:2018	Grid Reference SD 8622 3309 (Point B)
The right of the landowner to maintain a bridleway gate that conforms to BS 5709:2018	Grid Reference SD 8629 3308 (Point C)
The right of the landowner to maintain a bridleway gate that conforms to BS 5709:2018	Grid Reference SD 8638 3307 (Point D)
The right of the landowner to maintain a bridleway gate that conforms to BS 5709:2018	Grid Reference SD 8647 3306 (Point E)

Officers' assessment of the proposal against the legislative criteria for entering into a Public Path Creation Agreement.

Under Section 25 of the Highways Act 1980, the County Council may enter into an agreement with a freehold owner for the dedication of a footpath, bridleway or restricted byway. The purpose of this provision is to ensure dedication of land that is necessary or beneficial, since the dedication of a route under Section 25 becomes maintainable at public expense.

This proposal is considered to be a benefit to the public in view of the fact that it improves the network of public rights of way for horse riders and cyclists between Rowley Lane and the recreational area of Rowley Lake, linking with the Worsthorne recreational ground and the village centre of Worsthorne to the east. The creation of a bridleway by agreement would provide a useful addition to the network of public

rights of way, provided that the County Council can secure the additional dedications needed to complete the route.

It is advised that the proposed Public Path Creation Agreement, if confirmed, will not have any adverse effect on the needs of agriculture and forestry and desirability of conserving flora, fauna and geological and physiographical features. It is also suggested that the proposal will not have an adverse effect on the biodiversity or natural beauty of the area.

The land crossed by the proposed bridleway is in the registered ownership of the owner of Rowley Hall, Burnley. The proposed creation is by means of an agreement, and therefore there will be no compensation payable as a consequence of the coming into operation of the Public Path Creation Agreement.

It is also advised that the needs of the disabled have been actively considered and as such, the proposal is compatible with the duty of the county council, as a Highway Authority, under The Equality Act 2010 – formerly the Disability Discrimination Act 1995 (DDA). The alternative route will be of adequate width and the gates will conform to the British Standard for Gates, Gaps and Stiles: BS5709:2018.

Further, it is also advised that the effect of the Order is compatible with the material provisions of the county council's 'Rights of Way Improvement Plan' in that it will be working towards improving access for equestrians and cyclists in Lancashire.

Financial Implications

It is proposed that the county council will carry out the necessary improvements to the gates on the current footpath, to enable them to be accessible from horseback but that no consideration payment will be made for this Public Path Creation Agreement made under section 25 of the Highways Act 1980. Once the County Council has carried out improvements to the gates, they will become the responsibility of the owners to maintain. There has been no request for a payment for the owners' incurred legal costs in connection with formalising the agreement.

As soon as may be after the dedication of a public right of way in accordance with a Public Path Creation Agreement, Lancashire County Council is required to give notice of the dedication by publication in a local newspaper circulating in the area in which the land to which the agreement relates is situated. The cost of the advertisement is expected to be in the region of £200.

It is proposed that the cost of the minor modifications to the gates and the cost of the newspaper advertisement will be borne by Lancashire County Council.

Risk Management

Consideration has been given to the risk management implications associated with this proposal. The Committee is advised that, provided the decision is taken in accordance with the advice and guidance contained in Annex B (item 3) included in the Agenda Papers, and is based upon relevant information contained in the report, there are no significant risks associated with the decision-making process.

Alternative options to be considered

- To agree that the county council enters into an agreement with the landowner of that part of Worsthorne-with-Hurstwood Footpath 2 at Rowley Farm, Burnley, for the creation of a publicly maintainable bridleway and bears the cost of the minor site improvements and the cost of the newspaper advertisement.
- To not agree that the county council enters into an agreement with the landowner of that part of Worsthorne-with-Hurstwood Footpath 2 at Rowley Farm, Burnley, for the creation of a publicly maintainable bridleway and for the public right of way to remain, for the time being as a public footpath.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Ext
File Ref: PRW 12-11-002		Mrs R J Paulson, 07917 836628

Reason for inclusion in Part II, if appropriate

N/A