

Development Control Committee
Meeting to be held on 22nd January 2020

Electoral Division affected: Rossendale West

Rossendale Borough: Application Number. LCC/2019/0065
Widening of the existing path to create a 3m wide cycle path and construction of a new 3m wide cycle path through woodland including replacement lighting columns and fencing to the A56 and associated works.
Land between Commerce Street and South Shore Street, Haslingden.

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Executive Summary

Application - Widening of the existing path to create a 3m wide cycle path and construction of a new 3m wide cycle path through woodland including replacement lighting columns and fencing to the A56 and associated works.
Land between Commerce Street and South Shore Street, Haslingden.

Recommendation - Summary

That subject first to the provision of an obligation under section 106 of the Town and Country Planning Act 1990 relating to ecological mitigation, planning permission be **granted** subject to conditions controlling time limits, working programme, highway matters, fencing and lighting details and landscaping / ecology.

Applicant's Proposal

The planning application proposes the creation of an off road cycleway between Commerce Street and South Shore Street, Haslingden. The section of cycle track forming this application would measure a linear distance of approximately 480m forming part of the National Cycle Route 6 programme connecting Accrington to Ramsbottom.

The northern end of the scheme (250 metres in length) involves widening and resurfacing an existing 2.2m wide tarmac surfaced path to 3m in width. The proposed route would then continue south via a new 230 metres long and 3m wide cycle track through an existing woodland to a junction with South Shore Street.

The cycle path would be constructed from a 100mm thick stone sub base and a 40mm flexible pavement surface material made from recycled tyres and buff coloured aggregate which would be held together by a polyurethane binder. This material has been used in other areas around the county and provides a sealed surface preventing surface water and ice formation. The development would also

involve replacement of the existing timber fencing adjacent to the A56 with new 1.4m high timber fencing and replacement lighting columns adjacent to the A56.

Description and Location of Site

The site for the proposed development is an area of land between Commerce Street and South Shore Street, Haslingden. The proposed site is located approximately 350m north west of Haslingden Town Centre and is in close proximity to the A56 Haslingden by-pass which is immediately west of the proposed cycle path alignment.

The northern part of the path heading south from Commerce Street is a mostly flat existing 2.2m wide tarmac path running alongside the A56 with a stone boundary wall along its eastern side and an existing 1.4m high timber fence to the west creating a barrier to the A56. Approximately 90m from the northern boundary the existing tarmac path crosses Swinnel Brook which is in a culvert carrying the brook under the path and the adjoining A56.

The southern section of cycle path leading to South Shore Street would be located through an area of broadleaved woodland. The majority of the trees within the woodland were planted in the 1980's when the A56 was constructed. The nearest residential properties are located approximately 15m from the southern end of the cycle path on South Shore Street.

Background

There is no relevant planning history.

Planning Policy

National Planning Policy Framework

Paragraphs 7 - 10, 91 - 95, 96 - 101, 102 -104 and 174 - 177 of the National Planning Policy Framework are relevant with regards to achieving sustainable development, promoting healthy and safe communities, open space and recreation, promoting sustainable transport, and habitats - biodiversity.

Rossendale Borough Council Core Strategy DPD

Policy 1 - General Development Locations and Principles
Policy 9 - Accessibility
Policy 17 - Rossendale's Green Infrastructure
Policy 18 - Biodiversity, Diversity and Landscape Conservation
Policy 24 - Planning Application Requirements

Rossendale Borough Emerging Local Plan

Policy ENV4 Biodiversity, geodiversity and ecological networks
Policy ENV5 Green Infrastructure Networks
Policy ENV10 Trees and hedgerows
Policy TR2 Footpaths, Cycleways and Bridleways

Consultations

Rossendale Borough Council - No observations received.

County Council Landscape Service - No observations received.

County Council Ecology Service - No objection. Precautionary pre-construction surveys for badgers and bats should be undertaken in accordance with recommendations within the ecological survey reports submitted with the application. A precautionary working method statement should be submitted for approval by Lancashire County Council prior to the commencement of any works to avoid any adverse impacts on any protected or priority species (such as badger, bats, nesting birds, reptiles) that may be encountered during the proposed works. Detailed habitat creation and enhancement proposals should also be submitted clearly demonstrating the proposals compensate for habitat losses resulting from the proposed development and should deliver overall enhancement of ecological value.

Lead Local Flood Authority - No observations received.

LCC Highways Development Control - The proposal raises no highway concerns and therefore no objection is raised to the proposal on highway grounds.

Public Rights of Way - No observations received.

Highways England - No objection.

Environment Agency - No objection. The northern end of the proposed cycle route crosses Swinnel Brook which is designated as a main river and may require an environmental permit. The southern end of the cycle path which connects the route to the end of South Shore Street also crosses an area of historic landfill. Therefore developers should follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination.

Natural England - Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Representations - The application has been advertised by site notice and neighbouring residents informed by individual letter. Four objections have been received by residents on South Shore Street all raising similar concerns that the proposed cycle track would cause an increase in vehicle movements on South Shore Street as people would park their vehicles on South Shore Street and continue their journey by bike on the cycle path. Their objection states that South Shore Street is not suitable for access for this development as it is a narrow road with a dead end and the development may increase the chance of accidents with cyclists.

Other issues that are raised are as follows:

- The cycle track should be routed south west of South Shore Street along Charles Lane and Flip Road resulting in the cycle track running alongside the A56, taking it away from South Shore Street.
- A tree and rockery area planted in memory of a neighbour should be retained.
- The removal of trees to create the new cycle path would result in noise impacts from the A56 for neighbouring residents
- Concerns are raised regarding the ecology impacts of the proposed development.

Advice

The proposed development aims to create a new section of off road cycleway forming part of the National Cycle Route 6 connecting Accrington to Ramsbottom. In the Haslingden area, there is currently a gap in the off road provision for this route with the current cycle routes being along main roads or industrial estate roads. The proposal would provide a new alternative route that would be off road and traffic free where possible which would be more attractive to walk and cycle. The development aims to allow the cycle track for other activities such as a walking, horse riding, and mobility vehicles.

Policy 1 of the Rossendale Borough Council Core Strategy states the council will seek to enhance the quality and sustainability of places and development when considering planning applications by making best use of under used, vacant and derelict land. The aim of the development is to contribute to the provision of a network of sustainable travel routes and methods which would widen accessibility and capitalise on environmental, social and health benefits for local residents. The existing path is currently underused by local people and the proposed improvement works would help to improve its attractiveness for leisure and transport purposes as supported by the policy in the Rossendale Local Plan.

Four objections have been received from local residents raising concerns that the proposed cycle track would cause an increase in vehicle and cycle movements along South Shore Street and the development would increase the risk of accidents with cyclists. One of the residents has suggested that the cycle track should be re-routed so that it links with Charles Lane and Flip Road rather than South Shore Street.

The applicant conducted an extensive consultation exercise with local residents before the application was submitted. The majority of the comments raised during the consultation exercise included comments on the routing of the cycle track. A new Rossendale Local plan is in the process of being adopted, the Policies Map for which identifies the route of the whole East Lancashire cycleway. However the alignment of the path proposed in this application differs from that shown in the emerging Local Plan due to the steep gradients that would be encountered using the route proposed in the emerging local plan.

The applicant has confirmed that a number of different route options were considered to avoid connecting with South Shore Street including linking with Flip

Road and Charles Lane. However this option was discounted as the cycle path would have had to be extended by a further 280m which would have caused much greater environmental impacts with a significant amount of further vegetation being removed and engineering works being required due to the slope of the existing land levels and ground conditions in that area. The route of the cycle path is therefore considered acceptable in principle in terms of policy TR2 of the emerging Local Plan.

The material used to construct the cycle track would be a 100mm stone sub base and a 40mm flexible pavement surface material constructed from recycled tyres and buff coloured aggregated which would be held together by a polyurethane binder. This material has been used in other areas around the county which would help the surface retain its rubber element providing a sealed surface preventing surface water and ice formation. The development would also include the replacement of the existing timber fencing adjacent to the A56 with new 1.4m high timber fencing and two replacement lighting columns. A condition can be added requiring further details of the fencing and lighting columns as they would be situated next to the A56.

In relation to the concerns about highway safety, South Shore Street is a narrow residential street which is a cul de sac at its northern end where it would link with the proposed cycle path. The concerns of residents are acknowledged. However, cyclists and other road users have to negotiate the highway with due care and attention and it is not considered that there are any particular highway safety issues on South Shore Street that would make its use by increased numbers of cyclists undesirable. Lancashire County Council Highways were consulted on the application and raised no concerns with the development on highway safety grounds.

In relation to the noise issues, a substantial amount of woodland would still remain between the A56 and South Shore Street and it is not considered that the loss of a relatively small amount of woodland to create the new section of path would increase noise levels from the road. The applicant has confirmed they would relocate a tree and rockery area where South Shore Street would join with the new cycle path.

Policy 18 of the Rossendale Borough Core Strategy states that where negative effects on biodiversity, geodiversity or landscape character are unavoidable, suitable measures will be required to mitigate any negative impacts and that full compensatory provision should be made where mitigation is not possible.

The proposed development would result in 74 established trees being removed to construct the new section of cycle path and widen the existing footpath. The trees to be removed are mainly semi mature ash trees which were planted as part of the A56 construction works and there would be no impacts on trees which would be categorised as aged or veteran. The tree survey submitted as part of the application confirms that approximately 50 of the trees being removed are ash which are showing signs of ash dieback disease. Although the proposed route would minimise the amount of trees that would require removal, there would still be impacts which should be mitigated for as required by Policy 18 of the Local Plan. There is no scope within the application site to provide replacement tree planting and the adjacent woodland is owned by the Borough Council. However, there are other areas of land in the nearby vicinity that are in the ownership of the County Council and which could be used to provide new tree planting and other ecological mitigation measures to

compensate for that lost. This can be achieved through a unilateral undertaking under section 106 of the Town and Country Planning Act. A planning condition should also be imposed relating to the retention of all trees that lie outside the area necessary to construct the cycle path.

A bat survey has been submitted with the application which identifies that one tree within the site has bat roosting potential. The roosting feature was fully searched for the presence of bats and none were found. The roosting feature has been blocked by the ecologist until further pre-construction surveys can be undertaken. Habitats on the site have the potential to support nesting birds. A note should be added to any planning permission that vegetation clearance works or other works that may affect nesting birds be avoided between March and July inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections. The proposed section 106 obligation in relation to habitat mitigation should also contain a requirement for replacement bird and bat nesting / roosting boxes to compensate for any loss of nesting opportunities.

A condition should also be imposed requiring the applicant to provide details of a precautionary working method statement outlining measures to be taken to avoid any adverse impacts on any protected or priority species that may be encountered during the proposed works, including details of watching briefs and procedures to be followed in the event that protected or priority species are encountered. This would have to be provided and approved prior to the commencement of the development.

In conclusion, the cycle track would improve a section of the existing national cycle network by providing an off-highway alternative to the current route and subject to conditions, is considered to accord with policies in the Rossendale Local Plan and National Planning Policy Framework.

The Human Rights Act 1998 requires the County Council to take into account the rights of the public under the European Convention on Human Rights and not to act in a manner incompatible with those rights. Article 1 of the 1st Protocol states that an individual's peaceful enjoyment of their property shall not be interfered with except as is necessary, in accordance with law and as is proportionate.

This application were it to be approved would be unlikely to generate such an impact on neighbouring properties which would breach those rights

Recommendation : That subject first to the provision of an obligation under section 106 of the Town and Country Planning Act relating to ecological mitigation, planning permission be granted subject to the following conditions:-

Time Limits

1. The development shall commence not later than 3 years from the date of this permission.

Reason: Imposed pursuant to Section 91 (1)(a) of the Town and Country Planning Act 1990.

Working Programme

2. The development shall be carried out in accordance with the following documents:
 - a) The Planning Application received by the County Planning Authority on 21st November 2019.
 - b) Submitted Plans and documents:
 - Drawing No - NCR Section 7 / Planning Area Extent
 - Drawing No - NC6 Section 7B / Tree Reference Plan
 - Drawing No - CHM2MW226/NCR6/07/SBRA/001 - SBRA Surfaced Cycle Track
 - Drawing No - Appendix 4 / Tree Planting Replacement Trees
 - Drawing No - H3 / Motorway and Accommodation Works Timber Post
 - c) All schemes and programmes approved in accordance with this permission.

Reason: To minimise the impact of the development on the amenities of the area and to conform with Policy 1 of the Rossendale Borough Council Core Strategy.

Hours of Working

3. No construction development shall take place outside the hours of:
 - 08.00 to 18.00 hours Monday to Friday (except Public Holidays),
 - 08.00 to 14.00 hours on Saturday.No construction development shall take place at any time on Sundays or Public Holidays.

Reason: To safeguard the amenity of local residents and adjacent properties and land users and to conform with Policy 1 of the Rossendale Borough Council Core Strategy DPD.

Highway Matters

4. No development shall commence until a construction management plan has been submitted to and approved in writing by the County Planning Authority.

The construction management plan shall contain details for the parking of construction vehicles during construction activities and for the storage of construction materials

The measures contained in the approved scheme shall be implemented at all times during the duration of construction works.

Reason: In the interests of highway safety and local amenity and to conform with Policy 9 of the Rossendale Borough Council Core Strategy.

5. Measures shall be taken at all times during construction works to ensure that no mud, dust or other deleterious materials are tracked onto the public highway by vehicles leaving the site.

Reason: In the interests of highway safety and local amenity and to conform with Policy 24 of the Rossendale Borough Council Core Strategy.

Fencing and Lighting

6. No development shall commence until a scheme and programme for the new fencing adjacent to the A56 and for the replacement of highway lighting columns has been submitted to and approved in writing by the County Planning Authority. The scheme and programme shall contain details of the following:

- a) Location, height and design of replacement lighting columns
- b) Details for replacement fencing including location and design.

The new lighting columns shall be erected and operational prior to the existing lighting columns being decommissioned.

Reason: In the interests of highway safety and to conform with Policy 17 of the Rossendale Borough Council Core Strategy.

Landscaping and Ecology

7. No trees other than those identified for removal on Drawing No - NC6 Section 7B / Tree Reference Plan and listed in Appendix 1 of the submitted Tree Survey shall be removed as part of the development. All other trees shall be retained and protected from damage throughout the duration of construction works.

Reason: To protect existing trees within or adjacent to the site in the interests of the visual amenities of the area and to conform with Policy 18 of the Rossendale Borough Council Core Strategy.

8. Prior to the commencement of the development, a scheme of habitat enhancement works shall be submitted to the County Planning Authority for approval in writing. The habitat enhancement scheme should provide details of the following:

- a) Details for replacement planting including location of the planting works and design of planting including layout of the planting works, species to be planted, numbers, sizes, types and spacings of planted, planting techniques and protection measures.

- b) Details for the erection of bat boxes and bird boxes including location and design.

The works contained in the approved scheme shall be carried out in the first planting season following the completion of the development and thereafter maintained for a period of five years including replacement of failures, weed control and maintenance of protection measures.

Reason: In the interests of ecology and to conform with Policy 18 of the Rossendale Borough Council Core Strategy.

- 9. The measures listed in Sections 5.1 to 5.8 (Impacts and Recommendations) of the submitted Preliminary Roost Assessment (Bats) and Section 5 of the Protected Species Survey Report for (Badgers) shall be undertaken prior to the commencement of the development and adhered to during the full duration of construction operations to ensure that the potential for any effects on ecological interests is avoided during construction. If precautionary pre-construction surveys identify the need for a license from Natural England then works shall not proceed until any necessary license from Natural England is in place and details have been provided to the planning authority.

Reason: In the interests of ecology and to conform with Policy 18 of the Rossendale Borough Council Core Strategy DPD.

- 10. Prior to the commencement of development, a precautionary working method statement shall be submitted to and approved in writing by the County Planning Authority. The method statement shall address the following matters:

- a) Precautionary measures to be taken to avoid any adverse impacts on any protected or priority species (badger, bats, nesting birds, reptiles) that may be encountered during the proposed works, including (but not limited to) demarcation of the working area, timing of works, toolbox talks, pre-works inspections, protection of features that may be used as a place of shelter, monitoring, watching briefs and procedures to be followed in the event that protected or priority species are encountered.

- b) Proposed measures for the protection of retained trees

- c) Protection of all retained habitats including water courses.

- d) Measures to prevent the spread of invasive non-native species.

Reason: In the interests of ecology and to conform with Policy 18 of the Rossendale Borough Council Core Strategy DPD.

Notes

The applicant's attention is drawn to the observations of the Environment Agency in their letter of 12th December 2019.

No trees or hedgerows shall be removed during the bird-breeding season between 1 March and 31 July inclusive unless they have been previously checked and found clear of nesting birds in accordance with Natural England's guidance and if appropriate, an exclusion zone set up around any vegetation to be protected. No work shall be undertaken within the exclusion zone until birds and any dependant young have vacated the area.

The grant of planning permission does not remove the need to obtain the relevant statutory consents/licences from the Environment Agency.

**Local Government (Access to Information) Act 1985
List of Background Papers**

None

Reason for Inclusion in Part II, if appropriate

N/A