

**Regulatory Committee**

Meeting to be held on 21 February 2024

**Part I**

Electoral Division affected:  
Preston City, Penwortham  
East and Walton le Dale

**Highways Act 1980 – Section 25 Proposed Public Path Dedication Agreement to create a Bridleway over The Old Tram Bridge, Avenham Park, Preston**  
(Annex 'B' refers)

Contact for further information:

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**Brief Summary**

Proposed creation by agreement of a publicly maintainable bridleway across the Old Tram Bridge and any replacement bridge on same line providing access to and from Avenham Park, Preston.

**Recommendation**

- (i) That the proposal to dedicate a bridleway over the Old Tram Bridge and any replacement bridge on the same line crossing the River Ribble along the approach ramp at the north end of the bridge to bottom of the ramp on the south end and down the slope towards the river, as shown on the plan attached as U-Y, be accepted on the main terms as set out in the report.
- (ii) That the Director of Environment and Planning be authorised to finalise and enter into a Public Path Creation Agreement under Section 25 of the Highways Act 1980 between Preston City Council, as the owner of the Old Tram Bridge and its replacement, and Lancashire County Council, with completion at a time and to include wording in accordance with the main terms as set out in the report to dedicate a length of bridleway marked by a bold dashed line on the attached map and annotated U-Y.
- (iii) That Committee note the recording of bridleway (BW0602072) on the Definitive Map and the making of an Order in 2003 to record bridleway rights over part of the route, but both are believed to have been in error. Officers will take any appropriate action to resolve these issues in due course.

## Detail

A bridge known as the Old Tram Bridge (the Bridge) provides access to and from Avenham Park over the River Ribble. The Bridge is owned by Preston City Council, having been acquired by its predecessor, Preston Corporation on 17 July 1872 when Avenham Park and Miller Park were being completed. The original wooden structure was replaced by Preston City Council's predecessor in the 1960s with the current concrete structure. Consent of Borrowing for the reconstruction of the bridge in 1965 was from Government. The Ministry of Housing & Local Government agreed to the borrowing by the Public Walks and Pleasure Grounds service of the Council of the County Borough of Preston. The purpose noted was under Public Health Acts 1875-1925 and 1961 for 'Reconstruction of tram bridge across River Ribble between Avenham Park and Playing Fields.' There is no suggestion it was for highway purposes.

The Bridge is currently unsafe and requires demolition and replacement. It is temporarily closed by virtue of a temporary traffic regulation order.

Until its closure, the Bridge was well-used on foot and on cycle. The northern half of it is recorded on the Definitive Map as a bridleway (BW0602071). At the time it was recorded, the route did not connect to other bridleways and the use by the public which led to its recording as bridleway is now considered to have been 'by right' and not 'as of right', as it was part of and/or access to a public park and area of public open space formerly managed by Preston Borough Council, then its successor Preston City Council. This may, on balance, have precluded a public right of way being created by presumed or inferred dedication.

Recent investigations carried out by Officers suggest that public rights may have been incorrectly recorded over part of the Bridge, and that a subsequent unconfirmed Definitive Map Modification Order made in 2003 to record public rights over the other half of the Bridge may also be erroneous for the same reason.

Preston City Council has obtained funding for a scheme to deliver the demolition of the Bridge and the construction of its replacement on the same line, although at a higher level. Both Lancashire County Council and Preston City Council are keen to secure that outcome. The funding provided is allocated on the basis that the scheme does not require a Compulsory Purchase Order and access to carry out the work also relies on the County Council having a power to maintain the bridleway. It is proposed to enter into a public path creation agreement under Section 25 Highways Act 1980 for a new bridleway maintainable at public expense, which would formalise the public rights and maintainability of the surface.

By entering into an agreement, this would impose a statutory duty of maintenance on Lancashire County Council in relation to the surface of the bridleway carried by the present Bridge and its replacement, as Committee will note the right for the owner to raise the level of the highway as a main term in the draft agreement, albeit the structure itself would remain in the ownership and responsibility of Preston City Council and would not be part of the highway maintainable at the public expense.

It is proposed that Lancashire County Council as Highway Authority enters into Agreement with Preston City Council as landowner, to create a bridleway as shown



as U-Y on the attached plan, to include the main terms set out below and to allow for work on the Bridge to take place.

Dedications under agreements usually require the way to be fit for purpose and public use at the point of dedication. In this matter, it is suggested that the dedication be taken whilst the bridge is out of repair but that the costs of bringing the bridleway into a safe condition be agreed to be met by Preston City Council, given that the bridleway will not be in a safe condition at the time of it becoming maintainable at the public expense, due to the danger arising from the supporting structure. It is strongly advised that the county council not agree to the bridleway being maintainable at the public expense in circumstances which would result in Lancashire County Council being immediately in breach of its s.41 duty.

Dedications under agreements require the way to connect with the network or places of public resort. Point U connects to the park and Point Y connects to a track in the ownership of the county council (not subject to any tenancy) connecting to Bridleway along the river banks. Officers advise that the county council construct and open to the public a bridleway Y-Z on the plan, and agree that Y-Z also be recorded as bridleway which would also be maintainable at public expense under S36 thereby connecting the network.

It is advised that the Agreement wording be finalised and agreed by an authorised officer (the Recommendation advises the Director of Environment and Planning) on the line shown on the plan in accordance with these main terms -

1. That the agreement is only completed once funding for the Bridge rebuild is confirmed and collaboration agreement and all other agreements between the parties in connection with this project are completed contemporaneously.
2. That it provides for the repair or rebuild of the Bridge structure in the next three years by Preston City Council at Preston City Council's cost to keep bridleway users safe.
3. That it provides for Preston City Council changing the level of the bridleway as the new proposed Bridge is higher and will require ramped accesses.
4. That it provides for the Bridge structure to remain Preston City Council's structure to maintain.
5. That it provides for the width and what constitutes the surface of the bridleway so that it is clear what it entails and where it is.
6. That it provides for an easement to access and work on the Bridge if necessary in connection with works by Lancashire County Council on the Bridleway surface.
7. That it provides some explanation as to why the new bridleway is appropriate.

A draft agreement is being considered by the parties at present which deals with all the main terms above, and is only intended to be completed once funding is confirmed and other agreements are also able to be completed. Some wording will need finalising. Preston City Council confirms that they are content with the main terms of the agreement as above and will work to finalise the wording.



## Consultations

Section 25 of the Highways Act 1980 requires that Lancashire County Council shall consult any other local authority in whose area the proposal is situated before entering into the agreement. Accordingly, the necessary consultations have been carried out with Preston City Council and South Ribble Borough Council.

## Advice

Points annotated on the plan

Point	Grid Reference	Description
U	SD 5415 2867	Junction with Footpath FP0602048 in Avenham Park at the north end of ramp to Old Tram Bridge
V	SD 5415 2866	North end of Old Tram Bridge
W	SD 5417 2852	South end of Old Tram Bridge
X	SD 5417 2852	Bottom of ramp at South end of Old Tram Bridge, at junction with slope back towards riverbank
Y	SD 5416 2853	Ownership boundary between land owned by Lancashire County Council (Y-Z) and land owned by Preston City Council (U-V-W-X-Y)
Z	SD 5416 2856	Junction between FP0702078 and BW0702080 at bottom of slope down to riverbank

Description of Proposed Bridleway (lengths approximate)

Bridleway as described below and shown by a bold dashed line and marked U-V-W-X-Y on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH	SURFACE
U	V	S	10	4m	Tarmac or rubber-crumb
V	W	S	125	4m	Non-structural bridge deck or non-slip surface on structural bridge deck
W	X	S	20	4m	Tarmac or rubber-crumb



X	Y	NNW	15	3m	Compacted stone
Total length of bridleway to be created:			170		

In making the decision to enter into an Agreement to create the bridleway, the Authority must have due regard to the needs of agriculture and forestry and the desirability of conserving flora, fauna and geological and physiographical features. It is believed that this proposal will have no adverse effects on these matters.

Furthermore, it is considered to be compatible with the material provisions of the Rights of Way Improvement Plan. 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. The route will be of adequate width, firm and well drained underfoot, ramped not stepped and without gates or stiles.

### **Financial Implications**

It is proposed that the county council will enter into Agreement with Preston City Council to rebuild the Bridge to create a path that will be suitable for use by pedestrians, equestrians and cyclists. Funding has been obtained by Preston City Council subject to not needing a Compulsory Purchase Order.

Preston City Council, as the landowner, is in agreement with this creation of a right of way and has agreed not to take a consideration payment for this Public Path Creation Agreement under Section 25 of the Highways Act 1980.

As soon as may be after dedication of a bridleway in accordance with the 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.

It is proposed that 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 and based upon relevant information contained in the report, there are no significant risks associated with the decision-making process as long as the terms of the Agreement ensure that Lancashire County Council is not responsible for rebuilding or repairing the structure of the Bridge.

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

Paper	Date	Contact/Directorate/Ext
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None

Reason for inclusion in Part II, if appropriate

N/A

