

Agenda Item No.4

DERBYSHIRE COUNTY COUNCIL

REGULATORY – LICENSING AND APPEALS COMMITTEE

27 February 2017

Report of the Strategic Director – Economy, Transport and Communities

**PROPOSED CREATION OF PUBLIC BRIDLEWAY RIGHTS BY ORDER
OVER PART OF SCARCLIFFE PUBLIC FOOTPATH NO 4 TO PROVIDE
ACCESS TO THE ARCHAEOLOGICAL WAY**

(1) **Purpose of Report** To seek authority for the Director of Legal Services to make a Public Path Creation Order to create a short length of public bridleway over part of Scarcliffe Public Footpath No 4 to provide a legal means of access for cyclists and horse riders onto the new Archaeological Way multi-user trail.

(2) **Information and Analysis** The Archaeological Way programme is a strategic objective of the Authority, it delivers outcomes towards the East Derbyshire Greenways Strategy and supports the delivery of the Rights of Way Improvement Plan for Derbyshire. The 11 mile (18.5km) route forms part of the North Derbyshire and Nottinghamshire Trails Network and improves a largely off-road multi-user route between Pleasley, Shirebrook and Creswell, in the north east of the County.

The proposed creation of bridleway rights relates to approximately 20 metres of Scarcliffe Public Footpath No 4 which is routed along an agricultural access track off Whaley Road between Nether Langwith and Whaley. Normally the Authority would negotiate the creation of the bridleway by agreement with the landowner but this has not been possible as no landowner has been identified. The area of land required is unregistered and the Authority has exhausted all attempts to identify the landowner and any occupiers of the parcel of land. A Notice advising of the proposed Creation Order was posted on site on 2 December 2016 inviting anyone with an interest in the land to come forward to which no responses have been received. It is therefore proposed to upgrade the short length of footpath to bridleway by way of a Public Path Creation Order over the area of land hatched black on the attached plan that equates to a land take of approximately 130m² (approximately 0.0321 acre).

(3) **Financial Considerations** Because an Order made under Section 26 of the Highways Act 1980 gives the County Council compulsory powers to create a footpath, bridleway or restricted byway, then a landowner may claim

compensation if it is shown that the value of an interest of a person in the land is depreciated. Corporate Property has made an assessment of compensation that would be reasonable to pay for land that is used more or less as an agricultural access that is already significantly affected by public footpath rights. A figure of £32, rounded to £50, is derived from a land take of 130m² (approximately 0.0321 acre) at £1,000/acre. If an agent is used then reasonable fees would be payable equating to approximately £500 plus the Authority's reasonable legal costs giving a total compensation cost in the region of £1,050. Questions of compensation that may arise that cannot be agreed are referred to the Lands Tribunal for determination. Compensation payable (should it arise) will be met from the Archaeological Way project and no further liabilities or immediate maintenance costs are identified as the area of land for the proposed bridleway was included as part of the Whaley Road Ramp works to construct the public access from Whaley Road.

A claim for compensation must be made to the Authority in writing within six months of the date the Creation Order comes into force.

Officer time in processing the order and the costs associated with advertising the making of and the confirmation of the order which is expected to be in the region of £1,000, which is chargeable to the Archaeological Way project budget.

(4) **Legal Considerations** The County Council has powers to provide facilities and related services for the enjoyment of the public and may make a Public Path Creation Order for the creation of a public footpath, bridleway or restricted byway under Section 26 of the Highways Act 1980. Before exercising any power under this Section, the County Council must consult any local authority or authorities in whose area the land concerned is situated.

Where it appears to a Local Authority that there is a need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that, having regard to 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 the effects which 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 of the Highways Act below, it is expedient that the path or way should be created, the Authority may by Order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, create a footpath, bridleway or restricted byway over the land. The consideration of compensation payable by the Authority to a landowner has been dealt with under Financial Considerations.

The Authority has had due regard to the needs of agriculture, forestry and nature conservation and the desirability of conserving flora, fauna, geological

and physiographical features, under its duty in Section 29 of the Highways Act 1980.

(5) **Environmental and Health Considerations** Consideration has also been given to the County Council's Rights of Way Improvement Plan.

In preparing this report the relevance of the following factors has been Considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport.

(6) **Background Papers** Held on file within the Economy, Transport and Communities Department. Officer contact details – Peter Webster, extension 39790.

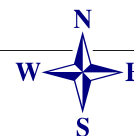
(7) **OFFICER'S RECOMMENDATIONS** That:

- 7.1 Consultations be undertaken with Bolsover District Council, Scarcliffe Parish Council, and the Authority's statutory consultees and user groups upon the proposal to create bridleway rights over part of Scarcliffe Footpath No 4 by way of a Creation Order.
- 7.2 Subject to no objections being received, the Director of Legal Services be authorised to make the necessary Public Path Creation Order for the creation of bridleway rights over part of Scarcliffe Public Footpath No 4 as shown hatched black on the attached plan.
- 7.3 Any subsequent objections will be brought back to Committee for determination.
- 7.4 Should a claim for compensation arise following the confirmation of the Creation Order that cannot be agreed, then the matter be referred to the Land Tribunal for determination.

Mike Ashworth
Strategic Director – Economy, Transport and Communities

Poulter Country Park

Area of Unregistered Land Required for the Creation of Public Bridleway Rights Over Scarcliffe Public Footpath No 4 (Part) to Provide Public Access to the Archaeological Way



Whaley Road

Sluice

Derbyshire
County
Council
Owned
Land

Track

The Archaeological Way

Issues

FB

76.5m

FB

Derbyshire
County Council
Owned Land

Pond

Scarcliffe Footpath No 4

Scale 1:1000

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Highways Act 1980 Section 26

Proposed Bridleway Creation Order Over Scarcliffe Public Footpath No 4 (Part)



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