

BARNSELY METROPOLITAN BOROUGH COUNCIL

REPORT OF: EXECUTIVE DIRECTOR – GROWTH & SUSTAINABILITY

TITLE: PROPOSED DEDICATION OF PUBLIC RIGHTS OF WAY ON BARNSELY COUNCIL OWNED LAND

REPORT TO:	CABINET
Date of Meeting	27th November 2024
Cabinet Member Portfolio	Environment and Highways
Key Decision	No
Public or Private	Public

Purpose of report

To seek authority to dedicate several routes on Council owned land as public rights of way for use by the public to be maintainable at the public expense, as shown on the attached plans and described in the accompanying schedules.

Council Plan priority

Healthy Barnsley: the proposals will formalise and protect the status of unrecorded public rights of way and active travel, in particular cycle access, in the borough.

Sustainable Barnsley: the proposed new routes will formalise and protect sustainable travel routes in the borough.

Recommendations

That Cabinet:-

1. Approves the dedication by the Council of the routes shown on the attached plans and more particularly described in the accompanying schedules for use by the public as public rights of way having the status of either public footpath or public bridleway, as stated on each map and the accompanying schedules.
2. Authorises the Head of Legal Services to complete the necessary Deeds of Dedication.

1. INTRODUCTION

- 1.1 The Council as Highway Authority has a statutory duty to maintain a register of public rights of way in the borough known as the Definitive Map and Statement. The authority is also required to keep the map and statement under continuous review, ensuring that the records are up to date and in doing so helping to protect the public rights shown, provide clarity for the public and ensure that maintenance and enforcement responsibilities can be carried out effectively.

- 1.2 Several routes have been identified on Council owned land which do not currently have the recorded public right of way status that is desired or which in some cases have already likely been established in law. Some of the routes have no formal status at present. Others are recorded as footpaths but should be upgraded to bridleways. This report seeks authority for the Council to formally dedicate those public rights which are considered to be appropriate for each path.
- 1.3 Changes can only be made to the Definitive Map and Statement where there has been a legal 'event' as defined by the Wildlife and Countryside Act 1981, which requires an express dedication by Deed, Order or 'other event' to create or amend a path. If members approve the dedications sought in this report, Deeds of Dedication will be executed which will enable the Definitive Map and Statement to be amended to show the newly recognised public rights.

2. PROPOSAL

- 2.1 It is proposed that the Council formally dedicates the routes identified on the plans and associated schedules attached to this report as public rights of way for use by the public having the status of public footpath or public bridleway as specified in each case.
- 2.2 Maps 1-5 show routes which have been subject to improvement works to develop and increase the borough's cycle network. Construction of the newly improved routes has previously been approved by Cabinet (see Cab.21.9.2022/13) and were managed as set out in that report. This Cabinet report seeks only to formalise the status of those routes.
- 2.3 The route on Map 1 will be dedicated as a public footpath with permissive cycle access to connect it to the existing footpath and permissive cycle way.
- 2.4 The majority of routes shown in maps 2-5 are currently public footpaths, with recorded rights for pedestrians only. If the proposals are accepted, these will be upgraded to public bridleway status, with access rights for pedestrians, horse riders and cyclists. Other sections currently have no status and will be formally dedicated as new public bridleways. Some additional link footpaths will also be formally dedicated to record greater connectivity on the Definitive Map.
- 2.5 Maps 6 & 7 relate to applications to modify the Definitive Map and Statement. These applications claim that public access rights already subsist but are unrecorded, and are backed by supporting evidence. The proposed changes in Map 6 would connect 2 cul-de-sac sections of historical bridleway in Penistone to the Trans Pennine Trail to create a useable through route and those in Map 7 would recognise claimed public footpath rights on a disused railway line along the western boundary of Carlton Marsh Local Nature Reserve.
- 2.6 Map 8 shows an unrecorded path which has been set out and openly used by the public for many years. The legal tests for dedication and acceptance are

therefore considered to be satisfied such that the route will already be established in law as a public right of way, even though it is not formally recorded.

- 2.7 As those routes have already been set out / improved and which are already in public use, a Deed of Dedication will be executed upon approval of the recommendations in this report.
- 2.8 Following execution of the Deeds of Dedication, the paths will become formal public rights of way of the status indicated. The newly formalised public rights will be protected, with management and maintenance of the routes coming under the responsibility of the public rights of way team.

3 IMPLICATIONS OF THE DECISION

3.1 Financial and Risk

Consultations have taken place with representatives of the Director of Finance (S151 Officer).

There are currently no direct financial implications because of the proposed dedications. SYMCA funding for the active travel improvement works referred to above has already been obtained and approved separately (see Cab.21.9.2022/13). All other routes have already been set out, the only change which will result from this report will be to their recorded legal status.

Once formally recorded as public rights of way or higher status public rights of way to those previously recorded, the routes will be managed by the Council's public rights of way department using existing budgets, however there is a risk that in future capital works may be required if the routes fall into serious disrepair, at this point it would require appropriate governance.

3.2 Legal

Dedication of the proposed routes would fulfil the Council's statutory duty to keep the Definitive Map and Statement under continuous review, ensuring that the legal records of public rights of way are up to date and that the paths referred to in the attached maps and schedule are recorded with the correct legal status.

Legal Services has been consulted on the proposals and is satisfied with the recommendations made in this report.

3.3 Equality

Equality Impact Assessment: not applicable.

The proposals fulfil a statutory duty and either upgrade the status of existing public rights of way or else formalise the status of unrecorded public rights of way. In all cases, the recorded public access rights are to be extended, improving connectivity to more people than at present. The proposals are

therefore not considered to have any impact on equality.

The impact on equality of the proposed improvement works has already been considered in cabinet report: Cab.21.9.2022/13.

3.4 Sustainability

Decision-making wheel not completed

As the proposals fulfil a statutory duty and involve no further works or investment other than those which have already been approved, it is not considered necessary to complete a sustainability decision-making wheel.

The sustainability of the proposed improvement works has already been considered in cabinet report: Cab.21.9.2022/13.

3.5 Employee

No employee issues arise as a result of this report. The formalised public rights of way will be managed by existing staff as part of the wider public rights of way network.

3.6 Communications

Communications with regards to the routes to be improved has already been approved in Cabinet report Cab.21.9.2022/13.

The remaining routes are already set out on site and used by the public. New signage will be installed to inform the public about the change in status and the relevant applicants will be informed of the changes shown in maps 6 and 7.

The Definitive Map will be updated and available for the public via the website along with the statutory registers.

4. CONSULTATION

All of the routes exist over Council owned land. The managing department for each area of affected land have been consulted, as have Asset Management, legal services and finance. The Council departments that have been consulted are listed below:

- a. Public Rights of Way.
- b. Highways Design (regarding the routes which they are delivering)
- c. Parks Services (where land that they manage is affected)
- d. Berneslai Homes / Housing (where land that they manage is affected)
- e. Legal Services
- f. Finance

The following parties have also been consulted, initially in November 2022 and again in March 2024:

- a. Local ward members
- b. User groups (via the Barnsley Local Access Forum)
- c. Parish or town councils where applicable

Consultations for the routes to be improved have already been approved in Cabinet report Cab.21.9.2022/13.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 If the Council does not dedicate the routes as sought in this report then the Definitive Map and Statement will continue to be out of date.
- 5.2 Given that all of the routes are either already set out on site or else have approval and funding in place to be constructed or upgraded, it is likely that they have already acquired Common Law access rights, or else will acquire such rights on completion of the approved works. It is not recommended that their status is left unresolved.
- 5.3 In line with its statutory duty, the Council would be required to issue decisions and modification orders for those routes which are subject to DMMO applications (maps 6 and 7), while any member of the public may apply to the Council to add the other routes to the Definitive Map and Statement in future. Investigating and publishing DMMO orders is often a lengthy and costly process in terms of staff resources and compliance with statutory procedures and is not recommended where the matter can be resolved via dedication.
- 5.4 Dedication of the routes is therefore considered to be the only practical option and the recommended option.

6. REASONS FOR RECOMMENDATIONS

- 6.1 Transforming Cities funding is in place to expand and improve cycle access in the borough and help promote sustainable transport. Other routes in the borough have been set out and are used by the public without a formal status. All of these routes should have a formal, protected public rights of way status to guarantee the appropriate public right of access over them in future.
- 6.2 The Council has a statutory duty to keep the Definitive Map and Statement up to date to accurately reflect the public rights of way in the borough.
- 6.3 No objections have been raised as part of consultations on the proposals.

7. GLOSSARY

NA

8. LIST OF APPENDICES

Appendix 1: Maps 1 to 8 showing the proposed public rights of way to be dedicated

Appendix 2: Schedule describing the proposed public rights of way to be dedicated.

9. BACKGROUND PAPERS

Cabinet report Cab.21.9.2022/13.

If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made

10. REPORT SIGN OFF

Financial consultation & sign off	Senior Financial Services officer consulted and date Ashley Gray – Strategic Finance Business Partner – 15/10/2024
Legal consultation & sign off	Legal Services officer consulted and date Rebeca Asquith – Head of Legal (interim), Law & Governance – 16/10/2024

Report Author: Sarah Ford
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Date: 26 September 2024