



## Order Decision

Site visit on 25 August 2015

**by Sue Arnott FIPROW**

**an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Decision date: 1 October 2015**

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### **Order Ref: FPS/P2935/6/4**

- This Order is made under Section 26 of the Highways Act 1980. It is known as the Northumberland County Council Parish of Seaton Valley (Public Bridleway No. 192) Creation Order 2014.
- The Order is dated 15 October 2014. It proposes to create a public bridleway along parts of Footpaths 300/123 and 300/126 in the former Parish of Blyth Valley, leading eastwards from the B1505 at Cramlington to Middle Farm at Seghill, as shown on the Order map(s) and described in the Order schedule.
- There were five objections and one representation outstanding when Northumberland County Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.

**Summary of Decision: The Order is confirmed subject to a modification, as set out in the 'Formal Decision' below.**

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### **The Main Issues**

1. The provisions of Section 26 of the Highways Act 1980 (the 1980 Act) under which this Order was made require that if I am to confirm it I must first be satisfied that:
  - (a) there is a need for a bridleway along the line indicated on the plan(s) attached to the Order (and shown as A-B); and
  - (b) it is expedient to create a bridleway having regard to:
    - (i) the extent to which the right of 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
    - (ii) the effect which the creation of the right of way would have on the rights of persons with an interest in the land, account being taken of the provision for compensation.
2. The 1980 Act (as amended) requires me also to have regard to any material provisions in the Rights of Way Improvement Plan for the area.

### **Reasons**

***Whether there is a need for a public bridleway along the proposed line A-B, and the extent to which it would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of local residents***

3. The Council submits there is little doubt that the proposed new bridleway is needed, a claim that is supported by local representatives of the British Horse

Society (BHS), the Bridleways and Riders Action Group (BRAG) and the Cyclists' Touring Club.

4. Evidence on the ground suggests that at present it is enjoyed by members of the public on horseback and bicycle as well as on foot. In fact it is not disputed that such usage has continued over many years<sup>1</sup> although it appears negotiations to formally recognise that use by agreement did not reach a successful conclusion.
5. Whilst the BHS welcomes the proposed creation of a public bridleway along the Order route, BRAG comments that if this route were to be lost, it would sever connections with other routes used by horse riders in this locality.
6. NCC submits that this Order aims to legitimise existing use, rather than initiate completely new use or to significantly increase levels of usage. Creating a public bridleway along this route will confirm it as a multi-user right of way although NCC acknowledges that walkers, horse riders and cyclists already use it and have done so for a considerable period of time.
7. When inspecting the site I recorded the underpass beneath the A189 as having head room of 2.4 metres, somewhat short of the minimum recommended<sup>2</sup> for equestrian routes (3.4m) and for off-carriageway cycle routes (2.7m). [It is also below the 2.6m minimum now recommended for pedestrian routes.] As regards cyclists, 2.4m is considered acceptable in exceptional cases where signs advising cyclists to dismount are provided. For ridden horses, the absolute minimum of 2.8m is only regarded as acceptable over shorter distances than here or where riders are advised to dismount and lead their horses through.
8. Whilst the 2.4 metre height available is clearly less than the recommended minimum, I note a point made by the BHS (and endorsed by BRAG): that even though the underpass does not meet present day standards, the fact that local horse riders have used it for many years suggests that it is not seen as a hazard by those familiar with its constraints. Further, a sub-standard underpass on the proposed bridleway is better than no bridleway at all.
9. Taking into account the background to this route and the use that has already been made of it for many years, I accept that the underpass may be less than ideal but, with the assistance of mounting blocks and appropriate advisory signs<sup>3</sup>, it need not preclude the creation of this bridleway.
10. NCC goes on to argue that the depiction of this route on Ordnance Survey Explorer maps as a "traffic-free route" demonstrates the reputation of this way as a cycle path and/or bridleway although it accepts this status has no legal basis. It is clear that objectors challenge this assertion but, in the absence of any explanation for how this route came to be so recorded, I give this submission no weight in any event.
11. Turning to the objections, I note that Mrs S Carins questions the need for this bridleway although she appears to recognise that horse riders and cyclists have been using the footpath for some time in addition to pedestrians. Ms B Carins

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<sup>1</sup> One of the objectors, Mrs S Carins, refers to horse riders being told by her late husband who farmed the land to refrain from galloping to avoid chewing up footpath.

<sup>2</sup> In the Design Manual for Roads and Bridges: Volume 6 Section 3 (Part 5 TA 90/05) Chapter 8: Headroom. I note that NCC points out that these standards are advisory, not mandatory.

<sup>3</sup> NCC has confirmed its willingness to undertake these improvements.

acknowledges that the route has always been accessible to people walking and riding, both horses and bikes, and takes the view that as long as they do this responsibly she sees no reason "to spend money on this change". Ms A Young explains that whilst living at Middle Farm, her family never objected to cyclists and horse riders using designated footpaths as long as they showed due consideration and care towards the farmland and walkers. She sees no need for any change when the public already enjoy use of the route.

12. Although the objectors see no need to formalise this arrangement, they do not dispute the use by others over and above the pedestrians who have a legal right to use the definitive footpath(s)<sup>4</sup>.
13. I find the extent of present use of this public footpath by horse riders and cyclists to be a good indicator of its value in the local network. Submissions from user organisations confirm this route is a popular one that is convenient and enjoyed by the wider public as well as people residing in the area.
14. In summary, I am satisfied there is a need for the proposed bridleway and that it would confirm access over a route that provides a convenient and enjoyable link in the rights of way network, making it available 'by right' to local people as well as the general public on or leading horses and on bicycles as well as on foot.

***The effect the creation of the bridleway would have on the rights of persons with an interest in the land, taking account of the provision for compensation***

15. NCC points out that none of the joint landowners live on or adjacent to the land affected by the proposed bridleway. It submits that the effect of the Order on landowning interests will be limited since use by both horse riders and cyclists is already taking place unhindered.
16. It acknowledges that parts of the proposed bridleway follow tracks used to access adjacent fields by agricultural tenants and contractors but argues that there is no need for these private users to alter their existing practices. Further, there is unlikely to be increased wear and tear on the surface from merely formalising the present public use.
17. Ms B Carins objects to the surfacing of the route with tarmac, and expresses concern over future maintenance of the proposed bridleway and the likelihood that it would encourage motor cycles. These are potential problems also highlighted by Ms A Young who comments that the tracks are "perfectly serviceable" without tarmac. If a sealed surface were provided, the problems will get worse, crops will be affected and motor-cycles will continue to be a menace to walkers and horse riders. Ms E Manners adds that the Council have not maintained these footpaths at all (except around the 'Spoon'). Her late father (Mr Carins) surfaced these tracks at his own expense many years ago as they are used throughout the year by large heavy agricultural machinery.
18. In response NCC has since confirmed that it does not propose to surface the route with tarmac and no physical alterations are intended. It appears that illegal use by motor cycles has long been a problem here and the Police have been involved. Although this is clearly a serious issue that needs to be tackled, it is unlikely that it would be made any worse by the formal creation of a bridleway where a public footpath already exists and is already used by horses

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<sup>4</sup> The proposal is to create a bridleway over parts of two footpaths - 300/123 and 300/126.

and cyclists. Unauthorised use of the Order route by motor-cyclists would remain an offence as now.

19. It appears that the main concerns registered by the objectors centre on a misunderstanding of NCC's intention as regards the surface of the proposed bridleway. The Council has confirmed that a tarmac surface is not intended; indeed such a surface would not be ideal for horse use.
20. The objectors have not highlighted any issues that could not be pursued through a claim for compensation under the provisions of Section 28 of the 1980 Act. Since the Order route is already being used by horse riders and cyclists, the proposed public bridleway is unlikely to bring about changes that are not being experienced at present.
21. My conclusion is therefore that the creation of a right of way for horses and cyclists would have little impact on the rights of those with an interest in the land affected by this proposal.

### ***The Northumberland Rights of Way Improvement Plan***

22. NCC's Rights of Way Improvement Plan recognises that the network of bridleways in this 'urban fringe' area is generally poor and fragmented. The Plan includes policies to:
  - Seek improvements to the rights of way network in areas which are poorly served by existing path provision;
  - Improve the fragmentary provision of access for horse rides and cyclists on the public rights of way network; and
  - Identify and address missing links and gaps in the network which will enhance existing access provision.
23. The formalisation of a bridleway in this location will clearly help fulfil NCC's aims to improve the network in this locality.

### ***Whether it is expedient to create the bridleway taking into account the above***

24. In conclusion I find there is a need for this proposed bridleway, clearly demonstrated by present and past usage. Despite the constraints on head-height at the underpass (which can be remedied to an extent with signage and mounting blocks), there is clear support for this being a valuable link<sup>5</sup> in the public rights of way network for horse riders, both for local use and as part of longer trails.
25. Balanced against this are the effects of the bridleway on the private users of the track but I have concluded that these effects will be negligible given the use by horse riders and cyclists that is already taking place.
26. Whilst the problems of misuse by motor-cyclists highlighted by the objectors may still remain to be tackled, having considered all the submissions in this case, and taking into account also the reasonable needs of members of the public with disabilities who may use this route, I conclude it would be expedient for me to confirm the Order.

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<sup>5</sup> NCC has confirmed that at Point B the Order route will connect with a public bridleway which is the subject of a separate Order that is due to be confirmed by the Council unopposed.

## Other matters

27. One of the objectors questions the intended width of the Order route. The Order schedule states this will be 3 metres throughout its length. Although in places the visible trod is much less, I found nowhere along the route where a 3 metre wide right of passage would not be possible.
28. Another objector questioned the inclusion of a 'wicket gate' as a limitation on public use of the new bridleway. He points out that there is no recognised specification for a wicket gate and that term has no clear definition. He suggests the gate be better described simply as a gate or a bridle gate since this is more universally accepted. Further, it should be stated to comply with the relevant British Standard (BS 5709:2006) or NCC's own standard.
29. NCC responds by saying that the term 'wicket gate' was used because it accurately describes the existing limitation on the footpath at point B. This is a small metal gate (which NCC states offers a clear width of 1.33m) alongside a much larger vehicular gateway in which there is a metal barrier. Although NCC's own standards advise a clear width of 1525mm for a bridle gate, it considers the present gate to be adequate. It requests that the term 'wicket gate' be retained since it is one which is known and used nationally and has been used in other orders made by the Council. Its own specifications<sup>6</sup> do not preclude the use of the term (although it does not define it); these apply to new gates and stiles being authorised on public rights of way and not to existing structures which have been assessed as suitable.
30. I see two separate issues here: firstly whether the type of limitation should be referred to as a wicket gate, a bridle gate or simply a gate, and secondly whether the width of the limitation proposed at point B is appropriate for the new bridleway that is being created.
31. I agree with the objector that using terminology which does not appear in NCC's specifications (or the British Standard) is not only confusing but also meaningless. NCC's specifications refer to pedestrian gates and bridleway or bridle gates, not wicket gates.
32. Yet whatever it is called, the point is that what is proposed on the Order route is a gate on a new bridleway. Irrespective of its past use by horse riders and cyclists subject to the limitation of the present gate, this Order is made under Section 26 of the 1980 Act to create a new right of way for those users.
33. Insofar as the Order Schedule is concerned, all that is required is that it records a gate that complies with a recognised standard. I therefore intend to modify the Order to remove the word 'wicket' so that the rights of the public using Bridleway 192 will be limited by "One gate, to comply with Northumberland County Council Gaps, gates and stiles – Specification (January 2009), situated at grid reference NZ28637507". It will be for NCC to ensure that the gate at point B complies with its published standards.

## Conclusion

34. Having regard to the above and to all other matters raised in the written representations, I conclude that the Order should be confirmed with the

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<sup>6</sup> Northumberland County Council's gaps, gates and stiles – Specification (January 2009)

modification referred to in the preceding paragraph, a minor change which does not require further advertisement.

**Formal Decision**

35. I confirm the Order subject to the following modification:

In the Order schedule – PART 2: Limitations and Conditions:

- In line 1:

Delete the word 'wicket' so that the sentence begins "One gate ...".

*Sue Arnott*

**Inspector**