

# **DEVELOPMENT CONTROL AND REGULATION COMMITTEE**

**Meeting date: 15 July 2022**

**From: Executive Director – Economy and Infrastructure**

## **HIGHWAYS ACT 1980 SECTION 25 UPGRADING OF SECTIONS OF PUBLIC FOOTPATH NO 536260 AND 536261 TO BRIDLEWAY IN THE PARISH OF KENDAL: DISTRICT OF SOUTH LAKELAND**

### ***1.0 EXECUTIVE SUMMARY***

- 1.1 A scheme has been developed with the approval of the affected landowner to build a single span fully accessible bridge across the River Kent, reconnecting Gooseholme and New Road Common.***
- 1.2 This will require sections of public footpath to be upgraded to bridleway to allow legitimate use by horse riders and cyclists and the sections of public footpath are shown on the plan at Appendix A. A location plan is also attached as Appendix B.***
- 1.3 The Scheme will help realise some of the ambitions to increase cycling provision and access into the town centre as set out in the Local Cycling and Walking infrastructure Plan which is specifically supported in the Council Plan.***
- 1.4 The upgrading of the routes can be done by an Agreement under Section 25 of the Highways Act 1980.***

### ***2.0 POLICY POSITION, BUDGETARY AND EQUALITY IMPLICATIONS, AND LINKS TO COUNCIL PLAN***

- 2.1 The relevant procedure is an administrative one. Members have discretion as to whether or not to authorise the Chief Legal Officer to enter into an Agreement, but such discretion must be exercised reasonably.***
- 2.2 The relevant corporate theme is “To provide a safe and well managed highway network, secure infrastructure improvements and support local economic growth.***

### **3.0 RECOMMENDATION**

**3.1 *It is recommended that pursuant to the power set out at Part 2G paragraph 2.1(g)(i) of the County Council's Constitution, the Chief Legal Officer be authorised to enter into an Agreement under Section 25 of the Highways Act 1980 with the relevant landowner to***

- upgrade that section of public footpath no 536260 in the parish of Kendal to bridleway as shown A-B on the plan at Appendix A; and***
- upgrade that section of public footpath no 536261 in the parish of Kendal to bridleway as shown C-D on the plan at Appendix A.***

### **4.0 BACKGROUND**

4.1 The current routes of public footpath nos 536260 and 536261 pass over the Gooseholme Common and the former Gooseholme Footbridge, which was severely damaged by Storm Desmond in 2015 and has been demolished to make way for construction of an improved replacement structure.

4.2 The Cumbria County Council (Footpath Nos 536260 and 536261 Parish of Kendal) Public Path Diversion and Definitive Map Modification Order 2019 order was made on 21 November 2019 and will realign the public footpaths along the approaches to the new footbridge.

4.3 The scheme will provide a new single span bridge which will be fully accessible to all bridge users and wider than the original footbridge to provide shared access for pedestrians, cyclists and wheelchair users. The replacement bridge will reconnect two pieces of common land that were previously linked for 140 years.

4.4 The scheme is being funded by the County Council, the Environment Agency, South Lakeland District Council and Sustrans. The delivery of the bridge would align with Sustrans objectives of improving sustainable travel methods.

4.5 Separately to this the County Council has been developing a Local Cycling and Walking Infrastructure Plan (LCWIP) for Kendal which identifies connectivity for both pedestrians and cyclists across Gooseholme and New Road Common as important to establish and deliver a comprehensive network of cycling and walking routes into the town centre. This plan was approved by the South Lakeland Area Committee on 22 March 2022.

4.6 To give legal access to other categories of users requires the conversion of the existing public footpaths to public bridleways to allow use by cycles and horse riders.

- 4.7 The physical width of the paths to be converted to public bridleways presently conform to statutory regulations and Sustrans guidance which will help reduce any potential conflict between pedestrians and cyclists.
- 4.8 South Lakeland District Council, which is also the affected landowner, has been consulted in accordance with Section 25(3) of the Highways Act 1980 .
- 4.9 The local member for Kendal Highgate, Geoff Cook has been informed of the proposal.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 Section 25 of the Highways Act 1980 enables a local authority to enter into an Agreement with any person having the necessary power to dedicate a footpath, bridleway or restricted byway over land in their area.
- 5.2 In the exercise of their functions under Section 25, the Council has a duty to have due regard to—
- (a) the needs of agriculture and forestry, and
- (b) the desirability of conserving flora, fauna and geological and physiographical features pursuant to Section 29 of the Highways Act 1980.
- 5.3 Under Part 2G paragraph 2.1(g) (i) of the Constitution, the Committee has the power to create bridleways.

## **6.0 OPTIONS**

- 6.1 The Committee has two options;
- support the recommendation – which will upgrade the paths to bridleway status and help CCC achieve one of the LCWIP objectives of improving connectivity for both pedestrians and cyclists across Gooseholme and New Road Common, which is important to establish and deliver a comprehensive network of cycling and walking routes into the town centre.
  - reject the recommendation – the paths will remain on the definitive map and statement as public footpaths. but will result in not achieving the South Lakeland Local Committee approved LCWIP objective of improving connectivity for both pedestrians and cyclists across Gooseholme and New Road Common.

## **7.0 ASSESSMENT AND CONCLUSION**

- 7.1 The proposal is an administrative, procedural process to legally upgrade the sections of public footpath to public bridleway so as to formalise the route for use by horse riders and cyclists and the landowner is happy to dedicate as such.

- 7.2 As the scheme is located in a town centre urban environment the needs of agriculture and forestry are unaffected. The flora, fauna and geological and physiological features of the location will not be materially affected by the proposed dedication of higher rights.
- 7.3 The footpaths are regularly used for cycling even though the current Common Land by-laws prohibit this. Currently the no cycling by-law is not enforced and the regular use by cyclists occurs without significant issue. Upgrading the paths will regularise the position with no prejudice to those walking on the paths
- 7.4 The upgrade will mean that it is possible to legally cycle both to and from the bridge and create a credible improvement to the cycling network in Kendal. .
- 7.5 This scheme is supported by our partners at SLDC who are attempting to deregister the adjacent common land to allow legal cycle use of the paths that give access to Gooseholme bridge. Unfortunately, due to delays with the delivery of the Environment Agency's Flood Defence Scheme, it has not yet been practical to move forward with the deregistration.
- 7.6 The designation of a bridleway includes rights for horse riders and the movement of livestock. In the context of where this land is situated, in a busy town centre, officer's view is that it is highly unlikely that these rights would be exercised.
- 7.7 The design of the ramps and bridges meet statutory regulations and Sustrans approval for a shared use path. This will help reduce any potential conflicts between cyclists and pedestrians.
- 7.8 The design of this bridge means that the crossing is fully accessible for all users and would form a comprehensive network of cycling and walking routes into the town centre
- 7.9 It is officer's view that the benefits listed above to the community and environment outweigh the potential for conflict between different categories of users.
- 7.10 The Committee is asked to support the recommendation and authorise the Council to enter into an Agreement with the affected landowner to upgrade the sections of public footpath at Gooseholme to public bridleways as shown on the plan at Appendix A.

**Angela Jones**  
**Executive Director – Economy and Infrastructure**  
**June 2022**

## **APPENDICES**

***A - Plan showing proposed upgrade***

***B - Location Plan***

## **IMPLICATIONS**

Staffing: Nil  
Financial: Advertising costs – approx £150  
Electoral Division: Kendal Highgate – Geoff Cook

## **PREVIOUS RELEVANT COUNCIL OR EXECUTIVE DECISIONS**

***[including Local Committees]***

South Lakeland Local Committee – 22 March 2022

## **CONSIDERATION BY OVERVIEW AND SCRUTINY**

***Not considered by Overview and Scrutiny.***

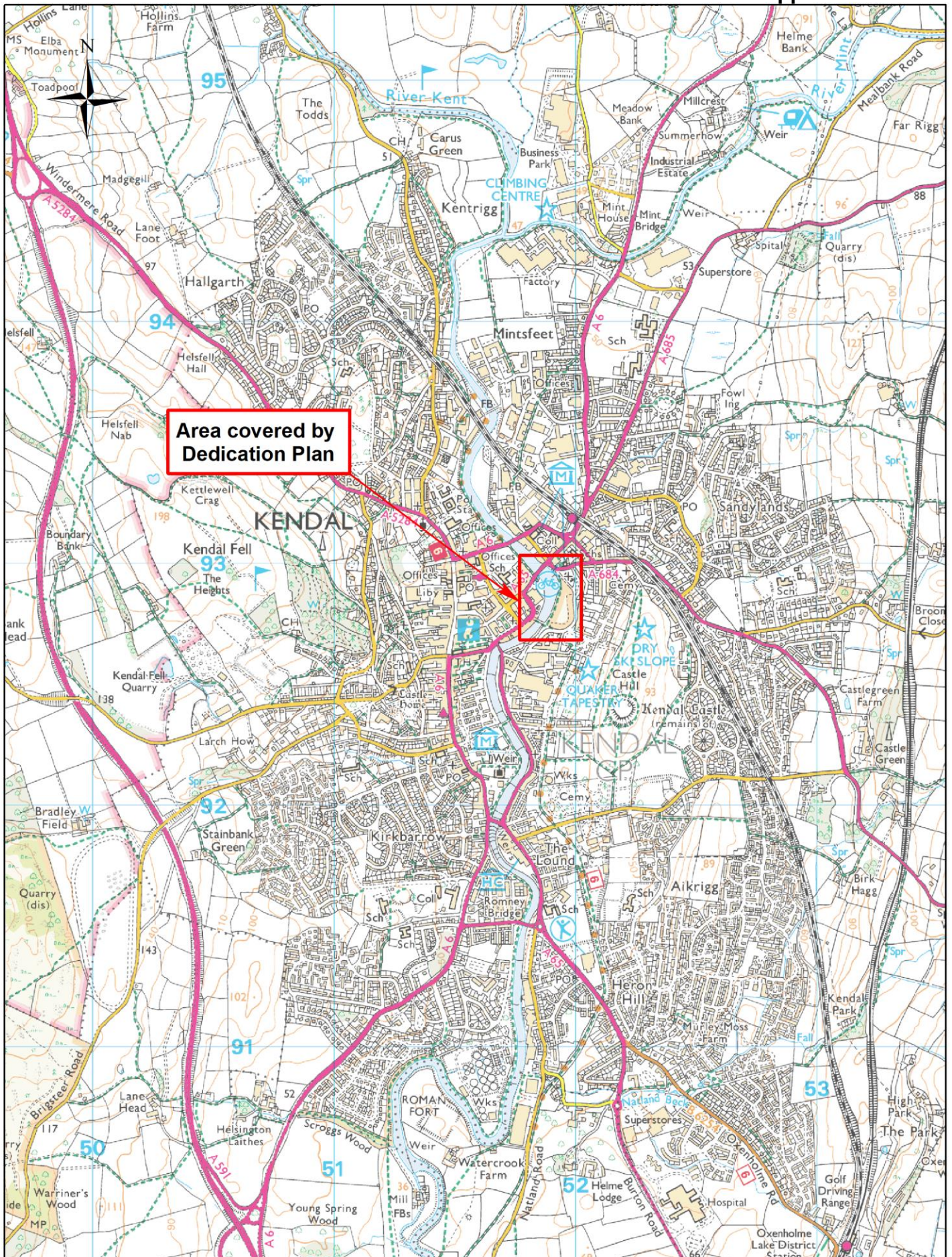
## **BACKGROUND PAPERS**

***No background papers.***

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Area covered by  
Dedication Plan