

**REPORT FROM: ENVIRONMENTAL SERVICES MANAGER**

**TO: COLNE AND DISTRICT COMMITTEE**

**DATE: Thursday 31<sup>st</sup> March 2022**

**Report Author: Tom Partridge**  
**Tel. No: 01282 661059**  
**E-mail: Tom.partridge@pendle.gov.uk**

**FOOTPATH RUNNING ADJACENT TO THE A56, COLNE – ISSUE WITH  
INCONSIDERATE CYCLING**

**PURPOSE OF REPORT**

We have received a request for signage to prohibit cycling on an important footpath. This report seeks to explain the background and suggest a range of options for the Committee to make an informed decision on the most appropriate course of action.

**RECOMMENDATIONS**

- (1) That the Council makes a public spaces protection order, subject to public consultation, to prohibit cycling on the footpath, and installs signage as required to provide clear information to the public.

**REASONS FOR RECOMMENDATIONS**

- (1) The footpath is insufficiently wide for pedestrians to share the route with bikes. The proposed public spaces protection order would make it an offence to cycle on the footpath.

**ISSUE**

1. The footpath in question starts from the end of the adopted footway on Langroyd Road, Colne and continues parallel to the A56 where the footway resumes at a point near Lower Foulridge Reservoir. The footpath is a constructed tarmac footpath with concrete kerb edgings. It runs across land owned by the Council.
2. The footpath is not recorded on the definitive map for Lancashire, nor is it recorded as part of Lancashire County Council's highway network. However, we are aware that it has been used by the public as of right on foot going back to at least 2001 and as such we can safely assume that a public right of way on foot has come into existence following 20 years of uninterrupted use (a public right of way is created under these circumstances by the provisions of Section 31 of the Highways Act 1980).

3. We applied for and received funding of £28,500 from Lancashire County Council in 2006 to carry out the work to construct the existing footpath. The purpose of the project was to improve the quality of the footpath to the same standard as adopted footways so that people walking between Foulridge and Colne could enjoy footways on both sides of the A56. Prior to the improvements the path could be very muddy. The footpath is 1.8m wide.
4. We received a report in September 2021 of cyclists passing walkers in an inconsiderate manner due to excessive speeds made possible on the downhill section from Colne. In response we installed some small discs displaying a no cycling symbol. We have received a further report that these discs have not resolved the problem of excessive bike speeds which pose a hazard to pedestrians. And more recently we received a complaint about the “no cycling signs” on the grounds that cyclists should be allowed to use the footpath. The alternative on the road is less safe for cyclists because of the volume and speed of traffic. A few years ago a cyclist was fatally injured on this section of road.

### **Legal considerations**

5. Under the Highways Act 1835 s.72 (as amended by s. 85(1) of the Local Government Act 1888), cyclists must not cycle on a footway (pavement) and must keep to the cyclists’ side of a segregated cycle track. The footpath in question is not part of an adopted footway and therefore it is not currently an offence to cycle on it, even though it would be an offence to cycle on the footways at either end.
6. Cycling on a public footpath across privately owned land is trespass, in this case the land is privately owned by the Council, and the Council as land owner can choose whether or not to give cyclists permission to cycle on it. Trespass is not a criminal offence so there is no effective legal sanction if we decide that cyclists should not be allowed.
7. The Council does have the power to make a Public Space Protection Order for the footpath, in which case cycling could be made an offence.

### **Options for decision**

8. Option 1 We could do nothing and leave things as they are, either with or without the small “no cycling” discs.
9. Option 2 We could install larger and more prominent “No cycling” signs.
10. Option 3 We could make a Public Space Protection Order (PSPO) to prohibit cycling, as well as installing larger signs. Anyone found to be in contravention to a PSPO can be issued with a Fixed Penalty Notice. Enforcement could be carried out in the same way as the enforcement of PSPOs in local parks. This section of footpath would be added to the list of sites visited.
11. Option 4 We could address the issue of the speed of cyclists by physical works such as barriers restricting the width of the path at handlebar height, speed bumps or chicanes, to be installed either with or without “no cycling” signage. However, this option should be considered in light of the potential impact on people with limited mobility.
12. Option 5 We could widen the footpath to a suitable width as a shared use path for both pedestrians and cyclists. The minimum width for a shared use path recommended by the cycling charity Sustrans is 2.5m (although 3m wide is preferable). We have carried out a site visit and there would be significant practical difficulties in achieving a 2.5m width. Where the footpath starts from Langroyd Road the first 33m of the footpath is within a narrow strip of land owned by the Council. Widening to 2.5m would require the neighbouring owner to sell us of an additional strip of land (i.e. part of their garden) and the removal of an established hedge. Half way down the path there would need to be a narrowing at the site of a veteran tree which is unavoidable, and continuing further in the direction of Foulridge widening the path to 2.5m would require significant earth moving, the removal of well established planted trees in a former planting scheme and the installation of additional drainage.

### **Council officer comments**

13. The Council’s Project Coordinator responsible for our Cycle Strategy has commented that it would be great if this section of path could be widened so that cyclists could use it. This is because it would cut off a very dangerous section of the A56 where there was a fatal cycling accident a few years ago. She met with LCC at the time of the accident to look at the

possibility of option 5 - however, from the preceding sections of this report it looks like this is unfeasible. With the above in mind she thinks option 4 - to allow cyclists on here with measures to reduce speed (perhaps with signage asking people to be cautious and considerate to each other) would be the next best followed by option 1 – to do nothing (without ‘no cycling’ signage), so that cyclists can continue to use it, seeing as it is not illegal.

14. The Council’s Community Protection Coordinator has commented if the Council made a PSPO then the offence could be more specific than banning cycling outright; such as cycling with excessive speed or putting pedestrians at risk. It becomes more difficult to prove but this may be more acceptable. Use in other areas seems to be mainly in town centre pedestrianised areas. Although the principle is the same - protecting pedestrians from negligent or reckless cyclists - making cycling an outright criminal offence for all cyclists on a semi-rural route is likely to raise objections when it comes to public consultation.
15. The Council’s Head of Legal Services commented that in relation to the extent of the PSPO his preference would be for an outright prohibition. Trying to prove degrees of recklessness or speed in prosecutions for breach would be difficult verging on impossible in his view.

## IMPLICATIONS

**Policy:** None.

**Financial:** Option 1 – no cost. Option 2 – cost of installing and supplying two 450mm diameter signs on posts at either end of the path is estimated at £600, we would make a bid to Colne and District Committee’s capital programme if this option was chosen. Option 3 has cost implications in staff time, advertising and statutory notices estimated at £600. With Option 4 the costs of physical works to restrict speeds are estimated £500 - £1500 depending on design chosen, we would again look towards CDC’s capital programme to fund the works. Option 5 costs probably in the region of £15,000 - £20,000. There is no existing budget provision so we would need to look at external sources of funding, perhaps from Lancashire County Council.

**Legal:** As long as the path is not promoted for cycling then in the event of someone being injured or killed by a speeding cyclist the Council could not be held to be liable. The legal liability would be with the person at fault – most likely the cyclist. If the Council promotes the route for cycling in the knowledge that it is not sufficiently wide for shared use then there may be an element of contributory negligence in any claim made against it.

**Risk Management:** None.

**Health and Safety:** It has been alleged that pedestrian safety has been put at risk by speeding cyclists. Safety could be improved by effective measures to prohibit cyclists or reducing cycling speeds; or by carrying out substantial path improvements to make the path wide enough for shared use. However, prohibiting cyclists would force cyclists on to the A56 with a difficult road junction and high traffic volumes. Arguably this creates a more serious risk of death or serious injury.

**Sustainability:** Seeking to prohibit cyclists would not help in encouraging people to use more sustainable forms of transport.

**Community Safety:** None.

**Equality and Diversity:** Installing barriers, bumps or chicanes can affect people with disabilities such as users of mobility scooters, wheelchair users and people with visual impairments.

## CONCLUSIONS

The footpath was built as an extension of the footway network, where cyclists are prohibited, to meet the needs of pedestrians. The footpath is insufficiently wide for shared use and widening the footpath for safe use by cyclists is not practical because of the constraints of this particular site. We are recommending that a PSPO be made to prohibit cycling, and that appropriate signage is installed to provide a clear message about cycling on the footpath. We do not recommend the use of barriers or chicanes because this may be seen as discriminatory against people with limited mobility. However, in making this recommendation we appreciate that there are a range of valid options for members to consider.

## **APPENDICES**

Location Map

## **LIST OF BACKGROUND PAPERS**

None.