

Contact Officer: Naomi Woodcock Tel: Oxford 815708

Division affected: Banbury Hardwick

PLANNING & REGULATION COMMITTEE – 23 MAY 2011

CONVERSION OF EXISTING FOOTPATH TO A NEW PEDESTRIAN/CYCLE ROUTE AND ASSOCIATED WORKS TO INCLUDE THE CREATION OF NEW STEPS, CYCLE RAMPS AND 7 NEW LIGHTING COLUMNS

Report by the Deputy Director for Environment & Economy (Growth & Infrastructure)

Location: Former Mineral Railway, Hanwell Fields, Banbury.

Applicant: Oxfordshire County Council

Application No: R3.0043/11

District Council Area: Cherwell

Introduction

1. The proposal is to convert an existing footpath route into a combined pedestrian/cycle track. The application includes the creation of some new steps, two cycle ramps and seven new lighting columns.

Location (see site plan)

2. The site is located to the west of Banbury Town Centre just off Highlands.

Site and Setting (see site plan)

3. The application forms part of a former railway line but is now part of an area of open space measuring 400 metres in length and between 20 metres and 40 metres in width. It is immediately bounded by Beaumont Industrial Estate to the east, a play area to the north and houses to the north, west and south. An existing cycle track lies immediately north east of the site which leads to The Magnolias. The present footpath is accessed via the cycle track from the Magnolias and from the north via two footpaths which lead to the houses on The Wisterias and Fuchsia Walk. From the south west the footpath is reached either by climbing down a steep embankment to the eastern side of Highlands or via an unlit subway which runs beneath Highlands and connects to a footpath beyond.
4. The application site comprises land which contains an adopted footpath, which is paved and lit, and an informal unlit footpath. The routes of the paths are shown on the site plan attached. They link the surrounding streets to the play area, an industrial estate, Hanwell Fields School and community centre.

5. The entire area of open space between Highlands, the existing cycle route, Beaumont Industrial Estate and the housing estate is roughly 21,500m² in area. This area is grassed, except for the footpaths, and well landscaped with a mixture of roughly 370 young and mature trees. Certain parts of this area are more densely populated with trees than others, one of which is in the north eastern end of the site. The site has different areas of sloping ground but overall slopes gently from south west to north east and there is a steep downwards slope at the north east end of the site.
6. The houses in The Magnolias are closest to the site. Their gardens back on to the footpaths, and the houses themselves are about 16 metres from the site boundary. The rear boundaries of these properties are screened by trees and shrubs.

Background and Details of the Development

7. On 5 April 2011 the Council approved and adopted the Local Transport Plan (LTP) 3 which (amongst other things) aims to improve the conditions of local footways and cycleways and develop and increase cycling and walking for local journeys, recreation and health across Oxfordshire.
8. The LTP3 proposes that the Hanwell Fields pedestrian and cycle network would be developed and improved by converting part of the adopted footpath to a combined pedestrian/cycle track. It proposes that access to the existing cycle track be improved by widening the informal footpath from 1 metre to 2.5 metres and converting it to a pedestrian/cycle track. The proposals are part of a series of improvements to expand, develop and promote walking and cycling to key destinations across Banbury. It is anticipated that the improvements to the footpaths would increase travel choice for both leisure and commuting purposes between the newer residential estates of Hanwell Fields and the school, community centre and business park to the north, and the more established residential areas to the south of Banbury and the Beaumont Industrial Estate. The applicant explains that the development proposals would also legalise cycling which already takes place along the footpath.
9. At the north east end of the site the present cycle track will be lowered to reduce its gradient. This will involve some cut and fill between 0.3 metres (about 1ft) and 0.9 metres (about 3ft) and construction of two retaining walls. A zig zag bypass path with a gradient of 1 in 16 would also be constructed adjacent to one of the retaining walls and alongside the cycle track as an alternative to a 6 metre stretch of cycle track which would have a gradient of 1 in 8. The alignment at the very north east end of the cycle track would have short sharp curves to discourage cyclists from speeding downhill. An area of some 1,150m² of the overall open space would be disturbed by the path.
10. The new pedestrian/cycle track would have a dark grey asphalt surface to match the existing adopted footpath. Associated works include the creation of a set of concrete steps with a galvanised steel hand rail and a cycle ramp (at the south western end of the site, east of Highlands) and a cycle ramp to the west of Highlands to facilitate safe and convenient access to Highlands and the path

immediately west of Highlands. Dropped kerbs would be constructed on either side of Highlands. Seven new 5 metre high lighting columns would be installed (six alongside the widened pedestrian/cycle track and one adjacent to the new steps). The columns would be painted green and house 50 watt lanterns. The light spillage diagram (which was requested during the consultation period) shows that light would not spill into any neighbouring houses or gardens. The area immediately adjacent to the lamps (i.e the route of the footpath) would have a light intensity of between 1.5 lux and 7.5 lux¹. The lamps would be lit until midnight apart from the lamp adjacent to the new stairs at the western end which would be left on between the hours of midnight and 5.00am. An 'end of cycle track' sign would be installed west of the play area to discourage cyclists from using the footpath which loops from west to east around the play area.

11. To facilitate the works it will be necessary to fell 13 young and small trees (a mixture of Aspen, Oak Red, Silver Birch, Oak Common, Ash and Willow). An additional two trees would also be felled because they are overcrowding on other trees. Tree felling would take place in September to avoid the bird breeding season. Replacement planting of the equivalent species and number is proposed.
12. Contractors' vehicles would access the site via Highlands and the footpath which runs from 'The Wisterias'.

Consultations

13. **Cherwell District Council**_ – No objection subject to: i) a condition ensuring that the lights do not impact on residential amenity and ii) assurances that works will be carried out in accordance with the requirements of relevant protected species legislation.
14. **Banbury Town Council**_ – No objection.
15. **County Forester** – No objection.
16. **Rights of Way Officer** – No objection.
17. **Transport Development Control** – No objection. The development would encourage sustainable travel by promoting walking and cycling across Banbury.
18. **Ecologist Planner** – No objection. There is no habitat suitable for protected species that will be lost as a result of the works. There is the potential for bats to be disturbed by artificial lighting. However the bat species most likely to be using this area is the Pipistrelle which is not adverse to artificial lighting. Harmful disturbance is unlikely. The trees which are to be lost are too small and young to be of use to nesting birds or bats and would have minimal impact on local wildlife. Their removal will not stop bats using the area as a flight corridor.

¹ Lux measurement of light intensity. A deep twilight is 1.08 lux, a very dark day is 107 lux and an overcast day is 1075 lux (Engineering Toolbox 2005).

Third Party Representations (available in the Members' Resource Centre)

19. We have received one response from a local resident. The points made are:
- There is not a need for the development as a negligible amount of cyclists use the paths and people use the estate rather than cut through the site.
 - Lights are not environmentally friendly.
 - Reduced slopes may affect the privacy and security of the houses adjacent to the site.
 - A 2.5 metre wide cycle track would encourage cyclists to cycle faster and this may affect the safety of pedestrians.
 - It is difficult for the resident to walk on pavement due to health problems.
 - The development would have a negative effect on the character of the open space and local wildlife.

Relevant Development Plan and other Policies

20. Planning applications should be decided in accordance with the Development Plan unless material considerations indicate otherwise.
21. The relevant Development Plan document is the South East Plan (SEP) and the adopted Cherwell Local Plan 1996 (CLP).
22. The Non-Statutory Cherwell Local Plan 2011 (NSCLP), Conservation and Habitats Regulation 2010, Planning Policy Guidance (PPG) 13 and the Local Transport Plan (LTP) 3 are material to the consideration of the proposal (and indeed the LTP 3 is part of the driver for this proposal).
23. Whilst the South East Plan (SEP) forms part of the development plan, the government has made it clear that it intends to abolish the regional strategies. This intention has been upheld as being a material consideration in determining planning applications.
24. Relevant policies are SEP policies: C4, T1 and T2. CLP Policies: C2, C31 and R5. NSCLP policies: D1, D3, D5, EN6, EN24, EN35, EN36, TR5, TR8, TR25. These policies are set out in the policy annex attached to the main agenda.

Comments of the Deputy Director (Growth & Infrastructure)

25. In my view the main issues to be considered in assessing the merits of this application relate to:
- i The level of benefit and significance of providing a pedestrian/cycle track
 - ii Impact on neighbouring residents and users of the site
 - iii Impact on the environment.

(i) **The level of benefit and significance of providing a pedestrian /cycle track:**

26. At a strategic level the works would be part of a series of improvements to expand, develop and promote walking and cycling to key destinations across Banbury. It is intended that the improvements to the footpaths would increase travel choice for both leisure and community purposes between the more recent residential, educational, community and commercial developments to the north and the more established areas of the town to the south. The development forms part of the Oxfordshire County Council's adopted Local Transport Plan 3 which seeks to improve and develop footpaths and cycleways across Oxfordshire. It is also intended that the development would legalise cycling through the site. PPG13 seeks to promote more sustainable transport choices for people and reduce the need to travel by car. Policy T2 of the SEP specifies that improvements should be made to the extent and quality of pedestrian and cycle routes. Policy TR25 of the NSCLP encourages development which would provide a cycle and pedestrian network between residential areas and employment areas. LTP3 seeks to provide the Hanwell Fields cycle route along the former minerals railway.
27. One local resident has expressed concern about whether there is a need for the pedestrian/cycle track as cyclists cycle through the adjacent residential estate and not many people cut through the application site. Transport Development Control have commented that the development would encourage sustainable travel by promoting walking and cycling across Banbury.
28. I think the proposed development would be beneficial to local residents and contribute to benefits for Banbury as a whole as the works form part of a series of measures to promote sustainable transport choice to key destinations across the town. Through upgrading and connecting the existing footpaths to the existing cycle track the extent and quality of the local pedestrian and cycle routes would be greatly improved. It would promote and encourage the option of cycling for Hanwell Fields residents, would improve links to the new Hanwell Fields School, community centre and would assist people accessing Beaumont Industrial Estate. I therefore consider that there is a clear benefit to be gained from the pedestrian cycle track and that the development accords with development plan policy and the Local Transport Plan 3.

(ii) **Potential impact on neighbouring residents and users of the site**

Lighting columns

29. Seven 5 metre high lighting columns with 50 watt lanterns would be installed. Policy EN6 of the NSCLP requires planning proposals to demonstrate that lighting schemes would not have a detrimental impact on residential amenity or road safety. Cherwell District Council has suggested that a condition should be imposed to ensure that the lighting does not impact on residential amenity. A local resident has commented that the use of lights is not environmentally friendly. However the applicant has confirmed that light spillage from the columns would not affect any residential properties or gardens. The areas immediately adjacent to the columns would be affected by lighting spillage of

between 1.5 lux and 7.5 lux (but these are precisely the areas – under the lights and along the path – that require illumination).

30. The lighting is necessary for the safety of the users of the cycle track. Given that the light spillage assessment shows that light from the columns would not spill into any residential dwellings or gardens I do not consider that the lighting scheme would have a detrimental impact on residential amenity. A condition can be imposed to require an assessment of the impact of the lights to be undertaken once installed and any consequent remedial action to be put in place (should this be necessary) before the lights are used.

Privacy and security

31. There are shrubs and six trees between the nearest residential dwellings and the proposed track. As part of the works cuttings would be made to reduce the gradients of some of the slopes within the site and a total of 15 trees would be felled. Replacement planting of equivalent species and number is proposed. Policy C31 of the CLP explains that development which would cause an unacceptable level of nuisance or visual intrusion in residential areas will not normally be permitted. The one objection received to the application has expressed concern that the combination of tree felling and the cuttings to facilitate the zig zag bypass path would result in overlooking and cause security issues for some residents. The applicant has indicated that only two trees (Ash and Oak) and a small proportion of the shrubs between the nearest houses and the new track would be removed. Five replacement trees are to be planted near these houses. As most of the shrubs and four out of six trees would be retained and five replacement trees would be provided between the path and the nearest houses, I consider that the development and its use would have minimal effect on security and should not cause an unacceptable level of visual intrusion for the residents. To ensure that replacement planting is provided a landscaping condition can be imposed. I therefore consider that subject to condition the development accords with policy C31 of the NSCLP.

Widening of the informal footpath

32. The proposal seeks to widen the existing informal footpath by 1.5 metres (from 1 metre to 2.5 metres). Policy TR5 of the NSCLP encourages developments which minimise conflict between cyclists and people with mobility impairments. Policy D1 requires proposals to demonstrate permeability through ease of movement for pedestrians, particularly disabled people and cyclists. The objector to the scheme has said that widening the existing informal footpath by 1.5 metres would encourage cyclists to speed past pedestrians and may result in a collision between a cyclist and a pedestrian. However, widening the existing footpath should limit conflict as pedestrians (including those with mobility impairments) and cyclists would be able to move more easily and simultaneously along the path to access existing pedestrian/cycle routes, residential and employment areas.
33. The objector has also expressed concern about the proposed width of the cycle track as she has mobility difficulties and finds it easier to walk on grass than on concrete. In particular the resident has commented that little grass would be left

for walking on. The applicant has confirmed that most of the grass areas would still be available for walking on. In my view the widening of the path would still leave sufficient room for pedestrians with certain mobility impairments to walk on the grass whilst still allowing pedestrians who use wheelchairs or prams to use the proposed track. I therefore consider that the widening of the path accords with policies TR5 and D1 of the NSCLP.

(iii) Potential impact on the environment

Tree felling

34. The local resident has raised concerns about the loss of 15 trees. Policies C4 of the SEP and EN35 of the NSCLP seek to retain trees unless their loss can be justified by appropriate compensatory measures. The County Forester has raised no issue about the loss of 15 trees. As replacement planting is proposed I am of the view that the development does not conflict with policies C4 of the SEP and EN36 of the NSCLP.

Local wildlife

35. The development proposes to fell 4% of the trees in the area of open space. Tree felling would take place in September to avoid the bird breeding season. Policy C2 of the CLP and EN25 of the NSCLP require that development should not cause loss or damage to protected species. The Local Planning Authority in exercising any of its functions, has a legal duty to have regard to the requirements of the Conservation & Habitats Regulations 2010 which identifies 4 main offences for development affecting European Protected Species (EPS).

1. Deliberate capture or killing or injuring of an EPS.
2. Deliberate taking or destroying of EPS eggs.
3. Deliberate disturbance of an EPS including in particular any disturbance which is likely
 - a) to impair their ability –
 - i) to survive, to breed or reproduce, or to rear or nurture their young, or
 - ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
 - b) to affect significantly the local distribution or abundance of the species to which they belong.
4. Damage or destruction of an EPS breeding site or resting place.

36. The local resident has commented that the loss of trees may affect wildlife. Cherwell District Council has suggested that a condition should be imposed to ensure that the development is carried out in accordance with the requirements of protected species legislation. The Ecologist Planner has commented that the lights would not have an adverse effect on Pipistrelle bats and that the loss of the trees would have minimal effect on birds or bats. The Ecologist Planner's records show that neither great crested newts nor roosting bats are likely to be present on the development site. Although common Pipistrelle may use the area for foraging and commuting it is unlikely that they would be harmfully disturbed. In my view because the proposals should not

adversely affect the bats, no further consideration of the Conservation & Habitats Regulations is necessary. The proposals are in line with policies C2 of the CLP and EN25 of the NSCLP. Given that only 4% of the trees in the area of open space would be lost I do not consider that the proposed development would have a significant effect on local wildlife.

Character of the open space

37. The 21,500m² area of open space is predominately grassed and is well landscaped with a mixture of 370 mature and young trees. An area of 1,150m² of this open space would be disturbed by the path. Policy D1 of the NSCLP requires a development proposal to demonstrate attractive public spaces and routes. The local resident has commented that the open space would be spoilt by the concrete pedestrian/cycle track, supporting walls and loss of grass. I consider that the development would not have an undue adverse effect on the attractiveness of the open space and cycle track and that the character of the area would not be unduly harmed as only 5% of the area would be disturbed by the path and only 4% of the trees would be lost. Replacement planting would also be provided. The submission of a landscaping scheme would help to ensure that the urban effect of the retaining wall on the attractiveness of the public space can be limited.

Conclusion

38. The proposed cycle track would improve and promote use of the pedestrian and cycle network in Hanwell Fields. Although concerns have been raised about the need for the development I consider that the proposal accords with national, regional and local policy as the development would promote more sustainable choice, reduce the need to travel by car, improve the quality and extent of the Banbury pedestrian /cycle network and provide a pedestrian/cycle network between the Hanwell Fields residential estate and the nearby employment site. I consider that the lights would not have a detrimental effect on residential amenity, nevertheless the lighting assessment condition would ensure that the development is in line with policy EN6 of the NSCLP. Conditions requiring the submission and implementation of a landscaping scheme would address any security and overlooking concerns and would ensure that the development accords with C31 of the NSCLP. Concerns have also been expressed about the widening of the existing informal footpath. I consider the widening works accord with policies TR5 and D1 of the NSCLP as they would minimise conflict between cyclists and pedestrians with mobility impairments and allow pedestrian and cyclists to move with ease through the application site. The proposed tree felling will be mitigated by replacement planting and therefore the works accord with regional and local policy. As protected species would not be adversely affected by the works and a condition would ensure that birds are protected during the bird breeding season, I consider the development is in line with national and local policy. I consider the development would not have a significant adverse impact on the surrounding area. Permission is therefore recommended.

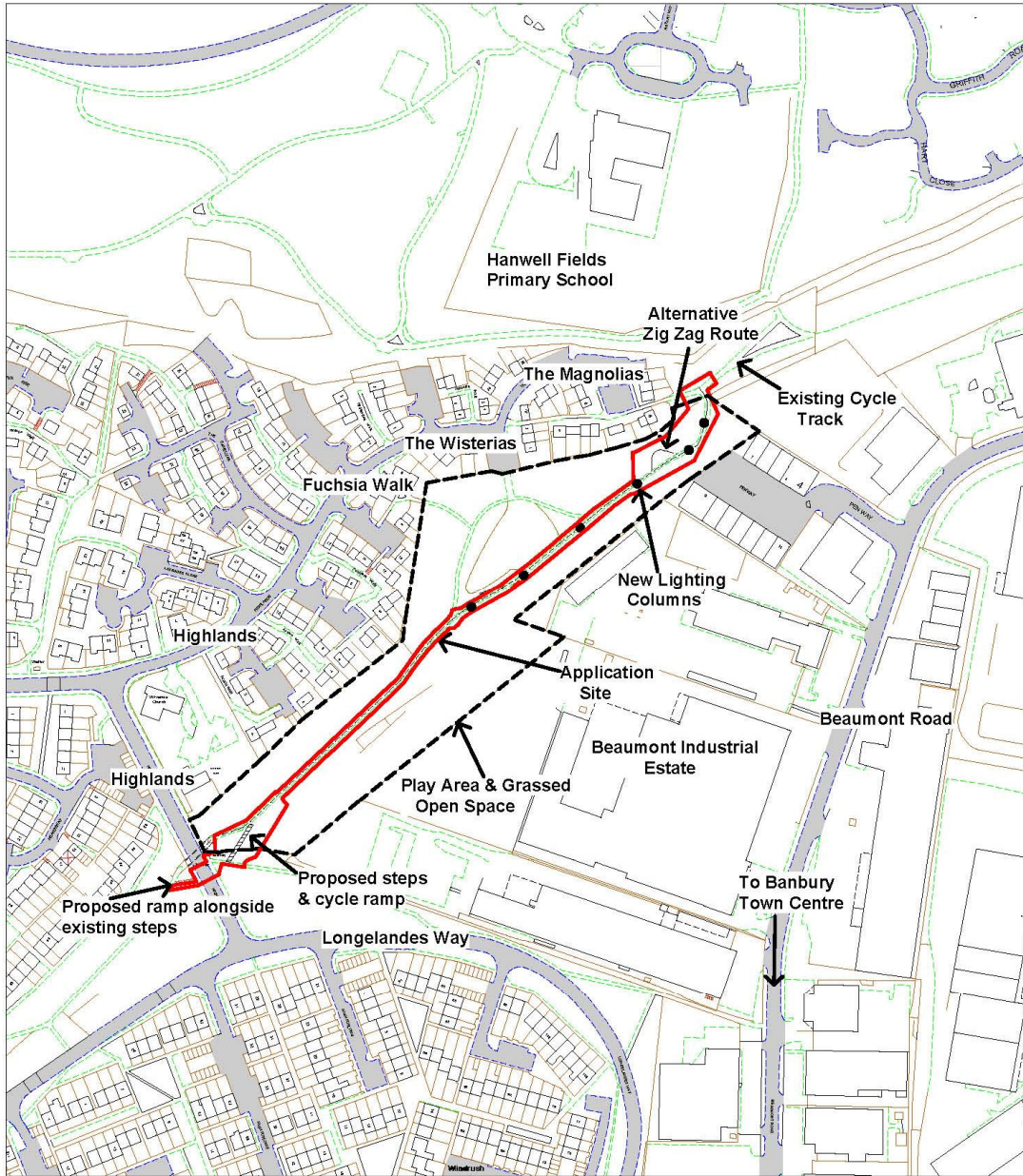
RECOMMENDATION

- 39. It is RECOMMENDED that planning permission be granted for the development in Application No. R3.0043/11 subject to conditions to be determined by the Head of Sustainable Development to include the following matters:**
- 1. The development must be carried out strictly in accordance with the particulars contained in the application and the plans.**
 - 2. Commencement of the development within 3 years.**
 - 3. Submission and agreement of the external material proposed for the retaining walls.**
 - 4. Retained trees to be protected during construction works.**
 - 5. Submission and agreement of a landscaping scheme - to include replacement planting.**
 - 6. Landscaping scheme to be implemented within first planting season following the completion of the development.**
 - 7. Tree removal to be carried out outside of the bird breeding season.**
 - 8. Site assessment of lighting levels from the new lights and implementation of any remedial action that may be required.**
 - 9. Submission and agreement of a construction traffic management plan (to include contractors working hours, delivery times of materials and site compound).**

MARTIN TUGWELL
Deputy Director (Growth & Infrastructure)

File Ref: R3.0043/11 8.1/4442/3

Hanwell Fields Pedestrian/Cycle Track Application No: R3.0043/11



T.Philp 9/5/2011

