

Individual Decision

Title of Report:	Thatcham Bridleway 18 – Proposed Extinguishment Order		
Report to be considered by:	Councillor Geoff Findlay	on:	22 September 2005
Forward Plan Ref:	ID1020		

Purpose of Report:

To consider the closure of the the "at-grade" crossing which is deemed dangerous.

Recommended Action:

That the Council approves the making of an Extinguishment Order for the section of bridleway across the railway line

Reason for decision to be taken:

To consider the closer of a crossing that is deemed dangerous.

List of other options considered:

That the Bridleway across the railway line remains open as an alternative to the new footbridge across the railway.

Key background documentation:

- The Highways Act 1980
- Consultation letter and responses

Portfolio Member:	Councillor Geoff Findlay
Tel. No.:	01635 871992
E-mail Address:	gfindlay@westberks.gov.uk

Contact Officer Details

Name:	Bill Jennison
Job Title:	Head of Countryside and Environment
Tel. No.:	01635 519560
E-mail Address:	bjennison@westberks.gov.uk

Supporting Information

1. Background

- 1.1 Bridleway (BR) 18 Thatcham is a linear route from the centre of Thatcham to Greenham Common. Walkers, horse-riders and pedal cyclists can legally use it. Currently it crosses the mainline railway by way of an “at grade” crossing. This is potentially unsafe for anyone other than an able-bodied adult walker.
- 1.2 The Council is proposing to make some changes to part of the BR, following the development of the former MoD Depot at Thatcham into the Kennet Heath housing estate. Planning consent has already been given for 519 new homes and is sought for about an additional 300 new homes on the site. BR 18 Thatcham runs immediately adjacent to the site. The new buildings do not physically affect it but many more people will use it when the development has been completed. Appendix 1 shows the site and the route of the BR.
- 1.3 Following extensive enquiries, it would seem that there is no equestrian use of the BR either across the railway (because of the dangerous crossing) or on the section of BR north of the railway (because of the urban nature of the route and the lack of links with other bridleways). It is however, well used by walkers and pedal cyclists. Immediately north of the railway, a 300 metre section of the BR is quite narrow and has the appearance and feel of an alleyway running between the railway fence and the old MoD chain-link fence. A new earth bund (2 metres in height, topped with a 2 metre high fence) is to be created as part of the development to reduce noise from the railway. This will run alongside the current chain-link fence and is likely to make this section of the route even more unattractive.
- 1.4 A new steel footbridge approximately 30 metres to the east of the at-grade crossing has recently been constructed. It was opened for public use in late July. The costs of providing a fully accessible bridge have unfortunately proved prohibitive. This has therefore constrained the design of the bridge to a simple up and over stepped design for pedestrian access only, although a narrow ramp adjacent to the steps facilitating the wheeling of cycles up/down both sides of the bridge has been provided. The design does however, allow for ramps to be added/the bridge to be upgraded in terms of its accessibility if/when additional funding becomes available. The southern end of the bridge will link to the definitive line of the BR.

2. Consultation

- 2.1 A pre-Order, informal consultation on various proposals for the BR was carried out throughout May 2005 with interested parties – see Appendix 2. A notice was also placed on site inviting the views of bridleway users. Responses were received from the Utility Companies, the Town Council, representatives from all types of user groups and several local users. The consultation asked if there would be any objection to:-
- 2.2 - the Extinguishment of the short section of BR across the railway tracks and the extinguishment of part of the BR running parallel to the north side of the railway (to be replaced with an urban footway and a footway/cycleway through the site. This is proposal A;
- 2.3 - the Extinguishment of the short section of BR across the railway tracks and the downgrading of part of the BR to the north of the railway to footpath status and the creation of a “footpath link” from the north side of the bridge to the existing route. This is proposal B; Responses are summarized in Appendix 3.

3. Legal Considerations

- 3.1 The consultation responses show differing views on proposals north of the railway line. It is therefore recommended that at this time only the issue of the at-grade crossing is addressed and that the possible extinguishment/downgrading of the BR north of the railway is considered at a later date.
- 3.2 The Extinguishment of the at-grade crossing could be achieved using section 118 of the Highways Act 1980 – see Appendix 4. The Council must decide whether it is expedient that the bridleway is stopped up on the ground that it is not needed for public use. Consideration must also be given to the extent to which the path would be used by the public if an order is not made (an issue supported by case law), and the effect which the extinguishment of the path would have on land served by the path.
- 3.3 The extinguishment could also be achieved using section 118a of the Highways Act 1980 – see Appendix 4. This gives the Council power to make an Order where it considers it to be expedient in the interests of the safety of members of the public who use the bridleway. Whilst the safety of the public is the main concern in this instance, there have never been any complaints about the safety of this crossing and significantly Network Rail has not asked the Council to make an Order under this section of the Act. The Council contacted Network Rail, who do support the proposed closure but also support the use of section 118.
- 3.4 There is support for the Extinguishment of the at-grade crossing from Network Rail, Thatcham Town Council and all local residents who responded to the site notices.
- 3.5 There is also support for this extinguishment from equestrians if a definitive bridleway link east of BR 18, south of the railway line can be achieved. In late 2002, the owners of the land were asked if they would be willing to enter into a creation agreement (s25 Highways Act 1980) to legally create a new bridleway in the fields to the south of the railway. They responded negatively. A further request has recently been sent to the owners' agent and a reply is awaited. The owner has been advised that if they are still not willing to enter into a creation agreement, the Council intends to use its compulsory powers to make a Creation Order under s26 Highways Act 1980 – see Appendix 5. The bridleway would follow one of the routes show on the Map (Appendix 6).
- 3.6 There is also support for the extinguishment of the at-grade crossing from the Ramblers' Association if a definitive footpath link over the bridge and between the two "cut-off" sections of the BR can be achieved. The bridge itself and the land immediately to the north and south of the bridge are under Council control/ownership and therefore it is the intention of the Council to create a definitive footpath, over the bridge and to link with the existing route north of the railway. This however, will not preclude cyclists. As landowner, the Council will be permitting cyclists to use the route. It is also possible to convert a public footpath to a cycleway in the future (Cycle Tracks Act 1984) by way of an Order.
- 3.7 The interests of cyclists (to some extent) and pushchair/wheelchair users will not be met unless or until a ramped bridge is provided. It should be noted however, that pushchair and wheelchair users are not thought to currently use the at-grade crossing.

4. Conclusion

- 4.1 The "at grade bridleway crossing" could be left as it is, to be used as well as or instead of the footbridge. This is not considered to be a safe option as more and more families move into the new housing.

- 4.2 It is considered that the bridge over the railway and the definitive bridleway link to the south will provide suitable alternatives for most bridleway users and that remaining users will be accommodated if/when the bridge is upgraded. The section of the BR over the at-grade crossing can therefore be considered not to be needed by public use and that the ground for making an Extinguishment Order under s118 Highways Act 1980 is met. The Council should proceed to make an Order and if, as predicted, objections are forthcoming these should be passed to the Secretary of State for consideration.

Appendices

- Appendix 1 - Plan showing housing development site and Bridleway 18
- Appendix 2 - Consultation letter dated 22nd April 2005
- Appendix 3 - Summary of Consultation Responses
- Appendix 4 - Highways Act 1980 s118/s118a – Extinguishment Orders
- Appendix 5 - Highways Act 1980 s26 – Creation Order
- Appendix 6 - Map showing routes of proposed new bridleway south of railway
- Appendix 7 – Comments from Owen Jeffery on final report
- Appendix 8 – Comments from Thatcham Town Council on final report

Implications

Policy:	None
Financial:	Budgetary provision exists for the making and advertising of an Extinguishment Order
Personnel:	None arising from the report
Legal:	Liaison with officers in legal department required
Environmental:	None
Equalities:	None
Partnering:	None
Property:	None
Risk Management:	None
Community Safety:	The stopping –up of the railway crossing would improve public safety

Consultation Responses

Members:

Leader of Council:	Graham Jones
Select Committee Chairmen:	Quentin Webb – concurs with recommendation
P&L Committee Chairman (where appropriate):	N/A

Ward Members: Owen Jeffrey concurs with recommendation. Other comments noted (see Appendix 7)
Terry Port

Opposition Spokesperson: Royce Longton – concurs with recommendation

Advisory Members: N/A

Local Stakeholders: Thatcham Town Council concurs with recommendation. Other comments noted (see Appendix 8)

Officers Consulted: Bill Jennison, Paul Hendry, Sallie Jennings

Trade Union: N/A