



ENVIRONMENT, CLIMATE EMERGENCY AND TRANSPORT COMMITTEE

Monday, 27 January 2025

REPORT TITLE:	REVOCAION OF BYELAW NO.20 AND CREATION OF PUBLIC BRIDLEWAY ALONG THE NORTH WIRRAL COAST SEA DEFENCE ACCESS ROAD
REPORT OF:	DIRECTOR OF NEIGHBOURHOOD SERVICES

REPORT SUMMARY

This report informs Members of the approach, considerations, and process for the revocation of Byelaws made by Council in 1935 (as later amended) which make various provisions regarding the regulation of esplanades and promenades in Wallasey (“the Byelaws of 1935”). The report seeks Committee’s in principle agreement to the revocation of the Byelaws of 1935.

The above process will enable the Council to implement a Public Path Creation Order, thereby giving the North Wirral Coast Sea Defence Access Road (“the Access Road”) Public Bridleway status. This would formalise the use of the Access Road by cyclists, pedestrians and horse riders. This would provide an important link between Wallasey to Meols on the North coast of Wirral. It would also enhance the routes to and from the foreshore so that horse riders can ride along the beach.

The proposals within this report align with the priorities set out in the Wirral Plan 2021-26:

- working for safe and pleasant communities;
- active and healthy lives, inclusive economy; and
- working for a sustainable environment.

This report has significant implications for the following wards: Wallasey, Leasowe, Moreton East, Moreton West, Saughall Massie, Hoylake and Meols.

This report relates to a Key Decision.

RECOMMENDATION/S

The Environment, Climate Emergency and Transport Committee is recommended to authorise the Director of Law and Corporate Services (in consultation with the Director of Neighbourhood Services) to:

1. finalise the Regulatory Assessment for revoking the 1935 Byelaws made by Wallasey County Borough Council with regard to the promenades within the said Borough (as amended) (“the 1935 Byelaws”) substantially in accordance with the draft appended as Appendix 4;
2. proceed with the formal process of seeking to the revocation of the 1935 Byelaws and for the results to be presented to Full Council (preceded by a report to this Committee) for a final decision to be made; and
3. make a Public Path Creation Order to formalise the entire route from the end of Bennets Lane, Meols, to King’s Parade, Wallasey as a Public Bridleway (as described in paragraphs 3.8 of this report) in the event of the revocation of the 1935 Byelaws (as amended) proceeding.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The embankments along the Access Road have dissimilar treatment in respect of authorised use for cyclists and horse riders. Wallasey Embankment is subject to Byelaw No. 20 of the Byelaws of 1935 which prohibits cycling and horse-riding along this area. The geographical extent of those bylaws is shown on Appendix 1 to this report. The route begins at the western point of Kings Drive all the way to the boundary with Hoylake. The route is shown on Appendix 2 of this report.
- 1.2 There are published routes relating to the Wirral Circular Trail for walkers, cyclists and horse-riders including routes utilising the Access Road. Due to the restrictions of Byelaw No.20 of the Byelaws of 1935, cyclists and horse-riders must depart and re-join the Access Road in various areas. Appendix 2 to this report shows the diversion which cyclists and horse riders currently must take.
- 1.3 Despite the Wirral Circular Trail being readily available, there is confusion amongst the public regarding the Access Road. This was highlighted following a significant increase in pedestrians, and more notably cyclists using all embankments of the Access Road, during the Covid 19 pandemic. Council officers received a number of customer enquiries regarding the status of the uncontrolled use between pedestrians, cyclists and horse-riders on the Access Road. It became apparent that there is confusion and a lack of awareness about who can and cannot use certain areas of the embankments.
- 1.4 The Council has no record of Byelaw No.20 being actively enforced. The revocation of the 1935 Byelaws and the creation of a Public Bridleway for the Access Road would create consistency throughout the route. The proposed Public Bridleway would also improve safety for all users of the Access Road. Revocation of the Byelaws would have no detrimental effect on public amenity or safety.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The beach from Meols to Wallasey alongside the Access Road and the dunes area between Derby Pool and Leasowe Castle to the land side of the Access Road form areas comprising a Site of Special Scientific Interest, meaning that any civil engineering works would need to be thoroughly scrutinised before works could be permitted and carried out. There is also the possibility that major construction work could be denied by Natural England as it would affect the inhabiting species and effect the migration of birds for example.
- 2.2 Another option considered is the implementation of a permissive bridleway, this would allow cyclists, pedestrians and horse riders to use the Access Road for the entire proposed route if the Proposed Byelaws were adopted, however this would not be a formalised public right of way. The advantages of this option would be that the

process is quicker as a Public Path Creation Order is not needed to implement and the Council will still be able to impose conditions of users on the Access Road. A Permissive Bridleway would allow the council to retain control over the land and if necessary, closing the path to prohibit public use or categories of user, without the need for a legal order.

- 2.3 The permissive bridleway proposal would also eliminate the need for a statutory consultation with the public and user groups in order for it to be implemented. The Council could under this option in future prohibit cyclists and/or horse riders to use the route. The Council has duty of care to maintain the Access Road under the Occupiers Liability Act 1957. Currently there is no specific budget for permissive routes, so a budget would be required in order to enable the Council to discharge its duty of care if the route were to be given permissive bridleway status.
- 2.4 Implementation of a Public Bridleway is considered the better option as it provides for a more formalised process for the formalisation of user rights and for the ongoing maintenance of the Access Road.
- 2.5 The Council could seek to effect the removal of the provision of Byelaw 20 but retaining the remaining byelaw provision. It would be necessary to seek approval from the Secretary of State to remove Byelaw 20. It is unlikely that such consent would be forthcoming for just the revocation of Byelaw 20 with the remaining byelaws remaining extant as that would result in various outdated provisions remaining in force.
- 2.6 An alternative option would be to promote the Byelaws in accordance with Model Byelaws which have been published by the Secretary of State duly adapted to local requirements. The latter option is not being recommended given that the current byelaws have not been actively enforced, for many years without any problems arising.

3.0 BACKGROUND INFORMATION

- 3.1 Currently pedestrians and authorised vehicles (i.e. Coastguard, RNLI, maintenance, emergency services, statutory undertakers) are the only permitted users on the Wallasey Embankment section of the Access Road under Byelaw No. 20. By implementing a Public Bridleway, cyclists and horse riders will have the right to access and use the Wallasey Embankment alongside pedestrians.
- 3.2 The introduction of a Public Bridleway is not envisaged to have any detrimental impact on pedestrians, provided the Council as the Highway Authority keeps the public right of way safe and clear from obstruction. The Council will be able to regulate the Public Bridleway by providing and maintaining suitable signposts and floor markings and to also set out a standard code of conduct for all users.

- 3.3 There are other Public Bridleways on the Wirral such as Landican Lane whereby cyclists, pedestrians and horse riders all have access to the route of the proposed Public Bridleway with the Council receiving few complaints. If any issues do arise, Council officers will seek to resolve them in a professional and appropriate manner whilst ensuring the Council abides by its duty to protect the rights of the public on a public right of way. It is envisaged that any potential issues could be mitigated through introducing measures such as signposting and surface markings.
- 3.4 The health benefits of cycling and horse riding, to both physical and mental health, are well documented. These health benefits are also fully aligned with the Council's policies on promoting physical activity and improving air quality. The development of these policies includes a strong focus on removing barriers to walking and cycling in the Borough.
- 3.5 The Byelaws of 1935 provide for regulation of a number of matters. The geographical extent of the Byelaws is for the following areas:
- The Seacombe Promenade;
 - The Sandon Promenade;
 - The Egremont Promenade;
 - The Magazine Promenade;
 - The Tower Promenade;
 - The Marine Promenade
 - The Kings Parade Promenade (which extends from the Marine Promenade and extends in a Westerly direction to the Red Noses.
- 3.6 The Byelaws prohibit in general terms the following activities:
- Begging soliciting alms of the purpose of selling or advertising any article or obtaining custom, touting or importuning;
 - Ringing any bell, sounding any gong, or playing any brass or other musical or noisy instrument or wantonly and continuously singing to the annoyance of any user of the promenades;
 - Beating carpets;
 - Disorderly behaviour so as to disturb the peace;
 - Depositing materials such seaweed, stones or boulders flints marl and other materials on any promenades or seats or shelters;
 - Inciting any dog to bark;
 - Making any bonfires to the danger of users of the promenades;
 - Discharging any firearms or throwing any missiles;
 - For any male to enter into any female toilet and vice versa;
 - Damage to flower beds or trees shrubs and plants;
 - Damaging any property owned by the Council;
 - Affixing any bill placard or notice on any wall fence or structure belonging to the Council;

- Delivering any lecture, sermon, speech or musical performance or other entertainment save in areas designated for that purpose;
- Any organised game involving the exclusive use of a portion of the Promenades;
- Building any booth tent, bathing machine shed stand stall exhibition or similar; and
- Leading driving or riding a horse or other beast or any vehicles, or any motorcycle, pedal cycle tricycle or fair cycle over the Promenades (with certain exemptions). The geographical extent of this provision is limited to Wallasey Embankment. This provision is Byelaw 20.

3.7 Most of the provisions of the 1935 byelaws are dealt with by national legislation. The remainder are not matters (anymore) that require regulation such as public wrestling and carpet beating. The procedure for revocation of byelaws is set out in paragraph 5.2 of this report. A draft of a proposed revocation byelaw is attached at Appendix 3 to this report.

3.8 If Committee proceeds with the revocation of the proposed Byelaws the next step would be for a Public Path Creation Order under Section 26 of the Highways Act 1980, to be implemented to create a Public Bridleway along the Access Road as shown on Appendix 2. The bridleway to be created consists of point A on Appendix 2 (plan 1/3) where the end of Meols Parade meets the start of the Leasowe Revetment up to Leasowe Bay (plan 2/3), around Leasowe Bay and on to Wallasey Embankment, across Wallasey Embankment passing Harrison Drive car park and along Harrison Drive up to Kings Parade point B (plan 3/3).

4.0 FINANCIAL IMPLICATIONS

4.1 The proposals in this report do not have significant revenue implications, as many of the actions put forward to deliver this strategy can be achieved at little cost. Any costs that do arise as a result of the recommendations should be comfortably covered by the rights of way budget.

5.0 LEGAL IMPLICATIONS

5.1 The Council has powers under both section 236A of the Local Government Act and the Byelaws (Alternative Procedure) (England) Regulations 2016 to revoke byelaws and to make new byelaws. The Council can revoke bylaws without any Secretary of State involvement. The procedure is below.

Step 1: assessment and consultation

The Council determines if there is a need to revoke the byelaw and if it has the power to do so, and by which mechanism, then consults upon the proposed revocation.

The Council must prepare a draft of the proposed revoking byelaw. It must then undertake a regulatory assessment of the proposed revocation. The regulatory assessment must include at least the following considerations:

- what is the objective of revoking the byelaw?
- could the objective be achieved in any other way, short of revoking the byelaw?
- what will be the impact of revoking the byelaw upon those affected by this decision?
- how does revoking the byelaw compare with taking no action?

A draft regulatory assessment is set out at Appendix 4 to this report.

The Council must then publish a notice of its proposal to revoke the byelaw on its website, in a local newspaper and in any case publicise the notice in any other manner as it sees fit.

The notice must state the consultation period, of not less than 28 days, within which the public may inspect the draft byelaws and also publish an address to which representations on the byelaws can be made within this period.

The Council must consider all representations received, including objections, before making any decision about whether or not to revoke the byelaw.

Step 2: deciding to revoke the byelaw

Once the consultation period has expired, the Council then has 6 months to decide whether or not to revoke the byelaw.

Step 3: revoking the byelaw

Where the Council has formally resolved to revoke the byelaw, they should make the revoking byelaw under the common seal of the Council, which should be placed after any schedule or plan included with the revoking byelaw. The revoking byelaw should also be signed and dated.

Step 4: publicity after revoking the byelaw

The Council must publicise the fact that a byelaw has been revoked. It must publicise on its website, a notice that the byelaw has been revoked and also publicise that the byelaw has been revoked in such other manner as it sees fit.

The Council must also make a copy of the revoking byelaw available to anyone who wishes to have a copy, at a reasonable charge.

The Council must also remove any signs relating to the now revoked byelaw.

- 5.2 There were other byelaws made by the former Hoylake and West Kirby Urban District Council and confirmed by the Secretary of State in 1909 relating to the Meols Parade and, North Parade and South Parade that prohibited the driving of any carriage, cart, motor car, bicycle, motorcycle or other vehicle at a greater speed than 10 miles per hour. The Act of Parliament pursuant to which those byelaws were made has been repealed which dictates that the byelaws themselves are no longer in force.
- 5.3 The Council has powers under section 26 of the Highways Act 1980 to make a Public Path Creation Order for the creation of a public bridleway if it is satisfied that it is expedient that a path should be created. In considering the matter it must have regard to the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public or persons living in the area, and should also have regard to any relevant provisions contained within a rights of way improvement plan (the publication of which is a requirement of the Countryside and Rights of Way Act 2000). The Council must also have regard to the rights of persons with an interest in the land and any provisions available for the payment of compensation, however, the whole site is in the ownership of the Council. Under s.28(4) of the 1980 Act, compensation is payable to a person whose land is adversely affected by a public path creation order even if the path does not actually cross his land. However, such a person will not only have to establish loss: he will also have to show that he would have had a right of action for that loss but for the statutory provisions authorising the creation of the path.
- 5.4 Even if the Council owns the land which the path goes over, due diligence will need to be done to verify if there are any rights over the land affected, as the Council may be liable to compensate the holder of any such rights for any loss in enjoyment in this right (if affected).
- 5.5 It is considered that a creation order would fulfil the requirements of the criteria specified in section 26; manage and maintain the network; Improve health and wellbeing; Increase sustainable travel and Support tourism and the visitor economy.
- 5.6 A new Public Bridleway can only be created if the Council is satisfied that there is a need for the new path and that it is expedient, having regard to:
- The extent to which the path or 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
 - The effect which the creation of the path or way would have on the rights of persons interested in the land.
- 5.7 If the Council deems the above criteria (as outlined in paragraph 3.9 of the report) satisfactory, then a Public Path Creation Order can be implemented. The implementation requires the Council to follow a number of steps as follows:

- The Council shall carry out pre order consultations with user groups, local councils and interested parties and shall negotiate with any objectors;
- The Council shall review any unresolved objections and a decision can be taken on whether to make an Order;
- If an Order is made, preparation and publication of the Order will be followed by a 28-day public advertising at a local library, the Council's public website, posted on site, in the local press and at the local council offices;
- The Council shall carry out negotiations with any formal objectors to the Order received during the 28-day period;
- If there are no objections, or if any objections made are withdrawn, the Council can confirm the Order;
- If there are any unresolved objections and the Council decides not to withdraw the Order, the matter will be forwarded to the Secretary of State (unless the Council decides to not proceed with the order after considering the objections) who will appoint an inspector to determine the matter and decide whether or not the Order should be confirmed. Depending on the circumstances, the Inspector may reach a decision on the basis of an exchange of correspondence, or the case may be taken to a public inquiry or hearing;
- If it is decided that the Order should be confirmed, a notice of the decision is published; and
- Where works are required, a site visit by the Rights of Way Officer is required to ensure satisfactory provision of the new route.

5.8 Section 30(1) Countryside Act 1968 states that 'Any member of the public shall have, as a right of way, the right to ride a bicycle on any bridleway but in exercising that right cyclists shall give way to pedestrians and persons on horseback.' It is therefore for the path users to keep to the public right of way, to follow the Countryside Code and consider other users.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 The revocation of the 1935 Byelaws (as amended) and the implementation of the Public Path Creation Order will require legal and rights of way officers to work in tandem to reach its completion. This will include the the public consultation in relation to the byelaw revocation and the Public Path Creation Order. Further time might be spent across both departments to address any concerns raised from members of the public or user groups.

6.2 Once the Public Path Creation Order is implemented and the Public Bridleway is established, officers from the rights of way team will also be required to generate notices and signs to improve the safety of the route on the Access Road as a whole.

7.0 RELEVANT RISKS

7.1 At this present time, due to the lack of knowledge and awareness of Byelaw No.20 cyclists are using embankments of the Access Road that are currently restricted.

There is no current enforcement of the Byelaws of 1935 by Council Officers, Merseyside Police or Coastguards.

- 7.2 The implementation of an enforcement process in respect of the implemented bridleway will be an extra cost to the Council, as Council Officers will have to inform cyclists and horse-riders of the status of the route with signposts and markings and will also need to consult with relevant parties such as Merseyside Police and the Coastguards to inform them of the enforcement process. Extra resources will also be needed to maintain the enforcement process. The estimated cost of the process including adverts, erecting of notices and the consultation process is around £3,000. Any ongoing maintenance will be covered by the rights of way budget.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 Subject to approval of the adoption of the proposed Byelaws, the Council will publish a notice of its proposal on the Council's website as well as in local newspaper circulating in the borough and place notices along the Access Road. The notice will state that over a period of 28 days from the beginning of the publication of the notice, a draft of the byelaw may be inspected, and written representations may be made.
- 8.2 The subsequent implementation of a Public Path Creation Order and associated public consultation to give the Access Road Public Bridleway status will also be carried out at the appropriate time.

9.0 EQUALITY IMPLICATIONS

- 9.1 This report has no direct equality implications, however the associated actions of the implementation of a Public Path Creation Order may require an Equality Impact Assessment and this will be conducted at the appropriate time.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 The regularisation of cycling and horse-riding use along the Access Road should safely increase the use of sustainable and environmentally friendly methods of travelling along Wirral's North coast.
- 10.2 The introduction of the Public Bridleway will help provide equality of accessibility for residents and businesses, help reduce local congestion and improve safety for vulnerable road users as well as health and air quality.

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 The proposals will have a positive impact on supporting active travel and encouraging modal shift away from the motor vehicles. Evidence suggests that making changes in favour of walking and cycling benefit local businesses as those

who walk and cycle are more likely to spend in local shops compare to those who drive.

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APPENDICES

- Appendix 1 - Location Plan showing the geographical extent of the byelaws to be revoked
- Appendix 2- Plan showing the route of the proposed bridleway
- Appendix 3 - Draft Revocation Byelaws
- Appendix 4- Draft Regulatory Assessment

The PDF files may not be suitable to view for people with disabilities, users of assistive technology or mobile phone devices. Please contact robintutchings@wirral.gov.uk if you would like this document in an accessible format.

BACKGROUND PAPERS

Byelaw No.20 1959

Byelaw No.20 amendment 2001

Wirral Circular Trail Booklet

<https://www.visitwirral.com/explore/wirral-circular-trail>

Government guidance on byelaw revocation:

<https://www.gov.uk/guidance/local-government-legislation-byelaws#revoking-a-byelaw>

A guide to definitive maps and changes to public rights of way:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/414670/definitive-map-guide.pdf

TERMS OF REFERENCE

This report is being considered by the Environment, Climate Emergency & Transport Committee in accordance with sections (b) and (c) of its Terms of Reference.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
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