



The Planning Inspectorate

Report to the Secretary of State for Transport

by Sue Arnott FIPROW

an Inspector appointed by the Secretary of State for Transport

Date: 25 April 2017

CYCLE TRACKS ACT 1984

**THE CAMBRIDGESHIRE COUNTY COUNCIL
PUBLIC FOOTPATH No. 9 SAINT IVES AND PUBLIC FOOTPATH No. 10
PARISH OF HOUGHTON AND WYTON CYCLE TRACKS ORDER 2014**

Date of Inquiry: 22-23 March 2017

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CASE DETAILS

- This Order, dated 30 May 2014, was made by Cambridgeshire County Council (CCC) under Section 3(1) of the Cycle Tracks Act 1984. Notice of the Order was published on 11 June 2014.
- If confirmed, the Order would enable CCC to designate a cycle track along the existing public footpath known as the 'Thicket Path' between St Ives and Houghton near Huntingdon.
- Following the receipt of three objections¹ to the proposal, CCC submitted the Order to the Secretary of State for Transport on 11 April 2016. All three objections were outstanding at the commencement of the inquiry.

Summary of Recommendation: That the Order is not confirmed.

PREAMBLE

1. The effect of the Order, if confirmed, would be² to convert the legal status of a 2.5-3 metre wide strip of the footpath between Thicket Road in Houghton and Church Street in Saint Ives to a cycle track.
2. I have been appointed to hold a public local inquiry in connection with the Order and to report to the Secretary of State for Transport pursuant to Section 3(5) of the Cycle Tracks Act 1984 (the 1984 Act) and Regulation 8 of the Cycle Tracks Regulations 1984 (the Regulations).
3. Accordingly I held a public local inquiry into the Order at the Commemoration Hall in High Street, Huntingdon on 22 and 23 March 2017.
4. I made an unaccompanied visit to the site and walked along the footpath in question during the afternoon of 21 March 2017. From the point marked A on the Order map at the western end I walked via points B, C, D (the parish boundary³), E and F where I branched off via Westwood Road and followed this eastwards as far as Ramsey Road. Turning back along Church Street, I re-joined the Order route at point G and walked westwards via F, E, D, C and B to point A.
5. During the hours of 14:00 and 15:00 (approximately) whilst walking eastwards I noted 13 pedestrians and 10 cyclists along the route; on the return journey I saw 10 pedestrians and 23 cyclists, 13 of whom were school children cycling from St Ives towards Houghton. However this observation must be recognised as no more than a snap-shot in time and is not intended to form the basis for my recommendation.
6. For Cambridgeshire County Council (**CCC**), Mr Ormondroyd confirmed that all the statutory formalities had been completed correctly. This was not challenged but several objectors complained about the unavailability of information locally.

¹ Statutory objections were received from Dr D Green, Mr D Gill and Houghton and Wyton Parish Council

² Upon publication of notice of confirmation

³ Houghton and Wyton parish boundary underwent changes in 2010 but in the vicinity of point D was unaltered.

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7. As described in the letter submitted by Huntingdonshire Ramblers [listed at the end of this Report as Document 24], in the days leading to the inquiry a number of members of the public went to the Huntingdonshire District Council (HDC) Offices in Huntingdon seeking to inspect the Order and plans as described in the notice. However it appears that no such documents were available there for inspection.
 8. Further complaints were made that several interested parties had not been consulted, either in advance of the Order being made or once it had been published. The British Horse Society had learned of the proposal only very recently and had little time to prepare for the inquiry. The Huntingdonshire Society for the Blind likewise had not known of the Order until a late stage. Others who had initially registered their opposition to the proposal said they had not been notified when the Order was made or informed of the inquiry.
 9. It is clear that a considerable length of time has passed since the Order was made in 2014. CCC provided a list of 23 individuals and organisations that were consulted prior to the decision to make the Order. No evidence was presented to suggest that, at the time notice of the Order was published, details were not available to interested members of the public who wished to view them in accordance with the statutory notice.
 10. Almost 3 years later, notice of the public inquiry to determine the Order in the light of the three statutory objections was published in the Huntingdon Post on 22 February 2017. That notice advised that copies of the Order and the plan could be viewed at HDC Offices but it is clear that, for whatever reason, they were not. Although some people (such as Mr Williams) who sought information persevered and appeared at the inquiry to make known their views verbally without knowing the full picture, it is not known how many others, supporters or objectors, may have not pursued their case simply because they could not inspect details of the proposal.
 11. In response to the point, CCC submitted that social media appeared to have ensured that news of the proposal was quite widely distributed. This was confirmed by the 600+ signatories to an on-line petition.
 12. CCC has requested that, if the Order is confirmed, a minor modification is made to the grid reference for point E as stated in the Order Schedule. This incorrectly gives the grid reference for point E as "GR TL 2967 7167" when it should instead be "GR TL 3041 7170". For CCC Mr Ormondroyd submitted (and I would agree) that it is extremely unlikely that anyone would have been misled by the mistake when the Order is otherwise perfectly clear as to its intentions, or that anyone might have been prejudiced as a result. Indeed only one of the objectors had noticed the error (Dr Green) and the request to correct it was not challenged.

DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

13. The Order route links the settlements of St Ives to the east and Houghton to the west. In total it is 2,205m long with 843 m lying in St Ives and 1,362 m in the Parish of Houghton and Wyton.

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14. The route is currently recorded on the definitive map as Footpath 9 (St Ives) and Footpath 10 (Houghton and Wyton). Whilst the latter is noted in the definitive statement as having a width of "30 feet" (9.14m) on the basis of an eighteenth century inclosure award, Footpath 9 has no recorded width but is presumed to extend from boundary to boundary.
 15. The descriptions contained in the first definitive statement (compiled with a relevant date of 14 December 1961) are still broadly relevant today:

Footpath 9: *"Starts at the riverside by St Ives Parish Church and runs in a general westerly direction along a path called Barnes Walk and then along Thicket Walk to its termination at the Houghton and Wyton Parish Boundary at the eastern corner of St Ives Thicket."*

Footpath 10: *"Starts at the end of Thicket Road and Meadow Lane and runs in a general easterly direction along Thicket Path terminating at the St Ives Borough Boundary."*
 16. At the eastern end, Footpath 9 joins Church Street at point G. At point F a short road link proceeds northwards to join Westwood Road close to a residential area and near to the entrance to a leisure centre and sports fields which lie adjacent to St Ivo School.
 17. At its western end the Order route joins Thicket Road (a rural residential street) that continues generally westwards, Bridleway 11 which runs south via Meadow Lane towards Houghton Meadow, and Bridleway 12 which runs north and north westwards to the main village road junction with the A1123. There is also a small area used for informal car parking and turning.
 18. Although the status of these connecting roads was not clarified, it might be presumed these are highways which carry public rights for all types of traffic, or, at the very least, a right of way for pedestrians, horses and cyclists; at the inquiry, the rights of these types of users over the connecting roads were not questioned.
 19. At the western end the Order route (A-C) has the character of a tree-lined lane, whilst the eastern end (D-F) passes through woodland. The far eastern section (F-G) known as Barnes Walk is bounded by the walls of residential gardens on the north side and riverside woodland to the south. In the centre (C-D) and on its north side lies Thicket Wood which is owned and managed by HDC. This incorporates a permissive path which forms an informal loop off the main footpath. To the south are low-lying meadows and marshy woodland bordering the River Great Ouse. At the eastern end lies the Holt Island Nature Reserve and a community facility known as Noble's Field. Further west is the Houghton Meadows (SSSI) Nature Reserve managed by the Wildlife Trust.
 20. The Order route carries the Ouse Valley Way long distance path which approaches via Thicket Road, runs along the Thicket Path and then via Barnes Walk into St Ives.
 21. In 2013, resources were made available that enabled the Order route to be re-surfaced with tarmac. This resulted in a smooth strip along the full length
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broadly of the width described in the Order⁴ (varying between 2.5 and 3m). Three bollards are positioned in off-set positions at point D.

22. A counter located along the Order route has recorded cycle usage since 2014. It shows use generally rises towards the middle of the summer and falls to low in December/January. On weekdays, use peaks in the morning around 8am and again in the late afternoon between 3pm and 6pm whereas weekends see an increased usage in the middle of the day from around 11am until 4pm. The maximum frequency of use recorded by cyclists is just over 30 cycles per hour.
23. Although it is acknowledged by all parties that in practice people cycle along the Order route at present, officially cyclists travelling between Houghton and St Ives are provided for along the A1123. This is a single carriageway main highway where the footway on the south side of the road has been converted to a cycle track. Although it was said that improvements had been made to this facility, the width of the footway is little more than one metre on average. It was also noted that, unlike the Order route which is broadly level throughout its length, the alternative via the A1123 entails riding over Houghton Hill. The exact gradient was not established but it is not sufficiently steep to require highway signage. Vehicle speeds are limited to 30, 40 & 50 mph at different sections of the road between St Ives and the Houghton turning.

THE CASE FOR THE ORDER MAKING AUTHORITY

The material points were:

24. The benefits of cycling between St Ives and Houghton along the Order route have been recognised in various policy documents over the years. There does not appear to be any dispute over the fact it provides a safe, convenient and pleasant route and has done so for a long time with pedestrians and cyclists in happy coexistence notwithstanding its width being marginally below that recommended for a shared surface path in some places. However, the route is a public footpath and since there is therefore no recorded right to ride a bicycle along it, cyclists are technically trespassing.
25. Furthermore, there was no requirement for the highway authority to maintain the surface in a state suitable for cycling and, prior to the works in 2013, it had become unsuitable and even dangerous. Since the improvements to the path surface specifically to accommodate cycling, the route is heavily used by both cyclists and pedestrians.
26. This Order seeks to rectify this situation by (1) granting cyclists as well as pedestrians the right to use the route and (2) ensuring that the surface will in future be maintainable at public expense to an appropriate standard.
27. Neither of these objectives seems to be controversial since many of the objectors agree that shared use has worked well in the past. Yet some objections have been lodged by people who have been mis-informed about the nature and effect of the Order. Some appear to believe that the rights of

⁴ Mr Boothman asserted that the actual measurements are less than stated in the Order

pedestrians will be removed, that the route will be physically segregated, that cyclists will gain priority or 'right of way' over pedestrians and/or that the proposal will lead to a widening of the surfaced area. None of these things are intended by the Order. There will be no change from the existing arrangement except that cyclists will be legally entitled to use the route.

28. The second category of objection relates to equestrian use. The British Horse Society (**BHS**) and others object to the proposed cycle track because they would prefer the footpath to be designated as a bridleway. Clearly that could not be achieved by this Order and is not particularly relevant to its determination.
29. If the BHS wishes to pursue equestrian rights on this route, it will need to consider other processes. Indeed it appears that an application for a definitive map modification order to record the route as a bridleway was submitted to CCC the day before the inquiry opened although it has yet to be validated. It should be noted that a similar attempt to upgrade the way in 1988 was unsuccessful⁵.
30. The third category of objection concerns the type of cyclists using the Order route. There is a perception that the footpath has become less safe since it was resurfaced in 2013 due to what is described by some as more aggressive and anti-social cycling. The question is, what should be done about this?
31. Leaving the status of the way as a public footpath does not recognise that use by cyclists is, in general, welcome and accepted. Designating the route as a bridleway has been suggested on the basis that cyclists are legally required to give way to pedestrians on bridleways. However there is no specific penalty for a cyclist who fails to give way. Indeed Rule 62 of the Highway Code achieves the same general effect in respect of cycle tracks. It states:

"Take care when passing pedestrians, especially children, older or disabled people and allow them plenty of room. Always be prepared to slow down and stop if necessary. Take care near road junctions as you may have difficulty seeing other road users who might not notice you."
32. The offences of dangerous and careless or inconsiderate cycling created by Sections 28 and 29 of the Road Traffic Act 1988 can be committed whether the cyclist is on a bridleway or a cycle track⁶.
33. Therefore in law a bridleway offers no perceptible advantage over a cycle track. In practice, the majority of users will behave with courtesy and common sense as on many other shared use cycle tracks in the county.
34. Clear signage can encourage safe and considerate walking and cycling by making sure all users are aware that the path is 'shared use'. However no

⁵ A copy of the decision letter is submitted as Document 7

⁶ At my request, Mr Ormondroyd addressed the question of civil liability in the case of a collision between pedestrians and cyclists. His search did not reveal any decided case involving negligent cycling on either a cycle track or bridleway. In his submission this reflects the fact that such collisions are rare and litigation ever more so. Applying the principles of the tort of negligence, a duty of care will exist wherever it is reasonably foreseeable that someone may be harmed by one's actions and would therefore exist between a cyclist and a walker whatever the status of the path.

such signs can be put in place whilst cyclists have no right to be there. If the Order is confirmed, CCC intends to place appropriate signage at both ends of the route. To reject this Order on the basis that a bridleway would be (at best) marginally more preferable for pedestrians would simply delay the implementation of this sensible and practical step.

National and local policy

35. At the inquiry, no-one questioned the overall aim of this Order, that is to provide an attractive, safe and convenient cycle route linking two centres of population.
36. The St Ives Market Town Transport Strategy notes that "*the Cambridgeshire Rights of Way Improvement Plan aims to manage, improve and promote a Public Rights of Way Network as an integral part of a wider transport system.*" Its policies of particular relevance are said to include selected surface improvements, safer road crossings and circular routes, and an improved bridleway network. It recognises that "*bridleways in particular cater for a wide section of the community.*"
37. The provision of appropriate cycling facilities to encourage modal shift away from motorised transport and to encourage exercise and recreation in the countryside is a well-established goal of local and national policy.
38. In the local context, the route has been recognised as a priority for improvement with cycling in mind for very many years. It was Mr Wilson's evidence that Sustrans had identified the route (in consultation with the relevant authorities) as a candidate for improvement and inclusion in the National Cycle Network (**NCN**) as long ago as 1997. Mr Joyce reported that in 1999 this was amongst 41 strategic routes identified within the Huntingdon District Council Cycling Strategy for Huntingdon.
39. The Thicket Path is identified in the local Market Town Transport Strategy for St Ives (as Route 7)⁷. This document proposed the creation of a walking and cycling network linking the main centres of population, employment, schools and the town centre with safer crossing points provided on the A1123. The 12 routes noted were expected to "*actively encourage walking and cycling within and to the town, and meet the objectives of reducing the impact of traffic in the town, maximising accessibility by non-car modes, and helping to improve health and safety*". Route 7 was also noted as a future link in the NCN.
40. In 2008 the Huntingdonshire Area Traffic Management Joint Committee approved a cycling scheme prioritisation process and ranked a list of 30 local schemes; the Thicket Place was ranked in second place and was earmarked for implementation when funding permitted.
41. Through this Order there is now the opportunity to fulfil the aims and objectives of national and local policy.
42. In 2012 resources were made available by the Department of Transport through its 'Links to Communities' scheme with administration of the funds

⁷ The date of this document (listed below as 1.9) is not stated but appears to be 2006/7.

through Sustrans (See Document 9). A Memorandum of Understanding⁸ in relation to works to the Thicket Path required a start date of December 2012 and completion date in February 2013. Further it described:

"Reconstruction and surfacing of an existing riverside path to enable shared use. The path is to be a minimum of 2.5m and surfaced in machine laid DBM. It is expected that the path will form part of and be signed as the National Cycle Network. The extent of the works is shown on the accompanying map⁹."

43. Local Transport Note (LTN) 1/12 recommends that the preferred minimum width of a route shared by pedestrians and cyclists is 3 metres. This is a guideline, not a definite standard and it is to be applied flexibly. The width(s) stated in the Order have been accepted by experts in the field – the Council's Road Safety Engineer, the Definitive Map Officer (Mr Oudit), the County Cycling Officer (Mr Joyce), Mr Wilson formerly of Sustrans and, as evidenced by the Memorandum of Understanding¹⁰, the Department of Transport.
44. Some objectors argue that the cycle track that follows the footway beside the A1123 is the appropriate route for commuting cyclists¹¹ and that measures should be taken to further improve this facility rather than to force pedestrians to share a well-used informal footpath. CCC submits that the Order route is to be preferred as a way for cycling being away from motorised traffic and being level in contrast to the hilly option via the busy A road with its dangers from several side roads crossing to join the main carriageway.
45. Houghton and Wyton Parish Council (**H&WPC**) offered three possible solutions: to instead upgrade the footpath to a public bridleway, to secure permissive rights for cyclists along the existing footpath, or simply to do nothing.
46. Mr Oudit confirmed that CCC did consider whether a bridleway would be appropriate although it was not aware of any significant equestrian use of the route other than private rights of access associated with horses pastured in adjacent fields. The Council concluded that, since the Thicket Path is considerably narrower than the 4m that would normally be regarded as the minimum when creating a new bridleway, cycle track status would be more appropriate.
47. He also noted that, given the uncertainty over ownership of some sections of the route¹², negotiating an agreement to secure a permissive arrangement to allow cycling on the footpath would be fraught with difficulty. Further any such permission could be withdrawn at any time.
48. As regards the 'do nothing' option, H&WPC relies on support from LTN 1/12 but this is mistaken. In the context of the document, a 'do nothing' option implies that cyclists should be left to use existing (usually on-road) facilities.

⁸ Ostensibly between the Department of Transport and Sustrans

⁹ I note that the map shows a route marked from the western end of Thicket Road, via points A, B, C, D, E to F indicated as "Route signing and resurfacing traffic-free path". It does not show section F-G. At point F a route via Westwood Road appears to be marked as "Proposed on-road" section (although the copy provided is not clear).

¹⁰ This required a minimum width of 2.5m

¹¹ It was Dr Green's submission that this should be the route for all cyclists

¹² Parts are said to be held by HDC and part owned by the Old Golf Club; otherwise it is unregistered and unknown.

Here, the only existing alternative facility is the cycle track alongside the A1123. This is an option that has clearly been rejected by all the local policies noted above all of which propose doing 'something' rather than 'nothing'.

49. CCC recognises the degree of ill-feeling towards some cyclists who use the route at present in a manner considered to be dangerous to pedestrians but the extent of the danger is open to debate. Countryside Agency Research Notes CRN 32 and 69¹³ showed that on shared routes actual conflict is very infrequent and that usually route users accommodate others by changing their speed and pattern of travel: cyclists slow down while walkers move in more of a straight line and speed up. This research shows that perceived conflict is rarely matched by reality.
50. In the case of the Thicket Path, there is no actual evidence of any accidents being reported since the route was re-surfaced. In fact the evidence does not suggest that the current behaviour of cyclists *as a whole* poses any significant danger to pedestrians on the path. Further, there is no evidence to support the view that changing the legal status of the route to a cycle track would alter the position that exists at present by increasing the danger to pedestrians. In essence, any danger that exists, exists currently.
51. People are not likely to alter their behaviour simply because the route is labelled a cycle track. It is clear from the many objections and petition responses that the present legal status of the path is not widely known. Some cyclists appear to think it is already a cycle track. Indeed some people have only become aware that the route is a public footpath because of the (sometimes misleading) coverage of the Order and inquiry in the press and on social media.
52. On the contrary, if the Order is confirmed then signage could be erected in order to reduce the potential for conflict. There was broad agreement that the proposed sign (shown at Document 1.11) would have a positive effect in terms of improving safety although CCC welcomed further suggestions. It is hoped that the effects of the notices may encourage a return to the path by users who have stopped walking the path out of a perceived sense of danger.
53. CCC is unashamed in its desire to promote the path as a cycling route and therefore to attract more cycle usage. There is no evidence to support concerns that this will inevitably lead to more badly behaved cyclists using it, even if it is included in the NCN.
54. In fact the route is already shown (erroneously) as a '*traffic free cycle route*' and as part of the NCN Route 51 on the current Ordnance Survey Explorer Map¹⁴. Whilst Sustrans does not show the Thicket Path as part of Route 51 on its website, Thicket Road is shown as '*On-road route not on the National Cycle Network*' whilst section A-E of the Order route appears as '*Traffic-free route not on the National Cycle Network*'. Thus any promotional effect in terms of long-distance cycling has probably already occurred. Indeed the words 'cycle track' will not be used on signs

¹³ Dated 2001 and 2003 respectively and listed below as Document 1.10

¹⁴ An extract was provided in the evidence of Mr Stewart (Document 22)

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55. Despite its name, it was Mr Wilson's evidence that the National Cycle Network is used predominantly (95%) for local journeys. The aim of the network is to enable everyday local journeys to be made by ordinary people, especially young cyclists, not super-sporty people.
 56. The only evidence of cyclists speeding on the route relates to those people who (as in Mr Boothman's evidence) use 'Strava' to record individual times along the Thicket Path. However, more use by the considerate cyclists which form the majority will serve to control and moderate dangerous behaviour by the small minority of 'idiots' who cause alarm amongst pedestrians.

Advantages v disadvantages

57. If cycling were to increase to such an extent that pedestrians were inconvenienced, that would imply that the Order had been a massive success in terms of encouraging cycling along the route, either as an alternative form of transport or for recreation. Although research shows that perceptions of conflict may be higher than actually experienced, where pedestrians and cyclists expect to share a route, both cope very well with this. If the Order is confirmed, this can be reinforced through appropriate signage.
58. It will be an advantage to users if the status of the way matches the type of users in terms of maintenance. It is likely that if the present footpath status remains, maintenance to a standard for cycling will be discretionary and there is no guarantee that, as such, it would be able to compete with mandatory budget items in the context of significant economic restraints. By securing the ongoing maintenance of the route to a standard suitable for cyclists will also benefit other users, especially vulnerable and disadvantaged people.

Cycle track or bridleway?

59. It may be that bridleway status *could* lead to similar benefits but confirming the Order would offer more certainty than leaving the route as a footpath. Very limited evidence was put before the inquiry of use by equestrians as a 'through route' as opposed to access to premises along the lane. CCC noted the BHS does not oppose use by cyclists, nor does it consider the width of the route to be unsuitable for use by pedestrians and cyclists.
60. The 'equalities' point argued by the BHS has no substance; the creation of a bridleway is not a possible outcome of this Order and therefore it cannot discriminate against equestrians.
61. A similar point was made by H&WPC: that the designation of a cycle track will lead to a reduction in actual and perceived safety such that this would have a particular impact on disabled and vulnerable people. CCC submits that such groups would in fact benefit from the improved surface and that the overall dis-benefit claimed has not been established.

Procedure

62. In response to complaints about the procedures followed by CCC, both the Order and the inquiry were advertised in accordance with the statutory requirements. The publicity over the inquiry has more than made up for any problems over the availability of information.

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63. Objectors may suggest that there is no urgency about this matter and that further time is required to explore options before implementing a change, but this proposal has been under consideration for a lengthy period now. CCC does not accept the BHS' submission, that the Order cannot be confirmed, has any basis in law. The footpath is recorded on the definitive map and will remain so unless and until it is modified.

Summary

64. Local and national policies recognise the need to improve facilities to enable cycling to take the place of motorised transport wherever possible, both for utilitarian purposes as well as recreation. The Order route has been identified as an important route for cycling since the 1990s at least, its potential being recognised in 2012/3 through the scheme which enabled a tarmac surface to be provided along its length. With the exception of Dr Green, most objectors accept (in principle) use of the footpath by cyclists and that cyclists should be accorded a right to use the way. The debate is focused on how that is to be accomplished.
65. It is CCC's view that this can be achieved through confirmation of this Order so that the route is given cycle track status to accord with its current usage. Once cycling is put onto a lawful basis, measures can be taken to manage the behaviour of those cyclists who cause concern amongst some pedestrians because of excessive speeds. Conversion to a cycle track will ensure that the route is maintained to a satisfactory standard for all users in future.
66. **Mr Saunderson** has been an active volunteer at the Holt Island Nature Reserve¹⁵ for over ten years. In addition to the island (which lies to the south east of Point G) the team looks after The Thicket and has worked on the Ouse Valley Way, trimming back encroaching vegetation along the path. In January 2017 he himself cleared compressed leaves from the surface of the full length. This task took him several days¹⁶ during which he wore a high visibility jacket but at no time did he encounter any serious problems with any of the cyclists using the route. Some whistled by with no warning but the route was no busier than on a market day in St Ives. He reports that a number of school children use the path to walk or cycle to St Ivo School and it is a very popular walking route for families with young children, often on cycles or scooters. He recalled that the path had been used by cyclists for over 50 years and had cycled along it himself because it is far safer than using the A1123 option where the slipstream from heavy lorries is a hazard.
67. Mr Saunderson considers the Parish Council's opposition to the Order on the grounds that it will increase urbanisation of the village to be "absolute nonsense".
68. **Mr Williams** was very concerned about the lack of information available before the inquiry. As a consequence he submitted that the objections lodged may not necessarily be representative of the wider view of local people.

¹⁵ Managed by Huntingdonshire District Council's Countryside Services

¹⁶ Mr Saunderson confirmed that this took two weeks; he worked on week days only, for a few hours at a time, in the middle of the morning and afternoon.

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69. He noted there are many anti-cycling comments made in the petition responses yet in his experience the majority of cyclists are generally considerate, courteous, and show respect for pedestrians and horses by slowing down. He felt the term 'cycle track' was emotive and suggests a race track but pointed out that the St Ives Cycle Club would not choose to use the Order route and neither would any serious time-trialist.
 70. Mr Williams uses the Order route himself on a weekly basis in a variety of ways and has done so many times in the past. He acknowledges that designation of a cycle track will mean that, as a cyclist, he is no longer a trespasser and that the surface will be maintained to a better standard. In his opinion, the A1123 cycle path is dangerous, especially when riding uphill and when crossing driveways.
 71. In practice common sense, respect and courtesy is all that is needed to resolve the issues here, together with education.

THE CASE FOR THE OBJECTORS

The material points were:

72. On behalf of the **British Horse Society, Ms Balfour-Lynn** explained that the Society believes that the Order route already carries higher rights than a cycle track and has submitted an application to upgrade the status of the way from footpath to bridleway through the definitive map modification order process. It has evidence to show that cyclists¹⁷ and horse riders have used the route since 1988.
73. It is widely acknowledged that the route is already used for cycling. CCC refers to current use and the Sustrans website shows it as a route for cycling. As the way has already been dedicated¹⁸ as a cycle route, either through long use or at common law, the BHS contends this Order cannot be confirmed.
74. If that point is not accepted, in the alternative it is submitted that CCC should be pursuing a creation order to provide a bridleway, rather than a cycle track which would exclude horses. Bridleway status allows cyclists to use the route but importantly requires them to give way to walkers and persons on horseback.
75. Between Houghton and St Ives horses have no other (lawful) option than to use the busy A1123 which is wholly unsuitable for horse riders. There is a clear need to improve the local off-road network between these two settlements. The Thicket Path offers the only alternative. The need for such a safe off-road riding link is illustrated by the evidence of horse riders who use the route at present and by mention of horse dropping being seen along the path by witnesses at the inquiry.
76. It is CCC's policy, as stated in its rights of way improvement plan (ROWIP), that multi-use routes should be encouraged and that vulnerable highway

¹⁷ It was Ms Balfour-Lynn's submission that, following the judgement in the case of *Whitworth v Secretary of State for Environment Food and Rural Affairs* [2010] EWC CIV 1468, cycle evidence post-1968 should be attributed to the presumed dedication of a bridleway, not a restricted byway.

¹⁸ The BHS submits that the removal by the highway authority of a 'duck-under' barrier at point D some years ago should be construed as evidence of an intention to dedicate the route as a bridleway.

users should be protected. Guiding Principle 2 states "... *Where significant potential conflict with motor traffic or railways can be demonstrated, then measures to reduce risk will be considered.*" Statement of Action 5 ('Filling in the gaps') reads: "*Countryside access provision should build on the platform of the historical network to meet the needs of today's users and land managers*". Statement of Action 8 ('A better countryside environment') reads: "*The countryside access experience in Cambridgeshire should be straightforward, enjoyable and inspiring.*"

77. The BHS submits that it is hardly enjoyable or inspiring for horse riders to be forced on to the A1123. To recognise the Order route as a bridleway would be immediately useful to horse riders and would enable a link to the new guided busway to be put in place.
78. Ms Balfour-Lynn further submitted that by dismissing the possibility of a bridleway in favour of a cycleway, CCC is discriminating against horse riders, the majority of whom are female and aged 40+, and was therefore in breach of its duties under the Equalities Act 2010¹⁹. (This assertion was based on membership of the BHS in England, Wales and Scotland.)
79. In response to CCC's rejection of the Thicket Path as a bridleway because of its limited width, the BHS submits that examples elsewhere in the county show that this is no barrier to the creation of an acceptable shared route. There are pinch-points but these are not insurmountable. Wherever possible along the Order route, local horse riders prefer to use the adjacent soft verge. Since 2013, horses do cope with the tarmac surface satisfactorily as there are no significant inclines.
80. However since the surface improvements the changed attitudes of some cyclists has been noticeable. It is submitted that the presence of horse riders can act as an effective traffic-calming measure, particularly helpful here where concern has been raised over speeding cyclists. Sustrans Technical Information Note 28 confirms that conflict between horses, pedestrians and cyclists on shared use routes is rare.
81. In essence the BHS is clear that it does not have any issue with cyclists using the route in principle but argues that providing a basis for lawful cycling should not ignore the needs of other vulnerable road users who could easily be accommodated if the process of creating a public bridleway were to be pursued instead. Such an approach would be more in line with the intentions of CCC's own policy objectives and in practice would serve to moderate the behaviour of the small group of unruly cyclists who cause concern amongst vulnerable pedestrians.
82. Speaking on behalf of **Houghton and Wyton Parish Council** (H&WPC) **Councillor Mr Boothman** made clear that the Parish Council supports the continuation of cycling along the Thicket Path. Pedestrians and cyclists have co-existed here for decades, despite its legal status as a footpath on the definitive map.

¹⁹ Ms Balfour-Lynn argued that it is also sexist and ageist as well as being contrary to the Highways England Accessibility Strategy and to NPPF 75 although extracts from the latter two documents were not submitted.

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83. Mixing pedestrians and cycle traffic in suitable locations and with the right safeguards is accepted in principle. However the physical characteristics and built form of the Order route show it to be sub-standard and it fails to meet the Government safety advice and Sustrans' recommendations for an unsegregated cycle track.
84. Although the Order proposes that the width of the cycle track would vary between 2.5m and 3m, the hard-surfaced strip is less than that in many places. Between points F and G the width is little more than 2m. LTN 1/12 states that for unsegregated shared-use routes "*3 metres is the preferred minimum effective width, and this will be the actual width where the route is not bounded by vertical features*". Where such features are found (as for example the sections of the Order route where sheet piling has been used to support the footpath construction on a slope, or section F-G) buffer zones should be provided, thereby increasing the overall width required.
85. LTN 1/12 at 5.32 states: "*Care should be exercised when deciding whether to accept lower standards of provision. Occasional reductions in the level of service might be acceptable, depending on scheme objectives, but if the route cannot offer generally improved conditions for cyclists without causing undue inconvenience for pedestrians, other options will need to be considered. It is important that all such design decisions are recorded.*"
86. The Sustrans Design Manual²⁰ advises:
- "6.10 Rural cycle usage may be significant in some places; near stations, schools, rural employers and other popular destinations and in key corridors between villages. Where a route forms an integral part of commuting or utility journeys, an effective width of 2.5m is the recommended minimum width.*
- 6.11 For other rural routes, the acceptable minimum widths can be less than in urban areas, reflecting lower usage levels. For lesser routes and links that are likely to remain lightly trafficked by all groups, and without equestrian use, a path width of 2.0m may be acceptable. In these situations it is essential that overhanging vegetation and minimum verges of 0.5m are maintained."*
87. Before the works in 2013, the Thicket footpath worked perfectly well as a safe and pleasant route for all between Houghton and Wyton and St Ives although it did require improvements to the surface. The re-surfacing was broadly positive for all users (although above the standard required for all but the professional/serious cyclists). Whilst H&WPC had initially welcomed the works, it had not considered the possibility that the nature of cycling would change as a result. Combined with the proposal to designate it a cycle track, the upgraded route has gained the attention of speed cyclists and is in danger of being unsafe, particularly for vulnerable users.
88. As a public footpath at present, *most* cyclists who use it are aware that their use is subservient to the rights of pedestrians and are generally more cautious and courteous than might otherwise be the case although few use

²⁰ Sustrans Design Manual • Chapter 5: Traffic free routes: conceptual design (2014, draft)

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- bells to alert other users. H&WPC is concerned that if designated a cycle track where neither cyclists nor pedestrians have priority, this defence will be lost and pedestrians will feel vulnerable. The warning signs suggested by CCC are unlikely to be adequate unless backed up by law.
89. Before the works in 2013 H&WPC had expressed concern over use by horse riders but has since changed its position in the light of experience which has shown that horses on the route tend to slow cyclists down. Consequently H&WPC now believes that the way forward would be either to create a public bridleway or through a permissive path agreement. Either way, cyclists should be required to give way to pedestrians (and horses).
 90. On the Order route it seems cycling is increasing and, since the surface was upgraded, so are cycling speeds. With that, it appears the behaviour of some cyclists is also changing; conflict is on the increase whilst enjoyment, certainly for pedestrian users, has decreased.
 91. LTN 1/12 at 6.2 states *"Whilst shared use is generally implemented to improve conditions for cyclists, it is important that proper weight is given to the needs of pedestrians. This is especially important where shared use is introduced by conversion of footpaths or footways. In many cases, some degree of compromise will be necessary, but designers need to ensure that introducing cycling to an existing route does not make conditions unduly worse for pedestrians."*
 92. Further, at 6.6 LTN 1/12 states: *"Designers should aim to ensure that conversion to shared use does not result in the displacement of existing users."* H&WPC submits there is already evidence amongst objectors and in the online petition of local people who are experiencing issues of conflict and choosing, or considering choosing, not to use the route.
 93. In terms of the Equality Act 2010, the cycle track puts people with protected characteristics at an unfair disadvantage. Not all disabilities are visible or immediately obvious; cyclists will not necessarily know they are passing someone who is blind or has impaired hearing. Yet evidence shows that some cyclists are using the Thicket Path at great speed. Recording individual times through the mobile app 'Strava' has become popular and shows the fastest cyclist averaged a speed of 21.74 mph. Stopping distances at such speeds are significant and reaction times relatively slow if needing to avoid a pedestrian who makes an unexpected movement because they are unaware of the cyclist.
 94. Sustrans lists only five categories of cyclists for design purposes: faster commuter, utility cyclist, inexperienced and/or leisure cyclist, children and users of specialised equipment. It does not (yet) have a category for speed cyclists.
 95. The Parish Council submits that the proposed cycle track is predicated on achieving a commuter route for cyclists as part of NCN Route 51 but disregards the needs of existing users and discriminates against the needs of vulnerable users. It believes it would substantially diminish the experience and rights of local path users, some of whom have submitted direct personal evidence of the problems they have already experienced. Designating a cycle
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track would exacerbate these issues and ultimately have a detrimental effect on tourism which helps sustain the local economy.

96. H&WPC does not believe the benefits of the Thicket Path as a destination in itself have been understood; the existing usage captured or measured; the strategic impact of the proposed change, beyond that of cycling fully appreciated; comments do not seem to have been embraced; guidance appears to be ignored, and alternatives dismissed. Neither have the implications of proposed new housing close to the route been assessed.
97. As part of research to inform its Neighbourhood Plan, H&WPC had undertaken survey work and had over 500 responses from its 800 households. This has resulted in a positive attitude towards the promotion of leisure cycling in the parish as well as walking and horse riding as forms of quiet tourism. The information gathered also formed the basis for comments made on this Order.
98. In summary, H&WPC considers it premature to push ahead with designation of a cycle track before all the relevant facts are established and all options fully explored. The option to "do nothing", accepted as a possibility in LTN 1/12 at 2.1, should also be considered. Paragraph 6.4 states: "*A shared use route that serves pedestrians poorly is likely to be unattractive to cyclists too. If improvements for cyclists can only be realised through a significant reduction in route quality for pedestrians, the scheme is unlikely (to) be acceptable.*"²¹
99. H&WPC submits that the Order should not be confirmed. There are no direct consequences for CCC as regards the terms of the 2013 funding if the status is not changed. Instead more consideration should be given to workable alternatives that are based on evidence and an understanding of the whole situation. With much at stake for this well-loved and popular path, the decision should not be made without full knowledge of the facts; more research is needed to explore all the options in the context of the concerns expressed and experiences of local people since 2013.
100. **Dr Green** is a regular user of the footpath as a pedestrian. He would prefer cyclists did not use the Thicket Path at all. There has been a significant change since the route was surfaced and the problems created by cyclists speeding and inconsiderate behaviour will only get worse if the status is altered as proposed. Conversion of the footpath to a cycle track will have a significant impact on footpath users. Perception of route safety is an important issue, particularly for older and disabled people.
101. A shared cycle track already exists just a few hundred metres from the Order route alongside the A1123. This is a better route for cyclists as it benefits from street lighting and links into the existing network; it takes users on to Huntingdon and, in the other direction, towards Needsworth passing the St Ivo School at St Ives, thus forming a safe route for school commuters. Although it crosses two side roads, these are quiet residential streets and one is a dead-end. Dr Green did nonetheless accept there are safety issues here

²¹ This continues: "An exception to this might include introducing shared use as the only practicable option for addressing a safety problem for cyclists."

for cyclists as well as for pedestrians, and that an off-road route would be better for cycling. However he submitted that overall safety for the public would not be improved.

102. LTN 1/12 recommends a minimum width of 3m²² yet less than half the route will achieve this. Where there are vertical features beside the track a 0.5m wide buffer zone should be provided. Here there is very little buffer space at the edge due to earth banks and the river. Together with seasonal vegetation encroaching, there are limitations and hazards on both sides and (already) problems with the surface deteriorating and a build-up of leaf litter.
103. This is a busy path especially at the weekend. It is well-suited to use by the elderly or disabled but reports of incidents and near misses are making vulnerable people wary of using the footpath. Given time, there will be a serious incident. It is disappointing that the route is already being promoted as one for cycling and that some cyclists believe it is already a cycle track.
104. **Mr Rushton** has lived in Thicket Road most of his life and has walked, cycled and ridden horses down the Thicket Path. He still uses the route on a weekly basis at least, either on foot or riding a bicycle.
105. Until the footpath was resurfaced, walkers and cyclists co-existed peacefully. Walkers had priority and, by and large, cyclists knew this and rode respectfully. He described it as "self-policing when it was rough" because cyclists had to take care to avoid the potholes and could not go fast. Since the resurfacing, this knowledge and respect has not always been apparent amongst "the different breed of cyclist" that now uses the route.
106. Speaking as a trustee for **Huntingdonshire Society for the Blind**, Mr Rushton represented an often disregarded and vulnerable sector of the community. It currently has 629 members all of whom are blind or have life changing visual impairments. The charity works to aid and improve the lives of blind and visually impaired people in Huntingdonshire; it arranges social activities including a walking group. Walks are held every couple of months and are led by guides from CCC and HDC 'Walking for Health' scheme. One of the most popular walks is from the Leisure Centre in St Ives via the Thicket Path to the Mill Tea Rooms in Houghton. These groups of 12+ blind or visually impaired people (some of whom have guide dogs), each with a number of guides and volunteers, can be large, unwieldy and quite vulnerable.
107. This walk is not as enjoyable or stress-free as it used to be due to the hardened attitude of some cyclists, but the official guides know the rights of walkers on a public footpath. However if this protection is lost, Mr Rushton fears the Society's members will lose a favourite walk. Risk assessments for the activity would have to be reviewed.
108. As an example, one member who lives in Houghton lost most of his sight but can still see just enough to walk on his own, thereby retaining some independence. He used to walk several times a week along the Thicket Path to St Ives and back. However last summer he told Mr Rushton that he is now

²² Or 3.5m where groups use the way

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- too frightened to walk the route on his own because of speeding, often aggressive cyclists.
109. Mr Rushton is concerned that designation of the route as a cycle track would give some cyclists the impression it was 'their' path although he had no evidence to substantiate this.
 110. A resident of St Ives and a weekly user of the Order route, **Mr McKinnie** publishes details of public paths in the St Ives area to encourage use by the local community. Around 1,000 walkers receive his newsheet.
 111. He complained that the notices on site advertising the inquiry were easily missed since they had the appearance of fly-posters. Further there was no on-line access to view the Order or plans and attempts to see them at HDC's offices were unsuccessful. The Order itself lacks clarity insofar as it does not make plain which parts of the existing path will be converted to cycle track or whether there will be any segregation.
 112. Mr McKinnie drew attention to the lack of any impact assessment or risk analysis for the proposal. Currently the path is enjoyed by walkers, joggers, wheel chair users and considerate leisure cyclists. There are a small number of inconsiderate cyclists who pose a danger to other users. Although the three bollards mentioned in the Order have already been installed, these do not slow cyclists.
 113. There is already an adequate facility for cycling alongside the A1123 which has recently been improved. The proposed footpaths are inappropriate for a cycle track. Conversion will encourage additional cyclists to use the route. There is a risk that the average speed of cyclists will increase. Changing the status will change the priority, leading an increased number of cyclists to believe they have a right to travel the route at speed.
 114. Similarly, **Dr Cassells** found difficulty in getting information about the Order and therefore had not had sufficient time to make a full written submission. At the inquiry he explained he was encouraged to take up cycling when he first moved to Thicket Road because the Order route offered an excellent opportunity for journeys to St Ives. Although at that time the surface was bumpy, mostly because of tree roots, it was passable but not suitable for cycling at speed. However since the surface has been upgraded and is smooth, many cyclists appear to presume they have priority and are entitled to ride at speed.
 115. He has registered his objection, not because of a *perception* of conflict but because of *actual* conflict on the Order route and the routes leading to it.
 116. From his home, he is aware of the wide variety of traffic using the Thicket Path, especially at holiday time. When driving to and from his house he is well used to encountering families out walking and large walking groups of up to 30 people and consequently drives slowly as people courteously move aside (this being a single track road). However more recently he has found cyclists do not give way to cars here. The speed at which some cyclists are travelling makes emerging from his driveway onto Thicket Lane very dangerous.
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117. Whilst Dr Cassells wants to be supportive of cycling continuing along the Order route, since the upgrade it has become used by a different class of cyclist. In his submission, fast commuter cyclists need a different route. He wants to see some measures to make the route safer for everyone.
 118. In his experience, by informing inconsiderate cyclists that 'this is a public footpath', most will moderate their behaviour. He accepted that the signs proposed by CCC would help and may reduce the need for pedestrians to challenge individuals but only if backed up legally. Cyclists must be informed that they are to give way; in his view, if asked, most would comply.
 119. On other shared use routes nearby, for example the bridleway near the lock, both cyclists and walkers use this despite a section near Houghton Mill being only 1.5m wide. Horses do use the Thicket Path at present, always at walking pace, although Dr Cassells had not seen any through Thicket Wood. He believes 'bridleway' status would be the right option, at the very least up to the wood.
 120. Dr Cassells wants to see cyclists still able to use the path but not at the speeds that are being encountered at present. There must be a way to continue to use it in the way that occurred up to 2013 and some means by which speed cyclists can be required to moderate their behaviour.
 121. **Mr Stewart's** family have used the Thicket Path by bicycle for many years. He now uses the Order route on foot as part of a circular walk from home and on a bicycle. He notes that the Order route is already shown as part of the NCN Route 51 on the latest Ordnance Survey 1:25 000 map and, on its website, Sustrans indicates it as an off-road route for cycling although not as part of the NCN. Mr Stewart and his wife have not experienced any difficulties sharing the route with cyclists other than their silent approach from behind. He observes that single cyclists tend to be considerate towards walkers.
 122. He supports designation in such a way that walkers and cyclists can both legally use the route but without it becoming a bridleway but use by fast-moving groups of cyclists should be discouraged. However Mr Stewart is strongly of the view that section F-G should remain a footpath. Although the Order describes this part as being 2.5m wide, it is in fact 1.7m in places between walls and fences with lamp posts further reducing the available space. In addition, at point G the path meets Church Road at a blind corner with very short visibility. This section is wholly unsuitable as a cycle track.
 123. **Mr Fairclough** described the history of the route and the barrier which once stood across it at point D where three bollards are now positioned. He also gave details of an accident (before 2013) involving his wife falling off her bicycle on the uneven surface.
 124. In his view it is only fast cyclists that are a problem and that the speed of cycling has increased since the London Olympics in 2012. These cyclists do not appreciate the difficulties they cause for many local walkers. He suggests that measures such as controlled gates would deter speed cycling.

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125. **The Ramblers'** also register serious concern over the unavailability of information about this Order before the inquiry. The group recognises that, in practice, cyclists have used the route for many years but it has concerns that designation of a cycle track will increase the numbers of cyclists on the route and with this an increased risk of accidents, especially where the route narrows to 2.5m. The proposed signs advising on safe use are unlikely to be effective, particularly where large groups of pedestrians and cyclists are involved. If the Order is confirmed, signs advising cyclists that the route is shared and they should show care and consideration to others are requested.
126. **St Ives Town Council** is concerned about the level of information and consultation in the lead up to the inquiry. It is important that the Thicket Path is maintained as an unsegregated shared route. A code of conduct should be promoted to help prevent conflicts between cyclists and pedestrians. It further advises there are pinch-points and requests a separate assessment for the section F-G.
127. **Mr Gill** is a statutory objector but did not attend the inquiry. In his letter of objection he expressed the view that *"the quiet and pleasant character of the Thicket" pathway has already been compromised by re-surfacing and widening* which has led to *"it being treated as a race track by rogue cyclists who ride fully abreast to the peril of pedestrians who are quite literally forced out of the way. To formally designate it a cycle track ... would legitimise its usage as a cycle highway to the detriment of ordinary wayfarers."* He also submits that the cycle track beside the A1123 should be upgraded rather than designation of the Thicket Path.
128. In response to notice of the inquiry, a further **44 objections** were submitted in addition to the 3 statutory objections. All the points raised by these letters are broadly covered above. However it is worth noting in particular the contribution from Mr Jackson who uses the Order route with his wife for walks. He describes it as a long established 5 mile circular walk that is "very popular with those of advancing years who can enjoy the ever changing scenery and get good exercise. Also, Mr Scaife raises matters in relation to the Equality Act 2010, his view being that designation of a cycle track leading to an increased number of cyclists would be a breach of the Act as it would discriminate against the elderly and young pedestrians - groups who are least able to take avoiding action.
129. At the inquiry it was reported that an **online petition** on Change.org started by Mr J Hunt had (at that time) been signed by 698 supporters. Whilst the strength of feeling should not be dismissed, it is clear that the petition is based on a number of misunderstandings about the proposal. Nevertheless, it raises concerns over loss of amenity, in particular for families with young children, the elderly, joggers and dog walkers; the width of the route; breach of the Equality Act 2010; risk of injury and anti-social behaviour, the effect on the environment and the availability of an alternative route for cyclists.
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INSPECTOR'S CONCLUSIONS

130. Bearing in mind the submissions reported above, I have reached the following conclusions, reference being given in square brackets [] to earlier paragraphs where appropriate.
131. Section 3 of the Cycle Tracks Act 1984 does not set out any statutory tests that must be satisfied when deciding whether or not to confirm an order to convert a footpath into a cycle track.
132. The main issues likely to be of relevance here are (1) whether or not, and the extent to which, the proposed cycle track accords with national and local policies which seek to increase cycling as a means of improving public health, cutting carbon emissions and reducing traffic congestion, and (2) whether conversion to a cycle track would cause danger or inconvenience to the pedestrians who use it, and if so, whether the advantages of conversion outweigh any adverse effects.

Present status and implications of part conversion

133. All parties acknowledge that the Order route has been used for many more than twenty years by local cyclists despite its status being recorded on the definitive map as a public footpath since 1961 [for example 24, 73 & 82].
134. Although it was not the main focus of the inquiry, it is claimed that horse riders similarly have ridden along it sufficient to establish a public right of way for horses. That is now the subject of an application to CCC for a definitive map modification order to upgrade the status of Footpath 9 (St Ives) and Footpath 10 (Houghton and Wyton) to a bridleway [72].
135. It is not appropriate here to reach any conclusion on the likely result of that process but it should be noted that there are three possible outcomes. If the evidence is insufficient, it will remain a *footpath*; however with evidence of use from witnesses who have cycled along the route in addition to horse riders, this may (in certain circumstances) lead to a conclusion that a *bridleway* can be presumed to have been dedicated, as submitted by the BHS [73]. Alternatively, Section 68 of the Natural Environment and Rural Communities Act 2006 provides for twenty years use by cyclists to establish a *restricted byway*.
136. Whilst a footpath is a public right of way for pedestrians only, and a bridleway provides for pedestrians, horse riders and (by means of the statutory consent granted under Section 30 of the Countryside Act 1968) for non-motorised cyclists, a restricted byway is a way over which the public may pass on foot, on or leading a horse, and in or on a vehicle (including a bicycle) other than one that is mechanically propelled.
137. Consequently, *if* the outcome were to be a restricted byway, management of the route in future may need to accommodate non-motorised vehicles beyond the cycles that use the route at present. That remains speculation at this stage but the uncertainty over the true status of the Order route does have a degree of relevance.

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138. The definitive statement for Footpath 10 records the width of the highway as 9.14m (18 feet) [14] and CCC accepts that, although no equivalent measurement is noted for Footpath 9, it is said to be of similar dimensions (F-G excluded). In both cases the public right of way is considerably wider than the surfaced route which, according to the Order, varies between 2.5 and 3.0 metres. However in practice, the verges beside the tarmac strip are not easily available for use consistently throughout its length, in places being limited by earth banking, steep drops or vegetation.
139. Nevertheless, if this Order were to be confirmed so that part of the full length of the highway (the tarmac strip) became a designated cycle track, it is possible that this could (in theory) be shouldered by all types of non-motorised traffic alongside. That may be of little use to most pedestrians or cyclists who prefer to travel along the smooth tarmac surface, but if Footpaths 9 and 10 are ultimately upgraded to bridleways (at least) then horses could lawfully be ridden on the verges where these allow, again in theory.
140. The practicality of separating different types of user in a situation where a highway effectively carries two parallel streams of traffic based on differing public rights is not insurmountable (and occurs on most segregated shared-use routes), but in this informal setting with physical limitations in many places it would be a challenge. If the route is converted to a cycle track, the definitive status of the way as a footpath (or a bridleway or restricted byway) would continue to appear in green on Ordnance Survey maps, overlain by orange dots which are used to denote a "Traffic-free cycle route".
141. Whilst the cycle track is clearly intended to form the main axis for pedestrian and cycle traffic, the needs of all legitimate users of this highway need to be taken into account in deciding how best to accommodate them within the physical parameters of the route.
142. On a separate point, the BHS submitted that if the way is in fact a bridleway, then the Order cannot be confirmed because the legislation does not allow for the conversion of a bridleway to a cycle track [73]. There is no doubt that Section 3 of the 1984 Act enables conversion only in the case of "*any footpath for which they (CCC) are the highway authority*". However the definitive map and statement is regarded as conclusive evidence of the rights there shown at the relevant date without prejudice to the existence of other higher rights that may be shown to subsist. Unless and until the route is recorded on the definitive map and statement as a bridleway, the legally recognised status of the Order route is a public footpath [63]. There is therefore no impediment to confirmation of this Order whilst that remains the case.

The case for conversion

143. In strategic terms, the case for conversion of the Thicket Path to a cycle track is a convincing one. Since the late 1990s plans and policies have been produced by CCC and other authorities with support from Sustrans including this as a traffic-free cycle route, both as a commuter route between St Ives (and the Guided Busway to Cambridge) and Huntingdon and beyond and as part of the National Cycle Network Route 51.

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144. However arguments have been put forward to challenge the appropriateness of the Thicket Path as a commuter route [95]. Dr Green submitted that the cycle track alongside the A1123 is strategically more suited to this type of utilitarian cycling [101]. Whilst the point is well made, this option is not a particularly attractive proposition for cyclists, despite recent improvements. Unless significant alterations are proposed in future, this shared use converted footway beside the carriageway is unlikely to be preferred over a shared use traffic-free alternative through woodland, for safety, amenity or health, assuming a reasonable speed can be maintained.
 145. CCC submits that confirmation of the Order would legitimise the cycle use that is already taking place and has done for some years [26,27], but, as outlined above, conversion to a cycle track is not the only mechanism that could achieve this outcome [74]. CCC argues that this method would enable it to better manage use by the public, primarily through signage [52], yet this approach side-steps the question of horses on the route and how their 'unauthorised' use²³ is to be accommodated, if at all.
 146. A further point made by CCC concerns the standard of maintenance of the route in future. By recording the status of this route as a cycle track, as highway authority it will have a duty to maintain it to a standard suitable for cycling²⁴ [58]. Alternatively, if it remains a footpath, any works over and above those necessary to provide for the safe passage of pedestrians would be discretionary and resources cannot be guaranteed in future budgets.
 147. This is a persuasive argument but not one of sufficient weight to significantly affect the decision on whether to confirm this Order.

The points of objection

148. In principle, the overwhelming majority of objectors are content to see cycling continue on the Order route (for example Dr Cassells [117]). Besides walking, many cycle along the footpath themselves and some have done so for a great many years. Only Dr Green argued that the appropriate place for the development of a route for cycling is beside the A1123 with further improvement of the cycle track along the southern side of the carriageway, not this off-road alternative [100].
149. Before the surface of the route was upgraded significantly in 2013, the rough nature of the track inherently limited the speed at which cyclists could travel and it is reported that those cyclists who did persevere with the pot-holes were, by and large, respectful of the needs of pedestrians (and horses) so that conflicts were few [105,114].
150. Since the tarmac surface facilitated faster cycling speeds, many objectors have been disturbed by the increase in the number of cyclists and particularly concerned by the changed attitude and behaviour of some [90, 105, 116].

²³ Indeed horse use may prove to be entirely lawful if the definitive map modification order application is successful.

²⁴ As respects maintenance of a bridleway, the highway authority is under no obligation to do anything to facilitate use by cyclists (Section 30(3) Countryside Act 1968). However, given that a level tarmac surface has already been provided, the general obligation to maintain a highway suitable for the normal traffic using it may influence future decisions on the standard of maintenance appropriate.

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151. It can be hard to distinguish actual danger from that perceived by pedestrians from speeding cyclists. There is no direct evidence of accidents occurring since 2013 but several objectors mention of being wary of walking the path [103], of being startled by cyclists approaching silently without using a bell [88], and of near misses [103]. Some, and in particular Mr Rushton, voiced the serious concerns of vulnerable users of this well-loved path who fear being denied the pleasure of walking there because of the inconsiderate behaviour of a small percentage of cyclists [108]. The perception of danger is just as limiting for these people as any real risk.
 152. It is therefore surprising to find that there has been no comprehensive risk assessment carried out or impact analysis for the introduction of a cycle track here [112]. The comments of CCC's Road Safety Engineers (at Document 1.8) address several areas of concern where physical solutions (such as reflectorised bollards) are the suggested remedy and indeed these appear to have been carried out. In fact the Project Manager's comments dated 15 March 2013 recommended that if a change in legal status were to be considered, a full safety audit of the proposals be undertaken. That does not appear to have happened.
 153. Whilst the safety of cyclists has been addressed, no assessment of the impact on pedestrians appears to have been undertaken or practical measures to address the concerns of vulnerable users over fast moving cyclists (such as passing places where additional width can be provided, or practical measures to reduce cycling speeds) beyond the signs²⁵ proposed by CCC.
 154. In its Design Manual²⁶, Sustrans recognises (at 7.16) that excessive speeds by some cyclists using traffic free routes can be problematic to other path users. Education of users is said to have some effect but in many instances this will need to be complemented by physical measures such as signing and surface markings, speed bumps and rumble strips. No doubt such measures would be possible on the Order route but none have been proposed.
 155. As many objectors highlight, the width is indeed less than the recommended minimum in places [102]. CCC is nonetheless of the view that the route is suitable for a cycle track [43]. The advice referred to, both in LTN 1/12 and various Sustrans technical notes, varies according to the particular circumstances. In general the minimum is 2.5m -3m (which, F-G aside, can broadly be achieved) but this should be increased or may decrease according to traffic flows, types of user, adjacent features, the character of the route and various other factors.
 156. Although data collected by automatic counters recorded the numbers of cyclists and patterns of cycling between 2015 and 2016 [22], there is no clear picture of the balance of user or the total numbers of people involved. Neither are there any forecasts of the additional numbers likely to use it if NCN Route 51 is officially directed along the Thicket Path.

²⁵ These signs state "Share with care – CYCLISTS: slow down, sound bell, give way; PEDESTRIANS: don't block the path". Several witnesses also highlighted the effectiveness of signs on the nearby 'Guided Busway' bridleway which depict stylised users along with the word "RESPECT".

²⁶ Sustrans Design Manual • Chapter 5: Traffic free routes: conceptual design (2014, draft)

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157. To an extent, CCC must be correct insofar as much of the expected change will have taken place already: the upgraded surface has been provided, cyclists have discovered it, more now use it, and it has already been promoted as a cycling route through many channels. It seems that this has simply added to the feeling amongst many objectors that the path they enjoyed as a quiet and safe country walk has been hijacked by fast moving, inconsiderate cyclists without any forethought or proper assessment of the implications.
158. Points have been raised by objectors in relation to the disproportional effect cycle track designation would have on vulnerable users or particular groups [81, 93, 95, 106]. The duties placed on all public sector bodies under the Equality Act 2010 are particularly relevant here.
159. As noted by LTN 1/12 (1.13): *"Shared use schemes are often implemented to improve conditions for cyclists, but it is essential that they are designed to take into account the needs of everyone expected to use the facility. Poorly designed schemes, and schemes where the available width is insufficient to comfortably accommodate the expected flows of pedestrians and cyclists, are likely to reduce the amenity value of the route."* It continues (1.14): *"Disabled people and older people can be particularly affected by shared use routes. Ultimately, however, it will depend on the quality of the design. Consideration of their various needs is an important part of the design of shared use, and the duties under the Equality Act 2010 are particularly important."*
160. It is pertinent to note that in CCC's Report of 30 January 2013 (Document 1.4) no mention was made of the Council's duties under the Equality Act 2010 or its relevance to the proposed cycle track. That is not to suggest that CCC has paid no attention to the needs of vulnerable users but there is little evidence to support any assessment of the full effects of designation or the improvement works.
161. The increase in numbers of people cycling the route is understandably seen as a great success when judged in terms of the strategic aims of this cycle track order [57]. However it is also clear that many of the objectors express serious concerns over the impact this is having on certain vulnerable groups and individuals [78, 93, 106]. It may well be the case that much of this fear is not founded in fact but at present there is little survey material (other than general research²⁷) to investigate the experience of users of the Thicket Path in order to show whether their concerns are (or are not) groundless.
162. The evidence to show that the relevant requirements of the Equality Act 2010 have been considered is sadly lacking.

Suggested alternatives to the Order

163. Full details of all the options considered by CCC were not provided. Those raised by the objectors included an agreement with landowners to provide for cycling on a permissive basis or a creation order (under Section 26) to create a public bridleway [74, 89].

²⁷ See Document 1.10

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164. At the inquiry particulars of land ownership could not be produced but it was reported that parts are unregistered and the owner(s) unknown²⁸. Without landowning parties to enter into an agreement, there is no realistic possibility of this option being pursued.
 165. CCC rejected the suggested creation of a public bridleway by order, primarily on the grounds that the width of the route is unsuitable if the shared use is to include horses, being below the 4m recommended by the BHS [46]. Yet the BHS is justified in its criticism that CCC has not seen the need to address the status of the Thicket Path as an opportunity to fulfil one of the aims of its ROWIP [76] by recognising the need for an off-road route for horse riders as well as cyclists. Both are vulnerable road users; arguably here horse riders may be more so, given that the A1123 is not a realistic option for riding [75].
 166. Whilst the point has been made that this Order cannot result in a bridleway, nor can this Report direct CCC to that as a solution, it must be acknowledged that even if part of the present footpath is upgraded to a cycle track, the full width of the historical highway *may* subsequently be found to carry higher rights. Even if not, the remaining width of Footpath 10 (6.14m) and Footpath 9 (unquantified) does not appear to have been surveyed to establish the practicality of providing for path users besides those using the tarmac strip.

Conclusions

167. There is a strong case for the designation of an off-road route between Houghton and St Ives that would provide a convenient facility for commuter journeys by bicycle, leisure cycling and as part of the NCN Route 51. The Thicket Path is the most obvious candidate. In effect, this footpath has already been converted in as much as the surface has been upgraded and it is currently promoted in many places as a cycle route [54, 73, 121].
168. To that extent, the effects of designation are being experienced already. There is no need to forecast what might happen: it has been happening since 2013. The quantifiable data to monitor the change is limited to cycle counters between 2015 and 2016 which tend to show week-day peaks at commuter times, suggesting the route is fulfilling at least one of its aims. The evidence from long-standing users of the path say cycling numbers have risen but it is the change in the type of cyclists that causes the greatest concern with cycling speeds having increased significantly, facilitated by the better surface.
169. It may be tempting to embrace the argument that, since the effects of the cycle track are already being experienced, the Order might as well be confirmed so that the issues and concerns raised by objectors could then be dealt with through better management of the route as a whole. This might include signage as proposed by CCC [52], or physical measures such as those identified in the Sustrans Design Manual [154] to moderate cycling speeds. However such an approach would disregard all the checks and balances normally a part of the groundwork leading to formal designation.

²⁸ In CCC's "Report on the proposed creation of a cycle track over part of the width of the public footpath known as Thicket Path" dated 30 January 2013, paragraph 6.1 stated "Every landowner was also consulted." However this may be a reference to adjacent landowners, rather than ownership of the path itself.

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170. In fact there is no evidence of any impact analysis or risk assessment. There is no data available to indicate user numbers, type or flows, either at present (aside from the 2015/16 figures) or any forecasts of any expected increase in cycling numbers. There is insufficient evidence to know whether the fears of many vulnerable users over the dangers of inconsiderate cycling are backed up by fact, nor any measures proposed to address these concerns beyond signs.
171. Without such information it is not possible to properly assess whether or not the width available will meet the relevant minimum standards promoted in the available guidance.
172. Although width is clearly a fundamental factor in determining the acceptability of this route as a cycle track, the uncertainty over the status of the present highway (the definitive footpath) raises questions for future management of the route that cannot yet be answered. The public's rights extend beyond the 3m tarmac strip, yet the extent to which the verges are actually available for use is quite limited (or non-existent) in places. The acceptability of shared use along the Thicket Path needs to take into account all the likely users and all the available highway.
173. From the material that has been submitted to the inquiry and from my inspection of the route, I find no incontrovertible reason why the Order route could not be shared by pedestrians and cyclists if suitably managed to address the concerns of its users, especially those most vulnerable. After all, the route itself is relatively level and straight with good forward visibility for most of its length. I do, however, have serious concerns over whether the section F-G is sufficiently wide to accommodate both types of user but without establishing present and forecast levels of use, daily and weekly flows and associated safety risks, I hesitate to dismiss the possibility altogether.
174. It is my conclusion that the absence of sufficient information about current and anticipated use, and users, of the Order route, and the uncertainty over the range of lawful user groups, leaves the question over the adequacy of its width unanswerable at the present time and that therefore it is premature to confirm this Order, despite the length of time that has passed since it was made. That is not to accept that to 'do nothing at all' is the solution here [45, 48, 98] but simply that a cycle track has not been shown to be justified on the facts currently available.
175. However if the decision-maker accepts the argument that the proposed cycle route has already come into effect in practical terms and takes the view that the Order should be confirmed, it is recommended that the modification sought by CCC (the correction of the grid reference for point E) [12] is made.

OTHER MATTERS

176. A late letter forwarded after the close of the inquiry from **Cambridgeshire Local Access Forum** noted the group's opposition to the Order. Although it is normal practice to return late correspondence, and to take no account of it in the Report, in this case the issues of concern have all been raised by others and noted above.

RECOMMENDATION

177. I recommend that The Cambridgeshire County Council Public Footpath No.9 Saint Ives and Public Footpath No. 10 Parish of Houghton and Wyton Cycle Tracks Order 2014 is not confirmed.

Sue Arnott

INSPECTOR

APPENDIX A: APPEARANCES**In support:**

Mr C Ormondroyd Of Counsel, representing Cambridgeshire County Council

Who called

Mr S Oudit Definitive Map Officer, Cambridgeshire County Council

Mr P Joyce County Cycling Officer, Cambridgeshire County Council

Mr R C S Wilson Formerly Sustrans Area Manager for Cambridgeshire County Council

Also in support:

Mr C Saunderson Resident of St Ives

Mr A Williams Resident of St Ives

In Objection:

Ms A Balfour-Lynn Representing the British Horse Society

Dr D Green Resident of St Ives

Mr N Rushton Representing Huntingdonshire Society for the Blind

Cllr Mr P Boothman Representing Houghton & Wyton Parish Council

Mr J McKinnie Resident of St Ives

Dr J Cassells Resident of Houghton

Mr D Stewart Resident of Hemingford Grey, Huntingdon, PE28 9EP

Mr S Fairclough Resident of St Ives

APPENDIX B: DOCUMENTS SUBMITTED TO THE INQUIRY

- 1 Inspector's Dossier containing:
 - 1.1 Cambridgeshire County Council's Statement of grounds for confirmation of the Order and comments on objections
 - 1.2 List of organisations and individuals consulted
 - 1.3 Responses from consultees
 - 1.4 Cambridgeshire County Council Report on the proposed creation of a cycle track over part of the width of the public footpath known as Thickets Path
 - 1.5 Cycle Tracks Order and Plans
 - 1.6 Notice of the Order
 - 1.7 Copies of statutory and other objections and associated correspondence
 - 1.8 Safety comments provided by Cambridgeshire County Council
 - 1.9 St Ives Market Town Transport Strategy
 - 1.10 Research Notes 32 & 69 published by the Countryside Agency in March 2001 and June 2003 respectively
 - 1.11 Proposed Thicket Path sign
 - 1.12 List of additional information provided by Cambridgeshire County Council
 - 1.13 Notice of inquiry
- Submitted at the inquiry:*
2. Opening statement on behalf of Cambridgeshire County Council
 3. Proof of evidence of Mr S Ouditt
 4. Proof of evidence of Mr M Joyce
 5. Statistics downloaded from cycle counter: Thicket Path Weekly Cycle Counter Data (May 2015-Aug 2016) and Average Hourly Cycle Counter Data (Feb-July 2016)
 6. Extracts from current and previous definitive map and statement for St Ives and for Houghton and Wyton
 7. Copy of Department of Environment decision letter dated 27 January 1988 determining appeal under Schedule 14 of the Wildlife & Countryside Act 1981 into claimed upgrading to bridleway of the Thicket Path

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8. Main details of objection supported by signatories to the Change.org online petition set up by Mr J Hunt
 9. Copy of Links to Communities - Memorandum of Understanding between Sustrans and the Department of Transport in relation to works to the Thicket Path, St Ives
 10. Copies of The National Cycling Network: Cambridgeshire Cycling Study Main Report by Sustrans (February 1997) & The National Cycling Network in Cambridgeshire: Preparing for 2005 Report by Sustrans (August 2001)
 11. Closing submissions on behalf of Cambridgeshire County Council
 12. Statement of Mr C Saunderson
 13. Statement of case presented by Ms A Balfour-Lynn on behalf of the British Horse Society
 14. Closing submission on behalf of the British Horse Society
 15. Submission of Dr D Green dated 30 January 2017
 16. Written submission of Mr N Rushton
 17. Written submission of Mr Boothman for Houghton and Wyton Parish Council
 18. Extract from Sustrans Technical Information Note No. 19 "Segregation of Shared Use Routes" submitted by Mr Boothman
 19. Extract from Sustrans Design Manual Chapter 5: Traffic free routes – conceptual design (draft) December 2014 (submitted by Mr Boothman)
 20. Correspondence relating to use of the Thicket Path and copies downloaded from Change.org petition opposing the Order (submitted by Mr Boothman)
 21. Email dated 20 March 2017 from Dr J Cassells with attached photograph
 22. Letter to Inspector dated 20 March 2017 from Mr D Stewart
 23. Written submission of Mr Fairclough
 24. Letter to Inspector dated 21 March 2017 from Mr Rossin on behalf of Huntingdonshire Ramblers
 25. Letter to Inspector dated 22 March 2017 from St Ives Town Council

Submitted after the inquiry:

Letter to Cambridgeshire County Council dated 27 March 2017 from Cambridgeshire Local Access Forum