

Application Number

P/2014/0608

Site Address

Land At Rainbow Drive/Queens Wood
Shiphay Lane
Torquay
Devon

Case Officer

Mr Robert Pierce

Ward

Shiphay With The Willows

Description

Construction of new 2.5m wide shared use tarmac cycleway from Shiphay Lane to Crownhill Rise

Executive Summary/Key Outcomes

As part of Torbay Council's Local Sustainable Transport Funding it is proposed to provide a cycle route from Torbay Hospital to Torquay Harbour linking to the new Ferry service to Brixham. This application is for the section of the cycle route from Shiphay Lane to Crownhill Rise along land which is owned by Torbay Council.

The key issues are the principle of allowing the development within a woodland setting, the visual impact of the development, accessibility, the impact on residential amenity and ecological considerations.

The scheme offers a significant opportunity for Torbay to continue to develop and improve the cycling network. It is considered that the benefits to the community offered by the scheme offsets any harm to the woodland setting which is designated as an Urban Landscape Protection Area, Wildlife Corridor and a Locally Important Wildlife Site.

The application is not considered to have a detrimental impact in ecological terms, it would not be visually intrusive and it would not have any adverse impact on residential amenity.

Recommendation

Conditional approval.

Statutory Determination Period

8 Weeks (21st August 2014)

Site Details

This is a linear site approximately 710 metres in length and is bounded to the east by the railway line and to the west by woodland (Queens Wood) with residential beyond. The entrance to the cycle route would utilise the existing driveway next to the railway bridge on Shiphay Lane through the Rainbow Estate towards Rowcroft Hospital. Half way along the driveway the cycle path would divert down to the lower level of Queens Wood where it would rejoin the existing unmarked footpath, which runs parallel to the railway line where it would exit out along the existing access lane between the houses onto Crownhill Rise.

Detailed Proposals

The cycle path would commence in 'contra flow' off Shiphay Lane along the existing tarmaced driveway through the Rainbow Estate towards Rowcroft Hospice. In order for it to traverse the significant change in gradient, it would require the formation of an embankment of varying height of between 0.3 metres and 2 metres. The embankment enables the formation of a 2.5 metre wide length of cycle path with a bituminous tarmac surface and retained by stone gabion baskets. It would descend over a distance of 200 metres at a gradient of 1 in 10 towards the lower level of Queens Wood protected to the side by a 1.4 metre high post and rail fence. It would then rejoin the existing footpath which would also be surfaced in bituminous tarmac at a width of 2.5 metres when it would finally connect into the existing access lane out onto Crownhill Rise. If costs allow there would be low level lighting at agreed locations along the cycleway. The application is supported by an Extended Phase 1 Habitat Survey, a Bat Activity Survey and Dawn-Re-entry Survey of Tree - Interim Report and an Arboricultural Impact Assessment Report (AIA).

Summary Of Consultation Responses

Arboricultural Officer: Agrees with the contents of the AIA which defines tree, species, quality, overview of risk posed and preliminary tree protection plans.

The AIA was prepared at an early stage of the process and serves to support the planning application. The present use of the footpath element of the scheme and vehicular portion along Rainbow Drive is relatively light in footfall and traffic movement, therefore tree management to date has been of low priority and works have been reactive and ad hoc. The change to a shared use cycleway will introduce a significant increase in risk posed by the trees to users of the path.

Cyclists travelling at greater speeds than pedestrians will have less time to react to any fallen/ falling parts and increased use by pedestrians, increasing periods of occupancy under trees dramatically. Given this increase in risk there is a requirement to re-categorise management levels. All trees that may pose a risk of falling across the cycleway will require detailed inspection prior to opening and any tree works resultant must be implemented to ensure compliance with duty of care. A period of 5 years inspection and management should be provided for by

the scheme as the construction implications upon tree health may not evidence within early years given trees often slow response to changes of soil levels, water flow, soil structure compaction and so on.

Where trees are proposed to be removed to allow the build, provision for replacement should be made of species in accordance with habitat retention and improvement objectives on a like for like basis in terms of numbers.

The 1st phase of the cycle way at the hospital end used a method of construction that would readily transfer across to this scheme in tree terms.

On aesthetic and practical grounds the use of long straight runs is discouraged to prevent excessive speed and to allow the cycleway to present a more natural appearance.

Recommendation

That the scheme be suitable for approval on arboricultural merit subject to a pre-commencement condition which updates the AIA to include various tree protection/replacement measures.

Natural England: Advises that the proposal is unlikely to affect any statutorily protected sites or landscapes. The application was not assessed for impacts on protected species and Standing Advice on protected species applies.

RSPB: No concerns in relation to adverse impact on birds providing all removal of bramble, other scrub and trees avoids the period March to August. Generally supportive of the mitigation measures set out in Extended Phase 1 Habitat Survey and the Bat Activity Survey and Dawn Re-entry Survey of Tree - Interim Report but raise the following concerns and recommendations :

- 1) The results of the summer and autumn bat surveys should be made available before any development commences.
- 2) All lighting should minimise spill and Lux levels and any new lighting should be designed and installed to avoid illumination of currently dark areas away from the path itself.
- 3) Removal of vegetation during the construction period should avoid the bird nesting season (March to August inclusive).

Network Rail: No objection in principle but the requirements for the safe operation of the railway and the protection of Network Rail's adjoining land are as follows:

- 1) If not already in place Torbay Council must provide at their expense a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing/wall must

not be removed or damaged.

2) Additional or increased flows of surface water should not be discharged onto Network Rail land or into Network Rail's culvert or drains. Soakaways should not be constructed within 20 metres of Network Rail's boundary.

3) Any lighting associated with the development must not interfere or give rise to confusion with train drivers vision or signalling.

Police Architectural Liaison Officer: The route should remain as straight as possible so the user can see what is ahead and/or behind. Consideration will need to be given to the type of planting/landscaping next to the route (if applicable). It should not be able to encroach onto the path, hinder surveillance or create hiding places. Taller planting can be used further back from the route. The route should be well maintained to encourage surveillance.

There are two schools of thought with regard to lighting - If the route (or part of it) is lit, it could give a false sense of safety/security if there is no surveillance but with no lighting it may result in the cycleway being underused with the user choosing another route as they won't feel safe in the darkness. Lighting only works well where surveillance supports it. A compromise to encourage use during winter months (dark mornings and late afternoons) could be for lighting to be installed by only being activated at certain times.

It is preferred the route does not run to the rear of dwellings or provide access to rear gardens, (if applicable and wherever possible) as these have been proven to generate crime.

If the route becomes isolated at any point it should be at least 3 metres wide (to allow people to pass without infringing personal space and to accommodate passing wheelchairs)

Before placing any seating (or structures capable of being sat upon) next to the route, the context in terms of the physical and social environment should be considered. Seating can be a valuable amenity or become a focus for anti-social behaviour, whereas at a different point on the same route, perhaps with better natural surveillance, it may be trouble-free. Where existing seating (if applicable) appears to be a problem, relocation is often an option worth exploring in order to retain some seating.

Engineering/ Drainage: Comments awaited

Torbay Coast and Countryside Trust: Comments awaited.

Summary Of Representations

None

Relevant Planning History

None directly relevant.

Key Issues/Material Considerations

The Key issues in relation to this application are:

1. The Principle of the Development
2. Visual Impact
3. Accessibility
4. Impact on Residential Amenity
5. Impact on Ecology

1. The Principle of the Development

The principle of the development is acceptable and accords with Local Plan Policies TS and T3. The application site is linear in nature and currently provides a recreational walking route through a woodland setting. The proposed cycleway would not only provide a new and safe "off road" cycling route which would link in with the rest of the cycling network, it would also result in an improvement to the existing route for walkers. The new cycle track would not harm the value of the area as an open element within the townscape and the contribution it makes to the quality of the urban environment. Whilst the proposal involves the formation of a 200 metre length of retained embankment, subject to the use of natural stone gabions or similar then the essential natural landscape features of the area would be preserved. Therefore, the proposal also accords with Local Plan Policy L5 (Urban Landscape Protection Areas).

2. Visual Impact

This is a linear site predominantly located in a woodland setting and, subject to low level lighting, the impact of the development, in visual terms, is not considered significant. Apart from the formation of the embanked section, the works proposed are minimal and well screened along the side of the railway. It is considered that natural stone gabion baskets retaining the embanked section would blend into the background of the woodland environment. The proposed cycleway is therefore considered to be acceptable in visual terms and would not result in any serious harm to the Urban Landscape Protection Area.

3. Accessibility

Access at each end of the site would be provided via existing entrances from Shiphay Lane and Crownhill Rise. It would therefore be very accessible for cyclists, particularly those coming across Shiphay Lane from the new cycle track that links to the Hospital.

4. Impact on Residential Amenity

It is not considered that the proposed cycle track would have an adverse impact on residential amenity. Most of the route is positioned well away from residential properties within a woodland setting. It is only at the Crownhill Rise entrance/exit

where it runs alongside three houses. However, this is already a well established pedestrian route and therefore use by cyclists passing through would not be disruptive to residential amenity.

5. Impact on Ecology

There has been substantial assessment of the potential impacts of the scheme from an ecological and wildlife perspective. This is due to a range of potential constraints within the site, including a Wildlife Corridor and Locally Important Wildlife Site, and the use of the area by protected species (specifically Bats) and the wider role of these areas in relation to biodiversity.

Consultation responses have been received from Natural England and RSPB which do not object, subject to matters that can be addressed by condition and Natural England standing advice. Each of the supporting documents provide recommendations which would improve the scheme from an ecological perspective, including: habitat creation; provision of bird and bat boxes; a management regime which should maintain the mosaic, scrub and rough grassland (subject to consultation with Torbay Coast and Countryside Trust); and the creation of habitat piles to provide sites for invertebrates, amphibians, reptiles and small mammals. These elements are again a significant enhancement to the scheme. These elements would need to be incorporated into a wider Landscape and Ecological Management Plan (LEMP), which would be conditioned as part of the planning permission.

The Bat Activity Survey also identifies the sensitivity to light spill which can impact upon the use of the area by Bats. In this respect, where possible, new lighting associated with the cycle path should be designed to limit light spill. Ideally this should be achieved through the use of appropriate luminaire accessories such as hoods, shields and louvres. Limiting lighting within the site would allow bats to continue to forage/commute through the site, in particular lesser horseshoe bats which are particularly sensitive to light and require the maintenance of dark corridors.

In conclusion, while there are issues surrounding the development from an ecological perspective, the scheme delivers significant benefits, which alongside a detailed management strategy would deliver significant ecological improvements to the site and wider area.

S106/CIL -

N/A

Conclusions

The scheme offers a significant opportunity for Torbay to continue in its ambition to provide enhanced cycling facilities within the Bay. The impacts of the provision of the facility are able to be appropriately controlled via detailed conditions. This is specifically important to the way the environmental benefits are secured.

Subject to the detailed conditions set out the application is recommended for conditional approval.

Condition(s)/Reason(s)

01. The development hereby approved shall not commence until a detailed Landscaping and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority, the development shall thereafter be undertaken and maintained in strict accordance with it. The LEMP shall include the details and implementation of the recommendations of the Approved Extended Phase 1 Habitat Survey, Bat Activity Survey and Dawn Re-entry Survey of Tree - Interim Report.

Reason: To ensure the protection of a Wildlife Corridor, a Locally Important Wildlife Site and surrounding area for Bat foraging and flight paths, the nesting of birds and in accordance with saved Policies EPS, EP5, NCS, NC4 and NC5 of the Adopted Torbay Local Plan 1995-2011 and section 11 of the NPPF.

02. The use of the cycleway hereby approved shall not commence until all of the requirements set out in Network Rail's Letter dated 10th July 2014 in respect of 1) Fencing, 2) Drainage, 3) Safety and 4) Lighting have been fully incorporated and complied with. Details of these elements shall be submitted to and approved in writing by the Local planning Authority prior to their installation.

Reason: To ensure that the use of the cycleway does not interfere with the safe operation of the railway and that Network Rail's land is adequately protected and in accordance with saved Policy T3 of the Adopted Torbay Local Plan 1995-2011 and the requirements of Paragraph 4 of the NPPF.

03. The development hereby approved shall not commence until the Arboricultural Report submitted with the application has been revised to ensure inclusion of the following matters:- A Method statement for construction within the rooting zones of trees which amplifies the requirement that no machinery leaves the approved work area to enter the defined root protection zones at any point within the build.- A Programme of arboricultural supervision at key junctures in the build to be reported back to the Authority.-A Landscape plan for native mitigation planting including 5 year maintenance period to replace losses and adjust supports.- Provision of budgetary support for a detailed tree survey of all trees in full length of the cycleway including undertaking of tree works prescribed for a 5 year period post completion. The revised Arboricultural Report shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development hereby approved. The development shall be carried out fully in accordance with the revised Arboricultural Report.

Reason: To ensure that all existing trees along the length of the cycleway are adequately protected while the development is in progress and to ensure that landscaping as approved is allowed to become established and to comply with the objectives of saved Policy L9 of the Adopted Torbay Local Plan 1995-2011.

04. No lighting shall be installed along the cycle track without the prior approval of the type and specification of lighting by the Local Planning Authority. The lighting shall be installed as approved.

Reason: To ensure the protection of Wildlife Corridor and surrounding area for bat foraging and flight paths, and in accordance with saved Policies EPS, EP5, NCS, NC4 and NC5 of the Adopted Torbay Local Plan 1995-2011 and section 11 of the NPPF.

Relevant Policies

- BES Built environment strategy
- BE1 Design of new development
- NC3 Protected sites - locally important site
- NC4 Wildlife Corridors
- LS Landscape strategy
- L5 Urban Landscape Protection Area
- TS Land use transportation strategy
- T3 Cycling
- L9 Planting and retention of trees