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**Meeting:** Development Management Committee

**Date:** 29 February 2012

**Subject:** Creation and extinguishment of public rights of way at Poppy Hill Lakes in Henlow and Langford

**Report of:** Head of Service for Transport Strategy and Countryside Services

**Summary:**

1. Members are asked to consider the making of public path orders to extinguish Langford Bridleway No. 5 which is obstructed by a fishing lake and to create a new bridleway to connect Langford with Henlow.
2. Members are also asked to approve the making of a public path order to create a new public footpath to run between two of the Poppy Hill Lakes and across the River Ivel to the Millennium Field in Henlow.

The proposals would require the construction of a new footbridge over the River Ivel and significant surfacing works to enable the new bridleway to be utilised as a cycle route.

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**Advising Officer:** Trevor Saunders, Assistant Director of Planning

**Contact Officer:** Adam Maciejewski - Definitive Map Officer - Countryside Access Team - 0300 300 6530

**Public/Exempt:** Public

**Wards Affected:** Arlesey and Stotfold & Langford wards

**Function of:** Council

#### **CORPORATE IMPLICATIONS**

##### **Council Priorities:**

The proposals reflect the statutory duty of Council as Highway Authority to assert and protect the rights of the public to use public highways.

The proposals also will facilitate sustainable transport links between Langford and Henlow Middle School which will help with educating, protecting and providing opportunities for children and young people. The proposal will provide a better surfaced cycle route between Henlow and Langford with improved visibility thus providing a safer community and will promote use of a variety of circular routes leading to healthier lifestyles.

**Financial:**

1. The Council has a legal duty to assert and protect the rights of the public to enjoy a right of way. Currently the route of Langford Bridleway No. 5 is obstructed by a fishing lake and other minor obstructions. The cost of taking enforcement action against minor obstructions would be recoverable from the obstructers. It would be unreasonable to expect the reinstatement of the path across the lake, which could cost at least £100,000, and would involve a pontoon bridge or draining the lake. The Angling Club have stated that draining the lake may be an option, but it this is not supported by officers and other environmental organisations as it would severely impact on the biodiversity of the area.
2. The advertising of legal orders, counsel's representation and potential public inquiry costs for the proposal are likely to be in the region of £4000 - £5000.
3. Whilst potential compensation payable to the landowners is envisaged to be comparatively minor and, (at the time of writing – February 2012) estimated to be in the region of £10,000, it is likely that any initial claim would be far higher. Any resolution of a disputed compensation claim will have to be resolved through the Lands Tribunal with its associated costs. The Council is commissioning an independent valuation to be presented verbally to the committee.
4. The level of works associated with the proposal is significant and includes: vegetation clearance, ground-works, surfacing, and the construction of a new river bridge. The total cost for the works is anticipated to be £100,300 – £112,300 + 10% contingency. A full breakdown of this cost can be found at Appendix C.
5. Funding for the works will be provided from a number of internal and external sources. It is hoped that 50% of the costs will be found from external sources. The following figures are indicative only.

Central Bedfordshire Council funding will include:

- CBC Capital (from 2012/13 and 2013/14 Rights of Way and Countryside Sites £250k Health and Safety works allocation – or a separate capital bid) of £60,000
- CBC Rights of Way 2012/13 revenue budgets of £ 20,000

External sources to make up the shortfall will include:

- Section 106 funding
- Parish Council
- Local P3 groups

**Legal:**

6. The Council has a legal duty under Section 130 of the Highways Act 1980 to assert and protect the right of the public to use and enjoy any highway for which they are the highway authority,. Currently the route of Langford Bridleway No. 5 is obstructed by a fishing lake and other minor obstructions.

7. Whilst the removal of minor obstructions is a reasonable activity for the Council to undertake, the removal (by infilling or by construction of a pontoon bridge) of the fishing lake is considered unreasonable and financially disproportionate due to the availability of alternative routes around the lake. Moreover, infilling of the lake would require consents for landfilling from both the Council and external bodies, including the Environment Agency.
8. External Counsel's opinion indicates that the extinguishment of the bridleway without provision of alternative public access to the lakes area would be contrary to the Council's duty under Section 130 of the Highways Act 1980. The use of Section 26 of the Highways Act 1980 by the Council to compulsorily create alternative public access over the lakes area, and thence by a new river bridge to the Millennium Field, is therefore justified although the Council must have regard to the effects of the new path on the land owners.
9. The owner of the affected fishing lakes has, until recently not consented to the creation of any public access over the lakes area. However, the route that has been suggested by the owners is unacceptable to the Council due to its proximity to an existing right of way, lack of connectivity and lack of compensation for the lake views lost. Any objection to the proposed creation orders would mean that the Council could not confirm the orders as unopposed orders, and would have to forward them to the Secretary of State for Environment, Food, and Rural Affairs to confirm - providing they met the legislative tests. To be successful, any challenge to the Council's actions by way of judicial review by the High Court would have to demonstrate that the Council's actions are unreasonable or outside of the Council's legal powers. Generally, the court is not concerned with the merits of the decision but rather with the lawfulness of the decision-making process, that is, how the decision was made and the fairness of it.
10. Section 28 of the Highways Act 1980 gives any land owner or person with a legal interest in the land the right to claim compensation from the Council if a public path order is confirmed. However, the level of compensation should take into consideration any gain to that person by the extinguishment of any existing public rights of way.
11. If the Council does not assert the public's right to use the obstructed bridleway Henlow Parish Council will serve notice on the Council under Section 130A of the Highways Act 1980 requiring the Council to act to remove the obstructions. If the Council does not remove the obstructions the Parish Council can make an application to the Magistrates Court for an order for the Council to remove the obstructions.

**Risk Management:**

12. The proposals will be managed under the PRINCE 2 procedure for project management in order to minimise any issues arising from delivery of the works needed for the project.

13. Specific risks which have been identified include:

Reputational Risk.

The proposals seek to resolve a long-standing standoff between local Parish Council and the land owners which has so far resulted in three public inquiries and significant costs being awarded against the former County Council. The proposals have local support and the support of national organisations: the British Horse Society and the Ramblers; but with opposition from the key land owner. Should the proposals go ahead the Council will receive significant press interest.

Legal challenge/Court action:

There is a risk of legal challenge and potential court action.

Failure to discharge statutory responsibilities:

Including Section 130 of the Highways Act 1980,

Financial risks:

There is a risk of not securing the funding for the project.

There is a risk of failure to deliver within the estimated cost.

There is also the risk of the level of expenditure required for the proposal being publicly scrutinised when cheaper alternatives are available.

**Staffing (including Trades Unions):**

14. Not Applicable

**Equalities/Human Rights:**

15. Under Section 6 of the Human Rights Act 1998 it is unlawful of the Council to act in a way which is incompatible with a human right - although this requirement is subject to the aims and requirements of any primary legislation. Individuals and businesses have a right to privacy and security. However, the Council has a legal duty to ensure that public rights of way are open and available for use by the public. Moreover, case law and the Highways Act 1980 dictate that the Council has only a limited amount of flexibility within which it can comply with its duties. This has been confirmed by independent legal advice.

16. The proposals seek to impact on the privacy and security of an angling association by asserting the public's right to use an alternative route to an existing public bridleway. This infringement has, however, to be balanced by the impact on the angling association by the Council enforcing the existing legal line of Bridleway No. 5 through one of its fishing lakes. The perceived disturbance of the anglers must thus be weighed against the potential removal of their fishing lake.

17. The proposals seek to create new and alternative public rights of way to those currently in existence. The new routes will have improved surfacing and all structures will be Equality Act 2010 compliant to facilitate use by mobility impaired users.

**Community Safety:**

18. Currently there is no recorded legal right to cycle off-road between Langford and Henlow. The proposal seeks to create a bridleway from Common Road, Langford to Church Road, Henlow thus providing an off-road cycle link between the two villages.

**Sustainability:**

19. The proposal seeks to create an off-road cycle link from Common Road, Langford to Church Road, Henlow which can be used as a safe route to school and will go part-way to providing a sustainable transport route between Henlow and Langford and Arlesey as well as linking in to new cycle routes within Henlow village. The proposal would also contribute to efforts to reduce congestion, especially around school drop-off time as it provides a safe route for cycling.

**Procurement:**

20. The requirements for this project are classified as “Works” and their estimated value is below the EU threshold. The proposal is being managed in accordance with PRINCE 2 principles - with an associated Project Initiation Document and project board. A specification and tender documents will be prepared in accordance with the procurement toolkit and an appropriate form of construction contract will be included (by agreement with Legal Services).
21. A competitive tendering exercise will be conducted (in accordance with the procurement procedure rules 2012) to select a contractor for the proposed bridge works (the project’s major cost). Evaluation will be based on the most economically advantageous tender being chosen. Other associated minor works (below £20k estimated value) may be allocated by obtaining quotations.

**RECOMMENDATION(S):****The Committee is asked to:**

- 1. Approve the making of a Public Path Extinguishment Order under Section 118 of the Highways Act 1980 to extinguish parts of Langford Bridleway No. 5 between points C-Y-Z-E-F on the grounds that it is not needed for public use due to the concurrent creation of an alternative bridleway and footpath.**
- 2. Approve the making of a Public Path Creation Order under Section 26 of the Highways Act 1980 to create new sections of Langford Bridleway No. 5 between points A-B and C-D in Langford and between points D-M-E-F and G-H-I in Henlow over existing sections of public footpath. The new bridleway would require surfacing works along various sections.**
- 3. Approve the making of a Public Path Creation Order under Section 26 of the Highways Act 1980 to create a new section of public footpath between points M-N-O in Henlow to connect the new bridleway on the Haul Road with Henlow Footpath No. 26 on the Millennium Field. The new footpath would cross the River Ivel by means of a new river bridge.**

## **Introduction**

22. Poppy Hill Lakes are situated on the Langford-Henlow parish boundary on the eastern bank of the River Ivel. The lakes are a series of old sand/gravel pits which are now used as fishing lakes – two of which are owned by the Letchworth Garden City Angling Association Ltd. (“the LGCAA”).
23. Sand and gravel extraction at the site started in c.1947. Although planning conditions required restoration of the lakes, this was never carried out. The lakes subsequently flooded after excavations had stopped.
24. Statements from officers of the LGCAA indicate that it acquired title to the land in 1978. Prior to 1978, the LGCAA had an agreement in 1952 with the previous quarry owners (Inns & Co Ltd.) to rent fishing rights at the lakes.
25. Limited public access to the lakes area appears to have been permitted or tolerated by the LGCAA up until the 1990s. After that the LGCAA stopped most access, although some trespass still occurs as the site is not securely fenced.
26. Langford Bridleway No. 5 runs through the southernmost fishing lake and is obstructed by the lake, vegetation including several mature trees, fencing. The bridleway is also obstructed by a ditch separating two of the nearby arable fields. Consequently, only a short section of the bridleway is currently useable. The former County Council and this authority have both been served with notices under Section 130A of the Highways Act 1980 (“the 1980 Act”) requiring that the obstruction be removed. To date these have not been removed as alternative solutions were sought. Furthermore, Bridleway No. 5 is legally land-locked for equestrians and cyclists as it only connects to footpaths at either end.
27. It is proposed to resolve all the above issues by extinguishing the bridleway where it crosses arable fields and where it passes through the fishing lake and surrounding LGCAA land. In its place the team proposes that a new bridleway should be created along existing public footpaths to connect Common Road in Langford with Church Road in Henlow. A new footpath would also be created across land owned by the LGCAA to connect to the Henlow Millennium Field via a proposed footbridge over the River Ivel. The proposed bridleway would be surfaced with bound aggregate to a standard suitable for use by bicycles and horses. The new footpath would be left in as natural a condition as possible whilst still being suitable for use by all walkers and pushchairs. A description of the proposed works is given at Appendix C.

## **History of public rights of way at Poppy Hill**

28. The history of how the bridleway was recorded as passing through a fishing lake is detailed in Appendix B and summarised below.
29. The National Parks and Access to the Countryside Act 1949 required that all public rights of way be recorded. Langford Parish Council surveyed the paths in its parish and its survey map recorded the bridleway as running along what is now the current legal line. This line was transferred from map to map through the protracted drafting process of the Definitive Map. Unfortunately, none of the maps used depicted the quarries which now form the current fishing lakes.

30. When the Definitive Map was digitised in the 1990s the issue of the lakes became apparent. In 1996 and 2001 the former County Council received two applications which sought to divert the bridleway onto the nearby track, known locally as the Haul Road, and to delete it on the grounds it was recorded incorrectly on the map respectively. Orders were made which were objected to by local residents and Henlow Parish Council. Following local public inquiries, independent Inspectors determined that a diversion onto the Haul Road would deprive users of the enjoyment of the lake's environment, and that Bridleway No. 5 was correctly recorded on the Definitive Map and thus did indeed run through the southernmost fishing lake.
31. In 1999 and 2003 the former County Council received two other applications which sought to add a footpath through the lakes area, and to add a footpath along the Haul Road. The LGCAA objected to both orders. Following a public inquiry the order to add a footpath through the lakes area was not confirmed. The LGCAA withdrew its objection against the order to add a footpath along the Haul Road as part of an agreement with the former County Council to move the bridleway out of the lakes area. This Definitive Map Modification Order was subsequently confirmed.
32. In 2010 the Council proposed once again to move the bridleway onto the Haul Road. Whilst this was fully supported by the LGCAA it received objections from Henlow Parish Council and several local residents. Following a case review and the seeking of Counsel's opinion (see Section 36 below), the current proposal was put forward which includes a public footpath through LGCAA land to connect the Haul Road with the Millennium Field. This proposal has been objected to by the LGCAA and has received support from Henlow Parish Council and a number of local residents.
33. In the latter part of 2011 the LGCAA looked at options to enable the existing bridleway to be used by the public. Whilst there is still a requirement from the original 1947 planning consent to reinstate, the Council's Minerals and Waste Team considers that reinstatement to fishing lakes has already been achieved. Furthermore, restrictions on the importation of infill means that the lakes cannot be infilled without applying for a new landfill licence. Such an application would be very unlikely to be approved. Another option was to drain the lake. Whilst there does not appear to be any statutory restriction on this happening, the extinguishment of the bridleway and the provision of an alternative footpath is a much more environmentally sound solution.

## Legal and Policy considerations

34. The legal and policy considerations are discussed in detail in Appendix A and summarised below. The Highways Act 1980 (“the 1980 Act”) empowers Central Bedfordshire Council to make legal orders to create, extinguish and divert public rights of way (footpaths, bridleways, and restricted byways) shown on the Definitive Map - which is the Council’s legal record of such rights. Sections 26 and 118 of the 1980 Act relate respectively to the creation and extinguishment of such rights and are paraphrased at Appendix A. Essentially a path can only be extinguished if it is not needed for public use and a new path can only be created if there is a need for it. It is possible, however, to link a creation and extinguishment together so that an alternative route can be created to compensate for the route being extinguished.
35. The Development Management Committee under the Central Bedfordshire Council’s Constitution (E2 at Annex C) is the appropriate body to determine whether the Council, as highway authority, should make orders under the 1980 Act to create, divert, or extinguish a public right of way.
36. The Council has sought independent legal opinion on the issues to hand and has been advised that any extinguishment of the Bridleway No. 5 through the lakes area would need to be compensated by the creation of additional public access through the lakes area. Ideally, this access should be as a loop around the lake allowing walkers views over the lake’s areas. The current proposal, whilst going part-way to compensating public access to the lake’s area also provides members of the public with enhanced connectivity within the local public rights of way network. The main protagonists involved in trying to gain useable public access through the lakes area are satisfied by the recommended footpath and bridge.
37. Leading Counsel advising the LGCAA has challenged the reasoning behind the proposed new footpath. As stated above, this is required to provide an alternative route to the current bridleway which retains the lake-side environment which is not present along the southern section of the Haul Road. The QC has also challenged the lack of regard that the Council has to the effect of the proposed new footpath on the LGCAA. These effects are discussed in Section 55 below. Most effects can be mitigated or disregarded as they currently should exist due to Bridleway No. 5 passing through the LGCAA’s site.
38. The Council could make and confirm an order under Section 118 of the 1980 Act to extinguish the existing line of Bridleway No. 5 between points C-Y-Z-E-F. Such an order, when considered concurrently with the creation of an alternative bridleway and footpath, would remove the threat to the current lake from being infilled and therefore would significantly benefit the LGCAA. The extinguishment would also benefit Mrs. Parrish and Mr. & Mrs. Chennells who farm the land between points C-Y and Y-Z-E respectively as they would not be under an obligation to restore the bridleway after cultivation and to ensure that no crops obstruct the path.



39. The Council could make and confirm an order under Section 26 of the 1980 Act to create a new and extended alternative route for the bridleway between points A-B, C-D-E-F, and G-H-I to create a direct bridleway and cycling route between Common Road, Langford and Church Road, Henlow. Most of the bridleway would be created over existing public footpaths with the exception of the section between points D-E. Generally the route between Common Road and Church Road is quite wide - between 3.5 and 5.0 metres, with the narrowest section being 2.0 - 2.5 metres wide near Common Road. The new bridleway will have the width of the available track (once cleared), or 4.0 metres wide where the bridleway would be more open. Between points D-E the new bridleway would lie adjacent to and abutting the Haul Road so that it lies on land in the same ownership as the existing bridleway (Chennells). Here the new bridleway would have a width of 3.0 metres as it would run adjacent to the existing public footpath. The creation of the new bridleway would facilitate sustainable transport between the villages of Langford and Henlow and would provide an off-road cycle route from Langford into Henlow Middle School which would add to the convenience of local residents. As the route would also form a link in the Sustrans Great North Cycle Route No 12 it would also add to the convenience and enjoyment of members of the public from further afield.
40. The Council could make and confirm an order under Section 26 of the 1980 Act to create a new a footpath between the Haul Road and the Henlow Millennium Field between points M-N-O. The route would run past the LGCAA car park and then along a causeway between the southernmost fishing lakes to a new bridge over the River Ivel. The new footpath would have a width of 2.0 metres between point M and the north-western corner of the anglers' car park, and then would have a width equal to the width of the angler's access track up to the bottom of the earth bund. From this point, the new footpath would again have a width of 2.0 metres to point N. Between points N-O the new footpath would have a width of 2.0 metres. The route would provide for a number of circular routes both from Henlow and from Langford which would take in the scenic views over the lakes and river. Approximately half of the new footpath would run over land not currently affected by a right of way, the other half would either run along or close to the current legal line of Bridleway No. 5.
41. The Definitive Statement for the new footpath will have a limitation relating to minor obstructions caused by angler's fishing tackle, and a condition requiring dogs to be kept on leads, consequently helping to meet some of the concerns of the LGCAA.
42. The creation orders would be made concurrently with the extinguishment order as they would provide alternative routes to those that the public are entitled to use – even if they are not legally or physically accessible.

43. Section 29 of the 1980 Act gives any body with a legal interest in the land affected by a creation order the right to claim compensation for devaluation or disturbance of that interest. This should, however, take into account any benefit caused by the extinguishment of an existing right of way. Most of the footpaths to be upgraded to bridleway run along surfaced access tracks and so the level of compensation is negligible. The bridleway to be extinguished either runs through a fishing lake or across arable farmland. The replacement route will either run across existing public footpath as aforementioned, or will run as a field-edge bridleway abutting the Haul Road. It is likely that some degree of compensation will be payable to the LGCAA and to two of the farmers affected by the proposal between points A-B-C-D and D-M. The level of compensation is being independently assessed at the time of writing (February 2012).
44. In considering whether to make orders under the 1980 Act, the Council has a duty to consider any material provisions contained within a Rights of Way Improvement Plan when determining whether or not to confirm a creation, diversion, or extinguishment order. The Council's Outdoor Access Improvement Plan is currently being redrafted and the proposal does not conflict with the aims of the old plan.
45. The 1980 Act also imposes a duty on the Council to have regard to the needs of agriculture and forestry, and the desirability of conserving flora, fauna and geological and physiographical features when determining whether to make and confirm creation, extinguishment and diversion orders. The extinguishment of the current bridleway would remove the threat to the fishing lake from infilling as a means of opening up the legal line of the bridleway. The creation of the alternative bridleway and footpath would necessitate some degree of vegetation clearance and the removal of a small number of small hawthorn, elder, willow and blackthorn. The creation of the new bridge would have negligible impact on the river and the western earthen approach ramp would be on land which is currently mown grass. In my opinion, the effects of the proposal on the environment would therefore be relatively minor.

### **Alternatives considered**

46. Enforcement of the legal line of Bridleway No. 5 by infilling the fishing lake was considered and rejected owing to the ecological damage to the County Wildlife Site. An option to bridge the lake by means of a floating pontoon bridge was also rejected due to the potential costs involved and likely impact on the fish in the lake. Moreover, both options can be considered last resorts when it is possible to provide alternative public access on solid ground around the lake.
47. Having received Counsel's opinion which clearly indicates that the Council should promote the interests of those who are entitled to enjoy the right of way, and should not act in the interests of the land owners against the users, a total of eight alternative routes across the LGCAA's land were investigated, see Appendix 2. Six of these options were rejected on grounds of: landownership considerations; the span (and thus cost) of any required bridge; river dynamics precluding certain bridge locations; and the actual benefit to the public. All the options were put to Henlow Parish Council for its comment.

48. Henlow Parish Council and the Countryside Access Team have both chosen the current proposal with its river bridge as their preferred option. The second preference for both was the creation of a bridleway along the Haul Road and the creation of a public footpath leading from the Haul Road around the western side of the fishing lake and back to the Haul Road. Both the Parish Council and the Countryside Access Team consider that the current proposal would add greatly to the footpath network and open up new routes that could be enjoyed by walkers.

### **Consultations and responses**

49. Mrs. C Parrish, who owns the northernmost two fishing lakes and the Haul Road between points A-B-C-D was consulted on the proposal and has agreed to the creation of a bridleway over her land as long as, by way of compensation, the existing hedge separating the new bridleway from her fishing lake is replenished and thickened.
50. Mr. G Brady of the Whiteman Waters Fishing Syndicate which fishes from Mrs. Parrish's lakes was consulted on the proposal and has agreed to the creation of a bridleway subject to Mrs Parrish's hedge being replenished and thickened.
51. Mr. Wells owns some of the land to the east of the Haul Road was consulted on the proposal but has not responded at the time of writing (February 2012).
52. Messrs. P and S Smith own some of the land to the east of the Haul Road was consulted on the proposal but has not responded at the time of writing (February 2012).
53. Mr. and Mrs Chennells own some of the land to the east of the Haul Road between points D-G as well as land to the north of point H. Currently Mrs. Chennells does not want a wide field edge bridleway between points D-E as "...it would mean the loss of much more land than the present bridleway occupies [across the field] and would mean the loss of this area permanently. The proposal of a 4m bridleway plus a ditch combined with the fact that we would be restricted by [Good Agricultural and Environmental Condition regulations] from making full use of a further 2m would result in a loss of at least a 7m strip ...". At the time of writing (February 2012) a narrower alternative was being negotiated.
54. The Letchworth and Garden City Angling Association Ltd. (LGCAA) owns the southernmost two fishing lakes and the section of the Haul Road between points D-E-F-G. The LGCAA has been consulted via its agent (Mrs. Sue Rumfitt of Rumfitt & Assoc.) and would allow an alternative footpath through the woods between points R-S-E on the plan at Appendix 2. This option was discounted by the Countryside Access Team and Henlow Parish Council as not providing sufficient compensation for the loss of the existing bridleway by failing to provide views over the lake.
55. The LGCAA maintains its opposition to public access to the fishing lakes and their environs for the reasons paraphrased below, and would expect to receive compensation for any detrimental effect arising from any order.

- (a) “The proposal would bisect the site making it more difficult for the LGCAA to manage the site as a whole”. In response, the current site encompasses approximately 0.112 km<sup>2</sup> of which approximately 0.021 (~19%) is within the loop of Bridleway No. 5. If the new footpath were fenced with access gates for the anglers I cannot envisage the site would be significantly less secure than it currently is.
- (b) “The new footpath would permanently lose 11 “swims” (fishing positions) on the lakes as the use of long angling poles would obstruct the footpath and expensive poles could be subject to damage by walkers”. In response, the swims along the proposed footpath make up a small number of the total swims within the site. Furthermore, half of the effected swims are already effected by the existing bridleway. It would be possible to still use some of these swims from platforms if so desired. Other angling clubs use poles on towpaths and bank-side walks, apparently without undue concern for damage to their tackle. It is also possible to record within the legal statement for the new footpath that use of the way is subject to minor obstructions from fishing activities.
- (c) “The LGCAA’s members currently enjoy security and freedom of movement. The imposition of a footpath will allow members of the public to legitimately enter the heart of the site”. In response, Bridleway No. 5 currently runs through the site, although this is unavailable due to obstructions. Furthermore, the site is not completely secure, allowing members of the public to wander through the plantation area to the south of the lakes.
- (d) “In order to prevent trespass through the site the LGCAA would have to fence either side of the route. If this were not possible the LGCAA anticipates continual trespass and would have to increase bailiff patrols”. In response, the Countryside Access Team has tried to choose a route that limits the options open to the public for trespass. Additionally, the Council could fence the new footpath to prevent trespass and the straying of children and dogs as part of any compensation package to LGCAA. This cost has been included in the overall costs of the project.
- (e) “It would be impossible to prevent members of the public using the footpath from introducing alien species – such as Koi carp, goldfish, and terrapins to the controlled waters of the lake. Invasive plant species may also be introduced”. In response, the lakes are not completely secured and have, on occasion, been overwhelmed by floodwaters from the adjoining river during very wet periods. Notices can be erected regarding not introducing new animals.

- (f) “The LGCAA introduced a dog ban for its members in about c.2000. It is concerned that members of the public would allow dogs to foul on the new footpath”. In response, members of the public are currently entitled to bring dogs onto the site along the route of the bridleway. The provision of a dog-waste bin on the Millennium Field would help alleviate any concerns. Additionally, the requirement for dogs to be kept on leads on the new footpath can be included as a condition in the new footpath’s statement.
  - (g) “The LGCAA is also very concerned about dogs entering the water and disturbing the fish and damaging the banks of the lake. Such damage is already evident on the western bank of the River Ivel since the bank-side vegetation was cut back in 2010”. In response, the route of the new footpath could be fenced to prevent dogs straying and entering the water. The provision and installation of fencing and anglers’ gates could cost approximately £2000 - £2500 as part of any compensation package.
  - (h) “The LGCAA is also concerned about the possible nuisance caused by dogs trying to eat anglers’ bait”. In response, if the footpath is fenced off from the lakes area neither this, nor the issue of dogs swimming, would be possible.
  - (i) “The LGCAA is also concerned about the possible detrimental effects to the habitats for water voles, kingfisher, and badgers and to the fish-spawning riffles in the river”. In response, the footings to the proposed bridge will not be constructed in the river bank or river base, but would be set back by about 1 metre and so would not impact on fish spawning grounds. Similarly, the bridge footings and eastern approach would have a negligible effect on the local environment. The main portion of the footpath would either follow existing track or would run in a new cutting through an existing earth bund. Works to excavate the cutting would effect the environment in that vegetation (low brush, grass and nettles) would have to be removed. The Environmental Agency will be consulted regarding works to be carried on or near to any water courses.
56. The main issue, in my opinion, is not the issues highlighted above as these are all potentially possible at the moment due to Bridleway No. 5 passing through the site. The issue is that members of the public have not been able to use the bridleway due to the obstructions on it, and thus even a return to what ought to be the normal situation for the bridleway would be a massive increase in the levels of public access as viewed through the eyes of the LGCAA.
57. Champneys Henlow Ltd. run a health retreat at the nearby Henlow Grange and own a large area of land, including the tracks on the west side of the River Ivel containing the footpaths that are proposed to be upgraded to bridleway as part of the proposal. Champneys is concerned about unlawful motorcycle use on the new bridleway. It should be noted that its guests do occasionally cycle along the current footpaths using the bicycles provided by the resort.

58. Mr. S. Purdew owns the property on Poppy Hill Road and was consulted on the proposal but has not responded at the time of writing (February 2012).
59. Mrs. A Rowland, Central Bedfordshire Council's Sustainable Transport Team Leader has stated that she is fully supportive of the proposals as they will help create important links for cyclists between Langford, Henlow and Arlesey.
60. Henlow Parish Council has stated that it supports the proposal and that the Parish Council's preferred route across LGCAA land is M-N-O with a route around the western side of the lake as its second choice.
61. Langford Parish Council was consulted on the proposal but decided "...not to comment..." on the proposal.
62. Mr. R Payne, the headmaster at Henlow V.G. Middle School has stated he fully supports the proposed creation of a cycle link between Langford and Henlow.
63. The British Horse Society was consulted and its local access officer stated "...I am pleased a cycle route has also been included but would welcome some signs along the way to indicate to cyclists that there could well be horses in the area. As you will be aware, cyclists are quite silent in their approach behind horses and some are spooked by them. This route is well used by riders, cyclists and parents/children in the summer months...".
64. The Bedfordshire Rights of Way Association was consulted on the proposal but has not responded at the time of writing (February 2012). In a response to an earlier consultation relating solely to the extinguishment of the bridleway through the lake and the creation of an alternative route along the Haul Road it stated that it "...We do however know that an Inspector found earlier that because the haul road was used by the cars of anglers it was not as convenient as the definitive line. We have not seen any change of circumstance which would alter that conclusion....".
65. The Ramblers were consulted on the proposal but has not responded at the time of writing (February 2012) "...fully supports the proposals as it will satisfy all who walked through the 'Lakes'...".
66. Mr. M Knight of the Henlow Heritage and P3 Group is an interested party in that he has been very active in campaigning for public access through the LGCAA land. Mr. Knight fully supports the proposal.
67. Mr. D Grummitt is an interested party in that he has been very active in campaigning for public access through the LGCAA land, but has not responded at the time of writing (February 2012). In a response to an earlier consultation relating solely to the extinguishment of the bridleway through the lake and the creation of an alternative route along the Haul Road Mr. Grummitt stated that he did not approve of the proposal to move the bridleway onto the Haul Road and "...where its natural public beauty should be retained for the public pleasure without causing any encumbrance to those persons who are anglers...".

68. A number of unsolicited letters were submitted in response to an earlier consultation relating solely to the extinguishment of the bridleway through the lake and the creation of an alternative route along the Haul Road. These responses all condemned the proposal for not providing public access through the lakes areas.

## **Conclusions**

69. Public use of the majority of Langford Bridleway No. 5 is not possible due to a number of obstructions - most notable by the fishing lake belonging to the Letchworth Garden City Angling Association ("LGCAA"). Moreover, the bridleway is legally inaccessible to equestrians and cyclists as it connects to footpaths at either end. A number of previous orders to move the bridleway out of the angling area and on to the nearby Haul Road were not confirmed following public inquiries.
70. The proposal seeks to extinguish the majority of the current bridleway and to create two replacement routes in its stead. A new footpath for walkers would be created to cross from the Haul Road over LGCAA land and the River Ivel to join Footpath No. 26 on the Henlow Millennium Fields which is public open space. A new bridleway for cyclists and equestrians would be created to run, mainly over existing public footpaths, from Common Road in Langford along the Haul Road and along Poppy Hill Road to connect with Church Road in Henlow.
71. The proposal would therefore create a new sustainable cycle route to connect the villages of Langford and Henlow thus providing a safe off-road route to Henlow VG Middle School and would provide a new crossing over the River Ivel allowing local residents to access and use a number of circular walks.
72. Most of the land owners and consultees either accept or support the proposal. The LGCAA, however, totally opposes the creation of the proposed public footpath over its land on fishing and environmental grounds. Most of the grounds for objection however already exist due to the presence of the bridleway. Some mitigation measures would be required to control unauthorised access and dogs. Any LGCAA expenditure to do this could legitimately be claimed as compensation.
73. The opposition by the LGCAA means that an order could not be confirmed by the Council but would have to be forwarded to the Secretary of State for Environment, Food, and Rural Affairs for confirmation – potentially at a public inquiry with legal representation.
74. The proposals would require a significant level of ground works to be undertaken and the construction of a large pedestrian bridge. The costs of works for the proposal are likely to be £100,300 – £112,300 + 10%. The combined cost for: the making and advertising of orders; any public inquiry; legal representation and advice; proposed works; and any compensation is estimated to be in the region of £114,000 - £127,000.

75. Funding for the project has yet to be secured but would be met from a mixture of internal and external sources including Section 106 levy, Capital Programme funding and green infrastructure charitable funding.

**Appendices:**

- Appendix 1 – Plan of proposed rights of way
- Appendix 2 – Options considered
- Appendix A – Legal and policy considerations
- Appendix B – Rights of way background
- Appendix C – Works and Finance

**Background Papers:** (open to public inspection)

- BP1. Poppy Hill Works Project Initiation Document.  
Held with the Countryside Access Team, Central Bedfordshire Council  
Technology House, 239 Ampthill Road, Bedford, MK42 9BD.