

Cycle Schemes and Legal Procedures

Final Report



Image © Alex Sully

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Contents

1.	Introduction	3
2.	Scenarios and Procedures	3
2.1	Urban footpath	3
2.2	'Definitive' Footpath.....	5
2.3	Conversion of a public footpath which terminates at the rear of a footway and conversion of the footway crossing.....	6
2.4	Footway.....	7
2.5	Widening the footway to create a Cycle Track	8
2.6	Greenfield site.....	9
2.7	Greenfield site, compulsory purchase.....	10
2.8	Greenfield site, dedication of land to the highway for the creation of a cycle track	10
2.9	A 'footway' not part of the public highway	11
2.10	Footbridges and Underpasses	12
2.11	Path (Bridleway) Creation.....	12
2.12	Widening the highway adjacent to a bridleway to create a surfaced cycle track.....	12
2.13	Conversion of a footpath alongside a watercourse/river/canal	12
2.14	Conversion of a public footpath to a Restricted Byway	13
2.15	Prevention of use of cycle tracks by motor vehicles	14
3.	Additional Information	15
	Definitions (Based on consultation draft of LTN 2/04).....	15
	Other Acts, Statutory Instruments and Regulations.....	16
4.	Footpath Conversion Flow Chart.....	19

1. Introduction

This report was prepared on behalf of the Cycling England Professional Support Service by Alex Sully of Transport Initiatives. It follows a request from an English highway authority for guidance on the legal procedures employed to create cycle tracks either from scratch or by the conversion of footpaths and footways. It has been supplemented by the inclusion of a useful list of acts of parliament and other statutory instruments which govern cycling. These may be found in section 3 below.

Note: this guidance is based on personal experience including advice given by legal professionals and past discussions with the Department for Transport (DfT). When the latter has been asked for comment on legal procedures the Department has always taken the position that it cannot supply definitive legal advice to any enquirers on such questions as interpretation of all legislation is a matter for the courts. It has also stated that it can only offer an opinion and enquirers, especially local authorities, should seek their own legal advice to back up any actions taken. **All those acting on the information contained in this document are therefore advised that any decisions about the procedures to adopt must be confirmed by consultation with their own legal advisors.**

2. Scenarios and Procedures

2.1 Urban footpath

Maintainable highway not adjacent to carriageway and not on definitive map, with or without cycle prohibition order – need to allow cyclists and pedestrians to use part or entire width.

Procedure - Cycle Tracks Act 1984 (CTA) (to convert all [or part] to shared use):

The Cycle Tracks Act 1984 states that a highway authority may designate “any footpath for which they are highway authority”, or part of it, as a cycle track. There is no qualification of the footpath i.e. no mention of it being a ‘definitive’ footpath (appearing on the definitive footpath map) or an ‘urban’ footpath (surfaced highway as found in urban areas and created after the drawing up of the definitive map). This is interpreted as meaning that any footpath which forms part of the highway, whether or not surfaced or maintained by the highway authority, is a ‘footpath’ for the purposes of the CTA and should be converted by its application.

Separate planning consent is not needed since CTA 3(10) states that the local authority has the power to carry out any physical works necessary and that any change of use that would have constituted development within the meaning of the Town and Country planning Act 1971 is deemed to be granted under Part III of that Act.

However, if the footpath is not converted but the existing surface is widened such that the cycle track is created alongside and segregated from the existing footpath then the use of the CTA does not apply:

Note: It is generally considered that in these circumstances segregation by some form of physical delineation is appropriate. This is because cyclists have no 'right' to cycle on the remaining section of footway and without definition of 'their' path (by a white line etc.) are likely to do so. This also casts doubt on the value of retaining a narrow strip (often too narrow to walk upon) of the definitive footpath, when converting under the CTA, if the resulting user paths cannot be defined because of the chosen surface materials (e.g. crushed stone). This practice is sometime used to overcome objections that the creation of the cycle track will result in the removal of the footpath from the 'definitive map'.

The Town and Country Planning Act 1990 (TCP) s.55 (b) and the Town and Country Planning Act (General Permitted Development Order) 1995 (GPDO) (Part 13 A) give(s) a local highway authority the ability to maintain and improve a 'road' maintainable at public expense without the need to seek planning approval. The GPDO enables such an authority to 'improve' a highway by doing works immediately adjacent to the existing highway without the need to apply for planning approval. These abilities are interpreted as meaning that **no statutory procedures have to be completed to create a cycle track alongside a surfaced urban footpath** – see cover photograph for an example. It is, however, good practice to consult with existing users, local residents and adjoining landowners and give prior notification of carrying out the works to create the cycle track.

Any byelaw or order prohibiting cycling must be removed prior to (or in parallel with other procedures) the conversion of a footpath to a cycle track. Whilst, strictly speaking, this may not be necessary if a cycle track is to be created alongside the footpath, the presence of any form of prohibition, supported by signs to give it effect, can appear illogical and lead to confusion over user rights.

Naturally, it is also necessary for the highway authority to acquire the land either by purchasing it (compulsorily if required) or achieving a dedication to the highway from the landowner. However, since the wording of any dedication is usually along the lines of (the landowner) 'hereby freely dedicates the land shown coloured pink on the attached plan to the highway maintainable at public expense' it is not necessary to state the purpose for which the land is to be subsequently used i.e. as carriageway, footway or cycle track etc as this is determined by the authority. This is analogous to the highway authority purchasing land/taking a dedication to widen an existing carriageway and create a footway alongside it. Whilst the plans used for the transaction/dedication agreement could well be extracts from the

scheme plans, it does not require further action to formally 'create the footway/additional carriageway in order to give the police the power to enforce offences under the Road Traffic Regulation Acts.

Similarly, agreements under Highways Act 1980 s38 between developers and highway authorities generally have similar wordings that confirm that the developers are owners of the land identified on the drawings and through the agreement are dedicating the land, shown on the drawings, to the highway maintainable at public expense. Such plans invariably indicate the nature of the works to be undertaken and, therefore, the future use of the land e.g. bridge, carriageway etc but again, there is no requirement to dedicate as one form of use and then for the authority to go through other procedures to establish the status of each element of the additions to the highway network.

2.2 'Definitive' Footpath

(Public Right of Way - on definitive map) – need to widen and convert to use by cyclists and pedestrians.

Procedure - Cycle Tracks Act 1984 (to convert all or part of footpath to shared use):



Cycle track created by use of the Cycle Tracks Act to convert public footpath

Note: only part of the footpath converted to shared use to allow the 'definitive footpath' to remain alongside

Picture: Alex Sully

See 2.1 above plus the need ensure that in the case of a footpath crossing agricultural land the landowner has consented in writing [CTA s3(2)] and any land lying outside the width of the existing footpath which needs to be acquired for the purposes of constructing the cycle track has been dedicated to/purchased by the highway authority to enable widening to take place.

It is not known whether cycle tracks have been successfully created as wholly new facilities entirely alongside existing *unsurfaced* 'definitive' footpaths under the powers of the TCP and GPDO (see 2.1 above) to avoid the use of the CTA. This appears to be entirely feasible but in such circumstances the local authority is advised to seek guidance from its own legal advisors and the planning authority.

In some instances the precise line of a footpath may prove difficult to define. In this case it may be better to create a new cycle track, close by but not abutting, by using the procedures outlined in 2.3 below. This approach can avoid challenges by objectors to the proposal on the grounds that the cycle track passes over the footpath and that the correct procedures have not been followed since an order under the CTA has not been made.

Where public access is provided through 'permissive rights' granted by the landowner the route followed may coincide in whole or in part with the public footpath see also 2.6 below.

Where it is proposed that the line of a public footpath is to be diverted to achieve a more appropriate alignment so that it may then be converted to a cycle track leaving no isolated pedestrian rights of way, the diversion of the footpath should be confirmed before the order is made under the CTA.

A landowner may give permission for cyclists to use land occupied by a definitive footpath to avoid the use of the Cycle Tracks Act or because it wishes to retain control of the land. However, it is understood that the DfT takes the view that if the landowner is also the highway authority it should abide by the spirit of the Act and make an order. If the authority does not wish the land to become highway, for example where it runs through a public park or the long term use of the land is undecided, then it is advised to publish details of its proposals and consult with all stakeholders as though it were making an order.

2.3 Conversion of a public footpath which terminates at the rear of a footway and conversion of the footway crossing

(Necessary to permit cyclists to join the carriageway without dismounting)

Procedure - Cycle Tracks Act and Highways Act: the conversion of the public footpath should be dealt with in the same way as any other i.e. the CTA, and the footway converted by using the powers available under the Highways Act 1980. This Act does not say in s65 that such a cycle track must be of a minimum length or travel in any direction relative to the carriageway. This may be interpreted as permitting the conversion of the short length of footway necessary to achieve a crossing.

The conversion of the footway crossing can be covered by the same resolution that gives the go ahead to the creation of the cycle track along the footpath (see 2.5 below).



Cycle track (converted non-highway footpath dedicated to the highway by landowner i.e. no order used) crossing a footway

Picture: Alex Sully

Note: Where a 'definitive' footpath has been diverted along a footway and a wholly new (greenfield) cycle track, provided by development, needs to cross the footway to gain access to the carriageway, some authorities have interpreted this as requiring an order under the CTA to achieve the legal crossing of the 'definitive' footpath. It is considered that the crossing cannot be created under common law rights as may be exercised by a frontager to gain access to the carriageway since these are not applicable to a highway authority.

It is understood that not all authorities subscribe to this interpretation, preferring to take the more pragmatic view that the crossing of the footpath contained within the footway does not require it to be formally converted to a cycle track since it is not the intention to permit cyclists to travel along its length. It could be argued that this position is undermined by the interpretation in 2.3 above which requires the footway to be converted using the powers available under the Highways Act. This is clearly a complex issue and local authorities should, therefore, seek legal advice locally.

2.4 Footway

(Adjacent to carriageway & within maintainable highway) – need to convert to use by cyclists and pedestrians.

Procedure - Highways Act 1980: LTN 2/04 (draft) DfT 2004 states:

“To convert all or part of a footway to cycle track, all or the appropriate part of the footway must be removed under section 66(4) of the Highways Act 1980, and a cycle track 'constructed' under section 65(1) of the act. No physical construction is necessary but there needs to be clear evidence that the local highway authority has exercised these powers. This can be provided by a resolution of the appropriate committee”. Clearly there will be some 'works' if only the erection of signs to denote the change of use. It is good practice to consult with

existing users and give prior notification of carrying out the necessary works.

In addition, LTN 2/04 advises that there should be a clear audit trail to demonstrate both the reasons why the decision has been made to convert a footway to a cycle track (the same applies to the conversion of a footpath) and the authority exercised. In the absence of a committee resolution, the latter may result from delegated powers or the decision of the portfolio holder of the authority's executive. In such cases, there still needs to be an audit trail to demonstrate how the necessary approvals were given and by whom. Whatever the origin, the decisions should be recorded. As LTN 2/04 states, the ready availability of this information may be helpful in the event of objection to the proposal (the same applies in the event of an inquiry into a proposed conversion under the CTA).

2.5 Widening the footway to create a Cycle Track

Procedure - GDO and Highways Act: As explained above, the highway authority has powers under the GPDO to widen the existing highway to create or widen a footway without the need to seek planning consent. It also has powers under the Highways Act 1980 62 (4) to "alter or remove any works executed by them ..."

The cycle track can then be created under the powers described in 2.4 above if all or part of the resulting footway requires conversion. Alternatively, it may be created just as a cycle track, if that is the sole purpose of the widening (Highways Act 1980 65[1] – a highway authority may create a cycle track "in or by the side of a highway").



Cycle track created by conversion and widening of footway under powers in the Highways Act 1980 (see text)

Beyond the Toucan Crossing the separate cycle track was created within the verge without any formal procedures other than committee approval

Picture: Alex Sully

2.6 Greenfield site

(No existing highway. Need to acquire land from landowner and allow use by pedestrians and cyclists. Construct to shared use standards)

Procedure - Town and Country Planning Act 1990: to cover both the engineering works and change of use – seek advice from the planning authority.

If the land in question is neither highway nor within the ownership of the local authority, it will have to be purchased from the landowner if it is to become part of the publicly maintained highway on completion. Alternatively, the landowner may dedicate the land to the highway by agreement, freely or for a financial consideration. This can sometimes be a cheaper administrative process than purchasing the land outright.

Where the facility is not going to become highway then 'permissive' access rights must be secured by means of a formal agreement between the landowner and the promoting authority. This will both secure formal rights of access and safeguard the authority's capital investment. The agreement should include such issues of the length of time the facility will be available and who will be responsible for maintenance. The latter can be particularly important in respect of the maintenance of structures, verge/hedge trimming and security of boundaries, for example where they need to be kept stock-proof or to prevent users from straying.

It is understood that where such permissive access is created the promoting authority is not in general liable in the event of an incident resulting from its use that gives rise to injury or loss by users. This is so as long as the authority has not been negligent in its design, construction and maintenance i.e. it must be fit for purpose. If this is the case then, where incidents occur that are the result of interaction between users, in the event of dispute it is for those concerned to sort out as a civil matter between themselves. This is analogous to everyday accidents within the road network where the highway authority does not generally get involved. The agreement cannot, however, absolve the landowner from any negligence on his/her part or remove any duty of care towards users, for example where a landowner may drive across or do works adjacent to the facility.

Note: no organisation or individual may transfer their rights of access, for example to a river bank in order to maintain the watercourse, to a third party in order to create general access by the public at large. Such agreements must be with the landowner.

2.7 Greenfield site, compulsory purchase

(Not existing highway. Need to acquire land from landowner [by Compulsory Purchase Order] for use by pedestrians and cyclists)

Procedure - Town and Country planning Act 1990 to create the cycle track as 3 above and **Highways Act 1980**.

General powers to acquire land are provided by the Highways Act 1980 s239. Where local authorities find it necessary to resolve to exercise compulsory purchase powers they can do so either to improve the highway or to promote countryside access. The former is more commonly known about and better understood but the latter does provide opportunities to create facilities that have a low utility component. For more information consult appropriate staff or see *The Compulsory Purchase Manual* DTLR 2001.



Cycle track and footpath created as part of a major road scheme on greenfield site without use of order

Picture: Alex Sully

2.8 Greenfield site, dedication of land to the highway for the creation of a cycle track

Procedure – Highways Act 1980 and Town and Country Planning Act 1990: Sections 37 and 38 of the Highways Act provide a means for land to be dedicated as public highway. Since the Act does not refer to the nature of the use, simply referring to dedicating a “way as a highway” this may be interpreted as meaning that land may be dedicated to serve any function acceptable to the highway authority e.g. footway, cycle track, carriageway etc. This is analogous to agreements between developers under s38 where the status of the highway so dedicated is confirmed by the plans accompanying the agreement and the works subsequently carried out.



Cycle track and footpath created as the result of an agreement made under s38 of the Highways Act 1938

Picture: Alex Sully

It is worth noting that dedication to the highway is often confirmed by the signing of the s38 agreement not the physical completion of the carriageway, footway, cycle track etc. This enables the highway authority to exercise its various powers to do works within the highway to complete any outstanding construction works in the event of the failure of the developer to complete their obligations under the agreement. This also indicates that the dedication to the highway is not dependent on works being carried out by the landowner prior to that dedication.

Where the cycle track is to be created by the highway authority, consent under the Town and Country Planning Act 1990 will be required for the change of use and engineering works to create the cycle track.

2.9 A 'footway' not part of the public highway

Procedure – varies: A 'footway' outside the highway boundary has by definition no highway status and cannot, therefore, be treated as a footway as defined by the Highways Act 1980. This situation could arise where the footway (and accompanying carriageway) was originally created by a housing authority but not subsequently adopted as public highway. Similarly, it might occur in the case of a development that allows public access but the means of access are not adopted as highway e.g. on a major business or retail park.

The conversion of such a feature can, therefore, only be dealt with as a permissive route or the authority will have to find a way for it to be adopted as highway by some means, with the owner's co-operation, and then converted (see 3 above).

This is a complex issue and should be dealt with locally on a case by case basis.

2.10 Footbridges and Underpasses

Procedure - Cycle Tracks Act 1984 or Highways Act 1980

The procedures employed will be based upon the circumstances under which these features were created. Where these are not clear, local judgement will be required as to whether the footbridge or subway acts as a footpath or a footway.

2.11 Path (Bridleway) Creation

Procedure - Highways Act 1980 s26

Section 30(1) of the Countryside Act 1968 gives the public the right to ride a bicycle on any bridleway, but in exercising that right, cyclists must give way to pedestrians and persons on horseback. The act places no obligation on the highway authority to 'improve' the surface to better accommodate cycle use. The Highways Act provides powers to create bridleways by means of a 'public path creation order'. See also 2.14 below.

2.12 Widening the highway adjacent to a bridleway to create a surfaced cycle track

Procedure – TCPA and GPDO: This is similar to 2.2 above except that the highway to be widened is a bridleway and not a footpath.

2.13 Conversion of a footpath alongside a watercourse/river/canal

Procedure – varies: cycle tracks created alongside a watercourse by the conversion of a public footpath will inevitably require engineering works, if only in the form of signs. In addition to the use of the Cycle Tracks Act or planning approval (if access is based on permissive rights) it may be necessary to obtain consent under the Water Resources Act 1991 – contact the Environment Agency for more information. In some regions and in most circumstances the agreement of the Internal Drainage Board will be required where any work impacts upon its operations.

In the case of footpaths alongside canals, it appears that the British Waterways Board's powers to introduce a byelaw prohibiting cycling take precedence over any highway rights. It is, therefore, recommended that contact be made with the Board to discuss the best means of achieving cycle access.



Canal towing path converted to shared use by agreement with British Waterways Board

Note towing path is also a bridleway but use by cyclists was previously prohibited by byelaw

Picture: AlexSully

2.14 Conversion of a public footpath to a restricted byway

Procedure – Highways Act 1980 S26: provides powers to create footpaths, bridleways or restricted byways by means of a 'public path creation order'. The original 1980 Act was varied (to include restricted byways) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 Regulation 2 Part 1 (Statutory Instrument 2006 No. 1177). This amendment was a consequence of the Countryside and Rights of Way Act 2000 reclassifying all Roads used as Public Paths (RUPPs) as restricted byways. Converting footpaths in this way is understood to leave the definitive footpath on rights of way maps.

Restricted byways may be used on foot, on horseback or when leading a horse and by any vehicle which is not mechanically propelled: this includes a bicycle. The procedures for making and confirming an order are laid out in the Public Path Orders Regulations 1993 and are described in the Countryside Agency's [or Countryside Council for Wales'] publication 'A Guide to Definitive Maps and Changes to Public Rights of Way'.

Whilst this approach does avoid the use of the Cycle Tracks Act 1984 it does require consultation and compensation to landowners (as appropriate). If there are no objections then the order may be confirmed locally. In the event of unresolved objections the matter is referred to the Secretary of State for confirmation. However, there appears to be no requirement for a public inquiry. If agreement over the compensation to landowners cannot be reached then the matter is placed before the Lands Tribunal. It is recommended that authorities undertaking this procedure should involve their rights of way teams at all stages.

2.15 Prevention of use of cycle tracks by motor vehicles

(Cycle tracks created through use of Town & Country Planning Act)

Procedure – none necessary: the Cycle Tracks Act 1984 s2(1) used to make this an offence but this was superseded by s21 of the Road Traffic Act 1988. This offence does not take account of how the cycle track was created. Creation by the use of Town and Country Planning legislation is not relevant to this issue any more than if the same legislation had been used to create a carriageway which forms part of the highway. To give an example, once a bypass has been created through the use of a planning application and all of the other statutory procedures, there is no need for further orders to ensure that, for example, the police can enforce the national speed limit or other similar offences.

In other words, so long as the correct creation procedures have been properly followed and the necessary signs have been erected to denote that the highway at that point is a cycle track then no further orders are necessary for the police to enforce the requirements of the Road Traffic Act.

3. Additional Information

Definitions (Based on consultation draft of LTN 2/04)

Public Rights of Way (ProW) comprise Footpaths, Bridleways, Restricted Byways and Byways Open to All Traffic (BOATS). All public rights of way are highways, and are shown on the Definitive Map held by local highway authorities. Because cycle tracks are not a category of right of way, they are not shown on any Definitive Maps, and the conversion of a footpath to a cycle track requires its removal from the Definitive Map. In addition to the rights of way described below, pedestrians and cyclists may also share space in pedestrianised or vehicle restricted areas.

Footway means a way comprised in a highway, which also comprises a carriageway, being a way over which the public has a right of way on foot only [Section 329(1) Highways Act 1980]. Footways are the pedestrian paths alongside a carriageway, and are often referred to as a pavement.

Footpath means a highway over which the public have a right of way on foot only, not being a footway [Section 329(1) Highways Act 1980].

Cycle Track means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the Road Traffic Act 1972) with or without a right of way on foot. [Section 329(1) Highways Act 1980; the words in brackets were inserted by section 1 of the Cycle Tracks Act 1984]. Cycle tracks may be created through conversion of a footway or footpath or newly constructed.

Bridleways provide a right of way on horseback, foot and bicycle. The Countryside Act 1968 gave cyclists a right to use bridleways; however, they must give way to pedestrians. It is worth noting that there is no penalty for failing to comply. Since the bridleway forms part of the highway it remains for case law to establish whether the offending cyclist could be said to be '*furiously driving a carriage on a highway*', see Highways Act 1835 below: The right for cyclists to use a bridleway can be subject to an order or bylaw to prohibit cycling on a particular bridleway.

Restricted Byways were created by the Countryside and Rights of Way Act 2000. They are generally open only to pedestrians, cyclists, horse-riders and horse-drawn vehicles and replace the former category of 'Roads Used as Public Paths' (RUPPs) see Highways Act 1980 s26 below.

Byways Open to All Traffic (BOATs) have full public rights, including for vehicles, but rarely have a sealed surface and are generally used in a similar way to bridleways. The definition was created under the Wildlife and Countryside Act 1981.

Other Acts, Statutory Instruments and Regulations

Local Government Act 1888 s85: states "*bicycles, tricycles, velocipedes, and other similar machines are hereby declared to be carriages within the meaning of the Highway Acts*". Bicycles may therefore be used within the carriageway in common with other vehicles unless prohibited by a traffic regulation order or a byelaw.

Highways Act 1935 s72: makes it an offence to 'ride upon any footpath or causeway by the side of the road made or set apart for... the use of foot passengers' i.e. to ride on the footway.

Highways Act 1935 s78: Establishes the offence of 'furiously driving a carriage on a highway'. This offence is still the subject of prosecutions; see also Offences against the person Act 1861 s35.

Highways and Locomotives Act 1878 s26(5): gave local authorities to prohibit or regulate the use of bicycles.

Highways Act 1980 s26: provides powers to create footpaths, bridleways or restricted byways by means of a 'public path creation order'. The original Act was varied by Statutory Instrument 2006 No. 1177 The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 Regulation 2 Part 1. This amendment was a consequence of the Countryside and Rights of Way Act 2000 reclassifying all roads used as public paths (RUPPs) as restricted byways.

Highways Act 1980 s31: allows for dedication to the highway to be 'presumed' after a period of 20 years. In the case of permissive cycle routes where there is no intention to so dedicate it is essential that permanent signs be erected to this effect in accordance with this section of the Act.

Highways Act 1980 s37 and s38: Allow for dedication of land to the highway by agreement.

Highways Act 1980 s65: gives local authorities to create, alter or remove a cycle track.

Highways Act 1980 s66: gives local authorities the power to alter or remove footways: used in conjunction with s66 to convert footways to cycle tracks.

Highways Act 1980 s278: gives a local authority powers to enter into an agreement for the undertaking of works by another party within the highway; usually as the result of development proposals.

Town and Country Planning Act 1990 (TCP) s.55 (b) and the Town and Country Planning Act (General Permitted Development Order) 1995 (GPDO) (Part 13 A): give(s) a local highway authority the ability to maintain and improve a 'road' maintainable at public expense without the need to seek planning approval. The GPDO enables an authority to 'improve' a highway by doing works immediately adjacent to the existing highway without the need to apply for planning approval.

Town and Country Planning Act 1990 s106: gives an authority the power to enter into an agreement to cover work outside of a development site (but not within the highway). This may be used for the delivery of bridges or cycle tracks etc.

Cycle Tracks Act 1984: provides powers to convert all or part of a public footpath to a cycle track

Cycle Tracks Regulations 1984 (SI 1984/1431) and Circular Roads 1/86: set out the procedures for converting footpaths to cycle tracks.

Road Traffic Regulation Act 1984 s1: gives powers to traffic authorities to make traffic regulation orders such as banned turns or the creation of one-way streets etc.

Road Traffic Regulation Act 1984 s9: permits the making 'experimental orders' for a period of up to 18months. This can be used effectively to judge the impact of allowing cyclists to share space with pedestrians within vehicle restricted areas.

Road Traffic Regulation Act 1984 Part IV and s63: gives powers to provide parking and this includes cycle parking.

The Electrically Assisted Pedal Cycles Regulations 1983 (SI 1983 No.1168): governs the use of electrically assisted cycles. Where these comply with the regulations, they may be used anywhere a bicycle may lawfully used. If problems emerge with EAPCs, they can be excluded from a cycle track through a Traffic Regulation Order under section 1 or 6 of the Road Traffic Regulation Act 1984.

Class 3 vehicles aka invalid carriages and mobility scooters: 'Class 3 vehicles' are also called 'invalid carriages'. Basically, using the Class 3 vehicle on a cycle track is not an offence unless local laws state otherwise.

Invalid carriages" (which is the legal term for mobility scooters) are defined as mechanically propelled vehicles by s185(1) of the Road Traffic Act 1988, but are not motor vehicles. S34 of the RTA 1988 creates the offence of driving a mechanically propelled vehicle otherwise than on a road, such as on a cycle track. However, s 20 of the Chronically Sick and Disabled Persons Act 1970 provides that, so long as the invalid carriage is complying with prescribed requirements and being used in accordance with prescribed conditions, s34 of the RTA does not apply to it.

Therefore, no offence is committed by driving an invalid carriage on a cycle track unless the local order creating the cycle-track, or any applicable bye-laws make it an offence to do so, and assuming the mobility scooter is being used in the correct manner."

4. Footpath Conversion Flow Chart

1. Is there an existing path? – **No** →

↓
Yes
↓

Assuming there is space available to create a cycle track

1. Acquire land (compulsorily if necessary) **or** seek dedication to the highway by landowner (2.8) **or** enter into permissive agreement that **secures** access for a period commensurate with the level of public investment (2.6 & 2.7).
2. Use planning application for change of use and engineering works to create cycle track

Or if there is a possibility that cycle track can be delivered as the result of development then:

1. the authority should resolve (if not already done so) to include it in future programme in order to demonstrate that it would be reasonable for the development to provide it as a condition of development (2.8)
2. Include as part of S38/S106 agreement etc at appropriate stage

2. Is it a public footpath – **No** →

↓
Yes
↓

Assuming there is space available to create a cycle track

1. Acquire land (compulsorily if necessary) **or** seek dedication to the highway by landowner (2.8) **or** enter into permissive agreement that **secures** access for a period commensurate with the level of public investment (2.6 & 2.7)
2. Use planning application for change of use and engineering works to create cycle track

Or if there is potential for equestrian use **consider** the use of a bridleway creation order but remember to allow for the differing surface needs of users (2.11)

Or if it can be demonstrated that there has been a minimum of 20 years continuous use by walkers and cyclists it may be possible to demonstrate presumed dedication by use – take legal advice locally

3. Is there space to build a cycle track alongside? → **No** →

↓
Yes → → → →

Convert using Cycle Tracks Act 1984 (2.1 & 2.2)

Create a cycle track alongside (2.5)