

Agenda Item 96.

Development Management Ref No	No weeks on day of committee	Parish	Ward	Listed by:
N/A	N/A	Wokingham	Evendons, Westcott	Scheme of Delegation

Applicant	Wokingham Borough Council	Postcode	N/A
Location	Footpath Wokingham 23 (Tan Hill)		
Proposal Type	Diversion Order Highways Act 1980		
PS Code	N/A		
Officer	Rebecca Walkley		

FOR CONSIDERATION BY Planning Committee on Wednesday 1 February 2017
REPORT PREPARED BY Public Rights of Way Officer

SUMMARY

Tan Hill Level Crossing forms part of footpath Wokingham 23, which takes pedestrians over the London Waterloo to Reading railway line, owned by Network Rail. Network Rail proposes to replace the level crossing with a bridge which will divert the footpath by approximately 23 metres. The level crossing has been assessed in terms of risk and was found to have a rating of C3, according to Network Rail's all Level Crossing Risk Model (ALCRM). This comprises a high risk for users. Therefore the proposed diversion will be made under s.119A of the Highways Act 1980.

PLANNING STATUS

- N/A

RECOMMENDATION

That Members authorise Officers to make a railway crossing diversion order and, if no objections are received or if any objections are subsequently withdrawn, to confirm the order as an unopposed order.

PLANNING HISTORY

- N/A

CONSULTATION RESPONSES

None.

REPRESENTATIONS

- Ramblers' Association – no objections
- Open Spaces Society – no objections
- Wokingham Town Council – no objections

APPLICANTS POINTS

None.

PLANNING POLICY

- N/A

PLANNING ISSUES

1. Currently, part of footpath Wokingham 23 is a level crossing (Tan Hill) which crosses over a live rail on the London Waterloo to Reading railway line. The crossing is considered to carry a high risk of accident according to Network Rail's own risk assessment. There was a near miss on the crossing in 2012 and a survey in 2013 revealed unauthorised use, trespass and criminal activity at Tan Hill.
2. Nationally, Network Rail, with the support of the Office for Rail Regulation is running a £130m investment programme to improve safety and reduce risk wherever a public highway meets a railway across the railway network.
3. A survey of Tan Hill level crossing was carried out in 2013. The results showed that the crossing is used by 80-90 pedestrians per day on an average weekday. This number increases at weekends to an average of 105 per day. A significant number of unaccompanied children were recorded using the crossing during the census. Night time use is frequent. Whistle boards are subject to a blanket ban between 11pm and 7am and trains do not sound their horns. This means that the sighting deficiencies at this crossing are not mitigated between these hours.
4. The highest risk to the public is a fatality occurring. The crossing is on a double track section of the line with a maximum speed of 70mph in both directions. Network Rail is of the view that the sighting of approaching trains is insufficient from the crossing due to the presence of the embankment and track curvature. The key risks identified by Network Rail are deficient sighting of approaching trains, large numbers of users (which will increase with the development of the Wokingham Town centre), frequent trains and sun glare. Therefore Network Rail believes that the replacement bridge is the only safe solution.
5. Currently there is a temporary closure on part of Wokingham 23 because of two further near misses reported verbally to WBC by Network Rail this year. The temporary closure order expires in September 2017.
6. Wokingham Borough Council is developing the Carnival Pool site. A planning application will be submitted in 2017. The application will include leisure facilities and residential use. A new car park is being constructed on site and the application will include permission for a new double span bridge which will eventually replace the temporary bridge and the existing bridge already in situ. The new double span bridge will be Equalities Act Compliant being accessed by lift in the car park at the eastern end and by ramp at the western access point.
7. A Memorandum of Understanding has been signed between Network Rail and WBC which sets out an agreement for such a double span bridge to be jointly funded in future. A further Diversion Order would be necessary to accommodate the new route before the double span bridge can be deemed the new highway. Network Rail has agreed to maintain the temporary bridge as set out in a

Memorandum of Understanding dated November 18th 2016.

8. Part of Footpath Wokingham 23, A-G-F (approximately 37.5 metres) would be diverted to A-B-D-E-F (approximately 61 metres) via a temporary stepped footbridge on both sides of the track (see plan appended to this report). The temporary bridge is not Equalities Act (EA) compliant but it does conform to British Standard 8300 5.9.2.
9. The proposed rail crossing diversion order would apply to the section A-G-F and would be made under section 119A of the Highways Act 1980. The Council cannot confirm a rail crossing diversion order as an unopposed order unless they are satisfied that it is expedient to do so having regard to all the circumstances set out in sub-paragraph (5)(a) and (b), in particular as to a) whether it is reasonably practicable to make the crossing safe for use by the public and b) what arrangements have been made to ensure that if the order is confirmed, any appropriate barriers and signs are erected and maintained.
10. In response to a) above Network Rail states that the primary benefit of the diversion is that it removes all risk of an incident at the level crossing as it would effectively close the level crossing to public traffic. They also believe that misuse, trespass and criminal activity would be eliminated as the railway would be securely fenced off. The occurrence of near misses would also be eradicated. The proposed bridge crossing would eliminate the risk associated with this high speed railway line that would otherwise solely rely on the individual user having to look and listen for approaching trains with deficient visibility along the line.
11. In response to b) above, Network Rail has agreed to provide new signage to notify users of the diversion. If the Diversion Order was confirmed, these would be in place for up to 12 months and maintained by Network Rail.
12. Where a proposed diversion alters the point of termination of the path on a highway, it can be diverted only to a point which is on the same or a connected highway which is substantially as convenient to the public. In this case the point of termination of the path is another point on the same highway and so this requirement is met.
13. A railway crossing diversion order may make provision requiring the operator of the railway to maintain all or part of the public right of way. In this case Network Rail agrees to maintain the temporary bridge crossing as set out in the MoU.
14. The Council should also consider any compensation which may become payable under s.28 on land that may be affected by the Order. The land owner usually enters into an agreement with the Authority to defray any compensation which may be payable. In this case the affected land is owned by Network Rail and Wokingham Borough Council and Network Rail have agreed to indemnify the council in respect of claims arising under s.28.
15. The Ramblers' Association and the Open Spaces Society have made no objections to the proposed diversion. Wokingham Town Council has made no comment regarding the application.
16. Local Members have been consulted. Concerns were raised by Councillor

Singleton regarding the steep steps over the temporary bridge. Network Rail responded to state that the steps conform to BS8300 the stair riser height is between 150-170mm. The preferred range for the rise of a step should be between 150 – 180mm (British Standard), therefore they conform to standard. Also, the clear span between handrails is 1.8m. The minimum clear span width of staircase should be 1.6m, again conforming to standard.

17. It should be noted that the existing section of path to be diverted is currently not Equalities Act compliant because of kissing gates at the level crossing making it unsuitable for wheelchair and pushchair access.
18. All costs for advertising and legal fees for the public path order will be met by the applicant.

CONCLUSION

The proposed railway diversion order will provide safer access over across the railway line at Tan Hill, according the Network Rail’s safety auditing procedures. It is expected that there will be increased pressure from users on this crossing with the development of Wokingham Town Centre and Wokingham’s Strategic Development Locations, therefore improved safety is welcomed.

As the owners of the land, Network Rail believe that it would be preferable for users if the railway crossing could be diverted over a new stepped footbridge to eliminate the risk associated with crossing this high speed railway line.

As there is a high risk to users of the crossing according the Network Rail’s own risk assessment, the diversion order is being made under s.119A of the Highways Act 1980.

It is recommended that the Authority be authorised to make a railway crossing diversion order under s.119A of the Highways Act (1980) and to confirm the order if no objections are received or if any objections received are subsequently withdrawn.

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