

Application Number	Expiry Date	Parish	Wards
223493	17/01/2023	Wokingham Town	Emmbrook; Evendons; Wescott

Applicant	Network Rail
Site Address	Tan House Footbridge, Wokingham
Proposal	Application for Prior Approval under Part 18, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the erection of a single span footbridge following demolition of 2 existing footbridges.
Type	PD Railway Works
Officer	Marcus Watts
Reason for determination by committee	Listed by Councillors Paul Fishwick, Imogen Shepherd-Dubey and Sarah Kerr due to concerns relating to the proposed design of the footbridge including accessibility and sustainability. Other matters have been raised which fall outside of the remit of the 1990 Town and Country Planning Act including land ownership.

FOR CONSIDERATION BY	Planning Committee on Wednesday, 11 January 2023
REPORT PREPARED BY	Assistant Director – Place and Growth
RECOMMENDATION	Grant Prior Approval – subject to informatives

SUMMARY

The proposal benefits from permitted development rights under Part 18, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). These permitted development rights are subject to the local planning authority granting ‘prior approval’, the process of which is limited to considering (a) whether the development ought to be and could reasonably be carried out elsewhere on the land, and (b) the design and external appearance of the structure.

Hence, the application seeks the ‘prior approval’ of the local planning authority for the erection of a single span footbridge following the demolition of the two existing footbridges at the location of the former Tan House level crossing, Wokingham.

The replacement footbridge would be located approximately 470 metres south of Wokingham Train Station and would span across the two railway lines with the eastern end located in the ongoing redevelopment of Carnival Pool and the western end located in Latimer Road Recreation Ground. Network Rail has advised that existing footbridge No.1, a reinforced concrete bridge, is in poor condition and nearing the end of its operational life, and that existing footbridge No.2, a temporary structure held up by scaffolding, needs to be replaced for safety reasons.

The existing footbridges form part of the route of the public right of way Wokingham FP 23. The replacement footbridge would continue to accommodate this route. The proposed structure would be stainless steel and would measure approximately 77 metres from east to west with a total height of approximately 7.1 metres.

RELEVANT PLANNING HISTORY

160497	Prior Approval application for the construction of temporary bridge over the operational railway.	Prior Approval Granted – 30/06/2016
--------	---	-------------------------------------

DEVELOPMENT INFORMATION

CONSTRAINTS

Major Development Location
Wokingham Town Centre
Public Rights of Way – Wokingham FP 23
Public Open Space
Great Crested Newt Consultation Zone
Potentially Contaminated Land

CONSULTATION RESPONSES

WBC Highways:	No objection given the limitation of issues to be considered under the 'prior approval' process.
WBC Public Rights of Way:	No objection given the limitation of issues that can be considered under the 'prior approval' process. However, concerns raised regarding the bridge's poor accessibility and lack of provision for disabled users. Informatives suggested re: developers requirement to obtain Highways Authority consent, compliance with the Equality Act (2010) and Temporary Traffic Regulation Order (TTRO) for footpath closure.
WBC Ecology:	No objection given the limitation of issues that can be considered under the 'prior approval' process. Wildlife informatives recommended.
WBC Landscape and Trees:	No objection given the limitation of issues to be considered under the 'prior approval' process. Informative recommended re potential work near TPO'd trees.

REPRESENTATIONS

Town/Parish Council:

Wokingham Town Council object on the grounds that the replacement footbridge would be steps only and not facilitate inclusive access for all users.

Officer's Comment: Due to the limited considerations which can be taken into account under this type of Prior Approval application, this is not a material planning consideration in this instance.

Local Members:

As indicated above, local Ward Members have listed this application for determination at Planning Committee and have provided the following objections which raised several issues which, while important, are not necessarily for consideration under the prior approval

process. However, the concerns raised are recommended to be drawn to the applicant's attention by various Informatives that are listed at Appendix 1 of this report:

Cllr Paul Fishwick objects on the following grounds:

- Bridge and access design – The bridge would be steps only which would not conform with the Equality Act and must have ramps to ensure inclusive access for all users. **Officer's Comment: Due to the limited planning considerations which can be taken into account under this type of Prior Approval application, this is not a material planning consideration in this instance.**
- Memorandum of Understanding – The proposal goes against a previous informal agreement between WBC and Network Rail. Network Rail has failed to work in partnership with WBC. **Officer's Comment: This matter falls outside the remit of Town and Country Planning Act and cannot be considered as part of this Prior Approval application.**
- The proposal does not support sustainable travel by restricting cycle links to the town centre. **Officer's Comment: Due to the limited planning considerations which can be taken into account under this type of Prior Approval application, this is not a material planning consideration in this instance.**
- Land Ownership – The proposal would sit on land not owned by Network Rail. **Officer's Comment: This matter falls outside the remit of Town and Country Planning Act and cannot be considered as part of this Prior Approval application.**
- The construction of the proposed footbridge would require the Public Right of Way to be temporarily closed and diverted, Network Rail has failed to demonstrate how this would be carried out. **Officer's Comment: This matter falls outside the remit of Town and Country Planning Act and cannot be considered as part of this Prior Approval application.**

Cllr Imogen Shephard-Dubey objects on the following grounds:

- The proposed bridge is not compliant for disabled use, contrary to local planning policy. **Officer's Comment: Due to the limited planning considerations which can be taken into account under this type of Prior Approval application, this is not a material planning consideration in this instance.**
- The proposed bridge would not support sustainable methods of travel, contrary to local planning policy. **Officer's Comment: Due to the limited planning considerations which can be taken into account under this type of Prior Approval application, this is not a material planning consideration in this instance.**

Cllr Sarah Kerr objects on the following grounds:

- The proposal is not in line with planning policy around sustainability and is not DDA compliant. By only providing steps the bridge would discriminate against many users. **Officer's Comment: Due to the limited planning considerations which can be**

taken into account under this type of Prior Approval application, this is not a material planning consideration in this instance.

Cllr Adrian Mather objects on the following grounds:

- Network Rail should work pro-actively with WBC and revise this scheme to include a fully accessible bridge with all necessary access for the whole community. ***Officer's Comment: This matter falls outside the remit of Town and Country Planning Act and cannot be considered as part of this Prior Approval application.***
- The proposal is not in line with local planning policy concerning sustainability and accessibility. ***Officer's Comment: Due to the limited planning considerations which can be taken into account under this type of Prior Approval application, this is not a material planning consideration in this instance.***

Cllr Maria Gee objects on the following grounds:

- Extremely short-sighted design, the proposed steps would breach any obligation under the Equality Act and should be replaced with ramps. ***Officer's Comment: This matter falls outside the remit of Town and Country Planning Act and cannot be considered as part of this Prior Approval application.***
- It is not in accordance with local planning policy or the Local Cycling and Walking Infrastructure Plan concerning accessibility and sustainability. ***Officer's Comment: Due to the limited planning considerations which can be taken into account under this type of Prior Approval application, this is not a material planning consideration in this instance.***

Cllr Rachel Bishop-Firth objects on the following grounds:

- A ramped bridge is required here so that it is accessible to all residents. The proposed replacement bridge represents a lost opportunity and would need to be modified or rebuilt in the future. ***Officer's Comment: This matter falls outside the remit of Town and Country Planning Act and cannot be considered as part of this Prior Approval application.***

n.b. there is no statutory requirement to notify adjoining occupiers directly of this type of prior approval application, however, the following representations have been received from the public:

Neighbours - 22 local residents have objected on the following grounds:

- Lack of accessibility for users requiring step free access. The bridge would exclude a huge section of the community including parents with buggies, wheelchair users (or other mobility aids), cyclists or anyone with poor mobility or frailty. ***Officer's Comment: Due to the limited planning considerations which can be taken into account under this type of Prior Approval application, this is not a material planning consideration in this instance.***
- This railway crossing is included in the WBC Local Cycling and Walking Infrastructure Plan (LCWIP) and should make provision for cyclists and wheelchair users. ***Officer's Comment: Due to the limited planning considerations which can be taken into***

account under this type of Prior Approval application, this is not a material planning consideration in this instance.

- Poor external appearance. ***Officer's Comment: refer to assessment below.***
- Wokingham Society have commented that while they do not find grounds to objecting to the proposal per se, it should be suspended while joint discussions are undertaken with a view to securing a ramped bridge if at all possible. ***Officer's Comment: This matter falls outside the remit of Town and Country Planning Act and cannot be considered as part of this Prior Approval application.***
- WATCH (Wokingham Active Travel Community Hub) have commented that The Tan House bridge has the potential to be an excellent connecting route to Wokingham Without, Finchampstead, Molly Millars, Barkham, Woosehill and more. Replacing a bridge with a design that is inaccessible to anyone with mobility issues, young children or cyclists, we believe, fails Network Rail's statutory requirement to enable access under the disability discrimination act. ***Officer's Comment: Due to the limited planning considerations which can be taken into account under this type of Prior Approval application, these are not material planning considerations in this instance.***

1 comment received in favour of the proposal citing the design being an improvement over the existing footbridges, while step free access would be preferable, they cannot see how could be achieved.

PLANNING ISSUES

Preamble

1. Several objections have been received in relation to this application. These mostly concern the issue that the proposed footbridge would be steps only, with no ramps or alternative modifications to accommodate residents with disabilities, prams or cyclists. The legislation that this application relates to is explained in full below. Due to the constraints of this type of 'prior approval' application, while these concerns would be material to a full or other types of planning applications they cannot be considered in this instance, and the local planning authority is unable to withhold granting consent on these grounds. However, as indicated above, informatives are recommended to draw the applicant's, and public's, attention to these important issues which fall outside of the jurisdiction of the local planning authority in this instance.
2. The Committee's attention is drawn to a relatively recent appeal decision in 2014 relating to a similar proposal for a replacement footbridge in Oxford, appeal ref APP/G3110/A/14/2215004, a proposal similar to the application for consideration here.
3. Oxford City Council refused to grant Prior Approval for the replacement footbridge, with their principal concern relating to lack of provision for disabled access with attention drawn to the Public Sector Equality Duty (PSED) contained in the Equalities

Act 2010. The Inspector concluded that they did not consider that the regulations were originally drafted to cover issues concerning disabled access and consequently indicating that this is not a material consideration under this type of application. The Inspector further concluded that even if the term ‘amenity’ was to be interpreted more widely to include accessibility issues, the proposal would not result in injury to the amenity of the neighbourhood as it would not represent a worsening of the existing arrangement. The refusal was subsequently overturned by the Planning Inspector.

Legislation

4. The request for Prior Approval has been submitted under the provisions of Class A of Part 18 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) [GPDO]. Part 18 relates to ‘Miscellaneous development’ and Class A states that, subject to conditions, the following works are ‘permitted development’:

A. Development authorised by—

(a) a local or private Act of Parliament,

(b) an order approved by both Houses of Parliament, or

(c) an order under section 14 or 16 of the Harbours Act 1964 (orders for securing harbour efficiency etc, and orders conferring powers for improvement, construction etc of harbours), which designates specifically the nature of the development authorised and the land upon which it may be carried out.

5. Network Rail has advised that the provision of bridges is authorised by a combination of the ‘Reading, Guildford and Reigate Railway Act 1846’, the ‘Staines, Wokingham and Woking Railway Act 1853’ and the ‘Railway Clauses Consolidation Act 1845’. Based upon the background information provided by Network Rail and an assessment of the current planning regulations, it is agreed that the proposed works fall within Class A of Part 18 of the GPDO. In effect, the principle of the provision of this bridge is established under the above Acts, and the GPDO states that it is ‘permitted development’ subject to conditions. These conditions are explained below.
6. Condition A.1 of Class A states that the erection of any bridge (and other specified structures) is not permitted, “*unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained.*” This essentially establishes the Prior Approval process and the requirement for Network Rail to submit an application to the Local Planning Authority before carrying out the proposed works.
7. Condition A.2 sets out the extent of matters which may be considered as part of this Prior Approval process. It states:

“The prior approval referred to in paragraph A.1 is not to be refused by the appropriate authority nor are conditions to be imposed unless they are satisfied that –

(a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or

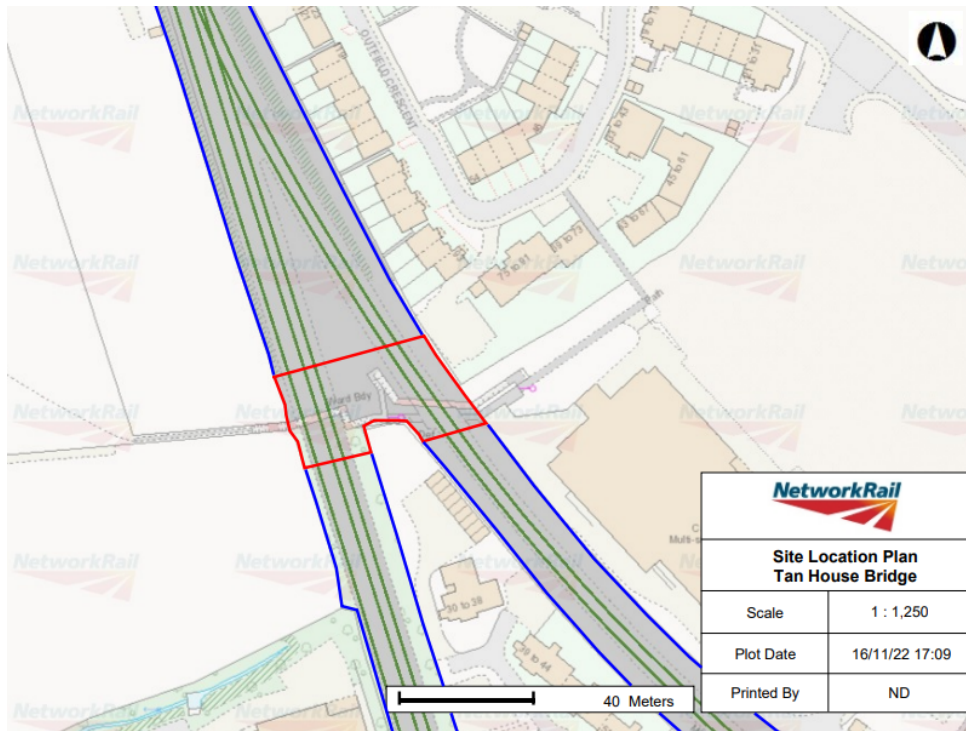
(b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.”

8. These two considerations are discussed below.

Relevant Considerations

Whether the development ought to be and could reasonably be carried out elsewhere on the land [A.2(a)]

9. The proposed footbridge would span the railway at essentially the same points as the existing footbridges and would continue to accommodate the Public Right of Way (FP23). Additionally, Network Rail has advised that the proposal would provide a safer, more convenient, route with reduced risk of trespassing as the bridge would span the full set of railway tracks in comparison to the current arrangement which requires to step down onto land in between the two railways onto the existing sidings.
10. If the works were to require the need to formally divert a small section of the existing Public Right of Way, then this would need to be progressed by Network Rail under the Highways Act as a separate process from this Prior Approval Application dealt with via the planning system. It is possible that if the current pedestrian route was not utilised, and the proposed bridge was to be located elsewhere, that this would involve a longer, more significant footpath diversion. Additionally, due to being located in an urban area the proposed bridge would likely conflict with built development if located elsewhere.
11. Locations further south along the railway line would require a significantly longer footbridge given that the railway line splits into two directly south of the application site. Relocation further north would not represent a preferable option either given that it is likely to be less preferable crossing point in terms of pedestrian flow and east-west desire lines. Moreover, a location further north could potentially lead to increased issues of overlooking from the positions on bridge that may affect the privacy of residents in properties along Outfield Crescent who back onto the railway at this point (refer to extract of Site Location Plan provided below).



12. Hence, it is not considered that the proposed footbridge ought to be located elsewhere, or that it could reasonably meet its purpose by being located elsewhere.

Whether the design or external appearance of the bridge would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury [A.2(b)]

13. As discussed above, the local planning authority can consider whether the design or external appearance of the proposed structure would be injurious to the amenity of the area.

14. The applicant has advised that the proposed bridge walkway would be finished with brushed stainless steel perforated panels and a non-slip waterproof floor. The remaining structure will be steel painted in a grey finish. An elevation drawing provided by Network Rail is provided below.

15. It is understood that the height of the proposed bridge is largely dictated by specific safety and technical requirements for Network Rail. The site lies within the Carnival Pool development area on the eastern end and Latimer Road Recreation Ground, a public open space with allotments adjacent on the western end. The proposed bridge would be visible from various public locations in these areas and would be seen in the context of the railway. The proposed bridge would be approx. 77m wide and 8m high at its greatest points and utilise brushed stainless steel perforated panels.

16. The proposal would replace the existing concrete footbridge and temporary scaffolding sections of the bridge, which has been in place for over five years now, with a single bridge with structural supporting piers (refer to extract of proposed elevation above). While the proposed replacement bridge would clearly have an

appearance entirely reflective of its intended function, it would have a more lightweight appearance than the existing concrete bridge and would utilise modern materials that would better reflect the character and appearance of the surrounding area and context with the railway line.

17. Network Rail has advised that the proposal would reduce vandalism, indeed the site visit confirmed that both existing footbridges have been significantly vandalised by 'tagging' graffiti, downgrading their overall appearance. Site visit photos are included below.



18. Hence, the design and external materials of the proposed footbridge would be of a good quality that would reflect its urban setting and represents a significant improvement in visual terms to the existing dilapidated bridge crossing. Given its considerable dimensions, it would be a noticeable feature in the landscape but would not appear out of scale with other existing buildings in the vicinity; e.g. the large multi-storey car park on the eastern end. As such, the proposal would not introduce a visually harmful structure, nor would it harm the character of the area.
19. Hence, upon considering its design, appearance, siting and nature, it is not considered that the proposed footbridge would injure the amenity of the neighbourhood.

Conclusion

20. The proposal seeks the prior approval of the local planning authority of the detailed plans and specification of a replacement footbridge to be erected at the former Tan House level crossing. Under the terms of the relevant 'permitted development' order, this prior approval cannot be refused unless the planning authority is satisfied that:
- a) the development ought to be and could reasonably be carried out elsewhere, or;
 - b) the design or external appearance would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.
21. These are the only reasons why the planning authority's approval should be withheld.
22. Based upon the assessment above it is not considered that there is any other location that is more suited to the provision of the proposed footbridge; or that the amenity of the area would be injured due to its design or external appearance. Consequently, no modification of its specification is required.
23. It is therefore recommended that the prior approval of the local planning authority should be granted, subject to the informatives (refer to Appendix 1 of this report) drawing the applicant's attention to other matters and reminding them of their duty to investigate whether consents or permissions under any other regulatory regimes are required.

APPENDIX 1 - Informatives

APPROVAL subject to the following conditions and informatives:

- 1. The applicant's attention is drawn to the fact that Wokingham FP 23 runs from Wellington Road, over the existing footbridge to Barkham Road. Notwithstanding the 'prior approval' determination hereby made, the footpath will require a Temporary Traffic Regulation Order (TTRO) under Section 14(1)A Road Traffic Regulation Act 1984 order to close the right of way while the works are in place. Wokingham Borough Council (WBC) are keen to work with Network Rail for the replacement of the bridge in a positive and proactive manner. However, WBC must act in accordance with all relevant legislation. Once details and dates as to when the bridge is intended to be rebuilt have been supplied, a TTRO can then be considered. A firm plan for the replacement of the bridge is required in advance; the Council cannot to agree to an indefinite footpath closure.*
- 2. The applicant's attention is drawn to the fact that Highways Authority consent will be required in addition to the 'prior approval' determination hereby made. The current bridge and replacement bridge provide staircases, and it is noted that the replacement bridge retains a staircase access. As a result, the proposed new bridge does not appear to comply with the requirements of the Equality Act 2010 which states that where a physical feature puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled, reasonable adjustments should be made to avoid the disadvantage. It is recommended that the new bridge should therefore feature ramps for disabled users as a reasonable adjustment to the design.*
- 3. The applicant is urged to consider how the proposed replacement bridge can better facilitate sustainable travel by incorporating adequate cycle links to the town centre.*
- 4. The applicant is reminded that they previously entered into a Memorandum of Understanding (MOU) with the Council on the matter of the replacement bridge. While the MOU is not a legally binding document, "it is a statement of serious intent – agreed voluntarily by equal partners – of the commitment, resources, and other considerations that each of the parties will bring"; please refer to: <https://www.gov.uk/government/publications/setting-up-school-partnerships/guide-to-writing-a-memorandum-of-understanding-mou#:~:text=It%20is%20a%20statement%20of,does%20not%20create%20legal%20obligations>*
- 5. It is understood that part of the proposed development, would sit on land outside of the ownership of Network Rail. While the 'prior approval' process doesn't require agreement by all landowners the process of development should involve these other parties.*
- 6. Trees along a possible construction access route from Wellington Road to the east, are protected by a recent TPO 1716/2020. There are significant trees lining another possible access route through public open space to the west. The applicant's attention is drawn to the provisions for managing tree protection on development sites under British Standard 5837 (2012).*

7. *This decision does not convey or imply any approval or consent required under the Wildlife and Countryside Act 1981 for protected species. Bats and Great crested newt are a protected species under the Conservation of Habitats and Species Regulations 2017 (as amended). The applicant is advised that European Protected Species Derogation Licence/s may need to be secured from Natural England.*
8. *Should any Great Crested Newts or evidence of Great Crested Newts be found prior to or during the development, all works must stop immediately and the ecological consultant/ Ecological Clerk of Works contacted for further advice before works can proceed. All contractors working on site should be made aware of the advice and provided with the contact details of a relevant ecological consultant.*

APPENDIX 2 - Parish Council Comments (Where relevant)

PLANNING REF : 223493
PROPERTY ADDRESS : Town Hall Market Place
: Wokingham
: RG40 1AS
SUBMITTED BY : The Wokingham Town Council P&T Committee
DATE SUBMITTED : 15/12/2022

COMMENTS:

The Committee considered the application and have concerns regarding inclusive access. The current proposal does not have ramp access so excludes wheelchair and buggy access.

Looking at options that could be a possibility has a lift been considered?

To incorporate the most viable solution of a ramp at either end of the bridge this would require the use of WTC land at one end and WBC land at the other. WTC would welcome consultation with Network Rail for a plan for a ramp at their side of the bridge.

There are concerns that there will be demolition of the existing bridge without plans in place for a replacement bridge with adequate ramp access.

The Committee object to this application as follows.

CP2 - Inclusive communities

- a) ageing population
- b) Children, young people and families
- c) People with special needs

CP6 - Managing Travel Demand

- a) sustainable forms of transport
- c) Improve existing infrastructure network

Cllr Shepherd-Dubey would like to speak on behalf of WTC if this application is called in to be discussed by WBC at their planning meeting

This page is intentionally left blank