

72. APPLICATION NO.223493 - 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.

Applicant: Network Rail

The Committee considered a report about this application, set out in agenda pages 183 to 200.

The Committee were advised that updates contained within the Supplementary Planning Agenda included:

- A summary of supplementary information provided by Network Rail, seeking to address some of the third-party concerns raised through the consultation which were not material planning considerations in this instance;
- Additional informatives 9, 10 and 11 following a consultation response from Environmental Health.

Imogen Shepherd-DuBey, Wokingham Town Council, spoke in objection to the application. Imogen stated that Wokingham Town Council owned the land to the south of the railway line at this point, whilst the right of way footpath leading to the bridge was surrounded by allotments leading on to housing which created a convenient walking route to town for residents living south of the railway. Imogen felt that the applicant should have asked the Town Council for some additional land during the planning process, and the Town Council had even spoken with the allotment owners who would potentially be most affected. Imogen stated that the Town Council would have most likely have relinquished the required land if it had resulted in an accessible bridge fit for the twenty-first century. Imogen added that this bridge was a popular graffiti location, of which the Town Council were responsible for cleaning, and the proposed material consisted of perforated steel which was an extremely difficult material to remove graffiti from, which would impact the visual amenity of this location. Imogen stated that there was concern that the existing bridge would be demolished without a timeline or plan for rerouting the traffic that used it. Imogen stated that Network Rail had its own inclusive design standards, whilst there was very clear statutory legislation that required employers and service providers to take positive actions to overcome and minimise the disadvantage from a protected characteristic. Imogen felt that it was unclear why the design only had stairs, as it excluded less able, disabled and pram users from using the bridge. Should the design have been accessible, it would also have met the needs of users of other modes of transport including cyclists. Imogen stated that as this application was a prior approval application, many of the normal planning considerations did not apply, however the design and external appearance of the proposal were relevant considerations, including if the proposal would injure the amenity of the neighbourhood and was reasonably capable of modification. Imogen was of the opinion that the bridge could be modified to suit the needs of the neighbourhood, via the change of materials from perforated steel and the inclusion of ramps.

Alex Cran, resident and Chair of the Wokingham Active Travel Community Hub (WATCH), spoke in objection to the application. Alex stated that over 30,000

residents of the Borough lived to the south of the railway line, whilst access into the Town Centre from the south were limited to going under the bridge on the Finchampstead Road and using the level crossing at the railway station, both of which utilised extremely congested roads and did not link directly to the main leisure areas of the town centre. Alex felt that the Tan House crossing was the perfect location for an accessible crossing which linked to the main leisure areas of the town centre, however the current design would stop this being a viable transit link for all but the most fit and able. Alex asked that Wokingham Borough Council (WBC) work with Network Rail to incorporate a design including wide ramps which were suitable for anybody with frailty or limited mobility to traverse safely and easily. Alex felt it incomprehensible that when so much effort was rightfully put into equalities, something as discriminatory as the design of this bridge could be pushed through against the will of the community.

Natalie Wilson, resident, spoke in objection to the application. Natalie stated that she lived south of the railway line, travelled actively, was the mum to a two year old, had a disabling medical condition and had a brain injury. Natalie stated that she travelled to the town centre every day for work, and her only options were via major thoroughfares which were congested and polluted and made her feel unsafe as a vulnerable road user. Natalie felt that the redesign of the Tan House bridge was the opportunity to provide an accessible route to and from the town centre, however this design would not achieve this ambition. Natalie questioned how the bridge (which would be the only opportunity for a traffic free route) could be designed to only be useable by able bodied people without young children. Natalie felt that the inclusion of a wheel channel would not increase accessibility for the vast majority of less abled people, who would have to continue to use the existing 0.7 mile diversion. Natalie questioned why users with protected characteristics were being discriminated against, and asked that the design be amended and made right at the first attempt.

Nick Donoghue, agent, spoke in support of the application. Nick stated that the proposal sought to replace the existing two step footbridges with a single span footbridge which would continue to provide access over the railway for the next 120 years. Nick added that whilst part 18 of the general permitted development order would allow the structure to be replaced like-for-like with the existing structure, Network rail were keen to deliver a bridge that offered some significant benefits. Nick stated that the bridge would offer improved accessibility by significantly reducing the number of steps, providing non-slip and tactile flooring, and via provision of a wheel channel to improve access for cyclists. Nick added that safety would be improved via the provision of anti-theft and vandalism measures and improved lighting. Nick stated that whilst it had not been possible to deliver a fully accessible bridge at this time, due to the constraints of the site, the bridge had been designed to install ramps should this be feasible in the future. Nick stated that this form of prior approval application could only consider siting and design, whilst this location still offered the most direct and convenient route for the public right of way. In terms of design, Nick considered that the modern single span bridge would be a significant improvement on the existing temporary scaffold bridge and the dilapidated concrete bridge which was approaching the end of its operational life. Nick stated that the proposal would not injure the amenity of the neighbourhood, as it would not represent a worsening of the exiting arrangement. Nick urged the Committee to support the application.

Sarah Kerr, Ward Member, commented on the application. Sarah stated that this was a prior approval application and as such many of her concerns regarding design were not able to be considered by the Committee. Sarah added that she was pleased to see the informatives included in the report pack, and urged the Committee to include them, strengthen them further and condition them if possible. Sarah stated her disappointment that the applicant was quoting Victorian legislation, with little to no reference of subsequent legislation including the Disability Discrimination Act and the Climate Change Act. Sarah quoted Network Rail's website, whereby they commented that new footbridges over the railway could introduce safer rights of way and open up routes to more people, especially when designed for maximum accessibility. Sarah commented that she had seen modelling which had included full ramped access, and felt that the lack of ramps was discriminatory and forced a number of residents to take longer and more dangerous routes into town. Sarah felt that it was not acceptable to state that accessible modifications could be made at a later date, as this access was required now, and a retrospective approach would not take into account embedded carbon. Sarah stated that a memorandum of understanding was entered into with WBC and Network Rail to implement solutions, however whilst WBC was awaiting costings the application before the Committee was submitted, despite repeated attempts from WBC to work on this issue in partnership. Sarah asked that Network Rail work with WBC to improve the accessibility of this design and to live up to the public promises made with regards to climate responsibility and social performance. Sarah requested that the Committee used their powers of applying conditions and informatives to require Network Rail to deliver a modern and fully accessible bridge.

Rachelle Shepherd-DuBey queried why the applicant could not implement a fully accessible bridge, or lift system, which the applicant was delivering at their new and redeveloped railway stations.

John Kaiser queried what the Committee could decide with regards to this application, and sought clarity on the implications of any such decisions. Marcus Watts, case officer, stated that the Committee could firstly approve the application as per the officer recommendation, secondly the Committee could add in additional informatives including asking the applicant to provide additional details with regards to materials due to be used, and thirdly the Committee could refuse the application which carried significant risks (including submission of an appeal with the potential of costs being awarded) and had been attempted by other Local Authorities. John Kaiser commented that the proposal was intended to be in place for 120 years, and would not provide for the amenity of the local area should it not include an accessible design. Lyndsay Jennings, Senior Solicitor, advised this was a prior approval application and therefore permission was in place, and this application was a condition of that permission. It was restrictive on what may be refused or conditioned. Lyndsay added that any refusal would potentially go to appeal or any other challenge Network Rail felt appropriate for the circumstances. The legislation was as it was, and WBC had to work within that scope as an Authority. Brian Conlon, Operational Lead – Development Management, stated that ordinarily the Planning Committee would not consider prior approval applications, and this was an exceptional situation. Brian added that permission had already been granted subject to WBC considering the location and design of the proposal. Although other matters

were relevant, they were not covered by the prescriptive legislation which would require a change at the national level.

Andrew Mickleburgh stated his full agreement with the issues raised relating to this application, but noted that this prior approval application severely constrained the considerations that could be given to this proposal. Andrew believed that there was the potential for far greater discussion between the applicant, WBC and the Town Council in relation to the design of the bridge to make it fully accessible for the next century, and asked that the agent help facilitate this going forwards. Andrew asked that the minutes reflect the Committee's deep concerns regarding this project including the lack of accessibility, and asked that any decision to approve the application include all informatives suggested by officers and any others as resolved by the Committee. Andrew proposed that the Executive Member for Planning communicate this information as quickly and persuasively as possible to Network Rail, with a view to open up meaningful dialogue and a satisfactory way forward on this matter.

David Cornish stated that this was not an issue exclusive to Wokingham, and York City Council had refused permission for an inaccessible bridge based on the Equalities Act. David added that another Local Authority had successfully refused an application for a bridge without a ramp, though they were supported by their Local MP and the Prime Minister. David stated that Oxford City Council refused an application for two unsuitable bridges, which although overturned at appeal, led the Council to refuse Network Rail access to a third bridge until a suitable solution was found for all three. David stated that there was ample advice in the National Policy Statement for National Networks, including that all plans should reduce community severance, of which Network Rail controlled all crossing of the railway line south of the railway line into the town centre. David stated that Government legislation directed operators to identify structures where the network acted as a barrier to cycling and walking. David stated that the Committee did have a choice to make with this application, and proposed that the application to be deferred to allow WBC to continue to engage with the applicant to accommodate a solution to the issues identified. Marcus Watts stated that this prior approval application had a strict deadline of 17 January 2023 for determination, and the applicant would have consent to deliver the proposal if a determination was not made by this date. Brian Conlon stated that this was one of the reasons that prior approval applications were not ordinarily considered by the Committee, as the risk of deferral presented issues.

John Kaiser stated that he would be minded to refuse the application, as it did not meet the amenity of Borough residents. Lyndsay Jennings stated that refusing the application based on the design injuring the amenity of the neighbourhood could be a possible reason for refusal. Brian Conlon advised that any refusal needed to be justified and was up to the Committee to specify how the replacement bridge, when compared to what was already there, was more harmful. Detail would need to be provided as to what would be defended should the application be refused and subsequently be appealed. In relation to the suggested refusal on the basis that the application did not meet the requirements of the Equality Act, Lyndsay Jennings advised that would not be in line with the Order. Reference to lack of compliance with the Equalities Act was not advised as this was not a consideration for prior approval applications, and would be potentially subject to strong legal challenge,

similar to the Oxford case. Lyndsay Jennings commented that officers would have serious concerns if this particular reason for refusal was put forward in this matter.

John Kaiser felt that unless the Committee gave a very definite sign to the applicant that they were incredibly displeased with the application due to its lack of accessible design, it was unlikely that changes would be made.

Wayne Smith stated that senior members and officers at WBC should have been engaging in these conversations with the applicant already. Wayne added that he agreed that the Committee needed to send a clear message, and commented that it would be most cost effective for the applicant to deliver ramps when constructing the structure rather than retrofitting them at a later date.

John Kaiser suggested the refusal of the application, as the design and external appearance of the bridge would injure the amenity of the neighbourhood. Lyndsay Jennings confirmed this to be a reasonable wording for refusal. Lyndsay reminded the Committee that including anything outside of what the order allowed for would potentially invite an application for costs in an appeal situation or further challenge.

Brian Conlon stated that there was the ability to request an extension of time for prior approval applications with the applicant, which was normally made in writing. Brian stated that if a verbal agreement could be reached with the applicant on the evening, to be followed up in writing, then members could potentially defer the item if they felt that additional time would allow for discussions between WBC and the applicant to progress to a point where the Committee could make a more informed decision.

The Committee sought the agreement of the agent (acting on behalf of the applicant), to extend the deadline for determination of this application until 10 February 2023. Nick Donoghue confirmed that this was acceptable.

John Kaiser proposed that the application be deferred until the Planning Committee on 7 February 2023, to allow for discussions between WBC and the applicant to progress to a point where the Committee could make a more informed decision. This was seconded by Rachelle Shepherd-Dubey.

RESOLVED That application number 223493 be deferred until the Planning Committee on 7 February 2023, to allow for discussions between WBC and the applicant to progress to a point where the Committee could make a more informed decision.

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