

Regulatory Committee

Meeting to be held on 26 June 2019

Electoral Division affected: Poulton-le-Fylde
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Highways Act 1980 – Section 119A Rail Crossing Diversion Order Wildlife and Countryside Act 1981 – Section 53A Diversion of Public Footpath over Railway between Holts Lane and Footpath Poulton-le-Fylde 4 (Annexes 'B' and 'C' refer)

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Executive Summary

The proposed diversion of a public footpath over the Railway between Holts Lane and Footpath Poulton-le-Fylde 4 in Wyre Borough.

Recommendation

- (i) That subject to no unsatisfactory responses to the consultations, an Order be made under Section 119A of the Highways Act 1980, to divert part of the public footpath, from the route shown by a bold continuous line and marked A-B on the attached map, to the route shown by a bold dashed line and marked A-C-D-E. That the Order makes provision requiring the operator of the railway to maintain the footpath including both surface and bridge structure pursuant to section 119A(6) of the Highways Act 1980.
- (ii) That in the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State and the Authority take a neutral stance with respect to its confirmation.
- (iii) That provision be included in the Order such that it is also made under Section 53A of the Wildlife and Countryside Act 1981, to amend the Definitive Map and Statement of Public Rights of Way in consequence of the coming into operation of the diversion.

Background

Lancashire County Council have received an application from Network Rail to divert part of the above mentioned public footpath in connection with their proposal to replace the Holts Lane level crossing with a stepped footbridge.

Holts Lane Level Crossing is on the Preston to Blackpool line, positioned between a residential street on a housing estate, to the west side of the railway and Poulton Industrial Estate to the east.

The crossing has kissing gates (opened by the user) on both side and a wooden deck with nailed on anti-slip material. There are Stop, Look and Listen boards but no other forms of warning or protection for members of the public.

This section of railway is twin tracked and the line is now electrified as part of Network Rail's Northern Hub transport improvement programme. As a result of the electrification works, the minimum sighting distances can no longer be achieved looking up and down the line, due to the stanchions and other infrastructure that has been erected to support the overhead power lines. It is also highly likely that a train stopped at a signal could straddle the level crossing.

For those reasons, together with the increase of frequency of services and longer trains, means some method of mitigation is required to reduce the risk to users of the level crossing.

Network Rail have explored all alternative options for a permanent means of reducing the risk that the railway crossing presents, and their preferred option is to close the level crossing and provide a new footbridge. This will ensure that the public can cross the railway safely and they have applied for an Order to change the legal alignment of the footpath to enable the level crossing to be closed when the new footbridge is in place.

The length of the existing path proposed to be diverted is shown by a bold continuous line marked on the map as A-B. The proposed alternative route is shown on the plan by a bold dashed line and marked A-C-D-E.

Consultations

Wyre Borough Council, the Peak and Northern Footpaths Society and the Ramblers' have been consulted and at the time of writing, their responses are awaited.

The consultation with the statutory undertakers has been carried out and at the time of writing, no objections or adverse comments on the proposal have been received.

Network Rail has considered all available mitigation options and has held detailed discussions with key stakeholders in order to provide a suitable solution at this level crossing. They held a community drop in session and a door knocking session in July 2018, to ascertain the views of the local residents. All the 18 people that responded with comments were in favour of closure of the level crossing.

On 15 March 2019, Wyre Borough Council granted planning permission for a stepped footbridge at this location.

Advice

Points annotating the route on the attached map

Point	Grid Reference	Description
A	SD 3583 3884	Point immediately east of the kissing gate on the east side of the railway.
B	SD 3582 3884	Point immediately west of the kissing gate on the west side of the railway.
C	SD 3581 3888	90 degree bend where the top step meets the deck of the footbridge on east side of the railway.
D	SD 3579 3887	90 degree bend where the top step meets the deck of footbridge on west side of the railway.
E	SD 3581 3884	Point on Holts Lane 10 metres west of the kissing gate on the west side of the railway.

Description of existing footpath to be diverted

The public footpath as described below and shown by a bold continuous line marked A-B on the attached map (Lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A	B	W	15	The entire width

Description of new footpath

Public footpath as described below and shown by a bold dashed line A-C-D-E on the attached map (lengths, number of steps and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A	C	NNW	45	2	Tarmac surface on ground level, then 3 flights of 10 steps.
C	D	WSW	20	2	Upper deck of footbridge
D	E	Generally SSE	25	2	3 flights of 10 steps, then tarmac surface on ground level.
Total distance of new footpath:			90		

The surface of the steps and upper deck of the footbridge will comprise of a non-slip surface and the footbridge will stand approximately 6 metres from the ground.

It is proposed that the right of way to be created by the proposed Order will not be subject to any limitations or conditions.

Variation to the particulars of the path recorded on the Definitive Statement

If this application is approved by the Regulatory Committee, the Head of Service Planning and Environment suggests that the Order should also specify that the Definitive Statement for Footpath Poulton-le-Fylde 4 be amended to read as follows:

The 'Position' column to read: "From Holts Lane at SD 3581 3884 runs 25 metres generally north north west on a tarmac path on ground level, then ascends 3 flights of 10 steps on the footbridge to SD 3579 3887, then runs 20 metres east north east on the footbridge deck to SD 3581 3888, then 45 metres south south east descending 3 flights of 10 steps to SD 3583 3884 on the east side of the railway to Urban District Boundary at Main Dyke – to Singleton. (Lengths, number of steps and compass points given are approximate)."

The 'length' column be amended to read: "0.65 km".

The 'Other Particulars' column be amended to read "The width of the section of footpath between SD 3581 3884 and SD 3583 3884 is 2 metres. There are no limitations on the section of footpath between SD 3581 3884 and SD 3583 3884."

Criteria satisfied to make and confirm the Order

To make an Order under Section 119A of the Highways Act 1980, the county council must be satisfied that:

it appears expedient in the interests of the safety of members of the public using it or likely to use it to divert a footpath which crosses a railway, other

than by tunnel or bridge (whether on to land of the same or of another owner, lessee or occupier).

This section of railway is twin tracked and the line is now electrified as part of Network Rail's Northern Hub transport improvement programme. As a result of the electrification works, the minimum sighting distances can no longer be achieved looking up and down the line, due to the stanchions and other infrastructure that has been erected to support the overhead power lines. It is also highly likely that a train stopped at a signal could straddle the level crossing.

For those reasons, together with the increase of frequency of services and longer trains, means some method of mitigation is required to reduce the risk to users of the level crossing.

Currently, there is the potential for accidental collisions resulting from an incident such as a slip or trip, a user of the path not seeing a train approaching or not hearing the train's warning horn. Another high risk to users is that on occasions, trains pass each other, going in different directions on or close to the crossing. This is an extremely high risk to users of the crossing, as they can wrongly assume the train they have sighted and/or heard is the only one to be aware of, without assessing whether another train is approaching in the other direction.

An added risk factor of the current level crossing is that modern trains are quiet and weather conditions such as high winds or fog can reduce a pedestrian's ability to hear or see a train approaching.

There have been 9 reported incidents of near misses recorded at the Holts Lane level crossing since 2004, the last one of which occurred in 2017. The details of each incidents are as follows:-

- 2004 - a near miss was reported with two children who were playing on the level crossing. The driver made an emergency brake application.
- 2004 - a near miss with an elderly gentleman was reported. He stepped out onto the crossing when the train was 50 to 100 yards away. The driver sounded the horn and made an emergency brake application and the person hurried to the other side of the crossing. The driver suffered shock/trauma as a result.
- 2004 - the driver of a train reported that whilst approaching the level crossing, a person was standing clear of the line. He sounded the horn at which point the person made their way across the line towards the houses on Holts Lane.
- 2007 - a near miss was reported with an elderly gentleman. The driver had to apply the emergency brake.
- 2011 - the Poulton signaller requested a stop to all trains between Poulton and Kirkham after a driver thought he had clipped a person at the level crossing. Some children nearby the crossing confirmed that the train had not in fact struck anyone.
- 2011 - the driver of a train reported a near miss with a person at the level crossing.
- 2015 - a trespass incident occurred when the driver of the train advised that a male walked off the level crossing onto the operational railway.
- 2016 - a male sprinted over the level crossing as an oncoming train approached. He crossed with seconds to spare before the train passed.

- 2017 - the driver of a train had to apply the emergency brake as an elderly lady was crossing slowly.

Network Rail have explored all alternative options and as it is accepted that some means of crossing the railway at this location is necessary.

At some level crossings, Miniature Stop Lights are installed to provide a user with a visual warning of approaching trains. However, Network Rail does not support the installation of Miniature Stop Lights at certain locations, as they only provide a limited mitigation of risk. This is because they are reliant on the public using them correctly and industry evidence has shown that when groups of people are at level crossings, then a 'pack' mentality can arise and each individual may not pay attention to their own personal safety, instead just follow the pack.

The suitability of Miniature Stop Lights has been assessed and rejected for this location. Network Rail does not accept that it would afford a suitable level of protection due to the vulnerable users that regularly use this footpath.

It is suggested that it is not reasonably practicable to make the crossing safe by any other means, and that there is a justifiable case for constructing a stepped footbridge and closing and removing the level crossing.

Network Rail have carried out a Diversity Impact Assessment in order to determine the type of footbridge that would be appropriate in this instance. The assessment looked in detail at the considerations given into the different types of user and why some options were not considered feasible.

Wherever possible, Network Rail provides a ramped access in addition to steps, but they have advised that in this location ramps are not considered feasible, due to the limited space available between the buildings on either side of the railway and the length of the ramps (approximately 400 metres), that would be needed to gain the necessary height to cross over a gas overhead pipeline that is located adjacent to the crossing. Considerable third-party land purchase on both sides of the railway would be required to accommodate the ramped element of the structure, which would directly impact adjoining business properties bordering the railway and the adjacent residential area. A large ramped structure would also have a negative impact on the adjacent resident's views and on their privacy.

In addition, a ramped crossing would require adequate lighting throughout the structure that would impact on the adjacent properties and to prevent and monitor potential anti-social behaviour the ramps may require CCTV coverage. There are also other issues that arise with obtaining consents regarding the environmental impact and appropriateness of that type of structure in certain locations.

Network Rail also has to justify the higher financial outlay of public funds for the provision of a structure with ramps. They have secured £1.5M funding for a stepped footbridge in this location. The likely cost of a ramped footbridge would be in the region of £3.5M, due to the cost of purchasing the additional land that would be needed and the materials needed to build a substantially larger structure.

An example of the two differing types of structures is provided below to visually demonstrate the scale of a bridge with ramps in comparison to a stepped structure.



Figure 1: An example of a stepped structure



Figure 2: Examples of combined stepped and ramped footbridge structures.

In this instance therefore, it is the intention of Network Rail that only steps will be provided. Currently it is not possible to get a pushchair or wheelchair through the kissing gates that are in situ each side of the railway line.

The nearest railway crossing point that would be accessible to all, is the road bridge, Garstang Road East that is located 380 metres north of the level crossing.

In the event that the Order is successful, Network Rail will ensure that suitable fencing is erected to bar access to the railway, and that appropriate signs are provided advising potential users that the path has been diverted.

The proposed site for the footbridge lies immediately to the north of the existing crossing and is on land that is occupied by the operational railway. The land crossed by both the existing and proposed routes is not currently registered with the Land Registry, therefore if Network Rail are unable to prove title to the land, notices will be erected on site directed to alert any owner of occupier of the land.

There is no apparatus belonging to or used by statutory undertakers under, in, upon, over, along or across the land crossed by the present definitive route, or they have given their consent.

It is advised that the effect of the proposed Order, if confirmed, will not have any adverse effect on the needs of agriculture and forestry and desirability of conserving flora, fauna and geological and physiographical features. It is also suggested that the proposal will not have an adverse effect on the biodiversity or natural beauty of the area.

The legislation requires that if the termination point of a footpath is proposed to be altered, then the Authority may only make a Diversion Order if the new termination point is on the same path or a path connected to it and is substantially as convenient to the public.

The proposed diversion will alter the western termination point of the public footpath, placing it at another point on Holts Lane, being the same highway or a highway connected to it, and it is substantially as convenient to the public. The proposed diversion will not alter the point western point of termination of the public footpath.

The applicant, Network Rail, have agreed to defray any compensation, and has also agreed to bear all advertising and administrative charges incurred by the county council in the order-making procedures and also to provide and maintain the alternative route to the satisfaction of the county council. It is advised that the Order itself makes provision for this future maintenance by Network Rail or their successors as a rail operator.

The Committee is advised that so much of the Order as extinguishes part of the public footpath is not to come into force until the county council has certified the satisfactory physical implementation of the footbridge.

Should the Committee agree that the proposed Order be made and, subsequently, should no objections be received to the making of the proposed Order, or should the proposed Order be submitted to the Secretary of State for Environment, Food and Rural Affairs for confirmation, it is felt that it is expedient to confirm the Order having regard to all the circumstances and in particular to:

- (a) whether it is reasonably practicable to make the crossing safe for use by the public; and
- (b) what arrangements have been made for ensuring that any appropriate barriers and signs are erected and maintained.

It is felt that, if the Order were to be confirmed, the new way will be reasonably convenient to the public. The construction of a stepped footbridge would eliminate the risk to the public when crossing the operational railway. It is acknowledged that the new route is longer than the existing route and requires steps to be negotiated, however given the substantial improvement in the safety of the crossing it is suggested that this is reasonable. In addition, users of the railway crossing that are in a hurry and would be inconvenienced by waiting for a train to pass may find a footbridge to be the preferred option.

It is suggested that there will be no adverse effect on the rights of way network as a whole or on the land served by the existing route or on land over which the new path or way is to be created.

It is advised that the needs of the disabled have been actively considered and as such, the proposal is compatible with the duty of the county council, as a Highway Authority under the Equality Act 2010. Although it is the intention that only steps will be provided over the footbridge which may therefore be inaccessible or difficult for

some users it is considered that the absence of gates to be negotiated and the increased protection to those and other users from the danger of crossing at grade a high speed railway track makes this a reasonable solution.

The provision of a footbridge will enable a safer means of crossing the railway for persons with a hearing impairment as the warnings sounded by the train's horn might not be as effective. Furthermore, the footbridge would be a safer means of crossing for those with a visual impairment.

It is also advised that the effect of the Order is compatible with the material provisions of the county council's 'Rights of Way Improvement Plan'. In particular policy RMVI2-2 whereby the Local Authority will aspire to meeting the British Standard for gaps, gates and stiles. In this instance BS5709:2018 has been applied and accordingly, as it is proposed that there will not be any gates or barriers on the stepped access the proposed alternative route is fully compliant with the British Standard.

It is considered that, having regard to the above, it would be expedient to confirm the Order.

Stance on Submitting the Order for Confirmation (Annex C refers)

It is recommended that the county council should not necessarily promote every Order submitted to the Secretary of State at public expense, where there is little or no public benefit, and therefore it is suggested that in this instance the promotion of this diversion to confirmation in the event of objections, which unlike the making of the Order is not rechargeable to the applicants, is not undertaken by the county council. In the event of the Order being submitted to the Secretary of State the applicants can support or promote the confirmation of the Order, including participation at public inquiry or hearing. It is suggested that the Authority take a neutral stance.

Risk Management

Consideration has been given to the risk management implications associated with this proposal. The Committee is advised that, provided the decision is taken in accordance with the advice and guidance contained in Annex 'B' (Revised basic Guidance on the law relating to certain Orders to be made under the Highways Act 1980) included in the Agenda papers, and is based upon relevant information contained in the report, there are no significant risks associated with the decision-making process.

Alternative options to be considered

To not decide to make an Order: Insist on a ramped footbridge.

To not decide to make an Order: Resulting in Network Rail having to improve the current crossing and implement further safety measures such as further speed restrictions of the trains. It is suggested that this is not reasonable given the

implementation of the Network Rail's Northern Hub transport improvement programme.

To decide to make an Extinguishment Order: this footpath is well used and it is therefore not appropriate to recommend extinguishment of the crossing instead of diversion.

To agree the Order be made but not yet be satisfied regarding the criteria for confirmation and request a further report at a later date.

To agree that the Order be made and if objections prevent confirmation of the Order by the county council that the Order be submitted to the Secretary of State and promoted to confirmation by the county council.

To agree that the Order be made and if objections prevent confirmation of the Order by the county council that the Order be submitted to the Secretary of State to allow the applicant to promote confirmation, according to the recommendation.

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Tel
File Ref: 211-717 PRW-02-02-04		Mrs Ros Paulson Planning and Environment, 07917 836628

Reason for inclusion in Part II, if appropriate

N/A