

Regulatory Committee

Meeting to be held on 17 January 2018

Electoral Division affected: Fylde West
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Highways Act 1980 – Section 119A Rail Crossing Diversion Order Wildlife and Countryside Act 1981 – Section 53A Proposed Diversion of Part of Staining Footpath 6, Fylde Borough. (Annexes 'B' and 'C' refer)

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Executive Summary

The proposed diversion of part of Staining Footpath 6, Fylde Borough.

Recommendation

- (i) That subject to satisfactory responses to the consultations, an Order be made under Section 119A of the Highways Act 1980, to divert part of Staining Footpath 6, from the route shown by a bold continuous line and marked A-B on the attached plan, to the route shown by a bold dashed line and marked A-C-D-B.
- (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event of no objections being received, the Order be confirmed and, in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State and the Authority take a neutral stance with respect to its confirmation.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 its proposal to replace Preese Hall Level Crossing with a stepped footbridge.

Preese Hall Level Crossing is a public footpath railway crossing, located south of Poulton-Le-Fylde near to Weeton Barracks, on the Preston to Blackpool railway. The approach to both sides of the crossing and the footpaths leading to it on either side are unlit. There are no telephones, or any other audible or visual warnings.

The operational railway in this area is affected by Network Rail's Northern Hub transport improvement programme which will help meet growing demand for rail travel across the north of England. This requires additional infrastructure to be installed on the railway line that may impact sight lines, and will lead to an increase in the number of trains and the speed at which they will be travelling.

There is currently a temporary closure order in place prohibiting use of the crossing whilst works are taking place. This closure has been extended by the Secretary of State until June 2018.

The level crossing is set in a rural area, forming a link in the network of country paths. There are a couple of small industrial units and Weeton Barracks located to the east of the railway. It is understood that the footpath and level crossing is well used by local residents and visitors. A 9 day level crossing census was undertaken in 2016. On the busiest day, there were 30 adult users using the crossing. On the least busy day there were 2 users.

Network Rail has explored all alternative options for a permanent means by which the increased risk to the footpath users can be reduced. Their preferred option is to provide a new stepped footbridge, to ensure that the public can cross the railway safely, and have applied for a Diversion Order to change the legal alignment of the footpath, to enable the level crossing to be closed when the footbridge is in place.

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

Consultations

Fylde Borough Council, Staining Parish Council, the Peak and Northern Footpaths Society and the Fylde branch of the Ramblers Association 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.

Advice

Points annotating the routes on the attached plan

(All lengths and compass points given are approximate).

Point	Grid Reference	Description
A	SD 3708 3631	Point immediately west of the kissing gate on the west side of the railway.
B	SD 3710 3631	Point immediately east of the kissing gate on the east side of the railway.
C	SD 3710 3629	90 degree bend where the top step meets the deck of

		the footbridge on west side of the railway.
D	SD 3711 3629	90 degree bend where the top step meets the deck of footbridge on east side of the railway.

Description of existing footpath to be diverted

The part of Staining Footpath 6 as described below and shown by a bold continuous line marked A-B on the attached plan. (Length and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A (SD 3708 3631)	B (SD 3710 3631)	Generally ESE	20	The entire width

Description of new footpath

Footpath as described below and shown by a bold dashed line A-C-D-B. (All lengths, number of steps and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A (SD 3708 3631)	C (SD 3710 3629)	Generally SSE	30	2	Compacted stone path on ground level, then 2 flights of 18 steps to access the western end of the deck of the footbridge.
C (SD 3710 3629)	D (SD 3711 3629)	ENE	15	2	Deck of footbridge.
D (SD 3711 3629)	B (SD 3710 3631)	NNW	20	2	Eastern end of the deck of the footbridge, then running down 2 flights of 18 steps then compacted stone surface at ground level.
Total distance of new footpath:			65		

The surface of the steps and upper deck of the footbridge will comprise of a non-slip surface and the footbridge will stand approximately 8 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 Order should also specify that the Definitive Statement for Staining Footpath 6 be amended to read as follows:

The 'Position' column to read: "Footpath from a point approximately 84 metres south of Unclassified County Road No. 3/157, Staining, (GR. 3684 3675), adjacent to the access into the farmyard of Todderstaffe Hall, through a large timber gate between stone gate posts. The track is soil and stone surfaced with many bricks placed in the surface for the first 60-70 metres from the gate.

The track continues as a well-used route approximately 6 metres between hedges to both sides. The route continues with railway fencing to the east and with a hedge on the south-westerly boundary side with an overall width of approximately 8 metres. There are some areas of hollows, although it is possible to walk around these. Approximately 500 metres south of the gate, the route joins the railway at SD 3708 3631. The footpath then runs 30 metres generally south south east, initially on a compacted stone path on ground level, then up 2 flights of 18 steps to access the deck of the railway footbridge at SD 3710 3629. The footpath then runs east north east for 15 metres on the deck of the footbridge to SD 3711 3629, then north north west for 20 metres down 2 flights of 18 steps, then on a compacted stone surface at ground level to SD 3710 3631.

The route continues as a well-worn track between boundary hedges approximately 7 metres wide downhill to the Main Dyke, which is crossed by a brick arch culvert approximately 4.5 metres wide. The route continues as before by a well-worn track, again with hollows.

Approximately 315 metres from the Main Dyke the route ends at the point where Public Footpath No. 6, Weeton-with-Preese, joins this route from the south, where is a timber field gate and a timber stile nearby giving access onto Public Footpath No. 6, (GR. 3754 3623). (All lengths, number of steps and compass points given are approximate)."

The 'length' column be amended to read: "1.00 km".

The 'Other Particulars' column be amended to read "There are no limitations between SD 3708 3631 and SD 3710 3631 and the width between those points is 2 metres."

Criteria satisfied to make and confirm the Order

To make an Order under S119A 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).

As part of the electrification of the Preston to Blackpool line, supporting structures will need to be installed that may have an impact on sighting distances for users of the crossing. These structures, together with the increase in line speed and frequency of services, means some method of mitigation is required to reduce the risk to users of the level crossing.

Currently, there are warning signs either side of the crossing, but no telephones or lighting. The train driver sounds the horn as the train approaches the level crossing but there are no other audible or visual warnings. Other measures to mitigate the risks at this level crossing are a kissing gate on either side of the railway, and the surface of the crossings consists of proprietary crossing boards with an anti-slip surface.

As the crossing is unattended, there is the potential for misuse or irresponsible behaviour, such as not paying due care and attention, or crossing the railway with dogs off the lead.

There is also the potential for accidental collisions resulting from an incidence such as a slip or trip, a user of the path not seeing a train approaching or not hearing the train's warning horn. Modern trains are quiet and weather conditions such as high winds or fog can reduce a person's ability to hear or see a train approaching, and a warning horn might not be heard if a person has a hearing impediment, is wearing headphones or is talking on a mobile telephone.

Another high risk to users of a level crossing is that, on occasions, trains pass each other, going in different directions on or close to the crossing. The risk is that a person might wrongly assume the train they have sighted is the only one to be concerned with, without assessing whether another train is approaching in the other direction.

The Preese Hall Footpath Crossing Risk Assessment carried out by Sotera Risk Solutions in 2016, reported that there have been three recorded incidents at this crossing since 2003. The details of each are as follows:

- In 2003 the driver of a train reported a near miss with a member of public. As the train approached, a person crossed the line in front of the train and the driver sounded the warning horn.
- In 2005 the driver of a train reported a near miss with a male and his dog at the crossing. The dog had run onto the track, the man followed and dragged the dog away from the railway line.
- In 2008 the driver of a train reported a near miss with two youths dressed all in black at the crossing.

At some level crossings, Miniature Stop Lights (MSL) are installed to provide a user with a visual warning of approaching trains. However, Network Rail does not support the installation of MSL's at certain locations as they only provide a limited mitigation of risk. This is because it is 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 this measure was assessed and rejected for this location. Network Rail does not accept that it would afford an adequate level of protection, as they can be subject to deliberate misuse.

Bearing in mind that the frequency and speed of the trains is planned to increase, coupled with the assessment that it is not reasonably practicable to make the crossing safe by any other means, it is suggested that there is a justifiable case for constructing a stepped footbridge providing the crossing is closed and removed.

Network Rail has 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 the Diversity Impact Assessment explains why ramps are not considered feasible in this location.

Ramps require considerable land take both in linear extent and width and are commonly intrusive and unsightly. Therefore, in order to build a structure with ramps over the operational railway, a significant area of land would need to be purchased from adjoining landowners and have an adverse effect on the visual impact of the structure from the surrounding countryside. In addition, a ramped crossing would require adequate lighting throughout the structure and may well 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.

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.

The Diversity Impact Assessment states that 'due to Preese Hall Level Crossing's very rural location, uneven approach to the crossing and the types of users it is not believed that a stepped only footbridge would adversely affect the crossing users. As well as this, a 1 in 20 ramp and step footbridge solution would require approximately 500m² of land per ramp, plus a further 150 m² for maintenance access.

A majority of the land crossed by the existing public footpath (the current level crossing) is not registered with the Land Registry and is not shown on the digitised record of Network Rail's land and property ownership. It is however part of the operational railway and it has not been possible to identify any other landowner for the unregistered section. It is therefore proposed that Notices will be displayed on site to notify any owner or occupiers when the Order is publicised.

A majority of the land crossed by the alternative route is in the ownership of the applicant, Network Rail. A small part of the existing and alternative route (approximately 4m² in total) is in the ownership of a neighbouring land owner and Network Rail are currently seeking their consent to the proposal.

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.

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 proposed diversion will not alter the points of termination of Staining Footpath 6.

The applicant, Network Rail, has 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.

The Committee is advised that so much of the Order as extinguishes part of Staining Footpath 6 is not to come into force until the County Council has certified the

satisfactory physical installation of the footbridge and the compacted stone approaches to each side of the bridge.

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 more 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 increased protection 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 safer means of crossing for those with a visual impairment.

It is also advised that the effect of the proposed 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 BS5709:2006 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' (item 5) 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: Requiring Network Rail 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 be feasible given the imminent implementation of the Network Rail's Northern Hub transport improvement programme.

To decide to make an Extinguishment Order: this footpath is well used and there is no convenient alternative route nearby. 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: PRW-05-12-06		Mrs R J Paulson, 07917 836628
File Ref:		
Reason for inclusion in Part II, if appropriate		
N/A		