

Regulatory Committee

Meeting to be held on 28 September 2016

Electoral Division affected: Chorley Rural East
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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 Adlington Footpath 5, Chorley Borough. (Annexes 'B' and 'C' refer)

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Executive Summary

The proposed diversion of part of Adlington Footpath 5, Chorley Borough.

Recommendation

1. That an Order be made under Section 119A of the Highways Act 1980 to divert part of Adlington Footpath 5, 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.
2. 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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State and the Authority take a neutral stance with respect to its confirmation.
3. 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 Bradshaw Fields level crossing with a stepped footbridge.

Bradshaw Fields level crossing is a footpath railway crossing, located approximately 500 metres north of Adlington Station on the line between Bolton and Euxton Junction. The footpath provides a popular connection between upper and lower Adlington, linking residential areas and local businesses on Westhoughton Road (A6) with the residential areas, the Fairview Youth and Community Centre and

children's play area on Highfield Road North with the majority of the town to the east of the railway.

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. This will lead to an increase in the number of trains and the speed at which they will be travelling.

The crossing has kissing gates (opened by the user) on either side of the operational railway.

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 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

Consultation with the statutory undertakers has been carried out and no objections or adverse comments on the proposal have been received.

Electricity North West Limited have advised that they have a Low Voltage Mains Cable in the vicinity of the proposed diversion and that great care should be taken at all times to protect both the electrical apparatus and any personnel working in the vicinity. These comments have been passed onto the applicant to ensure that they are taken into consideration when any works are carried out on the crossing, or in connection with the installation of the footbridge.

Chorley Borough Council and Adlington Town Council have also been consulted and similarly raised no objection to the proposal.

The Clerk to Adlington Town Council has commented 'the Town Council welcomes this minor footpath diversion which is required to facilitate the replacement of the unmanned railway foot crossing with a stepped footbridge.'

A consultation was carried out with the Fairview Youth and Community Association that occupy the building that is located adjacent to the open area to the east of the crossing. The Secretary has commented 'Having discussed the proposal with the committee of Fairview Youth & Community Association, we have no objection to it. We welcome the building of the footbridge across the railway line, which will be a long waited asset to the village. We note that there will not be any disabled access which is a pity, but understand the reasons for this.'

With regards to the local rights of way user groups, as a justification for providing a stepped footbridge, without the provision of ramps, they were also provided with a copy of Network Rail's Diversity Impact Assessment which included photographs of the grassed area to the east of the crossing.

Neither the Chorley Ramblers or the Peak and Northern Footpath Society have indicated that they would object to the Order but they have raised concerns about the absence of any provision for people with limited mobility and those with prams.

The Chorley Ramblers have commented that the photographs of FP5 east of the railway crossing that Network Rail have provided are misleading. They say that 'FP5 immediately after the railway crossing on the east of the railway turns north along a tarmaced path towards Fairview Drive. Some pedestrians will inevitably cross the playing fields but it is wrong to imply that FP5 crosses this field and therefore people with limited mobility and possibly prams cannot make use of the railway crossing.'

They go on to say that 'there are steps at the start of FP5 on the A6. However, the land immediately to the north of the footpath is open, very wide and is an access road to the business with infrequent use. As a user there is no indication that you are trespassing. The length of the footpath from the A6 (steps) to the railway crossing is long enough to be converted to a gentle decline. The railway crossing links Lower Adlington to Upper Adlington where most of the village facilities eg schools, churches, Community Centre (includes Youth Club), Library, doctor's surgeries etc It also links Lower Adlington to the eastern side of Heath Charnock through Fairview Drive.'

The Peak and Northern Footpath Society have questioned 'whether this this really a popular connecting path, when it completely ignores and marginalises two immobile groups of the public, namely wheelchair users and babies/small children in prams or pushchairs.' They go on to say that 'they have serious reservations about marginalising two groups of the public who have limited mobility and a better outcome would be one that includes and improves access for the marginalised'.

Advice

Description of existing footpath to be diverted

The part of Adlington Footpath 5 as described below and shown by a bold continuous line marked A-B on the attached plan (Lengths and compass points given are approximate).

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH
A (SD 5994 1355)	B (SD 5992 1355)	WSW	15	The entire width

Description of new footpath

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

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
A (SD 5994 1355)	C (SD 5994 1354)	SSE	15	2	Compacted stone path on ground level at point A then 30 steps to access footbridge.
C (SD 5994 1354)	D (SD 5993 1353)	WSW	15	2	10 steps (5 at each end) onto the upper deck of footbridge
D (SD 5993 1353)	B (SD 5992 1355)	NNW	20	2	30 steps to access footbridge and tarmac surface on ground level at point B.
Total distance of new footpath:			50		

The surface of the steps and upper deck of the footbridge will comprise of a non-slip surface and the footbridge will stand approximately 8.5 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 Adlington Footpath 5 be amended to read as follows:

The 'Position' column to read: "Chorley Road to SD 5994 1355 then runs 15 metres south south east on a compacted stone path on ground level then ascends 30 steps onto the footbridge to SD 5994 1354. The footpath continues for 15 metres west south west ascending 5 steps to access the footbridge deck then descends 5 steps to SD 5993 1353, continuing 20 metres north north west descending 30 steps and a tarmac surface at ground level to SD 5992 1355 then to Westhoughton Road, known as Bradshaw Lane footpath (All lengths, number of steps and compass points given are approximate)."

The 'length' column be amended to read: "0.82 km"

The 'Other Particulars' column be amended to read "The width of the section of footpath between SD 5994 1355 and SD 5992 1355 is 2 metres. There are no limitations on the section of footpath between SD 5994 1355 and SD 5992 1355."

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.

The surrounding area consists of open space and residential areas, with local businesses operating close by and the footpath is possibly providing access to work for a number of their employees. There is a community centre and a children's recreational park to the east of the crossing.

The approach to the footpath from the east is either over a grassed area of unlit public space, or on an unlit, unsurfaced path running on the edge of the public open space, alongside the railway fence. The footpath approaching from the west from Westhoughton Road is down a flight of 5 steps, then on a surfaced track that runs between two businesses and up to the crossing.

It is generally understood that a majority of the use is for leisure purposes and as a link between two residential areas. It is also recognised that the crossing has vulnerable users, which are the young (under 18), unaccompanied children and members of the public with restricted mobility.

Network Rail undertook a detailed surveillance camera survey at the crossing over a 9 day period, to capture not just the amount of use being made, but also the type of user. These results were broken down to identify that the average daily count of pedestrian use was 157 per day, with 91 pedestrians on the quietest day and 198 people on the busiest day.

Weather conditions during that period and verified by the Met Office were generally warm with light showers. The census was carried out during the summer school holidays and is generally considered to be an underestimate of midweek usage, with the footpath thought to form part of the route normally used by school children.

During site inspections carried out by representatives of Network Rail, numerous vulnerable people were identified at this crossing including unaccompanied children, people with dogs off the lead; pedestrians with headphones and using mobile telephones whilst crossing. As a result of known vulnerable usage the traverse time was estimated to have been increased by 50%.

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.

Currently there is 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. Another high risk to users is that on occasions, trains pass each other, going in different direction 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 is the only one to be concerned with, without assessing whether another train is approaching in the other direction.

Although there is no evidence or reports of any incidents of misuse of the crossing as a point of access onto the railway at this particular location, there is always that risk and a footbridge would prevent such an incident occurring.

The following photographs illustrate the available sightlines from the crossing:

The following photographs are taken from the potential decision point at 2m:



Up side towards up trains

Up side towards down trains



Down side towards up trains

Down side towards down trains

Figure 1. Sightlines from Andlington Footpath 5.

In this instance, the level crossing is sited on double tracks within a curvature of the track. This means there is limited sighting distance for users to see approaching

trains in both directions, which warrants the installation of additional mitigation measures to address this risk. These additional measures include the installation of whistle boards, whereby the train driver is instructed to sound the train's horn when approaching the crossing.

There are however instance where a user of the crossing might not hear the warning. The crossing is sited close to the busy A6 Westhoughton Road, the noise from the road traffic might make it difficult to hear the warning. Other risk factors where a warning horn might not be heard would be the wearing of headphones, talking on a mobile telephone or a hearing impediment.

Other measures to mitigate the risks at this level crossing is a kissing gate on either side of the operational railway and warning signs advising the pedestrian to stop, look and listen. The surface of the crossings consists of proprietary crossing boards with an anti-slip surface.

The operational railway currently has permissible speeds at this location of 75mph in both directions over the crossing. There is a total of 127 passenger, freight and engineering trains operating over this line, 24hrs a day, seven days a week. The crossing is affected by Phase 4 of the North West Electrification Project (NWEF), which will increase the line speed to 100mph. There will also be an increase in the frequency of services up to 360 passenger, freight and engineering trains a day.

As a result of the line speed increase, the required 398m sighting distance will no longer be achievable. Sighting distance is the minimum distance that the public need to see approaching trains that will give them enough time to cross the operational tracks safely. In addition, the project to electrify this section of railway will require steel stanchions to be erected within the operational corridor to support the overhead power lines. These stanchions have a limited distance of separation between each stanchion which will further restrict the sighting distance available for users at the crossing.

Due to the increase in the frequency of services, this also increases the risk to the public when using the crossing.

Network Rail regularly undertakes a risk assessment at each level crossing on the rail network. This is continually reviewed and updated. A risk tool known as ALCRM (All Level Crossing Risk Model) is used to identify and collate all the specific risks at each crossing. This model examines a number of factors, including use, train frequency, speed and crossing conditions (sight visibility) to establish a quantitative risk assessment. A score is produced following this assessment and a FWI (Fatality Weighted Index), is calculated that shows the probability of a fatality happening at a crossing.

In this particular location with the current frequency and speed of the trains, the crossing has a risk score of C2 and FWI of 0.010810716 and is considered high risk. Given that there are considered to be vulnerable users of the crossing, a safety mitigation measure has been put in place that allows the traverse time over the crossing to be increased by 50%. That measure is a temporary speed restriction, which severely affects the efficiency of the operational railway.

In addition to the inherent risks currently at this crossing, the significant increase in the speed and frequency of trains and further restriction of sighting distances due to the installation of electrification equipment means there will be a significant increase in the already high risk to the public using the level 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 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 this measure was assessed and rejected for this location. Network Rail does not accept that it would afford a suitable level of protection due to vulnerable users regularly using this footpath.

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

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 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 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.

The Diversity Impact Assessment states that a 1 in 20 ramped and stepped footbridge structure would require approximately 500sqm of land take per ramp plus a further 150sqm for maintenance access. This would affect the public open space and adjoining businesses properties including a small commercial outbuilding. It is advised that it is not feasible to locate the footbridge further north due to the presence of other commercial buildings, or south due to the presence of residential properties.

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. This would directly impact adjoining business properties bordering the railway and the area of well used public open space. In addition, the site is overlooked by several residential properties that back onto the public open space and a large ramped structure would have a negative impact on their views.

There are also other issues that arise with obtaining consents regarding the 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 2: An example of a stepped structure



Figure 3: Examples of combined stepped and ramped footbridge structures.

Overall, the local representatives of the community that have been consulted including Adlington Town Council and Fairview Youth and Community Centre welcome the provision of a footbridge and accept the reasons why Network Rail do not propose to provide disabled access. In particular the views of Fairview Youth and Community Centre are considered to be relevant in this instance as they occupy the building that is located adjacent to the open area to the east of the crossing, and as such they are ideally placed to have a good idea of the typical usage of the current crossing and assess the likely impact of the proposal on the local residents.

In this instance, therefore it is the intention that only steps will be provided. Currently there are steps on the western end of the footpath and 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 Ramblers comments to the consultation indicate that there is an alternative route that can be used to access Westhoughton Road that avoids the steps. This is a private track with no recorded public rights of way even though it appears that access for pedestrians is permitted at the current time. With regards to their comments about a surfaced path to the east of the railway, it's advised that whilst the path might have been surfaced at some time in the past but no evidence of that now it is an unmade path that is muddy in places following a period of wet weather.

Network Rail have secured the necessary funding to construct and deliver a stepped structure to replace the existing crossing. The proposed site for the footbridge lies immediately to the south of the existing crossing. This land consisting predominantly of Network Rail's operational land and a small area (approx.95sqm) of the adjoining business and a small area of grassed land (approx.105sqm), comprised of dense hedging and trees. The affected landowners have consented to the proposal and it is the intention that the ownership of the land will transfer to Network Rail before the construction of the footbridge commences.

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 Adlington Footpath 5.

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.

The Committee is advised that so much of the Order as extinguishes part of Adlington Footpath 5 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), or prefer to proceed without negotiating kissing gates 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 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 BS5709:2006 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's 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 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-09-01-05		Mrs Ros Paulson
File Ref:		Planning and Environment, 07917 836628

Reason for inclusion in Part II, if appropriate

N/A