

Proof of Evidence of Michael Parsons

The Kent County Council (Public Footpaths CW80 and CWX40) Rail Crossing Extinguishment Order

KCC ref PROW/CW80/10/NR

Mariners Court, Whitstable CT5 4RF
August 19 2020

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1. Introduction

1.1 I fully support calls to make the crossing safer but I don't believe the case has been made to close it. The key issue for me is whether the relevant tests relating to the extinguishment of a public path are met and, specifically, whether or not it is reasonably practicable to make the existing crossing safe for the public. I am not a legal expert or an expert in railway safety, but I have been using this crossing for many years and I have carefully examined the application and the Inquiry documentation. My evidence comprises a critique of the information provided so far by Network Rail (NR) which, in my opinion, does not demonstrate that all alternative crossing options have been fully evaluated. Without further evidence that all the available options have been fully evaluated, I believe the Order should be refused.

2. Alternative Crossing Options Considered by Network Rail

2.1 In paragraph 1.17 of Network Rail's Statement of Case (SOC) it is stated that

Network Rail has undertaken specific measures, including public consultation events and meetings with residents and stakeholders, to consider all hypothetical options and their relative practicability for mitigating the public safety risk presented by the Crossing for public use, and also for the provision of a viable diversion at the location of the Crossing.

Paragraph 14.1 uses similar language.

2.2 Paragraph 3.4 goes on to say that

These means of diversion, as put to Kent County Council in s119A application, was a conclusion of an extensive, iterative process of assessing different options through the lens of the risk mitigation sought to be achieved, relative to their overall viability, not only in terms of cost but also constructability, prospects of success in the planning and highway processes, aesthetics and in-keeping, impact on neighbouring properties etc.

2.3 There is no further detail in the SOC on what these options were or how they were evaluated. However, there is more information in the application itself. Attached is a document which I have named as Glebe KCC Report MP_POE. This is a report by the Head of Public Protection to Kent County Council's Regulation Committee Member Panel, 26th September 2018, on Network Rail's application to divert part of public footpath CW80 to a stepped bridge further east. The first 17 pages comprise the Officer's report then the remainder of the document comprises the application from Network Rail and various supporting documents. Page 17 lists these appendices as follows but unfortunately the remainder of the document is not paginated.

Appendix A - Copy of application

Appendix B - Incident Log & Coroner's Report

Appendix C - Extract from the Definitive Map, sheet 207 (TR1065)

Appendix D - Plan of diversion proposal

Appendix E - Design of bridge

Appendix F - Diversity Impact Assessment

Appendix G - Plan of proposed extinguishment

Case file - PROW/CW80/10/NR

2.4 Appendix F of the Diversity Impact Assessment contains a Table 1 which summarises the alternative route options which have been considered. Appendix F is paginated and Table 1 starts on page 11 of 25 (which is page 68 of 83 of the overall document). The options are described and then a final column headed Constraints/Viability discusses the implications of each option with a statement on overall feasibility, as summarized below:

Table 1 Summary of Options, Network Rail Diversity Impact Assessment

| Options | Constraints/Viability |
|--|---|
| Upgrade to automated warning systems | This option is not being progressed |
| Extinguishment of the level crossing with no alternative | This option is feasible |
| Extinguishment of the crossing and creation of a new footpath link | This option is to be presented at a public information event. |
| Provision of Lifts and Footbridge | This option is not feasible |
| Provision of a footbridge with steps and ramps | This option is not feasible |
| Provision of a footbridge with steps | This option is feasible |
| Provision of an underpass | This option is not feasible |

2.5 Later in Appendix F there is a discussion of how public consultation has informed this work and a description is provided of the public Information Event which was held on 26 October 2015 at Whitstable Football Function Room. Three options were presented to the local community; a stepped footbridge, a ramped footbridge, and a diversion to the existing stepped footbridge with the addition of a new section of footpath. The report states that 362 responses were received in feedback from the public information event and via email from before and after the event, of which we are told 330 support the closure of the crossing. The preferred closure method of these responses is broken down as follows:

Table 2 Public Information Event Feedback

| Preferred Closure Method | Total | Percentage |
|---------------------------------|--------------|-------------------|
| Closure Only | 7 | 2.12% |
| New Footbridge | 66 | 20.00% |
| Footpath to existing footbridge | 160 | 48.48% |
| No Preference Stated | 95 | 28.79% |
| Ramped Footbridge | 2 | 0.61% |

Note from Table 2 that only 2% of respondents were in favour of closure only whereas nearly 70% favoured a new footbridge or path to the existing footbridge.

2.6 The conclusion of this piece of work is presented on page 24 of 25 of Appendix F (page 81 of 83 of the overall document) as follows:

From the evidence collected and in consideration of the site constraints the proposal for a stepped footbridge near the existing crossing should be developed further. The design development will incorporate good practice design features and feedback from stakeholder consultations. The rationale for this decision is:-

- *Extinguishment of the public right-of-way would address risk concerns but is unlikely to be promoted by the local authority due to loss of connectivity in the area.*

- *Diversion via a new footpath on Network Rail land to the existing stepped footbridge would be the cheapest option but the existing footbridge does not have the accessibility benefits of a new structure*
- *Lifts would not be suitable in operational terms for this location*
- *Ramped bridge or underpass options do not have land availability, would have significant amenity impacts and do not seem to be preferred by local residents*
- *A stepped footbridge can be delivered within current land ownership and would remove the current risks. An alternative route of a suitable standard already exists for people unable to use a stepped footbridge*

2.7 The Action Plan arising from this process is described in Step 6 on the same page as “meeting with Kent County Council Rights of Way to discuss possible options based on the public information event” and “pre-application Planning Meeting”. Presumably, it was as a result of those discussions with KCC and others that the decision was taken by NR not to follow the conclusions of their own options appraisal and the clearly expressed preference of the public information event. I note that KCC are now ‘neutral’ and relying on NR to advance the case for closure, but it would appear that they may have been very influential in the past.

3. Alternative Crossing Options Which Merit Further Consideration

3.1 Based on my reading of the application materials and NR’s SOC I believe there are a number of improvements which could be made, alone or in combination, to improve the safety of the crossing. These are my non-expert opinions. I note the Whitstable Society are to introduce expert evidence on rail crossing safety. The alternative crossing options fall into 4 groups as follows:

1. Improvements to the Existing Crossing
2. Stepped Footbridge at Glebe Crossing
3. Footpath to Existing Bridge
4. Line Speed Reduction

Improvements to the Existing Crossing

3.2 The present crossing has gates, an audible warning, warning signs and guide lights. Many stakeholders have questioned why some form of prominent warning lights could not be used to enhance the facilities. NR seem very reluctant to consider this and I note from paragraph 2.5 above, this option was not presented at the Public Information Event. Section iv of NR’s application (page 30 of 83 in the attached Glebe KCC Report MP_POE) deals with this issue and states

Miniature Stop Lights have been considered, but they do not remove the risk as pedestrians still cross on the level in front of trains and, as they are only a visual indication (with yodel alarm) it is becoming more evident that MSLs are often disregarded by users.

3.3 Further detail is provided in Table 1 of Appendix F, which has already been referenced. The Constraints/Viability comment in relation to automated warning systems is:

Miniature Stop Light technology is dependent on the signalling systems in the area and can prove expensive to install and maintain. The addition of Miniature Stop Lights will not mitigate the risk from misuse completely; users can mistakenly or wilfully attempt to cross against a red light, or assume that a red light applies to a single train, when it remains red due to a second train approaching. Miniature Stop Lights are also prone to failure, during which times, the protection is ineffective. Modelling suggests that lights of this nature reduce the risk by around 30%, which would not provide the benefits required. This option is not being progressed.

3.4 Note the statement that risk would be reduced by around 30%. No consideration appears to have been given to whether in combination with other safety measures improved lighting would reduce risk sufficiently. This option appears to have been rejected without proper consideration.

3.5 Aside from the issue of lighting, there are other physical aspects of the Crossing which could be improved. The approach to the existing crossing on both sides is currently in a poor state of maintenance with graffiti, uneven surfaces and overgrown vegetation. There would appear to be a number of relatively minor environmental and landscape improvements which, together with stop lights, would enhance the visibility and safety of the crossing, such as:

- New gates (perhaps with automatic locking on train approach)
- Remove the incline on the immediate approach to the crossing and ensure a level surface throughout
- Use different surface materials , colour etc to emphasise the approach to the crossing
- Improved landscaping
- Update the signage and make it more prominent

Stepped Footbridge at Glebe Crossing

3.6 NR's original application proposed a stepped footbridge to the east of the existing crossing, which attracted opposition because of potential impacts on the local community and environment (although note it was approved by Canterbury Council Planning Committee). The option of a stepped footbridge at the existing crossing location needs further consideration. Section iv of NR's application (page 30 of 83 in the attached Glebe KCC Report MP_POE) deals with alternatives which have been considered or other safety improvements to the existing crossing. This states

Due to insufficient land ownership and inadequate funding availability no other works can be undertaken to improve safety of the crossing in its current form and location.

3.7 This needs to be tested. Plan 2 of NR's application is entitled Network Rail Land Ownership Plan (page 67 of 83 of the attached Glebe KCC Report MP_POE). It is not immediately apparent from this plan (which is small scale) that there is less land available at the Glebe Crossing location. There are a number of issues to clarify here

- The scale of any additional land requirement
- Land use implications
- Land ownership
- Whether a bespoke, more innovative bridge design might have a reduced land requirement

Footpath to the Existing Bridge

3.8 I note this was an option which was being promoted by the Whitstable Society. I am not appraised of the current situation and defer to their evidence on this matter.

Line Speed Reduction

3.9 We are told that the line speed at Glebe Crossing is 65mph. NR seem unwilling to even contemplate testing what the implications of a reduced line speed might be, although it does appear to acknowledge that there is a process for making line speed reductions. Section iv of NR's application (page 30 of 83 in the attached Glebe KCC Report MP_POE) states:

A PSR would not be appropriate at the level crossing. A reduction in speed will inevitably affect train performance levels and timetabling. This is contrary to Network Rail's licence conditions to operate the railway network efficiently and economically, so far as is reasonably practical and in having regard to all relevant circumstances to satisfy the needs of train operators. Any proposed reduction in speed would need to be approved by stakeholders and that agreement to such a permanent reduction in speeds would not be reached.

3.10 The figure in para. 8.17 of NR's SOC shows that other sections of this line are subject to a 50mph speed restriction, including the "Whitstable" section. It would be interesting to learn where this section is in relation to the Glebe Crossing. Logically one would assume it is centred on Whitstable station (some 1km away) with an allowance either side for acceleration and deceleration. It is possible therefore that the speed restricted section might only require minor modification to include Glebe Crossing. This would minimize any implications for train performance and timetabling, which of course is a matter of concern for Network Rail, train companies, Regulators etc and also the wider travelling public, so is not to be taken lightly. However, I do believe this is a matter which should be factored into decision making when footpath closure would be permanent.

4. Unsuitability of Alternative Routes

4.1 Paragraph 1.19 of NR's SOC states:

Network Rail acknowledges that the extinguishment of the public right of way across the railway may cause some inconvenience to some of those who use it. Inconvenience is not an abstract consideration however and must be considered in context. The alternative routes already available afford a safe, adequate and commodious pedestrian access to all principal local amenities, facilities and destination points, and also for commuting purposes. The stopping up of the Crossing will not deprive or materially restrict the public access to such amenities, facilities and destination points. Network Rail's case in this aspect will be fully advanced in evidence.

4.2 I believe NR (and KCC, the Highway Authority) have both underestimated the poor standard of pedestrian environment of Canterbury Road. It is perhaps adequate but it is by no means safe and commodious. The environment of Canterbury Road is dominated by the presence, noise and fumes of traffic and the surface of the footway is narrow, uneven and low in places. In contrast, the route to Glebe Crossing is quiet and peaceful and it leads to a spectacular view and footpath over the golf course to the sea. There is no convincing evidence from NR to date on this issue although I note the reference to further evidence. I suggest the differences between the various routes will be readily apparent from a site inspection.

5. Conclusion

5.1 I have not seen any evidence that NR has fully and properly evaluated all the options available to make the existing crossing safer or to provide a safer alternative. The Glebe Crossing provides an essential and much valued link in the local footpath network which should not be lost without much greater effort to find an alternative solution. All relevant alternatives, some of which I have outlined above, should be explored and evaluated in a transparent manner, with stakeholders. The Order should be refused.