

**SURREY COUNTY COUNCIL**

**LOCAL COMMITTEE (TANDRIDGE)**

**DATE: 9 DECEMBER 2016**



**LEAD OFFICER: DEBBIE PRISMALL  
SENIOR COUNTRYSIDE ACCESS OFFICER**

**SUBJECT: PUBLIC FOOTPATH No.381, LINGFIELD – PROPOSED  
DIVERSION**

**DIVISION: LINGFIELD**

**SUMMARY OF ISSUE:**

An application has been received from Network Rail to divert Public Footpath No. 381, Lingfield onto the existing Lingfield station footbridge on safety grounds under section 119a of the Highways Act 1980. A number of objections have been received. This report seeks a decision on whether to make a legal order to divert the footpath.

The officer's view is that the application should be refused.

**RECOMMENDATIONS:**

**The Local Committee (Tandridge) is asked to agree that:**

- (i) The application from Network Rail dated 3 November 2016 to divert Public Footpath No. 381, Lingfield onto the existing station footbridge, shown A – C – E – F – G – B on Drg. No. 3/1/29/H60a is refused.
- (ii) Network Rail is asked to explore other options for a diversion onto an alternative route accessible for those with mobility difficulties and pushchairs, including a new footbridge with lifts or improving the level crossing.

**REASONS FOR RECOMMENDATIONS:**

The application seeks to divert the at-level crossing onto an existing stepped footbridge. The footbridge is not accessible for those with mobility difficulties and those with young children in pushchairs and also involves a 360 metre detour if travelling in a west to east direction or vice versa.

**1. INTRODUCTION AND BACKGROUND:**

**The Application**

- 1.1 Network Rail (NR) has applied to divert Public Footpath No. 381, Lingfield under section 119a of the Highways Act 1980 on safety grounds. The proposal is shown on Drg. No. 3/1/29/H60a at **Annex A**. Their application is at **Annex B**. The footpath commences on Station Road between 'Brook House' and 'Court End' and runs in a north-easterly direction to a level crossing over the railway line at Lingfield Station. It continues in an easterly direction across fields. The

footpath provides access from the train station to Lingfield Racecourse to the west. There are also two schools nearby; Notre Dame and Young Epilepsy whose students and staff use the station and footpath.

- 1.2 The proposal is to divert a 19m section of the footpath from across the level crossing, between points A – B, to run in a north westerly direction along a path running parallel with the station over the existing stepped footbridge and back along the platform on the eastern side in a south-easterly direction, between points A – C – E – F – G – B, for a total distance of 360m to rejoin its definitive line.

#### Safety concerns

- 1.3 Network Rail is currently running an investment programme to improve safety and reduce the risk wherever the public highway meets the railway. Part of the campaign is to seek the opportunity to completely remove the risk to members of the public from coming into contact with high speed trains through the closure or diversion of level crossings.
- 1.4 Network Rail uses a complex quantitative process called the 'All Level Crossing Risk Model' (ALCRM), to assess all risks at all of its level crossings. These risk assessments help in the decision making process; to then pursue closure or to invest in additional safety measures if closure cannot be achieved, such as on a public road or where there are no suitable alternatives available. This risk assessment process was independently reviewed for accuracy before it was introduced in 2007 and it has been audited internally and by the Office of Rail Regulation (ORR). The ORR is the independent safety and economic regulator for Britain's railways. Their policy for level crossings states that "...Risk control should, where practicable, be achieved through the elimination of level crossings...."
- 1.5 The assessment process considers amongst other things the type of crossing, how many people use it, available sighting for users, whether there are vulnerable and or infrequent users, the frequency and speed, and different speeds of train services. The resulting score provides a normalised figure for risk and consists of a letter and a number. The letter represents the level of risk of a fatality to an individual crossing user, where A is the highest risk and M is the lowest risk. The number represents the collective level of risk that may include, for example, train crew and or passengers, as well as those using the crossing. The highest risk crossings are those which score A, B or C for individual risk and 1, 2 or 3 for collective risk.
- 1.6 The last risk assessment for Footpath No. 381 crossing was carried out on 19 November 2009. The crossing scored a rating of C4, making it high risk. The key risk drivers are:
  - Proximity to station
  - Large number of users
  - Fast and frequent trains
  - Sun glare
- 1.7 The line speed on all four lines over the crossing is 50mph with 97 trains scheduled to pass over the crossing per day; this includes both passenger and freight services. It is estimated that an average person would require approximately 8 seconds to pass safely over the crossing. An allowance of 50%

additional crossing time would be added for use by vulnerable users (children, elderly, or encumbered users with dogs, bicycles, carrying bags etc.) who would require 12 seconds crossing time.

#### Alternatives to the diversion application

- 1.8 Visual/audible warning system – NR have stated it would not be possible to install a warning system at this location due to its proximity to the station. Due to the triggering systems, the red light and audible sound would be on for a long time meaning that they would then get ignored. Noise complaints could also be received from nearby residents. Leaving the crossing in place would mean the risk would still be present. This particular system would cost in the region of £1 million and far exceed this if the signalling infrastructure had to be amended.
- 1.9 Locking gates – these would not be possible due to the risk of users becoming trapped on the line. Interlocking gates are only possible at crossings which are manned or monitored by CCTV. These would cost in excess of £500,000 and if a crossing keeper were required increase to £165,000 per annum. Different forms of barriers would pose the same problems.
- 1.10 Stepped footbridge closer to the crossing (shown C- D – G) – NR feel that as users have been using the existing bridge since 2011 to install another one would not be a good use of public funds. Residents in Station Road may also raise concerns about privacy issues. There are also concerns an additional footbridge may encourage anti-social behaviour. A new stepped footbridge would cost a minimum of £600,000.
- 1.11 Footbridge with ramps between C – D – G – although this had previously been proposed by NR as the only affordable, fully accessible solution, this was rejected by local residents. It would not be possible for NR to pursue an accessible solution at this location given landownership (both for siting of the structure and land to enable construction) and funding constraints.
- 1.12 Stepped footbridge at the existing level crossing – Although this is possible, NR do not own all of the land required. Whilst the landowner to the east is receptive, no response has been received from the third party landowner to the west and therefore NR is unable to pursue this as an option. Additionally a bridge would require full planning permission, which would increase costs and timescales and is likely to be objected to by local residents.
- 1.13 Further signage – NR say they are unable to erect any further signage at the level crossing as the present signage is as required and has been confirmed as such by the ORR. It is also felt that the provision of extra signage would be of little benefit as too many signs would not be read or could cause confusion. Furthermore, additional signs would not prevent the misuse and the risk would remain.
- 1.14 In conclusion, NR have already installed CCTV, given talks at local schools, erected whistle boards, gated the crossing, improved sightlines by cutting back vegetation, put up additional signs and made on board announcements as trains approach the station. They say that none of the above has reduced the risk to a satisfactory level and the only option is to remove the risk by diverting the footpath.

## ITEM 12

- 1.15 Lifts – NR have stated that a new footbridge with steps and lifts would cost in the region of £1.9 million; if a new power supply was required, this would add an additional £0.1 million to the cost. Funding at this level is not available to them. NR approached the Department of Transport under their 'Access for All Scheme' for additional funding to enable installation of lifts; however this was refused due to the low footfall at Lingfield Station. They are in any case unable to bid for such funding but Tandridge District Council could and NR would support them in making any such application.

### Temporary Closure

- 1.16 At the request of Network Rail, the level crossing has been temporarily closed on safety grounds, under the Road Traffic Regulation Act 1984, since July 2011. The alternative route has been the station footbridge. Network Rail cited at that time their reasons for applying was because of a recent near miss when two girls crossed the railway on the level crossing in front of an oncoming train. The time stamp on the CCTV stills indicated there was only 3 seconds between the second girl clearing the track and the arrival of the train. It was agreed to put a temporary closure in place to give Network Rail time to consider all the options for a long-term solution.

### Objections

- 1.17 There have been a number of consultations and public meetings to discuss different proposals since the crossing was temporarily closed in 2011. Thirty-two letters/ emails from members of the public have been received. Nearly all of these have been against the closure of the crossing with particular reference being made to the difficulty that those with mobility difficulties or with young children with pushchairs have with using the alternative route (i.e. the existing bridge on the station platform). Many of those who made representations also suggested that, in their opinion, the crossing was perfectly safe and/or that other changes could be made to improve safety without closing the crossing for example, by installing lights. Possibly the most common suggestion was the installation of gates, which automatically lock as a train approaches.
- 1.18 In 2012, the County Council consulted on a proposal to divert onto a new ramped bridge half-way along the platform, shown C – D – G on **Annex A**. At that time no formal designs for the bridge had been produced and so the consultation was on the principle of a diversion rather than the precise route. Nine responses were received with all of them supporting a diversion, although most stipulated that their support was dependent upon the new bridge having ramps. At that time, Tandridge District Council had indicated to NR that any planning application to construct a ramped bridge would be refused.
- 1.19 Lingfield Parish Council has objected to the diversion. They wish to retain the current temporary diversion until a sensible solution is found. In the past they have stated that 'Action for Life' used to take 30 or more walkers across the section of footpath regularly on Monday mornings and access through the station and over the footbridge is difficult for some walkers and especially those with sight impairment. The closure disenfranchises many in the community, from local walkers, Notre Dame pupils and staff, staff who use the footpath to walk to and from Young Epilepsy and many hundreds of race-goers who use Lingfield station. They feel there must be a simpler alternative that Network Rail could consider including a flashing light or automatic lockable

gates when trains are approaching or in the station, similar to those alternatives advertised on the Network Rail website.

- 1.20 One of the objectors has pointed out that now the level crossing is closed those travelling in the East Grinstead direction in wheelchairs, or parents with pushchairs, have to continue to East Grinstead and return to Lingfield in order to emerge on the western side and access the road. They point out that at Oxted station a lift has been installed to enable people with disabilities to access the down line.

### Works

- 1.21 If a diversion order were made and confirmed NR have confirmed they would remove the level crossing furniture, signs and gates. They would secure their boundary in order to prevent unauthorised access and trespass onto the railway. New signs will be provided to notify users of the diversion.

## **2. ANALYSIS:**

### Highways Act 1980, section 119a

- 2.1 This section applies where it appears to a council expedient in the interests of the safety of members of the public using it or likely to use it that a footpath in their area which crosses a railway, otherwise than by a tunnel or bridge, should be diverted (whether on to land of the same or of another owner, lessee or occupier).
- 2.2 The Council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order-
- (a) create, as from such date as may be specified in the order, any such new path or way as appears to the council requisite for effecting the diversion, and
  - (b) extinguish, as from such date as may be specified in the order or determined the public right of way over the crossing and over so much of the path or way of which the crossing and over so much of the path or way of which the crossing forms part as appears to the council requisite.
- 2.3 The Secretary of State shall not confirm a rail crossing diversion order, and the council shall not confirm such an order as an unopposed order, unless he or they are satisfied that it is expedient to do so 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, if the order is confirmed, any appropriate barriers and signs are erected and maintained.
- 2.4 A rail crossing diversion order may make provision requiring the operator of the railway to maintain all or part of the footpath created by the order.

Expediency

- 2.5 The requirement in the legislation is for the County Council to be satisfied as to the expediency of making the order in the interests of safety of members of the public. There is a duty to consider alternative options. These alternatives must be considered with regards to the needs of users of the routes and within the requirements of the Equalities Act. In this instance, NR has identified the level crossing as high risk. Although the County Council has made a temporary closure order this was made on the understanding that a long-term solution needed to be found, which includes disabled access.

Public Rights of Way Priority Statement

- 2.6 The County Council's Public Rights of Way Priority Statement lists the processing of Rail Crossing Orders to improve public safety as priority 2 of 8. The highest priority 1 relates to the statutory duty to keep the definitive Map and Statement up-to-date.

**3. OPTIONS:**

- 3.1 Reject the application and request Network Rail to explore other options for an alternative route accessible for those with mobility difficulties and pushchairs, including a new footbridge with lifts at points C – D – G on Drg. No. 3/1/29/H60a, or to improve the level crossing. This is the officer's preferred option.
- 3.2 Make a diversion order and advertise it in accordance with the statutory procedures. If any objections are received and maintained, submit the order with the objections to the Secretary of State for determination. An independent inspector would then be appointed to examine all the evidence, usually by way of a public inquiry, and decide whether or not to confirm the order.
- 3.3 Re-open the level crossing. Network Rail would resist this on safety grounds.

**4. CONSULTATIONS:**

- 4.1 Notices were placed on site and statutory bodies and other interested parties including Tandridge District Council, Lingfield Parish Council, Legal Services, local member, The Ramblers, Open Spaces Society and all utility companies were consulted.
- 4.2 A public meeting, which had been arranged by Sam Gyimah MP was held on 11 April 2014. Sixty members of the public attended. A number of people wished to see the level crossing re-opened but others accepted the reasons and began to look at alternative routes.

**5. FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:**

- 5.1 Network Rail has agreed to meet the costs of making an order and to undertake the works to erect and maintain barriers and signs at the location should the crossing be removed.
- 5.2 If an order were made and objected to it would have to be submitted to the Secretary of State for determination. If it was decided to hold a Public Inquiry or Hearing the County Council would be liable for costs in the region of £4,000,

which would have to be met from the Countryside Access budget. Current legislation does not allow the recovery of Public Inquiry costs from the applicant.

#### **6. EQUALITIES AND DIVERSITY IMPLICATIONS:**

- 6.1 The County Council gives high priority to consideration of equality and diversity issues in its rights of way network. The Rights of Way Improvement Plan for Surrey specifically addresses how the rights of way network can be improved for those who are blind, partially sighted and those with mobility difficulties. The Plan proposes that all improvements should comply with the principle of least restrictive access.

#### **7. LOCALISM:**

- 7.1 The proposed diversion means an increase of 360 metres. This increase has an impact on walkers as well as train commuters and those arriving by train to go to Lingfield race course or local schools.

#### **8. OTHER IMPLICATIONS:**

Area assessed:	Direct Implications:
Crime and Disorder	See separate heading below
Sustainability (including Climate Change and Carbon Emissions)	No significant implications arising from this report
Corporate Parenting/Looked After Children	No significant implications arising from this report
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report
Public Health	No significant implications arising from this report

#### 8.1 Crime and Disorder implications

The Incident Log attached at **Annex C** contains reported incidents of children playing on the crossing, youths trespassing, the placing of stones/ concrete and the gates vandalised. The closing of the level crossing would presumably lead to a decrease in such incidents.

#### 8.2 The Human Rights Act 1998

Under section 6(1) of the Human Rights Act 1998, local authorities are required to act, as far as possible, in a way that does not breach rights contained in the European Convention on Human Rights. This includes the right to property, under Article 1 of the First Protocol to the Convention. In the officer's view this proposal has no human rights implications.

#### **9. CONCLUSION AND RECOMMENDATIONS:**

- 9.1 The Officer's recommendation is that the application should be refused and other options explored that are more accessible.

**The Local Committee (Tandridge) is asked to agree that:**

- (i) The application from Network Rail dated 3 November 2016 to divert Public Footpath No. 381, Lingfield onto the existing station footbridge, shown A – C – E – F – G – B on Drg. No. 3/1/29/H60a is refused.
- (ii) Network Rail is asked to explore other options for a diversion onto an alternative route accessible for those with mobility difficulties and pushchairs, including a new footbridge with lifts or improving the level crossing.

**10. WHAT HAPPENS NEXT:**

10.1 All interested parties will be informed about the decision and negotiations continued with Network Rail to seek an acceptable solution.

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**Contact Officer:**

Debbie Prismall, Senior Countryside Access Officer  
Tel 020 85419343 debbie.prismall@surreycc.gov.uk

**Consulted:**

Tandridge District Council, Lingfield Parish Council, Dormansland Parish Council, The Ramblers, Open Spaces Society, Police, Utility companies, Legal Services, Michael Sydney County Councillor and advisory notices were placed on site.

**Annexes:**

Annex A – Drg. No. 3/1/29/H60a  
Annex B – Application form  
Annex C – Incident log

**Sources/background papers:**

File 3/1/29/H60 Diversion File and all its contents including the application, all correspondence and objections, responses to consultations and reports and mapping can be viewed by appointment.

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