

**SURREY COUNTY COUNCIL**

**LOCAL COMMITTEE (TANDRIDGE)**

**DATE: 8 DECEMBER 2017**



**LEAD OFFICER: CLAIRE SAUNDERS  
SENIOR COUNTRYSIDE ACCESS OFFICER**

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

**DIVISION: LINGFIELD**

**SUMMARY OF ISSUE:**

A second application has been received from Network Rail to divert Public Footpath No. 381 at Lingfield Station away from the level crossing on safety grounds. Members may recall considering a previous application in December 2016 to divert the footpath onto the existing station footbridge. This second application seeks to divert onto a new footbridge under section 119a of the Highways Act 1980. Eight 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.

**RECOMMENDATION:**

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

The application from Network Rail dated 18 September 2017 to divert Public Footpath No. 381, Lingfield onto a new footbridge, shown A – C – D – B on Drg. No. 3/1/29/H62 is refused.

**REASONS FOR RECOMMENDATION:**

The application seeks to divert at the level crossing onto a new stepped footbridge. The footbridge is not accessible for those with mobility difficulties and those with young children in pushchairs and also involves a 133 metre detour if travelling in a west to east direction or vice versa.

**1. INTRODUCTION AND BACKGROUND:**

- 1.1 The definitive route runs over a level crossing at the southern end of Lingfield station platforms. The level crossing has been closed on safety grounds since July 2011 and the Countryside Access team has been trying to negotiate with Network Rail (NR) since that time for a solution to the closure.
- 1.2 Members may recall at their meeting in December 2016 considering an application from NR to divert Public Footpath No. 381, Lingfield under section 119a of the Highways Act 1980 on safety grounds. The proposal sought to

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divert the footpath away from the definitive line over the level crossing onto the existing station footbridge.

The Committee resolved 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.
- (iii) The Chairman writes to Network Rail expressing the Committee's dissatisfaction with their failure to secure a satisfactory solution for residents.

### The Application

- 1.3 NR has now formally applied to divert onto a new route shown on Drg. No. 3/1/29/H62 attached at **Annex A**. NR's application is attached 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.
- 1.4 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 a new stepped footbridge to be constructed and back along the platform on the eastern side in a south-easterly direction, between points A – C – D – B, for a total distance of 133m to rejoin its definitive line. A ramped footbridge was previously discussed between points C – D, which received objections due to its size and impact on neighbouring properties. Although the funding is not currently available to install lifts to the proposed stepped footbridge NR has confirmed that it would be possible to install lifts to it in the future should funding become available.

### Safety concerns

- 1.5 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.
- 1.6 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...."

- 1.7 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.
- 1.8 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
- 1.9 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. NR say the sighting available at the level crossing, due to the station features as well as the track curvature, provides insufficient warning time of an approaching train.
- 1.10 Before the crossing was temporarily closed there were whistle boards to alert walkers. These have temporarily been removed. If the crossing were re-opened drivers are not permitted to sound their horn between the hours of 00:00 and 6:00 and therefore there would be no warning for anybody during those hours. Train horns can also be masked by station announcements and airplane noise. NR say a further issue at the station is that not all trains are scheduled to stop and can be 'hidden' by other trains stopped at the station. In April 2011, whilst on site, the Route Level Crossing Manager witnessed a 'near miss' involving 2 school girls who crossed over whilst a train was stopped at the station causing the 2<sup>nd</sup> approaching train to apply the emergency brake. It was this incident that led to NR to close the crossing through fear of danger to the public. They have further recorded incidents of misuse and 'near misses' at the location. They are also aware that visitors to Lingfield Racecourse queue over the crossing. In addition to the current use, it is possible that the line speed and number of train services will increase at this location in line with government policies, which would only increase risk.

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It is NR's view that the level crossing poses a risk of danger to the public and should be permanently closed with users diverted to the proposed footbridge.

### Alternatives to the diversion application

- 1.11 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, they would be at red with alarms sounding for a considerable amount of time resulting in user ignoring them and crossing at risk and complaints about the noise from nearby properties. The likely costs would be in the region of £1 million.
- 1.12 Locking gates – NR say it would not be possible to install due to the risk of users becoming trapped on the railway line upon a train approaching. 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. A different form of barriers would also not be possible at this location, as they would need to be interlocked with the signalling and would also pose the same issues as interlocking gates.
- 1.13 NR do not own all of the land required to be able to construct a footbridge at the location of the level crossing. It would also require planning permission. A stepped footbridge at that location would cost in the region of £600,000 plus land purchase costs, legal fees and planning application fee. They estimate it would cost in the region of £1 million. Further it is extremely unlikely that lifts would ever be installed at that location due to the distance from the station building and the additional distance commuters would be required to walk in order to make use of the lift facility.
- 1.14 A footbridge with ramps between C – D had previously been proposed by NR as the only affordable, fully accessible solution, this was rejected by local residents.
- 1.15 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.
- 1.16 Further education by way of school visits has taken place, as have on-board train announcements, but these do not reduce the level of risk at the crossing or prevent misuse.
- 1.17 In conclusion, NR state that no further works can be undertaken to improve safety of the level crossing and the only option to NR to remove the risk the level crossing poses is closure.

### Temporary Closure

- 1.18 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/ comments received

- 1.19 There have been a number of consultations and public meetings to discuss different proposals since the crossing was temporarily closed in 2011. Nine letters/ emails in response to this latest diversion application have been received including eight objections. The comments/ objections received are set out below:
- 1.20 **Tandridge District Council**  
Support a permanent diversion of FP 381 but would caveat their support on the basis that a footbridge should be completely step free. Any investment that is not fully DDA and Equalities Act 2010 should not be supported. They submit a fully accessible bridge is included on the following grounds:
- Mobility Impaired Persons (MIPs) travelling southbound have to travel to East Grinstead to do a return journey northbound to alight.
  - A DDA compliant bridge at Lingfield would also widen access to the countryside and local services including Lingfield College (Notre Dame), Lingfield Racecourse and Young Epilepsy.
  - Lingfield station provides for a reasonable level or park and ride and opening this up further to those with mobility impairment should be given top priority in relation to investment.
  - If a stepped bridge was installed as part of a diversion on grounds of safety this would make it more difficult to secure funds to upgrade to a fully accessible bridge in the future owing to the safety justification no longer being applicable.
  - It is not reasonable to rule out a fully DDA compliant bridge on the basis of costs this implies some people have a monetary value over others.
  - There is insufficient evidence to indicate that all funding options for a DDA compliant bridge have been explored.
- 1.21 **Mr B Fines**
- States it is a disgrace that more than 6 years after the crossing was closed, SCC, NR and Southern have not put an alternative permanent crossing in place
  - The current proposal does nothing to improve access for wheelchair users, those with prams/ pushchairs and dog walkers.
  - While the maximum line crossing speed is 50mph, in reality trains are travelling much more slowly than this as with the exception of a small number of early morning and late night trains the majority are pulling away or slowing down to stop at the station.
  - The 2 crossings north of the station remain open and trains go through these much more quickly without incident.
  - One option which has not been considered is an underpass/subway connecting the 2 platforms. This would require less maintenance than a lift, be minimally visually obtrusive to the nearby houses and make the crossing useable for wheelchair users, prams/pushchairs and dog walkers.

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### 1.22 **Ms S Silvester, Lingfield Byways Volunteer Walk Leader**

- In effect the footpath has been diverted over the existing bridge for the last 6 years so I fail to understand why that was turned down as a permanent solution unless it was to push Network Rail to come up with a better solution.
- Given that the majority of Lingfield residents want disabled and pushchair access at Lingfield Station, why was the proposal for a ramped bridge discarded because of a handful of house owners who back onto the station.
- Apart from the fact that it would be possible to fit lifts retrospectively and it wouldn't be so far to walk as access to the footpath from either side there seems little real benefit in building a new footbridge bearing in mind the not inconsiderable cost.
- A lift at Oxted station was funded a while ago so it seems those who live in Lingfield are being discriminated against.
- However, the arguments against re-opening appear cogent and it would appear that the proposal for a new footbridge is the only compromise, though I am still of the opinion that a ramped bridge is the best and most cost-effective solution.

### 1.23 **Mr T Pearson, The Ramblers**

Whilst they would have preferred a solution that provided a fully accessible diversion, they recognise that this is most unlikely in the near future. In the circumstances they would have no objection to the path being diverted as per the application, subject to SCC being fully satisfied with the technical aspects of the footbridge.

### 1.24 **Mr K Wise**

He does not think it is acceptable to spend so much money on a second stepped footbridge where there is a perfectly sound one at the north end of the platform already. What is essential is a ramped crossing to allow disabled crossing of the tracks and for those with mobility problems.

### 1.25 **Anonymous**

They wish to object to the proposed diversion. The use of steps rather than a ramp will mean that there continues to be no means for those unable to climb stairs due to disability and individuals with buggies or heavy suitcases to access the southbound platform. They know several members of the community who have been unable to travel due to lack of access and would only be able to support a diversion that includes step free access.

### 1.26 **Mr P Higgins**

He can see no justification for building a second footbridge at the station. People can easily use the existing one the only difference being the new one would be capable of having lifts added to it. This does not seem a good enough justification. Has the option of adding a lift to the existing bridge been properly considered? He was told it would be too expensive but it must be cheaper than building a new bridge. There is a clear need for step free access. The replacement of the previous ground level access should be used as an opportunity to provide proper access for all users.

### 1.27 **Mr I Jones, Cyder Barn**

The closure of the level crossing and attempt to divert is one of the most absurd pieces of health and safety zealotry I have ever seen. The crossing has been there for over 100 years and people have used it virtually without incident. The reasons are not justified. Network Rail are simply committee to closing crossings on the slightest excuse without regard to the inconvenience

caused to local people. The suggestion of an additional footbridge is pointless and a waste of money. It cuts a few yards off the diverted route and makes no difference to the access for those with disabilities.

**1.28 Lingfield Parish Council**

The Parish Council is concerned about the proposal by NR to install a footbridge across the rail track to facilitate the reopening of footpath 381. Members are concerned that this will discriminate against the disabled and people with prams and pushchairs. If a footbridge is to be installed, Lingfield Parish Council requests that it is equipped with lifts to give access for all.

- 1.29 NR has responded to the objections by saying that they note from the comments received that these are driven by the desire for Lingfield Station to become fully accessible. This is an entirely separate issue to the diversion of the public footpath. Their application is concerned with the safety of the public when using the public footpath over the level crossing. The public footpath is not an accessible route for the station, thus the issue of step-free access for the station is an entirely separate issue and should not be considered as part of the application. In addition they do not have control over the funding for Access for All at stations and Network Rail, as a publicly funded body, does not have funding available to provide lifts at Lingfield; this is a situation outside of their control.

Works

- 1.30 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.

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| <b>2. ANALYSIS:</b> |
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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

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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. NR has not proposed an acceptable accessible alternative to the level crossing.

### 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. 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.

## **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, the Police and all utility companies were consulted.

## **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 over a stepped footbridge is a less accessible solution with an increase of 133 metres. This will have 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 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.

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

The application from Network Rail dated 18 September 2017 to divert Public Footpath No. 381, Lingfield onto a new stepped footbridge, shown A – C – D – B on Drg. No. 3/1/29/H62 is refused.

**10. WHAT HAPPENS NEXT:**

10.1 All interested parties will be informed about the decision.

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**Contact Officer:**

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**Consulted:**

Tandridge District Council, Lingfield Parish Council, The Ramblers, Police, Utility companies, Legal Services, Lesley Steeds County Councillor and advisory notices were placed on site.

**Annexes:**

Annex A – Drg. No. 3/1/29/H62  
Annex B – Application form

**Sources/background papers:**

File 3/1/29 2017 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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