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**THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (AMENDED)
ORDER 2015**

**PRIOR APPROVAL SUBMISSION FOR THE ERECTION OF A SINGLE SPAN FOOTBRIDGE
FOLLOWING DEMOLITION OF 2 EXISTING FOOTBRIDGES.**

AT

TAN HOUSE FOOTBRIDGE

SUPPLEMENTARY STATEMENT ON BEHALF OF NETWORK RAIL INFRASTRUCTURE LIMITED

Date: 06/02/2023

WOKINGHAM BOROUGH COUNCIL

PRIOR-APPROVAL APPLICATION NUMBER: 223493

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1. Introduction

- 1.1 This supplementary statement has been produced by Network Rail Infrastructure Limited (“Network Rail”) (NR) in support of the prior approval submission required under Part 18 of the Town and Country Planning (General Permitted Development) (Amended) Order 2015 for the erection of a single span footbridge following demolition of two existing footbridges at Tan House Footbridge, Wokingham.
- 1.2 The proposal seeks to replace both the temporary scaffold bridge and a dilapidated concrete bridge which is approaching the end of its operational life with a modern single span bridge.
- 1.3 The prior approval application was due for determination at WBC’s Planning Committee on the 11th of January 2023, however, NR agreed an extension to allow the decision to be deferred until the Planning Committee on the 8th of February 2023. Whilst NR was under no obligation to agree the extension, it was agreed with the intention of allowing further discussions between NR and WBC in the hope of better addressing the concerns raised by committee members which primarily related to the stepped design of the new footbridge.
- 1.4 The aim of this statement is to provide additional context on why the bridge is currently proposed with a stepped design and provide reassurance to committee members that NR and WBC are working together to design and deliver the ramps element. This has been supported by a statement from WBC Highway’s team included within Section 5 of this statement.
- 1.5 NR would like to take this opportunity to highlight that funding for the Tan House Bridge Replacement project is time critical. NR is allocated funding in ‘Control Periods’, if the project is not delivered within the current Control Period (CP6) the funding will be lost and there is no guarantee that funding will be acquired to deliver it in CP7. Whilst every effort is being made to align the construction of the ramps with the construction of the bridge, there is no guarantee that the land acquisition and

funding will be resolved within NR's funding timescales. NR are therefore keen to obtain prior-approval as soon as possible to ensure funding for the bridge is not lost.



Figure 1 - Location Plan



Figure 2 - Outline of Proposed Bridge

2. Background to Network Rail's Part 18 of the GDPO Application

- 2.1 The relevant factual backdrop to the present application is NR's scheme to close the Tan House level crossing. The Crossing carried a public footpath over several busy railway lines, with varying train speeds and sighting distance issues.
- 2.2 A combination of these factors with the high level of pedestrian use of the crossing, further compounded by user behaviour observed there e.g., misuse or trespass, led NR to pursuing a stopping up order to close the crossing.
- 2.3 NR's application for a rail crossing diversion order was preceded (2014-2016) by comprehensive negotiations with WBC, aimed at exploring a jointly funded scheme to deliver a single, accessible structure. One of the drivers of these discussions was (at least a hypothetical) the opportunity to link the proposed footbridge scheme with a neighbouring development of a leisure centre, with its multi-storey car park adjacent the site of the crossing.
- 2.4 Faced with the lack of funding issues and overriding priorities, both parties settled on a Memorandum of Understanding (MoU) to record their contemporaneous intention to close the crossing and to collaborate on any future, single-span, accessible structure. Such was also the relevant factual matrix underpinning NR's decision to construct a temporary structure.
- 2.5 This was also in light of the view taken by NR that it had no demonstrable, positive duty to provide an accessible structure to replace the, otherwise inaccessible, crossing. Which has to be seen against the fact that provision of a stepped structure could increase the inconvenience of some of the users, relative to the original set up of a level crossing with steps and gates. The degree of that potential inconvenience, however, was not at the time considered substantial, which was a common ground between the applicant, the order making authority and key consultees.
- 2.6 NR's application for a stopping up order under section 119A HA1980 was submitted late in 2016, following completion of the MoU and an order was made early in 2017. It is worth underscoring that the neither the application nor the order were objected

to, still less on the grounds of accessibility. The order was confirmed unopposed soon after.

3. Part 18 of the Town and Country Planning (General Permitted Development) (Amended) Order 2015

- 3.1 The prior-approval application has been submitted under the provisions of Class A of Part 18 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) [GPDO]. Part 18 relates to ‘Miscellaneous development’ and Class A states that, subject to conditions, the following works are ‘permitted development’:

“A. Development is authorised by—

- (a) a local or private Act of Parliament,*
- (b) an order approved by both Houses of Parliament, or*
- (c) an order under section 14 or 16 of the Harbours Act 1964 (orders for securing harbour efficiency etc, and orders conferring powers for improvement, construction etc of harbours), which designates specifically the nature of the development authorised and the land upon which it may be carried out.”*

- 3.2 The replacement of the two footbridges with a single span bridge are authorised by the private Acts of Parliament; ‘Reading, Guildford and Reigate Railway Act 1846’, the ‘Staines, Wokingham and Woking Railway Act 1853’. Section 1 of both acts incorporates the Railway Clauses Consolidation (RCC) Act 1845. Section 16 of the RCC 1845 Act contains powers of alteration, maintenance and substitution. Section 16 of the RCC Act 1845 enlarges upon the works which may be carried out and this includes the following powers; *“They may make or construct in, upon, across, under, or over any lands, or any streets, hills, valleys, roads, railroads... such temporary or permanent... bridges... as they think proper;* Furthermore, the act states, *“They may from time to time alter, repair, or discontinue the before-mentioned works or any of them, and substitute others in their stead; ...”*

3.3 As a result, the principle of replacing the two existing footbridges with a single bridge is permitted under the aforementioned acts. However, Condition A.1 of Part 18 of the GPDO states that *“Development is not permitted by Class A if it consists of or includes... the erection, construction, alteration or extension of any... bridge... unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained”*.

3.4 Condition A.2 confirms that prior approval is not to be refused nor conditions imposed unless the appropriate authority considers that:

*“(a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or
(b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.”*

3.5 Whilst both these matters have been adequately addressed within the original prior-approval application covering letter and supplementary information letter provided on the 4th of January 2023, for ease the points are covered again below.

Location

3.6 The replacement bridge is proposed in the location of the two existing bridges to ensure that the Public Right of Way (FP23) continues to provide the most direct and convenient route over the railway in this location. Should the proposed bridge be located elsewhere, this would involve a longer, more significant permanent footpath diversion and likely to conflict with the built environment.

3.7 The Case Officer has assessed locations both north and south of the existing locations and concluded that *“it is not considered that the proposed footbridge ought to be located elsewhere, or that it could reasonably meet its purpose by being located elsewhere”* as locations to the south *“would require a significantly longer footbridge given that the railway line splits into two directly south of the application site”* and locations to the north *“would not represent a preferable option either given that it is likely to be less preferable crossing point in terms of pedestrian flow and east west*

desire lines. Moreover, a location further north could potentially lead to increased issues of overlooking from the positions on bridge that may affect the privacy of residents in properties along Outfield Crescent who back onto the railway at this point”.

- 3.8 It should also be noted that from a planning perspective, NR are able to utilise the limits of deviation of the ‘Reading, Guildford and Reigate Railway Act 1846’, and the ‘Staines, Wokingham and Woking Railway Act 1853’ to carry out development on land not owned by NR. NR will obtain all necessary property consents / agreements required to carry out the works on land not owned by NR.
- 3.9 To conclude, both NR and WBC agree that the development could not reasonably be carried out elsewhere on the land.

Design or External Appearance

- 3.10 NR are subject to the Public Sector Equality Duty and must have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when designing infrastructure.
- 3.11 The proposed replacement footbridge is a single span steel structure painted grey with brushed stainless steel perforated panels.
- 3.12 As highlighted within NR’s supplementary information letter dated the 4th of January 2023, NR undertook a Diversity Impact Assessment in May 2022 to ensure that the new bridge did not introduce any negative changes to the existing arrangement, layout or operation of the footbridge. NR considers that the new bridge actually improves accessibility when considered against the existing arrangement by reducing the number of steps required to cross the railways and incorporating non-slip flooring, improved lighting and a wheeled channel to assist cyclists.
- 3.13 As stated within Section 3.4 of this statement, WBC are required to assess the design or external appearance of the proposal and they may refuse prior-approval should they consider the design would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.

- 3.14 In the assessment of the design or external appearance, the Case Officer has concluded that (as stated within the Committee Report), *“the design and external materials of the proposed footbridge would be of a good quality that would reflect its urban setting and represents a significant improvement in visual terms to the existing dilapidated bridge crossing. Given its considerable dimensions, it would be a noticeable feature in the landscape but would not appear out of scale with other existing buildings in the vicinity; e.g., the large multistorey car park on the eastern end. As such, the proposal would not introduce a visually harmful structure, nor would it harm the character of the area.”*
- 3.15 As a result, the proposed replacement bridge will not injure the amenity of the area.
- 3.16 To conclude, it is agreed by both NR and WBC that the development could not reasonably be carried out elsewhere on the land and will not injure the amenity of the area therefore satisfying the two matters that can be considered under this type of prior-approval application.

4. Relevant Planning History

4.1 During the Planning Committee on the 11th of January, a number of decisions for other developments were highlighted which may have influenced members in their decision. Whilst there are some examples where consent has been refused, it appears that none of the examples have the same context as this proposal i.e., they were neither prior-approval applications under Part 18 of the GPDO or replacing existing stepped footbridges with a stepped footbridge.

4.2 Of particular note within the committee was the Suggitt's Lane Bridge, Cleethorpes example. NR would like to take this opportunity to outline how this planning application is significantly different to this Tan House Bridge prior-approval application.

Suggitt's Lane Bridge, Cleethorpes

LPA ref. DM/0193/22/CND

4.3 Firstly, the type of application was a full planning type and not a prior-approval one. Furthermore, the context of this proposal is fundamentally different to the context of this Tan House bridge proposal whereby the Suggitt's Lane Bridge sought to replace an at-grade level crossing with stepped footbridge which could be seen to increase the inconvenience of some of the users, relative to the original set up.

4.4 To our knowledge, there are only two comparable applications whereby prior-approval for a replacement stepped footbridge has been refused by the LPA and taken to an appeal.

Hinksey Lake Footbridge, Oxford

Appeal Ref: APP/G3110/A/13/2196202 (LPA ref: 12/03282/PA11)

4.5 This prior-approval application comprised the demolition of existing and erection of replacement footbridge under Part 11 (now Part 18) Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (now 2015). The LPA refused permission on the grounds that the proposed stepped bridge would injure the amenity of the neighbourhood however the development was allowed at appeal given that the proposed bridge did not injure the amenity of the neighbourhood.

Oxford Footbridge, Whitehouse Road, Oxford, OX1 4QH

Appeal Ref: APP/G3110/A/14/2215004 (LPA ref: 13/03320/PA11)

- 4.6 Similar to the appeal above, this prior-approval was refused by the LPA on amenity of the neighbourhood grounds. The inspector found that proposed bridge did not result in a worsening of the current access and therefore did not injure the amenity of the neighbourhood and consequently allowed the appeal.
- 4.7 To conclude, refusing prior-approval for a replacement stepped on the grounds it would injure the amenity of the neighbourhood has been tested and overturned on multiple occasions.

5. Future Provision of Ramps

- 5.1 As already stated, NR have been in extensive discussions with WBC with regards to both the closure of the crossing and future aspirations to provide accessible means of crossing over the railway. Whilst NR's responsibility to provide and maintain means of crossing the railway was never in question, the extent of that responsibility is far more nuanced.
- 5.2 NR, as an arms-length public body is subject to public sector equality duty and, pursuant to section 149 Equality Act 2010 is bound to have *due regard to* the needs of those with protected characteristics. The practical application of that duty means that NR is obliged to duly consider the impact which its works are likely to have on the needs of those who are, say, frail, infirm or otherwise mobility impaired.
- 5.3 This is especially pertinent where level crossing closures are concerned as construction of *any* structure replacing a crossing, carries with it an inherent risk of either creating obstacles or increasing inconvenience for pedestrians.
- 5.4 It was demonstrably not the case in the present; not only the crossing itself was not fully accessible – it was equipped with narrow gates and steps but also, fundamentally – it led to a stepped footbridge which had to be negotiated in order to traverse onto the other side of the railway lines.
- 5.5 Against that backdrop, provision of a footbridge with steps in NR's informed view could not be reasonably seen as affecting (still less materially) what already was an inaccessible set up.
- 5.6 This view was presented to WBC and consulted upon when NR applied for a stopping up order to close the crossing – it was accepted, and the order was made and confirmed unopposed. Notwithstanding which, both NR acknowledged WBC's strategic aspiration to provide (at some point in the future) a fully accessible structure. To this end, dialogue continued, and Memorandum of Understanding agreed, to record both parties' intention to collaborate, underpinned by a common understanding that NR

owed no positive duty to provide an accessible structure at this location. This position is reflected, inter alia, in WBC's own statement;

5.7 WBC Highway's team statement:

“WBC have been in discussion with Network Rail for a number of years on developing a solution for a new step free bridge at Tan House crossing. WBC, due to land constraints will be developing the ramp element, as Network Rail's EQIA says they do not need to deliver them. We have a Memorandum of Understanding in place to develop the scheme in unison to ensure the needs of the residents are taken into account.

WBC are actively seeking funding to progress the design and construction of the ramps as a priority. This also includes any land purchase required. Therefore, it might be possible to avoid production and installation of steps which represents an unnecessary carbon and financial cost for the project. We accept that this might not be achievable within Network Rail timescales and if this is the case, we accept that Network rail will need to continue with the stepped bridge with the ramps being added at a later date. This is not our ideal outcome, and we will be working to avoid that happening, but we are aware that the current bridge arrangements crossing the railway are in a poor state and upgrade of them is essential for the safety and users, and the operation of the rail network below.”

5.8 The statement above, whilst broadly correct, does not reflect the true position. The phrase *Network Rail's EQIA says they do not need to deliver them* could imply that it is simply a matter of choice, informed solely by EQIA for NR whether or not it should deliver ramps. The reality of making such determinations is far more complex. The equality/diversity impact assessment, whilst central to assessing impact on accessibility, works in a multi-faceted and heavily regulated reality where NR's obligations to the public purse dictate how it is able to properly deploy the funds in order to deliver value for money. This is combined with objective construction-related constraints, for example, availability of land to construct a structure with a significantly greater footprint and corresponding impact on its surrounds.

6. Conclusion

- 6.1 In conclusion, NR seeks prior-approval for the replacement of two stepped footbridges with a single span stepped bridge at Tan House Crossing, Wokingham.
- 6.2 Discussions between NR and WBC are ongoing regarding the provision of ramps. In the latest meeting on the 3rd of February 2023, it was agreed that NR (funded by WBC) would undertake a feasibility study for the ramped element of the bridge. WBC are actively seeking funding for the construction of the ramps as a priority. However, NR's funding for the Tan House Bridge Replacement project is time critical. Whilst every effort is being made to align the construction of the ramps with the construction of the bridge, there is no guarantee that the land acquisition and funding will be resolved within NR's funding timescales. NR are therefore keen to obtain prior-approval as soon as possible to ensure funding for the bridge is not lost.

Appendix

Section 16 of the Railway Clauses Consolidation Act 1845



Railways Clauses Consolidation Act 1845

1845 CHAPTER 20 8 and 9 Vict

Construction of railway

16 Works to be executed.

Subject to the provisions and restrictions in this and the special Act, and any Act incorporated therewith, it shall be lawful for the company, for the purpose of constructing the railway, or the accommodation works connected therewith, hereinafter mentioned, to execute any of the following works; (that is to say,)

They may make or construct in, upon, across, under, or over any lands, or any streets, hills, valleys, roads, railroads, or tramroads, rivers, canals, brooks, streams, or other waters, within the lands described in the said plans, or mentioned in the said books of reference or any correction thereof, such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings, and fences, as they think proper;

They may alter the course of any rivers not navigable, brooks, streams, or watercourses, and of any branches of navigable rivers, such branches not being themselves navigable, within such lands, for the purpose of constructing and maintaining tunnels, bridges, passages, or other works over or under the same, and divert or alter, as well temporarily as permanently, the course of any such rivers or streams of water, roads, streets, or ways, or raise or sink the level of any such rivers or streams, roads, streets, or ways, in order the more conveniently to carry the same over or under or by the side of the railway, as they may think proper;

They may make drains or conduits into, through, or under any lands adjoining the railway, for the purpose of conveying water from or to the railway;

They may erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharfs, engines, machinery, apparatus, and other works and conveniences, as they think proper;

They may from time to time alter, repair, or discontinue the before-mentioned works or any of them, and substitute others in their stead; and

They may do all other acts necessary for making, maintaining, altering, or repairing, and using the railway:

Provided always, that in the exercise of the powers by this or the special Act granted the company shall do as little damage as can be, and shall make full satisfaction, in manner herein and in the special Act, and any Act incorporated therewith, provided, to all parties interested, for all damage by them sustained by reason of the exercise of such powers.

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Appeal Decision Notice: Hinksey Lake Footbridge, Oxford

Appeal Ref: APP/G3110/A/13/2196202 (LPA ref: 12/03282/PA11)

Appeal Decision

Site visit made on 7 October 2013

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 February 2014

Appeal Ref: APP/G3110/A/13/2196202
Lake Street, Oxford, OX1 4RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Network Rail against the decision of Oxford City Council.
 - The application Ref 12/03282/PA11, dated 19 December 2012, was refused by notice dated 26 March 2013.
 - The development proposed is the demolition of existing and erection of replacement footbridge.
-

Decision

1. The appeal is allowed and approval granted under the provision of Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 for the design and external appearance of the replacement bridge at Lake Street Oxford OX1 4RD in accordance with the terms of the application Ref 12/03282/PA11, dated 19 December 2012.

Main Issue

2. The main issue is the effect of the proposal on the amenity of the neighbourhood.

Reasons

3. The Council determined the proposal in accordance with the requirements of Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. I have considered the appeal on this basis. In the circumstances of this case, the Order does not allow for the construction of a bridge unless prior approval of the detailed plans and specifications has been obtained. This should not be refused nor should conditions be imposed unless the bridge could reasonably be erected elsewhere on the land; or the design or external appearance would injury the amenity of the neighbourhood and could be modified to avoid such injury.
4. The bridge replacement, a steel structure, is required to make a small increase in the minimum clearance because of electrification works. The condition of the existing bridge, which I could see was markedly aging, would not facilitate 'jacking' and track lowering has justifiably been ruled out for potential flooding and scale of works reasons with this ten track arrangement. The existing bridge forms part of a footpath network and therefore there is no dispute with regard to its general location. The proposition to run it to the south alongside the existing structure which can remain in place whilst works continue is understandably not challenged by the Council. The only matter for

consideration therefore is whether the proposal would be harmful to the amenity of the neighbourhood.

5. The increased height would be insignificant in the wider scene, helped by the screening and filtering effects of vegetation locally and tree heights. The appearance of the structure would be functional but comparable to the existing bridge and not at all out of place with the railway context or the wider character and appearance of the area. The use of steel with galvanisation would be entirely appropriate visually. Given all of this I am satisfied that the bridge would not cause injury to the amenity of the neighbourhood and I conclude it would thus satisfy the conditions of the Order.
6. I appreciate that the Council and a considerable number of local people and organisations are concerned that the new bridge would, like the existing structure, not provide for ramped access to aid disabled people and the use of child buggies and such forth. The importance of this link between South Hinksey and Oxford City is emphasised by many objectors. Network Rail states it has explored the issue of ramping and dismissed the proposition on cost grounds given DfT funding is for a 'like for like' regime. Additionally Network Rail has been unable to achieve any requisite additional funding from Oxfordshire County Council. Furthermore the organisation underlines that such access provision is not in any event a consideration in respect of this type of application and that passive provision has been made for ramps to be added in due course should funding from whatever source become available in the future.
7. As detailed above the proposal does not require planning permission and the issues which fall to be considered are limited. However, in exercising my powers to determine this appeal in accordance with Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010. Taking a proportionate view on this matter I am satisfied that the structure as planned demonstrates due regard to the duty and that concerns expressed over this issue do not alter my conclusions that the amenity of the neighbourhood is not harmed by the proposal.
8. I should add that I do not consider that 'amenity' should be construed as to include the question of 'access for all'. However, even if the issue was 'expanded' the key question remains as to what is the amenity impact on the neighbourhood and in this instance, given the existing situation, that would at least be preserved and not injured.

Overall conclusion

9. As the proposal is not an application for planning permission, I am limited as to the matters that I can take into account in terms of both the concerns expressed and matters put forward by the appellant. For the reasons given above I conclude that the appeal proposal would not result in injury to the amenity of the neighbourhood and that prior approval should not be withheld. Accordingly the appeal is allowed.

D Cramond

INSPECTOR

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Appeal Decision Notice: Oxford Footbridge, Whitehouse Road, Oxford, OX1 4QH

Appeal Ref: APP/G3110/A/14/2215004 (LPA ref: 13/03320/PA11)

Appeal Decision

Site visit made on 27 May 2014

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 July 2014

Appeal Ref: APP/G3110/A/14/2215004

Oxford Footbridge, Whitehouse Road, Oxford, OX1 4QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Miss Lydia Whitaker of Network Rail Infrastructure Ltd against the decision of Oxford City Council.
 - The application Ref 13/03320/PA11, dated 11 December 2013, was refused by notice dated 20 February 2014.
 - The development proposed is the demolition of the existing bridge and the erection of a replacement at the same location.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 for the detailed plans and specifications of the replacement bridge at Oxford Footbridge, Whitehouse Road, Oxford, OX1 4QH in accordance with the terms of the application Ref 13/03320/PA11, dated 11 December 2013, and the plans submitted with it.

Procedural Matter

2. The Council determined this application in accordance with the requirements of Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. I have considered the appeal on this basis. In the circumstances of this case, the Order does not allow for the construction of a bridge unless prior approval of the detailed plans and specifications has been obtained. This should not be refused nor should conditions be imposed unless the bridge could reasonably be erected elsewhere on the land; or the design or external appearance of the bridge would injure the amenity of the neighbourhood and is reasonably capable of being modified to avoid such injury.

Main Issue

3. The main issue in this case is the effect of the proposal on the amenity of the neighbourhood.

Reasons

4. The proposed development is required in connection with the Great Western Mainline (GWML) electrification programme. The existing footbridge would

provide inadequate clearance for new overhead line equipment and therefore a replacement bridge is necessary to provide the additional height required. Options for 'jacking' the existing bridge or lowering the track have been discounted for technical and financial reasons.

5. There is no dispute over the location of the replacement bridge, which would be positioned directly alongside the site of the existing bridge. The sole issue to consider is therefore whether the proposed bridge would injure the amenity of the neighbourhood.
6. The new bridge would be contained within the rail corridor which at this point is flanked on both sides by heavy vegetation. The steel structure would be utilitarian in appearance but it would be seen in the context of the existing railway lines, and as such it would not be out of character with its surroundings. Existing trees and vegetation would provide effective screening for the additional height in wider views from non-railway land.
7. The Council's principal concern relates to the lack of provision for disabled access due to the lack of ramps. My attention is specifically drawn to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. Broadly speaking, this introduces a requirement to have regard to the need to eliminate discrimination and other prohibited conduct, and promote equality and good relations between persons sharing a relevant 'protected characteristic' (which includes disability) and those who do not.
8. I agree that it would be desirable for the design of the bridge to make provision for persons with ambulant disabilities. This would also have the added benefit of improving access for prams and pushchairs. However, I am limited in my consideration of the appeal to whether the proposal would injure the amenity of the neighbourhood. I do not consider that the regulations were originally drafted to cover issues concerning disabled access. Even if the term 'amenity' were interpreted widely to include accessibility issues, the proposal would not result in injury because it would represent no worsening of the current situation. Indeed, the inclusion of wheel troughs on the staircases would improve access for bicycles.
9. The Council considers that the *status quo ante* should not be taken into account when considering whether or not to grant prior approval. However, the bridge exists as a matter of fact and there is no evidence before me to suggest that the appellant would remove it without making provision for a replacement. For this reason I consider that it is legitimate for me to have regard to the current situation.
10. In reaching my conclusions I have taken account of the PSED. However, I need to be proportionate in my application of the duty. Network Rail makes clear that it is sympathetic to the local needs of bridge users and is actively investigating the possibility of securing funding for a more accessible bridge design. However, funding for replacement bridges under the GWML electrification programme is provided on a 'like-for-like' basis. Nevertheless, the proposed design does enable ramped access to be retro-fitted. This seems to me to be a reasonable compromise which has regard to the PSED whilst also allowing the rail infrastructure project to go ahead.

Other Matters

11. Concerns have been expressed regarding the effect of the proposed construction works on access to the Hogacre Common Eco Park. However, the timing of development is not a matter which I am able to consider under the prior approval procedure.
12. It is also put to me that the solid sides of the bridge deck and staircases would create opportunities for crime. I concur that an open mesh design may make bridge users feel safer. However, in the absence of any substantive evidence on this issue I am not persuaded that prior approval should be withheld on this basis.

Conclusion

13. For the reasons given above, I conclude that the appeal proposal would not result in injury to the amenity of the neighbourhood and that prior approval should not be withheld. I therefore allow the appeal.

Robert Parker

INSPECTOR