

# Public Document Pack



**Service Director – Legal, Governance and  
Commissioning**

**Julie Muscroft**

The Democracy Service

Civic Centre 3

High Street

Huddersfield

HD1 2TG

**Tel:** 01484 221000

Please ask for: Andrea Woodside

Email: [andrea.woodside@kirklees.gov.uk](mailto:andrea.woodside@kirklees.gov.uk)

Wednesday 9 March 2022

## Notice of Meeting

Dear Member

### **Planning Sub-Committee (Heavy Woollen Area)**

The **Planning Sub-Committee (Heavy Woollen Area)** will meet in the **Reception Room - Town Hall, Dewsbury** at **1.00 pm** on **Thursday 17 March 2022**.

(A coach will depart the Town Hall, at 10.30am to undertake Site Visits. The consideration of Planning Applications will commence at 1.00 pm in Dewsbury Town Hall.)

This meeting will be webcast live and will be available to view via the Council's website.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

**Julie Muscroft**

**Service Director – Legal, Governance and Commissioning**

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

## **The Planning Sub-Committee (Heavy Woollen Area) members are:-**

### **Member**

Councillor Mumtaz Hussain (Chair)  
Councillor Nosheen Dad  
Councillor Steve Hall  
Councillor Gwen Lowe  
Councillor Fazila Loonat  
Councillor Mussarat Pervaiz  
Councillor Adam Gregg  
Councillor Joshua Sheard  
Councillor Melanie Stephen  
Councillor Kath Taylor  
Councillor John Lawson  
Councillor Andrew Pinnock  
Councillor Jackie Ramsay

When a Planning Sub-Committee (Heavy Woollen Area) member cannot be at the meeting another member can attend in their place from the list below:-

### **Substitutes Panel**

#### **Conservative**

B Armer  
V Lees-Hamilton  
R Smith  
M Thompson  
D Hall  
J Taylor

#### **Green**

K Allison  
S Lee-Richards

#### **Independent**

C Greaves  
T Lyons

#### **Labour**

M Akhtar  
E Firth  
M Kaushik  
M Sokhal  
C Scott

#### **Liberal Democrat**

PA Davies  
A Marchington  
A Munro

# Agenda

## Reports or Explanatory Notes Attached

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**Pages**

**1: Membership of the Sub-Committee**

To receive any apologies for absence, or details of substitutions to Sub-Committee membership.

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**2: Minutes of Previous Meeting**

1 - 4

To approve the Minutes of the meeting of the Sub-Committee held on 3 February 2022.

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**3: Declaration of Interests and Lobbying**

5 - 6

Sub-Committee Members will advise (i) if there are any items on the Agenda upon which they have been lobbied and/or (ii) if there are any items on the Agenda in which they have a Disclosable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests.

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**4: Admission of the Public**

Most agenda items will be considered in public session, however, it shall be advised whether the Sub-Committee will consider any matters in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972.

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**5: Deputations/Petitions**

The Sub-Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

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## **6: Public Question Time**

To receive any public questions.

In accordance with:

- Council Procedure Rule 11 (3), questions regarding the merits of applications (or other matters) currently before the Council for determination of which the Council is under a duty to act quasi judicially shall not be answered.
  - Council Procedure Rule 11 (5), the period for the asking and answering of public questions shall not exceed 15 minutes.
- 

## **7: Site Visit - Application No: 2021/92601**

Erection of single storey extension at 22 Northorpe Lane, Mirfield.

(Estimated time of arrival at site – 10.45am)

Contact: Olivia Roberts, Planning Services

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## **8: Site Visit - Application No: 2021/93311**

Erection of new footbridge, ramps and stairs (within a Conservation Area) at land between Rutland Road, Howley Street, Primrose Hill, Batley.

(Estimated time of arrival at site – 11.10am)

Contact: Richard Gilbert, Planning Services

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## **Planning Applications**

7 - 8

The Planning Sub Committee will consider the attached schedule of Planning Applications.

Please note that any members of the public who wish to speak at the meeting must have registered no later than 5.00pm (via telephone), or 11.59pm (via email) on Monday 14 March 2022.

To pre-register, please contact [andrea.woodside@kirklees.gov.uk](mailto:andrea.woodside@kirklees.gov.uk) or phone Andrea Woodside on 01484 221000 (Extension 74993)

An update, providing further information on applications on matters raised after the publication of the Agenda, will be added to the web Agenda prior to the meeting.

- 9: Planning Application - Application No: 2021/90299** 9 - 30
- Demolition of existing dwelling and erection of detached dwelling with integral garages at 154 Gomersal Lane, Cleckheaton.
- Ward affected: Liversedge and Gomersal
- Contact: Olivia Roberts, Planning Services
- 
- 10: Planning Application - Application No: 2021/92601** 31 - 38
- Erection of single storey extension at 22 Northorpe Lane, Mirfield.
- Ward affected: Mirfield
- Contact: Jennifer Booth, Planning Services
- 
- 11: Planning Application - Application No: 2021/92771** 39 - 50
- Erection of two business units (mixed class E(g)(iii) and B8 uses) at Firths Yard, Mill Road, Dewsbury.
- Ward affected: Dewsbury East
- Contact: Liz Chippendale, Planning Services
- 
- 12: Planning Application - Application No: 2021/93311** 51 - 80
- Erection of new footbridge, ramps and stairs (within a Conservation Area) at land between Rutland Road, Howley Street and Primrose Hill, Batley.
- Ward affected: Batley East
- Contact: Richard Gilbert, Planning Services
- 
- 13: Planning Application - Application No: 2021/93665** 81 - 92
- Erection of front and rear dormers and roof alternations at 3 Shirley Villas, Cartwright Street, Rawfolds, Cleckheaton.
- Ward affected: Cleckheaton
- Contact: Alice Downham, Planning Services
-

**14: Planning Application - Application No: 2021/94559**

93 - 100

Demolition of existing garage and conservatory and erection of single storey extension and rear dormer extension at 12 Penn Drive, Hightown, Liversedge.

Ward affected: Cleckheaton

Contact: Jennifer Booth, Planning Services

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**15: Application to divert part of public footpath Batley 20 at Lady Anne Level Crossing, Batley**

101 -  
152

Application to divert part of public footpath Batley 20 at Lady Anne Level Crossing, Batley, under the Town & Country Planning Act 1990, Section 257.

Ward affected: Batley East

Contact: Phil Champion, Public Rights of Way

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### **Planning Update**

The update report on applications under consideration will be added to the web agenda prior to the meeting.

Contact Officer: Andrea Woodside

## KIRKLEES COUNCIL

### PLANNING SUB-COMMITTEE (HEAVY WOOLLEN AREA)

Thursday 3rd February 2022

Present: Councillor Mumtaz Hussain (Chair)  
Councillor Nosheen Dad  
Councillor Steve Hall  
Councillor Adam Gregg  
Councillor John Lawson  
Councillor Gwen Lowe  
Councillor Fazila Loonat  
Councillor Andrew Pinnock  
Councillor Jackie Ramsay  
Councillor Melanie Stephen

Apologies: Councillor Joshua Sheard  
Councillor Kath Taylor

**1 Membership of the Sub-Committee**

Councillor Sokhal substituted for Councillor Pervaiz.

Apologies for absence were received from Councillors Sheard and K Taylor.

**2 Minutes of Previous Meetings**

**RESOLVED** - That the Minutes of the Meetings of the Sub-Committee held on 14 October and 25 November 2021 be approved as a correct record.

**3 Declaration of Interests and Lobbying**

Councillors Dad, S Hall, Gregg, M Hussain, Lawson, Lowe, Loonat, A Pinnock, Ramsay and Stephen advised that they had been lobbied on Application 2019/94147.

Councillor M Hussain advised that he had been lobbied on Application 2021/91801.

Councillors Dad, Loonat and Lowe advised that they had been lobbied on Application 2021/90509.

Councillors Gregg, A Pinnock and Stephen advised that they had been lobbied on Application 2021/92601.

**4 Admission of the Public**

It was noted that all agenda items would be considered in public session.

**5 Deputations/Petitions**

No deputations were received.

## **Planning Sub-Committee (Heavy Woollen Area) - 3 February 2022**

Mr Mohammed Ali submitted a petition in objection to Application 2019/94147 (Agenda Item 7).

### **6 Public Question Time**

No questions were asked.

### **7 Planning Application - Application No: 2019/94147**

The Sub-Committee gave consideration to Application 2019/94147 – Demolition of existing building and erection of two storey community centre at Quality Food Store, Ravenshouse Road, Dewsbury Moor.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received representations from Mohammed Raz, Jabar Khaliq and Mohammed Ali (objectors) and Imtiaz Ameen, Tayyibah Patel and Iqbal Mohamed (in support of the application).

**RESOLVED** – That the application be refused on the grounds that (i) the proposed development, by reason of its bulk and mass in such a prominent, corner location, would result in a strident feature within the street scene and detract from the character of the area and that to approve the application would be contrary to Policy LP24 of the Kirklees Local Plan and guidance contained within Chapter 12 of the National Planning Policy Framework (ii) the proposed development, by reason of its bulk, mass and close proximity to No. 1 Low Road, would result in an oppressive and overbearing impact upon the occupants of that property and result in overshadowing of the garden area, contrary to Policy LP24 of the Kirklees Local Plan and guidance contained within Chapter 12 of the National Planning Policy Framework and (iii) the proposed development would result in the loss of a local shop which supports the day to day needs of the local area and it has not been demonstrated that there is adequate alternative provision in the locality to serve the local community which is in an equally accessible location, therefore to permit the development would be contrary to Policy LP48(c) of the Kirklees Local Plan.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

To delegate approval:

For: Councillors Dad, Gregg, Loonat and Sokhal (4 votes)

Against: Councillors S Hall, Lawson, Lowe, A Pinnock, Ramsay and Stephen (6 votes)

Abstained: Councillor M Hussain

To refuse:

For: Councillors S Hall, Lawson, Lowe, A Pinnock, Ramsay and Stephen (6 votes)

Against: Councillors Dad, Gregg, Loonat and Sokhal (4 votes)

Abstained: Councillor M Hussain

### **8 Planning Application - Application No: 2021/90509**

The Sub-Committee gave consideration to Application 2021/90509 – Erection of extensions and external alterations at 4 Hopton Hall Lane, Mirfield.



## **Planning Sub-Committee (Heavy Woollen Area) - 3 February 2022**

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Amar Zarif (applicant).

**RESOLVED** – That authority be delegated to the Head of Planning and Development to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- standard timeline for implementation of development (3 years)
- development in accordance with the submitted plans
- materials to match existing
- no openings to be installed at ground floor level in the north eastern side elevation of the two storey and single storey rear extensions.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Dad, Gregg, S Hall, M Hussain, Lawson, Lowe, Loonat, A Pinnock, Ramsay, Sokhal and Stephen (11 votes)

Against: (no votes)

### **9 Planning Application - Application No: 2021/91801**

The Sub-Committee gave consideration to Application 2021/91801 – Outline application for erection of petrol filling station at 151 Heckmondwike Road, Dewsbury Moor.

Under the provisions of Council Procedure Rule 37, the Sub-Committee received a representation from Hamish Gledhill (applicant's agent).

**RESOLVED** – That authority be delegated to the Head of Planning and Development to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- standard three year timeframe for the commencement of development
- development to be completed in accordance with the submitted plans
- provision of electric vehicle charging points
- submission of a phase 2 intrusive site investigation report
- submission of remediation strategy
- implementation of remediation strategy
- submission of validation report
- scheme of intrusive investigations
- signed statement of declaration relating to coal mining legacy
- no jet wash element
- hours of use

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Dad, Gregg, M Hussain, Lawson, Lowe, Loonat, A Pinnock, Ramsay, Sokhal and Stephen (10 votes)

Against: Councillor S Hall (1 vote)

### **10 Planning Application - Application No: 2021/92601**

The Sub-Committee gave consideration to Application 2021/92601 – Erection of single storey extension at 22 Northorpe Lane, Mirfield.

## Planning Sub-Committee (Heavy Woollen Area) - 3 February 2022

Under the provisions of Council Procedure Rule 37 the Sub-Committee received a representation from Fraser Thomson (in objection). Under the provisions of Council Procedure Rule 36(3) the Sub-Committee received a representation from Councillor Lees-Hamilton (ward member).

**RESOLVED** – That the consideration of the application be deferred to enable a site visit to be undertaken.

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Dad, Gregg, S Hall, M Hussain, Lawson, Lowe, Loonat, A Pinnock, Ramsay and Stephen (10 votes)

Against: (no votes)

11

### **Planning Application - Application No: 2021/93329**

The Sub-Committee gave consideration to Application 2021/93329 – Partial change of use of building from Sui Generis (drinking establishment) to B8 (storage and distribution), partial demolition of existing building and erection of two storey extension to comprise ground floor B8 use (storage and distribution) and first floor C2 use (residential dwelling) and other associated works at The Six Lanes Ends Public House, Leeds Road, Heckmondwike.

**RESOLVED** – That authority be delegated to the Head of Planning and Development to approve the application, issue the decision notice and complete the list of conditions including matters relating to;

- development to begin within three years
- in accordance with approved plans
- no business related activities shall be carried out on the premises, including deliveries to or dispatches from the premises, outside the hours of 0800 to 1800 Monday to Friday only with no business activity on Saturdays or Sundays.
- no large or medium goods vehicle (as defined within the Road Traffic Act 1988) shall access the site to utilise the storage unit at any time
- submission of noise report prior to works commencing on the extension/superstructure (post demolition)
- flats to be occupied by owner, employee or dependent thereof of the storage and distribution use
- provision of electric vehicle charging points
- report of unexpected contaminated land
- materials to match existing building

A Recorded Vote was taken in accordance with Council Procedure Rule 42(5) as follows;

For: Councillors Dad, Gregg, S Hall, M Hussain, Lawson, Loonat, A Pinnock, Ramsay and Stephen (9 votes)

Against: (no votes)

Abstained: Councillor Lowe

**KIRKLEES COUNCIL**  
**DECLARATION OF INTERESTS AND LOBBYING**  
 Planning Sub-Committee/Strategic Planning Committee

Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

**LOBBYING**

Date	Application/Page No.	Lobbied By (Name of person)	Applicant	Objector	Supporter	Action taken / Advice given

Signed: ..... Dated: .....

## **NOTES**

### **Disclosable Pecuniary Interests**

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and  
(b) either -

- the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

### **Lobbying**

If you are approached by any Member of the public in respect of an application on the agenda you must declare that you have been lobbied. A declaration of lobbying does not affect your ability to participate in the consideration or determination of the application.

**In respect of the consideration of all the planning applications on this Agenda the following information applies:**

## **PLANNING POLICY**

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

### **National Policy/ Guidelines**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19<sup>th</sup> February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

## **REPRESENTATIONS**

Cabinet agreed the Development Management Charter in July 2015. This sets out how people and organisations will be enabled and encouraged to be involved in the development management process relating to planning applications.

The applications have been publicised by way of press notice, site notice and neighbour letters (as appropriate) in accordance with the Development Management Charter and in full accordance with the requirements of regulation, statute and national guidance.

## **EQUALITY ISSUES**

The Council has a general duty under section 149 Equality Act 2010 to have due regard to eliminating conduct that is prohibited by the Act, advancing equality of opportunity and fostering good relations between people who share a protected characteristic and people who do not share that characteristic. The relevant protected characteristics are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- religion or belief;
- sex;
- sexual orientation.

In the event that a specific development proposal has particular equality implications, the report will detail how the duty to have “due regard” to them has been discharged.

## **HUMAN RIGHTS**

The Council has had regard to the Human Rights Act 1998, and in particular:-

- Article 8 - Right to respect for private and family life.
- Article 1 of the First Protocol - Right to peaceful enjoyment of property and possessions.

The Council considers that the recommendations within the reports are in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 54 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

The Community Infrastructure Levy Regulations 2010 stipulates that planning obligations (also known as section 106 agreements – of the Town and Country Planning Act 1990) should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The NPPF and further guidance in the PPGS launched on 6th March 2014 require that planning conditions should only be imposed where they meet a series of key tests; these are in summary:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects

**Recommendations made with respect to the applications brought before the Planning sub-committee have been made in accordance with the above requirements.**

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 17-Mar-2022

**Subject: Planning Application 2021/90299 Demolition of existing dwelling and erection of detached dwelling with integral garages 154, Gomersal Lane, Gomersal, Cleckheaton, BD19 4JQ**

#### APPLICANT

Mr Brocklehurst

#### DATE VALID

16-Feb-2021

#### TARGET DATE

13-Apr-2021

#### EXTENSION EXPIRY DATE

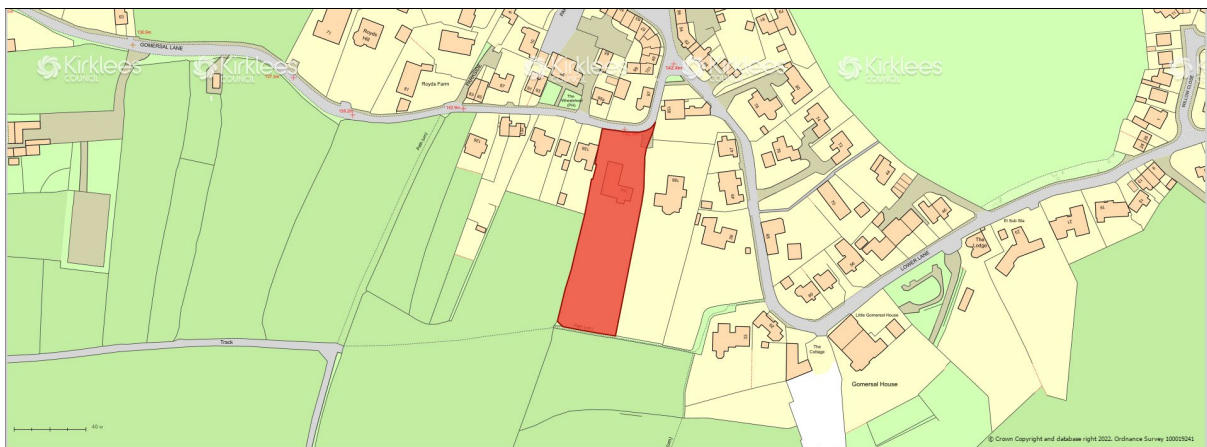
22-Mar-2022

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Link to Public speaking at committee](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Liversedge and Gomersal**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and issue the decision.**

**1.0 INTRODUCTION:**

1.1 The application is referred to the Heavy Woollen Sub-Committee due to the number of representations received. 29 representations have been received from 27 individuals. This is in accordance with the Delegation Agreement set out in the Constitution.

**2.0 SITE AND SURROUNDINGS:**

2.1 154 Gomersal Lane is a detached bungalow in Gomersal, Cleckheaton. The property has an 'L' shaped footprint and is constructed from stone for the external walls, with small areas of cream coloured render to the front, rear and western side elevation. It is designed with gable roof forms which are finished in concrete tiles. The dwelling is sited towards the north of the plot with a driveway to the front and eastern side elevation. There is a large garden area to the rear which extends round the western side elevation to the front of the dwelling. Within the site, land levels slope gradually from north to south. There is a detached outbuilding which is located to the western corner of the dwelling.

2.2 The surrounding area is residential in nature and comprises properties which vary in terms of their age, design, architectural styles and materials, though the predominant character is of two-storey terraced and detached dwellings constructed from stone. The Little Gomersal Conservation Area extends from the northern boundary of the site. The boundary of the Green Belt cuts across the rear garden area at the property, however the property itself is located on land which is unallocated on the Kirklees Local Plan (KLP).

**3.0 PROPOSAL:**

3.1 Planning permission is sought for the demolition of the existing dwelling and the erection of a detached dwelling with integral garages. Amendments have been made to the scheme which are being assessed.



3.2 The existing dwelling would be demolished as part of the proposal. The new dwelling would replace the existing dwelling on the same footprint, with the addition of a 3m, two-storey and single-storey projecting element to the rear and a single storey integral garage of 3.9m projection to the front elevation. The resultant dwelling would have a width of 17m and a depth of 25m and would be two-stories in height. The design would include projecting gable and lean-to elements and balconies to the rear, and a two-storey projecting entrance hall to the front. The dwelling would be constructed from stone and render for the external walls and blue slate for the roof.

3.3 The existing driveway would be retained as part of the development and extended slightly to the north to accommodate the additional footprint of the dwelling. The existing access would be used with vehicle access taken from Gomersal Lane to the north of the dwelling. Lawned areas would remain to the front and western side elevation of the dwelling as well as to the rear.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 2021/91941 – Prior approval for enlargement of dwellinghouse by erection of additional storey. Details Approved.

4.2 There have been a number of applications for extensions and alterations to the neighbouring properties however, none of these are considered to be directly relevant to the proposed development.

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

5.1 During the early stages of the application, and in response to concerns raised within neighbour representations, amended plans were received from the applicant's agent. The revised details altered the first floor level openings to the western side elevation of the dwelling so that these would be high level, non-habitable, secondary or obscurely glazed. Due to the nature of the revisions made, which were considered to reduce the potential impact on the neighbouring occupants by way of loss of privacy, the amended plans were not advertised to the public in this case.

5.2 Following concerns that were raised within the consultation response from the Council's Conservation and Design team, a site meeting was held between the applicant, their agent and the Conservation and Design officer. Further amended plans have been submitted in response to the concerns raised which include minor alterations to the design of the dwelling. Due to the nature of the revisions, which pose minor alterations to the overall design of the dwelling as well as the use of materials, the amended plans have not been advertised.

5.3 A further meeting was held between the applicant, the agent and the case officer due to concerns regarding the scale of the replacement dwelling. Further comparison drawings have been submitted showing the development proposed alongside the dwelling that could be built under the approved, prior approval application (2021/91941). The prior approval application is considered to represent a lawfully established and realistic fall-back position should the current proposal not be supported and is a material planning consideration in the assessment of this proposal.

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

6.2 The application dwelling itself is located on land which is unallocated on the Kirklees Local Plan. The majority of the rear garden is, however, located on land which is allocated as Green Belt.

### Kirklees Local Plan (2019):

- 6.3
- LP 1** – Achieving sustainable development
  - LP 2** – Place shaping
  - LP 3** – Location of new development
  - LP 21** – Highway safety and access
  - LP 22** – Parking
  - LP 23** – Core walking and cycling network
  - LP 24** – Design
  - LP 35** – Historic environment
  - LP 51** – Protection and improvement of local air quality
  - LP 53** – Contaminated and unstable land

### Supplementary Planning Guidance / Documents:

6.4 On the 29<sup>th</sup> of June 2021, Kirklees Council adopted its supplementary planning document for guidance on house building and open space, to be used against existing supplementary planning documents (SPDs) which have previously been adopted. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the street scene and wider area. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development.

6.5 In this case the following SPDs are applicable:

- Biodiversity Net Gain Technical Guidance Note
- Highways Design Guide
- Housebuilders Design Guide

National Planning Guidance:

- 6.6 **Chapter 2** – Achieving sustainable development  
**Chapter 5** – Delivering a sufficient supply of homes  
**Chapter 11** – Making effective use of land  
**Chapter 12** – Achieving well-designed places  
**Chapter 13** – Protecting Green Belt land  
**Chapter 14** – Meeting the challenge of climate, flooding and coastal change  
**Chapter 15** – Conserving and enhancing the natural environment  
**Chapter 16** – Conserving and enhancing the historic environment

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by site notice, neighbour letters and in the press. Final publicity expired on 29<sup>th</sup> March 2021. As a result of the above publicity, 29 representations have been received. The representations have been summarised as follows:

7.2 Visual Amenity and Heritage

- Scale and design of the dwelling is inappropriate within its setting
- Not in keeping with the character of the street scene or wider area
- Property forms one of a pair of symmetrical bungalows
- Will impact negatively on the Little Gomersal conservation area
- Impact on the Green Belt which covers the rear garden of the site
- Loss of gaps and open space within the street scene
- Design is sensitive to the local area and would be similar to existing footprint
- Dwelling will add to the character of Gomersal
- Would be prominent on the approach to Gomersal Lane
- Proposed dwelling would not impact on views from the village
- Overdevelopment of the site

7.3 Residential Amenity

- Overshadowing and loss of light and to neighbouring properties and gardens
- Loss of privacy and concern of overlooking from openings and balconies
- Loss of outlook
- Overbearing impact on neighbouring properties
- Noise from proposed air conditioning units

#### 7.4 Highways Safety

- Vehicle accidents have occurred on the corner of Gomersal Lane
- Potential increase in vehicle movements and parking

#### 7.5 Publicity of the Application

- Notice on the lamp post was late being posted

#### 7.6 Other Matters

- Smaller developments not allowed at neighbouring properties
- Large amount of development allowed by permitted development
- Impact on views for walkers and from public footpath
- Concerns over the use of the dwelling in the future
- Plans are not sufficient for the consideration of the application
- Disruption during the construction process
- Drainage concerns

#### 7.7 Non-material Considerations

- Residents not consulted during the design stage
- Could set a precedent for development in the area
- Believe there is a covenant on the property
- Impact on house prices in the area

7.8 Officer comments in response to the comments received will be made in section 10 of this report.

### **8.0 CONSULTATION RESPONSES:**

#### Statutory

8.1 The Coal Authority – No objections to the proposed development and the basis of the submitted Coal Mining Risk Assessment.

8.2 Health & Safety Executive – No objections.

8.3 KC Highways Development Management – No objections subject to a condition requiring the confirmation of methods for storage and collection of waste.

## Non-Statutory

- 8.4 KC Conservation & Design – Following the submission of amended plans, no objections have been raised. A condition has however been suggested requiring the submission of a sample of the proposed render prior to construction.
- 8.5 KC Environmental Health – No objections subject to conditions relating to the provision of an electric vehicle charging point or the reporting of unexpected contaminated.

## **9.0 MAIN ISSUES**

- Principle of development
- Visual amenity
- Heritage issues
- Residential amenity
- Highway issues
- Other matters
- Representations

## **10.0 APPRAISAL**

### Principle of development

- 10.1 Planning permission is sought for the demolition of the existing dwelling and the erection of a detached dwelling with integral garages.
- 10.2 When considering development proposals, there is a presumption in favour of sustainable development contained in the NPPF. Policy LP1 of the Kirklees Local Plan (KLP) is applicable and suggests that proposals that accord with the policies in the KLP (and where relevant, with policies in neighbourhood plans) will be supported subject to other material considerations.
- 10.3 Policy LP24 of the KLP suggests that proposal should promote good design by ensuring (amongst other considerations) the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Chapter 12 of the NPPF reiterates that local planning authorities should ensure the issue of ‘design’ and the way a development will function are fully considered during the assessment of the application.
- 10.4 The proposal is required to accord with policy LP3 of the KLP that requires new development to be situated in a sustainable location that provides access to a range of transport choices and access to local services.

- 10.5 The housing land supply position has recently been updated to provide evidence for a forthcoming planning appeal against the refusal of planning permission. The Council can currently demonstrate 5.17 years of deliverable housing land supply and therefore continues to operate under a plan-led system.
- 10.6 A large section of the rear garden area of the existing dwelling is located within the Green Belt, and as such, Chapter 13 of the NPPF is considered to be relevant. The proposed dwelling, nor any additional areas of associated hardstanding would be located on the Green Belt land with the rear garden area remaining unaffected by the proposed development. As such, no specific KLP policy is considered relevant for the proposed development in this case.
- 10.7 The application site is located immediately to the south of the boundary of the Little Gomersal Conservation Area and as such, Policy LP35 of the KLP, together with Chapter 16 of the NPPF is relevant in this case.
- 10.8 It is noted that application reference 2021/91941 is considered a material consideration and appropriate weight should be afforded to this fall-back position as further assessed below. It is considered to establish the principle of enlarging the dwellinghouse by the erection of an additional storey.
- 10.9 The land on which the dwelling would be located is unallocated on the Kirklees Local Plan. The site currently hosts a detached dwelling and is located within an existing residential area close to local amenities. As such, the site is considered suitable for the proposed residential development, providing there is no undue detrimental impact on visual, heritage and residential amenity and highway safety. Other matters may be relevant and will be addressed below.

#### Visual Amenity

- 10.11 The proposal is for the demolition of the existing dwelling and the erection of a detached dwelling with integral garages. The proposed dwelling would occupy the same footprint as the existing property, albeit it at a two-storey height and with additional projecting elements to the front and rear elevation.
- 10.12 Principle 5 of the Housebuilders Design Guide SPD states that buildings should be aligned to form a coherent building line. Whilst the existing dwelling which would be replaced as part of the proposal is located within a residential area, the position of the dwellings within their respective plot varies along Gomersal Lane. Whilst there is no one building line, the properties generally front onto Gomersal Lane and are set back from the access road with areas of amenity space or driveways to their principal elevation. The new dwelling would replace the existing dwelling in the same location which is considered acceptable in this case. Whilst there would be an additional projecting element to the front elevation of the property, this would not project beyond the front elevation of the three properties which are located to the west and are roughly aligned. By

replicating the 'L' shaped footprint of the existing dwelling, the proposal would retain space to either side of the property, providing a sense of place and maintaining visual connections to the area which currently exist and are promoted by the principle. The positioning of the dwelling within the plot is therefore considered to be acceptable.

- 10.13 The proposed dwelling would be of a significantly larger scale than the dwelling it would replace, due to its extended footprint and two-storey height. It is acknowledged that the principle of erecting an additional storey to the existing dwelling has been established by the prior approval application process (2021/91941) and this is considered to represent a realistic fall-back position. As such, it forms a material planning consideration in the assessment of the current proposal.
- 10.14 Notwithstanding the realistic fall-back position which has been established, the footprint of the proposed dwelling would be larger than existing and as approved by the prior approval application. The additional footprint would comprise a 3m projecting element to the rear and an integral garage to the principal elevation. The dwelling would be situated within a large plot, with a driveway and large garden areas retained around each elevation. It is considered that the dwelling would sit comfortably within the plot and would not amount to an overdevelopment of the site in this case.
- 10.15 In terms of the appearance, the dwelling would be of a modern design, incorporating contemporary features with large areas of glazing. Whilst there are a number of more traditional properties within the street scene, the design and style of the properties along Gomersal Lane varies. The dwelling would be constructed from stone and render for the external walls and blue slate for the roof. The use of stone and render is considered to be in keeping with the materials used in the construction of the dwellings within the street scene. A number of these properties have slate, or blue slate roofs. Given the scale of the dwelling and to ensure that it would harmonise with the properties in the street scene in terms of its materials, it is considered appropriate to impose a condition requiring the submission of samples of all external materials prior to construction.
- 10.16 Turning to the scale of the dwelling, the existing property has a relatively large footprint given its single-storey nature. The scale of the new dwelling, which would have a larger footprint and would be of a two-storey height, would be larger than the immediately neighbouring properties. It is noted that the additional bulk and massing of a first floor to the existing dwelling has been established by the prior approval application. Whilst the current proposal would introduce additional footprint to the dwelling, projecting and more contemporary elements have been added under the current proposal to break up the additional bulk and massing. The height of the new dwelling is also less than what has been approved under the prior approval application and the current proposal is considered to be of a better, and more sympathetic design to what has previously been approved.

- 10.17 It is noted that there is a variation in the scale of the dwellings along Gomersal Lane, which is predominantly characterised by two-storey properties. The plot occupies a prominent location and is visible from the entrance to Gomersal Lane. It is also acknowledged that Public Right of Way footpath SPE/99/30 runs to the rear of the site, which offers views towards the rear of the property. From the footpath, the dwelling can be seen in the context of the properties to either side, and the dwellings to its front elevation are also visible. Whilst the dwelling would be prominent within the street scene and wider area, the prior approval application is considered to represent a realist fall-back position which could be implemented should the current proposal not be supported. The dwelling would be of a reduced height under the current proposal when compared to the prior approval application, and the proposal would introduce design features which are considered to break up this additional bulk and massing, appearing as an improvement. Whilst the dwelling would be of a larger scale, when considering the realistic fall-back position and the positive design changes which have been implemented under the current proposal, the scale of the dwelling when considered on balance is deemed to be acceptable by officers.
- 10.18 The submitted section drawing demonstrates that the height of the new dwelling would sit at a lower level than that of the property immediately to the west. Whilst it is acknowledged that the property to the east is single storey, the two-storey nature of the new dwelling would be in keeping with the prevailing two-storey nature of the dwellings within the street scene. The positioning of the ridge height, which would sit below that of the adjacent property, it considered to be consistent with Principle 15 of the Housebuilder Design Guide SPD which sets out how the roofline of new dwellings should relate well to the site context.
- 10.19 Part of the rear garden of the application site is located within the Green Belt. Whilst the new dwelling would not encroach onto this Green Belt land, it would be located within close proximity of its boundary. As such, consideration must be given to the impact on its character and openness. The dwelling would be located in the same location as the existing dwelling, which would retain the existing sense of space which exists between each of the dwellings to either side elevation. The siting of the dwelling within the site is therefore considered to be sensitive to the nature of the surrounding area, consistent with the aims of Principle 8 of the Housebuilders Design Guide SPD. The land to the rear of the site is open, and it is noted that there would be views of the southern elevation of the dwelling from the adjacent Public Right of Way footpath, SPE/99/30. Whilst the dwelling would be two stories in height, this would be in keeping with the prevailing character of the street scene and wider area. The proposal would utilize the existing boundary treatment which is considered to reflect the rural character of the land to the rear. For the above reasons, the impact on the adjacent Green Belt land is considered to be acceptable.



- 10.20 In summary, when considered on balance and for the reasons set out within this section of the report, the proposal is considered acceptable from a visual amenity perspective and would accord with the aims of Policy LP24 of the KLP (a), Principles 2, 5, 8, 12, 13, 14, 15, 16 and 17 of the Housebuilders Design Guide SPD as well as the aims of the NPPF.

### Heritage

- 10.19 The application site is located immediately to the south of the Little Gomersal Conservation Area, and as such, consideration must be given to the impact of the proposal on setting of the designated heritage asset.
- 10.20 LP35 requires development proposals which affect a designated heritage asset to preserve or enhance the significance of the asset. They should ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.
- 10.21 The Council's Conservation and Design team have been consulted during the course of the application. It is noted within their response that the Little Gomersal Conservation Area is a historic village, with an organic rural layout and views towards the surrounding countryside. The buildings within the Conservation Area vary in terms of their age, status and architectural styles and materials, though the prominent character is of two-storey terraced or detached dwellings constructed in stone with pitched stone slate or blue slate roofs. This part of the Gomersal Lane is a narrow road lined with low stone boundary walls which are a characteristic of the local area.
- 10.22 The existing dwelling is a large, detached bungalow constructed in the late 20<sup>th</sup> century. Whilst the building is constructed predominantly from stone, and forms part of a pair of bungalows to the corner of Gomersal Lane, the Conservation and Design officer considers that the building does not contribute to the setting of the Conservation Area. As such, no concern has been raised to its demolition and the principle of replacing the bungalow is considered acceptable.
- 10.23 Within the initial consultation response, concern was raised to the design and scale of the proposed building within the setting of the tight knit and semi-rural conservation area. The north and east elevations of the dwelling would face onto the Conservation Area and Gomersal Lane, where the dwelling, when viewed from the north at the entrance to Gomersal Lane, would appear prominent in the context of the Conservation Area and would directly affect its setting.

- 10.24 The Conservation and Design team support the use of natural stone and blue slate pitched roofs which reflect the local vernacular and consider that the single storey garage would reduce the impact of the northern elevation to some extent. However, in its original form, the northern aspect of the building was considered to harm to setting of the Conservation Area by virtue of its complex design, including a projecting entrance atrium and openings with vertical emphasis which were considered to be out of keeping with the Conservation Area.
- 10.25 Following negotiations between the Conservation and Design officer and the applicant's agent, amended plans were submitted, simplifying the design of the northern aspect of the building by altering the fenestration and constructing the projecting atrium out of stone to reduce its prominence within the street scene and within the setting of the Little Gomersal Conservation Area. Following a review of the amended plans, the impact of the proposed development on the setting of the Conservation Area is considered to be acceptable and no objections are raised from a heritage perspective. A condition has however been requested requiring a sample of the proposed render to be submitted prior to construction to ensure that it would have an acceptable impact on the surrounding area. As set out above, a condition requiring the submission of samples of all external walling and roofing materials is considered acceptable given the scale of the dwelling to ensure that it would be in keeping with the character of the surrounding area.
- 10.26 On the basis of the amended plans, and subject to a condition requiring a sample of the proposed materials to be submitted prior to construction, the impact of the proposed development on the setting of the Little Gomersal conservation area is considered to be acceptable. In accordance with Policy LP35 of the KLP as well as the aims of Chapter 16 of the NPPF.

#### Residential Amenity

- 10.27 The site is located within a residential area. This section will assess the relationship between the proposed development with the neighbouring properties.
- 10.28 Whilst the proposed dwelling would be of a substantially larger scale than the existing dwelling than it would replace, the scale, bulk and massing of an additional storey to existing dwelling has been established by the prior approval application and this is considered to represent a realistic fall-back position which must be afforded weight in the consideration of the application. The proposed dwelling would, however, include a two storey projecting element to the rear, a single storey projecting element to the front as well as balconies and new openings which have not been permitted as part of the prior approval application. An assessment shall now be carried out with regards to the impact on each of the immediate neighbours which regards to the aspects which have not already been established at the site.

### Impact on 138 Gomersal Lane

- 10.29 The proposed two storey projecting elements to the rear of the dwelling would project beyond the rear elevation of the neighbouring property. Due to the two-storey height and location due east, there is the potential for this element to have an overbearing and overshadowing impact. The proposed dwelling would be set in from the side elevation of the neighbouring property by approximately 7.5m. Whilst the rear most element of the dwelling would be located significantly beyond the rear elevation of the neighbouring property, which benefits from habitable openings with close proximity of the shared boundary, it is considered that the distance retained would be sufficient to reduce the potential for overbearing to an acceptable level. It is considered that the development would have a degree of overshadowing to the neighbouring property due to its two-storey height, however, the new dwelling would be located to the east, and as such, any overshadowing would be limited to the early morning hours. When considering the distance retained between the two dwellings, it is considered that any additional overshadowing impact would not be sufficient to warrant a reason for the refusal of the application.
- 10.30 The proposed single storey integral garage would project along the side elevation of the neighbouring property which benefits from two high level openings in its side elevation at ground floor level. The garage would be set in from the shared boundary, which together with its single storey height, is considered to prevent harmful overbearing or overshadowing to the property.
- 10.31 To the western elevation, a number of ground floor level openings are proposed which would serve secondary openings to an open plan kitchen and sitting area, two WCs, a utility and a cloak room. Due to the non-habitable or secondary habitable nature of these openings, which would be located in the place of existing habitable openings to the existing dwelling, it is considered that there would not be the potential or harmful overlooking towards the property, which benefits from two high level openings in its side elevation at ground floor level, over and above the existing relationship.
- 10.32 At first floor level, a secondary opening is proposed to a bedroom. This opening would be high level which is considered to prevent harmful overlooking towards the existing habitable openings on the side elevation of the dwelling. Further openings would serve a dressing area, ensuites and a gym which is shown to be obscure glazed. In the interest of residential amenity, it is considered appropriate to condition that the obscure glazing is implemented and retained should the application be approved.

### Impact on 156 Gomersal Lane

- 10.33 The rear of the new dwelling would include a two storey, 3m projecting element which would project approximately 3m beyond the rear elevation of the neighbouring property. The dwelling benefits from a single storey extension to the rear with openings in its side elevation. Whilst the dwelling would be located to the west and would therefore have the potential to have an overbearing and overshadowing impact, particularly due to its two-storey height, the rear element of the dwelling would retain approximately 18m between the existing extension at the property. The distance retained is considered sufficient to reduce the potential for overbearing and overshadowing from this element to an acceptable level.
- 10.34 The integral garage, located to the north of the new dwelling, would sit forward of the front elevation of the neighbouring property and would be set in from the shared boundary by approximately 13m. The distance retained, as well as its single storey nature, is considered sufficient to prevent harmful overbearing and overshadowing from this element of the proposal.
- 10.35 A number of openings are proposed to the eastern side elevation of the dwelling which have the potential to overlook the neighbouring property. In the southern most aspect of the dwelling, openings at ground floor level would serve a secondary opening to a snug, a garage and a WC. The garage and WC openings, due to their use, are considered not to allow for harmful overlooking towards the property. This would be furthered by the fact that they would face onto the blank gable wall of the property. The snug window, whilst serving a habitable room, would be secondary opening. Together with the distance retained between the side openings in the rear extension of the property, it is considered that the potential for harmful overlooking would be reduced. At first floor, openings would serve an ensuite and a secondary opening to a bedroom. Whilst the openings would hold an elevated position, it is considered that views would be over the neighbouring property due to its single storey height. Any views of the private amenity space to the rear of the property would be at an oblique angle.
- 10.36 To the northern most aspect of the dwelling, openings would serve a stairway, hallway and shower room. Due to the nature of these rooms, it is considered that they would not allow for harmful overlooking towards the openings in the side elevation of the property. Whilst a primary study opening is proposed at ground floor level, approximately 25m would be retained between the new openings and those in the side elevation of the neighbouring property. Together with the fact that there is an existing relationship established between habitable room openings to this elevation, the impact on the property is considered acceptable. At first floor level, an opening would serve a bedroom. Due to the elevated position of the opening in relation to the property, it is considered that the line of sight from this opening would be over the roof plane of the property.

Whilst there would be some overlooking of the amenity space to the front of the dwelling, it is noted that the main area of private amenity space is to the rear, and as such, it is considered that this impact would not be detrimental to the amenity of the occupiers.

#### Impact from the Proposed Balconies

- 10.37 Balconies are proposed to the rear of the dwelling. The balconies, located at first floor level, would be set forward of the rear elevations of the two adjacent properties, no. 138 and no. 156 Gomersal Lane and as such, it is considered that there would be no harmful overlooking towards the rear elevations of the properties. The balconies, due to their elevated position, whilst set in from the shared boundary, would offer the potential for some overlooking towards the rear amenity space of each of the properties. In the interest of residential amenity, it is considered appropriate to condition that a 1.6m privacy screen shall be installed to the northern and southern side elevations of the balconies.

#### Impact on 97 Gomersal Lane

- 10.38 The proposed dwelling would be located to the south of the neighbouring property. Whilst it would replace an existing dwelling, it would be two-storey in height, and therefore have the potential to have an overbearing and overshadowing impact over and above the existing relationship.
- 10.39 The proposed dwelling would be set back from the access road, with approximately 27m retained between the southern most aspect of the neighbouring property. Due to the distance retained, it is considered that the dwelling would not have an oppressive or overbearing impact to the property. Given the distance retained, it is considered that the potential for overbearing to either habitable openings in the southern elevation of the dwelling, or to its amenity space, would be reduced to an acceptable level.
- 10.40 There are no properties to the rear of the site which would be impacted by the proposed development.
- 10.41 Having considered the above factors, the proposal is considered to result in no adverse impact upon the residential amenity of any surrounding neighbouring occupants and would offer an acceptable standard of amenity for future occupants. This is in accordance with Policies LP24 (b) and LP52 of the KLP, Principles 6, 16 and 17 of the Housebuilders Design Guide SPD and the aims of the NPPF.

#### Highway issues

- 10.42 The application is for the demolition of the existing dwelling and the erection of a five bedroom dwelling with integral garages. The new dwelling would be located in the same location as the existing dwelling, on a slightly larger

footprint, and would utilise the existing access from Gomersal Lane. Whilst the proposed dwelling would be larger than the one it would replace, given the fact that the site currently operates as a residential property, it is considered that proposal would not result in additional trips to and from the site to a level which would be likely to have a significant impact on the operation and efficiency of the highway network.

- 10.43 In terms of parking, the Council's Highways Development officer has been consulted during consideration of the application and considers that a vehicle could be accommodated in each of the two integral garage. There would be ample space for a further 2 to 3 spaces to be accommodated on the driveway whilst allowing for internal turning, meaning vehicles can exist the site in a forward gear. Whilst the existing driveway would be retained it would be extended slightly to accommodate the additional footprint. Whilst the submitted site plan demonstrates that this would be finished in block paving to match existing, it is considered appropriate to condition that the surface is of a permeable finish, and laid, available for parking, before the dwelling is first brought into use.
- 10.44 Principle 19 of the Housebuilders Design Guide SPD sets out how the provision for waste storage and collection must be incorporated into the design of new development. Whilst no details have been provided regarding waste storage and collection at the site, it is noted that the site currently operates as a residential property, and it is anticipated that waste collection would continue as existing. In any case, details regarding waste storage and collection must be provided and as such, the Highways Development Management officer has requested a condition requiring these details to be provided.
- 10.45 Subject to the inclusion of the above conditions, the proposed development is considered acceptable from a highway safety perspective, complying with Policies LP21 and LP22 of the KLP as well as Principles 12 and 19 of the Housebuilders Design Guide.

#### Other Matters

##### *Previous Application*

- 10.46 Application reference 2021/91941 has been previously approved at the site. The application is for the prior approval for the enlargement of the dwellinghouse by the erection of an additional storey. The prior approval application is considered to establish the principle of having a first-floor level to the existing dwelling. The prior approval application is considered to represent a realistic fall-back position should the application for the proposed development be refused. This fall-back position has been afforded weight within the assessment of the application. Whilst the proposed dwelling would be of a larger footprint, when considering the amendments which have been made to the height and design of the dwelling from the prior approval application, when considered on balance, the scale of the proposed dwelling is considered acceptable.

### *Ecology*

- 10.47 The proposal involves the demolition of the existing dwelling and the erection of a new dwelling in the same location within the site. The application site is not located within the Bat Alert layer. Following a site visit, the building appeared to be well-sealed and there was no evidence of bat roosts or bat roost potential. As such, there is no concern regarding the demolition of the building from an ecology perspective. LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and the Biodiversity Guidance note states that biodiversity net gain is required for all development. To create this net gain, a condition to secure a bird into the external walls of the new dwelling shall be added to the decision notice. This mitigation will ensure that the proposal minimises the impact on biodiversity and provides a net biodiversity gain through good design by incorporating biodiversity enhancements.

### *Public Right of Way*

- 10.48 Public Right of Way footpath SPE/99/30 is located to the south of the application site. Due to the topography of the surrounding area, the footpath is located at a lower level to the location of the proposed dwelling, and it is noted, due to the size of the plot, that approximately 70m would be retained between the rear wall of the dwelling and the boundary shared with the PROW. When taking into account the distance retained, it is considered that the proposed dwelling would not have a harmful impact on users of the footpath. As such, the proposal is considered to comply with Policy LP23 of the KLP in this case.

### *Contaminated Land*

- 10.49 The application site has been identified as being located on land which is potentially contaminated due to its proximity to a former colliery. A condition has been recommended by the Council's Environmental Health team regarding the reporting of unexpected land contamination should any be encountered during the construction process. The conditions shall be attached to the decision notice in accordance with Policy LP53 of the KLP.

### *Coal Mining Legacy*

- 10.50 The Coal Authority have been consulted during consideration of the application as the application site falls within the defined Development High Risk Area. Therefore, within the application site and surrounding area there are coal mining features and hazards, which need to be considered in relation to the determination of this planning application.

10.51 The planning application is supported by a Coal Mining Risk Assessment prepared by Earth Environmental & Geotechnical Limited. The report has been informed by an appropriate range of sources and information. Having reviewed the available coal mining and geological information, the Coal Mining Risk Assessment concludes that the risk to the proposed development from probable unrecorded shallow working is low as the proposed dwelling would be built on the existing foundations. On the basis that minimal additional groundworks are proposed, The Coal Authority have advised that the proposal would fall under their exemption criteria. As such, no further comments have been provided and The Coal Authority do not object to the planning application.

### *Carbon Budget*

10.52 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

10.53 The proposal comprises minor development which involves the demolition of an existing dwelling and the erection of a detached dwelling with integral garages. In line with the Council's objectives for promoting sustainable methods of transport as well as helping to reduce carbon emissions, a condition relating to the provision of an electric car charging point is recommended. This is in accordance with Policies LP24 and LP51 of the KLP and Chapter 9 of the NPPF.

### Representations

10.54 The representations received have been summarised as follows:

#### Visual Amenity and Heritage

- Scale and design of the dwelling is inappropriate within its setting
- Not in keeping with the character of the street scene or wider area
- Property forms one of a pair of symmetrical bungalows
- Will impact negatively on the Little Gomersal conservation area
- Impact on the Green Belt which covers the rear garden of the site
- Loss of gaps and open space within the street scene



- Design is sensitive to the local area and would be similar to existing footprint
- Dwelling will add to the character of Gomersal
- Would be prominent on the approach to Gomersal Lane
- Proposed dwelling would not impact on views from the village
- Overdevelopment of the site

*Officer Response:* The comments regarding visual amenity and heritage have been addressed within the visual amenity and heritage sections of this report.

#### Residential Amenity

- Overshadowing and loss of light and to neighbouring properties and gardens
- Loss of privacy and concern of overlooking from openings and balconies
- Loss of outlook
- Overbearing impact on neighbouring properties
- Noise from proposed air conditioning units

*Officer Response* – The comments regarding the impact on residential amenity have been addressed within the residential amenity section of this report. With regards to noise, no details of proposed air conditioning units have been submitted as part of the application. In any case, the application is for the replacement of a single residential property. It is considered that any additional noise generated would not be significantly detrimental to the amenity of the neighbouring properties over and above the existing relationship.

#### Highways Safety

- Vehicle accidents have occurred on the corner of Gomersal Lane
- Potential increase in vehicle movements and parking

*Officer Response* – The comments regarding the impact on highway safety have been addressed within the highway safety section of this report.

#### Publicity of the Application

- Notice on the lamp post was late being posted

*Officer Response* – The application has been advertised in accordance with the Kirklees Development Management Charter.

### Other Matters

- Smaller developments not allowed at neighbouring properties
- Large amount of development allowed by permitted development

*Officer Response* – The planning history in the surrounding area has been noted as part of the assessment of the application. All applications must be assessed on their own merits, in accordance with relevant local and national policies at the time of their consideration. The permitted development fall-back position has been noted and addressed within the body of this report.

- Concerns over the use of the dwelling in the future

*Officer Response* – The application has been assessed based on the submitted plan which are for the erection of a single dwelling. Should the use of the dwelling change in the future, it is likely that a new planning application would be required.

- Plans are not sufficient for the consideration of the application

*Officer Response* – Officers have reviewed the submitted plans which, along with a visit to the site and surrounding area, are considered sufficient to determine the application in this particular case.

- Disruption during the construction process

*Officer Response* – Whilst concerns relating to disruption that may result during construction is a material consideration relating to residential amenity, there is an expectation that there will be such effect as part of the activities associated with construction and such effects would be transient. It is, therefore, considered that this would not be a sufficient reason to warrant refusal of the application. A note will be added to the decision notice reminding the applicant of the appropriate hours of work in line with Environmental Legislation.

- Drainage concerns

*Officer Response* – The application is for the erection of one dwelling which would replace an existing dwelling on the site. The impact of one replacement dwelling on the site is considered acceptable.

### Non-material Considerations

- Residents not consulted during the design stage
- Could set a precedent for development in the area
- Believe there is a covenant on the property
- Impact on house prices in the area

*Officer Response* – These are not material planning considerations and can therefore not be considered as part of the application. It is noted however that the granting of planning permission does not override legal restrictions of covenants at the property.

## **11.0 CONCLUSION**

- 11.1 To conclude, it is considered, on balance, that the proposal would have an acceptable impact with regards to visual amenity, heritage, residential amenity and highway safety as discussed.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development and is therefore recommended for approval.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Time scale for implementing permission
2. Development to be carried out in accordance with the approved details
3. Samples of external walling and roofing materials to be submitted
4. Areas indicated for parking to be surfaced and drained
5. Reporting of unexpected land contamination
6. Submission of a scheme detailing the provision for electric vehicle charging
7. Details to be submitted regarding storage and collection of waste
8. Provision of bird nesting feature
9. First floor level windows to the western elevation shown on floor plans as opaque windows to be obscure glazed
10. 1.6m high privacy screen to be erected to the eastern elevation of the balcony shown on the submitted floor plans (2082-04A) that serves bedroom one and the western elevation of the balcony shown to serve bedroom two

### **Background Papers:**

Application weblink:

[Link to planning application details](#)

Certificate of Ownership – Certificate A signed.

### **Weblink to application referred to in Section 4.0 of this report:**

2021/91941 – Prior approval for enlargement of dwellinghouse by erection of additional storey. Details Approved.

[Link to planning application details](#)

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 17-Mar-2022

Subject: Planning Application 2021/92601 Erection of single storey extension  
22, Northorpe Lane, Mirfield, WF14 0QJ

#### APPLICANT

E Clark

#### DATE VALID

25-Jun-2021

#### TARGET DATE

20-Aug-2021

#### EXTENSION EXPIRY DATE

27-Aug-2021

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Link to Public speaking at committee](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Mirfield**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.**

**1.0 INTRODUCTION:**

1.1 This application was presented to Heavy Woollen Planning Sub-Committee on 3<sup>rd</sup> February 2022 at the request of Cllr Lees-Hamilton for the reasons outlined below.

1.2 *"I would still like this application to go to committee. The side extension is still overbearing on the neighbouring property, and I have doubts about the weight bearing capacity of the boundary wall."*

1.3 The Chair of the Sub-Committee had confirmed that Cllr Lees-Hamilton reasons for the referral to the committee valid having regard to the Councillor's Protocol for Planning Committees.

1.4 Members discussed the application at the Heavy Woollen Planning Sub-Committee held on 3 February 2022 and resolved to defer the application for a site visit to enable further consideration.

**2.0 SITE AND SURROUNDINGS:**

2.1 22 Northorpe Lane, Mirfield is a brick built, semi-detached property with a garden and drive to the front, garage attached to the side and a larger enclosed garden to the rear.

2.2 Northorpe Lane is a residential street with properties of varying ages, styles and palettes of material.

**3.0 PROPOSAL:**

3.1 The applicant is seeking planning permission for a single storey side and rear extension.

3.2 The side extension would project 2.85m from the original side wall of the property and would extend the depth of the dwelling with a hipped roof form. The rear extension would project 2m from the original rear wall of the dwelling and would extend across the width of the property including to the rear of the proposed side extension with a lean to roof form.

3.3 The walls would be constructed using brick with tiles for the roof covering.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 None

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

5.1 The size of the side extension has been reduced twice during the course of the application. Initially setting the two storey side extension back from the front with a corresponding set down. However, this first amendment was not considered to be sufficient to overcome officers' concerns. Further reductions from a two storey structure to a single storey side extension were subsequently submitted and are considered to address officers' concerns.

#### **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

##### Kirklees Local Plan (2019):

6.2 LP 01 – Achieving sustainable development  
LP 02 – Place shaping  
LP 22 – Parking  
LP 24 – Design

##### Supplementary Planning Guidance / Documents:

6.3 House Extension Supplementary Planning Document 2021

6.4 Mirfield Design Guide 2002

The site is within Mirfield Neighbourhood Area. There is no made Neighbourhood Development Plan (NDP) within the Mirfield Neighbourhood Area at present. Furthermore, there is no emerging NDP to be considered as a material consideration in assessment of this application at this time. Further details on the progress of neighbourhood development plans in the district can be found at:

[Link to Neighbourhood Development Plan](#)

##### National Planning Guidance:

6.5 Chapter 12 – Achieving well-designed places

#### **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by neighbour notification letter which expired on 19/08/2021.

7.2 As a result of the above publicity, one representation was received.

7.3 The material considerations raised are summarised as follows:-

- Overshadowing the adjacent property.
- Overbearing impact on the adjacent property.

7.4 Further publicity was undertaken following receipt of amendments and expired on 26/11/2021.

7.5 As a result of the second publicity period one representation was received.

7.6 The issues raised relate solely to the rear corner of the extension with concerns raised that this would cause overshadowing and an overbearing impact on the neighbour's kitchen window.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

None

### **8.2 Non-statutory:**

None

## **9.0 MAIN ISSUES**

- Principle of development
- Visual amenity
- Residential amenity
- Highway issues
- Representations
- Other matters

## **10.0 APPRAISAL**

### Principle of development

10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with the House Extension SPD and Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.



### Visual Amenity

- 10.2 The host property is located on a residential street with properties of varying ages, styles and palette of materials. Dependent upon design, scale and detailing, it may be acceptable to extend the host property. The proposal under consideration consists of two distinct elements which shall be addressed below.
- 10.3 Key Design Principle 1 of the House Extension & Alteration supplementary planning document (SPD) states that extensions and alterations to residential properties should be in keeping with the appearance, scale, design and local character of the area and the street scene. Furthermore, Key Design Principle 2 of the HESPD goes onto state that extensions should not dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and details.
- 10.4 *Single storey side extension:* The side extension would fill the area to the side of the dwelling, replacing the existing garage. The extension would, by reason of its scale, form a subservient relationship with the host property. Given the mix of styles on the street, the extension would not appear out of character with the area. Furthermore, the use of brick for the walling with tiles for the roof covering would match the materials used in the construction of the host property. The side extension is therefore considered to be acceptable in terms of visual amenity.
- 10.5 *Single storey rear extension:* The host property is set within grounds which are sufficient in size to support the proposed extensions, whilst retaining a reasonable amenity space. The projection of the extension is limited and single storey in nature.
- 10.6 Having taken the above into account, the proposed extensions would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would form a subservient addition to the property in keeping with the existing building, KDP 1 & 2 of the House Extension and Alterations Supplementary Design Guide and the aims of chapter 12 of the National Planning Policy Framework.

### Residential Amenity

- 10.7 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light & Key Design Principle 6 on preventing an overbearing impact.
- 10.8 There are no properties to the rear which could be affected by the works proposed.

- 10.9 *Impact on 20 Northorpe Lane:* The host property is a two storey dwelling which occupies a position closer to the road than the adjacent bungalow. The single storey side extension would align with the drive area, car port and flat roofed element of the neighbouring property. There is a window in the side elevation which had been identified as serving a kitchen and therefore non habitable. Subsequently, it has been clarified that the window serves a kitchen diner which would be considered to be habitable, the implications of which require further assessment. The proposed extension would extend beyond the rear of the host property by 2 metres, which would not, in the opinion of officers, result in any significant overbearing or overshadowing impact upon the amenity of the occupiers of no.20 Northorpe Lane as the extension would not be constructed in front of this window given the angled relationship which would be formed. There are currently no windows proposed in the side elevation and a condition can be included if permission is granted removing permitted development for openings in this side elevation. There are no concerns in terms of overlooking.
- 10.10 *Impact on 24 Northorpe Lane:* The rear extension would be built along the shared boundary with the adjoining dwelling. However, the projection is limited to 2 metres and would be single storey in height. Furthermore, the adjoining property has a single storey rear extension which projects approx. 3.3m. As such, the rear extension proposed would have no significant impact on the amenity of the occupiers of the adjoining 24 Northorpe Lane.
- 10.11 *Impact on 19 Northorpe Lane:* The road itself separates the host property from the neighbouring dwelling opposite. Furthermore, the side extension would not reduce the space between the properties. Given this, the proposed side extension would have no significant effect upon the amenity of the occupiers of the neighbouring 19 Northorpe Lane.
- 10.12 Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5 & 6 of the House Extension SPD and Paragraph 130 (f) of the National Planning Policy Framework.

#### Highway issues

- 10.13 The proposals would result in some intensification of the domestic use. However, the parking area to the front of the property which together with the garage proposed would be considered to represent a sufficient provision for two off street parking spaces. There is also space within the curtilage for bin storage. As such, the scheme would not represent any additional harm in terms of highway safety and complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extension SPD.

#### Representations

- 10.14 The material considerations raised in the one objection received are summarised as: -
- Overbearing impact on the adjacent dwelling.
  - Oppressive impact on the adjacent dwelling.

- 10.15 These issues are material considerations and have been addressed in the residential amenity section and the highways section of this report.
- 10.16 Although other matters have been raised by the Ward councillor, such as the boundary and the impact on the walling, these are not material planning considerations which can be taking into account as part of the planning application process.

#### Other Matters

- 10.17 *Carbon Budget:* The proposal is a small scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.
- 10.18 *Fall-back position:* The extension directly to the side of the original house and the rear extension directly to the rear of the original house could both be constructed under permitted development as they fall within the relevant criteria and the property has permitted development rights. The rear corner of the extension which would link the side and the rear extensions does however require planning permission. The corner would have a width of 2.4m and a projection beyond the level of the rear elevation of the original house would be 2m.
- 10.19 There are no other matters with respect to this application.

### **11.0 CONCLUSION**

- 11.1 The side and rear extension have been considered with regards to the relevant policies relating to visual and residential amenity and are considered to be acceptable.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Time scale for implementing permission
2. Development to be carried out in accordance with the approved details
3. Matching materials
4. Removal of permitted development rights for openings in the side elevation along the shared boundary with 20 Northorpe Lane.

**Background Papers:**

Application and history files:

***Current application web link -***

[Link to planning application](#)

Certificate of Ownership –Certificate A signed.

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 17-Mar-2022

**Subject: Planning Application 2021/92771 Erection of two business units (mixed Class E(g)(iii) and B8 uses) Firths Yard, Mill Road, Dewsbury, WF13 2HP**

#### APPLICANT

Abdul Rehman Reasat

#### DATE VALID

07-Jul-2021

#### TARGET DATE

01-Sep-2021

#### EXTENSION EXPIRY DATE

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Link to Public speaking at committee](#)

#### LOCATION PLAN



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Dewsbury East**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.**

**1.0 INTRODUCTION:**

1.1 The application is brought to the Heavy Woollen Planning Sub Committee due to the significant number of representations received. This is in accordance with the Scheme of Delegation set out in the Constitution.

**2.0 SITE AND SURROUNDINGS:**

2.1 The application site comprises a block of buildings that are currently used as a workshop and residential. The site is accessed from Mill Road which is the same access as to the scrapyards.

2.2 The character of the area surrounding the site is varied. To the rear of the site, there is a large scrapyards and associated buildings. As well as this, to the south of the site is a pub on Hartley Street, with residential units on the opposite side of Mill Road and further to the north, in addition to a children's play area.

2.3 Part of the site is allocated as waste safeguarded land on the Kirklees Local Plan and part of the site is unallocated.

**3.0 PROPOSAL:**

3.1 Permission is sought for the erection of two industrial units to be used for Class E (g) iii (light industry) and Class B (storage and distribution) uses.

3.2 Unit 1 would be located at the western end of the site adjacent to No. 23 Mill Road and opposite the existing warehouse. The height of the unit would be approximately 6m with a shallow pitched roof. The unit would be constructed using a portal frame with stone plinth walls and composite cladding. One large roller shutter door is proposed on the northern elevation.

3.3 Unit 2 would be located at the eastern end of the site directly adjacent to the existing warehouse. The height of the unit would measure approximately 6.5m with a shallow pitched roof. This unit would also be constructed using a portal frame with stone plinth walls and composite cladding. One large roller shutter door is proposed on the eastern elevation.

3.4 The existing site entrance off Mill Road would be used to access the proposed units. The existing service yard would be resurfaced to create a shared surface access road with designated through route to accommodate refuse/emergency vehicles constructed using permeable surfacing. A total of 11 parking spaces will be provided within the site.

3.5 The following hours of operation are proposed:

Monday to Friday	8.30am to 5.30pm
Saturday	8.30am to 4.30pm
Sunday and bank holidays	No operations

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- |     |            |  |
|-----|------------|--|
| 4.1 | 2020/92232 | Erection of 2 storage units<br>Withdrawn   |
|     | 2020/90426 | Erection of industrial unit<br>Approved  |
|     | 2019/93436 | Discharge of conditions 6 (noise) and 7 (Phase I) on previous permission 2019/90398 for conversion and alterations to existing dwelling and workshop to form 2 dwellings<br>Approved |
|     | 2019/91469 | Discharge of condition 3 (Phase I Desk Study) on previous permission   |
|     | 2019/91129 | Erection of storage building (modified proposal)<br>Approved   |
|     | 2019/90398 | Conversion and alterations to existing dwelling and workshop to form 2 dwellings<br>Approved   |
|     | 2018/94047 | Erection of storage building<br>Approved   |

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

5.1 Through the course of the application, an amended plan was received to address concerns raised by Officers regarding the relationship between Unit 1 and the approved conversion of 23 Mill Road (Plot 3) forming part of approval ref: 2019/90398.

5.1 Additional information was also submitted following concerns raised by KC Highways Officer's. In response to the comments the following were received and considered to address the concerns:

- Swept-path analysis for a large vehicle
- Swept-path analysis for a fire appliance
- Improvements to widen access to 4.5m
- Parking provision

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

6.2 On 12/11/2019, the Council adopted a target for achieving net zero carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda

### **6.3 Kirklees Local Plan (2019):**

- LP 1 – Achieving sustainable development
- LP 2 – Place shaping
- LP 21 – Highway Safety and Access
- LP 22 – Parking Provision
- LP 24 – Design
- LP30 – Biodiversity and geodiversity
- LP 52 – Protection and improvement of environmental quality
- LP 53 - Contaminated and unstable land
- LP 45 – Safeguarding waste management facilities

### **6.4 Supplementary Planning Guidance / Documents:**

KC Highways Design Guide

### **6.5 National Planning Guidance:**

Chapter 2 – Achieving sustainable development

Chapter 6 – Building a strong competitive economy

Chapter 12 – Achieving well-designed places

Chapter 15 – Conserving and enhancing the natural environment

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was publicised by site notice, neighbour notification letter and press advert. As a result of site publicity, 33 comments have been received. The comments can be summarised as follows:



## **Against (13)**

- Impact on access
- Impact on the adjacent children's play area
- Increased traffic and parking issues on Mill Road
- Increased impact of noise on residential properties
- Impact on views
- Impact on parking and access within Firth's Yard

## **Support (21)**

- Improvements to the site are welcomed
- Creation of jobs
- The works will help to reduce anti-social behaviour on the site

### **8.0 CONSULTATION RESPONSES:**

#### **8.1 Statutory:**

**KC Highways DM:** No objection subject to condition

**KC Environmental Services:** No objection subject to condition

#### **8.2 Non-statutory:**

**KC Conservation and Design:** No objection

### **9.0 MAIN ISSUES**

- Principle of development
- Heritage and urban design issues
- Residential amenity
- Sustainability and climate change
- Highway issues
- Representations
- Other matters

### **10.0 APPRAISAL**

#### Principle of development

- 10.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case, the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be had as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.

- 10.2 Local Plan Policy 1 states that the Council will take a positive approach that reflects the presumptions in favour of sustainable development contained within the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions in the area. Proposals that accord with policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.
- 10.3 Paragraph 20 of the National Planning Policy Framework states that strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:
- b) waste management.
- 10.4 In this case, the site at Firths Yard is partly allocated as waste safeguarded land on the Kirklees Local Plan (KLP). Policy LP45 states the following:
- “existing waste management facilities and land surrounding these facilities as identified on the Policies Map will be protected unless it can be demonstrated that there is no longer a need for the facility or where capacity can be met elsewhere in the district. Proposals for development in the vicinity of an existing or planning waste management facility will be required to demonstrate that the proposed development does not prevent, hinder or unreasonably restrict the operation of the waste development”*
- 10.5 The adjacent waste transfer use is car scrappage. The applicant states that in this case, the nature of the proposals as business uses, would be compatible with the business operations of the nearby waste management facilities and would not prevent, hinder or unreasonably restrict their operation. Furthermore, the Council granted permission for less compatible residential development on the immediately adjoining site through the 2019/90298 application.
- 10.6 In addition to the above, the applicant states that the land forming part of the application site is in different ownership and is separated from the waste operations to the south by a fence / wall. As such, there is no ownership or functional linkage between the two areas of land. The applicant also states that there is no evidence that the land where Unit 1 would be located has ever been used for waste management facilities. Furthermore, they maintain that there is no evidence that the mill building at the northern end of the allocation is, or ever has been, used for waste management.
- 10.7 The proposed development would not affect existing access arrangements into the wider site and would enable the existing use to continue.
- 10.8 On the basis of the above, the principle of the development is, on balance, considered to be acceptable and in accordance with Policy LP 45 of the KLP.
- 10.9 The application site is adjacent to Mill House, Mill Road which is a grade II listed building, as such Policy LP35 of the KLP applies which outlines that where the significance of the heritage asset is harmed then public benefit should occur to such an extent that the balance of the harm is outweighed.

10.10 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 201 and 196 of the National Planning Policy Framework forms the basis for this guidance.

#### Heritage and urban design issues

10.11 The application site is adjacent to Batley Carr Mills to the East which is a Grade II listed building, therefore Local Plan policy LP35 is relevant.

10.12 The application site is located within a mixed-use area comprising both residential and commercial uses of varying ages and design. The existing buildings on the site are of traditional stone construction, and two and three storey scale.

10.13 Having considered the site and its setting, the harm of the proposed development would be relatively minimal given the scale of the existing mill and the proposed buildings. In accordance with Paragraphs 200 and 202 of the NPPF where development would lead to less than substantial harm to the significance of the designated heritage asset this needs to be weighed against the public benefits of the proposals. The development proposals would result in economic benefit that is considered to be clear justification for any residual harm as a consequence of the proposed development. As such, the proposals are considered acceptable in respect of heritage matters, in accordance with Policy LP35 of the Local Plan and the NPPF.

10.14 The proposed buildings would have a modern industrial appearance, using a portal frame with stone plinth walls and composite cladding, in addition to roller shutter doors, with an overall height of 6m (Unit 1) and 6.5m (Unit 2).

10.15 The proposed location of unit 1 is set into the site and screened significantly by existing built form. Officers therefore have minimal concerns with regards to the impact on visual amenity.

10.16 Unit 2 is proposed to the frontage of the site, directly adjacent to Carr House Park which is a small parcel of open green space with a children's play area. Although the proposed building will be large in scale, due to the reduced height of the building and within the context of the larger Mill building and industrial setting of the site, the proposed building is on balance considered to be acceptable.

10.17 On balance, the proposed development is considered to comply with the aims of policies LP24 and LP35 of the Kirklees Local Plan and the NPPF.

#### Residential Amenity

10.18 A core planning principle set out in the NPPF is that development should result in a good standard of amenity for all existing and future occupiers of land and buildings. Policy LP24 of the Kirklees Local Plan states that proposals should promote good design by ensuring that they provide high standard of amenity for future and neighbouring occupiers, including maintaining appropriate distances between buildings.

- 10.19 Due to the location of the site within a mixed-use area, residential properties are located to the north and east. In addition, permission has been granted for the conversion and alterations to an existing building on the site to form two dwellings and the erection of attached dwelling. Although works do not appear to have commenced on site, a discharge of conditions application has been approved (2019/93436) which would allow for a lawful commencement of the approved development before 7<sup>th</sup> August 2022. Unit 1 would be located directly adjacent to the west of this development, whilst Unit 2 would be located opposite to the north.
- 10.20 Unit 1 would be located in close proximity to No.23 Mill Road, which forms part of approval ref: 2019/90398 for the conversion and alterations of an existing dwelling and workshop on the site to form 2 dwellings and the erection of a dwelling. The approved plans indicate the removal of a small lean-to to the rear elevation of this building, and the provision of a small area of amenity space. Due to the proximity of Unit 1 to this building and proposed amenity space, directly to the west, Officers raised concern regarding the potential for an overbearing and overshadowing impact to arise to future occupiers of that property. The applicant has responded to this by providing an amended plan showing a revised design to Unit 1, in order to increase the separation distance between the two buildings. This shows the proposed building to be located approximately 2.0m from the boundary with the proposed amenity space of No.23. This relationship is considered to be acceptable, on balance, and in accordance with Policy LP 24 of the KLP.
- 10.21 Unit 2 is proposed directly adjacent to No. 19 Mill Road and the approved attached dwelling under application 2019/90398. Although the separation distance is not significant, this relationship is already established between No.19 Mill Road and the existing stone Mill building. The proposed unit 2 will be significantly lower than the existing Mill building. Given the existing approvals on the site with a similar relationship and the reduced height of unit 2, the proposal is considered to be acceptable and in accordance with Policy LP24 of the KLP.
- 10.22 The main impact upon the amenity of neighbouring occupiers as a result of the development is considered to arise from noise disturbance. A Noise Assessment has been submitted with the application and the contents have been assessed by the Council's Pollution and Noise Control Team. The recommendations made within the Noise Impact Assessment are considered to be acceptable.
- 10.23 The proposed hours of operation are considered to be acceptable by officers and will be conditioned as such.
- 10.24 In summary, subject to the recommendations within the submitted noise report, there is no considered impact on the residential amenity of existing residents. As such, the application is considered to comply with Policies LP1, LP24 and LP52 of the Kirklees Local Plan and guidance contained within Chapters 12 and 15 of the NPPF.

### Highway issues

- 10.25 The site has an existing access taken off Mill Road and this would be used to access the proposed units. The existing service yard would be resurfaced to create a shared surface access road with designated through route to accommodate refuse/emergency vehicles constructed using permeable surfacing. A total of 11 parking spaces will be provided within the site.
- 10.26 Whilst the existing bin collection arrangements are not those which would normally be recommended, the proposals would not exacerbate the existing situation. However, the increased risk of fire by virtue of the intensification of use of the site means that the proposed units should be able to be served to modern standards by the emergency services. Full details of the West Yorkshire Fire and Rescue Service public advice document have been made available to the applicant.
- 10.27 Additional information has been requested through the course of the application by KC Highways DM in relation to a swept path analysis of a fire appliance and large vehicle entering and exiting the site; the retention of parking provision for the approval granted in 2019; and the widening of the roadway to 4.5m to allow two vehicles to pass. This has been received which is considered acceptable by Officers.
- 10.28 Subject to the addition of conditions relating to the surfacing and drainage of the access and parking areas, the proposal is considered to be in compliance with policies LP21, LP22 and LP24 of The Kirklees Local Plan, Chapter 12 of the NPPF as well as the Highways Design Guide SPD.

### Climate change

- 10.29 Chapter 12 of the KLP relates to climate change and states that “Effective spatial planning is an important part of a successful response to climate change as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development”. This is also reflected in the NPPF as a core land use planning principle. The NPPF emphasises that responding to climate change is central to economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development.
- 10.30 A condition is recommended to secure the installation of electric vehicle charging points to serve the proposed industrial units.

## Representations

10.31 The representations received have been carefully considered. Officers would respond to the matters raised as follows:

### **Against (13)**

- Impact on access  
**Response:** The existing access will be retained and improved with surfacing and drainage. Full details of the assessment of highway safety are contained in the above report.
- Impact on the adjacent children's play area  
**Response:** The impact on the children's play area is assessed within the report.
- Increased traffic and parking issues on Mill Road  
**Response:** The impact of the proposed development on traffic generation and parking is fully assessed in the above report.
- Increased impact of noise on residential properties  
**Response:** The impact of the proposed development is assessed in the above report. A noise impact assessment has been submitted in support of the application which is considered acceptable by Officers.
- Impact on views  
**Response:** The impact of a proposed development on a viewpoint is not a material planning consideration.
- Impact on parking and access within Firth's Yard  
**Response:** The impact of the proposed development on parking is fully assessed in the above report.

### **In support (21)**

- Improvements to the site are welcomed  
**Response:** comment noted
- Creation of jobs  
**Response:** comment noted
- The works will help to reduce anti-social behaviour on the site  
**Response:** comment noted

## **11.0 CONCLUSION**

11.1 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.2 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the proposed development would constitute sustainable development and is therefore recommended for approval.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Commencement of development within 3 years
2. Development to be in accordance with the approved plans
3. The provision of electric vehicle charging points
4. Surfacing and drainage of access road and parking areas
5. Recommendations within the approved noise report to be completed prior to occupation
6. Hours of operation

**Background Papers:**

Website link to the application details:

[Link to planning application](#)

Certificate of Ownership –Certificate A signed and dated 07.07.2021

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 17-Mar-2022

**Subject: Planning Application 2021/93311 Erection of new footbridge, ramps and stairs (within a Conservation Area) Land between, Rutland Road, Howley Street, Primrose Hill, Batley**

#### APPLICANT

Rob McIntosh, Network  
Rail (Infrastructure) Ltd

#### DATE VALID

19-Aug-2021

#### TARGET DATE

14-Oct-2021

#### EXTENSION EXPIRY DATE

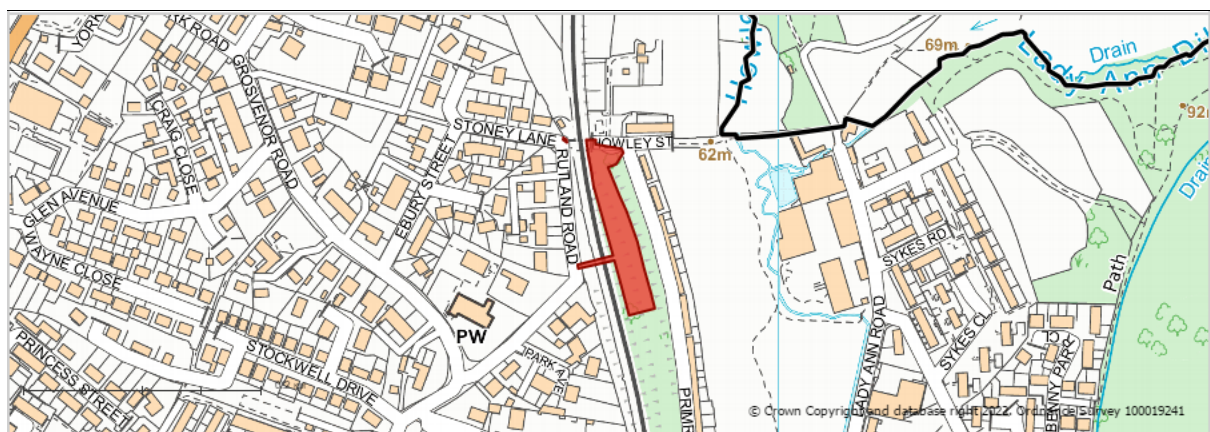
10-Nov-2021

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Link to Public speaking at committee](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Batley East**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.**

## **1.0 INTRODUCTION:**

- 1.1 This is an application for erection of a pedestrian footbridge to maintain the transport connection between Rutland Road and Primrose Hill currently served by a Manned Gated Crossing (MGC). The MGC acts as a Public Right of Way and a separate footpath diversion under Section 257 of the Town and Country Planning Act has been submitted to close the Lady Anne Level Crossing so that the Public Right of Way is diverted across the footbridge proposed under this application.
- 1.2 The application is presented to the Heavy Woollen Sub-Committee as the proposed development has been subject to a considerable level of public interest and has also been requested to be decided at Committee by Ward Member - Cllr Zaman - by reason of concerns centring on the potential for the development to attract anti-social behaviour, crime and amenity loss for surrounding residents.

## **2.0 SITE, SURROUNDINGS & CONTEXT:**

- 2.1 The application site, Lady Anne Level Crossing and the area immediately south of the MGC, is situated approximately 900 metres to the north of Batley Station, which crosses over two tracks of the MDL1 line (Manchester-Leeds). It is at the same location as MDL1/33 (a disused bridge (which used to carry the Batley-Bradford railway line over the Trans-Pennine route until closure in 1964) with only the abutments still standing). The Crossing currently provides pedestrian access over the line from Rutland Road/Stoney Lane on the west to Howley Street/Primrose Hill on the east.
- 2.2 Lady Ann level crossing is currently a Manned Gated Crossing (MGC), with gates for vehicular use and a segregated footway with lockable wicket gates. Both sets of gates are controlled by the Signaller in the signal box located adjacent to the crossing. The vehicular and pedestrian gates at the crossing are normally locked and therefore closed to the public. The pedestrian gates are controlled from the signal box on a 24-hour basis and are unlocked as a pedestrian approaches the Crossing if the Signaller deems there is sufficient time to enable them to cross safely

- 2.3 As a part of the TRU upgrade, the railway to the north of Batley Station is to be subject to electrification, telecoms and signals works alongside various ancillary civil engineering alterations to the track and surrounding cuttings.
- 2.4 The site includes a number of trees, particularly mature trees along the western side of the site along Rutland Rd with younger specimens across the embankment formed by the disused railway line to the east adjacent to Primrose Hill.
- 2.5 The Lady Anne Level Crossing is a part of Public Right of Way (PROW) BAT/20/20 and is for pedestrian access only. The diversion of the PROW is covered under a separate Section 257 application to divert the legal right of way over the proposed footbridge.
- 2.6 In terms of the wider context, the west side of the Crossing is predominantly residential. The north east becomes more rural in character and there are some residential properties to the south east of the Crossing on the eastern side of Primrose Hill. The south eastern boundary of the Upper Batley Conservation Area runs adjacent to the railway corridor along Rutland Road. Land to the north and east of the Crossing is designated as Green Belt and continuing south along the railway corridor is the Kirklees Wildlife Habitat Network. There is a Housing Allocation (HS74), shown in orange, to the east of the Crossing. This site has an indicative capacity of 97 dwellings.

### **3.0 PROPOSAL:**

- 3.1 The proposed footbridge and associated stepped and ramped accesses will be to the south of the current Crossing and will sit within the existing railway cutting, within NR-owned land. The footbridge will provide stepped access as well as accessible, non-stepped access from both Rutland Road on the west of the railway line and Howley Street/Primrose Hill on the east.
- 3.2 The footbridge will span Rutland Road on the west to the disused railway embankment on the east, with access to Howley Street via either steps or ramps on the railway side of the embankment. To accommodate the proposed ramps and steps, the disused embankment between Primrose Hill and the railway corridor will be reduced in height and regraded, and the abutment and wingwall at Howley Street will also be reduced in height. In order to close the Crossing to pedestrians a new section of stone wall will be constructed on Rutland Road where there is currently a manned gated access to the Crossing. As the proposed section of wall will form part of the boundary of the Upper Batley Conservation Area, it will require planning permission and thus is included in this application.
- 3.3 Access from the west will be created by puncturing a hole in the stone wall which is currently to the rear of the pavement on Rutland Road, at the point where Rutland Road curves west away from the railway. This will create a level access, so no steps or ramps are required on the western side of the footbridge. This access has been designed to reflect the local character of the Upper Batley Conservation Area, with the inclusion of stone pilasters to tie in with the gate piers found along this part of Rutland Road

- 3.4 The footbridge will be a of a modern design typical of the railway, consistent with other new bridges on the network and representing a continuing theme of specific architectural design well suited to a semi-rural environment
- 3.5 It is proposed that the footbridge will be constructed from steel with an anti-corrosion coating and will be painted Holly Green (BS14C39) as is standard for rail bridges in rural and semi-rural locations. Standard NR compliant anti-slip surfacing will be applied to all foot surfaces of the footbridge.
- 3.6 The proposed footbridge comprises two spans. The western span will be between Rutland Road and a pier 4.5 metres from the rail, located in the Down Cess1 (towards Leeds) between the eastern and western spans. It will be approximately 11.6 metres long. The eastern span will cross both tracks between the pier and the eastern embankment and will be approximately 27.8 metres long. The pier will be in the form of a circular hollow section (CHS) support column of 660 millimetres diameter. The deck of the footbridge will be constructed from steel. The parapets will be 1.8 metres high across the whole span of the bridge.
- 3.7 Ramped access to the footbridge from the east side will be via a footway approximately 200 metres long, which travels south from the access point at Howley Street before looping around to the north along the rail-side of the existing eastern embankment of the railway cutting. Meanwhile stepped access will be provided to the north of the footbridge's eastern landing. The total diversion length via the ramped access, relative to using the existing crossing, will be 335 metres whereas the total diversion length will be 255 metres when using the stepped access.
- 3.8 It is proposed that the footbridge, steps and ramps will all be lit for safety reasons.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 There is no previous planning application history relating to the site, however Network Rail submitted a pre-application (2021/20063) and were advised of validation requirements from consultees as a part of that process which subsequently informed the submission of this application.

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 The following design options were considered by Network Rail:
- Option 1 – New footbridge to the south of the level crossing with steps and ramps to Primrose Hill
  - Option 2 – New footbridge crossing the tracks at the same location as the crossing with ramped and stepped access from both Rutland Road and Howley Street (4 no. accesses).
  - Option 3 – New footbridge approximately 75 metres to the north of the level crossing, accessed by a new path leading to the footbridge from Sunny Bank Road to stepped and ramped access at the footbridge location, with a stepped access leading to Howley Street via a new path following the railway.

- Option 4 – New subway at the existing location of the level crossing, accessed via ramps/steps.
- Option 5 – New footbridge crossing the tracks at the same location as the level crossing, at a skew using the existing disused abutments of the former Batley-Bradford railway line.

5.2 Following the assessment of the five options above, the recommended option to be taken forward was Option 1 – a footbridge to the south of the existing crossing. A further four sub-options for the design and alignment of a footbridge to the south were then considered – these four designs predominantly kept the footbridge in the same location with the majority of distinctions between the designs relating to the layout of the access ramp and stairs across the eastern embankment accessing Howley Street and Primrose Hill at various points.

5.3 Network Rail have engaged the public and local community from an early point within the design development. In early June 2020, a survey conducted by Network Rail was sent to local residents that asked for opinions and concerns regarding proposed works to Lady Ann level crossing. The survey included two options for level crossing replacements (one to the north of the existing crossing and one to the south) and received 179 responses. As a result of the Covid-19 pandemic, this public consultation period did not include an in-person event. A summary of responses received is as follows:

- 62% would welcome a new footbridge if the crossing was closed / 32% would not
- 40% marked accessibility as the most important consideration
- 56% preferred the option to the south which blends in more with the landscape

Network Rail Key concerns raised in responses were privacy and impacts on the local environment/landscape.

5.4 Following Network Rail's analysis of the responses received from the survey, the design for the new footbridge was developed further to incorporate the concerns and opinions of the local residents. This meant moving away from 'standard' designs to a proposed structure that was more in keeping with the topography of the area to reduce visual intrusion. This was achieved by sinking the ramps of the structure into the embankment. In addition, design development sought to respect the nearby Upper Batley Conservation Area by including pilasters to the bridge entry from Rutland Road and replacing the level crossing barriers with a section of wall.

5.5 The applicant has hosted multiple information events on the proposed development of the bridge with the most recent taking place on the 28<sup>th</sup> February and 1<sup>st</sup> March 2022.

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

Kirklees Local Plan (2019):

6.2 The third and seventh strategic objectives of the Kirklees Local Plan is to:

*3. Improve transport links within and between Kirklees towns and with neighbouring towns and cities, giving priority to public transport, and to cycling and walking, providing an efficient highway network which supports the district's economy.*

*7. Promote development that helps to reduce and mitigate climate change, and development which is adapted so that the potential impact from climate change is reduced and to help the transition towards a low carbon economy.*

6.3 The Kirklees Local Plan Allocations and Designations (2019) also includes **Site TS7 Public Transport Improvement Schemes**. This allocation includes the Trans-Pennine Electrification and Huddersfield Station Capacity Improvements, which specifically refers to the '*electrification of the Transpennine rail line between Manchester and York and capacity improvements at Huddersfield Station to accommodate longer and an extra Transpennine service*'.

6.4 Site HS74 is located to the east of the site behind residential properties on Primrose Hill. This residential allocation has an indicative capacity for 97 dwellinghouses. Similarly, the Upper Batley Conservation Area (CA19) shares its eastern boundary with the site across the stone boundary wall that runs parallel at the western side of the railway line.

6.5 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development

LP19 – Strategic Transport Infrastructure

LP20 – Sustainable travel

LP21 – Highways and access

LP22 – Parking

LP23 – Core Walking and Cycling Network

LP24 – Design

LP28 – Drainage

LP30 – Biodiversity and geodiversity

LP31 – Strategic Green Infrastructure Network

LP33 – Trees

LP35 – Historic Environment

LP51 – Protection and improvement of local air quality

LP52 – Protection and improvement of environmental quality

Supplementary Planning Guidance / Documents:

6.6 Relevant guidance and documents are:

- Highway Design Guide SPD (2019)
- My Journey West Yorkshire: Connecting People and Places- West Yorkshire Local Transport Plan 2011-2026, LTP Partnership (March 2011)

## Climate change

- 6.7 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

### National Planning Policy and Guidance:

- 6.8 The National Planning Policy Framework (2021) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:
- Chapter 2 – Achieving sustainable development
  - Chapter 4 – Decision-making
  - Chapter 9 – Promoting sustainable transport
  - Chapter 15 – Conserving and enhancing the natural environment
  - Chapter 16 – Conserving and enhancing the historic environment
- 6.9 Since March 2014 Planning Practice Guidance for England has been published online. Relevant sections include:
- Consultation and pre-decision matters
  - Determining a planning application

## **7.0 PUBLIC/LOCAL RESPONSE:**

- 7.1 In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO), the application was originally advertised as a major development by means of site notices on 16/09/2021, an advertisement in the local press on 16/09/2021 and by direct neighbour notification on 01/09/2021.
- 7.2 As a result of application publicity, 44 representations were received, of which once was a petition with 185 signatures. Redacted versions can be found on the council’s website and the concerns raised are summarised thematically below:

## **Material Considerations**

### *Public Consultation/Unspecified*

- Concerns raised with how the applicant's pre-consultation was conducted, cancellations of face-to-face meetings at the 'last minute' and reliance on the postal service resulted in delays receiving notification and stakeholders not all having the required input.
- Concerns that not enough collaborative research has been done between applicant and local residents/area

### *Public safety/health*

- Concerns for individuals using passenger trains due to potential for the bridge to allow individuals to throw things on tracks/at trains
- Bridge providing the potential for increased suicide rates
- Proximity of individuals to electrical power cables
- Proposed fencing between footpath and tracks will not prevent people being hit by train debris and vice versa
- Design of the bridge allows for individuals to climb it
- Poor maintenance of the bridge could cause unsanitary conditions

### *Amenity*

- The development would create a loss of privacy for neighbouring residents through increased overlooking from new vantage points.

### *Transport Issues*

- Increased congestion on Rutland Road and Soot Hill from increased car parking adjacent to the bridge.
- Low visibility due to proximity of crossing to a 'blind corner'.
- Increased collisions between pedestrians and vehicles when exiting crossing.
- Collisions between pedestrians and bikes/scooters/motorbikes and horses on footpath due to it not being signal controlled.
- Footbridge increasing journey distance for residents
- Footbridge causing increased expense to residents who will use other transport methods to avoid it.
- A manned crossing is considered safer
- Weather conditions will impact safety of the proposal (e.g slippery when wet)

### *Smells and fumes*

- Diesel/ deposits from train near newly created footpath.



### *Effect on trees/impact to nature conservation*

- Removal of vegetation and development would impact biodiversity/wildlife and habitats
- Negative impact upon bats as they are closer than the distance stated in the report

### *Effect on listed building and conservation area*

- The design of the proposed development is not in-keeping and causes harm to the conservation area.
- The proposal is an 'eyesore'.
- The proposal's design is unsuitable in such close proximity to a grade II listed building (St Thomas Church)
- Loss of historic assets
- The proposal is of poor design and would be composed of unsympathetic materials
- The proposal would have a negative impact on the street scene.

### *Crime/Anti Social behaviour:*

- likelihood of theft/muggings
- drugs taking/dealing and gang related crime,
- assaults,
- lack of monitored cctv and low-level lighting not being sufficient for safety at night
- the design of the bridge preventing visibility before access
- loitering
- women and children experiencing harm due to design of proposal
- Potential for the bridge to be used as a cut through to support local crime
- Potential to increase burglaries in the area
- Location of access to the bridge promoting anti-social behaviour in close proximity to access for neighbouring dwellings
- Increased potential for fly tipping
- Design of the proposal limits the potential for homelessness

### *Non-Material Planning Considerations*

- Noise pollution during construction.
- Environmental pollution
- Increased congestion along Rutland Road and Primrose Hill due to construction vehicles
- Disruption whilst works are taking places
- Concerns regarding the time taken for the proposal to be constructed
- Concerns regarding unsociable working hours and the potential to impact residents' mental health
- Level crossing's have a history of misuse
- Questions regarding maintenance responsibility.
- Cost and expense of the proposal.
- Not the type of development residents' request for the area

- Construction of the proposal impacting access for emergency vehicles
- Requests for the application to be determined via strategic planning committee
- Lack of clarity regarding where the removal of earthworks is to occur.
- Damage to cars and properties during works and damage to below surface services due to works
- Loss of individuals' jobs who operate the existing crossing
- Proposal is considered insufficient to meet the needs of the community
- Claims that the applicant has failed to maintain previous agreements with similar proposals
- Decrease in property values as a result of the proposal
- Loss of view for residents with dwellings in close proximity to the proposal
- Concerns that the footpath will not be properly maintained
- Works causing disruption due to being situated on a narrow road
- The proposal negatively impacting access to the Greenbelt
- It has been requested that additional planting is provided to screen the proposal as well as the re-use of material from the excavation and construction phase.

The location of some signatures on the petition come from outside of the Borough. Some locations include: Bradford, Wakefield, Leeds, Barnsley, Sheffield, Rotherham, Chesterfield, London, Peterborough, Kent, Walsall, Wisbech, York, Ashton-Under-Lyne and Plymouth.

7.3 Ward Members have also stated that the following in response to consultation on the application:

*Cllr Zaman*

*I would like this application to go before the planning committee as I have received a number of complaints from local residents and I have concerns regarding an aspect of the Transpennine Rail Upgrade. These concerns relate to the proposed closure of Lady Anne Level Crossing, Batley and its replacement with a footbridge. Residents have raised many concerns regarding this, especially as Transpennine relying on a survey which the residents do not believe reflects the wishes of people who actually use the crossing regularly.*

*This prospect has long worried local residents/crossing users for a variety of reasons, and we have been in communication with Network Rail since 2015.*

*Two well attended public meetings with Network Rail have taken place but with little support in taking views of the residents into consideration. Safety issues are being compromised, pedestrians feel vulnerable by use of scooters, motorbikes, bicycles, horses etc. fear of walking in close proximity to the railway line, potential to attract anti-social behaviour – drugs, gangs fly tipping etc..*

*There is a petition currently with 177 signatures*

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

KC Highways Development Management: No objection subject to conditions

### **8.2 Non-statutory:**

British Transport Police: Support

KC Conservation and Design: Negligible harm identified – No objections

KC Public Rights of Way: No objection subject to condition

KC Trees: No objections

## **9.0 MAIN ISSUES:**

- Land Use and Principle of Development
- Highway and Transportation Matters
- Residential Amenity and Public Safety Matters
- Design & Conservation/Heritage Matters
- Trees and Ecological Considerations
- Drainage
- Climate Change and Sustainability
- Representations
- Other matters

## **10.0 APPRAISAL:**

### Land use and principle of development

10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The starting point in assessing any planning application is therefore to ascertain whether or not a proposal accords with the relevant policies within the development plan, in this case, the Kirklees Local Plan. If a planning application does not accord with the development plan, then regard should be as to whether there are other material considerations, including the NPPF, which indicate the planning permission should be granted.

10.2 The application for the footbridge has been submitted due to the wider development of the Trans-Pennine Route Upgrade (subject to a decision by the Secretary of State on the Transport Works Act Order submitted by Network Rail) which intends to electrify the railway line in this location, whilst at the same time, updating the signalling north of Batley Station. By consequence, the footbridge and its ancillary development is considered to accord with the following wording within Policy LP19 – Strategic Transport Infrastructure:

*“Proposals will be encouraged where they assist to bring forward strategic transport infrastructure where possible.”*

The footbridge proposal is an element that helps enable the strategic rail transport upgrade set out within KLP Site Policy TS7. Indeed, the Trans-Pennine Route Upgrade is a transformational scheme that has the potential to significantly boost the economy of Kirklees through increased capacity, improved reliability and reduced journey times which further accord with the requirements of LP19 as well as the third and seventh strategic objectives of the Kirklees Local Plan. These objectives require development to be based on a desire to improve transport links within and between Kirklees towns as well as with neighbouring cities – the footbridge, by its association with the Trans-Pennine Route Upgrade, is concordant with the strategic objectives.

- 10.3 With regard to retaining the existing Level-Crossing as a part of the TRU, this is subject to significant design implications for the 'Upgrade' that have the potential to render the scheme unviable in this specific location which could significantly delay the benefits of the line electrification for residents of Batley and the wider Borough. In the event that the Local Planning Authority does not allow the footbridge to come forward, it would likely be considered contrary to Local Plan Policy 19 at appeal and thus also contrary to National Planning Policy Framework (NPPF) paragraph 110 (d). This sub-clause within the NPPF requires any significant impacts from highway safety resulting from a development to be cost effectively mitigated for to an acceptable degree. In this instance, the application for the footbridge is a result of the wider development of the TRU as its design is a means of mitigating for safety issues that would be exacerbated at the Level Crossing by the TRU development through electrification of the line and the intensification of its use by both pedestrians from the allocated housing site and from increased train movements. The design is also a cost-effective solution, and more detail on this particular point will be discussed in section 11.0 below.
- 10.4 Overall, given the current and historic land use of the site, the principle of a footbridge, ramp and stairs at this location is determined to be acceptable in principle as it accords with a typical form of development that is encountered across railway lines in both urban and rural settings. The development thus accords with LP1.
- 10.5 The subject of retaining or altering the Public Right of Way (PROW) at the Level Crossing is to be determined through a Section 257 Diversion Order Application which is to be decided separately by Committee Members following a decision on this planning application. The planning application is directly concerned with the physical alterations to enable the PROW to be diverted but not the legal rights of way that are detailed by the S257 Diversion Application/Order. Indeed, maintenance issues shall also be conducted through a Legal Agreement on the PROW Diversion application that would be agreed dependent on the Heavy Woollen Committee decision. The ownership of the footbridge and its maintenance will fall under the responsibility of Network Rail, the legal agreement would cover the parts of the footpath that are to be constructed within the eastern embankment.

#### Highway and Transportation Matters

- 10.6 The rationale for the footbridge is predicated on safety as it will enable the separation of pedestrian movements from the rail line. The latest Rail Safety report for 2020-21 from the Office for Road Safety states that there were 5 fatalities at Level Crossings in the United Kingdom in 2020-21 alongside 342

recorded 'near misses', which is the highest figure since the time series began in 2002-03. Given these figures, it has been Network Rail's policy since 2010 to close Level Crossings wherever possible and Level Crossings are avoided, if at all possible, on any new rail lines.

- 10.7 Currently, those travelling on foot pass across the railway line at the same level as the trains which use it. The means of controlling pedestrian movements is via the 'Public Manually Controlled Gates' (MCG) Level Crossing, known locally as 'Lady Anne Level Crossing'. Publicly available information reveals that the Level Crossing experiences 220 trains per day and that the Line Speed is 75 mph. The All-Level Crossing Risk Model (ALCRM) Score attributed to the Lady Anne Crossing is 'D5'. The ALCRM measures the collective and individual risk of fatalities or injuries occurring at the Crossing, with the numeric value from '1 to 13' indicating the 'collective' risk whilst the alphabetic value from 'A to M' measures the 'individual' risk. Both '1' and 'A' are attributed to the highest risk values. By consequence, Lady Anne Level Crossing is currently indicated to be a 'medium' risk crossing based upon ALCRM assessment being 'D5'. Irrespective of the risk assessment definition, there is room for user error which could be minimised through an alternative crossing type.
- 10.8 Paragraph 10.74 of the supporting text for Policy LP21 states that "*The council is committed to ensuring that new developments do not materially add to existing highway problems or undermine the safety of all users of the network.*" As the Lady Anne Level Crossing is within the W4 section of the Trans-Pennine Route Upgrade, the opportunity has arisen to upgrade the signalling in the area and, by consequence, the method for crossing the railway line. The new signalling leads to a new centrally controlled system at an Operation Centre in York. As the upgrade will introduce faster, longer and a greater number of trains along the route, including the introduction of 25,000 volts of Overhead Line Equipment (OLE), this would increase the risk at the crossing to an unacceptable level with no means of making the current crossing sufficiently safe. The potential for an additional large residential development in the vicinity from the allocated development site adjacent to the rear of properties on the east side of Primrose Hill would also unduly increase risk to public use. Though other safety issues are relevant to the proposed development, discussed in section 12.0 below, the footbridge offers clear transport-specific safety improvements over and above the existing Level Crossing function which are assigned significant weight in the planning decision balance.
- 10.9 Furthermore, paragraph 110(d) of the NPPF allows for cost-effective mitigation for highway safety purposes. The PROW that passes over the Level Crossing is intended to be diverted over the proposed footbridge and is therefore also classed as a highway. Typically, under case law precedent, financial matters/decisions relating to development proposals are not a material planning consideration. However, in this instance, NPPF 110(d) allows for 'cost-effective' financial consideration in planning policy terms for highway safety mitigation. As such Network Rail assessed two options in retaining the Level-Crossing as a part of the Trans-Pennine Route Upgrade. The applicants discussion of these options is extracted below:

### *Keeping a Manned Signal Box:*

*To retain a manned signal box would create additional significant capital expenditure (CAPEX) costs in the region of £10million(plus) as well as a delay of 12-18 months to the TRU programme. This would not only impact on the W4 Dewsbury to Leeds Electrification scheme, but would also impact on the Huddersfield to Westtown scheme. This would delay and potentially put at risk the benefits these schemes deliver not only for Kirklees, but also West Yorkshire but the wider Northern Region. Further, the signal box would be required to be manned creating on-going operational expenditure costs (OPEX) in the region of £250k / year (4 signallers plus a % for a relief signaller). This would be an ongoing expenditure for the railway, adds to the cost base of operating the railways and does not represent value for money for the taxpayer. Control of the signalling would still transfer to the York Regional Operating Centre (YROC). The signaller at YROC would have to contact the signaller at the crossing to confirm the crossing and for the passage of trains each time a train was signalled past the crossing.*

### *Keeping the Crossing with Gate Controlled by York Rail Operating Centre:*

*As with a manned box, allowing control from YROC would result in major rework and delay to the whole TRU project approximately 12 – 18 months as detailed above. This would result in significant additional CAPEX costs to the project of £10 million (plus). To deliver an automatic level crossing would require an additional signalling work station as the Huddersfield work station (YROC) would not be able to cope with adding this additional Gate function. The Signaller would have to unlock/lock the gate and check that the crossing is clear before setting a route through the crossing. This would therefore require additional workstations and additional costs of keeping this new work station manned. This would result in additional OPEX costs to the railway through continuing to employ 4 x signallers & relief signaller at £250,000 a year to control the new panel. Also, to deliver a safe crossing would require lighting & CCTV as well as audible & visual warnings this would lead to nuisance in a residential area and impact on local residents.*

- 10.10 Network Rail has also disclosed the anticipated cost of the proposed footbridge, ramps and steps (infrastructure only – exclusive of construction, signalling and other project costs) as approximately £2.7m. This roughly equates to a capital saving in excess of 70% over retention of a Level Crossing that has implications for transport related safety. This is a significant material consideration in the context of NPPF Paragraph 110(d) that is afforded significant weight in the Officer recommendation.
- 10.11 KC Public Rights of Way have indicated that the general specifications for the ramps/steps/bridge and boundary treatments are acceptable. However specific structural design details of the development, including the footbridge, its ramps as well as the earthworks and retaining features of the embankment, would be conditioned as a part of a Committee Member decision and this was recommended by KC Highways Development Management.

- 10.12 The eastern landing of the footbridge and its ramped and stepped access would be positioned upon the proposed location of a Core Walking and Cycling Network route (ID-65). It is envisaged that any development of this route would be able to be integrated into the ramped footpath of the embankment without significant difficulty and would not therefore sterilise the routes future enhancement potential.
- 10.13 In respect of conditions, the structural details of the footbridge, ramps, steps, lighting and drainage and any other associated works would be required by a pre-commencement condition, as would cross-sectional information pertaining to the slope stability of the existing and proposed embankment levels, their design and any necessary ground conditions, bulk excavations, highway protection measures and structural calculations that enable the development of the footbridge, steps, ramps, as well as their lighting and drainage. A construction management plan would also be conditioned as a part of a grant of planning permission, however Heavy Woollen Committee Members should be mindful that the impacts of construction are temporary and precedents established in planning case law infer that the impacts of construction are not a material planning consideration as they fall under the remit of the Environmental Protection Act 1990.
- 10.14 Commentary in representations concerning the increased route-length for pedestrians using the footbridge and footpath, when compared to the existing level-crossing, highlight that an approval of the development would affect journey times and be less convenient than the existing route. It should be made clear at this juncture that this planning application does not extinguish the right of way over the Level-Crossing, though it is acknowledged that it does include the provision of a stone boundary wall on Rutland Road and the fencing on Howley Street that would effectively prevent use of the Level Crossing for the public. The increased length of the proposed route is 255m for users of the steps and 335m for users of the ramps. It is anticipated that the majority of pedestrians will utilise the stepped route. Walkable catchments, though not directly applicable to this assessment, identify that on average 400m is covered by the typical pedestrian in 5 minutes. When extrapolating that to the stepped route, the pedestrian journey time would be approximately 3 minutes and 12 seconds. The Supplementary Information (14<sup>th</sup> January 2021) supplied by the applicant identifies that the current operation of the Level Crossing is such that the Crossing's gates close 2 minutes prior to the passing of a train and remain closed for a further 30 seconds once the train has passed – 2 minutes and 30 seconds in total. Typically, there are 8 trains per hour across the current track and the electrification of the line will double this to 16 trains per hour, with those trains likely to be longer following improvements to nearby Stations, including Batley. All in all, this means that the usability of the Level Crossing, compared to current closure times, will drop markedly.
- 10.15 Indeed, should Lady Anne Level Crossing be retained, disregarding the potential increase in risk/safety issues highlighted previously, the approximate rate of availability to cross in the hour, discounting instances where multiple trains pass at the same time, would be approximately 40 minutes out of every hour for 8 trains per hour. At 16 trains per hour, following the electrification and signal upgrade, Lady Anne Level Crossing would only be available to cross for approximately 20 minutes out of every hour. This latter figure is based on the current performance of Lady Anne Level Crossing and if all trains passed the

crossing at divergent times. It is possible the crossing would be open for longer than 20 minutes dependent on the timetabling of trains and whether an upgraded crossing allows for decreased closure times. However, it remains highly likely that retention of the Level Crossing following electrification of the line would mean that the crossing is closed more often than it is open, therefore inhibiting pedestrian movement detrimentally.

- 10.16 By contrast, the stepped route of the footbridge would take 3 minutes and 12 seconds to cross, which is marginally greater than the waiting time for Lady Anne Level Crossing when it is closed. The availability of crossing the footbridge at all times largely negates its increased length relative to the adverse impact of retaining the Level Crossing following the Trans-Pennine Route Upgrade, even if the Level Crossing itself is also upgraded.
- 10.17 Given the adverse risks to the delivery of the TRU in the event of a refusal of permission for the proposed development, as well as the transport-specific safety improvements that a grant of permission would entail, the development is considered to accord with Local Plan Policies LP19 and LP21 as well as NPPF Paragraph 110 (d)

#### Residential Amenity and Public Safety Matters

- 10.18 The National Planning Policy Framework paragraph 130 (f) states that planning decisions should ensure that developments '*create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience*'. The main concerns highlighted by representors related to the behaviour of users of the footbridge. These are categorically appraised as follows:
- *Concerns for individuals using passenger trains due to potential for the bridge to allow individuals to throw things on tracks/at trains*
- 10.19 The occurrence of such behaviour can happen at any bridge whether it be related to rail or other means of transportation and such behaviour would be a criminal offence. Fear of crime is only a material consideration where the use of a development, by its very nature, would provide reasonable basis for concern. The British Transport Police have not objected to the design of the proposal and, though the erection of a footbridge in this location could incur objects being thrown at trains, the likelihood or frequency of this happening is not anticipated to be high given the extremely low crime rate in the immediate area based upon the Crime Statistics available at Police.UK. Contextually, the ability to attack a train with an object is available from existing boundaries on Rutland Road and Howley Street, therefore it is not substantiated that development of the footbridge would incur a reasonable basis for increased crime levels of this specific nature.
- *Bridge providing the potential for increased suicide rates*
- 10.20 Sadly, the existing Level Crossing is likely to have a similarly high, possibly higher, level of risk for suicide given that individuals are able to put themselves directly onto the railway track. The proposed development would provide reduced access to the track through the implementation of more secure



boundary treatments on Rutland Road and Howley Street. A condition would also be attached to a grant of permission, subject to members' decision at Committee, that would seek to provide anti-suicide measures on the bridge. Indicatively, these are anticipated to be in the form of signage and measures to prevent climbing the parapet wall.

- *Proximity of individuals to electrical power cables*

10.21 Retention of the Level Crossing would also incur the same risk in respect of electrocution and, given that pedestrians would be separated from viewing the railway line by a 1.8m parapet, the risks of electrocution are thus potentially less likely when passing over the footbridge than over the Level Crossing and beneath the Overhead Line Equipment.

- *Proposed fencing between footpath and tracks will not prevent people being hit by train debris and vice versa*

10.22 The same risk is prevalent at most Railway Station platforms when trains pass through at speed. It is possible that the V-mesh fencing will provide increased protection.

- *Design of the bridge allows for individuals to climb it*

10.23 As specified above, measures are either proposed or conditioned to deter climbing of the parapet and to prevent access to the rail tracks beneath.

- *Poor maintenance of the bridge could cause unsanitary conditions*

10.24 Maintenance is not covered under this planning application and is within the remit of the S257 Diversion Order application. Unsanitary behaviour is, again, a criminal offence.

- *The development would create a loss of privacy for neighbouring residents through increased overlooking from new vantage points.*

10.25 The design submitted under this planning application has responded to the concerns of residents on Primrose Hill who were at risk of significant privacy issues from the stepped access being originally located facing their property. The design was amended to relocate the access to the footbridge on the western side of the abutment whereby the embankment's height would prevent overlooking/privacy loss from occurring for residents of Primrose Hill. Despite this, Sections 1 and 2 on the submitted plan (151667-TSA-41-MDL1-DRG-C-ST-043261) do indicate that the eastern landing would provide some limited and distant views (approximately 30m) to Primrose Hill dwellinghouses. To prevent any possibility of overlooking, a condition will be applied to ensure that the 2.4m security fencing are opaque on the side of the footpath and ramps that face Primrose Hill.

10.26 The western landing of the bridge is level with the pavement on Rutland Road and therefore, as properties on Rutland Road are enclosed from the highway and set at a higher level, the likelihood of a loss of amenity in respect of privacy is unlikely to occur.

10.27 The works to the embankment will lower its height across some of its length and it is concluded that some limited benefit in terms of light gain will be experienced by properties on Primrose Hill in the afternoons and evenings in the spring and summer months of the year. By extension, some reduction in overbearing impact might also be experienced by the same properties.

- *likelihood of theft/muggings, and;*
- *drugs taking/dealing and gang related crime, and;*
- *lack of monitored cctv and low level lighting not being sufficient for safety at night, and;*
- *loitering, and;*
- *women and children experiencing harm due to design of proposal, and;*
- *Potential for the bridge to be used as a cut through to support local crime, and;*
- *Potential to increase burglaries in the area, and;*
- *Location of access to the bridge promoting anti-social behaviour in close proximity to access for neighbouring dwellings.*

10.28 To reiterate, the British Transport Police have reviewed the proposed development and have no objections to its design. Likewise surrounding crime statistics in the Local Area evidence that there are not currently any identifiable crime issues that could be exacerbated by the development proposal. Indeed any criminal behaviour resulting from the development is determined to be hypothetical and unproven.

10.29 That being said, the Case Officer has raised fear of crime concerns with the applicant who has provided an offer of a post-development Crime Impact Assessment being undertaken. The Crime Impact Assessment would assess any uplift in crime resulting from the use of the footbridge as an alternative means of crossing the railway line to the Level Crossing. A condition has been recommended to members that would require the Crime Impact Assessment to be conducted post-development, this is because there is no way to establish if the development would contribute to criminality as there is no existing issue present in the locality that could be predicted and mitigated for. The condition requires the assessment to review any crime directly attributable to the proposed development once operational for a calendar year and, should an uplift in crime be identified, it would compel the applicant to provide appropriate mitigation to offset the criminal behaviour that it has caused. Of course, it is possible that the Crime Impact Assessment will not identify any uplift in crime given that there is no pre-existing issue. However this condition does provide peace of mind for residents to ensure that appropriate measures are taken to respond to and reduce crime if it occurs so that community cohesion and resilience is maintained.

10.30 A lighting scheme is also required by pre-commencement condition to ensure that the footpath and bridge are well-lit. The provision of artificial lighting is intended not only to deter criminal behaviour but to also minimise the risk of falls or other similar accidents from taking place. The maintenance of the lighting is to be covered under the wider maintenance remit handled by the Section 257 application.

- 10.31 The addition of the obscured boundary treatment, lighting and Crime Impact Assessment conditions enables the proposal to be concordant with the requirements of LP24 - Design in respect of residential amenity and in accordance with the fear of crime requirements of NPPF Paragraph 130 (f).

#### Design & Conservation/Heritage Matters

- 10.32 The disused embankment between Primrose Hill and the railway corridor will be partially reduced in height and regraded, with the prominent abutment and wingwall at Howley Street reduced in height and refaced in stone. The new pedestrian route will require an opening in the boundary wall on Rutland Road, leading east across the line to a series of ramps built into the embankment. Rutland Road is located above the railway and the facing embankment. There has been some relatively recent landscape management of the west embankment which will expose the new footbridge bridge to wider views. However, the physical and visual impact on the overall character and appearance of the designated conservation area will be modest.
- 10.33 The former G.N.R Batley Branch embankment is covered with establishing trees which will be significantly impacted by the proposed ramps, but will not be fully cleared and the embankment will be landscaped. The east face of the embankment will not be affected but the views out from the Conservation Area from Rutland Road would be more open. However, the impact on the setting of the conservation area would be limited by distance separation and the difference in levels. No impact is envisaged in respect of the setting of the Grade II listed church and its curtilage buildings (Sunday School and Vicarage) as these are wholly screened from view of the street scene due to their favourable boundary treatments.
- 10.34 The design of the footbridge is understood to reflect the required enclosed panel form of footbridges which cross electrified lines, designed to avoid potential contact with the Overhead Line Equipment (OLE). The design form is thus partly dictated by the need to accommodate safety standards. The form of the bridge will consequently be functional but its visual impact would be modestly tempered by the anti-corrosion coating, painted Holly Green (BS14C39) which is standard for rail bridges in such semi-rural locations.
- 10.35 The new gate-piers in the opening across the line and the stone wall will replicate the gate piers and wall along Rutland Road, to ensure that this element of the proposed development respects the heritage value and streetscape quality of the local area. Specific details of the wall and stone pier will be required by condition.
- 10.36 The proposed development will have a significant initial impact to accommodate the ramps on the eastern embankment but will have a modest impact on the character and appearance of the adjacent conservation area in the long term and its functional requirements have been adapted to facilitate the integration of the structures into the cutting and the side of the embankment.
- 10.37 Therefore, the proposed development is considered to have a negligible direct and indirect impact on the identified heritages assets (i.e. the Upper Batley Conservation Area), resulting in no demonstrable harm. The design, materiality and landscape proposals are considered to be generally sympathetic to the

character, heritage and landscape of its context and facilitate an improved safe and accessible crossing which responds well to the topography and the surrounding street scenes.

- 10.38 Consequently, the proposals are considered to positively address the requirements of the Kirklees Local Plan policies LP24 and LP35, as well as NPPF paragraphs 130 (design) and 199 (historic environment) and are supported as a means of maintain the overall quality of the area.

#### Trees and Ecological Considerations

- 10.39 The embankment is covered with establishing/semi-mature trees of a range of ages. The proposals will require the removal of a large area of trees from the embankment to facilitate the re-grading of the abutment and installation of the new bridge and ramped access. The tree cover affected is considered to be of low quality in the survey submitted by the applicant and KC Trees agree that it provides limited value from an arboricultural perspective.
- 10.40 The embankment provides habitat value and screening benefits but it should be noted that the proposals do not affect the whole width of the embankment with 15m of the bank being outside the redline boundary and retained unaltered. The proposals include tree planting near the existing crossing and a wildflower grass mix across the embankment around the new footbridge and paths. Whilst the proposed tree planting does not replace, in terms of number or area, the trees lost, it is important to note that the design considers natural surveillance and maintenance of the site which relates back to the public safety considerations discussed above. The proposals are on balance acceptable from a tree's perspective and align with the requirements of LP33 - Trees.
- 10.41 The applicants have indicated that tree felling and vegetation clearance will be undertaken outside the bird nesting season to avoid damage or destruction of occupied nests or harm to breeding birds. If this cannot be achieved, the applicant has stated that works within the core bird nesting season will require an inspection of vegetation (to be cleared) for breeding birds and their occupied nests by a suitably qualified ecologist no more than 24 hours prior to any works being undertaken. If any nesting birds are identified during the survey they will be left in situ for their entire nesting period and alternative approaches to the work proposed.
- 10.42 In respect of protected species, Method Statements detailing working practices designed to avoid harm and/or disturbance to identified protected species in the Ecological Constraints Report will be produced. This will ensure that ground clearance and excavation will be undertaken in a manner sensitive to the possible presence of protected species. If any protected species are found (bats, badgers, birds or reptiles), an ecologist will be consulted for advice about how to proceed. The Method Statements will be required by condition.
- 10.43 As regards the requirement for a 10% Biodiversity Net Gain, this is not achievable on-site. A condition has consequently been recommended which requires identification as to how the scheme is able to achieve an identifiable off-site 10% net gain as a part of the wider TRU scheme. The 10% net gain is a requirement of the Transport Works Act Order which Network Rail would be compelled to undertake. Officers are consequently satisfied that a net gain will be secured for this development and the inclusion of the condition accords with the requirements of LP30 – Biodiversity and Geodiversity, as does the Method Statement Condition for protected species.

## Drainage

- 10.44 The proposed drainage scheme includes installation of a French drain (150mm pipe) adjacent to the ramp along the embankment toe with a connection to the existing Yorkshire Water chamber located at Howley Street. Three catchpits/inspection chambers are proposed for the drainage run located at the low mileage end and one on the northern side of the proposed staircase, with the final chamber being at the end of the run. A one metre channel drain is proposed at the bottom of the staircase to catch the runoff. A carrier pipe will carry the drainage to the inspection chamber located just north of the staircase.
- 10.45 A condition is recommended that requires the applicant to ascertain whether infiltration of surface water is viable, given that the existing undeveloped area drains freely, prior to proposing connection to the public sewer. The condition would also require exploration of means to reduce discharge to the public sewer by 30% if this hierarchy option is necessary. Overall the condition requires consultation, via a discharge of conditions application, with the statutory undertaker to ascertain the most appropriate means of surface water land drainage for the proposal. The condition enables the development to be determined in accordance with LP28 – Drainage and Paragraphs 167 and 169 of the National Planning Policy Framework.

## Climate Change and Sustainability

- 10.46 The applicant's supporting information acknowledges the Council's Climate Change Emergency and makes reference to the development's contribution to help tackle climate change. Indeed the scheme is fundamentally a part of the Trans-Pennine Route Upgrade which will provide bi-modal trains that reduce carbon emissions through use of the electrified line that will increasingly be powered from renewable sources. The scheme will also promote a 10% biodiversity net gain and will maintain a pedestrian-only route across the railway which accords with the requirements of LP20 – Sustainable Travel. Some positive weight can be attached to the provision of these measures, although such weight is limited due to the level of information provided. For, instance the applicant has not provided figures for the amount of energy, water and materials that would be saved, nor confirmed how energy-efficient or close to zero carbon the development would be.

## Representations

### 10.47 *Public Consultation/Unspecified*

- Concerns raised with how the applicant's pre-consultation was conducted, cancellations of face-to-face meetings at the 'last minute' and reliance on the postal service resulted in delays receiving notification and stakeholders not all having the required input.

*Officer Response:* Further information events were held by Network Rail on the 28<sup>th</sup> February and 1<sup>st</sup> March, these were the fourth iteration of such events conducted by Network Rail and though the penultimate event in January 2022 elicited complaints from stakeholders, due to the short notice change in location from an in-person to a virtual event, this was undertaken on best intentions relating to the Covid-19 pandemic and the risks of gathering indoors. Irrespectively, the events are not in the remit of the Local Planning Authority.

- Concerns that not enough collaborative research has been done between applicant and local residents/area

*Officer Response:* The applicant has evidenced the design evolution of the scheme and has provided information pertaining to community involvement surveys that have been undertaken. Officers are content that the design of the scheme has undertaken appropriate community research and consultation.

#### 10.48 *Public safety/health*

- Concerns for individuals using passenger trains due to potential for the bridge to allow individuals to throw things on tracks/at trains
- Bridge providing the potential for increased suicide rates
- Proximity of individuals to electrical power cables
- Proposed fencing between footpath and tracks will not prevent people being hit by train debris and vice versa
- Design of the bridge allows for individuals to climb it
- Poor maintenance of the bridge could cause unsanitary conditions

*Officer Response:* The above matters have been reviewed in paragraphs 10.18 to 10.31 of this report.

#### 10.49 *Amenity*

- The development would create a loss of privacy for neighbouring residents through increased overlooking from new vantage points.

*Officer Response:* The above matter has been reviewed in the paragraphs 10.18 to 10.31 of this report.

#### 10.50 *Transport Issues*

- Increased congestion on Rutland Road and Soot Hill from increased car parking adjacent to the bridge.

*Officer Response:* It is not anticipated that the footbridge will increase vehicular parking and there are no aspects of the scheme that would obviously infer such a situation. Some disruption may be encountered during the construction period but this would be addressed in the details required under this Construction Management Plan condition.

- Low visibility due to proximity of crossing to a 'blind corner', and;
- Increased collisions between pedestrians and vehicles when exiting crossing.

*Officer Response:* The pedestrian visibility at Rutland Road has no safety implications. The access of the footpath at Howley Street is not a high traffic area and private vehicle rights are anticipated to be extinguished at the Level Crossing.

- Collisions between pedestrians and bikes/scooters/motorbikes and horses on footpath due to it not being signal controlled.

*Officer Response:* The use of the footpath and bridge by inappropriate modes of transport is not legal. Any issues arising from such inappropriate transport methods are to be covered by the condition requiring submission and implementation of the recommendations of a Crime Impact Assessment.

- Footbridge increasing journey distance for residents

*Officer Response:* This particular matter is reviewed in paragraphs 10.14 and 10.15 of this report.

- Footbridge causing increased expense to residents who will use other transport methods to avoid it.

*Officer Response:* This particular issue is a matter of individual choice and human agency, not something that can be compelled or controlled through planning policy. The footbridge is not considered a deterrent to pedestrians and, as contended in paragraphs 10.14 and 10.15, would be available to cross more freely than the Level Crossing.

- A manned crossing is considered safer

*Officer Response:* This particular matter is reviewed in paragraphs 10.6 to 10.10 of this report.

- Weather conditions will impact safety of the proposal (e.g slippery when wet)

*Officer Response:* The footbridge surface will be composed of an anti-slip material and the footpath would be expected to meet the specifications required by KC Highways and PROW through the structural details to be submitted via condition. Lighting would also be required by condition to further reduce risk.

#### 10.51 *Smells and fumes*

- Diesel/ deposits from train near newly created footpath.

*Officer Response:* The proposed developments aid the electrification of the section of railway between Rutland Road and Primrose Hill thereby removing the need for fossil-fuel based train journeys. Air quality in the area is also anticipated to improve as a result of the footbridge and wider TRU scheme.

#### 10.52 *Effect on trees/impact to nature conservation*

- Removal of vegetation and development would impact biodiversity/wildlife and habitats, and;
- Negative impact upon bats as they are closer than the distance stated in the report

*Officer Response:* These particular matters are reviewed in paragraphs 10.39 to 10.43 of this report. A condition has been added requiring method statements for protected species encountered during the development and the applicant has indicated in their supporting information that any species that are encountered will entail a pause in works until consultation with a qualified ecologist is undertaken and an appropriate path forward agreed.

#### 10.53 *Effect on listed building and conservation area*

- The design of the proposed development is not in-keeping and causes harm to the conservation area.
- The proposal is an 'eyesore'.
- The proposal's design is unsuitable in such close proximity to a grade II listed building (St Thomas Church)
- Loss of historic assets
- The proposal is of poor design and would be composed of unsympathetic materials
- The proposal would have a negative impact on the street scene.

*Officer Response:* These particular matters are reviewed in paragraphs 10.32 to 10.38 of this report.

#### 10.54 *Crime/Anti Social behaviour:*

- likelihood of theft/muggings
- drugs taking/dealing and gang related crime,
- assaults,
- lack of monitored cctv and low level lighting not being sufficient for safety at night
- the design of the bridge preventing visibility before access
- loitering
- women and children experiencing harm due to design of proposal
- Potential for the bridge to be used as a cut through to support local crime
- Potential to increase burglaries in the area
- Location of access to the bridge promoting anti-social behaviour in close proximity to access for neighbouring dwellings
- Increased potential for fly tipping
- Design of the proposal limits the potential for homelessness

*Officer Response:* The above matters have been reviewed in paragraphs 10.18 to 10.31 of this report. A Crime Impact Assessment, as described in these sections, is provided in respect of 'fear of crime' considerations.



### 10.55 *Non Material Planning Considerations*

- Noise pollution during construction, and;
- Environmental pollution

*Officer Response:* Noise during construction is not a material planning consideration and environmental pollution is not anticipated from the development of the scheme. Irrespectively, both matters are covered by the Environmental Protection Act 1990.

- Increased congestion along Rutland Road and Primrose Hill due to construction vehicles, and;
- Disruption whilst works are taking places.

*Officer Response:* These matters would be mitigated via compliance with an agreed Construction Management Plan that is to be submitted via condition.

- Concerns regarding the time taken for the proposal to be constructed

*Officer Response:* This is not a planning matter.

- Concerns regarding unsociable working hours and the potential to impact residents' mental health

*Officer Response:* The applicant has volunteered to provide an 'Environmental and Social Management Plan', details of which would be secured by condition.

- Level crossing's have a history of misuse

*Officer Response:* This is contributory factor in Network Rail's policy of closing the Level Crossing and the part-rationale for development of the footbridge.

- Questions regarding maintenance responsibility.

*Officer Response:* As previously referenced, maintenance matters are the subject of a legal agreement between the Council and the applicant through the separate Section 257 Diversion Order application.

- Cost and expense of the proposal.

*Officer Response:* The above matters have been reviewed in paragraphs 10.6 to 10.10 of this report.

- Not the type of development residents' request for the area

*Officer Response:* Supporting information provided by Network Rail on 14<sup>th</sup> January 2022 states the following:

*In early June 2020, a survey was sent to local residents that asked for opinions and concerns regarding proposed works to Lady Ann level crossing. The survey included two options for level crossing replacements (one to the north of the existing crossing and one to the south) and received 179 responses. As a result of the Covid-19 pandemic, this public consultation period did not include an in-person event. A summary of responses received is as follows:*

- *62% would welcome a new footbridge if the crossing was closed / 32% would not*
- *40% marked accessibility as the most important consideration*
- *56% preferred the option to the south which blends in more with the landscape*

- Construction of the proposal impacting access for emergency vehicles

*Officer Response:* The construction period is temporary, not permanent and is not a material planning consideration.

- Requests for the application to be determined via strategic planning committee

*Officer Response:* The application meets the requirements for Heavy Woollen Sub-Committee and therefore it is being taken to the relevant committee in accordance with the Local Planning Authority's scheme of delegation.

- Lack of clarity regarding where the removal of earthworks is to occur.

*Officer Response:* Details of structural alterations to the embankment are covered by a recommended condition. Supporting section plans provide reasonable levels of detail in respect of the anticipated alterations to the topography of the embankment.

- Damage to cars and properties during works and damage to below surface services due to works

*Officer Response:* This is not a material planning consideration, damage to property and services are separate matters.

- Loss of individuals' jobs who operate the existing crossing

*Officer Response:* The wider Trans-Pennine Route Upgrade and the development of the footbridge will also sustain jobs. The overall net loss or gain of employment is unknown. It is also unknown whether the signallers will be provided alternative positions within Network Rail or if they move to another signal box. Irrespective the signalling at Lady Anne Level Crossing is to be updated as a part of the TRU programme and an upgrade to the Level Crossing could entail camera operation directed from York Rail Operation Centre thereby removing the need for signallers at the Level Crossing. This is set out in the Supporting Information document from the 14<sup>th</sup> January 2022.

- Proposal is considered insufficient to meet the needs of the community

*Officer Response:* This matter is discussed in paragraphs 10.12 to 10.17 of this report. The footbridge has the potential to operate 24 hours a day whereas even an upgraded Level Crossing would inhibit pedestrian movements for significant periods of the day.

- Claims that the applicant has failed to maintain previous agreements with similar proposals

*Officer Response:* Officers cannot comment on separate matters outside the remit of this planning application. Previous behaviour of applicants is not a material planning consideration.

- Decrease in property values as a result of the proposal

*Officer Response:* This matter is not a material planning consideration.

- Loss of view for residents with dwellings in close proximity to the proposal

*Officer Response:* This matter is not a material planning consideration.

- Concerns that the footpath will not be properly maintained

*Officer Response:* As previously referenced, maintenance matters are the subject of a legal agreement between the Council and the applicant through the separate Section 257 Diversion Order application.

- Works causing disruption due to being situated on a narrow road

*Officer Response:* Such an issue is anticipated to be dealt with via details implemented via the Construction Management Plan condition.

- The proposal negatively impacting access to the Greenbelt

*Officer Response:* The increased ability to cross the railway line 24 hours a day, without restriction, is likely to enhance individuals' ability to continue on PROW into the Green Belt to the north east.

- It has been requested that additional planting is provided to screen the proposal as well as the re-use of material from the excavation and construction phase.

*Officer Response:* Full landscaping details will be required by condition.

## Other matters

- 10.56 As mentioned previously, a separate Section 257 Order application is to be decided by Heavy Woollen Sub-Committee members following a decision on this planning application item.

### **11.0 CONCLUSION**

- 11.1 The proposed development of a footbridge and its associated footpath and ancillary works ensure the continuing maintenance of a pedestrian route over the railway line between Rutland Road/Stoney Lane and Howley Street/Primrose Hill. The footbridge ensures that communities remain connected once the railway line is electrified. The benefits of the development are clear in that it is intended to cost-effectively ensure the safety of pedestrians crossing the railway at the same time as minimising the disruption to a pedestrian route that retention of the Level Crossing would entail. The impacts to the setting of Upper Batley Conservation Area and the Listed Buildings set within it are found to be negligible. The removal of establishing trees/habitat on the embankment is not a cause for concern as the specimens are not of significant value and a 10% biodiversity net gain is required by condition. Method statements managing risks to protected species would also be compelled by condition in accordance with the findings of the applicant's Ecological Constraints Report.
- 11.2 Fear of crime is a prevalent issue raised by the Local Community and one which has been taken seriously by LPA Officers. There is no discerning likelihood of the development being a cause for concern in respect of crime and the specification of artificial lighting would be required by condition. That being said, in acknowledgement of local concerns, a Crime Impact Assessment would be required to be conducted by condition that would leverage countermeasures against criminal behaviour should any uplift in crime be identified.
- 11.3 Overall the proposal is recommended for approval to Committee members on the basis of its compliance with: KLP Site Policy TS7 and strategic policies , LP1 Presumption in Favour of Sustainable Development, LP19 - Strategic Transport Infrastructure, LP20 – Sustainable Travel, LP21 – Highways and Access, LP23 – Core Walking and Cycling Routes LP24 – Design, LP28 – Drainage, LP30 Biodiversity and Geodiversity, LP 33 – Trees and LP35 – Historic Environment as well as specific NPPF Paragraphs 110 (d), 130, 167, 169 and 199.

**12.0 CONDITIONS (summary list – full wording of conditions, including any amendments/ additions, to be delegated to the Head of Planning and Development)**

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and documents.
3. Submission of a Construction Management Plan. (Pre-commencement)
4. Suicide deterrence measures (Pre-commencement of Footbridge Structure)
5. Security fence details including obscure fencing specification
6. Structural design details of footbridge, ramps, steps, lighting, drainage and associated works (pre-commencement)
7. Embankment/abutment safety measures for protection of public highway (pre-commencement)
8. Drainage design (pre-commencement)
9. Full landscaping details
10. Environmental and Social Management Plan (pre-commencement)
11. Crime Impact Assessment and Implementation
12. Pilaster details for Footbridge Entrances on Rutland Road and Howley Street (Pre-commencement of Footbridge Structure)
13. Details of the new section of wall to the railway to be constructed to replace the current level crossing gates on Rutland Road.
14. Details of the new gate to be installed to allow access to the railway for maintenance at the corner of Rutland Road and Stoney Lane.
15. Biodiversity Net Gain details and Biodiversity Enhancement Management Plan (Pre-commencement)
16. Method Statements for Protected Species. (Pre-commencement).

FOOTNOTE: No works shall affect PROW BAT/20/20 until a diversion/extinguishment Order is made and confirmed.

FOOTNOTE: Adherence to construction site working times.

**Background Papers:**

Application and history files.

[Link to planning application](#)

Certificate of Ownership – Certificate A signed

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 17-Mar-2022

**Subject: Planning Application 2021/93665 Erection of front and rear dormers and roof alterations 3 Shirley Villas, Cartwright Street, Rawfolds, Cleckheaton, BD19 5LX**

#### APPLICANT

Andrew Filio

#### DATE VALID

27-Sep-2021

#### TARGET DATE

22-Nov-2021

#### EXTENSION EXPIRY DATE

20-Dec-2021

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Link to Public speaking at committee](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Cleckheaton**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION: REFUSE**

1. Due to the scale and design, the proposed front and rear dormers and roof alterations do not respect the historical and architectural value of the host dwelling. The alterations would significantly alter the original front elevation thereby detrimentally affecting the historical contribution the building makes as a non-designated heritage asset. To permit the proposed development would fail to prevent harm to the historic environment, contrary to Policies LP24(a) and LP35 of the Kirklees Local Plan and advice within Chapter 16 of the National Planning Policy Framework.

2. The proposed front and rear dormers and roof alterations, by reason of their design and scale, would result in the formation of incongruous features which would not appear subservient to the host dwelling, and which would cause harm to the character of the host dwelling and the street scene. To permit the proposed development would be contrary to Policy LP24 of the Kirklees Local Plan, the principles and guidance within the Council's House Extensions and Alterations SPD, and advice within Chapter 12 of the National Planning Policy Framework.

**1.0 INTRODUCTION:**

1.1 This application is brought to Heavy Woollen Sub Committee at the request of Cllr Lawson.

1.2 "I wish to refer this application to Planning Committee. There is a history of negotiation and amendment to this application which I feel makes it an 'on balance' decision and appropriate for members to consider the impact on visual amenity to both the main house and character of the area".

1.3 The Chair of the Sub-Committee has confirmed that Cllr Lawson's reasons for the referral to the committee are valid having regard to the Councillor's Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS:**

2.1 3 Shirley Villas is a Victorian two-storey end-terrace dwelling. It is faced in natural stone to the front and side elevations and red brick to the rear. The roof is a hipped design finished in slates.

2.2 There is amenity space to the front, side, and rear of the dwelling. There is off-street parking to the front and rear. There is a detached garage to the rear.

2.3 The applicant property forms part of a terrace of three similar dwellings.



2.4 The applicant property is located in the Green Belt on the Kirklees Local Plan (KLP), with fields to the front. To the north of the property is an area in industrial/commercial use, allocated for Employment use in the KLP (ES8). Public Right of Way SPE/115/50 runs along the northern boundary of the application site.

### **3.0 PROPOSAL:**

3.1 The applicant is seeking permission for the erection of front and rear dormers and roof alterations.

3.2 There would be two dormers to the front elevation, both measuring approximately 1.2m wide x 3.4m deep x 1.7m maximum height. They would have gable roof forms and are proposed to be finished in lead cladding with slates for the roof covering.

3.3 There would be one dormer to the rear. This would measure approximately 10.0m wide x 4.7m deep x 2.4m maximum height. It would have a flat roof form and would be finished in composite anthracite cladding.

3.4 The roof alterations consist of a hip-to-gable conversion. The gable would be built up in natural coursed stone to match the existing dwelling.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 91/01414 – Erection of single storey extension. Refused – appeal upheld. (Grove Lodge, Cartwright Street).

4.2 99/90401 – Erection of 2 storey extension and conservatory extension. Conditional full permission. (The Grove, Cartwright Street)

4.3 99/91889 – Erection of double detached garage. Refused. (1 Shirley Villas).

4.4 2003/94185 - Erection of single storey extensions. Conditional full permission. (Grove Lodge, Cartwright Street).

4.5 2016/90894 – Erection of 5 no. units. Conditional full permission. (Luddite Way Business Park).

4.6 2018/91856 - Erection of single storey rear extension and demolition of existing extension. Conditional full permission. (2 Shirley Villas).

4.7 2021/93208- Erection of single storey rear extension and demolition of existing extension. Pending consideration. (2 Shirley Villas).

### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

5.1 A boundary wall was originally included in the proposal; this was removed at the applicant's request and the description was changed accordingly. Officers raised concerns about the size and style of the dormers as initially proposed, and the "unbalancing" effect of the hip-to-gable conversion on the terrace, and the harm that would be caused to the dwelling which is considered a non-designated heritage asset by the LPA.

5.2 Amended plans were received showing the front dormer amended from one large flat-roofed dormer to two smaller “turret” style dormers. The agent requested that the application be determined based on these amended plans. However, the amended plans were considered not to overcome officers’ significant concerns.

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

### Kirklees Local Plan (2019):

6.2 **LP 1** – Achieving sustainable development  
**LP 2** – Place shaping  
**LP 21** – Highways and access  
**LP 22** – Parking  
**LP 23** – Core walking and cycling network  
**LP 24** – Design  
**LP 30** – Biodiversity & Geodiversity  
**LP 31** – Strategic Green Infrastructure Network  
**LP 51** – Protection and improvement of air quality  
**LP 52** – Protection and improvement of environmental quality  
**LP 53** – Contaminated and unstable land  
**LP 57** – The extension, alteration or replacement of existing buildings in the Green Belt

### Supplementary Planning Guidance / Documents:

6.3 Kirklees Council has adopted Supplementary Planning Documents (SPDs) for guidance on house building, house extensions, and open space, to be used alongside existing, previously adopted SPDs. These carry full weight in decision making and are now being considered in the assessment of planning applications. The SPDs indicate how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the KLP and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and wider area. As such, it is anticipated that these SPDs will assist with ensuring enhanced consistency in both approach and outcomes relating to development.

6.4 In this case, the following SPDs are applicable:

- Highways Design Guide SPD (adopted 4<sup>th</sup> November 2019)
- Biodiversity Net Gain Technical Advice Note (adopted 29<sup>th</sup> June 2021)
- House Extensions and Alterations SPD (adopted 29<sup>th</sup> June 2021)

## National Planning Policy Framework

- 6.5 **Chapter 9** – Promoting sustainable transport  
**Chapter 12** – Achieving well-designed places  
**Chapter 13** – Protecting Green Belt land  
**Chapter 14** – Meeting the challenge of climate change, flooding and coastal change  
**Chapter 15** – Conserving and enhancing the natural environment

### **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by neighbour letter, site notice and in the press due to the close proximity to a Public Right of Way (SPE/115/50).

7.2 As a result of the above publicity, no representations have been received.

### **8.0 CONSULTATION RESPONSES:**

#### **8.1 Statutory:**

None

#### **8.2 Non-statutory:**

- KC Conservation & Design: Do not support the proposal due to the impact on a non-designated heritage asset.
- Kirklees Council Strategic Waste: Provided landfill gas monitoring levels - this will be discussed in the “Other matters” section of the report.

### **9.0 MAIN ISSUES**

- Principle of development
- Impact on the Green Belt
- Impact on visual amenity and historic environment
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations

### **10.0 APPRAISAL**

#### Principle of development

10.1 The site is within the Green Belt in the KLP. As such it will be assessed having regard to Policy LP57 and Chapter 13 of the NPPF, which advise that developments in such areas should be considered having regard to their impact on the openness of the Green Belt and the extent to which the existing building remains the dominant element. It also requires that extensions should not create disproportionate additions.

- 10.2 The NPPF and the KLP both support limited extensions to buildings within the Green Belt. However, for extensions within the Green Belt to be considered acceptable, it is essential that they should neither prejudice the open character of the Green Belt nor be discordant in themselves or in relation to the host property.
- 10.3 In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with Chapter 12 of the NPPF, regarding design.
- 10.4 The application site is located within the Strategic Green Infrastructure Network on the KLP. Consequently, the proposal also needs to be considered against the requirements of KLP Policy LP31 which seeks to safeguard and enhance green infrastructure networks, green infrastructure assets and the range of functions that they provide. It is considered that this proposal, which is for the erection of dormers and roof alterations to a domestic property, will reasonably meet the requirements of this policy. It would not lead to the loss of any planting or 'greenery' as there would be no increase in the footprint of the building; it seems unlikely that it would adversely affect the ecological value of the area as the site is not known to be the habitat of any protected flora or fauna (please see the "Other Matters" section for information relating to bats); and it would not affect the routes of any footways, cycleways or bridleways as none pass through the application site.
- 10.5 Policy LP35 of the KLP states: *"Proposals which would remove, harm or undermine the significance of a non-designated heritage asset, or its contribution to the character of a place will be permitted only where benefits of the development outweigh the harm having regard to the scale of the harm and the significance of the heritage asset."*
- 10.6 It continues: *"Proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to:*
- a. ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets;...*
  - c. secure a sustainable future for heritage assets at risk and those associated with the local textile industry, historic farm buildings, places of worship and civic and institutional buildings constructed on the back of the wealth created by the textile industry as expressions of local civic pride and identity;"*
- 10.7 The dwelling has historic significance which is best expressed in the intact front elevation. Furthermore, the fields to the front are shown on historic OS maps dating from 1893 as "tenterfields". This refers to an area used for drying newly manufactured woollen cloth after "fulling" (cleansing of cloth to remove impurities and make it thicker), a practice which died out after the Industrial Revolution. It is likely these tenterfields were associated with the Rawfolds Woollen Mill. Given their close proximity to the tenterfields and the woollen mill, officers consider it likely the terrace of three dwellings known as Shirley Villas (which includes the application site) were constructed during the Victorian era "on the back of the wealth created by the textile industry".

- 10.8 Furthermore, government guidance explains that non-designated heritage assets are buildings or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets.
- 10.9 Kirklees Council has now (April 2021) commenced work on a year-long West Yorkshire initiative to establish a formal process to identify and evaluate candidate Non-designated Heritage Assets (NHDA) against relevant selection criteria. Therefore, although this process has not been completed, the property has merit to be considered as a non-designated heritage asset, given its connection to the local historic woollen industry and the historic significance of its intact front elevation.
- 10.9 The host dwelling has merit in being considered as a non-designated heritage asset, given its connection to the local historic woollen industry and the historic significance of its intact front elevation.
- 10.10 Chapter 16 of the NPPF emphasises the importance of conserving and enhancing the historic environment. Paragraph 203 states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 10.11 In this instance, the KC Conservation & Design team consider that, in this case, the proposed front extensions and roof alterations would alter the intact front elevation of the host dwelling, which is historically significant. As such, the proposed erection of dormers to the front and rear and roof alterations would result in harm to the character of this property. Officers consider that the proposed front and rear dormers and roof alterations do not respect the historical and architectural value of the host dwelling. The alterations would significantly alter the original front elevation thereby detrimentally affecting the historical contribution the building makes as a non-designated heritage asset.
- 10.12 As the dwelling is not a designated heritage asset, there is no requirement to weigh the harm against the public benefits of the proposal (as per Paragraphs 201 and 202 of the NPPF).
- 10.13 In this case, the principle of development is considered unacceptable due to the harm to the non-designated heritage asset. The proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

#### Impact on the Green Belt

- 10.14 The proposed extension would introduce additional built development within the Green Belt. It is inevitable that this would have some effect on the character and openness of the Green Belt.
- 10.15 Based on Ordnance Survey maps, officers consider that the footprint of the original building is approximately 108 square metres. The cubic volume of the original building is considered to be approximately 945.5 cubic metres.

- 10.16 The property benefits from a detached garage to the rear. Given the close relationship of the garage to the host dwelling, and as it appears to have been constructed after 1948, this is considered to be an extension for the purposes of assessing the impact on openness. The footprint of the garage is approximately 25 square metres. Assuming an approximate height of 2.5m for the garage, the volume of the garage has been estimated by officers as approximately 62.5 cubic metres.
- 10.17 The proposed dormers and roof alterations would not increase the footprint of the dwelling. The front dormers would have a combined volume of approximately 4.2 cubic metres; the rear dormer would have a volume of approximately 54.1 cubic metres; and the hip-to-gable conversion would have a volume of approximately 38.4 cubic metres. The total volume of the proposed extensions to the dwelling would be approximately 96.7 cubic metres. This would equate to an increase of approximately 10.2% to the volume of the original building.
- 10.18 Therefore, cumulatively, the existing detached garage and proposed extensions would increase the volume of the original building by approximately 159.2 cubic metres, which is an increase of approximately 16.8% to the original building. As such, officers consider that the proposal would not represent disproportionate additions over and above the original building.
- 10.19 The NPPG states that, when considering the impact of development on the openness of the Green Belt, both spatial and visual aspects should be considered. As such volume calculations should not be the sole approach to assessing extensions in the Green Belt; it is also important to consider any visual impact. In terms of a visual assessment, this will be covered fully in the “Impact on Visual Amenity” section below.
- 10.20 Due to the scale and placement of the extensions proposed, it is considered that the effect on the Green Belt would be minimal. Accordingly, the proposals are considered in line with Chapter 13 of the NPPF and Policy LP57 of the KLP.

#### Impact on Visual Amenity

- 10.21 Policy LP24 states that extensions should be subservient to the original building, should be in-keeping with the existing building, and should respect and enhance the character of the townscape, heritage assets and landscape.
- 10.22 Chapter 12 of the NPPF emphasises the importance of good design. Paragraph 130 states that planning policies and decisions should ensure that developments: *“b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);”*
- 10.23 Paragraph 134 goes onto state that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides.

- 10.24 In terms of the front dormers, these are relatively sympathetic to the host dwelling, being small “turret” style dormers proposed to be finished in slates and lead cladding. It is noted that these dormers have been designed to comply with the detailed guidance for dormers in the Council’s House Extensions and Alterations SPD. However, officers consider that, given the intact front elevation of original dwelling and that there are currently no dormers within the row of properties, the proposed front dormers would appear out of keeping with the host property and neighbouring dwellings.
- 10.25 In terms of the rear dormer, officers consider that this would be of unsympathetic design. Flat roof dormers are not normally associated with dwellings of this age and style. The proposed dormer to the rear would introduce a feature which would erode the character of the host dwelling. Furthermore, it would be faced in composite anthracite cladding which is considered not in keeping with the host dwelling in terms of materials. Finally, it is considered that the rear dormer would be a bulky and dominant addition which would not be subservient to the roof scape and host dwelling.
- 10.26 In terms of the detailed guidance for dormers set out in the Council’s House Extensions & Alterations SPD, the proposed rear dormer would fail to comply as it would fail to relate well to the appearance of the house and existing roof (being a style of dormer not normally associated with dwellings of this age and style); would not be faced in materials similar to the existing house (the existing roof is covered in slates; the dormer is proposed to be faced in composite anthracite cladding); and would dominate the roof due to its size, flat-roof design, and bulk.
- 10.27 In terms of the hip-to-gable conversion, officers consider that this would detrimentally impact the intact front elevation of the host dwelling and would eliminate a key design feature, causing harm to the character of the host dwelling. The gable roof would be visible from the principal elevation as an incongruous design feature, resulting in a visual unbalancing effect and loss of symmetry to the terrace of three dwellings, thereby causing harm to the character of the host dwelling and street scene.
- 10.28 It is acknowledged that permitted development rights are intact at the application site. The submitted plans (ref: PP-017 Fall Back Position) indicate that the hip-to-gable and a smaller rear dormer could be constructed under permitted development. However, officers note that the applicant property is an end-terrace dwelling. Terraced dwellings can increase their roof space by up to 40 cubic metres under permitted development. The submitted plans assume that the property could increase the roofspace by up to 50 cubic metres under permitted development (as is possible for all other dwelling types). Officers have calculated the approximate volumes of the proposal as follows:
- Rear dormer: 54.1 cubic metres
  - Hip to gable: 38.4 cubic metres
- 10.29 Therefore, given the above, only the proposed hip-to-gable could be constructed under permitted development. In terms of a fall-back position, this is extremely limited in this case because of the overall volume of the extensions proposed. Furthermore, it has not been demonstrated how the current proposal would represent better design over and above what could be constructed under permitted development. As such, officers consider that the fall-back position can only be granted limited weight in the planning balance against the harm to visual amenity and the harm to the non-designated heritage asset.

10.30 Having taken the above into account, the proposed development would result in significant harm to the visual amenity of the host dwelling and would have a detrimental impact on the visual amenity of the neighbouring properties on the terrace as it would be out of character. The proposal thereby fails to comply with Policy LP24 (a) and (c) of the KLP, Key Design Principles 1 and 2 and the detailed guidance in the Council's House Extensions and Alterations SPD, and the aims of Chapter 12 of the NPPF.

#### Impact on Residential Amenity

10.31 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account Policy LP24 (b), which sets out that proposals should promote good design by, amongst other things, providing a high standard of amenity for future and neighbouring occupiers.

10.32 *Impact on 2 Shirley Villas:* This is the adjoining property to the south of the application site. The proposed hip-to-gable conversion would be located to the opposite side of the applicant property and as such would have no impacts on this neighbour. The proposed dormers to the front and rear would have no significant overshadowing or overbearing impacts on this neighbour, given their nature and location. It is acknowledged that the proposed dormers would look over amenity space to the front and rear of 2 Shirley Villas. However, the garden is not a primary habitable space, and the existing windows to the front and rear of the host dwelling already overlook the amenity space of this neighbouring dwelling. As such, it is considered that there would be no significant overlooking impacts on this neighbour over and above the existing situation on site. Officers are satisfied that there would be no significant detrimental impacts on the residential amenity of 2 Shirley Villas.

10.33 *Impact on The Grove, Cartwright Street:* This is the neighbouring property to the rear (east) of the application site. Given that a distance of approximately 95m would be maintained between the rear elevation of the applicant property and the eastern elevation of this neighbouring property, officers consider that there would be no significant detrimental impacts on the residential amenity of The Grove, Cartwright Street.

10.34 *Impact on Unit 17, Luddite Way Business Park:* This is not a residential property; therefore, there would be no detrimental impact on residential amenity as a result of the proposal.

10.35 There are no neighbouring properties to the front.

10.36 Having considered the above factors, it is considered that this proposal would not result in any significant adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the KLP and Paragraph 130 (f) of the NPPF.



### Impact on Highway Safety

- 10.37 The proposed dormers and roof alterations would not increase the footprint of the dwelling and would accommodate a master bedroom suite with walk-in wardrobe and en-suite, and a games room/gym. The number of bedrooms would remain as 4 due to internal alterations. The proposed development is therefore unlikely to result in an increase in the domestic use of the dwelling and would not affect the existing parking arrangements at the site (parking for at least 4 cars to the front of the dwelling). The current parking arrangements are considered sufficient and would maintain appropriate access and off-street 'in curtilage' parking.
- 10.38 Therefore, the scheme would not represent any additional harm in terms of highway safety and as such complies with Policies LP21 and LP22 of the KLP, Key Design Principle 15 of the Council's House Extensions and Alterations SPD, the guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the NPPF.

### Other Matters

- 10.39 *Public Right of Way:* Footpath SPE/115/50 runs along the northern boundary of the application property. Given that the host dwelling is separated from the PROW by over 6.0m and that there is an elevation difference, it is considered that the extension would not have a significant impact on the amenity of its user in this instance, according with Policy LP23 of the KLP.
- 10.40 *Landfill Gas:* KC Strategic Waste have reviewed the application and highlighted that there are two closed landfill sites within 250m of the application site. However, given the nature of the proposal (dormers and roof alterations), there would be no groundworks. As such, it is considered unnecessary to attach landfill gas conditions should members be minded to approve. The proposal would comply with the aims of Policy LP53 of the KLP and Chapter 15 of the NPPF.
- 10.41 *Ecology:* The site is located within a bat alert layer. A bat survey was not requested in this instance as the proposal was considered unacceptable. As such, officers considered it an unreasonable expense to request a bat survey in this case. However, the proposal involves work to the main roof of the dwelling, which is over 100 years old and is located close to water and woodlands. Therefore, should members be minded to approve the application, it is considered that a bat survey should be secured pre-determination. This accords with the aims of Policy LP30 of KLP, Key Design Principle 12 of the Council's House Extensions and Alterations SPD, the Council's Biodiversity Net Gain Technical Advice Note, and Chapter 15 of the NPPF.
- 10.42 *Carbon Budget:* The proposal is a small-scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which would need to be adhered to as part of the construction process which would require compliance with national standards. For this reason, the proposed development is considered to comply with Policies LP51 and LP52 of the KLP and Chapter 14 of the NPPF.

## Representations

10.43 No representations have been received.

### **11.0 CONCLUSION**

- 11.1 This application to erect front and rear dormers and roof alterations at 3 Shirley Villas, Cartwright Street, Rawfolds, Cleckheaton, has been assessed against relevant policies in the development plan as listed in the policy section of the report, the NPPF and other material considerations.
- 11.2 The proposed front and rear dormers and roof alterations are not supported by the Kirklees Council Conservation & Design team as the proposal does not respect the character of the host dwelling, which is considered a non-designated heritage asset, or the surrounding area. The proposed front dormers and roof alterations would alter the intact front elevation of the host dwelling, which is historically significant. To permit the proposed development would fail to prevent harm to the historic environment, contrary to Policies LP24(a) and LP35 of the KLP and advice within Chapter 16 of the NPPF.
- 11.3 The proposed front and rear dormers and roof alterations, by reason of the design and scale, would result in the formation of incongruous features which would not be subservient to the host dwelling, and which would cause harm to the character of the host dwelling and the street scene. To permit the proposed development would be contrary to Policy LP24 of the KLP, the principles and guidance within the Council's House Extensions and Alterations SPD, and advice within Chapter 12 of the NPPF.
- 11.4 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals do not accord with the development plan and the adverse impacts of granting permission would significantly and demonstrably outweigh any benefits of the development when assessed against policies in the NPPF and other material consideration.

#### **Background Papers:**

Application and history files.

[Link to planning application](#)

Certificate of Ownership – Certificate B signed (notice served on owners of 1 & 2 Shirley Villas).

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## Report of the Head of Planning and Development

### HEAVY WOOLLEN PLANNING SUB-COMMITTEE

Date: 17-Mar-2022

**Subject: Planning Application 2021/94559 Demolition of existing garage and conservatory and erection of single storey rear extension and rear dormer extension 12, Penn Drive, Hightown, Liversedge, WF15 8DB**

#### APPLICANT

D Baker

#### DATE VALID

16-Dec-2021

#### TARGET DATE

10-Feb-2022

#### EXTENSION EXPIRY DATE

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Link to Public speaking at committee](#)

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Cleckheaton**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

**DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.**

**1.0 INTRODUCTION:**

- 1.1 This application is brought to committee at the request of Cllr Lawson for the reasons outlined below.
- 1.2 "I wish to refer this application to Planning Committee. The main element of the application, while each falling under permitted development, together merit members taking "on balance" decision about the mass and proximity to the neighbouring property."
- 1.3 The Chair of the Sub-Committee has confirmed that Cllr Lawson reasons for the referral to the committee are valid having regard to the Councillor's Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 12 Penn Drive is a brick-built dormer bungalow with a garden and drive to the front, garage attached to the side, larger enclosed garden to the rear with a detached outbuilding, conservatory and rear dormer.
- 2.2 The property has similarly aged dwellings to the front, sides and rear.

**3.0 PROPOSAL:**

- 3.1 The applicant is seeking permission for a single storey rear extension and enlargement of the rear dormer.
- 3.2 The single storey rear extension would project 3m from the original rear wall of the dwelling extending across the width of the property with a lean-to roof form. The extension would be constructed using brick for the walling and tiles for the roof covering.
- 3.3 The rear dormer would be increased in depth by 1.8m with a 0.5m set in from the shared boundary with the dormer of the adjoining property. The horizontal cladding would be continued.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 None

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

5.1 The agent has been asked to set the dormer and extension in. In response to this request, an amended plan has been supplied setting in the dormer by 0.5m. The extension has not been altered as the agent considered this would result in a gap which would cause more issues in terms of maintenance in the long term.

5.2 The revised plan has not been re-advertised due to the reduction in scale.

#### **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

##### Kirklees Local Plan (2019):

- 6.2
- LP 01 – Achieving sustainable development
  - LP 02 – Place shaping
  - LP 22 – Parking
  - LP 24 – Design

##### Supplementary Planning Guidance / Documents:

6.3 Kirklees Council adopted supplementary planning guidance on house extensions on 29<sup>th</sup> June 2021 which now carries full weight in decision making. This guidance indicates how the Council will usually interpret its policies regarding such built development, although the general thrust of the advice is aligned with both the Kirklees Local Plan (KLP) and the National Planning Policy Framework (NPPF), requiring development to be considerate in terms of the character of the host property and the wider street scene. As such, it is anticipated that this SPD will assist with ensuring enhanced consistency in both approach and outcomes relating to house extensions.

##### National Planning Guidance:

6.4 Chapter 12 – Achieving well-designed places

#### **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised by neighbour letters, which expired on 26/01/2022.

7.2 Two representations were received from the same address. The concerns raised include:

- Details of the neighbouring conservatory have not been included on the plans.
- The extension would block sun to the neighbour's conservatory.
- Access is likely to be required on the neighbour's land.
- The extension may cause issues with maintenance and cleaning of the neighbour's conservatory.
- Potential to damage the neighbour's conservatory.
- The neighbour has received no notice under the Party Wall Act.
- Devaluation of the neighbouring property.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

None

### 8.2 Non-statutory:

None

## 9.0 MAIN ISSUES

- Principle of development
- Visual amenity
- Residential amenity
- Highway issues
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

10.1 The site is without notation on the Kirklees Local Plan (KLP). Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. In terms of extending and making alterations to a property, Policy LP24 of the KLP is relevant, in conjunction with the House Extension SPD and Chapter 12 of the NPPF, regarding design. In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety.

### Visual amenity

10.2 Penn Drive is a residential street with similarly aged properties although there are some variances in terms of design and some of the properties have been previously extended and altered. Dependant upon design and detailing, it may be acceptable to extend the host property.

- 10.3 Key Design Principle 1 of the House Extension & Alteration supplementary planning document (SPD) does state that extensions and alterations to residential properties should be in keeping with the appearance, scale, design and local character of the area and the street scene. Furthermore, Key Design Principle 2 of the HESPD goes onto state that extensions should not dominate or be larger than the original house and should be in keeping with the existing building in terms of scale, materials and details.
- 10.4 *Single storey rear extension:* Paragraphs 5.1 and 5.2 go into further specific detail regarding rear extensions requiring development to maintain the quality of the residential environment, respect the original house and use appropriate materials. The extension is proposed to replace an existing conservatory with a slightly larger structure using materials which would match the main house. Furthermore, there are a number of extensions in the wider area. In terms of the design, materials and size, the rear extension is considered to be acceptable in terms of visual amenity.
- 10.5 *Extension to existing rear dormer:* In point 5.25 of the House Extension SPD, it does suggest that rear dormers can be considered to be appropriate dependent upon design and size. The current proposal seeks to enlarge the existing rear dormer. This is to the rear of the property and would not be out of character with the wider area which has quite a number of rear dormers of varying sizes. In this instance, the materials would continue through the original element and the extended area. As such, the extension to the rear dormer is considered to be acceptable in terms of visual amenity.
- 10.6 *Summary:* The rear extension and enlargement to the dormer would join at the rear and have a slightly unusual relationship. However, the visual impact of this would be limited given the scale and position of the extensions. Having taken the above into account, the proposed rear extension and enlargement of the existing rear dormer would not cause any significant harm to the visual amenity of either the host dwelling or the wider street scene, complying with Policy LP24 of the Kirklees Local Plan (a) in terms of the form, scale and layout and (c) as the extension would form a subservient addition to the property in keeping with the existing building, KDP 1 & 2 of the House Extension and Alterations Supplementary Design Guide and the aims of chapter 12 of the National Planning Policy Framework.

#### Residential Amenity

- 10.7 Consideration in relation to the impact on the residential amenity of neighbouring occupants shall now be set out, taking into account policy LP24 c), which sets out that proposals should promote good design by, amongst other things, extensions minimising impact on residential amenity of future and neighbouring occupiers. The SPD goes into further detail with respect to Key Design Principle 3 on privacy, Key Design Principle 5 on overshadowing/loss of light & Key Design Principle 6 on preventing overbearing impact.
- 10.8 *Impact on 10 Penn Drive:* The rear extension would be constructed close to the shared boundary with the adjoining property and would have the potential to result in overbearing and overshadowing in the afternoon given the position to the southwest. However, the extension is replacing an existing conservatory, albeit close to the shared boundary, the projection is limited to 3m and would

be single storey which will mitigate much of the impact. It is noted that the neighbouring property has a conservatory which has been constructed up to the shared boundary. There would be some impact on the side windows as a result of the extension. However, this is not considered to be so significant so as to justify refusal of this proposal. The property already has a dormer as does the adjoining property. Although this proposal would increase the depth of the dormer, this is set up within the roof plane and includes a 0.5m set back of the extended area which would have little opportunity to have any further impact on the adjoining dwelling. With regards to the impact on the adjoining 10 Penn Drive, the scheme is considered to be acceptable in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF.

- 10.9 *Impact on 14 Penn Drive:* The adjacent dwelling occupies an elevated position which occupies a position further back within its own plot and there is a separation of 8m between the properties. Given the relationship between the host property and the adjacent neighbour, the proposed rear extension and enlargement of the rear dormer would have no significant impact on the amenities of the occupiers of the adjacent 14 Penn Drive. With regards to the impact on the adjacent 14 Penn Drive, the scheme is considered to be acceptable in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF.
- 10.10 *Impact on 7 Ashbourne Croft:* The neighbouring dwelling to the rear occupies a position some 19m from the host property and has an angled relationship relative to the host property. Given this angled relationship together with the 19m separation, the proposed rear extension and enlargement of the rear dormer are unlikely to have any significant impact on the amenities of the occupiers of the neighbouring 7 Ashbourne Croft. With regards to the impact on the neighbouring 7 Ashbourne Croft, the scheme is considered to be acceptable in terms of KDP3 – privacy, KDP5 – overshadowing and KDP 6 – overbearing impact, policy LP24 of the KLP c) in term of minimising impact on neighbouring occupiers and advice within chapter 12, paragraph 130 of the NPPF.
- 10.11 Having considered the above factors, the proposals are not considered to result in any adverse impact upon the residential amenity of any surrounding neighbouring occupants, complying with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, Key Design Principles 3, 5 & 6 of the House Extension SPD and Paragraph 130 (f) of the National Planning Policy Framework.

#### Highway issues

- 10.13 The proposals will result in some intensification of the domestic use. However, the parking area to the front of the property which together with the garage proposed would be considered to represent a sufficient provision for two off road parking spaces. There is space within the curtilage for bin storage. As such the scheme would not represent any additional harm in terms of highway safety and as such complies with Policy LP22 of the Kirklees Local Plan along with Key Design Principles 15 & 16 of the House Extension SPD.



## Representations

10.14 The representations received raised a number of concerns.

- Details of the neighbour's conservatory have not been included on the plans.  
**RESPONSE:** This is not a material consideration as a full site visit is carried out and the officers assess the host property and surroundings to understand the spatial relationships.
- The extension would block sun to the neighbour's conservatory.  
**RESPONSE:** This is a material consideration and has been addressed within paragraph 10.8.
- Access is likely to be required on the neighbour's land.  
**RESPONSE:** This is not a material consideration as it comes under civil legislation. However, a note is usually included on approvals reminding the applicant that a planning permission does not override other legislative responsibilities.
- The extension may cause issues with maintenance and cleaning of the neighbour's conservatory.  
**RESPONSE:** This is not a material consideration.
- Potential to damage the neighbour's conservatory.  
**RESPONSE:** This is not a material consideration.
- The neighbour has received no notice under the Party Wall Act.  
**RESPONSE:** This is not a material consideration.
- Devaluation of the neighbouring property.  
**RESPONSE:** This is not a material consideration.

## Other Matters

10.15 *Carbon Budget:* The proposal is a small-scale domestic development to an existing dwelling. As such, no special measures were required in terms of the planning application with regards to carbon emissions. However, there are controls in terms of Building Regulations which will need to be adhered to as part of the construction process which will require compliance with national standards.

10.16 *Fall-back position:* Whilst no fall-back position has been lawfully established, Members may wish to note that the rear extension, with a projection of 3m, and the enlargement of the rear dormer with a resultant additional roof volume of less than 50 cubic metres, could both be constructed under permitted development. Planning permission is required in this instance, given the link between the dormer and the extension. If the roof over the rear extension was altered so that it did not touch the dormer, then planning permission would not be required.

10.17 There are no other matters with respect to this application.

## **11.0 CONCLUSION**

- 11.1 The rear extension and enlargement of the rear dormer have been considered with regards to the relevant policies relating to visual and residential amenity and are considered to be acceptable.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Time scale for implementing permission
2. Development to be carried out in accordance with the approved details
3. Matching materials for the extensions

### **Background Papers:**

Application and history files.

[Link to planning application](#)

Certificate of Ownership – Certificate A signed:



**Name of meeting:** Planning sub-committee (Heavy Woollen Area)

**Date:** 17 March 2022

**Title of report:** Application to divert part of public footpath Batley 20 at Lady Anne Level Crossing, Batley. Town & Country Planning Act 1990, Section 257

**Purpose of report:** **Members are asked to consider** an application for an Order to divert part of public footpath Batley 20. The footpath route to be stopped up (via railway level crossing), and the replacement route to be created (via a new railway footbridge) are shown on appended plans. **Members are asked to make a decision** on making the order and seeking its confirmation.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a>	Not applicable  If yes also give date it was registered
The Decision - Is it eligible for call in by Scrutiny?	No – council committee
Date signed off by <u>Director</u> & name	Colin Parr 07 March 2022
Is it also signed off by the Service director Finance?	James Anderson on behalf of Eamonn Croston 07 March 2022
Is it also signed off by the Service Director (Legal Governance and Commissioning)?	Julie Muscroft 09 March 2022
Cabinet member <a href="#">portfolio</a>	Not applicable

**Electoral wards affected:** Batley East

**Ward councillors consulted:** Cllrs. Loonat, Zaman and Akhtar.

**Public or private:** Public

**Summary**

1.1 The Council has received an application from Network Rail for an Order under s.257 of the Town and Country Planning Act 1990 to divert part of public footpath Batley 20 at the Lady Anne level crossing, Batley.<sup>1</sup> The existing footpath crosses the Manchester – Leeds railway line adjacent to the Batley signal box, running between Rutland Road and

<sup>1</sup> Sometimes also spelled 'Lady Ann'.

Howley Street. This is a 'Manned Gated Crossing' controlled from the adjacent signal box.

- 1.2 It is proposed that the public right of way is diverted over a new footbridge to be constructed just over 100m south of the existing level crossing. A planning application has been submitted for the construction of a new footbridge, ramps and stairs (within a conservation area) (application ref 2021/93311). The proposed development includes the erection of walls and fences in place of the existing level crossing gates. The proposed wall on the west side of the crossing, to be constructed in place of the level crossing gates, would be on the boundary of the Upper Batley Conservation Area and thus planning consent will be required for that element of the proposal.
- 1.3 Should planning permission be granted it would be necessary to stop up the public right of way to enable development to take place and fully implement the planning permission. In particular the works to physically close off the crossing.
- 1.4 The related planning application is to be considered by this committee prior to the consideration of the proposed diversion. Should members refuse / reject the planning application, it logically follows that Members should not resolve to make an Order to stop up / divert the public footpath. Notwithstanding any other recommendations in this report.
- 1.5 The public pedestrian level crossing is adjacent to a private vehicular crossing. The proposed diversion of the public footpath would not itself affect any private rights that exist. Removal of such private rights is a matter for Network Rail and the rights holders and is outwith the scope of this report.
- 1.6 It is Network Rail's stated aim to achieve the closure of the level crossing. It is Network Rail policy to seek removal of level crossings wherever possible for safety reasons. This particular proposal is made in connection with the Transpennine Route Upgrade (TRU) project. This includes electrification of the line and the introduction of faster, longer and more frequent trains.
- 1.7 As part of TRU programme, the signalling is to be modernised. The Batley signal box would be closed, and signalling would be controlled from the signalling centre at York. That would affect the future operation of the level crossing and the level of risk to users and the railway in general. However, that in itself would not necessitate the stopping up / diversion of the public right of way via an Order under s257, the tests for which are described at paragraphs 2.4 to 2.8 below.

- 1.8 Network Rail have previously carried out various public consultations regarding proposals for closure of the level crossing and replacement with a footbridge. Those consultations have informed the design / position of the proposed replacement bridge and thus the route of the replacement path. The current design utilises an existing disused railway embankment, to provide for support a ramped path and steps, in order to reach the deck of the proposed bridge, rather than requiring structural steel elements.
- 1.9 The effect of the proposal is shown on the appended Plan 1. The route proposed to be stopped up is shown by the bold solid line between points A & B, and the new routes to be created are shown by the bold dashed line via steps B-C-D-E-F and via a ramp B-C-G-H-E-F.
- 1.10 In Autumn 2021 the Council consulted regarding the related planning application. A preliminary consultation has since been carried out regarding the proposal to stop up / divert the public footpath. Comments received are included at appendix F and discussed at section 4. Responses from a user group (Peak & Northern Footpaths Society) and local residents were generally negative towards the proposal.
- 1.11 Officers have been in discussion with the applicant / their agent regarding future maintenance of the replacement path. It is understood that the structure of a new railway footbridge would be the responsibility of Network Rail. However, the responsibility for maintenance of a new path created under a s257 diversion Order would ordinarily be the responsibility of the Council. That would include the surface of the path over the bridge along with the steps and the ramped path leading to the bridge from Howley Street. It is also clear that street lighting will need to be provided.
- 1.12 There would be an increased liability on the Council when compared with the existing short route over the level crossing. The bridge construction may also be such that the path surface, for which the Council would normally be responsible, would be integrated with the bridge structure. In light of these factors, should members approve the making of an Order, it is proposed that the Council enter into formal agreement with Network Rail regarding the responsibility for the bridge surface (proposed to be retained by Network Rail) and provision of a commuted sum to offset the increased maintenance liability above and beyond the council's current liabilities. It is also proposed that street lighting should be provided by Network Rail or the Council. Negotiations are ongoing regarding the details of such an agreement, which would be made pursuant to s111 Local Government Act 1972 or s278 Highways Act 1980. Officers consider that any such agreement should be made before an Order is made.

1.13 The statutory procedure is a two-stage process which involves the making of a public path diversion order, and its confirmation. If members approve the making of an Order under s.257, notice of the making of the Order would be formally advertised. If any objections were made and not withdrawn, the Council would not be able to confirm the order as an unopposed Order. An opposed Order could only be confirmed by the Secretary of State at Defra. This may involve the holding of a public hearing or inquiry. The Council is not obliged to forward an opposed Order. If the Council decides not to make the requested Order the applicants have no right of appeal.

1.14 The Council should form a view on making an Order, and also on whether to forward an Order if opposed, and on what stance to take on an opposed Order.

## **2. Information required to take a decision**

2.1 An application has been received to stop up and divert part of public footpath Batley 20 at Lady Anne Level Crossing, Batley. The replacement route would cross the railway via a footbridge from Rutland Road, continuing via steps, ramps, and a path alongside the railway line to join Howley Street near to the east side of the current level crossing.

2.2 The application is made in connection with a planning application ref 2021/93311 proposed to be determined immediately prior to consideration of the proposed stopping up / diversion of the footpath. Details are available at:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/93311>

2.3 Section 257 of the Town & Country Planning Act 1980 gives an authority the power to make Orders to divert public footpaths, bridleways or restricted byways if it is satisfied that the relevant criteria are satisfied.

2.4 The Council may make and confirm a diversion Order under Section 257 of the Town & Planning Act 1990 Act if it considers that it is expedient to do so when the following criteria are met:-

- a) it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted.
- b) The Council must also take into account the suitability of the proposal and the effect the change would have on those entitled to the rights that would be extinguished.

2.5 Circular 1/09 is guidance published by Defra for local authorities regarding PROW matters. Section 5 deals with changes to the public rights of way network. This is available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69304/pb13553-rowcircular1-09-091103.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69304/pb13553-rowcircular1-09-091103.pdf)

At paragraph 7.11, it states: “It cannot be assumed that because planning permission has been granted that an order under section 247 or 257 of the 1990 Act, for the diversion or extinguishment of the right of way, will invariably be made or confirmed...”.

2.6 Paragraph 7.15 of Circular 1/09 states: “The local planning authority should not question the merits of planning permission when considering whether to make or confirm an order, but nor should they make an order purely on the grounds that planning permission has been granted. That planning permission has been granted does not mean that the public right of way will therefore automatically be diverted or stopped up. Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.”

2.7 In addition, when considering whether or not to confirm an Order, the Authority (or the Secretary of State if an opposed Order) would need to take into account:

- any significant disadvantages or losses the stopping up of the path would cause to the general public, or to other individuals whose actionable rights of access would be extinguished by the process
- any countervailing advantages to the public, or those individuals
- the planning benefits, and the degree of importance attaching to, the development.

2.8 The plan at appendix A shows the proposed diversion.

2.9 Indicative visuals of the replacement bridge, provided by Network Rail, are included at appendix B. Photographs of the current route / level crossing and Rutland Road are at appendix C. The applicants submitted supporting statement is found at appendix D.

2.10 The applicant has also recently submitted supplementary information (located at appendix E). This includes:

- Rationale for closure of the level crossing
- The impact on the TRU programme and costs associated with retaining a level crossing (including keeping a manned signal box or controlling the gates from the York Rail Operating Centre)
- The future end user experience if the crossing was to remain
- Alternative options considered
- Public consultation carried out

2.11 The existing footpath route over the level crossing is approximately 17 metres between point B to the east of the railway line at Howley Street and point A to the west of the railway at the junction with Stoney Lane and Rutland Road.

2.12 The current pedestrian level crossing is gated with heavy metal gates. These are electrically unlocked by the signaller in the nearby signal box when is considered safe for pedestrians to use the crossing. These gates impact on the accessibility of the route, e.g., for disabled users, people with pushchairs / prams etc. However, there are no steps or significant gradients to be negotiated. There is also a degree of risk associated with the use of a level crossing, although this is currently mitigated by the crossing being manned and only available for use when deemed safe. Network Rail have not provided specific information about the current level of risk at the crossing or any history of incidents.

2.13 The proposed replacement route would commence on the east side of the crossing at point B. The footbridge would be reached by a ramped footpath approximately 200m in length. The ramps are proposed to be 2.15 metres wide with a gradient of 1:15. The ramps would have 2.15m long landings for every 5 metres of ramp. The first approximately 44 metres of the ramp from Howley Street at point B would have a gradient of 1:30. The footbridge would have solid 1.8m parapets and a non-slip surface. A set of steps would also be provided. There would be no steps or ramps on the west side at point F which would have level access from the footway on Rutland Road. The specification proposed for the replacement path is acceptable.



- 2.14 It is proposed that the footbridge, steps and ramped footpath path will be lit. Discussions are still ongoing between Network Rail and the Council regarding the technical specifications and future responsibility.
- 2.15 Further descriptions of the footbridge and the replacement routes are included in the detailed Design and Access statement submitted with the associated planning application. This is available at: [https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application\\_number=2021/93311&file\\_reference=890941](https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/filedownload.aspx?application_number=2021/93311&file_reference=890941)
- 2.16 Members of the public intending to travel along Stoney Lane to or from the west side of the crossing at point A . I.e., to or from locations to the west or north-west, would be presented with a long diversion, including via Rutland Road. The replacement route via the footbridge and footway along Rutland Road would to be 255m via steps or 335m via ramps. I.e., a significant increase in overall length.
- 2.17 For anyone intending, after crossing the railway, to continue in a south westerly direction along Rutland Road in the general direction of Batley town centre, the increased overall length (via footbridge and step) appears to be only slightly greater than at present. I.e., approximately 150m (via steps) compared with existing approximate. 122m (via the level crossing and south along Rutland Road). The route via ramps would add an additional approx. 80m to this distance. This is considered acceptable.
- 2.18 Although the diversion route is significantly longer than the existing route via the crossing – at least if travelling via Stoney Lane to / from point A - the replacement route has the advantage of not having to cross the railway line on the level. The existing route, while level, has gates. This may affect its accessibility to some users. There would be no gates or barriers on the diversion route.
- 2.19 Pedestrians using the crossing are currently required to wait until the signaller confirms it is safe to cross and the gates are unlocked. In contrast, the diversion route would be available at all times. There would be no delay to journeys caused by having to wait at the crossing. It is noted that waiting time at the crossing will likely increase in future with proposed increase in line speed and more frequent services.
- 2.20 There is currently some risk to users and the railway in general associated with the use of the level crossing. The proposed diversion would allow Network Rail to physically close off the crossing and remove / reduce that risk

- 2.21 A preliminary public consultation has recently been held on the proposal; the details are included in section 4 of this report.
- 2.22 In considering this application for an Order under s. 257, members have a number of options.
- 2.23 Members may take into account the proposal for entering into agreement with Network Rail regarding future responsibility for the path surface on the bridge and in respect of a commuted sum which would offset the Council's increased liabilities regarding the steps and ramped path.
- 2.24 Option 1 is to decide to refuse the application for an Order.
- 2.25 Option 2 is to authorise the Service Director, Legal, Governance & Commissioning to make an Order under section 257 of the Town & Country Planning Act **and only to confirm it if unopposed**, but to defer its decision on sending any opposed Order to the Secretary of State at Defra. Members would then need to make further a decision as to whether or not to refer an opposed Order to the Secretary of State or withdraw it. If to be referred to the Secretary of State, Members would need to decide the stance to be taken regarding confirmation of the opposed Order.
- 2.26 Option 3 is to authorise the Service Director of Legal, Governance & Commissioning **to make and seek confirmation** an order under section 257 of the Town & Country Planning Act 1990. This would also authorise confirmation of an Order by the Council if unopposed and authorise seeking confirmation of any opposed Order by forwarding it to the Secretary of State for confirmation. The Council would actively support confirmation of the Order at hearing or public inquiry.
- 2.27 Option 4 is to authorise the Service Director of Legal, Governance & Commissioning **to make** an Order under section 257 of the Town & Country Planning Act 1990 **and to confirm it if unopposed. But if opposed, to submit the Order to the Secretary of State requesting confirmation, without actively supporting the confirmation of the opposed Order.** This would authorise confirmation of the Order by the Council if unopposed or forwarding an opposed Order to the Secretary of State to determine, where promotion of confirmation of the Order at inquiry or hearing (or via written representations) may be undertaken by another party and where the Council would look to fulfil its administrative role in proceedings. It would passively support its Order; however, the Council would look to the applicant to pursue confirmation.

2.28 This approach is described in the Planning Inspectorate's Rights of Way Section's Advice Note 1, paragraph 2.4, available at:  
<https://www.gov.uk/government/publications/rights-of-way-advice-note-1-conduct-of-inquiries-into-orders-where-the-order-making-authorities-do-not-actively-support-an-order/rights-of-way-advice-note-1-conduct-of-inquiries-and-hearings-into-rights-of-way-orders-where-order-making-authorities-do-not-actively-support-an-or>

*“Sometimes an OMA is content to make the requested order but is not prepared to support it at an inquiry if it is opposed. This often occurs when an order is made under the Town and Country Planning Act 1990 to enable development to proceed, or an order to divert a path is made under the Highways Act 1980 in the interests of a landowner; the developer or the landowner is often asked to make the case for confirmation. The OMA may choose to remain neutral as regards confirmation of the order, to passively support it or even to oppose it if new information or objections following advertisement cause a change of mind.”*

### **3. Implications for the Council**

#### **3.1 Working with people**

3.1.1 There has been public consultation regarding this application.

#### **3.2 Working with partners**

3.2.1 There has been consultation with partners regarding this application.

#### **3.3 Place based working**

#### **3.4 Climate change and air quality**

3.4.1 Promoting walking and other green transport and providing better facilities for physical activity works towards local and national aims on healthy living, climate change and air quality.

#### **3.5 Improving Outcomes for Children**

3.5.1 See 3.4.1

#### **3.6 Other (e.g. Legal/Financial or Human Resources)**

3.6.1 The Council receives applications to change public rights of way, and facilitate future land management changes, including development. In this case, no

facilitate development associated with changes to signalling as part of upgrades to the Trans Pennine railway line.

- 3.6.2 The Council may make Orders which propose to change public rights of way and may recharge its costs of dealing with applications and making Orders, as appropriate.
- 3.6.3 Any person may make an objection or representation to the Order.
- 3.6.4 The Council may choose to forward an opposed Order to the Secretary of State at Defra (“SoS”) to determine or may abandon it. If an Order is forwarded, any such objection would be considered by an Inspector appointed by the Secretary of State, who may or may not confirm the Order. The Council recharges the costs of applications to the applicant as appropriate, but the Council may not recharge the costs incurred by it in the process of determination of an opposed Order by the Secretary of State. The Council would have to cover its own costs of forwarding the opposed Order to the Secretary of State and its costs associated with that decision process, potentially including a public inquiry.
- 3.6.5 If the Council confirms its own Order, or after an Order has been confirmed by the Secretary of State, the Council may recharge its costs of concluding the order process, including bringing an Order into force.
- 3.6.6 Land management and development proposals, potentially including those given planning consent, may depend on the making and coming into force of public path orders, such as those changing or extinguishing public rights of way. Without such PROW orders, changes to land use and other infrastructure projects and development may well be delayed, prevented or rendered unviable, with the subsequent effects on matters such as the local economy.

#### **4. Consultees and their opinions**

- 4.1 Prior to the making of the application, Network Rail carried out its own consultation process regarding closure of the level crossing and provision of alternative routes. That consultation informed the position and design of the footbridge to be provided in the current proposal. That process and the options considered is described in the applicants’ supporting statement and the supplementary information provided by Network Rail. See appendices D and E.

- 4.2 Consultation regarding the associated planning application led to submission of a significant number of objections, many of which related to the closure of the crossing and diversion via the proposed new bridge. These will not be repeated in this report as they have been aired in connection with the consideration of the planning application.
- 4.3 Following receipt of the diversion application the Public Rights of Way Team also carried out its own informal preliminary consultation. This included the posting of notices on site, publication of information on the Council's website at <https://www.kirklees.gov.uk/beta/countryside-parks-and-open-spaces/changes-to-definitive-map.aspx> and correspondence with various statutory consultees, interested parties including utility companies and user groups, as well as ward councillors.
- 4.4 A range of comments were received, mirroring the concerns of local residents raised in response to the planning application. These were all negative. Comments received are found at appendix F.
- 4.5 Some comments referred matters such as loss of heritage – e.g., loss of the historic signal box, also the visual impact / intrusive nature of the proposed new bridge.
- 4.6 There was also concern that closure of the level crossing. and more specifically removal of surveillance of the locality of the crossing from the manned signal box. may lead to misuse of the site of the crossing and increase risk of incidents including suicide. There was also a perception that there may be a suicide risk associated with the new bridge. However, it is noted that this would be mitigated by the bridge design (with 1.8m parapets and anti-climb features) along with walling / fencing at the current crossing site and alongside the path..
- 4.7 These concerns also relate more generally to the construction of the new bridge and to Network Rails' intention to de-man the signal box and remove the level crossing, rather than directly from the diversion of the public rights on to the proposed new bridge.
- 4.8 There were also concerns regarding on impact on wildlife and the local environment due to construction of the bridge. These will have been addressed in connection with the planning application.
- 4.9 A range of other concerns were raised which are of more direct relevance when considering the impact of the diversion on persons entitled to use the way.
- 4.10 Various respondents raised the potential for the footpath and the bridge to attract various kinds of crime and anti-social behaviour, including vandalism, drug dealing,

muggings and sexual assault, which might deter people from using the path, particularly women and at dawn / dusk and in hours of darkness. A lack of clear sight lines due to the arrangement the ramp was also raised as a concern.

- 4.11 Many respondents also raised concerns about the potential for misuse of the replacement route by cyclists, skateboarders, with electric scooters and with motorbikes, presenting potential safety risk and deterrent to other users. The possibility was mentioned that the footbridge may also be misused with horses, putting pedestrians at risk; horses are reportedly sometimes taken across the line at the separate private crossing adjacent to the public pedestrian level crossing.
- 4.12 Concerns were also raised about future maintenance of the footpath and bridge, including need for gritting etc in winter, with clarification required as to whether Network Rail or the Council will be responsible.
- 4.13 There were also some concerns raised regarding road safety. The west end of the bridge / diversion route joins Rutland Road near a bend / corner. However, this a residential neighbourhood which is observed to generally have low levels of traffic and low speeds, although no formal road safety audit has been carried out.
- 4.14 The length of the proposed diversion route was a concern for many people. There was a perception that this would negatively affect some users of the path, particularly the elderly, or e.g., those pushing wheelchairs, pushchairs etc.
- 4.15 Comments were also received from some individuals who indicated they had private rights at the level crossing associated with land to the east side and who regularly used the crossing. (Note: There are separate vehicle gates adjacent to the pedestrian gates – this report does not concern the removal of any private rights at the crossing).
- 4.16 Some people expressed concerns about the impact on the user experience of walking in close proximity to passing trains, particularly in wet weather. The fence alongside is to be 'weld mesh' construction rather than solid construction to ensure good surveillance of the path, but this may have some negative impact as well as assisting with reducing any threat of crime or anti-social behaviour.
- 4.17 Comments were received from Cllr Zaman who is opposed to the diversion. She raised a range of concerns of residents, including the length of the proposed diversion and the impact this may have on some users, particularly the elderly. She described many of the

same concerns raised by members of the public. Cllr Zaman's comments are included with other responses at appendix F.

4.18 Peak & Northern Footpaths Society (PNFS) objected to the proposed diversion highlighting the significant overall increase in length of 255m / 355m and need for steps and ramps, replacing a 17m level path. PNFS are of the view that the "greatly increased distance combined with the ramps and steps would create a much less convenient route for the public and reduce accessibility to many members of the public". PNFS also noted that diversion would not in itself be necessary for the construction of the footbridge.

4.19 KCOM has no apparatus or proposal for any in the vicinity.

4.20 Auto Cycle Union, Byways & Bridleways Trust, Cycle Touring Club, British Horse Society, Huddersfield Rucksack Club, Kirklees Bridleways Group, British Gas, YEDL, National Grid, West Yorkshire Fire Service, NAVTEC, West Yorkshire Ambulance, BT, NTL, Yorkshire Water, MYCCI, Freight Transport, Passenger Transport Executive, RAC, and Road Haulage Association offered no response.

## **5. Next steps**

5.1 If an Order is made, it would be advertised, and notice served. There would be a period of at least 28 days for representations and objections.

5.2 If the Order is unopposed the Council may confirm it.

5.3 If any objections are duly made and not withdrawn, the Council may forward the Order to the Secretary of State at DEFRA seeking its confirmation. Alternatively, the Council may decide to abandon the Order.

5.4 If members decide to authorise the making of an Order, but do not authorise officers to seek confirmation by the Secretary of State of an opposed order, a further decision would then be required on:

5.4.1 any objections that are received, and

5.4.2 potential referral of the Order (if opposed) to the Secretary of State, or

5.4.3 abandonment of an opposed Order.

5.5 If sub-committee refuses the application, the Order is not made. There is no appeal right for the applicant against a refusal.

## 6 Officer recommendations and reasons

6.1 Officers recommend members to choose option 4 at 2.27 above and to give authority to the Service Director, Legal, Governance and Commissioning to make an Order under section 257 Town & Country Planning Act 1990 to stop up Batley footpath 20 (part) at the Lady Anne Level Crossing and provide an alternative public footpath via a footbridge as shown on the plan at Appendix A. **Also, to confirm the Order if unopposed, But if opposed, to submit the Order to the Secretary of State requesting confirmation, without actively supporting the confirmation of the opposed Order** at a hearing or public inquiry.

Also to:

Require that before making the Order the Council enter into formal agreement with Network Rail regarding division of maintenance responsibility, the offsetting of future increased liabilities and arrangements for lighting of the path, as described at paragraph 1.12 above.

6.2 The diversion would enable the implementation - if approved - of planning application 2021/93311 (in particular respect of construction of a wall in place of the crossing gates on the west side) and by extension achieve closure of the public footpath over the level crossing and rerouting into via the new footbridge. It is considered that the necessity test is met (this assumes planning permission has already been granted).

6.3 It is recognised that there will be negative effects on some users, in particular due the increased length of the route. Although that must be weighed against the necessity of diverting the path to allow the approved development to be carried out. There will also be some countervailing benefits to users of the path by removing the inherent risks associated with the level crossing and any delay waiting for it to be safe to cross. There will also be a wider public benefit of reducing risk to the railway, facilitating the planned improvements to the rail network and reducing costs to Network Rail that would be associated with retaining the manned signal box / crossing.

6.4 It is noted that many of the concerns described relates to the perception that the replacement route will attract significant levels of crime and antisocial behaviour, and misuse by people other than pedestrian users. However, it is unclear to the extent to which that perception may be correct, and concerns are to some extent hypothetical. It is accepted that the replacement path must have street lighting. A proposed condition on



the granting of condition of planning permission is the carrying out of a crime impact assessment and implementing any recommendations.

6.5 If an Order is opposed the Council would not be able to confirm its own Order. If referred to the Secretary of State and actively supported to by the Council there would be significant un-rechargeable costs, in financial terms and in terms of officer time. It appears appropriate for the applicant to step forward to pursue the case for confirmation and the Council as Order Making Authority to take a more passive role.

6.6 There is currently little maintenance burden to the Council associated with the footpath, the majority of which falls within the railway and is effectively outside the Council's control. That would not be the case if the footpath is diverted as the much longer replacement route would ordinarily become maintainable at public expense by the Council. It would be appropriate for the making of any Order to be conditional on Network entering into agreement with the Council (pursuant to s111 Local Government Act 1972 or s278 Highways Act 1980) in respect of the offsetting via a commuted sum of the impact of increased liabilities. Any agreement may also include provisions regarding responsibility for street lighting. The inclusion in an agreement that responsibility for the bridge surface would rest with Network Rail would also avoid future difficulties for the Council.

## **7 Cabinet Portfolio Holder's Recommendations**

Not applicable

## **8 Next steps**

8.1 If the diversion Order is made and advertised, there will be a statutory 28-day minimum, notice period during which time the public may make representations and objections. Any opposed Order could only be confirmed by the Secretary of State following referral of the Order. That may result in a public inquiry or hearing.

8.2 If the diversion order is not made, then footpath would remain on its current alignment via the Lady Anne Level Crossing and the planning permission (if granted) could not be fully implemented.

## **9 Contact officers and relevant papers**

Contact Officer: Phil Champion      Direct Dial (01484) 221000

Email: [phil.champion@kirklees.gov.uk](mailto:phil.champion@kirklees.gov.uk)

## **10 Background Papers and History of Decisions**

10.1 PROW file 872/DIV/Bat20

10.2 Rights of Way Improvement Plan

10.3 Planning application 2021/93311.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2F93311>

10.4 Appendices

10.4.1 Appendix A - Plan showing proposed diversion

10.4.2 Appendix B - Indicative visuals of the replacement bridge

10.4.3 Appendix C - Photographs of the current route and Rutland Road

10.4.4 Appendix D - Applicant's supporting statement

10.4.5 Appendix E - Supplementary supporting information

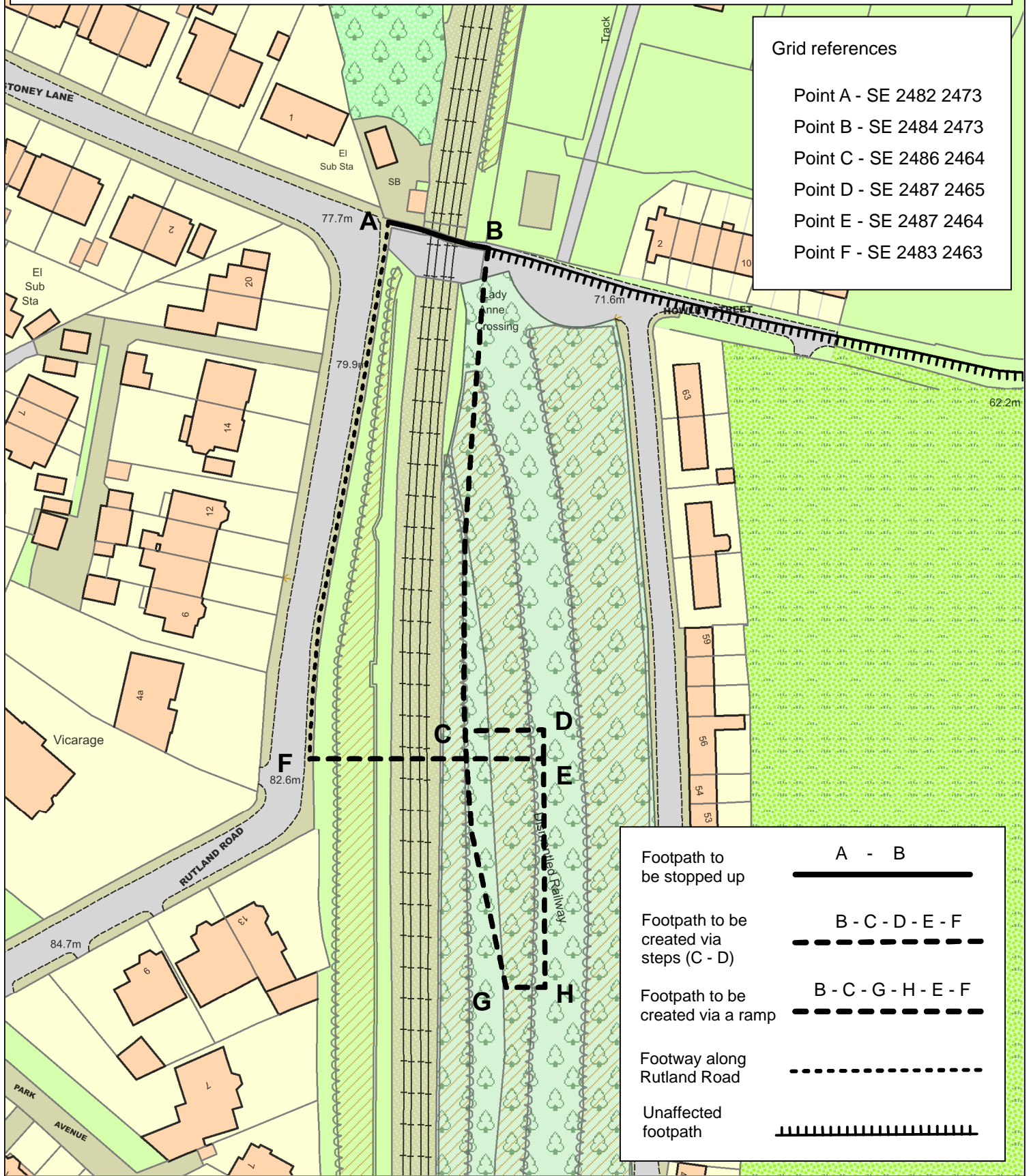
10.4.6 Appendix F – Consultation responses

## **11 Service Director responsible**

Sue Procter, Service Director:

Highways and Streetscene, Environment & Climate Change Directorate

**Town & Country Planning Act 1990, section 257. Proposed diversion of public footpath Batley 20 (part) at Lady Anne Level Crossing, Batley**



**Public Rights of Way**

**Diversion of FP BAT/20 at Lady Anne Level Crossing**

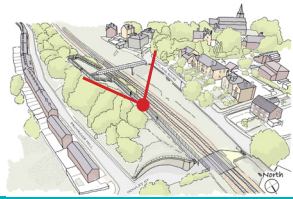
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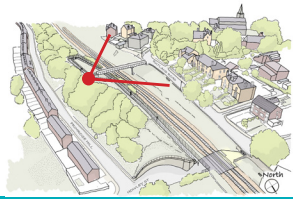


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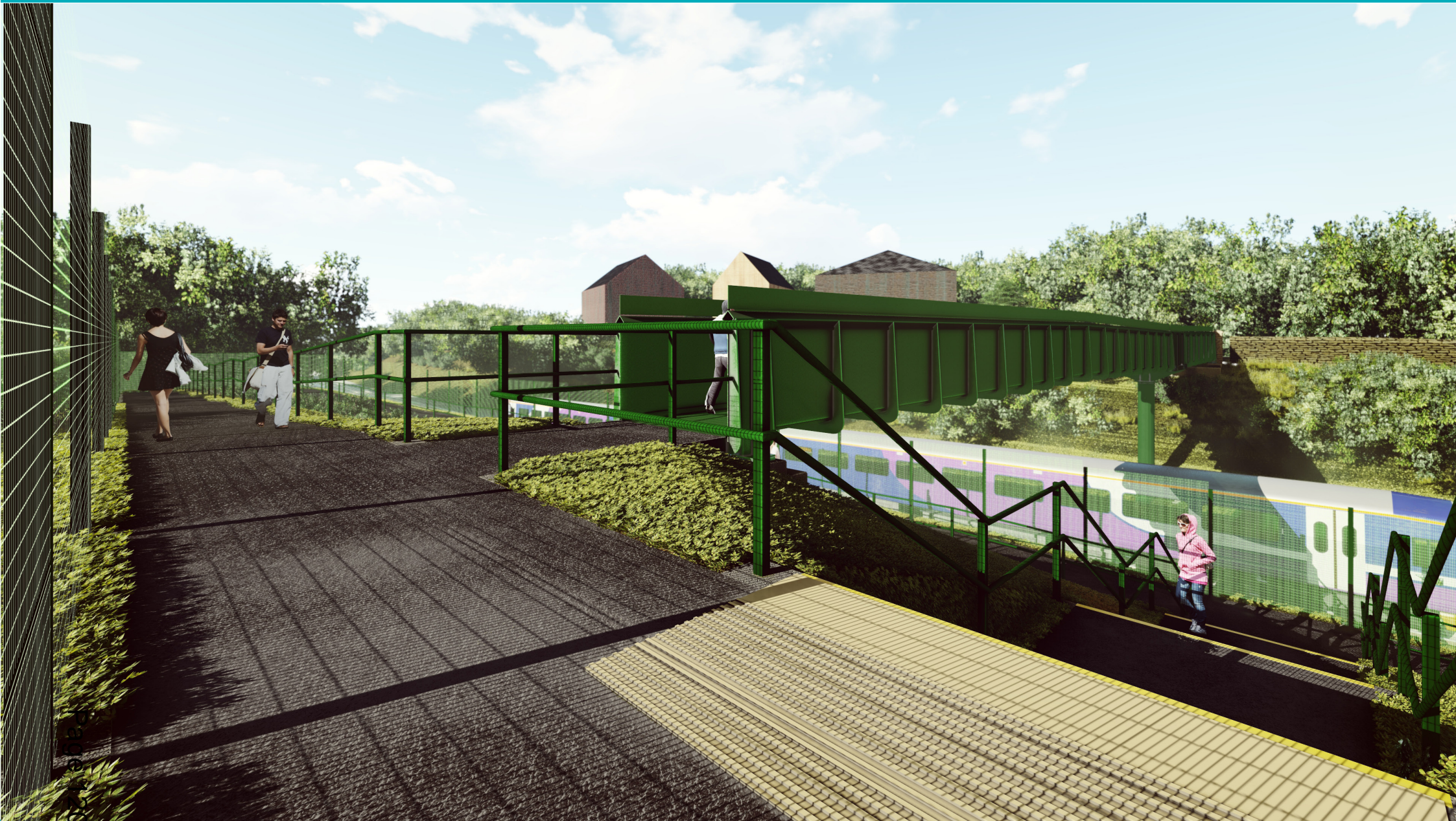


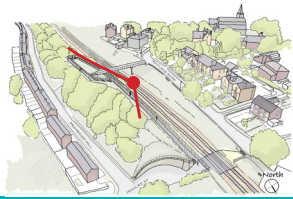
## Lady Ann Footbridge Indicative Visual 1





## Lady Ann Footbridge Indicative Visual 2

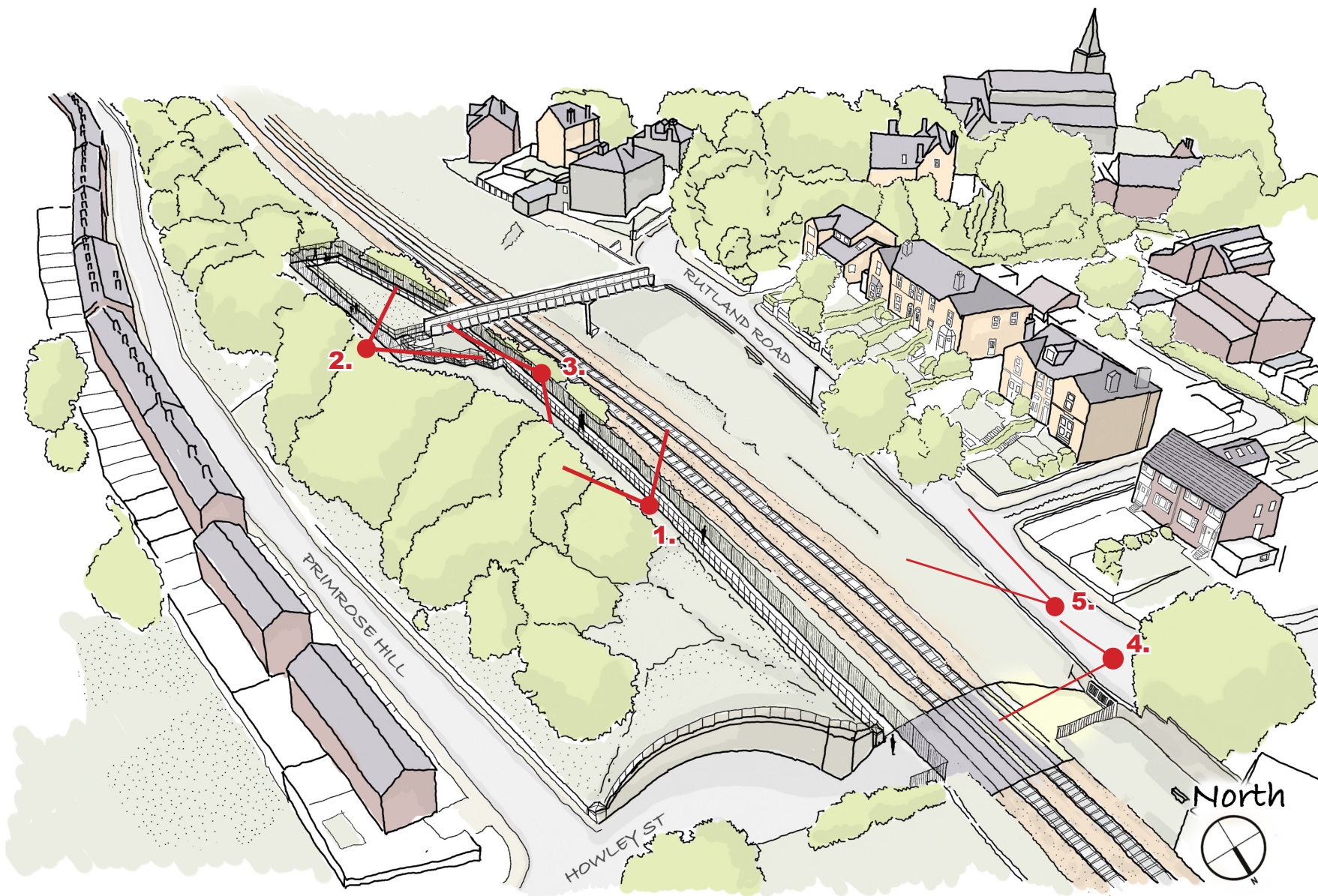




# Lady Ann Footbridge Indicative Visual 3

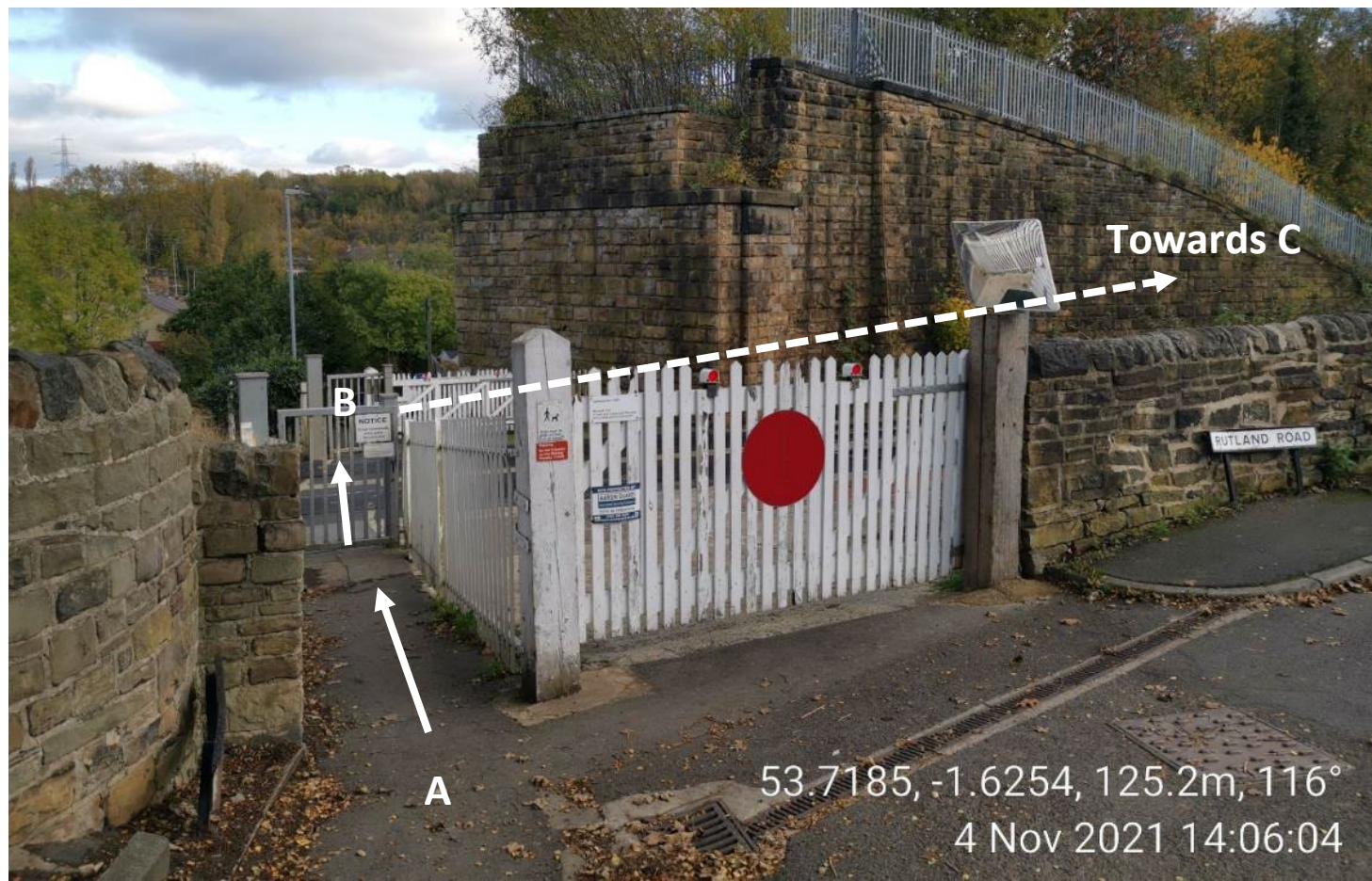


# Lady Ann Footbridge Indicative Visuals Key Plan





Appendix C Photographs of Footpath Batley 20 at Lady Anne Level Crossing, and Rutland Road

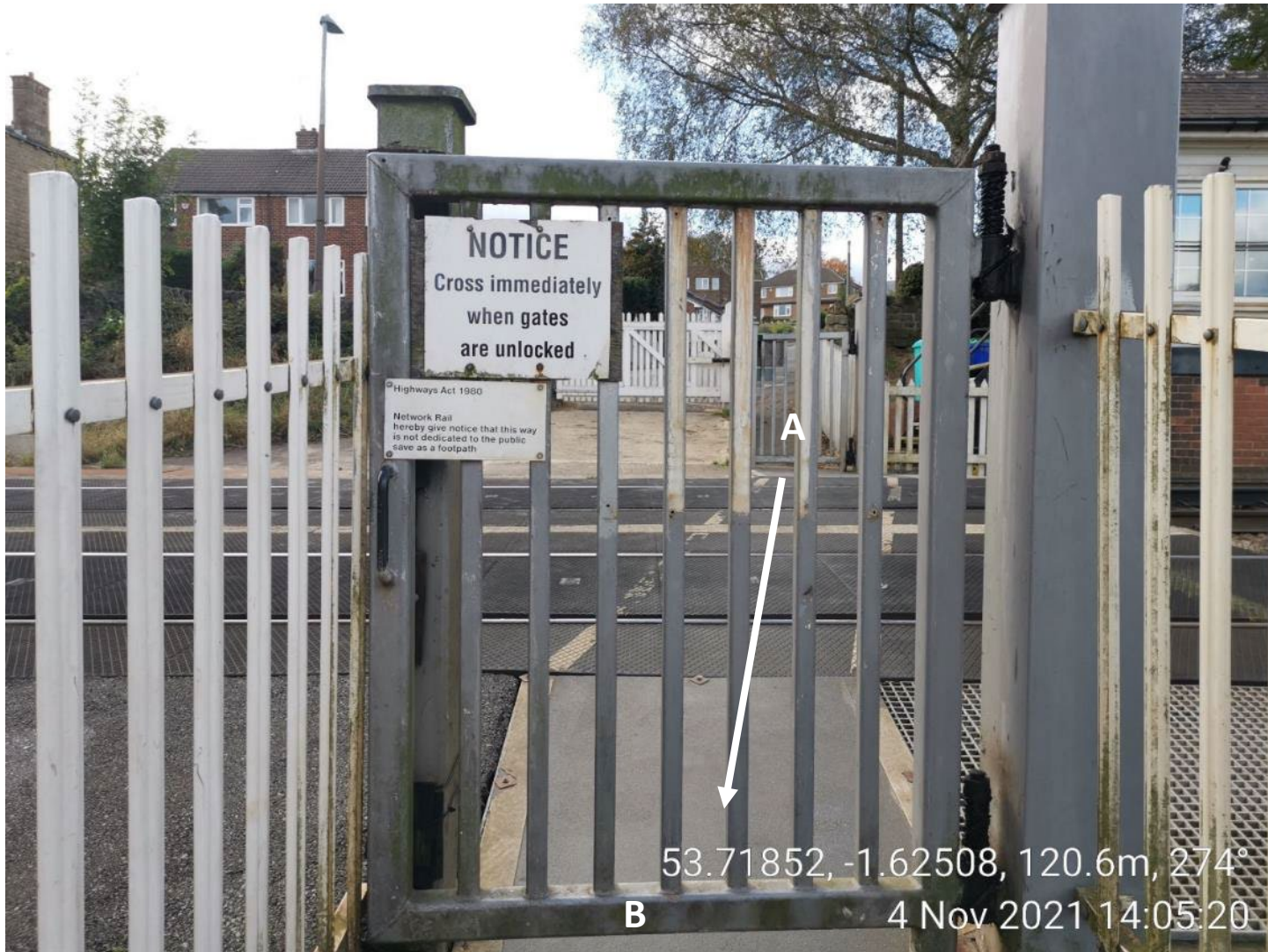


1. West side of Lady Anne Level Crossing. Point A, looking east from Rutland Road / Stoney Lane across the railway towards Howley Street.

Public footpath Batley 20 runs via the small gate to the left, which is unlocked by the signaller in the adjacent box when it is safe to cross. Alongside is a private vehicular crossing. Construction of the replacement path towards the proposed footbridge at point C would require removal of part of the disused bridge abutment / embankment opposite.

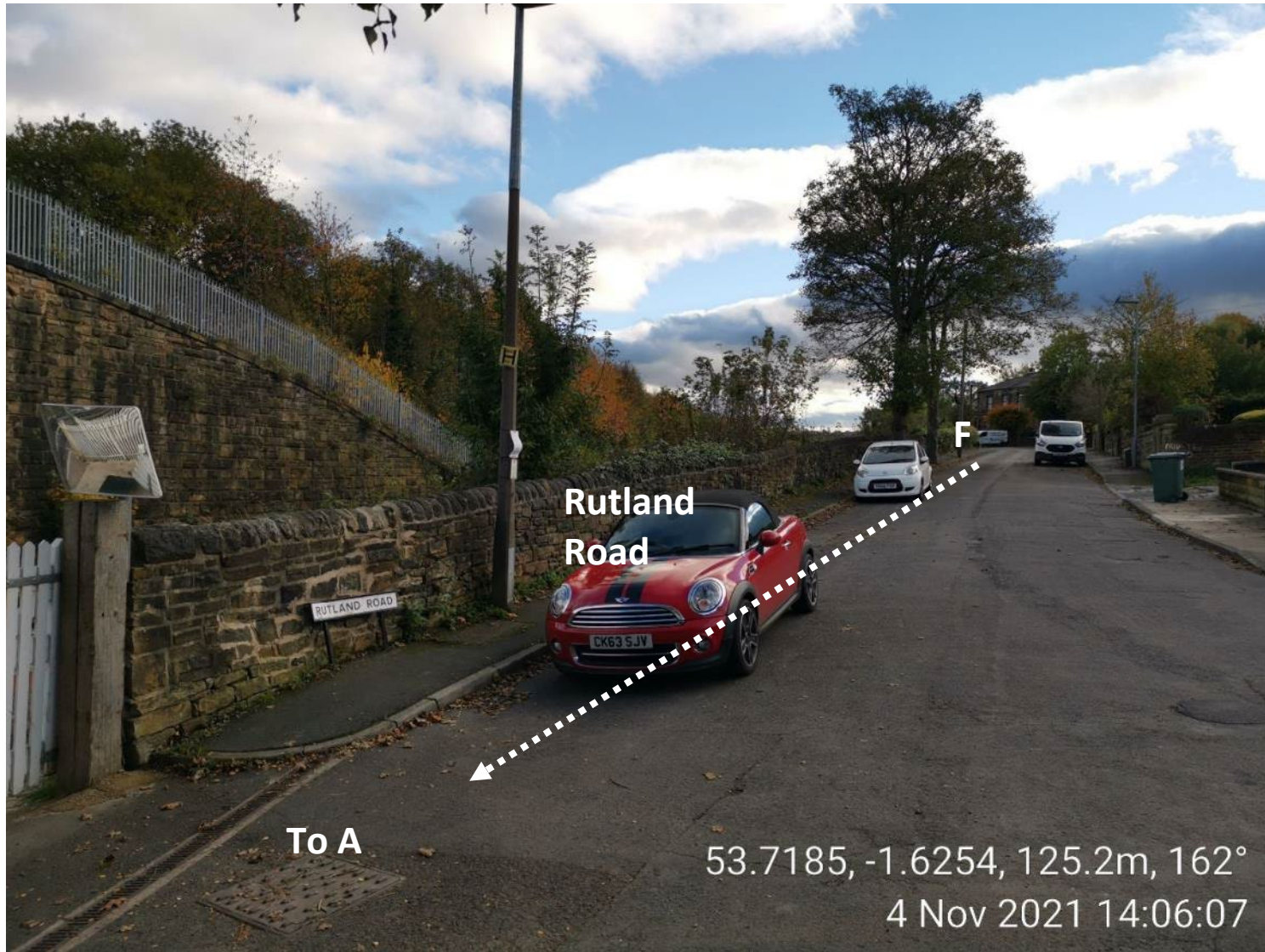


2. East side of Lady Anne Level Crossing. Point B looking west from Howley Street towards Rutland Road / Stoney Lane.

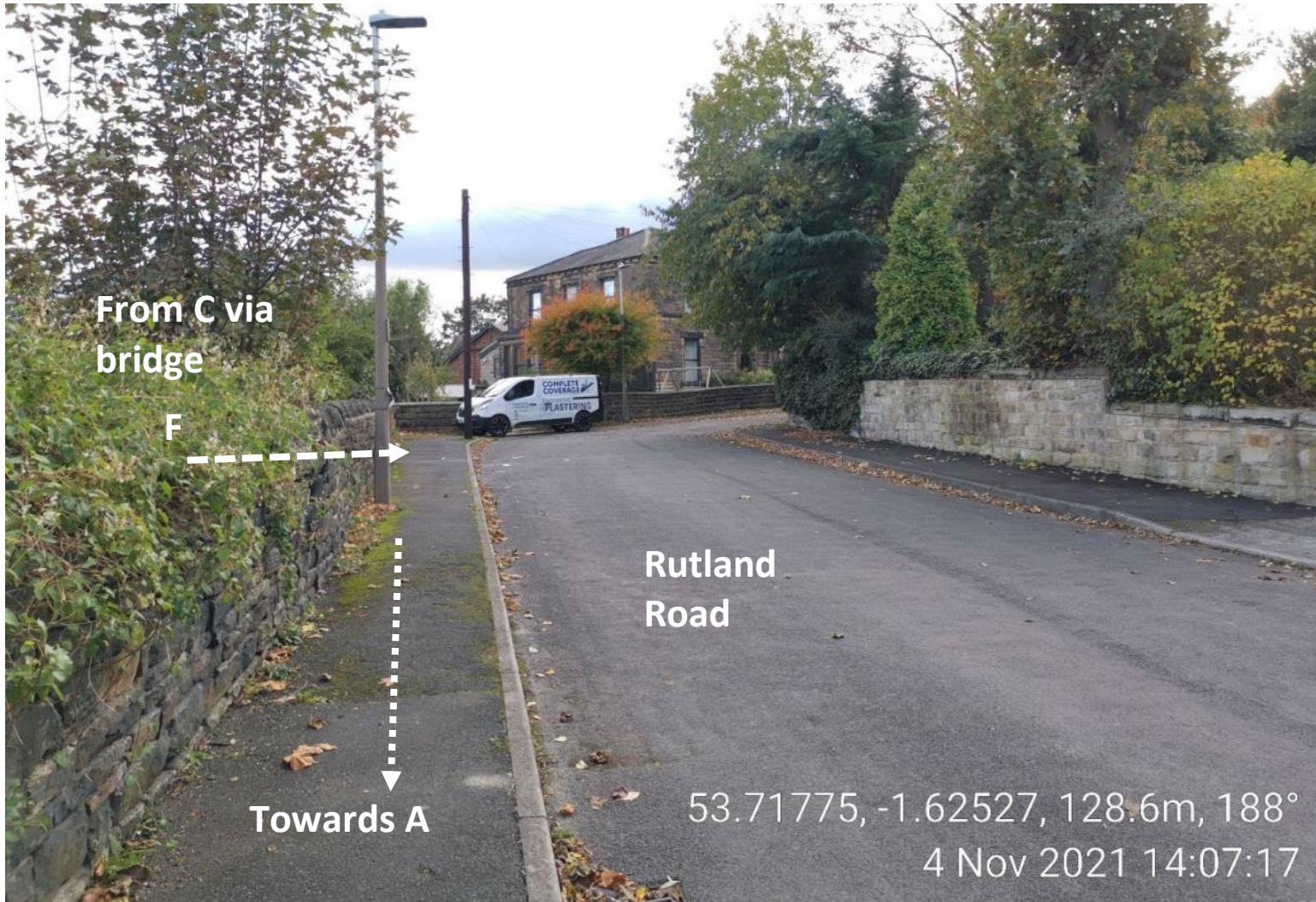


3. Gates on footpath Batley 20 at Lady Anne Level Crossing.

Gates to either side of the level crossing are currently operated by the signaller in the adjacent signal box. The gates are electrically unlocked when it is safe to cross.



Rutland Road. View towards point F at the west side of the proposed bridge from the west side of the level crossing at point A. There are footways on either side of this road which links the current and proposed termination points of footpath Batley 20.



Rutland Road. View towards point F at the west side of the proposed bridge.

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## **SUPPLEMENTARY INFORMATION TO FORM 1A**

### **CLOSURE OR DIVERSION OF PUBLIC PATH: S.257 TOWN AND COUNTRY PLANNING ACT 1990**

#### **Diversion of Public Right of Way at Lady Ann Level Crossing, Batley**

##### **Background and justification**

The Trans-Pennine Route Upgrade (TRU) programme is a rail enhancement programme established to increase capacity and improve reliability/journey times between Manchester Victoria and York, via Huddersfield and Leeds. Enhancements between Manchester and Leeds will be delivered by the TRU West of Leeds Alliance ('TRU West') of which Network Rail (NR) is a part.

NR is proposing the following track and civils works around and to the north of Batley Station:

- Signalling;
- Various civils works;
- Electrification;
- Telecoms; and
- Works to the section of railway line from the northern edge of Batley to the northern end of Morley Tunnel (trackworks).

Approximately 900 metres to the north of Batley Station is the Lady Ann Level Crossing, which crosses over two tracks of the MDL1 line (Manchester-Leeds). It is at the same location as MDL1/33 (a disused bridge (which used to carry the Batley-Bradford railway line over the Trans-Pennine route until closure in 1964) with only the abutments still standing). The Crossing currently provides access over the line from Rutland Road/Stoney Lane on the west to Howley Street/Primrose Hill on the east, via Public Right of Way (PROW) BAT/20/20.

Lady Ann level crossing is currently a Manned Gated Crossing (MGC), with gates for vehicular use and a segregated footway with lockable wicket gates. Both sets of gates are controlled by the Signaller in the signal box located adjacent to the crossing. The vehicular and pedestrian gates at the crossing are normally locked and therefore closed to the public. The pedestrian gates are controlled from the signal box on a 24-hour basis and are unlocked as a pedestrian approaches the Crossing if the Signaller deems there is sufficient time to enable them to cross safely.

Level crossings represent one of the principal public safety risks on the railway. It is Network Rail (NR) policy to seek removal of level crossings wherever possible for safety reasons. In addition, the modernisation of the railway line, as described above, means that the crossing needs to be closed and removed. This is because the signalling, which is currently operated from the signal box at the level crossing, will be taken over by the York Rail Operating Centre as part of the TRU programme. Therefore there will be no Signaller situated at the crossing to operate it. As the upgrade will introduce faster, longer and a greater number of trains along the route, including the introduction of 25,000 volts of Overhead Line Equipment (OLE), this would increase the risk at the crossing to an unacceptable level with no means of making the current crossing sufficiently safe. The potential for an additional 97 houses in the vicinity from the allocated development site adjacent to the rear of properties on the east side of Primrose Hill would also unduly increase risk to public use.

Therefore NR is proposing to close the level crossing and divert the current PROW over a new footbridge in close proximity to the crossing, to the south. A separate planning application for the new footbridge is currently pending determination (application reference: 2021/62/93311/E).

### **Alternative options considered**

The TRU West design process initially considered five different options for the footbridge and associated PROW diversion, which went through a formal assessment and scoring process. A summary of these options is as follows:

#### Option 1

Option 1 proposed a new footbridge to the south. The new footbridge would provide level access from Rutland Road to Howley Street / Primrose Hill and would be ramped from Rutland Road crossing the railway to another ramp system discharging pedestrian flow to Primrose Hill. There would also be a stepped access from the ramp system to Primrose Hill.

#### Option 2

Option 2 proposed a new footbridge crossing the tracks at the same location as the level crossing, with access from Rutland Road in two places: level access 50 metres south of the footbridge location on Rutland Road via a ramp, and one stepped access via the footbridge at the existing level crossing location. Access from Howley Street would be gained from two points both at the existing level crossing location: level access via ramp to the north at the existing level crossing location and another access via steps to the footbridge on the south side of Howley Street.

#### Option 3

Option 3 proposed a new footbridge approximately 75 metres to the north of the level crossing. Access would be gained by new path leading to the footbridge from Sunny Bank Road, to stepped and ramped access at the footbridge location. The footbridge would provide a main span to cross the railway onto the parallel ramp system on the other side, with a stepped access leading to Howley Street via a new path following the railway.

#### Option 4

Option 4 proposed a new subway at the existing location of the level crossing. Access from Rutland Road would be gained either by stepped access or via a ramp which heads to the south, dropping down into an opening in the ground. The stepped access would take people towards the position of the signal box, then directly through, under the railway and up to Howley Street. Once the railway had been passed there would be another ramp system to take users to Howley Street, sited on third party land.

#### Option 5

Option 5 proposed a new footbridge crossing the tracks at the same location as the level crossing, at a skew using the existing disused abutments of the former Batley-Bradford railway line.

It would provide access from Rutland Road in two places: level access 50 metres south of the footbridge location on Rutland Road via a ramp, and one stepped access from the footbridge at the existing level crossing location by the existing signal box.



Access to Howley Street would be gained from a footpath traversing the existing railway embankment, with a series of stairs also joining at the same access from Primrose/ Howley Street position.

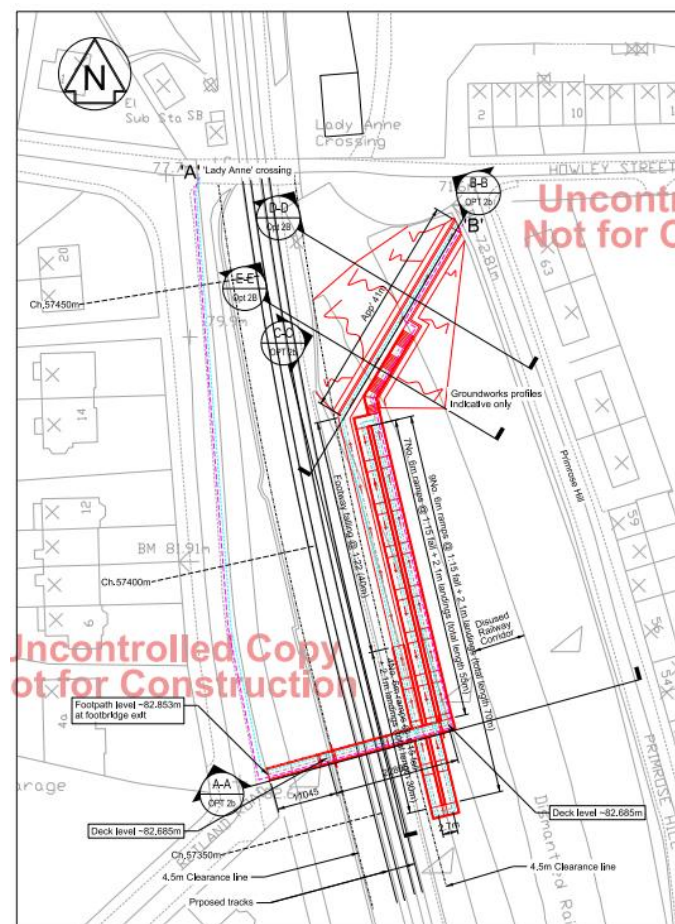
Following the assessment of these five options, the recommended option to be taken forward was Option 1 – a footbridge to the south of the existing crossing. A further four sub-options for the design and alignment of a footbridge to the south were then considered, and are summarised as follows:

### Option 1a

As shown in Figure 1 below, the deck of the bridge is located at the southern corner of Rutland Road (western side of the rail corridor) and is proposed to be at the same level as the road at this location. All subsequent sub-options have the deck in the same place and at the same level.

Steel ramps, supported on piers, are utilised to allow step-free access down to the level of Primrose Hill / Howley Street on the eastern side. This option requires a 40 metre long, 10 metre deep cutting through the disused embankment adjacent to the old abutments to exit at Howley Street.

Figure 1 – Option 1a



The diversion length from points 'A' to 'B' (as shown on the 'Plan Showing Diversion Routes' submitted with this application) would be:

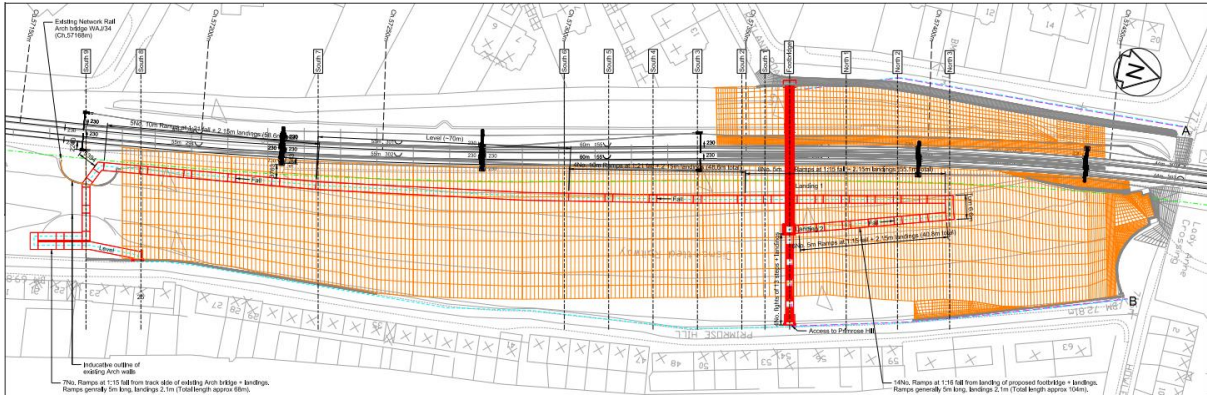
- Footbridge, partial ramp and steps = 246 metres

- Footbridge and full length of ramps = 394 metres

**Option 1b**

As shown in Figure 2 below, ramped access would be provided from Primrose Hill approximately opposite number 23, and stepped access would be from approximately opposite number 54.

Figure 2 – Option 1b



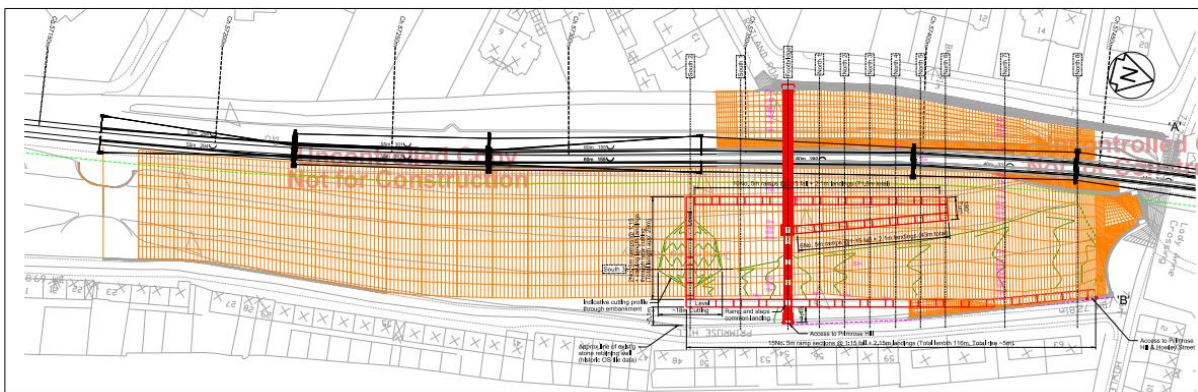
The diversion length from points 'A' to 'B' (as shown on the 'Plan Showing Diversion Routes' submitted with this application) would be:

- Footbridge and steps = 267 metres
- Footbridge and ramps = 773 metres

**Option 1c**

As shown in Figure 3 below, ramped access would be provided down to Primrose Hill just south of the deck requiring a cutting 20 metres long and 4 metres deep through the disused embankment opposite approximately number 54 Primrose Hill and remodelling of the embankment north up to Howley Street.

Figure 3 – Option 1c



The diversion length from points 'A' to 'B' (as shown on the 'Plan Showing Diversion Routes' submitted with this application) would be:

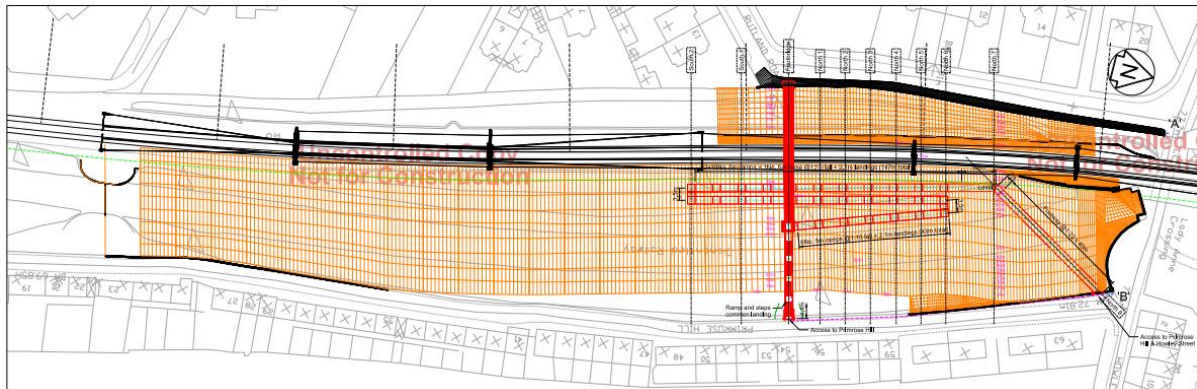
- Footbridge and steps = 267 metres
- Footbridge and ramps = 417 metres

### Option 1d

This option is similar to option 1a (requiring a 40 metre long and 10 metre deep cutting through the disused embankment adjacent to the old abutments to exit at Howley Street) but also with access through a cutting as in Option 1c from opposite approximately number 54 Primrose Hill.

Figure 4 below shows this option.

Figure 4 – Option 1d



The diversion length from points 'A' to 'B' (as shown on the 'Plan Showing Diversion Routes' submitted with this application) would be:

- Footbridge and steps = 267 metres
- Footbridge and ramps = 405 metres

Following assessment of these sub-options by TRU West, none were deemed to provide a satisfactory solution for reasons including safety/appeal of the new route due to access through cuttings (all options), diversion length (Option 1b), and impact on Primrose Hill (Options 1b, 1c and 1d). Further design work was undertaken and a fifth option was developed which address all of these issues. This fifth footbridge option is the subject of the current planning application pending determination and will carry the proposed PROW diversion.

Prepared by [REDACTED] (Atkins) on behalf of Network Rail  
22 September 2021

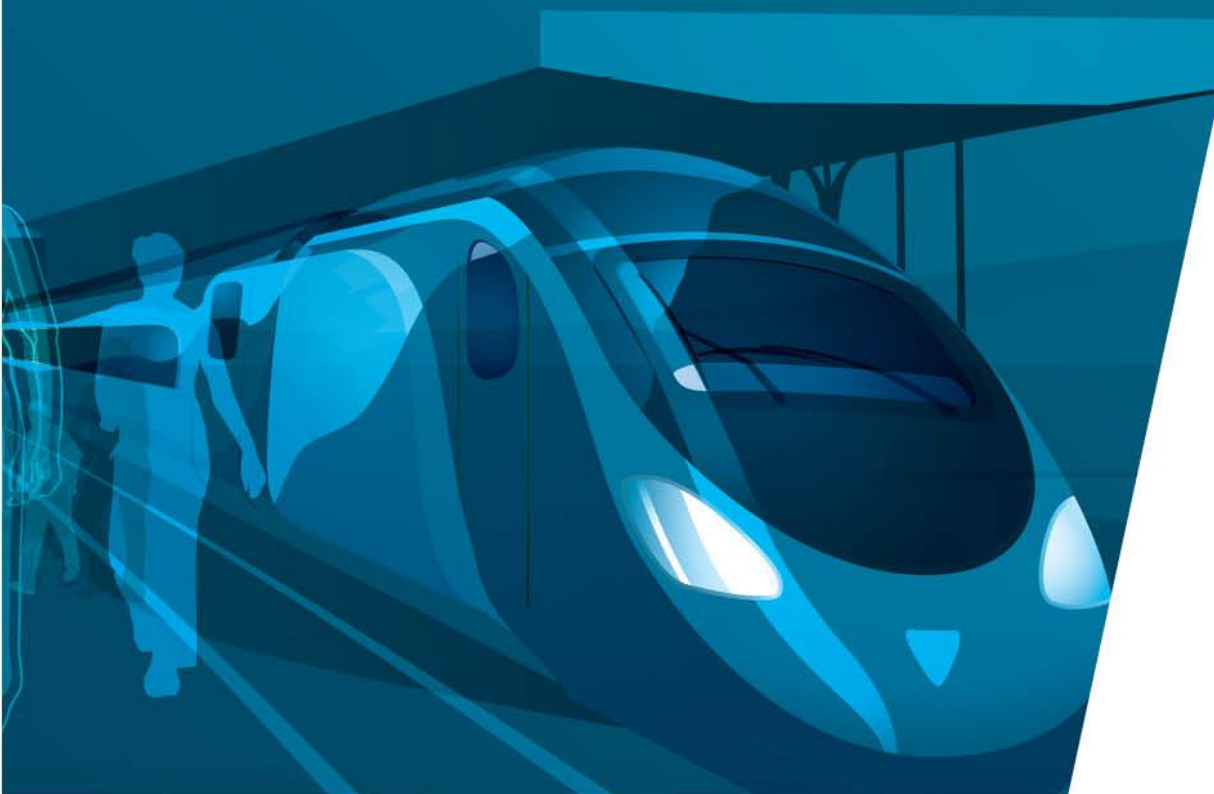
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# *New Footbridge at Lady Ann Level Crossing, Batley*

*Planning Application Reference:  
2021/62/93311/E*

## ***Supplementary Information***

*Date: 14 January 2021*



## **Rationale for closure of the level crossing**

Level crossings represent one of the principal public safety risks on the railway. It is Network Rail (NR) policy to seek removal of level crossings wherever possible for safety reasons. In addition, the modernisation of the railway line as part of the Manchester-Leeds Trans-Pennine Route Upgrade (TRU) project means that the crossing needs to be closed and removed. This is because the signalling, which is currently operated from the signal box at the level crossing, will be taken over by the York Rail Operating Centre as part of the TRU programme. Therefore there will be no Signaller situated at the crossing to operate it.

As the upgrade will introduce faster, longer and a greater number of trains along the route, including the introduction of 25,000 volts of Overhead Line Equipment (OLE), this would increase the risk at the crossing to an unacceptable level with no means of making the current crossing sufficiently safe. The potential for an additional large residential development in the vicinity from the allocated development site adjacent to the rear of properties on the east side of Primrose Hill would also unduly increase risk to public use.

Therefore NR is proposing to close the level crossing and divert the current PROW over a new footbridge in close proximity to the crossing.

## **Retaining a Level Crossing**

The Council Planning Officer raised the question as to why a level crossing could not be retained at Lady Ann. Network Rail has considered this and there are a number of reasons and justification as to why a level crossing cannot be retained at Level Crossing which are summarised below:

### **1. Keeping a Manned Signal Box**

To retain a manned signal box would create additional significant capital expenditure (CAPEX) costs in the region of £10million(plus) as well as a delay of 12-18 months to the TRU programme. This would not only impact on the W4 Dewsbury to Leeds Electrification scheme, but would also impact on the Huddersfield to Westtown scheme. This would delay and potentially put at risk the benefits these schemes deliver not only for Kirklees, but also West Yorkshire but the wider Northern Region.

Further, the signal box would be required to be manned creating on-going operational expenditure costs (OPEX) in the region of £250k / year (4 signallers plus a % for a relief signaller). This would be an ongoing expenditure for the railway, adds to the cost base of operating the railways and does not represent value for money for the taxpayer.

Control of the signalling would still transfer to the York Regional Operating Centre (YROC). The signaller at YROC would have to contact the signaller at the crossing to confirm the crossing and for the passage of trains each time a train was signalled past the crossing. This would be for 16 trains per hour (8tph in each direction).

## **2. Keeping the Crossing with gate controlled from YROC**

As with a manned box, allowing control from YROC would result in major rework and delay to the whole TRU project approximately 12 – 18 months as detailed above. This would result in significant additional CAPEX costs to the project of £10 million (plus).

To deliver an automatic level crossing would require an additional signalling work station as the Huddersfield work station (YROC) would not be able to cope with adding this additional Gate function. The Signaller would have to unlock/lock the gate and check that the crossing is clear before setting a route through the crossing. This would therefore require additional workstations and additional costs of keeping this new work station manned. This would result in additional OPEX costs to the railway through continuing to employ 4 x signallers & relief signaller at £250,000 a year to control the new panel. Also, to deliver a safe crossing would require lighting & CCTV as well as audible & visual warnings this would lead to nuisance in a residential area and impact on local residents.

## **3. End user experience if crossing was to remain**

As detailed above, the delivery of TRU will allow capacity on the route to be increased from the current 8 trains per hour to 16tph, resulting in 16tph passing over the crossing. Today the signaller locks the gates at least 2 minutes before the train arrives and 30 seconds after the train has passed. The additional changes would mean the gates would be locked out of use for a greater amount of time, resulting the crossing being unavailable to users. This could result in the crossing being misused due to the inability of members of the public being unable to use the crossing and potentially increase the safety risk at the crossing. Also, there would be the additional hazard of the electrified lines above the crossing. Therefore, footbridge access would provide continuous access to members of the public and remove the hazards of crossing a railway line with overhead lines.

In summary Network Rail has considered continuing to provide a level crossing either manned or automatic. However, the CAPEX & OPEX costs are significant and put at risk delivering the benefits of the TRU Programme. Also, the additional capacity will result in users being unable to use the crossing during each hour given the increase in frequency of trains on the route as such the proposed footbridge delivers the best solution at this location whilst allowing the benefits of the scheme to be realised.

### **Alternative options considered**

The TRU West design process initially considered five different options for the footbridge and associated PROW diversion, which went through a formal assessment and scoring process. A summary of these options is as follows:

- Option 1 – New footbridge to the south of the level crossing with steps and ramps to Primrose Hill
- Option 2 – New footbridge crossing the tracks at the same location as the crossing with ramped and stepped access from both Rutland Road and Howley Street (4 no. accesses).
- Option 3 – New footbridge approximately 75 metres to the north of the level crossing, accessed by a new path leading to the footbridge from Sunny Bank Road,

to stepped and ramped access at the footbridge location, with a stepped access leading to Howley Street via a new path following the railway.

- Option 4 – New subway at the existing location of the level crossing, accessed via ramps/steps.
- Option 5 – New footbridge crossing the tracks at the same location as the level crossing, at a skew using the existing disused abutments of the former Batley-Bradford railway line.

Following the assessment of these five options, the recommended option to be taken forward was Option 1 – a footbridge to the south of the existing crossing. A further four sub-options for the design and alignment of a footbridge to the south were then considered, and are summarised as follows:

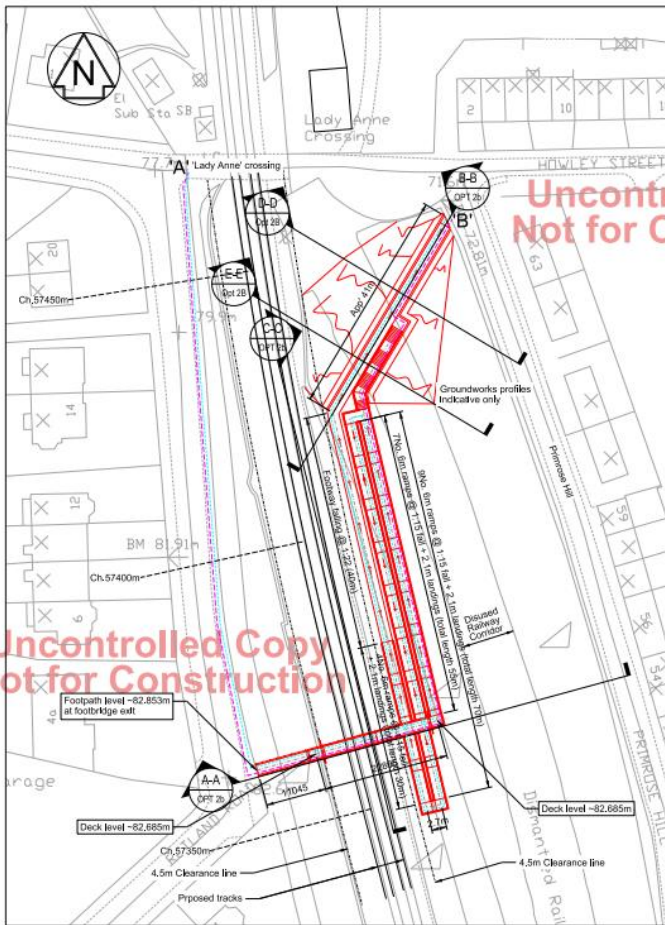
#### Option 1a

As shown in Figure 1 below, the deck of the bridge is located at the southern corner of Rutland Road (western side of the rail corridor) and is proposed to be at the same level as the road at this location. All subsequent sub-options have the deck in the same place and at the same level.

Steel ramps, supported on piers, are utilised to allow step-free access down to the level of Primrose Hill / Howley Street on the eastern side. This option requires a 40 metre long, 10 metre deep cutting through the disused embankment adjacent to the old abutments to exit at Howley Street.



Figure 1 – Option 1a



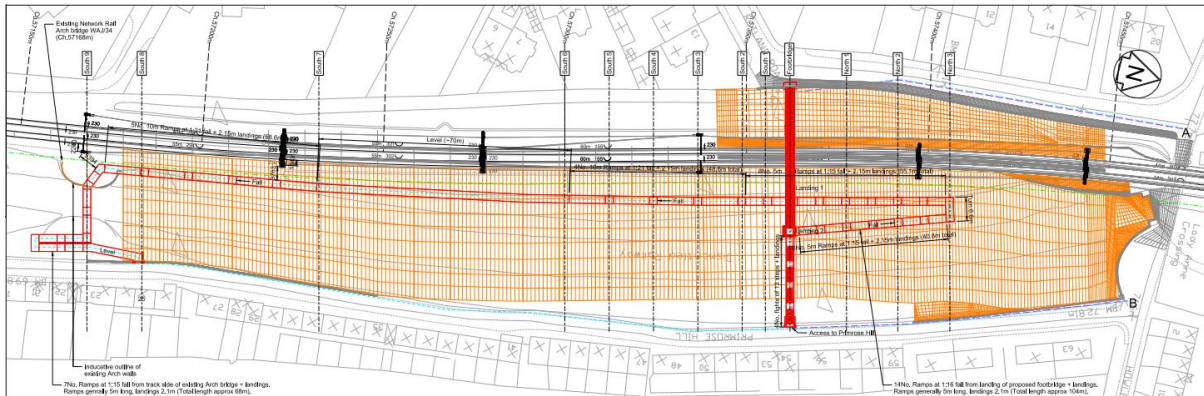
The diversion length from points 'A' to 'B' (as shown on the 'Plan Showing Diversion Routes' submitted with this application) would be:

- Footbridge, partial ramp and steps = 246 metres
- Footbridge and full length of ramps = 394 metres

Option 1b

As shown in Figure 2 below, ramped access would be provided from Primrose Hill approximately opposite number 23, and stepped access would be from approximately opposite number 54.

Figure 2 – Option 1b



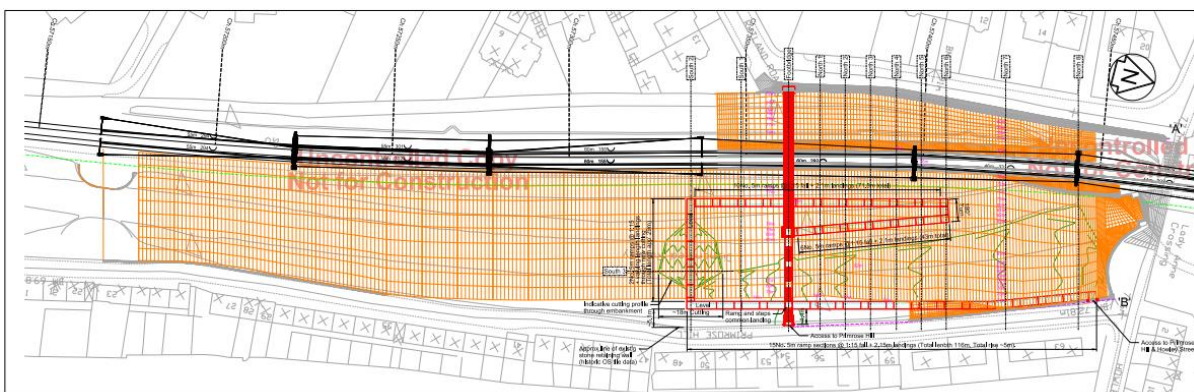
The diversion length from points 'A' to 'B' (as shown on the 'Plan Showing Diversion Routes' submitted with this application) would be:

- Footbridge and steps = 267 metres
- Footbridge and ramps = 773 metres

Option 1c

As shown in Figure 3 below, ramped access would be provided down to Primrose Hill just south of the deck requiring a cutting 20 metres long and 4 metres deep through the disused embankment opposite approximately number 54 Primrose Hill and remodelling of the embankment north up to Howley Street.

Figure 3 – Option 1c



The diversion length from points 'A' to 'B' (as shown on the 'Plan Showing Diversion Routes' submitted with this application) would be:

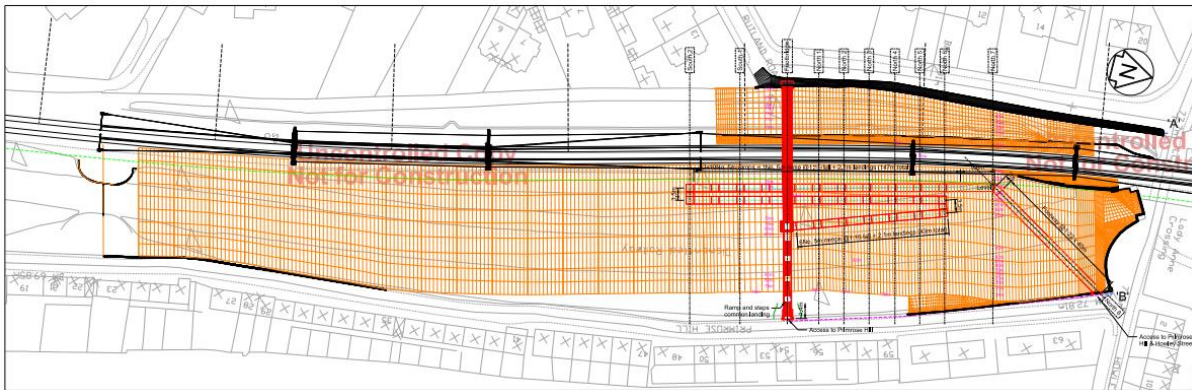
- Footbridge and steps = 267 metres
- Footbridge and ramps = 417 metres

## Option 1d

This option is similar to option 1a (requiring a 40 metre long and 10 metre deep cutting through the disused embankment adjacent to the old abutments to exit at Howley Street) but also with access through a cutting as in Option 1c from opposite approximately number 54 Primrose Hill.

Figure 4 below shows this option.

Figure 4 – Option 1d



The diversion length from points 'A' to 'B' (as shown on the 'Plan Showing Diversion Routes' submitted with this application) would be:

- Footbridge and steps = 267 metres
- Footbridge and ramps = 405 metres

Following assessment of these sub-options by TRU West, none were deemed to provide a satisfactory solution for reasons including safety/appeal of the new route due to access through cuttings (all options), diversion length (Option 1b), and impact on Primrose Hill (Options 1b, 1c and 1d).

## Public consultation

The public and local community have been consulted at various stages throughout the design development process.

In early June 2020, a survey was sent to local residents that asked for opinions and concerns regarding proposed works to Lady Ann level crossing. The survey included two options for level crossing replacements (one to the north of the existing crossing and one to the south) and received 179 responses. As a result of the Covid-19 pandemic, this public consultation period did not include an in-person event. A summary of responses received is as follows:

- 62% would welcome a new footbridge if the crossing was closed / 32% would not
- 40% marked accessibility as the most important consideration
- 56% preferred the option to the south which blends in more with the landscape

Key concerns raised in responses were privacy and impacts on the local environment/landscape.

Following analysis of the responses received from the survey, the design for the new footbridge was developed further to incorporate the concerns and opinions of the local residents. This meant moving away from 'standard' designs to a proposed structure that was more in keeping with the topography of the area to reduce visual intrusion, by sinking the ramps of the structure into the embankment. In addition, design development sought to respect the nearby Upper Batley Conservation Area by including pilasters to the bridge entry from Rutland Road and replacing the level crossing barriers with a section of wall, and will provide replacement landscaping to enhance the Kirklees Wildlife Habitat Network.

Following relaxation of Covid-19 restrictions, on the 29th July 2021 a community information event was held within Batley to share the revised designs and artist's impressions. Around 35 – 40 members of the public attended across the 3 hour event.

For those who were unable to attend the in-person information event, a virtual information event was held a few days later on the 3rd August 2021 to again share designs and artist's impressions and provide an opportunity to ask any questions.

In light of the issues with option 1a-1d and taking account of consultation responses as set out above, a fifth option was developed. This fifth footbridge option is the subject of the current planning application pending determination and will carry the proposed PROW diversion.

**As the above demonstrates, a wide range of options have been considered, and the option for which planning permission has been applied represents the best option in terms of safety, diversion length and impact on the residents of Primrose Hill.**

### **Cost**

The direct cost to Network Rail of the proposed footbridge, ramps and steps (infrastructure only – exclusive of construction, signalling and other project costs) is approximately £2.7m. This represents a significant investment into new infrastructure in Batley. In addition, although not part of this scheme, Network Rail is investing further into Batley with the provision of new lifts at Batley Station at a cost of approximately £4m.

Network Rail  
1 Eversholt Street  
Euston  
London  
NW1 2DN

[www.networkrail.co.uk](http://www.networkrail.co.uk)

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**Appendix F Proposed diversion of Footpath Batley 20 at Lady Anne Level Crossing: Comments made in response to preliminary consultation**

“A footbridge, much like the tunnel at the bottom of Primrose Hill nearby will encourage vandalism and other anti-social activities to the point where it is unused by the general public as it will be seen as unsafe, as is the case with the tunnel. This will result in the location becoming ill maintained and unfit for purpose. “

“My main concern is safety and the high risk of encouraging antisocial behaviour if a footbridge is built.

The signal box is manned 24 7, meaning safeguarding for all is promoted. Having a footbridge will leave people, particularly women and children, at risk of muggings, attacks and sexual assault. It will also heighten the risk of suicide, which is currently lowered by having a signal box as someone is always there to prevent this and intervene.”

[Reference was also made to private rights at the crossing and potential for horses to ‘spook when using the footbridge; use of the existing private crossing with horses is a private matter to be resolved between rights holders and Network Rail. There will be no right to use the proposed footbridge with horses].

“Peak & Northern object to this proposed diversion.

The existing path between points A to B is 17 metres long on level ground. The proposed new paths are 255 metres via **STEPS** or 355 metres via **RAMPS**. Both options are significantly longer than the current 17 Metres and involve either steps or ramps as opposed to the current level gradient. The greatly increased distance combined with the ramps and steps would create a much less convenient route for the public and reduce accessibility to many members of the public.

The planning application 2021/62/9331/E largely affects land not on Batley Footpath 20. Footpath 20 is only affected in a minor way by construction of a wall across it at point A and security fencing at Point B. It is suggested that Batley Footpath 20 can be accommodated through these structures by means of British Standard gates and that diversion of Footpath 20 is not necessary for the development (which is for a footbridge/ramps etc) to go ahead.”

“... the proposed replacement for the crossing, and the resulting alteration to the existing public footpath, is unacceptable for many reasons.

- There has been an accessible route from what is now Batley Field Hill to Howley since medieval times, and old maps clearly show it existing at a time long before there were any houses in the area. Footpath BAT/20/20 follows part of this route. It would be a shame if people were put off following this ancient route by an extremely unpleasant obstacle
- There is no agreement about who will be responsible for the ongoing maintenance of the bridge and its approaches. Kirklees Council stated that

Network Rail will be responsible for all aspects of its upkeep, but at a public meeting local residents were told that NR would end their involvement once the works were completed, and that it would fall to the council to maintain it since it would be part of a Kirklees PROW. Either way, it would need regular cleaning and sanitising, gritting in winter, regular attention to the lighting, and some form of monitoring to deter the inevitable antisocial behaviour that the bridge would invite.

- Safety seems to have been overlooked. The manned crossing provides a place where pedestrians can be observed while crossing, and people feel safe when using it. The planned alternative will provide a haven for muggers, drug dealers and drug users, and encourage cyclists, skateboarders, etc. This would put off a great many people, who would be forced to go a very long way round on foot, or to get a taxi. Also, people going from Howley Street and continuing up Stoney Lane (and vice-versa) will face a lengthy diversion. Parents with pushchairs will find it difficult and inconvenient, and many boys from the High Scholl will surely find a quick way to scale the fence or wall and run across the track.

There are many other concerns regarding safety and the impact on the environment in this conservation area, many of which will have been expressed to you by others...”

Very similar comments made by several respondents:

“Convenience: diversion turns straightforward walk of 17m, into a convoluted run of 255m via steps or 355m via ramps. This increased journey will deter the elderly or those pushing a wheelchair for example.

Safety: Existing footpath is supervised, day and night, by the signaller. The increased journey will be undertaken with no such protection and is thus discriminatory against women who are more likely to fear assault, especially in the dark.

There is a risk of injury from collision with cycles, motorbikes, skateboards and horses.

There is no escape along the footpath to avoid vehicles or potential muggers. Some people may be tempted to jump the wall as a quicker means of crossing the line. The crossing is used daily by unaccompanied schoolboys walking to 2 local secondary schools.

The walk alongside the track, shielded only by a mesh fence, will leave walkers vulnerable to the force of express trains and a soaking in bad weather. The footpath will be subject to ice and a danger of people slipping in winter.

Environmental: Despite Kirklees claiming it will have a negligible effect on the adjacent Conservation Area of Upper Batley, that is definitely not the view of those living close by, who describe it as an eyesore.

It destroys the much-loved historical Batley signal box, reminiscent of the Railway



Children.

It will have negative impact on plants and wildlife. Another issue minimised in Kirklees reports.

Maintenance: Neither Network Rail or Kirklees Council have accepted responsibility for maintenance, like lighting etc to date.

In short the diversion will effectively close the crossing to some people and be much less safe and convenient for everyone.”

Reference made to a single person known to have taken their own life at the crossing in period of 40+ years respondent has known the area. Also:

“The crossing has always been well used by all age groups - children going to various schools, families going for walks on Howley, people walking their dogs and older people going for exercise walks.

... we were told on several occasions [by Network Rail] that having the bridge instead of the crossing would be safer all round but no real reasoning was given as to why this would be. Even though those at the meeting were told that people had been known to climb the gates or wall to get over to the other side when the gates were closed (and this included adults as well as teenagers) they did not seem to think this would be a problem. The changes they are intending to put in place would not really have any effect on this.

Another problem would be that of drug dealers - they already use the land at the back of the church and one or two of the roads. The bridge would not just be an ideal place for them to deal but also a good place to disappear quickly to the other side of Batley. As many of the people who use the crossing at the same time each day a bridge with opaque sides would be ideal for muggers to hang out on.

The bridge could at certain times of the year provide space for rough sleepers and this could lead to them being in dangerous situations.

Whilst I appreciate that Network Rail has provided access for mobility scooters and push chairs they have also provided access for e-scooters, skate boards, cyclists and rollerbladers, all of whom could come in contact with older people and cause serious accidents. Also when you think of the news stories about safety for women there have been this bridge can hardly be considered a safe place and I am thinking about people coming and going to and from work.

One of the other main problems with this bridge is maintenance... a Network Rail representative ... was adamant that as soon as the bridge was brought into use it would be handed over to Kirklees Council for its maintenance. This would mean that Kirklees would be responsible for hygiene, checking the lights were all working and putting grit down on the steps and slopes in freezing weather. As they do not have the staff to do this on all the roads around here this could be a dangerous problem. At the present time the crossing is always thoroughly gritted. Also if there is CCTV on the bridge who is responsible for checking and maintaining it?

The removal of vegetation to make the path could lead to problems also - less vegetation leads to less water absorbed and tree roots spread a long way underground and take time to rot. This slow rotting could lead eventually to the soil beginning to move down the slope.

The fact that there is someone in the signal box means that problems of people on the line can be easily picked up.

This crossing is part of a footpath which extends to both sides of it - it is a well-used and well-loved crossing, and it might have been better if surveys had been taken throughout the year”

“This... application is an attempt by Network Rail to avoid taking responsibility for the safety of people crossing their line by diverting the footpath and putting pedestrians into a position of danger.

At present, the public have a safely maintained crossing, but in future (if this application is passed) will be at risk of bicycles, scooters, motorbikes and muggers.

The proposed diversion alongside the existing track puts the public and especially pensioners and children at considerable risks to the elements and passing trains. This is not the case at present.”

“If this application is approved:-

- (1). Who will maintain the diversion?
- (2) who will be responsible for the safety of pedestrians?
- (3) who will be responsible for compensating pedestrians for accidents caused by this diversion?”

“My principal concern is that in the case of Lady Anne Crossing, the rights of the landowner (NR) are being unreasonably preferred over those of the public for whom the proposed changes would worsen the quality of life for both nearby residents and footpath users for the following reasons.

(1) The existing footpath arrangements involve a very short (17m) walk under the supervision of a NR signaller. The proposed arrangements create an unsupervised 335m diversion for users intending to travel along Stoney Lane and approx 108m for users heading towards Batley town centre via Rutland Road. For the great majority of Soothill residents, the latter is irrelevant because routes via Soothill Lane provide much quicker access to Batley town centre. Stoney Lane users would therefore be put to a significant inconvenience by the new route.

(2) It appears to be widely accepted by Kirklees Council ("KC") and British Transport Police ("BTP") (ref their submissions of 2/12/21 and 17/9/21 respectively [consultation responses regarding the associated planning applications]) that the new path / footbridge raises serious issues of increased crime and anti-social behaviour.

NR's own Planning Design & Access Statement (para 5.13) claims an objective of

creating a space "where crime and disorder, and the fear of crime, do not undermine the quality of life" - without offering any effective solutions.

KC's answer seems to be "more lighting" which would give the area the character of an industrial estate as well as a detrimental effect on wildlife.

BTP suggest illumination in conjunction with the times of street lighting which means that at dawn/dusk there will be no lighting at all at times of maximum user activity. BTP propose that users of the path/footbridge should have a "clear sight line along the whole of the route aimed to reduce their fear of crime" and hence the use of wire mesh fencing. The configuration of the ramps make such a sight line impossible, however, and KC seems to prefer enclosed panels in places.

Clearly, the objective of reducing the fear of crime is not being met.

(3) Issues of pedestrian safety have not been adequately addressed...

[NR have advised]...the footbridge would be for pedestrian use only, without ever explaining how trail bikes, scooters & bicycles (not to mention mobility scooters/wheelchairs for the disabled) would be excluded. Whichever direction users take, they are being forced to take a 335m diversion with no means of avoiding bikes etc. For users who have small children with them, or pushchairs, or disabled users, this is a potentially frightening prospect. There is no escape route half way along the footpath. Similarly, there is nowhere to escape if a mugger suddenly confronts users as the route is closed off on both sides.

(4) Road safety issues have not been addressed. The proposed footbridge would join Rutland Road at a sharp (90 degree) bend in the road. That corner is already dangerous enough (no lines of sight for vehicles passing in the opposite direction) without adding the distraction of extra pedestrian use at that precise point.

In summary, BTP state that the proposed structures should provide a "desirable feature which users will want to use". KC refer to Local Plan policies LP24 & LP35 requiring proposals to "add to the overall quality of the area". Plainly, views will differ on this point. All the residents / users in the immediate vicinity of the proposed path / footbridge regard such structures as an eyesore completely out of keeping with the present character and appearance of the conservation area. KC, who of course would not have to live with the structures on a daily basis, seem to adopt a completely contrary view and assert, without presenting any supporting evidence, that the proposed development will have "negligible direct and indirect impact" and be "sympathetic to the character, heritage and landscape of its context". Exactly how a 335m wire mesh/panel enclosed walkway and substantial steel bridge becomes a harmonious addition to a conservation area defies all logic.

Finally, we have the question "will users want to use the proposed path / footbridge"? In essence, users are faced with exchanging a very short, safe walk at the existing crossing for a significant detour on a route that is unprotected, impossible to escape from once started, exposed to anti-social users (on bikes etc), gangs gathering in secluded areas and in particular, muggers. No amount of extra lighting, for roughly half the year, can eliminate such problems. The proposals are

discriminatory against women, especially when accompanied by small children, who will simply be afraid to use the proposed structures. Instead, they will seek alternative (and much longer) routes or switch to using cars or taxis. For many local users/residents, the proposed development will amount to the closure of the existing footpath and longstanding right of way. This is of no concern to NR and its relentless mantra of "faster trains" (an assertion with many flaws) and bogus claims of "safety" - but it is of considerable concern to members of the public who use the existing crossing and whose interests are in danger of being ignored and abandoned."

"This footbridge will not increase the number of trains. It will not increase the speed of the trains. It will not reduce accidents at the crossing. All it will produce is an eyesore and a huge cost to Network Rail and the taxpayer."

"I would like to lodge our objection to the proposal of the above diversion to the footpath. The reasons being:-

1. safety of the public walking near the railway line.
2. Confirmation of responsibility of the upkeep of the footpath, lighting, security, risks of vandalism and how often this will be maintained.
3. Increased length of time proposed to cross the railway track and why can't the crossing be left as it is."

Similar comments made by two respondents:

"-Safety, there have been no untoward incidents at the manned level Crossing. However the proposed alternative footpath is long, dark and isolated. People using the path / bridge will be out of view.

- Proximity to the railway line. The current crossing is short but the proposed path runs adjacent to the railway line and in close proximity. Trains splash water and diesel in wet weather, are dirty, noisy and quite frightening.

- There is a risk of loss of flora and fauna in the proposed plans.

- Foxes and bats live along the railway banking and are at risk of being displaced.

- Rutland Road is a conservation area, the proposed changes will affect the area negatively.

- My family personally use the crossing several times a day... the proposed changes will not only make the journey much longer on foot but will mean using the path during the dark on winter mornings and evenings...

...My last issue is with the historical value of the crossing which is fitting with the Victorian buildings on Rutland Road and will be completely lost through closure of the crossing."

Comments from Cllr Zaman:

“Further to my previous e-mail regards my objections for this planning application, please see below further comments from the public.

Issues raised by others include:-

- Convenience: diversion turns straightforward walk of 17 m, into a convoluted run of 255m via steps or 355m via ramps. This increased journey will deter the elderly or those pushing a wheelchair for example.
- Safety: Existing footpath is supervised, day and night, by the signaller. The increased journey will be undertaken with no such protection and is thus discriminatory against women who are more likely to fear assault, especially in the dark.
- There is a risk of injury from collision with cycles, motorbikes, skateboards and horses.
- There is no escape along the footpath to avoid vehicles or potential muggers.
- Some people may be tempted to jump the wall as a quicker means of crossing the line. The crossing is used daily by unaccompanied schoolboys walking to 2 local secondary schools.
- The walk alongside the track, shielded only by a mesh fence, will leave walkers vulnerable to the force of express trains and a soaking in bad weather. The footpath will be subject to ice and a danger of people slipping in winter.
- Environmental: Despite Kirklees claiming it will have a negligible affect on the adjacent Conservation Area of Upper Batley, that is definitely not the view of those living close by, who describe it as an eyesore.
- It destroys the much loved historical Batley signal box, reminiscent of the Railway Children.
- It will have negative impact on plants and wildlife. Another issue minimised in Kirklees reports.
- Maintenance: Neither Network Rail or Kirklees Council have accepted responsibility for maintenance, like lighting etc to date.
- In short the diversion will effectively close the crossing to some people and be much less safe and convenient for everyone”

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