
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

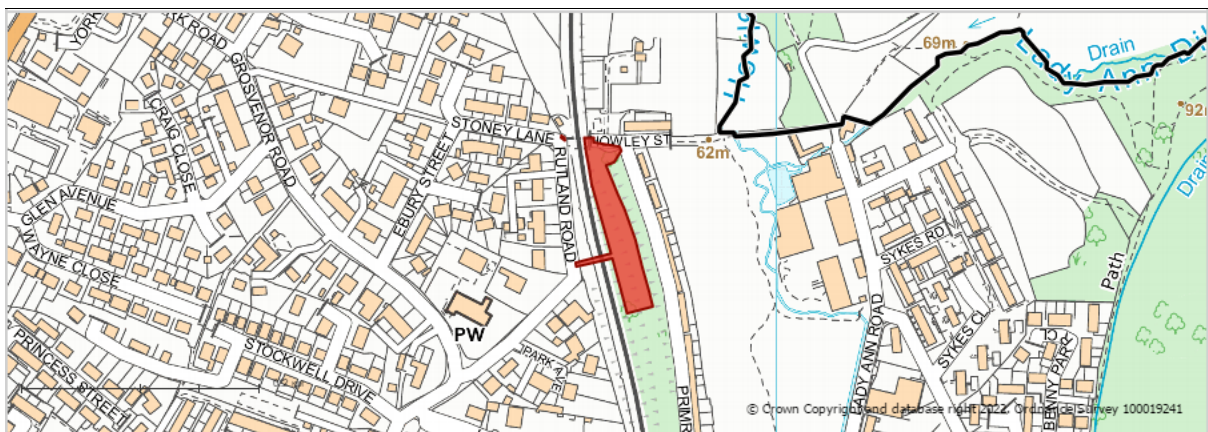
EXTENSION EXPIRY DATE

10-Nov-2021

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

Electoral wards affected: Batley East

Ward Councillors consulted: Yes

Public or private: Public

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 28th February and 1st 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 (14th 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 28th February and 1st 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 14th 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 14th 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