



TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE) (ENGLAND AND WALES) RULES 2006

THE NETWORK RAIL (FERRYBOAT LANE FOOTBRIDGE REPLACEMENT) (LAND ACQUISITION) ORDER

NR7 - CONSULTATION REPORT

Rule 10(2)(d)

Document Reference	NR7
Author	Network Rail
Date	March 2020



[Page left intentionally blank]



Table of Contents	Page
1. Introduction	1
2. Brief description of the project	1
3. Consultation Approach	2
4. Conclusions	4

1. Introduction

- 1.1. An application has been made by Network Rail Infrastructure Limited ("Network Rail") to the Secretary of State for Transport under section 6 of the Transport and Works Act 1992 ("the 1992 Act") for The Network Rail (Ferryboat Lane Footbridge Replacement) (Land Acquisition) Order under sections 1 and 5 of the 1992 Act. The proposed Order will not authorise the construction of works or any other development.
- 1.2. The land is required for works to construct a ramped footbridge to replace an unsafe level crossing over the railway. It would also replace an existing life expired stepped footbridge across the railway ("the project"). The diversion and extinguishment of the existing footpaths are not included in the proposed Order, separate applications having been made under the Highways Act.
- 1.3. Rule 10(2)(d) of the Transport and Works Act (Applications and Objections Procedure (England and Wales) Rules 2006 ("the Application Rules") require the applicant to submit with the proposed Order "a report summarising all the consultations that have been undertaken, including confirmation that the applicant has consulted all those named in Schedules 5 and 6 to these Rules or if not an explanation of why not".
- 1.4. This report summarises the consultation undertaken by Network Rail in relation to the application for the proposed Order and has been prepared to comply with Rule 10(2)(d) of the Application Rules.

2. Brief description of the project

- 2.1. The existing Ferryboat Lane Footbridge, (railway structure reference PED5/42A) ("the existing footbridge") is situated on the Doncaster to Sheffield Railway line between Conisbrough Station and Mexborough Station.
- 2.2. The railway is a mixed-use route carrying both local and regional passenger services and long-distance freight.
- 2.3. The existing footbridge is located immediately to the east of Ferryboat Lane Footpath Level Crossing ("the level crossing") and carries a public footpath, known as Denaby No. 4 footpath between the town of Mexborough to the north and the village of Old Denaby to the south. The public footpath also crosses the River Don and the Sheffield and South Yorkshire Navigation to the north of the railway line.
- 2.4. The public footpath is currently recorded in the narrative to DMBC's definitive map as passing over the existing footbridge, but the plan shows it passing over the level crossing. DMBC appears to treat the narrative as being accurate, and taking precedence, and therefore considers here are no public foot rights recorded on the level over the crossing.
- 2.5. There is a pending application, (logged with DMBC on 7 July 2011, Ref. "PROWSch14_29"), by an applicant whose details are unknown to Network Rail to modify the definitive map. It is presumed that this application was lodged with supporting evidence to show the legal right of way should be over the level crossing but the details of any evidence lodged are not known to Network Rail. Network Rail has therefore taken a precautionary approach by making an application under s.119A of the Highways Act 1980 to divert the right of way from the level crossing on to the proposed footbridge.
- 2.6. The level crossing is unsafe and was physically shut around five years ago for that reason. The existing stepped footbridge is not considered an acceptable replacement for Equalities

Act reasons. The existing footbridge has also now reached the end of its life and, in order to maintain safe passage for the public, needs to be replaced.

- 2.7. Network Rail has therefore applied to DMBC under S119A of the Highways Act 1980 to divert the public footpath from the existing level crossing and over the proposed new footbridge and has simultaneously applied under section 118 of the Highways Act 1980 to extinguish any public footpath over the existing stepped footbridge as it will not be required. Both of these orders were made by DMBC on 28th February 2020 and following one objection from a landowner these orders have not yet been confirmed.
- 2.8. Network Rail proposes to construct the new footbridge in a new location immediately to the west of the level crossing and open it to the public before demolishing the existing stepped footbridge. The foot of the ramps on each side of the railway will be adjoining the current route of footpath Denaby No.4.
- 2.9. The replacement footbridge is part within land owned by a third party. Therefore, and in order to deliver all elements of the project works, Network Rail needs to acquire land permanently and use other land temporarily.
- 2.10. To deliver, maintain, and operate the project works Network Rail will need to permanently acquire approximately 1300 m² of third-party land to the north west of the existing level crossing.
- 2.11. Network Rail will also need to take temporary occupation of land outside of its existing operational land for use as works compound and construction areas, in third-party land of approximately 3230m² to the north east of the existing level crossing and also approximately 855m² combined, to the south west of the existing level crossing.
- 2.12. Negotiations with land owners are continuing. However, to ensure that Network Rail can secure the land required to deliver all elements of the project works Network Rail has applied for the proposed Order which is limited to conferring the necessary powers required for the following specific purposes:
 - 2.12.1. To authorise the permanent acquisition of land required upon which to construct the project works
 - 2.12.2. To authorise the temporary occupation of land for the purposes of carrying out the project works or anything ancillary to the project works, which have been authorised by the existing planning permission.
 - 2.12.3. To confer temporary air rights for the purposes of the operation of cranes for the carrying out of the works.
 - 2.12.4. To confer temporary access rights for the purposes of construction of the works.

3. Consultation Approach

- 3.1. Network Rail is committed to early, thorough and meaningful consultation with all relevant stakeholder groups (including statutory and community consultees) to ensure all those who might have a view on a proposal are able to have their say.

- 3.2. This consultation is appropriate and proportionate to the nature and scale of the project with stakeholder groups being contacted at an early stage of a project's development to provide consultees with an opportunity to provide feedback on proposals. Every effort is made by Network Rail to build and maintain this dialogue throughout the entire life of the project.
- 3.3. The objectives of Network Rail's stakeholder consultation are to:
 - 3.3.1. Share information with those stakeholders identified as being affected by or interested in the proposals
 - 3.3.2. Give members of the community the opportunity to have their say
 - 3.3.3. Gather feedback from both stakeholders and the community for consideration in the final design proposal, and
 - 3.3.4. Create an environment for continuous engagement.
- 3.4. In this particular case, the project works, including demolition of the existing footbridge, have been authorised through a planning application granted by DMBC. The process of consideration of the planning application includes consultation internally within the council including the following departments:
 - 3.4.1. Built and Natural Environment (ecology): Pre-commencement Construction Environment Management Plan to avoid impact to Local Wildlife Site of Old Denaby Wetlands.
 - 3.4.2. Highways Development & Control: Pre-commencement Construction Traffic Management Plan to address concerns with vehicle movements/pedestrian interface, and with Ferryboat Lane Farm Fishery. Also, detailed design F006 to be reviewed by DMBC.
 - 3.4.3. Public Rights of Way: No comment. Referred to need for diversion of footpath from existing route(s) to new footbridge to be made by a separate legal order (as made by DMBC on 28 February 2020).
 - 3.4.4. Tree Officer: A tree survey is required, and a pre-commencement planning condition imposed to require DMBC approval of any proposed tree works and agreement of an arboricultural method statement.
- 3.5. DMBC also consulted with external stakeholders including the following:
 - 3.5.1. Canal & River Trust: No comment.
 - 3.5.2. Environment Agency: No objections re flood risk. Under EPR (Environmental Permitting Regulations) permit for construction flood risk activities may be needed.
 - 3.5.3. Health and Safety Executive: No comment (not within consultation distance of a major hazard site or a major accident hazard pipeline)
 - 3.5.4. Natural England: No comment. Directed to standing advice on impacts on protected species and also ancient woodland and veteran trees.
 - 3.5.5. Yorkshire Wildlife Trust: Insufficient information to assess potential impact on LWS (Local Wildlife Site), potential habitat loss, and impact on breeding birds. Suggested agreement of a pre-commencement CEMP (Construction Environment Management Plan).
 - 3.5.6. Local Community: The planning application was advertised by DMBC using routine methods, (on-line planning portal, placement of site notices and local newspaper

advertises), and the planning officer reported that “following consultation with relevant parties and neighbours no objections have been received”.

- 3.6. As part of the Highways Act 1990 s118 and s119A applications by Network Rail to DMBC for closure and diversion of the Old Denaby Footpath No.4, DMBC complied with its obligations to consult and advertise Orders in accordance with its statutory duty.
- 3.7. Network Rail has been in consultation with landowner, Joseph Whittaker, in respect of permanent land take required for the new replacement ramped footbridge since October 2017, the most recent approaches being in April 2019 and March 2020.
- 3.8. Discussions with Joseph Whittaker regarding temporary occupation of land to the north of the proposed new footbridge, and also land to the south west of the existing level crossing for a construction compound was commenced in December 2018, the most recent approaches being in April 2019 and March 2020.
- 3.9. Discussions have been held with the owners of Ferryboat Lane Farm Fisheries Limited who have verbally agreed in principle to the temporary occupation of their land to the south of the railway and access across a small area of land for access to the proposed site compound. Work is ongoing to establish legally binding terms and conditions. This land is included in the TWAO should it not be possible to secure a negotiated agreement.
- 3.10. Discussions are ongoing with DMBC regarding temporary re-routing through its land to the south east of that part of Denaby No. 4 footpath that falls south of the railway line and which will be affected by construction activities for the new footbridge. It is anticipated that agreement can be reached to ensure the safety of users of the public footpath during construction works.

4. Conclusions

- 4.1. As detailed in this report, Network Rail has undertaken an appropriate and proportionate level of meaningful consultation with the stakeholders who are potentially affected by the proposed land only Order.
- 4.2. The project works have been authorised through the planning process managed by DMBC as the local planning authority who undertook consultation in accordance with their own planning policy and no objections to the proposed replacement of the footbridge was received by them. The planning application was unopposed and authorised by DMBC through delegated powers.
- ~~4.3.~~ The diversion of the public footpath over the level crossing and extinguishment of the public footpath right of way from the existing footbridge to the new footbridge, also managed by DMBC, who undertook consultation in accordance with their own policy, was made by orders of DMBC dated 28th February 2020 and following advertisement on 31st January 2020 there was one objection and the orders were not confirmed by DMBC and will be referred to the Secretary of State for confirmation.
- 4.4. From the formal process of gaining planning permission for the new ramped footbridge and securing extinguishment and diversion orders for Denaby No. 4 footpath from DMBC it has been established that there are no objections in principle to the proposed project and it is widely supported.
- 4.5. Planning conditions have been made by DMBC and Network Rail intends to fully comply with those prior to commencement of the proposed works.
- 4.6. Discussions with Ferryboat Lane Farm Fisheries suggests that it will be possible to reach formal agreement on rights and temporary use of their land and correspondence continues.



- 4.7. Discussions with DMBC regarding temporary diversion of the footpath suggests that it will be possible to reach formal agreement and correspondence continues.
- 4.8. As it has not been possible to date to reach an agreement by negotiation, discussions with Joseph Whitaker regarding permanent and temporary land acquisition continue. His current position is to see how the TWAO progresses and deal with the matter through compensation should we be successful in having the TWAO granted.
- 4.9. Network Rail will continue to communicate and engage with the landowners and occupiers, those with an interest in land, and all other consultees following the submission of the application for the proposed Order, with the aim of reaching a negotiated settlement.
- 4.10. Until such time as all necessary agreements are in place Network Rail intends to progress this Transport and Works Act Order to secure rights and compulsory purchase powers for land required to construct, operate and maintain the replacement footbridge at Ferryboat Lane.