

Consultation response from KC PROW (footpaths)	
2021/93311 Land between, Rutland Road, Howley Street, Primrose Hill, Batley [Including Lady Ann Crossing]	
Erection of new footbridge, ramps and stairs (within a Conservation Area).	
Date Responded: 12/11/21	Responding Officer: Phil Champion
<p><b><u>No objection at the present time.</u></b> However, further informal consultation will take place regarding an application for a diversion Order under s257 TCPA 1990. This will consultation with user groups. The lack of objection to the planning application at this stage does not guarantee a recommendation to members to make / confirm an Order to divert or extinguish the public right of way.</p> <p>Public footpath BAT/20/20 at Howley Street crosses the Leeds-Manchester railway line by means of a manned gated crossing (MGC) (Lady Ann Crossing, sometimes spelled 'Lady Anne'). The crossing and footpath provide pedestrian access over the line from Rutland Road / Stoney Lane on the west and Primrose Hill on the east. There are also stated to be private vehicular rights over the crossing via separate vehicle gates. PROW comments regarding the level crossing only directly relate to the public right of way and not any private rights.</p> <p>Network Rail's stated aim is to close the level crossing in connection with the Trans-Pennine Route Upgrade. This project included electrification and making the route suitable for faster and more frequent trains. This includes the closure of the Batley signal box located adjacent to the level crossing.</p> <p>The manned gated crossing is currently operated by the signaller in the adjacent signal box. with gates remaining locked until the signaller is satisfied that it is safe for pedestrians to proceed across the lines.</p> <p>The existing level crossing and western end of the proposed footbridge abuts the boundary of the Upper Batley Conservation area. Proposed works affecting the boundary features alongside the railway line would appear to require planning permission.</p> <p>The only element of the proposed development that would necessitate formal closure of the level crossing is the proposed construction of a new section of stone wall along the boundary of the conservation area in place of the existing level fences and level crossing gates. The construction of the new footbridge itself and approach path / ramp from Howley Street could be carried out without the requiring formal stopping up or diversion of the existing public right of way, although that would not be consistent with Network Rail's stated aims.</p> <p>It is important to note that the granting of planning permission would not itself be sufficient for the development to be carried out and the level crossing closed. Stopping up or diversion of the public right of way would be required through the making / confirmation of an Order under separate legislation.</p> <p>Network Rail have formally applied to the Council for an Order under section 257 of the Town and Country Planning Act 1990 to divert the public footpath over the proposed footbridge. The legal tests for the making and confirmation of Order under s257 are distinct from those for the granting of planning permission. Should the Committee be minded to grant planning permission for this development, members would then</p>	

need to separately consider whether or not an Order should be made and confirmed, taking into account the appropriate legal tests.

We will be commencing an informal consultation exercise shortly in respect of the s257 application. A separate report will be presented to the Planning Sub-committee in due course regarding that matter.

It is suggested that a decision regarding the planning application should be made prior to a decision regarding the application for an order under s257. Should planning approval not be granted there would be no basis for making an Order to stop up or divert the public footpath. However, as Network Rail's stated aim is to achieve closure of the level crossing, it is considered appropriate for the two matters to be considered in tandem, i.e., consecutively, at the same committee meeting.

### **Suggested condition**

No part of the development affecting public footpath BAT/20/20 at Lady Ann Crossing should be carried out until an Order for the formal diversion or extinguishment of the public right of way has been made and confirmed.

### **Further observations regarding the proposal**

The continuation of the boundary wall alongside Rutland Road would necessitate the diversion of the public footpath on to another route.

The current pedestrian level crossing is gated with heavy metal gates. These are electrically unlocked by the signaller when it is considered safe for pedestrians to use the crossing. These gates are heavy and limit the accessibility of the route, e.g., for disabled users, people with pushchairs / prams etc. 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 the risk has not been quantified.

The route via the proposed bridge would not have the limitations on accessibility presented by the current level crossing. However, the diversion route via the footbridge would be considerably longer than the direct route over the crossing.

The existing footpath route over the level crossing is approximately 17 metres. Members of the public intending to travel along Stoney Lane to or from the crossing would be presented with a very significant diversion, including via Rutland Road. Network Rail indicate the route via the footbridge and footway along Rutland Road to be 255m via steps or 335 via ramps. I.e., a very significant increase in overall length.

However, 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 (approx. 150m compared with existing approx. 122m (via the steps). A route via ramps would add an additional approx. 80m to this distance

The general specifications for ramps / steps / bridge and boundary treatments appear acceptable. However further details should be provided as requested by Structures. It is understood that the maintenance responsibility for ramps / steps / bridge would remain with Network Rail.

It is noted that various concerns were raised during the neighbour consultation. Including potential future anti-social behaviour and perceptions that the users of the path / bridge would be placed at risk of crime. The replacement route should be appropriately lit which may mitigate some of these concerns. That would be subject to separate agreement between Network Rail and Kirklees Council