

**PROPOSED CLOSURE AND DOWNGRADING OF
NETWORK RAIL LEVEL CROSSINGS BY
TRANSPORT AND WORKS ACT ORDER**

Presented by the Head of Planning and Strategic Partnerships

EXECUTIVE SUMMARY

Members may recall from a report at the April 2017 Executive Committee, the existence of Network Rail Infrastructure Ltd's programme known as the East Anglia Level Crossing Closure Project. The programme involves both the closure and change of use of around 130 level crossings in the Anglia region with the stated priority for improvements to public safety. Some of the crossings considered by the programme directly affected access to the Park at Trinity Lane, Cadmore Lane and in particular Slipe Lane. In order to secure the powers necessary to implement their proposals Network Rail applied to the Secretary of State for Transport on 31 March 2017 for a Transport and Works Act Order which gave the affected parties opportunities to submit grounds for objection to the Order being granted. Members agreed at the Executive Committee meeting in April 2017 to object to the Order on the grounds set out in the letter to the Secretary of State for Transport attached as Appendix A to this report. The existence of the objection allowed the Authority to negotiate favourable terms with Network Rail to mitigate the effects of the Order on the Authority's land holdings affected, in particular the acquisition of Authority land at Slipe Lane for the new footbridge to replace the existing crossing. In addition to the payment of consideration to the Authority, Network Rail also agreed to withdraw Slipe Lane from the Order. Members approved the terms to this land acquisition at its Executive Committee meeting in July 2017. The Order as it affects the crossings at Cadmore Lane and Trinity Lane were also resolved and the details of these are also set out in the report below.

RECOMMENDATION

- Members Approve:
- (1) that with the satisfactory outcome of negotiations with Network Rail Infrastructure Ltd the Authority agree to withdraw its objection to the Transport and Works Act Order set out in its letter attached as Appendix A to this report.

BACKGROUND

- 1 Network Rail infrastructure Ltd has recently embarked on a programme of level crossing closures and modifications known as the East Anglia Level Crossing Closure Project involving the closure or change of use of around 130 crossings in Cambridgeshire, Suffolk, Essex, Havering, Hertfordshire, Southend and Thurrock. Network Rail believe that modification or closure of level crossings would improve public safety, reduce delays to both highway and rail users and deliver a more efficient and reliable rail service. The primary intention however is of reducing the risk that the level crossings pose to the public.
- 2 In order to secure the powers necessary to implement their proposals Network Rail applied on 31 March 2017 to the Secretary of State for Transport for a Transport and Works Act Order which if granted would give Network Rail the power to dedicate public rights of way across private land, extinguish existing rights or their alteration. Parties affected had the right to inform the Secretary of State for Transport of their objections to the Order being granted.
- 3 Network Rail's proposals have a direct effect on access to the Authority's open spaces north of the M25 where a great deal of its western boundary is adjacent with the main railway line serving Stanstead Airport, Cambridge and the Greater Anglia region. Both pedestrian and vehicular access to the open space at a number of points along this boundary is via the existing level crossing network. As the Order affected crossings at Trinity Lane, Cadmore Lane and more particularly Slipe Lane Members agreed to object to the granting of the Order to protect the Authority's interests and a letter outlining the reasons for the objection was sent to the Secretary of State for Transport on 4 May 2017. A copy of this letter is attached as Appendix A to this report.

SLIPE LANE

- 4 The Order as it affected Slipe Lane sought to extinguish all private rights over the Slipe Lane crossing and enforce private third party rights over Authority land along an alternative route to the owners of the cottages. At present the Authority has both vehicular and pedestrian rights to cross the Slipe Lane level crossing together with the owners of Aqueduct and Kingsweir Cottages, who in addition have a right of way over Authority land to reach the crossing. The crossing in practice has been closed to vehicles for some time by Network Rail due to public safety concerns and the owners of the cottages have used the Wharf Road crossing further north, routing through an alternative access across Authority land which is unsuitable for the purpose due to the intended use by foot and bicycle. The Authority has for some time sought to prevent any rights being acquired by the owners of the Cottages by letter stating the use of the route is by permission only. Enforcement of the Order granting third party rights would give the owners of the Cottages a legal interest in Authority land they do not at present enjoy, thus producing a diminution in the value of our interest plus an increase in the use and potential damage to the road as a consequence.
- 5 Network Rail were however under pressure to deliver a new pedestrian bridge at this location as a priority and to avoid the delay caused by our objection, having agreed to withdraw the Order as it affects Slipe Lane. This was on the condition that the Authority agree to the terms provisionally agreed to dispose of the land needed for the bridge. This withdrawal of the Order will have the effect of the Authority and third parties retaining their existing vehicular rights over the crossing. Members approved these terms at its Executive Committee meeting in

July 2017.

CADMORE LANE

- 6 The Order at Cadmore Lane sought to extinguish all remaining public pedestrian and vehicular rights over the former level crossing and designate the existing ramped bridge and a small section of Authority land as replacement public right of way.
- 7 Members approved in a report in March 2012 a provisionally agreed compensation package in exchange for surrendering Authority rights over this crossing which has been closed since 2012, so the impact of this part of the Order at this location is minimal. Our withdrawal of our objection for this part of the Order will have no effect on the Authority's existing position

TRINITY LANE

- 8 The Order at Trinity Lane sought to downgrade the existing public vehicular rights to bridleway status with proposed private vehicular rights remaining to users authorised by Network Rail only. The Authority has been included as an authorised user for operational purposes. As with Cadmore Lane above the withdrawal of our objection for this part of the Order will have no effect on the Authority's existing position and ability to access and manage its property assets.

ENVIRONMENTAL IMPLICATIONS

- 9 There are no environmental implications arising directly from the recommendations in this report. The withdrawal of the Order as it affects Slipe Lane effectively retains the Authority's position as it was before the Order was applied for. The loss of land to accommodate the new footbridge was by mutually agreed terms approved in an earlier report by Members in July 2017. The Order as it affects Cadmore Lane and Trinity Lane maintains the Authority's existing position in its ability to access and manage its land holdings.

FINANCIAL IMPLICATIONS

- 10 The existence of the objection enabled the Authority to extract more favourable terms from Network Rail when disposing of land at Slipe Lane for the new footbridge. The withdrawal of the Order at Slipe Lane also protects and maintains the value of the Authority's land holdings at this location.

HUMAN RESOURCE IMPLICATIONS

- 11 There are no human resource implications arising directly from the recommendations in this report.

LEGAL IMPLICATIONS

- 12 Transport and Works Act Orders are made under the Transport and Works Act 1992 and permit infrastructure providers such as Network Rail to acquire the necessary powers to implement infrastructure schemes, in this case to downgrade level crossings by either extinguishment or modifications to rights of way or by diverting rights to alternative crossing points nearby. As part of the Transport and Works (Applications and Procedures) (England and Wales)

Rules 2006 the Authority objected to the Order within the timescale from the date of its service. The objection letter sent by the Authority in this case is attached to this report as Appendix A.

RISK MANAGEMENT IMPLICATIONS

- 13 Should the Transport and Works Act Order remain in force and be granted the Authority would be compelled to surrender existing rights it enjoys at Slipe Lane crossing which forms part of the Order and will have third party rights imposed on its retained land.

EQUALITIES IMPLICATIONS

- 14 There are no equalities implications arising directly from the recommendations in this report.

Author: Nick Powell, 01992 709832, npowell@leevalleypark.org.uk

BACKGROUND REPORTS

None

PREVIOUS COMMITTEE REPORTS

Executive	E/489/17	Proposed closure and downgrading of Network Rail level crossings by Transport and Works Act Order	27 April 2017
Executive	E/513/17	Proposed disposal of land for new footbridge at Slipe Lane rail crossing	20 July 2017

APPENDIX ATTACHED

Appendix A Letter of objection dated 4 May 2017 to Secretary of State for Transport



The Secretary of State for Transport
Department for Transport
c/o Transport and Works Act Orders Unit
General Counsel's Office
Department for Transport
Zone 1/18 Great Minster House
33 Horseferry Road
London SW1P 4DR

npowell@leevalleypark.org.uk

Direct Line 01992 709 832

Date 4th May 2017

Dear Sirs,

**NETWORK RAIL (ESSEX AND OTHERS LEVEL CROSSING REDUCTION)
ORDER**

**APPLICATION BY NETWORK RAIL INFRASTRUCTURE LTD UNDER SECTION 6
OF THE TRANSPORT AND WORKS ACT 1992 FOR AN ORDER UNDER
SECTIONS 1 AND 5 OF THAT ACT**

I refer to the application to you dated 31st March 2017 by Network Rail Infrastructure Ltd's Deputy Group General Counsel to grant the above Order.

The contents of the Order affect 3 level crossings that directly affect public and Authority access into the Regional Park and these are the crossings at Trinity Lane, Cadmore Lane and Slipe Lane. Authority members at a meeting of its Executive Committee on 27th April 2017 considered this Order.

This letter is written on behalf of the Authority to inform the Secretary of State of this Authority's objection to the granting of this Order for the reasons stated below:

1. The rationale for the NRIL policy of reducing the number of surface level crossing points to prevent unnecessary accidents is clear. However the incremental nature of closures is prejudicial to the Authority's strategic interests of encouraging visitor access to all parts of the Regional Park. The Regional Park is a unique resource allowing opportunities for passive and active recreation. There are 8 fisheries in the locality and the loss of this vehicular crossing would increase extraneous vehicular traffic movements from Wharf Road through the Regional Park at the expense of visitor safety.

2. The Authority understands that both the Wharf Road crossing and Slipe Lane crossing have the same category status for safety defined by NRIL. The Authority would like to take this opportunity to request an access strategy which balances the safety of people visiting the Park across this line with a long term view of ensuring the beneficial use of land which meets the statutory purposes of the Regional Park. This could include a rationale as to why Slipe Lane is being proposed for closure over Wharf Road at this time? The retention of Wharf Road as the principal crossing into the Regional Park would be prejudicial to the Authority's management of the Park in the light of the emerging proposals linked to the delivery of Cross Rail 2.
3. The Order seeks to extinguish all private rights over the Slipe Lane crossing and enforce private rights over Authority owned land along this alternative route to the owners of the cottages. At present the Authority has both vehicular and pedestrian rights to cross the Slipe Lane level crossing together with the private owners of Aqueduct and Kingsweir Cottages who in addition have a right of way over Authority land to reach the crossing. The owners of the cottages have preferred to use the Wharf Road crossing further north routing through an alternative access across Authority land intended for pedestrian and cycling use and is therefore unsuitable for the granting of vehicular rights. The Authority has for some time sought to prevent any rights being acquired by the owners of the Cottages over this route. Enforcement of the Order would undermine the Authority's efforts to date and produce a diminution in the value of our interest plus an increase in the use and potential damage to the road as a consequence.
4. There are environmental implications arising from the proposed application for the Order. The site served by the Slipe Lane crossing is a designated Local Wildlife Site with known protected species present. Third party vehicular rights across the site would undermine efforts to manage this sensitive location.

The Authority is satisfied with the undertakings proposed at Cadmore Lane and is happy with NRIL undertaking that the Authority will be an authorised user enabling vehicular access to be maintained at Trinity Lane

Yours Faithfully



Nick Powell
Property Surveyor