



OFFICER REPORT

Application Number: 23/00043/P18

Proposal: Level crossing upgrade/redevelopment

Location: Dimmocks Cote Level Crossing Newmarket Road Stretham Cambridgeshire

Applicant: Network Rail Property (Eastern Region - Anglia)

Agent:

Case Officer: Holly Chapman

The Application:

The application proposal seeks to undertake level crossing upgrade works at the Dimmocks Cote Level Crossing. The works are part of Network Rail's wider C3R project affecting approximately 125 miles of track and seven level crossings. Specifically at Dimmocks Cote, the works aim overall to:

- Upgrade of level crossing from Automatic Half Barrier (AHB) to a Manually Controlled Barrier crossing Supervised by Obstacle Detector (MCB-OD)
- Installation of new Relocatable Equipment Building (REB) module and fence.
- All fencing and equipment around level crossing will be renewed.

More specific works include the following:

As part of the MCB-OD and equipment upgrades, the following infrastructure will be installed:

- New barriers across the full width of the carriageway and footways, fitted with skirts and cages;
- New RTLS (Road Traffic Light Signals) at each corner of the level crossing;
- New 'keep crossing clear' signage;
- Audible warning devices;
- Surveillance cameras to monitor mis-use of crossing;
- Telephones with associated signage;
- Pedestrian stop signs;
- RADAR scanners;

The REB includes:

- One Green REB for an equipment module and power supply;

Upgrades to surfaces and boundaries also includes:

- New rubber pyramid trespass guards across the railway;
- Road marking commensurate with the road and level crossing type;
- Footways of 1metre in width extended to length of crossing area on both sides of road to provide refuge for pedestrians from passing vehicles.
- Retaining boards installed to provide for installation of equipment and access for railway staff;
- 1.4 metre high white palisade fencing with grey 1.4 metre high weldmesh within the barriers.

The works propose largely to upgrade existing infrastructure. The works are proposed to commence mid-2023.

Relevant Plans:

Plan Reference	Version No	Date Received
157001-NRD-DRG-ESG-000123 Plan	A02	26th January 2023
Biodiversity/Ecological Assessment 2484080		26th January 2023
DRG-ESG-000122	A03	26th January 2023
Arboricultural/Tree Impact Assesment/Plan 2484085		26th January 2023
Flood Risk Assessment / Plan 157001	P01	26th January 2023
7951370-3	G	26th January 2023
7951370-3 (historic limit)	G	26th January 2023
Surface water strategy statement		26th January 2023
Construction management plan 157001-ALS-PLN-EEN-000011	P02	26th January 2023
Example Photograph of existing barriers up		26th January 2023
Example Photograph of New - MCB-OD - Barriers Up		26th January 2023
Photograph s1-049823JPG Network rail route view 1		26th January 2023
Cover letter TP/ANG/2021/093a		26th January 2023
Example Photograph of New - MCB-OD - Barriers Down		26th January 2023
Sustainability Statement 157001	P02	26th January 2023

The Site and its Environment:

The application site comprises the existing level crossing at Dimmocks Cote in Stretham, and associated existing infrastructure. The site is not located within a Conservation Area, nor is it located near to any Listed Buildings. The site falls within Flood Zones 2 and 3, as defined by the Environment Agency, and within the SSSI consultation zone. A single dwelling (No.29 Newmarket Road) is sited to the west of the level crossing.

Planning History:

22/01026/P18 Level crossing upgrade/redevelopment Withdrawn 20.12.2022

Replies to consultations:

Given the nature of the application (prior approval) a site notice was not required to be erected nearby the site. Notwithstanding, the following consultation comments were received.

Conservation Officer - 9 February 2023

States: "No conservation implications"

Cambs Wildlife Trust - 10 February 2023

States: "The Wildlife Trust has not assessed this application because the proposed development appears to represent a low risk of ecological impacts. If evidence to the contrary is provided we will review these comments.

As is standard practice, any mitigation or enhancement measures proposed within accompanying ecological reports should be incorporated into the development design or secured through appropriately worded conditions."

Natural England - 28 February 2023

States: "SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Natural England's generic advice on other natural environment issues is set out at Annex A.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk."

ECDC Trees Team - 27 March 2023

States: "The submitted arboricultural report indicates that there will be no tree related impacts from this proposal if its recommendations are complied with therefore please condition compliance with the submitted arboricultural report."

The Planning Policy Context:

The overarching policy context for the consideration of this application is Schedule 2, Part 18, Class A of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended), relating to Miscellaneous Development (under which development by local or private acts or orders are permitted).

The most relevant policies within the East Cambridgeshire Local Plan 2015 are however as follows:

- ENV 2 Design
- ENV 13 Local Register of Buildings and Structures

Planning Comments:

The works described within the preceding sections of this report comprise railway operational development for which Network Rail has statutory powers and planning permission can therefore granted by virtue of Part 18 (if the development complies with the stipulations of this part).

Network Rail's use of Part 18 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, relates to development authorised by a local or private Act of Parliament.

The railway in this location was authorised by the Act set out below:

- Eastern Counties Railway (Ely, Brandon & Peterborough Extension) Act 1844

The railway in this location was subsumed into the Great Eastern Railway by the Great Eastern Railway (GER) Act 1862. The effect of the GER Act 1862 was to apply the Railways Clauses Consolidation (RCC) Act 1845 to all railways owned by that organisation.

Section 16 of the RCC Act 1845 enlarges upon the works which may be carried out and this includes the power "from time to time alter, repair, or discontinue the before-mentioned works, or any of them, and substitute others in their Stead; and they may do all other Acts necessary for making, maintaining, altering, or repairing and using the Railway".

Officers are satisfied that the works proposed can be dealt with as a Prior Approval application under Part 18 of the GPDO and do not require express planning permission, subject to the limitations set out in the GPDO.

Part 18 of the GPDO requires Prior Approval of the detailed plans and specifications to be obtained from the Local Planning Authority if the works consist of or includes:

- a) The erection, construction, alteration or extension of any building, bridge, aqueduct, pier or dam; or
- b) The formation, laying out or alteration of a means of access to any highway used by vehicular traffic.

For such Prior Approval, Part 18 details that only the location and design or external appearance of a development can be considered.

Development is not to be refused, nor are conditions to be imposed unless:

- a) The development ought to be and could reasonably be carried out elsewhere on the land;*
- or*

b) The design or external appearance of any building or bridge would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.

It is relevant that the majority of the works proposed as part of the level crossing upgrade fall outside of the scope of Part 18, and it is largely the proposed introduction of the replacement and enlarged building (REB) that requires prior approval.

In terms of (a), it is therefore considered that the proposed development could not reasonably be carried out elsewhere on the land as the proposed works are to improve the existing level crossing, and largely take place within land already forming part of the railway.

In assessing (b), the work includes those details as set out within the preceding sections of this report. Whilst the works are seemingly extensive when listed, the realities of the proposals means that the works are largely upgrading existing crossing infrastructure, as well as falling outside of the scope of the application consideration under Part 18.

Indeed, the proposed works will be more visually impactful than the current infrastructure due to the upgrades in technology required to support the upgrade in the safety and functioning of the level crossing.

Notwithstanding, these works are not considered to be uncommon for a level crossing, and will largely be contained within the limits of existing railway land. The proposed REB is proportionate to the scale of the works required, and would not be unduly prominent nor out of place with existing rail infrastructure associated with the existing crossing. The REB would also replace the existing REB, and therefore whilst larger in overall size, there is already presence of a building within the application site.

The works are not considered to impact upon the amenity of No.29 Newmarket Road, given that the works seek to upgrade existing infrastructure and would be located away from the dwelling.

The Conservation Officer raises no objections, although their consultation was in error given the absence of any heritage sensitivities nearby the site.

Other Planning Considerations

The proposed development will result in the removal of some vegetation, and lies within an area of high flood risk.

The trees officer, Natural England and the Cambridgeshire Wildlife Trust have not raised any specific objections over the proposals, but have identified compliance with the submitted reports in some instances.

Notwithstanding, ecological, arboricultural and flood risk impacts are not considered to be a consideration under Part 18, Class A, and to refuse the development or impose a condition on this basis would fail the tests as set out at paragraph A.2 of Part 18, Class A of the GPDO 2015 (as amended). Conditions will not therefore be imposed upon the consent to this effect.

In particular, with regard to ecological impacts, it is considered that there is sufficient separate environmental legislation outside of the planning system which requires all developments to ensure protected species are safeguarded from harm. Informatives will be attached to any consent to that effect.

Conclusion

Given the applicant's Permitted Development rights in relation to the railway, the Local Planning Authority has little control over the proposed works.

Prior approval cannot be refused for any other reason than those set out above.

The works are not considered to injure the amenity of the neighbourhood in a manner that would warrant refusal of the application, or provide the necessary justification for any conditions.

The proposed development requiring Prior Approval is considered to be acceptable within the constraints of Part 18 of the GPDO and is recommended for approval on this basis.

RECOMMENDATION:

GRANT Prior Approval under Part 18 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed: Holly Chapman
Dated: 28th March 2023
Case Officer

C Looper
28/03/2023
pp Planning Manager