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Hand delivered to reception

**PROPOSED EXTINGUISHMENT OF BRIDLEWAY I 20 (PART), Reference PP/NTWR/7
 SILEBY ROAD AND ACROSS THE RAILWAY LEVEL CROSSING, BARROW UPON SOAR**

The Leicestershire Local Access Forum (LLAF) wishes to object to the extinguishment of this crossing.

As an independent statutory body, set up as a result of the Countryside and Rights of Way Act (CRoW) 2000, existing to represent the interests of everyone concerned with access to the countryside and the public rights of way network including footpaths, bridleways and byways, cycleways and areas of open access, we feel that the loss of amenity to the general public is not justified when alternatives are available.

Before it was closed on apparent safety grounds it was a major link in one of the best bridleway circuits in the area, keeping riders mostly off the busy roads. It was also a pedestrian route popular with both locals and leisure walkers giving access to the wider countryside and network of rights of way. With the construction of a new estate by Jelson off the Melton Road, the I 24 footpath to this crossing becomes even more essential for foot travel into the village. It would provide a good route for people from this area to access the bus route and it would again provide for children from Sibleby going to school in Barrow, who at present have to use the narrow and dangerous footway along the busy road.

We remain to be convinced by suggested usage figures produced by Network Rail (NR) and question their methodology. We do not see how they could have counted the number of users if those users had not chosen to make themselves known to NR. Alternative routes are currently being used by the public due to the closure of the crossing giving them no other choice, but that is not a relevant factor.

The LLAF does not believe NR has adequately pursued what we considered to be constructive suggestions for a safer crossing of the railtrack. Without an alternative being provided it creates a significant length of dead-end bridleway and a footpath (between Melton Road and the railway) which is contrary Public Policy for achieving a joined-up PRow network

When the initial suggestions were floated by NR we engaged with them to consider the various alternative solutions they had tabled and accepted that a bridge, suitable for riders, would be an eyesore and impinge unreasonable on nearby residents. It would have involved the probable compulsory purchase of at least one residential property.

We do feel that there is a perfectly feasible solution with a bridge located just off the present line of the route which could have satisfied the foot traffic. We are given to understand that NR does already have Permitted Development Rights (CBC ref P/10/0730/2) for a stepped pedestrian bridge beside Pingle Nook. Riders can however accept a more lengthy diversion and the bridleway rights could have been satisfied as well. It would keep horse riders and cyclists, off the busy roads in Barrow.

We see no reason why the existing rights should not be protected by two solutions if a one-fits-all solution is not available and, bearing in mind their original comments, it seems to us that the only reason why NR are not going down this route is one of cost. There is precedent for bridleway rights being extinguished but footpath rights being accommodated but in this case we believe that both sets of users can be accommodated by two different solutions.

We have over recent years tried to engage constructively with NR on several occasions as regards their plans for level crossings. The suggestions put forward by NR to close a number of level crossings have been explored and we have agreed some diversions or alternative routings by bridge. However some proposals are not acceptable, the alternatives being unsuitable because they are too long; removing a sense of directness of purpose and taking users of a particular route too far out of their way. This is especially true where the route is used more for everyday utilitarian transport rather than recreation or because the alternative involves walking or riding on a busy road, especially if it has no footway or useable verge. With the new housing development this would increasingly be the case with this crossing were it to remain available.

We see ourselves as critical friends offering constructive advice based on our breadth of local knowledge and rarely object as such, but on this occasion we feel we must.

BACKGROUND

The LLAF sees as a major part of its role, the need to facilitate and encourage the general public to walk or ride more. There is increasingly strong evidence of the health-benefits of walking in particular. e.g. the fact that brisk walking improves circulation and the performance of the heart and lungs. Walking can lower blood-pressure; it can reduce risk of stroke and of heart disease. It can improve control of blood sugar in type-two diabetes and it has an important role in cardiac rehabilitation. Walking and riding also promote mental health and general well-being, and have the potential to be as effective as anti-depressants or psychotherapy in treating depression. The loss of this route has reduced the opportunities for residents to get out into the nearby countryside. Widespread take-up of walking and riding generally could massively lighten the economic burden on the NHS caused by physical inactivity and provide a boost for rural economies. Walkers and riders spend literally billions of pounds in the countryside and it is calculated to support a quarter of a million jobs.

It can be demonstrated therefore that such activity in the country can reduce the nation's health-bill and boost the opportunities for rural diversification. In the Barrow case, with new development on the far side of the tracks, the route in question can provide a link into the main part of the village and discourage the use of a vehicle. There is thus a need for a rights of way network which encourages walking and riding; a network which connects people with their communities to their local amenities; with their history and with the wider natural environment.

BARROW

This closure, if permitted, would sever the network and provide unacceptable alternatives. The LLAF urges the Authority and any subsequently appointed Inspector to bear in mind the potential effects of the closure not least because walking and riding along dangerous and inconvenient ordinary roads is the alternative.

We do not believe in many instances the risks involved in the use of level crossings is any greater than the risks taken regularly in daily life, including crossing roads. It seems to us that most accidents at crossings are at vehicular crossings and that other fatalities are quite often suicides. The perceived danger of crossings should not be an excuse for closures to satisfy operational or economic aims. We have seen suggested closures of crossings with no records of accidents, with diversions on to dangerous roads with a history of accidents. Where there is a greater degree of danger on the suggested alternatives then we believe this can often be a good reason to refuse a request for an extinguishment and the issue can often be addressed by providing pelican style warning lights, CCTV observation, and telephone contact.

In the case of Barrow we are unaware of any accidents although there was a narrow escape which triggered the proposed closure. With Barrow, which will become an increasingly high speed high frequency line, the track

operation will be a profitable enterprise and we believe that the building of a footbridge can be considered a reasonable financial solution. The provision of a diversion for riders would be of modest cost in the greater scheme of things.

We are able to suggest in more detail how such solutions could be provided - See app1 for details of these suggestions.

LEGAL BACKGROUND

We understand that the Secretary of State or Highway Authority “...shall not confirm such an order unless he, or as the case may be, they, are satisfied that it is expedient so to do having regard to all the circumstances, and in particular to: - (a) whether it is reasonably practicable to make the crossing safe for use by the public.....” etc.

The legislation for the diversion of public rights of way allows for some subjectivity, but requires an Inspector, in deciding the expedience of confirming a public path diversion order, to have regard *inter alia* to the effect that a diversion would have ‘on public enjoyment of the path or way as a whole’

There are a number of different laws relating to potential extinguishments each having slightly different implications but there is a common agenda that authorities should not extinguish any public right of way over land unless the Secretary of State is satisfied that a suitable alternative right of way has been or will be provided, or that the provision of an alternative right of way is not required.

There was a case in 1990 which confirmed it was necessary to bear in mind whether the way had to be unnecessary for the public; the convenience of the landowner was not a relevant factor. Lord Justice Woolf (as he then was) said that where there was evidence of use, it would be difficult to properly come to the conclusion that a way was unnecessary unless the public were, or were going to be, provided with a reasonably suitable alternative way. Woolf further held that when deciding whether an alternative way was reasonable, it was necessary to be satisfied that the alternative way was suitable, or reasonably suitable, for the purpose for which the public were using the existing way.

We take some comfort from a recent Inspector’s comments in connection with diversion orders under section 119 of the Highways Act 1980 made in respect of paths on the playing-fields of Harrow School. In that matter, objections had included the undesirability of a zigzag route replacing a direct one, and the loss of sense of walking an old-established route. The Inspector generally accepted both matters as relevant factors. She commented “*The straightness of the route gives walkers a sense of purpose which is lost on a route which turns at angles to avoid modern, man-made features*”

We also note the recent decision made by Grahame Kean an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs in respect of a crossing in Derby:
(ROW/3169391 under Section 118 of the Highways Act 1980 known as the Derby City Council Megaloughton Lane, Extinguishment Order 2014 - Decision date: 29 November 2017)

We do not quote these as if we think they set some sort of precedent, since every case must be judged on its merits but they do support our case that where practical, a direct route should not be extinguished in circumstances like the ones faced at Barrow.

National policy to reduce rail journey times and maximise the safety of crossings are relevant considerations. However we feel there is insufficient evidence that such benefits outweigh the primary consideration of the use of this historic route by the public and argue that there are acceptable diversions and a practical bridge construction and would ask that the likely extent to which the route would, apart from the Order, be likely to be used by the public be given prime consideration.

Leicestershire County Council has a Rights of Way Improvement Plan which we helped them produce. Amongst its aims, to paraphrase, is promoting a sustainable transport network including, for walkers and riders, travel on

mainly traffic-free routes. Given that there would be inconveniences and risk arising from using any alternative routes, especially in terms of more vulnerable users, with longer routes and their proximity in places, to fast moving traffic, it is clear that confirmation of the Order would act contrary to fulfilling the objectives of the plan.

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APPENDIX 1

Bridleway rights could be created between routes I 4 and I 20 which is at present dysfunctional. British Gypsum has land reserved for the creation of sidings but they have had that permission for many years and never seen the need to actually create these sidings. It should be possible to negotiate the use of this land given that it is now highly unlikely to be seen as economically viable to use such sidings for what is left of their mining permission. As a last resort the land could be compulsorily purchased. This route is too long to be of any practical assistance to pedestrians wishing to cross the line but could be a solution for riders.

We do of course speak for the general public and our soundings suggest that the popular local solution for a bridleway is to re-open Hayhill Lane (Underbridge 55) which has been filled in. This would provide an alternative bridleway and additional footway. There would be a need to provide an equestrian route to the north of the proposed Network Rail loop next to the Up Slow line to link the existing Bridleway with Hayhill Lane and this might require a CPO. The engineering works do not appear to be very challenging although the underbridge may flood. Such a route would provide access directly into a support area for the quarrying activity but we do not consider this to be a safety concern given appropriate fencing.

There is a track down to Hayhill Lane from footpath I 23 just to the north east of where it intersects bridleway I 20; Hayhill Lane could then be used for a short distance to a headland route down to cross the Gypsum service road and link up with I 4. If this route could be agreed, I 20 could be downgraded to a footpath between I 23 and the railway to maintain the local village circuit. The footbridge would then be an extension of footpath I 24.

Footpath rights can quite easily be satisfied by a slight diversion to allow the creation of a stepped bridge. Ideally we would wish to see ramps but if that is not deemed possible at this location then a stepped bridge satisfying the needs of most users on foot would be acceptable. Given the constraints of the footprint within which solutions for a pedestrian route have to be created, we concede that steps will be required as there does not appear to be room for a ramp. This unfortunately will be disadvantaging some of the less able, but this should not be an excuse for depriving the majority of users of their legal rights of way. Legislation requires Network Rail to take all reasonable steps to accommodate less mobile people but difficulties in this area do not justify failing to maintain the rights of the many.

The exact location of such a bridge could be explored further and there are possible slight variations but our preferred option is to remove a broad hedge of conifers which is about three metres wide. This location would require a short stretch of trackside land on far side which may take a CPO. On the Barrow side it would involve a stepped bridge at Pingle Nook but to the side of existing drive on the edge of Jelson's land replacing the hedge and thereby not taking up any useable land on Jelson's property.