



Ms Tara Potheary, Countryside Access Development Officer
Hampshire County Council
Universal Services
Countryside Service
Three Minsters' House
Winchester
Hampshire
SO23 8UL

7th December 2023

Your ref: PPO 5118

Dear Ms Potheary

Proposed extinguishment of part of Rushmoor Bridleway 24 under Highways Act 1980 section 118A and dedication of public footpath rights

Thank you for your letter of 7 November 2023 in which you kindly consult about the possible making of an order under section 118A of the Highways Act 1980 to extinguish Rushmoor bridleway no. 24 where it crosses the railway at Farnborough North station.

North East Hampshire Ramblers support the idea of the closure of the level crossing on safety grounds, but we are not able to support the alternative offered by Network Rail at this time.

You say that — by means of its construction and dedication as a right of way on foot — it is the intention to provide a footbridge to accommodate pedestrians. We note that it is proposed that the bridge will be fitted with lifts, for the possible use by (for example) people with mobility problems, though these cannot of course be part of the dedication or the public footpath.

The Ramblers will object to an order under section 118A if one is made. We explain why below. Put briefly, we are concerned that the order's confirmation does not actually guarantee that the bridge will be built, and that if for any reason its funding became unavailable, your Council would have no powers to enforce its construction, so the path would be dead-ended on the east of the railway. Secondly, we are concerned that people with mobility issues who cannot manage the stairs will be stranded on the wrong side of the railway should a lift should become out of service. In the Ramblers' view, these issues could be resolved if instead of a section 118A order your Council proposed a diversion order under section 119A,

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and if the bridge was of the type of construction which features ramps for use by wheelchairs and mobility scooters. So, our intended objection is not a matter of “principle” but is founded on a genuine concern about the effect of the present proposal on certain types of user.

For ease of likely future reference, we will number the remaining paragraphs in this letter.

1. We wish it to be noted first of all that this is an extremely well-used urban path with restricted bridleway rights allowing use by cyclists but not horses. It is a path which could be classified as part of an urban green grid used for ordinary, everyday transport on foot (and bicycle) for people travelling from Frimley Green, Frimley and Mytchett both to Farnborough North railway station and to many other venues including a number of schools and colleges in the town of Farnborough beyond the station, and vice versa. It is no mere rural, recreational, path whose users could walk somewhere else for pleasure if it were closed, it is a path in absolutely everyday use. It is the only crossing of the railway for residents and workers in the places named above for about a mile either to the north or to the south, and those routes are nothing like direct. To facilitate such regular use it is hard surfaced along its length in both Hampshire and Surrey and provided with street lighting. It is available for use 365 days a year, day and night.
2. Seldom does a path “tick all the boxes” as this one does, in terms of features likely to encourage people to walk (or cycle) to work, to shops and amenities, and to links with public transport. This is in line with government initiatives for promoting walking (and cycling) for their well-attested health and environmental benefits. It provides accessible access to the Blackwater Valley Path via a gently sloped wide track. Closure of the crossing without a suitable alternative for all users would lead, inevitably, to more short journey car usage.

Guaranteeing the replacement bridge

3. To sever the path by extinguishing it would render an existing path useless unless there was a guaranteed replacement route. But an extinguishment order under section 118A cannot guarantee the intended replacement. Unless the bridge were to be built in advance of the matter being determined by the Secretary of State, the provision of the bridge is not a “circumstance” which can be taken into account, since it is not actually provided by the order itself, and cannot be, since it is an extinguishment order.
4. An Inspector may well take the view that a bridge is the solution here, but there is no procedural

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means by which the Inspector can conditionally delay the effect of a confirmed order under section 118A. The prescribed form for such an order (i.e. prescribed by Regulation 3(1) of, and Schedule 2 to, the Rail Crossing Extinguishment and Diversion Regulations 1993¹) requires the order to state that “this order extinguishes the public right of way ... after [x ²] days from the date of confirmation of this order ...”. This means that the extinguishment could take effect without the bridge ever being built, for example should there be a problem with funding initially promised. If this happened, we know of no power by which your Council could either enforce the building of the bridge, or undo the effect of the order to re-open the severed path.

5. The proper course, all things being equal, would be for your Council to make, not an extinguishment order under section 118A, but a diversion order under section 119A, the effect of which would be to create a public right of way over the proposed bridge once it has been satisfactorily constructed, not extinguishing the existing right of way until that has happened. That is one of the purposes of section 119A. And section 119A now³ provides that the existing right of way need not be extinguished until the new right of way has been physically (and satisfactorily) created “on the ground”, since subsection (7) reads: “Where it appears to the council that work requires to be done to bring the new site of the footpath ... into a fit condition for use by the public, the council shall ... provide that so much of the order as extinguishes (in accordance with subsection (2)(b) ...) a public right of way is not to come into force until the local highway authority for the new path or way certify that the work has been carried out.” (Underlining added.)
6. That would mean that the existing route would not be extinguished until the new one was available.

Under section 118A, prospective provision of bridge not something Inspector could take into account

7. It appears to us that a second problem with using section 118A is that the Inspector would not be able to take into account the prospective provision by Network Rail of the bridge in any case. It is not guaranteed by the order to be built at all, let alone within a certain time. In our view the Inspector would be obliged to consider the effect on users by gauging it only against the *existing* available routes which, as mentioned, are at a great distance from this location and which would massively inconvenience routine, everyday users.

¹ Statutory Instrument 1993 No 9.

² Number of days to be inserted by the order-making authority.

³ It was amended to the described effect by Schedule 6 to the Countryside and Rights of Way Act 2000.

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Bridge currently proposed not suitable in terms of design

8. The design of the bridge as proposed may be suitable for most pedestrian traffic, and we note that a gutter is to be provided for the wheeling over it of bicycles. It cannot however be used by people in wheelchairs or mobility scooters, and people pushing buggies may have great difficulty using the stairs.
9. It is not really an answer, well-intentioned though it is, to say that the bridge is to be fitted with lifts. It is the experience of regular rail travellers that such lifts are frequently temporarily out of service, not always for short periods. A person using a mobility scooter will be stuck on one or other side of the line, or face a massive journey on other routes, if thus caught out. There will be no advance warning of lift failure. Therefore, in addition to whatever other inconvenience the alternative routes will involve, a person with a buggy walking in from The Hatches direction at Frimley may have walked a minimum of 700 metres before learning that they need to find some other, much lengthier, route possibly via the Blackwater Valley Path which is not hard surfaced and can be muddy or retrace their steps.
10. When lifts malfunction *within* stations, it is only rail passengers who are affected. Here, the people affected will be users of the highway, to whom your Council has both a general duty (to ensure the highway is in repair), and an obligation under public sector equality duty.
11. A solution would be a bridge of such a design as not to rely on lifts. Bridges with ramps are available. The Ramblers recollect that such a bridge was provided at Witham station in Essex in about 2012 when an Inspector declined to confirm a section 118A order which would have extinguished a bridleway and sent users on a lengthy detour by road.
12. Access to the proposed bridge will be along the existing platforms. Bridleway users including cyclists and those pushing prams will have to negotiate their way past waiting passengers. There will be congestion at peak times. The west side platform is quite narrow where it is adjacent to the builders' merchants' office building. Some inconsiderate cyclists might be tempted to ride up the platform approach ramps.
13. It is not clear what relevance Network Rail's discussion about the lifts operating only during staffed hours has. (Page 10 of their application). The station appears to be unmanned apart from the

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crossing attendant. It is understood that this position will lapse once the crossing is closed. Are they intending to retain the crossing attendant at the station possibly in another role?

14. Unfortunately lifts in unmanned stations can become unsanitary due to them being used as toilets. There are no alternative facilities available at the station.
15. Network Rail when they first contacted us, they indicated that a ramped bridge would be built and then changed their approach to proposing that a bridge with shallow staircases. The drawings submitted with the extinguishment application would suggest this is not the case and stairs appear to be quite steep. Walkways and stairs appear to be no more than 2 metres wide, without taking cycle gutters into account. There will not be a lot of space for 2 cyclists wheeling cycles in opposite directions. Wheeling cycles up these stairs will be difficult especially for older cyclists with heavier e-cycles. It is difficult to see from the drawings what the internal dimensions of the lifts would be and whether they would be able to accommodate one or two cycles at none peak times. The whole structure appears to be very compact.
16. If the proposed bridge was adopted gutters would need to be at least 4 inches wide to accommodate some latest designs of cycles. Up and down gutters would need to be provided to allow simultaneous up and down use at peak times

Other Comments

17. Network Rail have already established a construction yard and office on the east side of the station.
18. Network Rail user statistics to be found in the appendices document were collected in March 2021. This was during COVID so possibly numbers are on the low side especially for peak times.
19. Reading through the extinguishment application document NR say, on page 9 under Consultations that “No voices of opposition were raised”. I am unsure which meetings the author was in, but there were certainly plenty of voices **not** in favour in the meeting I was able to attend. I am not sure how well phrased vocal statements would need to be to be categorised as a “voices of opposition”. I guess it could be a matter of interpretation whether a statement is an adverse comment rather than a voice of opposition.

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20. You will be aware that Network Rail intend to close the other level crossing at the Surrey end of the bridleway. The last I heard about this was that a fully ramped bridge without lifts is proposed located a few hundred yards to the south accessed from Spencer's Close. I do not know the status of this part of the project. We would support a fully ramped bridge at Farnborough North
21. We have passed on your consultation to local cycling and BHS contacts, Surrey Heath Ramblers and Farnborough U3A cycling and walking group leaders. The U3A leaders appeared to be unaware of the proposals (not a good indication of how effective Network Rail's consultation was).
22. We are aware of the TRO on the bridleway forbidding equine use either ridden or led.

Closing

23. The Ramblers ask your Council to consider the above points; to abandon its plan to utilise section 118A; and to make the order under section 119A instead so as to ensure that the crossing remains open until the bridge is built. The Ramblers also asks your Council to require a better design than a bridge some of whose users will rely on lifts functioning.

Yours sincerely

ANDREW TYAS
FOOTPATH SECRETARY
NORTH EAST HAMPSHIRE RAMBLERS

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