

REPORT SUMMARY

REFERENCE NO - 18/502380/FULL			
APPLICATION PROPOSAL Relevant Demolition in a Conservation Area for the proposed upgrade of Network Rail's Watringbury Level Crossing from a Manned Gated Hand Worked (MGHW) Level Crossing to a Manually Controlled Barrier(s) (MCB) type.			
ADDRESS Watringbury Level Crossing Bow Road Watringbury Kent			
RECOMMENDATION – Grant Listed Building Consent			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
<ul style="list-style-type: none"> • The removal of the level crossing gates will result in less than substantial harm to the Conservation Area, which would be outweighed the public safety benefit; • The erection of the new level crossing gates are permitted development and do not require planning permission; 			
REASON FOR REFERRAL TO COMMITTEE			
<p>Councillor Blackmore called the application to committee so that it can be discussed in public due to the significance of the application. Teston Parish Council wishes to see the application refused and request that the application be reported to Planning Committee for the reasons set out in consultation response. (Note – The site lies with Nettlestead Parish, not Teston Parish)</p>			
WARD Marden And Yalding	PARISH/TOWN COUNCIL Nettlestead	APPLICANT Network Rail Infrastructure Limited AGENT Network Rail Infrastructure Limited	
DECISION DUE DATE 27/06/18	PUBLICITY EXPIRY DATE 22/06/18	OFFICER SITE VISIT DATE 01/06/18	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
17/506556/FULL	Upgrade of the level crossing	Withdrawn	26/2/2018

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The level crossing in Watringbury lies on Bow Hill, just to the south of its junction with Bow Road. The site lies to the west of Watringbury railway station and within the Watringbury Conservation Area. The nearby buildings of the signal box, goods shed and station buildings are all Grade II Listed Buildings.

1.02 The cross bar stile level crossing gates are constructed from timber and feature obligatory warning signage. The style of these gates date from 1952, when new level crossing gates were installed as part of the introduction of automated level crossings. The timber gates themselves have also been replaced in the past 13 years, but have kept to the same design and style from the 1950s.

1.03 The site also lies within the Metropolitan Green Belt and a Landscape of Local Value, but not within an Area of Outstanding Natural Beauty.

2.0 PROPOSAL

2.01 This application is solely for the demolition and removal of the existing level crossing gates within the Wateringbury Conservation Area.

2.02 The new replacement level crossing gates do not require planning permission, as the works are being carried out as permitted development by a statutory undertaker by Network Rail and do not require the consent of the Local Planning Authority, ie, this Council.

2.03 As such this application can only consider the impacts upon the Conservation Area through the removal of the existing level crossing.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: DM4 of the Maidstone Borough Local Plan

4.0 LOCAL REPRESENTATIONS

4.01 Site notice, Press Notice & 23 local residents consulted – 12 letters received, objecting on the following grounds:

- Hazardous highway conditions;
- New crossing will spoil the Conservation Area;
- The wooden gates are of heritage value;
- The level crossing gates are curtilage listed structures;
- The safety improvements would detrimentally affect the appearance of the local area;
- Lies within an Area of Outstanding Natural Beauty;
- Last few manual gates left on the rail network and their removal would take away significant history from the listed station building;
- No fatalities at this crossing, so no safety justification to replace gates
- Barriers will increase noise from use of sirens and light pollution;
- New light column will increase light pollution;
- New gates not in keeping with the village;
- New gates would be no safer than the existing gates;
- Road markings are visually intrusive;
- Harm to residential amenity;
- No significant improvement in traffic congestion with the new crossing gates;
- Works will harm the setting of the nearby listed buildings.

5.0 CONSULTATIONS

5.01 **Nettlestead Parish Council:** The Parish Council would like to object to this planning application for the following reasons:

- Safety This is paramount , there is a school right next to the Railway crossing, the crossing is used a lot by families and also by walkers especially over a weekend when there can be as many as 100+ walkers crossing the Railway Line.
- Highways The crossing is located right on top of a very busy road and at the moment traffic queues onto this road the concern is the gates would be held down longer therefore allowing a much bigger build-up of traffic queuing onto the main road.
- Light There is a concern around the lighting and what pollution this will cause to the neighbours especially as they wish to install a 30metre high flood light. What effect will this have on the surrounding area.
- Noise: What will the noise level be for the new crossing (how many decibels day and night) this again will have an impact on the neighbours.
- Signal Box: This is a listed building if this is to be demolished there will need to be a separate planning application. Additionally, are the gates part of the curtilage of the Signal Box, and if so, listed building consent should be applied for.
- In the event that the application is approved, the continued manning of the signal box (as promised in the submissions from Network Rail) should be a condition of any consent granted.

5.02 **Yalding PC:** No comment.

5.03 **Teston PC:** Objects to the application on the following grounds:

- we note the proposal to install a Manually Controlled Barrier (MCB). It appears that the intention is that this is controlled, initially, by a person located at the site. However, there is concern that the technology could be augmented to enable cost-saving by remote monitoring and operation of the gate (perhaps termed MCB CCTV). That raises concern that the dead-time for road traffic flow would be increased considerably, because greater safety margins would be required before and after the train movement. That would have an adverse effect on road traffic.
- Network Rail's submission dated 2 May on the MBC Web Site states: "The provision of road traffic lights and warning alarms is a statutory requirement to alert crossing users (both pedestrians & road vehicles) that the barrier sequence is about to commence. The road traffic lights and associated noise is required to sound for approximately 20-25 seconds during lowering of the proposed barriers. The proposed new arrangement comes with the ability to adjust the volume of the audible warning generated at the time of barrier lowering and this will be given due consideration during the installation of the new equipment along with the flexibility of adjusting the intensity of flashing lights". Those sirens and lights would therefore be operative for all scheduled train movements during the day, including early morning and late night - with perhaps freight trains on occasion during the night. There would be adverse impact on local residents.
- The Office of Rail Regulation's guidance states in its December 2011 "Level Crossings: A guide for managers, designers and operators - Railway Safety Publication 7", paragraph 1.10, that "Finally, there is a requirement in planning legislation for planning authorities to consult the Secretary of State and the operator of the network where a

proposed development materially affects traffic over a level crossing. For example, a new housing development near a crossing may cause traffic levels over the crossing to increase greatly and mean that existing protection arrangements at the crossing are no longer adequate". That may be an issue, given the implications of MBC's Local Plan for the area. In summary, our objection remains, not so much to the technology per se, but to the associated use of, particularly, sirens and the possible subsequent remote operation that it might lead to and to the lack of analysis of possible mitigations for adverse impact on road traffic flows.

- We support, of course, the need to ensure that Wateringbury level crossing meets reasonable safety standards and that its workings are maintainable, but we object to the application as submitted.
- We are not against automation per se, but the ramifications require to be assessed and addressed.
- As it is included in some of the diagrams and literature, it appears to be clear that, in addition to Wateringbury, it is also intended to replace the current East Farleigh manual level crossing with automatic barriers.
- This application should therefore not be considered other than within the wider context along this railway line between Paddock Wood and Maidstone West.
- Network Rail contends that the proposed work is "refurbishment", but demolition of the current gates and installation of automatic barriers would appear to go way beyond "refurbishment" and, as such, is not permitted under Part 8 of the Town & Country Planning (General Permitted Development) (England) Order 2015, which reads (our highlighting IN CAPITALS): Development is NOT PERMITTED by Class A if it consists of or includes- (a) the construction of a railway; (b) the construction or erection of a hotel, railway station or bridge; or (c) the CONSTRUCTION OR ERECTION OTHERWISE THAN WHOLLY WITHIN THE RAILWAY STATION OF- (i) an office, residential or educational building, or a building used for an industrial process, or (ii) a car park, shop, restaurant, garage, petrol filling station or other building or STRUCTURE provided under transport legislation. Interpretation of Class A A.2 For the purposes of Class A, REFERENCES TO THE CONSTRUCTION OF OR ERECTION OF ANY building or STRUCTURE INCLUDE REFERENCE TO THE RECONSTRUCTION OR ALTERATION OF A building or STRUCTURE WHERE ITS DESIGN OR EXTERNAL APPEARANCE WOULD BE MATERIALLY AFFECTED.
- Design and external appearance of the gates are most certainly being materially affected.
- The proposal would therefore appear to require planning permission, as well as Conservation Area consent.
- Sight-lines to the level crossing are good, from either direction.
- While 169 safety incidents at this crossing are listed for the period 1993 - 2017, or 7 p.a., major emphasis is in fact placed on a single serious incident at East Farleigh level crossing, 3 miles away.
- Wateringbury and East Farleigh are very different in terms of: a. their traffic flows; b. the visibility afforded to drivers approaching the barriers; and c. for East Farleigh, the incentive for a driver coming from the north to ensure that s/he keeps up with the traffic ahead that has, presumably, achieved priority over the single-track bridge, rather than being heavily delayed after the gates subsequently open while backed-up traffic heading north commands priority over that bridge. No before-and-after safety statistics are given for the replacement of

manual with automatic barriers in similar contexts elsewhere, although newspapers occasionally report incidents, occasionally fatal, at automatic barriers.

- As "safety" is a major strand of the argument for replacement, it would be reasonable to see some evidence from experience elsewhere.
- The applicant's Planning and Heritage Statement, at paragraph 4.3 (and elsewhere), states that " ... (the proposal would have the effect of) reducing road closure/vehicle waiting time".
- This would be very welcome at any level crossing site, but, again, no before-and-after waiting time statistics are given for the installation of automatic barriers in similar contexts elsewhere.
- As this application would not appear to be sufficient for the proposal to be permitted, it is recommended that the opportunity is taken to review and address level crossing-related issues at East Farleigh and Teston, as well as Wateringbury.
- That review should include: a. the two sets of before-and-after statistics referred to above, to give confidence that the grounds for the proposal are well-founded; b. a statement of the barrier opening and closing arrangements, including the degree of automation and, for human intervention within the automated scenario, the location, staffing arrangements, live video monitoring facilities for the level crossing etc to give assurance of an alert and responsive future operation throughout all hours of rail traffic; c. as it is clearly envisaged to replace the current manual gates at East Farleigh, a statement of how the operation of all automatic gates along the line from Paddock Wood to Maidstone West would, while enabling safe train operation, be optimised for road traffic flows, with collateral benefits for road safety; d. for East Farleigh, consideration of, possibly part-time, traffic control coupled to automatic gates to enhance traffic flow and mitigate tension for vehicles using the nearby road bridge; e. for Teston, an analysis of the impact on traffic backing-up onto the nearby Tonbridge Road (A26); and f. a consideration of the safety of all parties affected by the proposed automatic gates; that is, train travellers, railway staff, pedestrians and vehicles affected by the operation of the automatic gates, taking into account any demonstrable probable change to waiting times while the barriers are closed.
- The application quotes paragraphs 131, 132 and 133 of NPPF, which relate to the historic environment.
- Maidstone's Local Plan envisages circa 30% increase in housing over the period 2011-31, with, presumably, a similar increase in population and traffic flows - despite the quest for modal shift.
- That makes it even more important to grasp all opportunities to review and enhance road traffic flows through major bottle-necks; Teston and East Farleigh level crossings are two, given that they lie on major cross-country road commuter routes.
- The application is inadequate to achieve permission within planning regulations and, more importantly, does not consider the wider implications for safety elsewhere.
- We therefore object to the application as submitted, but would wish to support a re-submitted application that is put forward within the context of the above wider opportunity.

5.04 **Wateringbury Parish Council:** My Council appreciates it is not consultee to planning application 18/502380 for alterations to Wateringbury

Level Crossing, but would like to voice their support of all the comments made by adjoining Parish Councils and neighbouring properties that would be affected by the changes. My Council also has some concerns about children being able to access the railway line.

- 5.05 **Conservation Officer:** I have no objection to the replacement of the timber level crossing barriers at Wateringbury and East Farleigh. Although both projects will have a harmful impact upon the setting of the adjacent listed railway buildings at these locations, and will diminish their significance to a degree, it could be argued that the public benefits of an automated crossing outweigh the harm caused to the setting of the listed structures. I understand that the previous conservation officer took the view that the present timber barriers did not form part of the curtilage of the listed railway buildings, although that is perhaps not something that is simple or straightforward to form a judgement on. If the present barriers are not original, some of the timber constructions are likely to date to the middle of the C20, or earlier.

Whilst the design of the new metal barriers is fairly stark and utilitarian, it would not be reasonable to require heavy section chamfered timber in a mechanism of this sort. I also understand from the applicant that railway personnel have been injured by traffic on the line where they have become trapped between vehicles and the barriers themselves – traffic nowadays in Kent is a lot more than they were when the barriers were initially constructed. We would not wish for any more unfortunate accidents to occur, and under the circumstances I would argue that it is unreasonable to require the retention of manually –operated crossings within the county, however quaint and historically authentic they may be.

The network operators to consider to offering the gates at zero cost either to a national railway museum, or to one of the many volunteer-staffed historic and community railways that operate within Kent and across the UK.

- 5.06 **Kent Highways:** Having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority. The applicant should be aware that they will be required to enter into a section 278 agreement with this authority, prior to undertaking the proposed works.

6.0 APPRAISAL

- 6.01 The only issue that can be considered under this application is the demolition and removal for the existing level crossing gates, which requires Conservation Area consent as it lies within a Conservation Area. The majority of the objections received relate to the new design, the new associated structures and the operation level crossing gates that are not subject to this application or indeed need our approval. As the works are being carried out by Network Rail under their permitted development rights. I have provided some more detailed comments on these points later in the report for clarification.

Conservation Area assessment

- 6.02 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that special regard to the desirability of preserving or enhancing the character or appearance of that area.
- 6.03 This stance is supported within the National Planning Policy Framework (NPPF). Paragraph 134 deals with development that will have an impact on a heritage asset and states *"where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use"*.
- 6.04 Policy DM4 of the Maidstone Borough Local Plan requires development affecting a heritage asset incorporates measures to conserve, and where possible enhance, the significance of the heritage asset and where appropriate its setting. The policy expands to set out that the NPPF assessment should be used where the development will affect the heritage asset.
- 6.05 The application is accompanied by a detailed and comprehensive Heritage Impact Assessment, which provides details of the history of the level crossing and fully assesses the significance of the level crossing gates.
- 6.06 The designated heritage asset for the purposes of the Act, NPPF and Local Plan policies is the Watringbury Conservation Area. The proposed demolition and removal of a level crossing gates will not result in substantial harm to or total loss of significance of the Watringbury Conservation Area. As such the proposal would only result in a less than substantial harm under the terms of the NPPF.
- 6.07 The level crossing gates are historically not the original crossing gates. The cross bar stile design of the gates was introduced in the early 1950s. Since then the gates have been further replaced in the last 15 years, due to general maintenance and upgrading of the gates. The level crossing gates are seen in the context of the wider grouping of the Watringbury railway station, which includes a number of listed structures. As such the significance of the gates and their importance within the Conservation Area is of some significance, but not considered to be of the high significance or significant to the Conservation Area. As such there will be some limited harm to the Conservation Area through the gates removal. This view is shared by our Conservation Officer.
- 6.08 As highlighted above in paragraph 134 of the NPPF, this scheme will lead to less than substantial harm to the Watringbury Conservation Area. The proposal has been submitted on the basis of the need to improve operational safety of the level crossing as a public benefit. The applicant's supporting statement states:

"The renewal of the level crossing at Watringbury is in line with Network Rail's Safety Policy Statement (2011). This policy statement notes that NR will seek to rationalise the types of level crossings across the network. Where closure is not possible NR will seek 'to reduce risk and enhance safety.' NR will also seek to modernise existing types of level crossing by 'designing out risk and introducing new technologies' and will 'implement lessons learned from accidents and incidents' and to 'present a consistent

approach to the crossing user.' Life expired level crossings will be renewed 'incorporating the latest design and technology to reduce risk.'" and:

"the overriding benefits are improvements in safety for the users of the crossing, the duty signallers and to the railway. The hand worked level crossing dates to a technology in operation in the mid-nineteenth century and the risks associated with its operation were shown by a series of incidents in 2009. The NR Safety Policy Statement further notes that NR will implement lessons learned from accidents. The risks that such accidents pose are not only to the duty signallers but also to other level crossing users and to the safe operation of the railway. The new barriers will also bring public benefit in reducing the time of the level crossing (down) operation".

- 6.09 Whilst a number of objections have been received objecting to the safety benefits of the new crossing and disputing some of the Network Rail's claims, most the objections relate to the operation of the new system, rather than the principle of the replacement system on safety grounds. The operation of the level crossing and wider railway is not a matter that this Committee can consider. The introduction of a safer level crossing for the railway personnel in operating the level crossing is of public benefit and is supported by our Conservation Officer. It should also be noted that Kent Highways raise no concerns over the highway safety of the proposed works.
- 6.10 Therefore the proposal will improve both public safety and the safety of the duty signallers on operating the new crossing weighs in favour or any harm identified to the Conservation Area, ie, limited harm to the low heritage significance of the crossing gates. As such the proposal is complies within paragraph 134 of the NPPF and policy DM4 of the MBLP.

Need for Listed Building Consent?

- 6.11 It has been raised by local residents, as to whether Listed Building Consent should also be required for these works. However as indicated in the Conservation Officer's comments above, it has been previously stated level crossing works are not considered to fall within the curtilage of the Wateringbury station building, which is Grade II listed. I would also add, that the level crossing gates are not original and the current style of gates dates from 1952 and the gates themselves were replaced in the 2000s in a similar style. As such crossbar stile level crossing gates were erected after 1948 (this is a cut date for curtilage listed structures) and therefore would not afford any protection as a curtilage listed structure, even if a differing view was taken as to the extent of the station building curtilage.

Permitted development works

- 6.12 Under Part 8, Class A of the Town & Country (General Permitted Development) Order 2015 as amended, Network Rail as a Statutory Undertaker are permitted to carry out development on their operational land, required in connection with the movement of traffic by rail. The extent of these scale of these works, is set out in the section A2, interpretation of Class A and relates to *"to the construction or erection of any building or structure includes references to the reconstruction or*

alteration of a building or structure where its design or external appearance would be materially affected."

- 6.13 Some new works to a railway are not permitted development, such as a new railway line, a new bridge or offices/industrial buildings outside of the railway station and do require the benefit of planning permission. However the proposed replacement of the new level crossing gates would fall within the scope of permitted development works of Part 8 Class A of the GPDO 2015 (as amended).

Other matters

- 6.14 I appreciate concerns have been raised by the parish councils and local residents as to the new crossing arrangements, such its proposed and possible future operations, lighting, use of sirens and noise disturbance, road markings however, these are not matters that we can control as the Local Planning Authority for the reasons set out above. This does not prevent them contacting Network Rail directly with their concerns.

7.0 CONCLUSION

- 7.01 In light of the above considerations, I consider that the proposed works to remove the crossing gates are acceptable within the Conservation Area.

8.0 RECOMMENDATION – GRANT Planning Permission subject to the following condition:

- (1)The works to which this consent relates must be begun before the expiration of three years from the date of this consent;

Reason: In accordance with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

INFORMATIVES

- (1)Network Rail should consider offering the level crossing gates to either a national railway museum, or to one of the many volunteer-staffed historic and community railways that operate within Kent and across the UK.
- (2)It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Case Officer: Aaron Hill

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

Case Officer Aaron Hill

Case Officer Sign	Date
Aaron Hill	