

West Area Planning Committee

13th March 2013

Application Number: 12/03282/PA11

Decision Due by: 13th February 2013

Proposal: Application seeking prior approval for development comprising demolition of existing and erection of replacement footbridge under Part 11 Class A Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.

Site Address: Hinksey Lake Footbridge, Lake Street, **Appendix 1.**

Ward: Hinksey Park

Agent: N/A

Applicant: Network Rail

Application Called in – by Councillors – Price, Lygo, Khan, Kennedy and Canning for the following reasons – design not acceptable as it is not disabled / cycle / buggy accessible and that an alternative design is possible that meets these desiderata and is not substantially more expensive.

Recommendation: Grant prior approval

Main Planning Policies:

Oxford Local Plan 2001-2016

CP1 - Development Proposals

CP8 - Design Development to Relate to its Context

CP9 - Creating Successful New Places

CP10 - Siting Development to Meet Functional Needs

CP11 - Landscape Design

CP13 - Accessibility

TR4 - Pedestrian & Cycle Facilities

NE15 - Loss of Trees and Hedgerows

NE20 - Wildlife Corridors

SR9 - Footpaths & Bridleways

Core Strategy

CS4 - Green Belt

CS11 - Flooding

CS12 - Biodiversity

CS18 - Urban design, town character, historic environment

Other Material Considerations:

National Planning Policy Framework

Relevant Site History:

None

Representations Received:

Statutory and Other Consultees:

South Hinksey Parish Council: urge the applicant to consider the inclusion of ramped access. The footbridge is part of the only viable pedestrian route between Oxford City and South Hinksey. The current bridge is a significant barrier for many users' esp. young families and those with impaired mobility.

Environment Agency Thames Region: a significant part of the site lies within Flood Zone 3. Concern that the works will result in a change in ground levels, which could have an effect on flood flows. It seems that the works will be largely confined to the track area and there is no suggestion that there will be any ground remodelling. May be a need to apply for a Flood Defence Consent as works are within 8m of Main River watercourse. There may also be a need to consider Flood Defence Consent for the compound, depending on its location. We will expect the applicant to carry out all relevant ecological surveys and provide mitigation as necessary.

Sustrans 106-108 Cowley Road: building the new bridge with steps and not ramps would make it inaccessible to a sizeable proportion of the general public for generations to come. The bridge is an important local footpath, however many people are put off from using it due to the large number of steps. The new bridge with steps would be an even greater barrier. A wheeling channel for cyclists would make the route more usable for cyclists but this would be a second best solution, it would not help less agile cyclists or less able pedestrians. This is an ideal opportunity to provide ramped access to cater for all.

Third Parties:

Ramps for Hinksey Rail Bridge Campaign: ramps should be included in the new bridge to make it accessible to all. Also included was an online petition which at the time of receipt had 434 signatures.

19 letters of comments (objections) were received from the following and are summarised below.

131 Marlborough Road, 24 Newton Road, 18 Manor Road, 21 Manor Road, 32 Manor Road, 44 Manor Road, Prior Barn Isis Court, 2 Church Close, 7 Manor Road, Overshot Badger Lane, Craigellachie Hinksey Hill, 20 Manor Road, 40 Manor Road, 29 Manor Road, 1 Manor Road, 12 Apsley Road, 34 Manor Road, 260 Marlborough

Road, 5 Hids Copse Road

- Lack of access for all members of the public esp. those with mobility issues, pushchairs, bicycles.
- Ramps need to be included
- New bridge will be steeper and even more dangerous and inaccessible.
- Bridge is an important link.
- Attention must be paid to the preservation of ecologically valuable wetland habitats on either side of Devil's Backbone path immediately to the west of the bridge.
- Opportunity to reduce car travel.
- A fully accessible bridge promotes accessibility for all, healthy exercise, community cohesion and sustainable travel.
- Height of fencing proposed is 3m and it is not clear if it will impair visibility of the views of Oxford, is this height necessary?
- The needs of disabled people should take precedence over Network Rails financial considerations.

Determining Issues:

- Siting
- Design
- Other

Officers Assessment:

Site Description

1. The application site (footbridge) lies to the south of Oxford railway station, immediately west of Hinksey Lake, off Lake Street. It links South Hinksey Village to Oxford City which can only otherwise be accessed from the city via the A34 section of the Oxford Ring Road. The footbridge forms an extension to a further footbridge which crosses the lake itself. **Appendix 1** refers.

Proposal

2. The proposal is for the demolition of the existing bridge and the erection of a replacement immediately adjacent to it which would incorporate the flights of steps to its eastern and western ends. The existing bridge would remain in place whilst the new bridge was constructed to its south and would be removed upon completion of the new bridge. As a result of the location of the new bridge the steps would possess a dogleg rather than going straight up as they do now in order to increase the height of the structure and maintain the links to the footpaths either side of the bridge. The steps will incorporate a wheel track along one side of each flight of steps which would enable cycles to be wheeled across footbridge. The bridge would be a steel latticework structure with steel parapets to a height of 1.5m.
3. The works are associated with the Great Western Mainline electrification programme which would see the electrification of train services between

Oxford and London Paddington. The reconstruction of the bridge is required to allow sufficient over the main line tracks to accommodate overhead line equipment structures associated with the electrification. The current bridge has a minimum clearance of 4.369m (at its lowest point) whilst the new bridge will have a clearance of 5.300m – a difference of 0.904m. Funding for the bridge is direct from the Department for Transport on the basis that it is a like for like replacement of the existing one.

4. The submission does not constitute a planning application, but rather an application for “Prior Approval” under the provisions of Part 11 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. An extract from the Order is attached as **Appendix 2** to this report.

Assessment

5. Part 11 of the 1995 Order relates to works which are permitted by private Act of Parliament and which take them outside of normal planning control. In this case the relevant Act of Parliament which confers such powers is the Oxford and Rugby Railways Act 1845. Under the terms of Part 11 of the 1995 Order if the development in question is authorised by Parliament, the principle of it cannot be challenged by local planning authorities. Rather local planning authorities can only object to the proposals and withhold “prior approval” on the grounds that the design and external appearance would injure the amenity of the neighbourhood, or that a better site is available. In this case the latter criterion clearly does not apply as there is no other more suitable location to link into the existing footpath to South Hinksey village.

Siting

6. The existing bridge constitutes the only direct pedestrian link between South Hinksey Village and Oxford City. It is intended to remain in place whilst the new bridge is constructed so that disruption to users is kept to a minimum. The new bridge is proposed to the south of the existing bridge and would retain its links to the footpaths either side of the railway. It is therefore considered feasible that the footbridge could be located elsewhere. The principle of a new footbridge at this location is therefore supported.

Design

7. The proposed bridge would be constructed in steel and would represent an updated version of the existing one. It would have a 3m high lattice canopy with the lower half (1.5m) screened. It would also possess a wheeled track for cyclists to make more convenient use of the bridge. Currently there are no proposals for ramped access for disabled needs however as the bridge is intended only as a like for like replacement. In negotiations with officers of Network Rail requests have been made that the design of the bridge be constructed to allow disabled use, as well as accommodating child buggies. In response however Network Rail officers have requested that the submission be determined as submitted, though adding that the new bridge would permit disabled access to be added at a later date. No commitment has been given

however that such future funding would come from Network Rail. The absence of disabled access is disappointing bearing in mind the limitations of the existing footbridge and the opportunity presented now to replace it with a structure which provides for all sections of the community.

8. In this context there has been much concern expressed over the fact that disabled access is not to be provided. In support of its position that it is not obliged to make such provision, Network Rail has drawn officer's attention to what it considers to be a very similar case at South Holland District Council where a replacement footbridge was refused by the local planning authority and was appealed. The appeal decision letter is attached now as **Appendix 3** to this report. The main issue raised by the Council and third parties in that case was that access for all was not being provided. The Inspector in his decision pointed out however that planning permission was not required in the normal way and therefore the issue of concern to the local authority did not fall for him to consider under the Part 11 Prior Approval process.
9. In the light of this case and the expressed concerns of third parties, legal advice has been taken on whether the City Council as local planning authority could reasonably seek to oppose the new footbridge as its particular design excluded disabled provision. Caution has been advised in this regard however as in terms of its design and appearance the new bridge could not of itself be said to be injurious to the amenity of the neighbourhood. If however it was to be considered injurious, then clearly the structure would be capable of modification. On balance officers have concluded that the Council's case in withholding "prior approval" on these grounds would be weak. In this event, it is most likely to result in an appeal as in the South Holland case. Alternatively there might be the possibility of a Judicial Review on the basis of taking account of an immaterial consideration.

Other Issues

- 10 Whilst the following issues have been raised or commented on they cannot be taken into account as they do not fall within Part 11.

Archaeology

11. The Historic Environment Records have been consulted and based on present evidence this scheme is unlikely to have significant archaeological implications.

Biodiversity

- 12 On the basis of the submitted plans Officers can see no significant biodiversity impact. However because to the closeness of water bodies of biodiversity conservation interest, usual precautions will be needed during construction to stop construction run-off entering the water.

Conclusion:

- 13 The construction of the new footbridge to facilitate electrification to London Paddington brings with it an opportunity to provide an overdue footbridge of improved quality, providing disabled access to the otherwise isolated South Hinksey village. Whilst the provision for cyclists is improved over current provision, it is disappointing that a standard of facility which might reasonably be expected has not been forthcoming. That said, officers would not recommend that prior approval be withheld in this case.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to approve the prior approval. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to approve the prior approval, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

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Date: 25th February 2013