



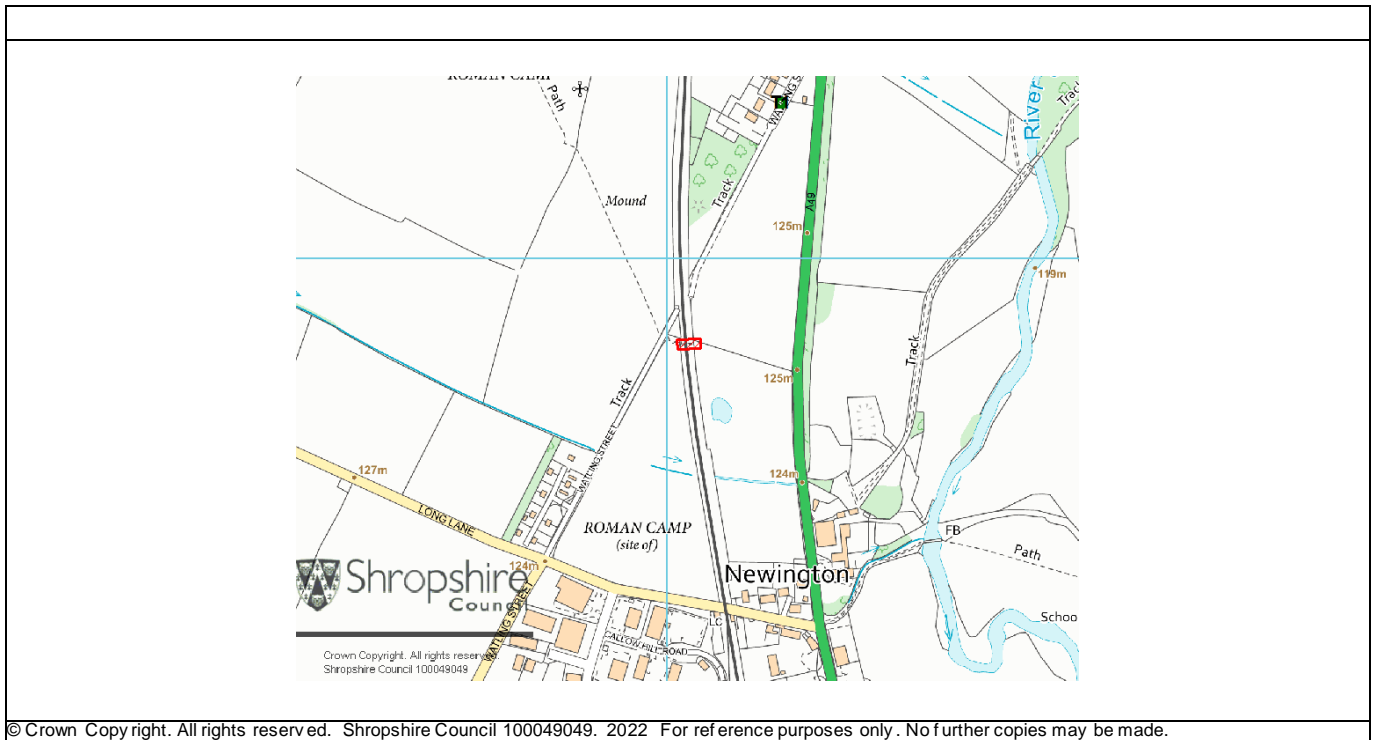
Committee and date  
Southern Planning Committee  
28th June 2022

## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b>Application Number:</b> 22/00157/MISC18	<b>Parish:</b>	Wistanstow
<b>Proposal:</b> Application for Prior Approval under Part 18, Class A of the Town and Country Planning (General Permitted Development (England) Order 2015 for the construction of a footbridge.		
<b>Site Address:</b> Proposed Footbridge North Of Newington Craven Arms Shropshire		
<b>Applicant:</b> Network Rail		
<b>Case Officer:</b> Kelvin Hall	<b>email</b>	kelvin.hall@shropshire.gov.uk



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**Recommendation:- Grant Prior Approval**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application seeks the prior approval of the local planning authority to the detailed plans and specifications of a proposed railway footbridge on land to the north of Craven Arms. The application is submitted under the requirements of Class A of Part 18 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 1.2 The proposed footbridge would provide pedestrian access across the three-track railway, and provide vertical and horizontal clearance to satisfy signal sighting, possible future electrification and derailment. The bridge would be fabricated from composite materials. The supports would include piers constructed of glass fibre reinforced polymer (GFRP). Network Rail advise that this type of design requires minimal maintenance, and has increased durability and greater sustainability compared to more traditional options.
- 1.3 The bridge would measure approximately 27 metres from west to east, with a height of approximately 6.2 metres to the base of the soffit and 7.5 metres to the top of the parapet.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located approximately 300 metres to the north of the edge of Craven Arms at a level crossing on the Shrewsbury – Hereford railway line. This crossing point connects public footpath 0565/50/3 to the east to public footpath 0565/50/1 to the west. Surrounding land is in agricultural use.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The objections raised by the Local Member and Parish Council are based upon material reasons and it has been agreed at the agenda-setting meeting that it is appropriate for the application to be considered by Planning Committee.

### 4.0 Community Representations

#### 4.1 - Consultee Comments

- 4.1.1 **Wistanstow Parish Council and Craven Arms Town Council** Wistanstow Parish Council and Craven Arms Town Council has considered the proposals and the latest rendered visuals of what the bridge would look like on the site.

Although there are concerns about safety it is important to note that the footway has been subject to temporary closure since 2017 with the diversionary route being along Long Lane which for 500m has an appropriate footpath, consideration could also be given to approaching the owner of the fields to see if a shorter diversion could be implemented onto the field immediately past the level Crossing

situated in Long Lane.

Although accepting that this is a new initiative both Councils are of the opinion that the proposed bridge is not acceptable for this location and wish to object to the proposal:

The development would be a conspicuous feature in this countryside location and would detrimentally affect the essentially open character looking across areas of the Shropshire Hills Area of Outstanding Natural Beauty. The development is therefore contrary to the aims of the National Planning Policy Framework and to the requirements of Core Strategy policies CS5

#### 4.1.2 **SC Archaeology** Recommends a condition.

The proposed development site is located within the extent of Craven Arms Marching Camp C (HER PRN 02041) and immediately adjacent to the Roman road of Watling Street, West of Wroxeter (HER PRN 00108). A number of other Roman military and settlement sites are located within the area. Also in close proximity are the prehistoric remains of a Scheduled Bowl barrow 120m south west of Belair (National Ref: 1010319), another possible Bronze Age ring ditch (HER PRN 35039), and a possible Neolithic mortuary enclosure (HER PRN 29718) that all lie within the extent of the marching camp. Whilst the railway line may have caused some previous disturbance, given the density of prehistoric and Roman activity in this area, the proposed development site is considered to have moderate to high archaeological potential.

#### RECOMMENDATION:

In view of the above we recommend that a programme of archaeological work be made a condition of any prior approval for the proposed development to comprise a watching brief on all ground disturbing works.

An appropriate condition of any such consent would be:

No development approved by this permission shall commence until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works. Reason: The site is known to hold archaeological interest.

#### 4.1.3 **SC Rights of Way** No response received.

### 4.2 **-Public representations**

#### 4.2.1 **Councillor David Evans (Local Member for Church Stretton and Craven Arms)**

Objection. The reason for my objection is because of the backdrop of the ANOB it will be intrusive on the landscape. Also the avenue of Oak Trees along the A49 north bound this would have an impact on the area. It would stand very high and then we would have 6ft of glass on top of the construction. Not suitable for this area.

#### 4.2.2 Representation from a Wistanstow Parish Council Councillor:

- Supports the location and design of the footbridge
- the current diversion along the 'Watling Street' lane is inappropriate;
- current state has been report and do not consider that Shropshire Council will ever be able to commit the considerable resources needed to clean up the mess and maintain the 'path' in an appropriate condition for walkers, children and dogs on an on-going basis
- alternative diversion across the field parallel to the railway track to where it meets the level crossing on Long Lane is unworkable
- would require a Definitive Map Modification Order which can be a very lengthy and potentially costly exercise, particularly if it goes to a Public Inquiry
- footbridge is appropriate for an area that is earmarked for 'economic development'
- although within sight of the AONB, the area is already the location for a variety of 'semi-industrial' buildings and would not 'injure the amenity of the neighbourhood'
- being a critical feature of Footpath 50, the footbridge could not 'reasonably be carried out elsewhere on the land', and neither would it need to be moved if and when further development takes place
- Network Rail have built the bridge as an R&D project, and they are ready and able to site and maintain it
- NR is a 'not for profit' body regulated by the Office for Road and Rail no less, and turned over £6.5billion last year; don't think we need to concern ourselves with how they spend public money
- notion that the footbridge will become a 'magnet' for trainspotters impacting on the road traffic using the local lanes has I believe been exaggerated; unlikely that - even it were possible - they will try to park on the lane 3/4 fields from the footbridge

## 5.0 THE MAIN ISSUES

- 5.1
  - Prior approval requirement
  - Relevant considerations

## 6.0 OFFICER APPRAISAL

### 6.1 Prior approval requirement

#### 6.1.1 Permitted development considerations

The request for prior approval has been submitted under the provisions of Class A of Part 18 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). Part 18 relates to 'Miscellaneous development' and Class A states that, subject to conditions, the following works are 'permitted development':

*A. Development authorised by—*

*(a) a local or private Act of Parliament,*

*(b) an order approved by both Houses of Parliament, or*

*(c) an order under section 14 or 16 of the Harbours Act 1964 (orders for securing*

*harbour efficiency etc, and orders conferring powers for improvement, construction etc of harbours), which designates specifically the nature of the development authorised and the land upon which it may be carried out.*

6.1.2 Network Rail have advised that the provision of bridges is authorised by a combination of 'The Hereford, Ross and Gloucester Railway Act 1851' and 'The Railways Clauses Consolidation Act 1845'. Based upon the background information provided by Network Rail it is considered that the proposed works fall within Class A of Part 18 of the GPDO. In effect, the principle of the provision of this bridge is established under the above Acts, and the GPDO states that it is 'permitted development' subject to conditions. These conditions are explained below.

### 6.1.3 Conditions

Condition A.1 of Class A states that the erection of any bridge (in addition to other specified structures) is not permitted "unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained".

6.1.4 Condition A.2 sets out the extent of matters which may be considered as part of this prior approval process. It states:

*"The prior approval referred to in paragraph A.1 is not to be refused by the appropriate authority nor are conditions to be imposed unless they are satisfied that—*

- (a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or*
- (b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury".*

6.1.5 These two considerations are discussed below.

## 6.2 **Relevant considerations**

### 6.2.1 Whether the development ought to be and could reasonably be carried out elsewhere on the land [A.2(a)]

Network Rail has advised that the structure is required for the ongoing safe operation of the level crossing and railway infrastructure and therefore the work cannot be carried out elsewhere on land owned by Network Rail. The company state that they are running a national campaign to improve safety at level crossings and part of this involves removing the risk to members of the public coming into contact with high-speed trains through the diversion or closure of level crossings. Network Rail has advised that this particular level crossing at Wistanstow carries the highest risk of any footpath level crossing within the Wales and Borders route.

6.2.2 The footbridge would span the railway close to the point of the existing level crossing, and would therefore provide a safer method for pedestrians to cross the line at a similar point. There would be a need to formally divert a small section of the footpaths, so that they link to the base of the steps either side of the bridge,

and this is being progressed by Network Rail under the Highways Act as a separate process. This diversion would appear to be the minimal necessary to maintain footpath connectivity. Were the footbridge to be located elsewhere then this would necessarily involve a longer, more significant footpath diversion.

6.2.3 As the bridge is intended to provide a safer crossing point for pedestrians it is appropriate in principle for it to be located at the point proposed as this is where the public rights of way meet the railway line. Issues raised by the Council's Archaeology team regarding the moderate to high archaeological potential of the site can be satisfactorily addressed through the imposition of the condition recommended.

6.2.4 Overall, officers do not consider that the footbridge ought to be located elsewhere to perform its stated purpose, or that it could reasonably meet its purpose by being located elsewhere.

6.2.5 Whether the design or external appearance of the bridge would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury [A.2(b)]

Two of the visualisations provided by Network Rail are below.





- 6.2.6 It is understood that the height of the bridge is largely dictated by specific safety and technical requirements, as referred to above. This site lies outside of the main built-up area of Craven Arms. Existing trees and hedgerow in the area would break up views of the structure, however it would clearly be a noticeable addition to the local landscape and would change its character. The bridge would be visible in the context of the adjacent railway and as such would not be a totally alien feature.
- 6.2.7 The bridge would be visible from parts of the Shropshire Hills Area of Outstanding Natural Beauty (AONB), the nearest part of which is approximately 860 metres to the north-west. The NPPF requires that great weight is given to conserving and enhancing landscape and scenic beauty of AONB's. Land to the west, including that within the AONB, rises and this would provide further opportunities for views of the bridge. Nevertheless the local planning authority is required to limit consideration to whether the design or external appearance of the bridge would be injurious to the amenity of the area. Officers accept that the provision of the bridge at this location would result in some change to the character of the local area. However it is considered that the design is modern and aesthetically pleasing, particularly compared to more standardised styles of footbridge. Given its design, appearance, siting and nature, it is not considered that this would injure the amenity of the neighbourhood.
- 6.2.8 It should be noted that land either side of the railway line at the crossing point is allocated for employment in the adopted SAMDev Plan, The field to the east comprises a 2.5 hectares parcel of land which is allocated for offices, industrial and warehousing development (ref. ELR055) The field to the west forms a 3.5 hectares parcel of land which is allocated as a 'committee urban employment site' in the SAMDev Plan, which states that it is a site "committed for employment uses which is capable of accommodating the development of recycling and environmental industries". These two allocations are also proposed to be saved under the draft Local Plan which has been submitted for examination.
- 6.2.9 The development of these two parcels for the allocated purposes would be subject



to planning permission being first obtained. Nevertheless it is the objective of the Council's Development Plan that this land is developed for employment uses. It is not considered that there is incompatibility between the potential development of this land and the provision of the footbridge. It is considered that there may be benefits in terms of improving connectivity between the two parcels. Additionally, the visual character of the area would inevitably change as a result of the employment development.

## **7.0 CONCLUSION**

7.1 The proposal seeks the prior approval of the local planning authority of the detailed plans and specification of a footbridge to be erected at the level crossing north of Craven Arms near Wistanstow. Under the terms of the relevant 'permitted development' Order, this prior approval cannot be refused unless the planning authority is satisfied that:

- a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or
- (b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury".

7.2 These are the only reasons why the planning authority's approval should be withheld.

7.3 Based upon the assessment above it is not considered that there is any other location that is more suited to the provision of the footbridge; or that the amenity of the area would be injured due to its design or external appearance. Consequently, no modification of its specification is required. On this basis, it is considered that the prior approval of the local planning authority to the design and specification of the footbridge should be granted, subject to a condition relating to archaeological matters.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so



unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

## 8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

## 8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

## 9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10.0 Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)  
Councillor Ed Potter

Local Members

Cllr David Evans

Cllr Hilary Luff

Appendices

APPENDIX 1 - Conditions

## **APPENDIX 1 - Conditions**

### **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

No development approved by this permission shall commence until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.