

**5g 3/12/0424/FP – Closure of railway foot-crossing and construction of a new footbridge with ramped access at Johnsons Railway Crossing, Bishop’s Stortford for Network Rail**

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**Date of Receipt:** 13.03.2012

**Type:** Full – Minor

**Parish:** BISHOP’S STORTFORD

**Ward:** BISHOP’S STORTFORD MEADS

**RECOMMENDATION**

That planning permission be **GRANTED** subject to the following conditions:-

1. Landscape Design proposals (4P12) – l, j, k, and l.
2. Landscape works implementation (4P13).
3. The measures set out in the Habitat Management Plan - Reptiles (Appendix D JBA Consulting Bespoke Ecological Report, Draft Report dated July 2012), or such other measures as may be submitted to and agreed in writing by the Local Planning Authority shall be implemented in accordance with a timetable that shall be agreed by the Local Planning Authority. That timetable shall be submitted within six months of the date of this permission.

**Reason:** To protect the habitats of protected species in accordance with Policy ENV16 of the East Herts Local Plan Second Review April 2007

4. No external lighting shall be provided without the prior written permission of the Local Planning Authority.

**Reason:** In the interests of the visual amenities of the area and in accordance with policy ENV23 of the East Herts Local Plan Second Review April 2007.

**Summary of Reasons for Decision**

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the saved policies of the East Herts Local Plan Second Review April 2007, in particular policies GBC1, ENV1, ENV2, ENV11, ENV14, ENV16, ENV17, ENV18, ENV21, ENV23, BH1, BH6 and LRC9). The balance of the considerations having regard to those policies and the National Planning Policy Framework is that permission should be granted.

**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. The site is located to the north of Bishop's Stortford town centre and to the east of Grange Paddocks Leisure Centre. The railway line runs north to south with the crossing running east to west. Access to the crossing from the east leads from Cannons Close via a footpath. To the west, the public footpath from the south runs parallel to the railway and leads to the town centre. A link to the west leads to the Grange paddocks area.
- 1.2 Planning permission is sought for the new footbridge. The bridge replaces the former foot crossing. The design of the footbridge has been altered during the course of the application and amended plans have been submitted. All third parties and neighbouring properties have been notified of these changes and given the opportunity comment.
- 1.3 The ramp to the east of the bridge runs perpendicular to the track in a straight line for a length of 43 metres and follows the line of the public footpath. The ramp adjoins the proposed bridge which is sited 5.8 metres above ground floor level. An anti-vandal cage is sited above the bridge, resulting in a structure that reaches a maximum height of 8.8 metres.
- 1.4 At the west side of the bridge the ramp and separate stepped access form an 'N' shape. The steps provide an entrance to and exit from the bridge to the north and south and line up with the realigned footpath. The ramp and steps on the west side of the track have a total length of 66 metres (measured from the furthest extent of the combined ramp and steps). Where the ramps are placed alongside each other they have a combined width of 8m. No lighting is proposed for the bridge which is painted Holly Green. An area of hardstanding is proposed to boarder the ramp sited to the west of the track.
- 1.5 The applicants have submitted a full Design and Access Statement with the application in which they outline that the site lies within the Green Belt and acknowledge that the structure is likely to impact upon the Green Belt and the surrounding Conservation Area. The Statement outlines however that the location of the site, away from residential properties; the natural screening of the site and the safety benefits to pedestrians are such that the impact of the bridge is mitigated.

**2.0 Site History:**

2.1 There is no planning history to the site.

**3.0 Consultation Responses:**

3.1 The County Archaeologist has commented that the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest and therefore a condition is recommended on any permission to grant.

3.2 The Environment Agency has commented with no objection subject to conditions in relation to mitigation measures; land contamination and piling or other foundation designs.

3.3 Hertfordshire Biological Records Centre (HBRC) comment the site is identified as an area of ecological interest and lies in close proximity to woodland, with the river and the Meads acting as an important wildlife corridor for a range of invertebrates, birds and mammals. They further comment that from the initially submitted survey and report, additional surveys are required for reptiles, bats and breeding birds.

Following submission of that additional survey work HBRC recommend that, if permission is granted, conditions should be applied that require mitigation measures to be put in place as outlined in the survey work.

3.4 The Herts and Middlesex Wildlife Trust initially commented that whilst an Ecological Constraints Survey has been submitted, it did not constitute a full species survey. The information submitted at the time therefore was not sufficient for LPA to make a fully informed planning decision. The Trust has been consulted on the later survey work but had not commented at the time of report writing.

3.5 Hertfordshire Highways have commented with no objection to the development subject to conditions. Additional comments have also been received from the Rights of Way service who do not object to the proposal and comment that the footpath will need diverting.

3.6 The Council's Landscape Section recommend refusal of the application on the basis that there is likely to be an impact upon existing trees and because of the impact of the development on the character and appearance of the area. The Councils Conservation Officer recommends refusal on a similar basis of the impact on the character and appearance of the area.

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3.7 The Council's Engineers Section comment that the site is within floodzone 3 with no records of historic flooding. They comment that the development indicates that there will be an increase in the amount of impermeable areas being created which results in the potential increase of flooding within the immediate locality.

3.8 The Council's Environmental Health Section do not wish to restrict the grant of permission.

#### **4.0 Town Council Representations:**

4.1 Bishop's Stortford Town Council has recommended refusal of the application and raise the following concerns with the proposal:-

- It does not appear to be accessible for those with a disability;
- Loss of public amenity;
- Damaging to archeological sites;
- The canopy above the bridge could be used for undesirable activity;
- Inappropriate design;
- Loss of habitat.

#### **5.0 Other Representations:**

5.1 The application has been advertised by way of press notice, site notices and neighbour notification.

5.2 9 letters of representation have been received which can be summarised as follows:

- The development would occupy a substantial piece of land;
- It is excessive, would have an unsuitable visual impact, would spoil the rural setting of the locality and is not in keeping with the character of the area;
- The proposed footpath doesn't coincide with pedestrians desire line and should comply with current standards in terms of width and surface materials;
- The colour of the bridge should be dark green;
- Is inadequate for cycle users;
- The existing foot crossing is safe, with adequate warning lights and an alarm;
- Lack of illumination;
- The height of the bridge could be a danger to pedestrian safety;
- It would deter certain users, including the elderly and those with

pushchairs.

- 5.3 One letter in support of the application has also been received. This letter also questions whether the bulk of the bridge could be reduced to minimise its environmental impact.

## **6.0 Policy:**

- 6.1 The relevant 'saved' Local Plan policies in this application include the following:

GBC1	Appropriate Development in the Green Belt
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV11	Protection of Existing Hedgerows and Trees
ENV14	Local Sites
ENV16	Protected Species
ENV17	Wildlife Habitats
ENV18	Water Environment
ENV21	Surface Water Drainage
BH1	Archeology and New Development
BH6	New Developments in Conservation Areas
LRC9	Public Rights of Way

- 6.2 In addition, the National Planning Policy Framework is also relevant.

## **7.0 Considerations:**

- 7.1 The main planning issues for consideration in the determination of this application are as follows:

- Principle of development – location in the Green Belt
- Other harmful impacts
- Beneficial impacts and the weight that can be attached to these.

### Principle of development

- 7.2 The site lies within the Green Belt. Members will be aware of the restrictive policies that apply in the Green Belt and that, unless the development is of a type supported by the relevant policies, it is to be considered inappropriate. That is the case here and the development is, by definition, harmful to the Green Belt as a result of the impact on openness.

- 7.3 That impact is limited, to an extent, by the nature of the structure that has been erected. The bridge is not a solid building and, although its quoted dimensions appear large, the bridge does not present a uniform and consistent mass when viewed from different directions. Views can be had under, over and through elements of the structure. To a degree then, the harmful impact of the structure on the Green Belt is lessened.
- 7.4 However, given that there is harm, it is relevant then to consider whether that harm and any other harm is clearly outweighed by matters that can be considered to be in favour of the implementation of the bridge. If that is the case then very special circumstances exist and permission can be granted.
- 7.5 Other harm: Impact on character: The site is located at the very periphery of the Conservation Area for the town, such that the eastern half of the bridge is outside the Conservation Area, the railway forming the boundary. It is visible from within the Conservation Area to the west of the rail line, but the surrounding trees limit any longer distance views. Primarily these can be had from the Grange Paddocks area, but even from there are seen within the context of the canopy of the trees. Clearly the scale and extent of the structure is dictated by the need for appropriate clearance distances and ramp gradients, etc. Whilst the structure can be considered large overall for its purpose it would be excessive to argue that it is detrimental to the wider Conservation Area. It is considered then that, in respect of the duty on the planning authority to ensure that the character of the Conservation Area is preserved or enhanced, this is met.
- 7.6 In respect of the impact of the development on the character of the area closely surrounding the site, this is largely suburban in nature to the east of the rail line with the public open space and surrounding residential development. To the west the character has a more rural nature because of the wider area of undeveloped land and tree coverage. The existing rail line itself has some impact in the character of the area as a result of its surface treatment and generation of activity.
- 7.7 The bridge introduces another element of built form into the area. Land levels do not result in the requirement for significant ramping to the east of the line and therefore, when viewed from that side, whilst there is undoubtedly some impact, it is not considered to be an unacceptably harmful one on character. From the west, whilst the development is more significant, as set out above, its impact is limited by the nearby established trees and limited areas from which views can be had. Overall the impact on the character of the area is not considered to be an unduly harmful one.

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- 7.8 Whilst the comments of the Landscape Officer are acknowledged, the presence of tree cover remains predominant in views of the area and a condition can be applied seeking replacement planting. In that respect then it is considered that the impact is an acceptable one.
- 7.9 Other harm: Impact on residential amenity: residents affected by the development would be those in the dwellings to the east, north east and south east of the site within Cannons Close, Dolphin Way and Kingsbridge Road. The ramp to the east of the railway track is sited parallel to the rear gardens of the properties within Dolphin Way and is likely to be visible from the rear of the properties within Cannons Close and Kingsbridge Road. Visibility is much limited however by existing tree planting in the area. The ramp to the east of the track at its closest point retains over 70 metres separation to the nearest neighbouring dwellings. Although the development is of a substantial size and scale, given the distance retained to the immediate residential dwellings, intervening trees and because it is not illuminated, Officers consider that there would be no unacceptable impact to their amenity from overlooking, outlook or similar.
- 7.10 Other harm: impact on protected species: Although the application site is not a Wildlife Site, Herts Biological Records Centre have identified it as an area of ecological interest, located in close proximity to woodland and with the river and the Meads acting as an important wildlife corridor for a range of invertebrates, birds and mammals. After initial survey works, Herts Biological Records Centre and Herts and Middlesex Wildlife Trust commented that further surveys would need to be carried out at the site with particular regard to badgers, bats, reptiles and breeding birds prior to the LPA determining the application.
- 7.11 Further survey work has now been undertaken and a report provided dated July 2012. The report authors note that, due to the nature of the works already undertaken at the time of the survey and the time of the year, it is not possible for the survey work to comply fully with industry best practice. This acknowledges the fact that the area of the site had been cleared of vegetation and construction had commenced prior to the undertaking of the surveys. However the aim of the survey work was to identify the potential for the works already undertaken to cause disturbance to protected species and the surveys assessed the ecological value of the location of the development and adjoining land.
- 7.12 The report concludes that the value of the survey area for water voles, newts and badgers is considered to be low and no further action is recommended in relation to these species.

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- 7.13 With regard to bats, the conclusion of the survey is that the area contains foraging and roosting opportunities and therefore does provide moderate ecological value for local bat species. The recommendations relate only to lighting matters which are achieved in so far as lighting is not proposed and future proposals can, via condition, be subject to planning control.
- 7.14 With regard to reptile species, the value of the survey area is considered to be moderate. The survey report sets out recommendations in relation to subsequent habitat management as a result. Finally, for bird species, the value of the survey area is considered to be moderate but no further recommendations are made in relation to actions that could be undertaken post construction.
- 7.15 Given the potential for impact on protected animal species as a result of the development it is necessary to consider the three derogation tests set out in protective legislation. They are as follows: first, the proposal must be for imperative reasons of overriding public interest or for public health and safety. The clear health and safety interest here can be identified.
- 7.16 Secondly, there must be no satisfactory alternative. In this case, if the safety aspiration is to be achieved at the location of the former crossing then either a bridge or underpass solution is required. The alternative of an underpass would be likely to require significant remodelling of the land around the crossing and therefore have an equal, if not greater impact on surrounding habitats. It does not provide a satisfactory alternative therefore.
- 7.17 Thirdly, the favourable conservation status of the species must be maintained. In this case, implementation of the mitigation measures, as set out in the submitted report is considered to achieve this objective.
- 7.18 **Beneficial impact:** Members will be aware that the argument primarily advanced in favour of the development relates to pedestrian safety. The previous crossing required pedestrians to walk directly across the rail line. The bridge enables separation. Despite the safety features that were supplied at the previous crossing, gates, warning notices and lights, Members will be aware that there have been pedestrian fatalities at the site.
- 7.19 From use of the site in its previous form Officers are aware of its shortcomings. Approaching trains can be travelling at speeds of up to 70 mph and visibility from the east side of the crossing in a northerly direction is poor. This required the pedestrian to put faith into the



warning lights and assume that all is working correctly prior to crossing. Comparison with road crossing arrangements highlights the potential dangers that existed here. Generally pedestrian crossing of roads with high vehicle speeds is discouraged. If they are permitted, often crossing facilities would be provided which enable vehicles to be stopped for pedestrians to cross. Such arrangements are not possible here. Given the clear shortcomings of the previous crossing arrangements and the previous record of accidents, it is considered appropriate to apply very considerable weight to the public safety benefit that the bridge delivers.

**8.0 Conclusion:**

- 8.1 In conclusion then, the harm of the new bridge in Green Belt terms is acknowledged. Some additional harm is caused as a result of the introduction of the considerable structure into the area which previously lacked development of this nature. It is not considered that there is any significant harm in relation to residential amenity and impacts on protected animal species can be mitigated.
- 8.2 Balanced against this is the significant improvement in public safety that is achieved. In this case, considerable weight can be assigned to this beneficial change and, as a result, the harm by reason of inappropriateness and other harm is felt to have been clearly outweighed. Very special circumstances therefore are considered to exist and planning permission can be granted.