

FAO Andy Mortimer

Shropshire - Site Allocations and Management of Development Plan - Pre-Submission Draft

Thank you for the opportunity to provide feedback to the proposed consultation.

Network Rail is the “not for dividend” owner and operator of Britain’s railway infrastructure, which includes the tracks, signals, tunnels, bridges, viaducts, level crossings and stations – the largest of which we also manage. All profits made by the company, including from commercial development, are reinvested directly back into the network.

Network Rail has the following comments to make.

(1) Level Crossings

The following level crossings are within the Shropshire Council area.

WSJ2 167m, 54 ch – Bypass No.2

Councils are urged to take the view that level crossings can be impacted in a variety of ways by planning proposals:

- (a) By a proposal being directly next to a level crossing
- (b) By the cumulative effect of developments added over time
- (c) By the type of level crossing involved e.g. where pedestrians only are allowed to use the level crossing, but a proposal involves allowing cyclists to use the route
- (d) By the construction of large developments (commercial and residential) where road access to and from the site includes a level crossing or the level / type of use of a level crossing increases as a result of diverted traffic or of a new highway
- (e) By developments that might impede pedestrians ability to hear approaching trains at a level crossing, e.g. new airports or new runways / highways / roads
- (f) By proposals that may interfere with pedestrian and vehicle users’ ability to see level crossing warning signs
- (g) By any developments for schools, colleges or nurseries where minors in numbers may be using the level crossing
- (h) By proposals that change the demographic of users – from say occasional agricultural usage to (but not limited to) increased usage by minors, dog walkers, the elderly, cyclists and mountain bikers, pedestrian using smart-phones, with ear-phones with little or no appreciation of the risks from approaching trains at footpath level crossings.

Network Rail wants to operate a safe national rail network. We believe that our employees should expect to be able to work in a safe environment, free from harm – “everyone home safe, every day”. In a similar vein, we want to eliminate the risk of harm to everyone who interacts with us: passengers, line side neighbours and level crossing users. Our vision aligns with increasing expectations in society regarding an individual’s right to a life free from unnecessary harm.

Level crossings are Network Rail’s greatest source of risk to members of the public. We have adopted a policy that, wherever possible, we will close level crossings.

It is Network Rail’s and indeed the Office of Rail Regulation policy to reduce risk at level crossings not to increase risk as would be the case with an increase in usage at the two level crossings in question. The Office of Rail Regulators, in their policy, hold Network Rail accountable under the Management of Health and Safety at Work Regulations 1999. And that Risk control should, where practicable, be achieved through the elimination of level crossings in favour of bridges.

It is Network Rail’s opinion that even with what may be considered as a minor increase in usage at a level crossing, that this is still unacceptable as any increase in usage would also lead to an increase in the level of risk to users. We would also highlight that an increase in level crossing neighbours may lead to an increase in both wilful and unconscious unsafe acts, such as rushing to get across before a train passes, or a dog walker chasing after a loose pet on the line from the crossing, or simply crossing with too little time, instances such as this would not be acceptable at the level crossings.

Shropshire Council have a statutory responsibility under planning legislation (**Schedule 5 (f)(ii) of the Town & Country Planning (Development Management Procedure) Order, 2010**) to consult the

statutory rail undertaker where a proposal for development is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway.

It is difficult to determine what level crossings could be impacted by the proposal sites outlined above from aerial shots, without more detailed location plans. Therefore we would comment as follows:

1. That any proposal going forwards includes a transport assessment which should include a section on the impact of increased users (both vehicular or pedestrian) at any level crossings within the area, or which may be impacted by diversionary routes or new highways leading to or from the developments
2. Where a proposal has an increase in type and volume of user at a level crossing, Network Rail would seek closure of that crossing.
 - a. Where feasible we would seek replacement of the level crossing with a suitable footbridge
 - i. We would seek a developer contribution towards the funding of the footbridge either via CIL, S106 or a unilateral undertaking. Where proposals are large scale we believe that the developer should provide full funding for the footbridge, for smaller proposals a contribution would be sort in proportion to the development.
 - ii. Network Rail would design and construct the footbridge
 - iii. The developer would submit a planning application for the footbridge.
 - iv. Furthermore we would need a commitment from the council that they are supportive in principle of the closure of the relevant level crossing and construction of a footbridge
 - v. Network Rail would have liability for the maintenance of the footbridge unless agreed otherwise
 - b. Where replacement with a footbridge is not feasible we would seek a diversion order of, for example, a public footpath – which would include discussions with the LPA, Highways and PROW teams.
 - i. The developer will be responsible for the preparation and submission of the diversion orders
 - c. The developer and the council agree that only a specific percentage of dwellings are constructed prior to the installation of any footbridge, and the closure of the relevant level crossing, which should be a condition of approval

We believe that developer contributions should be included as part of the proposal preparations in the same way as consideration is given to funding towards local facilities or highways works.

The NPPF at Section 17, bullet 4 states:

"Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings"

Network Rail believes that there is clearly a robust requirement for level crossing impact to be taken into account in any planning application as a result of this comment.

We would also draw the council's attention to the **House Of Commons Transport Committee - Eleventh Report - Safety at level crossings** which states:

"Level crossings are a significant source of risk on the UK's transport networks. Although the number of accidental deaths at level crossings has decreased in recent years, nine people died in 2012-13. Every one of those deaths was a personal tragedy which could have been averted. We recommend that the Office of Rail Regulation (ORR), which is responsible for rail safety, adopt an explicit target of zero fatalities at level crossings from 2020."

In the recent report 'Level Crossing Safety' issued by the Transport Select Committee (attached Para 1 Pg 35) the following was stated that may be of use:-

'Analysis of Network Rail and Department for Transport data (see Annex) shows that if an average walking trip includes a level crossing, the fatality risk to a pedestrian is about double the risk of an average walking trip without a level crossing.'

7. Level crossings are places where footpaths, bridleways or roads cross railway lines at the same level. Network Rail manages approximately 6,500 level crossings on the commercial rail network, and

there are a further 1,500 crossings on heritage, industrial and metro railways.⁵ There are two general types of crossing: active crossings, which provide warnings or protection when a train is approaching, and passive crossings, which do not. Active protection may be automatic, or may require a signaller, driver or crossing keeper to perform certain actions. Passive crossings rely entirely on the user for their safe operation.

“12. There are significant safety risks associated with the different forms of level crossing. Of Network Rail’s 6,500 crossings, 76% are passive crossings, which do not offer any warning of an approaching train (see Table 1). The decision on whether it is safe to cross is left to the user.”

Co-operation between railway operators, highway authorities and planning authorities

31. Local authorities must work with Network Rail and other railway operators to help keep level crossings safe. For example, local authorities’ plans for promoting walking and cycling routes that traverse level crossings can have a direct effect on safety at those crossings. However, the Association of Directors of Environment, Economy, Planning and Transport told us that liaison between Network Rail and local authorities is variable...Network Rail has highlighted a number of examples where local authorities have imposed planning obligations on developers, to help fund Network Rail’s construction of footbridges... However, in some cases planning authorities have consented to large developments and changes in road layout without due attention to the increased risk at nearby level crossings... In its report into a fatal accident at the Kings Mill No. 1 crossing near Mansfield, the RAIB (Rail Accident Investigation Branch) criticised the local authority for establishing a walking and cycling trail without discussing the likely impact on the usage of a level crossing with Network Rail.

32. Railway operators are already statutory consultees where proposed development is likely to result in a material increase in the volume or character of traffic using a level crossing...The Law Commission’s proposal for broader statutory duty of co-operation on railway operators, traffic authorities and highway authorities in respect of level crossings is a sensible suggestion....However, in the case of footpaths, private crossings or unadopted roads (which are not maintained by the highway authority), there is a case for adding planning authorities to that list....We welcome the duty of co-operation on railway operators, traffic authorities and highways authorities in respect of level crossings but recommend that it should also encompass planning authorities so that the impact of additional numbers of people using level crossings can be considered.

Conclusions and recommendations

9. We welcome the duty of co-operation on railway operators, traffic authorities and highways authorities in respect of level crossings but recommend that it should also encompass planning authorities so that the impact of additional numbers of people using level crossings can be considered.

We would therefore wish to see a policy within the Site Allocations and Management of Development Plan - Pre-Submission Draft specifically addressing the issue of level crossings.

Impacts of proposals on existing railway stations

Where growth areas or significant housing allocations are identified close to existing rail infrastructure it is essential that the potential impacts of this are assessed. Many stations and routes are already operating close to capacity and a significant increase in patronage may create the need for upgrades to the existing infrastructure including improved signalling, passing loops, car parking, improved access arrangements or platform extensions. As Network Rail is a publicly funded organisation with a regulated remit it would not be reasonable to require Network Rail to fund rail improvements necessitated by commercial development. It is therefore appropriate to require developer contributions or CIL contributions to fund such railway improvements; it would also be appropriate to require contributions towards rail infrastructure where they are directly required as a result of the proposed development and where the acceptability of the development depends on access to the rail network.

The National Planning Policy Framework states that councils should, “*work with...transport providers to develop strategies for the provision of viable infrastructure necessary to support sustainable development...or transport investment necessary to support strategies for the growth of ...other major generators of travel demand in their areas.*” Also, “*encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. In preparing Local Plan, local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport.*”

The likely impact and level of improvements required will be specific to each station and each development meaning standard charges and formulae may not be appropriate. Therefore in order to fully assess the potential impacts, and the level of developer contribution required, it is essential that where a Transport Assessment is submitted in support of a planning application that this quantifies in detail the likely impacts on the rail network.

Developer contributions should be sort to mitigate the impacts of increased footfall at railway stations as a result of new residential or commercial development. The need to mitigate the impacts of increased footfall at railway stations with enhanced services (e.g. CCTV, CIS, increased car parking) should be considered as part of the S106 contributions in the same way as local services or highways works.

(3) Asset Protection

That any proposal within the site allocations plan does not impact upon the railway infrastructure / Network Rail land e.g.

- Drainage works / water features
- Encroachment onto Network Rail land or our air-space
- Excavation and earthworks, bunds and embankments
- Wind turbines / solar farms
- Siting of structures/buildings less than 2m from the Network Rail boundary / Party Wall Act issues
- Lighting impacting upon train drivers ability to perceive signals
- Landscaping that could impact upon overhead lines or Network Rail boundary treatments
- Any piling works
- Any scaffolding works
- Any public open spaces and proposals where minors and young children may be likely to use a site which could result in trespass upon the railway (which we would remind the council is a criminal offence under **s55 British Transport Commission Act 1949**)
- Any use of crane or plant
- Any fencing works / acoustic fencing works and boundary treatments (we would request that any development adjacent to the railway erects a minimum 1.8m high steel palisade trespass proof fence to prevent unauthorised access onto the railway.
- Any demolition works
- Any hard standing areas
- Works adjoining / adjacent or near to or including railway stations, in this case Sudbury and Harrow Railway Station
 - The council should be made aware that access and egress from Sudbury and Harrow Railway Station should not be blocked both during construction works on any proposal and as a permanent arrangement
- Any works over or adjacent to a tunnel

We would very strongly recommend that developers of these sites are made aware that any proposal within 10m of the operational railway boundary will also require reviewing and approval by the Network Rail Asset Protection Team, and such schemes should be accompanied by a risk assessment and a method statement (at the design and construction phase). No works should commence on site without the approval of the Network Rail Asset Protection Engineer. Network Rail is required to recover any expenses incurred in facilitating third party proposals, a BAPA may be required for the works on site.

We would draw the councils attention to the following Rail Accident Investigation Branch report into 'Penetration and obstruction of a tunnel between Old Street and Essex Road stations, London 8 March 2013', which concluded:

4 The intent of this recommendation is for the British Standards Institution to amend British Standard 5930:1999+A2:2010 to clarify that some railway tunnels are not shown on Ordnance Survey mapping. The British Standards Institution should amend British Standard 5930:1999+A2:2010 'Code of practice for site investigations' to make clear (paragraph 100):

- a. that tunnels used by underground railways and associated subterranean structures may not be shown on Ordnance Survey mapping; and
- b. that rail infrastructure owners should be contacted during desk studies and utility searches where appropriate.

5 The intent of this recommendation is to ensure that the planning approval process reduces the risk to railway infrastructure due to adjacent developments.

The Department for Communities and Local Government should introduce a process to ensure that Railway Infrastructure Managers are made aware of all planning applications in the vicinity of railway infrastructure. This process should at least meet the intent of the statutory consultation process (paragraphs 97f and 101).

All initial proposals and plans should be flagged up to the Network Rail Town Planning Team London North Western Route at the following address in the first instance:

**Town Planning Team LNW
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Square One
4 Travis Street
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Regards

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