

Wareham Neighbourhood Plan Examination April 2021

Question from Examiner

1. Dorset Council objects to the retention of the foot crossing at the railway station, as set out in policy PC1 (page 48). It is also confirmed by the Council (in its Regulation 16 response) that 'ramped and lift options' have been ruled out. On the Council's web-site¹ it states that 'talks will now continue between Dorset Highways and Network Rail to produce a more suitable solution for the community'.

I consider this to be a very important link in the route between Northport and the town. On that basis (and bearing in mind the clearly expressed views of the local community), I would therefore ask Dorset Council in consultation with the Town Council:

- (a) to explain what 'alternative solutions' have been considered;
- (b) to summarise the outcomes of that consideration and explain how it is envisaged that this issue will be satisfactorily addressed and over what timescale;
- (c) to confirm my understanding that the lease agreement with Network Rail comes to an end in 2038;
- (d) to confirm whether or not there is any substantive evidence that would lead me to conclude that a solution to the railway crossing, in the form of an electronic barrier or gates linked to the signalling system, cannot satisfactorily be achieved; and
- (e) to establish whether or not there are any modifications to policy PC1 and/or its supporting text, that would add greater clarity to the situation.

Answer by Wareham Town Council

As of 22nd April 2021, the day before the extended deadline set by the Examiner, no communication on this Question has been received by the Town Council from Dorset Council and therefore the Town Council has prepared its own answer.

As pointed out by the Examiner, this route is a vital link between Northport/Northmoor and the town which is in fact the only pedestrian route between the two halves of the Town. Until 1980 there was a right of way for both pedestrians and vehicles across the level crossing. With the building of the road flyover to the east a mistake was made by Dorset County Council when extinguishing the rights of way over the level crossing which meant that the pedestrian rights were extinguished as well as the vehicular rights. This had never been the intention and unfortunately the Dorset County Council file on this matter appears to no longer exist. The intention had been to keep the pedestrian right of way across the railway in recognition of this vital route for pedestrians. The taking out of a lease by Dorset County Council was in order to maintain the right for pedestrians to cross the railway and to attempt to rectify the mistake. In the community's view this route should be maintained and regarded as a right of way in perpetuity since this was always the intention. The Leader of Dorset County Council Cllr Colin Hodge, at the time, reported back to the Town Council after the signing of the lease that someday this mistake "would come back to bite" us.

A Neighbourhood Plan provides the opportunity for the community to articulate its views and Government Guidance on neighbourhood planning states

¹ <https://www.dorsetcouncil.gov.uk/roads-highways-maintenance/highway-improvements/wareham-pedestrian-level-crossing.aspx>

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on ... what infrastructure should be provided, and grant planning permission for the new buildings they want to see go ahead. Neighbourhood planning provides a powerful set of tools for local people to plan for the types of development to meet their community’s needs and where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.”

In order to clarify the legitimacy of the particular policy of retaining the ground level crossing the Town Council took legal advice from Sasha White QC of Landmark Chambers, London. On this matter his advice states:

“We note that there are issues (which we have advised on previously) surrounding the District Council and Network Rail’s commitment to maintaining the ground level railway crossing. However, we consider it is likely that this does not prevent the matter from being included in Policy PC1. As set out in paragraph 29 of NPPF2, the aim of a neighbourhood plan is to give “communities the power to develop a shared vision for their area” and to “shape, direct and help deliver sustainable development”; as such it is legitimate for the local community to express their desire for the ground level railway crossing to be maintained, and for this to, and for this to be considered as part of the development plan if a planning application is made in relation to this land. We also note that one of the basic conditions is that the neighbourhood plan policies “contributes to the achievement of sustainable development.” Any issues surrounding the District Council or Network Rail’s desire or commitment to maintaining the ground level railway crossing may become relevant in the future (whether in the planning context or not), but that does not prevent the neighbourhood from putting across their vision of sustainable development in planning policy.”

- a) The alternative solutions that have been investigated are a ramped bridge and lifts.
 - The first planning application for a ramped foot bridge was approved but it proved impossible to implement. The second and third applications for planning permission and listed building consent were both refused for sound planning reasons.
 - Lifts would not have the capacity to take the pedestrians and cyclists who need to cross the crossing during peak times and in the event of a breakdown there could be problem evacuating people and no step-free access at this time. We understand that Network Rail agree that lifts are unsuitable in this location.
- b) The local community supported by Wareham Town Council consider that electronic gates should be provided in order to maintain the current pedestrian route which has served the community well for decades.
- c) The Town Council understands that the current lease agreement comes to an end in 2038 but could be extended if necessary. Sasha White QC has advised that “....

“The present case concerns Network Rail’s function in providing or failing to provide pedestrian crossings over the railway. It is highly likely that a court would find that if Network Rail allowed the Level Crossing to close, and refused to provide an alternative step free access, this would be contrary to the public sector equality duty. This is largely because it has been accepted by the Council and Network Rail, on numerous occasions, that the failure to provide alternative step free access, once the Level Crossing is closed, would discriminate against those with protected characteristics:”

- d) The Town Council is not aware of any such evidence.
- e) The Town Council is not proposing any modifications but would be happy to include more clarity on the retention of the ground level crossing. The Town Council considers that the retention of a ground level crossing is a fundamental part of the Neighbourhood Plan to retain a cohesive community and vital to the achievement of sustainable development.

22.04.2021

Wareham Neighbourhood Plan Steering Group