



EAST CAMBRIDGESHIRE DISTRICT COUNCIL

THE GRANGE, NUTHOLT LANE,
ELY, CAMBRIDGESHIRE CB7 4EE

Telephone: Ely (01353) 665555
www.eastcambs.gov.uk

Network Rail
FAO Mr David Brierley
1 Stratford Place
London
E20 1EJ

This matter is being dealt with by:

Holly Chapman

Telephone: 01353 616360
E-mail: holly.chapman@eastcambs.gov.uk
My Ref: 23/00048/P18
Your ref

29th March 2023

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990

THE TOWN & COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 2015

DEVELOPMENT AUTHORISED BY A LOCAL OR PRIVATE ACT OF PARLIAMENT OR AN ORDER APPROVED BY BOTH HOUSES OF PARLIAMENT WHICH DESIGNATES SPECIFICALLY THE NATURE OF THE DEVELOPMENT AUTHORISED AND THE LAND UPON WHICH IT MAY BE CARRIED OUT

Prior approval is granted by the Local Planning Authority for the following development:

Proposal: Redevelopment and upgrade works to level crossing
Location: Dullingham Level Crossing Station Road Dullingham Suffolk
Applicant: Network Rail
Reference No: 23/00048/P18
Received On : 26th January 2023

Subject to the additional conditions set out below:

ADDITIONAL CONDITIONS

1 Development shall be carried out in accordance with the drawings and documents listed below

Plan Reference	Version No	Date Received
157001-NRD-DRG-ESG-000011 Plan		A02 26th January 2023
157001-NRD-DRG-ESG-000015 Plan		A02 26th January 2023
Drainage report C3R Surface water drainage strategy	157001	P02 26th January 2023
Transport assessment		26th January 2023
C3R Construction management plan	157001-ALS-PLN-EEN-000012	P01 26th January 2023
Plan 15001-NRD-DRG-ESG-000012		A03 26th January 2023
7951370-6 Site location plan (historic limit)		G 26th January 2023
Arboricultural/Tree Impact Assesment/Plan 2484085		REV 1 26th January 2023

- 1 Reason: To define the scope and extent of this permission.

INFORMATIVES RELATING TO THIS APPLICATION

- 1 The Applicant's attention is drawn to the comments of Natural England regarding the requirement for a bat survey and potential need for bat mitigation licence. This is on the basis of ecological and arboricultural reports submitted with the application, which have identified the potential presence for bats. Without a bat mitigation licence, it would be illegal to undertake works that would include capturing, killing, disturbing or injuring them (on purpose or by not taking enough care); damaging or destroying their breeding or resting places (even accidentally); and/or obstructing access to their resting or sheltering places (on purpose or by not taking enough care).
- 2 The developer's attention is drawn to British Standard BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations for information upon effective site management practices to ensure that trees and hedges are not damaged during the construction process.
- 3 Nesting Birds
The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to August inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out and documented. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check and document the process. Only if there are no active nests present should work be allowed to commence.

PLEASE ALSO NOTE THAT THIS PERMISSION IS GRANTED SUBJECT TO DUE COMPLIANCE WITH THE BYE-LAWS AND GENERAL STATUTORY PROVISION IN FORCE IN THE DISTRICT AND DOES **NOT** CONSTITUTE APPROVAL UNDER BUILDING REGULATIONS. YOU ARE ADVISED TO CONTACT THE BUILDING REGULATIONS SECTION IF YOU WISH TO DISCUSS THIS FURTHER



Simon Ellis
Planning Manager

Dated: 29th March 2023



OFFICER REPORT

Application Number: 23/00048/P18

Proposal: Redevelopment and upgrade works to level crossing

Location: Dullingham Level Crossing Station Road Dullingham Suffolk

Applicant: Network Rail

Agent:

Case Officer: Holly Chapman

The Application:

The application proposal seeks to undertake level crossing upgrade works at the Dullingham Level Crossing. The works are part of Network Rail's wider C3R project affecting approximately 125 miles of track and seven level crossings. Specifically at Dullingham, the works aim overall to:

- Upgrade of level crossing from Manually Controlled Gated (MCG) level crossing to a Manually Controlled Barrier crossing Supervised by Obstacle Detector (MCB-OD)
- Installation of new Relocatable Equipment Building (REB) module and secure compound fence.
- All fencing and equipment around level crossing will be renewed

More specific works include the following:

As part of the MCB-OD and equipment upgrades, the following infrastructure will be installed:

- New barriers across the full width of the carriageway and footways, fitted with skirts and cages;
- New RTLS (Road Traffic Light Signals) at each corner of the level crossing;
- New 'keep crossing clear' signage;
- Audible warning devices;
- Surveillance cameras to monitor mis-use of crossing;
- Telephones with associated signage;
- Pedestrian stop signs;
- RADAR scanners;

The REBs includes:

- One REB for an equipment module, control and power supply;
- Second REB containing a generator for uninterrupted power supply to infrastructure;

Upgrades to surfaces and boundaries also includes:

- New rubber pyramid trespass guards across the railway;
- Road marking commensurate with the road and level crossing type;
- Footways of 1metre in width (eastern side) and 1.6metres in width (western side) extended to length of crossing area on both sides of road to adjoin existing.
- Station access in north-west corner diverted and remodelled with accessible ramps within railway boundary that will require removal of some trees.
- 1.4 metre high white palisade fencing with grey 1.4 metre high weldmesh within the barriers.

The works propose largely to upgrade existing infrastructure. The works are proposed to commence mid-2023.

Relevant Plans:

Plan Reference	Version No	Date Received
Network rail route view 1		26th January 2023
Example photograph of new-MBC-OD- Barriers up		26th January 2023
Network rail route view 2		26th January 2023
Example photograph of existing barriers down-closed		26th January 2023
157001-NRD-DRG-ESG-000011 Plan	A02	26th January 2023
157001-NRD-DRG-ESG-000015 Plan	A02	26th January 2023
Drainage report C3R Surface water drainage strategy157001	P02	26th January 2023
Cover letter TP/ANG/2021/092a		26th January 2023
Transport assessment		26th January 2023
C3R Construction management plan 157001-ALS-PLN-EEN-000012	P01	26th January 2023
Plan 15001-NRD-DRG-ESG-000012	A03	26th January 2023
7951370-6 Site location plan	G	26th January 2023
Arboricultural/Tree Impact Assesment/Plan 2484085	REV 1	26th January 2023
Sustainability Statement 157001-ALS-REP-EEN-000014	P02	26th January 2023
Biodiversity/Ecological Assessment 2484080		26th January 2023
7951370-6 Site location plan (historic limit)	G	26th January 2023
Example photograph of new-MBC-OD- Barriers down		26th January 2023

The Site and its Environment:

The application site comprises the existing level crossing at Dullingham Station, and associated existing infrastructure. The site is not located within a Conservation Area, nor is it located near to any Listed Buildings. There are however a number of Buildings of Local Interest nearby.

There are a number of trees and hedges nearby the application site.

Planning History:

22/01078/P18	Redevelopment and upgrade works to level crossing	Withdrawn	20.12.2022
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Replies to consultations:

Given the nature of the application (prior approval) a site notice was not required to be erected nearby the site. Notwithstanding, the following consultation comments were received.

ECDC Trees Team -

States: "Although the conclusions and reconditions in the arboricultural report are acceptable it would be good to see at replacement planting of one tree to replace tree T4 which is recorded as being in a poor condition but this is a highly visible tree and its replacement would aid the integration of the proposals in to the locality. Therefore please condition compliance with the arboricultural report and for replacement/mitigation planting of one tree as close to the location of tree T4 as reasonably practicable."

Conservation Officer - 13 February 2023

States: "No conservation implications

Camb's Wildlife Trust -

No Comments Received

Natural England - 28 February 2023

States: "SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON PROTECTED SPECIES

As submitted, the application could have potential significant effects on protected species. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- o Bat roost survey to be conducted on sycamore tree 'T4'.

Please re-consult Natural England once this information has been obtained.

Natural England's further advice on designated sites/landscapes and advice on other issues is set out below.

Additional Information required

Bat Roost Survey

As noted in the Biodiversity Ecological Assessment, tree names 'T4', a semi-mature sycamore tree, has bat roosting potential and is proposed to be removed as part of these works. Natural England are of the position that a further bat roost inspection, such as an aerial tree climbing inspection or two bat emergence surveys, are necessary before planning permission is granted.

If a bat roost is confirmed, the applicant should seek to secure a European Protected Species mitigation licence. Please refer to Natural England's protected species standing advice.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as

amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Further general advice on the protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter please contact me on Emily.butterwick@naturalengland.org.uk or via telephone on 07471 963445.

Should the applicant wish to discuss the further information required and scope for mitigation with Natural England, we would be happy to provide advice through our Discretionary Advice Service. Please consult us again once the information requested above, has been provided.”

The Planning Policy Context:

The overarching policy context for the consideration of this application is Schedule 2, Part 18, Class A of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended), relating to Miscellaneous Development (under which development by local or private acts or orders are permitted).

The most relevant policies within the East Cambridgeshire Local Plan 2015 are however as follows:

- ENV 2 Design
- ENV 13 Local Register of Buildings and Structures

Planning Comments:

The works described within the preceding sections of this report comprise railway operational development for which Network Rail has statutory powers and planning permission can therefore granted by virtue of Part 18 (if the development complies with the stipulations of this part).

Network Rail's use of Part 18 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, relates to development authorised by a local or private Act of Parliament.

The railway in this location was authorised by the various Acts set out below:

- Newmarket & Chesterford Railway Act 1846

As well as incorporation of the

- Railways Clauses Consolidation Act 1845

The railway at this location was subsumed into the Great Eastern Railway by the Great Eastern Railway (GER) Act 1862. The effect of the GER Act 1862 was to reapply the RCC Act 1845 to all railways owned by that organisation.

Section 16 of the RCC Act 1845 enlarges upon the works which may be carried out and this includes the power *“from time to time alter, repair, or discontinue the before-mentioned works, or any of them, and substitute others in their Stead; and they may do all other Acts necessary for making, maintaining, altering, or repairing and using the Railway”*.

Officers are satisfied that the works proposed can be dealt with as a Prior Approval application under Part 18 of the GPDO and do not require express planning permission, subject to the limitations set out in the GPDO.

Part 18 of the GPDO requires Prior Approval of the detailed plans and specifications to be obtained

from the Local Planning Authority if the works consist of or includes:

- a) The erection, construction, alteration or extension of any building, bridge, aqueduct, pier or dam; or
- b) The formation, laying out or alteration of a means of access to any highway used by vehicular traffic.

For such Prior Approval, Part 18 details that only the location and design or external appearance of a development can be considered.

Development is not to be refused, nor are conditions to be imposed unless:

- a) The development ought to be and could reasonably be carried out elsewhere on the land; or*
- b) The design or external appearance of any building or bridge would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.*

It is relevant that the majority of the works proposed as part of the level crossing upgrade fall outside of the scope of Part 18, and it is largely the proposed introduction of buildings (REBs) that require prior approval.

In terms of (a), it is therefore considered that the proposed development could not be carried out elsewhere on the land as the proposed works are to improve the existing level crossing, and largely take place within land already forming part of the railway.

In assessing (b), the work includes those details as set out within the preceding sections of this report. Whilst the works are seemingly extensive when listed, the realities of the proposals means that the works are largely upgrading existing crossing infrastructure, as well as falling outside of the scope of the application consideration under Part 18.

Indeed, the proposed works will be more visually impactful than the current infrastructure due to the upgrades in technology required to support the upgrade in the safety and functioning of the level crossing.

Notwithstanding, these works are not considered to be uncommon for a level crossing, and will largely be contained within the limits of existing railway land. The proposed REBs are proportionate to the scale of the works required, and would not be unduly prominent nor out of place with existing rail infrastructure associated with the existing crossing.

It is noted that the Conservation Officer raises no objections to the proposals upon the buildings of local interest nearby.

Ecological and Arboricultural Impacts

The proposed development will result in the removal of some vegetation, including the removal of a tree (T4).

In their comments, Natural England have raised objection to the loss of T4 in the absence of a bat survey assessing the importance of T4 for local bat populations.

Ecological impacts are not a consideration under Part 18, Class A, and to refuse the development or impose a condition on this basis would fail the tests as set out at paragraph A.2 of Part 18, Class A of the GPDO 2015 (as amended). A condition will not therefore be imposed upon the consent to this effect.

Notwithstanding, the Applicant has supported the application proposals with ecological surveys, including an assessment of bat-roost potential for T4 and the C3R project as a whole. The Applicant

has advised that appropriate bat surveys will also be undertaken in May 2023 prior to any works being undertaken to remove T4. This will assess the need for any mitigation licence, should bats be found.

Irrespective of this, any works to T4 that would include:

- capturing, killing, disturbing or injuring bats (on purpose or by not taking enough care);
- damaging or destroying their breeding or resting places (even accidentally);
- obstructing access to their resting or sheltering places (on purpose or by not taking enough care)

would otherwise be illegal without the securing of a proper licence, the need for which will be informed by a survey ([Bats: apply for a mitigation licence \(A13\) - GOV.UK \(www.gov.uk\)](#)). It is therefore a legal requirement that such a survey and licence are obtained prior to any works commencing that would affect T4, regardless of the imposition of any planning condition.

On this basis, it is considered that there is sufficient separate environmental legislation outside of the planning system which requires all developments to ensure protected species are safeguarded from harm.

An informative will however be imposed upon the consent, drawing the Applicant's attention to the requirements of this legislation and the importance of their compliance with it.

Conclusion

Given the applicant's Permitted Development rights in relation to the railway, the Local Planning Authority has little control over the proposed works.

Prior approval cannot be refused for any other reason than those set out above.

The works are not considered to injure the amenity of the neighbourhood in a manner that would warrant refusal of the application, or provide the necessary justification for any conditions.

The proposed development requiring Prior Approval is considered to be acceptable within the constraints of Part 18 of the GPDO and is recommended for approval on this basis.

RECOMMENDATION:

GRANT Prior Approval under Part 18 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed: Holly Chapman
Dated: 28 March 2023
Case Officer

C Looper
28/03/2023
pp Planning Manager