

Agenda item:

Regulatory Committee

6

Dorset County Council



Date of meeting	7 December 2017
<u>Local Member(s):</u> Cllr Peter Wharf – Member for Edgon Heath (until May 2017) Cllr Cherry Brooks - Member for South Purbeck (from May 2017) <u>Lead Officer</u> Carol McKay, Definitive Map Technical Officer (Public Path Orders)	
Subject of report	Application to extinguish Footpath 14, Wool at East Burton
Executive summary	This report considers an application to extinguish Footpath 14, Wool at East Burton as shown on Drawing 16/10 (Appendix 1).
Applicant	Network Rail
Impact Assessment:	Equalities Impact Assessment: n/a Use of Evidence: The applicant consulted the local Parish Council and local residents before submitting the application in order to establish whether the proposals would have support. A full consultation exercise was carried out in December 2016 involving user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application. The County Councillor for Egdon Heath, Councillor Peter Wharf, (County Councillor at the time of consultation) was also consulted. In addition, notices explaining the application were erected on site. Comments received have been discussed in this report.

	<p>Budget :</p> <p>The applicant has agreed to pay in accordance with the County Council's usual scale of charges and also for the cost of advertising the Order and subsequent Notice of Confirmation. The law does not permit the County Council to charge the applicant for the cost of obtaining confirmation by the Secretary of State if an Order is the subject of an objection.</p> <p>Risk Assessment:</p> <p>Having considered the risks associated with this decision using the County Council's approved risk management methodology, the level of risk has been identified as: Current Risk: LOW Residual Risk: LOW</p> <p>Other implications:</p> <p>Sustainability – n/a</p> <p>Property and Assets – n/a</p> <p>Voluntary Organisations – n/a</p> <p>Community Safety – The extinguishment of Footpath 14, Wool would remove the risk of accident to pedestrians using the level crossing known as `Darkies`.</p> <p>Physical Activity – n/a</p>
<p>Recommendations</p>	<p>That:</p> <p>(a) The application to extinguish Footpath 14, Wool as shown A – B – C – D on Drawing 16/10 be accepted and an order made;</p> <p>(b) The Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the extinguishment; and</p> <p>(c) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Committee.</p>

<p>Reasons for Recommendations</p>	<p>(a) The proposed extinguishment meets the legal criteria set out in the Highways Act 1980.</p> <p>(b) The inclusion of these provisions in a public path order means that there is no need for a separate legal event order to modify the definitive map and statement as a result of the extinguishment.</p> <p>(c) The proposed extinguishment also meets the criteria for confirmation as required by the Highways Act 1980.</p> <p>Decisions on applications for public path orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-18 Outcomes Framework:</p> <p>People in Dorset are Healthy:</p> <ul style="list-style-type: none"> • To help and encourage people to adopt healthy lifestyles and lead active lives • We will work hard to ensure our natural assets are well managed, accessible and promoted. <p>Dorset's economy is Prosperous:</p> <ul style="list-style-type: none"> • To support productivity we want to plan communities well, reducing the need to travel while 'keeping Dorset moving', enabling people and goods to move about the county safely and efficiently <p>Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority. Dorset's Rights of Way Improvement Plan sets out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.</p>
<p>Appendices</p>	<p>1 - Drawing 16/10</p> <p>2 - Extracts from the definitive statement and map (sealed 1989)</p> <p>3 - Summary of Consultation Responses</p> <p>4 - Summary of issues discussed at meeting 20 March 2017</p> <p>5 - Network Rail's response to The Ramblers' objection</p> <p>6 - Network Rail's response to the Open Spaces Society's objection</p> <p>7 - Network Rail's response to other objectors</p> <p>8 - User Survey Results 2015</p> <p>9 - User Survey Results 2017</p>

Background Papers	The file of the Service Director, Highways and Emergency Planning (ref. RW/P179a)
Officer Contact	Carol McKay Definitive Map Technical Officer (Public Path Orders) Regulation Team, Dorset Highways Tel: (01305) 225136 email: c.a.mckay@dorsetcc.gov.uk

1 Background

- 1.1 The County Council has received an application from Network Rail in November 2015 to extinguish Footpath 14, Wool as shown on Drawing 16/10 attached as Appendix 1.
- 1.2 The extinguishment of Footpath 14, Wool would enable Network Rail to close the level crossing known as 'Darkies'.
- 1.3 With the support of the Office of Rail Regulation, Network Rail is running an investment programme to improve safety and reduce risk where public highways or public rights of way cross the railway.
- 1.4 Network Rail has assessed three rail crossings in the vicinity: Wool Footpath (crossed by Footpath 15, Wool); Wool West (also known as Bailey's Drove); and 'Darkies' (crossed by Footpath 14, Wool).
- 1.5 Network Rail held two information sessions with local residents to ascertain use of these level crossings in Wool to ensure that there would be no detrimental impact on the local community.
- 1.6 Following discussions with Wool Parish Council, Purbeck District Council and Dorset County Council, Footpath 14, Wool was identified for potential closure as part of the 'Wool Pedestrian Level Crossings Improvement Scheme' (the Scheme).
- 1.7 As part of the Scheme, an application has been submitted by Network Rail to divert Footpath 15, Wool over a newly erected pedestrian bridge. Consultations for both proposals were carried out concurrently but the proposed diversion of Footpath 15 is considered in a separate report.
- 1.8 The third element of the Scheme is to improve the level crossing at Wool West (Bailey's Drove), which is a level crossing for pedestrians, by installing Miniature Stop Lights. Miniature Stop Lights give users a clear indication about when it is safe to cross.
- 1.9 A letter from Wool Parish Council dated 6 December 2014 concerning the 'Wool Pedestrian Level Crossings Improvement Scheme' indicates the support of Wool Parish Council, County Councillor Peter Wharf and Purbeck District Council for the changes identified above.
- 1.10 The current definitive route of Footpath 14, Wool runs from point A on East Burton Road, south southwest between the properties "Southbrook" and "Marbrouk" to point B, then across the railway line via the crossing known as 'Darkies' to point C and continues south southwest across a field to meet Footpath 13, Wool at point D.
- 1.11 The route of Footpath 14, Wool is indicated on the definitive map with a broken line over the railway crossing. However, the definitive statement describes a continuous route over the railway. As the extinguishment process operates on the legal route, whether or not that route is properly recorded on the definitive map, the proposed extinguishment will affect the entire route of Footpath 14, Wool A – B – C – D. Extracts from the statement and the map are attached at Appendix 2.

- 1.12 The owners of “Southbrook” and “Marbrouk” have not indicated any objection to the proposed extinguishment. However, neither landowner owns the section of land between points A and B nor is there any other registered owner.
- (a) In this case Dorset County Council may apply to the Secretary of State for a direction to address the notice of making an order to ‘The owners and occupiers’ of the land and affixing the notice to some conspicuous object on the land, in addition to its publication in at least one local newspaper.
- 1.13 The length of Footpath 14, Wool to be extinguished is approximately 350 metres.
- 1.14 From point A, the footpath runs along a double hedged grass path to point B where there is a two-step stile leading onto the rail crossing. Between points B and C, the railway lines are crossed at track level using a flat wooden deck between the rails. There is a second two-step stile at point C leading to a field and the path then continues across the grass field to point D where there is a one-step stile at its junction with Footpath 13, Wool.
- 1.15 Network Rail assigns a relative risk to each level crossing using an All Level Crossing Risk Model (ALCRM). The process considers the type of crossing, number of people using it and whether users are vulnerable and/or infrequent, the sighting for users and speed of trains. Level crossings are rated A – M for Individual Risk (which applies to crossing users only), with A being the highest risk and M the lowest, and 1 – 13 for Collective Risk (which applies to all people using the crossing including pedestrians, vehicles, staff and passengers) with 1 being the highest risk and 13 the lowest.
- 1.16 Network Rail carried out a risk assessment in October 2015 and the level crossing at Darkies scored a rating of C6 which indicates a high individual risk. The frequency of trains, short sighting time and sun glare are key risk drivers at this crossing.
- 1.17 The highest risk at this level crossing is a fatality occurring. The crossing is on a double track section of line with a maximum speed of 85 mph in both directions. The sighting of approaching trains at this level crossing is insufficient from the crossing point due to track curvature and it cannot be improved through vegetation clearance.
- 1.18 A warning is given by trains whistling before they pass the crossing. However, during the night-time quiet period (11pm and 7am), train drivers are instructed not to sound horns as they pass the whistle-boards so that residents are not disturbed, unless the driver sees someone on the track. Therefore walkers using the footpath between 11pm and 7am are more vulnerable.
- 1.19 Network Rail is unable to provide a bridge or tunnel as an alternative due to the topography of the area. There is insufficient land to provide a stepped footbridge at the site of the level crossing. Land purchase would also be required to facilitate footings. A subway cannot be provided, as it would have a significant impact on the local environment and lineside neighbours and would be susceptible to flooding.

- 1.20 Miniature Stop Lights are not considered a viable option at this crossing as they do not fully control the risk. At an estimated cost of between £450,000 for an overlay system or £1.7 million for an integrated system, the cost would be disproportionate to the level of risk reduction achieved, thus presenting a negative cost benefit analysis for this option.
- 1.21 There is no viable diversion route because this would require a public right of way being created through third party owned land. There is insufficient land available on Network Rail property.
- 1.22 Network Rail has applied for both the crossing and the approaches on either side of the railway to be stopped up. This will ensure that the extinguishment does not leave a dead-end route either side of the railway. This would be undesirable as the rights of way network would be disconnected and walkers may be tempted to trespass onto the closed section of railway.
- 1.23 If Footpath 14, Wool is successfully extinguished, there are alternative routes available that allow walkers to travel from point A to point D. From point A, pedestrians can walk approximately 300 metres east along the pavement (footway) adjacent East Burton Road to Bailey's Drove, then approximately 26 metres south to cross the railway at Wool West (Bailey's Drove), and then continue south along the pavement adjacent Bailey's Drove approximately 221 metres to its junction with Footpath 13, Wool and walk approximately 365 metres west to arrive at point D. There is an alternative route along the pavement along Frome Avenue, which connects Bailey's Drove with Footpath 13.
- 1.24 The second option is to walk approximately 356 metres generally west along East Burton Road (approximately 106 metres of which is along a pavement) and then south along Burton Road for approximately 105 metres to the East Burton level crossing. This is a public highway level crossing with manned barriers and monitored by CCTV. Walkers can then continue south along the road for approximately 255 metres to the western end of Footpath 13, Wool and continue along the Footpath for approximately 247 metres to point D.
- 1.25 If the extinguishment order is successful, the whistle boards for the 'Darkies' crossing will be removed, reducing noise for residents, the stiles at B and C will be removed and the level crossing will be securely fenced off in order to prevent unauthorised access and trespass onto the railway. In addition, the stile at point D will be removed and signs will be erected to notify walkers of the footpath closure.
- 1.26 Network Rail will be responsible for the works required to erect and maintain the necessary barriers and signs.
- 1.27 The relevant legal tests are set out below.

2 Law

Highways Act 1980

- 2.1 Section 118A of the Highways Act 1980 says that the County Council may, by order, extinguish a footpath crossing a railway, other than by a tunnel or bridge, where it considers the stopping-up expedient in the interest of the safety of members of the public, who use, or are likely to use, the path in question.
- 2.2 The extinguishment order may stop up not only the crossing itself but also any adjacent lengths of path up to an intersection with another highway over which there subsists a like right of way (whether or not other rights of way also subsist over it) to avoid leaving a cul-de-sac path.
- 2.3 A rail crossing extinguishment order cannot be confirmed as an unopposed order unless the County Council are satisfied that it is expedient to do so having regard to all the circumstances, and in particular to:
 - (a) whether it is reasonably practicable to make the crossing safe for use by the public, and
 - (b) what arrangements have been made for ensuring that, if the order is confirmed, any appropriate barriers and signs are erected and maintained.
- 2.4 The Secretary of State has issued Circular 1/2009, which contains guidance about the factors that should be taken into account when considering expediency. These include the use of the path, the risk to the public, the effect on the network as a whole, the opportunity for alternative measures and the cost of any alternatives. The Circular guidance is not law but provides a useful guide to the Section 118A tests.
- 2.5 The County Council may itself confirm the order if it is unopposed. If it is opposed it may be sent to the Secretary of State for confirmation.
- 2.6 Section 29 of the Highways Act 1980, as amended by Section 57 of the Countryside and Rights of Way Act 2000, says that when making extinguishment orders the County Council must have regard to the needs of agriculture, forestry and nature conservation and the desirability of conserving flora, fauna and geological and physiographical features. "Agriculture" includes the breeding and keeping of horses (for Section 29).

Wildlife and Countryside Act 1981

- 2.7 Section 53A of the Wildlife and Countryside Act 1981 enables provisions to amend the definitive map and statement required by virtue of a rail crossing extinguishment order to be included in the extinguishment order instead of being the subject of a separate legal event order.

Human Rights Act 1998 – Human rights implications

- 2.8 The provisions of the Human Rights Act and principles contained in the Convention of Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols of particular relevance are:

Article 8 - Right to respect for private and family life

The First Protocol, Article 1 - Protection of Property

- 2.9 When considering whether it is expedient to make the order a council must have due regard of any argument put forward by an adjoining landowner that their rights under Article 8 and Article 1 of the First Protocol would be infringed.
- 2.10 Section 28 of the Highways Act 1980 provides that a person with an interest in land affected by the consequence of the coming into operation of a public path order can make a claim for compensation for the depreciation of land value or damage suffered by being disturbed in his enjoyment of land.

Rights of Way Improvement Plan

- 2.11 Dorset County Council's Rights of Way Improvement Plan (ROWIP) is a statutory document setting out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.
- 2.12 Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority.
- 2.13 Five themes have been identified for improving access in Dorset of which the following is particularly relevant to the present case and should be considered in relation to this application:
- Theme 1.6 Improve accessibility of the network

3 Compliance with the law

- 3.1 It is considered that the proposed extinguishment of Footpath 14, Wool is expedient in the interest of the safety of members of the public who use, or are likely to use the footpath.
- 3.2 Network Rail has indicated that there is a high individual risk to pedestrians using the crossing.
- 3.3 Under the proposal the full length of Footpath 14 would be extinguished. It is considered expedient to extinguish Footpath 14, Wool from its junction with East Burton Road at point A to its junction with Footpath 13, Wool at point D since alternative routes are available via public highway and it is not desirable to leave a cul-de-sac footpath. Additionally, walkers may be tempted to trespass onto the closed section of railway if the footpath is retained either side of the crossing.
- 3.4 The extinguishment will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.

- 3.5 Land served by the footpath is not adversely affected by the removal of the public right of way.
- 3.6 Network Rail carried out a camera survey in 2015 to establish public use of the crossing before submitting the application to extinguish Footpath 14, Wool. The survey results indicated that the path is used on average up to five times a day (see also paragraph 4.16 and Appendix 8).
- 3.7 As the footpath has a low level of use, the impact of closing it is minimal. It is acknowledged that there is a small loss of amenity value to users of the public footpath by the proposed extinguishment. However there are alternative routes via the crossings at East Burton (a lower risk level crossing) and Wool West (Bailey's Drove), which is to be improved by Miniature Stop Lights.
- 3.8 The primary benefit of the extinguishment is that it removes all risk of an incident at the level crossing by closing it.
- 3.9 The removal of the crossing, if the extinguishment were successful, would also result in removal of the whistle boards. Trains will no longer be required to sound their horns, which will be a direct benefit to residents living near the whistle boards.
- 3.10 The proposed extinguishment affects the land of the applicant (Network Rail) and one additional landowner, Mr Dominey, who has agreed to the proposal. It is therefore anticipated that no compensation would be payable under Section 28 of the Highways Act 1980.
- 3.11 The section of Footpath 14 between A and B is unregistered. If an Order is made, the County Council will seek dispensation from the Secretary of State to affix notices on site addressed to the 'owners and occupiers of the land' (see paragraph 1.11 above).
- 3.12 The proposed extinguishment has been examined in the context of the Rights of Way Improvement Plan (ROWIP). Whilst the proposal removes a footpath from the local network of paths, it also improves accessibility of the network by removing a Footpath with a narrow section (A – B) and three stiles and a rail crossing. The existing path has limited accessibility and is unsuitable for mobility impaired users.
- 3.13 A rail crossing extinguishment order cannot be confirmed as an unopposed order unless the County Council are satisfied that it is expedient to do so having regard to all the circumstances, and in particular to:
- Whether it is reasonably practicable to make the crossing safe for use by the public, and
 - What arrangements have been made for ensuring that, if the order is confirmed, any appropriate barriers and signs are erected and maintained.
- 3.14 Network Rail has indicated that it is not viable to provide a bridge or tunnel at the Darkies level crossing. The low level of use at this crossing does not justify the high cost of providing a bridge or tunnel. Equally, the high cost of installing Miniature Stop Lights cannot be justified at this crossing.

- 3.15 Upon any confirmation of a rail crossing extinguishment order, the existing level crossing furniture, signs and the kissing gates will be removed.
- 3.16 Network Rail's boundary will be securely fenced off in order to prevent unauthorised access and trespass onto the railway. Signs will be provided to notify users of the extinguishment and, if deemed appropriate, the alternative crossings. These arrangements will be specified in the Rail Crossing Extinguishment Order.
- 3.17 If there are no objections to a public path order, as the criteria for confirmation have been met the order should be confirmed.

4 Consultation

- 4.1 At the time of the consultation, Footpath 14, Wool at East Burton was within the electoral division of Edgon Heath and therefore Councillor Peter Wharf, the County Councillor for Edgon Heath, was consulted on the application. He made no comment although he had previously supported the proposal following discussions with Network Rail.
- 4.2 Following changes to the Dorset Electoral divisions in May 2017, Footpath 14, Wool now falls within the new South Purbeck electoral division. Consultation documents were sent to the County Councillor for South Purbeck, Cllr Cherry Brooks in August 2017.
- 4.3 Councillor Brooks has indicated that she concurs with Councillor Peter Wharf's support for the closure.
- 4.4 The consultation responses are summarised in Appendix 3.
- 4.5 A meeting was held on 20 March 2017 with representatives from Dorset County Council and Network Rail. All consultees who objected or supported proposals were invited to the meeting along with the Dorset Local Access Forum, Wool Parish Council and Councillor Peter Wharf. The meeting was also attended by local residents who had not responded to the consultation.
- 4.6 A summary of the issues discussed at the meeting is attached as Appendix 4.

Objections

- 4.7 Twenty-two objections to the proposal were received, including two late responses. These included local residents, The Ramblers and the Open Spaces Society.
- 4.8 Copies of Network Rail's responses to the objections received are attached as Appendices 4, 5, and 6.
- 4.9 Several objectors believe that a bridge, tunnel or Miniature Stop Lights are possible solutions at Darkies.
 - A number of options have already been considered by Network Rail, including automatic barriers, a footbridge, Miniature Stop Lights, or an underground subway. However, given the low level of use at Darkies and the high cost of these solutions, the most viable option was found to be direct closure.

4.10 It is also argued that the 'Darkies' crossing is safer than the Wool West (Bailey's Drove) crossing due to sight lines and visibility of vehicle barriers at the level crossing further east on Burton Road. It is also stated that Wool West (Bailey's Drove) has had fatalities, whereas Darkies has not. It is also believed that the main danger of the Darkies crossing is the two stiles installed by Network Rail, which are too high with no handrail or post.

- Network Rail assesses each crossing individually and the recommendations are based on the crossing itself and the level of use. Darkies has a low level of use, combined with insufficient sighting, and therefore was recommended for closure.
- The level crossing at Wool West (Bailey's Drove) was assessed by Network Rail and scored a rating of C4, which indicates a high individual risk. The crossing has much higher use than Darkies and therefore this crossing has been identified for improvement by the installation of Miniature Stop Lights.

4.11 There are concerns that Network Rail did not provide enough information about the reasons for the closure and has not carried out a proper survey of use of the path.

- Prior to submitting the application, Network Rail held two public meetings and had discussions with Wool Parish Council, Purbeck District Council and Dorset County Council. The feedback from this consultation suggested that of the three crossings that were discussed in Wool, Footpath 14, Wool was the least used and was therefore deemed suitable for potential closure.
- Prior to submitting the application, Network Rail carried out a camera survey of the crossing in September 2015. In response to the meeting held in March 2017, Network Rail carried out an additional survey. This shows that the average use has increased from 4.25 persons per day to 8.78 persons per day. The results of the surveys carried out by Network Rail are attached as Appendices 7 and 8. The increase in use does not change the recommendation from Network Rail to close the path since it increases the risk, yet use is not high enough to warrant the high cost of a bridge, tunnel or Miniature Stop Lights.

4.12 Several objectors feel that Footpath 14 is an important part of the local network of paths and is well used, in particular by locals, some on a daily basis for dog walking or as a short cut. They also feel that the demand for Footpath 14 will increase with the new housing developments in the area.

- It is not disputed that Footpath 14, Wool is used by locals, but it is considered that the relatively low level of use, (in particular in comparison with the level crossings at Wool West and Wool Footpath), and the risk associated with the crossing, justify its closure. Should new housing developments in the area result in increased use of the crossing at Darkies, Network Rail has indicated that this would increase the risk and therefore the reasons for closure would be reinforced.

- 4.13 Some consultees have suggested that Footpath 14 be diverted rather than extinguished, with a link to Wool West (Bailey's Drove). Alternatively it was suggested that part of Footpath 14 be extinguished in part, keeping a cul-de-sac path open across field.
- A diversion is not a practical option since there is no room to accommodate a route on Network Rail land and the only other alternatives would involve diverting onto third party owned land.
 - A cul-de-sac path is not desirable as it creates a fragmented rights of way network and people may be tempted to trespass onto the closed railway if the footpath stops either side of the crossing.
- 4.14 Some consultees feel that the alternative routes along East Burton Road, and Burton Road via the Wool West (Bailey's Drove) crossing are more dangerous than the rail crossing at Darkies as there are no pavements or lighting and the roads are used as a rat run and as an official diversion when the main crossing is closed.
- There are pavements along part of the alternative routes and the roads are generally quiet and already well used by walkers.
- 4.15 There are concerns that the extinguishment is linked to proposed new housing and that the extinguishment would make it easier to develop land.
- There is no link between the proposed extinguishment of Footpath 14, Wool and development of the site. Public rights of way affected by development have to be considered as part of a planning application and any changes are usually dealt with under the Town and Country Planning Act.

Drainage

- 4.16 Several consultees raised concerns that, should the footpath be extinguished, the section of unregistered path would become overgrown and the adjacent ditch blocked, causing flooding to properties on Bailey's Drove and Frome Avenue. As there is no known owner, Dorset County Council is unable to enforce maintenance of the ditch and it has no duty to maintain the ditch itself.
- 4.17 Concerns regarding flooding raised during the consultation were passed to Flood Risk Management at Dorset County Council for comment. Dorset County Council's primary roles as Lead Local Flood Authority (LLFA) are as investigative body and as regulator, in accordance with adopted County Council strategy and the Land Drainage Act 1991.
- 4.18 The County Council has no obligation to carry out routine maintenance or use permissive powers, such as those exercised by the Environment Agency in accordance with the Water Resources Act, on channels with Main River status. There has been liaison between Dorset County Council and Wool Parish Council.
- 4.19 Network Rail has agreed to remove a fallen fence post on the southern side of the railway line that has slumped into the channel in front of the inlet to the Network Rail culvert.

- 4.20 Wool Parish Council agreed to investigate the feasibility of a regular channel clearance exercise to remove vegetation and undertake some light digging works to expose the outfall of the Network Rail culvert on the northern side of the railway. This should result in a small improvement and no increase in the prevailing risk.
- 4.21 In addition, the Parish Council have agreed to review the situation and carry out more significant modification of the channel profile and gradient if the footpath closure is approved.
- 4.22 In the longer term Dorset County Council is continuing to highlight the critical nature of the relevant watercourse and problematic culverts running through the southern fields, beneath the railway and East Burton Rd, within its planning role. The County Council is in dialogue with both Purbeck District Council regarding land allocations within the ongoing Partial Review process, and with consultants, who are reworking the relevant Drainage Strategy in support of these proposals.
- 4.23 Although the extinguishment of Footpath 14, Wool may affect the access to the unregistered section A – B, there is no duty for Dorset County Council to maintain the ditch and therefore the concern regarding flooding is a matter that needs to be resolved regardless of the status of the land and any public access over it.

Support

- 4.24 Five consultees responded in support of the proposed consultation.
- 4.25 It was considered that the footpath closure was rational due to the close proximity of an alternative crossing and that the safety of those using the crossing justified its closure.
- 4.26 The removal of whistle boards following the extinguishment of the footpath was deemed beneficial for residents living close to the railway.
- 4.27 One consultee supported the extinguishment whilst putting forward several alternative suggestions, including the creation of a new crossing. Network Rail considered the suggested options but none were found to be viable.

Other responses

- 4.28 There were five additional responses including Wool Parish Council, neither supporting nor objecting to the proposals.
- 4.29 Wool Parish Council initially supported the proposal, but in their response to the consultation they have requested that objections raised by the public are taken into consideration.

5 Conclusions

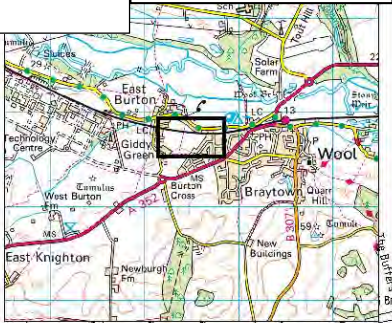
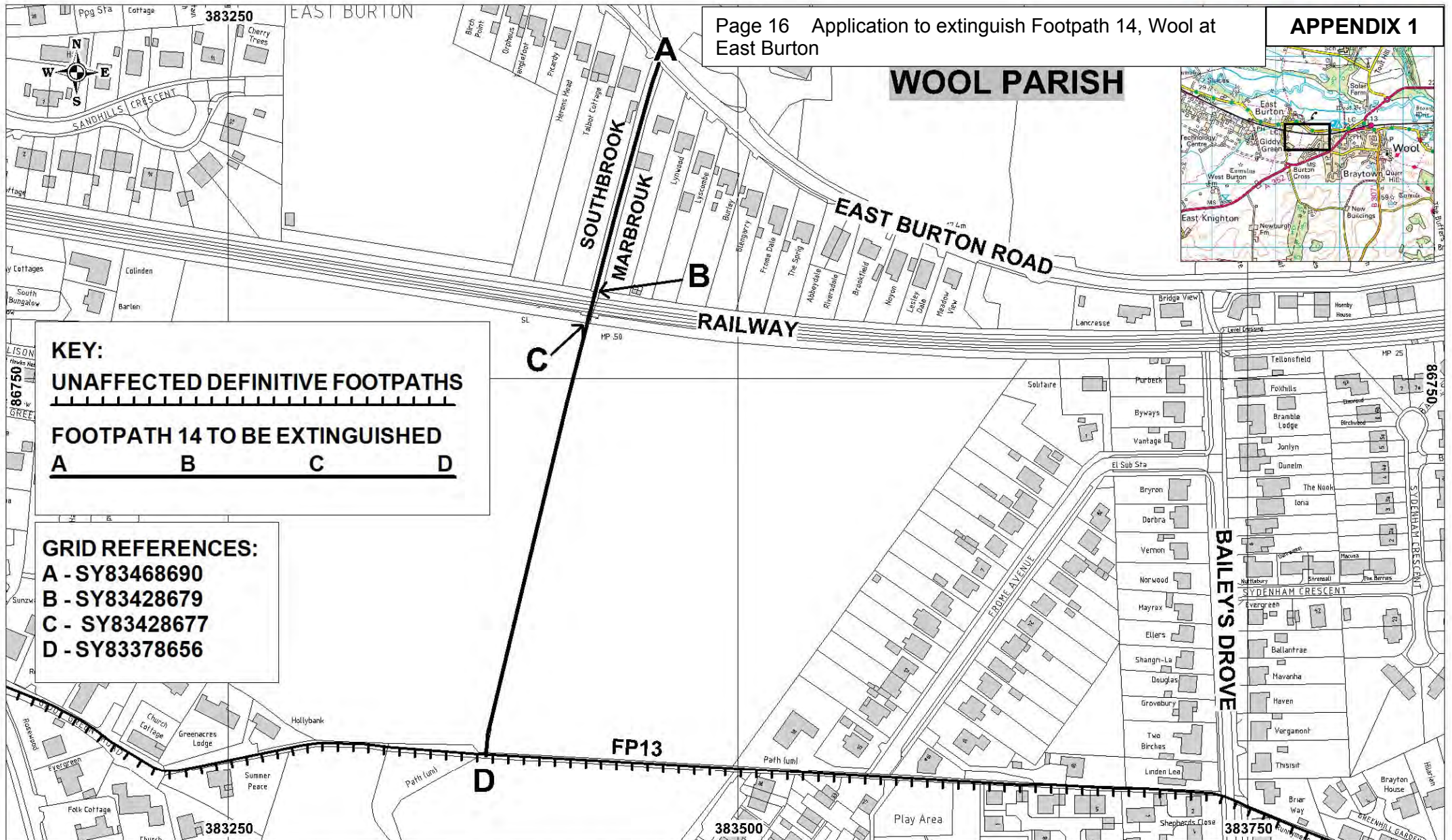
- 5.1 Network Rail's surveys demonstrate a low level of use on Footpath 14, Wool and Darkies level crossing with reasonable alternatives close by. Its risk assessment of the crossing concludes that the crossing has a high individual risk.

- 5.2 For the safety of users Network Rail undertakes regular maintenance of the crossing between the railway boundary fences to standards as defined by the Office of Rail Regulation; this includes regular cutting back of vegetation either side of the railway to maximise visibility in both directions for walkers to see approaching trains.
- 5.3 Provision of a footbridge or tunnel for walkers is impractical at this location due to the lack of available land and potential for flooding. The cost of these alternatives is also prohibitive.
- 5.4 Network Rail believes the cost of installing a system of flashing lights and klaxons could not be justified at this location.
- 5.5 It is considered that there are no further reasonably practicable measures that can be taken to make the crossing safe for use by the public.
- 5.6 Whilst it is recognised that the closure of the footpath will result in a loss of amenity for a small number of local residents, the crossing is identified as high risk and therefore it is expedient to extinguish it in the interest of the safety of members of the public who use, or are likely to use the footpath.
- 5.7 If the Order is confirmed, Network Rail will install and maintain appropriate fencing at either side of the crossing (points B and C on Drawing 16/10) and erect suitable signage, compliant with the statutory requirements, to prevent continued access to the crossing. In addition, the stile at point D will be removed.
- 5.8 Having regard to the circumstances behind the proposal, including the camera surveys of use of the footpath, Network Rail's management of the crossing, the assertion that no bridge or tunnel could reasonably be provided, and that Network Rail has agreed to appropriate measures to prevent use of the path in the event of it being stopped up, it is concluded that the relevant tests set out in Section 118A of the Highways Act 1980 have been satisfactorily met.
- 5.9 The application to extinguish Footpath 14, Wool meets the tests set out under the Highways Act 1980 and therefore should be accepted and an order made.
- 5.10 The Order should include provisions to modify the definitive map and statement to record the changes made as a consequence of the extinguishment.
- 5.11 If there are no objections to a rail crossing extinguishment order, as the criteria for confirmation have been met the Order should be confirmed.

Andrew Martin

Service Director, Highways and Emergency Planning

November 2017



KEY:
 UNAFFECTED DEFINITIVE FOOTPATHS
 FOOTPATH 14 TO BE EXTINGUISHED
 A B C D

GRID REFERENCES:
 A - SY83468690
 B - SY83428679
 C - SY83428677
 D - SY83378656

SECTION 118A, HIGHWAYS ACT 1980 - RAIL CROSSING EXTINGUISHMENT ORDER
PROPOSED EXTINGUISHMENT OF FOOTPATH 14, WOOL

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 16/10
Date: 13/07/2016
Scale 1:2500
Drawn By: CAM
Cent X: 383494
Cent Y: 86728

GEOGRAPHICAL INFORMATION SYSTEMS

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Extracts from the definitive statement and map (sealed 1989)

STATEMENT ANNEXED TO THE DEFINITIVE MAP IN RESPECT OF:

(PARISH) WOOL(LOCAL AUTHORITY) PURBECK DISTRICT COUNCIL

DATE

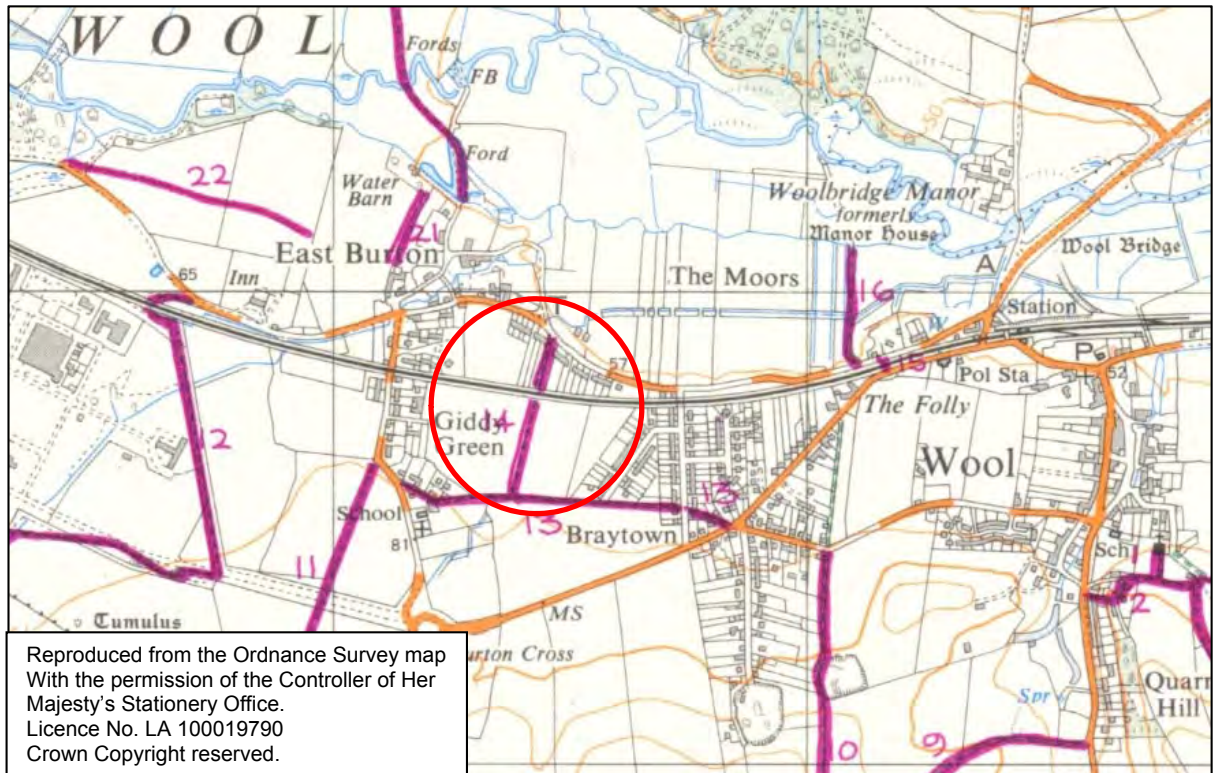
1 APR 1989

rP BR or BY	PATH NUMBER	FROM	NATIONAL GRID MAP REFERENCE	TO	NATIONAL GRID MAP REFERENCE
FP	1	Road at the Church, southwards	847864	Join Path No 2	847863
FP	2	Lulworth Road at Quarr Hill, eastwards	846863	Join Path No 3 and Church Lane	848863
FP	3	Church Lane, via Cole Wood	848863	Woodstreet	855857
FP	4	Road, west of Bindon Abbey, south-westwards	852867	Join Path No 3	852864
FP	5	Road opposite Bindon Farm	853865	Join Path No 3	852862
FP	6	Road, south-east of Bindon	861863	East Stoke Parish boundary	863864
BR	7	Woodstreet Farm, south-eastwards	855857	Coombe Keynes Parish boundary	859849
FP	8	Church Lane	848864	Woodstreet Lane	854857
FP	9	Road, south of Quarr Hill	848860	Road at New Buildings	840856
FP	10	Road at New Buildings, northwards via Braytown	840856	Collier's Lane	840864
FP	11	Road at Giddy Green	831866	Dorchester Road, south-west of Burton Cross	829861
FP	12	Road, west of Seven Stars Inn	826869	Winfrith	822864
FP	13	Road at Giddy Green, eastwards	831866	Dorchester Road, west of Braytown	838865
FP	14	East Burton Road, south-east of Burton Farm	834869	Join Path No 13	833865
FP	15	Dorchester Road, via Railway crossing	841868	East Burton Road, opposite Frome Cottage	841868
FP	16	East Burton Road, west of Frome Cottage	841868	River Frome	841871
FP	17	End of County road, near Water Barn, East Burton	832872	Bovington Lane	831881
FP	18	Moreton Common Road, opposite Hyford Cottage	816874	Winfrith	816874
FP	19	Bovington Camp Road north of Bovington Farm	828886	Turners Puddle Parish boundary at Foxbury	820892
FP	21	East Burton Dairy, NNE	831870	A point south-east of Water Barn	832872
FP	22	Junction with County Road on Burton Heath, eastwards	824872	Field boundary north of Seven Stars Inn	829871
FP	23	County road south-east of school, SE	842880	Join Footpath 10, East Stoke, thence to Lytchett Lane	842879

FP = FOOTPATH

BR = BRIDLEWAY

BY = BYWAY OPEN TO ALL TRAFFIC



**SUMMARY OF CONSULTATION RESPONSES
RESPONSES OPPOSING THE PROPOSED CHANGES**

Name	Comments
The Ramblers	<p>Challenge assertion that bridge or tunnel not possible due to topography of land. Also believe that there is potential to divert the path.</p> <p>Applicant has not provided sufficient information on use of the footpath.</p> <p>Footpath requires more serious consideration to avoid loss of important old public right of way.</p> <p>Holding objection pending further discussion at Ramblers Dorset Area Footpath Committee on 16th February 2017.</p>
Open Spaces Society	<p>Object strongly to extinguishment of Footpath 14. Footpath 14 is well used and essential to local network as part of circular walks in the area. Demand for this footpath may increase in the future with new housing. Believes topography of area would be ideal for a bridge or tunnel. Miniature Stopping Lights are possible solution.</p> <p>If footpath is extinguished believes that C – D should remain open as a cul-de-sac path to provide “accessible lung of green countryside for local residents in an increasingly urbanised part of Wool”</p> <p>Requests that diversion of Fp14 considered although any route would be inferior.</p>
Robert Farr Previous resident of Wool / frequent visitor	<p>Footpath 14 is a convenient route and is part of the path network which contributes to making the area an attractive holiday destination for holidays as well as keeping people fit.</p>
Emma Webb Local resident	<p>Uses Footpath 14 on a daily basis to walk dogs. Alternative crossings would be hugely inconvenient as FP14 enables dogs to run free in field. Disputes danger of crossing – requests further information. Sightlines are good, path is not used in the dark. Feels that there has been insufficient consideration to alternative options to improve safety and allow crossing to stay open. Also feels footpath closure is related to possible new housing development in field south of crossing.</p>
Michael Verrall Local resident	<p>Strongly disagrees with proposed extinguishment. Removal of long-standing rights of way wrong in principle. Proposed alternatives inconvenient and more dangerous – there have been several incidents and at least one fatality at the Bailey’s Drove crossing. Also feels footpath closure is related to future new housing development in field south of crossing.</p>
Hannah and Christopher Keenan Local residents	<p>Objects to proposed extinguishment. Alternative crossing involve road walking, and Bailey’s Drove crossing has poorer visibility. Level crossing barriers cannot be seen from Bailey’s Drove so if baby crying she cannot use this crossing as train horns cannot be heard. Uses Footpath 14 most days, with dog and baby. Feels Footpath 14 is safer option as visibility better and level crossing barriers visible.</p>

Name	Comments
D G Blackmore Local resident	Footpath existed before railway. No casualties at this crossing. Has been using crossing for over forty years for dog walking. East Burton Road used as short cut by traffic travelling to Winfrith Technology Centre, some stretches have no pavement. If closure goes ahead the railway may try to close other crossings cutting off East Burton from Wool.
Barry Shepherd Local resident	Objects to proposed extinguishment of Footpath 14. Concerned that extinguishing the footpath would result in deterioration of the condition of the drain adjacent the path and subsequent flooding of properties in Frome Ave / Bailey's Drove. The situation is made worse because section of footpath from the railway north to the road has no known owner. There have been several previous incidents of flooding affecting his own property. Requests that DCC address flooding concerns.
Alexander Ward Local resident	Uses Footpath 14 regularly walking dog, and its closure would reduce choice of local walks. Closure of FP14 would reduce maintenance of the open drain and cause flooding in Frome Ave / Bailey's Drove. Proposals to build new housing would increase surface water. Maintenance of Footpath 14 and the adjacent drain are necessary for people of Wool.
Stuart and Nicola Johnson Local residents	Object to closure of footpath on grounds that there would be significant loss of amenity and that Network Rail has not adequately explored alternatives. Footpath is part of network of paths allowing circular walks in area and alternative route along East Burton Road is narrow with inadequate pavements. To lose Footpath 14 would lose part of Wool's rural heritage. Crossing at FP14 could be improved by extending warning system proposed for Bailey's Drove. Not aware of any serious incidents at FP 14 crossing.
H J Collins Local resident	Darkies is no more or less dangerous than any other crossing area. 2 people killed at Bailey's Drove crossing in last 15 years. Proposed warning lights could be taken to Darkies at little extra cost. FP14 pre-dates the railway and is in regular use by walkers to access the water meadows. Alternative routes involved East Burton Road (used as a rat run and traffic diversion route when main crossing gates closed) which has limited footpaths. Burton Road is also narrow with no footpaths. Neither route has adequate lighting. These routes pose a greater risk to the public than the crossing. Closure of Fp14 would make it easier for the landowner to develop the land in the future.
Iris and John Vye Local residents	Lack of maintenance / removal of Footpath 14 would result in greater risk of flooding of local properties. County Council must address concerns relating to danger of drainage of surface water from Wool.

Name	Comments
Jacqui Leaton Local resident	Strongly objects to extinguishment of Footpath 14. Would cause inconvenient and loss of enjoyment. Nearby vehicle crossing is visible from Darkies crossing giving easy indication of whether it is safe to cross – flashing lights visible after dark. Stiles are most dangerous aspect of the crossing – too high, no post or handrail to hold onto. Fp14 is important off road link from Giddy Green to East Burton Road. Alternative routes are longer, less pleasant and more dangerous as road walking is involved.
Wendy Riddle Local resident	<p>Objects to proposed closure of Footpath 14</p> <p>1 Crossings should only be closed if unused, Darkies is not unused.</p> <p>2 FP14 links Giddy Green footpath and Barrett's Estate with East Burton Road and on to Bovington where largest employer (the army) and the Tank Museum are based. Closing Fp14 would lose this short cut.</p> <p>3 Residents of Wool use Fp14 and its connections to exercise themselves and their dogs. Concern that access opportunities are being removed. There is an issue with landowners asking dog walkers to leave access land meaning PROW like Footpath 14 are ever more important and should not be closed.</p> <p>4. What is legality of accessing Footpath 14 if it is closed? Lack of maintenance of drain along footpath caused flooding in 2012-13 along Frome Ave and Bailey's Drove. Bungalows are at risk of further flooding. Request to forward to appropriate officer if not relevant to the extinguishment.</p>
Mr R Basow Local resident	Family has used crossing for over 100 years with no safety problems. Clear line of sight, trains sound horns three times. Vibration and noise of trains also makes it clear they are approaching. Road barriers are down far longer than before (after signal box at Wool removed). Uses footpaths all the time rather than driving into the village.
Valerie Palmer Local resident	Objects to extinguishment as footpath is important pedestrian route from East Burton Road to Giddy Green. Crossing is safe with good visibility to East Burton traffic level crossing and in other direction. Most dangerous part of crossing is stiles with no handrail or post. If crossing closed it would involve a much longer route by ill lit road with no footpath.
Bernard White Local resident	Footpath is of great benefit to local residents connecting this part of East Burton Road to Wool and to dog walkers.
Dr A J Wickett Local resident	Uses footpath routinely. There is room for a bridge or improved warning systems.
Mr W Fiebig	Frequent visit to Wool, often uses footpath 14 which is well trodden showing that it is used to go into the village. Suggests warning poster or safety light as an alternative to closing the route.
Andy Farley Local resident (LATE RESPONSE)	Opposed to closing crossing. Local residents should not be made to suffer because of "suicidal...drunk or drugged" people.

Name	Comments
Marian Alderson (LATE RESPONSE)	Often uses crossing with dog and family. Never seen any accidents of misuse. Crossing mainly used by sensible dog walkers and families making the most of scenery and fresh air.
Victor Sibley (LATE RESPONSE)	Network Rail has failed to provide a safe alternative crossing close to the existing site. Footpath is well used by dog walkers, joggers and local residents travelling between Braytown and Bovington. Feels that Network Rail will close footpath regardless of public view and that the consultation process is pointless.

RESPONSES SUPPORTING THE PROPOSED CHANGES

Name	Comments
Vic Osmond Local resident	Fully supports closure of Footpath 14 and upgrade of Bailey's Drove crossing followed by removal of whistle boards. Proposal makes sense as crossings are within 300 yards of each other.
Gwyn Bennett-Curtis Local resident	Fully supports closure of Footpath 14 and upgrade of Bailey's Drove followed by removal of the whistle boards.
Sally Thorpe Local resident	Fully supports closure of Footpath 14. Noise from trains sounding horn begins at 6.15 and continues until midnight. Closure of footpath would alleviate this problem.
Malcolm Munro	Supports the closure of Footpath 14 but would like Network Rail to consider other options: 1 Close Darkies and Bailey's Drove and create new crossing in between with link path from Bailey's Drove 2 Close Darkies and create link path from field to Bailey's Drove 3 Close Bailey's and upgrade Darkies 4 Close Darkies and Bailey's Drove 5 Do nothing Preferred option is 1 with 2 being only other alternative
Philip Trinder	In favour of closing crossing at Darkies and Footpath 14. Health and Safety of locals using the crossing and the reduction in noise pollution due to the removal of whistle boards, outweighs the needs of a few walkers who have alternative routes to this crossing.

OTHER RESPONSES

Name	Comments
Southern Gas Networks	Provided plans showing gas mains
Wessex Water	Has no infrastructure in the vicinity of the footpath diversions.
BT Openreach	No recorded plant in area of interest and no objection to proposals.
Claire Pinder, Senior Archaeologist	There are at present no recorded archaeological finds or features or historic buildings on or in the vicinity of the routes affected by this proposal.
Wool Parish Council	Came to agreement with Network Rail in 2014 on closure of Fp14, improvements at Bailey's Drove and diversion of FP15. Requests that DCC take note of objections to the closure of FP14. Notes that new footpath along East Burton Road has not yet been constructed. Footbridge was constructed 0.5 metre out of alignment requiring a traffic barrier – this obstructs route from Whitemeads Caravan Park to new bridge.

SUMMARY OF ISSUES RAISED AT MEETING ON 20 MARCH 2017

ISSUE	OFFICER COMMENT
<p>ADVERTISEMENT OF CONSULTATION Why was Consultation not advertised on local notice boards etc? Some local residents did not see the notices posted on site.</p>	<p>There is no requirement to advertise a pre-order public consultation. DCC posts notices on site at either end of the footpath. When an Order is made it is advertised in a local newspaper and notices are posted on site.</p>
<p>HOUSING DEVELOPMENT Is there any connection with future development of the field through which Footpath 14, Wool runs (C – D)?</p>	<p>The application is not connected with any development or proposed development. If a development was proposed in the affected field, it is likely that a footpath extinguishment would be applied for under Town and County Planning Act.</p>
<p>Future housing developments will increase demand for Footpath 14</p>	<p>Network Rail is likely object to any proposed development near a level crossing as this would increase the risk of the infrastructure and the public using it. Network Rail often work with developers to improve safety at level crossings.</p>
<p>SAFETY What incidents have taken place on the level crossing to indicate it is not safe? Many users of Footpath 14 feel that the crossing is safe, visibility is good and they are not aware of any accidents on the crossing. Darkies is safer than the alternative route along the road where there is no lighting and no pavement</p>	<p>No incidents have been recorded at Darkies. Network Rail has a policy of managing risk, aiming to prevent incidents by assessing potential danger. Darkies has been assessed as a high risk for individual users. An alternative crossing point at Bailey's Drove is identified for improvements by installation of Miniature Stop Lights.</p>
<p>FREQUENCY OF USE OF DARKIES What evidence is there that Darkies is used infrequently? When was the survey carried out? Request to carry out a second user survey since the use has allegedly increased since the application to extinguish Footpath 14 was submitted. In addition it was felt that the footpath is not well used in November so the survey would have not captured accurate user of the path during the year. The development at Bailey Gate has increased recent use of the footpath.</p>	<p>Network Rail carried out a survey in September 2015. The usage recorded on both occasions (approx. up to 5 crossings per day on average) was not indicative of frequent use, particular popularity or importance of this path. This has also been a conclusion of the informal consultations and site meetings Network Rail carried out with local parish council, Local Access Forum and the highway authority.</p> <p>ACTION – Network Rail carried out an additional survey in May 2017 indicating usage of approximately 10 crossings per day on average.</p>

ISSUE	OFFICER COMMENT
<p>Darkies is used daily by many of the local residents for dog walking and leisure but also to access local facilities e.g. shops. It is part of a network of paths. Connects with Bovington. It is an important link for East Burton and its closure would cut people off.</p>	
<p>ALTERNATIVES TO CLOSURE Why is it not possible to install a bridge / tunnel / Miniature Stop Lights at Darkies?</p>	<p>Network Rail has considered the installation of a bridge or tunnel but neither are financially viable – more information can be found in Network Rail’s response sent to consultees Installation cost for Miniature Stop Lights at Darkies would be disproportionate to the level of risk reduction, therefore there would be a negative cost benefit analysis for this option.</p>
<p>Why was diversion of Footpath 14 not considered?</p>	<p>Network Rail did consider a diversion informally at initial stages but this was not widely discussed with user groups / stakeholders. Diversion was not considered to be a feasible option.</p>
<p>WHISTLE BOARDS Some residents living close to the railway are disturbed by whistles, particularly early / late. Owner of the caravan park queried the whistle board still in operation which is an issue for his residents.</p>	<p>Whistle boards for Darkies and Bailey’s Drove would be removed on extinguishment of Footpath 14 / installation of Miniature Stop Lights respectively which would reduce noise for local residents. Whistle board at the Ship Inn will be removed when Bailey’s Drove Miniature Stop Lights are installed.</p>

ISSUE	OFFICER COMMENT
<p>DARKIES, BAILEY'S DROVE AND WOOL FOOTPATH Why is Darkies to be closed whilst money spent on Bailey's Drove – which is not a public right of way?</p> <p>Darkies should not be closed / given inferior status because of the crossings at Wool Footpath and Bailey's Drove.</p>	<p>Bailey's Drove is a public carriageway – public rights have been stopped up, save for those on foot. Network Rail carried out public meetings and consultation with Wool Parish Council at the early stages of the application and the feedback consistently suggested that of the three crossings Bailey's Drove should remain open and Darkies should be closed. Network Rail has indicated that if money had not been spent on the bridge at Wool it would not be spent at Darkies. The same applies to the proposed Miniature Stop Lights at Bailey's Drove.</p>
<p>What has changed in the last ten years to mean that the closing Darkies is now a priority?</p>	<p>Nothing has change in respect of the crossing but Network Rail has a statutory duty to reduce risk at level crossings.</p>
<p>FLOODING Concern that if Footpath 14 is extinguished and therefore A – B becomes disused, this unregistered section A – B would become overgrown and the adjacent ditch would not maintained. There is a risk of flooding in the north east corner of the field south of Darkies, particularly for properties on Frome Ave and Bailey's Drove.</p>	<p>Gary Cleaver is aware of the situation and has advised that Dorset County Council is not responsible for the ditch. Parish Council may take on future maintenance of the ditch in the future, possibility with volunteers Although not a material consideration for the proposed extinguishment of Footpath 14, Wool, it is clear that the knock on effect of extinguishment could be increase flooding risk and that the situation regarding the ditch is unsatisfactory.</p>
<p>Criticism of the length of time taken to remove a concrete post blocking culvert on Network Rail land</p>	<p>Network Rail has limited resources to maintain network.</p>

ISSUE	OFFICER COMMENT
<p>SUPPORT FOR EXTINGUISHMENT The majority of people who spoke at the meeting wanted the footpath to remain open however Dorset Local Access Forum and Wool Parish Council noted the concerns raised by local residents but remained neutral. Wool Parish Council were keen to work with Network Rail to achieve a desirable outcome.</p> <p>One local resident spoke in support of the proposed extinguishment, believing that the safety concerns at Darkies, short distance to an alternative crossing and the improvements at Bailey's Drove and Wool Footpath crossings justified the closure of Footpath 14. Reduction in whistle boards would also be beneficial.</p>	
<p>PUBLIC INQUIRY Public Inquiry would cost £1 million so much more than works to make Darkies safer</p>	<p>The estimated cost of PI is £100,000, compared with Miniature Stop Lights minimum of £400,000. Councillor Peter Wharf considers that the matter should be decided at a Public Inquiry so that the decision is made by an independent Inspector.</p>

Response from National Rail to The Ramblers' objection**SECTION 118A, HIGHWAYS ACT 1980 - RAIL CROSSING DIVERSION ORDER
PROPOSED EXTINGUISHMENT OF FOOTPATH 14, WOOL.****Response to the preliminary objection by Ramblers Association made in the letter dated 21 December 2016.**

I have identified several concerns raised in the letter mentioned above, I shall deal with these in turn.

- 1 ***You state that the topography of the area makes it impossible to provide a bridge or tunnel. In fact, unlike the site for the Footpath 15 bridge at the Ship Inn, this crossing joins an open field to the South of the line with the end of long private gardens on the North side; both of which offer potential for the construction of a passing either over or under the railway line.***
- 1.1 **UK Government responsibility.** HM Treasury discharges the duty of the UK Government to be financially accountable to the country, by holding Departments to account for the responsible management of public money¹. The Department for Transport (DfT) in turn, holds the Chief Executive and the group board of Network Rail accountable, for the management of public funds made available for rail infrastructure investment. Network Rail's operating license with the DfT specifies how it must act as a responsible infrastructure manager of the UK rail network. The Office of Rail and Road (ORR) and the Department for Transport (DfT), routinely seek assurance from Network Rail, that public investment is planned, governed and managed in the most cost-effective manner.
- 1.2 **Governed rail infrastructure investment.** Internal Investment Regulations further stipulate the need for a governed infrastructure investment process, that engenders accurate forecasting, thereby minimising waste and maximising financial efficiency and so meet both DfT and UK government requirements. To meet this requirement, Network Rail has developed a disciplined project investment planning cycle that has been accepted by both the ORR and the DfT. The formal process is called the Governance of Railway Infrastructure Projects (GRIP)
 - 1.2.1 The development process for level crossings is initially generated by regular risk assessments from Network Rail level crossing managers. The output of a risk assessment may identify that further work is required and that a technical solution may be feasible. A process has been developed by Network Rail for managing all projects in order to minimise and mitigate the risks associated with delivering projects that enhance or renew the operational railway. This is called the Governance of Railway Investment Projects (GRIP). GRIP has eight discrete stages, each of which have aims and an output, that control the progress and financial investment in a project or programme, on the basis of its risk status and the quality of information available at any given stage:
 - **GRIP Stage 1 – Output Definition.** This has an aim to define the output for the project. The output will be to define the needs and requirements – the problem or opportunity, through stakeholder consultation.
 - **GRIP Stage 2 – Feasibility.** This has an aim to define the scope of investment and identify constraints. It needs to confirm that the outputs can be economically delivered, and are aligned with organisational strategy. The output will be to identify solutions in response to the defined requirements.

¹ Managing Public Money, a HM Treasury handbook, July 2013, revised August 2015.

- GRIP Stage 3 – Option Selection. This has the aim to develop options for addressing constraints. Assesses and selects the most appropriate option that delivers the stakeholders requirements, together with confirmation that the outputs can be economically delivered. The output will be to have a single option determined and gain stakeholder approval to the option approved through an Approval in Principle (AIP).
 - GRIP Stage 4 – Single Option Development. This has the aim to initiate the development of the chosen single option with the output being to reference and/or outline the design requirements.
 - GRIP Stage 5 – Detailed Design. This has the aim to produce a complete, robust engineering design that underpins definitive cost/time/resource and risk estimates. The output will be a full design to which the project will be built.
 - GRIP Stage 6 – Construction, Test and Commission. This has the aim to deliver the specification and testing to confirm operation in accordance with design. The output is to have the system built, tested and commissioned into use
 - GRIP Stage 7 – Scheme Handback. This has the aim to transfer asset responsibility from the project team to the operator and maintainer. The output is to have the project handed over to the maintainer or operator.
 - GRIP Stage 8 – Project Closeout. This has the aim to close out project documentation in an orderly manner. Contractual accounts will be settled, and any contingencies and warranties are put into place. Assessment of benefits carried out. The output is for the project to be formally closed out and project support systems formally closed.
- 1.2.2 Stages two and three of the project will have been initiated from a previously produced risk assessment (RA) that identifies the risk at a crossing to be such that action is required to reduce any risk to a legally and strategically acceptable tolerable level.
- 1.2.3 These stages will assess all potential upgrades that are available. Each upgrade will identify if the risk will be lowered to a level that both Network Rail and the ORR deem tolerable as well as a Cost Benefit Analysis (CBA) against what it would cost to deliver the upgrade.
- 1.3 The following engineering options were considered within GRIP stages 1-3 for Darkies LC: Footbridge or Subway. Engineering solution, however, and contrary to the assertion made in the latter was not deemed impossible but not reasonably practicable. Both options failed the CBA and therefore were deemed financially not viable. In light on the comments in para 1.1 above, Network Rail could not justify spending public money on installing a footbridge or an underpass.
- 1.3.1 **Option (1): Subway (Feasibility Estimate of between £4M and £6M).**
- The construction of a subway would have significant impact on the local environment and lineside neighbours.
 - There is insufficient lineside land available in order to build an effective structure.
 - Given the layout of land, proximity of watercourses and susceptibility to flooding of that particular location, an underground structure would be very likely seriously affected by flooding.

- Subway drainage would require regular maintenance and possible lineside intrusion to clear.

1.3.2 **Option (2): Footbridge (Feasibility Estimate of circa £2M).** Having studied the feasibility of a range of footbridge options, a stepped footbridge would appear to be the most technically feasible. The following factors should be noted:

- Limited land available. The recommended design would require an estimated 19m span. Both sides of the crossing are very close to third party land, the securing of which would be a risk for further stages. The land on the northern side of the crossing on which the footpath is situated is currently unregistered with unclear legal status and which ownership we are not able to ascertain.
- Bespoke designs would be required, so as to meet aesthetic requirements. The structure would certainly be higher than average tree height and likely to be viewed as un-aesthetic as a result.
- Train impact protection would be required due to the proximity of running rails (i.e. those upon which the train actually runs).
- Any above ground alternatives to the crossing would require significant ground retention systems to retain the track ballast, in the form of either corrugated sheet piles or drilled concrete contiguous piling.

1.3.3 Beside the considerations mentioned above there was a number of other significant constraints identified.

- **Environmental impact.** Network Rail takes its environmental obligations very seriously and as a national organisation, cares for the environment. Excavations, additional drainage and above ground steel structures would all require careful environmental assessments, so as to protect wildlife, flora and fauna. Great crested newts, bats and badgers are a particular focus for us in many of our more rural locations.
- **Construction access.** As a remote and rural location, all options require significant mechanical plant access, the removal of spoil and a construction site footprint. Feasibility assessments indicate that available lineside land and access is difficult, has some access risk and could have an impact on the available community roads.
- **Compound and land ownership** – the width of land available to NR for constructing a footbridge is significantly less than in the case of FP15 in Wool (approx. 15 metres for Darkies against 29 metres for Wool FP). Additionally we were able to agree creation of a footway and use of both railway land and highway verge for the purpose. This is not the case at Darkies LC where, to construct a footbridge an acquisition of land on both sides of the railway would be required. Additionally a works compound would need to be created, also subject to an agreement with respective landowner with the ensuing, additional costs i.e. price of land, access licence fees, potential compensation and legal costs of both NR and other parties.

1.4 Diversion. We have carried out thorough and extensive consultations with local parish council and DCC. The nearest diversion would lead to the Baileys Drove LC and would involve path creation and interference with privately or railway owned land. Such diversion would

also present an additional, unjustifiable cost to NR combined with a significant risk of lack of consent by adjoining, affected landowners. It would also, present no material improvement to the commodiousness of the path network affected by the potential diversion. Given the close proximity of an alternative point of crossing the railway extinguishment of the path in question was recommended.

2 ***The applicant has not produced any figures for the usage of this path. The only evidence that I know of is that of one dog-walker at an informal local Wool parish consultation. The applicant has not carried out a proper census of users.***

2.1 We have carried out a 7 day census in November 2013 and a 9 day one in 2016.²

3 ***I consider that this old traditional footpath linking to the old county road North of East Burton road deserves more serious consideration to avoid a complete loss of an important old public right of way and recreational route amenity.***

3.1 We treat all highways crossing the railway extremely seriously. This is best illustrated by NR investment in excess of £2M in the safety of such highways in Wool alone. Unfortunately, as a statutory undertaker spending public money we could not justify investing in an engineering or signalling solution at Darkies level crossing.

On behalf of Network Rail Infrastructure Limited

Damian Haynus

² Narrative Risk Assessments from 2014 and 2016.

Response from National Rail to the Open Spaces Society's objection

SECTION 118A, HIGHWAYS ACT 1980 - RAIL CROSSING DIVERSION ORDER PROPOSED EXTINGUISHMENT OF FOOTPATH 14, WOOL.

Response to preliminary objection made by Open Spaces Society.

'Objects strongly to extinguishment of Footpath 14. Footpath 14 is well used and essential to local network as part of circular walks in the area.'

Network Rail carried out a 7 day census in November 2013 and a 9 day one in 2016. The usage recorded on both occasions (approx. 5 crossings per day on average) was not indicative of frequent use, particular popularity or importance of this path. This has also been a conclusion of the informal consultations and site meetings Network Rail carried out with local parish council, Local Access Forum and the highway authority. We are not aware of any organised, frequent walks taking place on footpath 14, it is also, to our knowledge, not promoted or advertised.

'Demand for this footpath may increase in the future with new housing.'

Any increase in use of the footpath is very likely to result in an increased risk associated with the level crossing. Network Rail is likely, in principle, to object to any development near a level crossing with a potential of introducing an unacceptably high level of risk to our infrastructure and to members of public using it. This is particularly applicable to residential developments. We often work closely with developers and contribute towards any works aimed at improving safety of the railway and highways alike e.g. road crossing closure near Crossways related to nearby development.

'topography of area would be ideal for a bridge or tunnel. Miniature Stopping Lights are possible solution.'

Network Rail considered introducing various measures at Darkies level crossing, below there is an explanation of the process of exploring and selecting engineering and/or signalling solutions.

1.1 UK Government responsibility. HM Treasury discharges the duty of the UK Government to be financially accountable to the country, by holding Departments to account for the responsible management of public money¹. The Department for Transport (DfT) in turn, holds the Chief Executive and the group board of Network Rail accountable, for the management of public funds made available for rail infrastructure investment. Network Rail's operating license with the DfT specifies how it must act as a responsible infrastructure manager of the UK rail network. The Office of Rail and Road (ORR) and the Department for Transport (DfT), routinely seek assurance from Network Rail, that public investment is planned, governed and managed in the most cost-effective manner.

1.2 Governed rail infrastructure investment. Internal Investment Regulations further stipulate the need for a governed infrastructure investment process, that engenders accurate forecasting, thereby minimising waste and maximising financial efficiency and so meet both DfT and UK government requirements. To meet this requirement, Network Rail has developed a disciplined project investment planning cycle that has been accepted by both the ORR and the DfT. The formal process is called the Governance of Railway Infrastructure Projects (GRIP):

¹ Managing Public Money, a HM Treasury handbook, July 2013, revised August 2015.

- 1.1.1 The development process for level crossings is initially generated by regular risk assessments from Network Rail level crossing managers. The output of a risk assessment may identify that further work is required and that a technical solution may be feasible. A process has been developed by Network Rail for managing all projects in order to minimise and mitigate the risks associated with delivering projects that enhance or renew the operational railway. This is called the Governance of Railway Investment Projects (GRIP). GRIP has eight discrete stages, each of which have aims and an output, that control the progress and financial investment in a project or programme, on the basis of its risk status and the quality of information available at any given stage:
- GRIP Stage 1 – Output Definition. This has an aim to define the output for the project. The output will be to define the needs and requirements – the problem or opportunity, through stakeholder consultation.
 - GRIP Stage 2 – Feasibility. This has an aim to define the scope of investment and identify constraints. It needs to confirm that the outputs can be economically delivered, and are aligned with organisational strategy. The output will be to identify solutions in response to the defined requirements.
 - GRIP Stage 3 – Option Selection. This has the aim to develop options for addressing constraints. Assesses and selects the most appropriate option that delivers the stakeholders requirements, together with confirmation that the outputs can be economically delivered. The output will be to have a single option determined and gain stakeholder approval to the option approved through an Approval in Principle (AIP).
 - GRIP Stage 4 – Single Option Development. This has the aim to initiate the development of the chosen single option with the output being to reference and/or outline the design requirements.
 - GRIP Stage 5 – Detailed Design. This has the aim to produce a complete, robust engineering design that underpins definitive cost/time/resource and risk estimates. The output will be a full design to which the project will be built.
 - GRIP Stage 6 – Construction, Test and Commission. This has the aim to deliver the specification and testing to confirm operation in accordance with design. The output is to have the system built, tested and commissioned into use
 - GRIP Stage 7 – Scheme Handback. This has the aim to transfer asset responsibility from the project team to the operator and maintainer. The output is to have the project handed over to the maintainer or operator.
 - GRIP Stage 8 – Project Closeout. This has the aim to close out project documentation in an orderly manner. Contractual accounts will be settled, and any contingencies and warranties are put into place. Assessment of benefits carried out. The output is for the project to be formally closed out and project support systems formally closed.
- 1.1.2 Stages two and three of the project will have been initiated from a previously produced risk assessment (RA) that identifies the risk at a crossing to be such that action is required to reduce any risk to a legally and strategically tolerable level.
- 1.1.3 These stages will assess all potential upgrades that are available. Each upgrade will identify if the risk will be lowered to a level that both Network Rail and the ORR deem tolerable as well as a Cost Benefit Analysis (CBA) against what it would cost to deliver the upgrade.

1.2 The following engineering options were considered within GRIP stages 1-3 for Darkies LC: Footbridge or Subway. Engineering solution, however, and contrary to the assertion made in the objection letter is not reasonably practicable. Both options failed the CBA and therefore were deemed financially not viable. In light on the comments in para 1.1 above, Network Rail could not justify spending public money on installing a footbridge or an underpass.

1.2.1 **Option (1): Subway (Feasibility Estimate of between £4M and £6M).**

- The construction of a subway would have significant impact on the local environment and lineside neighbours.
- There is insufficient lineside land available in order to build an effective structure.
- Given the layout of land, proximity of watercourses and susceptibility to flooding of that particular location, an underground structure would be very likely seriously affected by flooding.
- Subway drainage would require regular maintenance and possible lineside intrusion to clear.

1.2.2 **Option (2): Footbridge (Feasibility Estimate of circa £2M).** Having studied the feasibility of a range of footbridge options, a stepped footbridge would appear to be the most technically feasible. The following factors should be noted:

- Limited land available. The recommended design would require an estimated 19m span. Both sides of the crossing are very close to third party land, the securing of which would be a risk for further stages. The land on the northern side of the crossing on which the footpath is situated is currently unregistered with unclear legal status and which ownership we are not able to ascertain.
- Bespoke designs would be required, so as to meet aesthetic requirements. The structure would certainly be higher than average tree height and likely to be viewed as un-aesthetic as a result.
- Train impact protection would be required due to the proximity of running rails (i.e. those upon which the train actually runs).
- Any above ground alternatives to the crossing would require significant ground retention systems to retain the track ballast, in the form of either corrugated sheet piles or drilled concrete contiguous piling.

1.2.3 Beside the considerations mentioned above there was a number of other significant constraints identified.

- **Environmental impact.** Network Rail takes its environmental obligations very seriously and as a national organisation, cares for the environment. Excavations, additional drainage and above ground steel structures would all require careful environmental assessments, so as to protect wildlife, flora and fauna. Great crested newts, bats and badgers are a particular focus for us in many of our more rural locations.
- **Construction access.** In a remote and rural location, all options require significant mechanical plant access, the removal of spoil and a construction site footprint. Feasibility assessments indicate that available lineside land and access is difficult, has some access risk and could have an impact on the available community roads.
- **Compound and land ownership** – the width of land available to NR for constructing a footbridge is significantly less than in the case of FP15 in

Wool (approx. 15 metres for Darkies against 29 metres for Wool FP). Additionally we were able to agree creation of a footway and use of both railway land and highway verge for the purpose. This is not the case at Darkies LC where, to construct a footbridge an acquisition of land on both sides of the railway would be required. Additionally a works compound would need to be created, also subject to an agreement with respective landowner with the ensuing, additional costs i.e. price of land, access licence fees, potential compensation and legal costs of both NR and other parties.

1.3 Miniature Stop Lights (Feasibility Estimate of approx. £450K (overlay system) or £1.7M (integrated)).

1.3.1 Miniature Stop Lights (MSLs) do not fully control the risk as there is an unavoidable reliance on users obeying the lights and signage. Experience at other crossings indicates that we cannot be confident users will obey these safety indications. This is backed up by research that shows, counter-intuitively, the highest rate of collisions occur at footpath crossing with MSL in situ. This could in part be due to MSLs usually being installed at crossings with a higher risk and a higher number of users. A cyclist rode onto the crossing and was struck and fatally injured by a passenger train travelling at 100mph over Motts Lane Bridleway level crossing, Witham, Essex, on 24 January 2013. It was dark at the time but the MSLs at the crossing were showing red and the audible warning was sounding. (RAIB report 01/2014). Furthermore, the cost of this scheme would be disproportionate to the level of risk reduction achieved, thus presenting a negative cost benefit analysis for this option. This is vital given that Network Rail is a public company and are beholden to the tax payer and parliament, and therefore must demonstrate a responsible management if fiscal matters and investment.

1.3.2 There are two main variations of MSL's; overlay or integrated into the signalling infrastructure. The installation cost varies from location to location depending on the technological characteristics of infrastructure. Neither variation is an appropriate and cost-efficient risk reduction measure for Darkies level crossing, the installation cost is too high when compared with the benefits it would provide.

'If footpath is extinguished it should remain open between points C – D as a cul-de-sac path to provide "accessible lung of green countryside for local residents in an increasingly urbanised part of Wool"'

1.4 Although the law allows for creation of cul-de-sac (on one end only) rights of way, general guidance on creation and extinguishment/diversion of rural rights of way is that it should be avoided, where possible, to create a cul-de-sac's, unless the terminal point of a path presents a value to a user i.e. offers exceptional views or is a point of interest etc.

1.5 In line with the above, extinguishment was agreed as the most appropriate solution by both Network Rail and highway authority.

"diversion of Fp14 should be considered although any route would be inferior"

1.6 The most suitable diversion would lead to Baileys Drove level crossing (nearest point of crossing the railway) and would involve creation of a path on privately owned land. It would be burdened with a high risk of failure as lack of consent of adjoining, affected landowners is

anticipated. It would not present a material improvement to the to the public path network in the area or any significant benefit to user.

On behalf of Network Rail Infrastructure Limited

Damian Haynus

Network Rail's response to other objectors

SECTION 118A, HIGHWAYS ACT 1980 - RAIL CROSSING EXTINGUISHMENT ORDER PROPOSED EXTINGUISHMENT OF FOOTPATH 14, WOOL.

SECTION 119A, HIGHWAYS ACT 1980 - RAIL CROSSING DIVERSION ORDER PROPOSED EXTINGUISHMENT OF FOOTPATH 15, WOOL.

Pre-consultation responses.

1. Darkies Level Crossing.

A number of options have already been considered at the crossing, including automatic barriers, installing a stepped footbridge with lifts, Miniature Stop Lights, an underground subway and a footbridge. However, the most viable option was found to be direct closure.

- a. **Footbridge (Feasibility Estimate of circa £2M).** Having studied the feasibility of a range of footbridge options, a stepped footbridge would appear to be the most technically feasible. The following factors should be noted:
 1. Limited land available. The recommended design would require an estimated 19m span. Both sides of the crossing are very close to third party land, the securing of which would be a risk for further stages. The land on the northern side of the crossing on which the footpath is situated is currently unregistered with unclear legal status and which ownership we are not able to ascertain.
 2. Bespoke designs would be required, so as to meet aesthetic requirements. The structure would certainly be higher than average tree height and likely to be viewed as un-aesthetic as a result.
 3. Train impact protection would be required due to the proximity of running rails (i.e. those upon which the train actually runs).
- b. **Lifts** are not a feasible solution at Darkies crossing because the level crossing is not at a station, therefore the lifts cannot be monitored by station staff for any issues. Should the lifts break then people will not be able to cross the railway until it is resolved, and people may be trapped inside. This is not a safe option. As these lifts will be in use by the public at all times of the day, not just passengers during the station operating hours, there is a significantly higher risk of vandalism and misuse.
- c. **Locking gates/CCTV barriers** are wholly unsuited to a location such as Darkies, and are primarily intended for use at vehicular crossings called 'User worked crossings' where a user is required to request permission from the controlling signaller to cross the railway and can then operate the gates to open and close without having to traverse the railway multiple times to open and close the gates. In a location such as Darkies, this would be completely impractical. More generally, there would be a risk that pedestrians could become trapped 'lineside' (between the gates and on or close to, the tracks) with any form of interlocked gates. Network Rail does not consider this a sensible or safe way forward to control risk at Darkies crossing.
- d. **Subway (Feasibility Estimate of between £4M and £6M).**
 - i. The construction of a subway would have significant impact on the local environment and lineside neighbours.

Further detail of the design:

- **Surface** on footbridge main span and stairs is non-slip with a waterproof finish. Nosing at the top and bottom of each flight of stairs is yellow contrasting with the intermediate steps which are white. Surface is in accordance with NR standards, DFT *Accessible Train Stations Design for Disabled People*. Corduroy tactile paving was provided at the top and bottom of the stairs with a colour contrasting with the structure, in accordance with DFT *Guidance on the use of Tactile Paving Surfaces*.
- **Handrails** has an insulating coating of 'not cold to touch' type and the colour complies with NR standard, BS8400, Building Regulations and the Requirements of the Equality Act.
- **Paint system** installed in accordance with NR standards and to achieve a minimum of 25 years service life.
- **Electrical** design was in accordance with NR, BS7671 and CIBSE design standards. Electrical equipment is vandal proof enclosure.
- **Lighting** design was in accordance with NR and BS5489/EN12464 design standards. Due to the surrounding treeline and the low level cess areas the lighting comprises handrail LEDs.
- **OLE Protection** was provided with a 1800mm high protective screening (parapet) on the bridge span complying with NR and Railway Group standards and European Legislation EN50122 to mitigate the risk of electrocution of users over OLE lines.

User Survey Results 2015

Darkies Camera Census 16 September – 23 September 2015

16/09: 2

17/09: 6

18/09: 3

19/09: 3

20/09: 9

21/09: 4

22/09: 5

23/09: 2

Total: 34 divided by 8 (days) = 4.25

Average 4.25 crossings per day

User Survey Results 2017

Darkies Camera Census 01 May – 14 May 2017

Monday 01/05: 5

Tuesday 02/05: 8

Wednesday 03/05: 10

Thursday 04/05: 13

Friday 05/05: 11

Saturday 06/05: 15

Sunday 07/05: 6

Monday 08/05: 12

Tuesday 09/05: 13

Wednesday 10/05: 6

Thursday 11/05: 7

Friday 12/05: 8

Saturday 13/05: 4

Sunday 14/05: 5

Total: 123 divided by 14 (days) = 8.78

Average 9 crossing per day