Report To:	**SPEAKERS PANEL (PLANNING)**
Date:	14 December 2016
Reporting Officer:	Ian Saxon – Assistant Executive Director, Environmental Services
Subject:	**SECTION 119A HIGHWAYS ACT 1980 – DIVERSION OF FOOTPATH DROYLSDEN 63**
Report Summary:	The report seeks authority to make an order under Section 119A Highways Act 1980 to divert a public right of way to improve user safety when crossing a railway line by replacing a level crossing with a stepped bridge. Under the Council's constitution, the Speakers Panel (Planning) is responsible for decisions that affect the definitive rights of way network.
Recommendations:	It is recommended that an order be made to divert the footpath known as Footpath Droylsden 63 as indicated on the plan attached at **Appendix A** and that the Borough Solicitor be authorised to take the necessary steps to implement this decision.
Links to Community Strategy:	Provides a safer and secure Environment for the people of Tameside
Policy Implications:	None arising from the report.
Financial Implications: (Authorised by the Section 151 officer)	Network Rail has confirmed, during the application process, that it will meet the full costs involved in the diversion procedure as well as the costs incurred in the electrification of the railway line. No costs should be incurred by the Council. If there are any unforeseen costs, these would need to be met by the existing Highways funding envelope.
Legal Implications: (Authorised by the Borough Solicitor)	Under Section 119A of the Highways act 1980, the Council has the power to divert a public right of way which crosses a railway, provided that doing so would be expedient in the interest of the safety of members of the public using it or likely to use it. For the reasons outlined at Paragraphs 2.1 – 2.3 of this Decision Report, the Council can be satisfied that the proposed diversion satisfies the above requirement. The Council must also consider the Public Sector Equality Duty outlined in section 149 of the Equality Act 2010. The duty requires that the Council has due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. The Council must analyse the available information on the proposed diversion and its impact with this statutory consideration in mind. The Diversity Impact Assessment (completed by Network Rail), attached at **Appendix D** and the Council's Summary, attached at **Appendix C**, suggests that the proposed diversion would have limited impact on people with relevant protected characteristics, and would improve safety when considering the

planned increases in both frequency and speed of trains travelling along the stretch of railway.

In light of this information, it would be proportionate and reasonable to approve the proposal.

If the proposal is approved, a rail crossing diversion order would have to be made and advertised for consultation with the public in accordance with the process set out in the Highways Act 1980 and the Rail Crossing Extinguishment and Diversion Orders Regulations 1993/9.

Access to Information:

Appendix A – Location plan showing proposed diversion

Appendix B – Photo of site and typical Network Rail footbridge

Appendix C – Summary of Network Rail's justification under the Equality Act

Appendix D – Network Rail application and supporting report

Background Papers – Application with feasibility study

All documentation can be viewed by contacting Michael Hughes, Sustainable travel Officer.

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1. BACKGROUND

1.1 Footpath Droylsden 63 runs in a roughly north easterly direction from its junction with Footpath Ashton-under-Lyne 111), before crossing a railway line and meeting Footpath Droylsden 61 which continues through to Buckley Hill Farm (A location plan can be seen at **Appendix A**). In its present format, Footpath Droylsden 63 crosses the railway line by means of a level crossing.

1.2 The North West Electrification Project will cause the electrification of the railway line between Manchester and Stalybridge. The works will include the installation of overhead power line equipment.

1.3 The result of the electrification will be to increase the frequency of the train service on this line along with the speed at which the trains travel. The increase of both of these factors has been identified as causing a greater risk to users of the public footpath when crossing the railway line at this level crossing.

1.4 The identification of the greater risk at this crossing has prompted Network Rail to take action to improve user safety. In order to effect a change to the current set-up and remove the need for a level crossing, a diversion is needed to Footpath 63.

1.5 To effect this change, an application has been submitted to make an order to divert the footpath under Section 119A Highways Act 1980 (the Act).

2. REASONS FOR THE DIVERSION

2.1. The purpose of the electrification of the railway line is to allow for the increased frequency and speed of the services running between Manchester and Leeds. It is planned that the number of services on the line will quadruple with 8 trains per hour in each direction. At the same time, the intention is to increase the speed of these trains to 80mph on this stretch of line.

2.2 In the current arrangement, the existence of the level crossing means that a speed limit of 40mph is enforced.

2.3 If the improvement of the train service along this line is to take place as planned then Footpath 63 will need to be diverted in order to maintain safety for the users when the number and speed of trains rises.

2.4 Network Rail conducted a study at this level crossing and investigated a number of potential solutions to the safety issues associated with the continued use of the level crossing. The current proposal of a stepped bridge over the railway line was considered by Network Rail to be the best and most feasible solution of the 8 options investigated.

3. PROPOSED DIVERSION

3.1. The proposed diversion would run from point A to point D via B and C as shown by a bold, broken line in **Appendix A**. The exiting footpath to be closed is shown between points A and D by a bold, continuous line

3.2. The applicant has proposed a diversion route that would move the footpath to a parallel alignment. The additional length imposed by the proposed diversion has been kept to a minimum.

3.3 The existing footpath crosses the railway line by means of a level crossing. The current arrangement can be seen at **Appendix B**.

3.4 The proposed diversion will mean that walkers cross the railway line by means of a stepped footbridge that will have a usable width of 2 metres. The bottom of the steps will rest on the current alignment of Footpath 63 with the main span of the bridge crossing the railway line on a parallel alignment. A typical Network Rail footbridge can be seen at **Appendix B**.

3.5 The applicant has confirmed during the application process that they will meet the full costs involved in the diversion procedure as well as the costs incurred in bringing the new path into a fit condition for use by the public.

4. COMMENTS OF THE EXECUTIVE DIRECTOR OF PLACE

4.1 The decision to be made under Section 119A of the Act is whether the diversion of the footpath appears to the Council to be "expedient in the interests of the safety of members of the public using it or likely to use it …". The fact that users would be removed from any interaction with the railway line would seem to satisfy the criteria for approval under the Act.

4.2 It is not felt that the proposed diversion route will be less commodious for the users in terms of alignment, width and length as all of these factors remain to all extents and purposes the same.

4.3 There is a potential difficulty for some users that may struggle to use the stepped access to the bridge crossing. This issue was raised as a concern during consultation with both the Council and the Tameside Public Rights of Way Forum. The response during this consultation was that there was a strong preference from both the users and the Council (when considering its responsibilities towards the Equality Act 2010) for a ramped bridge so that the structure is fully accessible for all.

4.4 This request has been considered and rejected by Network Rail on the grounds of the feasibility of installing a ramped bridge within the curtilage of their property and also that the access leading up to the bridge is currently difficult for users with mobility problems and so if they can reach the bridge then they should be able to easily manage the stepped access. A summary of the reasons given by Network Rail to support this stance can be seen in **Appendix C** with the full application and supporting report at **Appendix D**.

4.5 During consideration of the various options to remove the level crossing, consultation was carried out with the Network Rail Built Environment Accessibility Panel. No objections were raised to a stepped footbridge during this consultation exercise.

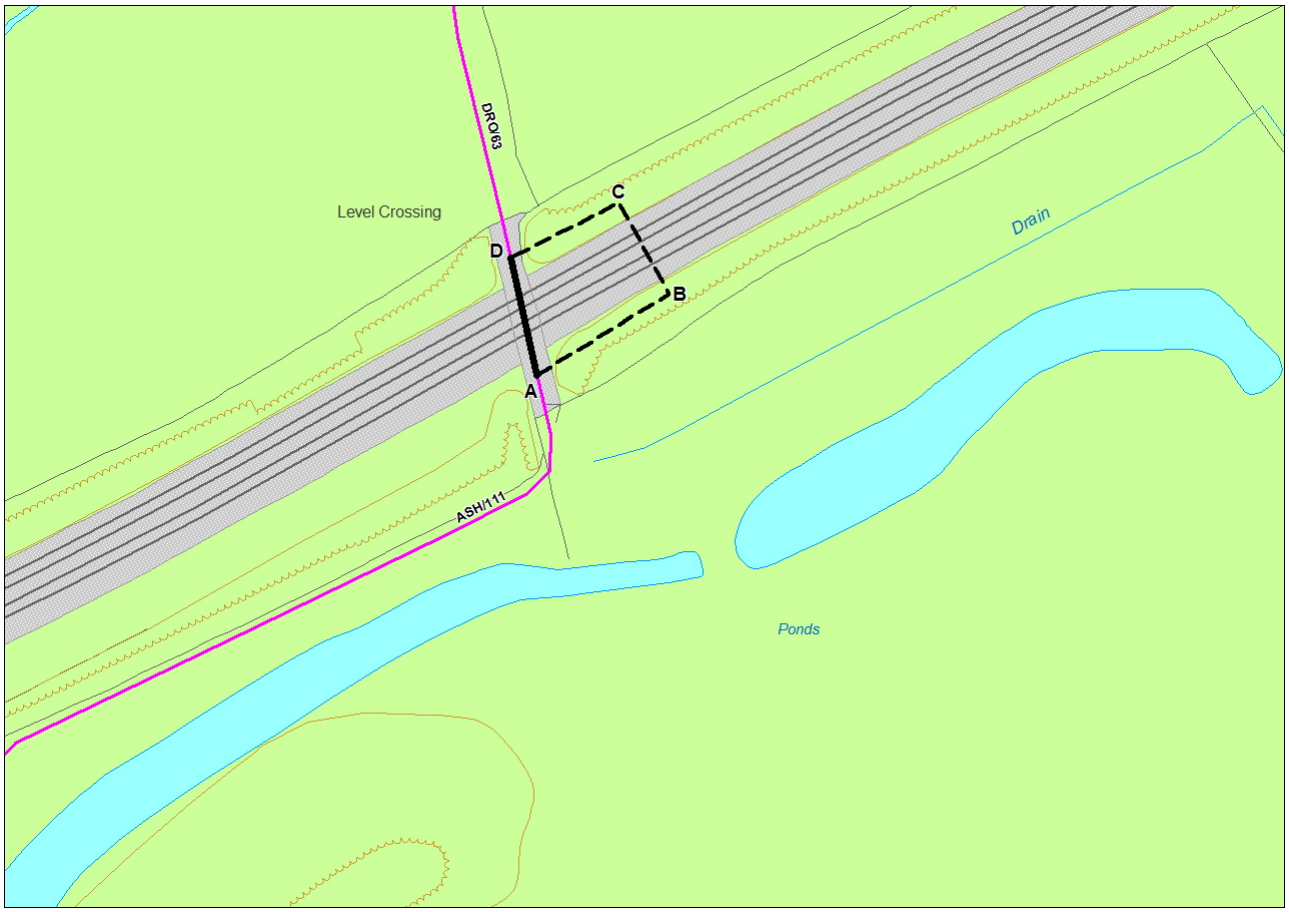
4.6 It is clear that the proposed diversion over the footbridge will be an improvement in terms of safety for users over the existing level crossing by removing them from any danger caused by the railway line. The criteria under the legislation would appear to be satisfied and as a result, the Section 119A diversion order should be made.

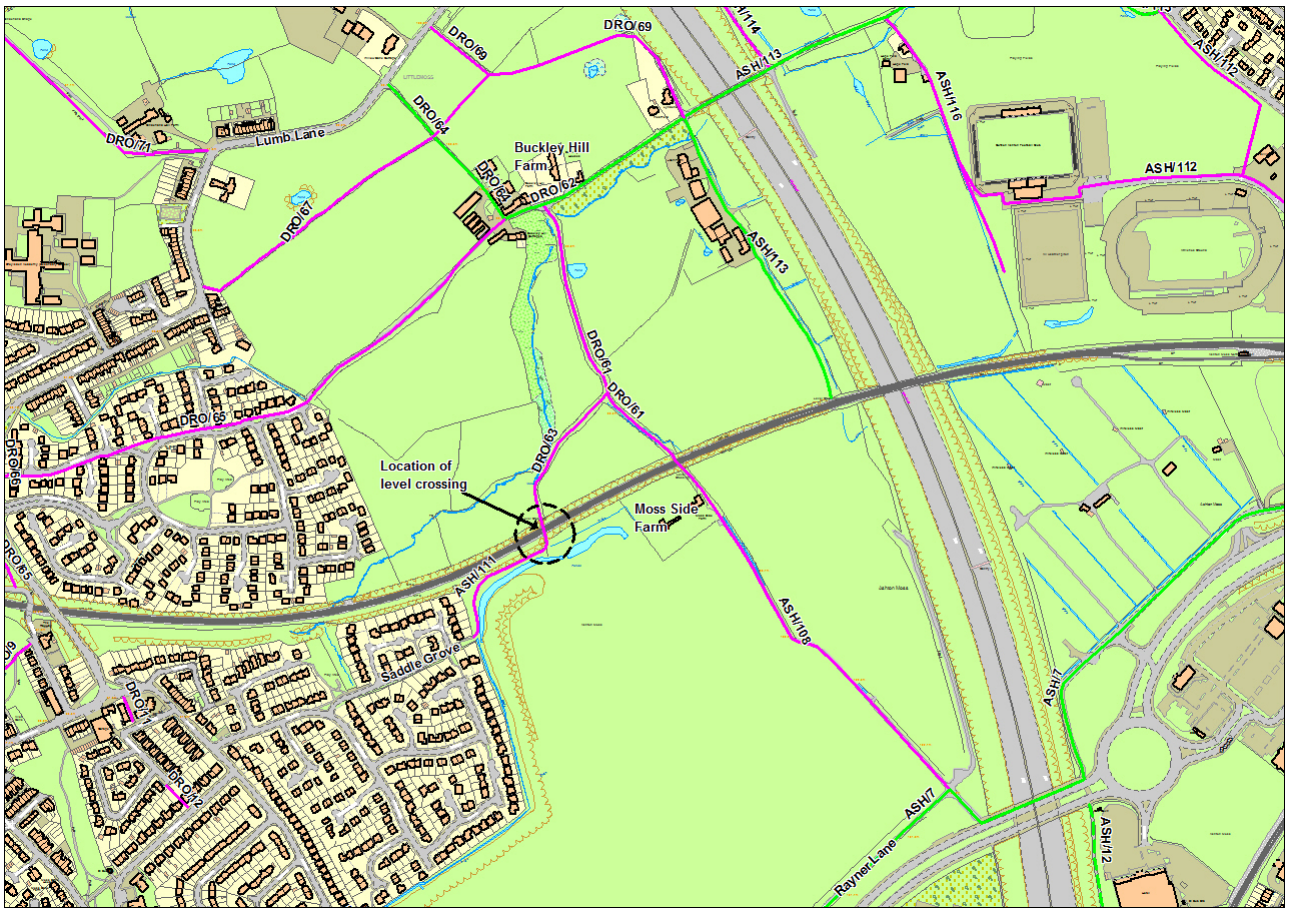
4.7 If approval is granted to proceed with the diversion of Footpath Droylsden 63 then the order will be advertised for consultation with the public in accordance with the statutory process.

5. RECOMMENDATION

5.1 It is recommended that the order be made to divert Footpath Droylsden 63 as indicated on the plan attached at **Appendix A** and that the Borough Solicitor be authorised to take the necessary steps to implement this decision.

APPENDIX A


DRO/63
Level Crossing
C
D
B
A
Drain
ASH/111
Ponds


DRO/69
DRO/69
ASH/114
ASH/113
ASH/116
ASH/112
DRO/71
Lumb Lane
DRO/64
Buckley Hill Farm
DRO/62
DRO/67
ASH/113
DRO/61
DRO/61
DRO/68
DRO/66
DRO/65
DRO/63
Location of level crossing
Moss Side Farm
ASH/111
ASH/109
Saddle Grove
ASH/7
ASH/12
Rayner Lane

APPENDIX B

Existing level crossing

Typical example of a Network Rail footbridge

APPENDIX C

Network Rail is proposing to install a stepped footbridge. There has been a preference expressed by the Tameside Public Rights of Way Forum as well as Council Officers for a ramped footbridge to be installed.

Network Rail has considered the impact of a stepped bridge on people with restricted mobility as part of their application. The grounds upon which Network Rail have justified their decision to proceed with a stepped footbridge are summarised below.

Current obstacles to free use of the public footpath

A survey conducted by Network Rail identified the potential difficulties to those with restricted mobility that currently exist on the approaches to the railway crossing.

The southern approach is identified as approximately 180m of unsurfaced footpath running through redundant land.

The northern approach is identified as an unsurfaced footpath that leads to a small number of residential and farm properties. The path to the north is described as severely uneven and has historical issues with flooding.

Census of use of the public footpath.

A survey carried out between 2nd and 10th November 2013 found that a daily average of 4 pedestrians used the crossing point. The peak use during this period was on a Sunday when 13 pedestrians used the crossing.

It has been identified that there are no public amenities to which the footpath provides a convenient link and as a result, the survey suggests that the majority of the users were there for pleasure or for dog walking rather than essential daily journeys.

If the level crossing were closed and no alternative means of crossing were put in place then the closest available diversion route that would link access points from the public vehicular highway to Footpath 63 would be approximately 1 mile in length (a 20 minute walk). This distance would be far greater if the desire was to travel the full distance from one end of the level crossing to the other.

Protected Characteristics

Network Rail has identified that a stepped footbridge would have a negative impact on the following protected characteristics:

- Disability – The impact is that a footbridge will install steps into the route which could impact users with restricted mobility.

  Access to the crossing is currently via an unmade, uneven path, in a rural location. The path route is narrow and the gate access to the crossing could currently restrict access to some persons with restricted mobility

  While access by persons with this protected characteristic is constrained and highly improbable, it is not currently impossible.

- Age – Access to the crossing is currently via an unmade, uneven path, in a rural location. The path route is narrow and the gate access to the crossing could currently restrict access to some persons with this protected characteristic.

However, given the rural location, persons with this protected characteristic who can get to the crossing are believed to have a reasonable level of mobility. Given the nature of the uneven and steep terrain the inclusion of a stepped footbridge is not considered to affect persons with this characteristic.

- Pregnancy / maternity – Persons with other forms of restricted mobility as a result of pregnancy, or those using prams or pushchairs for small children are likely to be impacted by the provision of a stepped bridge should this solution be progressed.

  However, given the rural location, the crossing is understood to be used for leisure walks rather than travelling between housing and a place of work or town centre for example. The crossing survey showed the crossing was not used by children or people with children.

  Should a stepped bridge be introduced therefore, it would be more difficult for persons with this protected characteristic to cross the railway.

Other Options

Network Rail has considered means in which to reduce any negative impacts on diversity and inclusion. The most obvious solution would be to improve access to the bridge crossing of the railway line. Network Rail has considered two means in which this could be achieved but unfortunately both have been discounted:

- Ramped bridge – a 1 in 20 ramp and step bridge solution would require approximately 500sqm of land take per ramp plus a further 150sqm for maintenance access. The installation of ramps would require additional land to be purchased and discussions to date have shown that the local land owners are not willing to sell the land. Although the option for a ramped footbridge has been discounted, the design for the proposed footbridge will include provisions for future ramps to be fitted should they be deemed necessary at a later date.

- Mechanical lift – provision of a lift would require much less land take but has been discounted based on the user survey data and reasons above. The increased risk of anti-social behaviour is also raised as an issue.

Network Rail Built Environment Accessibility Panel

Network Rail has its own Built Environment Accessibility Panel (BEAP) that has been consulted over the proposal.

The BEAP is a group that assists Network Rail to deliver inclusive and accessible projects for disabled people, women and men of all cultures, faiths and ages. The BEAP members include a number of technical, access and disability campaigning professionals that have a diverse range of access needs and a wealth of knowledge.

No objections were raised by this group.