

**REPORT SUMMARY**

<b>REFERENCE NO - 18/502379/LBC</b>			
<b>APPLICATION PROPOSAL</b> Listed Building application for proposed upgrade of Network Rail's East Farleigh Level Crossing from a Manned Gated Hand Worked (MGHW) Level Crossing to a Manually Controlled Barrier(s) (MCB) type (Resubmission).			
<b>ADDRESS</b> East Farleigh Mghw Level Crossing Farleigh Lane Farleigh Bridge East Farleigh Maidstone Kent ME16 9NB			
<b>RECOMMENDATION – Grant Listed Building Consent</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION for approval</b>			
<input type="checkbox"/> The level crossing gates do not form part of the main listing for the East Farleigh railway station; <input type="checkbox"/> The level crossing gates do not appear to be curtilage listed structures, as they constructed after the 1948; <input type="checkbox"/> Any harm to the character, integrity and setting of the Listed Building, would be outweighed the public safety benefit; <input type="checkbox"/> The erection of the new level crossing gates does not require Listed Building Consent.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
<p>Teston Parish Council wishes to see the application refused and request that the application be reported to Planning Committee for the reasons set out in their consultation response.</p> <p><i>(Note – The site lies with Barming Parish, not Teston Parish)</i></p>			
<b>WARD</b> Barming And Teston	<b>PARISH/TOWN COUNCIL</b> Barming	<b>APPLICANT</b> Network Rail Infrastructure Limited <b>AGENT</b> Network Rail Infrastructure Limited	
<b>DECISION DUE DATE</b> 27/06/18	<b>PUBLICITY EXPIRY DATE</b> 22/06/18	<b>OFFICER SITE VISIT DATE</b> 01/06/18	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
17/506600/LBC	Listed Building Consent for the upgrade of the level crossing	Withdrawn	26/2/2018
15/504142/LBC	Listed Building Consent - Replacement of station roof covering	Approved	14/7/2015

**MAIN REPORT**

**1.0 DESCRIPTION OF SITE**

1.01 East Farleigh station lies along Farleigh Lane and just to the north of the River Medway. The level crossing splits the railway station and platforms into two parts, with the signal box on the western side and the station building on the eastern side of the level crossing. The station building is a Grade II Listed Building.

1.02 The list description states: *“East Farleigh was opened in 1844, on the same date as the opening of the branch line which it serves, the Maidstone Road (Paddock Wood) to Maidstone line. Clad in ‘Kentish*

*clapboard', it is characteristic of stations of the South Eastern Railway, of which it is a particularly good example. This was the company style, but few of these stations now survive. Although it has lost its chimneys and original slate roof, the rest of the building is intact both internally and externally and it survives as a characterful and early station building, for which it has special architectural interest in a national context."*

- 1.03 The eastern (up platform) set of level crossing gates are steel gates painted white and designed to match the timber level crossing gates on the western (down platform) side of the crossing. The eastern gate was previously a timber gate up until 2005, when it was replaced. The cross bar stile gates also features obligatory warning signage.
- 1.04 The site does not lie within a Conservation Area.

## **2.0 PROPOSAL**

- 2.01 This proposal is for Listed Building Consent to remove the existing level crossing gates. This is only element of the application that requires Listed Building Consent and this is only on the basis that the level crossing gates are being considered as a curtilage listed structures (*full assessment below*).
- 2.02 The new replacement level crossing gates do not require Listed Building Consent, as the works are being carried as permitted development by a statutory undertaker by Network Rail and do not require the consent of the Local Planning Authority, i.e., this Council.
- 2.03 As such this application can only consider the impacts on the historic fabric.

## **3.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Development Plan: DM4 of the Maidstone Borough Local Plan

## **4.0 LOCAL REPRESENTATIONS**

- 4.01 Site notice, Press Notice & 15 local residents consulted – No representations received.

## **5.0 CONSULTATIONS**

- 5.01 **Barming PC:** No response. (*No objection raised on previously withdrawn application 17/506600/LBC*)
- 5.02 **Teston PC:** We object to this application for Listed Building consent for the reasons given in our objection to 18/502380 - Watringbury Level Crossing. If Officers disagree, we request that this application be referred to Planning Committee.

- We note the proposal to install a Manually Controlled Barrier (MCB). It appears that the intention is that this is controlled, initially, by a person located at the site. However, there is concern that the

technology could be augmented to enable cost-saving by remote monitoring and operation of the gate (perhaps termed MCB CCTV). That raises concern that the dead-time for road traffic flow would be increased considerably, because greater safety margins would be required before and after the train movement. That would have an adverse effect on road traffic.

- Network Rail's submission dated 2 May on the MBC Web Site states: "The provision of road traffic lights and warning alarms is a statutory requirement to alert crossing users (both pedestrians & road vehicles) that the barrier sequence is about to commence. The road traffic lights and associated noise is required to sound for approximately 20-25 seconds during lowering of the proposed barriers. The proposed new arrangement comes with the ability to adjust the volume of the audible warning generated at the time of barrier lowering and this will be given due consideration during the installation of the new equipment along with the flexibility of adjusting the intensity of flashing lights". Those sirens and lights would therefore be operative for all scheduled train movements during the day, including early morning and late night - with perhaps freight trains on occasion during the night. There would be adverse impact on local residents.
- The Office of Rail Regulation's guidance states in its December 2011 "Level Crossings: A guide for managers, designers and operators - Railway Safety Publication 7", paragraph 1.10, that "Finally, there is a requirement in planning legislation for planning authorities to consult the Secretary of State and the operator of the network where a proposed development materially affects traffic over a level crossing. For example, a new housing development near a crossing may cause traffic levels over the crossing to increase greatly and mean that existing protection arrangements at the crossing are no longer adequate". That may be an issue, given the implications of MBC's Local Plan for the area. In summary, our objection remains, not so much to the technology per se, but to the associated use of, particularly, sirens and the possible subsequent remote operation that it might lead to and to the lack of analysis of possible mitigations for adverse impact on road traffic flows.
- We support, of course, the need to ensure that East Farleigh level crossing meets reasonable safety standards and that its workings are maintainable, but we object to the application as submitted.
- We are not against automation per se, but the ramifications require to be assessed and addressed.
- As it is included in some of the diagrams and literature, it appears to be clear that, in addition to Watlington, it is also intended to replace the current East Farleigh manual level crossing with automatic barriers.
- This application should therefore not be considered other than within the wider context along this railway line between Paddock Wood and Maidstone West.
- Network Rail contends that the proposed work is "refurbishment", but demolition of the current gates and installation of automatic barriers would appear to go way beyond "refurbishment" and, as such, is not permitted under Part 8 of the Town & Country Planning (General Permitted Development) (England) Order 2015, which reads (our highlighting IN CAPITALS): Development is NOT PERMITTED by Class A if it consists of or includes- (a) the construction of a railway; (b) the construction or erection of a hotel, railway station or bridge; or (c) the CONSTRUCTION OR ERECTION OTHERWISE THAN WHOLLY WITHIN

THE RAILWAY STATION OF- (i) an office, residential or educational building, or a building used for an industrial process, or (ii) a car park, shop, restaurant, garage, petrol filling station or other building or STRUCTURE provided under transport legislation. Interpretation of Class A A.2 For the purposes of Class A, REFERENCES TO THE CONSTRUCTION OF OR ERECTION OF ANY building or STRUCTURE INCLUDE REFERENCE TO THE RECONSTRUCTION OR ALTERATION OF A building or STRUCTURE WHERE ITS DESIGN OR EXTERNAL APPEARANCE WOULD BE MATERIALLY AFFECTED.

- Design and external appearance of the gates are most certainly being materially affected.
- The proposal would therefore appear to require planning permission.
- Our Parish has an automatic level crossing, about 1.25 miles to the east of Wateringbury.
- Frequently the barriers are shut for what appears to be an excessive time. The subsequent back-up of traffic can be very substantial, particularly during rush-hour.
- On the northern, Teston, side that frequently leads to traffic backing-up on Teston Lane (B2163) and then along significant east and west lengths of the A26 (Tonbridge Road).
- Traffic traveling east-west, or vice versa, along Tonbridge Road (in a 40mph zone) then travel through that B2163/A26 T-junction, having to negotiate the backed-up vehicles and being forced to zig-zag off the main line of the carriageway. It is a hazardous situation. East Farleigh Level Crossing.
- East Farleigh's level crossing is about 65 yards from the entrance to the single-lane East Farleigh bridge.
- That bridge has very problematic sight-lines for vehicles approaching from either direction.
- Particularly during rush-hours, there is considerable tension between the opposing streams of traffic on this very well used road commuter run and that frequently boils over into verbal, if not physical, confrontation.
- To-date, Network Rail has refused to countenance traffic lights to address this tension, even if restricted only to rush-hour operation, pleading proximity of the level crossing.
- No before-and-after safety statistics are given for the replacement of manual with automatic barriers in similar contexts elsewhere, although newspapers occasionally report incidents, occasionally fatal, at automatic barriers.
- As "safety" is a major strand of the argument for replacement, it would be reasonable to see some evidence from experience elsewhere.
- Waiting Time: The applicant's Planning and Heritage Statement, at paragraph 4.3 (and elsewhere), states that " ... (the proposal would have the effect of) reducing road closure/vehicle waiting time".
- This would be very welcome at any level crossing site, but, again, no before-and-after waiting time statistics are given for the installation of automatic barriers in similar contexts elsewhere.
- Wider Opportunity: As this application would not appear to be sufficient for the proposal to be permitted, it is recommended that the opportunity is taken to review and address level crossing-related issues at East Farleigh and Teston, as well as Wateringbury.
- That review should include: the two sets of before-and-after statistics referred to above, to give confidence that the grounds for the proposal are well-founded;b. a statement of the barrier opening and closing

arrangements, including the degree of automation and, for human intervention within the automated scenario, the location, staffing arrangements, live video monitoring facilities for the level crossing etc to give assurance of an alert and responsive future operation throughout all hours of rail traffic; c. as it is clearly envisaged to replace the current manual gates at East Farleigh, a statement of how the operation of all automatic gates along the line from Paddock Wood to Maidstone West would, while enabling safe train operation, be optimised for road traffic flows, with collateral benefits for road safety; d. for East Farleigh, consideration of, possibly part-time, traffic control coupled to automatic gates to enhance traffic flow and mitigate tension for vehicles using the nearby road bridge; e. for Teston, an analysis of the impact on traffic backing-up onto the nearby Tonbridge Road (A26); and f. a consideration of the safety of all parties affected by the proposed automatic gates; that is, train travellers, railway staff, pedestrians and vehicles affected by the operation of the automatic gates, taking into account any demonstrable probable change to waiting times while the barriers are closed.

#### NPPF & Maidstone Local Plan

- The application quotes paragraphs 131, 132 and 133 of NPPF, which relate to the historic environment. 26. Maidstone's Local Plan envisages circa 30% increase in housing over the period 2011-31, with, presumably, a similar increase in population and traffic flows - despite the quest for modal shift.
- That makes it even more important to grasp all opportunities to review and enhance road traffic flows through major bottle-necks; Teston and East Farleigh level crossings are two, given that they lie on major cross-country road commuter routes.
- Conclusion: The application is inadequate to achieve permission within planning regulations and, more importantly, does not consider the wider implications for safety elsewhere.
- We therefore object to the application as submitted, but would wish to support a re-submitted application that is put forward within the context of the above wider opportunity. We may not have made the express request in our response that the matter be referred to the Planning Committee in the event that your view differs from ours. I confirm therefore that if you are intending to approve the application we would wish the matter to be referred to the Planning Committee for determination and a representative from the Parish Council will attend.

5.03 **Historic England:** We do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.

5.04 **Conservation Officer:** I have no objection to the replacement of the timber level crossing barriers at Wateringbury and East Farleigh. Although both projects will have a harmful impact upon the setting of the adjacent listed railway buildings at these locations, and will diminish their significance to a degree, it could be argued that the public benefits of an automated crossing outweigh the harm caused to the setting of the listed structures. I understand that the previous conservation officer took the view that the present timber barriers did not form part of the curtilage of the listed railway buildings, although that is perhaps not something that is simple or straightforward to form a judgement on. If the present barriers

are not original, some of the timber constructions are likely to date to the middle of the C20, or earlier.

Whilst the design of the new metal barriers is fairly stark and utilitarian, it would not be reasonable to require heavy section chamfered timber in a mechanism of this sort. I also understand from the applicant that railway personnel have been injured by traffic on the line where they have become trapped between vehicles and the barriers themselves – traffic nowadays in Kent is a lot more than they were when the barriers were initially constructed. We would not wish for any more unfortunate accidents to occur, and under the circumstances I would argue that it is unreasonable to require the retention of manually –operated crossings within the county, however quaint and historically authentic they may be.

The network operators to consider to offering the gates at zero cost either to a national railway museum, or to one of the many volunteer-staffed historic and community railways that operate within Kent and across the UK.

## **6.0 APPRAISAL**

- 6.01 The only issue that can be considered under a Listed Building Consent is the proposed works to the Listed Building and any curtilage listed structures. The majority of the objections received by Teston Parish Council relate to the new design and operation of the new level crossing gates that are not subject to this application or indeed need our approval. I have provided some more detailed comments on these points later in the report for clarification.

### **Listed Building Assessment**

- 6.02 Sections 16 & 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest that the listed building possesses.
- 6.03 This stance is supported within the National Planning Policy Framework (NPPF). Paragraph 134 deals with development that will have an impact upon a heritage asset and states "*where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use*".
- 6.04 Policy DM4 of the Maidstone Borough Local Plan requires development affecting a heritage asset incorporates measures to conserve, and where possible enhance, the significance of the heritage asset and where appropriate its setting. The policy expands to set out that the NPPF assessment should be used where the development will affect the heritage asset.
- 6.05 The application is accompanied by a detailed and comprehensive Heritage Impact Assessment, which provides details of the history of the level crossing and fully assesses the significance of the level crossing gates.

- 6.06 The level crossing gates are not listed in their own right, as only the main Station building is statutorily listed. However as the level crossing in this instance falls within the middle of the railway station and forms part of a number of buildings and structures historically associated with the railway station, which would be classed as a curtilage listed structures. However, for the structure to be curtilage listed, the historic part of the structure has to have been in-situ since 1948.
- 6.07 The removal and replacement of the level crossing gates will see the loss of a curtilage listed structure, to the grade II listed railway station. However, the effect on the significance of the station and the other railway structures around it will be neutral.
- 6.08 The level crossing gates have altered on a number of occasions, due to previous renewal of the fabric of the level crossing gates, which means that there would be no loss of historic fabric through the gates removal.
- 6.09 I would also add that the current design of cross bar stile gates were erected in 1952, as part of modernisation works to the level crossings in the early 1950s. This style of gates was different from previous stile gates pre 1948. One set of the gates is also metal, installed around 2005, which replaced a timber crossing gate. Therefore the level crossing gates themselves have been clearly erected after 1948 and therefore no longer fall to be classed as a curtilage listed structures. As such technically no Listed Building Consent is actually needed to remove the gates, as the gates were erected after 1948 and therefore are not curtilage listed structures.
- 6.10 Notwithstanding this, the proposed works will not have any physical impact on the listed Station Building or any of the other curtilage listed structures. The removal of the 1952 styled gates would have an impact on the setting of the listed Station Building, however its significance is low, given that the level crossing gates are not original, nor pre 1948.
- 6.11 The applicant has also made the case the public benefit of renewing the level crossing at East Farleigh will improve both public safety and the safety of the duty signallers on operating the new crossing weighs in favour or any harm identified to the Listed Building. The Conservation Officer in their assessment above raises no objection to this proposal and considers where some limited harm is identified, albeit prior to confirmation of the age of the gates. In addition he considers that the public benefits of the scheme outweigh any harm, in accordance with paragraph 134 of the NPPF.
- 6.12 Therefore the proposal works will not affect the historic fabric of the listed Station Building, that the level crossing gates are not original and post date 1948, meaning that they are not curtilage listed structures and not historically important structures. Therefore their removal will not harm the setting of the listed Station Building nor the remaining curtilage listed structures.

### **Permitted development works**

- 6.13 Under Part 8, Class A of the Town & Country (General Permitted Development) Order 2015 as amended, Network Rail as a Statutory

Undertaker are permitted to carry out development on their operational land, required in connection with the movement of traffic by rail. The extent of these scale of these works, is set out in the section A2, interpretation of Class A and relates to *"to the construction or erection of any building or structure includes references to the reconstruction or alteration of a building or structure where its design or external appearance would be materially affected."*

6.14 Some new works to a railway are not permitted development, such as a new railway line, a new bridge or offices/industrial buildings outside of the railway station and do require the benefit of planning permission. However the proposed replacement of the new level crossing gates would fall the scope of permitted development works of Part 8 Class A of the GPDO 2015 (as amended).

6.15 I appreciate concerns have been raised by Teston Parish Council as to the new crossing arrangements; however, these are not matters that we can control for the reasons set out above. This does not prevent Teston Parish Council contacting Network Rail directly with their concerns.

## **7.0 CONCLUSION**

7.01 In light of the above considerations, I consider that the proposed works to remove the level crossing gates are acceptable.

**8.0 RECOMMENDATION** – GRANT Listed Building Consent subject to the following condition:

- (1) The works to which this consent relates must be begun before the expiration of three years from the date of this consent;

Reason: In accordance with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

## INFORMATIVES

- (1) Network Rail should consider offering the level crossing gates to either a national railway museum, or to one of the many volunteer-staffed historic and community railways that operate within Kent and across the UK.

Case Officer: Aaron Hill

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

Case Officer Aaron Hill

Case Officer Sign	Date
Aaron Hill	