



SCARBOROUGH
BOROUGH COUNCIL

**REPORT TO PLANNING &
DEVELOPMENT COMMITTEE**

**TO BE HELD ON THURSDAY,
10 November 2022**

APPLICATION REFERENCE NO:

21/02303/RG3

**Corporate Aims
Better Lives, Better Homes, Better
Places, Brighter Futures, Better
Council**

TARGET DATE:

29 December 2021

GRID REF:

503470-489809

REPORT OF THE HEAD OF PLANNING – HOP/22/8

SUBJECT: Demolition of footbridge over the North Bay miniature railway at North Bay Scarborough North Yorkshire for Scarborough Borough Council

1.0 THE PROPOSAL AND BACKGROUND

1.1 This application for planning permission proposes the removal of a pedestrian footbridge close to the North Bay Promenade. It crosses the North Bay miniature railway approximately halfway between the Sands Development and the Sea Life Centre. It was previously considered by Planning Committee in January 2022 when it was resolved to defer a decision on the application. Subsequently, the applicant was requested to explore the option of repairing and reopening and/or to provide additional information to address concerns raised by Members. The relevant Service Area Manager has more recently requested that application returns to Committee for a decision as originally submitted.

1.2 The footbridge was closed for public access in 2020, but provided a pedestrian link between the seafront from the area often referred to as 'the bulge' and Burniston Road. It is close to the point where a pedestrian route through Northstead Manor Gardens and the Open Air Theatre emerge onto the seafront. On the inland side of the bridge a path leads up a hill to the south of the Alpamare Water Park. There are also other paths leading across area of public open space through to residential development off Green Howards Drive.

1.3 The footbridge dates from the 1960s and both the deck and support columns are constructed from reinforced concrete with metal railings. The bridge is 1.8m wide and has a span over the railway of 12.5m at a height of 2.9m above the track. On its seaward side is a 26m long ramp set at a right angle, which provides graded access due to the topography of the land at this point with the land to west rising sharply

1.4 There is a level crossing point across the railway 160m to the north of the bridge and is also reached by a ramped path on the eastern seafront side, accessed by a footpath which runs parallel to the track immediately to the west. This would be the sole

rail crossing point for pedestrians, although the application also mentions a route through Northstead Manor Gardens as an alternative. It is intended to modify the 3.5m wide level crossing as follows:

- Re-alignment of the gates and fencing at the crossing, to provide more space to manoeuvre a wheelchair, increasing the width from 1.2m to 2.0m.
- Replacing timber board decking across the track to that of a slip resistant concrete surface.
- Application of yellow lining to the crossing perimeter to aid the visually impaired.
- Clearer signage to identify the crossing point from the bridge position.

1.5 The footbridge is not a designated Public Right of Way (PROW). However, there is a Public Right of Way which leads from the seafront, up a graded slope to the north of the 'bulge', traverses the level crossing and then continues in a north-westerly direction beyond the railway.

1.6 The supporting documents explain that a bridge inspection report in 2019 highlighted severe defects to the concrete structure and the steel balustrade. It concluded that the bridge is in very poor condition and significant repairs are necessary. Further investigation was undertaken to establish why its condition had deteriorated so quickly when a design life of 100 years would be expected. This found the most likely causes to be poor construction and proximity to the sea. The documents also explain the cost implications of replacement, although this would principally be a matter for the Council as landowner rather than being a planning consideration.

2.0 SCREENING OPINION REQUIRED?

2.1 Not required.

3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 Consultation took place with Ward Councillors, the North Bay Miniature Railway and the Yorkshire Coast and Ryedale Disability Forum. A summary of the reported comments is as follows:

3.2 The Ward Councillors were not in support of the demolition. One Councillor opposed demolition of the bridge and asked if there is no funding for repair, to consider providing another gate to cross the track at this location. A second Councillor received several messages from residents, the majority of whom were extremely keen to get it repaired. In response, the applicants state another gated level crossing to the track at or near to the bridge location was also considered. However, the railway operators highlighted concerns relating to insufficient sight lines for the train driver due to the curved nature of the line at that point which could result in an accident.

3.3 The Yorkshire Coast and Ryedale Disability Forum support the application.

3.4 North Bay Miniature Railway confirmed that the omission of the bridge would not adversely impact on their business, although it was inferred, that additional foot traffic over the existing level crossing would arise. With this in mind the applicants in

conjunction with the Disability Forum and the Miniature Railway have been in discussion to develop improvements to the crossing point.

4.0 CONSULTATIONS AND COMMENTS

The following is a summary of the key and relevant comments received from consultees and interested parties. Their full comments and any accompanying documentation are available to view on the Council's website.

4.1 Highway Authority - Public Rights of Way (NYCC) - confirm that the footbridge proposed for demolition is not a designated Public Right of Way.

4.2 Publicity - Consultation period expired on 16.12.2021. Objections have been received from 16 parties raising the following concerns:

- The use of the level crossing as an alternative to the bridge is much less safe/suitable for pedestrians, especially for people with wheelchairs, mobility scooters, prams, young children, partially sighted or hard of hearing.
- Serious legal implications for the Council if an accident happens.
- Miniature railway level crossings are governed by Health & Safety guidelines
- The path is much more used with the opening of the Water Park and the adjacent hotel.
- Other suggested routes are not so suitable - the route through Northstead Manor Gardens is often closed in summer due to concerts.
- The route across the bridge is enjoyed by residents and is part of Scarborough's heritage.
- Money would be best spent repairing or replacing the bridge and the submitted costs are questioned.
- The condition of the bridge has deteriorated due to lack of maintenance.

5.0 RELEVANT SITE HISTORY

5.1 None of direct relevance.

6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of The Town and Country Planning Act 1990 require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise (in the case of advertisement applications the Advertisement Regulations 2007 are applicable). Attention is drawn to the following Development Plan and other planning policies and guidance which are considered to be particularly relevant to the consideration of this application:-

Scarborough Borough Local Plan 2017

DEC 1 - Principles of Good Design

INF 1 - Transport

National Planning Policy Framework

NPPF9 - Promoting sustainable transport
NPPF12 - Achieving well-designed places

Scarborough Borough Supplementary Planning Documents

None relevant

Local Planning Policy and Guidance

None relevant

7.0 ASSESSMENT

7.1 The reinforced concrete bridge is functional and decaying in appearance. It is not of any known historic or architectural importance. It is in a relatively prominent position set behind 'the bulge' section of the North Bay seafront. Purely in visual terms, no objection is raised to the loss of the bridge

7.2 The value of the pedestrian route to be diverted from the bridge has been carefully considered. Local Plan policy INF1 seeks to protect, manage and enhance an integrated network of routes for those without access to a car. This part of North Bay is largely car-free apart from authorised access. While the bridge clearly has been used as a footpath, it is not a designated Public Right of Way (PRoW). There is a nearby PRoW leading from the seafront over the existing level crossing and then proceeding in a northerly direction towards Scalby Mills to the east of the golf course. Since the route over the bridge is not a PRoW, this makes it more difficult to warrant an objection to its removal, especially since alternatives exist. It is accepted that especially for walkers unfamiliar with the area and arriving from the direction of Burniston Road it may not be immediately apparent how to reach the seafront, but this can be remedied if signage is provided as suggested.

7.3 Concerns have been raised about the safety of the level crossing. The works proposed to improve the crossing, as described in paragraph 1.3, would not require planning permission, but they can be secured by condition should planning permission be granted. The level crossing has good visibility in both directions - the closest bend is approximately 180m to the south. Trains on the miniature railway would not travel as fast as a conventional locomotive. There is Health & Safety guidance, although this is linked to Health & Safety at Work legislation. It does not provide specific guidance on distances, but by way of comparison the distance is roughly 4 times that required for visibility splays where an access joins a major 30mph road. However, a more fundamental point is that planning legislation should not normally be used to secure objectives achievable under other legislation, so refusal based on Health & Safety guidance would be inappropriate.

7.4 It is acknowledged that the removal of the bridge increases the number of pedestrians using the level crossing. This needs to be balanced against the improvements to this crossing, and the fact they would improve access on the route of the designated PRoW, which unless formally diverted, would remain in place. The works are partly intended to make its use easier for disabled users and followed discussions with the local Disability Forum. Possibly apart from the route to the north

towards Scalby Mills, both the path to Burniston Road and a second route across the open space towards Green Howards Drive may in practical terms be difficult for disabled pedestrians to use due to steep gradients. The applicant comments that the proposals comply with Railway Regulations and it has been in use for many decades without accidents. It is further added that the safety improvements have been agreed with the North Bay Railway and that their insurers are happy with the changes and the crossing's continued legal compliance.

7.5 Matters relating to the cost of repair or replacement are not a planning consideration. It is important to distinguish the role of the Council as Local Planning Authority from its responsibilities as landowner/service provider. The concerns raised by residents relating to the loss of the route across the bridge are noted. However, for the reasons outline above it is concluded that it would be difficult to justify refusal of planning permission and the application is therefore recommended for approval.

POSITIVE & PROACTIVE STATEMENT

The Local Planning Authority acted proactively by imposing planning conditions to mitigate potential negative impacts of the development.

RECOMMENDATION

PERMISSION BE GRANTED, subject to the following condition(s)

1 The development hereby approved shall be carried out in strict accordance with the following plans received by the Local Planning Authority on the date(s) as listed below. This is unless otherwise agreed in writing by the Local Planning Authority:-

SK01 - Site Location Plan (24/09/2021)
SK04 - Proposed Bridge Layouts (24/09/2021)
Fence Details (03/11/2021).

Reason: For the avoidance of doubt.

2 Within 12 months of the demolition of the footbridge the improvement works to the level crossing and signage as shown on approved drawing SK04 shall carried be out in their entirety.

Reason: To benefit the movement and safety of pedestrians.

David Walker

Background Papers:

Those documents referred to in this report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT MR HUGH SMITH ON 01723 383642 email hugh.smith@scarborough.gov.uk



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