



Appeal Decision

Site visit made on 31 October 2017

by **A A Phillips BA (Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 November 2017

Appeal Ref: APP/M2515/W/17/3182685

501 Witham Wharf, Brayford Street, Lincoln LN5 7DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Debbie Chesters of Network Rail Infrastructure against the decision of Lincoln City Council.
 - The application Ref 2016/1225/FUL, dated 9 December 2016, was refused by notice dated 28 April 2017.
 - The development proposed is the construction of a new pedestrian footbridge over Brayford Wharf East, Lincoln City Centre.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a new pedestrian footbridge over Brayford Wharf East, Lincoln City Centre at 501 Witham Wharf, Brayford Street, Lincoln LN5 7DL in accordance with the terms of the application, Ref 2016/1225/FUL, dated 9 December 2016, subject to the conditions set out in the Schedule to this decision.

Main Issue

2. The main issue is whether the proposal represents suitable design with particular reference to the provision of safe and convenient access for all.

Reasons

3. Brayford Wharf East crossing is a full barrier level crossing which is currently one of the UK's highest risk rail crossing points for pedestrians. This is as a result of pedestrians and other users being frustrated at the lengthy highway closures with no alternative but to wait. Consequently, some have rushed through once the closing sequence has commenced and indeed I observed this at my site inspection. The crossing is very heavily used, being located near to the City Centre and other busy areas and destinations such as the University of Lincoln. It is my understanding that the demand and use of the crossing is likely to increase with the expansion of the nearby University and increase in the population of Lincoln itself being contributory factors.
4. Consequently, there is a need for a footbridge to reduce the risk of misuse by users of the Brayford Wharf level crossing. Planning permission has previously been granted for a footbridge which included lifts and other associated infrastructure. However, I understand that the approved scheme could not be built because the estimated costs were higher than the available budget. The appellant states that due to funding arrangements the bridge is needed urgently or the funding will be lost. The current proposal represents an

- amended footbridge proposal which retains the overall design concept, but with stair access only. The current scheme has been designed such that at a future date pedestrian lifts could be installed. I understand that the existing level crossing will remain open, providing those with reduced mobility or those unable or unwilling to climb the stairs access over the level crossing at grade.
5. Policy LP13 of the Central Lincolnshire Local Plan Adopted April 2017 (the LP) states that developments which contribute towards an efficient and safe transport network that offers a range of transport choices for the movement of people will be supported. All developments should demonstrate that they have had regard to a range of criteria, including providing safe and convenient access for all. The National Planning Policy Framework (the Framework) indicates that, among other objectives, developments should create a safe and accessible environment.
 6. It is clear to me that the proposal would reduce the risks associated with the existing arrangement by providing a viable alternative option for many users. Furthermore, given the design of the bridge those choosing not to use the bridge may well not have a significant delay in their journey time. At my site I observed hazardous highway conditions for pedestrians, cyclists and vehicles when the barriers lifted with conflicting users rushing to continue their journey, including pedestrians and cyclists being pushed into the path of passing vehicles. Clearly, the proposed bridge would significantly reduce congestion at the level crossing improving the safety of users, including pedestrians, cyclists, vehicles and those with mobility difficulties or with push chairs, for example.
 7. There are also alternative routes available, such as the new pedestrian bridge (which includes a lift) nearby at the High Street. Although access to the High Street bridge via Wigford Yard is uncertain as a result of the Network Rail development at 179 High Street there are alternative means of accessing the bridge which does provide a safe and accessible route across the railway line.
 8. The omission of the lifts in the proposed scheme is regrettable but nonetheless I find that there are significant benefits to all users associated with the current proposal and suitable alternative means of crossing the railway line, including the remaining level crossing and the High Street bridge. Furthermore, the proposal does take account of a range of users and incorporates features such as braille on the underside of the handrails, among others. In this case I have sufficient evidence that Network Rail has given due regard to the needs of all users.
 9. The Council disputes whether it would be possible to retrofit pedestrian lifts at a later stage. I have no evidence that this could not be the case and, in any case, given the benefits associated with the current proposal I do not find this issue sufficient to withhold the grant of permission in this particular case.
 10. Therefore, given this particular set of circumstances, including the choice of alternative means of crossing the railway line in the area I conclude that the proposal does represent suitable design with particular reference to the provision of safe and convenient access for all. As such it is in accordance with the provisions of Policy LP13 of the LP and the Framework.

Conditions

11. The Council has suggested a list of conditions which I have considered, and where necessary amended, in line with national policy and guidance. I have specified the approved plans as this provides certainty. In order to ensure that the risks from land contamination to the future users of the development and neighbouring land are minimised, together with risks to controlled waters, property and ecological systems and in order to ensure that the development can be carried out without unacceptable risks to workers, neighbours and other off site receptors I have attached conditions requiring a risk assessment and where necessary a detailed remediation scheme and verification report and measures in case any contamination is found during the course of construction.
12. In the interests of the character and appearance of the area I have attached a condition relating to samples of materials. Finally, in the interests of users of the adjacent public highway I have imposed a condition requiring the satisfactory completion of highway improvement works before the development is first used.

Conclusion

13. Therefore, for the reasons given above and taking into account other matters raised I conclude that the proposal is in accordance with the development plan taken as a whole and that the appeal should be allowed.

Alastair Phillips

INSPECTOR

SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: BWA-A-01-050 Rev 1, BWE-A-23-005 Rev 2, BWE-A-8010 Rev 0, BWE-A-23-201 Rev 0, BWE-A-23-202 Rev 0, BWE-A-23-010 Rev 3, BWE-A-01-111 Rev 11, BWE-A-01-112 Rev 12, Full Proposed Visual 1, Full Proposed Visual 2, Full Proposed View 1, Full Proposed View 2, Full Proposed View 3, Full Proposed View 4, Full Proposed View 5, Full Proposed View 6 and Full Proposed View 7.
- 3) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 4) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is first used.
- 5) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on

the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 6) No development shall commence until samples of the materials to be used in the construction of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 7) Prior to the first use the works identified on drawing BEWE-A-01 Rev 11 and BRE-A-01-112 Rev 12 to improve the public highway must have been certified complete by the local planning authority.

End of Schedule