Agenda Item	6.6
Report No	PLN/008/21

#### HIGHLAND COUNCIL

Committee: North Planning Applications Committee

Date: 26 January 2021

20/03530/FUL: Network Rail

Report Title: Delny Level Crossing, Barbaraville

Report By: Acting Head of Development Management – Highland

1. Purpose/Executive Summary

1.1 **Description:** Closure (and stopping up) of level crossing, formation of link

road and erection of road bridge

**Ward:** 7 – Tain and Easter Ross

1.2 **Development category:** Local

Reason referred to Committee: Area Planning Manager's Discretion

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

#### 2. Recommendations

2.1 Members are asked to agree the recommendation to GRANT planning permission as set out in section 11 of the report.

#### 3. PROPOSED DEVELOPMENT AND BACKGROUND INFORMATION

- 3.1 The application seeks to close and stop up an existing level crossing at Delny, close to Barbaraville within Easter Ross, and to install a new link road and replacement bridge. The supporting statement submitted with the application notes that level crossings present the most significant risk to trains and people using the railway system. There has been three fatalities at the Delny Level Crossing with a subsequent report finding that the crossing has an increased likelihood of having a collision between a train and a road vehicle even with additional safety measures in place. Since 2010, Network Rail have embarked on extensive programme of work to reduce the risk at level crossings with more than 1000 being closed. The decision to pursue closure of the Delny level crossing is part of this programme.
- 3.2 The scope of the development involves the construction of a new road over rail bridge adjacent to the level crossing. When approaching from the A9 to the north along the public road at Delny, the new road would be single carriageway (5.5m width) for the first 130m, narrowing to 4m and widening to single carriageway for the sections before, after and across the bridge. The remainder of the road mirrors this arrangement. The proposed works also include realignment of the existing highway and construction of earthworks either side of the structure. The existing level crossing would then be closed (subject to a separate Stopping Up process) with appropriate fencing and signage installed. The proposed new road will comprise a diversion of the existing highway to the east of the existing alignment; this will be elevated above the railway through the provision of a concrete overbridge spanning between abutments on each side of the track. The northern and southern approaches to the overbridge will be built up on an embankment to achieve an increase in the vertical alignment of the highway and providing sufficient clearance above the railway line.
- The existing level crossing is subject to a 7.5 tonne weight limit for vehicles; this was included to protect the amenity of the Highland Park Retirement Village which lies around 250m to the south west from large, heavy and noisy vehicles such as HGV's rather than as a result of an inability of the crossing to cope with excessive weight. On researching the terms of the weight limit, it is noted that farm vehicles are exempt and as such, can traverse the existing crossing. The proposed new road and bridge have therefore been designed to ensure such farm vehicles, which can be particularly wide depending on their use, can be accommodated. The existing weight limit will however remain in place on the new road and bridge to continue to ensure the amenity of the retirement village is protected.
- 3.4 By way of further background information, the land take for the proposed bridge and road realignment overlaps with the site of a pending planning application for the erection of 100 houses (ref: 08/00253/OUSTU). Network Rail have objected to this application on the grounds that the intensification of use of the level crossing would be unacceptable as a result of this proposed residential development. Network Rail's **sole** objective in closing the level crossing and replacing it with a

bridge is in relation to the mitigation of safety risk arising from the presence of the crossing. In doing so however, its objection to the above planning application would be resolved. The aforementioned planning application remains pending consideration.

- The supporting information notes that, should consent be granted, it is anticipated that construction could commence in 2021 with completion anticipated within the same year or early 2022 subject to the conclusion of a successful Stopping Up Order process. The appointed contractor would be responsible for implementing and promoting a Construction Traffic Management Plan during the construction phase.
- The proposed development has been subject to pre-application discussion with the Planning Authority with input from Transport Planning over a number of years. A planning application was submitted in May 2018 (ref: 18/01928/FUL) which was withdrawn to allow Network Rail to re-design the proposed development to take account of larger vehicular traffic namely farm vehicles. The applicant has also engaged in a number of community consultation events including drop-in sessions and meeting with the community council.
- 3.6 The application is supported by a Planning Statement, Design and Access Statement, Drainage Impact Assessment, Road Safety Audit, a report detailing community consultation and a Habitats Regulation Appraisal.
- 3.8 There have been no variations to the proposed development since it was submitted.

#### 4. SITE DESCRIPTION

4.1 The existing level crossing lies around 500m northwest of the village of Barbaraville on the north shore of Nigg Bay in the Cromarty Firth. The area of development lies outwith the settlement and is largely rural in nature with the predominant land use being agricultural fields with the site lying east of the existing crossing. There is a small industrial estate lying north west of the crossing, with two houses either side of the U1473 close by. The site and its immediate surroundings are generally flat.

#### 5. PLANNING HISTORY

- 5.1 18/01258/SCRE: Closure (and Stopping Up) EIA Not 05.04.2018 of Delny Level Crossing and its replacement Required with a road bridge over the railway and short section of road linking into the existing road from the A9(T) at Delny to Barbaraville
- 5.2 18/01928/FUL: Closure (and stopping up) of Withdrawn 17.09.2020 level crossing, formation of link road and erection of road bridge

#### 6. PUBLIC PARTICIPATION

6.1 Advertised: Schedule 3 Development and Unknown Neighbour

Date Advertised: 25.09.2020

Representation deadline: 09.10.2020

Timeous representations: 3 objections, 1 general comment and 1 comment of support

6.2 Material considerations raised are <u>summarised</u> as follows (please note comments can be read in full on the Council's planning portal)

## **Support**

- The proposal is supported by the campaign group 'Friends of the Far North Line' who lobby for improved services for the local user, tourist and freight operator. The proposals will improve safety for all users of the level crossing as well as enabling reduced delays for roads users and faster journey times for rail users.
- The road-rail interface has long been recognised as the single most important source of catastrophic risks to trains. In this case, the closure and stopping up of the Delny level crossing will remove the risk of collision between trains and road vehicles and/or other users. The proposed road link and bridge will ensure that roads users do not have to stop and wait for trains to pass, and the line speed for trains will be able to be increased thus reducing journey times for travellers. Hence the new road link and bridge will provide benefits to both road and rail users.

#### General

• The proposal represents a welcome improvement in public safety for a level crossing which has seen a number of serious and fatal traffic incidents. However it should be borne in mind it lies close to the Highland Park retirement village where most residents are elderly and the proposal should avoid reducing their amenity. It is suggested that the proposed new farm access is located further from the boundary of the Highland Park village due to increased heavy farm traffic. It is also suggested that the road geometry should be adjusted so that the start of the new road curve is further from the retirement village. Finally, concern is raised about road speeds and it is suggested that the road should be subject to a 30mph limit with appropriate vehicle weight restrictions and any other traffic calming measures.

#### **Objections**

- Application is not suitable for a delegated decision
- The application has a 'duality' of purpose in that it will also allow a development on the adjacent land of 80-100 houses;
- Concerns regarding the adequacy of the road safety audit which takes no account of barrier replacement in 2017;
- Concern regarding single track nature of the proposed road;
- Concern regarding impact on amenity and overall visual amenity
- Concern regarding adequacy of drainage impact assessment including proposal to culvert an existing watercourse.
- Concern regarding lack of environmental impact assessment
- Amenity impact at an adjoining house, Gordonville due to its proximity and that the development would be seen from all aspects other than the front elevation – resulting in a lack of privacy and impact on outlook
- Concern regarding proposed materials
- Concern regarding traffic safety on the new road and bridge
- Concern regarding impact on wildlife

- Adverse archaeological impact
- Impact on existing services such as electricity

#### **Non-Material Considerations**

It is noted in representations that the existing arrangements at the level crossing are sufficient and there have been no incidents since new barriers were installed in 2017 and therefore the 'need' for this development is not considered credible. It also further noted that it is not clear why bridges are not proposed at other level crossings. As noted in the background information, Network Rail have embarked on a programme of work to replace level crossings as a result of safety concerns; it is not within the remit of the Planning Authority to assess this programme of work and therefore these issues cannot be considered as material planning consideration.

- 6.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet <a href="www.wam.highland.gov.uk/wam">www.wam.highland.gov.uk/wam</a>.
- **CONSULTATIONS** (all consultations summarised full responses are available on the ePlanning portal)
- 7.1 **Kilmuir and Easter Logie Community Council** initially objected to the development on the grounds of the proposed removal of the 7.5t weight restriction currently in place and subsequent safety and noise concerns. It has since been clarified with the Community Council that whilst the bridge has been designed to accommodate larger, heavier vehicles this is to ensure farm traffic can use to the bridge. The weight limit currently imposed would remain in place (farm traffic being exempt from this). The Community Council have advised that this has resolved their objections and as such now have no objection to the application.
- 7.2 **Transport Planning** have no objection subject to the following conditions:
  - 1. Provision and agreement of a Construction Traffic Management Plan including a Section 96 wear and tear agreement and suitable bond.
  - 2. Submission and agreement in writing of plans showing swept paths and detailed and revised proposals for the passing of a car and a combine harvester at the bridge and the two junctions with the original road north and south of the bridge without damage to the proposed road.
  - 3. The surface water drainage system shall be designed and constructed to ensure that there is no groundwater entering or infiltrating into the system.
  - 4. Provision and agreement in writing of drawings showing appropriate maintenance access to the base of the embankments, swales and drainage basins from the public road.
  - 5. Provision of 4.5x120m visibility splays from the two new field gate accesses onto the new link road at chainages
- 7.3 Flood Risk Management Team: No objections subject to conditions. The flood risk to the site is low however the detailed design of a proposed culvert to the small unnamed watercourse under the road should be submitted prior to works commencing. The FRM team are satisfied with the outline proposed drainage measures and that the network will be sized to accommodate a 1 in 200 year plus climate change storm event. Calculations have also been provided to demonstrate

that attenuation will be provided to limit the 200 year storm event discharge to the pre-development greenfield rate. A condition is requested to ensure the detailed drainage design is submitted for review prior to work commencing.

**THC Archaeology:**\_No objections. The proposed application area is considered to have archaeological potential therefore a condition is requested for the submission of a programme of work for the survey, evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation.

7.4 **Transport Scotland:** No objections however request a condition to require the submission of a Construction Traffic Management Plan prior to work commencing and the installation of wheel washing facilities within the site.

#### 8. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

## 8.1 Highland Wide Local Development Plan 2012

The HwLDP contains a vision for the Inner Moray Firth which includes delivery of transport infrastructure improvements across the area, noting by 2030 all infrastructure constraints should be resolved. The following general policies are also relevant in the assessment of the application:

- 28 Sustainable Design
- 29 Design Quality and Place-making
- 30 Physical Constraints
- 31 Developer Contributions
- 56 Travel
- 57 Natural, Built and Cultural Heritage
- 58 Protected Species
- 61 Landscape
- 63 Water Environment
- 64 Flood Risk
- 66 Surface Water Drainage

## 8.2 Inner Moray Firth Local Development Plan 2016

No specific policies apply.

#### 8.5 Highland Council Supplementary Planning Policy Guidance

Sustainable Design Guide (Jan 2013)

#### 9. OTHER MATERIAL POLICY CONSIDERATIONS

#### **Scottish Planning Policy (June 2014)**

9.1 SPP sets out Scottish Government's statement on nationally important land use planning matters noting that planning decisions are to be guided by a number of principles including those relevant to this proposal;

'responding to economic issues, challenges and opportunities, as outlined in local economic strategies' and;

'supporting delivery of infrastructure, for example transport, education, energy, digital and water'

## 10. PLANNING APPRAISAL

10.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

## **Determining Issues**

This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

## **Planning Considerations**

Whilst some objection comments have questioned the 'need' for the proposed development, the Planning Authority has no remit to assess the rationale of Network's Rail programme of work to replace and close level crossings. As presented in the supporting information, such crossings do pose a significant safety risk and the replacement of the level crossing at Delny is understood to have been long been supported by the Community Council following a double fatality of two teenagers in 2007. The planning assessment will therefore focus on the planning merits of the proposal including an assessment of compliance with the development plan and other planning policy. The key considerations in this case are whether the design of the replacement road/bridge addresses the requirements of the Council's Roads Guidelines for New Developments, the visual impact of the proposal and associated amenity impact as well as whether it will result other material considerations namely drainage and impact on protected species.

#### Development plan/other planning policy

10.4 Both the national and local planning policy context, as expressed in Scottish Planning Policy (SPP) and the Highland-wide Local Development Plan, highlight a presumption in favour of projects aimed at improving infrastructure. In particular the overarching aim of SPP to achieve sustainable development is reliant on a safe and efficient transport network for its achievement. This is echoed in the vision set out for the Inner Moray Firth which sets out that by 2030, any existing constraints with infrastructure (such as those related to level crossings) will have been resolved. As such, the principle of development is considered to be in accordance with the ethos of this local and national planning policy subject to a detailed assessment of material considerations.

#### **Design and Road Safety**

In the first instance Transport Planning note support for of the principle of the development, which removes the level crossing (which is a potential hazard to road safety). Furthermore it is judged that the slight increase in pedestrian and cycle journey times (particularly impacting on the properties on the existing road) are acceptable as the use of the route by these modes is light. The design of the

replacement crossing has been informed by pre-application advice provided by the Council to ensure the development conforms with the specifications detailed in adopted guidance pertaining to new roads. It has also been amended through discussion with a local rural business to ensure adequacy for farm traffic, in particular combine harvester movements which are particularly large vehicles particularly in terms of width.

- 10.6 As such the applicant has amended the original design (as presented in application ref: 18/01928/FUL) by increasing the width of the single-track road from 3.3 to 4m. In addition, inter-visible sections of the road (which are two lanes wide) have been provided at the junctions with the previous alignment and at the bridge to enable a car to pass farm machinery using the road. Transport Planning have noted that the whilst the overall width is adequate, a further drawing is required to fully demonstrate that larger vehicles will not result in over-run or damage to the road verges and/or kerbing. This could be addressed with amendments to the kerbing design and/or provision of a surfaced over-run strip.
- 10.7 Finalised details are sought by condition to be agreed prior to development commencing and the applicant will also be required to secure consent via the Roads Construction Consent process. The Council intend to adopt the new road, the embankments, the new culvert beneath the road and the surface water drainage system associated with the road with Network Rail confirming that it will retain responsibility for the structure of the over rail bridge.
- 10.8 There are six junctions related to the new road which consist of; one existing and two new field gates, two junctions between the old alignment and the new road and an existing access to a business (Bark Products Scotland Ltd). Transport Planning confirm there is no detriment to the existing access visibilities therefore no conditions are required for these. The required visibility splays for the new junctions are 4.5m x is 120m and as shown are shown on the submitted drawings. The visibility splay for the junctions with the existing road are within the road boundary therefore no conditions are required to secure these. However, the splays for the two new field access points (and which may also be required to provide access to the road drainage system) pass over land which is not within the road boundary. These junctions are intended to allow field access for farm traffic and involve land owned by the retirement park at Barbaraville. The land is currently clear and open and therefore visibility can be achieved however owing to third party ownership, it is not within the control of Network Rail to ensure the splays can be kept clear in perpetuity. It is understood that the areas required for the splays are part of an overall maintenance agreement at the retirement village and thus will be retained as open areas. In this instance given the wider road safety improvements through the provision of the bridge that the field access arrangements are acceptable

## **Stopping Up Order**

10.9 A stopping up order is required in order to extinguish the public right of passage along the existing road. This process is subject to a separate Statutory Procedure (which may be under the Roads (Scotland) Act or the Town and Country Planning Act) and the promotion, making and implementation of the order will be at the applicant's expense. The process also allows opportunity for public comment. The

applicant is aware of the need for an Order however this will be highlighted in an informative (to be agreed with Legal Services) on any decision notice should consent be granted.

## **Visual Impact**

10.10 In terms of visual impact, a series of photomontages have been provided with the application to aid in the assessment. It should be noted however that visualisations are just one tool at the disposal of the Planning Authority to assess visual impact. These show that the new structure will introduce a new element into a landscape which generally comprises of flat agricultural fields however due its overall moderate scale it does not appear dominant or incongruous. In addition, from the majority of locations from which the new bridge would be visible, there is some landform screening or more intermittent filtering of views by roadside vegetation. This type of structure is typically seen in rural locations and is not anticipated that the development will result in any significant visual impacts.

## **Amenity Impact**

- 10.11 The proposal lies within close proximity (approx. 45m to the north/north east) to an existing house, Gordonville, whose owners have objected to application. Conceivably this property has the potential to experience more direct effects as a result of the proposed development therefore a specific assessment of amenity impact requires to be made. The house is detached with large garden grounds lying mainly to the rear and side; there is an outhouse with the rear garden area and mature trees providing some screening at the boundary with the railway line. Its principal elevation is onto the existing road and level crossing and this view will remain unaffected; perhaps improved following the closure of the crossing as result of the decreased traffic.
- 10.12 The stopping up of the road will result in traffic no longer passing next to the front of this house at ground level. The most significant impact will therefore be when the development is viewed from the rear elevation of the house. As noted, there are some mature trees on the boundary which would provide a degree of screening when viewed from the windows and door on this elevation. There are however some areas of the garden which have an open view of the application site which would have visibility across to the proposed bridge structure. Vehicles passing on this section of road would however only obtain fleeting glimpses of the garden at a distance and therefore it considered that the privacy of the garden area would be largely maintained. The concerns expressed by the owners of this house are understood and it is agreed that the proposed development will result in a substantial degree of change particularly related to the rear elevation of the house. Overall however, when taking into account all planning considerations, it is not considered that the privacy and amenity of this house would be so significantly impacted that it would warrant refusal of the application.
- 10.13 The development also has potential to result in noise during the construction phase. Network Rail outline that a range of measures to mitigate such impacts can be employed such as use of temporary screens and enclosures and through the careful consideration/programming of works such as switching off plant when not in use. Work which is audible at the curtilage of any noise sensitive receptor will be undertaken during the houses of Monday to Friday 8am to 7pm and Saturday 8am

to 1pm. Whilst the impacts of construction noise are no longer addressed through planning conditions, the Local Authority can adequately control this matter under Section 60 of the Control of Pollution Act 1974 if required.

## **Drainage**

- 10.14 The application is supported by detailed drainage plans, informed by a Drainage Impact Assessment which has been reviewed by the Council's Flood Risk Management Team who are satisfied with the outline proposed measures noting that that the network will be sized to accommodate a 1 in 200 year plus climate change storm event. Calculations have also been provided to demonstrate that attenuation will be provided to limit the 200 year storm event discharge to the predevelopment greenfield rate. A condition is attached to ensure the detailed drainage design is submitted for review prior to work commencing.
- 10.15 Transport Planning have also confirmed acceptance of the outline drainage design with respect to the roads boundary however a condition is requested to with respect to the finalised design. A further condition is proposed to ensure an access route can be provided to enable maintenance of the proposed road embankment and drainage system by Highland Council.

### **Protected Species**

10.16 The application site is not covered by any natural heritage designations however it is prudent for an assessment of designated sites within a wider locale to be undertaken, particularly as an objection comment notes that wildlife have been spotted on the site. A Habitats Regulations Appraisal has been submitted alongside the application which considers designated sites within 5km of the site. This concludes that the development will not result in any significant potential loss off-sire or would increase noise or lighting above the existing baseline for the area and furthermore, and whilst it is available for potential foraging, the development is unlikely to have any significant on any designated site.

## **Proposed Housing Development at Barbaraville**

10.17 As noted in paragraph 3.4, a planning application for residential development submitted in 2008 remains pending consideration and held in abeyance due to an objection from Network Rail. The application relates to the erection of 100 houses and is submitted in outline, with the site currently including the area of ground required to accommodate the development being applied for under this application. The objection from Network Rail is concerned with what would be an increase in traffic utilising the existing level crossing and it is anticipated that this would be resolved if/when consent is granted for its closing. The housing application will be presented to Members at the North Planning Applications Committee for consideration in the future.

#### 11. CONCLUSION

11.1 The application seeks to address a long-standing rail/road safety concern by closing an existing level crossing, replacing it with a new road and bridge which subject to conditions adheres to adopted roads guidance. The design, which takes

account of pre-application advice and the requirements of local rural business, presents the optimum solution to address the concerns regarding the level crossing whilst minimising overall land take and visual impact.

11.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

#### 12. IMPLICATIONS

- 12.1 Resource: Not applicable.
- 12.2 Legal: Not applicable.
- 12.3 Community (Equality, Poverty and Rural): Not applicable.
- 12.4 Climate Change/Carbon Clever: Not applicable.
- 12.5 Risk: Not applicable.
- 12.6 Gaelic: Not applicable.

#### 13. RECOMMENDATION

Action required before decision N issued

**Subject to the above**, it is recommended that planning permission be **GRANTED**, subject to the following:

#### **Conditions and Reasons**

- 1. No development shall commence until Construction Phase Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority and Transport Scotland. The CTMP, which shall be implemented as approved, shall include:
  - details of the estimated volume and type of HGV and abnormal load movements;
  - the construction traffic routes to the site and between the abutments of the bridge;
  - swept path drawings of any abnormal load routes affecting the local road network
  - an assessment of any affected structures;
  - a concluded agreement in accordance with Section 96 of the Roads (Scotland) Act 1984 under which the developer is responsible for the repair of any damage to the public road network that can reasonably be attributed

to construction related traffic. As part of this agreement, pre-start and postconstruction road condition surveys must be carried out by the developer, to the satisfaction of the Roads Authority.

**Reason**: To protect road safety and the amenity of other users of the public road and rights of way and to minimise interference with the safety and free flow of the traffic on the trunk road.

No development shall commence until revised plans showing detailed proposals for the passing of a car and a combine harvester (including swept paths) at the bridge and the two junctions with the original road north and south of the bridge without causing damage to the proposed road have been submitted to and approved in writing by the Planning Authority. The development shall thereafter progress in accordance with the approved revised plans.

**Reason:** In the interests of road safety

3. No development shall commence until a drawing showing a 3m wide reasonably level access route for maintenance vehicles between the top of each of the swales and the adjacent boundary fence has been submitted to and approved in writing by the Planning Authority. The drawing shall also show a minimum 3m level access around the proposed SUDS basins and a suitable and safe access from the public road to each of these routes. The drawing shall be implemented as approved with the consented routes to be provided prior to completion of the development.

**Reason:** To enable maintenance of the proposed road embankment and drainage system.

4. No development shall commence until drawings showing the detailed design of the culvert to convey the small unnamed watercourse under the road (as outlined in the submitted Flood Risk Assessment, has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt the culvert shall be designed to convey a 1 in 200 year plus climate change return period flow. The culvert shall thereafter be constructed as approved.

**Reason:** To mitigate flood risk.

5. No development shall commence until the finalised drainage design has been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt the surface water drainage system shall be designed and constructed to ensure that there is no groundwater entering or infiltrating into the system. The drainage system shall thereafter be constructed as approved.

**Reason**: To ensure that surface water drainage is provided timeously and complies with the principles of SUDS; in order to protect the water environment and to mitigate flood risk to the existing road and properties downstream.

No development or work (including site clearance) shall commence until a
programme of work for the survey, evaluation, preservation and recording of any
archaeological and historic features affected by the proposed development/work,

including a timetable for investigation, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

**Reason:** In order to protect the archaeological and historic interest of the site.

7. Wheel washing facilities shall be provided within the site.

**Reason**: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety

#### REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

#### TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

#### **FOOTNOTE TO APPLICANT**

## **Initiation and Completion Notices**

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

- 1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
- 2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

#### **Accordance with Approved Plans and Conditions**

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those

requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

## Stopping Up Order

You are advised that a stopping up order is required in order to extinguish the public right of passage along the existing road as detailed on drawing number 151454-NRD-DRG-ECV-000014 Rev P05. This process is subject to a separate Statutory Procedure (which may be under the Roads (Scotland) Act or the Town and Country Planning Act). Please contact the Roads Operational Manager for Ross and Cromarty to confirm any preliminary requirements.

#### Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

#### **Scottish Water**

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

#### **Septic Tanks and Soakaways**

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

#### **Local Roads Authority Consent**

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <a href="http://www.highland.gov.uk/yourenvironment/roadsandtransport">http://www.highland.gov.uk/yourenvironment/roadsandtransport</a>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads and pavements/101/permits for w orking on public roads/2

#### Mud and Debris on Road

Please note that it an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

## **Protected Species – Halting of Work**

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Designation: Acting Head of Development Management – Highland

Author: Gillian Pearson

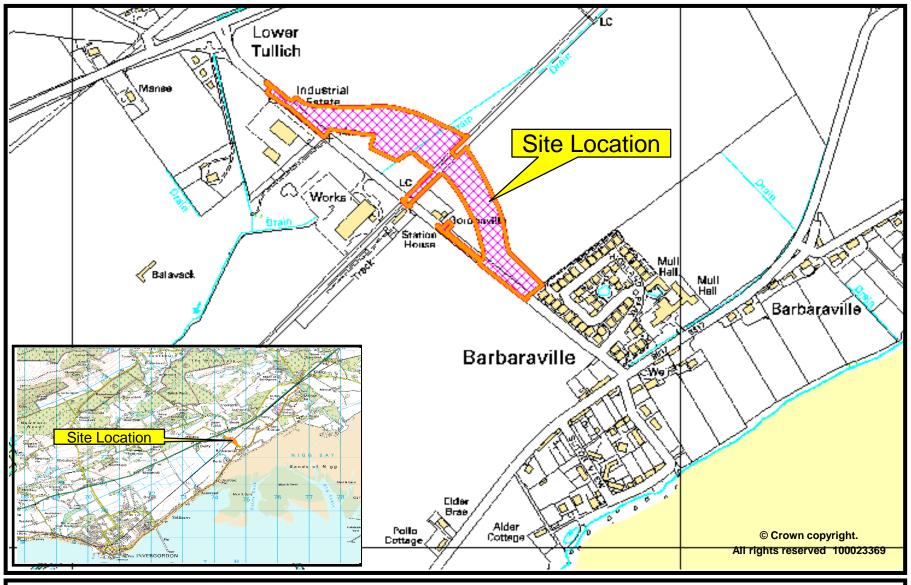
Background Papers: Documents referred to in report and in case file.

Relevant Plans:

Plan 1 - Location Plan - 000001

Plan 2 - Permanent Land Take Plan - 151454-NRD-DRG-ECV-000006 REV P05

- Plan 3 Existing Site Layout 151454-NRD-DRG-ECV-000001 REV P05
- Plan 4 Proposed General Arrangement 151454-NRD-DRG-ECV-000002 P05
- Plan 5 Proposed Site Layout Plan 151454-NRD-DRG-ECV-000005 REV P05
- Plan 6 Proposed Plan on Bridge 151454-NRD-DRG-ECV-000013 P04
- Plan 7 Proposed Elevation 151454-NRD-DRG-ECV-000003 P04
- Plan 8 Proposed Sections 151454-NRD-DRG-ECV-000004 REV P04
- Plan 9 Farmers Field Access 151454-NRD-DRG-ECV-000011 REV P05
- Plan 10 Drainage Plan 151454-NRD-DRG-ECV-000007 P04
- Plan 11 Drainage Plan Sheet 1 151454-NRD-DRG-ECV-000017 REV P02
- Plan 12 Drainage Plan Sheet 2 151454-NRD-DRG-ECV-000018 P02
- Plan 13 Stopping Sight Distances 151454-NRD-DRG-ECV-0000015 REV P02
- Plan 14 Stopping Up Proposals 151454-NRD-DRG-ECV-000014 REV P05
- Plan 15 Visibility Splays 151454-NRD-DRG-ECV-000012 REV P04





Infrastructure Service

# 20/03530/FUL

Closure (and stopping up) of level crossing, formation of link road and erection of road bridge at Delny Level Crossing, Barbaraville.

November 2020



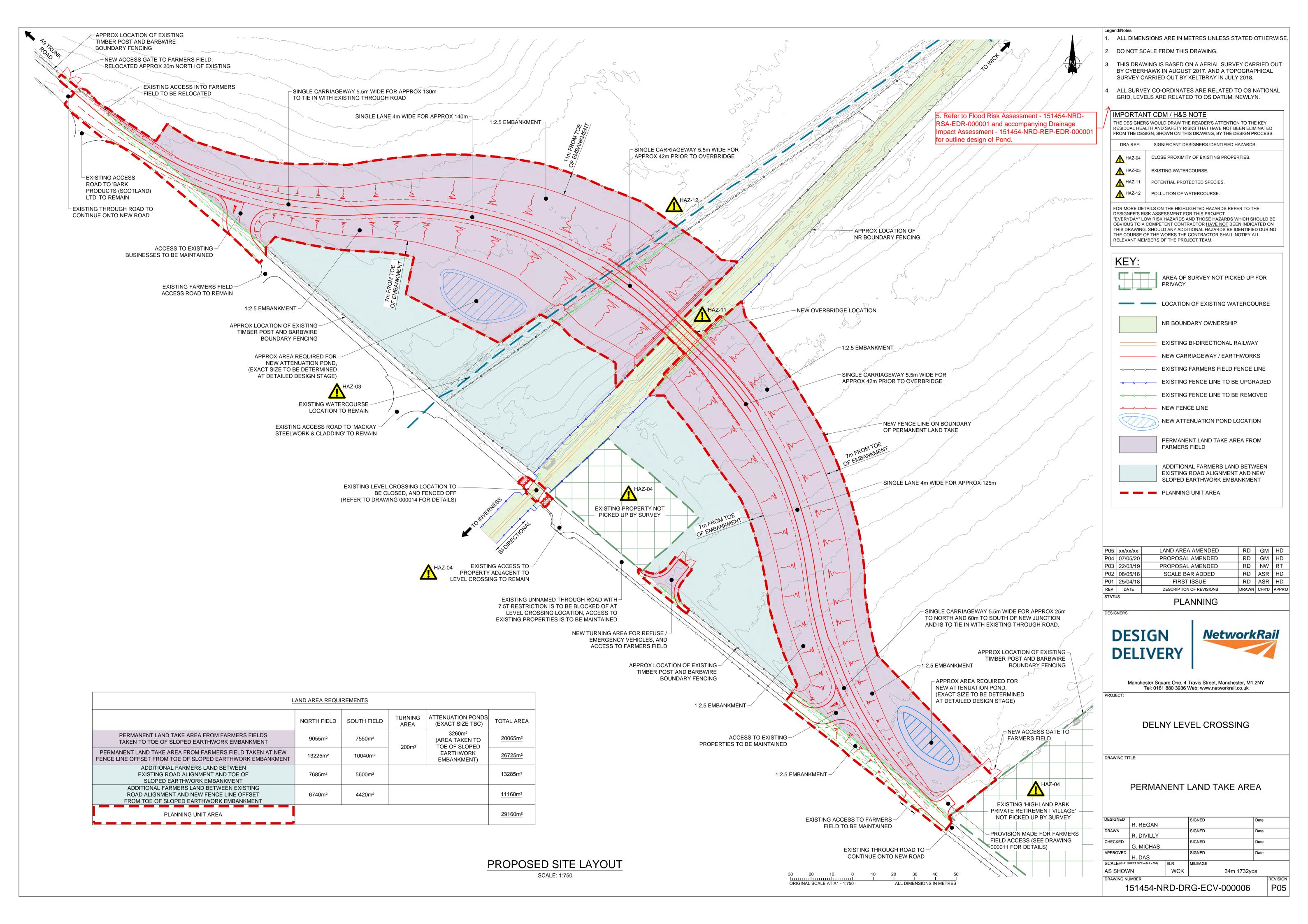
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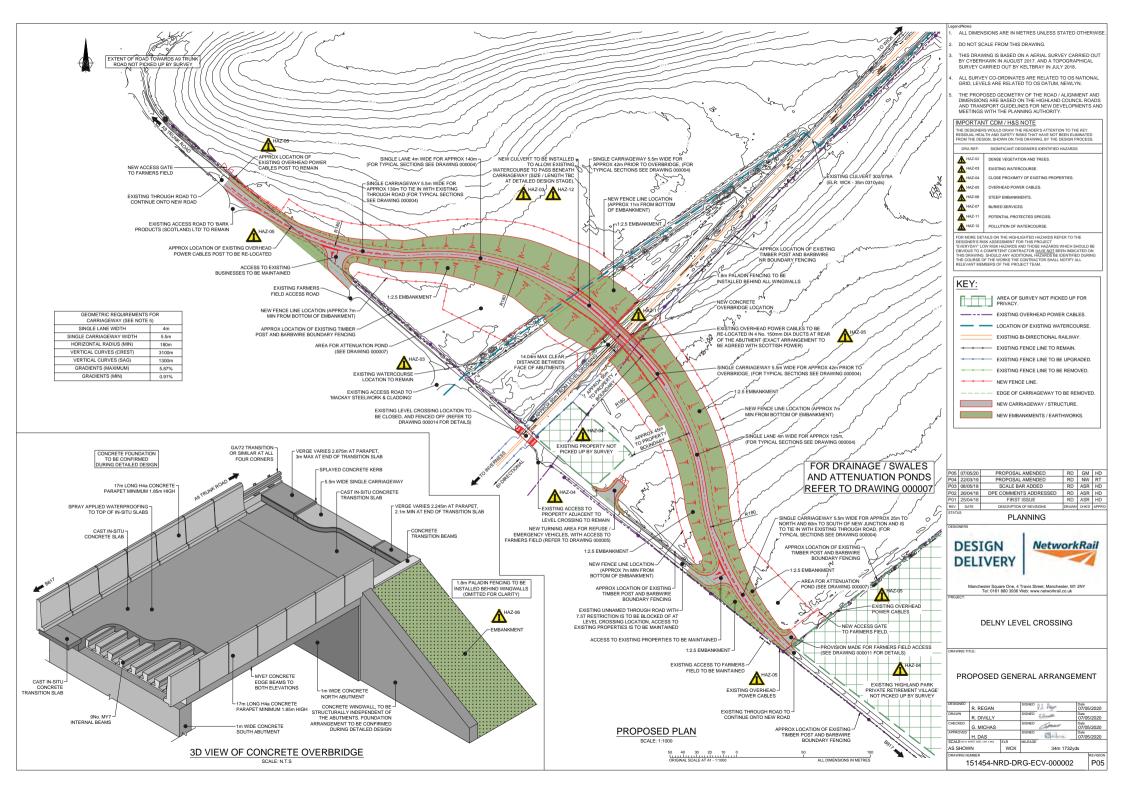
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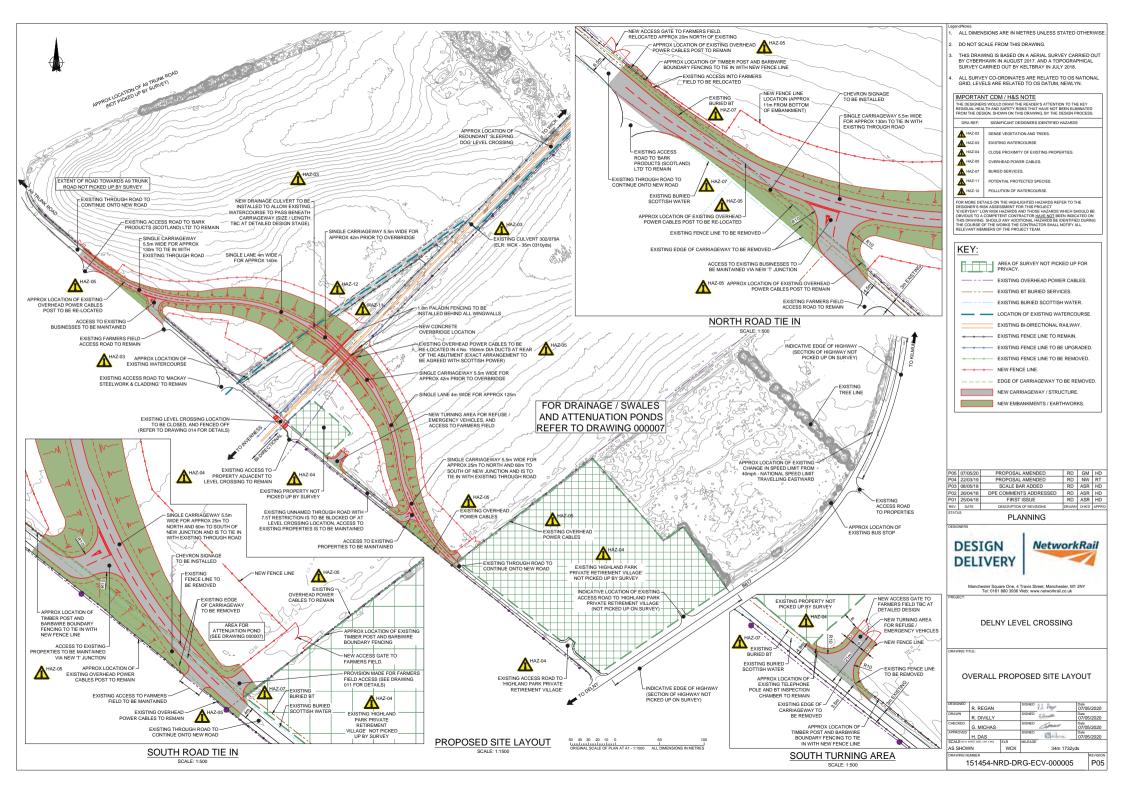
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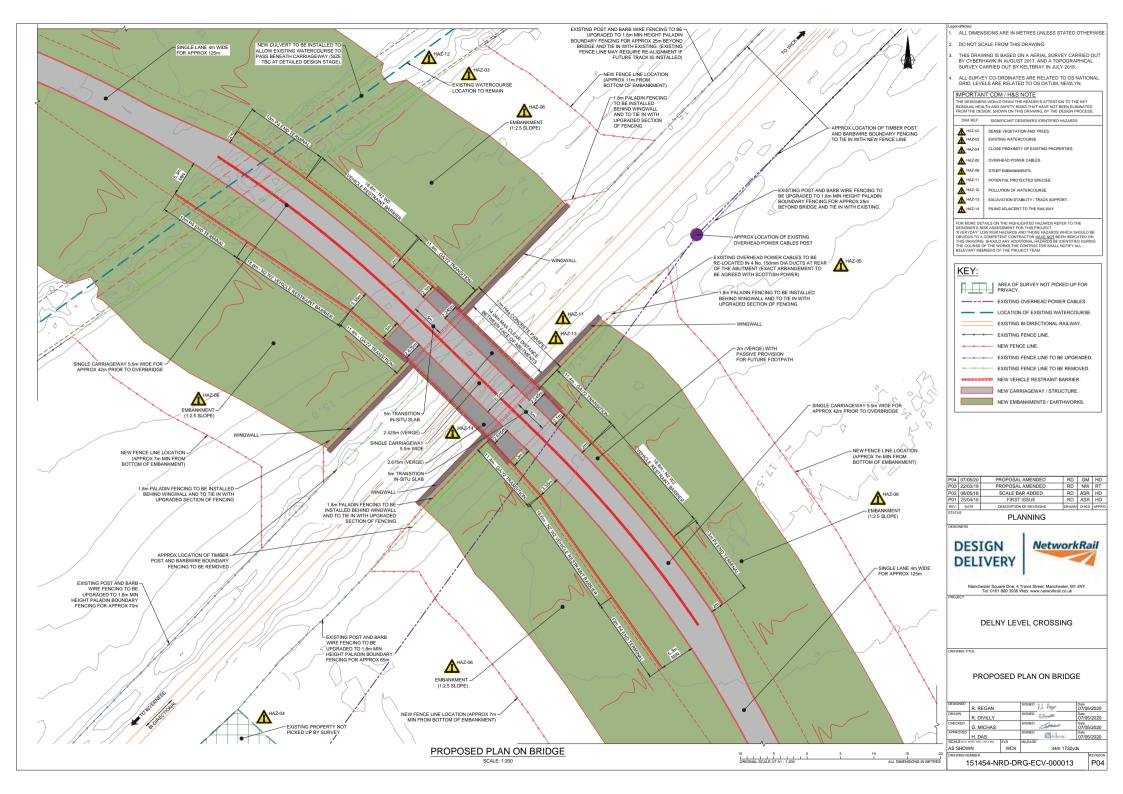
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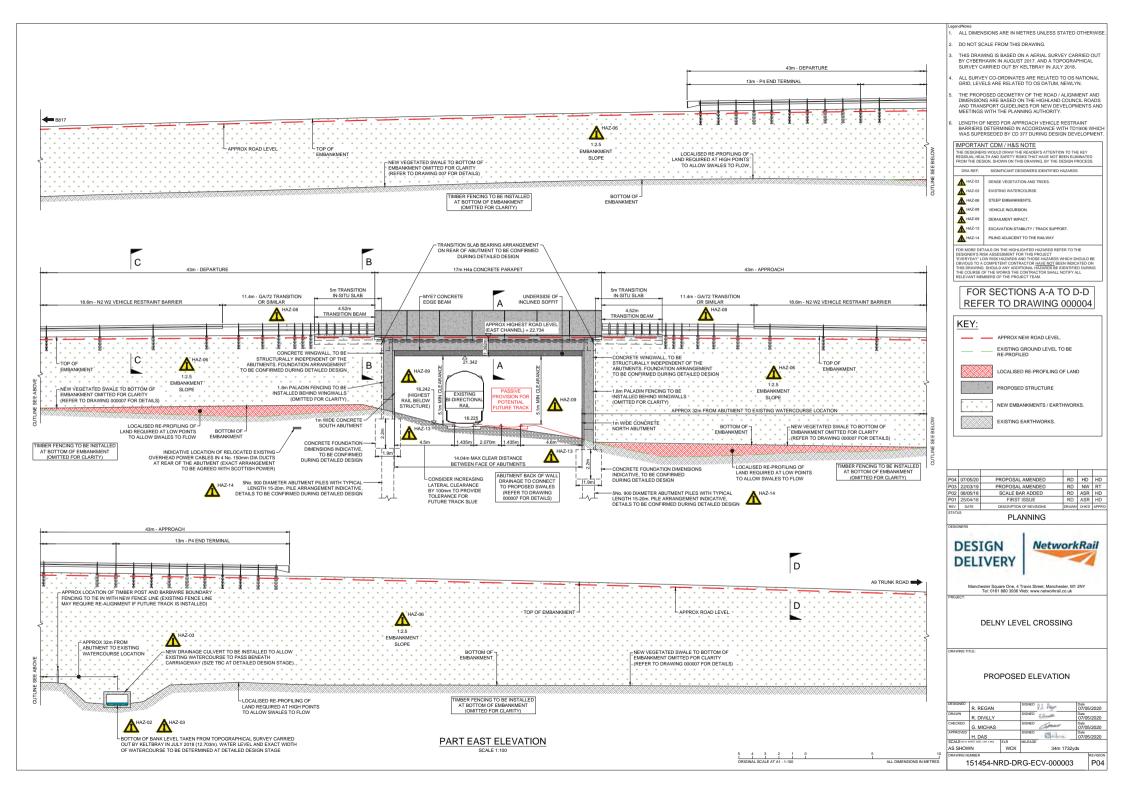


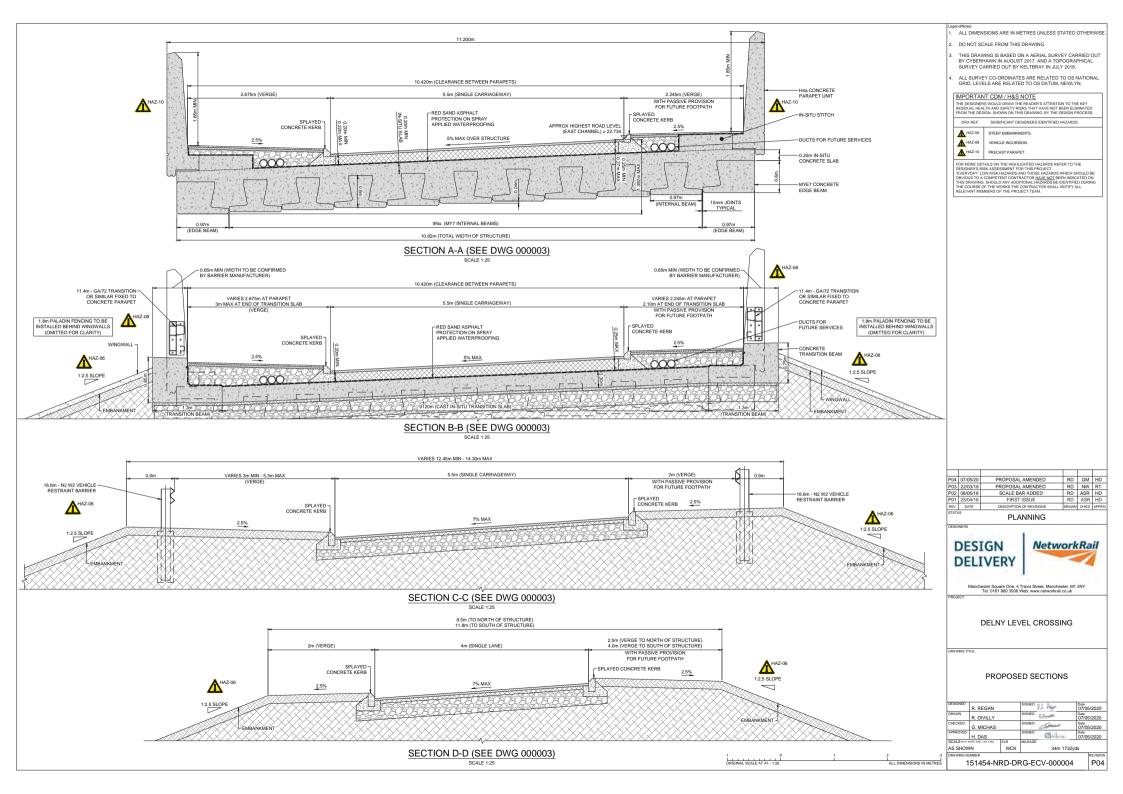


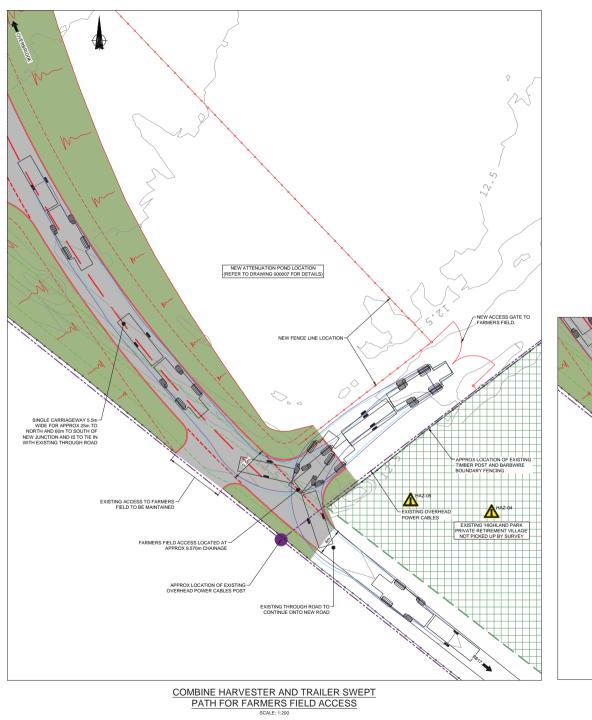


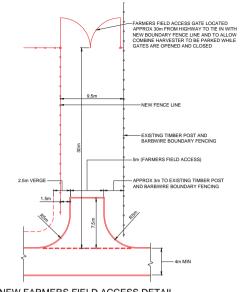






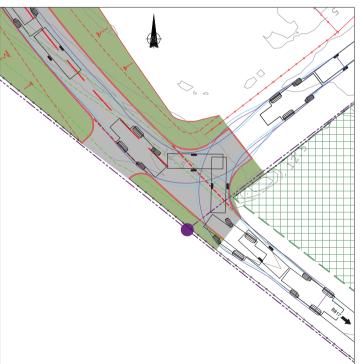






NEW FARMERS FIELD ACCESS DETAIL

SCALE 1:200

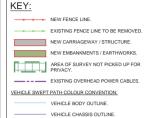


COMBINE HARVESTER AND TRAILER SWEPT
PATH FOR FARMERS FIELD EGRESS
SCALE: 1200

10 5 10 15 20
ORIGINAL SCALE AT A1 - 1.200 ALL DIMENSIONS IN METRES

ALL DIMENSIONS ARE IN METRES UNLESS STATED OTHERWISE.

- 2 DO NOT SCALE FROM THIS DRAWING
  - THIS DRAWING IS BASED ON A AERIAL SURVEY CARRIED OUT BY CYBERHAWK IN AUGUST 2017. AND A TOPOGRAPHICAL SURVEY CARRIED OUT BY KELTBRAY IN JULY 2018.
- ALL SURVEY CO-ORDINATES ARE RELATED TO OS NATIONAL GRID, LEVELS ARE RELATED TO OS DATUM, NEWLYN.



#### IMPORTANT CDM / H&S NOTE

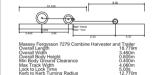
THE DESIGNERS WOULD DRAW THE READER'S ATTENTION TO THE KEY RESIDUAL HEALTH AND SAFETY RISKS THAT HAVE NOT BEEN ELIMINATED FROM THE DESIGN, SHOWN ON THIS DRAWING, BY THE DESIGN PROCESS.

DRA REF: SIGNIFICANT DESIGNERS IDENTIFIED HAZARDS

A HAZ-04 CLOSE PROXIMITY OF EXISTING PROPERTIES.

A HAZ-05 OVERHEAD POWER CABLES.

FOR MORE DETAILS ON THE HIGHLIGHTED HAZARDS REFER TO THE DESIGNER'S RISK ASSESSMENT FOR THIS PROJECT "VEVERTOAL" UNIT RISK HAZARDS AND THOSE HAZARDS WHICH SHOULD BE OBVIOLS TO A COMPETENT CONTRACTOR HAZE BOT BEEN INDICATED ON THIS DRAWING SHOULD SAY ADDITIONAL HAZARDS BE EIGHTED DURING THE COURSE OF THE WORKS THE CONTRACTOR SHALL MOTHER ALL RELEVANT MEMBERS OF THE FIND CONTRACTOR SHALL MOTHER ALL RELEVANT MEMBERS OF THE FIND CONTRACTOR SHALL MOTHER ALL



205	07/05/20	PROPOSAL AMENDED	RD	GM	HD
04	22/03/19	PROPOSAL AMENDED	RD	NW	RT
03	08/05/18	SCALE BAR ADDED	RD	ASR	HD
02	26/04/18	DPE COMMENTS ADDRESSED	RD	ASR	HD
01	25/04/18	FIRST ISSUE	RD	ASR	HD
REV	DATE	DESCRIPTION OF REVISIONS	DRAWN	CHKD	APPR'D

PLANNING

DESIGN DELIVERY



Manchester Square One, 4 Travis Street, Manchester, M1 2NY Tel: 0161 880 3936 Web: www.networkrail.co.uk

DELNY LEVEL CROSSING

FARMERS FIELD ACCESS GENERAL ARRANGEMENT AND SWEPT PATH ANALYSIS

AS SHOW	WCK	34m 1732yds						
SCALE(0 A1 S	HEET SIZE = 841 x 684)	ELR	MILEAGE					
APPROVED	H. DAS		SIGNED	ELL	07/05/2020			
CHECKED	G. MICHAS		SIGNED	Sum	Date 07/05/2020			
DRAWN	R. DIVILLY		SIGNED	2 Divide	07/05/2020			
DESIGNED	R. REGAN		SIGNED	R.S. Dagun	07/05/2020			

151454-NRD-DRG-ECV-000011

