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**TOWN AND COUNTRY PLANNING ACT 1990 (as amended)**

**PROPOSAL:** **Bath NES Local Plan Partial Update and SPD**

Dear Sir/Madam,

Thank you for consulting Network Rail on the Bath NES Local Plan Partial Update and SPD consultations. The topic of interest to Network Rail is Transport. This letter forms the basis of our response.

Network Rail is a statutory undertaker responsible for maintaining and operating the country’s railway infrastructure and associated estate. Network Rail owns, operates, maintains and develops the main rail network. This includes the railway tracks, stations, signalling systems, bridges, tunnels, level crossings and viaducts. The preparation of development plan policy is important in relation to the protection and enhancement of Network Rail’s infrastructure.

As Network Rail is a publicly funded organisation with a regulated remit it would not be reasonable to require Network Rail to fund rail improvements necessitated by commercial development.  It is therefore appropriate to require developer contributions to fund such improvements.

**Transport Assessments and Level Crossings**

Network Rail needs to monitor and assess new development that may have an impact on rail services and/or safety of existing infrastructure. In order to carry out this function it is vital that sufficient information is submitted with a planning application. It is noted that the Validation Guide requires the submission of a Transport Assessment for outline applications and full planning permission, the TA should reflect the scale of the development and the extent of the transport implications of the proposal.

**We recommend that any development of land which would result in a material increase or significant change of the traffic using existing rail infrastructure (particularly level crossings) and/or require rail improvements should also be added to this list of development when a TA is required.**

Network Rail has a strong policy to guide and improve its management of level crossings, which aims to; reduce risk at level crossings, reduce the number and types of level crossings, ensure level crossings are fit for purpose, ensure Network Rail works with users / stakeholders and supports enforcement initiatives. Without significant consultation with Network Rail and if proved as required, approved mitigation measures, Network Rail would be extremely concerned if any future development impacts on the safety and operation of any of the level crossings within Teignbridge. The safety of the operational railway and of those crossing it is of the highest importance to Network Rail.

Level crossings can be impacted in a variety of ways by planning proposals:

* By a proposal being directly next to a level crossing
* By the cumulative effect of development added over time
* By the type of crossing involved
* By the construction of large developments (commercial and residential) where road access to and from site includes a level crossing
* By developments that might impede pedestrians ability to hear approaching trains
* By proposals that may interfere with pedestrian and vehicle users’ ability to see level crossing warning signs
* By any developments for schools, colleges or nurseries where minors in numbers may be using a level crossing
* By any development or enhancement of the public rights of way

It is Network Rail’s and indeed the Office of Rail Regulation’s (ORR) policy to reduce risk at level crossings not to increase risk as could be the case with an increase in usage. The Office of Rail Regulators, in their policy, hold Network Rail accountable under the Management of Health and Safety at Work Regulations 1999, and that risk control should, where practicable, be achieved through the elimination of level crossings in favour of bridges or diversions.

The Council have a statutory responsibility under planning legislation to consult the statutory rail undertaker where a proposal for development is likely to result in a material increase in the rail volume or a material change in the character of traffic using a level crossing over a railway:-

* (Schedule 4 (j) of the Town & Country Planning (Development Management Procedure) Order, 2015) requires that *“…development which is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway”* (public footpath, public or private road) the Planning Authority’s Highway Engineer must submit details to both the Secretary of State for Transport and Network Rail for separate approval.

The developer is required to fund any required qualitative improvements to the level crossing as a direct result of the development proposed.

We trust these comments will be considered in your preparation of the forthcoming documents.

Yours Sincerely,

**Grace Lewis**

Town Planning Technician Wales and Western

Network Rail

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