

## Highways Committee

1 November 2011

### Public Right of Way Crossing of A690, Gilesgate, Durham



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#### Report of Corporate Management Team

Ian Thompson, Director of Regeneration and Economic Development and Terry Collins, Director of Neighbourhood Services

Councillor Neil Foster, Portfolio Holder for Economic Regeneration and Councillor Bob Young, Portfolio Holder for Strategic Environment

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#### Purpose of the Report

- 1 To consider the results of the recent public consultation regarding the public right of way crossing of the A690 at Gilesgate, Durham, and to agree appropriate actions.

#### Background

- 2 On 21 March 2011 a fatal accident occurred when Brandon Nugent, aged 13, was killed whilst crossing the north-eastbound carriageway of the A690 at Kepier Lane, Gilesgate, Durham. An Inquest subsequently returned a verdict of accidental death.
- 3 The A690 is one of the major vehicular routes in and out of Durham City, leading to the A1(M) and on to Sunderland. It is a dual-carriageway with a 70mph speed limit.
- 4 Prior to the construction of the road in the 1960's it was the route of a railway, and it cuts across an ancient public right of way known as Kepier Lane.
- 5 Kepier Lane is recorded on the Definitive Map of Public Rights of Way as Bridleway 114 Durham on the east side of the road, and Bridleway 19 Belmont on the west side. **Appendix A** shows the location. It was recorded on the first Definitive Map in 1952, and the route appears on the earliest Ordnance Survey maps. The Bridleway connects only with a recorded Footpath at Kepier Hospital, so it functions primarily as a footpath, with little evidence of equestrian or cycle usage.
- 6 A Side Roads Order at the time of the road construction stopped up the Bridleway across the verges, carriageways and central reservation of the A690, and realigned the western section to follow the access track to what is

now NEDL's Kepier Training Centre. A flight of steps was constructed within the central reservation along with a footway adjacent to the westbound carriageway.

## **Investigation**

- 7 A site investigation carried out by Durham County Council and Durham Constabulary following the accident assessed the risks at this location, and identified a number of possible control measures.
- 8 The investigation found that since 1997 there had been only one other accident involving a pedestrian at this location, when a girl aged 14 was slightly injured in 2000. The County Council had not received any complaints or notifications of concern over the last three-and-a-half years relating to difficulties experienced by pedestrians whilst crossing the road or from drivers having had hazardous encounters with pedestrians.
- 9 Vehicle speeds were found to be generally at or below the speed limit, but traffic flows are such that there are times when there are insufficient gaps in the traffic for pedestrians to safely cross, but that these times are relatively infrequent. Visibility for motorists is above minimum requirements.
- 10 Surveys of pedestrian usage of the crossing point showed that an average of 1.4 pedestrians per hour used the crossings on weekdays, and an average of 2.3 pedestrians per hour on Saturdays. Saturday usage included unaccompanied children. These figures are relatively low for pedestrian routes in urban areas, but are relatively high for rural public rights of way. They reflect the location and function of the Bridleway as a semi-rural alternative route between Gilesgate and Durham City Centre, and as an access to the riverbanks.
- 11 The conclusion of the investigation was that the severity of any accident involving a pedestrian was likely to be high, but the likelihood of one occurring is very low. This gave an overall risk at the low end of a medium risk rating scale.
- 12 The preferred control measure to be investigated was the physical closure of the crossing point. This could only realistically be achieved by closing the public right of way leading to the A690. Other measures identified included making the crossing more conspicuous, reducing the speed limit and constructing a bridge.

## **Consultation**

- 13 As a consequence, and following discussions with Brandon's family, a public consultation was undertaken between 8 August 2011 and 2 September 2011 to seek the views of interested parties as to the use of the path, whether it should be closed, or how the crossing could be made safer.

- 14 Notices were posted and maintained at either end of the path (**Appendix B**), letters were written to landowners, groups representing path users, Belmont Parish Council and the local County Councillors. Views were also sought from Gilesgate School.
- 15 A total of 45 comments were received. Of these 28 thought that the crossing should remain open, 11 thought it should close, and 6 expressed no clear preference. In addition a petition calling for the closure of the crossing was also received. There was widespread sympathy for Brandon's family, and those who wished the crossing to remain open proposed a range of measures that could help to make the crossing safer. A summary of the consultation responses is attached in **Appendix C**.

## **Legal Issues**

- 16 The only legal mechanism by which the County Council can close the crossing is an Extinguishment Order of the Bridleway under section 118 of the Highways Act 1980. The legal criteria which must be satisfied to extinguish a public right of way are specific and limited; the Council must be satisfied that it is expedient that the path should be stopped up on the ground that it is not needed for public use. Issues such as safety are not considerations if public need can be shown. The attached briefing note explains the legal criteria (**Appendix D**).

## **Conclusion**

- 17 The consultation exercise has clearly shown that the Bridleway has been used by the public for many years, and that a significant number of people continue to use it on a regular basis to walk into Durham, to visit the river banks and woods, and to walk their dogs. The path is valued and people wish to see it retained.
- 18 The alternative routes from Gilesgate to the river are much less direct, and it is therefore very difficult to argue that the path is not needed for public use. A number of respondents have identified that closure of the crossing might create a greater danger, as some people might continue to try and cross the road at unauthorised locations.
- 19 It should be noted that if this Committee determined that an Extinguishment Order should be made, then a statutory process would commence which, because objections would be made, would eventually end up at a Public Inquiry. Such a process would take in excess of a year, during which time the crossing would have to remain open, and it is clear from the legislation that an Extinguishment Order would be extremely unlikely to be confirmed.
- 20 The suggestions for making a retained crossing safer range from those such as an underpass or a bridge which are acknowledged to be unlikely in the current economic climate, to improved signage and road markings, lighting of the crossing area, and reductions in the speed limit from the current 70 mph.

- 21 A footbridge is estimated to cost in excess of £700,000, with the likelihood of additional costs due to unstable ground at this location. Work to make the crossing point more conspicuous and to improve signage is estimated to cost £20,000 (£35,000 with street lighting).
- 22 The type of works that will be implemented are to provide hazard bollards with reflectors at either side of the crossing (verge & central reserve on each carriageway) to highlight the crossing point, to provide additional warning signs in advance of the current signs at about 200yds from the crossing point - signs to be repeated in the central reserve, to change the central dotted road marking to a hazard marking on the approach to the crossing point, and to provide additional footway construction in the central reserve (both sides).
- 23 Lighting at the crossing point may be of value but may be more difficult to achieve due to the lack of an electricity supply to the immediate location. This would need further investigation.
- 24 A reduction in the speed limit to 50mph would decrease average vehicle stopping distances, but would need to be adequately enforced by the Police. The consequences of any accident at 50mph would still be very severe. There is also the likelihood that a reduced speed limit would affect traffic flow and reduce the number of gaps for safe crossing. It is felt that the current speed limit is therefore appropriate to the road, and that a reduction would be unworkable in this location due to the resources needed for enforcement and would be subject to significant abuse by motorists.
- 25 A draft of this report has been considered by Madeline Walker, Brandon's mother, and whilst she would have preferred to have seen the crossing closed she understands the needs of the wider community and the legal and technical issues which apply, and accepts the report and the recommendations below. She hopes that the recommendations can be implemented as soon as possible and that the crossing can be made safer, so that something positive can come out of the tragedy.

### **Recommendations and reasons**

- 26 Given the results of the consultation exercise and the legal criteria that have to be satisfied, an Extinguishment Order is very unlikely to succeed and would be a time-consuming and expensive process.
- 27 A range of practical improvements to the crossing can be implemented.
- 28 **It is recommended that:**
- (a) **An Extinguishment Order is not pursued further.**
  - (b) **Improvements to signage and related crossing works are implemented as described within the report.**
  - (c) **Improvements to lighting are investigated further.**

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## **Appendix 1: Implications**

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### **Finance**

There will be cost implications associated with improvements to the crossing (£20 – 35k).

### **Staffing**

None

### **Equality and Diversity**

Improved signage and other works will improve the safety of young people crossing the road.

### **Accommodation**

None

### **Crime and disorder**

None

### **Sustainability**

None

### **Human rights**

None

### **Localities and Rurality**

Retaining the crossing point gives the local community access via the public right of way to rural areas for recreation and to the City for work, shopping etc.

### **Young people**

None

### **Consultation**

A consultation has been carried out to determine the views of the local community on the use and future of the crossing.

### **Health**

None