

Formal response to the Office of Road and Rail consultation on 'Principles for managing level crossing safety' guidance

PART A: RESPONSES TO QUESTIONS RAISED

1. Who are you responding as (an individual/for an organisation) and what is your role?

The Association of Directors of Environment, Economy, Planning and Transport (ADEPT) is responsible for providing day-to-day services including local highways, recycling, waste and planning. ADEPT members are at the very heart of delivering clean sustainable growth, tackling climate change at a local level. We manage the projects that are fundamental to creating more resilient, inclusive and safe communities, economies and infrastructure.

ADEPT represents place directors from county, unitary and combined authorities, along with Local Enterprise Partnerships (LEPs), sub-national transport boards and corporate partners drawn from key service sectors throughout England.

ADEPT is a membership based, voluntary organisation with:

- 85+ county, unitary and combined authority members,
- 3 sub-national transport bodies,
- 12 local enterprise partnerships (LEPs) and
- 20 Corporate Partner members across England.

This response to the consultation draws together the views of ADEPT members on its Engineering Board and its Transport and Connectivity Board, including the Rights of Way Managers Group. For clarity on any issues, please contact Mark Stevens, Chair of the ADEPT Engineering Board, at mark.stevens@haringey.gov.uk or call 07971 837620.

2. Who would use this guidance in your organisation? When and how would it be used?

Not all ADEPT members have level crossings within their administrative areas but, for those that do, it would be an important reference document. The guidance document would be used in the day-to-day management of the local highway network (for road level crossings) and the local public rights of way network (especially where there is engagement over restrictive structures and barriers that need improving). This would be in respect of both maintenance and in consideration of any planned improvements to either the highway or rights of way network for which there is a level crossing interface.

Consideration by ADEPT members with level crossings in their administrative areas would be given to including the guidance and the expectation that its principles are followed in any contract documents that it issues for the maintenance and improvement of highway or rights of way assets.

3. Are the risks associated with all types of level crossings sufficiently and clearly covered? Are there gaps in the document that you think need to be addressed?

The Equality Act 2010 is mentioned in User Principles no1. BS5709 could also be mentioned in that paragraph as an example of increasing equality and a least restrictive option. However, there is also the dilemma of how to address when a Network Rail risk assessment differs from the local highway authority risk assessment. The Memorandum of Understanding referenced in Part B provides a communications example that should be referred to and refreshed to all parties.

Other comments on the contents of the guidance that potentially relate to this question have been drawn together from the two Boards and Group referenced in response to question 1 above. Those comments are summarised in Part B of this formal response.

4. If you carry out level crossing risk assessments, would you find this guidance helpful? Please explain your answer

For public rights of way level crossings, the guidance will be invaluable and will be used in liaison on individual cases and issues.

Other comments on the contents of the guidance that potentially relate to this question have been drawn together from the two Boards and Group referenced in response to question 1 above. Those comments are summarised in Part B of this formal response.

5. ORR has published a number of principles-based guidance on various topics. How do the principles in this level crossings guidance fit with other railway safety guidance that you use?

Comments on the contents of the guidance that potentially relate to this question have been drawn together from the two Boards and Group referenced in response to question 1 above. Those comments are summarised in Part B of this formal response.

6. What other information from ORR on level crossings would you find helpful?

The proposed supplementary documents, guidance, case studies and specifications will be welcomed, along with information on road/rail partnerships, for continued good communication between organisations.

Comments on the contents of the guidance that potentially relate to this question have been drawn together from the two Boards and Group referenced in response to question 1 above. Those comments are summarised in Part B of this formal response.

PART B: DETAILED COMMENTS ON THE CONTENT OF THE GUIDANCE DOCUMENT

Generally, those expressing comments on the contents of the guidance are very supportive of the principle-based approach and are pleased to see reference to non-vehicular highways and users of level crossings. They are in full agreement that further and greater levels of collaboration between the two disciplines will help in embedding these principles when in discussion about individual level crossing risks and designs across the country's railway network – a better approach than a prescriptive 'one size fits all'. The fact that the guidance relates to all types of level crossings – including those for public rights of way – is welcomed.

The guidance could, however, be extended to applicability to local planning authorities where decisions to allow the construction of dwellings or amenities near to a level crossing may see a marked increase in potential usage. Embedding principles for planners to engage with those managing level crossings will ensure that there is adequate consideration of the impacts of development on level crossings. This is relevant whilst two-tier administrative arrangement for local government persist, with differing opinions existing between local highway authorities and local planning authorities.

In the comments that follow, the identity of individual local authorities is anonymised to more generally illustrate examples of where issues exist or particular views are held.

Comments On Principles For Managing Level Crossing Safety

Page 4. The Foreword states the document will be supplemented with case studies but doesn't ask for examples. The ORR should seek case studies from highway authorities where level crossings have not met the needs of users, including on public rights of way (PROW), or clash with the policies of the authority. One ADEPT member reports a particular situation with Network Rail unlawfully closing a PROW across a railway line without notice under a Transport and Works Act. Although Network Rail accepts that it was unlawful, it still refuses to open it and are compelling the local highway authority to move to an injunction. This has forced all pedestrians to use an inadequate and unsafe alternative route. Sometimes, more can be learnt from a case study showcasing a real example of poor practice.

Page 5 Para 1.1: The reference to following a user-centred approach is encouraging.

Para 1.2. The introduction states the document does not place additional burdens on duty holders or prescribe how a level crossing should be designed, operated or maintained. It is considered reasonable to introduce new responsibilities on designers, planners and engineers where improvements can be designed into level crossings.

Page 7 Paras 13 to 16 and elsewhere. The acknowledgement of the importance of parties working together in the process of level crossing risk assessment is

welcomed. This is consistent with the [Memorandum of Understanding between Network Rail, ADEPT, LGA & IPROW](#) published in 2019. PROW crossings that could pose particular risk are those that are affected by new development in a rural setting, where the crossing was once upon an infrequently used rural route with limited foot traffic but may now be in the proximity of a new estate receiving daily and significantly increased usage. This emphasises the importance of the involvement of both local planning authorities and local highway authorities.

Page 9 Para 22. It is agreed that it is essential that decisions and options for level crossing control measures are informed by a suitable and sufficient risk assessment. This should include where level crossing entry and exit points are being installed or renewed. In the case of stiles on a PROW, it is contended that these are no longer suitable for inclusion as furniture and only gates should be provided. One county council reports that it has had defect reports about the design of stiles and dog flaps being installed by Network Rail, including an injury resulting from poor design. Under 'Record your findings', these findings should always be shared with eth local highway authority to ensure that there is a collaborative understanding of the various risks, be it from a highway or rail perspective

Pg10-11 Principles of Prevention: There is agreement that the application of a prevention hierarchy of elimination (by whatever appropriate and available means should apply), engineering control and then administrative control is the best methodology for the management of risk at level crossings.

Page 10 Para 25. If an existing PROW crossing is upon a route that currently keeps users away from roads, then safety improvements to that existing route should first be evaluated, e.g. by offering access via bridge or underpass in line with the Equality Act 2010, before considering an alternative along a highway. If the diversion of a route is necessary, maintaining the most direct line where possible should be considered to avoid inconvenience to users. Highway safety and least restrictive access options regarding stiles and gates should also be considered. Consideration should be given to balancing the risk on both networks and the difficulty of assessing risks when they are measured in different ways on the different networks.

Para 27. Can it be reiterated that this consideration needs to be carried out in collaboration with the local highway authority and not in isolation?

Para 28. Risk might be transferred to another level crossing and/or the adjacent highway network, not solely to just another level crossing. The same observation applies to paras 31 to 35.

Page 11 Para 29. The use of new technology on level crossings is fully supported, but one county council has come up against resistance to warning lights, for example, on the grounds of cost and/or technical reasons.

Page 12 Paras 33 and 34. Details would be welcomed on how cost-benefit analysis is used to assess the benefits of using PROW crossing level crossings, where the reason for a journey may be recreational as well as to access services.

Page 13 User Principle 1. There is agreement on the importance of understanding who uses level crossings and an emphasis on the importance of (f) assessing users with protected characteristics under the Equality Act 2010, e.g. age, disability, pregnancy, maternity, and race. The guidance should acknowledge that a disability can be hidden, and that a person who can navigate most terrains might still struggle to negotiate a stile. User Principle 1(f) could be strengthened by an endeavour to seek the removal of unacceptable encumbrances on the PROW network and specifically the use of stiles to control access at the line side.

There is the potential for a further factor - User Principle 1(h) - to include the possibility of unexpected use such as cyclist or equestrians on public footpaths and also the potential for the under-recording of legal rights on the Definitive Map and Statement (e.g. showing a footpath when evidence is available but remaining un-assessed that the route is actually a bridleway).

Page 15 User Principle 4(c). Any fencing, structures etc must not have a negative impact on the accessibility of a route for users. For example, a bridleway will generally require wider access than a footpath. Consideration should be given 'how' users will be waiting to cross - whether a horse rider is either mounted or leading their horse or whether a cyclist is upon or pushing their bike.

User Principle 5. Consideration should be given to standard signage such as minimum letter heights. This is unregulated.

Page 16 User Principle 6 (a). The use of active warning systems in preference to relying on the user to determine whether or not a train is approaching the level crossing is supported, and this principle should be applied at PROW level crossings.

User Principle 7 could include a further consideration of line-side access controls to ensure they are of the least restrictive form

Page 17 User Principle 7 (e). Hazards created by the level crossing surface should be extended to include the crossing in entry and exit points. Whilst these points do not directly impact on crossing the railway line themselves, any impediment of the user (e.g. the need to negotiate stiles) will slow the overall crossing time.

- Page 18 Railway Principle 1. The heading of this principle is **Ensure the entry and exit to a level crossing and any closure sequence does not create a risk of injury to users**. As noted above, stiles being maintained and replaced by Network Rail do create a risk to users, and ADEPT members have received defect reports to this effect. The policy of most highway authorities in the country will be to remove barriers to access, including always seeking or requiring the replacement of stiles with a gap or gate. Whilst it is accepted that gaps at level crossings are not appropriate, there is no reason the principle cannot be extended to this guidance. In respect of (a), stiles should not be considered an acceptable barrier to prevent access to the railway (“by provision of barriers or gates activated or locked by the approach of a train”).
- Page 19 Railway Principle 3(b) could also include issues concerning PROW crossings over sidings or "holding" lines of long-term stationery rolling stock meaning users have further hazards to navigate or are obstructed - meaning a need to trespass away from the legal line of the PROW
- Page 23 Safe highway principles. It is disappointing that the draft for consultation does not include entry and exit furniture for PROW. For example, Highway Principle 2 (Ensure that highway approach surfaces enable users to cross the level crossing safely) should be extended to include approaches and entry and exit points.
- Page 24 Highway Principle 5 should also make reference to ensuring the adequacy of the area for those waiting to cross a level crossing, be this kerb protection or effective drainage.

Further generic observations:

- Reference to liaison with stakeholders being "vital" should be amended to "must" and include local representatives and elective bodies, such as district and parish councils.
- Infrastructure installed on land not owned by Network Rail results in future responsibilities for maintenance not being addressed.
- Consideration needs to be given to the Impact of adjacent infrastructure that is provided for and maintained by the local highway authority. If changes are required in respect of materials/alignment/road markings/linking with traffic signals, immediate and future costs need to be accounted for and responsibility fully assigned for their condition/operation
- There appears to be no detail on how local highway activities will be managed in the proximity of railway crossings. Network Rail require BAPA agreements and site visits to observe works but, in all but a handful of cases, the road was there before the railway, so the financial burden is inappropriately distorted for routine and reactive maintenance for which separate statutory requirements exist.