

County Council Development

Town and Country Planning General Regulations 1992 - Regulation 3:

Teignbridge District Council: Construction of a Cycle/Walkway as Part of the Exe Estuary National Cycle Network No 2 at Land between Turf Lock Hotel and Church Road, Powderham adjacent to St Clement's Church, Running Directly along the Low-Lying Agricultural Land to the Landward Side of the Existing Flood Bund (Powderham Bank)

Application No: 08/04550/DCR3

Date Application received by County Council: 2 December 2008

Report of the Executive Director of Environment, Economy and Culture

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

Recommendation: It is recommended that:

- (a) **Members endorse the conclusions of the Appropriate Assessment of the anticipated effects of the proposed development on the Exe Estuary Special Protection Area and RAMSAR Site, and authorise the County Solicitor, pursuant to the provisions of Regulation 3 of the Town and Country General Regulations 1992, to grant planning permission subject to the imposition of conditions including:**
commencement within five years; scheme detailing gate/chicane where the path meets Church Road for safety reasons; planting of reeds, monitoring and aftercare; submission of design details for the proposed viewing platform; scheme of monitoring of bird activity; revised details of signage for cyclists and walkers; maintenance of planting; trimming and retention of the dead trees within the copse at the proposed bridge crossing point; submission of a tree protection plan; arboriculturist on site to assist in marking the route through copse of trees; implementation of a scheme of archaeological investigation; and development in accordance with approved plans (except that the finish materials of the bridge shall be agreed in consultation with the Chairman, Local Member, the Chair of Powderham Parish Meeting, and representatives of the Royal Society for the Protection of Birds, Natural England, English Heritage and Network Rail);
- (b) **in view of the concerns of the Diocese of Exeter and the local residents of Powderham, the Applicant be required to submit and carry out a traffic management scheme to address parking in Lucombe Oak Avenue along Church Road, and that such scheme be monitored. and additional/alternative measures be implemented if it is considered to be necessary.**

1. Summary

- 1.1 This report relates to the application for the construction of a cycle/walkway as part of the Exe Estuary National Cycle Network No 2 at Land between Turf Lock Hotel and Church Road, Powderham, and includes a record of the Members' Site Visit and Meeting held on Wednesday 1 April 2009.

1.2 It is considered that the material considerations outlined in paragraph 1.2 of Report EEC/09/59/HQ (attached to Appendix I to this Report) are still relevant in this case. These considerations are as follows:

- the improvements to safety by removing from public use the existing level crossing;
- the impact on the nature conservation interests of the RAMSAR site, Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA) designations the application area includes;
- the tourism and associated economic benefits arising from completion of the NCN2 route;
- the visual impact of the bridge over the railway (in particular upon the Castle - Grade I Listed; St Clement's Church - Grade II* Listed and the Registered Historic Garden of the Powderham Estate), as well as the broader landscape implications for the Area of Great Landscape Value (AGLV) and Coastal Preservation Area (CPA);
- the environmental, health and wellbeing benefits from improving and extending the walking/cycle network through provision of infrastructure to encourage alternatives to car use for leisure and commuting purposes.

1.3 In addition, however, it is also considered that materials used in the finish of the bridge need (from the point of view of its visual appearance for the required screening to minimise disturbance to birds) need further consideration, as do the potential issues arising from the need to assess and monitor the traffic management arrangements in the area, to include parking in the vicinity of St. Clements Church.

2. The Proposal/Background

2.1 At the meeting on 11 March 2009 Members considered Report EEC/09/59/HQ) (attached as Appendix I to this Report) and resolved that the decision on the application be deferred in order for Members to conduct a site visit [Minute 275refers].

2.2 The visit was duly held on the morning of 1 April 2009, and was attended by Councillors Cox (Chairman), Button (Vice Chairman) Clatworthy, Giles, Hosking, McInnes, Nicholson, Wragg with Councillor Connett as Local Member. Also in attendance were officers from the Directorate of Environment, Economy and Culture.

2.3 Members were shown the completed connecting section of cycle/footpath between Exeter and Turf Locks, various view points towards the site and toured the site itself. A subsequent meeting was held at which consultees and those making representations were able to address the Members. The purpose of the visit and the meeting was to enable Members of this Committee to see the application site and its setting and to hear the views of consultees and local residents in order to assist them in determining the planning application. A full record of the visit and meeting is attached as Appendix II to this Report.

2.4 This Report provides a summary of the additional consultation responses and representations received since this proposal was considered on 11 March 2009 and sets out a detailed assessment of the material planning considerations.

3. Consultations

- 3.1 English Heritage – raises no objection to the principle of a bridge over the track at Powderham, but has concerns about whether it is the best option, and it does not support the design presently proposed. English Heritage considers that a bridge in this position would affect the setting of, and views to, the Grade II* listed Parish Church, and of Powderham Park (Grade I). It states that a well-designed structure could contribute positively and be a pleasing feature in the landscape, and in views from the Church and the Park.
- 3.2 It asks that the option for an underpass be reconsidered. It does recognise, however, that given the low-lying nature of the land and that it is prone to water-logging, managing this would be an issue, and that there might thus be times when the underpass route was closed or discouraged and the existing level-crossing re-opened.

4. Advertisement/Representations

- 4.1 Since this Committee last met on 11 March, four further letters of objection and nine in support of the proposed development have been received. In addition to the points made by previous representations (summarised in Section 4.2 of Appendix I), the following comments were made:

Objections

The cycleway will not give access to the countryside but in fact extend an urban transport system; local voices are not being fully acknowledged in the decision making process; the design of the path will mean it becomes the preserve of sport cyclists rather than commuters; a bridge will be hard for children to cycle over and will inhibit access for elderly visitors; concern that cost has been an overly influential factor in the decision to propose a bridge rather than using the slipway or constructing a tunnel; concern that the construction be managed to reduce impact on Powderham residents; concern that Structure Plan and Local plan policies have not been fully addressed.

Support

View that the bridge is a necessary element of the proposal and that it will eventually blend in with the surroundings; the bridge will be a visible demonstration of Devon County Council's forward thinking and commitment to sustainable travel and leisure; people will get used to the bridge structure within the landscape; smooth surface will be good for people commuting on road bikes rather than mountain bikes

- 4.2 At time of writing the total number of representations received is 227, of which 21 are letters of objection, and 206 are letters of support.

5. Planning Policy Considerations

- 5.1 In determining this application, the County Planning Authority is required to have regard to the provisions of the Development Plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that where regard is to be had to the Development Plan, the determination shall be in accordance with the Development Plan unless material considerations, which can include emerging policies, indicate otherwise. In this case, the relevant Development Plan Policies are summarised in Appendix I to Report EEC/09/59/HQ (attached as Appendix I to this Report).

6. Comments/Issues

- 6.1 The material considerations relevant to this application were identified and fully considered in Report EEC/09/59/HQ and are discussed further below.

Alternatives considered

- 6.2 The Environmental Statement (ES) describes the alternative routes and means of crossing the railway that were considered, and these were dismissed for various reasons:

- Tunnelling under the railway was likely to have resulted in an objection from Network Rail and also removed the opportunity for a raised vantage point for viewing the estuary.
- Re-siting the bridge away from the registered landscape area and listed buildings so it crossed the railway further north would have resulted in the pathway running on the landward side of the railway for much of its length, separating users from the Estuary and defeating the purpose of the pathway which is in part to enable access to the estuarine environment. Similarly, walkers and cyclists are likely to have continued to favour the existing footpath on top of Powderham Bank if it had run immediately to the east of the railway for much of its length.
- The cycle/walkway on top of Powderham Bank, or a boardwalk construction adjacent to it, raised significant concerns for the EA in terms of impact on the estuarine environment and the wildlife it supports.

- 6.3 Furthermore, the ES states that the use of a bridge to cross the railway represents a significant improvement to public safety over the existing arrangement of the level crossing. At present, the level crossing has no automatic control for pedestrians crossing, relying on an individual's judgement to determine when it is safe to cross. This is dangerous on a busy line, especially for large groups, people with children and less ambulant users. On the Site Visit, Members were able to witness for themselves the speed of the trains and the inherent dangers.

- 6.4 The Applicant has provided additional information as to why an underpass, whilst possible in terms of engineering, is not a viable option due to the potential problems of railway line stability during construction, and the fact that there would be serious operational issues because it would be below the water table.

- 6.5 On balance, therefore, it is considered that a bridge represents the most practical option, but that its final appearance in the landscape is important.

Visual impact and design

- 6.6 The visual impact of the bridge over the railway is therefore of key concern to the majority of representations received objecting to the proposed development. It is also a concern raised by English Heritage, the local Member and the District Council. It is clear that this section of the National Cycle Network runs through a sensitive environment in terms of its landscape setting. This is reflected through its designation as part of an AGLV, CPA, its location adjacent to a registered landscape, and within view of two listed buildings (St Clement's Church and Powderham Castle).

- 6.7 It is considered that visual impact of the bridge can be reduced in order not to conflict with listed buildings, and whether it upholds RSS Development Policy E, SD3, RPG

policy EN4 and Structure Plan policy CO1, CO4 and CO5 relating to high quality design and protecting designated landscapes.

- 6.8 It should also be noted that the detailed design of the bridge has yet to be agreed by Network Rail. The current application describes a wire mesh for the sides of the bridge on the ramped sections. However, it is not certain that this will provide the level of screening requested by RSPB to protect birds from disturbance by human activity on the bridge. It also needs to be considered as to whether wire mesh is appropriate in this rural setting. This therefore represents the dilemma that exists between nature conservation interests (by providing sufficient screening for protection of birds), and the attempt to protect landscape character and the historic environment. In view of the ongoing concerns relating to the final appearance of the bridge and the need to minimise disturbance to birds, if the Members decide to grant planning permission, then it is recommended that the final appearance be the subject of further discussion between the Chairman, Local Member, together with the relevant interested parties (to include the Chair of Powderham Parish Meeting).
- 6.9 The visual impact of the path itself is considered to be minimal. Its location at the foot of the existing Powderham Bank aligns it with an existing landscape feature by following its contours. The path will be hidden from view from the landward side when the proposed reed planting matures, softening the path edges and masking some of the man-made hard surface. The proposed way-marking signage is also considered to be in keeping with the rural environment through their design which uses simple forms and natural materials.

Ecology, biodiversity and other environmental interests

- 6.10 The EA, NE and RSPB have raised no significant objections in relation to the environmental impacts of the proposed development. Indeed, the proposals include a number of elements to conserve and enhance the natural environment. This includes improvements to the historic pattern of drainage channels, new planting and a bird hide/viewing platform therefore supporting RSS policy SD3 Structure Plan policy CO10 and Local Plan policies ENV1/ENV4 through improvement, restoration and management of habitats. Furthermore, the incorporation of these measures in the design help reduce the effects of flooding and are key elements of the flood risk assessment mitigation proposals which supports RSS policies F1, SD2 and SD4 and Structure Plan policy CO13.
- 6.11 To reduce the potential for disturbance to birdlife from human activity, people will be encouraged to use the new path (as opposed to the existing path on top of Powderham Bank) by the direct routing from the bridge and pathway at Turf Lock Hotel to the new path. The wider, level, hard surface should also make the new path more attractive to cyclists, large groups and less ambulant users. This will reduce disturbance to birds in the Estuary caused at present by users of the existing track.
- 6.12 In addition, it is considered that the aftercare and monitoring proposed in the application supports RPG policies SS20 and EN1 through implementation of biodiversity objectives and protection of designated environmental assets. This will reduce disturbance to birds in the estuary caused at present by users of the existing track.
- 6.13 In order to minimise disturbance to birds from walkers and cyclists moving up and down the ramps to the bridge across the railway, it is necessary to consider screening of the ramp sides in discussion with representatives of the RSPB and Natural England.

Timing of the development

- 6.14 NE and the EA are concerned that approval of this scheme should not prejudice future plans for maintenance and adaptation of Powderham Bank as the long term management of the flood defence mechanism is still to be determined through the ongoing Exe Estuary Strategy and Shoreline Management Plan 2. To this end the RSPB has commented that this planning application seems premature. It should be noted that the proposed footpath specification is a simple construction and represents an economic choice, and that as confirmed by representatives of the EA at the Site Meeting, there are no plans and no timetable for any alternative schemes.
- 6.15 The Applicant has indicated that some land needs to be acquired in order to allow the development to proceed. In the circumstances, it seems reasonable, in the event of planning permission being granted, to include a condition for development to commence within five years rather than the normal three years.

Local economic impacts

- 6.16 This planning application is the final section needed to complete the NCN 2 around the Exe Estuary. The complete route will represent a low impact, sustainable and locally distinctive tourist attraction for the County. It is considered that this will contribute to the local economy in line with RSS policy SD3/TO1 and RPG 10 policy TCS1 by promoting and encouraging sustainable tourism by realising the potential of the Exe Estuary as an environmental asset without compromising its conservation.

Highways

- 6.17 The proposal does not include any form of advance warning of vehicles for cyclists and walkers approaching Church Road from the cycleway. In the event of planning permission being granted, a planning condition will be necessary to require some form of barrier in keeping with the rural location which will also maintain access for the tenant farmer – for example a wooden chicane which can be opened/closed and locked.
- 6.18 Of particular concern to the Diocese of Exeter and the local residents of Powderham are the current and potential issues associated with cars parking in the Lucombe Oak Avenue along Church Road. It is recommended therefore that, in the event of planning permission being granted, the Applicant be required to submit and carry out a traffic management scheme (to include measures to address parking in Lucombe Oak Avenue), and that such scheme be monitored, and additional/alternative measures be implemented if it is considered to be necessary.

Sustainability Considerations

- 6.19 In line with RSS policies SD1/SD3/SD4 and RPG10 policies VIS2 and TRAN10, the proposed path represents development which respects environmental limits as well as aiding the shift to more sustainable modes of transport. The improvement to the walking and cycling network also represents an improvement to community facilities, aiding health and wellbeing in the county by providing improved access to the natural environment and encouraging participation in outdoor activities. This view was expressed by members of the Teign Valley Pedal Bashers, Cyclists Touring Club, and Cycle Users Group in representations of support for the scheme.

7. Conclusion

- 7.1 In conclusion, therefore, it is considered that the proposal is desirable in the interests of public safety, and is acceptable in the landscape, subject to further detailed assessment of its final finish and the way in which disturbance to birds is minimised.

8 Reasons for Recommendation/Alternative Options Considered

- 8.1 Members have the option of approving, refusing or deferring the application. However, following the detailed assessment of the material planning consideration, it is recommended that conditional planning permission be granted, having regard to the imposition of conditions outlined in Section 6 above.

Edward Chorlton

Electoral Divisions: Exminster & Kenton,

Local Government Act 1972

List of Background Papers

Contact for enquiries: Kate Cantwell

Tel No: 01392 383894

Room No: ABG Lucombe House

Background Paper	Date	File Ref
Case File	December 2006	08/04550/DCR3
kc030409dca sc/exe estuary 4 hq 070409		

**Appendix I
To EEC/09/106/HQ**

EEC/09/59/HQ

Development Control Committee
11 March 2009

County Council Development

Town and Country Planning General Regulations 1992 - Regulation 3:

Teignbridge District Council: Construction of a Cycle/Walkway as Part of the Exe Estuary National Cycle Network No 2 at Land between Turf Lock Hotel and Church Road, Powderham adjacent to St. Clements Church, running directly along the Low-Lying Agricultural Land to the Landward Side of the Existing Flood Bund (Powderham Bank)

Application No: 08/04550/DCR3

Date Application received by County Council: 2 December 2008

Report of the Executive Director of Environment, Economy and Culture

Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.

Recommendation: It is recommended that the determination of this application be deferred to enable Members to visit the site and to have regard in particular to all comments and issues raised in this Report.

1. Summary

1.1 This report relates to a planning application for construction of a cycle/footpath as part of the Exe Estuary National Cycle Network No 2 (NCN2) on land between Turf Lock Hotel and Church Road, Powderham.

1.2 At this stage in the determination of the planning application it is considered that the material planning considerations are:

- the impact on the nature conservation interests of the RAMSAR site, Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA) designations the application area includes;
- the improvements to public safety by removing from use the existing level crossing;
- the tourism and associated economic benefits arising from completion of the NCN2 route;
- the visual impact of the bridge over the railway (in particular upon the Castle - Grade I Listed; St Clement's Church - Grade II* Listed and the Registered Historic Garden of the Powderham Estate), as well as the broader landscape implications for the Area of Great Landscape Value (AGLV) and Coastal Preservation Area (CPA);
- the environmental, health and wellbeing benefits from improving and extending the walking/cycle network through provision of infrastructure to encourage alternatives to car use for leisure and commuting purposes.

2. The Proposal/Background

- 2.1 Sustrans produced a report for this Authority in 1998 which covered the NCN2 for South Devon. The suggested route was also shown in the Local Transport Plan 2001-2006 published July 2000, and presented to the Executive in July 2000 as a key element of the Regional Programme. Subsequently, on 6 March 2001 the Executive resolved (Minute X) that the route around the Exe Estuary should be subject to further detailed consideration and consultation. At its meeting on 21 October 2004 [Report ED/04/228/HQ (Minute *848)] the Executive approved a plan as a basis for consultation for the specific Exe Estuary section of the NCN2. The results of public consultation were approved in principle by the Executive on 19 April 2005 (Report ED/05/102/HQ refers) to be progressed to planning application stage. This was to include the necessary Environmental Impact Assessment and confirmed that land necessary for construction be acquired by negotiation or by compulsory powers.
- 2.2 The planning application site lies between Turf Lock Hotel and Church Road, Powderham running directly along the foot of the existing flood bank (Powderham Bank) to the point of the existing level crossing where a bridge is proposed to cross the railway line. It is proposed that the existing level crossing would be retained for the tenant farmer's use only, and the current Public Right of Way will need to be altered on the definitive map to reflect this. On the landward side of the railway, the path will continue along the route of the existing path adjacent to the railway line, until it reaches Church Road.
- 2.3 The path would be a 3m wide hard surface suitable for wheelchair users. However, the ramps associated with the bridge will be graded at 1:12, steeper than the recommended 1:20 in order to reduce the length of the ramps and therefore visual intrusion. A viewing platform is proposed at a point partway along the route behind Powderham Bank for path users to view the Estuary, and in particular the birdlife.
- 2.4 Five sets of wooden steps are proposed along Powderham Bank to enable walkers and cyclists to reach the top of the bank at certain points to view the surroundings and to discourage people from scaling the bank along its length and causing erosion. The existing Public Footpath along the top of the bank will be retained although people will be encouraged to use the new footpath - this is in the interests of wildlife protection which is considered in more detail later in Section 6 this Report.

3. Consultations

- 3.1 Teignbridge District Council: raises objections principally on the grounds that it will be detrimental to the character, appearance and setting of the locality which is within a defined AGLV and Coastal Preservation Area (CPA), and which contains listed buildings, trees, and other natural features which add significantly to this unique landscape. Should planning permission be granted, two planning conditions were recommended relating to protection of trees on site. A) A Tree Protection Plan to safeguard all trees, shrubs and natural features not scheduled for removal during site works. B) An arboriculturalist shall be present on site to assist in the marking of the exact route through the group of 22 Oak trees.
- 3.2 Exminster Parish Council: at its meeting on 12 January 2009 it resolved to support this application. The Parish Council also made the following comments: the CD ROM made discussion at the meeting difficult, and asks that consideration be given to improving the links from the village to the cycleway to the south along Station Road.

3.3 Powderham Parish Meeting: at its meeting held on 12 January 2009 the Parish Meeting decided to register objections to the proposed development. Further comments made:

- The safety aspects of the cycleway connecting to the highway.
- The design, scale and size of the bridge proposed which appears to be too large and highly intrusive for the rural area. The present design is considered too industrial and alternative designs are requested for consideration.
- Unanimous support for use of the existing slipway under the railway and routing of the pathway along the seaward side of the Powderham Bank.
- Support for the updated Appropriate Assessment Report from John Goss-Custard which suggests less screening would be acceptable along the path and in the design of the bridge.
- Concern regarding pressure on parking at Powderham Church.
- Concern regarding maintenance and litter collections along the path.

3.4 Environment Agency (EA): makes the following comments:

- providing development proceeds in accordance with the submitted flood risk assessment dated October 2008, there are no objections to the proposed development with regards to the flood risk aspect of the proposal.
- supports the habitat enhancement proposed, and plans to work with the Applicant on the further details of this.
- re-iterates that it can only support this proposal as a temporary route until 2016. The long term management of Powderham Bank will be determined through the ongoing Exe Estuary Strategy and Shoreline Management Plan 2.
- details that need comment but can be sorted out through further communication: timing of vegetation clearance; planting schemes must be appropriate to the SSSI and SPA designations; maintenance arrangements; issues of access; construction details of the track surface.

3.5 English Heritage: raises concerns relating to the visual impact of the proposed bridge on the views from the listed building (Powderham Church), and registered landscape of Powderham Estate. However, at the time of writing these comments have not been provided in full.

3.6 Natural England (NE): makes the following comments:

- assent to the proposals and agrees that there will be no adverse effect on the integrity of the Exe Estuary SPA subject to full implementation of the recommended mitigation measures.
- welcomes benefits to the SPA and SSSI in reducing disturbance events along the sea wall, and by providing viewing points to enjoy the estuary.
- recognises the benefits of the Exe Estuary Trail as a whole in supporting more sustainable patterns of travel.

However, NE wishes to see commitment from this Authority that the current alignment of this section of the trail will not be a barrier to allowing the Estuary to adapt to future sea level rise through possible future realignment of the Powderham Bank.

3.7 Royal Society for the Protection of Birds (RSPB): considers it premature to locate the cycle way to the rear of the Powderham Bank until the potential for recreation of ecologically important inter-tidal habitat has been fully investigated, and

the future of the Powderham Bank and the land, property and assets it protects have been fully investigated. Without prejudice to this general view, RSPB recommends that, should planning permission be granted, this Authority should:

- grant a time limited permission to trigger a full review of the appropriateness of its location once decisions have been made about the future of the Powderham Bank.
- ensure robust screening is provided along sections of the cycleway that are highly visible from land within the designated sites routinely used by water birds for feeding and/or roosting.
- ensure that measures are included to make the flood bank footpath relatively less attractive than the new cycleway to encourage users to use the cycleway preferentially and at the earliest opportunity.
- ensure rigorous monitoring of bird usage of the mudflats and grazing marsh in proximity to the cycleway.

3.8 Network Rail: no objection in principle from a town planning perspective, however the design and detail of the bridge are yet to be formally agreed with Network Rail's engineers and estates department.

3.9 Sustrans:

- Supports the application which provides the final section of the Exe Estuary Trail, part of the NCN2 and also part of the Exe Valley Way long distance walking route.
- Supports the encouragement of outdoor physical activity for human health and sustainable transport benefits.
- Acknowledges the improvement of an existing footpath which improves access to countryside for all users.
- Supports the proposal to provide a safer railway crossing.
- Recognises the economic benefits of the route which adds to local visitor attractions and facilities.

3.10 South West Water: states that none of its apparatus will be affected and therefore no comments were made on this proposal.

4. Advertisement/Representations

4.1 The application has been advertised in accordance with the statutory publicity requirements, and as a result of these procedures 17 letters of objection and 197 letters of support have been received to date. These, and copies of any letters of representation subsequently received, will be displayed at the Committee meeting.

4.2 The objections to the proposed development included comments relating to:

- The size, materials, design solution and scale of the proposed bridge and its visual impact upon the landscape and setting of nearby listed buildings, resulting in the urbanisation of the area.
- Potential for improved bridge design.
- Support for alternative options to cross the railway track.
- Unnecessary alteration to the existing level crossing.
- Concern that the location of the footpath at the base of the Powderham Bank will restrict its potential for use due to flooding of the low lying area, and is therefore not fit for purpose.

- Inappropriate location for the footpath at the base of the Powderham Bank – retention of the existing Public Right of Way will still be favoured over the new route as it offers better views.
- Location of the proposed pathway actually discouraging potential visitors to the area due to obscured views.
- Poor allocation of public money on a pathway that is poorly located.
- Exacerbation of parking pressures near Powderham Church.
- Concern regarding non-indigenous planting proposed.
- Lack of attention to Powderham residents' views.
- Feared 'tunnel effect' from the location of the path between reeds planted in the ditch and the Powderham Bank.
- Fear that the intention is to prevent people using the pathway on top of Powderham Bank.
- Concern regarding access to the adjacent farmland.
- Fear that flood capacity will be negatively impacted by the proposals.
- Doubting the validity of conclusions in the Environmental Statement.
- Concern regarding damage to under-drainage of adjacent fields.
- More detail requested relating to construction works and site compounds.

4.3 The representations in support of the proposed development included comments relating to:

- Support for a traffic free path between Exeter and Starcross/Dawlish.
- Contribution to a wider cycle network.
- Safer rail crossing facility.
- Safer pathway to existing narrow and uneven route along top of Powderham Bank.
- Encouraging healthier lifestyles.
- Attraction for holidaymakers with associated economic benefits.
- A quality commuter route for non car travel.
- Educational benefits through access to the estuarine ecosystem.
- Increased access for less ambulant path users.
- Contributes to the Cycle Exeter Project.
- Provision for a sustainable mode of travel, reducing pollution and climate change
- Potential to reduce traffic on local roads.
- Increasing access to natural beauty.
- Better provision for ornithologists.
- Request that surface is gritted in winter or salt bunkers provided.
- Suggested wood cladding (which could be sourced locally and sustainably) rather than the wire mesh for bridge materials.
- Encouraging family friendly activities.
- Represents a long term solution to erosion on the existing footpath.
- Avoid longer and hilly sections of the on road cycle route into Exeter.
- Could be improved if located on the top of the Powderham Bank to access views.

5. Planning Policy Considerations

5.1 In considering this application, the County Planning Authority is required to have regard to the provisions of the Development Plan. Section 28(6) of the Planning and Compulsory Purchase Act 2004 requires that where regard is to be had to the Development Plan, the determination shall be in accordance with the Development Plan unless material considerations, which can include emerging policies, indicate

otherwise. In this case, the relevant Development Plan Policies are summarised in Appendix I to this report.

6. Comments/Issues

Alternatives considered

6.1 The Environmental Statement (ES) describes the alternative routes and means of crossing the railway that were considered, and these were dismissed for various reasons:

- Tunnelling under the railway was likely to have resulted in an objection from Network Rail and also removed the opportunity for a raised vantage point for viewing the estuary.
- Re-siting the bridge away from the registered landscape area and listed buildings so it crossed the railway further north would have resulted in the pathway running on the landward side of the railway for much of its length, separating users from the Estuary and defeating the purpose of the pathway which is in part to enable access to the estuarine environment. Similarly, walkers and cyclists are likely to have continued to favour the existing footpath on top of Powderham Bank if it had run immediately to the east of the railway for much of its length.
- The cycle/walkway on top of Powderham Bank, or a boardwalk construction adjacent to it, raised significant concerns for the EA in terms of impact on the estuarine environment and the wildlife it supports.

6.2 Furthermore, the ES states that the use of a bridge to cross the railway represents a significant improvement to public safety over the existing arrangement of the level crossing. At present, the level crossing has no automatic control for pedestrians crossing, relying on an individual's judgement to determine when it is safe to cross. This is dangerous on a busy line, especially for large groups, people with children and less ambulant users.

Visual impact and design

6.3 The visual impact of the bridge over the railway is of key concern to the majority of representations received objecting to the proposed development. It is also a concern raised by English Heritage, the local Member and the District Council. It is clear that this section of the National Cycle Network runs through a sensitive environment in terms of its landscape setting. This is reflected through its designation as part of an AGLV, CPA, its location adjacent to a registered landscape, and within view of two listed buildings (St Clement's Church and Powderham Castle). The existing level crossing is used by significant numbers of pedestrians and cyclists. The crossing is over the high speed/main line. The time between trains travelling towards Exeter Paddington to Penzance becoming visible is very short. It could be argued that notwithstanding the proposed cycle/footpath application before the Committee that a grade separated crossing at this point is required for safety purposes along.

6.4 It is necessary to consider whether the visual impact of the bridge is considered to have a positive, neutral or negative impact on the landscape and the setting of the listed buildings, and whether it upholds RSS Development Policy E, SD3, RPG policy EN4 and Structure Plan policy CO1, CO4 and CO5 relating to high quality design and protecting designated landscapes. Furthermore, whether the proposed development, in particular the bridge, respects its landscape setting and, as RSS policies ENV1/ENV5 and RPG policy EN3 require, protects and enhances the quality,

character and local distinctiveness of the natural and historic environment, affording it “the highest level of protection”.

- 6.5 It should be noted that the detailed design of the bridge has yet to be signed off by Network Rail. At the time of writing, discussion is ongoing with the applicant regarding materials and elements of the design. The current application describes a wire mesh for the sides of the bridge on the ramped sections. However, it is not certain that this will provide the level of screening requested by RSPB to protect birds from disturbance by human activity on the bridge. This detail represents the dilemma that exists between nature conservation interests (by providing sufficient screening for protection of birds) and the attempt to protect landscape character and the historic environment.
- 6.6 The existing level crossing is used by significant numbers of pedestrians and cyclists. The crossing is over the high speed/main line. The time between trains travelling towards Exeter Paddington to Penzance becoming viable is very short. It could be agreed that notwithstanding the proposed cycle/footpath application before the Committee that a grade separated crossing at this point is required for safety purposes along.
- 6.7 The visual impact of the path itself is considered to be minimal. Its location at the foot of the existing Powderham Bank aligns it with an existing landscape feature by following its contours. The path will be hidden from view from the landward side when the proposed reed planting matures, softening the path edges and masking some of the man-made hard surface. The proposed way-marking signage and cycle parking facilities proposed are also in keeping with the rural environment through their design which uses simple forms and natural materials.

Ecology, biodiversity and other environmental interests

- 6.8 The EA, NE and the RSPB have raised no significant objections in relation to the environmental impacts of the proposed development. Indeed, the proposals include a number of elements to conserve and enhance the natural environment. This includes improvements to the historic pattern of drainage channels, new planting and a bird hide/viewing platform therefore supporting RSS policy SD3 Structure Plan policy CO10 and Local Plan policies ENV1/ENV4 through improvement, restoration and management of habitats. Furthermore, the incorporation of these measures in the design help reduce the effects of flooding and are key elements of the flood risk assessment mitigation proposals which supports RSS policies F1, SD2 and SD4 and Structure Plan policy CO13..
- 6.9 To reduce the potential for disturbance to birdlife from human activity, people will be encouraged to use the new path (as opposed to the existing path on top of Powderham Bank) by the direct routing from the bridge and pathway at Turf Lock Hotel to the new path. The wider, level, hard surface should also make the new path more attractive to cyclists, large groups and less ambulant users.
- 6.10 In addition, it is considered that the aftercare and monitoring proposed in the application supports RPG policies SS20 and EN1 through implementation of biodiversity objectives and protection of designated environmental assets.

Timing of the development

- 6.11 NE and the EA are concerned that approval of this scheme should not prejudice future plans for maintenance and adaptation of Powderham Bank in view of the fact that the long term management of the flood defence mechanism is still to be determined through the ongoing Exe Estuary Strategy and Shoreline Management Plan 2. To this end the RSPB has commented that this planning application seems premature. It should be noted that the proposed footpath specification is a simple construction and represents an economic choice.

Local economic impacts

- 6.12 This planning application is the final section needed to complete the NCN 2 around the Exe Estuary. The complete route will represent a low impact, sustainable and locally distinctive tourist attraction for the County. This will contribute to the local economy in line with RSS policy SD3/TO1 and RPG 10 policy TCS1 by promoting and encouraging sustainable tourism by realising the potential of the Exe Estuary as an environmental asset without compromising its conservation. For example, the improved facilities for ornithologists, a low impact, rural activity.

Highways

- 6.13 The proposal does not include any form of advance warning of vehicles for cyclists and walkers approaching Church Road from the cycleway. In the event of planning permission being granted, a planning condition will be necessary to require some form of barrier in keeping with the rural location which will also maintain access for the tenant farmer – for example a wooden chicane which can be opened/closed and locked.

Sustainability Considerations

- 6.14 In line with RSS policies SD1/SD3/SD4 and RPG10 policies VIS2 and TRAN10, the proposed path represents development which respects environmental limits as well as aiding the shift to more sustainable modes of transport. The improvement to the walking and cycling network also represents an improvement to community facilities, aiding health and wellbeing in the county by providing improved access to the natural environment and encouraging participation in outdoor activities. This view was expressed by members of the Teign Valley Pedal Bashers, Cyclists Touring Club, and Cycle Users Group in representations of support for the scheme.

In line with RSS policies SD1/SD3/SD4 and RPG10 policies VIS2 and TRAN10, the proposed path represents development which respects environmental limits as well as aiding the shift to more sustainable modes of transport. The provision of an improved walking and cycle path that forms part of a wider network also meets six of the twelve elements of the overall vision for the future of transport in Devon, in particular, enabling visitors to enjoy the County's tourism offer and environment without degrading the environment, providing alternative transport option to the car, providing opportunities for and encouraging walking and cycling to increase levels of physical activity and improve health and wellbeing (LTP Overall Vision).

Further to this, the proposal supports a number of the transport policies for Devon contained within the LTP. These are derived from Structure Plan policies as indicated here:

- LTP policy 2 / Structure Plan policy TR3 – Managing travel demand: through this scheme which encourages more sustainable modes of travel by providing a quality route for commuting and leisure use by cyclists and walkers.
- LTP policy 4 / Structure Plan policy TR5 – Promoting sustainable modes of travel: by providing for and promoting the safe use of a walking and cycling route as a sustainable transport choice with an improved path and bridge to cross the railway. Having regard in its very nature to the hierarchy of modes.
- LTP policy 6 / Structure Plan policy TR7 – Walking and cycling: by improving the pedestrian and cycle links between settlements and adjacent rural areas.
- LTP policy 7 / Structure Plan policy TO6 – Long distance footpaths and cycle routes: by forming part of the NCN2 and Exe Valley Way walking route.

The improvement to the walking and cycling network also represents an improvement to community facilities, aiding health and wellbeing in the County by providing improved access to the natural environment and encouraging participation in outdoor activities. This view was expressed by members of the Teign Valley Pedal Bashers, Cyclists Touring Club, and Cycle Users Group in representations of support for the scheme.

7. Reasons for Recommendation/Alternative Options Considered

- 7.1 The Committee has the options of approving, deferring or refusing this planning application.
- 7.2 In view of the material planning considerations discussed in the paragraphs above, and having regard to the number of representations received, it is recommended that Members visit the site in order for them to assess the impacts of the proposed development. In particular, it is necessary for Members to consider whether the economic, health, social, transport, environmental and accessibility benefits of the proposal are considered to outweigh the visual and nature conservation impacts due to its location within a highly sensitive and protected area.

Edward Chorlton

Electoral Divisions: Exminster & Kenton,

Local Government Act 1972

List of Background Papers

Contact for enquiries: Kate Cantwell

Tel No: 01392 383894

Room No: ABG Lucombe House

Background Paper	Date	File Ref
Casework file	December 2008	08/04550/DCR3

Planning Policy Considerations

Draft Regional Spatial Strategy for the South West 2006 – 2026

SD1 (The Ecological Footprint); SD2 (Climate Change); SD3 The Environment and Natural Resources); SD4 (Sustainable Communities); Development Policy E (High Quality Design); ENV1 (Protecting and Enhancing the Region's Natural and historic Environment); ENV4 (Nature Conservation); ENV5 (Historic Environment); F1 (Flood Risk); TO1 (Sustainable Tourism).

Regional Planning Guidance for the South West (RPG10) September 2001

VIS2 (Principles for Future Development); SS20 (Rural Land Uses); EN1 (Landscape and Biodiversity); EN3 (The Historic Environment); Quality in the Built Environment); TCS1 (Tourism); TCS2 (Culture, Leisure and Sport); TRAN4 (Transport Infrastructure Investment Priorities); TRAN10 (Walking, Cycling and Public Transport); RE2 (Flood Risk).

Devon Structure Plan 2001 - 2016

CO1(Landscape Character and Local Distinctiveness); CO10 (Protection of Nature Conservation Sites and Species); CO13 (Protected Water Resources and Flood Defence); CO4 (Areas of Great Landscape Value); CO6(Quality of New Development); CO7 (Historic Settlements and Buildings); CO9 (Biodiversity and Earth Science Diversity); ST1 (Sustainable Development); TO3 (Tourist Development in Rural Areas); TR1 (Devon Travel Strategy); TR5 (Hierarchy of Modes); TR7 (Walking and Cycling).

Teignbridge Local Plan 1989 – 2001

ENV1 (Landscape and Nature Conservation); ENV2 (Coastal Preservation Areas); ENV3 (Areas of Great Landscape Value); ENV4 (Countryside); ENV5 (Protect and Enhance the landscape); T5 (Road Safety); T9 (Traffic Management Schemes); T13 (Parking Provision); T27 (Needs of disabled people in Transport Facility Development); T28 (Facilities for Cyclists); R3 (Recreational Development in the Countryside); R7 (Exe Estuary Recreation); R8 (Improving Footpath Network); R9 (Long Distance Footpath Routes); HD1 (Tourist Industry); C5 (Environmental Enhancement Schemes); C8 (Retention of Landscape Features); C10 (Landscaping Scheme); C17 (Impact on Special Environmental Designations); C23 (Management Schemes); C24 (Educational Value of Nature Sites); C25 (Access to Areas of Nature Conservation Interest); C26 (Visitor/Habitat Management); C31 (Setting of Listed Buildings).

National Planning Guidance

PPS1 Delivering Sustainable Development
PPS9 Biodiversity and Geological Conservation
PPS7 Sustainable Development in Rural Areas
PPS 25 Development and Flood Risk
PPG13 Transport
PPG15 Planning and the Historic Environment

Report of the Development Control Committee's Site Visit and Meeting on 1 April 2009

1. Site Visit

- 1.1 The site visit was attended by Councillors Cox (Chairman), Button (Vice Chairman) Clatworthy, Giles, Hosking, McInnes, Nicholson, Wragg with Councillor Connett as Local Member. Also in attendance were Stewart Redding (County Development Manager), Kate Cantwell (Assistant Development Management Officer) and Peter Chamberlain (Countryside Manager) from the Directorate of Environment, Economy and Culture.
- 1.2 Members travelled to the car park part way along the completed section of cycle path between Exeter and Turf Locks (marked as Point 2 on the map at Appendix III). On route, Kate Cantwell brought Members' attention to reed planting alongside the track which provides some screening of people using the path for the birds using the Exminster Marshes. Upon reaching the car park, Stewart Redding explained that this section of the footpath was completed approximately 2 years ago at this location and is similar in design and finish to that proposed as part of the current planning application. The path arrangement consists of the public footpath along the top of the river bank which is a narrow path with un-bound stone finish. At the foot of the river bank slope is a cycle/footpath constructed with a bound surface, approximately 3m wide. Mr Redding pointed out the boat masts in the distance to the south which mark the position of Turf Locks where the cycle/footpath which is the subject of the current application would begin. Mr Redding also brought Members' attention to the interpretative signage and way-marking features that would also be an element of the proposed development.
- 1.3 Peter Chamberlain then provided some background to the area, reminding the Members that the development site is a Site of Special Scientific Interest (SSSI), Special Protection Area (SPA), Nature Conservation Zone, and RAMSAR site and therefore that it is of European and international importance for its wildlife interest. He said that these designations have certain implications for the County Council's legal obligations e.g. a legal duty not to affect the integrity of the site. He explained that there have been a number of ways this has been approached through the various cycle route planning applications (of which this is the seventh and last). He pointed out the relevance to the current planning application is the planting of reeds to enhance the existing screening provided by low level vegetation. He further explained that the reeds do not need to be, and are not intended to completely obscure people from birds, but to provide a physical, visual barrier between the two, so that the birds feel safe due to the separation between them and the disturbance events from pedestrian and cyclists passing by. The ditch re-grading which is detailed further in Paragraph 1.14 of this Appendix is another method of minimising and mitigating the impact of the development on these protective environmental designations. In addition, he said that the proposed viewing platform/bird hide is intended to help people to enjoy the environment as well as reduce conflict between humans and wildlife.
- 1.4 Stewart Redding described the signage proposed as a visitor management feature to encourage cyclists and pedestrians to use the lower path, and to remind cyclists that the upper footpath does not allow cycling.

- 1.5 Members then moved on to Point 3 which provided a view from the approach road to Powderham village over the Estuary toward Lymptone Barracks. Mr Redding pointed out the copse of trees where the viewing platform/bird hide is proposed to be located. Councillor Button commented that it appeared to him that a higher level path would be better as it would provide better views of the estuary than the proposed lower level path.
- 1.6 Members then moved on to Point 4, further along the approach road to Powderham village, from where it was possible to see the location of the proposed bridge over the railway. Members were provided with photo montages of the landscape they were viewing with the proposed bridge superimposed upon it to give an impression of what the view would be like should the development go ahead.
- 1.7 Members then proceeded to St Clement's Church at Powderham (Point 5) where Councillor Connett and Councillor Clatworthy joined the group. The Members were shown a second photo montage of the view from the Church, looking south along the existing footpath. Mr Redding described the proposal which would include the resurfacing of the existing unbound footpath, and re-grading where it meets Church Road. He drew attention to the proximity of Verger's Cottage, and pointed out the copse of trees in the distance around which the ramp of the proposed bridge crossing the railway would curve.
- 1.8 Before proceeding along the footpath, Members were shown the existing slipway on Church Road near St Clements Church. It was explained that to use this slipway to cross the railway (rather than the proposed bridge) it would have to be cleared of debris material, deepened, a flood bund constructed on the seaward side, and a boardwalk constructed to reach around the shoreline. It was explained that the structure and engineering works involved would be complex due to the effects of the tides.
- 1.9 Members proceeded to walk along the footpath toward the existing level crossing. They noted markers which indicated the proposed start point of the ramp of the bridge structure, and were shown a technical drawing (that formed part of the planning submission) indicating the form and structure of the proposed bridge. Councillor Button asked why the existing level crossing could not continue to be used once the cycle/footpath is built. Councillor Cox pointed out it was not a safe crossing due of frequency and speed of trains and that increased numbers of users would compound this problem. Mr Redding said that Network Rail could at any time require a bridge to cross the rail line at this location for reasons of Health and Safety.
- 1.10 Members traversed the level crossing, and once on the seaward side noted markers indicating the point at which the bridge would cross the rail track. At this point also, Mr Redding explained the technical issues associated with the construction of an underpass beneath the railway line.
- 1.11 Having reached the footpath along the Powderham Bank, Mr Chamberlain explained the decision making process that lead to the proposal for the path to run along the landward side at the bottom of the bank. The preferred option would have been to provide a wider path at the top of the existing Powderham Bank. However this would involve adjusting the bank which is owned and managed by the Environment Agency as a flood protection measure. In answer to a question from Councillor Giles, he said that its future will be the subject of the developing Exe Estuary Management Plan which is expected to be made public in about years' time. He explained that until then it would not be appropriate to propose a development which might prejudice the future of the flood management measures at this location. In addition, he stated that

it is anticipated that the RSPB would object on the grounds that increased numbers of users on the path, silhouetted against the sky would result in increased bird disturbance events which would not be acceptable in view of the SPA and RAMSAR designations.

- 1.12 Mr. Chamberlain added that the second consideration was the construction of a pathway part way up the bank that would mean people could see over the bank but would not be silhouetted against the skyline, and therefore disturb birds less. Again this may prejudice the recommendations of the Exe Estuary Management Plan being drawn up to the Environment Agency. He said that these considerations had led to the proposal to locate the shared cycle/footpath at the foot of the Powderham Bank, providing access points to the existing footpath at the top of the bank which will be retained.
- 1.13 Councillor Connett questioned why a new path needed to be 3m wide when the existing path was comparatively narrow. Mr Chamberlain and Miss Cantwell confirmed that new facilities needed to conform to various standards to be accessible and safe for users and in this case would be sensible to accommodate the increase in user numbers. It was also noted that there would be times when the proposed cycle path would be flooded.
- 1.14 Members continued to walk north along the existing footpath. Mr Redding brought Members' attention to the point at which the path will rise up to the top of the bank in order to avoid two existing trees, and this would then enable views of the estuary. Mr Chamberlain noted the points at which the existing ditches and remnant creeks would be subject to scrapes and re-grading to encourage pooling which would improve the natural habitat for birds. These elements have been included in the proposals so that, on balance, the development would result in a wildlife gain.
- 1.15 Councillor Connett asked when the scheme would be delivered should it receive planning approval. Mr Redding reported that this was a question for the Applicant to answer, but it was assumed that the development would proceed as soon as possible.
- 1.16 Councillors Cox, Connett and Giles commented that they were not happy with the design of the bridge as proposed, and felt that this should be decided by the Committee Members and local Members in consultation with the local community (in the event of a resolution to grant planning permission being subsequently agreed). Mr Chamberlain pointed out the inherent conflict that existed within this planning application between the visual impact of the bridge structure and the need to meet legal obligations to protect the wildlife. He noted that the update to the Appropriate Assessment from Mr. Goss-Custard made recommendations and came to conclusions based only on the scheme's impact on the SPA. There remained other legal duties to protect and enhance the landscape setting.
- 1.17 Councillor Wragg asked why the consideration of the proposed footpath and its users seemed to be treated differently to the existing disturbance from trains, farm vehicles and people using the footpath at the top of the bund. Mr Chamberlain explained that inanimate objects such as cars and trains are less disturbing to birds. He said that they also get used to certain disturbance events and have become accustomed to the existing levels of activity over in this area over a long period. The new cycle/footway would alter the current situation and therefore careful consideration of screening and positioning of the path are necessary to avoid disturbing the protected birds' nesting and feeding habits.

1.18 Members then travelled to Starcross Yacht Club where the site meeting was held.

2. Site Meeting

2.1 The Chairman welcomed all those present and explained that the purpose of the visit and the meeting was for Members to examine the proposals and to hear the views of consultees and local people. He said that no decision would be taken today, but that it was the intention to determine the application at the next meeting of the Development Control Committee on 15 April.

2.2 Members then introduced themselves to those present.

2.3 Mr Redding provided a summary of the site visit undertaken by Members for the benefit of those consultees and members of the public present.

2.4 Paul Ewings (Applicant) made a presentation to the Members, noting that this was the last of seven planning applications that formed the National Cycle Network Route 2 (NCN2) around the Exe Estuary. He brought Members' attention to the fact there had been no objections in principle to the proposals by statutory bodies consulted. Mr Ewings commented that clearly the bridge element of the scheme was a sensitive issue. He reported that various designs for different elements of the scheme had been considered including alternative positions for the path itself and different bridge designs.

2.5 Councillor McInnes said he was pleased he had the opportunity to see the site for himself due to the significance of the scheme and its particular location. He was concerned about the number of cyclists who were using the existing footpath at the top of the bank, and asked how they might be discouraged from doing so as part of this scheme. Mr Ewings replied that when travelling north, cyclists would be led directly to the lower path from the bridge. In addition, signs would inform cyclists they should not use the public footpath.

2.6 Maureen Pearce (Conservation Officer at Teignbridge District Council) confirmed that her Authority maintained the comments already made in response to the consultation (see Para X of Appendix I). While having no objection in principle to the proposed development, Ms Pearce drew particular attention to the listed buildings and registered landscape in proximity to the proposed bridge, and asked that particular care be taken to consider this when determining the planning application.

2.7 Jennifer Rowland (the nominated spokesperson for the Powderham Parish Meeting) noted that the Parish Meeting is aware not against a cycleway in principle, and are aware of the health and sustainable transport benefits of cycling. Mrs Rowland summarised the concerns of the Parish Meeting as follows:

- the safety aspects of the cycleway adjoining Church Road which is derestricted;
- the location of the cycleway at the foot of Powderham Bank which will restrict views of the Estuary and means it is liable to flooding;
- the effect of attracting more visitors to the area with associated litter and parking problems;
- the major concern over the 'industrial style' bridge - the Parish Meeting are of the view that other options have not been fully investigated and asked that a feasibility study be undertaken to assess the viability of utilising the existing slipway as an underpass;

- Mrs Rowland reminded Members that the site was within an AGLV and reported that the Parish Meeting considers that a number of policies within both the Devon Structure Plan and the Teignbridge Local Plan have been inadequately addressed or not addressed at all.
 - the Parish Meeting is concerned about the introduction of scrapes and their long term impact on the SSSI and RAMSAR designations; and,
 - the Parish Meeting questioned the life of the cycle/footpath in view of the forthcoming Exe Estuary Strategy being prepared by the Environment Agency.
- 2.8 Councillor Cox asked the Applicant what consideration had been given to using the existing slipway to cross the railway, and what the cost estimates were for the different options. Nick Bott (for the Applicant) advised that the bridge option was estimated at £1m, using the existing slipway £2m, and a new underpass £3m.
- 2.9 Councillor Cox commented that this brought us back to consider the design of the bridge. Mr Ewings confirmed that there were certain elements of the design that would not be negotiable with Network Rail, for example, the clearance height and solid section over the track. He also pointed out the safety benefits of lifting in a bridge structure at night over an empty track, as compared to the likely disturbance of other engineering methods.
- 2.10 John Wardle and Andy Woodhead (Environment Agency) clarified that the Agency's role was to influence and to advise. He said that his interest in the scheme centres on the flood risk and Powderham Bank elements. He acknowledged that the cycle path in its proposed location at the foot of the bank will be subject to flooding. The long term management of the bank is subject to the Exe Estuary Strategy, the content of which is at this time unknown. He noted that the Agency had no objections and was not suggesting any particular planning conditions, but had raised some points that needed to be clarified or resolved.
- 2.11 Antony Bellamy (RSPB) commented that his concern was that sufficient screening on the ramparts of the bridge and along the pathway was provided to reduce disturbance events for birds. He reminded Members that this was an internationally significant site and that the Habitats Directive places certain legal obligations on the Council to 'maintain and restore' the environment.
- 2.12 Councillor Cox asked about the disturbance from increased human traffic in view of the existing footpath, active railway and farm vehicles in the area. In response, Mr Bellamy explained that different birds require different levels of screening at different times. Furthermore, birds become accustomed to certain disturbance events over time and changes in the type and frequency of disturbance can have a negative impact and their feeding and nesting patterns.
- 2.13 Lola Konstantopoulos (Network Rail) confirmed that her organisation is very risk adverse. She confirmed that the current level crossing was not ideal and at present there were only a few seconds clearance between seeing a train and it reaching the level crossing. She noted that despite various warnings and different level crossing designs, accidents and deaths on level crossings persist across the country. It was also noted that a tunnel under the railway would not be a preferred option, and could involve exorbitant costs, delays and safety requirements. Ms Konstantopoulos added that Network Rail had certain criteria for the design of the bridge that must be met, but outside these parameters, it could be flexible regarding the design of the bridge.

- 2.14 Peter Thomas spoke to represent his client, Lord Devon, who is a landowner affected by the proposed development. He reported that his client is in favour of a cycle track (and in fact has plans for cycle hire from Powderham estate) but is not in favour of the bridge. He highlighted the sensitive nature of the landscape, its protective designations and relevant planning policies in the local plan. Mr Thomas noted that such an application would not be entertained by a private individual. He reminded those present that the listed buildings and registered landscape should not be underestimated in this matter. He considers that the bridge will interrupt the landscape pattern. Mr Thomas stated that his client owns the existing slipway and is happy to make it available as part of this scheme as a method to cross the rail line. Mr Thomas reported that his client had been told by an engineer the cost of a tunnel or use of the slip way might be about the same as that expected for a bridge. His client remains unconvinced that the slipway and tunnel options have been fully considered. Mr Thomas asserted that his client has been consistent in his approach to new development on this land resisting it for the last 600 years.
- 2.15 Councillor Wragg asked the Applicant if the predicted rising sea levels had been taken into account in the proposal to site the cycle path at the foot of the bank. Mr Ewings confirmed it had.
- 2.16 Charles Dixon then spoke on behalf of his client, the Diocese of Exeter, who are also landowners affected by the proposed development. He explained that the Diocese owns the land on the western side of the railway (known as Glebeland) which is held in trust as a resource investment for clergy salaries, and that this is the principal driver for his client's comments on the scheme. Mr Dixon explained that his clients consider the bridge a rather alien structure in the landscape and had concerns regarding parking in the 'Lucombe Oak Avenue', Church Road. The area is already under pressure from people wishing to park on the verges of this road, and the Diocese fear this situation worsening with associated health and safety and liability risks associated with the trees. Mr Dixon explained his client seeks assurance that the County Council, as Highway Authority, will prepare a proposal to deal with the parking situation. Mr Ewings confirmed that plans were being prepared, and that there had already been discussions with the Diocese to assist it to include with some form of low level parking deterrent.
- 2.17 Councillor Giles asked the Applicant if any consideration had been given to travel ticket deals with the local rail and ferry companies to encourage the use of sustainable forms of transport to reach sections of the NCN2. Mr Ewings said that discussions so far had been unsuccessful in securing any such arrangement.
- 2.18 Councillor Connett (Local Member) stated that in general the path was a welcome proposal but the execution of it was in question. He reiterated that the Parish Meeting was very concerned that other options had not been fully explored. Councillor Connett stated that additional cars would park on Church Road and suggested that Members should not approve the planning application without understanding the other measures that will be taken to manage this first. Councillor Connett expressed his view that the proposed bridge design is ugly and not suited to the environment, particularly due to the design of the centre section. If the end solution is a bridge, then he considers that it should be a revised design. In this case he asked that the design be consulted upon with the Chair and Vice Chair of this Committee along with the Parish Meeting.
- 2.19 The Chairman then thanked all those present for attending and closed the meeting.