AGENDA

Kent County Council

REGULATION COMMITTEE MEMBER PANEL

Wednesday, 26th September, 2018, at 2.30 pm
The Belmont Ground, Belmont Road, Whitstable CT5 1QP

Ask for: **Andrew Tait**

Telephone **03000 416749**

Tea/Coffee will be available 15 minutes before the meeting

Membership

Mr A H T Bowles (Chairman), Mr I S Chittenden, Mr P J Homewood and Mr J M Ozog

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Membership and Substitutes
2. Declarations of Interest by Members for items on the agenda
3. Application to divert part of public footpath CW80 from the "at grade" foot crossing to a stepped bridge at Whitstable. (Pages 3 - 86)
4. Other items which the Chairman decides are Urgent

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Benjamin Watts
General Counsel
03000 416814

Tuesday, 18 September 2018

Application to divert part of public footpath CW80 from the 'at grade' foot crossing to a stepped bridge at Whitstable in the City of Canterbury

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A report by the Head of Public Protection to Kent County Council's Regulation Committee Member Panel on Wednesday 26th September 2018.

Recommendations:

1. **The applicant be informed that an Order to divert public footpath CW80 where it passes over the 'at grade' foot crossing to a stepped bridge at Whitstable, Canterbury is declined.**
2. **The applicant be informed that an Order to extinguish public footpath CW80 where it passes over the 'at grade' foot crossing at Whitstable is to be made.**
3. **The applicant be informed that an Order to extinguish public footpath CWX40 which runs from Glebe Way to CW80 is made (as the extinguishment of CW80 will mean footpath CWX40 is not needed).**

Local Member: Mr Mark Dance Unrestricted item

Introduction and background

1. The County Council has received an application to divert public footpath CW80 at Whitstable. The application has been made by Network Rail, in the interests of safety, to remove the 'at grade' foot crossing from the railway line and to run the path over a stepped bridge (see **Appendix A** for a copy of the application). Notification of the intended construction of the new footbridge was submitted to Canterbury City Council's Planning Department in May 2017 (Reference CA//17/01178).

2. The last risk assessment was carried out by Network Rail in October 2016, following which it was assigned a rating of C4, making it high risk (this is based on Network Rail's All Level Crossing Risk Model, ranking from A-M and 1-13 with A and 1 being the highest risk score). A number of incidents have been recorded at the crossing over the years including fatalities.

3. The main concerns for Network Rail at this crossing are:
   - a high level of usage, particularly by families/groups and encumbered walkers (it is estimated by Network Rail that it takes an average of 8 seconds to pass over the level crossing);
   - sighting of trains - although distances are compliant, they may be obscured by fog, vegetation, or a train passing in the opposite direction;
   - the sound of an approaching train or its warning horn may be obscured due to high background noise, high winds, heavy rain or nearby traffic;

- after waiting for an approaching train, a pedestrian can step out directly after the train has passed them on the nearest rail and step out from behind the train and straight into the path of an approaching train in the opposite direction, which would have been unseen and unheard due to the first passing train;
- a group of walkers, especially children, may follow one another onto the level crossing without thinking to look for themselves, especially if distracted within the group;
- users may have difficulty using the crossing due to visual or hearing impairment or distraction with headphones, etc.;
- users may be slow-moving due to a disability or age and this has been taken into consideration as part of the risk assessment despite their scarcity to ensure sufficient time is provided for them to safely cross over the crossing;
- even if a user is able to see a train, its speed may be misjudged;
- a user may trip, fall or collapse in front of an approaching train;
- a user may attempt to leave the level crossing and walk along the track to retrieve an unleashed dog or due to another distraction.

In addition to the risk factors listed above, records show that there were 33 incidents of misuse, trespass and near misses reported between 1998 and 2016. Of these, 4 were fatalities, 5 near misses, 16 incidents of trespass, 2 equipment concerns, 1 suicide intervention and an accident where someone was hit by a train but not killed. There were also 4 incidents of trains being damaged due to objects having been either placed on the line or thrown near the crossing. The full incident log can be found at **Appendix B**.

4. An extract from the Definitive Map can be found at **Appendix C** to show the path in context with the rest of the public rights of way network.
   The plan at **Appendix D** shows the length of path to be diverted by solid black lines between points A-B and the proposed new route by bold black dashes between points A-C-D.
   Documents at **Appendix E** show plans of the bridge design. The bridge would have 36 steps on each side and the route would be 2.0 metres wide.

5. A copy of the application and Diversity Impact Assessment can be found at **Appendix F**.

6. Following an informal consultation on the diversion proposal (see paragraphs 12-20 below for a summary of responses), it was clear there was a large amount of opposition, not so much to the closure of the crossing, but rather to the bridge and the impact of that on the local community and environment. As the majority of people considered the level crossing needed to close, the County Council undertook a further consultation on a complete extinguishment of the crossing. A plan showing the extinguishment can be found at **Appendix G** and a summary of the extinguishment consultation responses can be found at paragraphs 33-39 below.

Policy

7. The Countryside Access Improvement Plan, Operational Management document (2013) sets out the County Council's priorities for keeping the Definitive Map and Statement up to date. The main priorities in respect of Public Path Change Orders are:

   Public Path Change Orders will normally be processed in the order in which applications are received, except in any of the following circumstances where an Order maybe processed sooner:

   - Where it will satisfy one or more of the relevant key principles set out in paragraphs 4.14 – 4.25 of the CAIP Operational Management document;
   - Where an application has been made to the County Council in its capacity as Planning Authority;
   - Where the processing of an Order could save significant costs incurred in other Rights of Way functions;
   - Where a Public Path Change Order is made concurrently with Orders made under Section 53 of the Wildlife and Countryside Act.

8. The County Council will take into account whether the following criteria are satisfied before promoting a Public Path Change Order. Irrespective of the following, the statutory tests (as set out within the Legal Tests section) for changing public rights of way must apply.

   I. The status of the route must not be in dispute at the time of the application, unless the Public Path Order is being implemented concurrently with an application under Section 53 of the Wildlife and Countryside Act 1981.
   II. The applicant must agree to meet the County Council's costs of promoting the Order and bringing the new path into a fit condition for public use.
   III. The applicant must also agree to defray any compensation which may become payable as a result of the proposal.
   IV. The definitive line should, where it is considered by the County Council to be reasonably practicable be open, clear and safe to use.

9. However, nothing in this policy is intended to prevent the County Council promoting a Public Path Change Order in any case where it considers it appropriate in all the circumstances to do so.

Legal Tests – Rail Crossing Extinguishment or Diversion Order

10. Legislation relating to the extinguishment or diversion of a public path which crosses a railway, otherwise than by tunnel or bridge, is contained within Sections 118A (extinguishments) and 119A (diversions) of The Highways Act 1980 ("the 1980 Act"). The Procedure is in Schedule 6 of the same Act.

    (i) The Council may make an Order to extinguish or divert a public path if it is satisfied that it is expedient in the interests of the safety of users or likely users of at grade crossings.

    (ii) particular consideration has to be given to whether or not it is reasonably practicable to make the existing crossing safe for the public and what arrangements will be made to erect and maintain barriers and signs at the closed crossing.

Government Guidance

11. Rights of way circular (1/09) Guidance for local Authorities – also states:

    Rail crossing extinguishment orders (section 118A of the 1980 Act), paragraph 5.48

    "Section 118(2) provides that the order may extinguish the right of way on the crossing itself and for so much of its length as the authority deems expedient from the crossing to its intersection with another highway over which there subsists a like right of way."

    Rail crossing diversion orders (section 119A of the 1980 Act) Para 5.51

    "While other criteria are not specified in section 119A, the new way should be reasonably convenient to the public and authorities should have regard to the effect that the proposal will have on the land served by the existing path or way and on the land over which the new path or way is to be created. Consideration should also be given to the effect that the diverted way will have on the rights of way network as a whole and the safety of the diversion, particularly where it passes along or across a vehicular highway."

Consultation to the diversion proposal:

12. Consultations have been carried out as required by the 1980 Act:

County Member and Borough Councillors

13. County Member Mr Mark Dance and Canterbury City Councillors Ashley Clark, Brian Baker and Bernadette Fisher were consulted. Mark Dance agreed with the proposal. Councillor Clark agreed with the proposal, but in a second email stated that, after listening to local people, and given the human tragedy that had taken place in this area on several occasions, the PROW across the level crossing should be terminated and *existing* bridges used. Councillor Baker stated he supported the closing of the crossing but not the construction of the bridge as this would blight housing and living conditions for many local residents.

Canterbury City Council

14. Canterbury City Council was consulted. The Planning Committee passed the plans for the Network Rail bridge in terms of design and location, but at the same time a motion was passed instructing the Head of Planning to write to the County Council expressing its very strong opinion that the existing nearby pedestrian level crossing should be closed. The Committee, although granting prior approval for the proposed footbridge, did not express any strong desire for it to be provided as an alternative to the pedestrian level crossing. Planning Committee members noted that there were other routes, including an existing footbridge, that currently provide access for people who wish to walk from the south side of the railway towards the town centre or beach.

The Whitstable Society

15. The Whitstable Society objected to the diversion proposal, firstly on the grounds of safety: steps are a hazard to many people especially in wet and wintry weather. An improved level crossing with lights and automatic gates would allow free passage to all.
    Secondly on grounds of convenience: the proposed bridge which will have 36 steps each side would be much less convenient to pedestrians who have difficulty using steps, i.e. those with heart, lung disease, arthritis, and problems with balance.
    Thirdly, the environmental impact: this is a conservation area. A bridge will be unsightly and exceptionally high, due to there already being an embankment. This is unacceptable to those who will be overlooked.
    Fourthly, cost: The Society felt it was extraordinary that the cost of an improved crossing was prohibitive when compared to a bridge.
    Finally, there is also a stepped bridge to the west of CW80 at a similar distance to the proposed bridge which could possibly be modified and ramped and be less intrusive. This would not alter the objection however. The Whitstable Society put forward an alternative diversion heading west and connecting to an existing bridge.

User Groups

16. The Open Spaces Society, the Ramblers and the British Horse Society were consulted. The British Horse Society stated it had no comment to make on the application.
The Open Spaces Society representative stated he agreed with the safety grounds, although strongly believes the existing crossing is perfectly safe if people follow rules and use their common sense. He considers the diversion would be substantially less convenient due to the number of steps up and down the bridge, however, he would not object in the circumstances.
The Ramblers' representative put her name to the comments made by The Whitstable Society as detailed above.

East Kent Area Public Rights of Way Officer

17. The PROW Officer responsible for the Canterbury area felt that the safety measures at the crossing needed to be reviewed following the tragic accident that resulted in a loss of life. She expressed concern at the amount of steps on the proposed bridge, which would affect access for certain users and even inhibit use of the route altogether by some members of the public as well as creating a trip hazard.

Statutory Undertakers

18. No objections were received from any Statutory Undertakers who responded to the consultation.

Kent County Council Traffic Schemes (Highway Services)

19. No response was received from Kent County Council Traffic Schemes.

Local Residents

20a. One local resident objected to the proposal, stating it would create two long lonely alleyways. If unlit it would be dangerous; if lit, residents' homes could be lit up all night. Alleyways at night attract drug users and all sorts of anti-social behaviours and are very dangerous for people on their own. They felt it would be of no use to the disabled and worse for people with walking difficulties. A bridge would be an eyesore for local residents. They stated that proper automated gates are needed with visual and audio warnings.

20b. Another resident opposed the proposal as her property would be overlooked by the bridge and it would affect her privacy. She had been told that it would devalue her property by £50,000. She does not use the level crossing often but the steps up and down the new bridge would prevent her from using that.

20c. Another resident opposed the proposal, as whilst a bridge would obviously make for a safer crossing, it would also prevent those with mobility problems, mothers with buggies and cyclists from crossing. She suggested some sort of system like the green/red man on roads could be used to alert people to coming trains, and if a new bridge was to be built, it should be further up the line and with access for everyone.

20d. Two local residents who regularly use the existing crossing stated the only problem they have with it is the trains tooting on approach to it. When considering safety, they thought there could not be many accidental deaths of people crossing the railway here. They would not object, however, stating that if safety is the sole concern, then the only option is to close the crossing as convenience and enjoyment are overshadowed by even one accidental death.

20e. One resident strongly objected. She is a frequent user of the crossing, using it sometimes several times a week, in complete safety. She stated that the new very loud audible signal is impossible not to hear, well in advance of any train. She added that there was no reason for a footbridge to be built, but a stepped one would be extremely difficult to use for many people with limited mobility or with push-chairs etc. Although still fit and active, she now has to use a shopping trolley. She has no trouble getting this through the gates but would find it impossible to carry it up all the steps on the proposed bridge, which could risk her falling. The current route is far safer and quicker to the High Street than going along the main road with all the traffic and "dreadful pavements." The bridge would result in a loss of privacy for many homes either side of it for quite a distance. She suggested the only additional safety feature required could be a warning flashing light but considered the crossing was safe if used correctly.

20f. One resident supported the proposal, stating she felt it would be much safer for people and dogs.

The Case - the proposed diversion of public footpath CW80 at Whitstable

21. In dealing with the application to divert a public right of way, consideration must be given to the following criteria of Section 119A of the Highways Act 1980: -

a) Whether it is in the interests of the safety of users or likely users of at grade crossings

b) whether it is reasonably practicable to make the crossing safe for use by the public, and what arrangements have been made for ensuring that, if the order is confirmed, any appropriate barriers and signs are erected and maintained.

c) whether the diversion order alters a point of termination of the path or way, if that point is not on a highway over which there subsists a like right of way or, otherwise than to another point which is on the same highway, or another such highway connected with it.

d) whether the order should make provision requiring the operator of the railway to maintain all or part of the right of way created by the order.

22. To be taken into account but not listed as criteria under Section 119A of the Act but in Rights of Way Circular (1/09):

a) Whether the right of way will be reasonably convenient to the public;

b) The effect the proposal will have on the land served by the existing path or way and on land over which the new path or way is to be created.

c) The effect that the diverted way will have on the rights of way network as a whole.

d) The safety of the diversion, particularly where it passes along or across a vehicular highway.

23. Those criteria are considered individually and conclusions drawn below: -

a) Whether it is expedient in the interests of the safety of users or likely users of the crossing.

The last risk assessment was carried out by Network Rail in October 2016, following which it was assigned a rating of C4, making it high risk (this is based on Network Rail's All Level Crossing Risk Model, ranking from A-M and 1-13 with A and 1 being the highest risk score). A number of incidents have been recorded at the crossing over the years including fatalities.

The main concerns for Network Rail at this crossing are:

- a high level of usage, particularly by families/groups and encumbered walkers (it is estimated by Network Rail that it takes an average of 8 seconds to pass over the level crossing);
- sighting of trains - although distances are compliant, they may be obscured by fog, vegetation, or a train passing in the opposite direction;
- the sound of an approaching train or its warning horn may be obscured due to high background noise, high winds, heavy rain or nearby traffic;
- after waiting for an approaching train, a pedestrian can step out directly after the train has passed them on the nearest rail and step out from behind the train and straight into the path of an approaching train in the opposite direction, which would have been unseen and unheard due to the first passing train;
- a group of walkers, especially children, may follow one another onto the level crossing without thinking to look for themselves, especially if distracted within the group;
- users may have difficulty using the crossing due to visual or hearing impairment or distraction with headphones, etc.;
- users may be slow-moving due to a disability or age and this has been taken into consideration as part of the risk assessment despite their scarcity to ensure sufficient time is provided for them to safely cross over the crossing; even if a user is able to see a train, its speed may be misjudged;
- a user may trip, fall or collapse in front of an approaching train;
- a user may attempt to leave the level crossing and walk along the track to retrieve an unleashed dog or due to another distraction.

In addition to the risk factors listed above, records show that there were 33 incidents of misuse, trespass and near misses reported between 1998 and 2016. Of these, 4 were fatalities, 5 near misses, 16 incidents of trespass, 2 equipment concerns, 1 suicide intervention and an accident where someone was hit by a train but not killed. There were also 4 incidents of trains being damaged due to objects having been either placed on the line or thrown near the crossing. The full incident log can be found at **Appendix B**.

Although not all, the majority of consultees agreed that the crossing was not safe. In light of the consultation and the reasons for the application, it is considered expedient in the interests of the safety users or likely users of the crossing that it should be diverted.

b) whether it is reasonably practicable to make the crossing safe for use by the public, and what arrangements have been made for ensuring that, if the order is confirmed, any appropriate barriers and signs are erected and maintained.

Following the tragic fatality of a 15-year-old girl in February 2015, the Coroner raised a number of concerns (see **Appendix B** after the incident log). Whistle boards were present at this crossing which provided users with a warning time of 9.8 seconds when the driver sounded his horn. It is not possible to relocate these to provide a greater warning time as they need to be sited within a certain distance of the crossing to be effective. In January 2016 an audible warning system called COVTEC was installed at the level crossing. This device replicates the sound of a train horn directly at the crossing and works by using a laser to detect an approaching train. This system is a 'stand-alone' system and is not operated by the driver of the train. Although this has reduced the risk to users at the crossing by approximately 10%, this level crossing still poses a high risk.

Network Rail installed low level blue solar powered carriage lights in February 2016 along the edge of the crossing decking due to the absence of any dedicated lighting sited over the crossing.

Other measures, such as visual warning systems, vegetation clearance, permanent speed restriction and Miniature Stop Lights have also been considered in the application documentation, but Network Rail was not able to identify any other works that could be undertaken to improve safety of the crossing.

The existing level crossing will be securely fenced off in order to prevent unauthorised access to the railway. Any signage required by the Council at the crossing (and any other points) will be provided.

c) whether the diversion order alters a point of termination of the path or way, if that point is not on a highway over which there subsists alike right of way or, otherwise than to another point which is on the same highway, or another such highway connected with it.

The new route would not alter the point of termination of the path.

d) whether the order should make provision requiring the operator of the railway to maintain all or part of the right of way created by the order.

Network Rail would maintain the structure of the bridge and future maintenance of the surface of the footpath where it forms part of the bridge.

Tests to be considered under Circular (1/09)

24. a) Whether the right of way will be reasonably convenient to the public.

From consultation responses, it is evident that this route is both a utility and recreational route. The proposed route would run over a new stepped bridge with 36 steps on each side. The existing route has a kissing gate at either side of the level crossing but is without steps or gradient. Consultation responses indicated that a stepped bridge would prevent some people from being able to use the route altogether. The time taken to traverse the bridge would increase journey time by about 3-4 minutes. The additional journey time was not a factor that people commented on, so this aspect is not considered to be substantially less convenient. However, the bridge itself is considered to be substantially less convenient. Canterbury City Council Planning Committee passed the plans for the Network Rail bridge in terms of design and location, but at the same time passed a motion instructing the Head of Planning to write to the County Council expressing its very strong opinion that the existing nearby pedestrian level crossing should be closed. The Committee, although granting prior approval for the proposed footbridge, did not express any strong desire for the proposed footbridge to be provided as an alternative to the pedestrian level crossing. Planning Committee members noted that there were other routes, including an existing footbridge, that currently provide access for people who wish to walk from the south side of the railway towards the town centre or beach.

b) The effect the proposal will have on the land served by the existing path or way and on land over which the new path or way is to be created.

The proposal will have no impact on the land served by the existing right of way. However, although the new path will still all be within the ownership of Network Rail and will not specifically affect that land, the consultee responses indicate that many people consider there will be a negative environmental impact visually on the neighbourhood. In addition, it is considered the bridge will affect the privacy and property value of at least one property.

c) The effect that the diverted way will have on the rights of way network as a whole.

The diverted way will have little impact on the rights of way network as a whole. The termination points are unchanged and there is relatively little added distance as a result. However, the bridge will possibly exclude some walkers who can currently use the level crossing.

d) The safety of the diversion, particularly where it passes along or across a vehicular highway.

The safety of the new route over the stepped bridge has received negative comments and objection from some consultees, as steps can be a hazard in their own right, especially when wet or slippery. There is, therefore, a concern that the proposed new route running over the stepped bridge is not significantly safer than the level crossing.

Further considerations

25. In addition to the tests set out in section 119A of the Highways Act 1980, the County Council must also have regard to the following issues when considering an application to divert a public right of way:

26. Under section 29 of the Highways Act 1980, the County Council has a duty to have regard to the needs of agriculture (including the breeding and keeping of horses), forestry and the desirability of conserving flora, fauna and geological and physiographical features. In this case, there would be no adverse effect caused by the diversion of the path.

27. Section 40 of the Natural Environment and Rural Communities Act 2006 requires that every public authority must have regard "*so far as is consistent with the proper exercise of [its] functions, to the purpose of conserving biodiversity*". In this case, there would be no adverse effect caused by the diversion of the path.

28. Where the affected land forms part of an Area of Outstanding Natural Beauty ("AONB"), section 85 of the Countryside and Rights of Way Act 2000 requires that the County Council shall have regard to *"the purpose of conserving and enhancing the natural beauty"* of the AONB. In this case the land does not form part of an AONB and as such there would be no adverse effect.

29. Under section 17 of the Crime and Disorder Act 1998, the County Council has a duty to exercise its functions *"with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area*". In this case, there would be no adverse effect caused by the diversion of the path.

30. Finally, the County Council is subject to the public sector duty regarding socio-economic inequalities set out in section 1 of the Equalities Act 2010. Network Rail has conducted a Diversity Impact Assessment (see **Appendix E**). It is evident that the new route running over the stepped bridge will exclude a number of people from being able to use the route.

Conclusion

31. In this particular case, it is considered that the tests under section 119A of the Highways Act 1980 (see paragraphs 23a and 23b above) are met. However, taking into consideration the tests to be considered under Circular 1/09 (see paragraph 24 above), the new route is to run over a high stepped bridge, which includes its own risks, and will exclude some members of the public that are currently able to access the existing route. Adding to this the environmental and other negative impacts mentioned above, it is considered that, on balance, an Order should not be made.

The Case - the proposed extinguishment of public footpath CW80 at Whitstable

32. When it became clear that there was heavy opposition to the diversion over a bridge, but still support for the crossing to close, it was considered a consultation should take place on an extinguishment of the path, where no alternative was to be provided.

Consultation to the extinguishment proposal:

33. An informal consultation was undertaken with all those who were consulted or who commented about the diversion proposal.

Canterbury City Council

34. Canterbury City Council responded that its previous comments in relation to the diversion proposal apply to this (see paragraph 14) and that it supports the closure of the crossing.

Canterbury City Councillors

35a. Councillor Ashley Clark responded, confirming that the Planning Committee at Canterbury City Council debated this issue in relation to the proposed bridge. As a result of that meeting and a unanimous expression of the Members, a letter was forwarded by the Head of Planning to the County Council intimating that the crossing should be closed and that existing routes would fulfil the needs of the public. He further commented that it is always regrettable when a PROW is closed, but human rights have to be balanced against human responsibilities. After much deliberation he was firmly of the view that the only responsible course of action would be for the crossing to be closed. The construction of a bridge would not be necessary given the alternative route via Alexandra Road to the foot bridge that leads directly to the causeway across the golf course which the majority of people use to access the seafront. A bridge would have caused problems in respect of overlooking and would not have enhanced the area. He specifically made the following observations:

- *This crossing dates from the epoch of steam when trains were noisier and slower and rails were not electrified. As such it is anachronistic.*
- *Like it or not this site is a place of human tragedy and sadness with multiple deaths over the years. We have to deal with the situation as it is and not as we might like it to be. Vulnerable adults have lost their lives here and a child, and the fact remains that we owe such individuals a duty of care. It will always be a fact that the young are not always blessed with the wisdom and experience of their elders.*

- *Victims in this case are not confined to those who have lost their lives and their relatives. One has to consider the train drivers, those in the emergency services and local people who may bear mental scars from the experience.*
- *Every year the authorities spend thousand in education, cctv and so on in trying to prevent persons trespassing on the railway for obvious reasons of safety but here we have a situation where we have created a gap in the fence with unrestricted access. This makes a total nonsense of what we are trying to achieve.*
- *The existing bridge crossing to the west is more than adequate for the majority of needs and affords a direct route to the seafront.*

35b. Councillor Baker endorsed everything that Councillor Clark stated and added that when the Railway arrived in 1841, Whitstable had few made-up footpaths and the roads were little better than muddy byways. The reason that a PROW exists at this point is because it was adjacent to the original temporary Railway platforms built as the line was being constructed and allowed users to access both sides. The first proper Railway Station was then built to one side of the bridge constructed over the junctions of Canterbury Road and Oxford Street. By the time that the present Station was opened between Railway Avenue and Old Bridge Road in 1911, the original temporary platform next to CW80/CWX40 had been already been removed as no longer required, but the Crossing remained as a PROW. There are other safer routes to go over or under the railway line and with all things considered, he is still of an opinion that this crossing and PROW should be removed.

Local Residents

36a. One local resident strongly supported the closure of the crossing, stating that it is not safe. They live close to the crossing and have witnessed the aftermath of some of the tragic deaths that have occurred. They consider it is not necessary as there are other routes nearby.

36b. Another local resident also supported the closure of the crossing through extinguishment of the footpath, commenting that trains now are much faster and quieter than they used to be and there have been too many tragic deaths at this crossing. They also state that it is not far to walk around using the alternatives.

36c. One resident, who had objected to the diversion, also objected to the closure of the crossing as it would mean a long detour for her to reach the other side. She uses the current crossing frequently and considers there are no suitable alternatives.

User Groups

37. The Open Spaces Society representative stated he would oppose the extinguishment of the crossing, as it will cause considerable inconvenience to many and believing it would be ignoring the interests of the majority.

East Kent PROW Officer

38. The East Kent PROW Officer felt it would be a shame to lose the path, although she does understand how this has all come about.

The Whitstable Society

39. The Whitstable Society stated it fully supports KCC's policy against extinguishments of paths and it notes the strong local opposition to the negative impacts of the proposed diversion over the footbridge. Its position is to support the closure of the crossing subject to an alternative footpath being provided, which they proposed should run to the west to link up with an existing footbridge, over which footpath CW53 runs. Whilst Network Rail carried out a preliminary investigation into the feasibility of such an option, due to the lack of support from local residents and the British Transport Police, it was not considered to be a viable option to pursue. However, in order to respond fully to the Whitstable Society's alternative route suggestion, Network Rail carried out a consultation exercise with the residents of Alexandra Road and the properties adjacent to the proposal on West Cliff. Out of 12 responses, only one did not object. A summary of the main objection points is as follows:
    - Loss of privacy
    - Increased risk to security
    - Risk of anti-social behaviour increasing
    - Loss of wildlife habitat
    - Light pollution

    In addition, other comments included that the diversion was not needed as there were already existing routes available. As a result, Network Rail rejected pursuing the proposal put forward by the Whitstable Society.

Conclusion

40. In dealing with an application to extinguish a public right of way running over a level crossing, consideration must be given to the following criteria of Section 118A of the Highways Act 1980: -

a) Whether it is in the interests of the safety of users or likely users of at grade crossings

b) whether it is reasonably practicable to make the crossing safe for use by the public, and what arrangements have been made for ensuring that, if the order is confirmed, any appropriate barriers and signs are erected and maintained.

41. Both of these criteria are dealt with at paragraphs 23a and 23b above and apply equally here.

42. Therefore, in this particular case, it is considered that the tests under section 118A of the 1980 Act (see paragraphs 23a and 23b above) are met. It became evident throughout the consultations that, with the exception of a small minority, this crossing is considered to be unsafe. Two diversion proposals have been explored and rejected for different reasons as explained above.

43. *Rights of way circular (1/09) Guidance for local Authorities* states:

Rail crossing extinguishment orders (section 118A of the 1980 Act), paragraph 5.48

"Section 118(2) provides that the order may extinguish the right of way on the crossing itself and for so much of its length as the authority deems expedient from the crossing to its intersection with another highway over which there subsists a like right of way."

If public footpath CW80 is extinguished, it will leave public footpath CWX40 as a cul-de-sac path, leading to nowhere for the public. Therefore, it is considered that section 118(2) of the Highways Act 1980 be applied here and for public footpath CWX40 to be extinguished at the same time.

Recommendations

44. Therefore, the following are recommended:
    - the County Council declines to make an Order to divert public footpath CW80 where it passes over the 'at grade' foot crossing to a stepped bridge at Whitstable, Canterbury, as per the original application.
    - the County Council makes an Order to extinguish public footpath CW80 where it passes over the 'at grade' foot crossing at Whitstable and that the Definitive Map and Statement are amended accordingly.
    - the County Council makes an Order extinguish public footpath CWX40 which runs from Glebe Way to CW80 (as the extinguishment of CW80 will mean footpath CWX40 is not needed) and that the Definitive Map and Statement are amended accordingly. The two extinguishments would form part of the same Order.

45. It is likely that the Order will attract objections. Therefore, it is further recommended that, if objections are received and the Order is submitted to the Secretary of State for the Environment, Food and Rural Affairs, the County Council will take a neutral stance at any Public Inquiry.

Accountable Officer:
Mr Mike Overbeke – Tel: 03000 413427 or Email: mike.overbeke@kent.gov.uk
Case Officers:
Mr Graham Rusling – Tel: 03000 413449 or Email: graham.rusling@kent.gov.uk
Mrs Maria McLauchlan – Tel: 03000 413420 or Email: maria.mclauchlan@kent.gov.uk

The case file is available for viewing on request at the PROW & Access Service, Invicta House, County Hall, Maidstone, Kent, ME14 1XX. Please contact the Case Officer for further details.

List of appendices

Appendix A - Copy of application
Appendix B - Incident Log & Coroner's Report
Appendix C - Extract from the Definitive Map, sheet 207 (TR1065)
Appendix D - Plan of diversion proposal
Appendix E - Design of bridge
Appendix F - Diversity Impact Assessment
Appendix G - Plan of proposed extinguishment
Case file - PROW/CW80/10/NR

REQUEST FOR A RAIL CROSSING DIVERSION ORDER TO BE MADE UNDER SECTION 119A OF THE HIGHWAYS ACT 1980 (INSERTED BY THE TRANSPORT AND WORKS ACT 1992)

The following questions are to be answered and the information and maps requested to be supplied by the applicant to the council which is to be requested to make the order. Tick the relevant box shown in some questions.

FOR AUTHORITY'S USE ONLY

File Ref: / /

Date acknowledged:

1. RAIL CROSSING TO BE EXTINGUISHED BY THE DIVERSION ORDER

(a) Name and location of rail crossing (including grid reference and parish or district in which it is located).

Name:	Glebe Way Level Crossing
Nearest station:	Whitstable
Mileage:	VIR @ 58 miles 35 chains
NGR:	TR105659
Parish:	Whitstable
District:	Canterbury
County:	Kent

(b) Name(s) and number(s) of any footpaths and/or bridleways leading to the crossing to be extinguished. (Indicate whether footpath or bridleway.)

FP No: CW 80

(c) Length in metres of any path or way to be extinguished.

16 metres.

(d) Description of any length of path or way to be extinguished by reference to terminal points shown on attached map which must be to a scale of not less than 1:2500 or, if no such map is available, on the largest scale readily available.

The dotted line on the attached plan.

(e) List the name(s) and address(es) of the owners, lessees and occupiers of the land on either side of any path or way to be extinguished.

The Applicant is the owner of all relevant land.

(f) Have you obtained the written consent of every person having an interest in the land over which any path or way to be extinguished passes, in so far as such consent is needed?

N/A

If YES, enclose all the written consents.

Please see (e) above.

If NO, enclose all written consents that you now possess and give particulars of those where consent has been refused or has yet to be obtained.

(g) Is the crossing, or any path or way to be extinguished, subject to any limitations or conditions?

Yes

If YES, give details.

The railway is on a low embankment at the location of the crossing and the tarmac approaches ramp up to the crossing on both sides. There is also uneven surfacing around the level crossing.

The crossing currently has a metal kissing gate on the approach to both sides, which limits the accessible width on the approaches to the crossing. Whilst kissing gate arrangements are not generally considered accessible to users with pushchairs and bicycles, limited use by both was recorded during the nine day census in March 2015.

The kissing gate arrangement does prevent use by those using a wheelchair or mobility scooter.

2. NEW PATHS OR WAYS TO BE CREATED

(a) Describe type: Bridleway or Footpath

Footpath

(b) Give description: width, length, terminal points (indicating any sections which run over existing paths or ways) by reference to the accompanying map at paragraph 1(d) above.

Width: 1.6m useable width allowing for handrail protrusion
Length: 145 metres
Diversion route is shown by a dashed line on the attached plan.

(c) List the name(s) and address(es) of the owners, lessees or occupiers of the land over which the new path(s) or way(s) would pass.

The Applicant is the owner of all relevant land.

(d) Have you obtained the written consent of every person having an interest in the land over which the path or way to be created passes, to this land being dedicated for this purpose, in so far as such consent is needed?

The Applicant is the owner of all relevant land.

If YES, enclose all the written consents.

Please see (c) above.

(e) Are you prepared to maintain all or part of the path or way to be created?

It is envisaged that Network Rail will maintain the structure of the bridge with the Highway Authority taking on responsibility of the surfacing of the diverted route.

(f) Will the highway authority accept responsibility for that part of the path or way to be created which does not pass over the applicant's land?

N/A

If YES, a copy of any relevant letter must be attached.
If NO, state reasons.

(g) Are you prepared to enter into an agreement with the council in accordance with section 119A(8)?

Yes.

(h) Will the new path or way connect with a trunk road?

No.

(i) Give reasons for the proposed rail crossing diversion order. Include information about:

i. The use currently made of the existing path, including numbers and types of users, and whether there are significant seasonal variations, giving the source for this information, together with details of any survey carried out (any circumstances preventing or inhibiting such use must also be mentioned);

The path over the level crossing is well used by local residents, dog walkers and families.

Following a 9 day census in October 2016 an average of 115 users per day were recorded. Due to the presence of kissing gates, no wheelchair or mobility scooters were recorded using the crossing. There was however 7 cyclist movements recorded over the crossing during this 9 day period.

An earlier 9 day census in March 2015 (referred to in the attached DIA) recorded an average of 201 users per day. During this census a total of 135 children were recorded using the crossing; 41 of these were unaccompanied.

Despite the presence of kissing gates there were 10 recorded uses made by pushchairs/prams and eight cyclists were recorded using the crossing over these nine days

These daily averages of 115 and 201 users over the level crossing are considered to be a high level of use over a public footpath level crossing.

As detailed above, it is also known that people will cross over the level crossing with bicycles and pushchairs/prams; thus impeding their manoeuvrability/ability to react to an approaching train and slowing them down in general when passing over the level crossing.

ii. The risk to the public of continuing to use the present crossing, and the circumstances that have given rise to the need to make the proposed order;

The last risk assessment was carried out on 26th October 2016. On Network Rail's All Level Crossing Risk Model, which assigns a relative risk to each level crossing, the crossing scored a rating of C4, making it high risk.

The key risk drivers are:

- Limited sighting of approaching trains
- Fast and frequent trains
- High level of users
- Sun glare
- Reduced sighting in summer months due to vegetation
- Reduced sighting due to fog

However, it is felt that these factors do not adequately represent the risk at this level crossing and Network Rail's view that this crossing poses a likelihood of danger to the public.

There are numerous safety risks to users inherent in all level crossings. At Glebe Way, users are instructed to 'Stop, Look, Listen' and 'Beware of Trains'. The specific risks include:

- Sighting of trains may be obscured by vegetation, fog, or a train passing in the opposite direction;
- The sound of an approaching train or its warning horn may be obscured due to high background noise, high winds, heavy rain or nearby traffic;
- After waiting for an approaching train to pass a pedestrian can step out directly after the train has passed them on the nearest rail and step out from behind the train and straight into the path of an approaching train in the opposite direction, which would have been unseen and unheard due to the first passing train;
- A group of walkers, especially children, may follow one another onto the level crossing, without thinking to look for themselves, especially if otherwise distracted within the group;
- Users may have difficulty using the crossing due to visual or hearing impairment or distraction with headphones etc;

- Users may be slow-moving due to a disability or age. If these users are not taken into account as part of the risk assessment due to their scarcity, there may not be sufficient time provided for them to safely cross over the crossing;
- If a user is able to see a train, they may misjudge its speed and believe they have sufficient time to cross;
- A user may trip, fall or collapse in front of an approaching train, especially if already crossing and then panic at seeing a train approaching and bearing down on them;
- A user may attempt to leave the level crossing and walk along the track to retrieve an unleashed dog or due to another distraction.

Records show that there were 33 incidents of misuse, trespass and near misses reported between 1998 and 2016. Of these, four were fatalities and five near misses along with sixteen incidents of trespass, two equipment concerns, one suicide intervention and a personal accident where a person was hit by a train but not killed. There were also four incidents of trains being damaged due to objects having been either placed on the line or thrown near the crossing. The full Incident Log is attached.

It is clear from the Incident Log that the level crossing presents an uncontrollable risk which should be removed from the railway network.

The level crossing is situated between Clifton Road/Portway (to the north) and Glebe Way to the south.

When crossing from Clifton Road to Glebe Way and looking west/right, there is sufficient available sighting of approaching trains to a user:

When looking east/left from the same point, the sighting available is:

This photo helps to demonstrate the track curvature that cannot be fully appreciated from the Glebe Way side of the level crossing; giving users only 244 metres of available sighting.

When looking east/right when crossing from Glebe Way the available sighting is only 293 metres and again affected by the track curvature:

When looking west/left from the same point, there is sufficient sighting available:

It is estimated that an average person would require 8 seconds to safely pass over the crossing.

Vulnerable users (children, elderly, or encumbered users with dogs, bicycles, carrying bags etc.) would require approximately 50% longer to safely pass over the crossing. Whilst use by the elderly and youths was captured during the census, it is not considered to be of a high enough level of use to increase the allocated crossing time.

There is high-level parliamentary recognition of adopting categories of vulnerable users specifically in connection with assessing level crossings in public safety terms: see House of Commons Safety at Level Crossings (11th Report of Session 2013-2014): Part 4I from paragraph 41: *'young people*' are vulnerable persons crossing*, inter alia, 'because they cannot process correctly the speed of objects coming towards them*'; older users may be vulnerable, by reason of mobility and sighting impairment.

'Vulnerable' characteristics/features include, but are not limited to, the particularly young, the aged (who possess a comparatively high propensity for developing a sight, hearing and/or mobility impairment and unable to walk fast or unaided), others with sight, hearing and/or other impairments.

Persons with improvised impairment, being those wearing hoodies/obstructing headwear or using head/ear phones, talking on a

mobile phone, or those burdened by a heavy bag, trolley, bicycle, persons walking/leading dog(s) or any combination of the these are also considered to be vulnerable in safety terms and the activity poses a category of vulnerability, which adds to the risk at level crossings.

The minimum sighting distance required at this level crossing is 232 metres, which is achievable in all directions, thus the level crossing is compliant.

However, due to track curvature and known vegetation growth issues, which limit the available sighting during the summer months, whistle boards are present at this level crossing, which provide users with a warning time of 9.8 seconds.

Whistle boards require train drivers to sound their horns on approaching the level crossing. This system relies on the individual actions of drivers and the residual risk remains that users of the level crossing may not hear or appreciate the significance of the train horn. There is also a risk that drivers will fail to sound their horn as required thus providing no warning of approach to users.

In order to be effective whistle boards cannot be placed further than 400 metres from the level crossing; in this location whistle boards are located at 297 metres on the Up line and 300 metres on the Down line and are thus within the compliant distance.

It must be noted however that whistle boards only ever provide a partial mitigation; at certain times they will be ineffective due to above average background noise and are also ineffective to warn users with hearing impairments or those wearing headphones.

During both 9 day census' usage of the level crossing was captured between the hours of 23.00 and 07.00 (referred to as 'dark hours'); during these times train drivers are not permitted to sound their horns; this results in users of the level crossing during these hours having no warning of an approaching train.

It is worth noting that if 50% additional crossing time is to be factored in to account for vulnerable users, taking the crossing time from 8 seconds to 12 seconds, the sighting available in all directions would be insufficient, as would the warning time provided by the train horn; Network Rail would need to reposition the whistle boards and it is possible these would need to be beyond the 400 metre point, thus resulting in the crossing being non-compliant. If this situation were to occur it is extremely likely that Network Rail would need to take action to temporarily close the level crossing to prevent a serious incident or another fatality occurring.

Following the tragic fatality (deemed an accident) of a 15 year old girl in February 2015, the coroner raised a number of concerns. For

completeness, the coroner's report is attached and an overview of each concern raised is detailed below, together with Network Rail's responses/actions:

1. The whistle boards on both lines may be sited too close to the crossing the crossing to provide sufficient reaction time for both pedestrians and train drivers. This is so despite the evidence that the whistle boards are within compliant range of distances.
2. There is a real prospect that pedestrians with hearing difficulties or those listening to a portable device…will not hear the distant audible warning.
3. Only providing a distant audible alert may not be a fully effective means of warning pedestrians. There is an absence of an audible alert issued from speakers at the crossing.

An audible warning system called COVTEC was installed at the level crossing in January 2016. This device replicates the sound of a train horn directly at the crossing and works by using a laser to detect an approaching train. This system is a 'stand-alone' system and is not operated by the driver of the train; the system will continue to sound during 'dark hours', thus providing users with a warning of an approaching train. The installation of COVTEC has reduced the risk to users at the level crossing by approximately 10%, but this level crossing still poses an unacceptable risk.

4. There is an absence of a visual alert system at the crossing.

The installation of visual warning systems is considered further below, however it is noted that the installation of red/green lights does not necessarily reduce the risk at level crossings, and the cost of installation can be similar to, or more than, installation of a stepped footbridge.

5. There is an absence of any dedicated lighting sited over the crossing.

Network Rail have addressed this concern by the installation of low level blue solar powered carriage lights, which were installed in February 2016, along the edge of the crossing decking. Crossings of this type are not usually lit as it may cause interference with signals and confuse train drivers. Further, at this location there are street lights present on both sides of the crossing, outside of the Network Rail boundary, which provide ambient lighting to the crossing.

6. Although the crossing fell into a 'high risk' category…no immediate action appears to have been taken despite fatalities in 2010, 2011 and April 2012.

These fatalities were connected suicides and could not have been prevented without full closure of the level crossing. Unfortunately we are unable to prevent suicides on the railway.

If the level crossing is closed via the installation of the proposed footbridge, then access onto the railway line will be prevented at this location and thus suicides occurring at this location will also be prevented.

The main concern at this crossing is the high level of usage, and particularly by families/groups and encumbered walkers; this vastly increases the risk of an incident as users are less likely to be paying full attention to the crossing, approaching trains and their surroundings when carrying objects, in large groups or concentrating on children, other walkers and dogs.

Whilst the level crossing surface is not at a skew, there is uneven surfacing around the decking as well as a slight incline on the approaches, which may distract users as well as causing them to lose balance or trip when carrying/guiding objects etc.

The line speed on both lines over the crossing is currently 65 mph; it is possible that this line speed will be increased in line with government policies to reduce passenger journey times.

According to the Highway Code the typical braking distance for a car travelling at 70mph is 75m; the braking distance for a passenger train travelling at 70mph is 730m. At 50mph, a car can stop within 38m, a train travelling at 50mph would take 380m; this does not account for thinking time of the driver in taking reactive action to make an emergency break.

Our judgement of speed is intuitive and often based on our daily experience of road vehicles. This can give us a highly inaccurate perception of the speed of an approaching train, which is travelling in an environment without many of the usual markers which help us to evaluate speed and distance (e.g buildings, road markings, other cars etc).

Our knowledge of the braking capacity of road vehicles, based upon the friction achieved between modern treaded rubber compound tyres and tarmac road surfaces, is of a different nature to the considerably longer distance required for trains relying upon the friction between metal wheels and metal track.

Based on these perceptions it is possible for pedestrians to see an approaching train and believe they have time to cross before the train reaches the level crossing, or that the train may be able to stop in time; this is not the case.

There are currently 86 trains timetabled to pass over the crossing per day; it is also possible that this number may increase in line with government desires to increase passenger numbers on the railway.

iii. The effect of the extinguishment of the crossing and the creation of the proposed new path(s) or way(s) having regard to the convenience to users and the effect on any connecting rights of way and the network as a whole;

It is proposed to divert the footpath to a newly erected stepped footbridge approximately 53 metres to the east of the existing level crossing.

Closure of the level crossing without provision of an alternative, or by constructing a subway or bridge at or near the site of the existing level crossing, will alter the physical characteristics of the current route. This could potentially lead to some users having to travel further, but it would also improve their safety, as all alternative crossings of the railway remove the need for users to come into direct contact with the operational railway.

It would not be possible for Network Rail to pursue an accessible solution at this location given land ownership (both for siting of the structure and land to enable construction – any ramped structure would require the removal of Clifton Road) and funding constraints. It is also unlikely that a ramped footbridge in this location would be successful in obtaining planning permission due to the size and bulk of the required structure and the proximity to existing dwellings.

Convenience to users will be minimally impacted as the proposed diversion route links the land on both sides of the crossing and also links up to the existing footpath network in the area at the same points as the current footpath.

In considering the characteristics of those users captured during the 9 day census of the level crossing, the evidence indicates a very low level of inconvenience will arise by virtue of the proposed footbridge, weighed against the safety benefits. Diverting the public away from the existing level crossing onto a safer route nullifies any low level inconvenience that an objecting minority may perceive arises from this proposal.

The proposed diversion route will take approximately 3-4 minutes to walk.

Network Rail has a target to have a ‘net positive contribution to biodiversity’ this means that we will try to improve what we have taken away and will work with the Highway Authority to determine whether any highways improvement works are feasible along the diversion routes or to improve the links to other public rights of way.

iv. The opportunity for taking alternative action to remedy the problem such as a bridge or tunnel in place of the existing crossing or the carrying out of safety improvements to the existing crossing;

A stepped footbridge to the east of the level crossing is the proposed solution.

Whistle boards are positioned on both lines approaching the crossing as sighting of approaching trains during the summer months can be deficient in both directions. Whistle boards assist in mitigating the risk at level crossings, but do not remove the risk, as discussed above.

Vegetation management has been undertaken, and is regularly required to maintain current sighting distances, but due to track curvature no further improvement could be made to available sighting.

Due to insufficient land ownership and inadequate funding availability no other works can be undertaken to improve safety of the crossing in its current form and location.

A PSR would not be appropriate at the level crossing. A reduction in speed will inevitably affect train performance levels and timetabling. This is contrary to Network Rail's licence conditions to operate the railway network efficiently and economically, so far as is reasonably practical and in having regard to all relevant circumstances to satisfy the needs of train operators. Any proposed reduction in speed would need to be approved by stakeholders and that agreement to such a permanent reduction in speeds would not be reached.

Miniature Stop Lights have been considered, but they do not remove the risk as pedestrians still cross on the level in front of trains and, as they are only a visual indication (with yodel alarm) it is becoming more evident that MSLs are often disregarded by users.

Another scenario which can arise from the use of MSLs is that a train travelling at less than the maximum permitted speed could initiate the activation of the MSLs ahead of a train approaching from the opposite direction and place crossing users at risk from the second train should they become impatient at the increased waiting time resulting from the initiation of the lights by the first (slower) train and may decide to cross having waited long enough for the first train to pass.

MSLs also have a disproportionate installation and maintenance cost.

Please see the attached DIA for further details.

v. The estimated cost of any practicable measures identified under (iv) above;

The cost of installation of an MSL system would be in the region of £650,000.

Please see attached DIA for further details.

vi. The barriers and/or signs that would need to be erected at the crossing and the points from which any path or way is to be extinguished or created, assuming the order is confirmed; and

The existing level crossing will be securely fenced off in order to prevent unauthorised access to the railway. Any signage required by the Council at the crossing (and any other points) will be provided.

vii. The safety of the alternative right of way to be created by the order relative to the existing rail crossing.

The diverted footpath will remove the need for users to pass at grade over the railway via a level crossing and will move members of the public away from the railway infrastructure entirely.

There will be no need for whistle boards to be retained.

The stepped footbridge will have the following safety features:

- Visually contrasting, warm to touch handrails at two levels;
- Visually contrasting stair nosings
- Tactile paving strips
- Anti-slip surfacing
- Landing areas

Users will be able to enjoy free flowing passage over the railway line.

3. NAMES AND ADDRESSES OF PUBLIC UTILITY UNDERTAKERS IN AREA (whether or not their apparatus is likely to be affected):

(a) Public gas supplier

Southern Gas Networks Ltd
Inveralmond House
200 Dunkeld Road
Perth
PH1 3AQ

(b) Public electricity supplier

UK Power Networks plc
Newington House
237 Southwark Bridge Road
London SE1 6NP

(c) Water undertaker

South East Water
Rocfort Road
Snodland
Kent ME6 5AH

(d) Sewerage undertaker (if different)

Southern Water
PO Box 41
Worthing BN13 3NZ

(e) Public telecommunications operator

BT Openreach
National Notice Handling Centre
PP 3WW18
Telecom House
Trinity Street
Hanley
Stoke-on-Trent ST1 5ND

(f) Others (specify).

N/A

4. MAPS AND PLANS

List below all maps and plans accompanying this request, giving details of their scale and content. In addition to the map mentioned in paragraph 1(d), this must include a map of a scale not less than 1:25,000 or, if no such map is available, on the largest scale readily available, showing the crossing and any paths or ways to be extinguished or created, and any connecting paths or ways.

The route of the public footpath to be extinguished is shown on the attached plan in a dotted line. The route of the proposed diversion is shown in a dashed line.

5. OTHER INFORMATION

Give any other information you consider relevant.

Pedestrians have crossed the railway since its creation and are still expected to cross the railway today, in the path of approaching trains. Railway lines were originally built for slower trains and there is no longer the relative safety of the 1800s (loud, slow moving steam powered trains); level crossings are now inherently dangerous places due to trains having got progressively bigger, faster and quieter.

Level crossings are not permitted on new railways in the 21st century due to the inherent risk they pose (e.g. HS1).

The Highways Act 1980 uses the term ‘safe’ in s.119A, but leaves it undefined; the dictionary definition includes ‘free from danger.’ In absolute terms, the only safe way to cross the railway (solely in terms of interaction with the railway) is via a bridge or tunnel, where there is absolutely no potential for pedestrians and trains to come into contact. Where that is not possible then it has be at a fully controlled and monitored level crossing. Glebe Way public footpath level crossing is unprotected and a pedestrian is not prevented from walking directly into the path of an approaching train; unprotected or passive crossings can be judged as having an unacceptable level of risk to all users.

Research into human behaviour shows us that individuals don’t always act in the same way, every day; their judgement of speed and stopping distances is intuitive and often based on the size of a road vehicle, giving an inaccurate perception of the speed of an approaching train. It also does not take into consideration the braking capability of road vehicles compared with the considerably longer distance required for a train to stop.

An individual’s judgement of distance and the audibility of warning horns can be affected by the weather and other ambient factors. Research also shows that certain groups are the most at risk level crossings, particularly the elderly and infirm and the young, and these are specifically considered in our risk assessment process. The factors relating to misuse no longer just relate to those gambling on the time it takes to cross the railway but it more evident through distractions, such as pedestrians wearing hoodies and earphones and just not seeing an approaching train until it is too late.

Network Rail has a legal duty under the Health and Safety at Work etc Act 1974 (as amended) to ensure the safety of its employees and those affected by its operations. Level crossings present the biggest risk to safety of the general public on the railway. Network Rail’s duty is to the public who use them and also to the passengers and railway staff who travel over them.

Despite a sustained country-wide campaign to educate people of the dangers of level crossings, deliberate and accidental misuse still remains high. Network Rail has evidence from all level crossing accidents which shows a clear relationship between the number of near miss events at level crossings and the number of accidents where a person is struck. The more near miss events that happen at a level crossing the more likely a serious incident is to happen. Therefore, closure represents the best option to improve safety.

Network Rail recognises that the closure of a level crossing can have an impact on the local community and we are committed to working with local authorities and stakeholder groups to address any concerns closure may create.

Having considered the respective levels of use of the crossing and the evidenced characteristics of existing users, it is considered that any adverse impact created by the proposed stepped footbridge will be insignificant and justifiable in this location for ensuring public safety.

Please see the attached DIA for further information regarding the level crossing and Network Rail's consideration of the Equality Act in respect of the proposed diversion.

DECLARATION

I/We

(a) Understand that no authority for the extinguishment, obstruction or creation of any path or way in this request is conferred unless or until a Rail Crossing Diversion Order has been confirmed and come into force;

(b) request that a Rail Crossing Diversion Order be made and confirmed relating to the crossing and paths or ways described in Sections 1 and 2 above; and

(c) declare that, to the best of my/our knowledge and belief, all of the factual information included in this form is true and accurate.

Signed 

Name in capitals NICOLA MEE
On behalf of Network Rail

Address Floor 2
Cottons Centre
Tooley Street
London
SE1 2QG

Position held Liability Negotiations Adviser

Date 22-03-2017

Glebe Way - Incident Log

Date	SMIS Ref	Event Narrative
01/08/1998	QSR/1998/05/572	At 2015 advised by Margate signaller that the driver of 2K08 1811 Victoria - Ramsgate had reported a near miss at Glebe Way Crossing at Whitstable. Driver of Ramsgate depot had observed an elderly person kneeling beside the track. Faversham Zonal Performance Assistant requested to attend. Trains cautioned. At 2018 Kent Police (ref; 974) reported that they had been called to the incident and that their patrol was just arriving on the scene. At 2032 Kent Police confirmed that the person was in their custody and was clear of the track. Driver Godfrey was fit to continue. Railtrack National Control Centre advised.
09/09/1998	QSR/1998/06/1008	At 2205 Faversham signaller reported that 1P84 2055 Ramsgate - Victoria had struck several small pieces of wood on Glebe Way crossing, London side of Whitstable. No damage to the train. Faversham Zonal Performance Assistant requested to attend. At 2225 the Zonal Performance Assistant reported that he had removed various small bits of wood and ballast from the up line.
02/12/1998	QSR/1998/09/587	1G13 17.30 CANNON STREET TO MARGATE : BROKEN CAB WINDOW Reported by Faversham station staff at 1850. Whitstable station staff. Reported to Faversham that 1G13 17.30 Cannon Street to Margate suffered a broken cab window on the rear unit 3556, at Glebe Way foot crossing outside Faversham, by stone throwing.
05/12/1998	QSR/1998/09/670	The driver of 2K54 05:52 Ramsgate - Victoria reported that he had been approached by a member of the public stating that he was travelling on 2U16 06:16 Faversham - Ramsgate and the train appeared to strike something on Glebe Way foot crossing at Whitstable. Ramsgate FM advised and attending.
15/07/2001	QSR/2001/04/956	Children playing chicken on the line at Glebe Way crossing. Trains cautioned - nothing seen.

14/04/2002	QSR/2002/01/721	Youths traversed crossing infront of 1S22 at Glebe crossing, they returned to the same side as they started, the driver did not class this as a near miss.
02/05/2007	QSE/2007/MAY/36	At 13.25 Margate signaller advised that the driver of 1S32 had reported a near miss with two children at Glebe Way Footpath, Whitstable. The driver had to make a emergency brake application and brought the train to a stand. The driver also stated to the signaller that he was ok to continue with his journey. BTP REf:289 At 14.01 the MOM reported that the signage and gates were correct and in good condition.
08/07/2007	QSE/2007/JUL/397	At 22.03 Faversham signaller advised that the driver of train 1P65 the 21.22 Ramsgate to Faversham had struck an object on Glebe Foot crossing at Whitstable and sustained damage to the air system preventing him for obtaining enough pressure to move. The driver carried out some remedial work in an attempt to release the brakes. The Mobile Operations Manager (MOM) advised at 22.39 they had had just closed an isolating cock on the third coach and the unit was now pumping up, but was unclear if it would affect the brake continuity. At 22.42 the MOM advised that the brake had released and the train would be on the move to Faversham. The driver had operated the EBS after the object had knocked off the drain cock on the auxiliary air tank. The train moved forward a couple of coach lengths to the bridge in order for the fitters to examine the train. At 22.56 the train on the move to Faversham. At 23.07 the MOM reported that he had found a CO2 fire extinguisher, which he believed it to be the item that was struck. This is our final written report

15/07/2008	QSE/2008/JUL/683	At 09.29, the driver of 1P19, the 08.50 Ramsgate - Faversham reported a near miss with a person at Glebe Way crossing at Whitstable. An elderly man had crossed in front of the train with three dogs resulting in the driver applying the emergency brake. The gentleman apologised to the driver. The driver advised he was fit to continue his journey. The British Transport police, (BTP) were advised under ref:152. The Faversham mobile operations manager was currently at Sittingburne and would check the crossing once he had finshed there. At 10.11 the MOM advised that the crossing all appeared to be in order.
21/07/2008	QSE/2008/JUL/944	At 20.36 the driver of 1S82 19.04 Victoria-Ramsgate reported youths placing coins on the line at Glebe Way foot crossing Whitstable. Following train to be advised and cautioned, and the driver reported nothing seen.
01/12/2008	QSE/2008/DEC/16	At 10.33 the driver of 1P25 09.59 Ramsgate-Faversham advised that he had to make an emergency brake application at Glebe Way crossing, (driver not classing this as a near miss) due to an elderly person crossing the line slowly. The person acknowledged the drivers horn but was moving slow enough to cause the driver concern.
12/06/2009	QSE/2009/JUN/568	At 16.50 the driver of 1S58 15.33 Victoria-Ramsgate reported youths playing chicken on Glebe Way level crossing on the approach to Whitstable. At 17.05 the driver of 1P63 16.20 Ramsgate-Faversham inspected the line and advised the youths had gone. At 17.48 the mobile operations manager advised that he had checked the area and no one was in sight.

27/12/2010	QSE/2010/DEC/914	20.31 Emergency call received from Margate signaller that 1S60 had hit a person at Glebe Way foot crossing, London side of Whitstable. Person was laying on the crossing. British Transport Police ref. 276, Kent Police ref. 27-1149. 20.53 Gillingham Mobile Operations Manager on site and advised body parts were strewn around. Kent Police and paramedics also on site. 21.02 Mobile Operations Manager advised train (formed of 4 coaches) had completely passed over the crossing, coming to a stand approx. 2 coach lengths clear of the country side of the crossing. Front coach was evacuated to allow the driver to come out of the cab. There were also some passengers who were being dealt with by the police for effects of drink causing them to be rather loud. Driver has advised that the person was kneeling on the crossing and at first he thought it was a pile of rags. It is thought that the victim was a male but the body parts were so widespread that it was not easy to tell at present. 21.20 British Transport Police declared the incident non-suspicious. 22.04 Kent ambulance confirmed that their staff were clear of the track. 22.06 Kent Police confirmed that their staff were clear of the track. The inquest was held on 15th June 2011 where the coroner's verdict was that it was a suicide.

18/01/2011	QSE/2011/JAN/710	At 0540 (Tue) the Kent Police (ref. 131) reported that there appeared to be a person who had been struck by a train in the vicinity of Portway, Whitstable. The BT Police were advised (ref. 41) and a Mobile Operations Manager was sent to site. The NOC were advised by the Route Control at 0543 (Tue) and Dignity Funerals Ltd were summoned at 0547 (NOC ref. 1333). An ETA of 0645 was given. The traction current was discharged at 0547 (Tue) and both lines blocked. At 0558 (Tue) the BT Police confirmed that the incident was fatal. No report had been received from any drivers. Undertakers arrived on site at 0640. NWR at 1005, following the completion of site investigation, the deceased person removed, all persons clear of the lineside, the traction current restored and both lines re-opened. Investigations continued into indentifying the train involved. At 1135 the Southeastern FDE advised that Grove Park depot found evidence of blood and body parts on unit no: 375619 coach: 67819. This unit was the leading unit on 1S76 21:22 Victoria to Ramsgate on the 17/01/11 which passed through Whitstable at 22:51hrs. The BTP advised and request that the unit be treated as a scene of crime and Officers will attend to examine the unit. BTP Ref 41. BTP advise that SOCO are at Grove Park checking the stock which was on 1S76 last night which is shown in Trust as 375619, and also checked at Victoria earlier was 375626 (the latter having been given the all clear). The inquest was held on 16th June 2011 where the coroner's verdict was that it was a suicide.
21/02/2011	QSE/2011/FEB/864	12.56 Reported that 1S30 struck a person on the Down Line London Side of Whitstable station in the vicinity of Glebe Way foot crossing. Ambulance (ref. 20264608). 13.07 Kent Police (ref. 21-573) 13.22 British Transport Police (ref. 242) treating incident as not suspicious. 14.35 Confirmed emergency services clear of the line, recharge to take place. 14.38 Current recharged at 14.38hrs. Isolation will then be retaken to remove the body. 15.10 Isolation retaken. 15.41 Body removed and clear from the track, 16.00 Current recharged at 15.59hrs on both lines. 17.40 Services running normally The inquest was held on 15th June 2011 where the coroner's verdict was that the incident was a suicide.

23/03/2011	QSE/2011/MAR/1008	The driver of 1S52 16:57 Victoria to Ramsgate reported a near miss with a youth at Glebe Way LC. Driver stated that the youth was standing in front of the train and only jumped out the way at the last minute. Driver shaken by incident. Signaller cautioned trains over the LC. British Transport Police ref : 474. Ramsgate MOM (Mobile Operations Manager) attended Glebe LC and checked that the LC was in working order.
11/06/2011	QSE/2011/JUN/593	At 1244 the Faversham Signaller reported that the Driver of 1P37 1205 Ramsgate to Faversham made an emergency brake application on the approach to Glebe Way Foot Crossing in Whitstable. The Driver reported that there was an elderly lady using the Crossing at the time and she was very slow to cross. The Driver did not class the incident as a near miss and was ok to continue. At 1249 the Ramsgate MOM reported that he had already checked all the signage on the crossing earlier that day.
28/07/2011	QSE/2011/JUL/1547	At 1507 the Kent Police (ref 905) advised that the RCM had received a report of two children running around on the foot crossing at Glebe Way in Whitstable. The RCM contacted the Faversham Signaller to arrange for trains to be cautioned and the Ramsgate MOM to attend. At 1524 the Faversham Signaller advised that the Driver of 1P47 1440 Ramsgate to Faversham reported that there were no sign of children which was confirmed by the Driver of 1S40 1352 Victoria to Ramsgate but he could see police talking to some children away from the infrastructure. Normal running was resumed. At 1605 the Ramsgate MOM on site updated that the children were spoken to by the Police and a Local Resident. The Resident advised that the last person to be killed on the crossing was her employer so she treated anyone misusing the crossing with a stern talking to. The children had been observed to be just crossing back and forth for the fun of it.

08/08/2011	QSE/2011/AUG/444	At 2047 the Faversham Signaller advised that the Driver of 1P69 2004 Ramsgate to Faversham reported a near miss with a pedestrian at Glebe Way crossing on the London side of Whitstable. A Male stood on the crossing and only moved out of the way at the last possible moment. The Driver advised that he was fit to continue. At 2139 the Ramsgate MOM advised that everything was checked and found to be ok at Glebe crossing.
22/10/2011	QSE/2011/OCT/1040	At 1155 the Driver of 1S26 1022 London Victoria to Ramsgate reported that the train had struck a person on the Down line at Glebe Way footpath crossing, between Faversham and Whitstable. Both lines were blocked and the traction current was isolated, Emergency services and Network Rail staff were mobilised to site. The BT Police (ref 220), advised the NOC at 1158. Initial reports received by the Route Control, Kent, was the train had stopped short of the person. However, at 1211 it was confirmed that person had been struck. Dignity Funerals Ltd. were called at 1215 (NOC ref:1581) and gave an ETA of 1320. The BT Police reported at 1244 that having obtained a statement from the driver, they had deemed the incident a non-suspicious deliberate act. The person was recovered from the scene alive by the Emergency services, being conveyed to hospital with serious head injuries, as a result Dignity Funerals Ltd. were contacted and the undertakers stood down at 1253. At 1315 BT Police handed back the scene and normal working resumed at 1336 after all personnel were reported to be clear of the running lines and the traction current was recharged. The train was worked forward by a relief driver. The BTP non fatal record stated that the Female confirmed to Officers that it was a deliberate act and had a pre mental history of depression. She had sustained a fractured skull, broken pelvis and broken leg. On 25/11, SET confirmed that the driver returned to work on 23rd November 2011.

03/11/2011	QSE/2011/NOV/118	13.18 BTP (Ref-289) reported that there had been a young male sitting in the 4' of Glebe Way crossing at Whitstable crying. Trains were cautioned. 13.20 Kent Police advised and also attending (Ref 587) 13.27 Faversham Signaller reported that 1S32 11.52 Victoria to Ramsgate cautioned and reported nobody on the crossing except two BTP Police officers. 13.46 MOM and BTP on site 13.48 Caution lifted- NWR.
03/11/2011	QSE2011/NOV/123	20.07 Driver 1G95 18.44 Cannon Street to Ramsgate reported a male standing on the edge of Glebe Way Crossing on the Downside dressed all in black- trains were cautioned. 21.10 Ramsgate MOM advised. 20.11 BTP Advised (ref 626) 20.55 BTP on site had detained person and called ambulance.

07/01/2013	QSE/2013/JAN/236	At 14:29 advised by Ramsgate MOM that whilst attending to check Glebe Way Level Crossing at Whitstable (a crossing where several suicides had been carried out), he found two young girls approximately 14-years of age stood in the four foot of the crossing on the Down line. When he challenged them and enquired what they were doing standing on the crossing, they replied that they were waiting to catch a train, and the MOM then pointed out that they would not be catching a train on a crossing. The MOM stated that there were S&T working along the track at the time, and the girls enquired who they were and what were they doing and how they had not been hit by a train. When the S&T left the track, they advised the MOM that they too had spoken to the two girls as they too thought it very strange behaviour for the location, taking in previous incidents at that location. A local resident advised that they too had spoken to the girls. The MOM advised that the girls suddenly shouted over to the MOM that he need not worry about them, as they were now leaving the site. The MOM stated that they had now left, but he would drive round and check the other side of the crossing to ensure that they were not waiting around. The MOM stated that one girl was reasonably plump with dark hair, and the other was skinny with auburn hair, one was wearing a dark blue jacket and the other a tweed one. At 14:53 BTP were advised (Ref: 286). At 15:15 Kent Police were advised (Ref 07-0890) and no missing persons had become evident, but they would pass the details through the system and if any were highlighted, they would contact KICC. At 15:34 MOM advised that he had checked the area again and it was all clear. Kent Police were updated.
28/10/2013	QSE/2013/OCT/1482	At 1217 EKSC Faversham Signaller advised 2P56 (1100 Ramsgate to Faversham) reported a near miss at Glebe Way foot crossing London side of Whitstable. The driver reported a young girl ran across in front of him and then back again on his approach to the crossing. Driver was ok to continue. At 1313 MOM advised all clear and signage in order.
30/04/2014	QSE/2014/APR/1771	At 2245 advised by EK Faversham, that the driver of 5U66, 2239 Faversham - Ramsgate, had reported that the whistle Board for Glebe Way Foot Crossing, in the Whitstable area, at 58m 35ch, was obscured by foliage. Cleared by Railscape.
28/05/2014	QSE/2014/MAY/1559	Driver of 1F52 1755 St Pancras to Broadstairs reported that the whistle board for Glebe Way foot crossing on the Down line was becoming obscured by foliage. Cause: Vegetation. Action: Foliage / Vegetation cutback.

20/10/2014	QSE/2014/OCT/970	At 2033 a mobile operations manager with the British Transport Police Patrol heard over the radio that there were trespassers with torches at Glebe Way Foot Crossing near Whitstable. The signaller cautioned the next train, at 2048 1P69 was cautioned and reported back nothing was seen so normal working was resumed.
08/02/2015	QSE/2015/FEB/270	At 1748 the driver of 1P61, HU, 1712 Ramsgate – Faversham, formed by unit 375815, reported that the train had struck a person on the Up Main line in the vicinity of Glebe Way footpath level crossing, located the London side of Whitstable station. Both lines were blocked and an emergency switch off of the traction current was taken. Emergency services and Network Rail staff attended. The BT Police (ref. 349) advised the NOC at 1802, followed by advice from Kent Route Control at 1805. Dignity Funerals were called at 1810 (NOC ref. 2801) and gave an ETA of 1850. BT Police reported at 1950 that having obtained a statement from the driver, they had deemed the incident a non-suspicious deliberate act with the deceased person believed to be aged 14-15 years old. The ORR were advised at 2010. Dignity Funerals arrived on site at 1850. Site investigations, including the attendance of a SOCO, were completed and the remains removed at 2016. Following fitters examination the traction current was restored at 2046 with 1P61 on the move at 2102 to Faversham, normal working resumed. The site was checked by the Mobile Operations Manager and Samaritans signage / anti-trespass measures were found to be in place at the location. Information below taken from BTP Record Rationale- None Description of Incident The driver was travelling at approximately 45mph when he heard a massive bang as he went over the crossing. Upon arrival, officers found the body of a female. There are no signals of deliberate intent currently. There are no suspicious circumstances. Additional Information Female was reported as a MISPER after failing to return home On 23/02/2015 British Transport Police advised that they had checked the log and the driver stated that he was on the crossing when he hit the deceased. The body of the deceased was carried on from that point, hence the 10 metres from the access point.

01/03/2015	QSE/2015/MAR/24	The Kent Police (ref 1123) reported a potential suicidal male at Glebe Way LC. The signaller was advised and requested to caution trains. 1P66 and 1J63 were cautioned and reported back that nothing was seen. Normal working was resumed at 1841. Kent Police reported that they had the person in custody at 1849. Cause - A potential suicidal male
25/10/2015	QSE/2015/OCT/958	East Kent Faversham signaller advised that the driver of 2Z34 1124 Victoria to Ramsgate had reported that a male was standing in the 4 foot facing his train on the down line but he managed to stop 100 yards short of him and the person had vacated the crossing. Not deemed as a near miss and the driver was fit to continue. Land Sheriffs advised member of public who witnessed incident say it was a woman who was photographing the train, she was with a man and some children. BTP Ref: 238.
01/11/2015	QSE/2015/NOV/8	Reported by a MOP that there appeared to be a public demonstration at Glebe Way crossing, Whitstable. No trains were running as the line was under possession but signaller advised in case of ballast trains. Land Sheriffs tasked to attend. Land Sheriffs were on site. There was no sign of anyone in the vicinity . A local resident advised him that there were 20 people, some of which were on the crossing, who were protesting about the closure of the crossing.
28/01/2016	QSE/2016/JAN/1247	Kent police ref: 1493 advised that there was a person on the line at Glebe Way crossing, Whitstable. The East Kent Faversham signaller advised and cautioned trains. BTP ref: 670 advised that the person was a white male in his 30's who was threatening to commit suicide. Kent police advised that the person had been detained and was in police custody.

29/08/2016	QSE/2016/AUG/1419	At 2155 a call was received from Kent Police advising that a member of the public who lived close to the railway had reported that a bicycle had been thrown onto the line at Glebe Way foot crossing (58m 35ch). At 2210 the driver of SE 1S70 2037 Victoria - Ramsgate reported a bicycle on the Up line across the running rail and conductor rail. At 0031 P Way advised plates were fitted. There were rail head scorch marks as a result of the bike being thrown on the line. Mileage was 58m 35ch on the right hand rail back to London, Clamp plates fitted. No speed restriction required.

North East Kent Coroner
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Dane Valley Road
Broadstairs
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CT10 3JJ

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Network Rail Infrastructure Ltd.
1 Eversholt Street
London
NW1 2DN

9 October 2015

Dear Sir/Madam

Re: Regulation 28 Report - Sacha Joy WHEELER

I enclose for your information a copy of the Regulation 28 Report regarding the death of Sacha Joy WHEELER.

Yours faithfully

His Honour Alan J Blunsdon
Assistant Coroner

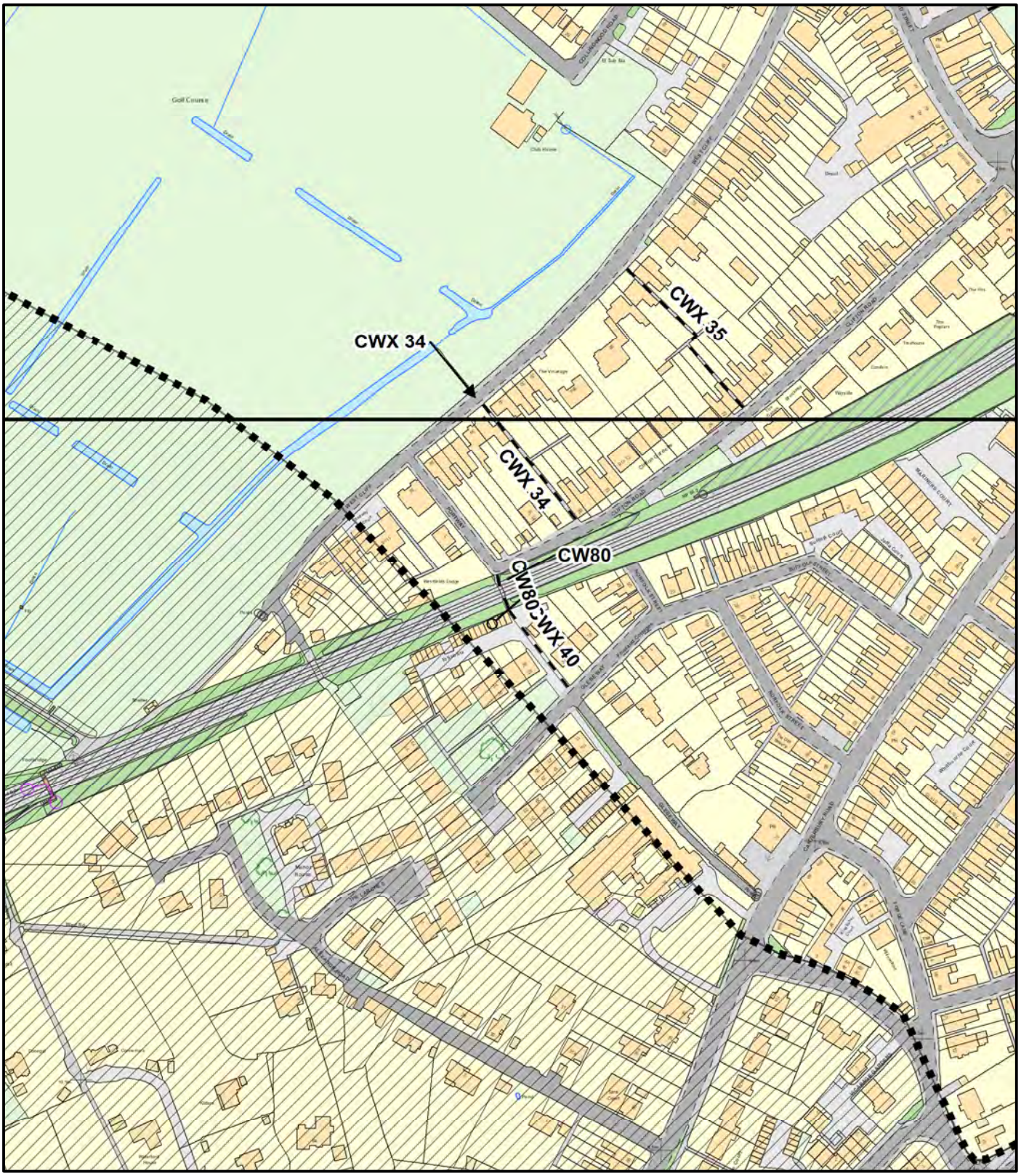
Alan J Blunsdon
Assistant Coroner for North East Kent

	REGULATION 28 REPORT TO PREVENT FUTURE DEATHS **THIS REPORT IS BEING SENT TO: Network Rail**
1	**CORONER** I am Alan J Blunsdon, Assistant Coroner for North East Kent
2	**CORONER'S LEGAL POWERS** I make this report under paragraph 7, Schedule 5, of the Coroners and Justice Act 2009 and regulations 28 and 29 of the Coroners (Investigations) Regulations 2013. http://www.legislation.gov.uk/ukpga/2009/25/schedule/5/paragraph/7 http://www.legislation.gov.uk/uksi/2013/1629/part/7/made
3	**INVESTIGATION and INQUEST** On 11/02/2015 I commenced an investigation into the death of Sacha Joy Wheeler, 14 . The investigation concluded at the end of the inquest on 23 September 2015. The conclusion of the inquest was Accident Sacha Joy Wheeler died on the 8th February 2015 at Glebe Way Railway foot crossing, Whitstable, Kent after a train collided with her as she attempted to cross the railway line whilst wearing ear phones and possibly listening to music. Multiple injuries
4	**CIRCUMSTANCES OF THE DEATH** Just before 1800hrs on Sunday 8th February 2015 the driver of a South Eastern train was travelling towards London, when passing the Glebe Foot Crossing the driver felt that he had hit something. The driver stopped his train got out and inspected the area and found the deceased under the front of the train. Information from DC Paula EUSTACE BTP is that the train had been travelling at 45 MPH. A witness saw Miss WHEELER sitting an a bench close by at 1715hrs wearing earphones and another witness reports hearing the collision at 1738hrs.
5	**CORONER'S CONCERNS** During the course of the inquest the evidence revealed matters giving rise to concern. In my opinion there is a risk that future deaths will occur unless action is taken. In the circumstances it is my statutory duty to report to you. The **MATTERS OF CONCERN** are as follows. – (1) The whistleboards on both the "up" and "down" lines which require train drivers to sound the train horn on the approach to the Glebe Way railway foot crossing ("the crossing") may be sited too close to the crossing to provide sufficient reaction time for both pedestrians and train drivers. This is so despite the evidence that the whistleboards are within the compliant range of distances for such crossings. (2) Whilst the sounding of the train horn at the whistleboard gives a distant audible warning of the approaching train to pedestrians using the crossing, there is a real prospect that pedestrians with hearing difficulties or those listening to a portable device, such as a mobile phone or an iPad, using headphones or earphones will not hear the distant audible warning. (3) Only providing a distant audible alert from a horn installed on the train may not be fully

St Peters House, Dane Valley Road, Broadstairs, CT10 3JJ
Tel 03000 410604 | Fax

	effective means of warning pedestrians of an approaching train. There is an absence of an audible alert issued from speakers situated at the crossing and activated by the approaching train which would give an audible alert AT the crossing and not from some closing distance away from it. (4) There is an absence of a visual alert system at the crossing in the form of coloured flashing lights which can be activated by an approaching train. (5) The crossing is illuminated during the hours of darkness by coincidental street lighting in the roads on either side but there is an absence of any dedicated lighting sited over the crossing installed and maintained by Network Rail. (6) Although the crossing fell into a "high risk" category during the risk assessments carried out during Network Rail inspections in 2012 and on 13th August 2014 no immediate (or any significant) action appears to have been taken despite fatalities on the crossing in 2010, 2011 and April 2012.

6	**ACTION SHOULD BE TAKEN** In my opinion action should be taken to prevent future deaths and I believe you Network Rail have the power to take such action.
7	**YOUR RESPONSE** You are under a duty to respond to this report within 56 days of the date of this report, namely by 24th November 2015 I, the coroner, may extend the period. Your response must contain details of action taken or proposed to be taken, setting out the timetable for action. Otherwise you must explain why no action is proposed.
8	**COPIES and PUBLICATION** I have sent a copy of my report to the Chief Coroner and to the following Interested Persons Mr and Mrs WHEELER and to the LOCAL SAFEGUARDING BOARD Child Death Review Service, Kent Coast (where the deceased was under 18)]. I have also sent it to DC Paula Bennet who may find it useful or of interest. I am also under a duty to send the Chief Coroner a copy of your response. The Chief Coroner may publish either or both in a complete or redacted or summary form. He may send a copy of this report to any person who he believes may find it useful or of interest. You may make representations to me, the coroner, at the time of your response, about the release or the publication of your response by the Chief Coroner.
9	Dated 29 September 2015 Signature_____ Assistant Coroner for North East Kent



Footpath
Bridleway
Restricted Byway
Byway Open to All Traffic
Point path number or status changes
Boundary of area covered by 1:2500 scale Network Map
Area covered by 1:10,000 scale Network Map

EXTRACT OF THE DEFINITIVE MAP OF PUBLIC RIGHTS OF WAY FOR THE COUNTY OF KENT

RELEVANT DATE - 31 MAY 2013

Produced by the KCC Public Rights of Way and Access Service

Created by:	MMcL
Checked by:	
Issue Date:	26/06/2018
Reference:	CW80

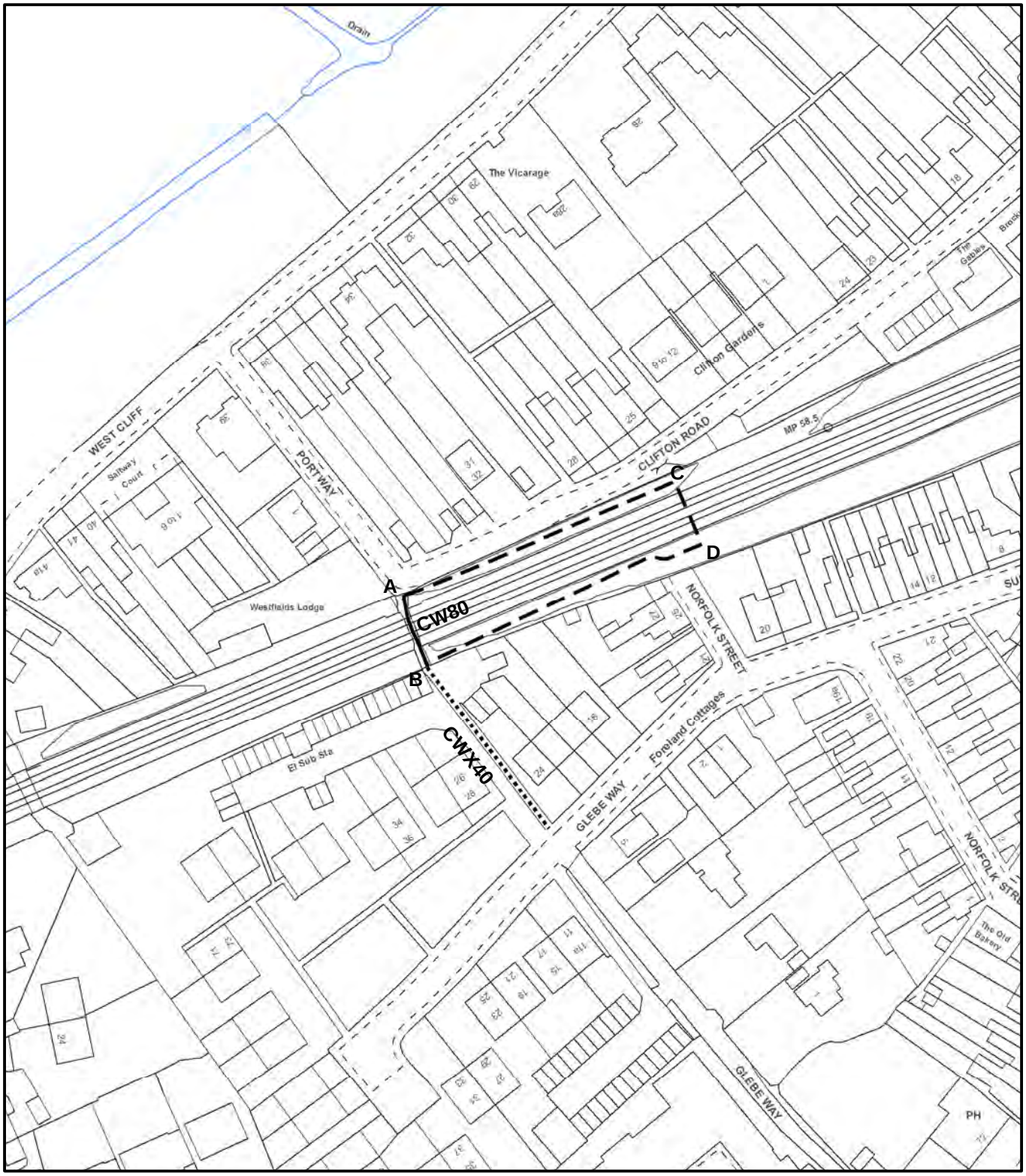
N

1:2,500

0 100 200 Metres

0 100 200 Yards

Kent County Council



Key

- Route to be diverted
- New Length of route
- Unaffected Routes

Highways Act 1980
The Kent County Council
Proposed Rail Crossing Diversion of
Public Footpath CW80 at Whitstable

N

1:1,250

0 Kilometres 0.05 0.1

0 Miles 0.03 0.06

Created by:	MMcL	Checked by:	MMcL
Reference:	PROW/CW80/10/NR		

PORTWAY

WESTFIELDS LODGE (Private driveway)

CLIFTON ROAD

Denotes nominal extent of new retaining wall - exact form of construction will need to be determined upon completion of ground investigation works. It is envisaged either a king post piled or reinforced concrete retaining wall.

S2200 (Distance from existing level crossing to foot of stairs to proposed footbridge)

Shading denotes new access path.

Tubular guardrail with mesh infill to northern access path.

New footbridge based on Network Rail TUM400 standard design, complete with 'canopy' painted "14-C-39 Holly Green"

New palisade fence to trackside of proposed access path.

Existing troughing.

Conductor rail

BANK TOP

BARRIER

FENCE

UP TO FAVERSHAM

DOWN TO WHITSTABLE

Existing level crossing components to be removed upon completion of the proposed footbridge.

Existing private garage.

To Glebe Way

Existing level crossing components, audio warning system and kissing gates to be removed upon opening of the new footbridge.

Existing private garage

Denotes nominal extent of new retaining wall - exact form of construction will need to be determined upon completion of ground investigation works. It is envisaged either a king post piled or reinforced concrete retaining wall.

Shading denotes new access path.

Tubular guardrail with mesh infill to southern access path.

New palisade fence to trackside of proposed access path.

Handrails and canopy to bridge omitted for clarity.

S2300 (distance from existing level crossing to foot of stairs to proposed footbridge)

New palisade fence to trackside of proposed access path, in accordance with NR/CIV/SD/380. Palisade fence to be provided with a galvanised finish.

PARTIAL ELEVATION ON PALISADE FENCE

SCALE 1:20

NOTES

1 This drawing is to be read in conjunction with the following

- Drawing no. 400036-DWG-RBU-001 and 003.

2. All dimensions are in millimetres unless noted otherwise. All levels are in metres unless noted otherwise. Do not scale from this drawing.

3. Topographical survey data provided is based on information provided by APR Services Ltd. following a survey carried out in November 2016 and following a survey by Plowman Craven carried out in January 2017.

LOCATION PLAN - NTS

LEGEND

Denotes Network Rail boundary.

1m SCALE 1:100

Rev	Date	Description	Made	Checked
B	09.05.17	Palisade fence note amended.	AJS	AJS
A	05.05.17	Fence details added.	BG	RAM

Drawing Status: FOR PLANNING

MLM
Rail Consulting
North Kiln, Felaw Maltings, 46 Felaw Street, Ipswich, Suffolk IP2 8PN
Tel: 01473 231100
Website: www.mlm uk.com

Client: NetworkRail

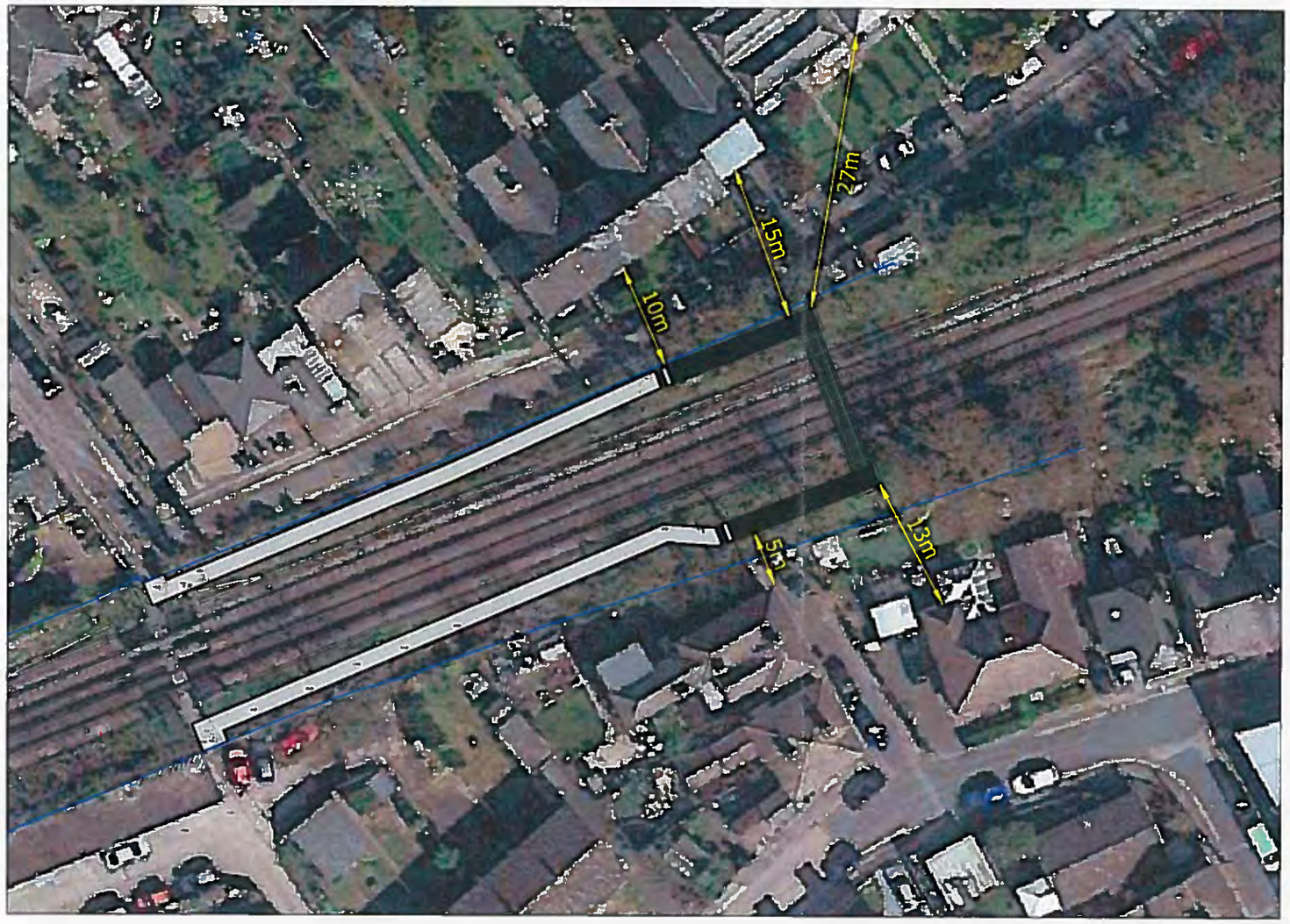
B.M. McHUGH LTD
Building, Civil & Environmental Contractors
A26a Footscray Road, New Eltham
London SE9 3UB T: +44 (0) 208 850 7700

Project: NEW FOOTBRIDGE GLEBE WAY, WHITSTABLE VIR 58 miles 770yds

Drawing Title: PROPOSED SITE PLAN

Drawn	BG	Date	APRIL 2017	Scales	AS SHOWN @ A1
Checked	AJS	Approved	AJS		@ A3

Drawing No. 400036-DWG-RBU-002 Rev B



1:250
5m 0 5m 10m 15m 20m 25m

PRINT ACCURACY INDICATOR 50mm 100mm

NOTES

1. This drawing has been provided following dimensions provided to MLM by B&M McHugh on 12/07/2017.

REV	DATE	REVISION	MADE	CHK	APP
D	13.07.2017	FOR INFORMATION	BG	AJS	AJS

DRAWING STATUS

FOR INFORMATION

MLM. Rail
North Kiln, Felaw Maltings,
45 Felaw Street, Ipswich,
Suffolk IP2 8PN
Tel: 01473 231100
Website: www.mlmgroup.com

CLIENT

NetworkRail

B.M. McHUGH LTD
Building, Civil & Environmental Contractors
47a Finsbury Road, New Basnet
London SE9 3JL T +44 (0) 208 859 7706

PROJECT

NEW FOOTBRIDGE
GLEBE WAY, WHITSTABLE
VIR 58 miles 770yds

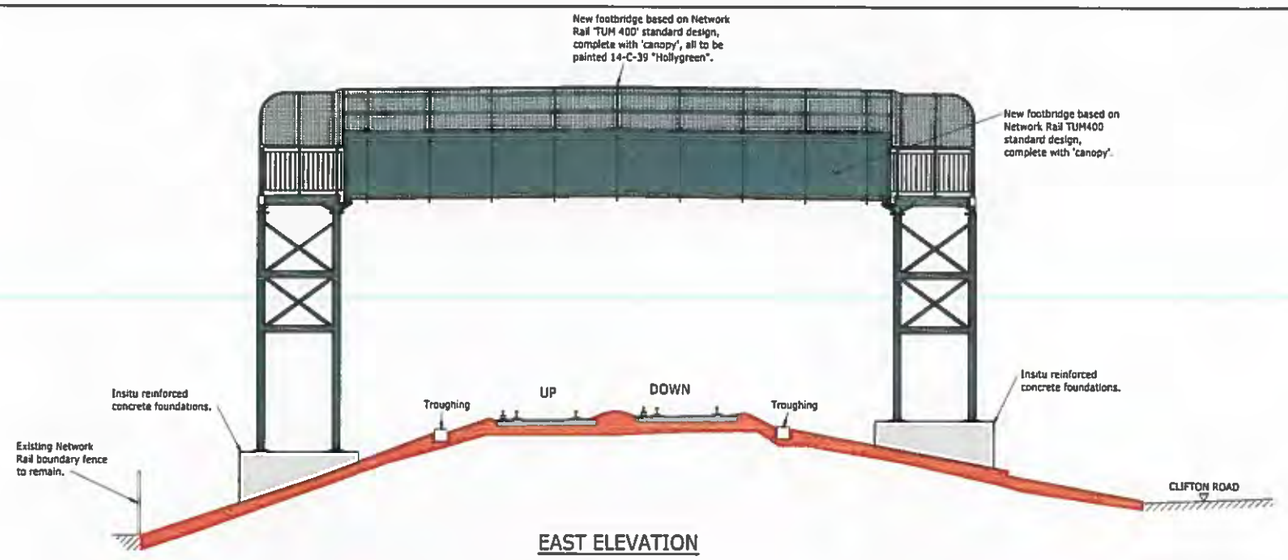
DRAWING TITLE

PROPOSED FOOTBRIDGE
LOCATION PLAN

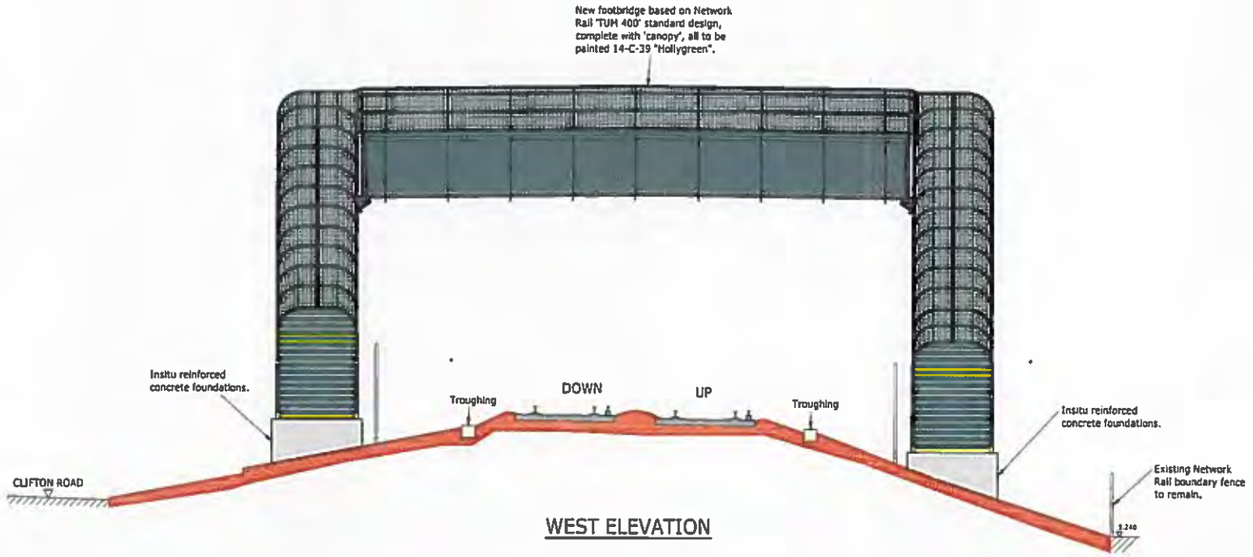
DRAWN/DESIGN	XXX/XXX	CLR	MILEAGE	REVISION
SCALE 1:250 @ A1		VIR	58m 770yds	0

DRAWING No.

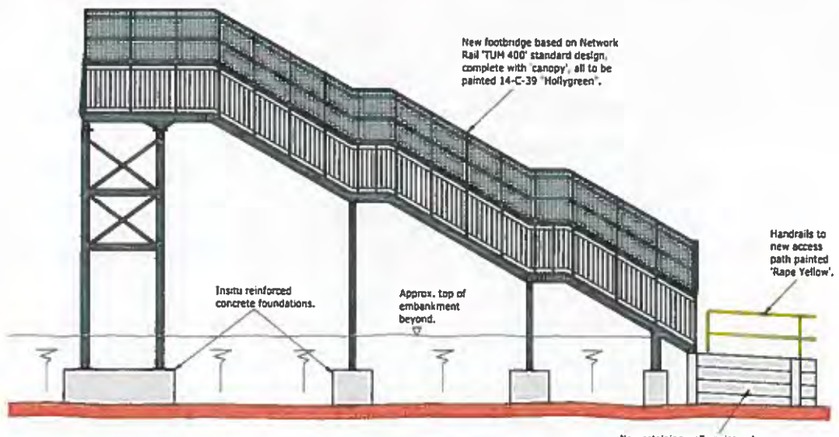
400036-DWG-RBU-004



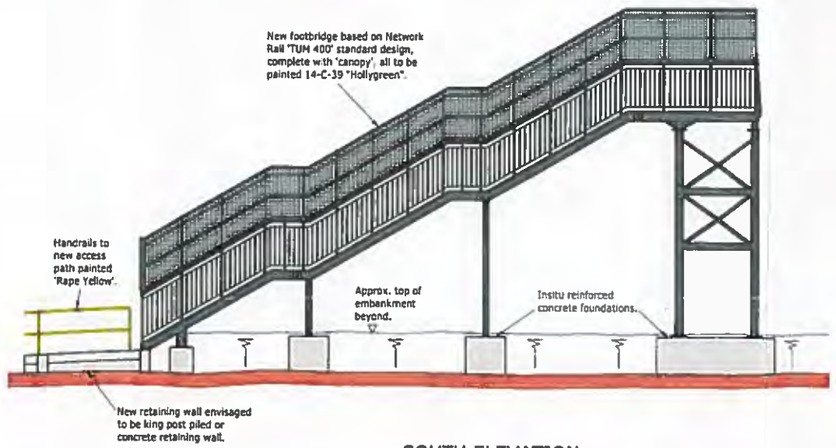
EAST ELEVATION



WEST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION

1m SCALE 1:75

NOTES

1. This drawing is to be read in conjunction with the following:
   - Drawing no. 400036-DWG-RBU-001 and 002.
2. All levels are in metres unless noted otherwise. Do not scale from this drawing.
3. Topographical survey data provided is based on information provided by APR Services Ltd. following a survey carried out in November 2016 and following a survey by Plowman Craven carried out in January 2017.

Rev	Date	Description	Made	Checked

Drawing Status: FOR PLANNING

MLM
Rail Consulting
North Kiln, Felaw Maltings, 46 Felaw Street,
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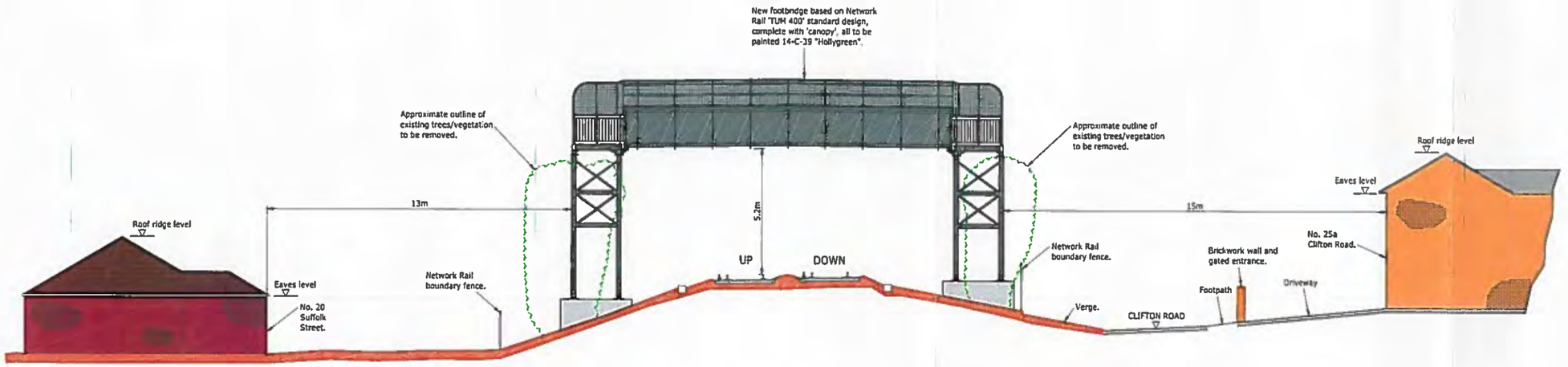
Client: NetworkRail; B.M. McHUGH LTD

Project: NEW FOOTBRIDGE
GLEBE WAY, WHITSTABLE
VIR 58 miles 770yds

Drawing Title: ELEVATIONS ON PROPOSED FOOTBRIDGE

Drawn	BG	Date	APRIL 2017	Scales	1:75 @ A1
Checked	AJS	Approved	AJS		1:150 @ A3

Drawing No. 400036-DWG-RBU-003 Rev



NOTES

1. This drawing is to be read in conjunction with the following:
   - Drawing no. 400036-DWG-RBU-001, 002, 003 and 004.
2. Do not scale from this drawing.

REV	DATE	REVISION	MADE	CHK	APP
A	10.08.2017	Revised to suit C.C.C. comments	BG	AJS	AJS
0	01.08.2017	Initial issue	BG	AJS	AJS

DRAWING STATUS

FOR PLANNING

MLM. Rail
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CLIENT

NetworkRail

B.M. McHUGH LTD
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47a Finsbury Road, New Milton
London SW9 3UA T: +44 (0) 208 946 7706

PROJECT

NEW FOOTBRIDGE
GLEBE WAY, WHITSTABLE
VIR 58 miles 770yds

DRAWING TITLE

ELEVATION ON PROPOSED FOOTBRIDGE AND ADJACENT DWELLINGS

DRAWN/DESIGN	BG	ELR	MILEAGE	REVISION
SCALE 1:100 @ A1		VIR	58m 770yds	A

DRAWING No.

400036-DWG-RBU-005

SCALE 1:100
0 5 10

PRINT ACCURACY INDICATOR 50mm 100mm

Diversity Impact Assessment

National Level Crossing Risk Reduction Programme (NLCRRP)

Glebe Way Level Crossing, Whitstable, Kent (CT5 1DH)

OS reference – TR 104659

07/03/2016

Introduction

Glebe Way level crossing is located in the seaside town of Whitstable to the west of the town centre and is on the route of a public footpath. The crossing provides access between residential areas, the town centre and the nearby coast.

Diversity Impact Assessments (DIA) are the method used by Network Rail to clearly demonstrate that we have paid due regard to our duties within the Equality Act 2010. The DIA is a tool that helps Network Rail confirm that our policies and the way we design, build and operate will work for everyone.

Contents

Step 1: Clarifying Aims

Q1. What are the aims of this project/piece of work?

The project aims to improve public safety by removing the conflict between trains and users of this public footpath crossing the railway. The project will provide safer access for the public including vulnerable users, e.g. children, older and disabled people.

This project is part of The National Level Crossing Risk Reduction Programme (NLCRRP), a required output from the Office of Rail and Road (ORR) to achieve a 25% reduction in level crossing system risk (a reduction of 3.3 annual Fatalities and Weighted Injuries (FWI)) by 2019.

Glebe Way level crossing is on the route of a public footpath and has been identified for closure based on the All Level Crossing Risk Model (ALCRM) risk assessment. The level crossing has a FWI of 0.006302746 and numerous recorded incidents of misuse:

Recorded incidents

Records show that there were 19 incidents of misuse, trespass and near misses reported between 2009 and 2015. Of these, four were fatalities and five were near misses along with four incidents of trespass, one equipment failure, a suicide intervention and a personal accident where a person was hit by a train but not killed. The incidents from the last three years are shown below.

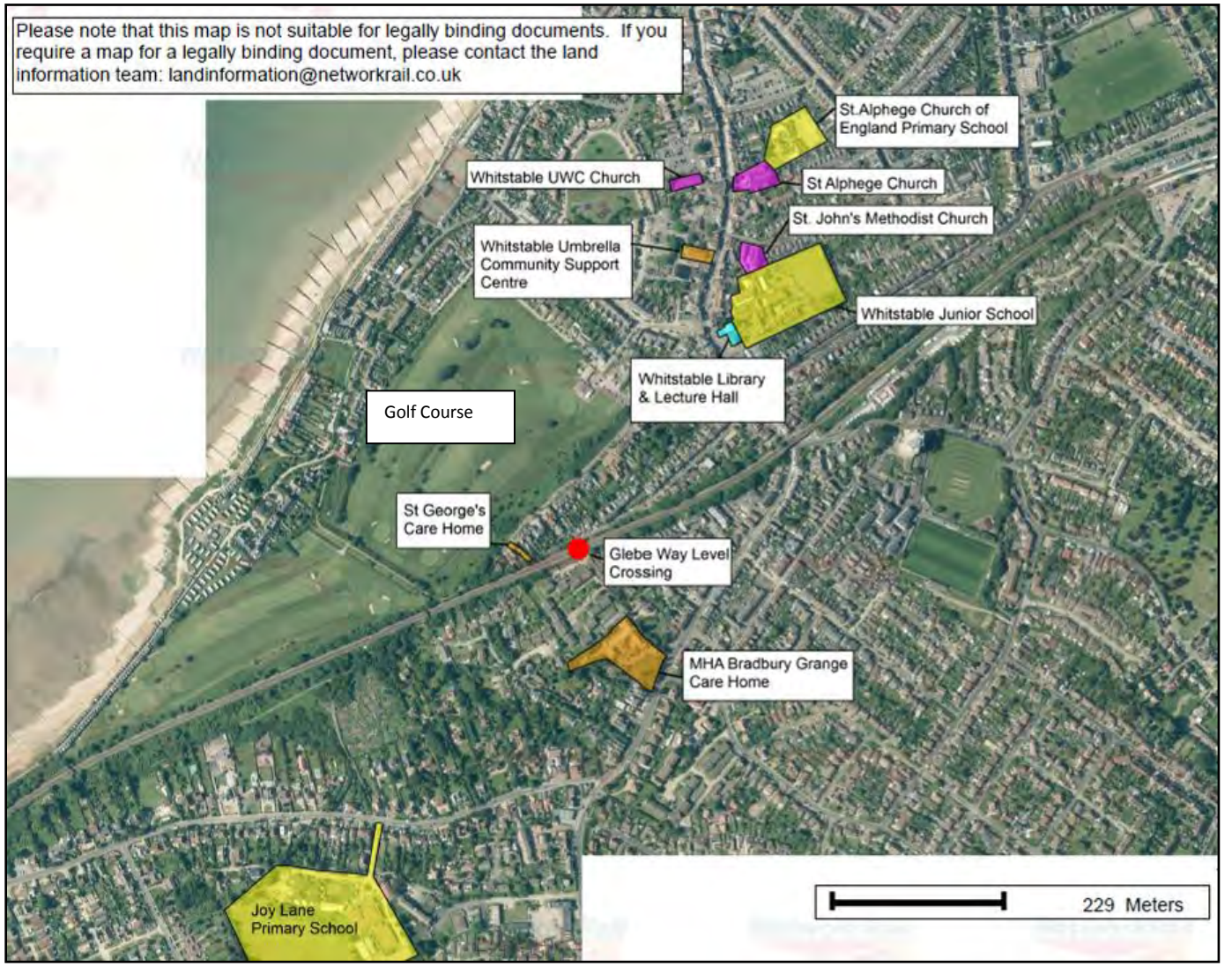
DATE	INCIDENT
01/11/15	Misuse – Demonstrators on Glebe Way LC
25/10/15	Misuse – Male stood in front of train at Glebe Way LC
01/03/15	Near Miss/Suicide Prevention - Kent Police intervened with a suicidal male
08/02/15	Fatality – 1P61 (17:12 Ramsgate to Faversham) fatality stuck a person at Glebe Way LC
20/10/14	Trespass – BTP reported trespassers with torches at Glebe Way LC
30/04/14	Equipment Failure – 5U66 (22:39 Faversham to Ramsgate) reported whistle boards for Glebe Way LC missing.
28/10/13	Near Miss – 2P56 (11:00 Ramsgate to Faversham) reported near miss with pedestrian at Glebe Way LC
07/01/13	Trespass – Ramsgate MOM reported 2 young girls stood in the four foot at Glebe Way LC

It is clear that the level crossing presents an uncontrollable risk which should be eliminated from the railway network.

The NLCRRP aims to gain the support of the local authorities, third party stakeholders and the local community to the proposed solution

Q2. Could this work impact on people? If yes, explain how.
Yes. Closure of the level crossing without provision of an alternative, or by constructing a subway or bridge at or near the site of the existing level crossing, will alter the physical characteristics of the route. This could lead to some users having to travel further, but it would also improve their safety, as all alternative crossings of the railway are grade-separated.

Plan 1 – Location Plan.



Step 2: The Evidence Base

Q3. Summarise what data we have about the diversity of the people potentially impacted by this work and any research on the issues affecting their inclusion.
Description of Level Crossing and Local Area Access to the north of the crossing is from Clifton Road/Portway. This is a narrow road, often with vehicles parked on the pavement, along with street lights and utility poles making it difficult to pass. Access to the south of the crossing is via a wide concrete pathway leading from Glebe Way. Currently, the level crossing has metal kissing gates to accommodate the public and is accessed by vulnerable users, with 86 timetabled trains per day at a speed of 65mph. Residential housing is located to both the north and south of the crossing. An area of open land containing Whitstable Seasalter Golf Club is located just beyond the residences to the north of the railway. Just beyond that is the coast. A location plan can be found above (plan 1). The route across Glebe Way level crossing links the residential areas to the north and south of the railway. The complete closure of the crossing therefore has some potential to impact on permeability for the community although, as discussed later, there is restricted accessibility from existing infrastructure. Significant features in the area are: • Joy Lane Primary School, located approximately 500m to the south east of the crossing. For some residents on Clifton Road, West Cliff and Portway

the level crossing offers the most direct route to the school.

- Whitstable Junior School and St. Alphege Church of England School, located approximately 450m and 600m to the north east of the crossing respectively. For some residents on Glebe Way the level crossing offers the most direct route to the school.
- There are a number of care and retirement homes in the vicinity of the crossing. The closest two homes are St. George's Home and MHA Bradbury Grange Care Home. St George's Home is located on West Cliff approx. 80m to the northwest of the crossing and Bradbury Grange is located approx. 150m to the south of the crossing on Canterbury Road. The level crossing is located such that it may provide an access route between these properties and the surrounding area, for residents and staff.
- Further to the north of the crossing there is a large area of open land which is occupied by Whitstable Seasalter Golf Club which then leads to the coast which is located approximately 500m from Glebe Way level crossing.

Other developments in the area lie towards the town centre along Oxford Street and include Whitstable Library & Lecture Hall, Whitstable Umbrella Community Support Centre and local shops. There are also a number of places of worship including St John's Methodist Church, St. Alphege Church and Whitstable UWC Church. The most direct access to these places for the majority of residents does not require the use of the level crossing.

Level crossing 9-day camera survey.

A census was carried out over a nine day period in March 2015 which consisted of two weekends with the intervening weekdays. The census shows that there were 1,812 movements across the crossing in nine days. This gives an average of 201 movements per day. As expected due to the presence of kissing gates, no

wheelchair or mobility scooters were recorded using the crossing.
There were a total of 135 children recorded during the census period. Of these, 41 were unaccompanied. This equates to 7.5% of total movements for the census period.
There were 10 pushchairs/pram movements in nine days which represents 0.5% of total movements for the census period.
There were eight cyclists recorded using the crossing which represents less than 0.5% of total movements for the census period. (It is noted that it is not required to cater for cyclists on a public footpath.)

The weather recorded during the census was as follows:

DAY	**AM**	**PM**
Saturday 28 February 2015	Cool and Cloudy	Cool and Rain
Sunday 1 March 2015	Cool and Clear	Cool and Rain
Monday 2 March 2015	Cool and Clear	Cool and Cloudy
Tuesday 3 March 2015	Cool and Dry	Cool and Dry
Wednesday 4 March 2015	Cool and Cloudy	Cool and Cloudy
Thursday 5 March 2015	Cool and Cloudy	Cool and Cloudy
Friday 6 March 2015	Cool and Sunny	Cool and Sunny
Saturday 7 March 2015	Cool and Sunny	Mild and Sunny
Sunday 8 March 2015	Cool and Sunny	Cool and Sunny

The railway is on a low embankment at the location of the crossing and the tarmac approaches ramp up to the crossing on both sides. The crossing currently has a metal kissing gate on the approach to both sides of the crossing. The current kissing gates limit the accessible width on the approaches to the crossing and whilst kissing gate arrangements are not generally considered accessible to users with pushchairs and bicycles, limited use by both was recorded during the nine day census, as discussed below. The kissing gate arrangement however does mean that people who use a wheelchair or mobility scooter are prevented from using the

crossing at present.

There is limited Network Rail land available to provide an alternative access within Network Rail land boundaries. Any option building outside Network Rail ownership will need the purchase of land owner by third parties; some of the options for a diversion require significant land purchase. The drawings attached for the options include the Network Rail land boundaries to show the buildability of the options. Plan 2 below shows the Network Rail boundaries.

Alternative Routes

Options

A number of options have been considered as set out in table 1 below.

Plan 2 – Network Rail Land Ownership Plan

Table 1

OPTIONS	DESCRIPTION	CONSTRAINTS/VIABILITY
Upgrade to automated warning systems	The provision of an automated warning system would not change the current usage of the crossing so is a method of reducing instead of removing the public safety risk.	Miniature Stop Light technology is dependent on the signalling systems in the area and can prove expensive to install and maintain. The addition of Miniature Stop Lights will not mitigate the risk from misuse completely; users can mistakenly or wilfully attempt to cross against a red light, or assume that a red light applies to a single train, when it remains red due to a second train approaching. Miniature Stop Lights are also prone to failure, during which times, the protection is ineffective. Modelling suggests that lights of this nature reduce the risk by around 30%, which would not provide the benefits required. **This option is not being progressed.**
Extinguishment of the level crossing with no alternative	Closure of the level crossing with no substitute works.	The level crossing is currently well used by many people. Closure of the crossing without provision of any new alternative or link would inconvenience people, some of whom may have to travel further. However, this is the lowest cost option and requires a minimum of work, and no intrusion. **This option is feasible.**
Extinguishment of the crossing and creation of a new footpath link	An existing alternative crossing point in the area could allow the closure of the existing level crossing by creating a suitable diversionary route for users.	There are two alternative railway crossing points in the vicinity; one is the existing stepped public footbridge 220m to the west of the level crossing, the other is the Oxford Street underbridge 300m to the east of the level crossing. The route via Canterbury Road, Oxford Street and the underbridge is flat and is an established route for users desiring step free access. The route is visible from passing traffic, so may already be favoured by some users in preference to the level crossing. There are numerous controlled crossings of the roads on this route to allow good connectivity. The length of the diversion and amount of inconvenience to users is difficult to quantify as different users will have a wide range of start and end points. However, the location of the High Street and many other local amenities means that most users diverting to the Oxford Street underbridge route will not be travelling significantly further than the route via the level crossing. The other route north of the railway heads generally northwest, first along West Cliff, then turning right to cross the Golf Course.

OPTIONS	DESCRIPTION	CONSTRAINTS/VIABILITY
		Creation of a new linking footpath on the south side of the railway would allow for the route heading northwest to be more easily accessed from Glebe Way via the stepped footbridge, maximising access to this facility. This option would not entail any new structure, so visual intrusion would not be an issue. This option is to be presented at a public information event. See Appendix 1 for drawing.
Provision of Lifts and Footbridge	Mechanical lifts would be required on both sides of the crossing with a bridge structure spanning between to provide an accessible and safe route for pedestrians to cross the railway	Lifts are not appropriate on a public right of way. This location in particular is not suited to the provision of lifts because there is no staff presence. The safety and security of users would be compromised if there were a problem with the operation of the lifts such as power failure, vandalism, or antisocial behaviour. The level crossing site has experienced incidents of vandalism and trespass and general antisocial behaviour (as detailed later on); hence this option has been discounted. **This option is not feasible.**
Provision of a footbridge with steps and ramps	A footbridge with steps and ramps will offer a safe crossing point over the railway.	Considerable outside party land purchase on both sides of the railway is required to accommodate a ramped structure (see outline plan in Appendix 1), and would occupy either a section of Portway or Westfield Lodge. **The adjoining landowners have been contacted and are not willing to sell any land to Network Rail to allow a bridge to be built/The adjoining landowners are willing to sell but the value of the land is such that this option is not feasible.** A ramped structure would also impact on lineside equipment including telecoms and signalling equipment which can be expensive to relocate. There would be an impact on visual amenity, even with screening for residents on both sides of the railway. It is likely there would be a great number of objections to a planning application for this type of proposal. Ramps would increase the diversion distance for users negotiating the crossing by around 240m. Good practice guidance, including BS 8300, states that where a ramp is too high, it may be unacceptably tiring for self-propelled wheelchair users and people with walking difficulties, even with landings provided. This would lead to users requiring ramps using the Oxford Street underbridge route in any case. For information, a sketch showing the footprint of such a bridge is to be presented at a public information event (see Appendix 1 for drawing). **This option is not feasible.**

OPTIONS	DESCRIPTION	CONSTRAINTS/VIABILITY
Provision of a footbridge with steps	A footbridge with steps will offer a safe crossing point over the railway	A stepped footbridge could be located at this site within Network Rail's land ownership with the addition of crash protection measures to allow for the necessary clearances to the running rails to be reduced. Alternatively a stepped footbridge with full clearances could be provided with a small amount of land take. There is sufficient land available either side of railway (see outline plan in Appendix 1). The replacement of kissing gates with a stepped footbridge may reduce accessibility for a small proportion of users. However, it will remove the public safety risk and offer a safe crossing point for the majority. There would be some visual impact of any new structure. This option is to be presented at a public information event (see Appendix 1 for drawing). **This option is feasible.**
Provision of an underpass	A concrete pedestrian tunnel under the railway with graded footpath approaches would be required to provide an accessible and safe route for pedestrians to cross the railway.	The installation of an underpass at the crossing would require considerable land purchase, including residential properties, either side of the railway to create the necessary footpath approach gradients. The topography of the surrounding area means the underpass would be prone to flooding without additional expenditure and maintenance being required. Ramps or graded approaches would increase the diversion distance for users to negotiate the crossing by over 200m. Underpasses may not be preferred by users and residents as they can attract antisocial behaviour. In view of the expense of land acquisition, construction, and unsuitability of drainage in the area, **this option is not feasible**.

The following data have been reviewed in considering how diverse and inclusive the project has been:

Alternative access routes

The presence of metal kissing gates on either side of the railway prevents access to the crossing by wheelchair users.

The current accessible route from Glebe Way to Clifton Road is via Canterbury Road and the underbridge (see plan 3 below). This route is along footways on the public road, and is already well used. Users have some residential roads to cross and dropped kerbs are present. This route adds a maximum of 500m to a journey compared to taking the route over Glebe Way level crossing and is likely already taken by users who cannot negotiate the current crossing configuration or stepped footbridge.

A second alternative route is available via the public footpath network and stepped footbridge to west of Glebe Way level crossing (see plan 4 below). This route adds a maximum 380m to a journey compared with taking the route over Glebe Way level crossing. The route is comprised of a wide (approx. 2m) tarmac footpath leading up to both sides of the stepped footbridge. The pathways may become muddy and slippery in poor weather, particularly during leaf fall season, due to overhanging vegetation and the vegetation growing at the side of the paths. This route also provides the shortest access to the nearby beaches.

Plan 2 – Alternative Route Plan.

Plan 3 – Plan showing the footpath route via Glebe Way Level Crossing.

Plan 4 – Plan showing the footpath route via Irish Road stepped footbridge.

Plan 5 – Plan showing the footpath route via Canterbury Road underbridge.

Information from Harbour and Seasalter National Census data

Three census areas have been considered for this crossing; Seasalter, Harbour and Gorrell. The 2011 census relates to the 19,882 residents in total that live in Seasalter (7,967), Harbour (5,791) and Gorrell (6,124) areas. The data relate to age, health and ethnicity. It recorded that there were:

- 4,193 people under the age of 18 in this area
- 5,610 people aged 60 and above
- 1,750 people whose health limited their activities a lot
- 2,097 people whose health limited their activities a little

Step 3: Impact

Q4. Given the evidence listed at step 2, what potentially negative impact could this work have on people who share protected characteristics?		
Protected Characteristic		**Explain the potential negative impact**
Disability	Yes	The northern approach to the crossing is via Clifton Road/Portway. These are residential roads with pedestrian footways approx. 1 metre wide. Due to the road being relatively narrow cars are frequently parked blocking them. A metal kissing gate is present on the Network Rail boundary. There is then a small incline up to the crossing. The southern approach to the crossing is from Glebe Way where a wide relatively flat concrete driveway leads up to the railway. A metal kissing gate is present at the Network Rail boundary after a small incline. It is considered that these access routes are not currently accessible for wheelchair/mobility scooter users due to the metal kissing gates on both sides of the crossing. **Stepped footbridge option** Replacing the level crossing with a stepped footbridge could create a further obstacle to and have a negative impact on people with restricted mobility. The footbridge design includes the following features: • Tactile paving strips • Warm to touch, visually contrasting handrails • Visually contrasting stair nosings • Anti-slip surfacing Replacing the level crossing with a footbridge with these features would have a positive impact for those people with hearing and visual impairment as well as some people with mobility impairment. These users would benefit from an improved and safer experience than the existing level crossing. The metal kissing gates would be removed as part of the proposed scheme. **Diversionary route option** Closure of the level crossing and creation of a new footpath link to existing stepped infrastructure would lengthen the route for some users (whilst being potentially a more direct route for others), but the existing stepped bridge is not built to

		modern standards. Upgrades to the existing structure should be considered to improve accessibility. Benches *enroute* should be considered to encourage usage by those who can only mobilise for a shorter distance. **Closure of level crossing without provision of an alternative** This option would increase distances for all those using the crossing at present. Without provision of a new bridge or a link, some people may be deterred from crossing the railway.

Age	Yes	The introduction of a **stepped footbridge** would minimise distances relative to the existing level crossing, which would be a preferred option for those unable to mobilise for long distances. A stepped bridge would have an impact on children in buggies or older people who find steps difficult to negotiate, although the footbridge would provide a safer user experience than the current level crossing for most existing users. The level crossing does not currently cater well for children in buggies, but limited use by them has been recorded. **Diversion to the existing stepped footbridge** would not provide the accessibility benefits of a modern structure, although enhancements could be considered. **Closure without provision of an alternative** would increase distances for those using the crossing at present. Without provision of a new bridge or a link, some people may be deterred from crossing the railway.
Pregnancy /maternity	No	It is not considered that any of the feasible options will impact disproportionately on people with this characteristic.
Race	No	The crossing can be used to access the town centre where several community centres are located. For the majority of residents the quickest route to these is via underbridge VIR/770 on Canterbury Road. For some users on Glebe Way the quickest route is via Glebe Way level crossing. Suitable alternative routes are available for users who are unable to negotiate a stepped footbridge.
Religion or belief	No	The crossing can be used to access the town centre where various places of worship are located. For the majority of residents the quickest route to these is via underbridge VIR/770 on Canterbury Road. For some users on Glebe Way the quickest route is via Glebe Way level crossing. The

		provision of a stepped footbridge does not preclude access to the places of worship. Suitable alternative routes are available for users who are unable to negotiate a stepped footbridge.
Gender	No	There is no impact on this protected characteristic
Sexual orientation	No	There is no impact on this protected characteristic
Marriage/Civil Partnership	No	There is no impact on this protected characteristic
Gender reassignment	No	There is no impact on this protected characteristic

Q5.What extra could you do to have a positive impact on diversity and inclusion?
The project team is investigating the feasibility of incorporating seating into the design of a new footbridge or on a diversionary route, with this being provided at either end of the structure. Network Rail has a target to have a ‘net positive contribution to biodiversity’ this means that we will try to improve what we have taken away. We will work with Kent County Council to determine whether any highways improvement works are feasible along the diversion routes.

Step 4: Consultation

<table>
<tr><td colspan="2">Q6. How has consultation with those who share a protected characteristic informed your work?</td></tr>
<tr><td>Who was consulted? [1]</td><td>Changes made as a result of consultation</td></tr>
<tr><td>Public Information Event</td><td>A public Information Event was held on 26 October 2015 at Whitstable Football Function Room, which is a fully accessible location. All residences within 250m of the crossing were invited to the event (353 residential and 12 businesses) along with posters being displayed at the crossing advertising the event. In total approximately 150 people attended and covered a wide age range (18-80) and did include some parents with children.

Three options were presented to the local community; a stepped footbridge, a ramped footbridge, and a diversion to the existing stepped footbridge with the addition of a new section of footpath.

In total (feedback from the public information event and via email from before and after the event) 362 responses have been received regarding this site. Of those, 330 support the closure of the crossing breakdown as follows:

<table>
<tr><th colspan="3">Preferred Closure Method</th></tr>
<tr><th></th><th>Total</th><th>Percentage</th></tr>
<tr><td>Closure Only</td><td>7</td><td>2.12%</td></tr>
<tr><td>New Footbridge</td><td>66</td><td>20.00%</td></tr>
<tr><td>Footpath to existing footbridge</td><td>160</td><td>48.48%</td></tr>
<tr><td>No Preference Stated</td><td>95</td><td>28.79%</td></tr>
<tr><td>Ramped Footbridge</td><td>2</td><td>0.61%</td></tr>
</table>
</td></tr>
</table>

[1] This could include our staff networks, local users, the BEAP (re disability), local faith leaders etc.

Step 5: Informed Decision-Making

Q7. In light of the assessment above, what is your decision? Please provide a rationale
From the evidence collected and in consideration of the site constraints the proposal for a stepped footbridge near the existing crossing should be developed further. The design development will incorporate good practice design features and feedback from stakeholder consultations. The rationale for this decision is:- • Extinguishment of the public right-of-way would address risk concerns but is unlikely to be promoted by the local authority due to loss of connectivity in the area. • Diversion via a new footpath on Network Rail land to the existing stepped footbridge would be the cheapest option but the existing footbridge does not have the accessibility benefits of a new structure. However, consideration will be given to improvements which can be implemented. • Lifts would not be suitable in operational terms for this location. • Ramped bridge or underpass options do not have land availability, would have significant amenity impacts and do not seem to be preferred by local residents. • A stepped footbridge can be delivered within current land ownership and would remove the current risks. An alternative route of a suitable standard already exists for people unable to use a stepped footbridge.

Step 6: Action Planning

Q8. What actions will be taken to address any potential negative impacts and deliver positive impacts?

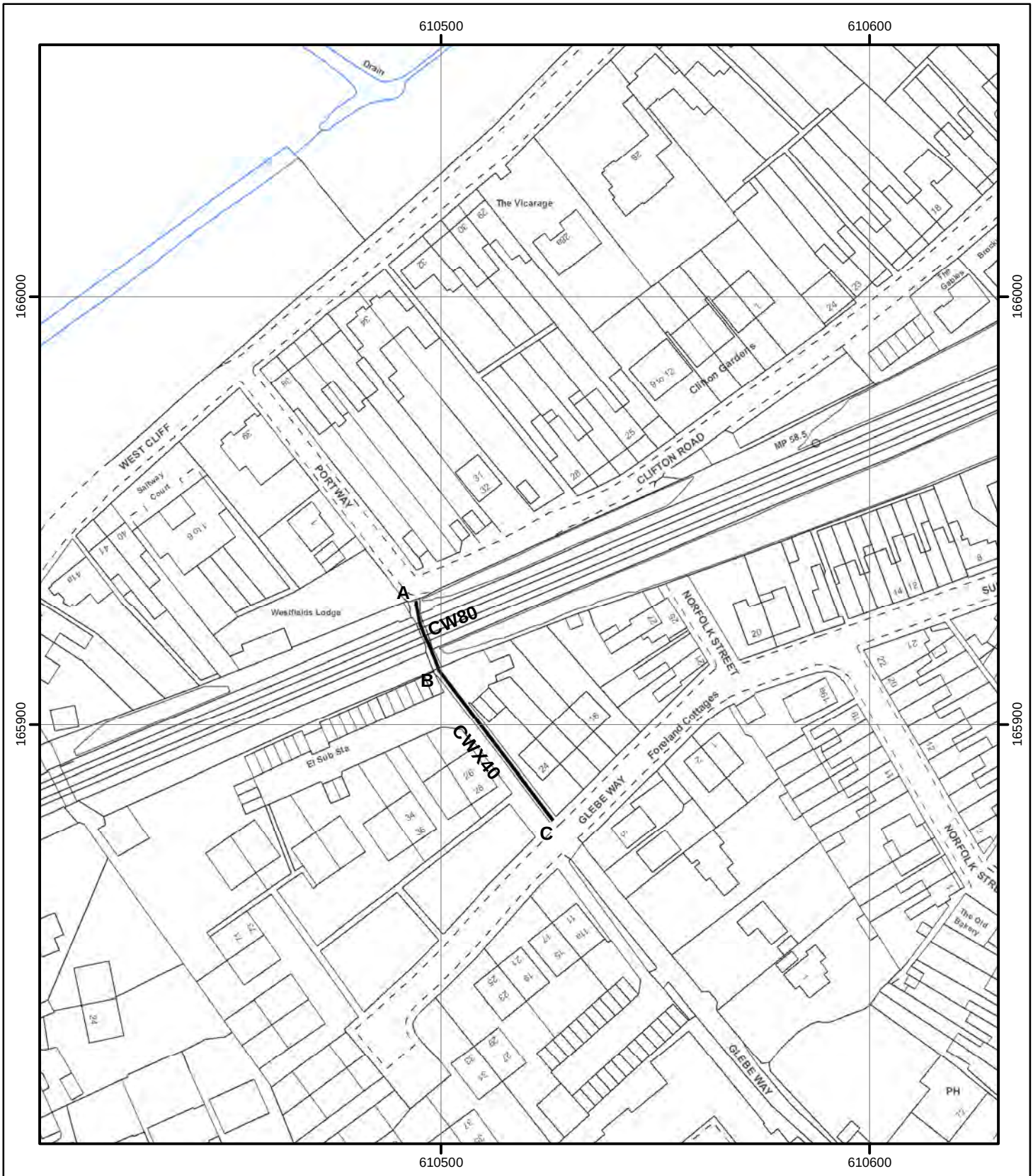
Action	By when	By whom
Meeting with Kent County Council Rights of Way to discuss possible options based on the public information event		NR Liabilities
Pre-application Planning Meeting		NR Town Planner

Step 7: Sign off

Name	Position	Signed	Date
Margaret Hickish	Access & Inclusion Manager		

Step 8: Add an action to your plan setting out how you will monitor this DIA

Revision Date: Not applicable



Key

Routes to be extinguished

Highways Act 1980
The Kent County Council
Proposed Rail Crossing Extinguishment of Public Footpaths CW80 & CWX40 at Whitstable

N

1:1,250

0 Kilometres 0.05 0.1

0 Miles 0.03 0.06

Created by:	MMcL	Checked by:	MMcL
Reference:	PROW/CW80/10/NR		

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