

# Application Form

for Diversion or Extinguishment  
of a Public Right of Way



PROW & ACCESS SERVICE

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## Highways Act 1980 Section 118A or 119A as amended by the Transport and Works Act 1992

To be used in conjunction with Network Rail's – Crossing Closure Application Form.

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For office use only:

Path number.....

Parish.....

Schedule reference.....

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**Note: Please read Guidance Notes to help you complete this application**

**A. APPLICANT'S DETAILS**

1. Full Name [Darren James](#)
2. Address [Network Rail Infrastructure Ltd, Basingstoke Campus, Gresley Road, RG21 4FS](#)
3. Telephone: [07395383830](#)
4. Email address: [darren.james@networkrail.co.uk](mailto:darren.james@networkrail.co.uk)
5. *Corporate customers only -*

(a) Full company name (incl. PLC or Ltd) [Network Rail Infrastructure Ltd, Basingstoke Campus, Gresley Road, RG21 4FS](#)

(b) Purchase Order number: [TBC](#)

(c) Accounts department email address to which invoice should be sent: [Darren.james@networkrail.co.uk](mailto:Darren.james@networkrail.co.uk)

6. Do you intend to be represented by a professional agent? Yes  No

Name: [N/a](#)

Address: [N/a](#)

Email address: [N/a](#)

Telephone number: [N/a](#)

Do you wish all future correspondence to be sent to: Self  Agent

**B. LAND OWNERSHIP AND OTHER INTERESTS**

1. Are you the owner of all the land affected by your proposal?

Yes  No

*Please provide copies of the relevant Land Registry title documents with your application.*

If No, please provide the name and address of the other affected landowner(s) below and attach his/her written consent to this application.

[There are three landowners affected by the proposals namely:](#)

OFFICIAL

1. Kent County Council of County Hall, Maidstone, Kent, ME14 1XQ  
(Title numbers K610159 and K206266)
2. National Highways Ltd of Bridge House, 1 Walnut Tree Close,  
Guildford, GU1 4LZ (Title number K868210)
3. A Hinge and Sons Ltd of Farm Office, Oad Street, Borden,  
Sittingbourne, Kent, ME9 8JP (Title number K899615)

2. Are there any private rights affecting the existing or proposed routes?

Yes  No

If Yes, please provide details below including exactly where these rights exist.

N/a

3. Are there any other occupiers of the land affected by your proposal (e.g. any tenants)?

Yes  No

If Yes, please provide the name(s) and address(es) below.

N/a

### C. EXISTING ROUTE

1. Path Number: [ZR111](#)

2. Parish: [Bobbing](#)

3. Is the Right of Way a: Footpath  Bridleway  Byway  Restricted Byway

4. Is the existing definitive route of this path open and unobstructed?

Yes  No  Partially

If obstructed, please provide details of how, where and over what period of time, and indicate the location of the obstruction on the plan accompanying this application.

[Simpsons level crossing \(the Crossing\)](#), through which Footpath ZR11 traverses, has been closed via a Temporary Traffic Regulation Order (TTRO) granted by Kent County Council (KCC) as of 26<sup>th</sup> March 2021 pending a permanent solution, hence this application.

### D. YOUR PROPOSAL

## 1. What are you proposing?

Diversion  Extinguishment

*Please provide a 1:2500 scale plan indicating the extent of your landownership, the affected section of path and the proposed new route (where applicable) and the location of any existing and proposed stiles, gates or bridges.*

The following has been annexed to this application:

(a) SDM1 – A plan illustrating the diversion route marked with the broken red line

The proposed new route shown in SDM1 starts at point A and ends at point G. the total length of the path to be extinguished is approximately 338 meters.

SDM1 shows the affected section of footpath ZR109 and the proposed new route, including the section under Bobbing Bypass overbridge which carries the A249. The section of footpath ZR109 that will be diverted is shown by the solid red line and this is approximately 13 meters long. The solid blue line from points A to B is 13 meters long.

The length of the proposed route is approximately 160 meters which can be broken down as follows:

- (a) Between points B and C, the proposed path will run under the A249 bridge for 58 meters.
- (b) From points C to D, the path runs from Network Rail's land onto land owned by Highways England, this section is approximately. At this point, there is a gentle incline into a field, and this continues until the path reaches Bobbing Road overbridge.
- (c) A Hinge and Sons Ltd owns most of the land between points D and E, the path here is 50 meters long.
- (d) Kent Country Council owns most of the land between points E and F, this section is 52 meters long.
- (e) The path goes from F to G is shown by the broken blue line. This is the section of the proposed route is an existing public highway and is approximately 145 meters. The path from F to G would take pedestrians over Bobbing Road overbridge which carries Sheppey Way. There is a footway between points F to G and parts of the footway are paved.

#### **Risk reduction options evaluation**

(a) **Closure and diversion via Sheppey Way Bridge (chosen option)**– Sheppey Way Bridge is approximately 160 meters from the Crossing and has a 40mph speed restriction. As such, there will be no requirement to erect and ARMCO barrier to separate the footpath from the road. A path some 2 meters wide currently exists along the pavement in parallel. However, the pavement will have to be extended some 50 meters to the steps at the entrance of the Premier Inn/Brewers Fayre in order to make way for the diversion. This option not only removes access to the railway, but also traverses land for which consent has been obtained from the relevant landowners in principle.

- (b) Closure and diversion via ramped approach to A249** – This diversion includes a ramped approach up to the A249 bridge onto a 3.6 meter pavement protected by an ARMCO barrier. The ramp can be easily constructed along the embankment which is owned by Highways England. If permitted, this diversion would be the shortest of the two possible diversions in this options selection. However, this proposal objected to by Highways England. Therefore, had to be discounted in favour of the alternative diversion above.
- (c) Closure via stepped footbridge** – Building a footbridge eliminates the risks to pedestrians using the footpath element of the Crossing. However, due to the stepped access this option is not feasible as Kent Council have insisted that any diversion has ramped access for all user types. As a result, this option has been discounted.
- (d) Closure via ramped footbridge** – Although this option would ordinarily satisfy Kent Council’s requirements to provide ramped access, there is insufficient room to build this structure on the down side. The structure would be extremely large relative to the surroundings and encroach on nearby housing. Further, this option would likely be rejected had space not been an issue. As such, we have discounted this option.
- (e) Closure via an underpass** – If constructed, this would be an extremely challenging ‘cut and cover’ type construction carried out over a 54hr prolonged possession period. If an underpass were constructed 3 meters below railway level, this would need to be accommodated by some 60 meters of ramps at a 1:20 gradient. The length and invasive nature of the underpass to neighbouring properties would be particularly unattractive, not least due to the likelihood of anti-social behaviour. Also, due to the significant costs associated with digging through Victorian earth works, the direct impact on train services and the lack of knowledge of what may lay beneath the ground may amount to significantly higher costs than previous envisaged with no guarantee of economic viability as a result. Therefore, this option has been discounted.
- (f) Miniature stop lights (MSL)** – MSLs are lights that display red or green as crossing signals depending on whether a train is approaching. This option has been explored as a possible alternative to diversion. Signal EK4200 lies inside the potential strike-in point which renders an overlay MSL unfeasible at this location. An MSL interlocked with signalling will require significant investment as it will require strike-in from both sides of Western Junction and two locations depending on whether EK4200 is on red. Pursuant to the installation of an MSL, a phone will be need to be installed as a secondary appliance in case the MSL is out of order. Further, a phone is likely to be subject to misuse in this location which would impede train efficiency following signalling cautions. Moreover, an MSL will reduce the risks associated with access to live railway infrastructure contrary to our mandate to eliminate the risk entirely. Therefore, we have discounted MSLs as a viable option.

2. What are the reasons for your proposal?

*Please provide as many details as possible as this will assist your application.*

As part of the operating licence, Network Rail’s primary imperative is to operate a safe and efficient railway network. To that end, we regularly assess risk to the public and to the operation of the railway.

Network Rail’s method of risk assessment of its crossings comprises two components:

1. Quantitative – a mathematical model called All Level Crossings Risk Assessment Model (ALCRM) which is composed of two elements:
  - (a) Individual, expressed by a letter on a scale of A to M where A represents the highest individual risk, and;
  - (b) Collective, expressed by a number on a scale of 1 to 13 where 1 represents the highest collective risk.
2. Qualitative, in the form of Narrative Risk Assessment which is complimented by ALCRM but also feeds important data into the ALCRM. It contains an assessment of the risk observed at the crossing, including but not limited to, line speed and train frequency, frequency and type of public use and misuse, sighting distances, environmental factors relevant to safety

In its most recent Narrative Risk Assessment (NRA) dated 2<sup>nd</sup> March 2020, the Crossing has been assigned an ALCRM score of C3, which means it has a high to medium level of both individual and collective risk. It currently ranks 13<sup>th</sup> riskiest of 341 footpath/bridleway crossings on the Kent route.

The following key risk drivers were identified by ALCRM and contributed towards the risk score:

### **Frequent trains**

The Crossing serves a mixture of passenger and freight trains with a maximum permissible line speed of 90mph timetabled to run 24 hours per day. The daily traffic consists of 156 timetabled trains which consists of:

- (a) 73 high speed passenger trains formed of 6 coaches (120m in length) travelling up to 90mph,
- (b) 64 Electrostar passenger trains formed of 4-12 coaches (80m-140m in length) travelling up to 75mph
- (c) 19 465/466 passenger trains formed of 2-10 coaches (40m-200m in length) traveling up to 75mph.

*Note:*

- *Peak times will often impact the railway traffic passing the Crossing*
- *The line is also open 24hrs a day, 7 days a week.*

Considering the maximum attainable line speed, the magnitude of risk associated with the Crossing being left open can only be compared to allowing a pedestrian crossing on a motorway to exist. The daily frequency and variety of trains witnessed by the Crossing naturally presents inherent risks to the public. As a control measure to the frequency of trains, Network Rail empirically assesses these risks through the lens of factors considered within ALCRM, namely:

- (a) **Risk of another train coming** – It is known that trains regularly pass each other in the vicinity of the Crossing due to busy nature of the route. Passing trains generate an additional hazard to users as they may block the user's sighting of another approaching train. A user who starts traversing the crossing on the basis that the train has passed may then step out behind a train assuming that it is safe to do so, only to step in front of another train. External influences such as being in a hurry, wearing headphones or simply the noise of the train passing may also

impact on the user’s decision-making process to identify if another train is coming.

- (b) **Crossing approaches** – There are signs at the Crossing which are clearly located on the direct route a user would navigate and are positioned so that they are clearly visible to users taking a direct route over the Crossing. However, the visibility of the signs is reduced at night or at dusk. Also, the approaches to the Crossing within the boundary fence are not considered to be steep, slippery or present a tripping hazard to able-bodied users. Thus, reasonably practicable measures have been employed to reduce the risk of using the Crossing.
- (c) **Sighting** – A speed of 1.189 metres per second is used to calculate the time it takes an able-bodied user to traverse a crossing, i.e. pass from decision point to a position of safety on the other side. The recommended decision point for a footpath crossing stands at a minimum of 2m from the nearest running rail. The length of traverse is then calculated from this point until 2m past the furthest running rail. The Crossing has a decision point of 2m, a traverse length of approximately 9m, and the traverse time is 9 seconds.

Following a census carried out on 6 January 2018, it was revealed there were a high volume of vulnerable users, such as elderly and children, who frequently used the crossing. As a result, the traverse length at the Crossing must increase to 12 seconds.

The maximum line speed at the Crossing is 90mph for passenger trains and. For sighting calculations, the assessment is mandated to use the maximum attainable speed that trains can travel.

Not all trains will be travelling at line speed. This variance in speed is a recognised and important source of risk to those crossing the railway. It can, and often does, make it difficult to make accurate assumption about the speed of an approaching train and, in consequence, to decide whether it is safe to cross.

The point at which the train is considered to be visible is when the majority of the front of the train (including headlight) is visible; this must then remain visible without significant or total interruption/obscuration – either momentary or prolonged. Please refer to the table below which juxtaposes the minimum required and the actual sighting distance:

*Table 1.*

All distances measured in metres	Minimum sighting distance required	Measured sighting distance	Is sighting compliant?
Upside looking toward up direction train approach	375	382	<b>Yes</b>
Upside looking toward down direction train approach	482	853	<b>Yes</b>
Downside looking toward up direction train approach	375	421	<b>Yes</b>
Downside looking toward down direction train approach	482	853	<b>Yes</b>

According to Table 1, the Crossing is compliant when consider sighting distance for the average user. There are no known obstructions that could make it difficult for users to see approaching trains and no actions to improve sighting have been identified.

Within the remit of Network Rail’s mandated risk appetite, measures within its control have been implemented to make the Crossing as safe as possible without closing it. In isolation, the frequency of trains and its associated risks mentioned above are within the compliant standard. However, the control measures purporting to mitigate the risks are ineffective when contextualised with the large number of users and the types of use which will be explored below.

**Large number of users**

A surveillance survey was conducted over a period of 9 days from 6<sup>th</sup> January 2018 using Sotera cameras. Given the time of year, the study’s findings applies to approximately 40% of the year. It was found that there were 60 daily users of the Crossing during the study period. There was no evidence of irregular users and were mainly local residents including pedestrians, elderly and children from a nearby school. There was no heavy usage at night. Based on the usage detected during this study, it is estimated that there is up to 120 daily users of the Crossing for the rest of the year pursuant to yearly trends across our network.

**Magnitude of incidents**

Narrative Risk Assessments (NRA) are carried out by level crossing managers routinely to assess the risks associated with level crossings. The NRA forms the basis of an action to be taken by Network Rail to reduce the risk of a level crossing to a public which may include improved signage, decking, whistle boards, and even closure. However, if an incident is reported before an NRA is due for completion, the level crossing manager is required to conduct one as soon as practicable. The NRA annexed to this application was triggered due to reports of an incident, the details of which can be found below in Table 2.

**Table 2**

<b>Date</b>	<b>Event</b>	<b>Description</b>
21/02/2020	Near miss	A pedestrian using the crossing in the path of an oncoming passenger train travelling at line speed. This led to Network Rail applying for a TTRO which is still in place.
22/06/2019	Near miss	A number of youths crossed in front of an oncoming passenger train travelling at line speed.
25/05/2019	Near miss	A lady carrying a young child crossed in front of an oncoming train travelling at line speed.
20/05/2014	Fatality	Fatality by suicide
22/12/2013	Fatality	Fatality by suicide

The types of users and incidents at the Crossing are of such a magnitude that permanent closure is the only viable option to eliminate the risk of another fatality.

**Conclusion**



With a line speed of 90 mph and 156 trains/day passing over the Crossing, including during the hours of darkness, the variation of train speeds as well as those passing in close proximity to the Crossing, it is evident from the data we have now acquired, that the Crossing poses an unacceptably high level of risk to both users of the public footpath and to train operations. Therefore, we invite KCC to make an order to divert Footpath ZR109 over our proposed diversion route as it is expedient in the interest of safety of members of the public.

3. What is the proposed width of the new route (where applicable)?

*A minimum of 2 metres should be provided for footpaths, 3 metres for bridleways and 4 metres for restricted byways. If the path is to be fenced, an additional 0.5 metres will be required. Where the Definitive Statement records a width for the existing path then it is that width which must be provided for the new route. However, Kent County Council may specify a lesser or greater width where it considers it expedient to do so.*

The diversion route will provide a 2m width footpath to facilitate safe access around the railway.

## E. WORKS

1. Please indicate on the plan and detail below any works that may be required to bring the new route into a fit condition for public use (eg clearance of trees, undergrowth, demolition of buildings, making up ground, drainage, surfacing, fencing, steps, ramps).

TBC

*Any works carried out in connection with the Orders will have to meet the County Council's specifications and standards. **No works should be carried out until the Order has been confirmed.** Works must then be completed within 28 days of the Order being confirmed, or within a suitable period agreed with the Order Making Authority and prescribed in the Order.*

## F. LOCAL CONSULTATIONS

1. Consultees will require access to inspect the proposed route. Do they need to make contact with anyone before doing so?

Yes  No

If yes, please give details below:

Name: Darren James

Address: Darren.james@networkrail.co.uk

Telephone number: 07395383830

*Please note that this information will be included on the consultation letter and will therefore be available to the public.*

## **G. YOUR APPLICATION**

1. I apply to change the Public Rights of Way network as indicated in this application form and as shown on the attached plan. I undertake to meet the County Council's full costs and all advertising costs in promoting the Order whether or not it is successful. Furthermore, if I withdraw my application at any stage, I also undertake to meet the County Council's full administrative costs and any advertising costs up to that point. The County Council will use its best endeavours within the statutory framework to bring your proposal to an early conclusion although it cannot guarantee the eventual outcome.

2. –

(a) I undertake to meet the County Council's full costs for carrying out the works necessary to bring the new path into a fit condition for public use.

or

(b) I undertake to carry out the necessary works myself or by employing a contractor to bring the new path into a fit condition for public use to the County Council's satisfaction. I also undertake to meet the County Council's full costs for the delivery of furniture, installing any necessary fingerposts and/or waymarking the new path.

Please be advised that if the necessary works are not completed to the required standard within 3 months of the Order being confirmed (unless agreed otherwise) then the County Council reserves the right to undertake the works and recharge you the full costs for carrying out those works.

3. I undertake the responsibility of cooperating in a timely manner with the County Council and assisting in the process where requested by the case officer. The County Council reserves the right to cease to process an application where the applicant fails to meet reasonable response deadlines set by the Case Officer (and an invoice will be raised for works undertaken to date).

4. I undertake to indemnify the County Council against claims in accordance with relevant Provisions of the Town and Country Planning Act 1990 and the Highways Act 1980 in respect of compensation for depreciation in value of an interest in land or for disturbance in enjoyment of land consequent upon the making of an Order;

5. I undertake to indemnify the County Council against any expenses incurred by the Council in connection with the making and confirmation/certification of any Order that may be made in respect of this application.

6. I certify that I have sought and obtained permission from all other landowners affected by this proposal (where applicable) as detailed in section A.

7. I note that this application cannot be treated as confidential and a copy of this form and any accompanying documents may come into the public domain at any time. A copy of this form and any accompanying documents may also be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000.

8. I give consent for the personal details that I have provided in this application form to be stored, as part of the original application form, on the relevant footpath file indefinitely.

**Signature of applicant and all registered landowners**

Signature *D James*

Date: 30/01/2022

NAME IN CAPITAL LETTERS PLEASE

DARREN JAMES

Signature .....

Date .....

NAME IN CAPITAL LETTERS PLEASE.....

Signature .....

Date .....

NAME IN CAPITAL LETTERS PLEASE.....

**Please ensure that the application form has been completed in full and is accompanied by a plan of the proposal at a scale of at least 1:2500, preferably based upon an Ordnance Survey Map extract providing you comply with their Copyright conditions. The plan will need to show the entire length of the existing path(s) concerned in a solid line and the proposed new route(s) in bold dashed lines, together with the location of any stiles, gates, bridges, culverts or other works necessary to bring the new route into effect. The extent of landownership(s) will also need to be shown on the plan and proof of ownership provided.**