

Delegated Report

Prior Approval Application

Planning Application No: 20221046

Location: Shornemead Level Crossing Queens Farm Road Shorne Gravesend

Description: Application for prior approval under Part 18 of the Town and Country Planning (General Permitted Development) Order 2015- Construction of a stepped footbridge

Applicant: Ms Vanessa Smith, Network Rail

Site Visit Date: 06 October 2022

Submitted Documents/Plans

Drawing no. S2021-137-DRG-CIV-100 Rev. A01 Drawing notes;
Drawing no. S2021-137-DRG-CIV-101 Rev. A03 Existing site layout and location plan;
Drawing no. S2021-137-DRG-CIV-102 Rev. A03 Temporary works plan and construction sequence;
Drawing no. S2021-137-DRG-CIV-103 Rev. A03 Proposed layout and elevation;
Drawing no. S2021-137-DRG-CIV-104 Rev. A03 Proposed sections, structural details and isometric view;
Drawing no. S2021-137-DRG-CIV-105 Rev. A03 Proposed staircase details;
Drawing no. S2021-137-DRG-CIV-106 Rev. A03 Proposed foundation details;
Drawing no. S2021-137-DRG-CIV-107 Rev. A01 Proposed layout and elevation;
Drawing no. S2021-137-DRG-CIV-108 Rev. A01 Proposed staircase elevations;
Drawing no. TP-0001 Rev. A Red/blue line site boundary plan;
Letter dated 27 September 2022 from Network Rail;
Illustrations of proposed bridge;
Site photographs;
Legacy Footbridge brochure; and
Section 16 of the Railways Clauses Consolidation Act 1845.

Superseded Documents/Plans

Drawing no. S2021-137-DRG-CIV-101 Rev. A01 Existing site layout and location plan;
Drawing no. S2021-137-DRG-CIV-102 Rev. A01 Temporary works plan and construction sequence;
Drawing no. S2021-137-DRG-CIV-103 Rev. A01 Proposed layout and elevation;
Drawing no. S2021-137-DRG-CIV-104 Rev. A01 Proposed sections, structural details and isometric view;
Drawing no. S2021-137-DRG-CIV-105 Rev. A01 Proposed staircase details;
Drawing no. S2021-137-DRG-CIV-106 Rev. A01 Proposed foundation details;

Relevant Planning History

None.

Development Plan

As an application for prior approval under Class A, Part 18, of Schedule 2 to the Town and Country

Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015), there is no statutory requirement to refer to the development plan.

Consultations, Publicity and Representations

There is no statutory requirement to undertake any consultations or publicity for a prior approval application under Class A, Part 18, of Schedule 2 to the GPDO 2015. However in this instance the following consultation and neighbour responses have been received;

Natural England

SUMMARY OF NATURAL ENGLAND'S ADVICE: NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

European sites:

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest:

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

KCC - Biodiversity Officer

We advise that ecological surveys are unnecessary due to the relatively small footprint of the development and negligible impact once operational (assuming there will be no associated lighting installed on the bridge).

KCC - West Kent Public Rights Of Way Officer

Public Rights of Way NS368 includes this footbridge. Currently this route is closed until the bridge is constructed, and I therefore enclose a copy of the Public Rights of Way network map showing the definitive line of this path for your information. I support this measure to reinstate a footpath over the railway at this point which has been subject to much public criticism.

It is important to advise the applicants that a public right of way must not be stopped up, diverted, obstructed or the surface disturbed and there must be no encroachment on the current width, at any time now or in future. This includes any building materials or waste generated during any of the construction phases. Please note that no furniture or fixtures may be erected on or across Public Rights of Way without the express consent of the Highways Authority.



Gravesham Rights of Way Committee

Our organisation would like to support this application. Our members were at the forefront in efforts to record the crossing on the Definitive Map and Statement as a Public Right of Way following its closure back in 2009.

We were of course very disappointed to see the crossing closed again more recently. Now with the creation of the England Coastal Path Footpath NS368 is a vital link through to this longest of all National Trails.

Although we would normally insist that all new structures such as this footbridge are fully accessible to all in this case the need to prevent unauthorised motorcycles and keep the impact on the surrounding countryside to a minimum a stepped bridge is acceptable.

The design – a steel structure, with ornate 'lattice' infill, and in an appropriate colour is in keeping with the style of bridge seen across Kent since the introduction of the railways in the mid 19th Century.

We hope that works will commence quickly, and the crossing can be opened as soon as possible.

North Kent Marshes Internal Drainage Board

The site is within the drainage district of the North Kent Marshes Internal Drainage Board and the Board has no objection to the proposals. For information, should any of the proposed works affect a watercourse then the applicant must contact the North Kent Marshes IDB on the details below.

KCC – Heritage

The site lies within an area of archaeological potential at the edge of the former wetlands and the construction of the bridge has the potential to impact on below-ground archaeological remains. A planning application should be submitted with an archaeological desk-based assessment and impact assessment and it is likely that we would recommend a planning condition for archaeological mitigation such as a watching brief during groundworks.

Kent Police - Designing Out Crime Team

We have reviewed this application in regard to Crime Prevention Through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).

Applicants/agents should consult us as Designing out Crime Officers (DOCO's) to address CPTED and incorporate Secured By Design (SBD) as appropriate. We use details of the site, relevant crime levels/type

and intelligence information to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behaviour (ASB), Nuisance and Conflict.

There is a carbon cost for crime and new developments give an opportunity to address it. Using CPTED along with attaining an SBD award using SBD guidance, policies and academic research would be evidence of the applicants' efforts to design out the opportunity for crime.

We request a condition for this site to follow SBD guidance to address designing out crime to show a clear audit trail for Designing Out Crime, Crime Prevention and Community Safety and to meet our Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.

1. We would like to request that CCTV cameras are considered due to the remote nature of the location and low natural surveillance.
2. Regarding landscaping, new trees should help protect and enhance security without reducing the opportunity for surveillance or the effectiveness of lighting. Tall slender trees with a crown of above 2m rather than low crowned species are more suitable than "round shaped" trees with a low crown. In addition, new shrubs should be maintained at a height of no more than 1m.
3. If new footpaths are being considered, they must be devoid of potential hiding places, well lit and well-maintained to enable natural surveillance, 3m wide and as straight as possible.
4. We strongly recommend that access to the side of the railway tracks be restricted to the public, therefore we advise a lockable gate be located between the bottom of the stairs and the fence next to the railway line (as shown on the Illustrative CGIS on the planning portal). This gate should only be accessible for maintenance purposes.

Please note, site security is required for the construction phase. There is a duty for the principle contractor "to take reasonable steps to prevent access by unauthorised persons to the construction site" under the Construction (Design and Management) Regulations 2007. The site security should incorporate plant, machinery, supplies, tools and other vehicles and be site specific to geography and site requirements.

We recommend you contact British Transport Police DOCOs for their advice on this project.

We welcome a discussion with the applicant/agent about site specific designing out crime. If the points above are not addressed, they can affect the development and local policing.

This information is provided by Kent Police DOCO's and refers to situational crime prevention. This advice focuses on CPTED and Community Safety with regard to this specific planning application.

Health and Safety Executive – Planning Advice

No comment.

Councillor Lane (Ward Councillor for Shorne, Cobham and Luddesdown)

As this is an application for prior approval under Schedule 2 Part 18 of The Town and Country Planning (General Permitted Development) (England) Order 2015, I assume that Gravesham Planning is not required to consult any other parties, and is not obliged to take any comments from other parties (such as GROWC) into consideration.

However, as Gravesham Borough Councillor for Shorne, Cobham & Higham, it is appropriate that I should make you aware of the inconvenience suffered by many of my constituents as a result of the absence of a usable pedestrian crossing at Shornemead. This has cut Shorne and its residents off from the river, the marshes, Saxon Shore Way, and the tow path for 3 years. It is not acceptable that this PROW should remain severed for any longer than is absolutely necessary, and it is imperative that access for pedestrians and cyclists is restored as soon as possible.

The proposed stepped footbridge will achieve this objective, restoring access for the pedestrians and cyclists who were able to use the restricted level crossing before it was closed. I can see no reason to object to the design, appearance, and siting of the proposed footbridge, and I would hope that GBC sees fit

to give prior approval to the detailed plans and specifications provided so that it can go ahead without further delay.

Shorne Parish Council

The Parish Council welcomes this application at last coming forward. We note that the authorised user vehicle crossing will be unaffected.

During the past nearly three years since the crossing and Public Right of Way NS318 was closed unilaterally by Network Rail, without any prior discussion with the Parish Council, residents and visitors have been cut off from access to the National Cycle Route (Sustrans Route 1) on the northern canal towpath, and the Thames riverbank via Fort Road. This has caused considerable community annoyance and inconvenience, as well as creating additional safety risks through the need to use alternative routes which may pose greater dangers.

The proposed location appears to be fully on Network Rail owned operational land. (The blue line boundary shown may not be fully correct as regards the actual roadway, both south and north of the railway line, but that is not material to this application).

The proposed design appears satisfactory at this time as a balance has been struck between provision of accessibility for people, including with bicycles, in line with historical use, while not providing easiest access to the marshes for unwanted motorbikes and other previous abusers of the crossing. We note that no lighting is proposed, which is correct for the landscape area.

If any changes to the design are proposed in the future, including any lighting, then a new planning application should be submitted.

Dickens' Country Protection Society

The Society would like to express its strong support for the application. The Society views this crossing an important part of the local right of way network.

Neighbouring properties

Six letters of support have been received and are summarised as follows;

- The closure of the public access here limits enjoyment of the countryside.
- The proposal will provide access to the marshes on foot and by bicycle.
- Level crossings are potentially dangerous.
- A bridge will be a much safer option.
- During the closure there is no alternative route with easy access.
- Queries disabled wheelchair accessibility for the proposal. Is a lift proposed?
- The gated vehicle crossing should remain.

No response was received from the Kent Wildlife Trust, Thames Defence Heritage, the Thames and Medway Canal Association, SUSTRANS South East, the RSPB, the Dartford and Gravesham Ramblers Association, the Ramblers Association, the Gravesham Access Group, Birdwise or KCC Highways

Officer's Analysis

Introduction

The proposed development comprises of a railway bridge located at the northern end of Queens Farm Road, Shorne. The bridge would provide a route over the railway line and would form part of Public Right of Way (PROW) reference NS368. It is noted that at present, there is a hybrid crossing at the application site comprising of an authorised user worked vehicle crossing and a pedestrian crossing which is permanently closed. The applicants (Network Rail) have set out that the existing vehicle crossing would be retained following the proposed development.

In order to benefit from the permitted development rights available under the GPDO 2015, the proposal must be in line with Article 3(1) of that legislation, which requires reference to Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017. The 2017 Regulations are relevant if the proposed development would be likely to have a significant effect on a European site (SPA/SAC/Ramsar site) or a European offshore marine site (either alone or in combination with other plans or projects) and is not directly connected with or necessary to the management of the site.

In this instance, Natural England have set out that the proposed development would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes and as such, permitted development rights can be relied upon.

The following is the relevant extract from the GPDO 2015;

PART 18
Miscellaneous development

Class A – development under local or private Acts or Order

Permitted development

A. Development authorised by—

- (a) a local or private Act of Parliament,
- (b) an order approved by both Houses of Parliament, or
- (c) an order under section 14 or 16 of the Harbours Act 1964 (orders for securing harbour efficiency etc, and orders conferring powers for improvement, construction etc of harbours)¹⁹⁰,

which designates specifically the nature of the development authorised and the land upon which it may be carried out.

Conditions

A.1 Development is not permitted by Class A if it consists of or includes—

- (a) the erection, construction, alteration or extension of any building, bridge, aqueduct, pier or dam;
or
- (b) the formation, laying out or alteration of a means of access to any highway used by vehicular traffic,

unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained.

A.2 The prior approval referred to in paragraph A.1 is not to be refused by the appropriate authority nor are conditions to be imposed unless they are satisfied that—

- (a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or
- (b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.

Network Rail is the statutory rail operator and the proposed development would be located within Network Rail's operational land. The railway at the application site was authorised under the Gravesend and Rochester Railway and Canal Act 1845 and The Railway Clauses Consolidation Act 1845, which at Section 16 allows various construction works including bridges and as such, the development would be authorised

by a local or private Act of Parliament.

Subject to paragraph A.1, the development of a bridge would not be permitted development unless the prior approval of the Local Planning Authority is first obtained. This application seeks such approval.

Subject to paragraph A.2, the proposal must be judged only on two factors;

(a) Prior approval must be granted unless the development ought to be and could reasonably be carried out elsewhere on the land

There are no residential properties located in close proximity to the application site (the closest are at Queens Farm, some 280 metres to the south) and as such, there would be no adverse impacts to residential amenity. The application site is located some 25 metres to the north west of the Apex Business Park, Queens Farm Road and as such, there would be no adverse impacts to any of the commercial occupiers.

The proposed development would re-join a severed section of an existing PROW with no significant alteration to the alignment of the footpath and would provide a significant improvement in user safety.

The application site is located in Flood Zone 2 (with a medium probability of flooding) and the North Kent Marshes Internal Drainage District Board area. No objection has been raised by the North Kent Marshes Internal Drainage Board and the proposed development would not provide any habitable/usable floor space. As there is no statutory requirement for the submission of a flood risk assessment, the applicant should be advised of the potential for flood risk by way of an informative attached to the decision.

The application site is located in the Higham Marshes Historic Landfill Site Buffer and an Area of Archaeological Potential. In relation to potential ground contamination, the applicant can be advised of the potential impacts by way of an informative attached to the decision.

In relation to archaeological impacts, KCC Heritage has advised that the construction of the bridge has the potential to impact on below-ground archaeological remains and recommends archaeological mitigation. The comments of KCC Heritage can be brought to the attention of the applicant by way of an informative attached to the decision

Overall it is considered that the location of the proposed bridge would be acceptable.

(b) Prior approval must be granted unless the design or external appearance would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury

The application site is located within the Thames Estuary & Marshes RAMSAR buffer zone, a SSSI impact risk zone (for the South Thames Estuary & Marshes SSSI), the Canal and Grazing Marsh, Higham Local Wildlife Site, the Green Belt and the Higham Arable Farmlands Landscape Character Area and therefore the visual and ecological amenities of the surrounding landscape should be afforded a high level of protection.

The proposed design would include a stepped access on either side and a relatively narrow bridge, which incorporates a latticed pattern. The bridge would be two tone green coloured and constructed from a fibre reinforced polymer (FRP) which is a low carbon, highly durable material, which requires little maintenance.

The submitted details indicate that no lighting would be included in the bridge design, which is welcomed because lighting could have adverse impacts on biodiversity and ecological interests and would be prominent in the surrounding landscape during hours of darkness.

The proposed external appearance of the bridge would be in keeping with the railway land and commercial surroundings of the application site. Due to the relatively narrow design and green colouration, there would be very little visual impact on the surrounding landscape.

Whilst it is noted that the incorporation of a stepped access into the bridge design would not allow easy wheelchair or pushchair movements (an issue raised by a local resident), it is considered that the improved levels of safety at the crossing (by removing an existing level crossing) and the generally improved connectivity for users of the footpath, would outweigh any wider accessibility concerns.

Overall it is considered that the proposed development would have no detrimental impacts on the visual or ecological amenities of the surrounding landscape and would be appropriate in design.

Other issues

The provisions of the Human Rights Act 1988 and Equalities Act 2010 have been taken into consideration in the determination of this Prior Approval application, as appropriate. In this instance, it is considered that the proposal would result in improved safety for users of both the public rights of way network and the railway and that this would outweigh any disadvantage that might occur in terms of accessibility by those sharing relevant protected characteristics under the 2010 Act. Having had regard to all other matters, it is considered that the proposal is acceptable in terms of the above legislation.

It is noted that local residents, the Ward Councillor and various consultees have raised a number of issues, that relate to the background of this application and that support the reinstatement of the PROW. The comments of the Kent Police – Designing Out Crime Team can be brought to the attention of the applicant by way of an informative attached to the decision.

It is also noted that there have been historical problems with motorcycles accessing the marshes in the area surrounding the application site. The stepped bridge design should be a deterrent to most motorcycle users but there is nothing to physically prevent motorcycle access. Therefore the applicant should consider the installation of barriers to preclude motorcycles but to allow bicycles to use the bridge. This can be brought to the attention of the applicant by way of an informative attached to the decision.

Conclusion & Recommendation

The proposal meets the criteria to be permitted development under Class A, Part 18, of Schedule 2 to the GPDO 2015 and the location, design and external appearance of the proposed development would be acceptable.

Prior approval is therefore required and granted.

(For details, see draft Decision)

Case Officer:	Mrs Kelly Joyce	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	17th November 2022	Dated:	18 November 2022