



Delegated Report

Householder Planning Application

Planning Application No: 20240922

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: Nicholas Donoghue, Network Rail

Site Visit Date: 24 October 2024

Submitted Documents/Plans

Drawing no. S2021-137-DRG-CIV-101 Rev. A03 Site location plan and existing block plan;
Drawing no. TP-0001 Rev. A Red and blue line site boundary plan;
Drawing no. 70111061-WSP-BR-DR-000001 Rev. P04 Proposed layout and eastern and western elevations;
Drawing no. 70111061-WSP-BR-DR-000006 Rev. P02 Proposed northern elevation and sections;
Drawing no. 70111061-WSP-BR-DR-000007 Rev. P02 Proposed southern elevation and sections;
Letter dated 09 October 2024 from Network Rail;
Site photographs;
Extract from Railway Clauses Consolidation Act 1845;
Legacy Footbridge brochure; and
Illustrative drawings.

Superseded Documents/Plans

~~Drawing no. 70111061-WSP-BR-DR-000001 Rev. P03 Proposed layout and eastern elevation;~~

Relevant Planning History

Reference	Description	Decision	Decision Date
20221046	Application for prior approval under Part 18 of the Town and Country Planning (General Permitted Development) Order 2015- Construction of a stepped footbridge	Granted	18.11.2022

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;

KCC Biodiversity Officer

The proposal is for a footpath over a railway line for an existing footpath.

Therefore we have only considered the construction impact of the proposal as the operational impact from the footpath will not change.

The site is directly adjacent to the South Thames Estuary and Marshes SSSI and the Canal and grazing marsh, Higham Local Wildlife Site and therefore there is potential for protected/notable species to be present within the site.

The footprint is relatively small and therefore we are satisfied that an ecological survey is not required to be submitted as part of this application. Instead we recommend that a precautionary mitigation strategy based on a site visit and review of the information associated with the locally and nationally designated sites.

We are satisfied that the mitigation can be submitted as a condition of planning permission and we suggest the following:

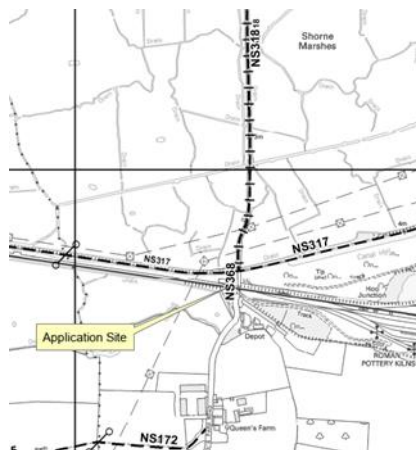
Prior to works commencing a ecological mitigation strategy must be submitted to the LPA for written approval. It must detail the following:

- Methodology to clear the vegetation within the construction footprint
- Timings of when the works will commence
- Details of who will implement the works
- Details of what habitat creation works will be carried out following completion of works.

The plan must be implemented as approved.

KCC - West Kent Public Rights Of Way Officer

Public Right of Way Footpath NS368 is currently in the process of being diverted by the Public Rights of Way & Access Service in the form of a footbridge over Shornmead Level Crossing. I enclose a copy of the Public Rights of Way network map showing the line of the path for your information.



The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:

- The applicant pays for the administration costs.
- The duration of the closure is kept to a minimum.

- Alternative routes will be provided for the duration of the closure.
- A minimum of six weeks notice is required to process any applications for temporary closures.

This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

KCC - Highways & Transportation

I refer to the above planning application and having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority.

Note:

It is noted that the access is via a public right of way (PROW - NS368) and as such the PROW team here at KCC also needs to be consulted on these proposals. I have also contacted the Structures Team at KCC, who have confirmed that structures technical approval is not required, unless it is specifically requested by the PROW Team.

It is important to note that Local Planning Authority (LPA) permission does not convey any approval to carry out works on or affecting the public highway.

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because LPA planning permission has been granted.

For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture or landscape assets such as grass, shrubs and trees, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Across the county there are pieces of land next to private homes and gardens and near the highway that do not look like roads or pavements but are actually part of the public highway.

Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a pre-application advice service in addition to a full formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. Further details are available on our website below:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>.

This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process. Further details on this are available on our website below:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/apply-for-a-dropped-kerb/dropped-kerb-contractor-information>

Once planning approval for any development has been granted by the LPA, it is the responsibility of the applicant to ensure that before development commences, all necessary highway approvals and consents have been obtained, and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Further guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181.

KCC Heritage Conservation (E & W) (Archaeology)

The area of the proposed works has below-ground archaeological potential at the boundary between the wetlands to the north and the higher ground to the south. Groundworks associated with the proposed works could impact on below-ground archaeological remains and if the works were to go-ahead, a programme of archaeological mitigation, such as geoarchaeological monitoring of any geotechnical work and/or an archaeological watching brief during construction should be agreed with the applicant.

Natural England

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.

North Kent Marshes Internal Drainage Board

The North Kent Marshes Internal Drainage Board has no objection in principle to the proposed footbridge. Since the site is within our drainage district, if the work, including temporary work, affects a watercourse, then the Applicant should provide details to the Board as land drainage consent may be required under the Land Drainage Act 1991.

This response is based on the information provided with the planning application and is reliant on its accuracy. The Board would be very grateful if its comments were used in their entirety.

Shorne Parish Council

The Parish Council welcomes this second application at last coming forward. We note that it is two years since the previous application ref 20221046 was submitted and approved, making a further two years of now five (with a little more to come) of PROW NS318 being blocked at the crossing.

Revising our previous comments:

- We note that the authorised user vehicle crossing will be unaffected.
- During the past nearly five 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 than the level crossing did itself.
- The proposed location appears to be fully on Network Rail owned operational land.
- 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.

Additional comments:

- Foundations had already been prepared for the previous bridge design but it is not clear if these can be used without/with modification or will have to be removed again and new foundations then installed.
- We note that there are no barriers to motorbike/quadbike access.

Dickens' Country Protection Society

The Society supports the application since the erection of the bridge will provide a safe crossing of the railway enabling a much used right of way to be re-opened.

No response received

No consultation response has been received from the Gravesham Rights of Way Committee, South Eastern Railway, the Kent Wildlife Trust, the Health and Safety Executive, the Kent Police Designing Out Crime Officer, Thames Defence Heritage, the Thames & Medway Canal Association, Sustrans South East, the RSPB North West Kent Reserves Office, the Dartford & Gravesend Ramblers Association, the Ramblers Association, the Gravesham Access Group, Birdwise or Network Rail.

Neighbouring properties

The application was publicised by two site notices (posted on either side of the level crossing) and to 16 neighbouring properties by letter. Three representations (in support) have been received and are summarised as follows;

- A footbridge is a valuable asset to the local community.
- The footpaths north of the crossing will become readily accessible from Queens Farm Road, where there is some parking.
- Supports the proposal on safety grounds.
- Urges the Borough Council to approve the application.

The overall consultation period expired on 15 November 2024.

Officer's Analysis

Background

Prior approval was granted in November 2022 (under reference 20221046) for the construction of a stepped footbridge at the application site. The current proposal is very similar to that granted previously but

with minor alterations to the scale of the development. The applicant has set out that, when compared to the 2022 approved footbridge, the proposed footbridge measures 235mm wider (including the top landings), the staircases are 475mm longer and the height between the running rail of the railway and top of bridge parapet is 0.09m less, the platform width has increased by 180mm and the parapet height from the bridge deck has reduced by 300mm.

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 applicant (Network Rail) has 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 has set out that the proposed development would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Therefore, it is considered that permitted development rights can be relied upon.

The relevant section of the GPDO 2015 is Class A, Part 18 of Schedule 2, which reads as follows;

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)¹⁹⁴,

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 of Class A, Part 18, Schedule 2 of the GPDO 2015, 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 an approval.

Subject to paragraph A.2 of Class A, Part 18, Schedule 2 of the GPDO 2015, prior approval is not to be refused, nor conditions imposed unless;

- (a) the development ought to be and could reasonably be carried out elsewhere on the land; or
- (b) the design or external appearance would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.

(a) Locational Issues

Network Rail have set out that the bridge has been located as close as possible to the existing crossing, that the dimensions of the bridge are dictated by the minimum clearances required from the railway line and that the bridge cannot be located on the eastern side of the crossing due to the existence of railway infrastructure. These locational constraints are accepted.

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) Design and External Appearance Issues

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.

Natural England have raised no objection to the proposal and set out that the proposed development would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

The KCC Biodiversity Officer recommends that a precautionary ecological mitigation approach is undertaken and provides the wording for a planning condition in this regard. However, as there is no means by which an ecological condition can be attached to the decision, an informative can be used to highlight this issue instead.

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. An informative can be attached to the decision to highlight that no lighting should be added to the bridge in future without a further prior approval application being determined.

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, 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 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.

The comments from all consultees and local residents are noted and where relevant, will be brought to the attention of the applicant by way of informatives attached to the decision.

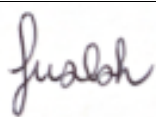
Conclusion

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.

Recommendation

Prior approval is therefore required and granted.

(For details and informatives, see draft Decision)

Case Officer:	Mrs Kelly Joyce	Team Leader:	Mrs Faye Walsh
Signed:		Signed:	
Dated:	21st November 2024	Dated:	27 November 2024