Planning Inspectorate Logo

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| **Order Decision** |
| Inquiry opened on 7 December 2021  Site visit made on 2 December 2021 |
| **by Alan Beckett BA MSc MIPROW** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 08 March 2022** |

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| **Order Ref: ROW/3257801** |
| * This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as Doncaster Borough Council Public Bridleway Number 9 Cantley (Part) and Undefined Public Bridleway Doncaster Public Path Diversion Order 2019. |
| * The Order is dated 17 September 2019 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule. |
| * There were 5 objections outstanding at the commencement of the inquiry. |
| **Summary of Decision: The Order is confirmed subject to the modifications set out in the Formal Decision.** |
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Procedural Matters

1. The inquiry had initially been scheduled to be held as a virtual event using video conferencing software. Following the easing of restrictions introduced in response to the Coronavirus pandemic and following consultations with the parties, a decision was taken to proceed with a ‘face to face’ inquiry scheduled to commence on 7 December 2021.
2. Doncaster Borough Council (DBC) had identified a venue for the inquiry, however that venue could only seat 20 persons and was not available on 8 December should a second sitting day be required. An alternative venue for the second day had been identified but was also limited to 20 persons. Whilst attempting to determine whether such a venue would have sufficient capacity to accommodate both the statutory parties and an unknown number of members of the public who might wish to attend, the date by which the statutory 28-day notice of the inquiry had to be given slipped by.
3. The required statutory notices had been posted on site on 12 November with the press notice appearing on 17 November. In such circumstances, evidential matters could not be considered at the inquiry until after 15 December. Given that the inquiry would have to be opened and adjourned to allow the statutory period of notice to expire, I asked DBC to give notice that the inquiry would open virtually on 7 December 2021 with business on the opening day being limited to the setting of a date for resumption once the statutory period of notice had expired.
4. It was agreed that the inquiry would resume as a wholly virtual event on 7 February 2022, the earliest date that was convenient for all parties. Conducting the inquiry virtually would allow the inquiry to proceed irrespective of whether further restrictions were imposed in response to the coronavirus pandemic and would accommodate the principal objector’s requirement to minimise social contact with others due to ongoing concerns regarding the omicron variant.
5. The inquiry resumed on 7 February 2022 as arranged and sat for three days. I had made an unaccompanied inspection of the current bridleway and the proposed alternative route on Thursday 2 December 2021, and I was not required to conduct a further inspection of the route at issue following the close of the inquiry.

**Background**

1. Part of the route proposed for diversion crosses the Lincoln – Doncaster railway line by means of the Carr Lane level crossing (the Crossing). In addition to pedestrian wicket gates on the eastern side of the Crossing, public equestrian use of the Crossing is facilitated by the provision of telephones and gates. The telephones are for the use of those members of the public seeking to cross the railway with a horse and for those with private vehicular rights seeking to cross the railway.
2. To the south of the railway is a parcel of land being developed by Persimmon Homes (the Manor Farm site) which will provide 900 new houses, associated infrastructure, and amenity space. The development may also provide up to 250 retirement dwellings, a primary school and retail space. In 2010 outline planning permission was granted (APP/F4410/A/09/2100409) for the development with reserved matters in relation to each phase of the development being subject to approval by the local planning authority. In recommending that planning permission be granted, the Inspector considered that the closure of the Crossing and the Bessacarr Halt crossing to the east would reduce the potential risks associated with crossing the railway that new residents of the development would be exposed to.
3. As part of the development of the housing site to the south of the railway, Persimmon Homes have funded the construction of an underpass under the railway slightly to the east of the Crossing. It is proposed that those members of the public currently using the Crossing on foot, on horseback or with a pedal cycle should cross the railway via the underpass. The terms on which the phased build out of the Persimmon development is being progressed included a limit on the number of houses on the site which could be occupied prior to the construction of the underpass. At the time of my site visit, the underpass had been completed and was open and available for use.

The Main Issues

1. Section 119(6) of the 1980 Act requires that I must be satisfied that three separate tests are met before the Order can be confirmed. These are:

TEST 1: whether the diversion is expedient in the interests of the owner, lessee or occupier of land crossed by the path. This is subject to any altered point of termination of the path being substantially as convenient to the public.

TEST 2: whether the proposed diversion would not be substantially less convenient to the public.

TEST 3: whether it is expedient to confirm the Order having regard to the effect which — (a) the diversion would have on public enjoyment of the path as a whole; (b) the coming into operation of the Order would have as respects other land served by the existing public right of way; and (c) any new public right of way created by the Order would have as respects the land over which the right is so created and any land held with it.

1. In considering expediency at the Test 3 stage, (a)-(c) are mandatory factors. Other factors are not excluded from consideration and could, for instance, include those pointing in favour of confirmation. On (b) and (c) of Test 3, the statutory provisions for compensation for diminution in value or disturbance to enjoyment of the land affected by the new path must be taken into account where applicable.
2. In reaching my decision I am also required to have regard to any material provision contained in a rights of way improvement plan (ROWIP) for the area. Furthermore, I need to consider what impact (if any) the proposed diversion would have upon the needs of agriculture and forestry[[1]](#footnote-1) or the biodiversity[[2]](#footnote-2) and natural beauty of the area[[3]](#footnote-3). I must also consider whether the Equality Act 2010 Public Sector Equality Duty (PSED) would be discharged by this proposal.
3. The Order has been made in the interests of Network Rail Infrastructure Limited (‘NR’) the owner of the operational railway over which the bridleway at issue runs.

**Reasons**

***Whether it is expedient, in the interests of the owner of the land crossed by the bridleway, that the bridleway in question should be diverted***

1. As noted in paragraph 6 above, there are two elements to the Crossing. Pedestrian users of the crossing are provided with wicket gates. Equestrian users must use the vehicular gate and telephone the signaller as part of a traverse of the railway. A reasonably even decked surface is provided for both elements of the Crossing to assist passage.
2. Network Rail assesses the risk to which users are exposed using the All Level Crossing Risk Model (ALCRM) which provides a comparative assessment of risk between crossings on the network. The model considers two measures of risk; the individual risk faced by users of a crossing and the collective risk which a crossing poses to users, train passengers and railway staff. Individual risk is ranked by letter A – M where A represents the highest risk and L the lowest (M denotes no risk as the crossing is temporarily closed, dormant or is a crossing on a mothballed line). Collective risk is identified by number 1 – 13 where 1 represents the highest collective risk and 12 the lowest; 13 denotes no collective risk for the same reason that M would denote no individual risk.
3. As there are two elements to the Crossing, NR conducts a separate risk assessment for each element. The most recent assessment of risk for the vehicular / bridleway element of the Crossing was B5 with the most recent assessment for the pedestrian element being C4. The vehicular / bridleway element of the Crossing is considered to carry a relatively high level of risk whereas the pedestrian element carries a medium to high risk.
4. Despite the degree of risk present at each element of the crossing, NR acknowledged that the crossing remains compliant with the guidelines issued by the Office of Rail Regulation (ORR). For a crossing to be deemed to be compliant, the ‘crossing time’ (the time taken by a user to cross between the points where ‘Stop Look Listen’ signs are placed) must be less than the ‘warning time’ (the shortest possible time for a train to travel the distance to the crossing from the point when it is first seen or heard).
5. In the case of the Crossing the warning time exceeds the crossing time for trains approaching on the up or down lines, irrespective of whether the pedestrian is travelling north to south or vice versa. Compliance with the guidelines is not calculated with regard to the vehicular / bridleway element of the Crossing, as users are required to contact the signaller for permission to cross. That permission will be given when there is sufficient time between trains for the type of user requesting permission to cross.
6. Whilst acknowledging that the Crossing is compliant with ORR guidance, NR is of the view that compliance does not mean that the crossing is safe, nor that the risks associated with the crossing are sufficiently low to be acceptable. Of particular concern is the risk of an approaching train being obscured from view by a train travelling in the opposite direction, either as a result of shunting operations over the points immediately to the east and west of the Crossing, or from a long freight train obscuring the approach of another train.
7. Other risk factors identified included seasonal sun glare, particularly for those approaching the Crossing from the north; the curvature of the lines to the east and west; the need for periodic removal of line side vegetation to ensure continuous sight lines; and the varying length and speed of trains approaching the Crossing. I saw at my site visit that one of the freight trains was of sufficient length to mask the approach of a shorter passenger train passing in the opposite direction. The possibility that a user may attempt to cross the lines once a freight train has passed whilst unaware of the approach of a second train on the opposite line presents a significant risk to user safety.
8. Network Rail was also concerned by the likelihood of increased usage of the Crossing arising from the development of the Manor Farm site. A nine-day camera survey of use in January 2020 recorded 422 pedestrian movements during that period. The development immediately to the south-east of the Crossing is highly likely to increase the number of users and such use is likely to grow year on year as the phased build out of the development progresses.
9. A number of potential mitigations for the existing risk had been considered by NR but were not considered to be reasonably practicable. A reduction in line speed would be contrary to the terms of the licence under which NR operates the railway network; whistle boards and the sounding of train horns would provide no mitigation at the Crossing during the night time quiet period; furthermore, the noise from the horn of an approaching train may be masked by other environmental noise or impacted by wind direction.
10. Consideration had also been given to the installation of a miniature stop light (MSL) system to give a visual advanced warning as to whether it was ‘safe’ to cross the railway. However, I heard that such a system would be disproportionately expensive as integration with the signalling system would be required due to the proximity of the points east and west of the Crossing. In addition, an MSL system may also require the repositioning of the existing signals. NR submitted that whilst an integrated MSL system would mitigate the existing risk at the Crossing, it would not eliminate that risk.
11. Network Rail also submit that the closure of the Crossing would free resources currently allocated to its monitoring, maintenance, and management which could then be directed to other crossings on its network. Furthermore, the diversion of the bridleway would contribute toward operational efficiency and resilience of the railway as the removal of the Crossing would also remove a potential source of delay and disruption should an accident or incident occur at the Crossing.
12. Although the Crossing is compliant with ORR guidelines, the degree of risk to which users are exposed is currently only mitigated by Stop, Look and Listen signs and pedestrian wicket gates. Further mitigation is unlikely to come forward following the construction of the underpass.
13. It is not disputed by the objectors that there is a risk to the safety of the public at the Crossing and that it should be closed. The diversion of the bridleway to a new line utilising the underpass would eliminate the risk to pedestrians and horse riders arising from direct contact with an operational railway. I am satisfied that the proposed diversion would be in the interests of NR as the owners of part of the land crossed by the bridleway.
14. The proposed diversion would remove the public right of access over the approaches to the Crossing as shown on the Order plan. That land would consequently be unencumbered by a right of way which is unlikely to be contrary to the interests of the owner of that land, whoever he, she or they may be.
15. Overall, I am satisfied that the proposed diversion would be in the interests of the owners of the land crossed by the bridleway.

***Whether the altered terminal point of the proposed bridleway would be substantially as convenient to the public as the terminal point of the existing bridleway***

1. The proposed diversion would result in the junction of the bridleway with Carr Lane at point A being moved eastwards by approximately 42 metres. Path users travelling to the Crossing from the north via the footpath between Stoops Lane and Carr Lane are likely to find the altered terminal point to be as convenient as the Stoops Lane footpath emerges on Carr Lane opposite point J.
2. Users approaching the Crossing from the west along Carr Lane will be required to walk an additional 42 metres to reach point J. I consider that any inconvenience is likely to be minor as the altered terminal point would facilitate a means of crossing the railway to undertake a journey south along the bridleway. Those approaching the crossing from the south whose destination is within the built-up area of Bessacarr will find the terminal point at J to be substantially as convenient for such a journey as the current terminal point at A.

###### *Whether the new bridleway will not be substantially less convenient to the public*

1. The proposed diversion would result in an increase in journey distance of approximately 230 metres. Whilst the speed at which a pedestrian can walk will vary depending on personal circumstances, a reasonably fit and able-bodied person would find that the proposed diversion would add around 2 minutes to a journey along the bridleway.
2. The proposed alternative route would utilise a purpose-built underpass and a surfaced route on the south side of the railway which would ensure the continuity of the public rights of way network. The underpass and its approaches are at a gradient of 1:21 to ensure that it is accessible to as wide a group of users as possible. For those whose mobility may be impaired, a handrail has been provided along the full length of the approaches to the underpass.
3. Although from the signaller’s log the last recorded use of the Crossing by a horse rider took place in 2016, provision has been made for equestrian use of the underpass in the form of mounting blocks at either end of the approaches as the headroom within the underpass is insufficient for a horse to be ridden through it.
4. The proposed alternative route does not require the user to negotiate gates or other barriers, or to pause a journey whilst observing for the approach of trains; the ability to undertake a journey without such interruptions is unlikely to inconvenience users. Although horse riders would have to dismount to pass under the railway, such users would have to dismount at the Crossing in order to speak to the signaller to request clearance to cross and to operate the gates. There are no mounting blocks available to horse riders at the Crossing and the provision of such aids at the underpass will be of benefit to equestrian users of the bridleway.
5. The majority of the public use of the Crossing appears to be of a recreational nature, as other than the housing development in progress to the south-east, there are no residential or commercial premises between the Crossing and the M18 motorway. The bridleway runs south for approximately 425 metres to a ramped bridge over the East Coast Main Line, before continuing south east for a further 1.2Km to an underpass under the M18. Those undertaking a recreational walk or ride along bridleway 9 are unlikely to be inconvenienced by an increase of approximately 230 metres on a journey of 1.6Km.
6. Concerns were expressed by the objectors with regard to the personal safety of users when negotiating the underpass. The objectors noted that whilst NR had undertaken a risk assessment with regard to the Crossing, no such risk assessment appeared to have been undertaken in relation to the underpass. The objectors submitted that for a user standing at the end of the southern approach, there was no clear line of sight through the underpass due to the southerly kink in the route as it emerges from underneath the railway. It was considered that the inability to see directly through the underpass may cause some users concern as to whether it would be safe to continue their journey through to Kelsey Gardens or Carr Lane.
7. The gradient of the approach to the southern portal of the underpass; the difference in ground level between the approach and the surrounding land; the concrete retaining wall on the western side of the approach; and the fencing mounted on top of the retaining wall all combine to hinder a direct view through the underpass when standing at or around point H. However, the view of the underpass is not wholly obscured and a view through the underpass is available from the eastern side of the approach for those users who venture along it. To address the perceived problem of personal security, the underpass has the benefit of being monitored by CCTV cameras and is lit throughout. The lighting also extends along the approaches.
8. The assessment of risk on a public highway is a matter for DBC as the highway authority. Although Road Safety Assessments are undertaken as a matter of course on many highway projects, it is unusual for such assessments to be made with regard to proposed changes to the public rights of way network. DBC have not raised concerns regarding personal safety, and such matters are likely to have been considered when prior approval for the underpass scheme was granted.
9. Whilst there may be some users who might find the underpass unwelcoming or intimidating, it is 4 metres wide, which provides sufficient width for users to pass each other in relative comfort. In addition, the provision of lighting and CCTV is likely to provide more of a deterrent to those of nefarious intent. The underpass is likely to pose less of a risk to path users in this respect than the Crossing which does not have such facilities. Furthermore, as the adjacent housing development progresses, the diverted route will be in the vicinity of a number of houses and the increased use of the underpass by residents of the new development is likely to have a deterrent effect upon those who might seek to loiter within it. Finally, anyone approaching the underpass from the south who saw anything untoward within it would have the opportunity to turn round and retrace their steps.
10. No evidence was presented of incidents of the type envisaged by the objectors having occurred within the underpass during the period it has been open and available for use. Whilst I recognise the concerns of the objectors that some users may be wary of using the underpass, I consider that on balance, it would provide a safe and convenient means by which the public could cross the railway and undertake a journey along bridleway 9.
11. Concerns were also expressed that the underpass would have a detrimental impact upon residents of Kelsey Gardens as it was considered that the road would be used as a short-cut by other Bessacarr residents to reach the underpass. However, there appears to be a limited number of properties to the east of Kelsey Gardens from which any such influx could possibly come. Those resident on the south side of Bessacarr Lane may choose to walk along Kelsey Gardens to reach the underpass, but equally those residents may currently undertake such a journey to reach the Crossing. I am not persuaded that the underpass is likely to result in an increase in footfall within Kelsey Gardens.
12. Overall, I consider that the proposed bridleway would not be substantially less convenient to the public.

###### *Whether it is expedient to confirm the Order having regard to:*

*(a) the effect the diversion would have on public enjoyment of the path as a whole*

1. The enjoyment derived from the use of a public right of way is, to a large extent, a personal and therefore subjective assessment. For example, enjoyment can be influenced as much by the weather during a walk as by individual personal preferences. However, I have attempted to assess this matter objectively, comparing such matters as the characteristics of both routes and the views afforded by both routes.
2. The views to be had from the current line of the bridleway on the northern approach to the Crossing are limited in extent due to the residential properties to the east and west. From the Crossing and the current line of the bridleway to the south there are extensive views to the west towards Potteric Carr Nature Reserve, to the south towards Rossington and to the east over Manor Farm.
3. The views from the proposed route on the north side of the railway are limited by residential development and the railway. The proposed route to the south of the railway will provide similarly extensive views to the south and west, although those views to the south are likely to change over time as the development of the Manor Farm site progresses. The views westwards towards Potteric Carr will remain available to users.
4. The proposed diversion would maintain a link to the public rights of way network to the south of the railway and to the south of the East Coast Main Line. On balance, I feel the enjoyment of those who seek pleasure from informal recreation on the bridleway would not be diminished as a result of this Order.
5. *The effect the coming into operation of the Order would have with respect to the land served by the existing path*
6. There is no evidence before me that the Order would have, in this respect, any effect separately identifiable from those considered above in relation to the other requirements of Section 119 of the 1980 Act.
7. *The effect any new right of way created by the Order would have as respects land over which the new right is created together with any land held with it, account being taken of the provisions as to compensation*
8. The land crossed by the proposed bridleway to the north of the railway is in the ownership of DBC; to the south of the railway the land crossed by the proposed diversion is in the ownership of Persimmon Homes; both parties have consented to the diversion. No evidence has been submitted which suggests that the proposed diversion would have any negative impact upon the land over which the alternative path would run. Compensation under the provisions of section 28 of the 1980 Act is not relevant in this case.

***Consideration given to the provisions of a ROWIP***

1. Doncaster Borough Council published its ROWIP in 2017. Part 6 of that document sets out DBC’s Statement of Action as to how it will take forward the management of, and secure improvements to, the public rights of way network.
2. Doncaster Borough Council draws attention to Policy 11 which aims to improve safety where the rights of way network interacts with the wider highway network and railways. The policy is to ensure that where proposals are put forward for the diversion of at-grade crossings, the alternatives are not less convenient or do not add substantial distance to the current route. The proposed diversion does not appear to conflict with Policy 11.
3. Reference was also made by NR to the wider policy framework outlined in part 3 of the ROWIP with regard to the Borough Strategy; the Council’s Environment Strategy; and the Doncaster Cycling Strategy. I have had regard to these matters set out in the ROWIP and I am satisfied that the proposed diversion is not in conflict with them.

***Consideration given to the needs of agriculture and forestry and the conservation of biodiversity and natural beauty***

*Agriculture and forestry*

1. The land crossed by the proposed bridleway is not used for agriculture or forestry; there will be no impact upon such activities arising from the diversion.

###### *Biodiversity*

1. The land crossed by the proposed route is not classified as a Site of Special Scientific Interest and is not covered by any other local designations aimed at conserving habitat types or species diversity. Consequently, there is no evidence before me that the proposed diversion would have any adverse impact upon biodiversity.

###### *Natural beauty*

1. The bridleway is not located within any area which is designated as being of special importance in a national context (such as an Area of Outstanding Natural Beauty) or in a local context although the bridleway to the south of the railway is located in an attractive area on the urban fringe of this part of Doncaster. The diversion of the bridleway is unlikely to have any adverse impact upon the conservation of the natural beauty of the area.

***Equality Act 2010 – public sector equality duty***

1. The Equality Act 2010 establishes a general duty on public authorities to have due regard when carrying out their functions to the need to eliminate unlawful discrimination, harassment, or victimisation; to advance equality of opportunity; and to foster good relations between those who share a protected characteristic and those who do not share such characteristics.
2. The provision of a ramped underpass built at a gradient of 1:21 together with the surfaced level route to the south of the railway would not disadvantage any users who share protected characteristics. All potential users of the bridleway will be able to undertake a journey on a step free route which would also improve their overall safety as the alternative means of crossing the railway is grade-separated.
3. I conclude that there should be no disproportionality (over and above that likely to be experienced by the rest of the population) introduced by the proposed diversion and that the confirmation of the Order would not be contrary to the PSED.

**Representation of the alternative route on the Order map**

1. The objector contended that the position of point H as shown on the Order plan did not correspond with what was available on the ground as the Order plan did not show the southerly ‘kink’ in the route where the southerly approach leads to the underpass. Overlaying the Order plan on the ‘as built’ plan (NR document 1B) demonstrates that point H is in the correct position; however, undertaking this exercise also shows that line shown on the Order plan does not follow the line of the southerly approach as built. It can be seen from this overlay plan that the proposed line of the bridleway would be obstructed in two places by the western retaining wall. I am of the view that a minor modification to the line shown in the Order plan is required for the avoidance of any future doubt as to where the legal line of the bridleway will be.
2. In this case, the owner of the land to the west of the underpass is one and the same as the owner of the land on which the underpass has been built. Furthermore, all parties to the Order have had the opportunity to comment on the required modification during the progress of the inquiry. In such circumstances, the minor amendment proposed would not adversely affect the interests of the owner of the land or prejudice the interest of any other party and would not require further advertisement.

**Other matters**

1. The objector expressed his concerns with regard to procedural matters associated with the grant of planning permission for the Persimmon development; the grant of prior approval consent for the underpass; and the alleged failure of DBC to take enforcement action over phased occupancy levels within the housing development. These are not matters which are within my remit and I have not taken them into account in reaching my decision.
2. In addition, the objector considered that the sequencing of events was wrong in that the underpass should not have been opened until the Crossing was closed. Whilst there may have been merit in this approach, the comparative exercise required to be undertaken in respect of the current and proposed routes was assisted by the fact that the underpass had been constructed and was open to view at the time of my site visit.

***Conclusions on whether it is expedient to confirm the Order***

1. For the reasons given above, I do not find that there would be any detrimental impact upon the enjoyment to be derived from a walk or ride along the bridleway at issue, and that there would be no adverse impact upon the land currently served by the bridleway or the land which the diverted bridleway would cross. Consequently, there is no conflict between the outcomes of Test 3 and Tests 1 and 2. It follows that I conclude that it would be expedient to confirm the Order.

**Overall** **Conclusion**

1. Having regard to these and all other matters raised at the inquiry and in the written representations, I conclude that the Order should be confirmed with modifications.

**Formal Decision**

1. I confirm the Order subject to the following modification: amend the order plan to show the alternative route between points I and H as running wholly within the southern approach to the underpass as constructed.

Alan Beckett

Inspector

APPEARANCES

For Doncaster Borough Council

Mrs Julie Guest Senior Officer, Public Rights of Way

For Network Rail Infrastructure Limited

Mr Juan Lopez of Counsel

Who called:

Mr Robert Foster Route Level Crossing Manager (East Coast Main Line)

Mr Jeremy Greenwood Head of Liability Negotiation

Mr David Shorrocks Liability Negotiations Advisor Eastern Region (East Coast, North & East and East Midlands Routes)

Objector

Mr Philip Midgley Local resident

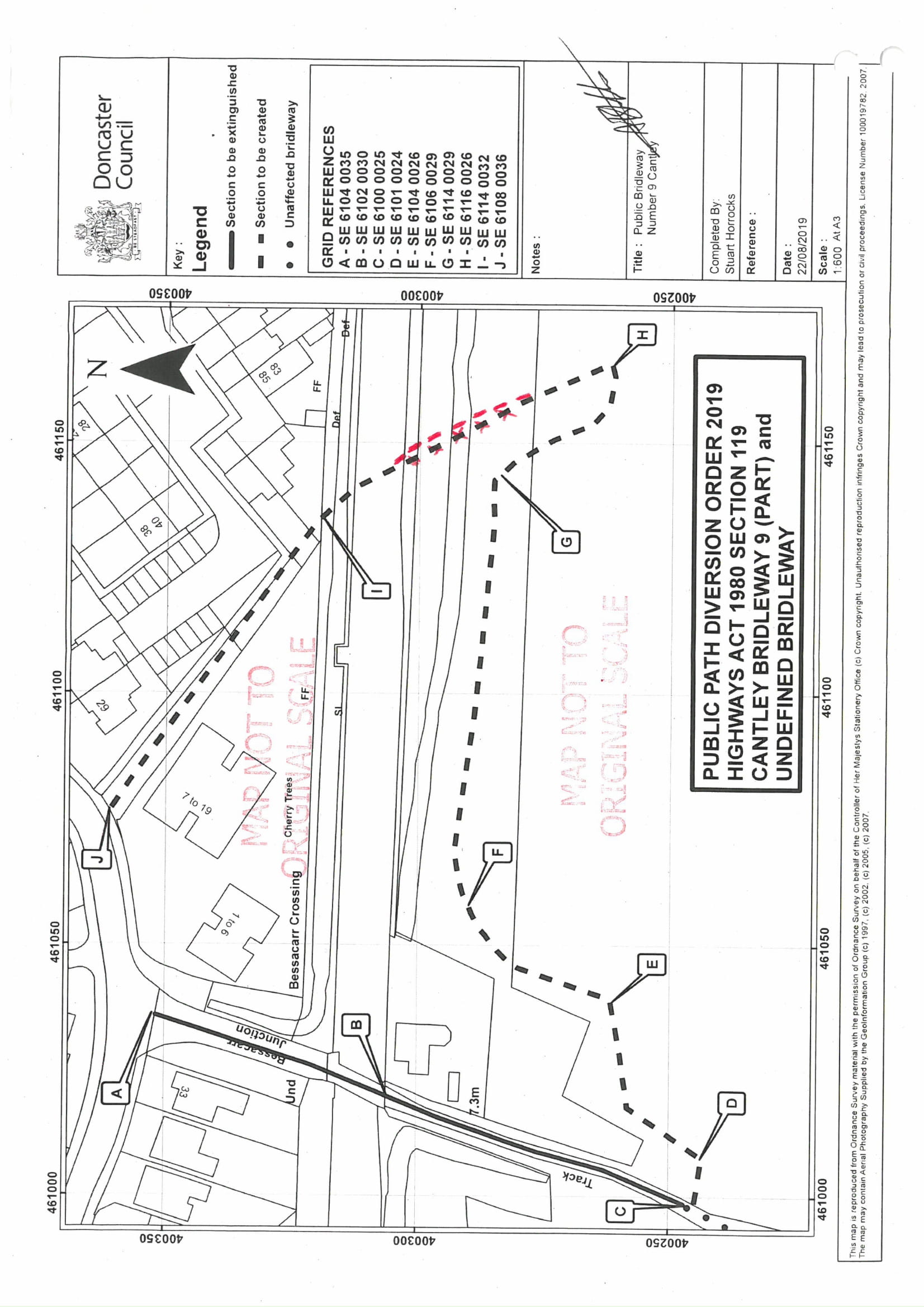
Inquiry documents

Documents submitted by NR

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| **1A** | Persimmon Underpass Overlay Order Plan |
| **1B** | Overlay As-Built Subway on Order Plan |
| **2** | Doncaster Rights of Way Improvement Plan 2017-2027 |
| **3** | 2 x photographs of southern side of underpass |
| **4** | Plan showing PROWs over Carr Lane and Bessacarr Halt LCs |
| **5** | Locality of LCs in relation to underpass |
| **6** | Location of former East Coast Main Line LC (fatality circa 1990) |
| **7** | Overview of changes to 2021 NRA (UWCt) |
| **8** | Persimmon 2021 Build Out Plan |
| **9** | Persimmon 2016 proposed layout plan |
| **10** | Amended Statement of Case |
| **11** | Shunting Movements |
| **12** | Amended Rob Foster Proof of Evidence |
| **13** | Note on David Shorrocks Proof of Evidence |
| **14** | S247 TCPA Order, Notice & Plan – Bessacarr Halt Level Crossing |
| **15** | 2009 Planning Permission: Inspectors report to Secretary of State |
| **16** | Closing submissions on behalf of Network Rail |

Documents submitted by Mr Midgley

1. Plan showing phase 4 of the Persimmon development with the position of the underpass highlighted.



1. Section 121 (3) of the 1980 Act [↑](#footnote-ref-1)
2. Section 40 of the Natural Environment and Rural Communities Act 2006 - duty to have regard to the purpose of conserving biodiversity. [↑](#footnote-ref-2)
3. Section 11 of the Countryside Act 1968 duty to have regard to the desirability of conserving natural beauty and amenity of the countryside. [↑](#footnote-ref-3)