



Derby City Council

# Application for the Diversion of a Public Right of Way

## Section 119A, Highways Act 1980

Read the guidance notes carefully before completing this form.

### 1 Applicant(s)

a. Name: Matthew Driscoll, Network Rail

Address: George Stephenson House, Toft Green, York

Postcode: YO1 6JT

Telephone: [REDACTED]

Email: [REDACTED]

b. What is your interest in the land, such as landowner, occupier or lessee?

Landowner

c. If a limited company, give the address of your registered office.

Network Rail, 1<sup>st</sup> Floor, One Eversholt Street, London, NW1 2DN

### Details of rail crossing to be diverted

This application form should be accompanied by a map clearly showing the route to be diverted, ideally to a scale of 1:2500, or the largest scale readily available.

a. State the type of public path

Footpath

- c. If the path is **not** on the definitive map then state its start and finish points.

The section of Megaloughton Lane that crosses the operational railway. This to be amended to a slightly different route. There are two plans included with this application. Plan 1 shows the original route of the footpath. Plan 2 shows the diverted route.

- e. What is the length and width (in metres) of the affected section of path(s)?

The length and width of the affected section of the path on both sides of the railway is 20 metres and 2 metres respectively

### **Proposed diverted route**

- a. Show on the proposal plan submitted with this form, the proposed diverted route and describe below or on a separate sheet of paper, its proposed path status, widths, lengths and any relevant topographic features, where appropriate.

Please see the attached plan numbered 2. From the south side of the railway (Celanese road), the path turns 90 degrees left and then crosses the railway 20 metres to the left. Once over the railway line the path turns 90 degrees to the right and connects back in with the original footpath alignment.

The path is formed of a tarmac surface with guide fencing of metal construction on each side of the path and on both sides of the railway.

### **Land ownership**

- a. Do you own all of the land affected by the proposed diversion? Yes

### **Statutory undertakers**

Are you aware of the existence/position of any apparatus belonging to any statutory undertaker in, on, over or across the land affected by the existing or proposed routes?

No

### **Reasons for making the application**

Provide a statement along with any supplementary documents, encompassing the required information below which demonstrates how the proposal complies with this application.

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

- b. Explain the risk to the public of continuing to use the present crossing and the circumstances that have given rise to the need to make the proposed order;
- c. Explain the effect of the extinguishment of the crossing and the creation of the proposed new paths or ways having regard to the convenience to the users and the effect on any connecting rights of way and the network as a whole;
- d. Explain why it is not possible to take alternative action to remedy the problems such as a bridge or tunnel in place of the existing crossing or the carrying out of safety improvements to the existing crossing;
- e. Give the estimated cost of any practicable measures identified under (d) above;
- f. Provide information about the barriers and/or signs that would need to be erected at the crossing and the points from which any path or way is to be extinguished or created, assuming the order is confirmed;
- g. Show how the alternative right of way would provide greater safety than the existing crossing for path users;
- h. Provide details of the supporting documentation below.

**Plans & Word document titled “Megaloughton Lane 119A Diversion – Supporting Information” included with the application.**

## **8 Costs**

- a. If we decide to proceed with an application for an extinguishment order, we will normally do so subject to the applicant agreeing to cover our costs incurred in processing the application, making the order, consulting relevant bodies and publishing the statutory notices. See guidance notes.
- b. We have the discretion to waive part or all of the charges where this is considered appropriate.
- c. Applicants may still be liable for payment of costs if they withdraw an application.

## **9 Declaration**

- a. We understand that no authority for the diversion of a public right of way is conferred unless:
  - 1 the appropriate order has been made, confirmed and certified
  - 2 notices have been published
  - 3 any necessary works have been completed and the order brought into operation.
- b. We have noted the costs which are payable for processing a public path order application and agree to pay the charges when invoiced by Derby City Council. We

understand that, in the event objections are received, a proportion of the specified fee, will still be payable in the event the order is **not** confirmed.

- c. In the case of a public path diversion order being confirmed pursuant to the application, We agree that Derby City Council will not be liable for any compensation which may become payable to a third party and we agree to defray any such claim. We also waive my/our right to claim compensation under Section 28 of the Highways Act 1980.
- d. We hereby declare that the information provided in respect of this application is correct to the best of our knowledge.

**Rights of Way Privacy Notice**

**How is your information used?**

We may use your information to: process applications for Public Path Orders and Definitive Map Modification Orders, process landowner statutory declarations, carry out rights of way related. We may need to pass on some of your details to third party organisations in line with our statutory procedures. These third parties include government departments and agencies, other local authorities, landowners and private companies, as allowed by law.

**Who has access to your information?**

We may share your information with:  
government departments and agencies, other local authorities, landowners, private companies and individuals, as allowed by law.

*For further information about how your personal information will be used, please visit [www.derby.gov.uk](http://www.derby.gov.uk) where you can see a full copy of our Privacy Notice. Alternatively you can request a hard copy from – team number/address/email*

Signed: 

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Full Name: Matthew Driscoll

Position (if applicable): Liability Negotiations Adviser

Date: 6/10/20

**Please return this completed application form with all enclosures to:**

The Rights of Way Officer  
Planning Division  
Communities and Place Directorate  
Derby City Council  
The Council House  
Corporation Street  
Derby DE1 2FS

**Email electronic versions to:** [rightsofway@derby.gov.uk](mailto:rightsofway@derby.gov.uk)

## **Additional Path Details**

### **Details of rail crossing to be diverted**

This application form should be accompanied by a map clearly showing the route to be diverted, ideally to a scale of 1:2500, or the largest scale readily available.

- a. State the type of public path

Footpath

c. If the path is **not** on the definitive map then state its start and finish points. The section of Megaloughton Lane that crosses the operational railway. This to be amended to a slightly different route. There are two plans included with this application.

Plan 1 shows the original route of the footpath. Plan 2 shows the diverted route.

e. What is the length and width (in metres) of the affected section of path(s)? The length and width of the affected section of the path on both sides of the railway is 20 metres and 2 metres respectively

### **Proposed diverted route**

a. Show on the proposal plan submitted with this form, the proposed diverted route and describe below or on a separate sheet of paper, its proposed path status, widths, lengths and any relevant topographic features, where appropriate.

Please see the attached plan numbered 2. From the south side of the railway (Celanese road), the path turns 90 degrees left and then crosses the railway 20 metres to the left. Once over the railway line the path turns 90 degrees to the right and connects back in with the original footpath alignment.

The path is formed of a tarmac surface with guide fencing of metal construction on each side of the path and on both sides of the railway.

### **Land ownership**

a. Do you own all of the land affected by the proposed diversion? Yes

**Megaloughton Lane 119A Diversion – Supporting Information.**

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

A Detailed Traffic Census has been undertaken by the Surveillance Group Ltd at this location over 9 days from Saturday 27<sup>th</sup> June to Sunday 5<sup>th</sup> July.

During the nine-day period of the census the crossing was used (with the exception of 8 Railway Personnel) by 180 persons on foot, including 7 elderly individuals (of which 3 had dogs not on leads), 17 accompanied children and 28 cyclists (of which 11 riders dismounted before crossing).

The footpath connects a residential estate with an industrial estate and provides access into the city centre – as such it is unlikely there will be any significant seasonal variations in use.

- b. **Explain the risk to the public of continuing to use the present crossing and the circumstances that have given rise to the need to make the proposed order;**

Megaloughton Lane level crossing has been physically closed off for several years. During the time the crossing has been un-usable, the way Network Rail looks at risk has changed, the amount of information we have has increased, as has our understanding of user behaviour and the need for greater mitigation measures where necessary. As a result of this, it was established that in reopening Megaloughton Lane level crossing, there is a requirement to install additional mitigation.

The options for mitigation at this location were VAMOS (a Value for Money Operating System) which is a Red and Green Miniature Stop Light Overlay System. This technology can only be installed in specific circumstance including a minimum warning time of 13 seconds. In order to achieve that minimum warning time at this location, the crossing needs to be repositioned approximately 20 metres to the west of the current alignment of the footpath which in turn requires a permanent diversion of the public footpath.

For information, the VAMOS system includes the display of a red aspect when there is an approaching train and an audible warning device. The system also takes into account approaching trains from the opposite direction of travel, providing the second train has been detected within the same section of line where the oncoming train has caused the warning light to trigger a red aspect. The volume of the audible warning device will also be set to suit local day and night conditions where necessary.

If the level crossing was reopened on its current alignment the mitigation in place for users would not be suitable and Network Rail considers that the crossing would be unsafe for public use. Therefore, following the details provided above, Network Rail has altered the application type from the one originally submitted in 2014.

- c. **Explain the effect of the extinguishment of the crossing and the creation of the proposed new paths or ways having regard to the convenience to the users and the effect on any connecting rights of way and the network as a whole;**

Due to the level crossing point only being moved a short distance, and the footpath still being available, the impact and inconvenience to users is considered marginal at best. The start and termination points of the footpath remain the same as does the gradient.

- d. **Explain why it is not possible to take alternative action to remedy the problems such as a bridge or tunnel in place of the existing crossing or the carrying out of safety improvements to the existing crossing;**

While there were discussions about constructing a bridge to divert pedestrians and facilitate closure of the level crossing, that is a longer-term proposal which may take several years. In order to reopen the crossing and footpath swiftly the VAMOS system is considered the most cost-effective solution albeit with the requirement to make small alterations to the route of the footpath. The alternative to VAMOS would have been an integrated Miniature Stop Light system which was extremely expensive. In line with managing public money principles, Network Rail considers the cost of providing VAMOS with a minor diversion is reasonable given the cost to provide alternative mitigation or build a bridge or tunnel.

- e. **Give the estimated cost of any practicable measures identified under (d) above;**

Approximate figures are:

- £1m for a stepped footbridge,
- £1.5 – 2million for a ramped footbridge
- £3-5m for an underpass
- £800k-1.2m for integrated MSLs

- f. **Provide information about the barriers and/or signs that would need to be erected at the crossing and the points from which any path or way is to be extinguished or created, assuming the order is confirmed;**

Please see the attached plan number 2 for the route. The path is formed of a tarmac surface with guide fencing of metal construction on each side of the path and on both sides of the railway. The VaMoS warning light system will be in place at each side of the crossing. It is not considered necessary to provide new or additional waymarkers.

- g. **Show how the alternative right of way would provide greater safety than the existing crossing for path users;**

The maximum line speed for trains from the direction of Long Eaton is 85 mile/h, and for trains from the direction of Derby 100 mile/h (although a permanent speed restriction of 80 mile/h is imposed just prior to the crossing itself).

At present, there are 181 passenger trains and 5 freight trains signalled over this crossing on a typical weekday; however the hourly service provided by East Midlands Railway between Derby

and Nottingham is planned to be increased to two trains per hour in each direction, i.e. 28 additional services, from the commencement of the May 2021 timetable.

The new route allows for the installation of the VaMoS system to provide sufficient warning time to users of the crossing (including those categorised as vulnerable users such as the elderly, young and encumbered users) to aid the public in safely crossing of the railway. Answer 'b' on this sheet provides further details on how this is to be done.



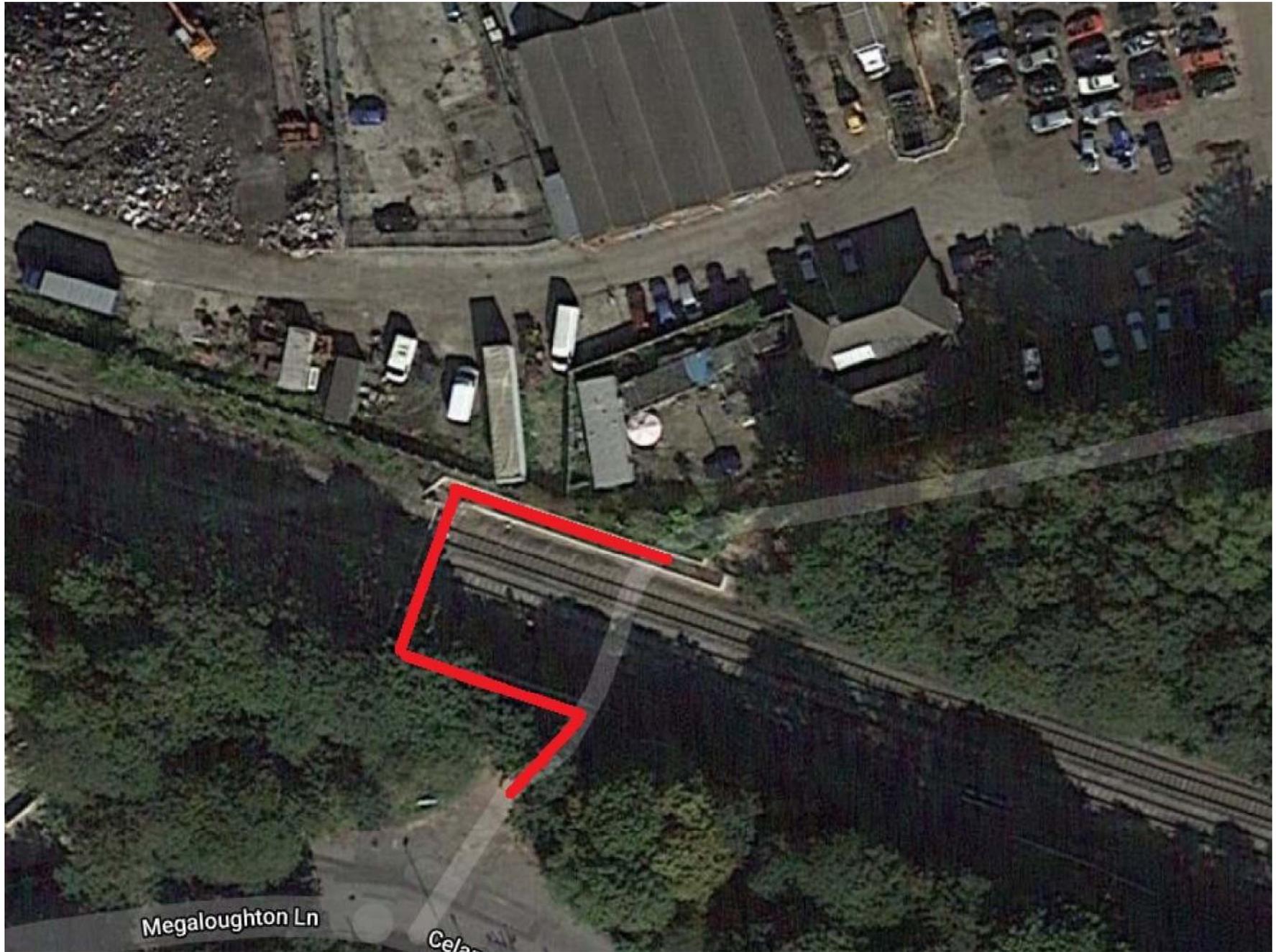
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Concrete Plant

Megaloughton Ln

Megaloughton Ln

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Celanese Rd





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