



## **Diversion of Public Rights of Way – Rail Crossings Footpaths, Bridleways and Restricted Byways**

**Highways Act 1980 (as amended)**

**Transport & Works Act 1992**

**All parts of the enclosed form (Pages 3-8 of this document) should be completed.**

If you do not have all the information required, or do not fully understand all the issues involved, please ask a member of the Countryside Access Team to assist.

### **Countryside Access Team**

Countryside Service  
Hampshire County Council  
Castle Avenue  
Winchester  
SO23 8UL

Tel: 01962 847354



Hampshire County Council fully complies with the Data Protection Act 1998.

The information you enter on this form will become part of the records we keep on Rights of Way in Hampshire and may be made available for inspection by members of the public.

This does not affect your rights as a data subject.

## **Notes for Guidance of Applicants**

Please note that your application is to the County Council to make a *Rail Crossing Diversion Order*.

The decision whether or not to make a Rail Crossing Diversion Order is made by our Regulatory Committee – we are not obliged to make an order if we do not consider it expedient to do so.

The administrative process leading up to the confirmation and implementation of a Rail Crossing Diversion Order is outlined on Page 9 of this document.

If objections are received during the advertisement period, it is possible that they will be considered to be well-founded and the result may be that the Order is not confirmed and your proposal for diversion cannot then take place.

The length of time taken to process an application to confirmation stage can be in excess of *twelve months* and, in some cases (if the matter is submitted to the Secretary of State, who may call a public inquiry or hearing), it could take considerably longer.

The fees payable by applicants for a Rail Crossing Diversion Order are outlined on Page 10 of this document. We will issue invoices at appropriate stages for work done by Officers and for reimbursement of costs incurred during the processing of your application and we will require payment before we can then move on to the next stage in the process.

Where bridges exist or are necessary on the route of the proposed diversion, you may be required (under Section 27 Highways Act 1980) to enter into an agreement with the County Council for you and your successors to maintain such bridges to the satisfaction of the County Council.

The new path will be signposted and/or waymarked to the extent deemed necessary by the County Council.

The new path will come into being once the Rail Crossing Diversion Order has been confirmed by the County Council or the Secretary of State. The old route, however, will not be extinguished until such time as the Countryside Access Manager has confirmed that the new route has been constructed to a standard suitable for public use. You are advised to discuss the specification for such works with the appropriate Countryside Access Manager at an early stage in the application process.

### **Please return this form to:**

Countryside Access Team, Countryside Service, Hampshire County Council, Castle Avenue, Winchester, Hampshire, SO23 8UL

**You should retain a full copy of your completed application form for your records.**

HIGHWAYS ACT 1980, TRANSPORT AND WORKS ACT 1992

**REQUEST FOR A RAIL CROSSING DIVERSION ORDER TO BE MADE UNDER SECTION 119A OF THE HIGHWAYS ACT 1980 (INSERTED BY THE TRANSPORT AND WORKS ACT 1992).**

**Name of Applicant (in capitals):** DAMIAN HAYNUS

**On behalf of (railway operator):** Network Rail Infrastructure Limited

**Position Held:** Liability Negotiations Adviser

**Address:** Basingstoke Campus, Gresley Rd, Basingstoke, RG21 4JX

**Telephone:** 07720 512 725 **Email:** damian.hajnus@networkrail.co.uk

**I/we hereby apply for the diversion of the footpath/bridleway/restricted byway known as**

Chandlers Ford..... (Parish) 707B..... (number)

**under Section 119A of the Highways Act 1980, as shown on the attached plan.**

I/we undertake, if the County Council agrees to make the order for the diversion of the path, to carry out such work on the diverted route of the path as may be required by the County Council at such time as the Rail Crossing Diversion Order is confirmed.

I/we agree, pursuant to s.119A(8) of the Highways Act 1980, to defray any expenses which may be incurred by the County Council in bringing the new site of the path or way into a condition fit for use by the public. The County Council may put the new route(s) into a fit condition if I/we have not already done so within the agreed period (normally 56 days from the date of confirmation of the Order) and recover the costs of doing so from me/us.

I/we hereby undertake to defray any compensation which becomes payable in consequence of the coming into operation of the Order.

I/we agree, pursuant to s.119A(8) of the Highways Act 1980, to defray any expenses which may be incurred by the County Council in connection with the erection and maintenance of barriers and signs.

I/we undertake with Hampshire County Council to meet in full the requirements of any Statutory Undertaker in respect of any apparatus which may be over, in or under the right of way in respect of which this application is made.

I/we understand that the consent of the Statutory Undertakers (e.g. Gas, Water, Electricity, Telecommunications, The Post Office and the Civil Aviation Authority) is required before the Order can be confirmed by the County Council and that their consent may be conditional on my/our carrying out works to protect the Statutory Undertakers apparatus and/or rerouting it.

**I/we have read and understand this application form and make my/our application acknowledging the conditions specified therein.**

**I/we agree to reimburse the administration charges incurred by the County Council in the processing of this application, together with the full cost of advertising notices in the local press. Page 10 details charges for the current financial year, please note that these may be reviewed annually and you will be required to confirm your agreement to the current charges.**

*This application will become part of the records we keep on Rights of Way in Hampshire and may be made available for inspection by members of the public.*

Signature of Applicant .....

Date 03/06/2016

**1. RAIL CROSSING TO BE EXTINGUISHED BY THE DIVERSION ORDER**

- a) Name and location of rail crossing (including grid reference and parish or district in which it is located).

**Chandlers Ford Footpath Level Crossing in the Parish of Chandlers Ford. Grid ref. SU430208**

- b) Name(s) and number(s) of any footpaths, bridleways and/or restricted byways leading to the crossing to be extinguished. (Indicate whether footpath or bridleway or restricted byway.)

**Chandlers Ford Footpath 707b**

- c) Length in metres of any path or way to be extinguished.

**22m**

- d) Description of length of any path or way to be extinguished by reference to terminal points shown on attached map which must be to a scale of not less than 1:2500.

**Length of the footpath 707b within Network Rail's boundary as shown on Plan A**

From: OS Grid Ref: SU 43061 20867 Easting: 443061 Northing: 120867

To: OS Grid Ref: SU 43078 20876 Easting: 443078 Northing: 120876

- e) List the name(s) and address(es) of the owners, lessees and occupiers of the land on either side of any path or way to be extinguished.

Landowner(s):

EASTLEIGH BOROUGH COUNCIL

Lessee(s)/Tenant(s):

Occupier(s):

- f) Have you obtained the written consent of every person having an interest in the land over which any path or way to be extinguished passes, in so far as such consent is needed?

\* **NOT NEEDED** (\*delete as appropriate)

If YES, enclose all the written consents.

If NO, enclose all written consents that you now possess, and give particulars of those where consent has been refused or has yet to be obtained.

- g) Is the crossing or any path or way to be extinguished, subject to any limitations or conditions?

**NO** (\*delete as appropriate)

If YES, give details.

## 2. NEW PATHS OR WAYS TO BE CREATED

- a) Describe type:

\* **Footpath**

- b) Give description: width, length, terminal points (indicating any sections which run over existing paths or ways) by reference to the accompanying map at paragraph 1(d) above.

Footpath 707b would be diverted onto a stepped footbridge (steps: pt. A-B and D-C on Plan A) spanning over the railway line (pt. B-C) with steps situated on Network Rail's land parallel to the course of the railway line on either side, ascending to the east.

Width:	<b>2.3 m</b>	Length (m):	<b>41 m</b>
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From:	Point A on Plan A appended: SU 43090 20832, Point B: SU 43103 20815, Point C: SU 43120 20828
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To:	Point D: SU 43111 20840
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- c) List the name(s) and address(es) of the owners, lessees and occupiers of the land over which the new path(s) or way(s) would pass.

Landowner(s): **Network Rail Infrastructure Limited**

Lessee(s)/Tenant(s):

Occupier(s):

- d) Have you obtained the written consent of every person having an interest in the land over which the path or way to be created passes, to this land being dedicated for this purpose, in so far as such consent is needed?

**NOT NEEDED** (\*delete as appropriate)

If YES, enclose all the written consents.

If NO, enclose all written consents that you now possess, and give particulars of those where consent has been refused or has yet to be obtained.

- e) Are you prepared to maintain all or part of the path or way to be created?

**ALL** (\*delete as appropriate)

- f) Will the highway authority accept responsibility for maintenance of that part of the path or way to be created which does not pass over the applicant's land?

**N/A – the entire length of the path created is on the applicants land.**

- g) Are you prepared to enter into an agreement with the council in accordance with section 118A (5)?

**YES**

If NO, give reasons.

If IN PART, state upon what matters you are not prepared to enter an agreement with the council and the reasons.

- h) Will the new path or way connect with a trunk road?

**NO** (\*delete as appropriate)

If YES, give details.

- (i) Give reasons for the proposed rail crossing diversion order (use separate sheets if necessary). Include information about:

- i) the use currently made of the existing path, including numbers and types of users, and whether there are significant seasonal 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);
- ii) 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;
- iii) the effect of the loss of the crossing on users, in particular whether there are alternative rights of way, the safety of these relative to the existing rail crossing, and the effect on any connecting rights of way and on the network

as a whole;

- iv) the opportunity for taking alternative action to remedy the problem, such as a diversion, bridge or tunnel, or the carrying out of safety improvements to the existing crossing;
- v) the estimated cost of any practicable measures identified under iv) above;
- vi) the barriers and/or signs that would need to be erected at the crossing or the point from which any path or way is to be extinguished or created, assuming the order is confirmed.
- vii) The safety of the alternative right of way to be created by the order relative to the existing rail crossing.

Network Rail's operating licence states that its primary obligation is to run a safe and efficient railway, consequently the main focus is to eliminate unacceptable risks to ensure the safety of passengers, staff and members of public.

The most recent risk assessment assigns the level crossing an All Level Crossing Risk Model (ALCRM) score of C4 This is a high individual risk, and it would be expected to worsen if people were to start using the crossing in greater numbers.

On an average day, 40 trains, timetabled to run for 18 hours per day, pass over the level crossing. The maximum line speed is 60 mph. The proximity of the train station where some of the trains stop result in a speed differential which may contribute to the risk associated with crossing the railway on the level. This difference in speeds of approaching trains may give a false perception of risk.

The safety of Chandlers Ford level crossing cannot be significantly improved by other means than closure.

- Miniature Stop Lights – These would give an indication of a train approaching by a red light, otherwise showing green. Whereas they reduce the risk, it is found that they are not always adhered to. They are also an expensive option and do not provide a reasonable business case.
- A tunnel cannot be provided due to land ownership structure and layout. There are private properties and public highways directly adjacent the railway at the location in question. Construction of a regulation tunnel is not possible without a significant interference with these. An additional issue is related to potential presence of buried conduits at location, which cannot be relocated without significant interference with the operational railway line.

The footpath crossing is used by an average of 130 pedestrians and cyclists per day. Many of these are accompanied or unaccompanied children. This access to the line has a proven history of trespass and near miss events. It is thought that many others go unreported Network Rail's operating licence states that its primary obligation is to run a safe and efficient railway, consequently the main focus is to eliminate unacceptable risks to ensure the safety of passengers, staff and members of public.

The most recent risk assessment assigns the level crossing an All Level Crossing Risk Model (ALCRM) score of C4 This is a high individual risk, and it would be expected to worsen if people were to start using the crossing in greater numbers.

The proposed new route will add more steps to the path, but both stiles and the earth/timber steps currently in situ will be removed. The new steps will be surfaced with anti-slip material thereby safer to use. Both the proposed steps and footbridge span will be wider than the existing footpath. Lighting will be provided allowing a safer environment for night-time use. Handrails will assist while using the stairs.

Once the bridge is constructed and available for public use, the existing level crossing will be securely fenced off and removed in order to prevent unauthorised access to the railway. Any signage required by the highway authority at the crossing (and any other points) will be provided, to be advised by Hampshire County Council. Any other works needed to close off the old path and open the new path will be carried out.

No new risks will be created by the new route as it is traffic-free. The risk is eliminated at the railway crossing and access to the operational railway removed, separating trains from the public.

### **3. NAMES AND ADDRESSES OF PUBLIC UTILITY UNDERTAKERS IN AREA (whether or not their apparatus is likely to be affected):**

- a) Public gas supplier **SSE**
- b) Public electricity supplier **SSE**
- c) Water undertaker **Southern Water**
- d) Sewerage undertaker (if different)
- e) Public telecommunications operator **BT**
- f) Others (specify)

### **4. MAPS AND PLANS**

List all maps and plans accompanying this request giving details of their scale and content. In addition to the map mentioned in paragraph 1(d), this must include a map of a scale not less than 1:25,000 or, if no such map is available, on the largest scale readily available, showing the crossing and any paths or ways to be extinguished.

**Plan A – showing the existing section of Footpath 707b to be extinguished in 1:1250**

**Plan B – showing the proposed diversion as an outline of the proposed footbridge in 1:1250**

### **5. OTHER INFORMATION**

Give any other information you consider relevant.



## DECLARATION

I / We

- (a) understand that no authority for the extinguishment, obstruction or creation of any path or way in this request is conferred unless or until a Rail Crossing Diversion order has been confirmed and come into force;
- (b) request that a Rail Crossing Diversion Order be made and confirmed relating to the crossing and paths or ways described in Sections 1 and 2 above; and
- (c) declare that, to the best of my/our knowledge and belief, the factual information included in this form is true and accurate.

Signature of Applicant:



Date: 03/06/2016

Please return **only** pages 3 to 8 of this form to: Countryside Access Team, Countryside Service, Hampshire County Council, Castle Avenue, Winchester, Hampshire, SO23 8UL.

**You should retain a full copy of your completed application form for your records.**

**Procedures.** The stages in processing an application for Diversion are as follows:-

1. The applicant submits an informal request to the Countryside Access Team, for the diversion of a specific footpath, bridleway or restricted byway.
2. Informal discussions are held between the applicant and the Countryside Access Development Officer, including (if necessary) a free site visit lasting up to two hours, in order to refine the proposal.
3. The applicant will then be provided with an application form and an extract of the Ordnance Survey large scale plan showing the path to be diverted.
4. The applicant is advised to informally consult with interested parties (normally the Parish Council and any relevant special interest groups, such as the Ramblers and the Open Spaces Society), in order to involve them in the proposed re-alignment at an early stage and ideally before the application form is submitted to the County Council.
5. The applicant submits the application form to the Countryside Access Team, agreeing to reimburse all legitimate costs incurred by the County Council in processing this application.
6. The County Council will now formally consult with special interest groups, local councils and local residents to establish their views on the proposal. The Countryside Access Development Officer will discuss with the Applicant any significant comments that may result from this process.
7. The Countryside Access Manager will agree a Schedule of Works with the applicant for the construction of the new route, once the order has been confirmed, to a standard suitable for use by the public.
8. The Countryside Access Development Officer will prepare and submit a formal report on the proposal for consideration by the Regulatory Committee (consisting of elected Members of the County Council), who will decide whether or not a Rail Crossing Diversion Order should be made. Members may make a site visit if they consider that it would assist them in making their decision.

9. If the Regulatory Committee endorses the application for diversion, the Order is then made, and a notice to this effect is displayed on site for a period of four weeks and advertised in the local press, during which time formal objections could be made.
10. If no objections are received the Order may be confirmed by the Council at this stage.
11. If objections are received to the making of the Order, the County Council may undertake further negotiations in an attempt to resolve the situation.
12. If the County Council considers that the objections are well founded, it may decline to proceed with the proposed diversion.
13. If the County Council considers that the proposal still has merit, despite sustained objections, the Order may be submitted to the Secretary of State. This could result in the matter being taken to a Public Hearing or Inquiry for determination by an Inspector.
14. The Secretary of State will decide whether or not to confirm the Order. (Note that the Secretary of State, or an Inspector appointed by him, may decide not to confirm the Order at this stage).
15. Once the Order has been confirmed, a further notice is displayed on site for a period of six weeks and advertised in the local press, during which time an application could be to the High Court for Judicial Review of the decision. The Applicant will then be required to construct the path to the standard required by the County Council, if this has not already been undertaken.
16. The Countryside Access Manager will make a final site visit to inspect the new route. ***Please note – the existing route will only be extinguished once the new alignment has been certified by the Countryside Access Manager as being in a fit condition for use by the public, in accordance with the previously agreed Schedule of Works.***

### **Fees payable by Applicants**

The County Council is entitled to charge a fee for the administrative work involved in dealing with an application, in accordance with The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (), as amended by The Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 ([http://www.opsi.gov.uk/si/si1996/Uksi\\_19961978\\_en\\_1.htm](http://www.opsi.gov.uk/si/si1996/Uksi_19961978_en_1.htm)).

You will also be required to reimburse the cost of inserting two notices in the local press at cost. These fees may be reviewed annually and you will be required to confirm your acceptance of the charges currently in force at the time your application is taken up from the waiting list.

You will be invoiced for the administrative costs, in accordance with the published schedule, at appropriate points in the procedure - payment is due 30 days from invoice date.

### **Charges for processing an application under the Highways Act 1980 - 2016/17**

Depending on factors such as the number of site visits required, the total fee may vary. Below is an example of a total charge.

1) Initial advice and site visit of up to 2 hours	No charge
2) Cost of recording application and preparing plans	£400.00
3) Multiple Routes	
If your application includes more than one section of contiguous highway, the fee for <b><i>each</i></b> additional route included in the same Order is:	£500.00
4) Statutory Consultation with Councils and User Groups	£250.00
5) Preparation and submission of a Report to HCC Regulatory Committee,	£500.00

### **leading to determination of the application**

In certain circumstances the Regulatory Committee may wish to inspect the site of the intended diversion – for example if there is local opposition to the proposal – and this is likely to incur an **additional charge of up to £600.**

- |  |                |
|--|----------------|
| <b>6) Making the Order and posting of Notices on site</b>  | <b>£500.00</b> |
| If an Order is made, but objections are received and sustained, and the County Council subsequently withdraws its support for the application, the above charges will still apply.<br>(Please note - this charge will apply even if the Secretary of State does not confirm the Order) |                |
| <b>7) Confirming the Order and posting of Notices on site</b>  | <b>£350</b>    |
| <b>8) Post-Order Administration</b>  | <b>£400</b>    |
| <b>9) Related Costs (including advertising the making and subsequent confirmation of the Order, transport and material costs)</b>  | <b>£520</b>    |

### **Example (for a single section of highway)**

Application received and processed, prior to consultation	<b>£400.00</b>
Application withdrawn following consultation	<b>£650.00</b>
Application withdrawn following determination by HCC Regulatory Committee, or refusal by Hampshire County Council to make an order	<b>£1,150.00</b>
Order for Diversion made by Hampshire County Council	<b>£2,920.00</b>

Extent of NR ownership in bright green

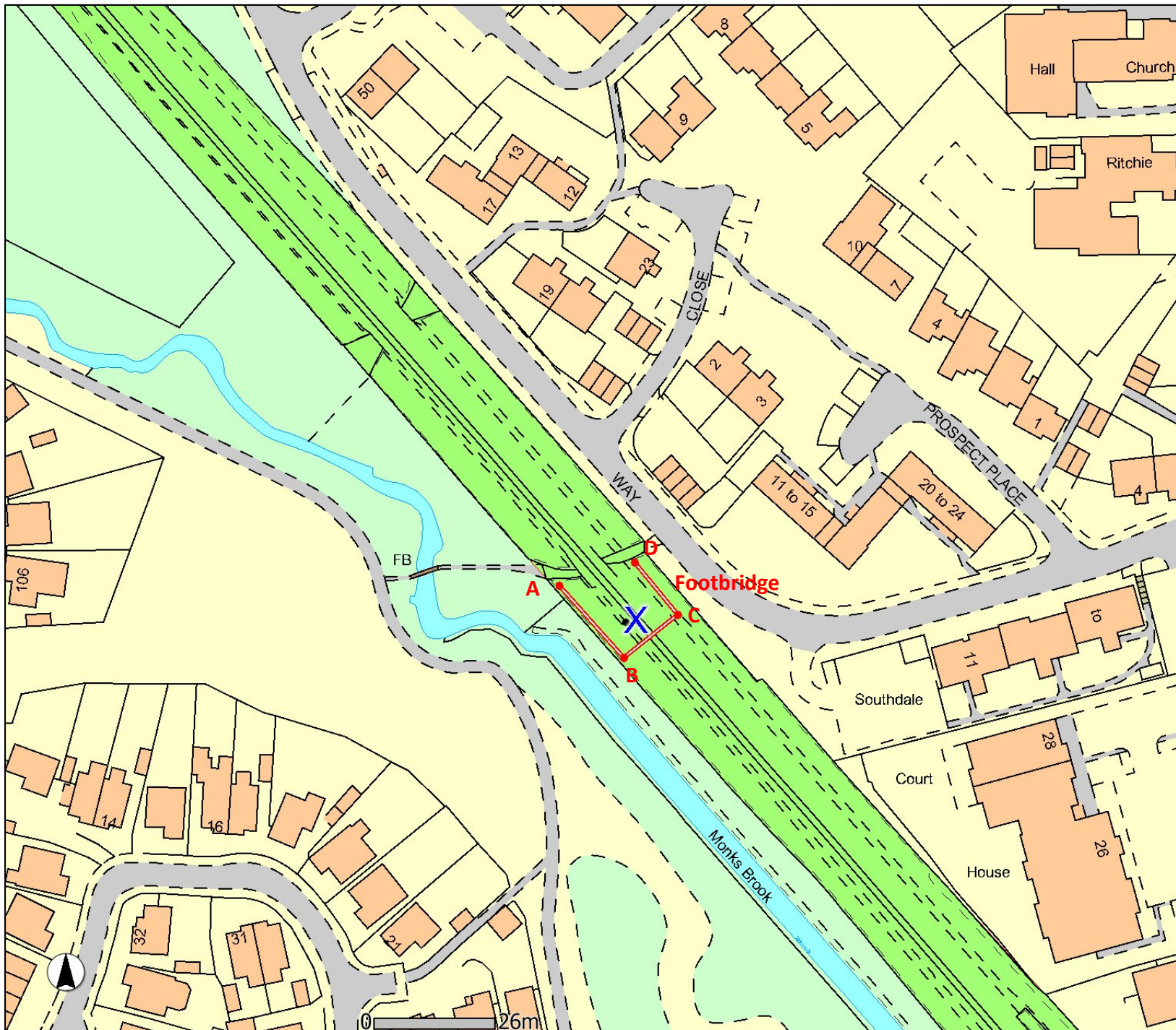
Grid References for points on the plan:

A SU 43090 20832

B SU 43103 20815

C SU 43120 20828

D SU 43111 20840



<b>CHANDLERS FORD FP 707B Proposed Footbridge Diversion In Red</b>	
Plot Scale	1:1250
Plot Date	3/6/2016
