

Note on Bridge 12 – alternative option

Introduction

1. Drawing RVR-UB12-001-F2 entitled Mill Stream Bridge Site Plan and dated 31 July 2021 is attached at Appendix 1. This shows how a footpath level crossing may be accommodated at the same location as the proposed underbridge to enable S&R FP31 to cross the railway on the level.
2. The drawing also indicates how a farm access may be accommodated at the location indicated on Sheet 3 of the order plans, descending the embankment on the south side of the railway on a 1:10 gradient before passing over a bridge (“the existing bridge”), currently used both by the landowners and users of FP31 to get over the Mill Stream. A label on the drawing provides that this bridge will be replaced if necessary.
3. This note is in two parts: The first deals with amendments which the applicant will ask the Inspector to recommend the Secretary of State to make to the draft Order to amend the temporary route of FP31 south of the railway to a point just beyond the existing bridge referred to above, in case the design of the accommodation crossing at this location requires the renovation or replacement of the existing bridge. The second sets out, on a Without Prejudice basis, amendments that would be required to the Filled Order to provide for FP31 to cross the railway on the level. In each case the amendment is supported by an amended Replacement Sheet 3 to the Order plans.

Part 1: Proposed amendments to article 11 (stopping up of street) of the Filled Order to provide for potential need to refurbish existing bridge over Mill Stream to south east of Mill Stream Bridge

4. The following amendment to the Filled Order departs from the application draft by adding point P5 to the existing temporary diversion. Without this, the temporary diversion would end at the north side of the existing bridge. The new point, P5 would allow users to be diverted over a temporary bridge whilst works to the existing bridge are carried out. This can be done within the ancillary works powers of the Order on land occupied under temporary powers:

Stopping up of street

11—(1) Subject to the provisions of this article the Company may, in connection with the carrying out of the authorised works, stop up Footpath S&R 31 between points P1 and P2 on sheet 3 of the Order plans.

(2) The street referred to in paragraph (1) is not to be wholly or partly stopped up under this article unless—

- (a) a new street has been constructed and substituted for it between points P1, P4, and P2 on sheet 3 of the Order plans to the reasonable satisfaction of the street authority and is open to use; or
- (b) a temporary alternative route for the passage of such persons as could have used the street to be stopped up is first provided and subsequently maintained by the Company, to the reasonable

satisfaction of the street authority, between points P1, P3, P2 and P5 on the Order plans until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) Where Footpath S&R 31 has been stopped up under this article—

- (a) all rights of way over or along it are extinguished; and
- (b) the Company may appropriate and use for the purposes of its railway undertaking so much of the site of the street as is bounded on both sides by land owned by the Company.

(4) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article is subject to paragraph 2 of Schedule 6 (provisions relating to statutory undertakers etc.) to this Order.

5. A further draft of the Filled Order dated 2 August 2021 and a Replacement Sheet 3 CAD Date 31.7.2021 have been submitted to the Inquiry at the same time as this note. A copy of the Replacement Sheet 3 is attached to this note at Appendix 2.

Part 2: Without Prejudice Amendments to Filled Order to provide for Level Crossing at FP31

6. As explained in paragraph 1 above, RVR-UB12 – 001 – F2 shows how a footpath level crossing would be achieved within existing limits of deviation and without interfering with a farm accommodation crossing at this location.
7. Amendments would be required to 11 and Schedule 5 to the draft Order as shown below. Sheet 3 of the Order plans would also be amended to show the route of the diversion, taking into account the path cut into the embankment either side of the railway to achieve a 1 in 10 gradient slope for pedestrians. An amended sheet 3 of the Order plans is attached at Appendix 3 entitled “Replacement Sheet 3 Footpath Level Crossing Option”.

Stopping up of street

11—(1) Subject to the provisions of this article the Company may, in connection with the carrying out of the authorised works, stop up Footpath S&R 31 between points P1 and P2 on sheet 3 of the Order plans.

(2) The street referred to in paragraph (1) is not to be wholly or partly stopped up under this article unless—

- (a) a new street has been constructed and substituted for it between points P1, P3, P4, P5 and P2 on sheet 3 of the Order plans to the reasonable satisfaction of the street authority and is open to use; or
- (b) a temporary alternative route for the passage of such persons as could have used the street to be stopped up is first provided and subsequently maintained by the Company, to the reasonable satisfaction of the street authority, between points P1, P3, P5, P2 and P6 on the Order plans until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) Where Footpath S&R 31 has been stopped up under this article—

- (a) all rights of way over or along it are extinguished; and
- (b) the Company may appropriate and use for the purposes of its railway undertaking so much of the site of the street as is bounded on both sides by land owned by the Company.

(4) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) This article is subject to paragraph 2 of Schedule 6 (provisions relating to statutory undertakers etc.) to this Order.

SCHEDULE 1 Article **Error! Reference source not found.**

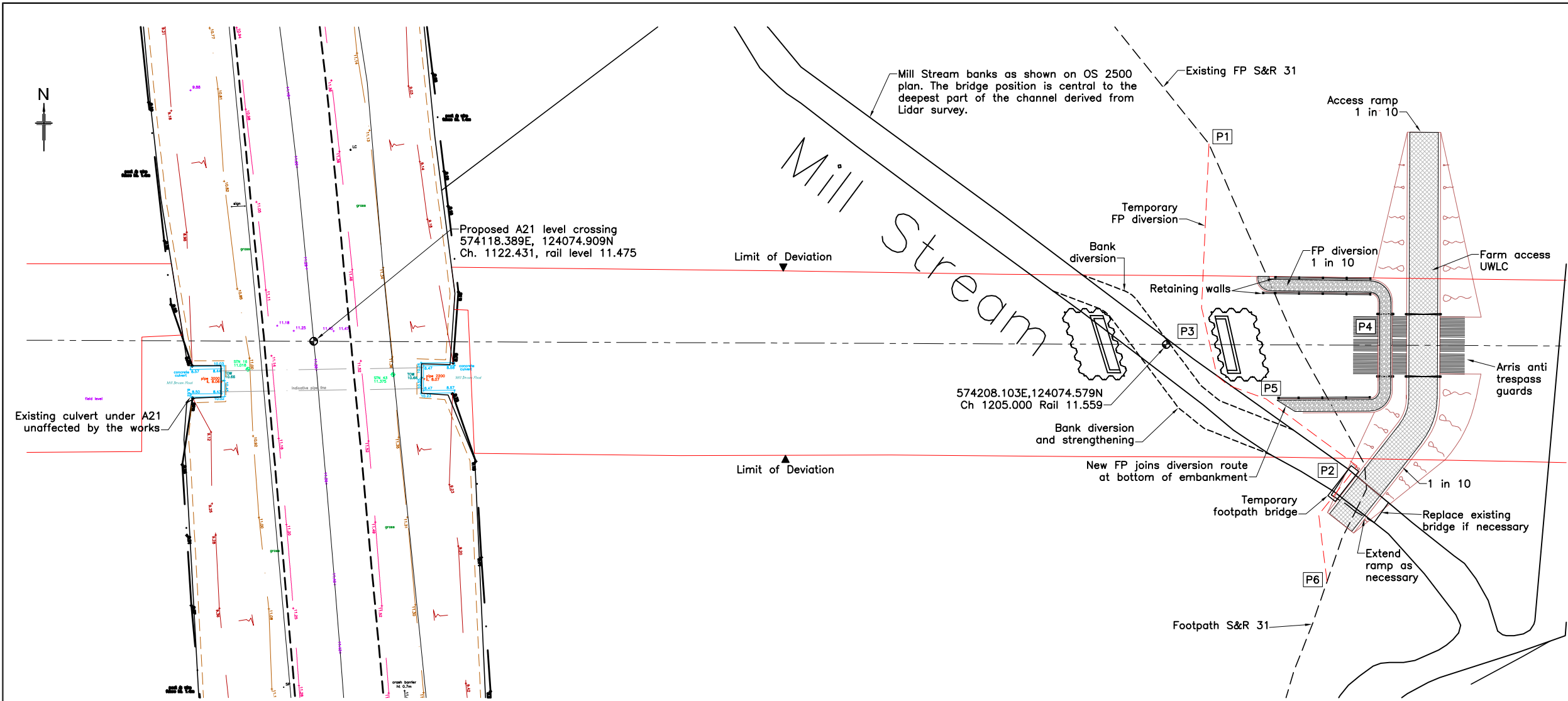
LEVEL CROSSINGS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Road</i>
County of East Sussex District of Rother	Northbridge Street
County of East Sussex District of Rother	A21 London Road
County of East Sussex District of Rother	Footpath S&R 31
County of East Sussex District of Rother	Bridleway S&R 36b
County of East Sussex District of Rother	B2244 Junction Road

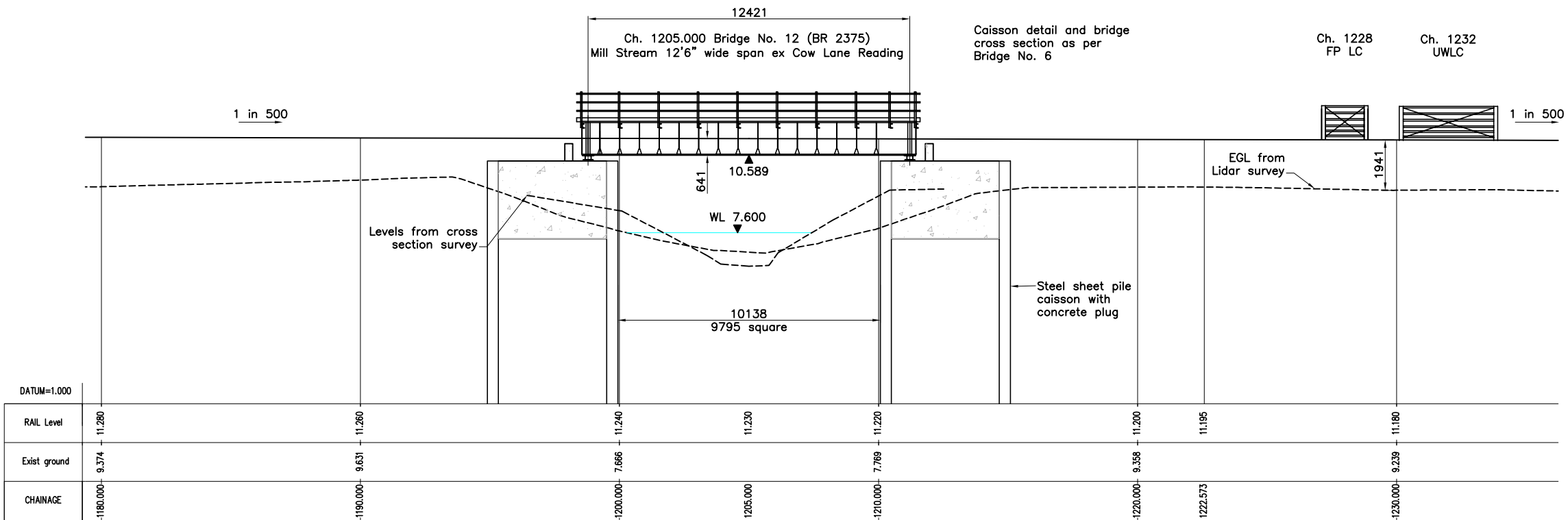
8. The drawing and draft amendments demonstrate that it is straightforward to modify the draft order to provide for a level crossing route so that the Secretary of State need not recommend refusal of the Order if he concludes that the application proposal of an underbridge is not suitable and convenient for existing users, despite it having been granted planning permission and no objections having been made to that proposal in either the planning application or application for TWAO.
9. It would be up to the SoS to determine whether such modification is acceptable. The Guide to TWA Procedures (INQ005) explains (paragraph 3.48) that the Secretary of State would normally be prepared to accept for consideration additions and/or amendments to documents, including the draft order, where satisfied that:-
 - (a) the modifications do not contain (expressly or by implication) a proposal to authorise the compulsory acquisition of land, or the right to use land, or the compulsory extinguishment of easements or other private rights over land (including private rights of navigation over water) which was not included in the application;
 - (b) the modifications do not change the essential nature of the proposal submitted to the Secretary of State so as to amount, in effect, to a substantially different proposal. This would be a matter of fact and degree, having regard to the nature of the modifications in relation to the originally submitted proposals; and
 - (c) the interests of other parties are not prejudiced by acceptance of the amendments or additional information (taking account of what opportunity to comment has been, or might reasonably be, given to other parties who might have an interest).
10. It is contended on behalf of the applicants that the Secretary of State can reasonably be satisfied on each of points (a) to (c) above.

Winckworth Sherwood

2 August 2021



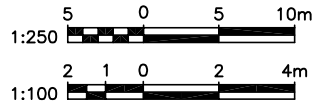
SITE PLAN
Scale 1:250



LONGITUDINAL PROFILE & ELEVATION A-A
Scale 1:100

NOTES

- Imperial measurements are exact and take precedence over metric.
- .



F	JCS	-	-	31.7.21	Footpath amended at level crossing
E	JCS	-	-	18.7.21	Footpath amended at level crossing
D	JCS	-	-	15.7.21	Footpath added to user worked level crossing
C	JCS	-	-	10.7.21	Footpath diversion under bridge
Revision	By	Checked	Approved	Date	Description

Client
Rother Valley Railway Ltd
Rother Valley Railway Station, Robertsbridge, East Sussex, TN32 5UG
Tel 01323 881833
www.rvr.org.uk



OPTION 2
FOOTPATH LEVEL CROSSING

Project
ROTHER VALLEY RAILWAY

Drawing
MILL STREAM BRIDGE
SITE PLAN

Drawn by JCS Date: 31/07/2021
Checked by - Date: -
Authorised by - Date: -
Drawing No. Revision
RVR - UB12 - 001 F-2
Drawing Scale: 1:250, 100 at A1
CAD Filename: - Plot Scale: 1:1

ORIGINAL SHEET SIZE A1

124400mN

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COUNTY OF EAST SUSSEX
DISTRICT OF ROTHER

REPLACEMENT
SHEET 3
Correction

Railway
No.3

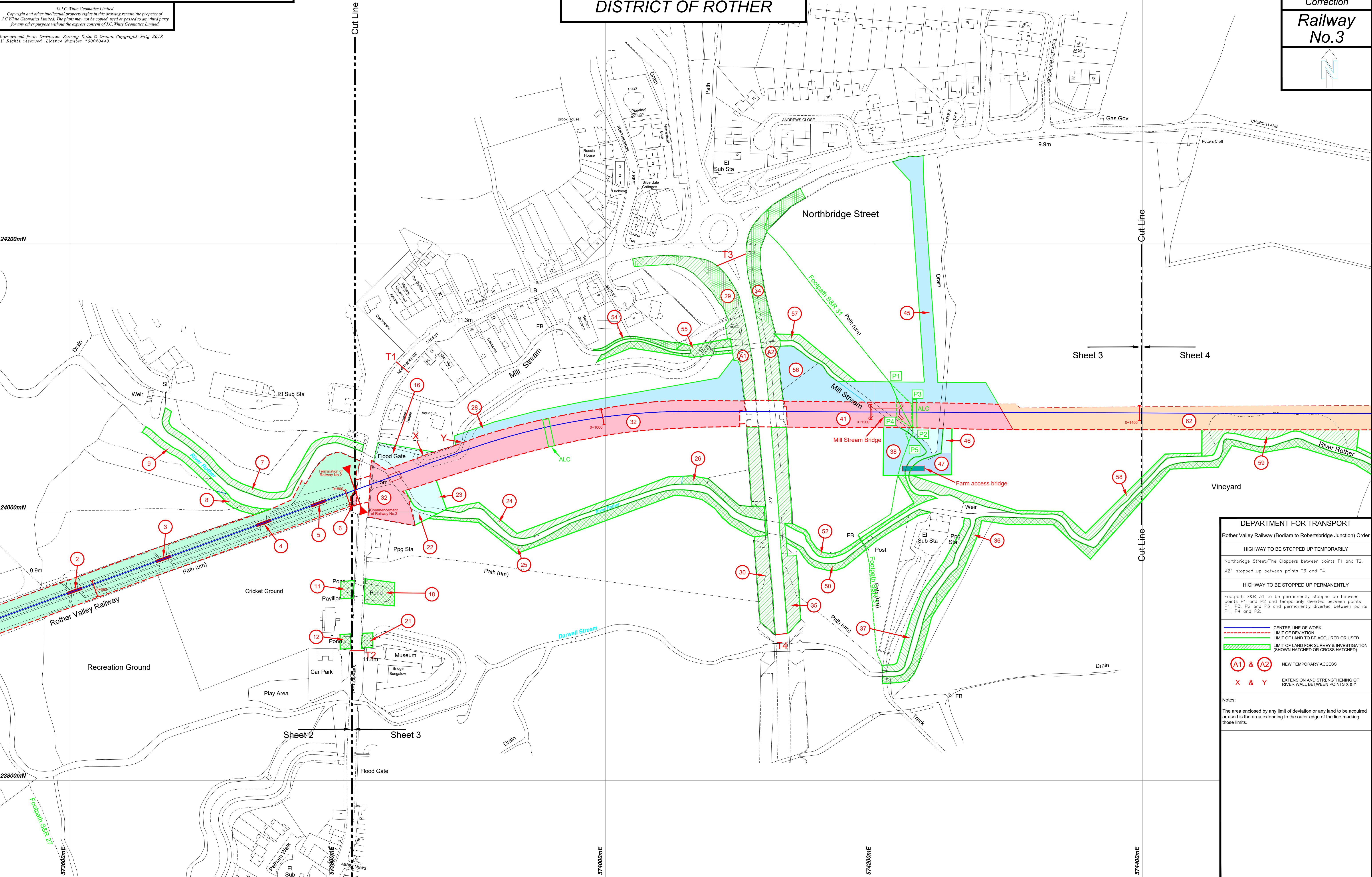
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- GPS surveys
- setting out
- volumetric surveys
- boundary disputes
- topographical surveys
- engineering surveys
- measured building surveys
- deformation & settlement surveys



DEPARTMENT FOR TRANSPORT

Rother Valley Railway (Bodiam to Robertsbridge Junction) Order

HIGHWAY TO BE STOPPED UP TEMPORARILY

Northbridge Street/The Clappers between points T1 and T2.
A21 stopped up between points T3 and T4.

HIGHWAY TO BE STOPPED UP PERMANENTLY

Footpath S&R 31 to be permanently stopped up between points P1 and P2 and temporarily diverted between points P1, P3, P2 and P5 and permanently diverted between points P1, P4 and P2.

CENTRE LINE OF WORK
LIMIT OF DEVIATION
LIMIT OF LAND TO BE ACQUIRED OR USED
LIMIT OF LAND FOR SURVEY & INVESTIGATION (SHOWN HATCHED OR CROSS HATCHED)

NEW TEMPORARY ACCESS
EXTENSION AND STRENGTHENING OF RIVER WALL BETWEEN POINTS X & Y

Notes:

The area enclosed by any limit of deviation or any land to be acquired or used is the area extending to the outer edge of the line marking those limits.

ORIGINAL SHEET SIZE A1

124400mN

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COUNTY OF EAST SUSSEX
DISTRICT OF ROTHER

REPLACEMENT
SHEET 3
Footpath Level
Crossing Option

Railway
No.3

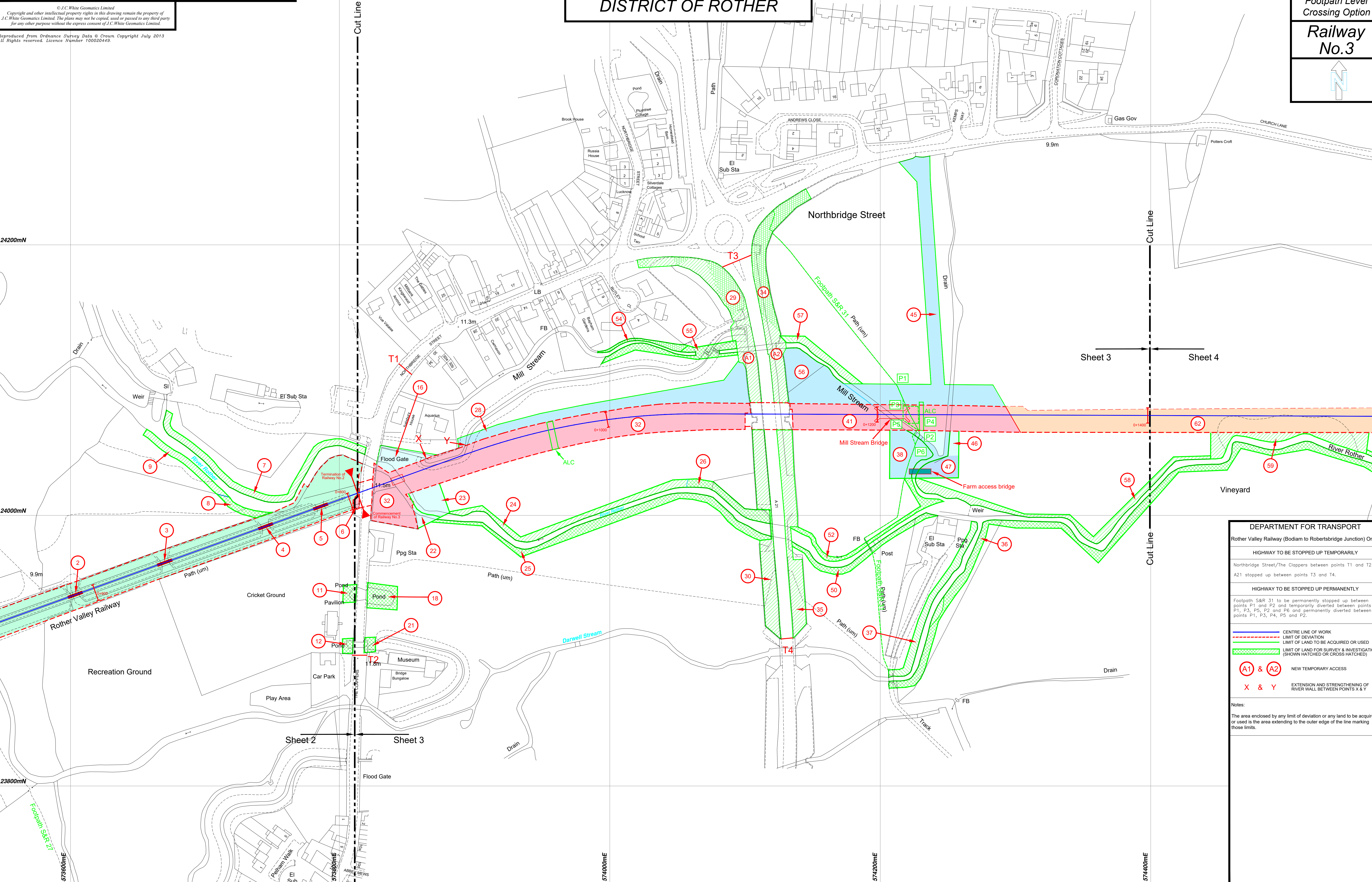


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123800mN

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HIGHWAY TO BE STOPPED UP PERMANENTLY
Footpath S&R 31 to be permanently stopped up between points P1 and P2 and temporarily diverted between points P1, P3, P5, P2 and P6 and permanently diverted between points P1, P3, P4, P5 and P2.

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