



Department
for Transport



Department
for Environment
Food & Rural Affairs



ADEPT
Association of Directors of
Environment, Economy, Planning & Transport

Level crossing diversion or extinguishments under the Highways Act 1980

Chair: *Jeremy Hotchkiss - Deputy Director, Rail Industry Standards and Capability, DfT*

Presenters:

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OFFICIAL

Background

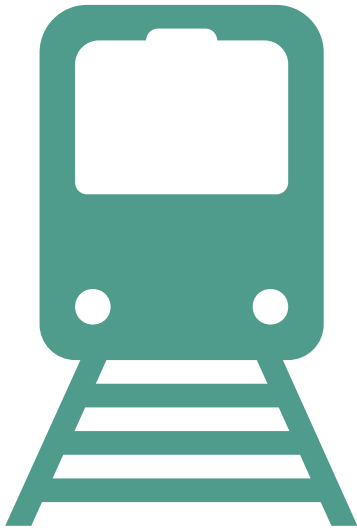
- National focus on levelling up which involves major rail projects like HS2
- Government focus on transforming the structure & culture of the rail industry
- Defra policy priorities ie protecting rights of way
- Active travel – focus on cycling and walking
- Rail SPEED programme to reduce time and costs of delivering rail projects



“ ...accelerating the delivery of critical upgrades to the network will help level up places across the country, spark new economic growth and improve public transport connectivity and prosperity across our nations and regions. ”

[Great British Railways: Williams-Shapps Plan for Rail](#), p. 23

Level crossings



- Level crossings connect communities and were designed to preserve existing rights of way when the railways were first built.
- They represent a safety risk to passengers and users, meaning Network Rail's policy is to close them where possible and practicable.
- This is particularly the case with the introduction of faster or more frequent services – where closure is often the only safe option.
- This needs to be balanced. Closure can disrupt communities and existing rights need to be protected.
- The process of considering diversions or extinguishments can be complex and often lengthy.
- The Levelling Up agenda requires us to look at improvements.

What did we do?

- Held workshops involving:
 - Association of Directors of Environment, Economy, Planning & Transport (ADEPT)
 - Institute of Public Rights of Way and Access Management (IPROW)
 - Network Rail
 - Department for Transport (DfT)
 - Department for Environment, Food and Rural Affairs (Defra)
- All parties presented the complex issues involved in the process:
 - Incomplete applications
 - Pressure on resources
 - Complicated legislation
 - Unclear timelines
 - Perceived inability to escalate
- We agreed on common ground – making communities safer by improving the process.
- It was clear that existing legislation needed clarification, involving both government and those directly involved in application process.



Two specific & related areas of focus

S118A/S119A

- Developing a consistent approach, standards and timescales for processing applications under Highways Act 1980
- Provide clarity on what is needed in applications
- Set out how both parties should engage in the application process
- Establish the timeframes involved
- The expectation is that most applications will only follow this route

S120

- Affirm the route to progress stalled applications under S120 of the Highways Act 1980
- The expectation is this will be used in exceptional circumstances.



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Access and Engagement with Nature: Rights of way and level crossings



Michelle Luscombe

25 Year Environment Plan

Themes



Access to nature - why it's important

- Connecting people with the environment to improve health and wellbeing is a core objective of the 25YEP.
- The theme of Chapter 3 is 'connecting people with the environment to improve health and wellbeing'. Our policies seek to enhance people's engagement with the natural world and to address inequalities in access, by opening up the mental and physical health benefits of the natural world to people from the widest possible range of ages and backgrounds
- The COVID pandemic has underlined the important role of nature for our health and wellbeing, particularly for those living in disadvantaged areas, and there is growing evidence to support the many beneficial effects of being outside, including in stress reduction and increased physical activity.
- Through increased engagement with nature, people also come to care more about the natural environment and take steps to protect and enhance it.
- Delivery of the outcomes of the 25YEP depends upon engaging people with nature and supporting their behaviour change.

Rights of way and level crossings policy

- England's network of roughly 118,000 miles of public rights of way is considered a unique and valuable resource, which provides the opportunity to experience an immense variety of English landscapes and settlements.
- The 25YEP provides a strong directive for Defra to increase public access for the nation's health and wellbeing, including through expanding the rights of way network.
- There are an estimated 6,000 level crossings in the UK over differing types of highway.
- Defra do not normally get involved in the day to day administration of public rights of way - the Planning Inspectorate (PINS) administer BAU rights of way casework on Defra's behalf.
- In some cases Defra will intervene if there is a strong case for doing so but prefer to avoid central Government involvement in very local matters.

Level crossing extinguishments / diversions

Level crossing extinguishments and diversions

The Secretary of State has the power under section 120 of the Highways Act 1980 to extinguish a right of way:

- **Sections 118A and 119A** of the 1980 Act, local authorities may submit an order to extinguish or divert a way crossing a railway, having particular regard to—
 - (a) whether it is reasonably practicable to make the crossing safe for public use, and
 - (b) what arrangements have been made for ensuring that, if the order is confirmed, any appropriate barriers and signs are erected and maintained.
- **section 120** of the 1980 Act, if the Secretary of State considers it is expedient to stop up or divert a path, and provided that:
 - a) no council having power to do so have made and submitted a relevant order; and
 - b) were the order submitted, the Secretary of State would have the power to confirm the order; he may make the order himself after consultation with the appropriate authority

It is Defra policy that this be used only in exceptional circumstances. Defra previously gained ministerial agreement in 2016-17 to exercise these powers in the cases of the Moor Lane and Pilgrims Way crossings, and specify the criteria for acceptance of future cases.

Defra criteria for consideration

For extinguishments:

- Any fatalities at the site within the last 10 years; and
- Extended closures due to safety concerns, which will expire within 6 months; and
- That the applicant has exhausted other options – specifically that the LA has either refused the application or not made a decision within a reasonable timeframe

For diversions:

- Multiple near misses or fatalities at the site within the last 10 years; and
- That the proposed diversion is not reasonably less convenient as the existing route
- That the applicant has exhausted other options – specifically that the LA has either refused the application or not made a decision within a reasonable timeframe

Level Crossing Strategy Group



Level Crossing Strategy Group



s118A & s119A Highways Act 1980

- s118A - stopping up of footpaths, bridleways and restricted byways crossing railways
- s119A - diversion of footpaths, bridleways and restricted byways crossing railways
- Improve awareness of process
- Encourage best practice

Why is the Guidance needed?

- Inconsistency in some NR applications on level of information submitted, justification and background information.
- Inconsistency in some LHAs progressing applications, or did not make an order, or did not refer to SoS where objections received.

What does the Guidance do?

- Builds on the collaborative approach outlined in the MoU between NR, IPROW, ADEPT
- Onus on all parties to make reasonable efforts to share information
- Enable better applications
- Properly assess alternative routes
- Timely progression of order process
- Allows for appeal to SoS under s120(3) & (3A)







Why promote an Order?

- NR will only apply for an order under s118A or s119A where a public footpath, bridleway or restricted byway crossing has been assessed as unsafe, and which cannot be made safe for continued public use.
- NR would look to promote a s119A application first, and only fall back on a s118A as a last resort or if other suitable and safer alternative routes exist.

What's in a second?



And with sun glare...



**Second Train
Coming**

**From the opposite
direction**



Other Risks...





Distracted



Distracted



The Guidance...

- Jointly produced by NR, IPROW & ADEPT
- Endorsed by Defra & DfT
- Incorporates Process Flow-chart, Check List and links
- Includes Escalation under s.120 to SoS

The image displays six pages from a guidance document. The top-left page is the title page, featuring logos for Network Rail, ADEPT, and Defra. The top-middle page contains a detailed flowchart titled 'Process Flowchart for a 116kV/110kV Local Creation Order Application (the Highway Act 1980)'. The top-right page contains a flowchart titled 'Process Flowchart for a 116kV/110kV Local Creation Order Application (the Highway Act 1980)'. The bottom-left page contains a checklist titled 'Checklist for a 116kV/110kV Highway Act 1980 Application Requirements Checklist'. The bottom-middle page contains a checklist titled 'Checklist for a 116kV/110kV Highway Act 1980 Application Requirements Checklist'. The bottom-right page contains a checklist titled 'Checklist for a 116kV/110kV Highway Act 1980 Application Requirements Checklist'.



Information:

The Countryside for All
Good Practice Guide
produced by the Fieldfare
Trust

<https://www.pathsforall.org.uk/>

The logo for "paths for all" is located in the bottom left corner, partially enclosed by a circular frame with a distressed edge. The word "paths" is in a large, blue, lowercase sans-serif font. Below it, the word "for" is in a smaller, green, lowercase sans-serif font, and the word "all" is in a larger, green, lowercase sans-serif font. A stylized grey path graphic connects the "for" and "all" words.

Q&A session

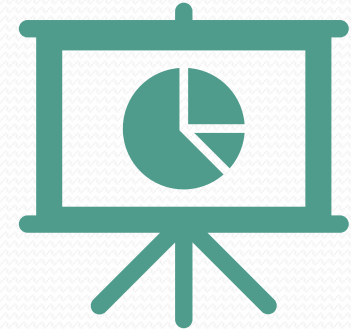
What are the next steps?



Ongoing dialogue



Further briefings



Monitoring the impact

Useful links

- Great British Railways: Williams-Shapps Plan for Rail
<https://www.gov.uk/government/publications/great-british-railways-williams-shapps-plan-for-rail>
- Guidance on agreed process for s.118A/119A level crossing order applications
<https://www.adeptnet.org.uk/level-crossing-s118a-and-s119a-guidance>
- Defra – DfT guidance on S120(3) and (3A) Highways Act 1980
<https://www.gov.uk/government/publications/escalating-the-closure-or-diversion-of-a-level-crossing-applications-under-the-highways-act>

Thank you



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