

## **A28 Sturry Link Road**

### **Kent County Council (KCC) Compulsory Purchase Order (CPO) and Side Road Order (SRO)**

**Public Inquiry 1 October 2024**

#### **Supplementary Proof of Evidence of Jonathan East in response to Network Rail's Letter of 10 September 2024**

##### **Introduction**

1. I have drafted this supplementary proof of evidence in order to provide the Council's response to Network Rail's letter of 10 September 2024 (Ref: GYYP/115040.02051). As stated in the letter at paragraph 1.2, the Council are in the process of seeking to negotiate a private agreement with Network Rail and the Council will update the Inspector on the progress of the agreement during the inquiry process. The Council will continue to try to engage with Network Rail in the run up to the inquiry in order to secure the withdrawal of its objection.
2. Within section 5 of my main proof of evidence, I responded to Network Rail's letter of objection dated 14 December 2023, in which it was stated that it objected on the grounds that "operational railway land is adversely affected". No further detail was provided at that stage regarding the nature of the objection. My response in section 5 of my main proof explains that during the construction phase of the Link Road there will be a minimal impact on the operational railway and no impact at all in the post-construction operational phase.
3. In the letter of 10 September 2024 (the 'September letter'), Network Rail has provided further information in respect of its objection, which I respond to in the main section below.
4. I note that Network Rail refer in their original objection letter and the September letter to having made representations to the Department for Transport objecting to the Compulsory Purchase Order under s. 16 and Schedule 3 Part 11 of the Acquisition of Land Act 1981. The Council has now seen the representation made, which states that the objection is made on the ground that "operational railway interests/land may be adversely affected". No further information is provided in the representation as to the nature of the concern.

##### **The Side Roads Order**

5. Network Rail expresses a wish to make representations in respect of the Side Roads Order in the September letter and states that it does not have a record of notice that the Side Roads Order was made. I am advised that the Side Roads Order was published in accordance with Department of Transport Local Authority Circular 1/97 and Schedule 1 Part 1 of the Highways Act 1980. Notices were placed in a local newspaper, on site and the (London) Gazette and the Order deposited at three locations for inspection. Shalloak Road north of Broad Oak level crossing is shown as 'improved highway' and there was no requirement to formally advise Network Rail of the Side Roads Order.

6. The SRO does not directly affect Network Rail property or the operation of the railway. The southern limit of the 'improved highway' does extend onto the local ramps up to the level crossing that have 'Keep Clear' marking. While this is public highway and identified as Plot 26 in the CPO and identified as being in KCC ownership in the Schedule, no works to these ramps are intended. As such, KCC has offered to amend the SRO Map so that the southern boundary of the 'improved highway abuts the start of the 'Keep Clear' ramp. See Drg. No. 008469-PCL-LSI-ZZ-DR-CH-0001 Rev P02 in Appendix 1 which shows the clarified extents of improved highway and the Street view screen shot in Appendix 2 to contextualise. This offer has been provided in email correspondence with Network Rail and their solicitors Dentons.

### **The CPO and its Impact on Network Rail's Land**

7. The September letter refers to s. 16 of the Acquisition of Land Act 1981 and in particular refers to s. 16(2) at paragraph 1.4, which states that CPOs shall not be confirmed unless the Secretary of State is satisfied that the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking.
8. The CPO does not seek to acquire land from Network Rail. The only plots in the ownership of Network Rail that are within the CPO Order are plots 20, 21 and 22. These are 'acquisition of rights' plots rather than acquisition of land. Plot 20 is for all rights necessary for the acquiring authority to use the land as a temporary working area for construction of the works over the operational railway. Plot 21 is for all rights of flying freehold airspace above the underside of the proposed bridge structure for construction of and operation of the works and all rights necessary for the acquiring authority below the proposed bridge structure to construct, protect, maintain and inspect the works. Plot 22 is for all rights necessary for the acquiring authority to use the land as a temporary access for construction of the works over the operational railway.
9. The bridge abutments will be on land either side of the railway and not on Network Rail's land. Plots 20 and 22 will be used in particular when the viaduct beams are swung into position. Plot 21 is similarly for the bridge construction and permanent air rights and rights to protect, maintain and inspect the works only are required.
10. Since the publication of the Orders it has been noted that there is a Network Rail CCTV post mounted on the verge area observing the level crossing. This verge area is Plot 25 in the CPO and identified in the Schedule as unknown ownership. The location of the post will be affected by the provision of a footway forming part of the 'improved highway' works. As detailed in section 5.7 of my main proof of evidence if the relocation of the camera is not an option and can't be agreed with Network Rail the design of the footway will be updated to remove the impact on the camera. The potential relocation of the camera therefore will not have any impact on the operational railway.
11. I am advised that Schedule 3 Part II of the Acquisition of Land Act 1981 includes a similar provision to s. 16 and states at paragraph 3(2) that a CPO shall not be confirmed so as to authorise the compulsory purchase of a right over any land used for the purposes of carrying on an undertaking except land that the Minister

is satisfied that its nature and situation are such that “the right can be purchased without serious detriment to the carrying on of the undertaking”. The September letter does not identify how the acquisition of rights in respect of Plots 20, 21 and 22 would result in serious detriment to the carrying on of the railway undertaking.

12. As detailed in section 5 of my main proof of evidence the acquisition of rights in respect of plots 20, 21 and 22 would have a limited impact on the operational railway during construction and no impact during operation following the scheme construction and therefore would not cause any serious detriment to the carrying on of the railway undertaking. Plots 20 and 22 are also temporary rights for construction of the bridge with Plot 21 including flying freehold airspace but at a height level greater than that required by Network Rail as detailed in section 5.4 of my main proof of evidence.
13. The September letter states that if the CPO or SRO are confirmed without modification, it would give the Council the power to carry out works and acquire land without securing appropriate protections. As I have already explained, the Side Roads Order does not impact Network Rail’s land and the CPO does not involve the acquisition of any land but instead the acquisition of rights. Further, Network Rail have not explained what modifications to the CPO/SRO it considers to be necessary in order to provide appropriate protections. The CPO will simply facilitate the construction of a bridge over the railway rather than on Network Rail’s land and the SRO simply relates to the improvement of Shalloak Road on the north side of Broad Oak level crossing. It does not include works on Network Rail’s land.

### **Broad Oak Level Crossing**

14. Paragraphs 1.7-1.9 of the September letter suggests that the modification of Shalloak Road would increase the number of cars going over the crossing and would lead to unsafe risks, that the SRO and CPO may pose a cumulative impact on the crossing and that mitigation may be required, and that the benefits of the CPO are outweighed by potential risks to the public by allowing additional vehicular traffic over Broad Oak level crossing.
15. As I explained in paragraph 3.18 of my main proof of evidence, the need to consider widening of a short section of Shalloak Road to the north of the Broad Oak level crossing arose from the outcome of a level crossing risk assessment carried out jointly between Network Rail and KCC. This followed concerns over observed ‘blocking-back’ of traffic over the crossing caused by vehicles slowing down to safely negotiate the narrowness of the road. Proposals for widening Shalloak Road are proposed by KCC to improve safety at the crossing and mitigate the potential for increased traffic during peak hours because of the Sturry Relief Road. In section 3.18 of my main proof of evidence I wrongly stated that the increased traffic over Broad Oak arose from the Sturry Link Road Scheme, this should have referred to the Relief Road Scheme and associated housing development. As detailed in section 3.2 of my main proof of evidence the Sturry

Link Road scheme by itself without the Relief Road would not have any transport impacts.

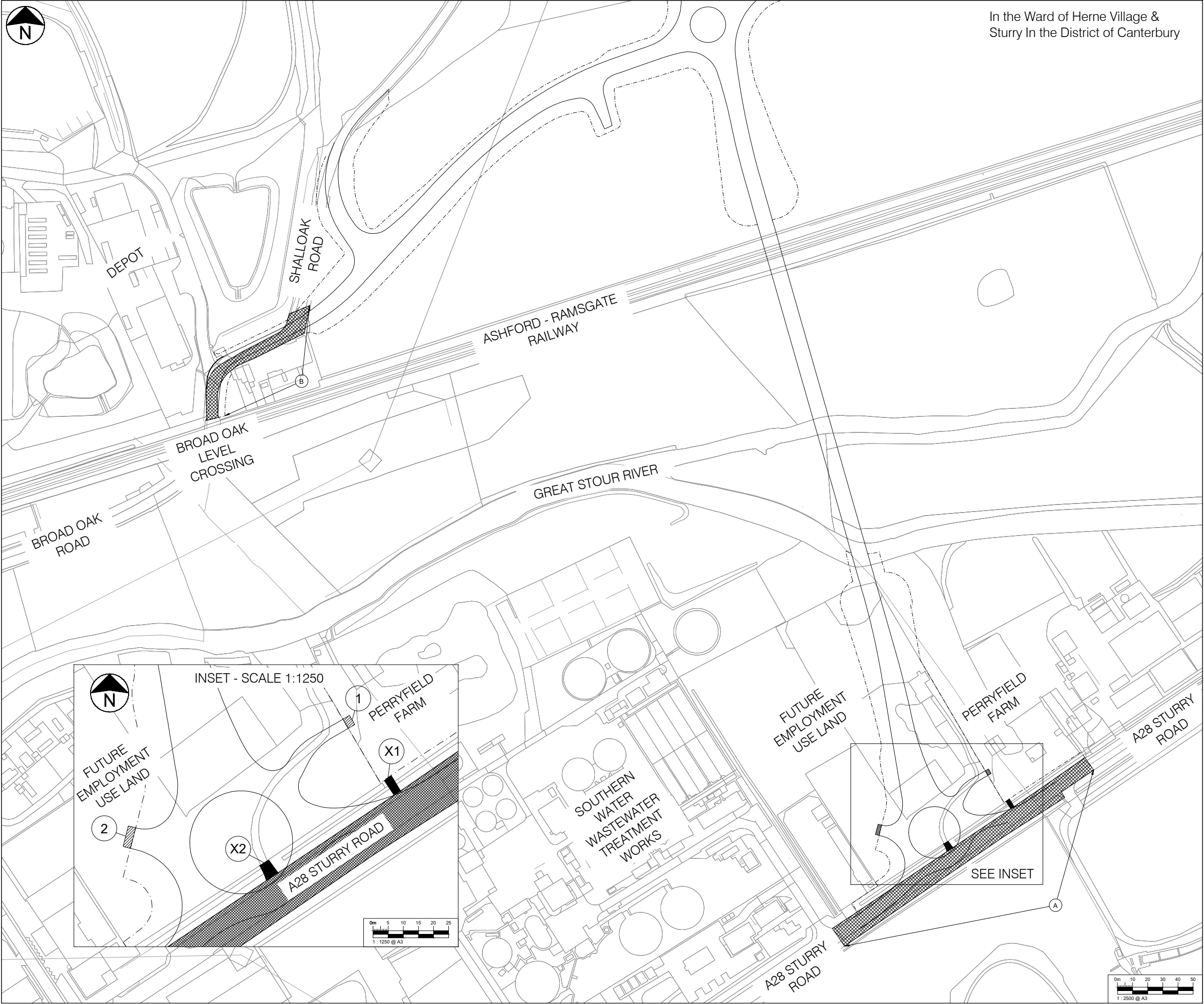
16. Neither the CPO nor the SRO themselves facilitate additional traffic over the crossing. It is the Land at Sturry development (CA/20/02826) that will create the main section of the Relief Road that will provide a connection between A291 Sturry Hill and Shalloak Road and which will deliver additional dwellings and occupants who will use the transport network. I understand that Network Rail made no objection to the Land at Sturry planning application, where the transport impact of the additional dwellings and Relief Road were considered. I also understand that Network Rail made no objection on transport safety grounds to the Link Road planning application.
17. In the absence of the Link Road, the Land at Sturry development – 630 homes (CA/20/02826) is able to build out in full and that will deliver the Relief Road between A291 Sturry Hill and Shalloak Road. Most of the other major consented developments in the surrounding area are also able to build out in full including; Herne Bay Golf Club – 572 homes (CA/15/00844), Broad Oak Farm – 456 homes (CA/18/0868), Hoplands Farm – 250 homes (CA/16/00404), Chislet Colliery – 370 homes (CA/16/00673).
18. Only Land North of Hersden (CA/22/01845) has a limit on occupations without the Sturry Link Road in place. Of the 800 consented homes, 255 of those homes could be built without the Link Road in place.
19. The absence of the Link Road would worsen the situation at Broad Oak level crossing and indeed the Sturry level crossing as detailed within sections 3.20 – 3.22 of my main proof of evidence which also refers to Appendix 4 of the planning committee report for Sturry Link Road. The Sturry Link Road will provide a significant overall improvement with traffic modelling showing that around 1200 vehicles / hour are expected to use the viaduct in the busiest periods. Without the Sturry Link Road Viaduct traffic has to rely on the Broad Oak and Sturry level crossings.
20. On this basis, I do not consider that Network Rail's objection is well-founded.
21. I confirm that the evidence I have provided is from my own knowledge and is true. I confirm that the opinions expressed are my true and complete professional opinions. I confirm that I understand and have complied with my duty as an expert witness which overrides any duty to those paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.

Signed: **J.East**

20 September 2024

### **Appendices**

1. Proposed modification of SRO Map – Drg. No. 008469-PCL-LSI-ZZ-DR-CH-0001  
Rev P02
2. Google Street View image of approach to Broad Oak level crossing



Map referred to in THE KENT COUNTY COUNCIL (A28 STURRY LINK ROAD) (SIDE ROADS) ORDER 2023  
Map 1 of 1

- The Classified Road
- Highway to be improved
- Private means of access to premises to be stopped up
- Route of new private means of access

This plan does not show widths or construction details

THE COMMON SEAL OF THE KENT COUNTY COUNCIL was hereunto affixed in the presence of:-

Authorised signatory					
P02	12/09/2024	UPDATE OF WORKS EXTENTS AT BROAD OAK	JC	RT	JE
P01	21/06/2023	ORIGINAL ISSUE	JC	JE	NP
Rev	Date	Description	Drn	Chk	App
This drawing has been specifically prepared to meet the requirements of the named client and may contain design and innovative features which differ from conventional design standards.					

PROJECT CENTRE

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Client

Kent  
County  
Council

kent.gov.uk

Project

A28 STURRY LINK ROAD, CANTERBURY

Drawing Title

SIDE ROADS ORDER PLAN

Drawing Status

FOR INFORMATION

Drawn	Designed	Date	Scale	Size
JC	JE	JUN 2023	1:2500	A3

Drawing No.	Rev
008469-PCL-LSI-ZZ-DR-CH-0001	P02



Canterbury, England

Google Street View

Oct 2022 [See more dates](#)

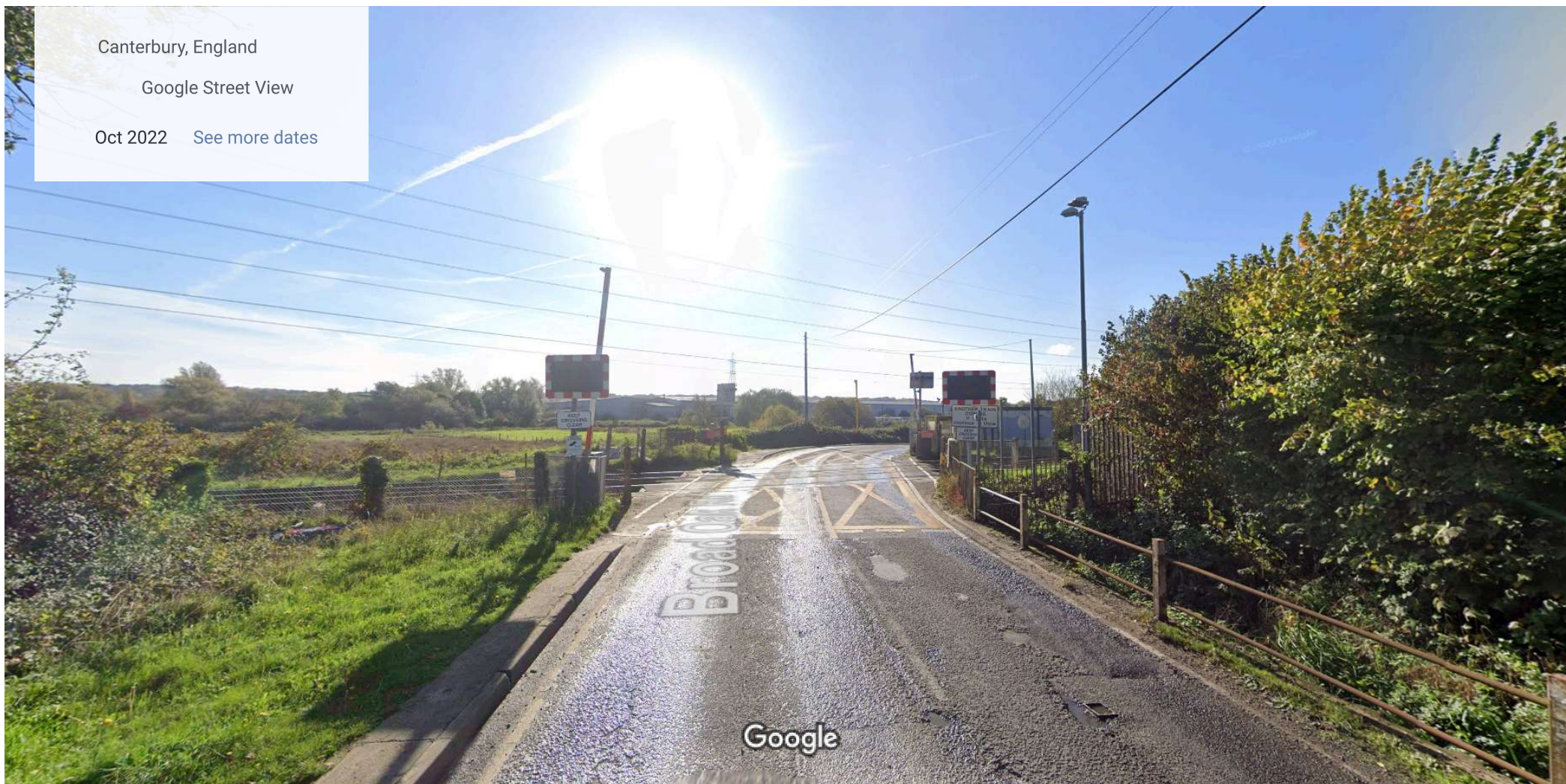


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