

Joanna

Thank you for forwarding the email received from the Ely Drainage Board (OBJ/29). You will note that the original objection for the Ely Drainage Board (attached) did not include any reference to C11 Furlong Drove. We have copied the Internal Drainage Board into this response.

I attach copy of Network Rail's letter to the IDB dated 29 September 2017, which explained the disapplication under the proposed TWA Order of section 23 (prohibition on obstacles in watercourses) of the Land Drainage Act 1991, and also the provisions of any byelaws made under, or having effect as if made under, section 66 (powers to make byelaws) of that Act which require consent or approval for the carrying out of the works as well as their replacement by substitute provisions for the protection of drainage authorities (and the Environment Agency) within the Order, which include arrangements for approval of plans by the drainage authority before the works authorised by the Order can commence.

I also attach copies of email correspondence between Network Rail and the Ely Drainage Board as recently as 24 November and 12 December which demonstrate that, as at 2 days ago, the IDB was not listing C11 as one of the crossings in the draft Order about which it had any concerns.

Network Rail refutes the suggestion that its consultation with the Internal Drainage Board has been poor; and points out that where there are multiple land interests, Network Rail has sent notices in accordance with the statutory requirements.

In relation to C11, the Order would provide in-principle consent for the creation of a new field edge, unsurfaced, bridleway at this location. Network Rail considers that the regular, but infrequent, maintenance activities carried out by the Internal Drainage Board will not be impeded by the presence of the bridleway; and that such activities can be safely carried out given the relatively low level of anticipated usage. In particular, arisings from weed cutting and ditch clearance can be deposited on the field side of the bridleway or the ditch embankments as currently occurs.

We trust this provides a sufficient level of comfort to allay the engineer's concerns but remain happy to talk to him and his colleagues directly as detailed design of the proposals is worked up.

Kind regards

Jane

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**From:** Joanna Vincent [<mailto:joannavinc@personaassociates.co.uk>]

**Sent:** 13 December 2017 18:34

**To:** Jane Wakeham; [Christopher.Mills@networkrail.co.uk](mailto:Christopher.Mills@networkrail.co.uk); Helena Parker; Chris Mayne

**Cc:** Graham Groom

**Subject:** FW: C11 Furlong Drove

Hi Jane

Please see email from the Ely Drainage Board (OBJ-29)

The Crossing this is referring to has already been heard.

KR

Joanna

**Joanna Vincent**

*Inquiry Manager*

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FS 659556

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Company Registration number: 2371248

**From:** Jean Heading [<mailto:jean@elydrainageboards.co.uk>]

**Sent:** 13 December 2017 15:19

**To:** Joanna Vincent <[joannavincient@personaassociates.co.uk](mailto:joannavincient@personaassociates.co.uk)>

**Cc:** [hannah.padfield@nfu.org.uk](mailto:hannah.padfield@nfu.org.uk)

**Subject:** C11 Furlong Drove

Dear Ms Vincent,

I write to make you aware of the Board's concerns with the proposed closure of the above level crossing. The Board's main concern is with the proposed new footpath route.

Part of the proposed new bridleway (highlighted pink on the attached plan) to the south of the level crossing would be adjacent to the Board's Thirty Foot Main Drain. This is an important watercourse for the Board, linking our two main pumping stations, giving us the ability to divert water. It is vital that we can continue to have unrestricted access to the Drain for ongoing maintenance. The Board are concerned that the location of the footpath will hinder it's works, placing a burden on the Board to obtain highway closures/diversions.

The Board's Byelaws state that any works within nine metres of the edge of a Main Drain require the consent of the Board. This is to not only protect the Board's maintenance access, but give space to improve (enlarge) a watercourse to give extra capacity.

I envisage that the Board would not be willing to consent to a bridleway at this location.

You may feel that the Board's objection is late, since I have sent comments regarding crossings that affect other Boards I manage, but I did raise my concerns with a consultant for Network Rail earlier this year. I have found the consultation over this matter poor. In the last twelve months, I have been contacted by four different organisations that do not seem to liaise with each other. I have also been sent numerous letters, many of which were duplicated, some even triplicated. Often they were also sent to our unmanned pumping stations. I do hope lessons are learnt from this to improve the situation in the future.

Best Regards,

Andrew Newton

Engineer to Littleport & Downham IDB



[Legal 500 UK 2015 Firm of the Year: Public Sector \(Specialism: Infrastructure - Parliamentary\)](#)

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Dear Kirsty,

Please find below my comments as requested. I also attach marked up plans.

#### C33 Jack O'Tell

We use this crossing in order to access our Main Drain which needs to be maintained to protect the area from flooding (including the railway). Our excavator uses this crossing to access these Drains. We have done so for many years and have never been asked to register as a private user. The Board would incur extra costs if we could not use this level crossing, as we would have to arrange for low loader moves.

I am also concerned that a low loader would not be able to use the diversion driveway, so we may not be able to get the excavator to the required location. There is also a section of the proposed new diversion route that would be adjacent to our Main Drain and could hamper our maintenance works.

It should be noted that we have, on occasions, used CO2 Narins and C34 Fysons. The main issue is that the railway goes right through the middle of the Board's District, which has been in existence since 1741. The closing of these three crossings will cut off the District, hampering our operations. I would like to see that at least one could remain open and be automated.

Attached is a plan showing our main drains (plan 1).

#### C27 Willow Road

We use this crossing to access a water level control structure that is vital to management of that part of the District. It's primary function is to manage water for summer irrigation, so it is vital that we have a quick and direct access route to it in the event of thunder storms, when we would need to quickly lower levels to prevent flooding. In the summer months, this structure is visited every 3-4 days, but could be daily in drought situations. The structure is visited less frequently in the winter. We have found that we cannot access this structure from any other way, as the access is not suitable for our vehicles.

Again, I have attached a plan showing the location of the structure (plan 2).

#### C22 Wells Engine/C28 Black Horse Drove

Providing the Board can be issued with private user rights, we have no objections.

#### C24 Cross Keys

The Board is concerned about the location of the proposed new footpath, which would be adjacent to the Board's Main Drain. Providing we can discuss this issue as part of our ongoing consultations, the Board would not have any objections to this crossing. It should be noted that no works can take place in, over, under or within nine metres of a Board's Drain without its prior consent.

Best Regards,

Andrew Newton

Engineer

**From:** Young Kirsty [<mailto:Kirsty.Young@networkrail.co.uk>]

**Sent:** 30 November 2017 10:51

**To:** Jean Heading <[jean@elydrainageboards.co.uk](mailto:jean@elydrainageboards.co.uk)>; Kenning Andrew <[Andrew.Kenning@networkrail.co.uk](mailto:Andrew.Kenning@networkrail.co.uk)>; Noonan Liz <[Liz.Noonan@networkrail.co.uk](mailto:Liz.Noonan@networkrail.co.uk)>

**Cc:** AngliaLevelCrossings <[AngliaLevelCrossings@networkrail.co.uk](mailto:AngliaLevelCrossings@networkrail.co.uk)>

**Subject:** FW: Anglia Level Crossing Work

Dear Mr Newton,

Thank you for providing this additional information. I work with Andy Kenning and, as he is busy with the start of the Public Inquiry, he has asked me to follow this up with you.

We are very keen to work with you to resolve these remaining issues as soon as we can, either through another telephone conversation or a meeting if this can be arranged. In advance of this, it would be very helpful to us if you could illustrate your concerns by marking up the attached plans to show the following information

- the location of the assets you require access to
- Current access routes and details of access required e.g. type of vehicles and approximate frequency
- Concerns you have with the proposed diversionary routes.

We are still unclear on your access requirements at C33 Jack O'Tell as this is currently a public footpath crossing and private user worked crossing. We do not have the IDB registered as a private user of this crossing so please can you provide further details as set out above.

Thank you for confirming that the closure of C26 Poplar Drove would not affect the IDB.

Please could you also confirm if you no longer have any objection to our proposals at C22 Wells Engine, C24 Cross Keys and C28 Black Horse Drove level crossings. It is our understanding from your email below and conversation with Andy Kenning that any remaining issues at these level crossings can be resolved during ongoing consultation with the IDB during the detailed development of the design.

I have copied in my colleague Liz Noonan as well as Andy Kenning. Please could you reply to all in your response so that we can pick this up quickly as people have intermittent access to emails with the start of the Inquiry.

Kind regards

Kirsty Young

Anglia Level Crossing Reduction Team

Network Rail

Begin forwarded message:

**From:** Jean Heading <[jean@elydrainageboards.co.uk](mailto:jean@elydrainageboards.co.uk)>

**Date:** 24 November 2017 at 16:34:30 GMT

**To:** <[andrew.kenning@networkrail.co.uk](mailto:andrew.kenning@networkrail.co.uk)>

**Subject:** Anglia Level Crossing Work

Dear Andy,

Following our telephone conversation, I have now had the opportunity to speak with my Foreman.

In relation to CO1 Chittering, this was a mistake. Our comment for this crossing actually relates to C33 Jack O'Tell (Adam Crossing).

In relation to C26 Poplar Drove, we very rarely use this crossing, so it's closure would not affect us. However, 27 Willow Row, we do use this crossing to access our water structures to manage

water levels. Though your plan shows there is public access from the A10 on the other side of the line, my Foreman informs me that this route is impassable for our vehicles.

Please contact me if you have any further questions.

Best Regards,

Andrew Newton

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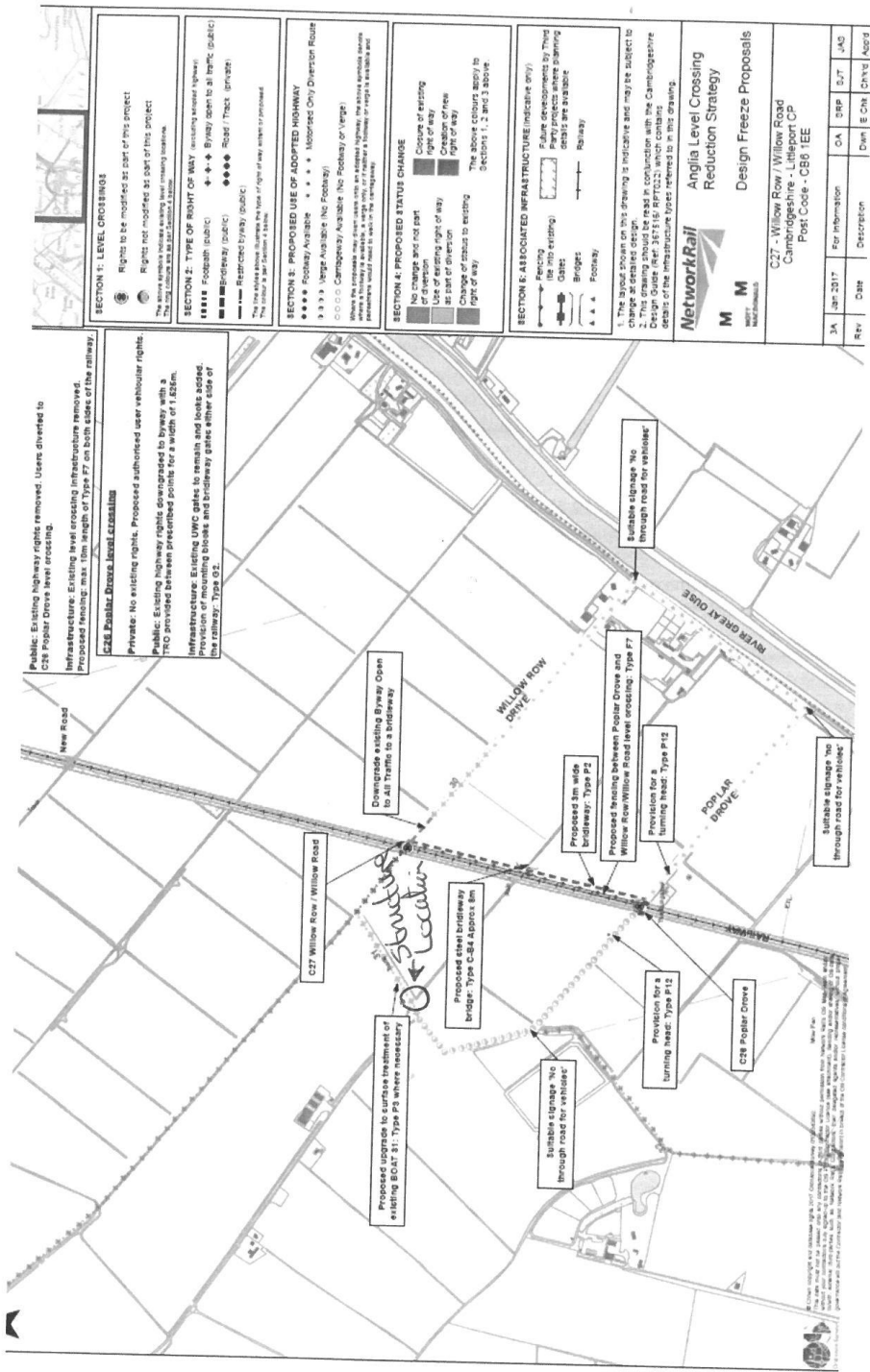
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Public: Existing highway rights removed. Users diverted to C28 Poplar Drive level crossing.  
Infrastructure: Existing level crossing infrastructure removed.  
Proposed fencing: max. 10m length of Type P7 on both sides of the railway.

**C28 Public Drive Level Crossing**  
Private: No existing rights. Proposed authorized user vehicular rights.  
Public: Existing highway rights downgraded to byway with a TMO provided between proposed points for a width of 1.625m.  
Infrastructure: Existing UWC gates to remain and look added provision of mounting blocks and brideway gates either side of the railway. Type O2.

**SECTION 1: LEVEL CROSSINGS**  
Rights to be modified as part of this project:  
Rights not modified as part of this project:  
The above symbols indicate existing level crossing locations.  
This section is per Section 4.1 below.

**SECTION 2: TYPE OF RIGHT OF WAY** (excluding motorway)  
Footpath (public) - - - - -  
Byway (open to all traffic) (public) - - - - -  
Brideway (public) - - - - -  
Road / Track (private) - - - - -  
Restricted byway (public) - - - - -  
This section is per Section 4.1 below.

**SECTION 3: PROPOSED USE OF ADOPTED HIGHWAY**  
Motorway Available - - - - -  
Motorway Only Diversion Route - - - - -  
Large Available (No Footway) - - - - -  
Category A Available (No Footway or Verge) - - - - -  
Category B Available (No Footway or Verge) - - - - -  
Category C Available (No Footway or Verge) - - - - -  
Category D Available (No Footway or Verge) - - - - -  
Category E Available (No Footway or Verge) - - - - -  
Category F Available (No Footway or Verge) - - - - -  
Category G Available (No Footway or Verge) - - - - -  
Category H Available (No Footway or Verge) - - - - -  
Category I Available (No Footway or Verge) - - - - -  
Category J Available (No Footway or Verge) - - - - -  
Category K Available (No Footway or Verge) - - - - -  
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Category W Available (No Footway or Verge) - - - - -  
Category X Available (No Footway or Verge) - - - - -  
Category Y Available (No Footway or Verge) - - - - -  
Category Z Available (No Footway or Verge) - - - - -  
This section is per Section 4.1 below.

**SECTION 4: PROPOSED STATUS CHANGE**  
No change and not part of existing right of way - - - - -  
Use of existing right of way as part of diversion - - - - -  
Change of status to existing right of way - - - - -  
The above symbols apply to Sections 1, 2 and 3 above.

**SECTION 5: ASSOCIATED INFRASTRUCTURE (indicate only)**  
Fencing - - - - -  
Gate - - - - -  
Bridge - - - - -  
Footway - - - - -  
Railway - - - - -  
Future developments by third party projects where planning consent has been granted - - - - -  
The above symbols apply to Sections 1, 2 and 3 above.

1. The layout shown on this drawing is indicative and may be subject to change as detailed design progresses.  
2. The above symbols are to be used in conjunction with the Cambridge Design Guide for 31st March 2017.  
3. The details of the infrastructure types referred to in this drawing.

**Network Rail**  
Anglia Level Crossing  
Reduction Strategy  
Design Freeze Proposals

**M M**  
MMP 1000000

C27 - Willow Row / Willow Road  
Cambridgeshire - Littleport CP  
Post Code - CB6 1EE

Rev	Date	Description	Drawn	Checked	Approved
3A	Jan 2017	For information	CA	SEP	JMS

Dear Sirs,

Thank you for your letter dated 29<sup>th</sup> September 2017 (Ref. Obj/29/CAMB/R001.

I would welcome the opportunity to meet with you to discuss my concerns prior to any letter the Group would write to the Department of Transport.

Please could you contact me on 01353 688296 to arrange a convenient date and location.

Best Regards,

Andrew Newton

Engineer



Andrew Newton  
Ely Group of Internal Drainage Boards  
The Drainage Office  
Main Street  
Brickwillow

Network Rail  
James Forbes House  
27 Great Suffolk St  
London  
SE1 0NS

29 September 2017

**Ref: Obj/29/CAMB/R001**

Dear Mr Newton

**The Network Rail (Cambridgeshire Level Crossing Reduction) Order**

The Department for Transport has passed to us your letter of objection to the proposed Order dated 26 April 2017, on behalf of the Ely Group of Internal Drainage Boards, which has been allocated the reference OBJ/29.

First, it may be helpful to set out the strategic context and background against which the Order is brought forward.

Network Rail is responsible for the management and safe and efficient operation of the railway network. It operates under and is bound by the terms of its licence under the Railways Act 1993. It is regulated by the Office of Rail and Road (ORR).

In accordance with the terms of its licence and the strategic aims and policies of the ORR, Network Rail has a duty to ensure the safety of users of the railway and to promote improvements in railway services by cost effective and efficient management of the network. It is also legally responsible for safety on and around the railway, including at level crossings, not only for those using the railway, but members of the public who may otherwise come into contact with it. Network Rail is thus obliged to protect the public from the dangers of the railway so far as reasonably practicable.

As is recognised by the ORR in its Level Crossings Policy, the removal of level crossings is the most effective way to achieve this objective, removing the interface between trains and highway users entirely.

ORR's strategy for health and safety regulation of level crossings makes clear that it will encourage crossing closure, and ensure that all risk assessments consider this first, in line with the principles of prevention.

In accordance with that objective, Network Rail has established a long term strategy of reducing level crossing risk (see Transforming Level Crossings 2015-2040). Closure of level crossings is the most effective way of removing the risk from the network. Reducing the number of level crossings will also remove constraints on the railway to enable enhancement of capacity and improvement of line speed (in association with other schemes) and to secure operation and maintenance of the network in a timely, efficient and economical manner in accordance with Network Rail's statutory duties and licence.

For further information about Network Rail's strategic aims please refer to Network Rail's Statement of Case. If you do not already have a copy, the Statement can be found at:

<https://www.networkrail.co.uk/running-the-railway/our-routes/anglia/anglia-level-crossings/>.

Alternatively you can inspect a copy at one of the locations in the attached list.

You make the point that where works are undertaken on watercourses within the Board district the consent of the Board is required.

Article 4 of the proposed Order disapplies section 23 (prohibition on obstacles in watercourses) of the Land Drainage Act 1991, and also the provisions of any byelaws made under, or having effect as if made under, section 66 (powers to make byelaws) of that Act which require consent or approval for the carrying out of the works. However, the Order substitutes provisions for the protection of drainage authorities

and the Environment Agency which include arrangements for approval of plans by the drainage authority before the works authorised by the Order can commence.

In other words, although the Order disapplies the requirement for in-principle consent to works near an internal drainage board drain (because the Secretary of State would have authorised the principle of those works), Network Rail must nevertheless secure the approval of the local drainage board to its detailed plans. That approval may be subject to the reasonable requirements of the drainage board. Network Rail considers that these protective provisions which follow precedent of numerous other Transport & Works Act Order offer an appropriate level of protection for your operational purposes.

Turning to the crossings where the Board has objections to the closure based on operational grounds:

**C01 Chittering level crossing (access for maintenance on Main Drain network)**

Network Rail would like to understand why the closure of this crossing would result in additional expenditure to the Board. Please would you clarify what movement of plant is being undertaken at this crossing, as it is currently a footpath level crossing with no vehicle access rights.

**C24 Cross Keys level crossing (access to Redmoor Main Drain)**

Network Rail's proposals at this crossing meet the requirements of the local highway authority. We note that you are concerned that the footpath diversion could restrict annual maintenance operations and any future channel widening schemes. We would welcome the opportunity to discuss your concerns with you in more detail with a view to see how, in practice, they would be allayed.

**C27 Willow Row level crossing- (access to water level controller)**

The existing Byway 30 will remain on each side of the railway crossing, meaning that you will continue to have vehicular access. If you still have any concerns, please let us have a plan showing the exact location of the water level controller and any other static equipment at the site, and your access requirements.

**C22 Wells Engine, C26 Poplar Drove and C28 Black Horse Drove**

We can confirm that under the Order proposals, any existing private rights you have will be retained (i.e. at C22 Wells Engine).

In so far as you currently rely on public access, Network Rail would wish to understand the need for continuing (private) rights. For example at C26 Poplar Drove, public highway will continue to exist on both sides of the railway and is only restricted to 1.525m over the railway.

Network Rail is willing to grant new private rights should you need to access your apparatus, as we understand may be the case, at C28 Black Horse Drove.

We note the reference in your objection to a large number of duplicated letters. We wonder whether you are including notices of the application for the Order, which would have been sent to the individual internal drainage boards in accordance with the Transport & Works Act (Applications and Objections Procedure) Rules 2006.

We hope that our responses have provided sufficient clarity on each of the points made in your objection. It seems to us that any outstanding matters should be capable of resolution by ongoing discussion between us as the detailed design of the works is developed. If you agree, we would be grateful if you would kindly let the Department for Transport know by withdrawing your objection. If not, we would welcome the opportunity to meet you with a view to resolving such issues as soon as possible. We look forward to learning your position.

Meanwhile, if you require further information please do not hesitate to contact me at the address above or by email to [ALCross@networkrail.co.uk](mailto:ALCross@networkrail.co.uk), quoting the reference number provided.

Yours sincerely



Bridgit Choo-Bennett

Anglia Level Crossing Reduction Team  
Network Rai

Enc. Cambridgeshire Deposit Locations