

TRANSPORT AND WORKS ACT 1992

**APPLICATION FOR THE PROPOSED NETWORK RAIL
(SUFFOLK LEVEL CROSSING REDUCTION) ORDER**

REF: TWA/17/APP/03/OBJ/24

LEVEL CROSSING S24 HIGHAM GROUND FRAME

**Proof of Evidence of Charles Loyd
on behalf of**

**Mairi Johnston and Alistair Fish as Trustees M J Johnston
Settlement and M J Johnston Children's Settlement and Mairi
Johnston and Alistair Fish**

APPENDICES





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18 December 2017

Ref: Obj/42/SUFF/R001

Dear Mr Loyd

The Network Rail (Suffolk Level Crossing Reduction) Order
Level crossing S24 Higham Ground Frame
Parish of Higham plots 5, 6, 7, 11, 12, 15, 16, 17, 18, 21, 22, 23, 24, 25 and 26
Your clients : trustees and owners Mairi Jean Johnston and Alistair Fish

The Department for Transport has passed to us your clients' letter of objection to the proposed Order dated 26 April 2017, which has been allocated the reference OBJ/42. Following your clients' objection, we have had a meeting with Nick Johnston on the 9 May and also received your clients' Statement of Case.

In the following table, we set out the current and proposed status of the level crossing referred to in the objection and briefly explain Network Rail's proposals.

Level Crossing	Current Status	Proposed Status
S24 Higham Ground Frame	Public footpath	Closed. Users diverted to adjacent Higham Road bridge to the west or the Needles Eye underbridge to the east.

Firstly, it may be helpful to explain 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. 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.

We note that your clients do not object to the closing of the crossing on the basis that it is not used and its closure will not affect the overall public rights of way in the area.

Your clients object to the proposed alternative bridleway route as shown in the Order on the grounds that it will have a significant effect on their business activities and will cause a significant financial loss of income.

In this letter we address the points made in the objection letter and in the Statement of Case.

Network Rail is under an obligation under the Transport & Works Act 1992 to provide an alternative route unless it can satisfy the Secretary of State that no alternative

route is required. This has resulted in finding a solution to continue to offer connectivity for the rights of way network. This was noted at the meeting with your client. Network Rail considers that the proposed alternative route is suitable and convenient for existing users. In view of the longer distances that will be travelled, and with regard to Suffolk County Council's desire to increase the network available for cycling, it was decided that part of the diversionary route would be created as a bridleway.

You say your clients use the land in the vicinity of the crossing for clay shooting and testing rifles and shotguns. They will therefore be aware of the risk to pedestrians who currently access or travel past the land, as well as to the users of the railway, and take appropriate precautions.

The creation of the proposed bridleway between points B and C was discussed at the meeting on the basis of your clients' pending planning application (DC/17/0465) for the purpose of caravan and storage. Network Rail was prepared not to seek powers to create the proposed bridleway in view of its apparent incompatibility with your intended use of the land. However, we understand that the planning application has been withdrawn and no further application has been made.

We note that you are agreeable to the proposed footpaths between points A-B and points A-G-F on your plan. This also accords with Suffolk County Council's aspiration to create an access corridor from Higham to Risby.

You say that the footpath between points D-E on your plan replicates points A-B. This is also stated as point 1 in your letter of objection in connection with Notice No. 81.

The submitted proposals for level crossings S23 Higham and S24 Higham Ground Frame have been developed through two rounds of public consultation and we have taken your clients' concerns into consideration. However, we are also required to consider other stakeholders such as Suffolk County Council and users of the rights of way network in the design of the route. The closure of the two level crossings causes a loss of north-south Public Rights of Way. By improving east-west links to make reaching the available crossings of the railway and A14 easier, options for local circular routes and longer distance walks are improved.

The Public Rights of Way network in this area is a mixture of off-road paths connected by sections of road. Therefore the fact that the eastern end of the proposed bridleway finishes at New Road is not considered to present a problem. This should also address your point that 'the proposed diversion route does not lead anywhere and therefore adds no benefit to the bridleway network'. There are onward footpaths and bridleways to the north of the A14 (FP9 Risby), and to the south (BR18 and BR19 Barrow).

You were advised by Jonathan Boulton, our Property Surveyor on 7 July 2017 that following discussions with Suffolk County Council, who initially requested the bridleway, Network Rail was not able to agree to the removal of the proposed

bridleway between points B-C, as previously discussed in the meeting held on the 9 May 2017.

You state in the letter that 'the intended diversion route will border the boundary of an existing clay pigeon shooting school... The direction of shot will need to be severely restricted.' However, the proposed bridleway is separated from the active shooting area east of Needle's Eye by the live railway, and so the shooting activities should have no bearing on users of the proposed bridleway.

Impact on your clients' land

We note that your clients operate the well-established Barrow Heath Shooting Ground which is used for competition and recreational shooting activities. You say that the facility is subject to significant investment including a new clubhouse building. We understand the building and development are expected to take three years and shooting activities will be temporarily relocated to the site currently used for rifle and shotgun testing (B-C route on your plan).

If the Order is made Network Rail would be happy to talk with your clients to agree suitable working arrangements to carry out its works within the land hatched 'black' shown on your plan.

We note that the area hatched 'green' on your plan denotes commercial game shoot. Network Rail appreciates your concerns and would be happy to discuss them with your clients in more detail to see if they can be allayed, including whether any reasonable mitigation measures might be appropriate.

The Order also contains compensation provisions for loss or damage as a result of the Order. Insofar as Network Rail's proposals may affect the value of your clients' property, they may be entitled to compensation in line with the compensation code. The Government has issued guidance on compulsory purchase, which is available from Government publications on the following link (<https://www.gov.uk/government/publications/compulsory-purchase-and-compensation-booklet-1-procedure>). Article 16 of the Order incorporates the provisions of s. 28 Highways Act 1981 for compensation for loss as if the new public right of way was created by a Public Path Creation Order.

Point 2 of the meeting notes says that your clients' land may be earmarked for shooting activities permanently. Network Rail have identified planning permission (DC/15/2524/FUL) granted on 23 June 2016. The permission is for the area south east of the Needle's Eye. Network Rail's proposed routes are from the south west of the Needle's Eye continuing north east from the underbridge. If this is the land your clients refer to, we do not believe our proposed route will affect your clients' development.

Network Rail would be happy to discuss with your clients any further concerns they may have.

We are also appending the latest Design Freeze drawing, which Nick Johnston had requested through Persona.

We hope that our response had provided sufficient clarity on each of the points made in your objection, and has addressed your concerns about this level crossing. If so we would be grateful if you would kindly let the Department for Transport know by withdrawing your objection. We look forward to learning your position.

Meanwhile, if you require further information please do not hesitate to contact me on the address above or by email to ALCross@networkrail.co.uk , quoting the reference number provided.

Yours sincerely



Bridgit Choo-Bennett

Anglia Level Crossing Reduction Team
Network Rail

Enc.

List of Deposit Locations
Design Freeze Proposal MMD-367516-S24-GEN-005