

TRANSPORT AND WORKS ACT 1992

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

REF: TWA/17/APP/03/OBJ/042

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**

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Proof of Evidence

Statement of Nick Johnston on behalf of Mairi Johnston and Alistair Fish as Trustees M J Johnston Settlement and M J Johnston Children's Settlement ("the Settlements") and Mairi Johnston and Alistair Fish ("the Landowners")

Charles Loyd, Partner of Eastern Land Management Department, Strutt & Parker, 11 Museum Street, Ipswich, Suffolk, IP1 1NH, Date of Birth 20 March 1963, Suffolk will say:-

1. LANDOWNERS

- 1.1 I am a Partner in the firm of Strutt and Parker specialising in land management issues. In this capacity I advise the Settlements' trustees and the Landowners in relation to their landholdings at Barrow, Suffolk. I am authorised by the Settlement trustees and the Landowners to make this statement on their behalf.
- 1.2 The land edged blue on the plan ("the plan") is owned by the Settlements.
- 1.3 The land shaded green on the plan is owned by the Landowners.
- 1.4 The plan is reference OBJ/42/W1/2/ Appendix 1.

2. THE ORDER

- 2.1 I refer to the Order made under sections 1 and 5 of the Transport and Works Act 1992 ("the Act") to close a level crossing at Higham Ground Frame ("the crossing") at footpath ("FP") 6 Barrow. The Order includes proposals to create new public rights of way within the boundaries of land owned by the Settlements and Landowners.
- 2.2 A letter of objection dated 26 April 2017 (Inquiry Documents/B: Respondents' Correspondence/OBJ42 Mr C Loyd on behalf of Mrs Mairi Jean Johnston) to the Order and Statement of Case (Inquiry Documents/ C:Other Parties Statements of

Case/OBJ42 Mr C Lloyd on behalf of Mrs Mairi Jean Johnston) were submitted to the Secretary of State for Transport.

2.3 The Order was made under Section 1 and 5 of the Act

2.4 Section 5 of the Act provides that:-

(6) *An order under section 1 or 3 above shall not extinguish any public right of way over land unless the Secretary of State is satisfied-*

(a) that an alternative right of way has been or will be provided, or

(b) *that the provision of an alternative right of way is not required.*

2.5 There is no provision in the Act giving authority for Network Rail to provide additional desired routes which are not necessary to provide an alternative to the route or routes being extinguished.

3. **FOOTPATH 6 BARROW**

The Landowners and Settlements do not object to the closure of the crossing at FP 6 Barrow. The crossing is rarely used, such that the crossing count undertaken by Network Rail registered no users. The crossing is an unmanned pedestrian only crossing to accommodate FP 6 Barrow which runs on a north/south alignment. Approximately 150m to the north of the railway line the footpath crosses the dual carriageway A14, without the use of a bridge or underpass. To the north of the A14 the footpath becomes FP3 Higham which links with FP2 Higham running to the west to join FP6 Higham which crosses the A14 by means of a bridge. There is no link from FP3 Higham to any route running east. The proposal is that the closure of the crossing would be accommodated by:-

3.1 The creation of a footpath between points A and B, on the plan, creating a link to the highway (U7020) at point B, and

3.2 The creation of a footpath on the alignment A-G-F on the plan, to create a link with FP5 Higham.

The Landowners and Settlements do not object to the addition of these routes

4. **ROUTE A-G-F**

- 4.1 Whilst route A-G-F is not on land in ownership of the Settlements or the Landowners, it is recognised that this is a necessary addition to the public rights of way network as it serves as a diversion to the closure of FP 6 Barrow. It is seen as necessary to ensure the public have the utility available to link with the network north of the railway line and north of the A14 to point J on the plan which is where FP 2 Higham, which is to be closed, terminates. This A-G-F link is also beneficial to the public as it will enable passage over the A14 by use of a bridge. As a consequence of creating this route there would be no loss of utility to the public by closure of the crossing at FP 6 Barrow.

5. **ROUTE A-B**

- 5.1 The proposed new public rights of way affecting land owned by the Settlements and Landowners are shown on the plan as A-B, B-C and D-E.
- 5.2 The proposed creation of a route between points A and B, is not required to mitigate the effects of the closure of the crossing, and therefore is not within the remit of an order under the Act, however in order to assist in the overall provision of public access in the vicinity, the Settlements and Landowners do not object to this link.

6. **ROUTE B-C**

- 6.1 The Settlements and Landowners do object to the proposed creation of a route between points B and C as it is wholly unrelated to the closure of the crossing and is not appropriate within the ambit of the Order. Additionally, it was agreed with Jonathan Bolton of Network Rail, in an email dated 15th June 2017, to dispense with this route (Appendix 3 of the Statement of Case). Notwithstanding this agreement, the route has been included in the Order.
- 6.2 This route is not needed by the public in order to mitigate the closure as an alternative route to FP 6 Barrow. The route A-G-F and thence using existing highways on to FP 5 Higham provides a suitable alternative and there is no need for any further routes to be provided. To the north of the crossing the existing FP 6 Barrow connects only to point J, being to the west of the crossing. There is no link to the east. To the south of the crossing FP 6 Barrow continues to the south, again

with no link to the east. Accordingly, the closure of the crossing does not necessitate the creation of any link to the east to preserve the utility of the existing network.

- 6.3 The addition of route B-C is considered a desired route by Suffolk County Council who wish to increase the network (see letter dated 18 December 2017 from Network Rail, - Reference OBJ/42/W1/2/APPENDIX 2) but it is not needed as an alternative to the route being closed as it does not provide a direct alternative route to FP 6 Barrow. Indeed, its utility is wholly unrelated to any route affected by the proposed crossing closure as is evident from the fact that the termination points and the direction of travel of the routes are entirely different. For these reasons I am advised that the dedication of this route is not within the remit of the Act.
- 6.4 The proposal is for Route B-C to be a bridleway. The addition of this route as a bridleway, is inherently dangerous, in that it's proposed location, immediately adjacent to a railway line, has the potential to frighten and upset horses being ridden along the route and cause accidents which by their nature will be very serious. The railway track is visible, in parts, from the proposed bridleway which increases the potential for trains to frighten horses.
- 6.5 The Settlements and Landowners also object to the creation of route B-C on the grounds that the creation of this route will affect adversely the business, Forelock and Load, which is a retail business selling shotguns, rifles and outdoor clothing. As part of the business model there is the ability to provide shooting lessons and testing of new rifles in the area hatched black on the plan (OBJ/42/W1/2/Appendix 1). The facility to test and use rifles and shotguns prior to purchase is a unique selling point for the business and provides an advantage over competitors who do not have such a facility. The creation of B-C as a public right of way would be wholly incompatible with the continued use of the land for its existing purposes and would severely restrict the established business activity that has been built up. The black hatched land is the only area of land in the ownership of the Settlements and Landowners which is suitable for this activity. This is because the contours of the land provide a safe area into which rifle shooting can be directed. As a result, test shooting could not continue and the value of this facility to the business would be lost.
- 6.6 The land hatched red is the location for the well-established Barrow Heath Shooting Ground. This land is used for recreational and competitive clay shooting. It is a popular and busy facility with a well established reputation for hosting as a Clay Pigeon Shooting Association Venue hosting International Clay Shooting Events.

Shooting takes place on both sides of the railway track making use of the access way beneath the railway line and although the proposed route B - C does not pass through the red hatched land, the proximity of a public right of way in this position would significantly restrict the way in which the land could be used for clay shooting and would result in the loss of a number of clay stands, thus rendering the site less attractive and consequently commercially less viable. It would render the area to the north of the railway line unusable which would substantially affect the quality of the site. It is acknowledged that the railway line is an established feature, however the use of that line is not compromised by the shooting operation due to the enclosed nature of the transport method. Shotgun pellets fired in the direction of the railway line will have no impact on the train were there to be one passing and the noise created would not be heard. If a bridleway were in operation adjacent to the railway line, riders and horses would be exposed to falling shotgun pellets and sharp noises, both of which would present a high degree of risk, with the likely result of any accident being severe. Additionally if a competitive shooter can see a member of the public while shooting, it will affect the scores and will raise further safety concerns.

- 6.7 The proposal is to create the route B - C as a bridleway. Horses are unsettled by the noise of gunfire and the proximity of a bridleway to a busy clay shooting ground would be potentially dangerous for horse riders. If this bridleway was approved, to avoid horses being frightened by the noise shooting, we would not be able to shoot within 2-300 metre of the bridleway which would mean this area would no longer be suitable for shooting. There is no other suitable land available that has the benefit of a hard access which allows the site to operate year round. It should also be noted that it is an offence under Section 161 (2) of the Highways Act 1980 to discharge any firearm within 50 feet of the centre of any highway.
- 6.8 Additionally, we operate a Simulated Game Shooting Business on various parts of the land, including on the red and black hatched land. This activity involves clay traps being set up in differing locations in an attempt to simulate game shooting. For this to be successful it is necessary to have a variety of locations to provide different scenarios. If the red and black land was not capable of being used for this purpose it would significantly diminish the attractiveness and viability of the site for this activity.
- 6.9 The clay shooting ground has recently been taken on by Ben Thorrold, an internationally renowned Clay Shooting Coach who already operates an established venue in Norfolk. He intends to develop the shooting ground, by investing in a new clubhouse and upgrading the traps and services offered, as well as increasing the

shooting days to all year round and improving the site facilities. He has already invested over £100,000 in new traps for the site and if the shooting operations are affected by the public right of way, it is unlikely that the site's potential would be fully realisable and we would be likely to lose him as a tenant, which would result in a loss of rental income in excess of £15,000 per annum.

6.10 Planning permission is being sought on the land hatched yellow on the plan as a caravan and storage facility. The plans are currently on hold (but not withdrawn) and the intention is to resubmit the planning application later this year. The location of a public right of way on the route B-C is within this development site where security is of significant importance and the addition of the 3 metre bridleway will significantly reduce the area available for the development.

6.11 Any land taken for public rights of way would also be land lost to arable production.

7. **ROUTE D-E**

7.1 We object to the proposed creation of route D-E. The proposed creation of route D-E is unrelated to the consequences of closure of the crossing. The existing network does not provide a link to the east from point A, and there is no need to provide D-E in order to mitigate the impact of the closure. D-E duplicates the effect of the route A-B, and thus unnecessary to mitigate the closure of the crossing and provides no additional utility.

7.2 The alternative route is provided by the creation of A-G-F. The statement of case for Network Rail page 89 claims that 'this (D-E) additional 2m wide path would provide a circular walk and give users the option to walk further away from the railway and A14 corridor'. The provision of additional desired public rights of way is not a requirement under the Act. D-E may be considered by Suffolk County Council to be a desired addition to the network of public rights of way, but is not needed or essential in providing an alternative route to FP 6 Barrow. There is insufficient reason to create this route.

7.3 The creation of the proposed footpath along the route D-E is located on land which is used for game shooting and its creation will severely restrict that operation of that activity by the introduction of public access where none exists at present. That will mean that Game Covers can no longer be located on the land and that shooting operations will be restricted. The effect will be to reduce the commercial viability of the shoot which will have an adverse effect on the rent that is paid by the sporting

tenant. The land to the south of the area shaded green is also used for the Simulated Game Shooting business as previously advised. As stated previously it is an offence under Section 161 (2) of the Highways Act 1980 to discharge any firearm within 50 feet of the centre of any highway.

- 7.4 A planning application has also been submitted for a chemical store which needs to be isolated from the public. Proposals are also in hand to provide a spray wash down area as well as the chemical storage facility.
- 7.5 Game shooting areas require peace and quiet if they are to be properly managed. Use by the public, especially those accompanied by dogs, will disturb and interfere with that aspiration and will make the area incompatible with current management operations.
- 7.6 Considerable conservation works have been undertaken in this area to create suitable habitat for the native grey partridge which is in serious decline.
- 7.7 Any land taken for public rights of way would also be land lost to arable production and the introduction of any additional public rights of way will impact on agricultural operations, particularly in the livestock areas where we operate a sheep grazing operation which is operated on land adjacent to the proposed routes.

8. **CONCLUSION**

- 8.1 The creation of B-C and D-E will have an adverse effect on both land and business interests as the creation of public rights of way, which are not needed, will affect business operation and future plans. We are happy to work with Network Rail and have therefore, agreed to the addition of route A-B which is an additional benefit to the network although this route is not necessarily needed as an alternative to FP6 Barrow.
- 8.2 The creation of routes B-C and D-E are not needed as an alternative to FP 6 Barrow. The creation of routes B-C and D-E have no relevance to the closure of the crossing and do not improve the rights of way network. D-E duplicates the provision of route A-B and B-C does not link with other public rights of way but to a vehicular road, and therefore, provides no benefit to the public right of way network in the area as a whole.

The contents of this statement are true to my knowledge and belief

Signed:

Charles Loyd

Full Name:

CHARLES LOYD

Date:

11th January 2018