



**TRANSPORT AND WORKS ACT 1992**

**TRANSPORT AND WORKS (INQUIRIES  
PROCEDURE) RULES 2004**

**THE NETWORK RAIL  
(SUFFOLK  
LEVEL CROSSING REDUCTION)  
ORDER**

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**SUSAN TILBROOK**

**REBUTTAL OF  
PROOFS OF EVIDENCE**

**-OF-**

**STEPHEN KERR & ANDREW HAUNTON ON  
BEHALF OF SUFFOLK COUNTY COUNCIL**

Document Reference	NR/32/4/2
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# 1 Introduction

- 1.1 This Rebuttal Proof of Evidence has been prepared on behalf of Network Rail to respond to particular matters raised in the Proofs of Evidence submitted on behalf of the following parties which were received by Network Rail on 18 January 2018. These include the Proofs of Evidence of:
  - 1.1.1 Suffolk County Council (OBJ/29)
    - a) Stephen Kerr
    - b) Andrew Haunton
- 1.2 It is not intended that this rebuttal proof should address matters that have already been addressed in my Proof of Evidence (NR32/1) or of other witnesses for the Promoter; however, cross references to relevant parts of that evidence are given below, where appropriate. The fact that I have not expressly rebutted a point does not mean that it is accepted.
- 1.3 I believe the facts and opinions stated to be true and that my evidence conforms to the standards and requirements of my professional body.

## 2 General

### 2.1 Comparison of Risk

- 2.1.1 *At paragraph 12 of his Proof of Evidence (Obj 29/W1), Stephen Kerr states “For the 4 level crossing proposals referred to in paragraph 10 above,<sup>1</sup> it is again not clear if, or how, the applicant has assessed or compared the associated risks on the railway and highway network.”*
- 2.1.2 Safety risk at level crossings cannot be directly compared to road safety as there is no accepted methodology for comparing the relative risk. The Road Safety Audit process (as set out in the Design Manual for Roads and Bridges, Volume 5, Section 2, HD19/15) is the accepted procedure for assessing road safety for highway improvement schemes. Suffolk County Council, in their role as the highway authority, have not raised any issues with using the road safety audit procedure for assessing road safety on the project.

### 2.2 NR12 Design Guide Plans

- 2.2.1 *At paragraph 13 of his Proof of Evidence (Obj 29/W1), Stephen Kerr states that “the Council notes that the key at ‘Section 4:- Proposed Status Change’ of the Design Freeze Plans (at NR12) highlight alternative routes as “Use of existing right of way as part of diversion”, when in fact in many cases they are trafficked roads. In some cases (for example S22 (Weatherby) and S23 (Higham) and S68 (Bacton)), the proposal does not involve a diversion at all and is effectively tantamount to an outright extinguishment. The Council considers this information on the plans to be misleading.”*
- 2.2.2 In response, the design freeze plan clearly identifies where the route of a proposed diversion uses public roads.
- 2.2.3 All keys on the plans submitted in NR12 have been split into sections and Section 2 clearly identifies the line style used on the plan to demarcate footpaths, bridleways, restricted byways, byways open to all traffic and private tracks/roads.
- 2.2.4 Section 3 clearly identifies use of the public highway where footways, verges and carriageways are available. These symbols are clearly distinct from the features within key Section 2.
- 2.2.5 Section 4 denotes a change of status that would be resulting from the proposed works to close the level crossing with orange representing the ‘use of existing’.
- 2.2.6 I have received no objections from members of the public or other bodies suggesting that they have been unable to read or understand the plans and I am satisfied that the plans are correctly annotated and are not misleading.

### 2.3 Definitive Mapping

- 2.3.1 *At paragraph 31 of his Proof of Evidence (Obj 29/W1), Stephen Kerr states that “the Council has identified that some of the alignments (S02 (Brantham High Bridge), S11 (Leggetts), S12*

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<sup>1</sup> I note that no level crossings are expressly referred to in paragraph 10 of Mr Kerr’s Proof. I have assumed that this is intended to be a reference to the 4 level crossings referred to in paragraph 9(i) – S23 (Higham), S27 (Barrells), S31 (Mutton Hall) and S69 (Bacton)

*(Gooderhams), S13 (Fords Green), S27 (Barrells), S31 (Mutton Hall)) depicted on the Order Plans do not strictly accord with the legal record shown on the Definitive Map.*

- 2.3.2 In response I note that Mr Kerr recognises that the definitive mapping data was originally supplied to the design team by Suffolk County Council in GIS format. Paper copies of the Definitive Map and Statement were not provided by Suffolk County Council.
- 2.3.3 I can confirm that my team has applied the correct translation of the GIS data to locate the data in the correct spatial coordinates for all the level crossing sites and that this definitive mapping information is shown on the TWAO plans.
- 2.3.4 With reference to the plans supplied to demonstrate anomalies in the TWAO definitive mapping (Appendix 2 of Suffolk County Council Proof of Evidence). I have undertaken to check the plans provided. There does not appear to be correlation between the alleged position of the definitive routes as marked in red by Suffolk County Council in Appendix 2, and the original data supplied by Suffolk County Council in GIS format. Network Rail are willing to discuss why the lines marked in red do not accord with the same original data as supplied by Suffolk County Council and look forward to resolving this issue.
- 2.3.5 *At paragraph 31 of his Proof of Evidence (Obj 29/W1), Stephen Kerr states that “at one location (S07 Broomfield – FP12 Barham), the Council is also concerned that the Order plan does not identify or address a known definitive map anomaly affecting FP11 Barham. In the Council’s view, the draft Order should pro-actively address this issue by stopping up the definitive alignment and re-creating the on-ground alignment used by the walking/riding public. This would have the added benefit of preventing a future user based claim to modify the DM & S from being successful. The anomaly is illustrated in Appendix 3. The Council further notes the legal alignment of FP11 is not accurately represented on the Design Freeze plan.*
- 2.3.6 We note what is said in relation to what is shown on the definitive map regarding FP11 Barham and Network Rail is looking into this as a matter of urgency.

## 2.4 **Widths and Grid References**

- 2.4.1 *At paragraph 31 of his Proof of Evidence (Obj 29/W1), Stephen Kerr states that “in the event that the Inspector were to recommend that the Order be made, the Council requests that the Inspector also recommends modification of the Order so as to ensure that the relevant widths and grid references will be provided within a legally binding framework.*
- 2.4.2 In response, the Works and Land Plans as well as the accompanying Schedules to the Order are fully in accordance with The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006. They do not require the additional detail suggested by Suffolk County Council. I understand this matter will be a matter for legal submission if necessary, and note that it has been the subject of correspondence between Suffolk County Council and Winckworth Sherwood and is a matter for legal submission. I have attached the most recent correspondence on the matter in Appendix A which sets out Network Rail’s position in more detail.

## 2.5 **Suitable and Convenient**

- 2.5.1 *At paragraph 59 of his Proof of Evidence (Obj 29/W1), Stephen Kerr states that “although it is noted that the Act does not expressly require a comparative assessment to be undertaken between the route to be replaced (if indeed it needs replacing) and the alternative to be provided, the Council considers the word “replacement’ in the Guide important in this context”*
- 2.5.2 In response, I note that the test in 5(6) of the TWAO is likely be a matter for legal submission, rather than evidence, but I have set out the approach taken to considering whether a proposed diversion is ‘suitable and convenient’ in Section 1.3 of my proof **NR32/1**.
- 2.6 **OTHER POLICIES**
- 2.6.1 I note that Mr Kerr sets out a number of local and national strategies and policies at paras 62 - 85 of this Proof. I have addressed the “DfT Cycling and Walking Investment Strategy” at para 1.11.9 of my Proof, and the Suffolk ROWIP at paras 1.11.7 and 1.11.8. I note that there is a missing reference in para 1.11.8 of my Proof: I confirm this should be a reference to 1.3.6. I note that Mr Kerr’s view that certain proposals contained within the Order do not comply with relevant Suffolk policies is based on the Council’s view as to the suitability or convenience of the proposed diversion – particularly having regard to road safety considerations. I have set out in my Proof, in the consideration of individual crossings, why I consider the diversions proposed are suitable and convenient, with reference, where appropriate, to the RSAs undertaken in respect of the proposals and Designers’ response to the same.
- 2.6.2 As to the closure of part of the footpath at S01, Sea Wall, discussed at para 76 of Mr Kerr’s Proof, I have explained why Network Rail considered this should be extinguished at paras 2.1.24 and 2.1.30 of my Proof, and in my Rebuttal Proof in respect of crossing S01 32/4/3].
- 2.6.3 In respect of the Council’s Highway Infrastructure Asset Management Strategy, referred to at paras 79-81 of Mr Kerr’s proof, I explain at para 1.14.2 how design standards received from Suffolk County Council have been used to develop the indicative Design Guide for the proposals contained in the Suffolk Order. Andrew Kenning discusses how the Council’s Highways Infrastructure Asset Management Strategy “Designing for Maintenance has been taken into account in his response to the evidence of Annette Robinson (Obj29/W3/S01) NR30/4/4.
- 2.6.4 *At paragraph 69 of his Proof of Evidence (Obj 29/W1), Stephen Kerr states “It is important to note the reference to journeys being perceived to be safe’. The Council contends that when assessing new or alternative walking or cycling routes, the strategy requires that consideration should be given not just to whether they are safe but also whether they are perceived to be safe.”*
- 2.6.5 In response, at paragraph 1.6.7 of my proof **NR32/1** I set out that safety and personal security have been considered and identified that the works will be subject to further detailed design at paragraph 1.7.1 my proof **NR32/1**.
- 2.6.6 On the matter of the perception of safety, it is accepted that if a route is perceived as not safe it may deter some pedestrians from using it.
- 2.6.7 Perception is complex matter and would vary between individual and would be dependent on numerous factors such as age, health, weather conditions and personal experience.

- 2.6.8 As stated at paragraph 1.11.1 to 1.11.6 of my proof **NR32/1**, each alternative route was assessed in the context of usage, the local environment and the relationship to the wider PROW and highway network. It is considered that users of the level crossing routes currently make use of highway verges and crossing points that are of a similar nature to those on the proposed routes, as part of their existing wider routes. Therefore, it is not anticipated that the relatively short sections of interface with public roads when considered in the context of the wider routes will deter users from their walking activities, which already involve the use of a mixture of PROWs and roads.
- 2.6.9 I would contend that the perception of risk may also may influence the use of routes across level crossings and as such it is not appropriate to suggest that this complex set of individual characteristics is solely appropriate to consider only in relation to the diversion routes using public roads.

### 3 Suffolk County Council Stage 1 Road Safety Audits

#### 3.1 S23 Higham, Suffolk

##### 3.1.1 *At paragraph 4.1.1. of Appendix 1 to Andrew Haunton's proof, the Road Safety Audit Team commissioned by Suffolk County Council identifies the following problem:*

*Location: A- Higham Road*

*Summary: Risk to diverted walkers of being struck by passing vehicular traffic.*

*Following extinguishment of the footpath walkers will be diverted from the southern extinguishment point along Higham Road towards the A14. The section of Higham Road in question has a 60mph speed limit (national limit). There are no footways along Higham Road, plus some steep/high/narrow verges and restrictions in forward visibility due to the horizontal alignment (bend at the war memorial – see photo below) and vertical alignment (over the railway bridge). Walkers diverted by the closure of crossing S23 may, therefore, be exposed to passing vehicular traffic on Higham Road as they will sometimes need to walk in the carriageway. This may increase their risk of being struck by passing vehicular traffic, with poor visibility or dark conditions exacerbating the problem.*

##### 3.1.2 *At paragraph 4.1.1. of Appendix 1 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council make the following recommendation:*

*Pedestrian facilities along Higham Road should be improved (e.g. reprofiled verges, vegetation cut back), or an alternative footpath diversion route off the carriageway developed.*

##### 3.1.3 In response, the existing verges on Higham Road are currently used as linkages between the PROW network in the area. There have been no recorded accidents on Higham Road in the 5 year period 2011 to 2015 or since. A pedestrian is likely to be on the Higham Road section of the route (from the southern end of Footpath 01 Higham to the junction of Higham Road with the A14 slip road) for 7.5 minutes (based on a distance of 480m) during which time they could expect to be passed by 9 vehicles based on the traffic count data as set out at paragraph 2.14.41 of my proof **NR32/1**.

##### 3.1.4 It is considered that there is verge available along the full route, although pedestrians may need to cross the road to make use of the opposite verge in certain locations. The 85<sup>th</sup> percentile speed of vehicles recorded on Higham Road is 39.4mph. The frequency and speed of passing traffic allows plenty of opportunity to cross safely.

##### 3.1.5 There is sufficient verge adjacent to the northbound carriageway across the railway bridge for use by a pedestrian. Some pedestrians may choose to walk in the road, but it is considered that there is good visibility on each approach to the bridge to allow pedestrians sufficient time to step into the verge.



- 3.1.6 The verges may benefit from some vegetation cut back and mowing, and more regular maintenance. Any additional burden on the highway authority will be dealt with through commuted sums.
- 3.1.7 *At paragraph 4.1.2. of Appendix 1 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council identifies the following problem:*
- Location: B – Coalpit Lane*
- Summary: Risk to diverted walkers of being struck crossing Coalpit Lane due to constrained visibility.*
- The S23-S24 footpath diversion route will require walkers to cross Coalpit Lane, a 60mph (national speed limit) route. At the location of the proposed crossing the horizontal carriageway alignment may constrain inter-visibility at the western crossing point between northbound drivers and eastbound walkers wishing to cross. This may increase the risk of walkers being struck when crossing the carriageway, especially in poor visibility conditions.*
- 3.1.8 *At paragraph 4.1.2. of Appendix 1 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council make the following recommendation:*
- Ensure that visibility as per LTN 2/95 Table 1 is available where the footpath crosses Coalpit Lane.*
- 3.1.9 In response, the proposed diversion route makes use of Footpath 005 Higham, which currently exits from the field edge directly onto Coalpit Lane. There are currently no available onward PROWs once the pedestrians access the road and therefore users of that footpath have to walk along Coalpit Lane at present. It is considered that the provision of the new PROW opposite this point provides safer routes for users wishing to access the wider PROW network.
- 3.1.10 Notwithstanding my response in 3.1.9 above, visibility at this crossing point has been considered and the forward visibility to the crossing point on Coalpit Lane has been calculated to be in excess of 150m, which accords with the desirable minimum for 85<sup>th</sup> Percentile traffic speeds of 85mph as set out in LTN 2/95 Table 1.
- 3.1.11 In addition, I attach an extract from TD 9/93, Highway Link Design (Volume 6, Section 1, Part 1 of the Design Manual for Roads and Bridges) showing Table 3, which sets out the stopping sight distance (SSD) required for each design speed of road (Appendix B of this rebuttal). The speed limit on Coalpit Lane is 60mph (96kph) which equates to a design speed of 100kph. The desirable minimum SSD for this design speed is 215m with a relaxation to one step below standard at 160m. Within the context of the crossing location within the rural road layout (no road junctions, easily understood road layout, no frontages for instance) it is considered that a relaxation of the stopping sight distance would still be suitable, in line with the guidance set out in TD 9/93.
- 3.1.12 It is accepted that there is some vegetation overgrowth adjacent to the point where Footpath 005 Highway joins Coalpit Lane. This vegetation is encroaching into the visibility splay and this exit point from the existing PROW network would benefit from cutback and regular maintenance to ensure that the maximum visibility available is achieved.

3.1.13 *At paragraph 4.1.3. of Appendix 1 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council identifies the following problem:*

3.1.14 *Location: C – A14.*

*Summary: Remnants of an extinguished footpath may increase the risk of walkers being struck crossing the A14 or on the A14 slip road.*

*The proposal to close level crossing S23 will see the footpath running from Higham Road to the A14 via the level crossing being extinguished, with an alternative route being proposed along Higham Road and the two-way section of the A14 westbound on-slip. In fact, the crossing has already been closed and northern section of footpath ploughed up.*

*The Audit Team understands that a footpath has already been extinguished to the immediate north of the length of footpath that is now proposed for extinguishment. There are, however, still clear remnants of the extinguished footpath on the A14 in the form of a gap in the barrier on the central reserve and stile with footpath plate on the northern highway boundary. This gives rise to concern that walkers may still approach the level crossing from the north as the extinguished footpath appears to remain. In doing so they will cross the A14, where the risk of being struck by fast moving traffic appears high. Then, finding the footpath south of the A14 extinguished, have to walk along the A14 slip road. Although traffic flows along the slip road are moderate, vehicles are moving at high speed, particularly towards the western end. Walkers using the A14 slip road may be at increased risk of being struck by high speed traffic, especially in poor visibility or dark conditions.*

3.1.15 *At paragraph 4.1.3. of Appendix 1 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council make the following recommendation:*

*Fully remove the remnants of the extinguished footpath (stile, sign and central reserve gap) from the northern side of the A14 and ensure that an appropriate route is implemented from north to south across A14 Junction 40.*

3.1.16 The Audit Team commissioned by Suffolk County Council makes an assumption that pedestrians may approach the crossing from the north. However, it is not clear which routes pedestrians currently use beyond the point where Footpath 001 Higham meets the A14 slip road as there is no prescribed ongoing PROW route immediately to the north of the A14 boundary at this point, as noted by the Audit Team. It is considered unlikely that people would approach the crossing from the north of the eastbound carriageway of the A14 given the fact that users would have to walk down the exit slip road verge and would then be faced with crossing the A14 at grade, which involves crossing 4 lanes of high volumes of fast moving traffic.

3.1.17 The closure of the central reserve vehicle restraint arrangement should have been dealt with as part of the closure of the ongoing route to the north and the Suffolk Level Crossing Reduction It does not fall within the scope of this project to undertake alterations to highway infrastructure and/or remove the remnants of a public right of way previously extinguished under other proceedings, and which do not form part of the proposals contained within the draft Order.

3.1.18 *At paragraph 4.1.4 of Appendix 1 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council identifies the following problem:*

*Location: D – A14 Westbound on-slip junction with Coalpit Lane.*

*Summary: Risk to diverted walkers of being struck crossing the slip road at the junction.*

*The diverted footpath route will run along a new footway on the southern side of the two-way section of the A14 westbound on-slip and cross to the northern side of the A14 via the Junction 40 bridge (i.e. along Coalpit Lane), crossing the slip road at the Coalpit Lane junction. The junction of the A14 westbound on-slip with Coalpit Lane has a collision record showing 4 slight injury collisions over the most recent 10-year period (source: Crashmap), plus a record of collisions including one serious injury over the 19-year period available to view. Hence, there is concern that walkers crossing at this location may be at increased risk of being involved, either directly or indirectly, in collisions with motorised traffic when crossing or waiting to cross.*

- 3.1.19 *At paragraph 4.1.4 of Appendix 1 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council make the following recommendation:*

*A collision / conflict study should be carried to understand how and why the collisions are occurring at this junction. The study should inform the design of an appropriate crossing facility for the diverted footpath.*

- 3.1.20 *It is considered that due to the lack of ongoing routes north of the A14 boundary fence directly opposite the northern end of Footpath 001 Higham, users are likely to use the overbridge on Coalpit Lane to cross the A14 at present. As such, the proposed route on Higham Road and the provision of the new footway within the highway verge provides pedestrians with improved access to the ongoing routes to the north of the A14.*

- 3.1.21 *I have detailed the accident data available for the 5 year period 2011 to 2015 (the 5 year period considered as part of the route assessments carried out in 2016) in my proof **NR32/1** at paragraph 2.14.44, which recorded one accident of slight severity at this junction. There has been one further accident at the junction in 2016, also of slight severity. The Audit Team commissioned by Suffolk County Council have referred to accident data over a 10 year period, however, a 5 year period is normally considered suitable as this period reduces the possibility of the statistics being skewed by seasonal fluctuations and uncharacteristically bad years, whilst over a longer period changes in road layout or maintenance regimes can skew results.*

- 3.1.22 *The Stage 1 RSA carried out by Mott MacDonald identified the potential for the risk of pedestrian trip type accidents at the junction of Coalpit Lane and Higham Road with the recommendation for the installation of a dropped kerb crossing point at this location to guide pedestrians to cross in the safest crossing location. This is considered suitable to resolve any RSA concerns at this location and can be provided as part of the detailed design proposals subject to the approval of the Highway Authority.*

## 3.2 **S27 Barrells, Suffolk**

- 3.2.1 *At paragraph 4.1.1 of Appendix 2 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council identifies the following problem:*

*Locations: A & B – Barrell's Road and Grove Farm railway bridges.*

*Summary: Lack of forward visibility across narrow hump-backed bridges increases the risk to diverted walkers of being struck by vehicular traffic.*

*The closure of both level crossing S27 (Barrells) and nearby S28 (Grove Farm) is proposed. The footpath diversion routes will take walkers over narrow hump-backed bridges at either Barrell's Road to the west or Grove Farm to the east. The limited forward visibility across each bridge may increase the risk of diverted walkers being struck by vehicular traffic, especially in poor visibility or dark conditions.*

- 3.2.1 *At paragraph 4.1.1 of Appendix 2 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council make the following recommendation:*

*With there appearing to be little opportunity to implement effective remedial measures for pedestrians at each bridge, it is recommended that at least one of the two level crossings should be retained with appropriate new sections of linking footpath created.*

- 3.2.2 In response, the traffic count data recorded an average 2 way daily flow of traffic of 83 vehicles on Barrells Road, which would equate to one vehicle approximately every 12 minutes using the road. Although no traffic data was collected on the bridge to the east of Grove Farm, it is anticipated that traffic volumes and speeds will be similar due to the location and road alignment. Based on this data it is considered unlikely that the low number of users diverted from the level crossings are likely to meet 2 vehicles crossing on either of the bridges. I set out my assessment of forward visibility at Barrell's Road bridge at paragraph 2.16.38 of my proof **NR32/1**.

- 3.2.3 I note that the only information that appears to have been issued to the Audit Team commissioned by Suffolk County Council with the Audit brief was the GRIP stage 1 drawing. This drawing does not include details of the proposed pedestrian improvement measures planned on Barrells Road bridge as set out in the Design Guide (**NR12**) at page 30. The proposed measures to clear vegetation are intended to enable all pedestrians to step into a position of safety if they happen to cross the bridges at the same time as a vehicle, however, they are outline proposals and will be subject to detailed design, a Stage 2 RSA and agreement with the Highway Authority.

- 3.2.4 Given the traffic flow and speed data for Barrells road, my review of forward visibility as set out in paragraph 2.16.38 of my proof NR32/1 and the proposed pedestrian improvement measures, I am satisfied that both S27 Barrells and S28 Grove Farm level crossings can be closed without compromising the safety of pedestrians on the alternative routes.

### 3.3 **S69 Bacton, Suffolk**

- 3.3.1 *At paragraph 4.1.1 of Appendix 4 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council identifies the following problem:*

*Location: A – Pound Hill railway bridge.*

*Summary: Risk to diverted walkers of being struck by vehicular traffic.*

*The section of footpath affected by the closure of level crossing S69 runs between Birch Avenue and Broad Road. It links a residential area to the west of the railway and a recreation ground to the east. At the time of the site visit there was clear evidence to suggest use of the level crossing by walkers going to/from Birch Avenue, although nothing obvious to suggest access being made from Broad Road directly via the signed route (walkers may, instead, be using the*

*recreation ground access track). The shortest alternative route between Birch Avenue and the recreation ground will be via Pound Hill and Broad Road. Pedestrian facilities at the Pound Hill railway bridge are discontinuous; there are no footways beneath the arch, where the carriageway narrows, nor also for a short distance on either side. Walkers diverted by the closure of crossing S69 may, therefore, be exposed to new hazards at the Pound Hill bridge pinch point where they will need to walk in the carriageway. This may increase their risk of being struck by passing vehicular traffic, with poor visibility or dark conditions exacerbating the problem.*

- 3.3.2 *At paragraph 4.1.1 of Appendix 4 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council make the following recommendation:*

*Pedestrian facilities in the vicinity of the Pound Hill railway bridge should be improved, within the constraints posed by the arch. The resulting overall scheme (see also recommendation 4.1.2) should be subject to a robust risk assessment, comparing the use of it to the use of the level crossing.*

- 3.3.3 In response, I note that the only information that appears to have been issued to the Audit Team commissioned by Suffolk County Council with the Audit brief was the GRIP stage 1 drawing. This drawing does not include details of the proposed pedestrian improvement measures planned on Pound Hill as set out in the Design Guide (**NR12**) at page 32. It is considered that the proposed measures will improve the current pedestrian provision through the underbridge, which will benefit many local residents in Bacton. However, it should be noted that the proposed works are outline proposals only and will be subject to detailed design, a Stage 2 RSA and agreement with the Highway Authority.

- 3.3.4 *At paragraph 4.1.2 of Appendix 4 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council identifies the following problem:*

*Location: B – B1113 Broad Road.*

*Summary: Risk to diverted walkers of being struck by vehicular traffic.*

*Further to 4.1.1, which discusses the lack of pedestrian facilities at the Pound Hill railway bridge, walkers following the diverted footpath will also need to walk along the B1113 Broad Road to/from the recreation ground. The section of Broad Road in question has a 30mph speed limit around its junction with Pound Hill, but has a 40mph speed limit towards its southern end. There are no footways along the B1113, plus some narrow verges. Walkers diverted by the closure of crossing S69 may, therefore, be exposed to passing vehicular traffic on Broad Road as they will sometimes need to walk in the carriageway. This may increase their risk of being struck by passing, with poor visibility or dark conditions exacerbating the problem.*

- 3.3.1 *At paragraph 4.1.2 of Appendix 4 to Andrew Haunton's proof the Road Safety Audit Team commissioned by Suffolk County Council make the following recommendation:*

*Pedestrian facilities along Broad Road from Pound Hill to the recreation ground should be improved.*

- 3.3.2 The proposed route along Broad Road, utilising existing highway verges, currently provides the linkage between Footpath 013 Bacton and Footpath 004 Cotton to the north east. The verges

also currently provide pedestrian access between the properties along this section of Broad Road and the amenities and facilities in Bacton Village via Pound Hill. As the route is used in this context at the moment it is considered that the route is suitable for use by any diverted users of Bacton level crossing.

- 3.3.3 It is accepted that vegetation overgrowth along the property frontages has reduced the available verge width in a couple of locations but this can be dealt with through initial cutback and regular maintenance.

# 4 Appendices

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## **Appendix A SCC/WS Correspondence**



**By Email Only**

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30 January 2018

Our Ref: HXA/jw/18136/00662

Dear Mr Kerr

**Transport and Works Act 1992  
Proposed Network Rail (Suffolk Level Crossing Reduction) Order**

Further to your letter dated 5 January 2018 to Network Rail and having seen your proof of evidence submitted to the forthcoming inquiry into the above draft Order which includes comment on the Council's view on the draft Order and plans in paragraphs 31 to 52, Network Rail responds as follows:

1 Appropriate content of the Order

Network Rail considers that matters relating to the drafting of the Order are properly matters for legal submission, rather than for evidence. To the extent necessary, Network Rail will make submissions to the Inquiry on the points raised in your Proof.

Nonetheless, and since it has been raised in your letter dated 5 January, Network Rail's position is that it maintains that precedented clauses, both in the form of the Model Clauses and provisions used in other made Transport and Works Act (TW) Orders, provide a clear indication and is persuasive of the scope of provisions that Secretary of State considers appropriate for a TW Order. The model clauses and other clauses therefore are more than "*there to help an applicant with the drafting of an Order*".

You say on the second page of your letter that "*The scale of what Network Rail is seeking to achieve is through this Order is unprecedented*" and that "*the council views the scale of the proposed closures as a substantive distinction when comparing it to other TWA Orders*". To the extent necessary, we would direct you to the Chiltern Railways (Bicester to Oxford Improvements) Order 2012/2679 which (as well as providing for closure and replacement of road and accommodation crossings) includes provision for the closure and replacement of 13 footpath level crossings in the District of Cherwell, Oxfordshire. We do not consider that the scale of what

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is proposed in this Order is such as to justify what would be a significant departure from previous precedent.

We also note that you say in your letter on page 2 that *"to the extent you refer to what is, or has been, occurring in the related Essex and Cambridgeshire Level Crossing Reduction Orders (on p1 of your letter) [Network Rail's letter dated 22 December], we refute that this bears any significance when assessing the Council's position in relation to the Suffolk Inquiry. Rather this is simply a statement of fact that Network Rail has chosen to adopt the same approach for all three Orders"*. Bearing this in mind, Network Rail is surprised to note in your proof at paragraph 44 in relation to a request against article 16(11) of the Order, reference to this being *"in line with neighbouring authorities (Cambridge (sic) County Council and Essex County Council et al)"*.

## 2      Extent of powers vs details

Network Rail does not agree with your analysis under the above heading, on page 2 of your letter. The Order will confer powers and rights on Network Rail including to survey, compulsory acquire or use land, create, extinguish or interfere with public and private rights, redesignate highways or dedicate land as highway, interfere with public highway, close level crossings, in accordance with the provisions of sections 1 and 5 of the Transport and Works Act and will authorise the construction and maintenance of certain works associated with the proposals and disapply certain legislation.

The form of the powers in the Order, i.e. without qualifications or preconditions of the sort which the Council is seeking, provides what is required, to enable Network Rail to carry out the works relating to its transport undertaking without undue delay, given the public interest in closing the level crossings. It is wholly inappropriate to include in the Order details of arrangements concerning the exercise of the powers which can be agreed by parties in a legally binding agreement enforceable through the courts. This is because one only includes in a statutory instrument the matters which are actually necessary and require statutory effect. Network Rail fully expects that the matters which can reasonably be dealt with by agreement (and which Network Rail has indicated it is willing to enter into, having provided a draft with its 22 December 2017 letter) would not be included by the Secretary of State in the Order, as they are matters which it is not necessary to give statutory effect to.

Although the Council may desire that obligations, such as the obligation to pay commuted sums should be included in the Order, to qualify or make conditional the exercise of the powers, that is not a matter for the Order, as the instrument which confers those powers. It is normal practice on TW Orders for obligations to qualify or condition the exercise of powers in the Order as between parties by means of a separate legal agreement and a review of recently made TW Orders, whether for level crossing closures or otherwise, will confirm that such obligations simply do not appear on the face of the Order. Network Rail considers that a submission to amend the Order to provide for these qualifications would not be accepted by the Secretary of State. If the Council wishes to seek such conditions and qualifications to the exercise of the powers conferred through the Order, and particularly where it has concerns as to the quantity of crossings involved, Network Rail strongly suggests that the Council should seek to remedy this by negotiating these matters through the draft side agreement Network Rail provided in December 2017.

## 3      Joint site visits

NR has accepted the principle of joint site visits as set out in its letter dated 22 December 2017 and explained the timing of these. This is because, for third party land, until the Order is made and comes into force, Network Rail has limited powers of entry to enter and survey land, and will rely on s172 of the Housing and Planning Act 2016, which requires notice to the landowner or it must seek agreement with the landowner to enter the land.

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#### 4 Certification process

For the reasons stated above, we maintain that the appropriate mechanism by which to address concerns over volume, process and detail is by way of a legal agreement, and as indicated in its letter dated 22 December, Network Rail is willing to enter into a legally binding agreement which will provide arrangements for a detailed process including for approval in principle leading to the certification of the diversionary routes proposed in the Order, and any necessary phasing. If the Council is not content with the proposed phasing, or other details in the draft agreement, Network Rail invites the Council to provide a counter proposal to enable a constructive dialogue on these matters to take place and to reduce the scope of issues between the parties at the forthcoming inquiry.

Network Rail's view remains that article 16(11) in the Order, which provides for a 28-day deemed certification per crossing if the highway authority does not respond within that timescale, needs no adjustment. Network Rail, having qualified article 16 so that it cannot close a level crossing until a new diversionary route is constructed to the reasonable satisfaction of the highway authority, should not be left to wait indefinitely for the diversionary route to be certified and the crossing closed, both of which are firmly in the public interest. Article 16(11) is retained in the Order in the form accepted by the Secretary of State on other TW Orders with equivalent provision, including the Chiltern Railways (Bicester to Oxford Improvements) Order 2012 and as has recently been approved by Parliament relating to certification of highways in paragraph 10 of Schedule 4 to the High Speed Rail (London – West Midlands) Act 2017 (c.7). Furthermore, Network Rail does not believe this provision was challenged by any highway authority before the Select Committee hearing petitions against the then Bill. I would reiterate that the 28 day period runs from the application for certification in respect of each individual crossing: it is not a 28 day period from when the first application is submitted.

#### 5 Commuted sums

Again, as set out above, Network Rail does not agree that commuted sums are a matter that should be included in the Order. Network Rail believes that it should be possible to settle these by agreement with the Council, documented through a legally binding agreement.

#### 6 Legal Event Modification Order

Network Rail does not agree that widths and grid references are a matter that should be included in the TW Order. They relate to the matters for the Council under its duty in section 53(4) of the Wildlife and Countryside Act 1981 to promote a Legal Event Modification Order (LEMO) to change the Definitive Map and Statement and therefore have no place in this TW Order. The provisions in the TW Order to extinguish, create or alter public rights of way will create legal events as defined in section 53(3), which will trigger the need for a LEMO. The TW Order is not in itself, and cannot under section 53A be modified to become, a LEMO. Network Rail is perfectly willing to agree to provide the widths and grid references to the Council in the side agreement, as evidenced in Schedule 2 to the draft agreement sent under cover of our letter dated 22 December 2017. SCC's duty under section 53 will remain to promote a LEMO as required.

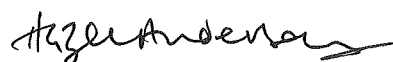
#### 7 Compensation to Highway and Surveying Authority

Unlike procedures under the Highways Act 1980 in relation to public paths and rail crossing diversion Orders where the Highway Authority as decision maker is able to charge for the costs associated with the making, advertising, and confirming of the Order itself, in the case of a TW Order, the Highway Authority is not the decision maker and there are no obligations under the Transport and Works Act to pay the Highways Authority's costs. Network Rail maintains its position set out in its letter dated 22 December that it is not obliged to make such payments under the Transport and Works Act and considers that such a payment would constitute a special payment under "Managing Public Money", and which would, if accepted, set an unhelpful precedent for future TW Orders.

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A copy of this letter goes to the programme officer, Joanna Vincent.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Hazel Anderson', with a stylized flourish at the end.

**Hazel Anderson**  
**Partner**

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cc Joanna Vincent

## **Appendix B Extract from TD 9/93 Highway Link Design**

1.8 Urban Roads: Low speed limits (30-40 mph) may be required due to the amount of frontage activity, but also where physical restrictions on the alignment make it impractical to achieve geometry relative to a higher Design Speed. Design Speeds shall be selected with reference to the speed limits envisaged for the road, so as to permit a small margin for speeds in excess of the speed limit, as shown in Table 2. The minimum Design Speed for a primary distributor shall be 70A kph.

SPEED LIMIT		DESIGN SPEED
MPH	KPH	KPH
30	48	60B
40	64	70A
50	80	85A
60	96	100A

Table 2

### Design Speed Related Parameters

1.9 The Design Speed bands 120, 100, 85 kph, etc dictate the minimum geometric parameters for the design, according to Table 3, which shows Desirable Minimum ( Absolute Minimum For Sag Curves only) values and values for certain Design Speed steps below Desirable Minimum. Desirable Minimum values represent the comfortable values dictated by the Design Speed.

DESIGN SPEED kph	120	100	85	70	60	50	V <sup>2</sup> /R
STOPPING SIGHT DISTANCE m							
Desirable Minimum	295	215	160	120	90	70	
One Step below Desirable Minimum	215	160	120	90	70	50	
HORIZONTAL CURVATURE m.							
Minimum R* without elimination of Adverse Camber and Transitions	2880	2040	1440	1020	720	520	5
Minimum R* with Superelevation of 2.5%	2040	1440	1020	720	510	360	7.07
Minimum R* with Superelevation of 3.5%	1440	1020	720	510	360	255	10
Desirable Minimum R with Superelevation of 5%	1020	720	510	360	255	180	14.14
One Step below Desirable Minimum R with Superelevation of 7%	720	510	360	255	180	127	20
Two Steps below Desirable Minimum Radius with Superelevation of 7%	510	360	255	180	127	90	28.28
VERTICAL CURVATURE							
Desirable Minimum* Crest K Value	182	100	55	30	17	10	
One Step below Desirable Min Crest K Value	100	55	30	17	10	6.5	
Absolute Minimum Sag K Value	37	26	20	20	13	9	
OVERTAKING SIGHT DISTANCES							
Full Overtaking Sight Distance FOSD m.	*	580	490	410	345	290	
FOSD Overtaking Crest K Value	*	400	285	200	142	100	

Table 3

\* Not recommended for use in the design of single carriageways (see Paragraphs 7.25 to 7.31 inclusive)

The V<sup>2</sup>/R values shown in Table 3 above simply represent a convenient means of identifying the relative levels of design parameters, irrespective of Design Speed.

