

TRANSPORT AND WORKS ACT 1992
APPLICATION FOR THE PROPOSED NETWORK RAIL (SUFFOLK LEVEL
CROSSING REDUCTION) ORDER
APPLICATION FOR AN AWARD OF APPEAL COSTS
ON BEHALF OF MR DAVID CALDWELL
IN RESPECT OF S03 BUXTON WOOD
TWA/17/APP/04/OBJ/60

RESPONSE TO NETWORK RAIL COMMENTS OF 24 MAY 2018

I, Sarah Caldwell, would comment as follows:

- NR paragraphs 5,7 and 9: It is difficult to follow an incomplete document which includes many 'square bracket' blanks.
- NR paragraph 9: The Statement of Consultation refers to NR's initiative in undertaking landowner consultation, and they have stressed that impact on landowners' is an important consideration. This is misleading in respect of S03 in view of their failure to make any effort to consult my father.
- NR paragraph 12: That NR belatedly replied on 12 January 2018 regarding its lack of consultation makes no difference to the facts of the matter: it did not consult.
- NR paragraph 13: It is obvious that NR became aware of the issues as a result of my father's objection. This misses the point that they were by then beyond the stage to take his feedback into account. NR seeks to rely on the fact that my father contacted NR as absolving them of responsibility. This is wholly inadequate: had my father been contacted by NR he could have secured changes at Round 1 as did the other landowners. It is unreasonable to presume that his objection would not have been taken as seriously as those of the other landowners at that stage. Fundamental changes were made as a result of comments from other landowners.
- NR paragraph 14: Mr Kenning has produced no evidence to back up his claims that the alternative routes could not be implemented. It is incorrect to infer that the drainage problem is not simple to resolve because it is long term. It is only long term because NR refuses the obvious and reasonable option of investigating the cause on its land. Litigation only commenced last year. There is no complexity to it which can be deduced; my father, with his expert

local knowledge, maintains that it is a simple problem with a simple solution. For NR's rejection of the alternative routes to be reasonable there should be evidence of its proper consideration of them, including of the reason for the wet patch on the Green Route.

- It is NR's refusal to investigate the cause of the wet area which led them to reject the Green Route; this is unreasonable behaviour.
- NR paragraphs 17 and 18: My father has been prejudiced by NR's omission to identify the landowner. Proper consultation as was carried out with other landowners would have led to a better understanding on both sides early on and either:
 - there would have been the time and the will for NR to work with my father to find a mutually acceptable route
 - and/or negotiations with NR may well have meant that he either did not need to object to the order or, with the other options fully explored, my father did not see any merit in so doing.
- NR's lack of consultation removed any option from my father but to object to the order and incur the costs that he has.
- NR Paragraph 20: There is no evidence of NR's careful consideration of my father's objection. Such evidence would comprise the results of land investigations and costings for works to compare the order route with the alternatives. NR has not undertaken any such work. To be credible the statement that it has 'considered carefully' needs to be backed up with evidence of the form that the consideration took, not merely be a re-assertion of the statement.
- I reaffirm our application for costs on the grounds of NR's unreasonable conduct.