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FAO: Ms Hazel Anderson

Your Ref:
Our Ref:
Date: 06 April 2018
Enquiries to: Stephen Kerr
Tel: 01473 264745
Email: Steve.Kerr@suffolk.gov.uk

Dear Ms Anderson,

**TRANSPORT AND WORKS ACT 1992 (TWA):
APPLICATION FOR THE PROPOSED NETWORK RAIL (SUFFOLK LEVEL CROSSINGS
REDUCTION) ORDER**

Re: Suffolk County Council's Modifications to the Order

Please find enclosed with this letter two sets of modifications to the Order, proposed by Suffolk County Council. The exchange of these suggested modifications is in compliance with the deadline, of 6 April 2018, set by the Inspector in open Inquiry on 16 March 2018.

The Inspector already has before him previous correspondence between the parties as to whether or not the Council's concerns over the wording of the draft Order could be appropriately dealt with by way of a side agreement (for example, OP-INQ-05, NR-INQ-08, OP-INQ-37).

In view of ongoing discussions between the Council and Network Rail on this matter, the Council considers it appropriate to suggest alternative modifications to the Order as follows:

- Version 1:** Provides for express protection, within the text of the Order itself, to address the Council's concerns. Allows for some further details to be determined through a side agreement (draft article 16A(3)).
- Version 2:** Allows greater scope for necessary protections to be addressed by way of a side agreement but ensures the interaction of any such side agreement with the application of the Order is made clear.

In the event that the parties are able to conclude an acceptable side agreement before the close of the Inquiry, the Council would be satisfied with the modifications in Version 2. However, in the event that no such side agreement can be reached, the Council intends to request that Version 1 be recommended by the Inspector to the Secretary of State.

As the suggested modifications apply to different articles in the draft Order, we have set these out through highlighting the relevant suggested text and/or deletions. However, to further assist matters, we have provided a table, enclosed with this letter, that details which articles have been modified or added within each version.

We hope that the reasoning behind the proposed modifications will either already have been explained in our previous correspondence, or be self-explanatory. However, we would welcome further communication between ourselves and Network Rail to discuss the matter further with a

view to reaching agreement prior to the Inquiry resuming on 19 April. We suggest a further meeting to do so.

Nonetheless, it may be useful to note at this stage that in the Council's view the Order must only grant powers that have been justified on the basis of Network Rail's application. If Network Rail relies on the delivery of a suitable and convenient alternative route, as the justification for closure of a level crossing, then the Order must ensure that that crossing will only be closed if (and only if) such a route has been delivered. It appears from the evidence Network Rail has presented at the Inquiry so far that a number of the Council's concerns on individual routes are expected to be dealt with at the "detailed design" stage. As this stage will post-date the making of the Order, the Order itself must ensure that what is being promised at detailed design stage will be delivered.

S23 Higham

The Council has noted that S23 Higham is included in Part 2 of Schedule 2 to the Order (closure of level crossings not subject to opening of new highway) and formally requests that it be moved to Part 1 of Schedule 2 of the Order (closure of level crossings subject to opening of new highway), or an explanation be provided as to why it should not be in Part 1, particularly considering that a new 1.5m footway will be provided in the highway verge (between The Tavern and Coalpit Lane) (NR26 p. 86).

Further clarifications regarding the Order

The Council would like to take this opportunity to seek further clarification on a few matters arising from the wording of the Order. The Council has not sought modification of the Order in relation to these matters, pending the response of Network Rail, but reserves its position to do so in the event that Network Rail's explanation does not satisfy the Council as to the underlying issues.

These issues primarily relate to the articles relating to street works (articles 7, 8, 10 and 11) and related schedules 6 and 7. It is not entirely clear to the Council what the intention is for some of the works detailed in those schedules and whether certain scheduled works should be better placed in alternate schedules. Given the Council is also street authority for highway as well as highway authority it is important that it understands why certain works are being dealt with as street works in those particular schedules.

Some of the wording in article 11 is also slightly unclear in purpose. It is assumed that carriageway is intended to be included within the scope of Art11(1) but that the omission of restricted byways from the exclusion is merely an oversight. It is therefore assumed that all works to improve existing carriageway (including verge and footway) fall within this article.

The specific wording of 11(2) and (3) where they refer to highway authority and street authority respectively is also unclear as to their intent, especially as both refer to "alterations" of streets. It is noted that the model clauses refer, at clause 10(1), to constructed streets only not including "altered" existing streets being maintained by the highway authority. Provision is made in model clause 10(1) for private streets being excluded and it is clear only highway is affected. All alterations to existing street are dealt with in model clause 10(2) and there is therefore a clear division of intent. There does appear to the Council to be a question therefore as to how Network Rail intends to approach works in existing carriageway.

As is noted above, we would welcome the opportunity to discuss matters further with Network Rail in advance of the Inquiry resuming on 19 April 2018. If you agree, we can liaise to find a suitable date and provide further detail of the specific works being queried. We look forward to hearing from you in this regard.

A copy of this letter has been sent, along with its enclosures, to the Inspector.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stephen Kerr', enclosed within a large, loopy, handwritten flourish.

Stephen Kerr
Definitive Map Manager, Rights of Way and Access,
Suffolk Highways, Phoenix House

Cc Joanna Vincent, Persona Associates Limited, 1st Floor, Bailey House, Barttelot Road,
Horsham, West Sussex, RH12 1DQ.

Table on Suggested Modifications by Suffolk County Council
6.4.18

Version 1

Article 5(7)	Additional provision
Article 7(5)	Provision /amended
Article 8(3)	Additional provision
Article 10(7)	Provision /amended
Article 11(3A)	Additional provision
Article 12(2)	Provision /amended
Article 16(1A) – (1F)	Additional provisions
Article 16(11)	Amended provision
Article 16(13) - (14)	Additional provisions
Article 16A(1)-(3)	New article

Version 2

Article 5(7)	Additional provision
Article 7(5)	Provision amended
Article 8(3)	Additional provision
Article 10(7)	Provision /amended
Article 11(3A)	Additional provision
Article 12(2)	Provision /amended
Article 14(6)	Additional provision
Article 15(5)	Additional provision
Article 16(13)	Additional provision
Article 16A	New article