

TRANSPORT & WORKS ACT 1992

THE TRANSPORT AND WORKS (APPLICATION AND OBJECTIONS PROCEDURE) (ENGLAND AND WALES)
2006

PROPOSED NETWORK RAIL (CAMBRIDGESHIRE LEVEL CROSSING REDUCTION) ORDER – HARSTON

STATEMENT OF CASE ON BEHALF OF:

Brigadier William Hurrell & Mr Henry Hurrell
Department of Transport Reference: TWA/17/APP/03/OBJ/25

1. Introduction

- 1.1** This Statement of Case is made by Strutt & Parker LLP (S&P) on behalf of Brigadier William Hurrell and Mr Henry Hurrell in connection with the objection made against the proposed Network Rail (Cambridgeshire Level Crossing Reduction) Order.
- 1.2** An original objection can be found in Robin Clarke's letter to the Secretary of State for Transport dated 24th April 2017, attached as **Appendix I**.
- 1.3** This Statement of Case is submitted in response to a letter dated 18th May 2017 from Caroline O'Neill of the Department of Transport under rule 7(3) of the Transport and Works (Inquiries Procedure) Rules 2004.

2. Background

- 2.1** Mr Henry Hurrell is the freehold owner of the land east of London Road (Title Number CB361318) and Brigadier William Hurrell is the freehold owner of the land west of London Road (Title Number CB332149). This has been identified on the attached plan in **Appendix II**.
- 2.2** The land north east of London Road (Title Number CB355537) is owned freehold by The Master Fellows and Scholars of Clare College in The University of Cambridge. It is understood that the leasehold is held by Newton Farms. This has been identified on the attached plan in **Appendix II**.
- 2.3** All the land above is farmed under Newton Farms.

3. Impact of Order

- 3.1** The extent of the land to be lost to this scheme is hard to determine from the plans provided. This is partly due to the fact that all but one of the plots containing the new footpath have been labelled temporary use of land yet include a footpath. We estimate that at least 1400m² of land and interests may be compulsorily purchased for this proposal, for which our client is entitled to the loss of value in respect of retained holdings as well as land taken. Notwithstanding distinct

reservations and also opposition to this proposal, Network Rail, as a partially public funded body, is proposing to incur costs to achieve these proposals. It is understood that the proposal will involve the extinguishment of existing public access. From experience, however, we foresee ongoing access problems post diversion due to historic and previous use. Additional measures will be need to be implemented to reduce this risk and reservation is made to address the situation to ensure the intended extinguishment.

- 3.2 It is feared that the footpath highlighted red on the plan in **Appendix II** to the village from the existing byway (BOAT 3), highlighted in blue, will be used by more than pedestrian traffic i.e it will be seen as an extension of BOAT 3 linking to the village. Therefore, a footpath is proposed but it is likely that our client will have to manage a potential escalation of the designated access.
- 3.3 The proposed route requires construction of steps from the field level to the road level at the bridge at P131 and P131A on the plan in **Appendix II**. This will be very expensive but in addition will be imposing severe access restrictions; other proposals easily address this problem and would thus provide greater access to the countryside for more users of the footpath.
- 3.4 Network Rail proposes to access the public highway at P131 (see **Appendix II**) to cross the bridge, utilising the existing public highway rights, to then exit the highway at P131A. This demonstrates Network Rail's acceptance of utilising the public highway right of access by pedestrians and yet proposes its crossing at the brow of the road. On exit from the public highway Network Rail again proposes construction of steps with limited access for all users as well as potential safety concerns to reach P132. Again, Network Rail accepts that from this point (P132) public highway access rights to the road and verge are acceptable in order to reach Shelford Road or continue along London Road.
- 3.5 The guidance provided by the Department of Transport 'A Guide to TWA Procedures' states that "before confirming [compulsory purchase] powers, the Secretary of State will wish to be satisfied that there is a compelling case in the public interest for taking away a person's land or rights in land, and that all the land in question is required for the scheme" (paragraph 1.39 of Part 1). The first phase consultation found that the majority of those asked to participate opposed this scheme and Network Rail has been unable to put forward a compelling case for taking our client's land. The public already has access rights along the verge which should be improved instead of acquiring further rights.

4 Proposed Alternative

- 4.1 Our proposal is for the footpath to be located on the extensive public highway verge east of London Road until Shelford Road. This will meet the requirements of the local residents as raised by them in the consultation by preventing the need for steps and avoiding the need to cross London Road. Camilla Rhodes of Cambridgeshire County Council has advised that the public already has a right of way along the verge providing full access if people wish to reach Shelford Road, thus preventing the need to cross a dangerous road. This proposal mitigates the need for excessive land acquisition.
- 4.2 The Network Rail project team response to the District Councillor for Harston and Hauxton states that after consultation and a road safety audit, new 'Hoggin' (consolidated stone and sub strata) style footpaths will be installed. If this is the case, there is no need to increase

substantially (estimate of double) the costs by installing a footpath and compulsorily acquiring rights and interests over our clients' land.

5. Other Issues

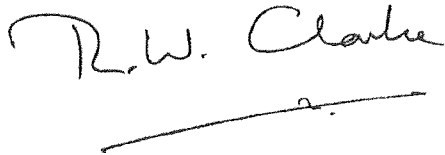
- 5.1 According to Section 3.3.3 of Network Rail's Statement of Consultation submitted with the TWAO, the fourth phase of consultation involved discussions between Bruton Knowles and affected landowners. Bruton Knowles met our clients on site and did amend the route in light of this meeting. Despite this the consultation document, included in **Appendix III**, states that the landowner 'opposes the route but no alternatives were provided.' We are assuming that this representation refers to our client and therefore this statement is incorrect.
- 5.2 Since being appointed on 17th March 2017 to represent our clients, Bruton Knowles have refused to meet S&P, nor enter into a negotiation process citing lack of instruction from Network Rail. According to the Department of Communities and Local Government Guidance on Compulsory purchase process, 'the confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement.'
- 5.3 Despite numerous attempts (see **Appendix IV**) by S&P to engage with both Bruton Knowles and Network Rail, there has been no reciprocation or efforts to address and settle our clients' objection. A site meeting, as requested, would have given S&P the opportunity to explain the alternative proposal that will ultimately be more beneficial for local residents and our clients and could mitigate time, costs and land acquisition benefiting Network Rail.
- 5.4 Our client received 40 letters enclosing draft orders from Bruton Knowles addressed to Newtons Farm and Mr Henry Hurrell. A simple Land Registry search would have shown that this excessive correspondence is incorrect and that the orders should have been addressed to Mr Henry and Brigadier William Hurrell. S&P have pointed out this mistake but it is yet to be corrected. To receive 40 letters for 10 parcels of land is excessive and has added to professional fees incurred.

6 Summary

- 6.1 Whilst our clients do not object to the principle of the closure of the level crossing and welcome the proposed increase in safety to users and local residents, the proposed route is not suitable. Not only does it disregard the concerns raised by local stakeholders in consultation, it also intends to compulsorily acquire excessive land and interests beyond the more suitable proposed option for users to walk along the extensive verge to the east of London Road utilising existing rights of access. The basis of our alternative has been suggested by Network Rail in response to other consultees, with the installation of a 'Hoggin' style footpath.
- 6.2 The proposal is unnecessarily costly and Network Rail and its agents, Bruton Knowles, have not attempted in our view to acquire the land without the need for this Order. If a negotiation had been entered in to it may have been possible to reduce professional fees which are entirely the responsibility of Network Rail.
- 6.3 The proposal includes a stretch on land south of the railway that does not finish at Shelford Road. If residents are unable to reach Shelford Road then there seems no requirement for there

to be a dangerous crossing over the road, or a footpath south of the railway line at all. Network Rail cannot argue that taking this land is in the public interest.

Signed for and on behalf of Mr Henry Hurrell and Brigadier William Hurrell:

A handwritten signature in black ink, appearing to read 'R.W. Clarke', with a long horizontal line drawn underneath it.

.....
Robin Clarke
28th June 2017

Appendix I: Robin Clarke – Objection Letter 24th April 2017

Appendix II: Site Plan

Appendix III: Extract of Network Rail Consultation Responses

Appendix VI: List of Strutt & Parker's Correspondence to Network Rail and Bruton Knowles

Cambridge

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Appendix I



Secretary of State for Transport
c/o Transport and Works Act Orders Unit
General Counsel's Office
Department for Transport
Zone 1/18
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Direct Dial: 01223 459464
Direct Fax: 01223 301231
E mail: Robin.clarke@struttandparker.com
Our ref: RC/KB/L/Newton

24th April 2017

By post and email: transportandworksact@dft.gsi.gov.uk

Dear Sir or Madam,

Transport and Works Act 1992

The Transport and Works (Applications and Objections Procedure) (England & Wales) Rules 2006
Proposed Network Rail (Cambridgeshire Level Crossing Reduction) Order – Harston
Our clients: Brigadier William Hurrell and Mr Henry Hurrell

We act on behalf of the above mentioned landowners and request that all correspondence is through us at the above office address.

We have been instructed to object to the proposed Network Rail (Cambridge Level Crossing Reduction) Order.

Initially, our clients received forty letters from Bruton Knowles, as agents acting on behalf of Network Rail, enclosing notices of applications to use land temporarily and to acquire rights over land.

Unfortunately, the notices relating to the land west of London Road have been incorrectly addressed. Furthermore, the application notices served do not, we believe, reflect the reality of the situation, in particular what appears to be a conflict between temporary and permanent acquisitions.

We have considered with our clients an alternative route for the footpath which will cause less disruption to their farming practices and a probable mitigation of compensation. Our proposal is that the revised route utilises the extensive public highway verge of London Road, rather than the acquisition of private property. We believe that this proposal would be welcomed by the local community who would be able to use the footpath safely to walk from Harston to Shelford Road. We are in contact with Cambridgeshire County Council to consider this proposal.

Notwithstanding trying to liaise with and meet Bruton Knowles on site to discuss this matter they were unable to do so until they have been instructed by Network Rail. This is particularly frustrating when we believe that an agreement can be amicably reached between Network Rail and our clients.

Cambridge

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Yours faithfully

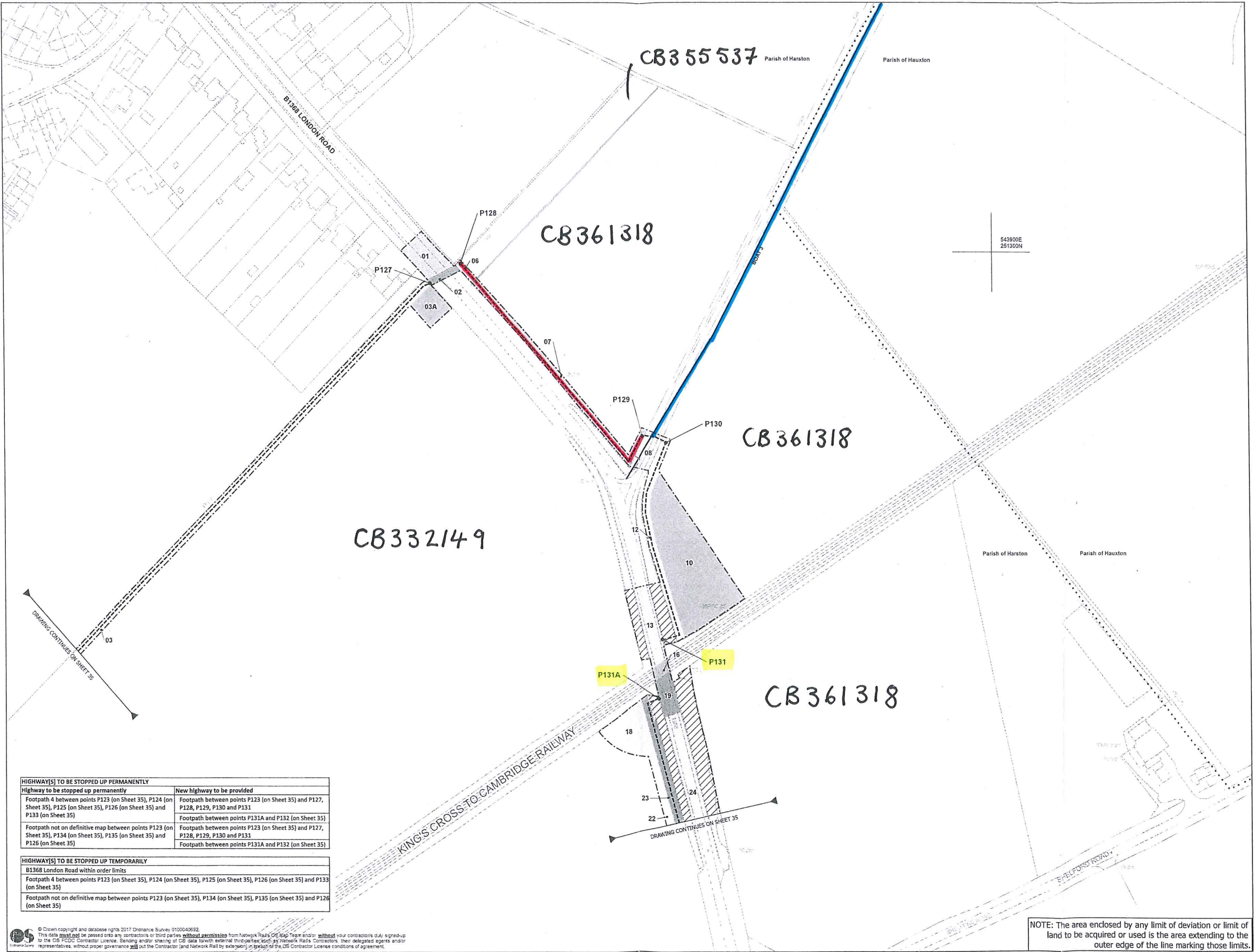
A handwritten signature in black ink that reads "R.W. Clarke". Below the signature is a horizontal line.

Robin Clarke

Direct Dial: 01223 459464
Mobile: 07469 155163

Transport and Works Act 1992
The Network Rail (Cambridgeshire Level Crossing Reduction) Order
COUNTY OF CAMBRIDGESHIRE, DISTRICT OF SOUTH CAMBRIDGESHIRE

Sheet 34
C07 - No 37
Level Crossing



Unrestricted powers to acquire land No. on plan:
Powers Limited to Temporary Use of Land and Acquisition of Rights No. on plan:
Powers Limited to Temporary Use of Land No. on plan:
01 10 24
02 12
03 13
03A 16
06 18
07 19
08 23
Powers Limited to Rights No. on plan:
22
Powers Limited to Extinguishment of Rights No. on plan:

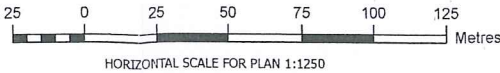
- Centreline of Work
- Commencement of Work
- Termination of Work
- New / Improved Access
- Limit of Deviation
- Limit of Land to be Acquired or Used
- Individual Land Parcels are shaded in contrasting shades of grey
- Land Parcel Number
- Network Rail Property
- Areas of Third Party Land Benefitting from New Access Rights
- Existing or Alleged Public Right of Way
- New Public Right of Way
- TRAFFIC REGULATION ORDERS (IF APPLICABLE)
- TRO1 Traffic Regulation Order Reference Point
- Administrative Boundaries

HIGHWAY[S] TO BE STOPPED UP PERMANENTLY	
Highway to be stopped up permanently	New highway to be provided
Footpath 4 between points P123 (on Sheet 35), P124 (on Sheet 35), P125 (on Sheet 35), P126 (on Sheet 35) and P133 (on Sheet 35)	Footpath between points P123 (on Sheet 35) and P127, P128, P129, P130 and P131
Footpath not on definitive map between points P123 (on Sheet 35), P134 (on Sheet 35), P135 (on Sheet 35) and P126 (on Sheet 35)	Footpath between points P131A and P132 (on Sheet 35)
	Footpath between points P123 (on Sheet 35) and P127, P128, P129, P130 and P131
	Footpath between points P131A and P132 (on Sheet 35)
HIGHWAY[S] TO BE STOPPED UP TEMPORARILY	
B1368 London Road within order limits	
Footpath 4 between points P123 (on Sheet 35), P124 (on Sheet 35), P125 (on Sheet 35), P126 (on Sheet 35) and P133 (on Sheet 35)	
Footpath not on definitive map between points P123 (on Sheet 35), P134 (on Sheet 35), P135 (on Sheet 35) and P126 (on Sheet 35)	

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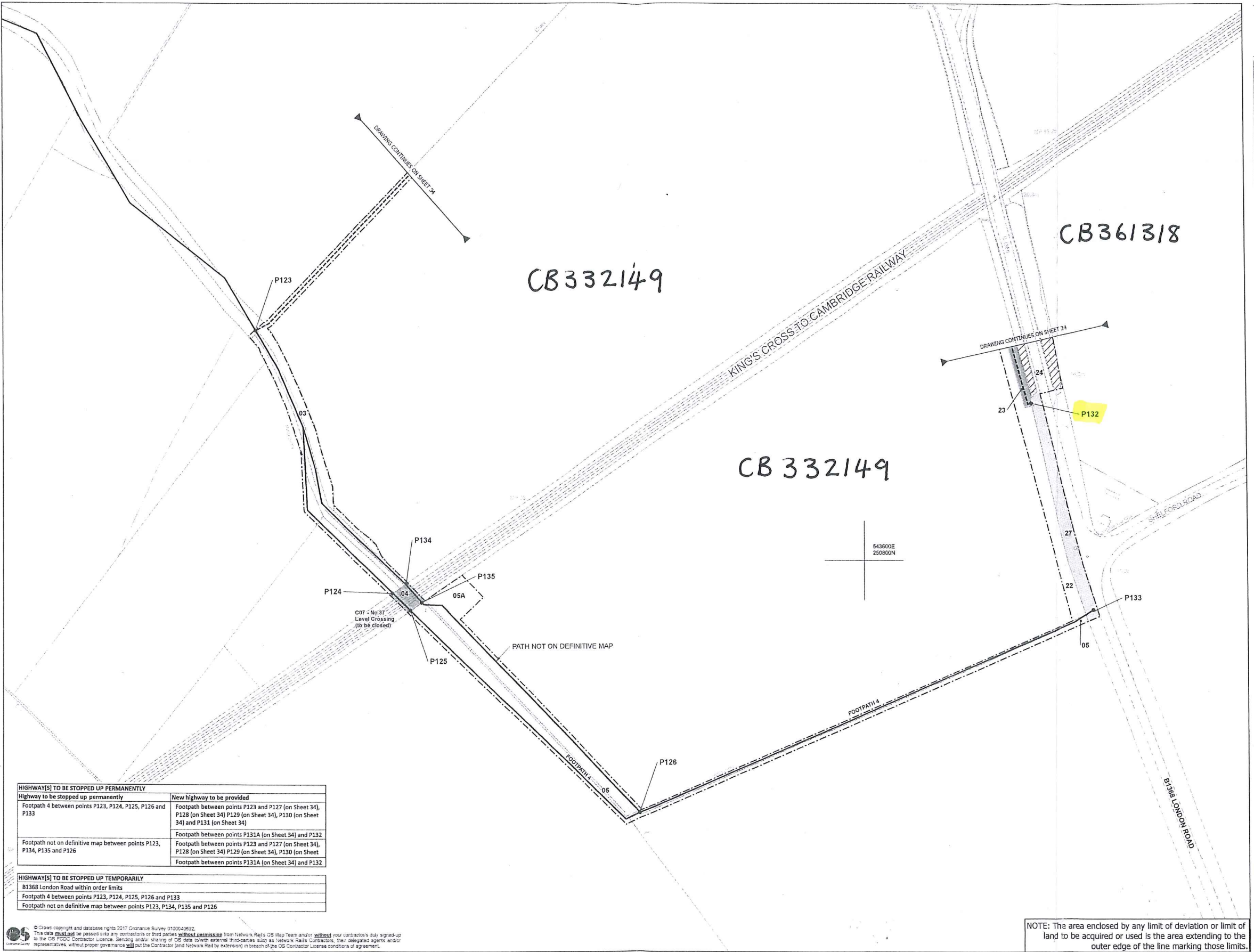
NOTE: The area enclosed by any limit of deviation or limit of land to be acquired or used is the area extending to the outer edge of the line marking those limits.

PLAN



Transport and Works Act 1992
The Network Rail (Cambridgeshire Level Crossing Reduction) Order
COUNTY OF CAMBRIDGESHIRE, DISTRICT OF SOUTH CAMBRIDGESHIRE
PARISH OF HARSTON

Sheet 35
C07 - No 37
Level Crossing

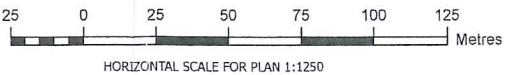


Unrestricted powers to acquire land No. on plan:
Powers Limited to Temporary Use of Land and Acquisition of Rights No. on plan:
Powers Limited to Temporary Use of Land No. on plan:
03
05
05A
23
24
27
Powers Limited to Rights No. on plan:
22
Powers Limited to Extinguishment of Rights No. on plan:
04
Centrelines of Work
Commencement of Work
Termination of Work
New / Improved Access
Limit of Deviation
Limit of Land to be Acquired or Used
Individual Land Parcels are shaded in contrasting shades of grey
Land Parcel Number
Network Rail Property
Areas of Third Party Land Benefitting from New Access Rights
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TRAFFIC REGULATION ORDERS (IF APPLICABLE)
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Administrative Boundaries

HIGHWAY(S) TO BE STOPPED UP PERMANENTLY	
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Footpath not on definitive map between points P123, P134, P135 and P126	Footpath between points P131A (on Sheet 34) and P132
	Footpath between points P123 and P127 (on Sheet 34), P128 (on Sheet 34) P129 (on Sheet 34), P130 (on Sheet 34) and P131A (on Sheet 34) and P132
HIGHWAY(S) TO BE STOPPED UP TEMPORARILY	
B1368 London Road within order limits	
Footpath 4 between points P123, P124, P125, P126 and P133	
Footpath not on definitive map between points P123, P134, P135 and P126	

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PLAN



Appendix III

C07 - No. 37				
Round	Stakeholder category	Feedback theme	Summary of feedback	Project team response
1	Round 1 Consultation Questionnaire Strategic stakeholder (District Councillor for Harston and Hauxton)	Safety concerns Enhancement	<p>There is no footpath along this section of London Road except for the segment on the bridge. For the diversion to offer improved safety to my residents there needs to be a surfaced footpath on one side of London Road. This could be a "cheap" sort like the path further on eastwards towards Newton. It does not need to be a standard pavement.</p> <p>A pavement for pedestrians and cyclists to pass over the bridge which would be most beneficial.</p> <p>If the route is to be used then a proper footpath with crossing points would have to be built.</p> <p>The new footpath is a good idea, however the dotted red route requires improvement if to be used by pedestrians etc</p>	The round 1 and round 2 diversion routes utilised walking on the existing verges. After further consultation feedback and a road safety audit, new footways ('Hoggin' type) and field margin footpaths are now proposed.
1	Landowner	Support	No major issues with what was being proposed.	Noted
1	Strategic stakeholder (Cambridgeshire County Council)	Enhancement	Consider upgrading the public footpath to a bridleway.	The level crossing is currently a footpath crossing and does not form part of a bridleway public right of way. Cambridgeshire County Council desired upgrade of public rights of way unlikely to be justified under TWAO process.
1	Round 1 Consultation Questionnaire	Retain the level crossing / level	Not enough evidence presented to show that the level crossing isn't safe.	Network Rail have prepared a needs case for the closure of the level crossings. Safety criteria, while important, is only one of the Promoter's Objectives and there are other

C07 - No. 37				
Round	Stakeholder category	Feedback theme	Summary of feedback	Project team response
		crossing is safe		benefits the Promoter seeks to achieve with the level crossing reduction strategy
2	Members of the public Strategic stakeholder (Harston Parish Council) Strategic stakeholder (Heidi Allen MP)	Safety concerns	The existing grass verge in this area is narrow and uneven with hidden drainage channels. These present a trip hazard.	The final proposal reduces the length of verge walking on London Road significantly by proposing in field margin routes and stepped access over the railway. Selected diversions have been assessed by a Road Safety Audit and appropriate mitigation measures considered. Discussions have been held with the local Highway Authority regarding all diversion routes.
	Local access, user, or interest group (Cambridge Rambling Club)	Enhancement	The road leading up to the 'humpback' bridge is up an incline on both sides with poor visibility. Also traffic along this road, unfortunately, frequently travels at speed	The suggested crossing point over London Road is at the crown of the bridge to ensure maximum visibility of traffic flow in either direction.
2	Local access, user, or interest group (Cambridge Rambling Club)	Diversion route too long / unpleasant	Extra 350m increase in walking route length	The proposed diversion route improves connectivity to the byway open to all traffic (BOAT) 3 to the east of London Road. The length of the diversion was considered further and it was not possible to identify a shorter route without providing a solution which would be outside the scope of NR's current phase of works

C07 - No. 37				
Round	Stakeholder category	Feedback theme	Summary of feedback	Project team response
2	Strategic stakeholder (Heidi Allen MP)	Enhancement	A new, wide footpath along the Harston side of the road would be preferable if this proposal is passed; however, this still results in the loss of a bridleway which in turn has a negative effect on sustainable and healthy options for local residents, therefore I am not able to support the proposed closure of this crossing.	This level crossing is currently a footpath level crossing and no loss of bridleway has been proposed for this level crossing closure.
2	Members of the public Local access, user, or interest group (Ramblers South East Cambs)	Enhancement	Footway should be provided between Shelford Road (and the end of the Newton path) and the proposed new path.	Consideration of this taken and the design freeze option reduces the length of footway walking on London Road significantly by proposing in field margin routes and stepped access over the railway. A continuation of the existing path on London Road near Shelford Road is proposed where available adopted highway width is available.
2	Strategic stakeholder (Clerk to Hauxton Parish Council)	Alternative route / status	Follow the proposal of the Cambridgeshire County Council by-ways officer, Peter Gaskin, and make the whole route a bridleway from the stables near to High street right through to Donkey Lane, Hauxton.	The level crossing is currently a footpath crossing and does not form part of a bridleway public right of way. Cambridgeshire County Council desired upgrade of public rights of way unlikely to be justified under TWAO process.
2	Strategic stakeholder (Cambridgeshire County Council)	Support subject to conditions	In order for the proposal to be acceptable Cambridgeshire County Council require: - A link for Shelford Road with Byway 3 with a combination of verge and field margins paths. Ideally this should be multiuser / bridleway although the constraint of a narrowing verge and steps at the railway bridge was accepted.	Consideration of this taken and the design freeze option reduces the length of footway walking on London Road significantly by proposing in field margin routes and stepped access over the railway. The level crossing is currently a footpath crossing and does not form part of a bridleway public right of way.

Appendix IV: Strutt & Parker Communication with Bruton Knowles & Network Rail

24th March 2017 – email request to Andrew Prowse (BK) for site visit

11th April 2017 – meeting cancelled by Andrew Prowse citing 'lack of instructions from client'

24th April 2017 – letter to Secretary of State objecting to the TWAO copying in Network Rail

5th May 2017 - letter to Ms O'Neill at Department of Transport, Network Rail and Bruton Knowles attempting to establish contact

16th May 2017 – email to Andrew Prowse to pursue a meeting on site, Andrew Prowse declined stating no instructions from Network Rail

31st May 2017 – letter to Ms Choo-Bennett at Network Rail requesting a site meeting

23rd June 2017 – email to Andrew Prowse and letter to Ms Choo-Bennett asking for a site meeting