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Sent: 04 May 2017 09:35
To: TRANSPORTANDWORKSACT
Cc: policyvolsupport; Laura Burley
Subject: NETWORK RAIL SUFFOLK LEVEL CROSSING REDUCTION ORDER
Attachments: Ramblers-representations-Suffolk-Level-Crossing-Reduction-.pdf

Dear Madam, or Sir

TRANSPORT AND WORKS ACT 1992
THE TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE) (ENGLAND AND WALES) RULES 2006
THE PROPOSED NETWORK RAIL (SUFFOLK LEVEL CROSSING REDUCTION) ORDER

Please find attached a letter containing representations and objections from the Ramblers' Association ('the Ramblers') in respect of the above order for whose making Network Rail have applied to the Secretary of State for Transport.

For completeness, you should by now have received a hard copy of the same document by the ordinary mails.

We would be grateful if you could please acknowledge the safe receipt of the representations and objections.

Yours faithfully

Eugene Suggett

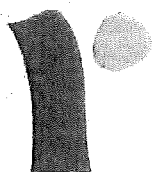
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ramblers

at the heart of walking

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3 May 2017
By post and email

Our ref: Adv & Eng/ES/LB

Dear Secretary of State

TRANSPORT AND WORKS ACT 1992 and THE TRANSPORT AND WORKS
(APPLICATIONS AND OBJECTIONS PROCEDURE) (ENGLAND AND WALES) RULES
2006

THE PROPOSED NETWORK RAIL (SUFFOLK LEVEL CROSSING REDUCTION)
ORDER

REPRESENTATIONS AND OBJECTIONS BY THE RAMBLERS

1. This letter contains representations about and objections by the Ramblers' Association ('the Ramblers') to the Proposed Network Rail (Suffolk Level Crossing Reduction) Order, as lately proposed to be made, details of which were served on us by notice dated 24 March 2017.
2. In this letter—
 'TWA' means the Transport and Works Act 1992;
 'NR' means Network Rail.

The Ramblers

3. The Ramblers is a registered charity and company limited by guarantee, founded as a voluntary body in 1935. Its objects are to promote the health, recreation and environmental benefits of walking, especially by protecting and extending the network of public paths and access in town and countryside, and safeguarding the countryside and open spaces so that walkers can enjoy their tranquillity and beauty. We have about

105,000 members throughout England, Wales and Scotland; our Suffolk Area has about 1,700 members.

4. Our goal of promoting walking extends to walking for the purposes of everyday transport, not just for recreational purposes, though often the two will overlap. Encouraging people to walk for short routine journeys, including walking to reach public transport links, benefits the environment by keeping cars off the roads, and individuals and the nation by keeping people fitter. Direct off-road paths encourage more people to walk, providing the incentives of convenience and the delight of not walking against road traffic, with its attendant noise and fumes and potential danger.
5. So good walking infrastructure is important. Hence our ambition to ensure that everywhere there are paths which encourage people to walk, that the right infrastructure is in place, and that resources are provided so that everyone can enjoy the outdoors on foot.

Health and economic benefits of walking, and the need to encourage people to walk

6. Walking benefits walkers. There is increasingly strong evidence of the health-benefits of walking. For example: the fact that brisk walking improves circulation and the performance of the heart and lungs. Walking can lower blood-pressure;¹ it can reduce risk of stroke,² and of heart disease,³ the UK's biggest killer. It can improve control of blood sugar in type-two diabetes;⁴ it has an important role in cardiac rehabilitation.⁵ And walking promotes mental health and well-being, and improves self-perception and self-esteem and mood; it has the potential to be as effective as anti-depressants or psychotherapy in treating depression.⁶ Widespread take-up could massively lighten the economic burden caused by physical inactivity (in 2009 each Primary Care Trust spent an average of £5m on dealing with its consequences⁷).
7. There are economic benefits as well. We refer to the 6.14 billion pounds which walkers spend annually in the English countryside, the income in excess of 2 billion pounds which they generate, and the 245,000 full-time jobs which they support.⁸ Walking tourism in rural and coastal Wales is estimated to contribute over £550million to the economy.⁹

¹ Department of Health, *At least five a week: evidence on the impact of physical activity and its relationship to health—a report from the Chief Medical Officer*, 2004.

² Wen and Wu, 'Stressing harms of physical inactivity to promote exercise', *The Lancet* 2012 380 192–193.

³ Department of Health, *Start active, stay active: a report on physical activity from the four home countries' Chief Medical Officers*, 2011.

⁴ Foresight, *Tackling obesity: future choices*, Government Office for Science.

⁵ Department of Health, *Coronary heart disease, NHS framework—modern standards and service models*, 2000.

⁶ E McAuley *et al*, 'Physical activity, self-efficacy and self-esteem: longitudinal relationships in older adults', *Journals of Gerontology Series B* 60(5) 268–275.

⁷ HM Government, *Be active, be healthy—a plan for getting the nation moving*, 2009.

⁸ M Christie and J Matthews, *The economic and social value of walking in rural England*, report for the Ramblers' Association, 2003.

⁹ Wales Tourist Board, 2005.

8. So an increase in walking in the country can reduce the nation's health-bill and boost the rural economy.
9. So there is a need for a path network which encourages the activity: a network which connects people with their communities and their local amenities, with their history and with the wider natural environment.
10. The present proposed closures of level crossings look set to deliver a heavy hammer-blow to these aspirations. They stand in places to sever the network and provide unacceptable alternatives. The Ramblers urges that the Secretary of State bear in mind the potential effects of the closure of the level-crossing-paths to whose extinguishment or diversion we object below, especially where walking along dangerous or inconvenient ordinary roads is the alternative, or where an alternative off-road link is nonetheless an unacceptably (and off-putting) long diversion. All of these are a disincentive to walking and militate against its benign effects.

Legal considerations

11. The order would be made under sections 1 and 5 of the TWA. Subsection (6) of section 5 provides that '[a]n order under section 1 or 3 ... 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.'
12. We ask the Secretary of State, in assessing whether any alternative is required or whether any alternative to be provided is in fact adequate, to take into account what we say here about 'Legal considerations', and below under 'Government guidance'.
13. The statute does not appear to require the Secretary of State to decide on the adequacy of any alternative route, merely that where necessary one has been provided; and there appears to be little in the way of case law on this point. However, the Ramblers invites the Secretary of State to take into account two cases which deal with the closure of rights of way under section 209 of the Town and Country Planning Act 1971, the predecessor section to section 247 of the Town and Country Planning Act 1990. We submit that by analogy with these leading cases, the Secretary of State should take into account the general suitability and adequacy of any replacement path, and not make the order in respect of a proposal where the alternative is unsuitable or inadequate. The planning legislation on the face of the statute in the cases we mention below empowers the Secretary of State to make an order purely on being satisfied that the stopping up or diversion is necessary to enable the development to be carried out in accordance with planning permission, without consideration of any effect on persons affected by the closures or diversions.
14. However, in *K C Holdings (Rhyl) Ltd v Secretary of State for Wales and Colwyn Borough Council* (1990)¹⁰ it was held that the Secretary of State had discretion to consider the

¹⁰ [1990] JPL 353.

merits and demerits of the proposed closure of a footpath in relation to the particular facts that obtain. The judge (Sir Graham Eyre QC) rejected the argument that once the Secretary of State was satisfied that the development could be carried out only if the extinguishment was effected, the Secretary of State was obliged to make the order.

15. And in *Vasiliou v Secretary of State for Transport* (1990)¹¹ the Court of Appeal ruled that the Secretary of State had to take into account the effect that an order would have on the rights which would be extinguished. An important relevant factor was that the legislation contained no provision for compensating persons so affected.
16. There is no case-law directly applicable to the limitation in TWA section 5(6) on the Secretary of State's powers, but we draw the Secretary of State's attention to some useful guidance in a couple of cases to do with this same principle. They apply to the section 116 of the Highways Act 1980, and may not be binding on the Secretary of State in the present matter, and we make no extravagant claims as to their force, but we submit that by analogy the decision-makers in the present matter may find the cases of use.
17. In *Ramblers' Association v Kent County Council* (1990),¹² it was held that the magistrates, determining an application to extinguish a public right of way under section 116 of the Highways Act 1980, would need to bear in mind that the way had to be unnecessary for the public; the convenience of the landowner was not a relevant factor. Lord Justice Woolf (as he then was) said that where there was evidence of use, it would be difficult for the magistrates properly to come to the conclusion that a way was unnecessary unless the public were, or were going to be, provided with a reasonably suitable alternative way. Woolf LJ further held that when deciding whether an alternative way was reasonable, the magistrates had to be satisfied that the alternative way was suitable, or reasonably suitable, *for the purpose for which the public were using the existing way*. For the general guidance of magistrates in future cases, Woolf LJ made the following points—

... First of all I consider the magistrates, in deciding whether a highway is unnecessary, should bear in mind the question for whom the highway is unnecessary. It is to be unnecessary to the public. It is the public who have the right to travel up and down the way in question, and it is the public with whom the magistrates should be concerned because the right is vested in them....

Then the justices might ask themselves ... the question for what purpose the way should be unnecessary.... So far as that is concerned, it should be unnecessary for the sort of purposes for which the justices would reasonably expect the public to use that particular way. Sometimes they will be using it primarily to get to a particular destination. Another reason for using a way of this sort can be for recreational purposes.

In my view, where there is evidence of use of a way, *prima facie*, at any rate, it will be difficult for justices properly to come to the conclusion that a way is unnecessary unless the public are ... going to be provided with a reasonably suitable alternative way.... It must be suitable, or reasonably suitable, for the purpose for which the public were using the existing way.

If it is a way which has similar characteristics as the existing way, then certainly the justices can find that the existing way is unnecessary, albeit that the justices must also bear in mind that the result of the loss of way could be to render the other ways which are available more crowded than they are at present. If a way is being used primarily by the public for recreational purposes, that is a consideration which the justices are perfectly entitled to take into account and, in my view, should take into account in deciding whether the way is unnecessary.

¹¹ [1991] 2 All ER 77.

¹² (1990) 154 JP 716, [1990] COD 327

18. Mr Justice Pill (as he then was) added that it was not open to the magistrates to decide that a way was unnecessary because they held the view that it was in the public interest that the highway should be closed.

Government guidance

19. The Ramblers has misgivings about the use of the TWA for these purposes. In a publication called *A guide to TWA procedures* by the Transport and Works Act Unit at the Department for Transport, there appears this advice:—

[On page 16] The following matters are unlikely to be approved in TWA orders on policy grounds, unless compelling reasons can be shown:

...

proposals which could more properly be dealt with under other existing statutory procedures—for example the closure of an inland waterway or public right of way where no associated new works requiring a TWA order are proposed.

[And on page 105] The power to extinguish a public right of way is however restricted by section 5(6). This provides that a section 1 or 3 order shall not extinguish a public right of way over land unless the Secretary of State is satisfied that an alternative right of way has been or will be provided, or that one is not required. If an alternative is to be provided, the Secretary of State would wish to be satisfied that it will be a convenient and suitable replacement for existing users.

20. There are no associated new works requiring a TWA order in this programme, and we have seen no compelling reasons that any level crossing closures desired by NR could not be dealt with by orders made under sections 118A and 119A of the Highways Act 1980 which were specifically inserted into the Highways Act 1980 by the 1992 Act because the government at the time was sufficiently persuaded of the need for special powers to divert or close public paths crossing railways on the level.

General principles which the Ramblers say should apply to all the proposals to divert public rights of way

21. The Ramblers submit that all new public rights of way must be adopted by the highway authority for maintenance purposes, and all should be shown on the definitive map and statement. (It does not appear from the documentation that this will be so.)
22. Assurance must be obtained from the highway authority that they are willing to pay for grass cutting, for the repair of fences and for other maintenance, or else similar assurance should be given by NR.
23. In no case should an alternative route include stiles or other impediments to use by people with mobility problems.
24. Any new field-edge footpaths in urban or village environs should have firm, grassed surfaces.

Objections or representations by the Ramblers concerning specific closures or diversions

25. Where below we have objected to or made representations about a closure or diversion, we reserve the right to expand upon the objection or representation, or amplify it.

THE DIVERSIONS IN PART 1 OF SCHEDULE 2**Parishes of Higham and Barrow at Higham Ground Frame (S24)**

26. The Ramblers are neutral over the proposals affecting Footpath 006 Barrow, the non-definitive path between points Po10, Po11A and Po11, and Footpaths 004, 002 and 003. The suggested creation of new routes is welcomed and will provide good links to existing footpaths south of the A14.
27. However there are concerns—if we have understood matters correctly—that these new alternative routes may not be deliverable because of lack of landowner consent, which may take a considerable amount of time to achieve.
28. We therefore place a holding objection subject to assurance on the point that the paths will in fact be available.

Footpath 017, Parishes of Great Barton and Bury St Edmunds (S25, Cattishall Crossing)

29. The Ramblers objects to this proposal. The crossing should not be closed until a bridge is built. We recognise, of course, that, tragically, there has been a fatality at this crossing. But the crossing is an important link in the local footpath network: important not least because of the extensive housing and industrial development in this area.
30. It is essential that the bridge be built as soon as possible, and not put off to sometime in the future (as we fear may be the intention).
31. The proposed diversion and new right of way along the side of the railway line back to the north of the level crossing is an extremely long way round, even for cyclists. If the diversion should go ahead then the original red route north of the underpass which meets the byway W-271/004/o should be reinstated as a new right of way.

Footpaths 005, the non-definitive path between points Po23 and Po24 and between points Po25 and Po26, Footpath 011, and the non-definitive path between points Po27, Po28A, Po28, Po37 and Po36, Parish of Thurston (S27 Barrels Crossing, and S28 Grove Farm Crossing)

32. We object to the Barrels Crossing proposals. The diversion route is too long. We believe more pleasant alternatives to walking along the line could be made available.
33. We object to the Grove Farm Crossing proposals. The diversion route is naturally inconvenient, being indirect and too long. Should the proposal for the new path to run east-south-east from S28 not materialise, walkers would be seriously disadvantaged. The

alternative route for walkers south of the railway coming from Stockhold Green in the west and heading for Grove Farm and the newly proposed (by Suffolk Wildlife) expanded reserve lying between Grove Farm and the River Blackbourn would face a long detour to the south, using the existing rights of way to reach that destination.

Footpath 012, parish of Elmswell (S29, Hawk End Lane Crossing)

34. The Ramblers objects to this proposal. We do not think that the red route is viable. Very few people would wish to walk along the north side of the railway, under the bridge, then back up the other side to re-gain access to Hawk End Lane.
35. The footpath No 11, which skirts around the factory site, which has just had planning permission granted for 190 homes, would be a more useful route if it were to access the pavement of the industrial estate. Residents from this proposed development would have a short walk to the station, to the pub and to the shops; and it would save walking along the increasingly busy Station Road. On the plans for this proposed development, the path is shown running along the new roads and terminating at the railway (as it does at present).
36. We feel that if there were discussions between the developer and NR, a suitable compromise could be obtained, which would be safer for the residents and at a considerably lower cost.

Footpath 009, parish of Elmswell (S30, Lords No. 29 Crossing)

37. The Ramblers has no objection to this proposal. The path leads only to a cul-de-sac path. Many dog-walkers use it, but the route over Lords Bridge is a good, and safer, connecting alternative.

Footpath 035 and non-definitive path between points Po51, Po51A and Po48, parish of Wetherden (S31, Mutton Hall Crossing)

38. The Ramblers objects to this proposal, which involves re-routing users over the road bridge. The road at this point is dangerously narrow, being just wide enough to allow two cars to pass. There is no pavement on the bridge, nor even a refuge; and it is on a bend.
39. The Ramblers believes this level crossing path, which has no record of incident, could in any case be made safer than it is by the cutting-back of vegetation.

Footpath 014 and non-definitive path between points Po62, Po62A, Po60B and Po60, parish of Bacton (S13, Fords Green Crossing)

40. The Ramblers objects to this proposal. The severance will have a significant effect on the rights of way network.
41. There have been no incidents here and the crossing could be made safer by the cutting-back of vegetation.

Footpath 013 and non-definitive footpath, parish of Bacton (S69, Bacton Level Crossing)

42. The Ramblers objects to this proposal. It is an amenity path and its closure will cause hardship to the residents of Bacton. We understand that research suggested it may not be greatly used, but that makes it no less valuable to persons who do use it. The severance will have a significant effect on the rights of way network.

Bridleway 010 Finningham (S16, Gislingham Crossing)

43. This is a holding objection to this proposal. We will withdraw it provided the alternative route is constructed as a bridleway to the point where it joins Eastlands Lane.

Footpaths 026 and 022 and non-definitive path between points Po78, Po83 and Po80 and Po81 and Po84, parishes of Gislingham and Wickham Skeith (S17, Paynes Crossing)

44. The Ramblers objects to this closure, which would cause a significant break in the path network. (A different route, by Coldham Grove, mentioned in the consultations prior to NR's application for the present order, would have been a positive addition to the rights of way network and would have taken people away from the railway.)

Footpath 033 parish of 'Needham Market'¹³ (So8 Stacpool Crossing)

45. We neither agree nor disagree with this, though the path w-121/034/0 is made something of an orphan and requires more road walking.

Footpath 012 and non-definitive path between Po99 and P102, parish of Barham (So7, Broomfield Crossing)

46. The Ramblers objects to the proposal. The alternative route is significantly less convenient, in terms of directness and length.
47. We acknowledge that the re-siting of the path on drier ground to the west of the railway bridge is a benefit. But in exchange for the 280 metre field path proposed to be closed, users are being offered the same length on a track which the Ramblers believe to be a right of way in any case. There is merit in retaining the apparent cul-de-sac section east of the foot-crossing, as there is in fact a track shown from there to the bridge.

Footpath 34 and non-definitive path, parish of Wherstead (So5, Pannington Hall Crossing)

48. The Ramblers objects to this proposal. The alternative, in terms of direction and distance, is inconvenient.
49. The existing line is a straight section of trackway with good views for the walker. With this proposal the walker loses 1000m of open path; in exchange for a slightly longer path closer

¹³ We think this is actually the parish of Barking; the parish boundary as shown on the plan does not seem to coincide with the one on the Ordnance Survey. This may not matter for present purposes.

to The Street. (The earlier proposal mentioned during the pre-application consultation seemed far better.)

Footpath 018 and non-definitive path, parish of Bentley (SO4, Island Crossing)

50. We are neutral on this. The alternative route is longer, but we are unsure as to how the views would compare. We are sure some people would appreciate the circular route to the west of the line, with the footpath parallel to the minor road added.

Footpath 022 and two non-definitive paths, parish of Bentley (SO3, Buxton Wood Crossing)

51. We do not object to this, though we regret the loss of the section with better views.

Footpath 006 and non-definitive path, parish of Brantham (SO2, Brantham High Bridge)

52. The Ramblers objects to this proposal. Our concerns are the relative inconvenience of the diversion route and the effect on connection with the local rights of way network.
53. Whilst the new route proposed is an improvement on the proposal made at the earlier, consultation stage, there is still 320m of road walking. The use of Jimmy's Lane is of some value, given the permissive paths (not shown on the plans with the draft order) which connect to Gravel Pit Lane. Part of the alternative runs adjacent to the railway for 400m so is less pleasant in terms of amenity.

Footpath 013, parish of Brantham (SO1, Sea Wall Crossing)

54. The Ramblers objects to this proposal. Part of the route to be lost has excellent views from the Sluice to the railway foot crossing. The current layout makes for a good circular walk. On the other hand, the idea of walking (say, west-south-westards) on restricted byway 014 and footpath 013 along the north side of the railway, then in the opposite direction east-north-eastwards on the southern side of it on the new right of way between points P161 and P162, seems bizarre, turning a 'circular' walk into a somewhat artificially rectangular one.

THE EXTINGUISHMENTS IN PART 2 OF SCHEDULE 2

Non-definitive path in parish of Newmarket (S22, Weatherby Crossing)

55. The Ramblers has no objection to this proposal.

Footpath 001, parish of Higham (S23, Higham Crossing)

56. The Ramblers wishes to place a holding objection to this closure. From an early stage we found this crossing to be physically closed by chain-link fencing, with steps and signage removed, and it remains in this condition, making it less easy to weigh the proposal.

57. Prior to the dualling and re-routing of the A14 (then the A45), in the mid 1970s, Higham Footpath No. 1 crossed the (then) single carriageway, but was not, apparently, taken into account when the 'new' road was designed, resulting in a dangerous crossing of the dual carriageway. However, that section of the footpath to the north of the new road was subsequently diverted at the request of the landowner to a field-edge route, approximately 600m to the east, providing facility to cross the A14 via the road bridge which carries the Barrow-Tuddenham road.
58. No changes to the south of the new road were proposed at that stage and, to reach the southern section of Higham Footpath No. 1, there was no alternative to a 600m trek westwards along the former A45, now an 'on' slip-road of the A14, with ever-increasing fast-moving traffic, via the Round House junction, before turning south, off-road, to reach S23. That part of the slip-road to the west of the Round House is considered to be particularly hazardous and a route using the village street southwards is the preferred option.
59. This should, however, be supplemented by a 'safe' footway alongside the former A45 between the road bridge referred to above and the Round House—this being a condition of agreement to the closure, for road safety reasons—linking the rights of way on both sides of the A14.
60. We will withdraw the objection if this requested footway can be provided.

Footpath 012 parish of Haughley, Footpath 006 Old Newton with Dagworth, and non-definitive path between points Po54B and Po54C (S11, Leggetts Crossing)

61. The Ramblers objects to this closure. The loss will cause unmitigated inconvenience to the path's users. This is a significant break in the network.
62. There have been no incidents at this crossing, which the Ramblers believe could be made safer by the cutting-back of vegetation to improve users' sightlines.

Non-definitive footpath, parish of Mellis (S21 Abbotts Crossing)

63. The Ramblers does not object to this closure.

THE REDESIGNATION OF HIGHWAYS IN SCHEDULE 3

Byway open to all traffic 11, parish of Mellis (S18, Cow Pasture Lane)

64. The Ramblers welcomes this redesignation of a BOAT to the status of bridleway.

THE TEMPORARY STOPPING UP OF STREETS IN SCHEDULE 8

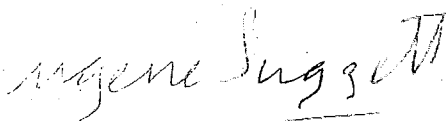
65. We will not comment here where the proposal is covered above by reason of permanent alteration. But one of the temporary proposals causes us considerable concern, see next paragraph.

3 May 2017

Footpath 018, Westerfield, Borough of Ipswich (So33)

66. The Ramblers objects to this closure, temporary though it appears to be. This footpath, part of a promoted walk known as the Fonnereau Way, is an essential link in a useful walk which enables Ipswich residents to access their local countryside easily. The alternatives are not satisfactory, though we acknowledge that the route by Mill Farm could be useful for people of limited mobility for whom the proposed bridge was too difficult to use.
67. The existing crossing is an important one and the Ramblers requests that it remain open until a proposed bridge is built and brought into use.

Yours faithfully



EUGENE SUGGETT
SENIOR POLICY OFFICER, THE RAMBLERS

