

Our Ref: CMR/HMFM/318138.0001  
Your Ref:  
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**Birketts**

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Birketts LLP  
24-26 Museum Street  
Ipswich  
Suffolk IP1 1HZ

T: +44 (0)1473 232300  
F: +44 (0)1473 230524  
DX: 3206 Ipswich  
E: [mail@birketts.co.uk](mailto:mail@birketts.co.uk)

[www.birketts.co.uk](http://www.birketts.co.uk)

**By Recorded Delivery**  
Secretary of State for Transport  
c/o Transport and Works Act Orders Unit  
Department for Transport  
Zone 1/18  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR

Dear Sirs

**The Transport and Works Act 1992**  
**The Transport and Works (Applications and Objections Procedure) (England and Wales)**  
**Rules 2006**  
**Proposed Network Rail (Suffolk Level Crossing Reduction) Order**

We are instructed by Mr David Caldwell, of [REDACTED]  
Mr Caldwell is the owner of land which is subject to the above order, in respect of the closure of level crossing S03 Buxton Wood (S03) in the parish of Bentley, Suffolk.

We write to lodge strong objection of behalf of our client to the creation of a new public right of way on foot on his land. The grounds for objection are outlined as follows:

**Background**

Network Rail (NR) has undertaken no consultation with our client. Mr Caldwell only became aware of the proposal to close level crossing S03 as a result of local newspaper coverage and his consequent attendance at a public consultation event in September 2016. Since then NR has refused to engage in any meaningful discussion with him on the matter.

Our client is now aware that in June 2016, Round 1 consultations on the closure of S03 by NR proposed the creation of a new public footpath of length approximately 380 metres and width 2 metres on his land, creating a direct link for the public between S03 and the Falstaff crossing to the north. This would have rendered an area of some 760m<sup>2</sup> of his arable land unproductive, and was referred to by NR as the Green Route.

Information published by NR in respect of its Round 2 consultations in September 2016 stated that it had consulted widely in June including, erroneously, that it had consulted with landowners. It published that, of responses received to its June 2016 consultation, 58% of respondents supported the Green Route. The other options published in June for a new public footpath received less public support: Red Route: 8% and Blue Route: 17% and Other: 17%.

Notwithstanding the strong public support for the Green Route, in September NR dismissed this option on the grounds of "drainage issues adjacent to railway". It published the proposed creation of a public right of way on foot on our client's land of length approximately 600 metres and width 2

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metres, affecting an area of some 1200m<sup>2</sup> of his land ('Round 2 Route'). The Round 2 Route is the subject of the current application for an order.

Since the September consultation NR has revised its proposals for the diversion of a footpath in respect of the closure of S04, The Island, which is the neighbouring crossing. It now proposes a fenced 1.5m wide footpath on its own land as adequate provision for public access in this area.

#### **Objection 1**

The drainage issues referenced by NR as the reason for not proceeding with the Green Route are the result of NR's failure to maintain proper drainage of its land. This matter is the subject of separate litigation between our client and NR. If NR was fulfilling its obligations the Green Route would be practical, as would a route which replicated NR's current proposal in respect of S04.

#### **Objection 2**

Our client has a permit from the Environment Agency to dredge the watercourse adjacent to the Round 2 Route. This work is to keep the stream clear, flowing freely and to remove silt/debris which has washed from upstream. It also maintains the banks to stop any collapses. The permit requires the spoil from this operation to be spread on the land within a digger boom length of the watercourse. Dredging from the other side of the watercourse is not possible, this being water meadow and too difficult to access. The Round 2 Route will therefore render dredging impossible, there being offences under the Highways Act 1980 of obstructing the highway, damaging the surface of the highway and depositing anything on the highway.

#### **Objection 3**

There is an electricity pylon in the field adjacent to the Round 2 Route. At present our client is able to cultivate between the pylon and the watercourse. However, the Round 2 Route will make this impossible, it being an offence under the Highways Act 1980 to disturb a field edge footpath; there will be insufficient width for farm machinery to access the space between the footpath and the pylon. In consequence, in addition to the 2m width of arable land taken by the footpath there will be the loss of approximately 40m<sup>2</sup> of land currently capable of cultivation, as a result of negotiating round the pylon in the area of the Round 2 Route.

#### **Objection 4**

The watercourse and adjacent field headland currently provide an undisturbed environment for flora and fauna. In the past the Suffolk Wildlife Trust has undertaken a survey of the area. The disturbance of the environment which results from the Round 2 Route is unnecessary and unjustified.

#### **Objection 5**

The objective of creating a new public footpath is to enable walkers who would currently use Footpath 22 at S03 to be able to continue their journey using the Falstaff crossing instead. The Green Route proposal achieved this objective, continuing the approximate desire line for walkers in a generally northerly direction. A route which replicated the S04 Island route (ie 1.5m wide on NR land and fenced adjacent to the track) would provide the most direct link possible. The Round 2 Route represents a significant diversion in direction and adds some 220 metres to the distance to be walked between the two crossings over the Green Route or over a direct link on NR land. This is substantially less convenient to the public.

In consequence it is anticipated that walkers would not follow the southern section of the route, but seek a direct east-west route from level with S03 to the Round 2 Route, leaving the owners of the land with a need for constant diligence to prevent the public accessing this land.

#### **Conclusion**

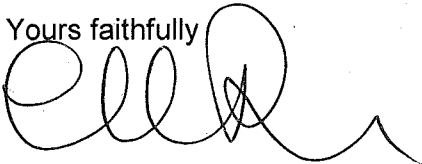
Our client deplores the lack of consultation on this matter by NR and that it is pursuing the Round 2 Route given that the drainage issue is its responsibility and the subject of current litigation.

Our client objects to the Round 2 Route on the grounds of the unnecessarily burdensome impact on his land, and on the environment, notwithstanding that he will be entitled to full compensation for the impact.

Our client can see no justification for the Green Route, given that NR's resolution of the drainage issue would render it possible to create a route in its land which would be wholly comparable with the route proposed to be created in respect of the S04 Island crossing closure. This link would be the most direct route for the public.

Our client requests the opportunity to be heard at a local public inquiry.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Carol Ramsden', written over the words 'Yours faithfully'.

**Birketts LLP**

Direct Line: 01473 406338  
Direct e-mail: [carol-ramsdend@birketts.co.uk](mailto:carol-ramsdend@birketts.co.uk)

cc Mr A Prowse, Bruton Knowles 15 Castle Gate Nottingham NG1 7AQ (Ref AWP/LE/32028)