TRANSPORT AND WORKS ACT 1992
APPLICATION FOR THE PROPOSED NETWORK RAIL (SUFFOLK LEVEL CROSSING REDUCTION) ORDER
Ref. TWA/17/APP/03/OBJ/24

Statement of Case
on behalf of Mairi Jean Johnston and Alistair Fish

Objectors

Overview

1. This statement of case is made on behalf of Mairi Jean Johnson and Alistair Fish as trustees and owners of land at Barrow, Suffolk which is affected by the proposed changes to public rights of way consequent upon the intended closure of Higham Ground Frame level crossing ("the crossing"). A letter of objection to the above Order was submitted to the Secretary of State for Transport by Strutt and Parker on behalf of the Objectors. A copy of the letter is at **Appendix 1** hereto. The extent of land in the vicinity of the crossing within the ownership of the Objectors is shown edged blue on the plan at **Appendix 2** hereto ("the plan").

2. The crossing is an unmanned pedestrian only crossing to accommodate Footpath ("FP") 6 Barrow which runs on a north / south alignment. Approximately 150m to the north of the railway line the footpath crosses the dual carriageway A14, without the use of a bridge or underpass. To the north of the A14, the footpath becomes FP3 Higham, which links with FP2 Higham running to the west to join FP6 Higham which crosses the A14 by means of a bridge. There is no link from FP3 Higham to any route running east.

3. FP6 Barrow is rarely used, such that the crossing count undertaken by Network Rail registered no users.

4. The Objectors do not object to the proposed closure of the crossing, but do object to the some of the proposed public rights of way to be created as alternative ways to the route proposed to be extinguished.

5. The Objectors use land in the vicinity of the crossing for the purposes of their business as a clay shooting ground and for testing rifles and shotguns. These uses are wholly incompatible with public access.

6. The Objectors have had dialogue with Network Rail as a result of which they understood that Network Rail have agreed to dispense with the proposed bridleway to the north of the railway between the points B and C on the plan, and with the proposed footpath between points D and E. The agreement is evidenced in an email dated 15th June 2017 from Jonathan Bolton of Network Rail a copy of which is at **Appendix 3**. In consequence of this agreement the closure of the crossing would be accommodated by:-

6.1 the creation of a footpath between points A and B creating a link to the highway at point B, and

6.2 the creation of a footpath on the alignment A - G - F to create a link with FP 5 Higham.

These creations are acceptable to the Objectors.

The current and proposed network of public rights of way

7. The crossing accommodates only FP6 Barrow. No doubt in part because of the dual hazards of having to cross the railway line and the very busy A14 dual carriageway, the route is very little used.

8. Consideration of the existing network of public rights of way in the vicinity of the crossing shows that FP6 does not provide any link to the east, but both to the north and south of the railway (and A14), it does provide a link to routes to the west.

9. It is not within the remit of the current process to secure unrelated improvements to the network of public rights of way, but only to mitigate the effects of closure of existing crossings of the railway.

10. In terms of utility, in order to mitigate the consequence of closing the crossing it is necessary, when approaching from the south, only to provide a link from point A to point F, and when approaching from the north, from point J to point A.

11. The link between points A and F is provided by the footpath proposed to be created on the alignment A - G - F.

12. The link between points J and A is provided in part by existing footpaths, supplemented by the short proposed link between H and I, and the proposed footpath F - G - A.

13. The proposed creation of a footpath between points A and B is not necessary to mitigate the effects of the closure of the crossing, and should be seen as a gain to the network. The Objectors do not object to this link.

14. The proposed creation of a route between points B and C is wholly unrelated to the closure of the crossing and is not appropriate within the ambit of this order. It would prevent the exiting highway from the south (the U7020), which currently terminates at point B, from being a cul-de-sac, but this situation has not arisen by reason of the current closure program, and it is not within the remit of this order to address any issue relating thereto.

15. The proposed creation of a footpath between points D and E is similarly wholly unrelated to the consequences of closure of the crossing. As previously stated, the existing network does not provide a link to the east from point A, and there is no need to provide one in order to mitigate the impact of closure. Notwithstanding this the Objectors do not object to the creation of the route A to B, which confers a benefit to the network. They do however object to the proposed route D to E which duplicates the effect of the route A to B, and is thus both unnecessary to mitigate the closure of the crossing and provides no additional utility.

16. Modification to the network of public rights of way which is unrelated to the closure of the crossing should not be undertaken pursuant to the provisions of the Transport and Works Act 1992 and should only be considered under the provisions of the Wildlife and Countryside Act 1981.

Impact on the Objectors' land

17. The Objectors operate the well-established Barrow Heath Shooting Ground which is one of the country's leading such grounds and which is used for competitions at the highest level. This business is located in the area shown hatched red on the plan. The shooting ground is used for recreational and competitive clay shoots. It is a popular and busy facility.

18. The shooting ground is the subject of significant investment including the provision of a new clubhouse building. The building and development program is expected to take up to three years and whilst this is underway it is planned that the shooting activities will be temporarily relocated to the site currently used for rifle and shotgun testing described below, and being the land within which the proposed route B to C is located.

19. Although the shooting ground is located to the south of the railway, it is at a point where the rail track runs on the level. For safety reasons the business could not operate if a public right of way were to be created on the alignment B to C. Recreational public use and shooting are wholly incompatible activities.

20. The Objectors run a business known as "Forelock and Load" from premises in Church Road Barrow. This business incorporates a gun shop retailing shotguns and rifles. The area shown hatched black on the plan is used as a practice and testing

ground for shotguns and rifles. It will be noted that the proposed route B to C runs through this parcel of land. Because of the topography this area is particularly suitable for this activity and there is no alternative suitable location within the Objectors' ownership. It is self-evidently unsafe and inappropriate for land used for these purposes to be located within the vicinity of a public right of way.

21. Planning permission has been sought to use the land shown hatched yellow on the plan as a caravan and storage facility. The proposed route B to C is adjacent to this site. Security of the site is of significant importance and will be compromised by the creation of a public right of way adjacent to it.

22. The land adjoining the proposed route D to E shown hatched green on the plan is part of a commercial game shoot and is used for these purposes up to 50 to 60 days per year during the season. The presence of a public right of way on this proposed route will create significant safety issues. Furthermore the presence of users on the route, especially when accompanied by dogs, will disturb and potentially ruin the use of this land for shooting purposes. Considerable conservation works have been undertaken in this area to create suitable habitat for the native grey partridge which is in serious decline.

Conclusions

23. The closure of the crossing is supported.

24. Appropriate mitigation of the effect of closure on the public rights of way network can be achieved by the creation of a public footpath on the alignment A - G - F.

25. The creation of a public footpath on the alignment A to B will confer a benefit to the network, but is not necessary to mitigate the effect of closure of the crossing.

26. The creation of a public right of way on the alignment B to C has no relevance to the closure of the crossing and will be significantly detrimental to the interests of the landowner and is unwarranted.

27. The creation of a public footpath on the alignment D to E has no relevance to the closure of the crossing and does not improve the rights of way network as, in terms of utility it duplicates the provision of the route A to B. Furthermore it will be significantly detrimental to the interests of the landowner and is unwarranted.

12th July 2017

Birketts LLP - Ref NF 175983.0004

Solicitors for the Objectors

LIST OF SUPPORTING DOCUMENTS

Reference	Document	Page
Appendix 1	Letter of objection	6
Appendix 2	Plan	8
Appendix 3	Email dated 15 June 2017	9

APPENDIX 1

DW 0044 4500 5GB

The 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

Email to: transportandworksact@dft.gsi.gov.uk

Direct dial: 01473 220435
Email: charles.loyd@struttandparker.com
Our ref: CAL/DD/CAB6/John5/4

26th April 2017

Dear Sir

Transport and Works Act 1992
Proposed Network Rail (Suffolk Level Crossing Reduction) Order
Notice No. 81

We write on behalf of Mrs Mairi Jean Johnston of [redacted] in connection with Notice No. 81 and wish to formally object to the Order on the following grounds.

1. The existing crossing is not sufficiently used to warrant an alternative route being identified once it is closed under the Order. The 9 day count recently undertaken identified zero usages of the crossing.

2. There are other bridleways in existence already provided, which give better routes away from railway line, without creating an additional route. The proposed diversion route does not lead anywhere and therefore adds no benefit to the bridleway network.

3. The diversion of the bridleway on to our client's land, following the closure of the crossing, will have a significant and detrimental impact on our client's business in the following areas.

    a) The proposed alternative route identified within the Order will use land which forms part of my client's farm diversification enterprises. Immediately adjacent to the intended route is an area of land which is used as a shotgun and rifle testing facility as part of my client's retail enterprise and this therefore presents significant dangers to the public. Locating a bridleway adjacent to the land will require the use to cease thereby creating a loss of income. The land on which testing is undertaken is only suitable because of its location and topography and there is no other land on my clients holding which can be used as an alternative site.

    b) Adjacent to the proposed route is an area of land which is the subject of a planning permission application (DC/17/0465) for use as caravan and storage facility. There are security issues with this site and the re-direction of a bridleway adjacent to this site will intensify those issues.

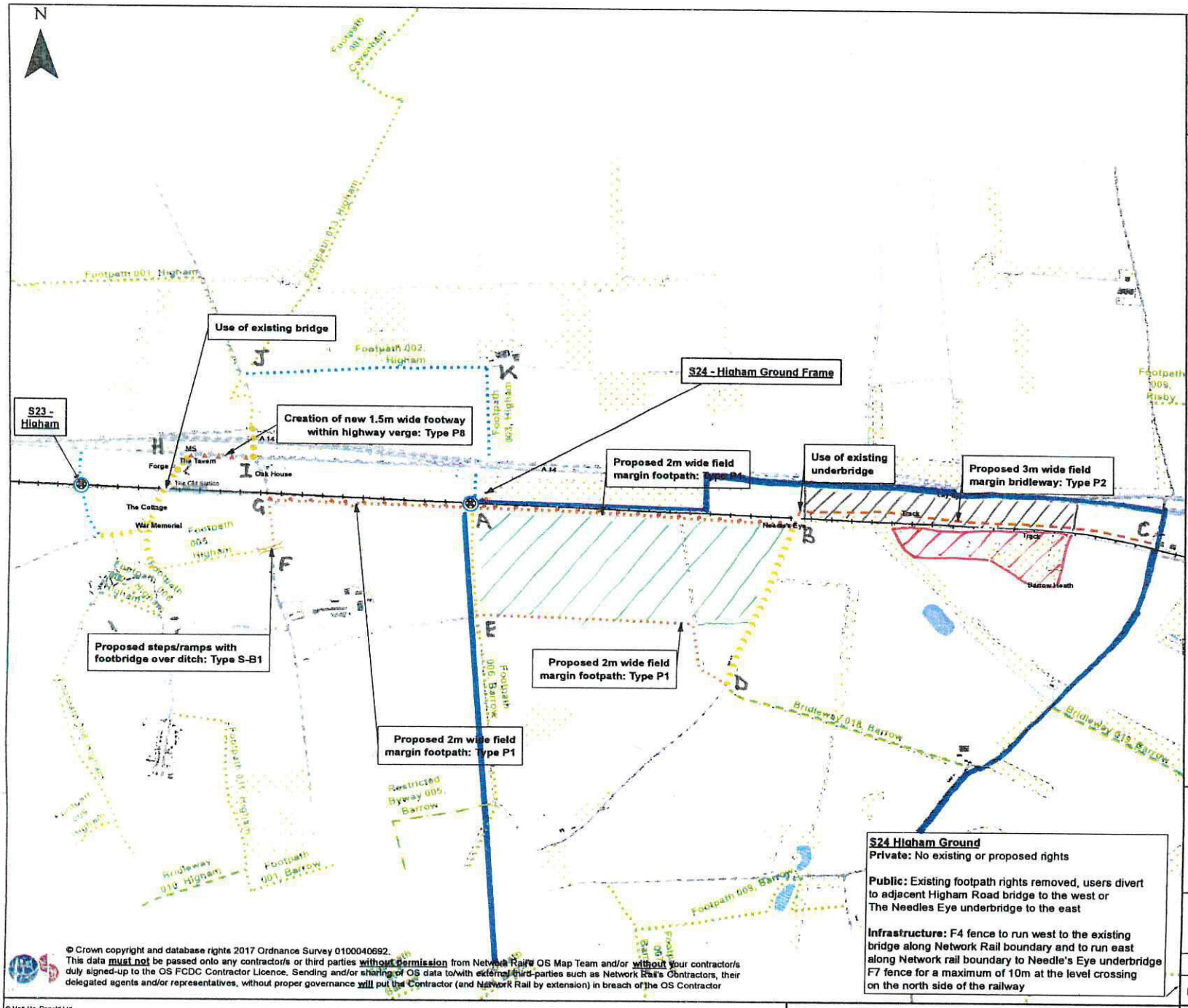
    c) The intended diversion route will border the boundary of an existing clay pigeon shooting school, which is a well-established business and which will be compromised if the bridleway is located along its intended route. The direction of shot will need to be severely restricted if the route is confirmed, which will render much of the site inoperable for its current purpose and will continue to present significant dangers for users of the bridleway.

In summary, our client does not object to the closing of the crossing, primarily on the basis that it is not used and that its closure will not affect the overall bridleway facilities in the area, but she does object to the proposed alternative bridleway route as shown in the Order on the grounds that it will have a significant effect on her business activities and will cause a significant financial loss of income.

Please acknowledge receipt of this objection and all future correspondence on this matter should be directed to Charles Loyd MRICS at Strutt and Parker LLP, 11 Museum Street, Ipswich IP1 1HH.

Yours faithfully

Strutt and Parker LLP



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WUKLEEDDC01\Projects\Leeds\Eastern\367516 - GRIP 2-4 - Anglia Level Crossings_JAS\GIS\Design\Design Freeze Plans\04 MXDs\New Format DFP3\Suffolk\367516 Design Freeze Proposal Plans - Alternative Format Suffolk.mxd

SECTION 1: LEVEL CROSSINGS

- Rights to be modified as part of this project
- Rights not modified as part of this project

The above symbols indicate existing level crossing locations.
The ring colours are as per section 4 below.

SECTION 2: TYPE OF RIGHT OF WAY (excluding adopted highway)

- Footpath (public)
- Bridleway (public)
- Restricted byway (public)
- Byway open to all traffic (public)
- Road / Track (private)

The line styles above illustrate the type of right of way extant or proposed.
The colour is per section 4 below.

SECTION 3: PROPOSED USE OF ADOPTED HIGHWAY

- Footway Available
- Verge Available (No Footway)
- Carriageway Available (No Footway or Verge)
- Motorised Only Diversion Route

Where the proposals may divert users onto an adopted highway, the above symbols denote where a footway is available, a verge only, or if neither a footway or verge is available and pedestrians would need to walk in the carriageway.

SECTION 4: PROPOSED STATUS CHANGE

- No change and not part of diversion
- Use of existing right of way as part of diversion
- Change of status to existing right of way
- Closure of existing right of way
- Creation of new right of way

The above colours apply to sections 1, 2 and 3 above.

SECTION 5: ASSOCIATED INFRASTRUCTURE (Indicative features)

- Fencing (tie into existing)
- Gates
- Bridges
- Footway
- Future developments by Third Party projects where planning details are available
- Railway

1. The layout shown on this drawing is indicative and may be subject to change at detailed design.
2. This drawing should be read in conjunction with the Suffolk Design Guide (Ref: 367516/ RPT023) which contains details of the infrastructure types referred to in this drawing.

S24 Higham Ground
Private: No existing or proposed rights

Public: Existing footpath rights removed, users divert to adjacent Higham Road bridge to the west or The Needles Eye underbridge to the east

Infrastructure: F4 fence to run west to the existing bridge along Network Rail boundary and to run east along Network rail boundary to Needle's Eye underbridge F7 fence for a maximum of 10m at the level crossing on the north side of the railway

NetworkRail

MOTT MACDONALD

Anglia Level Crossing Reduction Strategy

Design Freeze Proposals

S24 - Higham Ground Frame
Suffolk - Barrow CP
Post Code IP286NS

Rev	Date	Description	Dwn	E Chk	Ch'k'd	App'd
P3A	Mar 2017	For Information	WC	SRP	SJT	JAS

Scale at A3
NTS

Drawing No.
MMD-367516-S24-GEN-005

APPENDIX 2

APPENDIX 3

Charles Loyd

From: Boulton Jonathan <Jonathan.Boulton@networkrail.co.uk>
Sent: 15 June 2017 09:44
To: Charles Loyd
Cc: Nick Johnston
Subject: RE: Meeting Minutes- Johnston - Higham

Charles,

Without Prejudice & Subject to Contract

I just received your voicemail, apologies for the delay in coming back to you, in principle in exchange for your clients removing their objection Network Rail would be happy to change the route of the diversion, due to the slightly different nature of this Transport for Works Act Order from a normal CPO, the solicitors have been having some difficulties working out exactly how to document this, which has caused the delay, however the solicitors should be nearly ready with this so as soon as they have the relevant documentation I will send this through to you for your clients authorisation accordingly,

Kind regards

Jonathan

Jonathan Boulton
Surveyor (Anglia)
Property Services
1 Eversholt Street
London NW1 2DN
M 07710 939865
E jonathan.boulton@networkrail.co.uk
www.networkrail.co.uk/property

From: Charles Loyd [mailto:Charles.Loyd@struttandparker.com]
Sent: 05 June 2017 13:58
To: Boulton Jonathan
Cc: Nick Johnston
Subject: FW: Meeting Minutes- Johnston - Higham

Dear Jonathan

Following our telephone conversation just now I attach the minutes prepared from the meeting you had with my clients

We have been asked to prepare a statement of case by the 13th July and I wondered if you had had any further thoughts on the contents of the meeting and whether you were going to be able to agree to our requests as outlined in our objection

Kind regards

Charles

Charles Loyd MRICS
Partner
Eastern Land Management Department
Strutt & Parker LLP
11 Museum Street
Ipswich
Suffolk
IP1 1HH

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From: Nick Johnston [redacted]
Sent: 05 June 2017 13:39
To: Charles Loyd <Charles.Loyd@struttandparker.com>
Subject: Fwd: Meeting Minutes

m: Boulton Jonathan <Jonathan.Boulton@networkrail.co.uk>

to: [redacted]

cc: Day Steve <Steve.Day@networkrail.co.uk>,
Kenning Andrew <Andrew.Kenning@networkrail.co.uk>,
AngliaLevelCrossings <ALCross@networkrail.co.uk>

date: 22 May 2017 at 15:58

subject: Meeting Minutes

mailed-by: networkrail.co.uk

encryption: Standard (TLS) Learn more

: Important mainly because of the people in the conversation.

Regards

Nick,

With apologies for the delay in getting these to you, please see attached the meeting minutes from our meeting on the 9th,

Kind regards