

TRANSPORT AND WORKS ACT 1992

APPLICATION FOR THE PROPOSED NETWORK RAIL
(SUFFOLK LEVEL CROSSING REDUCTION) ORDER

REF: TWA/17/APP/04/OBJ/60

LEVEL CROSSING S03 BUXTON WOOD

Proof of Evidence of Sarah Caldwell

on behalf of

Mr David Caldwell, Objector



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LEVEL CROSSING CLOSURE S03 BUXTON WOOD

Proof of Evidence of Sarah Caldwell

on behalf of Mr David Caldwell, Objector

Sarah Caldwell of [REDACTED], will say:-

1. I am Sarah Caldwell, the daughter of David and Dianne Caldwell. My father purchased Rookery Farm, Tattingstone, in 1962. The land in my father's ownership includes the land at Bentley known as 'Eleven Acres' which is affected by the proposed footpath closure referenced S03 Buxton Wood by the applicants for the order, Network Rail ('NR').
2. My parents have lived at the farm since 1962 and continue to farm the land. I lived there as a child and until 1987. I am involved in running the farm on a regular basis. For 16 years, until 2015, I ran a farm shop business there. Rookery Farm is a family home and a traditional family farm business partnership, D & D Caldwell.
3. My father will be [REDACTED] in February and has asked me to represent him at this inquiry. My father's knowledge and understanding of the farm and its land is comprehensive, including his recollections of the changes to Eleven Acres and to the railway land which followed the electrification of the railway line and the removal of the railway sidings to the north of Bentley Station during the 1980s.
4. My family have been good neighbours to the railway on very many occasions in the past, including permitting access for maintenance work over our land when we had no obligation to allow it. On many occasions vehicles simply arrive and assume they can access the line from our land. We have been very obliging.
5. However, we have also had difficulties with our railway neighbour, especially regarding drainage on our land. My father and I consider that the actions of NR

during and since the 1980s (our Statement of Case, paragraph 11) are material to this inquiry's consideration of the closure of crossing S03. As he is unable to attend, his statement in this respect is appended as **OBJ/60/W1/2/bllp08**.

6. We have also found all the NR plans to be of extremely poor quality. In order to consider the matter properly we have purchased from the highway authority the plan and statement of public rights of way in the area appended as **OBJ/60/W1/2/bllp09**. It is ironic that the authority's plan does not show a public right of way crossing S03. However, we accept that the Definitive Statement for Bentley does refer to Footpath 22 crossing the railway. It is for others to consider the implications of the lack of proper recording of the route.
7. On 21 December 2017, we met with Patrick Hackett from Bruton Knowles and Stephen Price from Mott Macdonald, NR's representatives, at their urgent request, "to understand the issues Mr Caldwell raises in his objection and statement of case and to see if an alternative to the current proposals can be considered. the area of ponding that runs alongside the railway line on Mr Caldwell's land. [sic] My client, Network Rail, is keen to work with your client to re is exploring [sic] the possible option of altering the route of the proposed footpath through or around this area, as suggested in Mr Caldwell's objection and statement of case..." (email of 13.12.17 appended as **OBJ/60/W1/2/bllp10**)
8. This meeting was the first meaningful opportunity we had to discuss the taking of our land for a new public right of way with NR, having not been included in any pre-application landowner consultations.
9. It became apparent to me at the site meeting that crossing S03 is centrally located approximately between the Bentley Station Road level crossing and the Falstaff foot crossing. These crossings are both about 350 metres from S03 and will remain open. Therefore I have given thought to the proposed closure of S03 itself, having previously focussed on the provision of an alternative route which left my father's land intact.
10. While I am not in a position to evaluate the benefits which NR claims will accrue to the efficient operation of the railway as a result of the closure of S03, the close proximity of these other two crossings and the excellent visibility between them has struck me. I conclude that S03 can hardly be said to be either causing trains to slow down exceptionally as they cross it, or poses a significant accident risk, and, in fact, that it does not impede upon the running of the railway.

11. I therefore now challenge that the closure is in principle justified. NR should provide specific information to try to persuade the Inspector that it is.
12. We heard nothing more from NR of the wish to provide an alternative route until 12 January 2018 when the letter appended as **OBJ/60/W1/2/bllp/10a** ('the 12 Jan letter') was received. We deplore that NR left us three days – including a weekend – to take advice and incorporate my father's comments on it into this Proof of Evidence, but we have done our best to do so.
13. I have also prepared my Proof of Evidence with reference to the advice contained in paragraph 9.12 of the Inspector's Pre-Inquiry Meeting Notes DPI/V3500/17/13, specifically providing an evaluation of the two alternative routes referred to in our Statement of Case. This evaluation is appended as **OBJ/60/W1/2/bllp/11**, with plans showing the locations appended as **OBJ/60/W1/2/bllp/12**.
14. I am aware that the Transport and Works Act 1992 sets out no criteria by which the acceptability of an 'alternative route' (assuming one is required in accordance with section 5.6 of that Act) should be judged. The 12 Jan letter claims that "the Secretary of State takes into account whether the alternative right of way is a convenient and suitable replacement for existing users". We disagree that this is the defined criteria.
15. However, we note the Ramblers' submission within their Statement of Case (TWA/17/APP/04/OBJ/36 paragraphs 1.3, 2.7, 2.9 and 3.7) regarding the value of a direct route. Both of our alternative routes are very direct.
16. The alternative route applied for by Network Rail is most definitely not direct. An increase of 220 metres walking is acknowledged in the NR Statement of Case (Folder 01 Page 52). This route is also hardly a natural direction of travel – or "desire line" - for walkers. Page 4 of the 12 Jan letter says walkers going east will find the route more direct. This is disingenuous in the extreme. The comparison to be made must be based on walkers passing between the termination points of the route to be extinguished, not some other journey.
17. Page 2 of the 12 Jan letter states that NR is now giving no consideration whatsoever to our need to dredge the stream. It is not the case that dredging only happens every 20 years; the frequency very much depends upon rainfall, other weather conditions, the amount of debris which is carried into the stream, water flow and effective drainage elsewhere. We note that NR advises we acquire the burden and

cost of applying for a temporary footpath stopping up order for dredging. For the record the cost of such an order is currently £995 and we will need to have three months' foresight of the need to dredge.

18. Page 4 of the 12 Jan letter dismisses our occasional shooting, and the potential for this to be developed on the land, as NR is unable to find a current planning permission. We invite NR to explain why it thinks any planning permission is required for our current activities?
19. My conclusions on the matter are therefore that:
 - 19.1 given the close proximity of the Bentley Station and the Falstaff crossings to S03 Buxton Wood, there is actually no justification for closing S03 on either safety or operational grounds. In fact the motivation for closure is to remove public access from transport land and to impose it upon agricultural land. Our land is valuable and productive arable land: NR seeks to increase the value of its assets by decreasing the value of my father's farm, burdening our land with public rights in perpetuity, and transferring to us its current public access management burden. This is unjust and cannot be the purpose for which the Transport and Works Act 1992 was intended.
 - 19.2 if the closure is to be permitted and an alternative route is to be provided for the public, Network Rail should be required to provide the alignment which is:
 - 19.2.1 the most direct
 - 19.2.2 the most economic
 - 19.2.3 has the least impact on land in other ownership.
 - 19.3 This is our proposed Alternative Route A.
20. I therefore request that the application for the order as made in respect of the closure of level crossing S03 Buxton Wood is refused.

The contents of this statement are true to the best of my knowledge and belief.

Signed.....*S Caldwell*.....

Dated.....*15-1-18*.....