

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

ON BEHALF OF SUFFOLK COUNTY COUNCIL

PROOF OF EVIDENCE:

ANDREW C. MURRAY-WOOD – SENIOR ECOLOGIST

Bachelor of Science (Honours) Degree in Conservation and Land Management
Post Graduate Advanced Certificate in Biological Surveying

TOPICS COVERED

**OBJECTION RELATING TO DRAFT ECOLOGICAL PLANNING CONDITION
(RULE 10 (6))**

1. I, Andrew Colin Murray-Wood, Senior Ecologist for Suffolk County Council, of Endeavour House, 8, Russell Road, Ipswich, Suffolk IP1 2BX, will say as follows.
2. I am employed by Suffolk County Council (SCC) as the Senior Ecologist, leading the Ecology Team within the SCC Planning Team which is part of the Resource Management Directorate.
3. I have been employed by SCC since April 2005, initially as an Ecologist, then was promoted to Senior Ecologist in December 2015. I have been actively involved in the nature conservation and ecology sector since the late 1990s and have worked for Natural England (English Nature, as was) and a Local Authority in active conservation jobs; volunteered for, amongst others, the Suffolk Wildlife Trust and the Royal Society for the Protection of Birds. I have a Bachelor of Science (Honours) Degree in Conservation and Land Management awarded by the University of East Anglia, hold a Post Graduate Advanced Certificate in Biological Surveying (also awarded by the University of East Anglia) and have been a Full Member of the Chartered Institute for Ecology and Environmental Management for over ten years.
4. I have seen Network Rail's Rule 10(6) Request for Planning Permission submitted by Messrs. Winckworth Sherwood LLP and have read Paragraphs 6 and 7 subtitled "Ecology" contained within Schedule One "Proposed Planning Conditions" of that Request. These paragraphs deal with breeding birds and "*any protected species... unexpectedly discovered during construction of the development*".
5. In my view, the proposed Planning Conditions are not sufficiently robust or wide-ranging enough "*to protect the ecological value of the area*" as is claimed in the Request.
6. Suffolk County Council, every Local Authority and other bodies including Network Rail have a statutory duty pursuant to Section 40(1) of the Natural Environment

and Rural Communities Act 2006 (the NERC Act) that they “...*must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.*” It is important to note that at subsection (3) the legislation explains: “*Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.*”

7. Network Rail have instructed Mott MacDonald to prepare an Environmental Impact Assessment (EIA) Screening Request in relation to the various closures and changes proposed to twenty-five level crossings in Suffolk and this document entitled “Anglia Level Crossing Reduction Strategy; EIA Screening Request: Suffolk Order 367516/RPT026 Revision E” (hereafter: EIASR) dated 18th January 2017 has been made available to me. This document comprises helpful ecological (and other information) regarding each of the twenty-five sites in the original proposal. I have read this document and prepared a Schedule (shown to me at Appendix One hereto) setting out my comments regarding the several Ecological Constraints Surveys contained within the EIASR.
8. Although there are no details of the qualifications or experience of the Ecologists that carried out the various surveys (other than initials in the Issue and Revision Record within the EIASR) the surveys appear to have been carried out to a competent standard (judging from the results set out compared with my knowledge of those areas) but there are several important omissions and no details showing how these various works will satisfy Section 40(1) or (3) of the NERC Act.
9. I am concerned that several of the surveys have not recognised the potential for impacts upon, for example, European Protected Species such as Otter, Dormouse and Great Crested Newt and have failed to mention the likely impact upon Suffolk Priority Species such as Hedgehog and Stag Beetle. These are not, however, fatal flaws to the EIASR because as is repeated throughout the document “...*the overall impact upon ecology will be limited due to the minor*

nature, size and location of the works...". I am largely sympathetic to this assertion but I have highlighted the sites where I am most concerned about the several omissions in my Appendix One attached and will expect these areas to be addressed by a Suitably Qualified Ecologist.

10. The EIASR makes mention of a Construction and Environment Management Plan (CEMP) and has an Appendix C. "Suffolk Order Environmental Constraints Plans". I have not yet seen this but, at this stage, what I would expect to see are site-specific Precautionary Methods of Work (PMW) for each of the sites where work will take place under any Order granted. I understand from a telephone conversation that I had with Amy Cox of Mott MacDonald on the 4th January 2018 that these have indeed been drafted and are with Network Rail for their approval. In terms of the ecological interest for each site, this approach is helpful and encouraging but I will also expect the PMWs to address the various omissions set out in Appendix One hereto.

11. In my view, the PMWs should provide the following information for each site where works are proposed to take place:

- A site plan.
- A description of the works that are proposed to take place.
- A timetable showing when the works will occur and their duration.
- Amongst other things, referral to an ecological survey or assessment of the area of the works (carried out by a Suitably Qualified Ecologist) including species and habitats data (such as that held by Suffolk Biodiversity Information Service), details of the surveys on the ground and their findings, details of any nearby sites designated for their conservation interest (at any legislative level) and an assessment of the impacts upon any relevant species and habitats (this information is within the EIASR but should be subject to my comments in Appendix One regarding the various important omissions).

- The PMW should refer to the mitigation hierarchy and explaining how the proposed works will, firstly, avoid harm to wildlife and habitats, mitigate any unavoidable harm, compensate for any unavoidable loss and, thereafter, how each site will be enhanced for biodiversity (to satisfy Section 40(3) of the NERC Act).
- Details of any relevant monitoring identified in the mitigation strategy or other relevant document or report dealing with that site's ecological interest.
- Details of the Ecological Clerk of Works (or equivalent post) for the proposed works ensuring that they are suitably experienced and qualified.

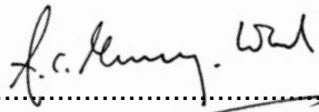
12. It is also of concern to me that, in a number of places within the EIASR, reference is made to the employment of an “*Ecological Representative*” or “*Environmental Representative*”. There is no indication of the levels of experience, qualification or education of such a person and I consider this to be very unhelpful. I would expect that any person who is involved in looking for and undertaking mitigation for statutorily protected species (including European Protected Species) to be a Suitably Qualified Ecologist.

13. With the above in mind, it is my recommendation that the Proposed Planning Conditions dealing with Ecology are amended to satisfy Section 40 of the NERC Act and other relevant wildlife and habitats legislation including, but not exclusively, the Wildlife and Countryside Act 1981 (as amended), The Conservation of Habitats and Species Regulations 2010, The Countryside and Rights of Way Act 2000, The Protection of Badgers Act 1992, The Eels (England and Wales) Regulations 2009 and The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003.

14. The planning conditions should refer to an up-to-date EIASR (dealing with the omissions detailed elsewhere) and condition the requirement for a PMW to be submitted and agreed so that we can be reassured that a wildlife crime will not be committed, that wildlife and habitats will be suitably conserved and Suffolk

County Council and Network Rail can be seen to be discharging their statutory duty and responsibility under the Natural Environment and Rural Communities Act of 2006 to have regard to the conservation of biodiversity.

15. I make this Proof of Evidence knowing the same to be true to the best of my knowledge, information and belief and consent to the same being placed before the appropriate tribunal.

Signed: 

Andrew Murray-Wood

Dated: 08 January 2018