

Angela Foster

035/34

From: Martin Rogers <Martin.Rogers@nfu.org.uk>
Sent: 25 April 2017 10:21
To: TRANSPORTANDWORKSACT
Subject: Network Rail Level Crossing Closure Orders
Attachments: Network Rail level crossing closure orders NFU response.pdf; NFU member individual comments.pdf

To whom it may concern,

Please find attached the NFU's response to the proposed orders submitted by Network Rail under the Transport and Works Act 1992 to remove or downgrade 130 level crossings across Cambridgeshire, Suffolk and Essex. I also enclose a copy of individual responses which have been received from our membership.

Kind Regards

Martin Rogers
Flood management & Access Adviser

National Farmers Union (NFU)
Agriculture House
Stoneleigh Park
Stoneleigh
Warwickshire
CV8 2TZ
Tel: 024 7685 8645



The voice of British farming - www.nfuonline.com

This e-mail is from the National Farmers' Union ("the NFU") or one of the organisations ("the Organisations") permitted by the NFU to use the NFU network. The information contained in this e-mail and in any attachments is intended for the named recipient and may be privileged or confidential. If you receive this e-mail in error please notify the NFU immediately on 024 7685 8500. Do not copy it, distribute it or take any action based on the information contained in it. Delete it immediately from your computer. Neither the NFU nor the sender accepts any liability for any direct, indirect or consequential loss arising from any action taken in reliance on the information contained in this e-mail and gives no warranty or representation as to its accuracy or reliability. Nor does the NFU accept any liability for viruses which may be transmitted by it. It is your responsibility to scan the e-mail and its attachments (if any) for viruses. The NFU may monitor and read both incoming and outgoing e-mail communications to protect its legitimate interests.

NFU, Registered in England No. 245E

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

To: transportandworksact@dft.gsi.gov.uk.

Date: 25 April 2017

Circulation: NFU Staff and Members

Ref: Network Rail Level Crossing Closures

Contact: Martin Rogers/ Louise Staples

Tel: 024 7685 8645

Martin.rogers@nfu.org.uk

Network Rail level-crossing closure Orders.

Introduction:

The NFU represents 47,000 farm businesses in England and Wales. We welcome the opportunity to respond to the proposed orders submitted by Network Rail under the Transport and Works Act 1992 to remove or downgrade 130 level crossings across Cambridgeshire, Suffolk and Essex. This response is submitted in addition to responses provided by individual affected landowners. We have an interest in proposals to close or downgrade level crossings at a regional and national level due to the potential for the process to subsequently be used in other parts of the country; therefore this response aims to highlight concerns raised by multiple farm businesses.

The closure or downgrading of level crossings will have differing impacts on agricultural businesses depending upon farm type and size, and the specifics of the proposed closures, but our primary concerns are fourfold:

- Closure of level crossings will compromise access to agricultural land by farm businesses, their employees and contractors. This concern is brought in part by a lack of clarity and transparency on the impact of these changes on private access. Does a level crossing closure mean no further private rights of access for both vehicles and pedestrians?
- The economic impact to farm businesses, caused by the proposed closures to the crossings, has currently been completely underestimated.
- There are proposals to considerably increase the length of the rights of way network running across agricultural land through the creation, diversion or extinguishment of rights of way. Again an economic impact to agricultural holdings.
- Once a crossing is closed, it is unlikely to be re-opened thus restricting future opportunities for land use and development.
- The specific concerns raised by our members have been highlighted in the attached table. This shows how many unanswered queries remain.

The NFU also has serious concerns regarding the consultation and engagement process up until this point. The NFU recognises that Network Rail have conducted previous consultation stages in this process but we have concerns that the views of landowners and other interested parties expressed during these stages have not been taken into consideration in the proposed Orders submitted.

The NFU would welcome confirmation on the type and scale of alterations to the proposals which Network Rail have made as a result of the earlier consultation stages in this process.

Conclusions to previous consultation stages of this process have requested that *"communication between farmers/landowners and Network Rail (plus all respective representatives) continues, with satisfactory proposals determined before the TWO is applied for."* Unfortunately we do not believe that this justified request has been met and many outstanding concerns and uncertainties remain in this process.

The voice of British farming

Although every effort has been made to ensure accuracy, neither the NFU nor the author can accept liability for errors and or omissions. © NFU



NFU Ask:

The NFU recognises Network Rail's aims to improve safety on the network and increase the quality of service provided to its customers through a higher-speed rail network. However, the NFU's preferred option is:

- For other solutions to be considered before the closure or downgrading of level crossings which we believe have not been fully considered up until this point. This includes the use of lights, barriers, GPS, tunnels and bridges.
- For greater consideration to be given to farmer and landowner response in this and previous stages of the consultation process. Only through this full engagement with landowners and other interested parties at an individual or local level can compromise arrangements be made to improve Network Rail's assets whilst not affecting the viability of agricultural businesses and rural communities.

Impact on access to land

Our members' primary concern is to ensure access to their farmland on a safe and timely basis, by their staff or appointed contractors, for agricultural and horticultural operations, and to transport harvested produce. Where livestock is grazed, access to land is required for husbandry purposes sometimes twice daily. Some of the proposals would lead to very lengthy diversions of up to 16.6km, which would have disproportionate impacts on current farm practices. The time taken to cover this distance would not be cost effective.

Land in the Anglian region is highly productive growing a variety of crops on rotation, including salad, vegetables, sugar beet and combinable crops. Frequency of access to land varies according to the crop being grown, and some land is subject to multi cropping and grows more than one crop per year. Agricultural and horticultural operations are weather related, so access requirements vary accordingly. Furthermore, some operations are labour intensive and require considerable numbers of people to gain access to land at particular times of year. Therefore increasing the distances which have to be travelled to access land can have significant logistical and financial impacts for the farm business.

Harvesting of crops can also be dependent on supplier requirements, so changes in supermarket demands can influence field operations and access requirements to land- demonstrating the need for reliable access to land.

Vehicular access by farm traffic, including tractors and large machinery (for example sprayers, potato harvesters, combine harvesters and sugar beet harvesters), must not be compromised. Agricultural businesses can be acutely impacted by reduced, as well as a complete lack of, access to particular areas: in some circumstances the nature of machinery used demands the availability of a circular route, and removal of one access point to a land parcel will heavily impact on the logistics of these farm operations.

Access by HGVs to sugar beet pads is required and proposals must accommodate this. Providing suitable access routes for agricultural and horticultural traffic may help reduce unnecessary congestion for the public on local roads, and we are mindful that some of the proposed closures would oblige farm traffic to travel through villages and other small communities, or travel on busy A-Roads leading to significant traffic disruption.

In some circumstances the alternative route caused by the closure of level crossing is not suitable for agricultural machinery. Therefore we would like confirmation that any diversions are along routes which are:

- No narrower than 5m and capable of taking loadings up to 60tonnes;

- Contain no underbridges which are under 5m high or 5m wide;
- Contain no junctions or corners which vehicles over 20m long could not use.

In some cases we believe this has not been taken into consideration, therefore the full economic costs of the diversions caused by the closing of level crossings has not been fully taken into account.

NFU Ask:

For the direct effects of closing and downgrading level crossings, including economic, logistical and safety implications, to be fully considered. Forcing agricultural machinery to take longer routes, often using longer stretches of public road, can have great impacts on the farm business, their contractors and the rural community and we believe this has not yet been taken into full consideration.

The lack of certainty or transparency on the process for closing level crossings which hold private rights

User operated private crossings have been a feature of the national rail network since its inception. When the reason for closure is related to the economic gain of the rail operator, it is unacceptable to compulsorily close a right of way without providing an alternative access and consider the economic impact on the agricultural businesses.

Where crossings are being downgraded from a public crossing to a private user crossing, access by agricultural machinery must be permissible. Access from fields onto the highway must not be compromised; neither should turning circles for agricultural vehicles. We have concerns that this has not been fully clarified, and we seek transparency on this point before the downgrading of any crossings.

NFU Ask:

For clear communication to be provided confirming where private rights are not to be affected by the level crossing closures and the level of compensation available.

Proposed changes to the rights of way network in the region

There are a number of proposals to create, divert or extinguish public rights of way alongside the closure or downgrading of some level crossings. The NFU welcomes the responsible use of the countryside by members of public through the use of the rights of way network. However some of the proposals to create or divert rights of way would significantly increase the length of route running across agricultural land. The potential impacts for farm businesses of these proposals to change the right of way network are manifold:

- The scale of increases in the length of rights of way, sometimes by more than 1km, will have a considerable economic impact on individual farm businesses through taking large areas of land out of agricultural production.
- Some proposals to create or divert rights of way run across land which is currently entered into Countryside Stewardship schemes, which would in turn deem the land ineligible for stewardship payment. As an example, in the Countryside Stewardship manual for option SW4 (12 – 24m watercourse buffer strip on cultivated land), it explicitly says the option 'cannot overlap a public right of way'. As such Countryside Stewardship schemes could be affected by the creation of new rights of way, or diversion of existing rights of way.
- A number of proposed diversions would instate rights of way immediately adjacent to poultry sheds, thus causing an enhanced biosecurity risk.
- More generally, some proposed diversions will lead to the creation of intrusive footpaths- which run immediately adjacent to, or between, farm buildings which resultantly increase health and safety risks to members of the public and farm workers. No footpath should be diverted to run between farm buildings.

- Other proposed diversions are onto land parcels which are currently used for turning out livestock, thus increasing the risk of livestock worrying, or spreading of disease transmitted by dog faeces such as neosporosis.
- Rights of way proposed to run alongside watercourses could limit the ability to gain access to abstracted water supplies. Furthermore, many of the proposed changes occur on land situated within internal drainage boards (IDBs). Model byelaws are often put in place to restrict or control activities which are conducted in or near watercourses. New rights of way placed parallel to such watercourses or drains will, in some circumstances, create linear sections of agricultural land between drains and proposed rights of way which are of an impractical width to use in agricultural production.
- In some circumstances cul-de-sacs in rights of way will be formed when level crossings are closed. This increases the risk of landowners and tenants becoming the victim of rural crime which includes, but is not limited to, fly-tipping, hare-coursing and fly-grazing.
- No clarity has been provided on who would be responsible for the installation and ongoing maintenance of newly created or diverted rights of way and their furniture- including gates, stiles and fences.

In addition, there is great emphasis currently being placed on the reinstatement of unrecorded historic rights of way which were in existence prior to 1949 when the original definitive map of rights of way was first created. Consideration should be given to the combined effect of reinstated and newly created or diverted rights of way on land, particularly if the two processes create a very dense network, or two rights of way running very close and parallel to each other.

We also question whether the procedure used by Network Rail is correct. Section 5(6) of the Transport and Works Act (TWA) states: *"An order under section 1 or 3 above 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."* We would welcome confirmation on whether this provision has been properly considered as part of the current proposals. We are mindful that S118 and 119 of the Highways Act could be used to remove the rights of way in question as an alternative to the TWA procedure.

NFU Ask:

Greater consideration must be given to the wider implications for farm businesses through making alterations to the rights of way network. This can only be achieved through full engagement with landowners on their proposed location during the decision making process. Landowners must be adequately compensated for new rights of way and the associated adverse impact on their business, including loss of production, inability to enter land into Countryside Stewardship schemes, rural crime and the costs of implementing measures to abate any adverse impact to biosecurity or animal welfare.

We would welcome confirmation that Network Rail has fully considered the provisions outlined in Section 5(6) of the TWA and how the creation of rights of way through this process is being considered holistically with work to reinstate historic rights of way through the Deregulation Act 2015.

Conclusion:

The NFU recognises the reasoning behind Network Rail's wish to close or downgrade level crossings in the region; however with greater engagement there is the opportunity to achieve these aims without severely impacting the viability of agricultural businesses. In short this is through:

- Limiting the number of level crossings closed or downgraded;
- Closing combinations of crossings which minimise impacts on agricultural practices.

- Retaining private rights on some level crossings which will be closed to others.
- The full investigation and use of other measures such as the use of lights, barriers, GPS, tunnels and bridges.

NFU comments on individual crossing proposals			NFU comment
Crossing ref	Crossing name	Proposal	
CO1	Chittering	Private: No existing or proposed rights. Public: Existing footpath rights removed. Users diverted to C33 Jack O'Tell (Adam's Crossing) crossing to the north. Infrastructure: Existing level crossing infrastructure to be removed. Proposed fencing.	Decision is justifiable considering poor visibility of current pedestrian crossing. Closing this crossing would have a detrimental practical and economic impact on the agricultural business affected. The crossing is used to access land for field operations throughout the year as determined by the growing season. Alternative proposals do not give safe or practical solutions.
CO2	Nairns No 117	Private: Existing vehicular rights removed. Users diverted to Dimmocks Cote level crossing to north. Public: No existing or proposed rights. Infrastructure: existing level crossing infrastructure removed. Proposed fencing.	Route of proposed new footpath runs along the field boundary adjacent to a poultry business thus causing concern for biosecurity. Footpath users will have to negotiate traffic movements for the industrial units and utilise the same exit onto Station Road causing safety concerns for all users.
CO4	No name No 20	Private: No existing or proposed rights. Public: Existing footpath rights removed. Users diverted to bridge on Station Road to north. Infrastructure: Existing level crossing removed. Proposed fencing.	
C11	Furlong Drove	Private: No existing or proposed rights. Public: Existing byway rights removed. Users either diverted to Straight Furlong under bridge to the northwest of Third Drove level crossing to the southeast. Infrastructure: Existing level crossing infrastructure removed. Proposed fencing.	Justification for creation of footpath across field is unclear when there is minimal vehicular traffic movements on the road, meaning any horse-rider will use road. Where the proposed new footpath along the land drain it cuts across piping put in for pumping water for irrigation-meaning there is a greater health and safety risk
C12	Silt Drove	Private: No existing rights. Proposed authorised user vehicular rights. Public: Existing highways changed to bridleway status. Motorised users diverted to Badgeney road level crossing to the north along existing adopted highway. Infrastructure: Existing level crossing infrastructure to remain and locks added to existing vehicular gates. Provision of 3m bridleway over the railway, mounting blocks, bridleway gates either side of the railway. Proposed fencing.	Closing this crossing could lead to farm traffic having to travel through a housing estate Mounting blocks are to be created but the crossing is not used by horses. Access over the crossing and onto adjacent agricultural property and land by agricultural machinery will be restricted by the mounting blocks. Area identified as '10' on sketch map to be compulsory purchased creating concern as to how this will permit access to land. Location of 'No through road signs' needs to be sited appropriately to prevent traffic having to turn onto agricultural property. Permitted users are to have keys but responsibilities of key holders is not known and neither is the application process to obtain them. Members would prefer existing lights and telephone system to remain in place to allow for circular access route by agricultural machinery including potato harvesters and sugar beet harvesters.
C13	Middle Drove	Private: No existing rights. Proposed authorised user vehicular rights. Public: Existing highway rights downgraded to bridleway status. Motorised users diverted to Whitemoor Drove level crossings to the east along existing adopted highway. Infrastructure: Existing level crossing infrastructure to remain and locks added to existing vehicular gates. Provision of 3m bridleway over the railway, mounting blocks, bridleway gates either side of the railway. Proposed fencing.	

C14	Eastrea Cross Drove	<p>Private: No existing or proposed rights. Public: Existing footpath rights removed. Users diverted to Eastrea level crossing to the west. Infrastructure: Existing level crossing infrastructure removed. Proposed fencing.</p>	<p>New footpath creates area of unusable agricultural land running up to drain due to statutory 9m distance required from drain. Future ownership of this area unknown. Proposal will create a bridleway only. Width of 1.525m will not allow for agricultural traffic to utilise resulting in same outcome as C27, namely transferring agricultural traffic to the road network at a great cost to the business and other traffic users. Alternative proposals do not give safe or practical solutions. Access for users under 1.525m may lead to rural crime issues.</p>
C26	Poplar Drove No 30	<p>Private: No existing rights. Proposed authorised user vehicular rights. Public: Existing highways rights downgraded to byway with a TRO provided between prescribed points for a width of 1.525m. Infrastructure: Existing UWC gates to remain and locks added. Provision of mounting blocks and bridleway gates either side of the railway.</p>	<p>Closing this crossing would have a detrimental practical and economic impact on the agricultural business affected and transfer agricultural traffic to the road network. The crossing is used to access land for field operations throughout the year as determined by the growing season. Alternative proposals do not give safe or practical solutions.</p>
C27	Willow Row/Road	<p>Private: No existing or proposed rights. Public: Existing highway rights removed. Users diverted to C26 Poplar Drove level crossing. Infrastructure: Existing level crossing infrastructure removed. Proposed fencing.</p>	<p>Closing this crossing would have a detrimental practical and economic impact on the agricultural business affected. The crossing is used to access land for field operations throughout the year as determined by the growing season. Alternative proposals do not give safe or practical solutions. Justification for keeping the pedestrian access not known.</p>
C33	Jack O'Tell	<p>Private: Existing vehicular rights removed. Users diverted to Bannolds crossing to the south long private farm tracks & public highway. Public: Existing footpath rights retained. Infrastructure: Existing vehicular level crossing infrastructure removed. Proposed fencing, proposed provision of pedestrian kissing gate.</p>	<p>Closing this crossing would have a detrimental practical and economic impact on the agricultural business affected. The crossing is used to access land for field operations throughout the year as determined by the growing season. Alternative proposals do not give safe or practical solutions. Justification for keeping the pedestrian access not known.</p>
C34	Fyson's	<p>Private: Existing vehicular rights removed. Users diverted to Bannolds crossing to the south long via public roads. Public: No existing or proposed rights. Infrastructure: Existing level crossing infrastructure removed. Proposed fencing.</p>	<p>Closing this crossing would have a detrimental practical and economic impact on the agricultural business affected. The crossing is used to access land for field operations throughout the year as determined by the growing season. Alternative proposals do not give safe or practical solutions.</p>