

## NETWORK RAIL (LEEDS TO MICKLEFIELD) ENHANCEMENTS ORDER 2023

### SUMMARY OF MAIN PROOF OF EVIDENCE BY JOHN HARKER

#### COURTS & INQUIRIES OFFICER (LEEDS metropolitan area)

#### ON BEHALF OF THE PEAK & NORTHERN FOOTPATHS SOCIETY

1. The Secretary of State cannot confirm aspects of this draft Order pertaining to public rights of way unless he is satisfied that either an alternative right of way has been, or will be provided, OR that an alternative right of way is not required. **(See Appendix 1 “A Guide to Transport and Works Act Procedures 2006” (included as CD 2.29))** This Society submits that the Garforth Moor extinguishment fails the second leg of that ‘test’. An alternative was and is required in our view.
2. This Society was not the only organisation to believe that an alternative was required. Leeds Council, acting on an application from Network Rail (NR) for a Rail Crossing Extinguishment Order under s.118A of the 1980 Highways Act (s.118A HA80), consulted this Society in 2019. As a ‘quid pro quo’ NR would support a Public Path Creation Order published by Leeds Council under section 26 of the 1980 Highways Act (s.26 HA80), to create a new public footpath from Barwick Road to connect with Footpath 7 north of the extinguished Level Crossing. Not only that, but NR would pay for its construction (crushed stone to a width of 2 metres). **(See Appendix 2).**
3. The confirmation of a Public Path Creation Order under s.26 HA80 is analogous to a Compulsory Purchase Order (CPO) as it removes control of a piece of land from the landowner. Compensation is payable to the landowner on confirmation of such an Order. In spite of this, both Leeds Council and NR were of the opinion that such an Order was needed. The s.26HA80 legislation makes it clear what the criteria are for the publishing and confirmation of such an Order. **(See Appendix 3).**
4. On that basis, this Society did not object to the package of proposals put to us in 2019, nor did we object when the concurrent Public Path Orders under ss.26 and 118A of the Highways Act 1980 were published in autumn 2022. Despite our reservations about forcing pedestrians onto the footway of Barwick Road, and under a railway bridge where the footway narrows, to reach the proposed new footpath, the Society decided that although finally balanced, the package was tolerable. Had there been no alternative being provided, we would have objected to a straight extinguishment of the level crossing.
5. We were reassured to see the Leeds Council Officer’s Report which sought authority to publish the package of Orders **(See Appendix 4)**. It was clear that the creation of a new footpath in lieu of the closed level crossing footpath supported a number of strategic council policies on travel, public health and climate change. We were also aware of the planning application submitted to the Planning Authority for consent to build a car park for allotment holders who would be denied the use of the most direct route via the closed level crossing.

6. This process undertaken in 2022 at the behest of NR demonstrates something else in our submission. Published in 2006, Guidance to Transport and Works Act Orders (TWAOs) makes clear that there has to be compelling reasons why the TWA procedure is used instead of existing statutory procedures to effect changes being sought, such as to extinguish a public right of way if there are no other works being proposed by the TWAO. This Society's submission is that NR had engaged in the existing statutory procedures of a package of Public Path Orders and a planning application for the car park and associated works, and that was sufficient to achieve the outcomes that they were seeking. **(See Appendix 1)**
7. The outcome NR are seeking re the Garforth Moor level crossing, if granted by the Secretary of State without amendment, is to force allotment holders who do not want to, or cannot drive to the proposed car park, to walk down Barwick Road perhaps encumbered with allotment-related materials. Then through a 'bottleneck' under the railway bridge, and on down the road to do two right angled turns to reach the same destination that the level crossing took them to. Yes, the 'bottleneck' would still have been there if the s.26 Public Path Creation Order had been pursued to confirmation and certification as we believe it should have been, but pedestrians heading to whatever their destination was, would then have been able to get off Barwick Road quicker to follow a segregated route.
8. **This Society requests that this aspect of the draft TWAO be not confirmed as the applicant has not provided an alternative route to the one proposed for closure, and that an alternative is needed. Therefore it fails the second 'leg' of that test referred to in Paragraph 1.**
9. Re the extinguishment of the Peckfield Level Crossing in Micklefield which carries Bridleway No.8, this Society opposes the closure without a commensurate replacement bridge fully accessible to all legitimate bridleway users. We submit that user data collected by NR is outdated due to the rising population in the area, and makes the lack of perceived use by horse riders one justification for not building a bridleway bridge, and an excuse to put forward an option to replace it with a footpath.
10. The options on offer in the draft Order are both inadequate as a replacement for the crossing. The 'alternative' of a public footpath along the northern boundary of the railway line is no 'alternative' at all and must be dismissed. It is not a genuine 'alternative' if bridleway users like cyclists and horseriders reach the crossing from the north and then have to turn around and retrace their steps to the main road. Even the other option of a public bridleway in the same location as the footpath option is hardly an 'alternative'. It does not perform the role of an alternative in getting higher rights users from Pit Lane to Lower Peckfield Lane as expeditiously as circumstances allow. That option, a route from Lower Peckfield Lane running south-east along the edge of the Recreation Ground, was an early option but has not survived into the draft TWAO.
11. Whatever the Secretary of State decides in this matter – footpath option; bridleway option; no alternative needed; if he is minded to confirm the extinguishment part of the draft TWAO, bridleway users are condemned to use Pit Lane from the Peckfield level crossing to the main road **(see photos in Appendix 5)**. To share it with vehicular users, possibly large vehicles, to/from the industrial park. Non continuous footways and those footways that are there, parked on by vehicles

or crossed by vehicles going to/from newly built houses. More houses seem to be in the pipeline. That scenario is unacceptable to this Society and, we submit, should be unacceptable to the Secretary of State. The 'least bad' option is not available for discussion (see Paragraph 10 above) because NR appears to have buckled in the face of opposition from the Parish Council who own the Recreation Ground.

- 12. This Society requests that this aspect of the draft TWAO (the extinguishment of the Peckfield Level Crossing) be not confirmed as the alternatives included in the Order published are not true alternatives. Pit Lane and the Old Great North Road are not true alternatives either. Therefore, the proposed extinguishment fails the first leg of the 'test' set out in Paragraph 1 above. However, without prejudice to the above, if the Secretary of State is minded to confirm the extinguishment of the Crossing, and to confirm one of the available options, that he chooses the new public bridleway option as the 'least bad' alternative on offer.**

ENDS