



Mr Hywel Morse



Date 9th January 2025

Dear Mr Morse

**PROPOSED TACKLEY LEVEL CROSSING ORDER (“THE ORDER”)
CONSULTATION ON AMENDMENT TO THE ORDER TO AMEND BRIDLEWAY ROUTE OF 5
NOVEMBER (“THE CONSULTATION”)**

I have been forwarded your ‘Representation of Andrew Charles Peake’ of 3 December which I take to be your response to the Consultation.

Context of the Consultation

The Consultation was held following the issue of the ‘minded-to refuse’ letter by the Secretary of State on 21 May 2025 (“the Decision letter”).

In the Decision letter, the Secretary of State agreed that Tackley Level Crossing (TLC) cannot reasonably be made safe for ongoing use by the public and that there is a clear and compelling case for permanent closure of TLC and extinguishment of the corresponding section of the existing bridleway. The Secretary of State was satisfied the scheme is needed and recognised the economic benefits of the scheme and is content, which will have a positive effect on railway operations. The Secretary of State agreed that the aims and objectives of the scheme are justified and would be met. Crucially, in relation to the matters you raise in your Representation, the Secretary of State believed that there was a compelling case in the public interest to justify conferring on Network Rail powers for the proposed temporary use and acquisition of permanent rights in the Order land for the purposes of the scheme – the Secretary of State believed that all land and rights over land which Network Rail had applied for in the Order were necessary to implement the Scheme.

The principal reason for this proposed decision to refuse was that the Secretary of State did not consider that the proposed new bridleway route (NB) would be a suitable and convenient replacement for all existing users - the requisite test that a suitable and convenient replacement bridleway must be provided was not met.

In the Consultation we therefore have proposed an alternative route for the replacement bridleway and proposed the necessary changes to the Order for that purpose – that includes powers over new plots of land. However, no other changes to the scheme or the powers sought under the Order were made. In particular, no changes are proposed in the Consultation to what was previously set out in respect of the bridleway to the east of the railway line or to the temporary construction areas or accesses required for the carrying out of the works at the station associated with the closure of TLC.

I would like to respond to the points you make in order:

(i) The proposed new bridleway

The concerns you raise relate to gates. I hope therefore that Mr Peake is content with the proposed route, which, as you note, follows the field boundaries.

In relation to the gates, the revised form of the [Order](#) proposed with the Consultation includes the following provision as a new article 9(15), which corresponds to a decision of the Secretary of State in the Decision letter:

“(15) Network Rail may carry out such works as are necessary for purposes of the creation of the new highway to the satisfaction of the highway authority in accordance with this article and will provide gates to British Standard 5709:2018 (or any replacement standard) at points B2, B4, C2 and Termination of New Bridleway, such gates to be maintained according to the provisions of paragraph (1).”

The underlining is my emphasis. I confirm that the reference here to ‘B4’ is in error and should refer to ‘B3’ and that will be corrected in the final form of the Order (if made). I hope that this gives Mr Peake sufficient comfort that gates will be provided at the necessary locations at the points of entry onto Mr Peake's land as show on the [plans](#)

As to the nature of the gates to be provided – i.e. that public and livestock can be kept separate from each other and that the gates are adequate to allow access for machinery, we provided indicative concepts during the Inquiry in [INQ-26](#) (which would now be updated to suit the revised locations). We have now proposed in a draft agreement with Mr Peake, both parties will work together to complete any finalisation of the fencing and new bridleway works in particular, in relation to the type and detailed location of any gates with regard to ensuring the good reasonable access to adjoining agricultural land.

You raise concerns about the lack of a topographical survey. We do not believe that such a survey is required at this stage given the nature of the works involved, and in particular the topography of the land is sufficiently self-evident to deal with the question of gates at this stage. As mentioned above, the finer details of the gates will be developed with Mr Peake.

(ii) The application's effects on the Old Whitehill underpass

To note, in paragraph 60 of the Decision letter, the Secretary of State states that “the Secretary of State agrees with the Inspector that Mr Peake's demands for ... the carrying out of works to the Old Whitehill underpass do not directly relate to the Scheme and agrees that an Order for Route D could be made and would be deliverable (IR 6.7 and IR 7.2)”. As noted above, the Consultation is not intended to reopen discussion of such issues.

(iii) The future of the remaining cul de sac

To note, in paragraph 60 of the Decision letter, the Secretary of State states that “the Secretary of State agrees with the Inspector that Mr Peake's demands for the extinguishment of the whole of the existing bridleway on his land should NR revoke permissive access across the footbridge ... do not directly relate to the Scheme and agrees that an Order for Route D could be made and would be deliverable (IR 6.7 and IR 7.2)”. As noted above, the Consultation is not intended to reopen discussion of such issues.

You query how the replacement of a right of way with a permitted path satisfies the test under section 5(6)(a) of the Transport and Works Act 1992. As we were quite explicit during the Inquiry, the permitted path across the station is not proposed as the alternative to the closure of TLC, instead the new bridleway is the alternative in satisfaction of the section 5(6)(a) test.

The Secretary of State concludes on this point in the Decision letter:

46. The Secretary of State acknowledges Mr Peake's concerns over users of the existing bridleway trespassing on his land upon reaching the cul-de-sac termination point but agrees with the Inspector that this risk could be mitigated through the provision of suitable signage (IR 5.121). The Secretary of State acknowledges the informal nature of the permissive access over the footbridge and that given access is not to be considered in the context of section 5(6) of the Act agrees with the Inspector that any withdrawal of the access could, therefore, only be of minimal impact.

(iv) Temporary use of land

In the Decision letter, the Secretary of State agrees with the Inspector that there is a compelling case in the public interest to justify conferring on NR powers for the proposed temporary use and acquisition of permanent rights in the Order land for the purposes of the Scheme and all land and rights over land which NR has applied for is necessary to implement the Scheme. The Inspector found (para 5.147) *"that there is a compelling case in the public interest to justify conferring on NR powers for the proposed temporary use and acquisition of permanent rights in the Order land for the purposes of the Scheme. All the land and rights over land which NR has applied for is necessary to implement the Scheme including the creation of a new public bridleway."*

As noted above, the Consultation is not intended to reopen discussion of such issues.

(v) Heads of Terms – Mr Peake's concern

The financial offer is not a relevant matter for the Consultation, or the question of whether or not the Order should be made in its revised form. Ultimately, the provisions of the Compensation Code will ensure that you are compensated in accordance with the statutory scheme, whether or not a financial offer is agreed.

We are in active discussions with you regarding an agreement to govern the implementation of the Order powers in relation to Mr Peake's land, and that includes, as you say, discussions with you to determine the very best route along the field boundaries to minimise impact on both Mr Peake and neighbouring property. We do not accept that there will necessarily be any severance of Mr Peake's land, given these discussions.

Given the imperative for the Order to be made and the necessary works to formalise the closure of TLC to be carried out, these discussions cannot continue indefinitely and must be brought to an end swiftly, so we welcome the most active and swift engagement on your client's part.

Yours sincerely,



David Wilson

Head of Consents and Environmental Planning