

A

Network Rail
125 House
1 Gloucester Street
Swindon
Wiltshire SN1 1GW

Tel No. :

Fax No. :

Department for Transport,
3/33 Great Minster House,
76 Marsham Street, LONDON SW1P 4DR

Your Ref:

My Ref : ILG/6903/PJL

Date: 25 July 2007

Dear

REGULATION of RAILWAYS ACT 1842

Section 14 - Power to Enter Adjoining Lands and To Do Works of Repair

Further to my notice by email of yesterday advising you that our contractors had taken entry to private land, I am now writing to ask for the Department's confirmation that they are in agreement that it is necessary for Network Rail to continue to access and remain on the land adjoining the railway at in the county of to carry out essential works to repair the infrastructure and reinstate the railway to traffic.

As you will be aware, was one of the worst affected areas hit by the unprecedented rainfall on Friday 20th July 2007. As a result of rising water levels, floodwater ponded against the railway embankment in several locations between and stations. Eventually, the floodwater overwhelmed the railway embankment resulting in the ballast being completely washed away as can be seen in the accompanying photographs of the area in question.

All train services were immediately suspended and our engineers are now working to rebuild the infrastructure. Negotiations for entry to private land were conducted by agents acting on our behalf and I am pleased to report that in the majority of cases, terms were quickly agreed for entry and occupation.

At [redacted] the landowner initially agreed to Network Rail taking entry to the land by arrangement and I can confirm that entry was taken on Monday 23rd July at 09:30am. The landowner in question is [redacted] whose affairs are managed by her son [redacted]

They are advised by [redacted]

Subsequent to entry being taken, the landowner's agent was not prepared to conclude negotiations and asked Network Rail to vacate the site at 14:00 on Tuesday 24th July. Network Rail declined to do this on the basis that entry had been taken in good faith and that as the railway had been closed to traffic as a result of a washout, the only way that the track could be re-instated was by taking access over his client's land.

Network Rail confirmed that if no agreement could be reached it would be necessary to inform the Department of Transport within 48 hours of taking entry with a view to seeking the authority to continue working to restore the railway line as soon as possible. Accordingly the Department was advised by email at 17:27 on Tuesday 25th July.

The railway at this location forms part of the _____
... railway known locally as the _____ and which carries
predominantly passenger services to this rural community as well as serving the
major conurbations of _____

The need to restore rail services as quickly as possible is heightened by the fact that many of the roads in the county are also subject to flood damage making alternative forms of transport more difficult.

The railway was authorised by the _____ Railway Act 1845 which incorporated the *Railway* ~~Clauses~~ Consolidation Act 1845. The special Act does not contain any protective provisions in favour of the affected landowners predecessors in title. Statutory authority to both maintain and operate the railway devolved to Network Rail via the provisions of the Railways Act 1921, the Transport Act 1947 and finally the Railways Act 1993.

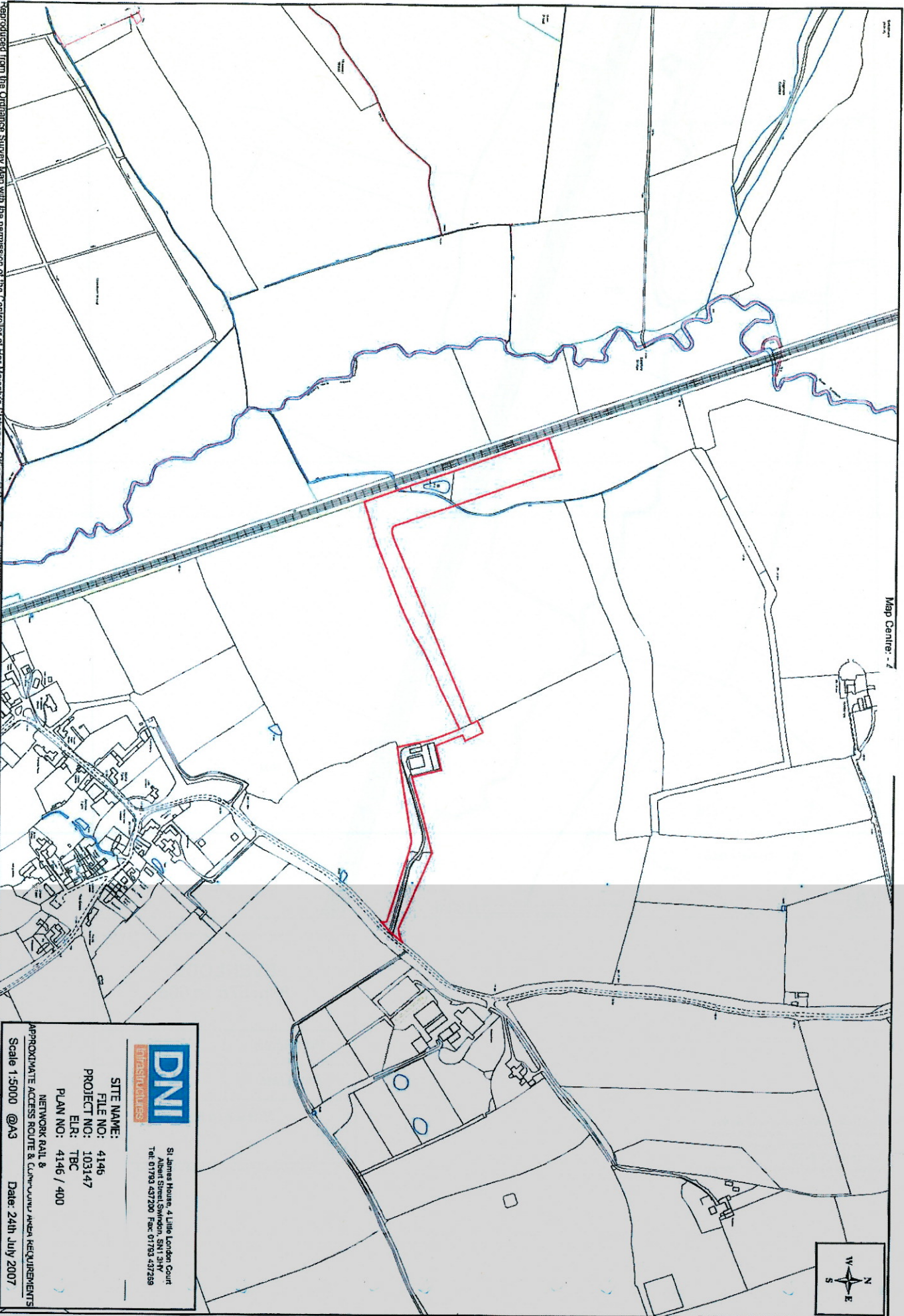
I enclose with this letter, a plan of the area in question showing the land over which access is currently being taken verged red. This route makes use of an existing farm access from the public highway and requires the formation of haul roads, works compounds and storage areas for plant and materials. The work is likely to take up to six weeks to complete although it is planned to re-open the railway with a limited service, subject to special working and speed restrictions within that period. However, it is also possible that this timescale will become extended once the full extent of the damage to the infrastructure has been assessed.

I also enclose a second plan which illustrates the land in Network Rail's ownership by solid green colouring. There are currently no proposals to acquire any additional land in connection with the works.

I therefore formally request that the Department should issue a certificate forthwith to Network Rail Infrastructure Limited to empower the Company to enter the identified lands and to construct haul roads and compounds as necessary, all in accordance with the provisions of Section 14 of the Regulation of Railways Act 1842 having due regard to the payment of reasonable compensation for damage and loss to the affected landowner.

Yours sincerely,

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10002716

SITE NAME:

FILE NO: 4146

PROJECT NO: 103147

ELR: TBC

PLAN NO: 4146 / 400

NETWORK RAIL &


APPROXIMATE ACCESS ROUTE & CULVERT/UNDERPASS REQUIREMENTS

Scale 1:5000 @A3

Date: 24th July 2007

St James House, 4 Little London Court
Albert Street, Swindon, SN1 3HY
Tel: 01793 437200 Fax: 01793 437289



Plot Scale	1:5000
Plot Date	24/7/2007
	

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31 July 2007

Network Rail
125 House
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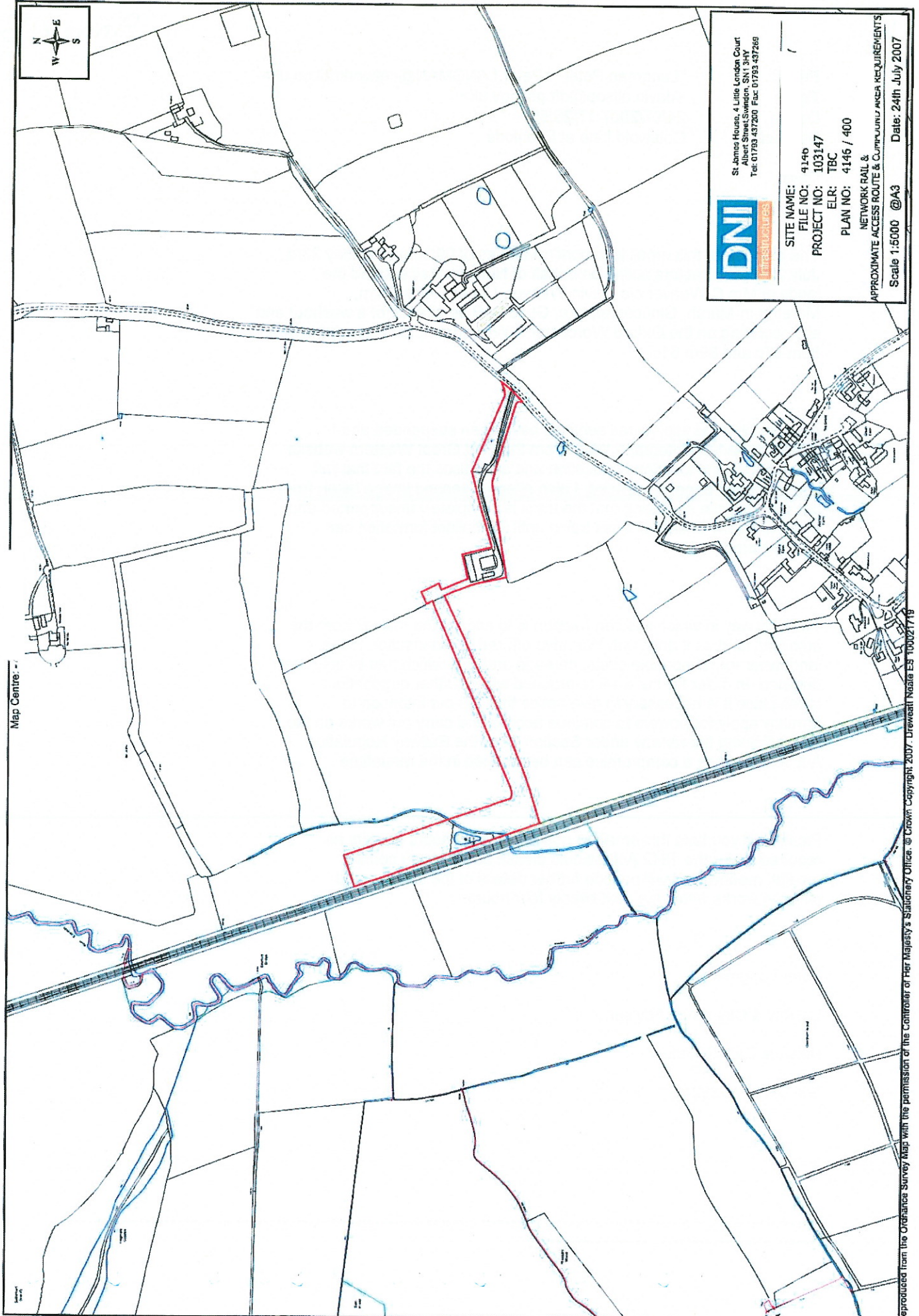
EXERCISE OF POWERS UNDER SECTION 14 OF THE RAILWAY REGULATION ACT 1842:

Dear Mr

1. The Secretary of State has authorised the use of powers exercised by Network Rail under section 14 of the Railway Regulation Act 1842 (the Act) to take emergency entry on the grounds of public safety to land adjacent to the railway at
2. The authorisation relates only to access to the railway across land marked with a red boundary on the attached plan (Annex A). Network Rail must at all times ensure that it does not act outside these powers. Compensation is payable by Network Rail and would be a matter for the Lands Tribunal should Network Rail and the landowner fail to agree.
3. This decision has been made having considered the evidence submitted by Network Rail and the views of the Office of Rail Regulation, Her Majesty's Rail Inspectorate (ORR HMRI) which in summary are as follows:
 - 3.1. Network Rail took emergency access to the land on 23rd July 2007 under section 14 of the Act to undertake works to rebuild the railway embankment which had been washed away by flooding. The Secretary of State was notified of this (Annex B) on 24th July 2007.
 - 3.2. The ORR HMRI has advised that their Western Team's local inspector confirms that severe damage has been caused to the railway at this location. The ORR HMRI considers that the powers sought under section 14 are justified to ensure the operational safety of the railway and the safety of the public at this location.
4. The granting of powers under section 14 shall not inhibit Network Rail from endeavouring to agree terms for access to the land through negotiation.
5. Please contact
should you wish to discuss this matter further.

Yours sincerely

Annex A



Annex B

From: <[redacted]>
To: <[redacted]>
Date: 24/07/2007 17:26:55
Subject:

David,

The purpose of this email is to confirm that as of 09:30 on Monday 23rd July 2007, contractors acting on behalf of Network Rail entered the lands of [redacted]

[redacted] a result of a washout and
slip occurring on the [redacted] y between

As a result of the slip, all rail services have been suspended and I attach an aerial photograph taken from the First Great Western website which shows the location in question and advertises the fact that rail services have been suspended. I also attach a second image taken from our own website indicating that the track is completely unsupported and that it is clearly unsafe to pass trains until the ballast formation can be reinstated.

The only way in which this can happen is to access the railway from the adjoining land as it dries out. We have offered compensation to the landowner for reasonable costs, damage and loss which has initially been declined. In order for the work to proceed whilst further negotiation takes place it is necessary to give notice that it is our intention to formally apply for powers to continue access and carry out works on the land adjoining the railway under Section 14 of the Railway Regulation Act 1842, unless a compromise can be reached in the meantime.

Please will you take this email as notice within 48 hours of entry as required under the 1842 Act. I would please ask that you confirm receipt, meanwhile I will provide further details of the location and planned works within the next twenty four hours.

Network Rail, Swindon.

Tel:

