



Network Rail
Floor 3 Suite 1A
Waterloo General Offices
Waterloo Station
London
SE1 8SW

fao
17 February 2012

T

Dear Sir

Embankment Works

As you will be aware from various telephone calls and meetings to date, Network Rail is to embark on a project of remediation works for the railway embankment. This work is essential to stabilize the adjoining land next to the railway and to prevent a substantial land slip and the delays to rail services that it would cause.

During the course of the works it will be necessary to gain access to the cutting slope via the Council's property including the site of the allotments and where shown on the accompanying plan, make temporary use of Council land. During discussions it has not been possible to agree use of the Council's land and so Network Rail now needs to exercise emergency access powers under Section 14 of the Railway Regulation Act 1842. The enclosed Notice is advice of the Company's intention to exercise these powers and the Department for Transport is being advised.

The enclosed plans show the area where access may be required edged in red and shaded blue. Areas where temporary access and additional land use is required are shown edged red and hatched blue.

Yours faithfully



NOTICE TO ENTER LAND

To (Adjoining Owner): Name:

Address:

As Owner and Occupier of the land and premises adjacent to the embankment affecting the railway at
in Surrey

(Council's
representative):

Name:

Address: As above

From:

Network Rail Infrastructure Limited

Route Address: Wessex Route Network Rail, Woking Downside Goods Yard,
Off Guildford Road, Woking, Surrey GU22 7QE

Registered Office: Kings Place, 90 York Way, London N19AG

Notice:

Under Section 14 of the Railway Regulation Act 1842

NETWORK RAIL HEREBY GIVE YOU NOTICE THAT

Network Rail intend to undertake immediate works of an essential nature at the length of railway in the vicinity of and which is shown red on the accompanying plan. The works will entail regrading the embankment, drainage improvements and construction of a retaining wall. The works are required to remedy an embankment failure that is presently causing a track misalignment and likely to result in a land slip.

Network Rail has authorised Birse Rail Ltd contractors to carry out the works on the affected land, which may include land within your ownership or occupancy. This authority will also be inclusive of taking direct access over your land, where required, to the area of works with vehicles, plant and machinery.

Access is required over third party land to undertake works on NR land. This will involve HGV's/transit being transported to site with plant and machinery and the works being undertaken on NR land. Access will be required Mondays to Fridays between 8 a.m. and 6 p.m. and the track through the allotment will still be available to allotment users who will have continued use of the allotments (bearing in mind there will be less use due to it being winter). The access will be for the passing and re-passing of vehicles but not used for parking, turning or storing of any plant or machinery. The site compound and materials storage will be outside the allotment area on land owned by I

This route will not disrupt anyone's residence or living arrangements and it will not interfere with anyone's business.

Included in the powers is the right for Network Rail (and their contractors) to temporarily occupy areas of your land ("the land") and to place and leave on or in the land apparatus for use in connection with the works and the right to remove the apparatus.

The power to undertake works may include the power to undertake surveys and bore holing on and in the land for the purpose of ascertaining the nature of the ground or subsoil supporting the railway.

It is intended to commence the work on or 20 February 2012.

Signed:

Route Asset Manager

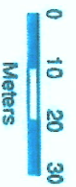
(for and on behalf of Network Rail)

Notes to the recipient: This Notice is given in a positive attempt to clarify the process under the Railway Regulation Act 1842 and to assist a landowner in understanding Network Rail's requirements. The Act places no duty upon Network Rail to serve a formal certificate of Notice to enter lands. Similarly, there is no requirement to provide a detailed plan delineating a proposed access route or land required as compound area for plant and equipment. Land use or access routes may be subject to change; any plan accompanying this Notice has been prepared from details known at the time and this may also be subject to amendment when the extent of failure and works required to stabilize the railway becomes known.

The Act also places no requirement upon Network Rail to identify all affected land owners or to inform them of Network Rail's intention to take access by virtue of Section 14. Once access has been taken the Act gives no formal Appeals procedure for a landowner to make an objection. However, within 48 hours of taking access, Network Rail must report the exercise of the powers to the Department for Transport. The powers will only cease if the DfT are not satisfied that there is a need for the necessary works to be carried out.

NETWORK RAIL

Map Centre 5:2.175 155,710



Legend

- 3m Access
- Site Compound & Work Site
- Turning Circle for Vehicles
- Network Rail Owned Property

Notes:

- 1) The 3m wide works access which has a minimum width
- 2) Pedestrian access for the

ss will be within the allotment alley, h of 4m.

ss will be within the allotment plot holders will be works.

CARTER JONAS

Map Centre 5:2.175 155,710
Map Scale 1:1000
Map Date 21 December 2011

Site Name: 4333
File No: 106512
Project No:
ELR:
Title:

Scale 1:1000 06A Date 21 December 2011
Drawn by MJ Day no 4333 - 500A

Project Background

The site is located between [redacted] on the
[redacted] line from 21m 02ch to 21m
04ch. The site can be accessed by foot from [redacted] 20m 45ch.

The Up side exhibits a slope failure centred at 21m 0075yds which is affecting the cess, troughing and causing track misalignment. A corresponding toe bulge has slightly distorted the boundary fence line.

Track Geometry records show the track has deformed and requires tampers to bring up to acceptable levels, which may be caused by the landslide.

A development contract was issued to BAM Nuttall who produced options report and developed the solution for the site, which consists of the construction of a retaining wall at the toe along the section of the cutting with re-grade and drainage improvements. The retaining wall is intended to prevent a slip surface from becoming mobile resulting in a failure of the embankment slope or landslide.

Access is required over third party land to undertake works on NR land. This will involve HGV's/transit being transported to site with plant and machinery and the works being undertaken on NR land. Access will be required M-F between 8-6 and the track will still be useable by allotment users and therefore they will have continued use of the allotments (bearing in mind there will be less use due to it being winter). The access will be for the passing and re-passing of vehicles but not used for parking, turning or storing of any plant or machinery. The site compound and materials storage will be outside the allotment area on land owned by [redacted]

Potential Consequences of not carrying out the works this season

The embankment is showing clear signs of instability and is currently attracting greater than standard levels of maintenance. The condition of the slopes is 'Poor' which is the worse condition category it can be in (categories are: Serviceable, Marginal and Poor). Sub surface monitoring is currently showing movements associated with a slip surface.

If access is not agreed to allow the works to be undertaken in the agreed timeframe January 2012 to April 2012 the following are likely to happen.

- Imposition of speed restriction – causing delays to passengers and costs to Network Rail
- Failure of the earthwork – a landslide – which could lead to the tracks not being supported and a derailment.

It is difficult to state exactly when slopes will fail as this is dependant on a number of factors such as maintenance, soil conditions, loadings and rainfall. We do know that deferral will lead to an added risk of a derailment as the slope condition will worsen. NR's Route Geotechnical Engineer suggests that extreme rain (>1 in 50 year event) in that area would cause the slope to fail. A '1 in 50' year event means that on average one would get an event of this size every 50 years. Unfortunately we cannot predict when that event could occur and examples of historic events include: June 2007 (Yorkshire) and July 2007 ('infall) were >1 in 200 year events.

1. Preferred Option – Via the allotments. Access using the in situ track through the allotments is the preferred option. The track is already in place, the access has already been used by NR under licence in February 2011 / March 2011 for vegetation clearance and the allotment holders will still have access to their allotments. This route will not disrupt anyone's residence or living arrangements and it will not disrupt anyone's business.



Figure 1: Option 1

2. Access along the edge of the allotments through a wooded area rather than using the allotment track. This option involves going through the woodland area with potential habitat for dormice and the route is also within Great Crested Newts habitat due to proximity to ponds.

NR instructed an ecology report is carried out along each alternative route to assess the environmental impact of these alternative routes. These reports were carried out at NR's expense. The reports show that surveys would need to be carried out to obtain numbers of population. The surveys can only be carried out between April – June for GCNs, and Jan to Nov for Dormice, which would delay the start of the works by one year to September 2012.

Moreover, if the surveys revealed presence of protected species, licences would need to be obtained from Natural England. The ecology report also states that it is highly unlikely that Natural England would issue such licences given that alternative access track routes exist that do not require disturbance of the woodland habitat.

3. Access through the land north of the allotments, owned by [redacted] and then through the woodland (as described above).

The same reasons for not using woodland are as 2. above.

To use [redacted] land has many complications and involves:

- The driveway will have to be built-up and fenced off to segregate [redacted] family from the construction plant on the access road;
- A Gate to be installed at the entrance to enable his cars to come in and out the parking area;
- A further gate to be provided at the back of the driveway to enable deliveries to his house and business;

horses;

- The boundary between his land and the allotments will have to be secure;
- A shed will have to be removed to create a turning point;
- [redacted] runs a business from home looking after other people's horses. He will then have to deal with explaining the disruption to the customers and have disruption to his business;
- [redacted] will only allow overrun if discussed at the time and will not pre agree any overrun for the project, leaving the project without any certainty for completing the works;

This option is therefore not feasible due to the disruption to [redacted], his family and his business. Along with the reinstatement and compensation this would be a more complex and more expensive option making the project far more complicated.



Figure 2: Alternative options investigated: Options 2 and 3

4. Alternative route proposed by the allotment holders in November 2011 consisting of accessing through [redacted] land and cutting across to the allotments. This option is viable from the point of view of the ecology and construction plant access – but there is significant impact to [redacted] as described in Option 3 above.

5. Access via land to the south of the allotments through [redacted] land. This land is owned by an elderly lady who has recently been widowed and will not enter into negotiations with NR regarding access over the land. In addition the route encompasses a tight corner and this would mean the route unusable for the works due to requiring access for plant and machinery. There is also the issue of large construction plant accessing close to residential dwelling, with the disturbance that this would generate to the resident as well as

road surface which would destroy it, and prevent use for at least the next 12 months until fully reinstated.

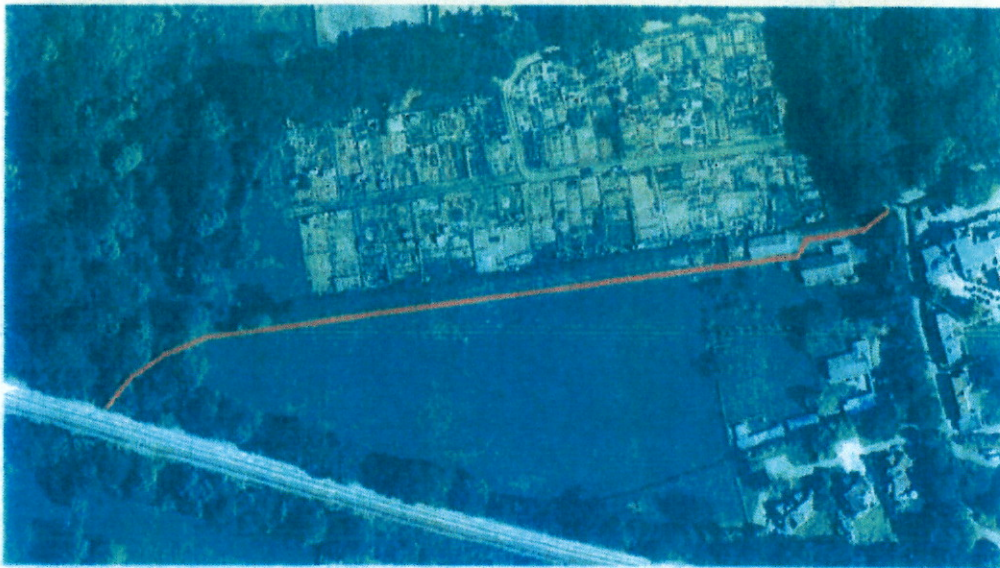


Figure 3: Option 5

6. Access through the south of the allotments across the railway through land. This involves tracking through farm land along the south of the railway, cross the railway and along more farm land, over a natural watercourse and through the edge of the woodland. Due to the presence of ponds in the field the same problems with Great Crested Newts arise (see Option 2). Furthermore, because the route must cross a watercourse, Environment Agency consent is needed, adding more time constraints to the potential start on site date.

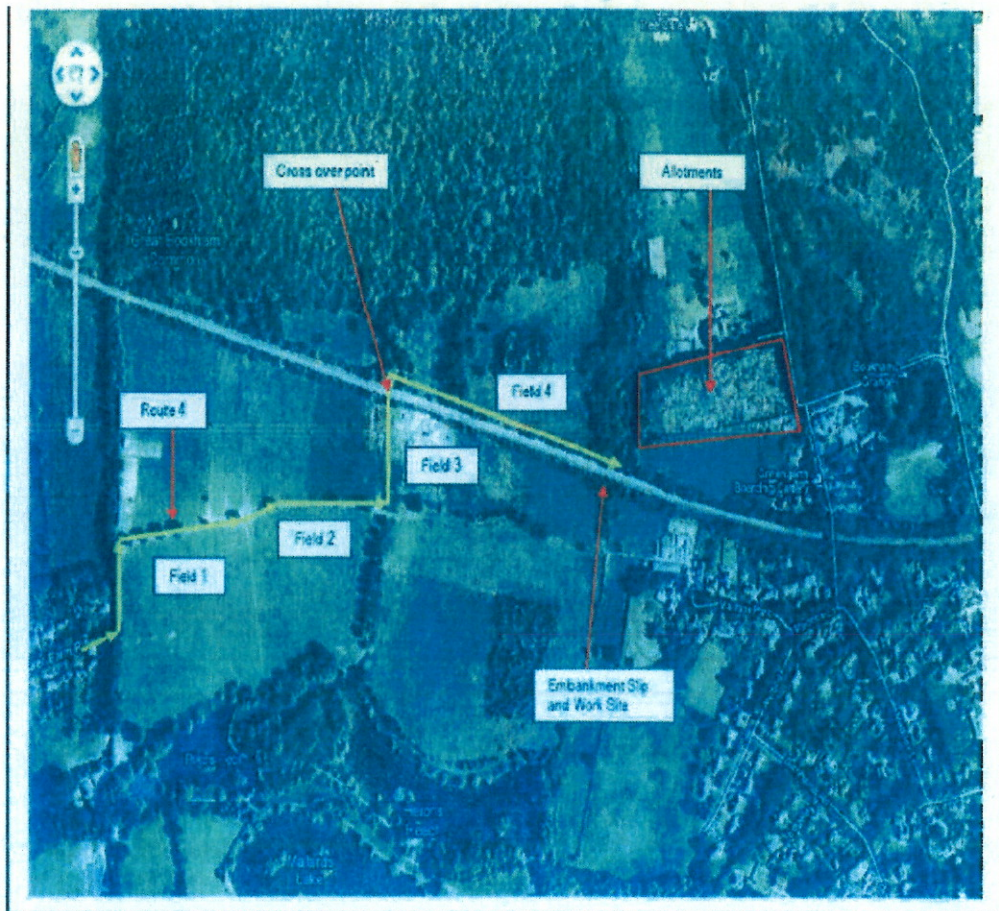
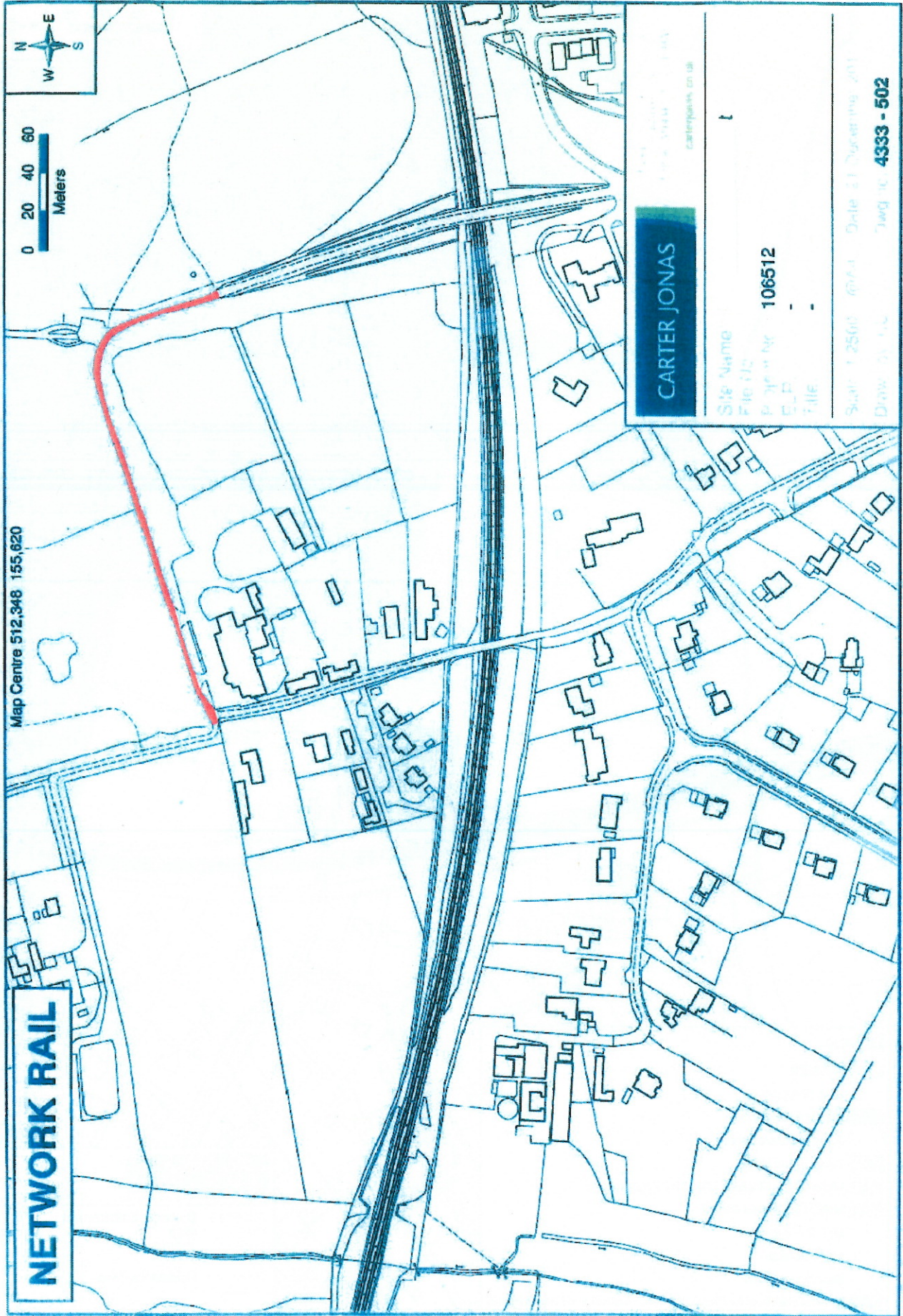


Figure 4: Option 6

7: Access from tation on track. This option is not possible due to:

- current lack of possessions to access the site;
- level crossing runs along a private farm land with notices that NR access will not be authorised;
- safety issues with constructability: the proposed scheme consists of construction of a toe wall and given the geometry of the embankment it would be extremely difficult to construct a toe wall from track level. Equally, transporting the materials from track to toe would be difficult without access from third party land.

After all the alternative options were investigated, it was concluded that option 1 is the best route for access. This causes the least disruption to residents, businesses and the local ecology.



Map Centre 512,348 155,620

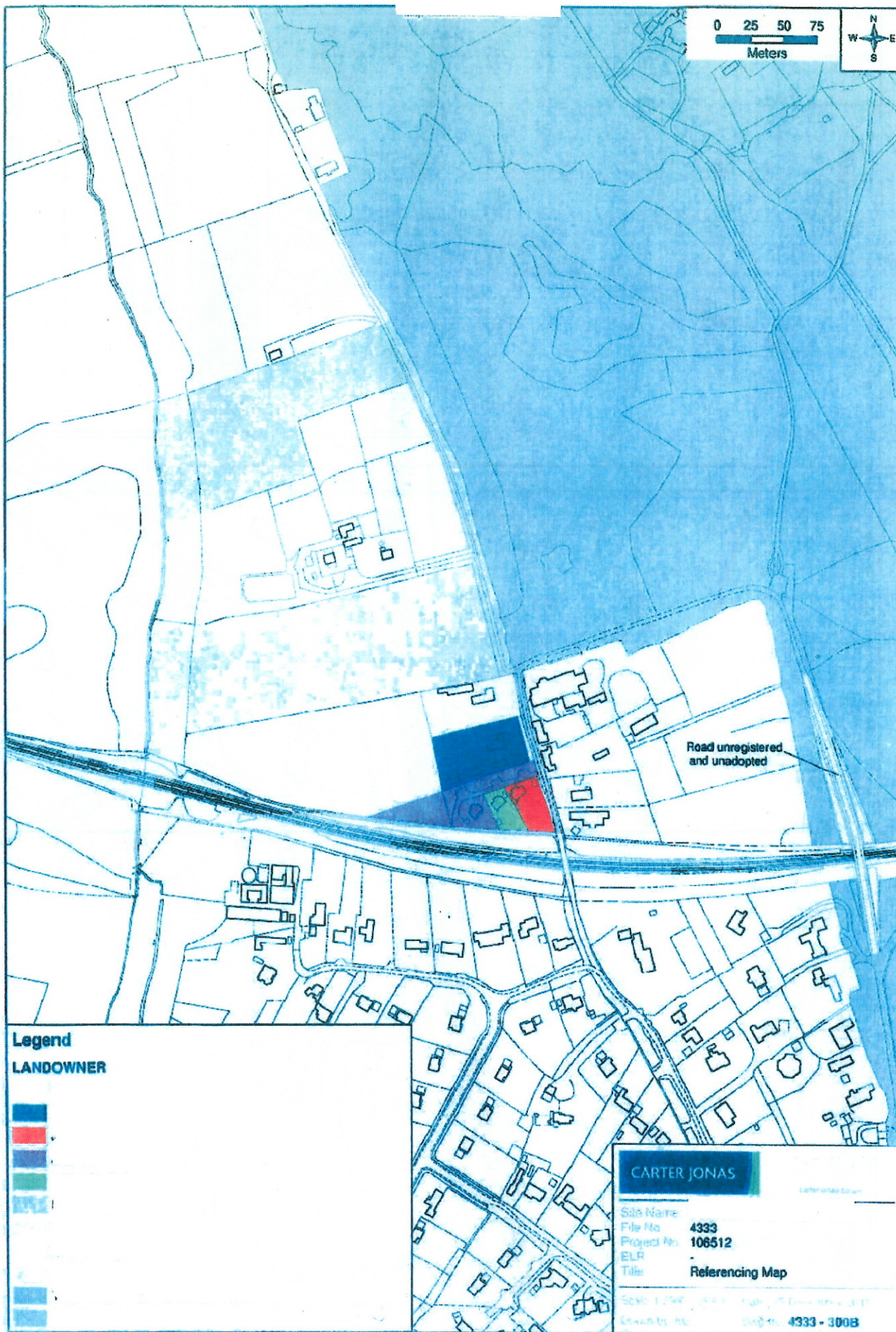
NETWORK RAIL

CARTER JONAS

Site Name
File No
Project No
C.D.
Title

106512

Scale 1:2500
Date 21 September 2011
Drawn by
Job No 4333 - 502



Department for **Transport**

Department for Transport
Great Minster House
33 Horseferry Road
London SW1P 4DR

Direct Line

Network Rail
Floor 3 Suite 1a
Waterloo General Offices
Waterloo Station
London
SE1 8SW

Web Site: www.dft.gov.uk
Your Ref:
Our Ref: RFTP/B/018/003/0025

23 March 2012

EXERCISE OF POWERS UNDER SECTION 14 OF THE RAILWAY REGULATION ACT 1842 BY NETWORK RAIL: EMERGENCY ACCESS AT

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 ("section 14") to take emergency entry on the grounds of public safety, to land adjacent to the railway line between _____ and _____ Junction stations in Surrey, to undertake works to stabilise the railway embankment.
2. The authorisation relates only to the land shown edged red on the attached plan (Annex A), being land owned by _____. The works to be undertaken will involve vehicle access to a site compound and transportation of machinery.
3. Under section 14, the Secretary of State may authorise Network Rail to access land adjoining its railway in order to carry out necessary works to repair accidental damage or to prevent an accident. Such works must cause as little injury to adjoining lands as possible, and must be executed as quickly as possible. Network Rail must at all times ensure that it does not act outside these powers. Network Rail must pay full compensation to the owners and occupiers of such adjoining land for any loss, injury or inconvenience sustained as a result of the works (and if there is a dispute about compensation, such a dispute is to be settled by the Lands Tribunal). Section 14 does not permit Network Rail to permanently take any land.
4. This decision has been made having considered the evidence submitted by Network Rail and the views of the Office of Rail Regulation (ORR) which in summary are as follows:

4.1. Network Rail took emergency access to the land on 20 February 2011 under section 14 to enable works to be undertaken to stabilise the railway embankment which has evidence of a slope failure. The Secretary of State was notified of this (Annex B) on 20 February 2012.

4.2. The ORR has advised that they are content that Network Rail is justified to have accessed the land under section 14 to carry out the emergency works and to continue working on the land as required in order to stabilise the embankment and to ensure the operational safety of the railway and the public.

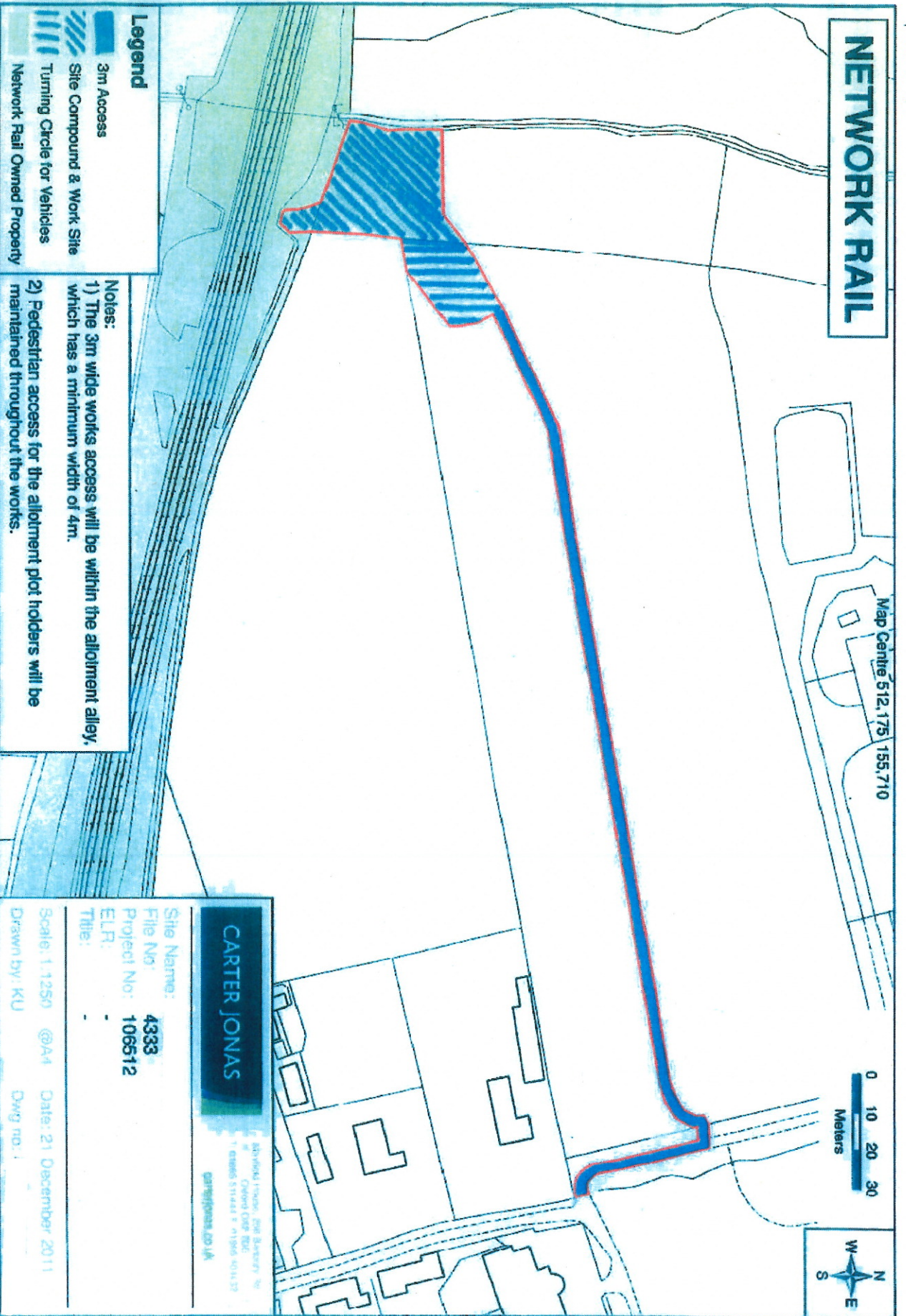
5. The granting of powers under section 14 shall not inhibit Network Rail from endeavouring to agree terms for access to the land through negotiation.

6. Please contact (Tel:) should you wish to discuss this matter further.

I am copying this letter to at

Yours sincerely

NETWORK RAIL



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