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Dear Ms Laing,

Re: Network Rail article in Land Business magazine, Issue 90, Spring 2024

ScotWays notes that the most recent issue of *Land Business* includes an article placed by Network Rail (NR) entitled “A 200-year-old concept that still exists on Scotland's Railway”.

Colleagues at Scottish Land & Estates are aware that ScotWays has been in active dispute with Network Rail since 2021 over its closure of Dalwhinnie's Ben Alder level crossing, a key part of a recorded right of way. NR's publicly stated view of level crossings (LCs) in the above article was thus of great interest to ScotWays. Here we share some initial thoughts on the points raised, largely using the situation at Dalwhinnie to illustrate the difficulties created by NR's approach.

Firstly though, ScotWays does welcome NR's clear statement of its responsibility for the safe management and maintenance of over 500 LCs in Scotland, and that it has shared its perspective as to what the current issues associated with LCs are and what can be done. However, despite the article being published in Scottish Land & Estate's magazine, it does not address NR's land management responsibilities as regards public access; we thus consider this should be of concern to SLE.

Active vs passive level crossings. NR indicates that at passive LCs, it is the user's responsibility to check whether it's safe to cross, and emphasises that “Level crossings can be on rural footpaths where the responsibility is on the user to stop, look and listen for approaching trains”. This situation existed at Dalwhinnie for generations, and as confirmed in the article it is the LC user's responsibility, yet NR still unilaterally removed public access in 2021 – a wholesale closure which does not fit with the article's stated intent to design, improve, operate and maintain LCs in a collaborative way which improves safety for everyone and reduces risks.

Risk assessments. NR carries out regular risk assessments at each of its LCs, but the article states that the result of these is prioritising “closing level crossings that present the biggest dangers to maximise risk reduction”. To our knowledge, NR has not produced any statistics to show that Dalwhinnie's LC was one that fell into the “biggest danger” category. Instead, the reason appears to be that NR is also looking “to identify lower risk crossings as part of our programme of level crossing management with a view to closure where practical”, i.e. its objective is to close LCs where it can, and risk is not the key factor. Dalwhinnie's experience is that its LC closure was both poorly communicated and imposed upon the community, including adjacent land owning interests. Furthermore, the closure itself was badly managed in that it was, and still is, inadequately signed.

Misuse of level crossings. LC misuse is clearly a concern, but it is not clear from the statistics cited in the article, whether any of those cases actually involved LC misuse or were even away from public roads. It is relevant to note that an FOI by our campaign partners Ramblers Scotland demonstrated that there were no accidental pedestrian or cyclist fatalities on private LCs in Scotland between 2017 and 2022. There will always be people who behave foolishly, but why close LCs to pedestrians when there is no evidence that they pose substantial risk to the operation of railway lines? As a society, we don't close roads for such reasons, yet the scale of risk to the public is far greater. At Dalwhinnie, the closure of the Ben Alder crossing has disrupted well-used public access routes and reportedly had economic impacts upon the community

Improving safety. NR's article claims technology solutions, safety campaigns and educational resources as key elements of its work to improve user safety. However, none of these options were used at Dalwhinnie. Again, the Ben Alder LC was closed by NR with relatively little notice and without consulting the local community, The Highland Council or Cairngorms National Park Authority.


Eradicating the risk. NR confirms its view that "Closing level crossings is the only way to fully eradicate the risk", but goes on to acknowledge that "closing our level crossings isn't always a realistic option for the communities they serve". It is stated that over the past 15 years, NR has spent millions to improve safety at hundreds of crossings, including the installation of "new barriers and warning systems, new signage and educating communities about safe use". It seems relevant to note however that the first safety measure listed by NR is "closures", suggesting that this is its preferred course of action. None of the other listed measures were attempted at Dalwhinnie prior to its LC closure. And this despite numerous examples of signage and warning systems at pedestrian level crossings across the UK, including on the East Coast main line, where trains are more frequent and travel much faster than any on the Inverness to Perth line. In the three years since the closure of the Ben Alder LC, NR has provided no compelling reasons to the Dalwhinnie community and general public as to why its LC closure was necessary.

NR's article ends with its statement, "In everything we do, we aim to work collaboratively and sensitively with neighbouring communities". This has emphatically not been the experience of Dalwhinnie residents.

With over 400 level crossings having been closed across the UK in the past 15 years, NR appears to be a national organisation with an institutional disregard for public access, in denial that it has any responsibilities in this regard. There is an immense irony inherent in the way NR manages its community-connecting network by breaking established links to previously accessible local areas, to the detriment of its adjacent communities.

The legalities regarding the closure of level crossings require clarification, as called for by the Joint Law Commission's report in 2013. It is ScotWays' view that such clarity can only be achieved by legal and political action. Until such a time as a successful national resolution is achieved for this impasse, ScotWays suggests that NR needs to actually use some of the concepts its LC article flagged up – consideration, communication, consultation and collaboration. In our view, then and only then, will Network Rail be able to claim that it is a responsible land manager and neighbour.

Yours sincerely,



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Chair, ScotWays

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