

TRANSPORT AND WORKS ACT 1992

**TRANSPORT AND WORKS (INQUIRIES
PROCEDURE) RULES 2004**

**THE NETWORK RAIL
(ESSEX AND OTHERS
LEVEL CROSSING REDUCTION)
ORDER**

ELIANE ALGAARD

**REBUTTAL OF
PROOF OF EVIDENCE**

-OF-

PAUL WILKINSON

Document Reference	NR/28/4/1 (Crossings: E51 and E52)
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1. Strategic Case

I have reviewed the Proofs of Evidence of Mr Wilkinson. I have the following comments on the evidence as presented:

- 1.1. In paragraphs 4, 5 and 6 of his Proofs of Evidence for crossings E51 and E52, Mr Wilkinson contends that these particular level crossings should be kept open and upgraded because they are on branch lines with no demonstrable safety issues.
- 1.2. Network Rail's case for closure of the crossings contained within the Order – including E51 and E52 - is strategic. Network Rail has therefore sought to pursue the closures by way of Order under the Transport and Works Act 1992, rather than looking at each crossing individually and isolation, having regard to 3 main objectives:
 - a. Operational efficiency of the Network.
 - b. Safety of both rail users and those interacting with railway by reason of Public and Private rights across the operational railway.
 - c. Efficient use of public funds in accordance with "Managing Public Money".
- 1.3. The decision to pursue the closure of the crossings contained within the Order is not based on any one of those objectives individually, but rather looking at the 3 objectives together in the context of the wider Anglian network. As set out in Sections 4 and 5 of Mark Brunnen's Proof of Evidence (NR 27-1), this approach is consistent with Government, ORR and Network Rail policy.
- 1.4. In the case of E51 and E52 although the level crossings are on branch lines with a lower line speed than the mainline, there is still a safety risk to users. I would also note that closure of level crossings on branch lines is expressly anticipated in phase 2 of the Anglia Route Strategy (see section 2.1.2 of NR18).
- 1.5. In paragraphs 18 to 20 of his Proofs of Evidence Mr Wilkinson asserts that no infrastructure investment has been identified in the Anglia Route Study (NR24) for enhancements associated with the branch lines in question.
- 1.6. Network Rail acknowledges that there is no currently planned enhancement scheme affecting the Sudbury / Marks Tey branch line, but, as I set out in section 2.5 of my Proof of Evidence (NR 28-1), level crossings act as a constraint to any future enhancement scheme and lower the resilience of the railway line. Further, removal of these crossings from the network would address the other issues presented by level crossings on the network discussed at sections 2.2 to 2.4 of my Proof of Evidence.

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2. Transfer of Risk

- 2.1. In paragraph 5 and 9 of his Proof of Evidence, Mr Wilkinson asserts that Network Rail is seeking to transfer risks from the rail network to roads.
- 2.2. Network Rail is responsible for the safe operation of the rail infrastructure of Great Britain. As such, it is our duty to minimise the risk of accidents and incidents on our infrastructure. However, it is incorrect to suggest that Network Rail wilfully transfers risk from our infrastructure onto other areas of society.
- 2.3. The diversion of pedestrians onto routes adjacent to the road network associated with the closure of level crossings E51 and E52, proposed by this Order, has been subject to Road Safety Audit. The purpose of these assessments is to identify any areas presenting significant risks or concerns, and to make adjustments where possible. In some instances, where risks have been identified, we have chosen not to progress with the diversionary route, instead seeking an alternative solution; in others, we have removed the level crossing from the Order entirely where the risk cannot be mitigated.

3. Network Rail Policy

- 3.1. Network Rail's level crossing safety strategy (NR17: Transforming Level Crossings, 2015-2040) outlines our long-term strategy to improve level crossing safety in Great Britain.
- 3.2. In paragraph 7 of Mr Wilkinson's Proofs he contends that Network Rail is failing to follow its own strategies and vision for passive level crossings by proposing this Order.
- 3.3. Network Rail's level crossing safety strategy is clear: eradicating the need to traverse the railway at grade will always be preferable to any other form of level crossing risk mitigation. Doing so is not only the most effective way of reducing risk at level crossings, but also the only way to eliminate the risk completely. This is consistent with the general principles of prevention (Management of Health and Safety at Work regulations 1999 Schedule 1) in European and UK law, as explained in paragraphs 5.6 and 7.9 of my Proof of Evidence.

Section 1 ("Executive summary") of the Level Crossing Safety Strategy "Transforming Level Crossings, 2015-2040" (NR17) notes (page 1):

"The strategy provides the details of the work Network Rail will undertake to improve level crossing safety for the benefit of crossing users, train crew and rail passengers alike.

Key elements of the Level Crossing Safety Strategy include:

- *Continued focus on targeted level crossing closures"*

Section 2 ("Background") states (page 3):

"Closing level crossings will always be the most preferable and best solution to manage safety. However, it is not possible to close all level crossings on the network. A broad range of interventions and initiatives are needed to address long-term issues at crossings which remain open. The scale of work involved is significant and will take several control periods to complete."

Section 3 ("Our vision, objectives and approach") includes the following (page 7):

"Implementation of the Level Crossing Safety Strategy will deliver the following milestones:

We will work with local authorities, government and communities to sensitively close level crossings where there is an alternative and practicable diversionary route available"

Section 5 ("Passive level crossings") notes (page 11):

"Closure via bridging, underpass or diversion is the only viable option in managing risk holistically. Closures have been central to the CP4 and CP5 Level Crossing Risk Reduction Programmes and have significantly contributed to reducing risk and improving safety across the network. Closures will continue in CP6 and beyond as funded business-as-usual activity."

- 3.4. Mr Wilkinson also appears to suggest that these crossing could, instead, be made active or otherwise improved. Daniel Fisk sets out at paragraphs 45.15 and 46.15 of his Proof of Evidence (NR31-1) the options which had been identified in respect of E51 and E52 following the most recent risk assessment carried out by the responsible Level Crossing Manager. Neither the installation of an MSL overlay system (which would 'upgrade' the crossings from 'passive' to 'active') nor other enhancements or improvements to the crossings returned a CBA value which was supportive of those measures being pursued. I discuss CBA values in the Addendum to my Proof of Evidence, and would note that in paragraph 2 of the Addendum, "0.05 to 0.99" should instead read "0.5 to 0.99".
- 3.5. The proposals for E51 and E52 are therefore entirely consistent with the approach outlined within Network Rail's Level Crossing Safety Strategy.