

## **OBJ/148/027 Rebuttal**

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

PUBLIC INQUIRY, 18 OCTOBER 2017

DEPARTMENT FOR TRANSPORT REFERENCE: TWA/17/APP/05

REBUTTAL PROOF BY **MR PAUL EVANS** OF 64 FEERING HILL, FEERING, COLCHESTER, ESSEX, CO5 9NL

### **INTRODUCTION**

1. The Ramblers has prepared this rebuttal to address some points of dispute with the proofs of evidence which have been submitted on behalf of Network Rail (NR).
2. The Ramblers is an organisation that works through volunteers. Due to the limited time to assess NR's proofs of evidence, this rebuttal only addresses a few points of dispute and we have not sought to provide comment on every paragraph of the evidence or appendices or other information provided by NR. Any failure to comment should not be taken as meaning that we agree with the views expressed.

### **E37 Essex Way**

*This rebuttal references the following NR proofs of evidence of NR30 (Andrew Kenning), NR32 (Susan Tilbrook of Mott MacDonald), and NR31 (Daniel Fisk).*

1. Proof NR31 by Daniel Fisk for E36 Cranes No.2 states and shows that the sightlines at this crossing are sufficient in all directions (paragraphs 36.8 - 36.14) and states that there has been no reported misuse at this crossing (paragraph 36.16).

2. Susan Tilbrook of Mott MacDonald in Proof NR32 in paragraph 2.30.2 states that:

*2.30.2 The accessibility of the Essex Way crossing is limited by the approaches through farmland which are uneven and unpaved, reducing the ability of wheelchair users and people with limited mobility from safely accessing the crossing. The steep incline to reach the track would also effectively exclude such users as the grassy and potentially muddy hill would act as a major barrier. Users are also required to negotiate a stile to access the crossing*

3. The Railway Clauses Consolidation Act 1845 Section 61 required the railway company to:

*- - erect and maintain at all times good sufficient gates / (bridleway) / and if the same shall be a footway, good and sufficient gates or stiles each side of the railway -*

It has therefore been the decision of Network Rail and/or its predecessors to have stiles at each side of the crossing. Network Rail could at any time have installed more EA compliant gates / kissing gates. Essex Highways Authority seek to make any new PRow diversion more EA compliant. The Ramblers see no reason why Network Rail should not also follow such a policy.

4. Footpaths in the countryside are often across farmland and grassland. Country footpaths are not expected to be paved. To describe the sloping meadow to the west of the crossing with its views over the Brain valley as a "steep incline" and a "potentially muddy hill" and a "major barrier" seems excessive - see the photograph in the Ramblers Objection OBJ/148/027. It is noted that no LIDAR (Light Detection and Ranging) data is provided to support the "steep" assertion.

#### *Flood risks associated with Network Rail's proposed alternative route*

5. Andrew Kenning in Proof NR 30 paragraph 35.4 describes the proposed route as:

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*35.4 For users wishing to travel in a south westerly direction from Cressing Temple (at the B1018) they would utilise a new unsurfaced footpath running in field boundary in a broadly southerly direction to an underbridge. Once they had passed under the railway, users would turn right heading west on an unsurfaced cross field path (subject to periodic cultivation). Once across the field the user would pass through a small wood before using field edge paths to reconnect the original footpath.*

No mention is made of the proximity of Network Rail's proposed route to watercourses, ditches and the river Brain.

6. Susan Tilbrook of Mott MacDonald in Proof NR32 in paragraph 2.30.8 states that:

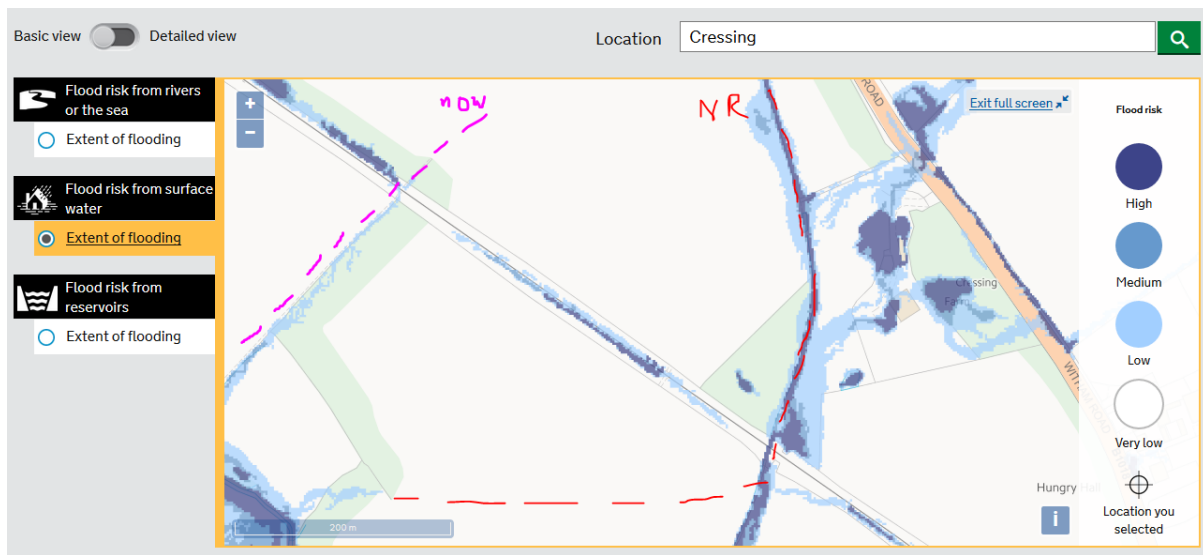
*The Environment Agency flood map shows the majority of the proposed route including the underpass to be in a flood zone 1 which is described as a low risk of flooding. The proposed section of the footpath adjacent to the River Brain has to connect into footpath 13 which mirrors the existing footpaths location that lies within a flood zone 2 and 3. It is not considered that the proposed footpath is more prone to flooding than the existing footpaths provided by Essex County Council.*

7. The Ramblers rebut the assertion that the underpass and the majority of the proposed route is in flood zone 1 - low risk of flooding.
8. As can be clearly seen from the enlarged Environment Agency "Flood Risk from Surface Water" map below, the underpass (P187-188 on sheet 28 in NR3) is, in fact, in an area shaded dark blue and so it is at high risk of surface water flooding as assessed by the Environment Agency. This is notwithstanding that the Environment Agency maps do show a very low /zero flood risk from rivers or the sea - the underpass is some distance from the river Brain and a long way from the sea.

9. The map extract below, also shows that the existing at-grade crossing E37 Essex Way on this branch line has a low risk of surface water flooding.
10. The ditch / watercourse to the north-east and north of the underpass is also shaded dark blue and so is at high risk of surface water flooding. The proposed route shown on NR26 design freeze drawing MMD- 367516-E37-GEN -005 and as P188-P189-P184 on sheet 28 in NR3, is also to the north-east and north of the underpass.
11. Susan Tilbrook of Mott MacDonald in Proof NR32 in paragraph 2.30.7 makes no mention of the ditch / watercourse in the description of this section of the proposed diversion route:

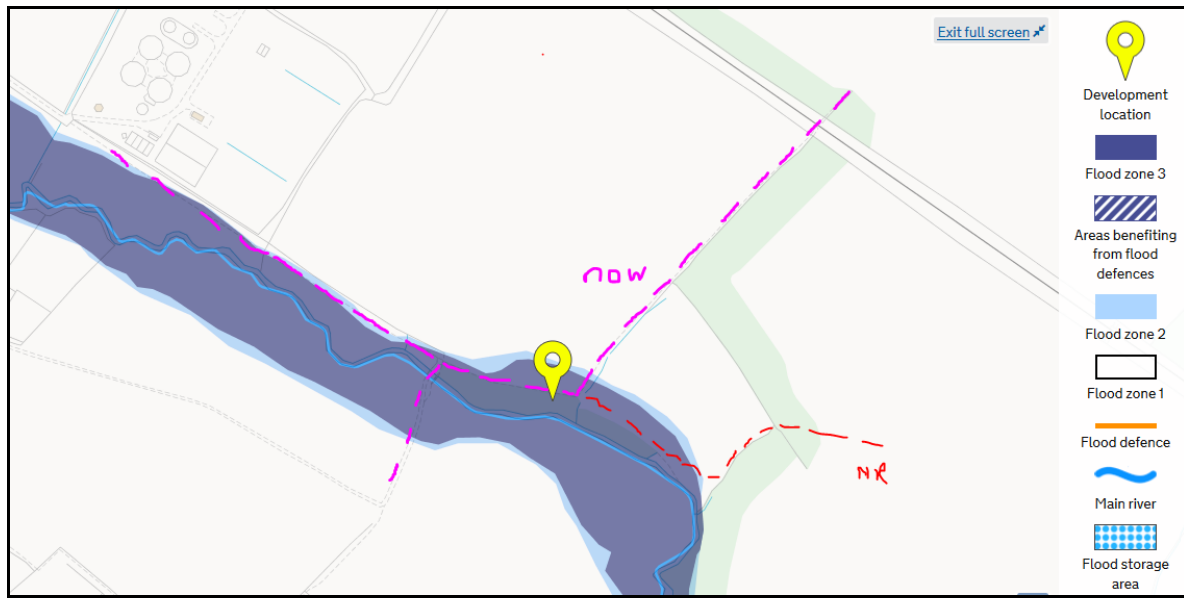
*... crossing the railway via an existing underpass to the southwest of Essex Way level crossing. Users continue north via a proposed footpath within field margins to connect to existing footpath EX/74/37*
12. For users wishing to travel in a south westerly direction from Cressing Temple (at the B1018) they would utilise a new unsurfaced footpath running in field boundary in a broadly southerly direction to an underbridge. Once they had passed under the railway, users would turn right heading west on an unsurfaced cross field path (subject to periodic cultivation). Once across the field the user would pass through a small wood before using field edge paths to reconnect the original footpath.
13. The ditch / watercourse is not shown on the Network Rail drawings so the proximity is not clear. As the proposed route is on private land it has not been possible to walk it.

## Environment Agency surface water flood risk map



14. As can be seen from the enlarged Environment Agency "Flood Risk for planning" map below of the section along the river Brain, the west / north-west section of footpath 13 along the River Brain is indeed in and on the edge of the dark blue flood zone 3 area. However the current field edge section of footpath 13 between the crossing E57 and the river, is not in a flood zone.
15. Susan Tilbrook of Mott MacDonald in Proof NR32 in paragraph 2.30.7 makes no mention of the flood risk on the initial section of the proposed diversion route on the west side of the railway:  
*2.30.7 On the west side of the railway, users of footpath EX/120/13 will be diverted east along a proposed 2m wide unsurfaced footpath through a small area of woodland....*
16. However, Network Rail's proposed route P185-P179A on sheet 28 in NR3 would increase the length of path alongside the river Brain and this would be all in the dark blue flood zone 3. See also Ramblers objection OBJ/148/027.

## Environment Agency flood risk for planning map and the river Brain



17. Susan Tilbrook of Mott MacDonald in Proof NR32 in paragraph 2.30.8 states that:  
*The level crossing route forms part of long distance PROWs to the south and east which are over 3500m in length.*
18. As noted in the Ramblers' objection OBJ/148/027, the route is on a named promoted path - the John Ray Walk - which is however a 9 mile linear walk, considerably more than the 3.5km (3500m) quoted in paragraph 2.30.8. People may choose to walk the whole of the John Ray walk or they may only be using the crossing and the footpaths to access the Crossing Temple complex to the east or they may be making any other use of the PROW network.
19. No mention is made in the Network Rail documentation, as to what the height difference is between the underpass at P187 on sheet 28 in NR3 and the large arable field to the west which the proposed route would cross. No LIDAR data is provided.

20. Nor is any mention made in the Network Rail documentation as to how the ditch / watercourse will be crossed in order to reach the arable field. See also Ramblers' objection OBJ/148/027.

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