

**APPLICATION FOR THE PROPOSED NETWORK RAIL
(SUFFOLK LEVEL CROSSING REDUCTION) ORDER**

SUFFOLK COUNTY COUNCIL

REBUTTAL:

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INTRODUCTION AND BACKGROUND

1. I am responsible for co-ordinating SCC's response to Network Rail Infrastructure Limited's (NRIL) draft Transport and Works Act Order, the proposed Network Rail (Suffolk Level Crossing Reduction) Order (the 'Order'), since it was first tabled with SCC officers in 2015.
2. I have prepared this rebuttal to address some points of dispute or clarification within the Proofs of Evidence (PoE) which have been submitted on behalf of NRIL. Failure to comment on all potentially disputed elements of the applicant's evidence should not be taken as meaning the Council is in agreement.
3. I have referred to the applicant's evidence by its witnesses' references and points of rebuttal are paragraph referenced.
4. As stated in my Proof I acknowledge I am not a planning or policy specialist and I re-iterate that here.

Proof of Evidence of Mark Brunnen, Route Asset Manager (Level Crossings) – NR 27/1

5. At paragraphs 5.1 to 5.4 (pages 13 - 14) Mr Brunnen quotes from the National Policy Statement for National Networks. The Council wishes to draw the Inspector's attention to the relevant section on PRow (paragraph 5.184):

'Public rights of way, National Trails, and other rights of access to land (e.g. open access land) are important recreational facilities for walkers, cyclists and equestrians. Applicants are expected to take appropriate mitigation measures to address adverse effects on coastal access, National Trails, other public rights of way and open access land and, where appropriate, to consider what opportunities there may be to improve access. In considering revisions to an existing right of way consideration needs to be given to the use, character, attractiveness and convenience of the right of way. The Secretary of State should consider whether the mitigation measures put forward by an applicant are acceptable and whether requirements in respect of these measures might be attached to any grant of development consent.'

6. At paragraph 7.8 (page 26) Mr Brunnen states the number of near misses with non-vehicular users (by period) over the last 3 years shows a gradually worsening trend. The Council makes the point that this may also reflect better reporting of near misses.

7. At paragraph 8.24 (page 33) of his Proof, Mr Brunnen clarifies that the All Level Crossing Risk Model (ALCRM) scoring for level crossings was not used to '*select or prioritise crossings for inclusion in this Order*'. The Council therefore questions why 6 pages have been dedicated to explaining how the ALCRM works and how scores are calculated, if it was not used at all in inputting into the decision-making process.
8. At paragraph 9.19 (page 37) Mr Brunnen notes a large proportion of train strikes are attributed to 'fails to stop/look/listen', "*suggesting that no other cause could be found other than a failure of the user to take reasonable care*". The Council considers some of these strikes are likely to be suicides and seeks clarification as to whether the figures include these types of incident, and if, or how, NRIL assesses out this non-safety related issue?

Proof of Evidence of John Prest, Route Level Crossing Manager (Anglia) – NR 31/1

9. Mr Prest makes repeated references to the costs of diverting each level crossing, and this is stated as being £50,000. He references the Cost Benefit Analysis (CBA) scores as evidence to support the safety benefit for the level crossing being diverted. The Council seeks clarification as to how this cost has been calculated.

Proof of Elaine Algaard, Director Route Safety and Asset Management – NR 28/1

10. At paragraph 2.2.4 (page 5) a cost saving of £4,777,920 is quoted. Unless they are elsewhere in the documentation, the county council would welcome further detail on how the savings have been calculated.
11. At paragraph 2.4.3 (page 8) Ms Algaard quotes the cost of temporarily closing a PROW as being £1000 per closure. The Council charges £770 for this service.
12. Paragraph 2.4.16 (page 10). The county council rebuts this evidence relating to crossing S23 (Higham) as this is not subject to a valid closure order.
13. Paragraphs 2.6.12 to 2.6.15 (page 14). The county council rebuts this interpretation of the NPPF when applied to the closure of level crossings. In particular, two sections of the NPPF are considered wholly relevant:-

- **Section 4 Promoting sustainable transport Para 35** – refers to priority given to pedestrian and cycle movements, creating safe and secure routes to minimise conflicts between traffic and cyclists or pedestrians and to consider the needs of people with disabilities by all modes of transport. The county council considers some diverted routes do not minimise conflict.
- **Section 8 Promoting healthy communities Para 69** – Planning policies and decisions, in turn, should aim to achieve places which promote...safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.
Para 75 – Planning policies should protect and enhance public rights of way and local authorities should seek opportunities to provide better facilities for users, for example by adding links to the rights of way network. Again, the county council considers some of proposals contained in the Order neither promote safe access nor enhance public rights of way, as convenient routes giving access to services and the natural environment are being lost.

14. At paragraph 2.6.16 (page 15) Ms Algaard states that *'the proposals in the Order to close level crossings are in line with Suffolk County Council's relevant plans, strategies and policies'* and goes on to say that the Order proposals align with the Suffolk Local Transport Plan 2011 – 2013 (LTP). Notwithstanding that I find this comment an over generalisation, at paragraph 10 (page 4) of my Proof I acknowledge that the Council supports better rail services, as set out in its Suffolk Rail Prospectus, but believes *'the right balance must be struck between safety, efficiency, and highway accessibility.'* I further note the framework period of the LTP should be stated as 2011 – 2031.
15. At paragraph 2.6.17 (page 15) Ms Algaard states that Objectives A and C contained within the Rights of Way Improvement Plan 2006 – 2016 (ROWIP) *'align closely with the strategic safety case behind the Order'*. Again, I find this statement rather generalised. Objective A aims to *'Provide a better signed, maintained and accessible network'*. I can only assume that NRIL consider that the Order proposals will have a positive impact on the accessibility of the resultant network, by for instance, diverting users away from a gated level crossing or one with stiles. The Council would make the general point that gates and stiles on level crossings have normally been erected by the applicant. Ms Algaard makes further reference to improved accessibility at paragraph 2.6.11 (page 14). The Council considers several of the Order proposals reduce accessibility by lengthening journeys and exposing pedestrians to walking on rural roads. Furthermore, there are instances where the applicant is intending to

introduce steps or other path furniture as part of the works. The Council does not consider this improves accessibility.

16. The county council does not consider the order is consistent with the ROWIP. Objective C.2 – ‘Improve safety of road and rail crossings’ cannot be taken as approval of the objectives of the Order. The reference to improving safety does not necessarily support the *closure* of crossings, but encompasses different means of improving the safety of crossings, such as by ensuring proper maintenance of the crossing and installing further mitigation measures, such as warning lights. The only other substantive reference to railways in the ROWIP is the Trimley scheme, which of course is being delivered.
17. At paragraph 2.6.18 (page 15) Ms Algaard refers to the report produced by the House of Commons Transport Select Committee and the various factors that are recommended to be considered when seeking to close a level crossing. Ms Algaard further states that she considers NRIL have taken these into account. The Council considers that at certain crossings, NRIL have failed to consider, or give adequate weight to, several of these criteria, such as:-
- *The convenience of the public*
 - *The efficiency of the transport network (including the network of public paths)*
 - *‘The need for the crossing and its significance for the local community (including the protection of heritage)’*
18. At paragraph 2.8.3 (page 17) Ms Algaard makes reference to the volume of new paths resulting from the Order as evidence of the health and wellbeing benefits of PROW. The Council already manages an extensive PROW network and is not seeking additional length. Rather it seeks to improve the quality of the network in the way it meets the needs of users. The Council does not agree that the 8 alternative proposals it has objected to are ‘suitable and convenient’ replacements.
19. At paragraph 2.8.5 (page 18) Dr Algaard refers to the protection offered by the provision in the Order but the Council does not consider this to be adequate protection whilst the deemed certification provision is included, as set out in paragraphs 47 - 51 (pages 10 – 11) of my Proof.

20. At paragraph 1.6.2 (page 4) Ms Tilbrook states that during the concept solution stage, the project team visited each level crossing 'where access was available'. The Council seeks further clarification on this point.
21. At paragraph 1.7.2 e. (page 6) it is stated the proposals were assessed against suitability and convenience. The Council seeks confirmation that the alternative routes were walked along their entire lengths, including any site assessment notes and photographic evidence. The Council contends that the suitability and convenience of a route cannot be properly assessed without a detailed inspection of the proposed alternatives.
22. Paragraph 1.11.8 (page 10) – the Council seeks clarification regarding the missing paragraph reference.
23. At paragraph 1.11.9 (page 10) it is stated that the order proposals are unlikely 'to change the choice of mode of transport for users'. The Council does not agree with this statement and would point to, for example, the proposal for S22 (Weatherby) where it is considered some users (such as the elderly) will be less inclined to walk and cycle and are more likely to drive to local services.
24. At paragraph 1.14.9 (page 14) it is stated that '*any planned highway improvements that could affect the proposals have been taken into consideration*'. The Council does not consider this has been the case in respect of the proposal relating to S69 (Bacton).
25. At section 1.16 (page 17) Ms Tilbrook describes the DIA process and confirms a scoping report was undertaken. The Council notes this document has not been made available to interested parties or the Inspector and seeks an explanation as to the reasons for this.
26. At paragraph 2.8.9 (page 40) Ms Tilbrook refers to usage figures in respect of S69 (Bacton). The Council considers usage figures for this crossing are likely to have been higher if the census had been conducted during the football season months, as opposed to during the summer. This also helps to highlight that individual crossings serve different utilitarian and recreational purposes.

27. The Council also notes that no reference is made to the local housing development scheme, which the Council considers has a material impact on NRIL's proposal for this crossing.
28. The Council notes no reference is made to the applicant's Stage 1 RSA recommendation for a new footway along Broad Road, (in order to mitigate against the road safety issue identified), despite Ms Tilbrook confirming at 1.15.15 of her Proof that any RSA issues would be described under this section.

Proof of Evidence of Andrew Kenning, Senior Project Engineer – NR 30/1

29. At paragraph 3.5 (page 5) reference is made to 'desire lines' of users. The Council seeks clarification as to what is meant by this and how these 'lines' have been assessed and evidenced.
30. At paragraph 3.8 (page 6) Mr Kenning advises that the applicant met with the Council in April 2015 to table their level crossing reduction strategy. At 3.8 iv Mr Kenning states that the applicant requested any comments be returned by the end of May and at 3.9 advises that the Council's general comments were not received until September when further meetings were held with the highway authority. The Council seeks evidence to substantiate this comment and in any event makes the further observation that the applicant could equally have contacted the Council if it was in urgent need of this information.
31. At paragraph 4.11 (page 19) reference is made to 'E31 Brickyard Farm'. The Council understands this is a crossing in the Essex Order and has been included in error.
32. At paragraph 14.8 (page 28) Mr Kenning states the Council is objecting to the S69 (Bacton) proposal due to localised flooding issues under the bridge at Pound Hill. The Council's objection is, of course, much wider than that. I also note Mr Kenning indicates the drainage issue relates to the highway and not railway infrastructure. The Council seeks evidence that this is the case. Reference is also made to *'including the footway provision through the underbridge to ensure that the proposed diversionary route is suitable and fit for purpose'*. As set out on page 32 of document NR12, the Council notes the applicant's proposal is to provide 10 metre sections of footway on both approaches to the underbridge and not for any footway construction under the bridge itself. The Council seeks clarification on this point.

33. I believe the statements made in this rebuttal to be true to the best of my knowledge and belief.

Signed 

Dated 30 January 2018