

## **PUBLIC INQUIRY**

### **APPLICATION BY NETWORK RAIL UNDER TRANSPORT AND WORKS ACT 1992**

### **PROPOSED NETWORK RAIL (CAMBRIDGESHIRE LEVEL CROSSING REDUCTION) ORDER 201X**

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#### **OBJ/12-CAMBRIDGESHIRE COUNTY COUNCIL REBUTTAL PROOF OF EVIDENCE**

#### **KAREN CHAMPION RIGHTS OF WAY OFFICER, AREA EAST**

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1. This document is a Rebuttal Proof of Evidence (Rebuttal), which is submitted to the Inquiry, in response to, and with the intention of rebutting, evidence previously submitted to the Inquiry by Network Rail (NR), by Mott MacDonald (MM) and Bruton Knowles (BK) on NR's behalf. Each of the numbered paragraphs which are referenced below features in the respective NR, MM, or BK Proof of Evidence (PoE).

#### **Andrew Kenning**

#### **Paragraph 3.12 ii**

2. Cambridgeshire County Council (CCC) Officers have persistently raised with NR the fact that NR infrastructure is often extremely poor in comparison with the British Standard. This concern is set out at 6.17 and 6.18 of CCC's Statement of Case. It is known that NR like to use difficult stiles deliberately to dissuade the public from using the paths over which they have legal rights. At C04 Meldreth, the old gates have been changed to stiles. There is also quite often no decking on crossings, such as at C23 Adelaide (FP49 Ely) and C24 Cross Keys (FP50 Ely) (see photographs attached as Appendix 1 to this Rebuttal).which delays the process of crossing as the

footfall is less sure and must be done with more care due to shifting ballast and the need to step over the rails.

3. Further, the stiles at the FP49 river bank crossing at Photograph 3 to Appendix 1 is not constructed to British Standard. The fact that the second step is placed above the rail means that it will be well over the 2 foot allowed; there is also no handhold post helping people to remain stable on the top step so the walker will be trying to stabilise themselves by holding on below knee level. This is probably an example of a standard stile kit, designed to meet the British Standard, but wrongly set up. In an age of the Equality Act 2010, and before it the Disability Discrimination Act 1995, it is extraordinary that NR should be able to get away with this.

#### Paragraph 4.8

4. In this paragraph, Andrew Kenning makes reference to NR's proposed use of chain link fencing. CCC's position is that chain link fencing creates a maintenance issue as they are liable to become overrun by vegetation and are difficult to clear. Photographs of examples of the use of chain link fences and the problems that they cause at Teversham Fp4 and Fulbourn bridleway 16 can be found in Appendix 2 to my Rebuttal. In my experience, maintenance of vegetation is dealt with tardily by NR, even after repeated contact.

#### C21 Newmarket Bridge - Paragraph 21.4

5. In this paragraph, Mr Kenning refers to C21 Newmarket Bridge, he states that:

*"Cambridgeshire County Council has been concerned about the potential risk of the new PRow flooding. PRowS are legally required be kept free from obstructions, however, this does not extend to a natural obstruction such as a flood. If the path becomes blocked by a natural obstruction (e.g. during a time of flood) then the user does not have the right to deviate around the natural*

*obstruction and is advised to retrace their steps. The Environment Agency (EA) note that PRowS are classed as 'Water Compatible' and are therefore acceptable within Flood Zone 3b – the functional floodplain."*

6. However, CCC maintains that just because there is no legal obligation for the Public Rights of Way (PRow) to be kept free of natural obstructions, this does not mean the diversion presents a suitable or convenient alternative to the established route, nor that it could be provided to an adoptable standard in its current proposed form. This exemplifies exactly why the proposed diversion does not meet the legal tests. The current route is accessible 24/7, whereas, under the proposed diversion, the path could be inaccessible for several months of the year.

#### C22 Wells Engine - Paragraph 22.4

7. I make the same point in relation to the statement made by Mr Kenning in his paragraph 21.4.

#### **John Prest**

##### Paragraph 3.10 (ii)

8. In this Paragraph, Mr Prest refers to the information which a Level Crossing Manager (LCM) inputs in the All Level Crossing Risk Model (ALCRM):

*"The distance from the decision point\* to the nearest rail and also the distance from the decision point to 2 meters beyond the furthest rail. These measurements are vitally important to calculating the traverse time and thus the required sighting distance. (\*A decision point is the last point of safety, where an individual would stand and make an informed decision whether or not it is safe to cross, the CC03 - Stop Look Listen sign is usually positioned at this point)."*

9. CCC notes that NR have installed stiles at many of their Level Crossings (LCs). The provision of stiles at any LC is a hindrance to the pedestrian's safe and effective speed at crossing the railway as they are climbing from ground level on a structure that is maintained infrequently by its owner and excludes some 50% of the legitimate users of a footpath. Stiles are not just a hindrance to wheelchair users, people with quite minor health issues can find them difficult to use and the distraction of a stile on the way to crossing a live railway, or more importantly, to leave the danger area is not considered in John Prest's analysis of LCs.
10. The addition of confusing signage at crossing points, with a variety of users in mind, adds to this distraction at a point where the clear goal should be in mind: to check the railway is clear and to cross safely.
11. Therefore, CCC maintains that NR's infrastructure is negatively impacting the ALCRM data and the safety of users of LCs.

**Susan Tilbrook**

**Paragraph 1.4**

12. In this paragraph, Susan Tilbrook, of MM, sets out the 5 phases of The Anglia Level Crossing Reduction Strategy (The Strategy). She states that:

*"the application and Mott MacDonald's commission only relates to Phases 1 and 2."*

13. CCC is concerned by the amount of Officer time (Rights of Way (RoW) and others) that has been spent up to this point on the initial 2 phases of NR's strategy through the consultation processes and the Transport and Works Act (TWA) Public Inquiry itself.

14. I am extremely concerned that it has significantly impacted upon my own ability to carry out statutory duties in maintaining PRow during this time. Should other phases be introduced, as is proposed by NR, I will be further compromised in dealing with PRow operational matters and the public may be placed at risk whilst CCC Officers deal with the volume of work relating to NR's proposals.

**Jonathan Smith, (BK)**

**C15 Brickyard Drove – Paragraphs 8.6.2.2, 8.7.2.2 and 8.8.2.2**

15. I am concerned to note the statements made by NR in response to landowner objections regarding cross-field paths, which are reiterated by Mr Smith in these paragraphs. IN my experience, cross-field paths can cause farmers significant difficulty and consequently also difficulty for the users and for the highway authority in managing these assets.
16. Farmers have to take account of additional path regulations and generally do not like the additional task of marking out cross-field paths after each cultivation to ensure they are visible and convenient for users. In a tall crop-maize crop or an oil seed rape crop, this can be particularly awkward and costly as to ensure a path clear of crops a considerable width needs to be kept clear to prevent the remaining tall crop from folding in and obstructing the public's right of passage. Similarly a potato crop, grown on ridges needs to have a flat, walkable area formed on the line of the path, however that line relates to the way in which the field is cultivated. Farmers do also have to be mindful of chemical regulations concerning spraying and any changes in the advice relating to the safe use of chemicals. A cross field route limits the ways in which land can be used and could limit farm diversification, particularly if arable land was converted for other uses.

17. Where a path is added to a farmer's responsibilities against their wishes, this can create a constant source of irritation going forward which manifests itself in the path not being reinstated, requiring the Highway Authority to enforce action against the landowner every year at the taxpayer's expense. This can also engender a difficult relationship, which makes all parties' lives difficult. I am concerned that this is the sort of situation that could arise as a result of this proposal and of others where landowners are objecting to NR's proposals. I would point out that it will not be NR who has to deal with the ongoing liability, but CCC and the landowners.

18. Further, the fact that there may only have been two people using the path in the nine day census does not mean there might not have been a group of walkers the following week. Camilla Rhodes has pointed out CCC's concerns over the traffic census in her Rebuttal to Susan Tilbrook's Proof of Evidence.



Signed

Dated 21/11/17