

## **PUBLIC INQUIRY**

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

### **PROPOSED NETWORK RAIL (CAMBRIDGESHIRE LEVEL CROSSING REDUCTION) ORDER 200X**

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#### **OBJ/12-CAMBRIDGESHIRE COUNTY COUNCIL**

#### **PROOF OF EVIDENCE**

#### **CAMILLA RHODES**

#### **ASSET MANAGER - INFORMATION**

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#### **INTRODUCTION**

1. My name is Camilla Rhodes. I am employed by Cambridgeshire County Council (CCC) as the Asset Manager - Information in the Highway Asset Management service. I have been in my current position since 2013. I have over 14 years' experience in the field of highway asset records management. I was initially employed by CCC as a Definitive Map Officer (2003-2004); then as the Senior Definitive Map Officer (2004-2009); and then as the Definitive Map & Records Team Manager (2009-2013).
2. I am a qualified Chartered Surveyor (in 2002 in General Practice), having trained and practised in the private sector for three years prior to joining CCC. I am a Member of the Royal Institution of Chartered Surveyors. I have a Master of Arts degree in Geography from the University of Cambridge and a Master of Land Economy degree from the University of Aberdeen.
3. As CCC's Asset Manager – Information, I am responsible for the management of CCC's public rights of way (PROW) and highway records in accordance with its statutory requirements under the Wildlife & Countryside Act 1980 and section 36 of the Highways Act 1980 respectively. My role includes the development of strategy and policy of the asset records in support of CCC's overall management of its highway infrastructure assets.

4. I have co-ordinated CCC's response to Network Rail's (NR) draft Transport & Works Act Order (TWAo), which is the subject of this Inquiry, since it was first proposed in 2014. A chronology of events is at Tab 1 of CCC's Bundle.
5. NR's proposed TWAo would close 29 public and private level crossings across Cambridgeshire. These primarily affect PROW, but six public roads and four private rights of way are also affected. CCC currently objects to 15 of the proposals and has holding objections to a further five. CCC's position is summarised in the table at Tab 2 of CCC's Bundle.

## **BACKGROUND**

6. CCC has consistently recognised NR's strategic reasons for the proposed Order, as set out at paragraph 5.1 in its Statement of Case. However, it has pointed out that CCC, as the statutory Highway Authority for Cambridgeshire, has similar duties and responsibilities to NR regarding the safety, accessibility and sustainability of the highway network for all users, local communities, and the local and wider economy. It also has a similar pressing duty to realise best value for its residents, communities and users of the highway network for which it is responsible, in accordance with CCC's objectives as set out in its Business Plan 2017-18.
7. CCC's policy context covering its Business Plan and how PROW and the highway network support this through the Highway Infrastructure Asset Management Plan (HIAMP), Local Transport Plan (LTP) and Rights of Way Improvement Plan (ROWIP) is set out at section 4 of CCC's Statement of Case. It is further covered by the Proof of Evidence of Chris Poultnery. CCC's HIAMP, LTP and ROWIP are all available on CCC's website. Links to these documents are found at Tabs 14-18 of CCC's Bundle and hard copies are available in the Document Library.

## **DEFINITIVE MAP & STATEMENT**

8. CCC's Asset Information Definitive Map Team is responsible for maintaining and keeping the legal record of PROW, known as Definitive Map & Statement (DM&S), up-to-date in accordance with CCC's statutory duty under s53 Wildlife Act 1981; assessing and

processing applications to change the network; maintaining the digital records associated with the DM&S; and co-ordinating CCC's response to planning applications affecting the PROW network. The officers work closely with the Rights of Way Officers amongst other teams to do this.

9. The DM&S provides conclusive evidence as to the status, location and other details of the PROW network of public footpaths, bridleways, restricted byways and byways open to all traffic. CCC also maintains a record of permissive access where agreements have been entered into with CCC.
10. Cambridgeshire has 4,698 PROW, which is 3,228km in length. The table at Tab 23 of CCC's Bundle details the number and length of PROW by status and district. There is a marked contrast between the districts due to their historic geographical nature. Fenland and also areas around Littleport and Ely have a particularly poor network in comparison with many areas of the county. This can be seen on the maps at Tab 27 of CCC's Bundle.
11. Extracts of the Definitive Map for each path affected by the TWAO are in CCC's Bundle of Evidence at Tab 24. A summary table listing each path with its Definitive Statement is at Tab 25.
12. Applications to change the PROW network are processed as set out in CCC's Statement of Case at paragraphs 3.1-3.6, and they are additionally assessed against the policies set out at paragraphs 4.9-4.11.

## **HIGHWAY RECORDS**

13. CCC maintains a List of Streets (LoS) in accordance with section 36 Highways Act 1980 for the county of Cambridgeshire. The list is published on CCC's website and is made available to all five district councils through the National Street Gazetteer (NSG) portal. A copy of the LoS is in CCC's Bundle at Tab 26.
14. CCC also maintains a series of map-based records of the highway (non-PROW) network. This includes sources inherited from previous administrative bodies, highway adoption records and geographical information system (GIS)-based electronic mapping.

15. In order to assist the Inquiry, CCC has provided three large maps showing each crossing location in the context of the wider highway and PROW network. It has also provided a more detailed diversion order-style composite map of the highway extent and PROW network in each location showing the proposed alternative route. These have points identified in letters to enable easy reference to features. They are at Tab 28.
16. A schedule of photographs of each existing and proposed route to which CCC is objecting has also been provided. These are at Tab 22 of CCC's bundle. CCC considers these documents important in order that the Inquiry can be fully aware of each proposal in terms of connectivity, road use and amenity.

### **BOOK OF REFERENCE**

17. CCC has analysed the TWAO Book of Reference and Order Plans to check whether the PROW and highway status and extent details shown are correct in comparison with CCC's legal records. CCC's digital record of PROW was used in 2016 to create CCC's newly Consolidated Definitive Map, and therefore CCC has a high degree of confidence in it. This analysis is at Tabs 31-33 of CCC's Bundle.
18. CCC had requested to see a draft of the TWAO in order that it could assist in checking for errors, bearing in mind that CCC will inherit any legal problems arising from such errors, with associated cost to resolve them. This had been done for the Development Consent Order for the A14 scheme with Highways England. However, despite a number of requests, a copy was only provided a week before the draft Order was deposited, which was too late.
19. There are some significant discrepancies in the data shown on the Order Plans. In particular, it seems that the PROW line used has created an angular effect that does not correspond to CCC's record. Mott MacDonald requested a copy of CCC's GIS in December 2015, and this was provided. It is therefore not clear why the discrepancies have occurred. Given CCC's efforts to try and avoid this scenario, this outcome is disappointing.

## **IMPLICATIONS OF NR'S PROPOSED TWAO**

### **Location of Inquiry**

20. In the run-up to the PIM, CCC raised concerns to the Department for Transport about the location of the public inquiry at Bar Hill. These are set out in my email of 11<sup>th</sup> August 2017 at Tab 29, which also covers CCC's objection to the date initially proposed for the Pre-Inquiry Meeting (PIM) due to the lack of statutory notice (the PIM was subsequently rearranged).

### **Delivery of the TWAO**

#### Commuted Sums

21. CCC has set out its case for commuted sums at 6.10-6.12 of its Statement of Case, and CCC acknowledges that NR has said it is willing to pay commuted sums 'where there is a specific increased maintenance burden on the Highway Authority due to our proposals'. However, the principles and details are yet to be agreed. CCC wishes to agree with NR the principles associated with the payment of commuted sums prior to the conclusion of the Inquiry.

22. These principles are to include: rates for unit quantities of types of infrastructure, durations over which sums should be calculated and the relevant discount rate. CCC has provided NR with some draft principles, for consideration. CCC notes that it will not be possible to agree quantified commuted sums until detailed design is complete and agreed with CCC and joint site visits are undertaken to assess the works required. CCC has requested that this requirement be inserted into article 14 of the TWAO.

#### Maintenance, Certification and Costs

23. As set out in CCC's HIAMP, CCC's PROW are managed on a reactive basis with certain planned works being agreed in advance of each financial year that must be delivered strictly within budget and the allocated timescales. Asset Information similarly works to a programme of cases involving many customers and other known tasks.

24. If this TWAO is granted, NR proposes to implement the works at unknown points over the coming years. The effect of unprogrammed works on budget and staff resource can be very significant, as has been demonstrated over the last year as a result of the current process. Officers have spent hundreds of person hours on NR's project. As this has not been funded, this has diverted time from other work such as strategy development, maintenance and other related work for which CCC has a statutory duty.
25. CCC set out its concerns over the lack of protective provisions in the TWAO at 6.10-6.14 of its Statement of Case. In a letter dated 25<sup>th</sup> October 2017, received on the 27<sup>th</sup> October 2017, NR states that it would work to the Design Manual for Roads and Bridges (DMRB) and that its work would be staggered so as not to over-burden CCC, and that it would seek to engage with CCC on its programme of works. Whilst this is welcomed, CCC's experience of working with NR to date and lack of adequate engagement does not provide reassurance on this matter. CCC remains willing to work with NR on the delivery of its TWAO, if granted, but it reasonably seeks cost recovery of its time with regard to agreement works, monitoring and certification in order to make this possible without detriment to other tasks and being burden to the public purse.
26. CCC seeks assurance through the insertion of an appropriate article in the TWAO requiring NR to pay for its time on an hourly basis according to a schedule of rates. These costs will include those associated with the amendment of the Definitive Map and Statement. To date, NR has indicated that it is not prepared to meet these costs. The County Council will be seeking further dialogue with NR prior to the Inquiry regarding this issue. Should the County Council not be able to reach agreement with NR regarding these costs, the Council might ask the Inspector to rule on the matter.
27. With regard to certification, CCC agrees with the proposal as set out by Garry White of Essex County Council at paragraph 15 in his Proof of Evidence for the Network Rail (Essex and Others Level Crossing Reduction) Order 201x. CCC considers this a reasonable approach to a complex scheme that otherwise lacks sufficient controls for the Highway Authorities and local communities on whom the burdens will lie once NR have completed the project.

## Undeliverability

28. CCC is also concerned that, due to lack of joint site visits on third party land, it has not been possible to fully establish whether or not the proposed alternative routes are actually suitable or convenient for either use by the public or for maintenance. This is exemplified by site visits undertaken by officers as late as September and October 2017 in the company of NR bridge engineers, for example at C14 Eastrea Cross Drove and C15 Brickyard Drove, Whittlesey on the 10<sup>th</sup> October 2017. As a result of these visits practical issues are now apparent that were not clear from a desk exercise, and CCC has now been obliged to object to the proposals.

29. It is CCC's view that this emphasises the need to consider the benefit of not following a process simply because that is what has been done before, but to work together to agree a more effective process and provisions in the TWAO that enable the scheme to be carried out smoothly with effective controls, without the need to resort to expensive and lengthy arbitration.

## **Assessment of NR's TWAO proposals**

### Appropriate Tests and Policies

30. CCC observes that the rationale for the NR's proposals appears to have changed during the preparatory stages of the TWAO. In the early informal stage of the consultation with CCC from September 2015 up to December 2016, the thrust always seemed to be safety and risk-based. However, no specific evidence has ever been provided for the crossings concerned; it is all very generalised. CCC as the highway authority was not presented with the detail that is now provided in NR's Statement of Case, which would have assisted CCC as a partner organisation in its understanding at an earlier stage.

31. It was only at a meeting on the 16<sup>th</sup> August 2017 that NR stated that safety of individual crossings was not the main driver, and it is now clear that the primary driver for the TWAO is to reduce the NR estate and asset liability. In my opinion this has been misleading for the public, who have been under the clear impression that it was safety-based, as

described in the proof of evidence of District Councillor Janet Lockwood. A different public response may have been made had the prime purpose been more clear.

32. There is no evidence in NR's Statement of Case that it has taken into account CCC's ROWIP in its assessment of the proposed closures and alternative routes. Whilst CCC has many concerns about NR's use of the TWA in pursuit of its aims under this Order, CCC is not objecting per se to this. CCC agrees with the principle that crossings can be closed, provided there is an appropriate alternative. The TWA states that a 'suitable' and 'convenient' alternative must be provided where required. CCC asserts that an alternative is required for each of the PROW concerned, but it is clear that in many cases no suitable alternative exists. This is set out more specifically in the proofs for each proposal.
33. Despite NR's assertions, as far as CCC is aware the TWA has not yet been used to close more than one PROW in a single order. Therefore, given the potentially significant and widespread implications for the network and the communities it serves, it is important that time is taken to ensure that a thorough approach is established that will set an appropriate precedent, should the same method be used for further schemes.
34. CCC has drawn attention to the tests under the Highways Act 1980 and the Town & Country Planning Act 1990 which are more commonly used to assess proposed closures and diversions of PROW. 'Suitable and convenient' are very similar tests, and it is CCC's position that the proposals under this TWA must be assessed in a similar manner. This should include the safety of users, and the effect on enjoyment of users in its widest sense.
35. When assessing proposed changes to the PROW network, CCC uses a number of tools to ensure it undertakes a thorough assessment before committing customers' time and money. CCC's guidance is available online and a hard copy is at Tab 19. As well as pre-application consultations being provided by the applicant, officers are required to complete an Authorisation Form. This sets out the key issues for officers to consider in an objective and methodical way through their site visit and an initial assessment of other available information. One of my roles is to critically review these forms to ensure that officers do not miss critical information that could foreseeably cause an order to fail at a later stage. The Asset Information Definitive Map Officer then uses this information to



inform the report that is submitted for decision. The evidence of Peter Gaskin includes completed Authorisation Forms for each of the crossing proposals that he covers.

36. In order to help inform the Authorisation process, officers will assess the proposal against CCC's NMU Adoption Policy criteria. Once the officer has undertaken the statutory consultations, the proposal will be run through the NMU Adoption scoring process again. This score helps inform the officer's decision report. The reason the policy was introduced was to help officers objectively assess the benefit of proposals, against the economic background of financial constraint so that CCC will only take on proposals that have demonstrable public benefit against the various tests.

37. CCC's Formal Response to the draft TWAO made on the 28<sup>th</sup> July 2017, states that few of NR's proposals meet threshold score. I acknowledge that the Policy does not specifically cover a TWAO situation. Nevertheless, it does cover suitability and convenience and relates proposals to CCC's ROWIP. However the fact that CCC is not objecting to nine of the proposals despite these proposals not meeting the threshold demonstrates that CCC has recognised this and is endeavouring to work with NR, despite the challenges.

38. CCC has assessed the proposals to the best of its ability against these tests, taking into account that it has not been able to visit all the sites. The assessments are set out in the proofs of evidence of the Rights of Way Officers Karen Champion and Peter Gaskin, and Asset Information Definitive Map Manager Laurence Smith, together with my proof.

39. CCC has also analysed the additional lengths which would result from the proposals affecting both convenience and suitability (and enjoyment). This table is at Tab 30 of CCC's Bundle.

#### Widths and Ordnance Survey Grid References (OSGR)

40. CCC's reasoning and request for widths and OSGR to be added into the TWAO is set out at 6.24 of CCC's Statement of Case. CCC notes NR's response in its letter of 25 October 2017 that the various existing regulations and Advice do not apply to TWAOs. It is my view firstly, that it is the TWA that is out of step with good practice, and second, that there is legally no reason why this could not be done. This is a good opportunity to improve the

TWA process and bring it into line with established good practice for the benefit of all who may need to rely upon the TWAO in future.

41. With regard to bridleway widths, it is still CCC's view that a four metre width is appropriate for byways that are proposed to be diverted as bridleways and for the creation of new bridleway, in accordance with CCC's policy. This is particularly so given that the two byways concerned measure well over 10 metres, and so there would be a significant loss of amenity to users. The British Horse Society's position has been clarified through Lynda Warth's proof of evidence, which supports CCC's view. CCC's position is notwithstanding CCC's view that the two byways concerned, C11 Furlong Drove and C27 Willow Row Drove, should be diverted as byways, not bridleways.

#### BOATS and UCRs

42. My reference to Schedule 14 at 6.27 - 6.28 of CCC's Statement of Case should read 'Schedule 4'. This legal issue has not been addressed and needs to be resolved.

### **C03 WEST RIVER BRIDGE, LITTLE THETFORD**

43. Public Footpath No. 7 Little Thetford runs along the top of the eastern flood bank of the River Great Ouse. I visited the site with the Rights of Way Officer Karen Champion on the 2<sup>nd</sup> October 2017. Photographs of the existing and proposed route are at Tab 22 of CCC's Bundle.
44. Having repeatedly requested flood event data from NR for 18 months in order to enable officers to assess the likely impact of this proposal, Mott MacDonald advised CCC officers at a meeting on the 16<sup>th</sup> August 2017 that the Environment Agency (EA) had recently advised that there was no data available, but that the diversion route is in a high risk flood zone. The information was provided to CCC in writing on the 3<sup>rd</sup> October 2017 and is at Tab 35 of CCC's Bundle. The Environment Agency in their email to Mott MacDonald at Tab 36 has suggested that warning signs for users in times of flooding. CCC does not have any system in place for warning users of floods.
45. The proposed solution of stone surfacing does not mitigate this problem. Therefore users would be faced with the potential flood hazard when coming upon it, and having to make a decision as to whether or not to enter the water in order to continue upon their way, or to seek an alternative route, or to retrace their steps.
46. As a long term local resident, Councillor Hunt is very familiar with the area and cites in his proof of evidence that flooding occurs regularly in winter. He also points out the long distances of alternative routes that are available, should walkers be familiar with them or have a map to identify them. This is verified by CCC's assessment in its table at that an alternative route could be about 3.5km, which is completely disproportionate.
47. Further, if it becomes known that the path is an uncertain route due to the possibility of flooding, people may stop walking the route and this may impact adversely on their health. This outcome would not be in accordance with CCC's Strategic Outcomes or its ROWIP and is exactly the sort of problem that needs to be avoided.
48. Further, the solution cannot meet the TWA tests of being either suitable or convenient as the proposal currently stands. A feasible solution that can be proven to mitigate the flood

events needs to be provided to the satisfaction of both CCC and the EA before this proposal can be taken forward. Therefore I respectfully submit that the proposal should be refused.

## **C07 NO NAME NO. 20 HARSTON**

49. Photographs of both the existing and proposed routes can be seen at Tab 22. In my opinion, despite significant effort with various options, this proposal does not meet the TWA tests. The issues are summarised in CCC' Statement of Case, and fleshed out in the proofs of evidence. Peter Gaskin sets out in his proof his assessment of this proposal in terms of accessibility, amenity and convenience. David Robinson and the evidence of the Ramblers' Association bear witness to these issues.
50. Jenny Thornton and Councillor Lockwood's proofs describe the difference between the on-road utility cycle and pedestrian route sought by many residents between Harston and Newton and the country experience provided by FP4 Harston. Peter Taylor's Review of Mott MacDonald's Stage 1 Road Safety Assessment ('RSA Review') demonstrates the factual safety concerns with the proposed alternative.
51. I am concerned that the utility issue and lack of transparency surrounding any real safety issues with the existing crossing have clouded the consultation. The current path crosses the railway at a point with clear visibility in both directions, and there are no reported incidents. It is clear that the problems presented by the lack of a utility route on London Road are a real concern to the local community. However, they and other users of the route also value the existing path for the function that it performs, which is not the same as a utility route.
52. Even if the proposal were to go through, it would not achieve the utility route aim, because the evidence is that the only solution that would be acceptable to those who seek it is a tarmac route on the road verge for cyclists and pedestrians. There are other mechanisms through the Highway Authority through which cycle routes can be achieved.
53. If such a utility route were to be put in place, it would not be a suitable or convenient alternative for those who value the existing path for the enjoyment afforded by its quiet amenities. In reality, the proposal amounts to an extinguishment of public rights for these users. It is highly likely that such a diversion would cause many users to cease walking here altogether, which is contrary to CCC ROWIP and public health aims.

54. Therefore, in my view the proposal is neither suitable nor convenient for the purpose currently served by FP4 Harston, and I would respectfully request that it be refused.

## **C08 ELY NORTH JUNCTION**

55. Photographs of both the existing and proposed routes can be seen at Tab 22. Karen Champion sets out CCC's primary assessment of this proposal in terms of user enjoyment, design and maintenance issues, whilst Anna Bailey explains the local planning context in which the path sits and why it is important to local residents.
56. David Robinson explains in his evidence the value of the route to him, but also his concerns for others, should the proposal proceed. Aside from the inadequate width on the proposed diversion route, this has been a difficult proposal to assess in terms of whether or not CCC should seek to retain the section of path A-B-C on CCC's composite diversion plan.
57. CCC received evidence in the consultation phase from users that they valued the informal nature reserve which lies either side of the section A-B. CCC is always wary of retaining cul-de-sacs, because unless they are very well-used, they create a significant maintenance liability with little public benefit and can also be a source of low level crime and antisocial behaviour due to the lack of informal policing from walkers by.
58. The proposed retention of B-C would not allow the intended aim of enabling walkers to reach this area. In addition, David Robinson's evidence now questions whether it would be worthwhile retaining the dead-end even if it went into B-C, because he doubts walkers would use the route if they could not continue on their way.
59. CCC pointed out to NR in the consultation phase the need to decide the extent to which this section should be retained in consultation with local users. Due to the lack of control that CCC has over the TWA process and the nature of the public consultation, this has not been possible. Therefore CCC may make further submission at the Inquiry depending on the evidence heard as to what would be appropriate to show on the Order Plan.

## **C09 SECOND DROVE, ELY and C24 CROSS KEYS**

60. Photographs of both the existing and proposed routes for Public Footpath No. 49 Ely; the proposed link between FP 49 Ely and FP50 Ely; and the BR25 Ely crossing can be seen at Tab 22. There are no photos of the alternative route of FP50 Ely. In CCC's Statement of Case, CCC objects to the route shown for the proposed new link between C23 Adelaide and C24 Cross Keys. CCC now accepts NR's explanation that this is because there is no adequate infrastructure already in place, and therefore the third bridge is necessary.
61. Following recent site visits for this inquiry, CCC has changed its position on this proposal and now objects to the extent of the proposed closure of FP 49 Ely and requests that it be retained up to the crossing with a link north to join BR25 Ely being provided to avoid a dead-end being created. CCC does not object to the closure of the crossing per se, but to the loss of the amenity afforded by the rare elm woodland through which the path passes.
62. As the issue had not been raised during the consultation, officers had not realised its value until recent visits were undertaken. A joint site visit with NR and the ability to undertake a more thorough analysis as CCC normally undertakes for public path orders would have identified the issue early on.
63. CCC's proposal would meet the aims of CCC's ROWIP and the needs of the growing population of Ely in accordance with government planning and public health agendas. Anna Bailey's proof sets out in more detail CCC's reasons for the change of position.



## **C11 FURLONG DROVE, LITTLE DOWNHAM**

64. Public Byway Open to All Traffic No. 33 Little Downham is a wide open, grassy drove over 12 metres wide, with the exception of the railway crossing pinchpoint where there is an unauthorised 1.5m hand gate has been in place for many years. Photographs of both the existing and proposed routes can be seen at Tab 22.
65. CCC has consistently objected to this proposal from the start of the consultations. On the face of it, it may be difficult to see why this route in a remote part of the fens holds value. However, the evidence set out by Karen Champion as the local ROW Officer sets out her concerns and CCC's reasons for objecting to this proposal, Alison Arnold, Anna Bailey, and members of the Trail Riders' Fellowship provides eloquent proof as to why this is so.
66. Clear evidence of regular use is provided, contrary to NR's assertions in the public consultation stages. Mental stress relief, physical fitness, the challenge of technical skill, camaraderie, being away from roads and the sheer joy of being out in the open countryside are all cited.
67. Several members of the TRFs responded to the public consultation, and I find it concerning that their responses appear not to have held any weight in NR's consultation. CCC had raised concerns with NR during the consultation process that we, as the local Highway Authority, were not privy to the consultation responses, and were therefore not aware of all the issues being raised. This process has made it extremely difficult for CCC officers to hold meaningful discussions with NR.
68. It is clear that the proposed alternatives can be neither suitable nor convenient for these users, and I would respectfully request that the proposal is refused.

#### **C14 EASTREA CROSS DROVE, WHITTLESEY**

69. CCC changed its position on this proposal on the 31<sup>st</sup> October 2017 following a site visit by the ROW Officer in the company of NR engineers in early October 2017 which enabled CCC to inspect the proposed new route. I have set out at paragraph 26 the problems that the lack of early joint site visits has created, adversely impacting upon CCC's ability to respond in a fully informed way to the proposals. Karen Champion sets out in more detail her concerns with this route.

70. Given the issues outlined, I would respectfully submit that the proposal should not be approved.

#### **C15 BRICKYARD DROVE, WHITTLESEY**

71. The local Member Councillor Connor, who took over the area in May 2017, is concerned about the interests of the landowners, the Whittlesey Charity. This is a good example of where it would have been of great assistance to have been able to meet on site with the landowner to work through practical options. Councillor Connor is of the view that this meeting still needs to happen in order for progress to be made.

72. Not only would pedestrians be significantly inconvenienced from some directions and have to traverse a long distance along a busy B road, adversely affecting their enjoyment in comparison with the existing well-engineered off-road route, but it is quite likely that it would not be possible to agree works that would satisfy CCC. The proposal therefore could not be delivered. This would represent a waste of public resource.

73. Given the issues outlined, I would respectfully submit that the proposal should not be approved.

## **C20 LEONARDS, SOHAM**

74. Public Footpath No 101 Soham runs from near the village centre out across paddocks, crossing the Bury St Edmunds branch line at a crossing with good infrastructure including new hand gates, and then passing through an arable field onto Mill Drove. From here, users often head south onto South Horse Fen Common and either on to the village of Wicken or they make a circular route back into Soham via Cherry Lane.
75. CCC received strong representation to this proposal from the local Member at the time of the consultation, representing local people, on the basis that this is a well-used path with the majority of users travelling up from the south and making circular routes with the common and popular 'Wicken Walks'. The alternative route is two and a half times as long for these users (rising from 200m to 555m). Councillor Hunt explains the history in his proof.
76. In addition, there are no recorded safety incidents. It is a long, straight stretch of line. The crossing is close enough to the Mill Drove road crossing that footpath users may be able to hear the automated warning sounds from the road crossing when a train is approaching.
77. I inspected the proposed alternative route with the Rights of Way Officer Karen Champion on the 2<sup>nd</sup> October 2017. It was apparent that there were a number of issues with the proposed route that would cause CCC significant maintenance issues. The section between D-E on the diversion order-style plan is low-lying against a deep drain and it runs between tall and thick hedges. Of the total 4.1m between the hedge and the drain, I measured this as being 1.7m of brambles, a 1m gap, then 1.4m of nettles.
78. The drain is adjacent to a large swampy area, and it is likely that it is not being maintained, and will cause drainage issues. At point E is a deep drain and a bridge will be needed that is not on the January Design Freeze plan. By comparison with the existing route, this route would present CCC with repetitive and costly maintenance problems to keep in a passable state.

79. The Ramblers and other witness evidence indicates that the proposal would significantly affect their enjoyment and convenience, as the route is considerably longer for most than the existing route. Whilst the proposed resolution of the obstructed FP 114 Soham would be a benefit from the scheme, it would appear that the path does not have a significant value for the users affected by the proposal for FP101, as they prefer the firmer surface of BOAT 113 or continue down Mill Drove to the common and other PROW. It therefore should not weigh in the overall assessment as to the suitability or convenience of the proposed alternative route for the purpose served by FP101.

80. CCC would therefore respectfully submit that the proposal be refused.

## **C22 WELLS ENGINE, ELY**

81. Public Footpath No 23 Ely runs along the top of the flood bank of the River great Ouse. It is a double-promoted route, the Fen Rivers Way and the Ouse Valley Way. It is also a popular 15 mile walk from Cambridge to Ely. Photographs of both the proposed and existing routes can be seen at Tab 22.
82. I inspected the existing route and as much of the proposed alternative as was physically possible on the 20<sup>th</sup> October 2017. I was surprised by the obviously difficult swampy terrain on the south side of the railway and although I climbed down the bank I then decided it was too hazardous to attempt to go further.
83. Karen Champion in her evidence sets out the clear maintenance and access problems faced by the proposed alternative and why she considers that it is neither suitable nor convenient for users. I would also add that there is an amazing sense of space with wide views across the river and fen landscape. The view towards Ely and its cathedral rising above is particularly attractive, and it is easy to see why this is a popular walk.
84. David Robinson's evidence is that he has used the path often, and does recall the area flooding. Users faced with a flooded route would have lengthy diversions to make to the south, and over a kilometre to the north. As with C03 West River at Little Thetford, walkers would be faced with a difficult decision as to whether or not to attempt making their way through flood water and difficult vegetation on either side, or to retrace their steps. This could put people off from using the route, and could change their discourage them from going walking, as set out in Iain Green's evidence.
85. Therefore, the proposed diversion solution cannot meet the TWA tests of being either suitable or convenient as it currently stands. A feasible solution that can be proven to mitigate the flood events needs to be provided to the satisfaction of both CCC and the EA before this proposal can be taken forward. Therefore I respectfully submit that the proposal should be refused.

## **C25 CLAYWAY, LITTLEPORT**

86. Photographs of both the existing and proposed routes can be seen at Tab 22. As set out in CCC's Statement of Case, the proposed closure of Public Footpath No. 11 Littleport legally amounts to an outright extinguishment, as the alternative route is almost entirely on existing roads. The existing route is 118m, and the proposed route 441m, about three times the length. The majority of this is on-road.
87. It would represent the loss of a valued route which CCC understands is regularly used by health groups. The implications of this are set out in Iain Green's proof of evidence. There are few public rights of way in the area, and so closure would have a considerable diminution of enjoyment for users and a potentially significant impact on healthy activity in a deprived area.
88. A previous attempt to close this path in 2004 in connection with the nearby housing development was unsuccessful, with the Inspector holding that the alternative road route and crossing was less safe than the existing route as it put users into direct conflict with road traffic. It also held that work could be done to make the existing crossing safer. The Inspector's report is at document 37 of CCC's Bundle.
89. Although NR proposes to create additional footway to reduce on-road walking, pedestrians would still have to share vehicular road space over the busy crossing. Further, this would go no way to address the concerns of users over loss of enjoyment currently offered by the existing green off-road route that links directly with the PROW network through Public Footpaths No. 10 and 21 Littleport.
90. There are no recorded incidents for the crossing, and CCC considers this to be a strong case where the existing access could be improved, as access is via a stile which could be changed to a gate allowing quicker exit from the railway, as set out in more detail in Karen Champion's evidence.
91. CCC therefore objects to the proposed extinguishment, and requests that mitigating improvements are made to make the crossing safer. I respectfully submit that the proposal should be refused.

## **C26 POPLAR DROVE & C27 WILLOW ROW DROVE**

92. Photographs of both the existing and proposed routes can be seen at Tab 22. It is helpful to consider these two routes together as part of the wider network, particularly as the proposed solution is intrinsically based upon this. However, the routes do have very different characters. Poplar Drove is recorded on CCC's highway asset records as a public carriageway. There was an exchange of correspondence between NR and CCC over the status between February and July 2016. This is at document 38 in CCC's Bundle.
93. CCC's evidence base is the Highway Handover Map of 1930 inherited from the former Isle of Ely County Council (Documents 39 and 40). This position is corroborated by the Finance Act Map of 1910 which shows the route uncoloured (Document 41). This indicates that it was not taxable land, and it is commonly accepted that a likely reason for this is because it was highway. CCC has always considered the route to be highway and maintained it as such.
94. Poplar Drove has a usable tarmac width of 3m with a metre of verge either side. Beyond this the verges inclines steeply towards the fields. By contrast, Willow Row Drove is a wide green drove approximately 10m wide and in good condition at the time of my site visit with Karen Champion on the 16<sup>th</sup> October 2017. It runs for 0.5km up to the railway crossing and then continues along the byway into the fen landscape.
95. The issues surrounding the proposal is similar to that for C11 Furlong Drove, Byway 33 Little Downham. CCC has endeavoured to work with NR over a solution for rationalising the two crossings to one. However there is no ideal solution. I am aware that the Ramblers object to the proposal on grounds that the alternative route would be a disproportionately large diversion for pedestrians, which it probably is.
96. Further, several off-road motorcyclists make submissions demonstrating clear evidence of regular use of the drove, and the value of it to them in terms of mental stress relief, physical fitness, the challenge of technical skill to be gained, the camaraderie from being out on a ride in a group, the desire to be away from roads and the sheer joy of being out in the open countryside are all cited as well as other important reasons such as the free 'green gym' and rarity of the resource. The importance of minimising the on-road time in

terms of safety, due to nature of off-road bikes is also identified. They clearly demonstrate the significant loss that the closure would represent to them, and that the alternative of using Poplar Drove or the A10 is not a suitable alternative for the purpose for which they use Willow Row Drove.

97. As set out at paragraph 64 above, members of the TRF did make representation to NR, but it does not appear to have been considered in as equal a light as non-motorised users' rights. As motorcyclists have equal rights to use the byway, this seems unfair. CCC has endeavoured to negotiate an alternative solution as set out at 7.29 of CCC's Statement of Case. Whilst reluctant to lose any of the byway, the TRF has indicated that it would be willing to compromise and accept the proposed bridleway as a byway diversion. To date this has not been agreed, although discussions with NR are ongoing.

98. CCC is also conscious of, and appreciates, the effect that the proposal would have on the affected landowners. If it is not possible to agree a byway diversion, then CCC position is that Willow Row Drove crossing and the byway should be retained perhaps with a Traffic Regulation Order restricting motorised vehicles over two wheels.

99. I believe the facts stated in this proof of evidence are true.



Signed .....

Dated            31 October 2017