

PUBLIC INQUIRY

APPLICATION BY NETWORK RAIL UNDER TRANSPORT AND WORKS ACT 1992

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

OBJ/12-CAMBRIDGESHIRE COUNTY COUNCIL SUMMARY PROOF OF EVIDENCE

CAMILLA RHODES

ASSET MANAGER - INFORMATION

INTRODUCTION

1. This document is a Summary Proof of Evidence (PoE) to my main PoE submission to the inquiry. It covers my Introduction, General and various specific legal points.
2. I am employed by Cambridgeshire County Council (CCC) as the Asset Manager-Information. I set out details of my employment, qualifications and responsibilities in my main PoE at the Introduction.
3. 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 of Evidence.
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.

6. Whilst recognising NR's strategic reasons for the proposed Order, 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 requirement to ensure best value for its residents, communities and highway users.

DEFINITIVE MAP AND STATEMENT

7. 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.
8. The DM&S provides conclusive evidence as to the status, location and other details of the PROW network.
9. 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 is particularly poorly served.
10. 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

11. 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.

12. 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.

BOOK OF REFERENCE

13. CCC has analysed the TWAO Book of Reference to check whether the PROW and highway status and extent details shown are correct in comparison with CCC's legal records (Tabs 31-33).
14. 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.
15. There are some significant discrepancies in the data shown on the Order Plans, particularly concerning the alignment of PROW.

IMPLICATIONS OF NR'S PROPOSED TWAO

Commuted Sums

16. CCC wishes to agree with NR the principles associated with the payment of commuted sums prior to the conclusion of the Inquiry. These principles are to include: rates for unit quantities of types of infrastructure, durations over which sums should be calculated at the relevant discount rate.
17. CCC accepts 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

18. 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. 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, with time being diverted from other work.
19. 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 to. 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.

Undeliverability

20. 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. Some visits have recently been able to take place, and as a result, practical issues are now apparent that were not clear from a desktop exercise, and CCC has now been obliged to object to the proposals.
21. It is CCC's view that it is possible to improve the process through engagement so that the process runs to the benefit of all parties, without the need to resort to expensive and lengthy arbitration.

Appropriate Tests and Policies

22. CCC observes that the rationale for the NR's proposals appears to have changed during the preparatory stages of the TWAO from being heavily safety-focussed and risk-based to

asset rationalisation. However, no specific evidence has ever been provided for the crossings concerned; it is all very generalised.

23. NR does not appear to have taken into consideration in their assessment CCC's RoWIP or public health needs. CCC draws attention to the parallels with the tests Highways Act 1980 tests, and asserts that the TWA tests of 'suitability and 'convenience' are very similar. Proposals under this TWAO must therefore be assessed in a similar manner, including the safety of users on the alternative routes, and the effect on enjoyment of users.
24. CCC uses a number of tools to ensure it undertakes a thorough assessment of any proposed change to the network. This includes CCC's NMU Adoption Policy process and its Authorisation process. They help officers objectively assess the benefit of proposals against the economic background of financial constraint so that only those proposal that are legally sound and will have demonstrable public benefit succeed. Many of NR's proposals in this TWAO would be likely to fail these tests due to inadequate preparation or simply the lack of a suitable alternative.

Widths and Ordnance Survey Grid References (OSGR)

25. 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. In my view NR have not properly taken into account CCC's reasoning, and could work with CCC to take steps to improve and align the TWA process with the good practice of other areas of law.
26. 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. The British Horse Society's position has been clarified through Lynda Warth's proof of evidence, which supports CCC's view.

BOATS and UCRs

27. 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.

A handwritten signature in blue ink, appearing to read 'C. P. Rhodes', with a long horizontal flourish underneath.

Signed

Dated 31 October 2017