

TRANSPORT & WORKS ACT 1992
APPLICATION FOR THE PROPOSED
NETWORK RAIL (ESSEX and OTHERS LEVEL CROSSING REDUCTION) ORDER

STATEMENT OF CASE ON BEHALF OF:

James Harry Reay
Department of Transport Reference: TWA/17/APP/05/OBJ/146

1. Introduction

- 1.1** This Statement of Case is submitted by Strutt & Parker LLP (S&P) on behalf of James Harry Reay in connection with their objection made against the proposed Network Rail (Essex and Others Level Crossing Reduction) Order.
- 1.2** An original objection can be found in S&P's email to the Secretary of State for Transport of 11th May 2017, attached as **Appendix I**.
- 1.3** This Statement of Case is submitted in response to a letter dated 25th May 2017 from Angela Foster of the Department of Transport under rule 7(3) of the Transport and Works (Inquiries Procedure) Rules 2004.

2. Background

- 2.1** Mr James Harry Reay is the freehold owners of the land east of the M11 motorway, West of the railway line (Title Number EX810377)
- 2.2** All of the land at 2.1 is identified on the plan at **Appendix II**.
- 2.3** All of the land at 2.1 is occupied and farmed by H J & E Reay of which Mr James Harry Reay is a partner.

3. Impact of Order

- 3.1** The extent of the land to be lost to this scheme is hard to determine from the plans provided. This is partly due to the fact that all but one of the plots containing the new footpath have been labelled temporary use of land yet include a footpath. It is understood that the proposal will involve the extinguishment of existing public access, EX|25|7, albeit this has been closed for some time on the ground.
- 3.2** That the area that we have highlighted in pink on the attached drawing no. (MMD -367516-E06-GEN-005), which can be seen at **Appendix II**, creates a new footpath on our client's land. This new route is also shown between points P089, P090 and P091 on Sheet 14 found in Document NR8 of the Network Rail (Essex and Others Level Crossing Reduction)

Order. We consider that this new footpath in its totality is an entirely unnecessary addition of over approximately 1.5km of public rights of way when there are sufficient alternatives within the existing rights of way network. The proposed addition does not connect any of the users to existing rights of way on the Eastern side of the railway line, it creates a whole new route. The proposed addition to the South East of the crossing joining EX|32|22 and EX|25|15 provides the necessary alternative rights of way to connect those users that would have crossed at E06 to the public rights of way network they would have been accessing to the East of the railway line.

3.3 The area of footpath that we have highlighted in pink (**Appendix II**) proposes to connect EX/25/32 to EX/51/24 creating an entirely new public right of way that has never existed and never been shown to be required. We do not see why this should be acquired over our client's land as it is not in the public interest.

3.4 The guidance provided by the Department of Transport 'A Guide to TWA Procedures' states that "before confirming [compulsory purchase] powers, the Secretary of State will wish to be satisfied that there is a compelling case in the public interest for taking away a person's land or rights in land, and that all the land in question is required for the scheme" (paragraph 1.39 of Part 1). The first phase consultation does not provide a compelling case which is in the public interest.

4 Proposed Alternative

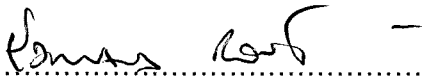
4.1 We believe there are sufficient alternative routes within the existing public rights of way network to ensure the public interest is maintained following the closure of E06 crossing as detailed in 3.2 above.

4.2 The general direction of all of the existing rights of way are west to east, the proposal is considerably large addition to the public rights of way network and is considered highly unnecessary. Footpath EX|51|13 runs the same direction as the proposed connecting the public rights of way network at Elsenham to the north at Ugley. With the closure of EX|25|7 it would be less damaging to my clients and a much simpler solution to further close EX|51|24, EX|25|37, EX|51|31 and EX|25|38 given the closure of the level crossing marked green and crossing E07 – Ugley Lane to the north. To the south the closure of EX|25|32 and EX|51|14 would simplify the proposed diversion. Clearly the proposed addition has never existed and never been shown to be required given the existing network and the proposal is over and above the closure order.

5 Summary

5.1 On behalf of Mr James Harry Reay we submit that the proposed new footpath is entirely unnecessary and ill-conceived by Network Rail. We request that you strike out their proposal as there are sufficient alternative within the existing public rights of way network.

Signed for and on behalf of Mr James Harry Reay:


.....
Edward Rout
4th July 2017

Appendix I: Edward rout – Objection email 11th May 2017

Appendix II: Site Plan

Edward Rout

From: Edward Rout
Sent: 11 May 2017 11:18
To: transportandworksact@dft.gsi.gov.uk
Subject: Network Rail Essex and Others Level Crossing Reduction Order
Attachments: Scanned from a Xerox Multifunction Device.pdf

Dear Sirs

We are instructed by Jim Raey who owns land affected by the proposal for E06 – Elsenham Emergency Hut Level Crossing.

We are instructed to object to the proposed creation of a new footpath in our client's field and we raise objections on the following points:

1. That the area that we have highlighted in pink on the attached drawing no. (MMD -367516-E06-GEN-005) creates a new footpath on our client's land. This new route is also shown between points P089, P090 and P091 on sheet 14. We consider that this new footpath in its totality is an entirely unnecessary addition of over approximately 1.5km of rights of way when there are sufficient alternatives within the existing rights of way network. The proposed addition does not connect any of the users to existing rights of way on the east of the railway line, it creates a whole new route. The proposed addition to the south east of the crossing joining EX|32|22 and EX|25|15 provides the necessary alternative rights of way to connect those users that would have crossed at E06 to the rights of way network they would have been accessing to the east of the railway line.
2. The area of footpath that we have highlighted in pink which appears to be connecting EX|25|32 to EX|51|24 creates an entirely new right of way that has never existed and never been shown to be required. We do not see why this should be acquired over our client's land.
3. The general direction of all of the existing rights of way are west to east, this is considerably large addition to the rights of way network that due to the closure of the level crossing marked green 2 years ago is considered highly unnecessary. Particularly as route EX|51|13 runs the same direction connecting the rights of way network at Elsenham to that of the north at Ugley. With the closure of EX|25|7 it would be less damaging to my clients and a much simpler solution to further close EX|51|24, EX|25|37, EX|51|31 and EX|25|38 given the closure of the level crossing marked green and crossing E07 – Ugley Lane to the north. To the south the closure of EX|25|32 and EX|51|14 would simply the proposed diversion. Clearly the proposed addition has never existed and never been shown to be required given the existing network and the proposal is over and above the closure order.
4. My client is concerned that not only does the additional route provide very little amenity value given its proximity to the M11 but that it will encourage trespass on the railway line which could be more dangerous than the existing pedestrian crossing both to the trespasser and rail users. The order is a level crossing closure plan not a footpath improvement plan.

Our client advises us that they have not been contacted by any of Network Rails representatives to consider my clients views on the proposals, there appears to have been little consultation with any of the affected landowners.

They have no objection to the closure of Level Crossings and fully understand the important safety requirements to do so.

We look forward of hearing the outcome of your consideration of this objection.

Yours faithfully

Edward

Edward Rout MRICS FAAV

RICS Registered Valuer

Partner

Land Management Department

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Rainsford Road
Chelmsford
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A dark grey banner with white text and a stylized illustration of a rural landscape. The illustration includes a winding road, a wind turbine, a barn, and a house. The Strutt & Parker logo is in the top right corner.

Land Business

'WHATEVER HAPPENS, FARMING WILL NEED TO CHANGE'

What must rural businesses do to gear up for Brexit? We get the views of experts from across the agricultural sector.

Read the article >>

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PARKER

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E06 Elsenham Emergency Hut Proposal
Private: No existing or proposed rights
Public: Existing footpath rights removed, users divert to alternative Elsenham level crossing to the south
Infrastructure: Proposed fencing to tie into existing features east of the railway: Type F4 (approx length 1m), Proposed fencing to tie into existing features on west side of the railway: Type F7 (length approx 1.5m)

E07 - Ugley Lane

Proposed 2m wide
footpath: Type P1

NR Pedestrian access
gate required

E06 - Elsenham Emergency Hut

Proposed 2m wide footpath
in field margin: Type P1

Use of existing road level crossing or
nearby footbridge to cross the railway

0 0.275 0.55
Kilometers

SECTION 1: LEVEL CROSSINGS

Rights to be modified as part of this project

Rights not modified as part of this project

The above symbols indicate existing level crossing locations.

The ring colours are as per section 4 below.

SECTION 2: TYPE OF RIGHT OF WAY (excluding adopted highway)

Footpath (public)

Byway open to all traffic (public)

Bridleway (public)

Road / Track (private)

Restricted byway (public)

The line styles above illustrate the type of right of way extent or proposed.

The colour is per section 4 below.

SECTION 3: PROPOSED USE OF ADOPTED HIGHWAY

Footway Available

Motorised Only

Diversion Route

Verge Available (No Footway)

Carriageway Available (No Footway or Verge)

Where the proposals may divert users onto an adopted highway, the above symbols denote where a footway is available, a verge only, or if neither a footway or verge is available and pedestrians would need to walk in the carriageway

SECTION 4: PROPOSED STATUS CHANGE

No change and not part of diversion

Closure of existing right of way

Use of existing right of way as part of diversion

Creation of new right of way

Change of status to existing right of way

The above colours apply to sections 1, 2 and 3 above.

SECTION 5: ASSOCIATED INFRASTRUCTURE (indicative features)

Fencing (tie into existing)

Gates

Bridges

Footway

Future developments by Third Party projects where planning details are available

Railway

1. The layout shown on this drawing is indicative and may be subject to change at detailed design.
2. This drawing should be read in conjunction with the Essex, Southend-on-Sea, Havering, Hertfordshire and Thurrock Design and Guide (Ref: 367516/ RPT024) which contains details of the infrastructure types referred to in this drawing.



Anglia Level Crossing
Reduction Strategy

Design Freeze Proposals

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MOTT
MACDONALD

E06 - Elsenham Emergency Hut
Essex - Hephnam CP
Post Code CM226JL

P3B	Rev	Mar 2017	Date	For Information	WC	SRP	SJT	JAS
				Description	Dwn	E Chk	Chk'd	App'd
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Anglia Level Crossing Reduction Strategy

Anglia Level Crossing Reduction Strategy

E06 Eisenham Emergency Hut Proposal
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Public: Existing footpath rights removed, users divert to alternative Eisenham level crossing to the south

Infrastructure: Proposed fencing to tie into existing features east of the railway: Type F4 (approx length 1m),
Proposed fencing to tie into existing features on west side of the railway: Type F7 (length approx 1.5m)

E07 - Ugley Lane

Proposed 2m wide
footpath: Type P1

NR Pedestrian access
gate required

E06 - Eisenham Emergency Hut

Proposed 2m wide footpath
in field margin: Type P1

Use of existing road level crossing or
nearby footbridge to cross the railway

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0 0.275 0.55 Kilometers

SECTION 1: LEVEL CROSSINGS

⊗ Rights to be modified as part of this project

⊙ Rights not modified as part of this project

The above symbols indicate existing level crossing locations.
The ring colours are as per section 4 below.

SECTION 2: TYPE OF RIGHT OF WAY (excluding adopted highway)

⋯⋯⋯ Footpath (public)

⋯⋯⋯ Byway open to all traffic (public)

⋯⋯⋯ Bridleway (public)

⋯⋯⋯ Road / Track (private)

⋯⋯⋯ Restricted byway (public)

The line styles above illustrate the type of right of way extant or proposed.
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SECTION 3: PROPOSED USE OF ADOPTED HIGHWAY

●●●●● Footway Available

●●●●● Motorised Only

●●●●● Diversion Route

●●●●● Verge Available (No Footway)

○ ○ ○ ○ Carriageway Available (No Footway or Verge)

Where the proposals may divert users onto an adopted highway, the above symbols denote where a footway is available, a verge only, or if neither a footway or verge is available and pedestrians would need to walk in the carriageway.

SECTION 4: PROPOSED STATUS CHANGE

■ No change and not part of diversion

■ Closure of existing right of way

■ Use of existing right of way as part of diversion

■ Creation of new right of way

■ Change of status to existing right of way

The above colours apply to sections 1, 2 and 3 above.

SECTION 5: ASSOCIATED INFRASTRUCTURE (indicative features)

⋯⋯⋯ Fencing (tie into existing)

⋯⋯⋯ Gates

⋯⋯⋯ Bridges

⋯⋯⋯ Footway

⋯⋯⋯ Railway

⋯⋯⋯ Future developments by Third Party projects where planning details are available

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Anglia Level Crossing
Reduction Strategy

M MOTT MACDONALD

Design Freeze Proposals

E06 - Eisenham Emergency Hut
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