

NFU Consultation Response

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Network Rail level-crossing closure Orders.

Introduction:

The NFU represents 47,000 farm businesses in England and Wales. We welcome the opportunity to respond to the proposed orders submitted by Network Rail under the Transport and Works Act 1992 to remove or downgrade 130 level crossings across Cambridgeshire, Suffolk and Essex. This response is submitted in addition to responses provided by individual affected landowners. We have an interest in proposals to close or downgrade level crossings at a regional and national level due to the potential for the process to subsequently be used in other parts of the country; therefore this response aims to highlight concerns raised by multiple farm businesses.

The closure or downgrading of level crossings will have differing impacts on agricultural businesses depending upon farm type and size, and the specifics of the proposed closures, but our primary concerns are fourfold:

- Closure of level crossings will compromise access to agricultural land by farm businesses, their employees and contractors. This concern is brought in part by a lack of clarity and transparency on the impact of these changes on private access. Does a level crossing closure mean no further private rights of access for both vehicles and pedestrians?
- The economic impact to farm businesses, caused by the proposed closures to the crossings, has currently been completely underestimated.
- There are proposals to considerably increase the length of the rights of way network running across agricultural land through the creation, diversion or extinguishment of rights of way. Again an economic impact to agricultural holdings.
- Once a crossing is closed, it is unlikely to be re-opened thus restricting future opportunities for land use and development.

The NFU also has serious concerns regarding the consultation and engagement process up until this point. The NFU recognises that Network Rail have conducted previous consultation stages in this process but we have concerns that the views of landowners and other interested parties expressed during these stages have not been taken into consideration in the proposed Orders submitted. There are also a number of Landowners affected by closures or path re-routing that have not been contacted directly.

The NFU would welcome confirmation on the type and scale of alterations to the proposals which Network Rail have made as a result of the earlier consultation stages in this process.

The voice of British farming

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Conclusions to previous consultation stages of this process have requested that *"communication between farmers/landowners and Network Rail (plus all respective representatives) continues, with satisfactory proposals determined before the TWO is applied for."* Unfortunately we do not believe that this justified request has been met and many outstanding concerns and uncertainties remain in this process.

NFU Ask:

The NFU recognises Network Rail's aims to improve safety on the network and increase the quality of service provided to its customers through a higher-speed rail network. However, the NFU's preferred option is:

- For other solutions to be considered before the closure or downgrading of level crossings which we believe have not been fully considered up until this point. This includes the use of lights, barriers, GPS, tunnels and bridges.
- For greater consideration to be given to farmer and landowner response in this and previous stages of the consultation process. Only through this full engagement with landowners and other interested parties at an individual or local level can compromise arrangements be made to improve Network Rail's assets whilst not affecting the viability of agricultural businesses and rural communities.

Impact on access to land

Our members' primary concern is to ensure access to their farmland on a safe and timely basis, by their staff or appointed contractors, for agricultural and horticultural operations, and to transport harvested produce. Where livestock is grazed, access to land is required for husbandry purposes sometimes twice daily. Some of the proposals in East Anglia would lead to very lengthy diversions of up to 16.6km, which would have disproportionate impacts on current farm practices. The time taken to cover this distance would not be cost effective.

Land in the Anglian region is highly productive growing a variety of crops on rotation, including salad, vegetables, sugar beet and combinable crops. Frequency of access to land varies according to the crop being grown, and some land is subject to multi cropping and grows more than one crop per year. Agricultural and horticultural operations are weather related, so access requirements vary accordingly. Furthermore, some operations are labour intensive and require considerable numbers of people to gain access to land at particular times of year. Therefore increasing the distances which have to be travelled to access land can have significant logistical and financial impacts for the farm business.

Harvesting of crops can also be dependent on supplier requirements, so changes in supermarket demands can influence field operations and access requirements to land- demonstrating the need for reliable access to land.

Vehicular access by farm traffic, including tractors and large machinery (for example sprayers, potato harvesters, combine harvesters and sugar beet harvesters), must not be compromised. Agricultural businesses can be acutely impacted by reduced, as well as a complete lack of, access to particular areas: in some circumstances the nature of machinery used demands the availability of a circular route, and removal of one access point to a land parcel will heavily impact on the logistics of these farm operations.

In some circumstances the alternative route caused by the closure of level crossing is not suitable for agricultural machinery. Therefore we would like confirmation that any diversions are along routes which are:

- No narrower than 5m and capable of taking loadings up to 60tonnes;
- Contain no underbridges which are under 5m high or 5m wide;

- Contain no junctions or corners which vehicles over 20m long could not use.

In some cases we believe this has not been taken into consideration, therefore the full economic costs of the diversions caused by the closing of level crossings has not been fully taken into account.

NFU Ask:

For the direct effects of closing and downgrading level crossings, including economic, logistical and safety implications, to be fully considered. Forcing agricultural machinery to take longer routes, often using longer stretches of public road, can have great impacts on the farm business, their contractors and the rural community and we believe this has not yet been taken into full consideration.

The lack of certainty or transparency on the process for closing level crossings which hold private rights

User operated private crossings have been a feature of the national rail network since its inception. When the reason for closure is related to the economic gain of the rail operator, it is unacceptable to compulsorily close a right of way without providing an alternative access and consider the economic impact on the agricultural businesses.

Where crossings are being downgraded from a public crossing to a private user crossing, access by agricultural machinery must be permissible. Access from fields onto the highway must not be compromised; neither should turning circles for agricultural vehicles. We have concerns that this has not been fully clarified, and we seek transparency on this point before the downgrading of any crossings.

NFU Ask:

For clear communication to be provided confirming where private rights are not to be affected by the level crossing closures and the level of compensation available.

Proposed changes to the rights of way network in the region

There are a number of proposals to create, divert or extinguish public rights of way alongside the closure or downgrading of some level crossings. The NFU welcomes the responsible use of the countryside by members of the public through the use of the rights of way network. However some of the proposals to create or divert rights of way would significantly increase the length of route running across agricultural land. The potential impacts for farm businesses of these proposals to change the right of way network are manifold:

- The scale of increases in the length of rights of way, sometimes by more than 1km, will have a considerable economic impact on individual farm businesses through taking large areas of land out of agricultural production.
- Some proposals to create or divert rights of way run across land which is currently entered into Countryside Stewardship schemes, which would in turn deem the land ineligible for stewardship payment. As an example, in the Countryside Stewardship manual for option SW4 (12 – 24m watercourse buffer strip on cultivated land), it explicitly says the option 'cannot overlap a public right of way'. As such Countryside Stewardship schemes could be affected by the creation of new rights of way, or diversion of existing rights of way.
- More generally, some proposed diversions will lead to the creation of intrusive footpaths- which run immediately adjacent to, or between, farm buildings which resultantly increase health and safety risks to members of the public and farm workers. No footpath should be diverted to run between farm buildings.
- Diverting or creating new public rights of way behind houses also affects potential land values. Many landowners in densely populated counties like Essex have sold land for garden or horse paddocks and re routed paths will greatly affect the land values in such cases.

- Other proposed diversions are onto land parcels which are currently used for turning out livestock, thus increasing the risk of livestock worrying, or spreading of disease transmitted by dog faeces such as neosporosis. Rules relating to bulls in fields crossed by public rights of way can also impact on land use.
- A number of proposed diversions would instate rights of way immediately adjacent to poultry sheds, thus causing an enhanced biosecurity risk.
- In some circumstances cul-de-sacs in rights of way will be formed when level crossings are closed. This increases the risk of landowners and tenants becoming the victim of rural crime which includes, but is not limited to, fly-tipping, hare-coursing and fly-grazing.
- No clarity has been provided on who would be responsible for the installation and ongoing maintenance of newly created or diverted rights of way and their furniture- including gates, stiles and fences.

In addition, there is great emphasis currently being placed on the reinstatement of unrecorded historic rights of way which were in existence prior to 1949 when the original definitive map of rights of way was first created. Consideration should be given to the combined effect of reinstated and newly created or diverted rights of way on land, particularly if the two processes create a very dense network, or two rights of way running very close and parallel to each other.

We also question whether the procedure used by Network Rail is correct. Section 5(6) of the Transport and Works Act (TWA) states: *"An order under section 1 or 3 above shall not extinguish any public right of way over land unless the Secretary of State is satisfied, (a) that an alternative right of way has been or will be provided, or (b) that the provision of an alternative right of way is not required."* We would welcome confirmation on whether this provision has been properly considered as part of the current proposals. We are mindful that S118 and 119 of the Highways Act could be used to remove the rights of way in question as an alternative to the TWA procedure.

NFU Ask:

Greater consideration must be given to the wider implications for farm businesses through making alterations to the rights of way network. This can only be achieved through full engagement with landowners on their proposed location during the decision making process. Landowners must be adequately compensated for new rights of way and the associated adverse impact on their business, including loss of production, inability to enter land into Countryside Stewardship schemes, rural crime and the costs of implementing measures to abate any adverse impact to biosecurity or animal welfare.

We would welcome confirmation that Network Rail has fully considered the provisions outlined in Section 5(6) of the TWA and how the creation of rights of way through this process is being considered holistically with work to reinstate historic rights of way through the Deregulation Act 2015.

Conclusion:

The NFU recognises the reasoning behind Network Rail's wish to close or downgrade level crossings in the region; however with greater engagement there is the opportunity to achieve these aims without severely impacting the viability of agricultural businesses. In short this is through:

- Limiting the number of level crossings closed or downgraded;
- Closing combinations of crossings which minimise impacts on agricultural practices.
- Retaining private rights on some level crossings which will be closed to others.
- The full investigation and use of other measures such as the use of lights, barriers, GPS, tunnels and bridges.