035/115

[redacted]

The Rt. Hon. Chris Grayling MP,
Secretary of State for Transport,
c/o Transport & Works Act Orders Unit,
General Counsel's Office,
Department for Transport,
Zone 1/18, Great Minster House,
33 Horseferry Road,
London, SW1P 4DR.

29th April 2017

Dear Minister,

Re: Network Rail Essex and Other Level Crossing Reduction Order – E05 Fullers End, Elsenham

I am writing in regard to the above named Level Crossing which has been earmarked for closure by Network Rail. The following representations are made on behalf of all the affected landowners on the west side of the Crossing, the Holmes Family [redacted] who have owned and lived happily, peacefully and without interruption at The Mill House since 1969. We own the land on the west side of the rail line immediately adjacent to Fullers End Level Crossing. It is this land that forms part of the proposed diversion route required by Network Rail to implement the Footpath Diversion in the above named Order.

We strongly oppose this closure and the proposed diversion route and suggest that if the crossing is proven to be unsafe then the installation of a new underpass at the existing site would be the most appropriate course of action. The key factors influencing our opposition are detailed in our response to the 'Anglia Level Crossing Proposal Questionnaire' dated September 2016 (Appendix A). The topography of the land at the existing crossing lends itself perfectly to an underpass, which would ensure the quickest and most efficient route to and from the village for both the able bodied and mobility impaired.

We appreciate that the costs associated with installing an underpass are high and with this in mind, we have attempted to engage several associated 3rd parties in conversation in order to facilitate an amicable outcome. Please see Appendix B for correspondence between ourselves and Uttlesford District Council Planning Department (UDC), Bovis Homes and Crest Nicholson.

Financial contribution from 3rd parties is something that has been achieved on previous occasions. Network Rail stated on their website that Motts Lane level crossing in Witham was successfully replaced with a ramped bridleway bridge in 2013/14 and the project included a contribution of £500,000 by Braintree District Council (www.networkrail.co.uk/news/2013/nov/Replacing-six-level-crossings). In the same document, they announced that 'Following a temporary closure of The Ingatestone Hall (Lord Petre's Estate) Footpath Crossing , a new pedestrian underpass was completed in 2014. A key figure in bringing about the victory in this case is a family friend and we have chatted at length about some of the goings on in this case and it makes for interesting and enlightening conversation. I am sure the former Secretary of State for Communities and Local Government, Sir Eric Pickles could provide you with the key points as he was very much involved in helping the local residents bring about this new underpass.

The 'Office of Rail Regulations (December 2011) Level Crossings: A Guide for Managers, Designers & Operators – Railway Safety Publication 7' (hereinafter referred to as 'December 2011 Document') contains many points relevant to the Fullers End Crossing.

Page 5:Point 4 states 'ORR believes that it is neither effective nor efficient for only rail companies to be responsible for managing safety at level crossings. Decisions about level crossings should involve rail companies, traffic authorities, and other relevant organisations as early on as possible. Relevant authorities should recognise the wider benefits that safety improvements at level crossings (for example, replacing them with bridges) can bring about. If wider benefits can be achieved, the appropriate funding bodies should agree on how the costs of making safety improvements will be met.'

On page 7 of the 2011 Document Point 1.10 states that 'there is a requirement in planning legislation for planning authorities to consult the Secretary of State and the operator of the network where a proposed development materially affects traffic over a level crossing. For example, a new housing development near a crossing may cause traffic levels over the crossing to increase greatly and mean that existing protection arrangements at the crossing are no longer adequate.' Did Uttlesford District Council (UDC) consult you or Network Rail over the Hall Road Planning Application by Bovis Homes? How about the Crest Nicholson development on Stansted Road? or the David Wilson development also off Stansted Road?

When it comes to assessing suitability of the type of crossing, it would appear that all the criteria are met at Fullers End Crossing as set out in the 2011 Document, Section 11 of Table 1 'Footpath & Bridleways Crossings'. Have we all lost sight of the fact that people need to take

some responsibility for their own safety when it comes to using a railway crossing? The December 2011 Document reiterates this on page 30: Point 2.150, stating 'Users (of footpath and bridleway crossings) are expected to use reasonable vigilance to satisfy themselves that no trains are approaching before they start to cross the line. They should cross quickly and remain alert whilst crossing'. Signage at the crossing reinforces this, together with the additional protective equipment at Fullers End i.e. miniature stop lights (msl) and audible warning.

Finally, pages 61-63 of the 2011 Document discusses the need for any Order made under the Transport & Works Act 1992 to consider the duty of 'the level crossing operator in relation to the convenience of users of the crossing' and that there should be an 'appropriate balance between safety and convenience for all crossing users'. We would consider a diversion of 250ms involving long inclines to not be convenient for users with mobility issues/wheelchairs and we feel that the 'convenience' element of this proposed closure is heavily weighted towards the operator benefitting. The everyday users would end up with a lengthy route to/from the Village which takes them through a relatively remote underpass which has the potential to entice loitering by undesirables and would be particularly uninviting during the long dark 6 months of Winter! Is it not highly likely that most people will simply get in their cars and drive to the Village facilities in this situation?

From the outset of this proposal, we have attempted to be fair, reasonable and amenable in our negotiations with Network Rail but to no avail. Please see Appendix C containing correspondence between ourselves and Steve Day of Network Rail, dating back to June 2014. We were assured by Steve Day that Network Rail would do all they could to reach an amicable outcome, but as you will see from the communication in Appendix C, they seem to have done little to facilitate this. Is it fair and reasonable that the everyday lives of village residents should be made more onerous for the 'convenience' of Network Rail?

We would welcome the opportunity to discuss any aspect of this issue at an onsite meeting with either yourself or a representative.

Yours sincerely,

Encs.

APPENDIX A

EO5 - Fullers End Crossing (Elsenham Parish) Closure Proposals Questionnaire response – September 2016

We are very concerned about your preferred option for the closure of the Crossing and diversion of the footpath/public right of way through the underpass.

The proposed route would take pedestrians along a path which is fairly remote and therefore highly likely to attract undesirable behavior and loitering. I have enclosed a photograph of the next railway underpass on the London line (BGK/1498) which is in a similar situation i.e remote and not overlooked by any houses and as you can see, it has attracted excessive vandalism and graffiti over the years. There is always a large amount of rubbish and broken glass scattered along the length of this underpass, which is very dangerous for both children and animals.

Is this diversion going to be a 'footpath', 'bridleway', 'restricted byway' or 'byway'? Are you proposing to allow disability scooters, wheelchairs, horse riders, motors bikes, bicycles, push chairs along this route? Are you intending to fence it on both sides of the path? Are you going to pave it? Are you going to light it? You mention a 2 metre wide hard surfaced footpath to be constructed along the route but this would not be possible around the underpass because it would restrict vehicular access by farm vehicles. How would you prevent other vehicles from using it if they so desired?

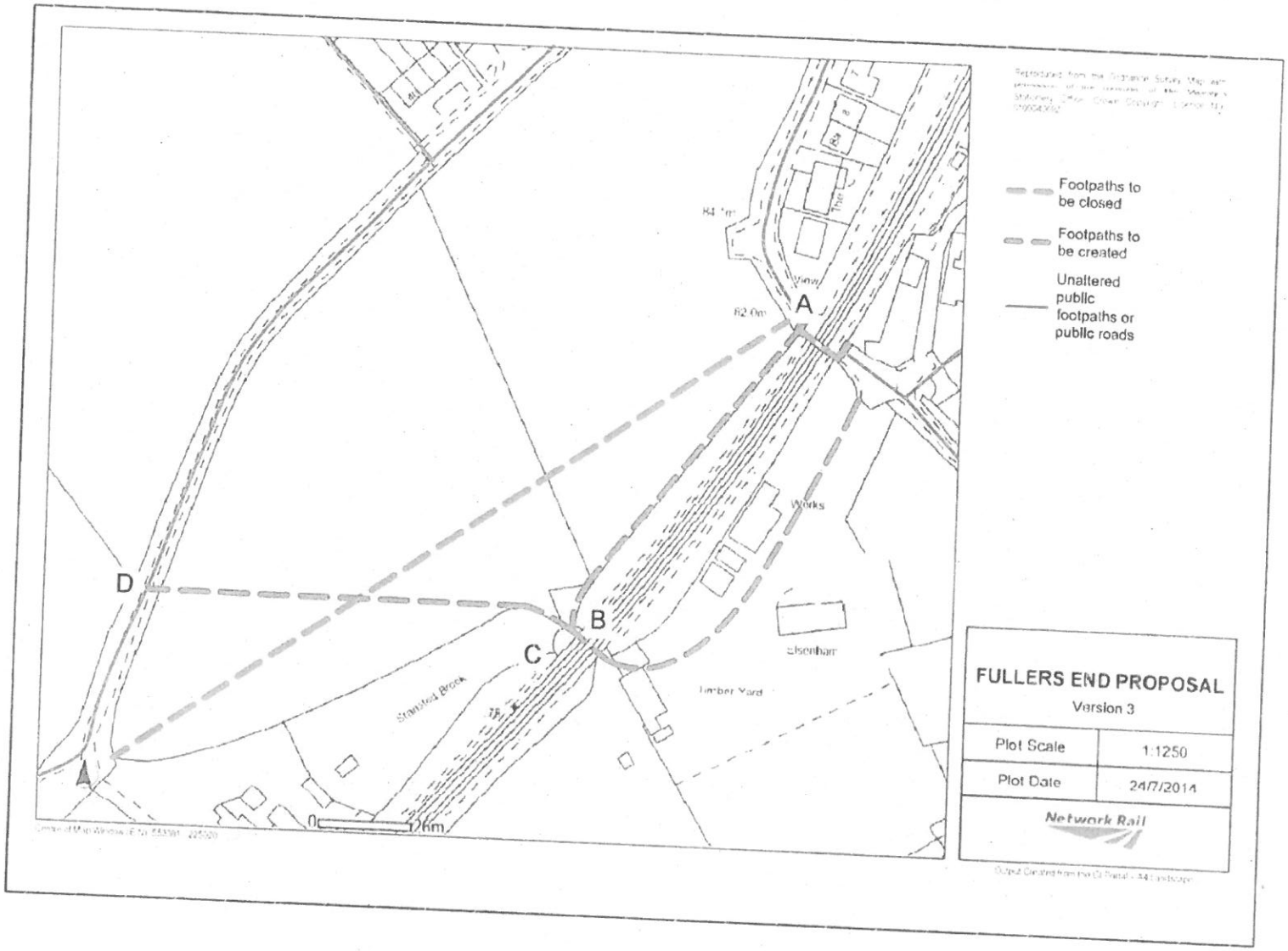
This proposed new public right of way would severely impact our quality of life and privacy at the Mill House by significantly increasing the number of people passing close to the House. There are no truly effective privacy barriers/fences that can be erected, no real deterrents against would be burglars and no amount of lighting/signage/police patrols to stop undesirables from loitering in the underpass, vandalising our property or leaving litter and graffiti. The existing footpath which crosses our field is rarely used and takes walkers some distance from the House so we have had no issues with invasion of privacy in the last 47 years!

We feel extremely disappointed and frustrated with Uttlesford District Council and their conduct in this matter. They neglected to inform Network Rail of the huge Bovis Homes development near to the Crossing (something that perhaps Network Rail should be questionning?). We also feel that Network Rail should have been more proactive in this matter when they were consulted over the Crest Nicholson development just north of the Crossing. If these two Developers had had their developments granted subject to a financial contribution to upgrading the Crossing then Network Rail would be in a position to consider installing either a foot bridge or an underpass at the existing Crossing and everyone would be happy!

In your proposal you state that 'There were no incidents of misuse, no near misses and no accidents at this crossing between 2011 and 2015' and we are only aware of one incident in the last 50 years at this Crossing where a young girl was killed because she crossed the Crossing wearing earphones and listening to music. Following that accident, the Crossing was updated to include an audible warning and a green/red light warning system and there have been no accidents since. Is it therefore not possible to upgrade the Crossing again and install automatic locking gates in addition to the warning lights and audible warning. Surely this would be sufficient to ensure every member of the public crosses safely?

Having lived at the Mill House for nearly 50 years and had various reasons to deal with Network Rail (and previous owners of the railways) during this time, we are only too aware how long it takes to get anything done and how much effort it takes from the landowner to be heard. The lineside fencing has never been replaced and in places it is virtually non existent, the embankment by the underpass is collapsing and the Beech trees next to the house were supposed to be lopped two years ago but we have just heard that due to lack of money they will not now be done. It is therefore no surprise that we are reluctant to be party to this proposal and we are not confident that our interests and concerns will be taken into account this time either.

For all the reasons stated, we are strongly against this proposed diversion route and wish to see the existing Crossing upgraded to meet the necessary criteria in order to make it safe. If this is not possible then we would like a footbridge erected or an underpass constructed at the existing Crossing site. Failing the above, we would be looking for considerable financial compensation for loss of privacy and security, privacy fencing to be erected and maintained by Network Rail/Local Authority, security issues along the route to be satisfactorily resolved and footpath diversion B-D (as marked in green on the attached plans) to be implemented, fenced and maintained at Local Authority expense in order to maintain as much privacy as possible at the Mill House.


Footpaths to be closed
Footpaths to be created
Unaltered public footpaths or public roads
A
B
C
D
82.0m
Works
Elsenham
Timber Yard
Stanstead Brook
0
76m
FULLERS END PROPOSAL
Version 3
Plot Scale
1:1250
Plot Date
24/7/2014
Network Rail

APPENDIX B

Print Close

From: **Sasha Holmes** ([redacted])
Sent: 30 March 2015 11:46:12
To: ltrevillian@uttlesford.gov.uk (ltrevillian@uttlesford.gov.uk)

Hi Lindsay,

I have tried to contact you by phone but always seem to miss you so thought I would email instead.

My Family live at [redacted] very near to the Crest Nicholson Development (Land South of Stansted Road), the Bovis Homes Development (Land West of Hall Road), the Sawmill Development (Fullers End) and Fullers End Level Crossing.

I am sure you are very familiar with the issues in respect of all these developments and Network Rails concern over the increased use of the Crossing. We have been in discussion with Network Rail and Mr Jim Collins (Sawmill Development) with regard to a Private Right of Way across our land in order to provide an alternative route to the village for the Sawmill Development residents. I have recently made contact with Crest Nicholson and Bovis Homes in this respect and in the hope of getting everyone around the table to discuss the possibility of making the Private Right of Way into a Public Right of Way. I have received a response from Crest Nicholson, who implied that their hands were tied and that they were not able to be a part of these discussions.

Please could you advise as to a suggested course of action in order to resolve this issue in a satisfactory way for all parties concerned, including The Planning Department at The Council.

Many thanks.

Regards,

Sasha

Print Close

From: **Sasha Holmes** ([redacted])
Sent: 16 April 2015 19:20:59
To: Lindsay Trevillian (ltrevillian@uttlesford.gov.uk)

Hi Lindsay,

Further to our telephone conversation this morning, experience has taught me that it is a good idea to document everything in writing, hence this email. We discussed the issue of safety at Fullers End Crossing and my attempts to get Crest Nicholson, Bovis Homes, Jim Collins and Network Rail together to discuss a solution to the problem. You advised me that because both Crest Nicholson and Bovis Homes had already been granted outline planning permission, they are under no obligation to enter into discussions or negotiate on solving the issues. You also advised me that it is Network Rail's responsibility to deal with safety issues at the Crossing and that my only course of action was to pursue discussions with Network Rail in this matter.

Please let me know if I have misunderstood your advice or indeed if you have any further thoughts on this matter then I would welcome your suggestions.

Kind regards,

Sasha

[redacted]

Crest Nicholson Eastern,
One Myrtle Road,
Brentwood,
Essex,
CM14 5EG.

27th February 2015

FAO: Mark Bedding -- BY email

Dear Sirs,

Re: Fullers End Level Crossing, Elsenham, Essex

We write with reference to the above and enclose copies of the letters from Network Rail to Uttlesford District Council dated 21st January 2015 and 20th August 2013 in respect of your Planning Applications UTT/14/3513/DFO and UTT/13/1790/OP.

We own the land adjacent to the railway line at Fullers End Crossing and have been in discussions with Network Rail for the past 8 months over providing an alternative public right of way to this Crossing. As inferred in their letter of 20th August 2013, Network Rail are looking to have the footpath diverted underneath the railway via the 'bridge to the south of the crossing' thus enabling them to permanently close the Crossing. This route crosses land owned by us.

In view of Network Rails concern over the impact of your 165 house development on the usage and safety of Fullers End level Crossing, perhaps you would like to be party to these discussions and assist in helping to reach an amicable solution in this respect.

Yours faithfully,

Sasha Holmes
Email: [redacted]
Tel:

Enc.

From: Stamp Elliot [redacted]
Sent: 21 January 2015 10:05
To: Lindsay Trevillian; planning
Subject: Network Rail Consultation - UTT/14/3513/DFO

Dear Lindsay,

Thank you very much for consulting with Network Rail in regards to planning application UTT/14/3513/DFO.

As recently discussed, the proposed site is located in close proximity to Fuller's End level crossing. The safety of the operational railway and of those crossing it is of the highest importance to Network Rail and railway crossings are of a particular interest in relation to safety.

The local area has seen a number of residential developments in recent years. Network Rail is concerned by the cumulative impact that these residential developments will have on the usage, safety and operation of the Fullers End level crossing.

Network Rail is seeking to address issues relating to the crossing however so far we have been unsuccessful in our efforts to close the crossing and divert the footpath underneath the railway via a subway. Network Rail would therefore be grateful for any support that the council could offer in relation to this situation.

In terms of the details submitted in relation to planning application UTT/14/3513/DFO, please see related comments below;

<u>Drainage</u>
Storm/surface water and effluent must not be discharged onto Network Rail's property or into Network Rail's culverts or drains except by agreement with Network Rail. Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property. Suitable foul drainage must be provided separate from Network Rail's existing drainage.

Thank you

Kind Regards

Property NetworkRail

Elliot Stamp
Town Planner
1 Eversholt Street
London, NW1 2DN
[redacted]

.nn Howells

Subject: FW: UTT/13/1790/OP

From: Smith Mike (Town Planning) [mailto:] **On Behalf Of** Town Planning SE
Sent: 20 August 2013 11:57
To: planning
Subject: UTT/13/1790/OP

Dear Sir/Madam

Although Network Rail has not been consulted on the application the organisation has the following comments to raise.

Fullers End Level Crossing
The development is increasing the potential usage of Fullers End pedestrian crossing. Currently the crossing is a Miniature Warning light (with audible warning) that provides access from the village to a small number of houses and a country lane. The concern is that crossing will see increased usage by the building 138 houses to the east and the outline application for 165 houses to the west of the crossing. This increase is seen as a huge risk to the safe usage of this crossing. It is proposed that as part of the planning application the current public right of way be diverted to utilise a nearby under bridge to the south of the crossing.

Kind regards

Mike Smith
Town Planning Technician SE, Property
1 Eversholt Street
London, NW1 2DN

www.networkrail.co.uk/property

Please send all Notifications and Consultations to TownPlanningSE@networkrail.co.uk or by post to Network Rail, Town Planning, 5th Floor, 1 Eversholt Street, London, NW1 2DN

[redacted]

SENT:-
REGISTERED MAIL

Bovis Homes
The Manor House
North Ash Road
New Ash Green
Longfield
Kent DA3 8HQ.

27th February 2015

FAO: Lorraine Farrow – Sales Manager

Dear Ms. Farrow,

Re: Fullers End Level Crossing, Elsenham, Essex

We write with reference to the above and enclose a copy of the letter from Network Rail to Uttlesford District Council submitted (23rd July 2014) in respect of your Planning Application for Glebe Place, Elsenham, Essex CM22 6LB - UTT/14/0721.

We own the land adjacent to the railway line at Fullers End Crossing and have been in discussions with Network Rail for the past 8 months over providing an alternative public right of way to this Crossing. Network Rail are looking to divert the footpath along a new route over our land and underneath the railway via a subway on our land, enabling them to permanently close the Crossing. In view of Network Rails concern over the impact of your '130 residential dwelling development on the usage and safety of Fuller's End level Crossing', perhaps you would like to be party to these discussions and assist in helping to reach an amicable solution in this respect.

Yours sincerely,

Sasha Holmes
Email: [redacted]
Tel:

Enc.

BOVIS HOMES VICARAGE APPLICATION

LETTER FROM NETWORK RAIL TO UDC UNDER 'DOCUMENTS' IN PLANNING APPLICATION UTT/14/0721

Dear Alison,

Thank you very much for consulting with Network Rail in regards to planning application UTT/14/0721.

LETTER SUBMITTED - 23/7/14

The proposed site is located in close proximity to Fuller's End level crossing. The safety of the operational railway and of those crossing it is of the highest importance to Network Rail and railway crossings are of a particular interest in relation to safety.

Unfortunately Network Rail was not formally consulted on the original outline application UTT/13/0177/OP. It should be noted that Network Rail is concerned about the potential impact of the 130 residential dwelling development on the usage and safety of Fuller's End level crossing. If Network Rail had been consulted on the original application, it would have requested the introduction of a suitable mitigation measure at the crossing and if this had not been agreed, Network Rail would have potentially objected to the planning application.

Network Rail is currently looking into forms of mitigation that could be introduced at the crossing.

In terms of planning application UTT/14/0721, please see related comments below;

As the application site is adjacent to Network Rail's operational railway infrastructure, Network Rail recommends that the developer contacts its Asset Protection Anglia team at AssetProtectionAnglia@networkrail.co.uk prior to any works commencing on site. More information can also be obtained from our website at www.networkrail.co.uk/aspx/1538.aspx.

Developer must ensure that their proposal, both during construction and after completion of works on site, does not:

- encroach onto Network Rail land
- affect the safety, operation or integrity of the company's railway and its infrastructure
- undermine its support zone
- damage the company's infrastructure
- place additional load on cuttings
- adversely affect any railway land or structure
- over-sail or encroach upon the air-space of any Network Rail land
- cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future

Future maintenance

The development must ensure that any future maintenance can be conducted solely on the applicant's land. The applicant must ensure that any construction and any subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land and air-space, and therefore all/any building should be situated at least **2 metres (3m for overhead lines and third rail)** from Network Rail's boundary. The reason for the **2m (3m for overhead lines and third rail)** stand off requirement is to allow for construction and future maintenance of a building and without requirement for access to the operational railway environment which may not necessarily be granted or if granted subject to railway site safety requirements and special provisions with all associated railway costs charged to the applicant. Any less than **2m (3m for overhead lines and third rail)** and there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works. The applicant / resident would need to receive approval for such works from the Network Rail Asset Protection Engineer, the applicant / resident would need to submit the request at least 20 weeks before any works were due to commence on site and they would be liable for all costs (e.g. all possession costs, all site safety costs, all asset protection presence costs). However, Network Rail is not required to grant permission for any third party access to its land. No structure/building should be built hard-against Network Rail's boundary as in this case there is an even higher probability of access to Network Rail land being required to undertake any construction / maintenance works. Equally any structure/building erected hard against the boundary with Network Rail will impact adversely

upon our maintenance teams' ability to maintain our boundary fencing and boundary treatments.

Construction
Any scaffold, cranes or other mechanical plant must be constructed and operated in a "fail safe" manner that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

Any cranes or other mechanical plant equipment involved during construction should be positioned so that their loads or jibs do not over-sail Network Rail's land.

Drainage
Storm/surface water and effluent must not be discharged onto Network Rail's property or into Network Rail's culverts or drains except by agreement with Network Rail. Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property. Suitable foul drainage must be provided separate from Network Rail's existing drainage.

Noise and Vibration
The potential for any noise/ vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of the National Planning Policy Framework which holds relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.

Fencing
In the interests of promoting public safety and reducing the risk of trespass and vandalism on the railway, the applicant should ensure that a suitable trespass resistant fence is located along the western side of the site (adjacent to the railway). Any new fencing must be independent of existing Network Rail fencing and should leave sufficient distance to allow for future maintenance and renewal.

Landscaping
Where landscaping is proposed as party of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure.

Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing.

Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Permitted: Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrs Communis), Fir Trees – Pines (Pinus), Hawthorne (Cretaegus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatat "Zebrina"

Not Permitted:
Alder (Alnus Glutinosa), Aspen – Popular (Populus), Beech (Fagus Sylvatica), Wild Cherry (Prunus Avium), Hornbeam (Carpinus Betulus), Small-leaved Lime (Tilia Cordata), Oak (Quercus), Willows (Salix Willow), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), London Plane (Platanus Hispanica).

A comprehensive list of permitted tree species is available upon request.

Thank you

Kind Regards

Property

Elliot Stamp
Town Planning Technician
1 Eversholt Street
London, NW1 2DN
T 0207 9047247
M 07740 224772
E Elliot.Stamp@networkrail.co.uk

www.networkrail.co.uk/property

Please send all Notifications and Consultations to TownPlanningSE@networkrail.co.uk or by post to Network Rail, Town Planning, 5th Floor, 1 Eversholt Street, London, NW1 2DN

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Proof of delivery

Printed name: B

Date: **02 March 2015, 09:33am**

Last update: 02 March 2015, 09:33am

APPENDIX C

Print

Close

From: **Day Steve** (Steve.Day@networkrail.co.uk)
Sent: 12 June 2014 13:37:07
To: [redacted]

1 attachment
Fullers End footpath diversion.pdf (898.9 KB)

Dear Sasha

Level crossings collectively are the greatest safety risk on the railway network. Network Rail has been made aware of residential development at Fullers End, and in the wider area, which we believe will lead to an increase in usage of the public footpath level crossing. Increased usage leads to increased risk, and the developments may lead to more vulnerable users, such as children and the elderly, living nearby.

It appears that there is a simple diversion that would allow the level crossing to close, providing the public with a safe way across the railway, and increasing attractiveness to future residents.

I attach a rough plan of the proposal. This is an extract from the Definitive Map of Public Rights of Way. Onto it, I have added a green line to show the route of a new public footpath, 2m wide, running from near the level crossing, east of the railway boundary, to Network Rail's underbridge. The footpath would pass under the bridge, then link in with the existing footpath across your fields, west of the railway.

As diversion of a footpath requires the consent of the affected landowners, I would be very interested to receive your comments on this proposal, with a view to securing your consent. Network Rail will take care of the public consultation and legal process with Essex County Council, and any necessary fencing works or surface improvements.

I look forward to hearing from you, and trust you will not hesitate to contact me if you have any queries.

Yours sincerely

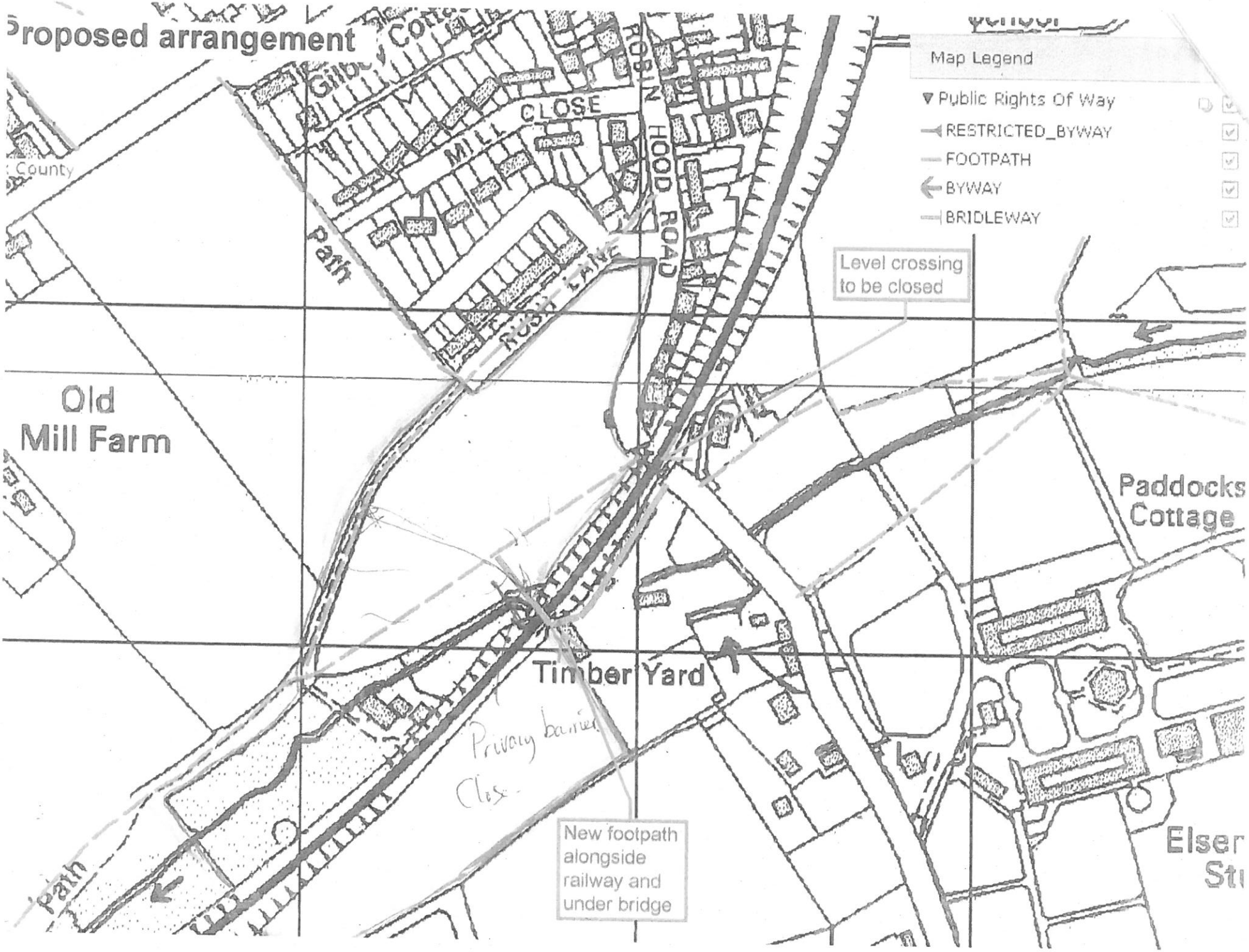
Steve Day LLB

Liability Negotiations Adviser, Network Rail

Floor 3 Suite 1A Waterloo Station London SE1 8SW

DX118552 Waterloo Station 2

Mob 07515 624312


Proposed arrangement
Map Legend
Public Rights Of Way
RESTRICTED_BYWAY
FOOTPATH
BYWAY
BRIDLEWAY
MILL CLOSE
ROBIN HOOD ROAD
Path
Old Mill Farm
Level crossing to be closed
Paddocks Cottage
Timber Yard
Privacy barrier
New footpath alongside railway and under bridge

Print

Close

From: **Day Steve** (Steve.Day@networkrail.co.uk)
Sent: 29 July 2014 14:40:11
To: 'Sasha Holmes' [redacted]
1 attachment
Fullers End diversion version 3 pdf (187.0 KB)

Dear Sasha

Thank you for your helpful comments. I have prepared a revised Plan, 'Version 3', for your approval.

This plan also shows the existing footpaths as thin green lines, to give context.

Kind regards

Steve Day
Liability Negotiations Adviser (Anglia & South East)
AMS Technical Services

Floor 3 Suite 1A | Waterloo Station | London | SE1 8SW
DX119552 Waterloo Station 2 | Mobile 07515 624312

From: Sasha Holmes [mailto [redacted]
Sent: 28 July 2014 21:08
To: Day Steve
Subject: Fullers End Crossing Footpath Diversion

Dear Steve,

Thank you for your email with attached plans.

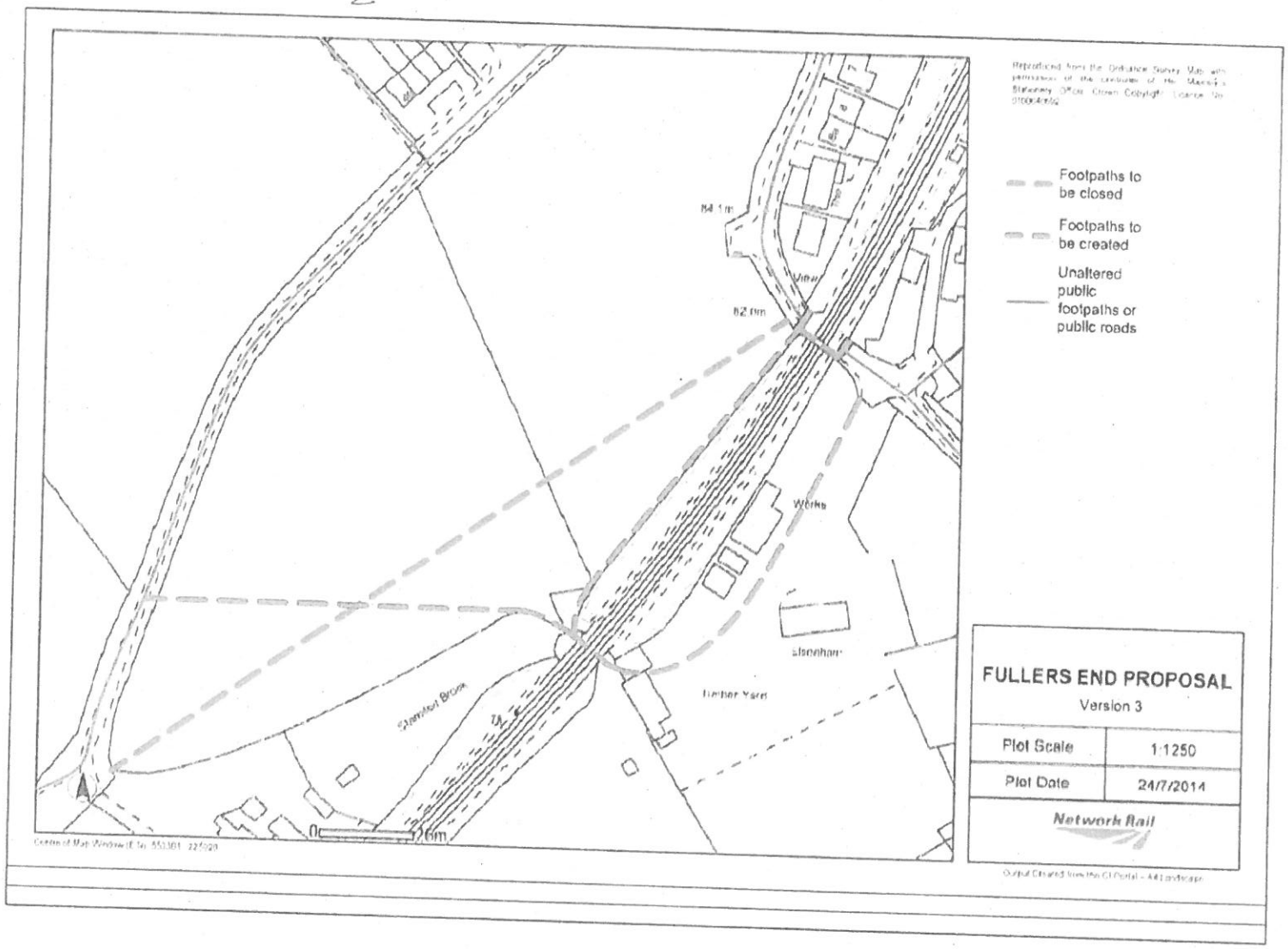
We appreciate what you say about Version 1 but having discussed it at length with the Family over the weekend, we would prefer a slightly altered Version 2. We feel that as we are going to lose a considerable amount of privacy by allowing the footpath diversion from the Sawmill side through to our field on the North side, we would like to attempt to redress the balance by moving the footpath through the field away from the house. We would therefore like

to see the existing footpath (shown on your map by the red dotted line) removed completely, have the new footpath on the North side of the railway, running from the railway underpass along the fence line towards the Fullers End Crossing (as shown on your map by the green dotted line). We would then like the footpath in the opposite direction to run at more of a 45 degree angle from the underpass across the field to the point on the map where you can see a boundary line in the field across our driveway (approx. 1 inch on your map from the end of the red dotted line up the driveway towards Rush Lane). I hope this makes sense and wondered if you might send us a revised plan to show this.

Kind regards,

Sasha

Version 3


Reproduced from the Ordnance Survey Map with permission of the controller of Her Majesty's Stationery Office. Crown Copyright. Licence No: 0100044782
Footpaths to be closed
Footpaths to be created
Unaltered public footpaths or public roads
84.1m
82.0m
Works
Stanham
Timber Yard
Stanham Brook
26m
FULLERS END PROPOSAL
Version 3
Plot Scale 1:1250
Plot Date 24/7/2014
Network Rail

From: **Sasha Holmes** ([redacted])
Sent: 05 August 2014 22:45:51
To: steve.day@networkrail.co.uk (steve.day@networkrail.co.uk)

Dear Steve,

Further to your email of 29th July with revised plan (Version 3), we confirm that we are happy with the proposed routing of the green dotted footpaths as shown on this plan. In order to move this process on to the next stage, perhaps you could forward us some details of Network Rails intended compensation package so that I can again discuss it with the Family.

For your information, we had come to a tentative agreement of £10,000 for the 'private right of way' with Jim Collins plus all legal costs, fencing and upkeep. As you are aware, this private right of way was intended only for use by residents of the 5 dwellings to be erected at The Sawmill site but clearly, a 'public right of way' will result in a significantly larger volume of pedestrians using this route.

We look forward to hearing from you.

Kind regards,

Sasha

Print

Close

From: **Day Steve** (Steve.Day@networkrail.co.uk)
Sent: 07 August 2014 16:52:11
To: 'Sasha Holmes' [redacted]
1 attachment
Fullers End diversion version 3.pdf (620.3 KB)

Dear Sasha

Thank you for your email. I am pleased to learn that my Version 3 proposal was acceptable to you. I attach an annotated plan to illustrate the references below.

Subject to contract, I would be prepared to recommend that Network Rail matches Jim Collins' offer of **£10,000**, plus your reasonable legal fees (if any) and the reasonable cost of erecting a privacy fence and gate at point **C** (plus a sum in respect of future maintenance).

I anticipate that the section **AB** will need to be surfaced. Network Rail will undertake these works, and thereafter the surface will be adopted by the highway authority. The section **AB** will be fenced both sides.

The section **BD** will be cross-field and will be left unsurfaced and unfenced.

Any fencing works will not diminish vehicular access under the bridge.

Network Rail will take all reasonable steps to ensure that the footpath alterations shown on Version 3 are delivered. Granting only a private right of way would have left your land with the cross-field public footpath, requiring a separate Public Path Diversion Order to be applied for if you wished to move this path to the field edge.

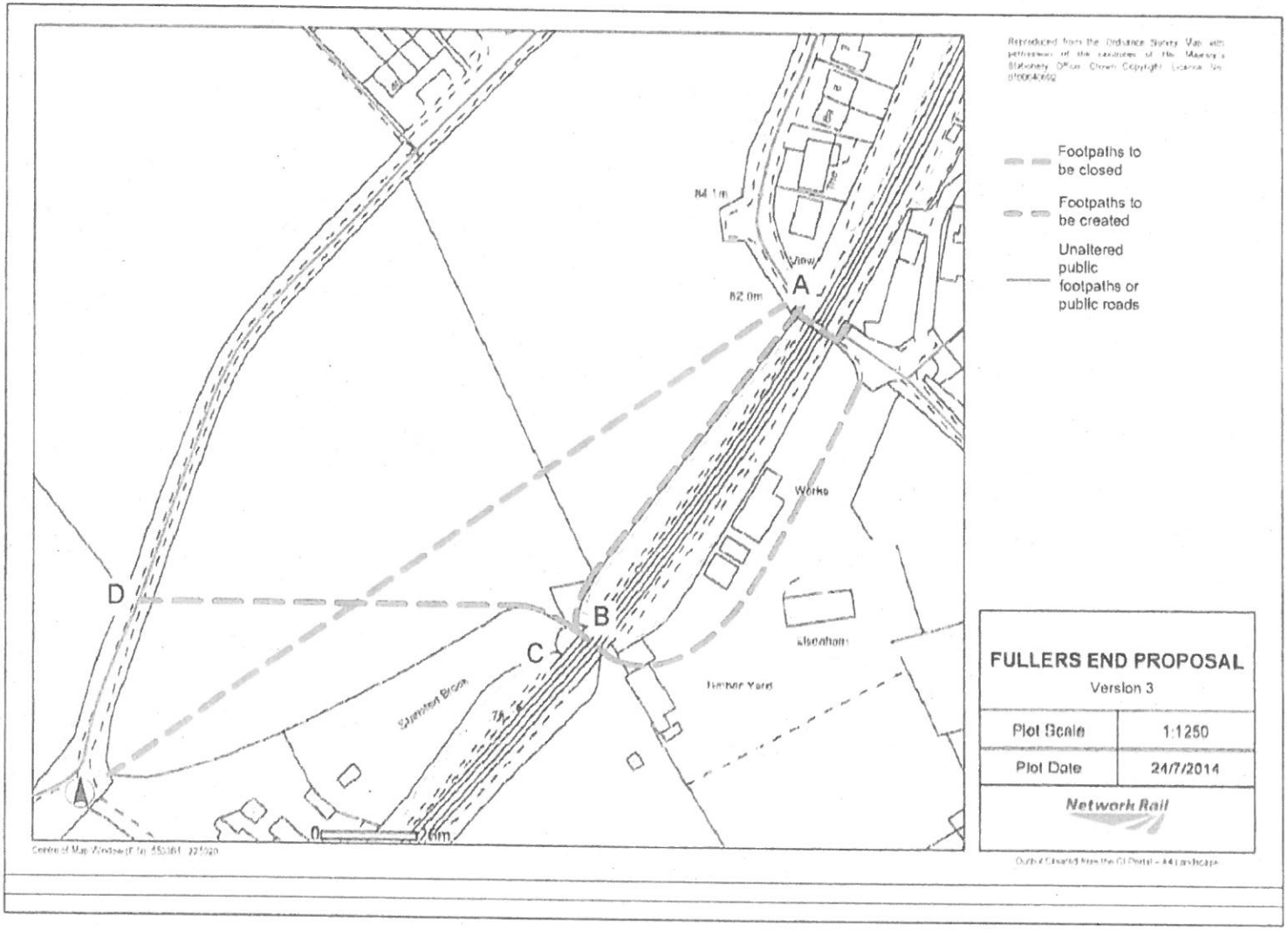
There should be no need for any land transfers.

Compensation to be payable on legal completion of the diversion.

Finally, as with all public rights of way matters, the above proposals are subject to highway authority and public consultation, which have not yet been undertaken and may necessitate some amendments.

I look forward to hearing your views, and trust you will not hesitate to contact me if you have any queries.

Kind regards


Reproduced from the Ordnance Survey Map with permission of the controller of Her Majesty's Stationery Office. Crown Copyright. Licence No: 100024092
Footpaths to be closed
Footpaths to be created
Unaltered public footpaths or public roads
84.1m
82.0m
A
B
C
D
Works
Timber Yard
Stanton Brook
0
26m
FULLERS END PROPOSAL
Version 3
Plot Scale
1:1250
Plot Date
24/7/2014
Network Rail

Print

Close

From: [redacted]
Sent: 11 August 2014 08:20:54
To: steve.day@networkrail.co.uk

Dear Steve,

Thank you for your email of 7th August with labelled plan attached.

As discussed at our meeting, we understand that the section AB will need to be surfaced, fenced and possibly even lit? (something that perhaps needs to be discussed by you with Jim Collins). Please can you confirm the proposed width of this path and type of barrier/gate at each entrance point to prevent vehicular access.

With regard to section BD, yes this is to be left unsurfaced and unfenced but with stiles at points B and D to be erected by Network Rail.

In respect of the figure Network Rail is prepared to offer us, we feel this is woefully inadequate. Jim Collins offer of £10,000 plus legal expenses, all fencing and maintenance was for a PRIVATE right of way for 5 dwellings. This private right of way would have seen possibly 20 people a day use it. A PUBLIC right of way could be used by potentially more than 300 people a day with this increasing to many more over time as further development happens in Elsenham/Henham. Once this public right of way has been sanctioned, we will have no control over its usage and this is of considerable concern to us in terms of loss of privacy, vandalism and possible devaluation of the Mill House.

We understand that the annual cost to Network rail for maintaining the Fullers End Crossing is approximately £20,000 and therefore the financial savings are considerable to the Company over even say a 5 year period.

In order for us to proceed with this proposed permanent and irreversible encumbrance over our property, we will require significantly more financial compensation.

Kind regards,

Sasha

Print Close

From: **Day Steve** (Steve.Day@networkrail.co.uk)
Sent: 12 August 2014 15:00:48
To: 'Sasha Holmes' [redacted]

Dear Sasha

Thank you for your email, below. I note your comments, and accordingly am prepared to recommend improved compensation (on similar terms as previously) of £45,000.

I am now discussing details such as surfacing, lighting etc. of the diversionary route with the highway authority. I anticipate we will be after a 2m wide footpath with a tarmac surface. As the path AB will be fenced from your field, it will not be possible to use stiles, but probably bollards or wicket gates will prevent unauthorized vehicular use.

I look forward to hearing from you.

Kind regards

Steve Day
Liability Negotiations Adviser (Anglia & South East)
AMS Technical Services

NetworkRail | everyone home safe every day

Floor 3 Suite 1A | Waterloo Station | London | SE1 8SW
DX119552 Waterloo Station 2 | Mobile 07515 624312

Print

Close

From: **Sasha Holmes** [redacted]
Sent: 20 August 2014 20:20:40
To: steve.day@networkrail.co.uk (steve.day@networkrail.co.uk)

Dear Steve,

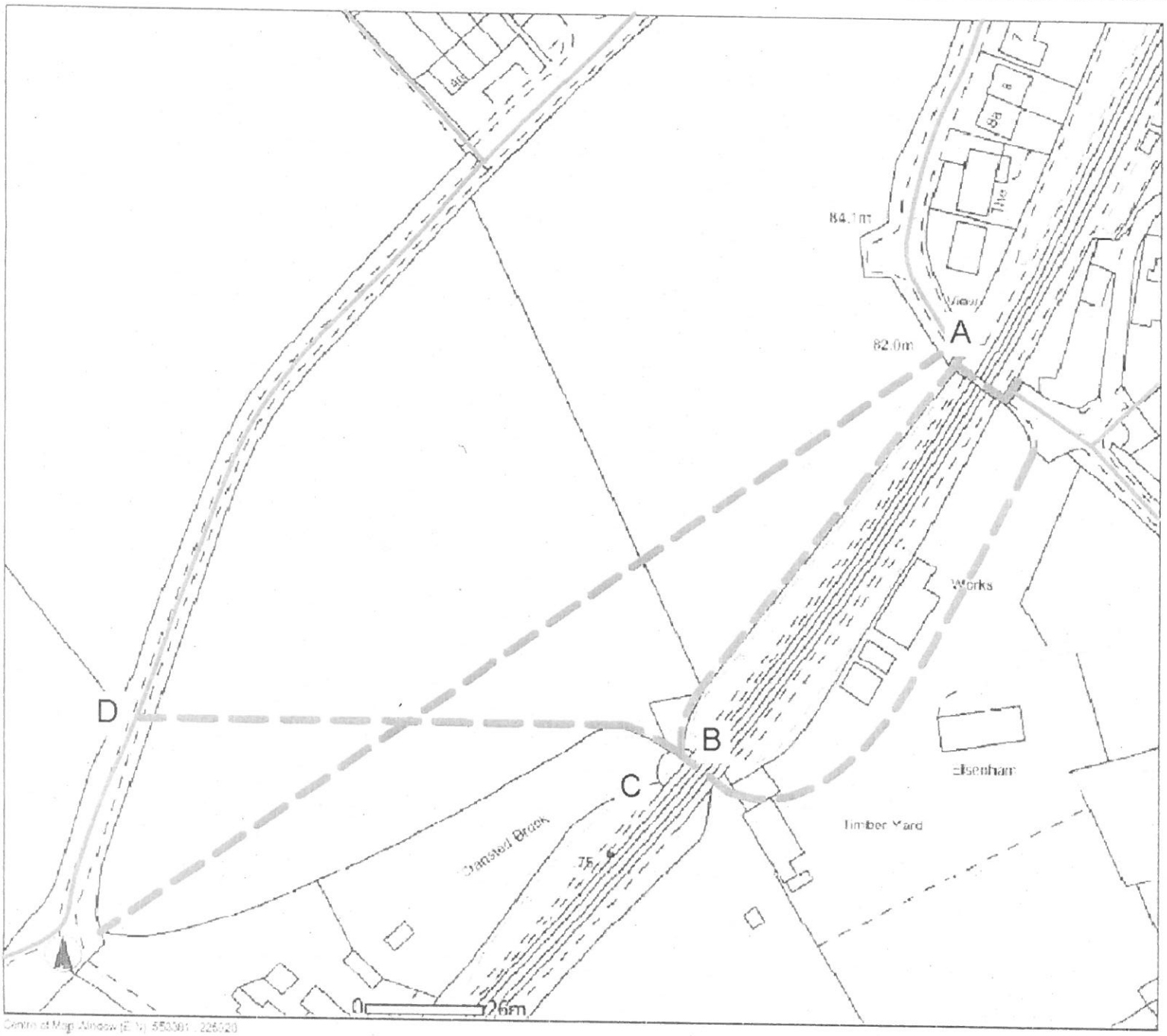
Thank you for your email of 12th August with improved compensation offer, which is considerably closer to the figure we require in order to commit ourselves to this proposal.

To put our cards on the table and save us both time, we are looking for a sum of **at least** £60,000 (plus legal costs, footpath alterations B-D, privacy fencing at point C and maintenance allowance).

We do feel that Network Rail should be looking to the Developers of nearby new housing estates to contribute to/reimburse some of the Company's costs in this matter as their developments will be the cause of potentially a huge increase in footfall across the Fullers End Crossing thus exacerbating the safety issues for Network Rail at this Crossing.

Kind regards,

Sasha



Footpaths to be closed

Footpaths to be created

Unaltered public footpaths or public roads

Centre of Map Arrow (E, N): 550381, 226020

FULLERS END PROPOSAL

Version 3

Plot Scale	1:1250
Plot Date	24/7/2014

Network Rail

Output Created from the GI Portal - A4 Landscape

Print

Close

From: **Day Steve** (Steve.Day@networkrail.co.uk)
Sent: 17 September 2014 11:34:31
To: 'Sasha Holmes' [redacted]

Dear Sasha

Thank you for your email. I have discussed your desired compensation with our national manager, and we feel that the amount of compensation you are requesting is excessive, especially considering that it is in addition to funding of a privacy barrier and fence, and that a public footpath already crosses your land. The proposal will see only 25m or so of additional footpath created on your land, and the existing footpath will be diverted from cross-field to field-edge, which will increase flexibility on the land it formerly crossed.

I appreciate that it is the loss of privacy through the intensification of use that most concerns you. If we were to leave the level crossing open, usage of the existing footpath network would increase as Elsenham grows, but you would not be compensated for the increase, nor would any privacy barrier or fencing be provided. There could be no guarantee that anti-social behaviour will not happen once the new residents have moved in—many may look for secluded places to 'hang out'. Indeed, one could argue that the diversion of the footpath through the underbridge will reduce its desirability as a place for people to loiter, and will give the police more reason to monitor and frequent it.

I am attempting to make contact with Bovis Homes to discuss the situation, but I doubt that I will be able to convince them that it is in their interest to contribute to closure of the level crossing, as there is regrettably no legal requirement for them to do so.

Whilst I hope that we will be able to reach a negotiated settlement, I want to advise you of the powers that Network Rail could use to close the level crossing by diversion in the future. We can apply to the highway authority for them to 'force' a creation under the Highways Act 1980, in which case you would receive statutory compensation only for the loss of value to the land crossed by the footpath, which would not take into account your concerns about more people coming close to the house. Alternatively, we may seek powers under the Transport and Works Act 1992, again with the measure of compensation being the loss in value of the land crossed by the footpath only.

I look forward to receiving your comments.

Kind regards

Print Close

From: **Sasha Holmes** [redacted]
Sent: 21 September 2014 20:25:25
To: Day Steve (steve.day@networkrail.co.uk)

Dear Steve,

Thank you for your email of 17th September. Your delayed response has given us time to consider fully the true impact of the proposed Public Right of Way on our quality of life and privacy at The Mill House. We feel that even our stated 'desired compensation' would not really be adequate. There are no truly effective privacy barriers or fences, there are no real deterrents against would be burglars and no amount of lighting/signage/police patrols will stop undesirables from loitering in the underpass, vandalising our property or leaving litter and graffiti. The existing footpath that crosses our field is hardly used, in fact many Elsenham residents don't even know the House exists and because the path is some distance from the House, there is no intrusion of privacy.

The increased use of the level crossing as Elsenham grows would not directly impact on us as most of the users would be heading up into the Village for the shops/school or residents of Fullers End returning to their houses. We would rather selfishly prefer the antisocial behaviour to occur around the existing level crossing than in the underpass some 80ms nearer the House.

We feel extremely disappointed with Uttlesford District Councils conduct in this matter. They neglected to inform Network Rail of the huge Bovis Homes development near The Vicarage (something that perhaps Network Rail should be strongly questioning) and it would appear that they are now using Jim Collins as a scapegoat to cover their backs by forcing him to provide a safer alternative route to the Village for pedestrians.

Like you, we also hope to reach a negotiated settlement in this matter. We are fully aware of Network Rails ability to 'force' a diversion in order to close the level crossing in the future. However, you stated in our meeting that this is something Network Rail try hard to avoid and it is certainly something we would strongly resist. If we are unable to achieve a satisfactory outcome by negotiation then perhaps a less aggressive and more amicable solution can be reached by way of a footbridge over or an underpass under the existing crossing?

Kind regards,